

TITLE 9
ADMINISTRATION OF THE GOVERNMENT

CHAPTER 1
STATE OFFICERS

ARTICLE 1
GENERALLY

9-1-101. Location of seat of government; residence of state officials; deputies authorized; state superintendent of public instruction physical office designation.

(a) The seat of government for the state of Wyoming is located and established at Cheyenne, Wyoming.

(b) The governor, secretary of state, state treasurer, state auditor and state superintendent of public instruction shall reside and maintain their offices at the seat of government.

(c) The secretary of state, the state auditor, state treasurer and state superintendent of public instruction may each appoint a deputy to perform the duties of their respective offices and are responsible to the state for the acts of their deputies.

(d) In recognition of Estelle Reel, the first woman elected and to hold the office of state superintendent of public instruction in Wyoming and the second woman elected and to hold a statewide office in the United States, the physical office of the state superintendent of public instruction in the state capitol building shall be designated and known as "The Estelle Reel Office of the State Superintendent of Public Instruction."

9-1-102. Officers of state agencies and specified state employees to file oath and obtain bond; bond requirements.

(a) Before assuming the duties of office, the chief officer or officers of each state agency, office, institution, board and commission, and any other employee of the state specified by the governor, shall take and subscribe the constitutional oath of office and obtain faithful performance and fidelity bond coverage. The oath shall be filed with the secretary of state.

(b) The department of administration and information shall purchase coverage for employees or officials as required by this section in the amount necessary to:

(i) Insure the honest and faithful performance and discharge of duties;

(ii) Insure accounting to the state for all monies, property, materials and records under the care, custody or control of the employees or officials by virtue of their public capacity; and

(iii) Assure that upon the termination of their service with the state all monies, property, materials and records shall be turned over to their successors.

(c) Prior to purchasing any bond required under this section the department of administration and information shall obtain the approval of the attorney general.

(d) All bonds purchased under this section shall be acquired from a person, firm or corporation qualified by and holding a valid certificate of authority from the state insurance commissioner.

(e) Bonds and records required under this section are official public records under the Public Records Act.

9-1-103. State elected officials representation on boards and commissions; designees; limitations.

A state elected official may authorize a designee to act as the official's personal representative to any board or commission of which the official is a member. The designee shall have the right to speak on behalf of the official and to vote and take other lawful action on behalf of the official as a member of the board or commission. The provisions of this section shall not apply to any board or commission to which the state elected official is appointed by the Wyoming constitution or which is comprised solely of state elected officials.

ARTICLE 2
GOVERNOR

9-1-201. Chief executive officer; powers and duties generally.

In accordance with the Wyoming constitution, the governor is the chief executive officer of the state of Wyoming. The governor shall formulate and administer the policies of, and shall exercise general supervision, direction and control over the executive branch of state government.

9-1-202. Removal of appointive officers and commissioners; reason for removal to be filed.

(a) Notwithstanding any other provision of law and except as otherwise provided in this section, any person may be removed by the governor, at the governor's pleasure, if appointed by the governor to serve as head of a state agency, department or division, or as a member of a state board or commission. The governor may only remove a member of the Wyoming business council as provided in W.S. 9-12-103.

(b) Any person who holds a state office or commission by appointment of the members of a state board, commission or administrator may be removed by:

(i) The board, commission or administrator which appointed him where provided by law; or

(ii) The governor, for malfeasance or misconduct in office.

(c) Reason for removal of appointed officers or commissioners shall be mailed or delivered to the person to be removed.

9-1-203. Suspension of officer pending impeachment; filling vacancy.

When the house of representatives impeaches a state or judicial officer other than the governor, the governor may suspend the officer from his official functions pending the trial and other proceedings in the impeachment and may designate and appoint a qualified person to fill the office and discharge the duties thereof during the suspension.

9-1-204. Human services agencies.

(a) As used in this section:

(i) "Human services agency" means any division, institution and program within the department of health, the

department of workforce services or the state department of family services and all institutions, boards and programs administering, planning and providing for state human services under the supervision of the director of the department of health, the director of the department of workforce services or the director of the department of family services;

(ii) "Human services program" means a program administered by a human services agency;

(iii) "Policy plan" means a plan formulated by the governor and reviewed by the legislature setting forth the policies of the state toward providing and coordinating services through all human service agencies;

(iv) "Program plan" means a plan for direction of each major human services program.

(b) In order to coordinate policy planning for all state human services agencies, the governor may require:

(i) Each of the human services agencies to prepare an annual program plan for its program offered or to be offered within the agency;

(ii) All program plans to be submitted by the agencies to the office of the state planning coordinator.

(c) The office of the state planning coordinator shall:

(i) Review all program plans;

(ii) Compile all program plans of the human services programs and present the compilation of plans to the governor;

(iii) Monitor the implementation of a policy plan which shall be used by the human services agencies in development of programs and budget preparation;

(iv) Review, on behalf of the governor, all grant applications and plans prepared by the agencies to ensure that all programs within the human services agencies comply with the state policy plan;

(v) Coordinate with any other official efforts regarding state health planning in formulating a policy plan.

(d) The governor shall:

(i) Review, revise or adopt all program plans of programs within the state human services agencies;

(ii) Develop a policy plan reflecting the program plans of human service agencies;

(iii) Present the policy to the legislature for review.

9-1-205. Authority of governor or legislature to require information from officers, commissions or boards; right of access to state offices for purpose of inspection.

(a) The governor or either house of the legislature may require any state officer, commission or board of a state institution to communicate in writing any information concerning any subject pertaining to the office, commission or board.

(b) The governor shall have free access to the office of any state officer for the inspection and examination of all books, papers, records and proceedings.

9-1-206. Administrative assistant; appointment; qualifications; term; compensation generally; duties; responsibility for acts.

The governor may employ an administrative assistant, who shall be a qualified elector of the state. He shall receive the compensation appropriated by the legislature and shall perform the duties required by the governor. The governor is responsible for the official acts of the administrative assistant and may remove an administrative assistant as provided in W.S. 9-1-202.

9-1-207. State planning coordinator; appointment; qualifications; term; removal; powers; duties.

(a) The governor may employ a state planning coordinator, who shall be a qualified elector of the state and who may be removed by the governor as provided in W.S. 9-1-202.

(b) In fulfilling the provisions of W.S. 9-1-215, the coordinator may sit as the governor's personal representative on all nonconstitutionally created boards and commissions which are not exclusively licensing in nature. The coordinator shall have the right to speak on behalf of the governor but not to vote.

The coordinator shall not sit as the governor's personal representative for purposes of fulfilling the provisions of W.S. 9-1-215 on any boards or commissions on which one (1) or more of the other four (4) elective state officers sit.

(c) The governor personally or through his coordinator may:

(i) Cooperate with other states and the federal government and its agencies, and with all private concerns, to coordinate planning in the state of Wyoming;

(ii) Coordinate the planning activities of all state departments, boards, commissions and agencies in regard to economic, fiscal, educational, social, cultural, recreational and artistic development of the state, for the purpose of creation and implementation of a comprehensive state plan. All plans prepared by state departments, boards, commissions and agencies shall be submitted at least semiannually for review and comment by the coordinator;

(iii) Report to the legislature the comprehensive plan for economic and social development within the state of Wyoming.

(d) The governor through the state planning coordinator shall:

(i) Develop and advocate official state positions on federal land use issues regarding multiple use of federal lands in Wyoming based on each of the beneficial uses contributed to the state and to its people;

(ii) Actively monitor and request federal agencies to include the state government in the early planning stages of various federal land use management decisions;

(iii) Notify various individuals, interest and user groups and solicit from them their views regarding pending federal land management issues;

(iv) Utilize state agency expertise on specific issues, solicit and coordinate appropriate agency comments on pending federal land issues;

(v) Review comments from individuals, interest and user groups and state agencies, as well as other sources of

information and prepare, submit and advocate the state of Wyoming's official position to federal land use management issues;

(vi) Prepare a biennial report to include:

(A) Current state positions regarding federal land use management in Wyoming;

(B) Activities of the state planning coordinator regarding federal land use management issues; and

(C) Impacts of the federal land use management issues and decisions on the state of Wyoming.

9-1-208. Prior approval of governor required.

(a) No state department, board, commission or agency whose director, board or commission members are appointed by the governor shall, without prior approval of the governor:

(i) Apply for federal funds or private endowment funds;

(ii) Contract with the federal government or any private association;

(iii) Effectuate and put into force any plan.

9-1-209. Coordinator of state-federal relations; appointment; removal; employment of personnel; duties; information to be supplied by agencies.

(a) The governor may appoint a special assistant to be known as "the coordinator of state-federal relations", hereinafter called "coordinator". The coordinator may be removed by the governor as provided in W.S. 9-1-202. The coordinator may employ personnel as the governor may approve.

(b) The coordinator shall:

(i) Review all federal legislative and administrative acts which pertain to state-federal relations;

(ii) Aid, assist and advise the governor on all federal aid and private endowment programs;

(iii) Coordinate assistance programs between the federal government and state and local government, and coordinate private and nonprofit organizations', agencies' or foundations' assistance to state and local government;

(iv) Collect data and information on federal aid and private endowment programs and maintain a central depository for the data and information relating to all programs, including the cost of the state or local participation. This information shall be available to all state agencies and units of local government;

(v) Carry out all duties which the governor assigns, pertaining to federal funds.

(c) All state departments, boards and commissions shall provide to the coordinator information and data requested by the coordinator, including cost of programs, of all federal aid or private endowment programs in which they participate. This information and data shall be supplied the coordinator within forty-five (45) days from the date of request unless more time is granted by the coordinator.

9-1-210. State authorized to accept gifts.

The state, through the governor may accept gifts, grants, funds or assistance from any federal, state or local governmental agencies or from any private source.

9-1-211. Vacancy in office of governor; successor designated; order of succession; proclamation on succession.

(a) If the governor is removed, dies, resigns or is unable to act, the state officer appearing highest on the following list who satisfies all constitutional qualifications for governor and is not under impeachment by the house of representatives shall act as governor until the disability of the governor is removed or a new governor is elected and qualified:

(i) Secretary of state;

(ii) President of the senate;

(iii) Speaker of the house of representatives;

(iv) State auditor;

- (v) State treasurer;
- (vi) State superintendent of public instruction;
- (vii) Vice-president of the senate;
- (viii) Speaker pro tem of the house of representatives.

(b) If the powers and duties of the office of governor devolve upon any person named in subsection (a) of this section, that person shall issue a proclamation that the incumbent governor has ceased to act as governor, giving the reason, and stating that the person issuing the proclamation has assumed the duties and powers of the governor.

9-1-212. Vacancy in office of governor; term of successor; when election held to fill unexpired term; requirements of elections; term of person elected.

Whenever the powers and duties of the office of the governor of the state of Wyoming devolve upon any other person as provided in W.S. 9-1-211(a), the person acting as governor shall continue to act as governor until the end of the term of the governor if the office is assumed less than sixty (60) days before the next general election. If the office is assumed more than sixty (60) days before a general election the person acting as governor shall issue an additional proclamation calling for the election of a governor to fill the unexpired term, which election shall take place at the same time as the general election, and the election, together with the returns and canvass thereof, shall be conducted in all respects as though it was an original election for governor. When the state canvassing board canvasses the vote of the election and declares a person at the election to be elected as governor, the person shall, within thirty (30) days after the canvass, or as soon thereafter as possible, qualify and assume the duties and powers of governor, and shall be the governor of the state of Wyoming for the remainder of the unexpired term of the governor.

9-1-213. Governor's residence.

The state shall furnish a site and buildings which shall be used exclusively for the residence of the governor of the state during his incumbency in office.

9-1-214. Impeachment of governor; suspension from office; performance of duties.

When the house of representatives impeaches the governor, he is automatically suspended from performing the function of his office pending the trial and other proceedings in the impeachment. During the suspension the duties of the governor shall be performed as provided in W.S. 9-1-212.

9-1-215. Right of governor to attend meetings; effect on quorum; designation of special meetings.

The governor may attend, participate in and vote at all meetings, both general and special, of all nonconstitutionally created boards and commissions of the state of Wyoming which are not exclusively licensing in nature. The governor's presence or absence shall not affect the quorum. The governor may call and designate the time and place of special meetings.

9-1-216. Designation of agency or department to administer federally supported cooperative program.

The governor shall designate and authorize a state agency or department to administer any federally supported cooperative program in this state.

9-1-217. Appointments to federally-required committees; removal; functions, powers and duties of committees.

The governor may appoint electors of the state to any advisory, planning or action committee which is required by the state's participation in federally supported programs. The functions, powers and duties of the committees shall not be inconsistent with the constitution or laws of this state. The governor may remove any appointee under this section as provided in W.S. 9-1-202.

9-1-218. Appointment to boards, commissions, or other bodies; appointment districts; requirement; conditions for appointments based on political party affiliation.

(a) When required by law, members of boards, commissions, councils and other governmental bodies shall be appointed from the appointment districts set out in subsection (b) of this section.

(b) The appointment districts are as follows:

(i) Laramie, Goshen and Platte county comprise district 1;

(ii) Albany, Carbon and Sweetwater counties comprise district 2;

(iii) Lincoln, Sublette and Teton and Uinta counties comprise district 3;

(iv) Campbell, Johnson and Sheridan counties comprise district 4;

(v) Big Horn, Hot Springs, Park and Washakie counties comprise district 5;

(vi) Crook, Niobrara and Weston counties comprise district 6;

(vii) Natrona, Fremont and Converse county comprise district 7.

(c) Whenever a vacancy occurs, an appointment shall first be made from an appointment district which was not represented on the governmental body before the vacancy. If all districts were represented, the appointment shall be made so as to best equalize representation among the districts.

(d) Unless otherwise provided by law, appointments shall rotate consecutively among all the counties of the appointment districts.

(e) Any appointment made on or after July 1, 1996 by the governor to a state board, commission, council or committee created by law, for which senate confirmation is required by law or constitution and for which political party affiliation is specified by law, shall be conditioned upon membership in the same political party for not less than six (6) months prior to the date of appointment for temporary appointments made under W.S. 28-12-101(b) and not less than six (6) months prior to the date of nomination for appointment under W.S. 28-12-101(a). Prior to senate confirmation, the person appointed shall file in the office of the governor an affidavit acknowledged and sworn to under oath stating his party affiliation for the six (6) month period preceding the date of appointment. Filing a false statement may be cause for removal.

9-1-219. Bond limit allocation authority.

(a) The governor shall establish rules and regulations to provide for the allocation of the private activity bond limit or the unified volume limitation, whichever is established by the United States Internal Revenue Code, among the governmental units in the state having authority to issue private activity bonds or nonessential governmental function bonds. The objective of the rules shall be to establish an accessible, equitable and efficient allocation process which advances the state and local benefits of tax-exempt financing. To the extent permitted by federal law, the rules may depart from federal allocation requirements, including requirements for housing bonds, redevelopment bonds and bonds issued by state and local bond issuing authorities.

(b) Rulemaking under this section shall be subject to the Wyoming Administrative Procedure Act.

(c) Repealed by Laws 1986, ch. 59, § 2.

9-1-220. Repealed by Laws 1998, ch. 6, § 5.

9-1-221. Tribal liaison program; qualifications of liaisons; removal; duties.

(a) There is created a tribal liaison program. The purpose of the program shall be to encourage mutual respect, understanding and leadership between the state and the Northern Arapaho tribe and the Eastern Shoshone tribe.

(b) The governor shall select and employ two (2) persons to serve as tribal liaisons and to administer the tribal liaison program as provided in this section. Before making a selection, the governor shall solicit a list of nominations from the Eastern Shoshone business council and the Northern Arapaho business council. The selection of the liaisons shall be with the advice and consent of the senate in accordance with W.S. 28-12-101 through 28-12-103. If the legislature has adjourned, the governor may make temporary selections in the manner provided for in W.S. 28-12-101(b). Each liaison shall be a qualified elector of the state and may be removed by the governor as provided in W.S. 9-1-202. The liaisons shall:

(i) Aid, assist and advise the governor on state-tribal relations including the coordination of programs and other activities between the state and tribal governments.

The tribal liaisons may maintain offices within the state as directed by the governor;

(ii) Facilitate communication between the tribes and the office of the governor, executive branch agencies, the select committee on tribal relations and the legislature;

(iii) Stand for reappointment one (1) time every two (2) years unless sooner removed by the governor pursuant to W.S. 9-1-202 after consultation with the tribes.

(c) The governor's office, in conjunction with the tribal liaisons, shall report to the select committee on tribal relations on the successes, opportunities and future issues of the tribal liaison program on or before December 1 of each year.

9-1-222. Repealed By Laws 2012, Ch. 30, § 4.

9-1-223. Serve Wyoming; composition; powers and duties; definitions.

(a) Serve Wyoming is transferred from the office of the governor to the department of workforce services and shall operate as a private not-for-profit corporation, as specified in this section.

(b) The membership of Serve Wyoming shall be as provided in 42 U.S.C. 12638.

(c) In addition to voting members appointed under subsection (b) of this section, there shall be at least one (1) ex officio nonvoting member of the corporation serving on Serve Wyoming. Other nonvoting members may be appointed as provided in 42 U.S.C. 12638.

(d) Appointed members of Serve Wyoming shall serve terms of three (3) years and may be reappointed to serve additional terms. Voting members of Serve Wyoming shall elect a chairman and a vice chairman from among the voting members.

(e) The purpose of Serve Wyoming shall be to:

(i) Receive federal, state and private funds or donations;

(ii) Administer funds received under this subsection to foster community services, volunteerism, mentoring and literacy;

(iii) Develop and implement a comprehensive, statewide plan for promoting volunteer involvement and citizen participation in Wyoming;

(iv) Communicate and cooperate with national and state organizations that support the mission of Serve Wyoming;

(v) Fulfill federal program administration requirements, including working with the corporation on national and community service to assist in the provision of health care and childcare for service program participants;

(vi) Submit annual state applications for federal funding for selected Americorps programs;

(vii) Monitor the performance and progress of programs receiving funds from Serve Wyoming;

(viii) Provide technical assistance to local not-for-profit organizations and other entities in planning programs, applying for funds and in implementing and operating high quality programs;

(ix) Develop mechanisms for recruitment and placement of people interested in participating in service programs;

(x) Delegate nonpolicy making duties to a public or private not-for-profit organization, subject to requirements that the corporation on national and community service may prescribe.

(f) As used in this section:

(i) "Corporation" means the corporation on national and community service created by the National and Community Service Act of 1990;

(ii) "Serve Wyoming" means the not-for-profit corporation within the department of workforce services to implement the purposes of the National and Community Service Act of 1990.

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

(a) The governor's office may supervise the collection of baseline scientific assessment data on public lands which may impact agricultural, mineral, geological, historical or environmental resources. The data collected shall be of sufficient quality and quantity to provide a scientifically defensible record of the ambient environment in a defined geographic area. The governor's office may supervise collection of all data on public lands which may impact agricultural, mineral, geological, historical or environmental resources, including, but not limited to, the following:

- (i) Air quality, including ozone and haze levels;
- (ii) Surface water and groundwater quality and quantity;
- (iii) Economic development infrastructure, roads, reservoirs, corrals, fences, pipelines, transmission lines and all other man-made structures on public land;
- (iv) Historic trails, stock driveways, historic sites or archeological sites;
- (v) Livestock grazing;
- (vi) Geological analysis;
- (vii) Populations of species listed as threatened or endangered under the Endangered Species Act and all state and federal agency species lists including, but not limited to, management indicator species, sensitive species, native species status and the Wyoming natural diversity database;
- (viii) Rights-of-way corridors for electric transmission, fiber optics and pipelines;
- (ix) Enhanced oil recovery.

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

- (i) The department of environmental quality;

- (ii) The University of Wyoming;
- (iii) The oil and gas commission;
- (iv) The game and fish department;
- (v) The department of agriculture;
- (vi) The office of state lands and investments;
- (vii) The department of state parks and cultural resources;
- (viii) The department of administration and information;
- (ix) The state archeologist;
- (x) The state geologist;
- (xi) The Wyoming energy authority;
- (xii) Repealed by Laws 2019, ch. 34, § 4.
- (xiii) Conservation districts;
- (xiv) All other state agencies, boards, commissions and departments with knowledge and expertise on issues impacting lands in the state; and
- (xv) All interested local governments.

(c) The governor's office may collaborate with any entity not under the complete control of the state of Wyoming to accomplish the purposes of this section. Before collaborating with an entity not under the complete control of the state of Wyoming, the governor's office and the other entity shall enter into a cost sharing agreement. The governor's office may accept funding from an entity for data collection under this section. Any funding received shall be reported to the joint minerals, business and economic development interim committee in accordance with subsection (h) of this section.

(d) The governor may direct state agencies and political entities to use all available technologies at their disposal to

collect data under this section, including geographic information systems (GIS).

(e) The governor's office shall provide for a repository for all data collected under this section. The governor may designate data collected from private sources containing proprietary information or trade secrets as confidential and not subject to inspection as provided by W.S. 16-4-203(d)(v). All other data collected and not designated shall be available to the public.

(f) State agencies and political entities of the state assigned with collecting data under subsection (b) of this section shall submit an estimate of the necessary costs of collecting their assigned data to the governor's office. To the extent necessary, the governor shall use his authority under W.S. 9-2-1005(b)(i) to transfer sufficient funds to the assigned agency to pay the necessary costs of data collection.

(g) The governor's office shall promulgate rules and regulations necessary to implement this section, including establishing standards for data collection consistent with other standard peer reviewed scientific research.

(h) The governor's office shall report to the joint minerals, business and economic development interim committee by October 1, 2012 and by October 1 annually thereafter concerning the progress of data collection under this section.

ARTICLE 3 SECRETARY OF STATE

9-1-301. Custodian of state seal.

The secretary of state is the custodian of the great seal of the state.

9-1-302. Powers and duties; custodian of public records; preservation of proclamations of governor; removal of public documents prohibited; exceptions.

(a) The secretary of state is the custodian of, and shall preserve:

(i) All the public records, documents, acts and resolutions of the legislatures of the territory and state of Wyoming;

(ii) All proclamations of the governor proclaiming the effectiveness of constitutional amendments, corporate revocations and any other proclamation designated as a permanent record by the governor. The secretary of state shall preserve all other proclamations of the governor for one (1) year and then deliver them to the department of state parks and cultural resources for destruction or preservation as it deems desirable;

(iii) Property of the state when no other provision is made by law;

(iv) Copies of all clemency documents signed by the governor, including pardons, commutations of sentence, reprieves, remissions of fine or forfeiture, and restorations of civil rights.

(b) Except as otherwise provided in this section, the secretary of state shall not permit any original paper or public document, filed in the office, to be taken out of it unless called for by a resolution of either house of the legislature or for the examination of the governor. The secretary of state may store any original paper or public document, filed in the office, in any other state building within the capital city if the storage will protect the papers or documents from destruction and unauthorized access to the same or greater extent than storage in the office of the secretary of state.

9-1-303. Powers and duties; affixing seal to and countersigning commissions and documents; certified copies of acts; file of commissions and appointments; publication of documents.

(a) The secretary of state shall affix the great seal of the state to, and countersign:

(i) Commissions;

(ii) Official acts which the governor is required by law to perform except his approval or disapproval of legislative acts; and

(iii) Other instruments when required or authorized by the governor.

(b) The secretary of state shall deliver to every person upon request, copies of any act, resolution, order of the

legislature, commission or other official act of the governor, roll, record, document, paper, bond or recognizance, deposited in the office by law, and certify the copies under his hand, and affix thereto the seal of the office upon tender of fees prescribed by law.

(c) The secretary of state shall keep a file of all commissions issued and appointments made by the governor. The file shall specify:

- (i) The name of the person;
- (ii) The office conferred or commission issued;
- (iii) The district or county for which the appointment is made; and
- (iv) The term of office.

(d) The secretary of state shall make the following documents available to the public by publishing the documents on the secretary of state's official website:

- (i) The constitution of the state of Wyoming;
- (ii) A directory of state departments and selected employees.

(e) The secretary of state may affix the great seal of the state to certificates or apostilles issued pursuant to W.S. 32-1-114.

(f) The secretary of state shall print and make available the constitution of the state of Wyoming upon payment of a fee established by rule and in an amount to recover the costs of printing the document.

9-1-304. Removal from state or impeachment; acting secretary of state; appointment; duties.

In case of removal from the state, or impeachment of the secretary of state, the governor shall appoint an acting secretary of state, who shall take the oath herein prescribed and perform the duties of the office during absence occasioned by the removal or pendency of impeachment.

9-1-305. Fees; amounts; collection; exceptions.

(a) The secretary of state shall collect the following fees in advance for:

(i) Except as provided in W.S. 32-1-114(c), certificate and seal, three dollars (\$3.00);

(ii) Filing any document, a minimum of three dollars (\$3.00);

(iii) Issuing a notarial officer commission, thirty dollars (\$30.00);

(iv) Recording each instrument of writing, three dollars (\$3.00) for the first page;

(v) Each subsequent page, one dollar (\$1.00);

(vi) Copies of laws or documents recorded or filed in the office of the secretary of state, fifty cents (\$.50) per page for the first ten (10) pages and fifteen cents (\$.15) for each additional page. When the secretary of state furnishes a copy of any law already printed, he shall receive three dollars (\$3.00) for each copy and three dollars (\$3.00) for certifying and sealing the copies;

(vii) Issuing any other paper not herein enumerated, three dollars (\$3.00).

(b) The secretary of state shall receive no fee for the following services:

(i) Issuing commissions to state, district and county officers;

(ii) Filing pardons, requisitions and appointments of agents;

(iii) Filing oaths of office.

(c) When any document is delivered to the office of the secretary of state for filing, the secretary of state may refuse the document for filing if:

(i) The correct filing fee, any franchise tax, license fee, penalty or past due fees, taxes or penalties required to be paid have not been paid; and

(ii) Provision for payment of those items set forth in paragraph (i) of this section has not been established in a manner approved by the secretary of state.

9-1-306. Repealed By Laws 1999, ch. 49, § 3.

9-1-307. Secretary of state; employment of legal counsel.

The secretary of state may employ legal counsel to review contracts entered into by the secretary of state in his official capacity and to perform other duties assigned by the secretary of state. Nothing in this section prohibits the secretary of state from using the services of the attorney general's office.

9-1-308. Powers and duties; refusal to file documents; cease and desist orders.

(a) The secretary of state may refuse to accept documents for filing pursuant to title 17 or title 34 of Wyoming statutes for up to five (5) years from any person or any entity if that person or entity:

(i) Has filed any document with the secretary of state pursuant to title 17 or title 34 of Wyoming statutes that contained any statement which was fraudulent with respect to any material fact;

(ii) Makes or uses any false writing or document knowing it to contain any materially false, fictitious or fraudulent statement or entry; or

(iii) Is the subject of, an agent of or acting on behalf of the subject of any order of the secretary of state or any similar order issued in another jurisdiction.

(b) The secretary of state may issue a cease and desist order to any person or entity engaging in any practice described in paragraphs (a)(i) and (ii) of this section or any person or entity qualifying under paragraph (a)(iii) of this section.

(c) Upon issuance of a cease and desist order under subsection (b) of this section, the secretary of state shall serve upon the person affected by the order, by registered or certified mail, return receipt requested, to the person's last known address, an order specifically stating the acts complained

of and requiring the person to immediately cease and desist from the act, methods or practices stated.

(d) Any refusal to accept documents under subsection (a) of this section and any cease and desist order issued under subsection (b) of this section shall be in writing provided to the person affected by the refusal or order. The writing shall include a statement of the basis for the refusal or order and shall constitute a final order of the secretary of state.

(e) Any refusal to accept documents under subsection (a) of this section and any order issued under subsection (b) of this section is subject to the notice and appeal provisions of W.S. 17-4-609.

ARTICLE 4 AUDITOR AND TREASURER

9-1-401. Seals of office; access to records; power to administer oaths; accounting records.

(a) The treasurer and auditor shall each:

(i) Keep a seal of office, which shall be used to authenticate all writings, papers and documents certified by either officer;

(ii) Have free access to each other's offices and to all other offices of the state to inspect books, accounts and papers pertaining to their duties;

(iii) Have power to administer oaths and affirmations required by law in matters touching their duties;

(iv) Balance their accounting records to verify that cash and investments, adjusted for outstanding warrants, reflect the amount due to each fund and account in the Wyoming uniform accounting system.

9-1-402. State auditor; duties generally.

(a) The state auditor is the comptroller, chief accountant and the official custodian of the state's accounting records, accounts, vouchers, documents and all papers relating to the accounts and contracts of the state and its revenue, debt and fiscal affairs not required by law to be kept by another office. State agencies or officers certifying payments may retain the

documents required under this section, subject to any rules and regulations promulgated by the state auditor with respect to acceptable documentation, certification and retention.

(b) The state auditor shall serve as the chief fiscal control officer of the state of Wyoming, shall maintain the state's central fiscal accounts, and shall order all payments into and out of the funds held by the state treasurer.

(c) The state auditor shall be the state payroll officer, shall maintain the official payroll for all state agencies, excluding the University of Wyoming, and shall supervise the issuance of all payroll warrants. The state auditor may enter into agreement with any state agency to maintain the official payroll and supervise issuance of all payroll warrants for the state agency.

9-1-403. State auditor; duties; prohibited acts; powers; investigative subpoenas.

(a) The state auditor shall:

(i) Audit and settle all claims against the state payable out of the treasury excluding claims required by law to be audited and settled by other officers and persons. Before settling claims under this paragraph, the state auditor shall:

(A) Require state agencies to have procedures in place to ensure that:

(I) The claims have been properly approved by a competent authority; and

(II) The state agency has charged the claim to the appropriate state account.

(B) Verify that the state agency responsible for the claim has received the funding necessary from the legislature.

(ii) Draw all warrants upon the treasurer for money unless otherwise provided by law;

(iii) Except as provided by law, cause prosecution of persons failing to remit public money or property to the state and debtors of the state;

(iv) Be authorized to cooperate with the federal government, other states and interested persons regarding federal royalty management, including site inspection and audit activities, to ensure the state is receiving the proper amount of federal and state mineral royalty entitlements, except that commencing July 1, 1989, the department of audit shall exercise this authority;

(v) Make a preliminary annual financial report of the fiscal affairs of the state to the governor, president of the senate, speaker of the house, and cochairmen of the joint appropriations committee, on or before September 30 of each year. The state auditor shall provide a final annual report on or before December 15. The report shall include financial statements which shall be prepared, insofar as practical, in conformance with generally accepted accounting principles;

(vi) When any person is entitled to a warrant or other payment from the treasury, against whom there is a due and payable account or claim in favor of the state, upon notification thereof, ascertain the amount due and payable to the state, and draw a warrant on the balance. The state auditor may deduct the entire amount due and payable to the state or may deduct a portion of the amount due and payable to the state;

(vii) Whenever he refuses to draw a warrant pursuant to any voucher, return the voucher together with a written statement of the reasons for his disapproval to the agency which transmitted the voucher, and retain a record of the disapproved voucher;

(viii) On or before the fifteenth day of each month, make available in electronic or hard copy detailed statements of expenditures and revenues for each state entity that receives an appropriation in accordance with budget classification. These statements shall be available to each entity and to the budget division.

(b) The state auditor shall not draw warrants:

(i) In excess of amounts appropriated except as otherwise provided by law;

(ii) For the keeping or transporting of prisoners except on accounts certified under oath naming the prisoners, stating the time each prisoner has been kept, stating the distance the prisoner was transported;

(iii) For items furnished or services rendered except on itemized accounts or vouchers certified under penalty of perjury by the vendor or by an authorized person employed by the agency receiving the items or for whom the services were rendered showing the date each item was furnished or service rendered by the vendor. The certification and documentation required under this paragraph may be provided to the state auditor by the state official employed by the agency receiving the items or services by electronic or other acceptable media in accordance with rules and regulations promulgated by the state auditor;

(iv) Unless the individual state agency provides documentation and certification that the bill, invoice, account, payroll or other evidence of the claim, demand or charge is satisfactory to the state auditor with respect to the regularity, legality and correctness of the expenditure or disbursement, and that the claim, demand or charge has not been previously paid. If he is satisfied, he shall approve the claim, demand or charge, subject to audit at the discretion of the state auditor after processing the warrant using acceptable auditing techniques. The state auditor may, by general rule or special order, require certification or evidence as the circumstances may demand;

(v) For payment on a contract for professional consultant or other services unless the agency has certified that the contract for the services has been reduced to writing before the services are performed, and that the contract is in compliance with procedures of the attorney general, is approved by the attorney general, and, except for contracts of twenty thousand dollars (\$20,000.00) or less which are entered into by the office of an elected state official, is filed with and approved by the department of administration and information. For payment on a contract for professional or other services entered into by the department of transportation, filing of the contract with and approval by the department of administration and information and approval by the attorney general is not required, however the attorney general shall first review the contract if the contract is over twenty thousand dollars (\$20,000.00);

Note: Effective 10/1/2020 this paragraph will read as:

For payment on a contract for professional consultant or other services unless the agency has certified that the contract for

the services has been reduced to writing before the services are performed, and that the contract is in compliance with procedures of the attorney general, is approved by the attorney general, and, except for contracts for capital construction projects entered into by an agency under W.S. 9-2-3006 and contracts of twenty-five thousand dollars (\$25,000.00) or less which are entered into by the office of an elected state official, is filed with and approved by the department of administration and information. For payment on a contract for professional or other services entered into by the department of transportation, filing of the contract with and approval by the department of administration and information and approval by the attorney general is not required, however the attorney general shall first review the contract if the contract is over twenty thousand dollars (\$20,000.00);

(vi) For payment of salaries or wages for state officials or employees before the completion of the period for which the compensation is being paid. Effective July 1, 2013, all salary and wage payments to persons employed by the state of Wyoming, other than the University of Wyoming, shall be made by:

- (A) Direct deposit;
- (B) Warrant;
- (C) Debit card or other type of pay card; or
- (D) Any combination of the methods identified in this paragraph.

(vii) If the auditor elects to make payment to state employees using a debit card or other type of pay card authorized under paragraph (vi) of this subsection, any contract the auditor enters into with a card issuer shall require the issuer to provide the benefits of deposit insurance offered by the Federal Deposit Insurance Corporation. The auditor's contract with the card issuer also shall provide each employee using a debit or other pay card one (1) or more free withdrawals per pay period at a banking institution or in-network automatic teller machine and shall prohibit the extension of credit and the use of overdrafts;

(viii) For payment on a contract for capital construction projects entered into by an agency under W.S. 9-2-3006 unless the agency has certified that the contract for the project has been reduced to writing before the contract is

performed, that the contract is in compliance with procedures of the attorney general, is approved by the attorney general and is filed with and approved by the state construction department.
[NOTE: This paragraph will be effective 10/1/2020.]

(c) The state auditor may:

(i) Audit, settle and adjust the accounts of state officers and employees who are required by law to collect state revenue and pay it into the treasury;

(ii) Keep an account of any separate fund in the state authorized by law and of all debts and credits between the state and the United States, other states or persons;

(iii) Delegate to individual state agencies the responsibility for preauditing vouchers. The state agencies to which the responsibility is delegated shall perform the preaudit function. The state auditor may specify reasonable conditions and limitations upon any delegation under this subsection and may rescind a delegation at any time upon reasonable notice in writing to the agency;

(iv) Prescribe and require the use by state agencies, of forms for all documents required by law in the performance of his duties or which he may reasonably require therefor. The state auditor may, when he deems it advisable for the promotion of efficiency in state government, accept vouchers, invoices, document images or signatures on electronic or other appropriate media, as prescribed by rules and regulations of the state auditor;

(v) Issue wire transfers, electronic transfer of funds or other acceptable payment methods, in lieu of warrants, for the payment of goods or services, provided requests for the wire transfers are itemized accounts or vouchers certified under penalty of perjury by the vendor and approved in the same manner and procedure as followed in the preparation of warrant requests as set forth in paragraph (b)(iii) of this section;

(vi) Repealed By Laws 1999, ch. 189, § 2.

(vii) Notwithstanding paragraph (b)(iii) of this section, the state auditor may draw a warrant for prepayment for goods or services when it is beneficial for the state to pay in advance of receipt of the goods or services;

(viii) Employ legal counsel to review contracts entered into by the state auditor in his official capacity and perform other duties as assigned by the state auditor. Nothing in this paragraph prohibits the state auditor from using the services of the attorney general's office;

(ix) Notwithstanding W.S. 27-4-101(b), provide to state employees who are paid through the uniform accounting and payroll system the information required by W.S. 27-4-101(b):

(A) In writing;

(B) By electronic means; or

(C) By any other means which supplies the required information in a form that the employee can retain in written form.

(d) For purposes of any financial investigation or review of any agency program or activity funded in whole or in part with state funds, the attorney general, at the request of the state auditor, may:

(i) Subpoena witnesses to appear before the state auditor for oral examination;

(ii) Require the production or disclosure of any matter relevant to the investigation or review including:

(A) The existence, description, nature, custody, condition and location of any books, documents, records or other tangible material; and

(B) The identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of evidence necessary or related to the financial investigation or review.

(e) If any tangible materials subpoenaed under subsection (d) of this section are located outside of this state, the person to whom the subpoena is issued shall make the materials available to the state auditor at a convenient location. If any party fails or refuses to obey a subpoena or to provide testimony as required under subsection (d) of this section, the attorney general may, upon reasonable notice to all affected persons, apply to the district court for an order compelling compliance.

(f) Within one hundred eighty (180) days of the issuance of subpoena pursuant to subsection (d) of this section, the attorney general shall disclose to the party or parties investigated that the investigation took place and the reasons for it.

(g) The state auditor shall:

(i) Make a full report of any investigation conducted under subsections (d) and (e) of this section;

(ii) Maintain the report made under paragraph (g) (i) of this section in his files;

(iii) Annually report to the legislature on the number, location by county and general extent of the investigations.

(h) The state auditor shall have the authority to obtain the financial and criminal background of an employee or employment applicant of the state auditor in accordance with W.S. 7-19-106 and 7-19-201.

9-1-404. Specified claims against state to be presented within one year.

Except as provided by W.S. 1-39-101 through 1-39-120, persons having claims against the state shall document the claim and submit it to the state auditor within one (1) year after the claim accrues, to be audited, settled and acted upon.

9-1-405. Setoffs in suits by state.

(a) In all suits brought in behalf of the state no debt or claim shall be allowed against the state as a setoff unless:

(i) The debts or claims were exhibited to the auditor and by him allowed or disallowed; or

(ii) It is proved to the court that the defendant at the time of trial possesses vouchers which he could not produce to the auditor or that he was prevented from exhibiting the claim to the auditor by absence from the state, sickness or accidents.

9-1-406. Taking evidence concerning settlement of accounts.

Except as provided by W.S. 1-39-101 through 1-39-120, the state auditor may examine the parties, witnesses or others, on oath or affirmation, relating to any matters material to the settlement of accounts, including information which is declared confidential by law, and for that purpose may issue subpoenas and compel witnesses to attend before him and give evidence in the same manner and by the same means allowed by law to courts of record. The state auditor shall take all reasonable measures necessary to protect the confidentiality of all confidential information obtained pursuant to this section.

9-1-407. Certificate of auditor's decision; claims against state in absence of appropriation or authorization.

(a) At the request of a person who is dissatisfied with the decision of the auditor on any claim, account or credit except as provided by W.S. 1-39-101 through 1-39-120, the auditor shall certify his findings and decision.

(b) Except as provided by W.S. 1-39-101 through 1-39-120, when the law recognizes a claim for money against this state and no appropriation or authorization is made by law to pay the claim, upon demand, the auditor shall audit and adjust the claim and give the claimant a certificate of the amount of the claim.

(c) The auditor shall report claims under this section to the speaker of the house and the president of the senate. The auditor shall pay the claim if an appropriation is made for that purpose.

9-1-408. Payment by auditor's warrants.

(a) When accounts are audited and allowed against the state, or grants, salaries, pay and expenses are allowed by law, the auditor shall draw a warrant on the treasurer for the amount due if money is legally available to pay the claim.

(b) Upon satisfactory proof being presented to the state auditor that any warrant drawn on the state treasury has been lost or destroyed before having been paid, the state auditor shall issue a duplicate warrant therefor. The state auditor may require a bond to be executed, or security approved by him, payable to the state of Wyoming, in the penalty of the amount of

the warrant and conditioned to save harmless the state from any loss occasioned by the issuing of the duplicate warrant.

(c) Upon satisfactory proof being presented to the state auditor that any warrant drawn on the state treasury has been stolen, forged and then paid, the state auditor may issue a duplicate warrant to the payee, provided:

(i) The payee affirms in writing under oath that the endorsed signature on the paid warrant is not that of the payee, the payee did not aid or abet the individual who stole and endorsed the warrant, and the payee will assist the state and law enforcement officials in determining who stole and forged the paid warrant; and

(ii) The payee, if entitled to any future payments from the state, agrees that future payments will be reduced by the amount of the forged warrant, should it be discovered that the payee provided false information pursuant to this subsection.

9-1-409. State treasurer; duties generally; demand accounts; state revenues paid to treasurer.

(a) The state treasurer shall:

(i) Receive and keep all monies of the state not required by law to be received and kept by another state official;

(ii) Pay all warrants duly and legally issued by the auditor so long as there are in his hands funds sufficient to pay the warrants;

(iii) Keep a just, true and comprehensive account of all money received and disbursed;

(iv) Have general responsibility for the management of state cash resources, including developing information in conjunction with the state auditor, to forecast the cash needs of the state;

(v) Be responsible for the investment of state funds.

(b) The state treasurer may use demand accounts to pay warrants or to pay for investments. A record of the use of

demand accounts shall be created and maintained in the treasurer's office.

(c) Every state officer, employee, department or commission receiving revenue for or on behalf of the state from any source shall pay all revenue to the state treasurer as directed by him.

(d) The state treasurer may employ legal counsel to review contracts entered into by the state treasurer in his official capacity and perform other duties as assigned by the state treasurer. Nothing in this subsection prohibits the state treasurer from using the services of the attorney general's office.

(e) The state treasurer may implement and administer a performance compensation plan in accordance with this subsection. The plan shall:

(i) Be limited to those at-will employees of the state treasurer's office listed in paragraph (ii) of this subsection who are directly engaged in investing assets of the state;

(ii) Be limited to the following participating employees:

- (A) Chief investment officer;
- (B) Senior investment officer;
- (C) Investment officer;
- (D) Senior analyst;
- (E) Analyst.

(iii) Seek to maximize total returns net of fees on investments authorized by law and in the best interest of the state;

(iv) Be based solely on investment performance exceeding investment benchmarks as established by the investment funds committee created by W.S. 9-4-720 for each fund and asset class for an investment period. No performance compensation shall be paid under the plan unless the investment funds

committee determines that the established benchmarks have been exceeded;

(v) Measure investment performance during an investment period based on the following:

(A) Fifty percent (50%) related to total fund performance. For purposes of this subsection, "total fund" means the total or overall investment portfolio of funds managed by the state treasurer's office, excluding the following:

(I) Funds invested for a specific public purpose;

(II) Investments specifically directed by the state treasurer or state loan and investment board and not made at the recommendation of participating employees.

(B) Fifty percent (50%) related to the performance of the employee's individual assigned asset classes.

(vi) Provide that payments for investment performance for any one (1) investment period shall be as follows:

(A) For payments earned in fiscal year 2020 - the investment performance beginning July 1, 2019 and ending June 30, 2020;

(B) For payments earned in fiscal year 2021 - the arithmetic average of the investment performance beginning July 1, 2019 and ending June 30, 2020 and the investment performance beginning July 1, 2020 and ending June 30, 2021;

(C) For payments earned in fiscal year 2022 and each fiscal year thereafter - the arithmetic average of the annual investment performance beginning that fiscal year and the two (2) immediately preceding fiscal years.

(vii) Be funded from investment returns, with each invested fund's share calculated in proportion to the magnitude of aggregate investment earnings of each fund invested, including interest and dividends, which shall be continuously appropriated for payment of performance compensation as authorized by this subsection;

(viii) Include a limit for total payments to all participating employees for performance compensation earned in

any one (1) investment period in an amount not to exceed two percent (2%) of net investment returns above the established benchmark of the total fund for that investment period for payments pursuant to subparagraph (v) (A) of this subsection and two percent (2%) of net investment returns above the established benchmark of the employee's individual assigned asset classes for that investment period for payments pursuant to subparagraph (v) (B) of this subsection;

(ix) Include a limit for total payments to an individual employee for performance compensation earned in any one (1) investment period in an amount not to exceed the following:

(A) One hundred percent (100%) of a chief investment officer's base salary;

(B) Seventy-five percent (75%) of a senior investment officer's base salary;

(C) Fifty percent (50%) of an investment officer's base salary;

(D) Twenty-five percent (25%) of a senior analyst's or analyst's base salary.

(x) Provide that performance compensation earned in any one (1) investment period will be paid over a three (3) year period as follows:

(A) Twenty-five percent (25%) during the fiscal year immediately following the fiscal year in which the performance compensation was earned;

(B) Twenty-five percent (25%) during the second fiscal year following the fiscal year in which the performance compensation was earned;

(C) Fifty percent (50%) during the third fiscal year following the fiscal year in which the performance compensation was earned.

(xi) Provide that performance compensation shall be forfeited by an employee upon termination of employment subject to an anti-compete agreement for future employment related to asset management. This paragraph shall not apply to termination based on death, disability or retirement;

(xii) Provide that performance compensation shall not be included as compensation for the purpose of computing retirement or pension benefits earned by the employee;

(xiii) Subject participating employees to the following terms and conditions related to leave time:

(A) Chief investment officers, senior investment officers and investment officers shall receive leave time in the same manner and amount as department directors under W.S. 9-2-1706(b);

(B) Senior analysts and analysts shall receive leave time in accordance with standards and rules established or promulgated in accordance with W.S. 9-2-1022(a).

(xiv) Provide that performance compensation shall only be based on performance criteria occurring on or after the execution of an employment contract in accordance with this subsection. No performance compensation shall be paid other than as provided in the employment contract;

(xv) Be submitted to the joint appropriations committee and the select committee on capital financing and investments for comment, and approved by the human resources division, prior to implementation. The human resources division shall not disapprove a performance compensation plan which complies with the requirements of this subsection;

(xvi) Be submitted and administered by the state treasurer as a separately designated and appropriated budget unit.

(f) The state treasurer shall report to the joint appropriations committee and the select committee on capital financing and investments by November 1 of each year on the plan authorized by subsection (e) of this section. The report shall include:

(i) Payments and methodology of calculating payments under the plan;

(ii) A measurement quantifying the risk resulting from the variation between the prior year's investment benchmarks and the prior year's actual investments;

(iii) An estimate of future payments under the plan and future expected investment benchmarks.

(g) The state treasurer shall have the authority to obtain the financial and criminal background history of an employee, intern or applicant for employment of the state treasurer's office.

9-1-410. Receipts for monies paid into treasury.

The treasurer shall issue receipts for all monies paid into the treasury. A copy of each receipt shall immediately be deposited by the treasurer with the auditor.

9-1-411. Repealed By Laws 1997, ch. 195, § 2.

9-1-412. Offenses by auditor and treasurer; penalties.

(a) If the state treasurer willfully refuses to pay any warrant lawfully drawn upon the treasury, the holder of the warrant may recover four (4) times the amount of the warrant in a civil action against the state treasurer and his sureties. Upon conviction, the treasurer is guilty of a misdemeanor.

(b) If the state auditor knowingly issues any warrant upon the state treasury not authorized by law, he is guilty of a misdemeanor punishable by a fine of not more than four (4) times the amount of the warrant, imprisonment for not more than one (1) year, or both.

(c) Repealed by Laws 1982, ch. 75, § 5; 1983, ch. 171, § 3.

(d) A person who violates W.S. 9-1-403(b) or W.S. 9-1-409(a) commits a felony punishable by a fine of not more than three thousand dollars (\$3,000.00) and by imprisonment for not more than five (5) years.

9-1-413. Report of financial commitments.

At the request of the state treasurer all state agencies and departments making financial commitments payable from the state treasury shall report to the state treasurer on forms prescribed by him the commitments made and the approximate date payable.

9-1-414. Repealed by Laws 1987, ch. 123, § 2.

9-1-415. Collection of debts due the state; discharge of uncollectible debts.

(a) Except as provided in subsections (e) and (f) of this section, any office or agency of the state may use the services of a collection agency licensed in Wyoming to assist in the collection of debts due the state or any state office or agency. Any person owing a debt submitted to a collection agency under this section may be assessed a fee in an amount necessary to cover the cost of collection, not to exceed twenty percent (20%) of the debt owed. The collection agency shall collect the fee with the debt that is submitted for collection.

(b) Any debt due and owing the state or any office or agency of the state, which is determined to be uncollectible, shall be certified to the state auditor by the chief administrative officer of the agency to which the debt is due. The certification shall include:

- (i) The name and last known address of the debtor;
- (ii) The goods or services for which the debt was incurred;
- (iii) The amount of the debt and the date when the debt became due and payable;
- (iv) An explanation of what actions have been taken to collect the debt and why the debt has remained unpaid; and
- (v) A declaration that the debt is uncollectible.

(c) If the auditor agrees the debt is uncollectible, he shall direct that the debt be discharged and extinguished as an asset or account receivable of the state.

(d) The facts and actions which are the basis for the decision that the debt is uncollectible shall be documented in writing and shall be maintained as required under W.S. 9-2-410.

(e) Before any billing for services, collections or use of the services of a collection agency, state institutions shall first make an administrative determination that all statutory requirements relative to patient billing have been followed in each case. In the case of those state institutions defined by W.S. 25-11-101(a)(vii), the decision of whether to contract with

a collection agency shall be made by the department of health or the department of family services pursuant to W.S. 25-11-106.

(f) No patient billing from the state hospital shall be collectible unless:

(i) A legally responsible person has been advised in writing before the treatment or stay at the hospital, at the time of admission or a reasonable time thereafter, of:

(A) The obligation to pay;

(B) The schedule of actual costs for treatment established by the department of health pursuant to W.S. 25-11-102(a);

(C) The sliding scale used to determine established charges pursuant to W.S. 25-11-103(a); and

(D) The right to appeal pursuant to W.S. 25-11-103.

(ii) The patient has been provided with a monthly billing statement; and

(iii) The statutory requirements for the determination of patient billing have been followed.

9-1-416. Local investment pool.

(a) Upon request by any county, municipality, school district or any other local governmental entity, and as provided in W.S. 9-3-503(a), the state treasurer shall invest funds of one (1) or more of those entities on a pooled basis in the same manner as the state treasurer makes short term investments of state funds. The state treasurer shall adopt rules and regulations which:

(i) Provide for the transmittal of funds from the entities to the state treasurer for investment, the manner in which the funds may be withdrawn from the investment pool by entities, accounting and reporting procedures and any other provisions which will effectively carry out the purposes of this section; and

(ii) Establish fees to be charged to local governmental entities which request investment assistance under

this section. The fees collected shall not exceed the direct costs incurred by the state treasurer in providing the investment assistance. Fees collected under this paragraph shall be deposited into an account to be known as the investment assistance account.

(b) Nothing in this section shall be construed to require the state of Wyoming to reimburse government entities for any losses that may occur on investments under this section.

9-1-417. Interfund loans; repayment; maximum amount; interest.

(a) The state treasurer and the state auditor may utilize interfund loans from the legislative stabilization reserve account, or the general fund if insufficient funds exist in the legislative stabilization reserve account, to any other fund or account to meet obligations which come due prior to receipt of revenues. The interfund loans shall be repaid as soon as the anticipated revenue is received. The total amount of interfund loans under this subsection outstanding at one (1) time shall not exceed sixty million dollars (\$60,000,000.00). These loans shall not be used to fund shortages caused by expenditures exceeding projected revenues but are to be used only to fund temporary shortages caused by meeting obligations which come due prior to receipt of revenues. The interest charged on each interfund loan under this subsection, other than to the general fund or budget reserve account, shall be the interest rate earned on pooled fund investments in the previous fiscal year.

(b) To the extent the legislature provides for interfund loans or borrowing authority from one (1) agency, account or fund to another, the interfund loan or borrowing shall come out of the legislative stabilization reserve account to be credited to the borrowing agency, account or fund, except as authorized by W.S. 21-13-316. The interest charged on each interfund loan or borrowing from the legislative stabilization reserve account shall be the interest rate earned on pooled fund investments for the fiscal year immediately preceding the effective date of the interfund loan.

9-1-418. Pooled fund investment loans; maximum amount; repayment.

The state auditor is authorized to borrow from pooled fund investments in the treasurer's office an amount not to exceed two hundred million dollars (\$200,000,000.00) at any one (1)

time to meet the obligations of the department of transportation which come due prior to the receipt of revenues. The amounts borrowed under this section shall be repaid as soon as the anticipated revenue is received. Interest on the unpaid balance shall be equal to the greater of two percent (2%) or the rate of return earned on pooled fund investments in the previous fiscal year. These loans shall not be used to fund shortages caused by expenditures exceeding projected revenues but are to be used only to fund temporary shortages caused by meeting obligations which come due prior to receipt of revenues.

ARTICLE 5
DIRECTOR OF THE STATE DEPARTMENT OF AUDIT

9-1-501. Repealed by Laws 1991, ch. 240, § 2.

9-1-502. Repealed by Laws 1991, ch. 240, § 2.

9-1-503. Repealed by Laws 1982, ch. 75, § 5; 1983, ch. 171, § 3.

9-1-504. Seal of office; adoption; effect of seal.

With the approval of the governor, the director of the state department of audit shall adopt a seal and shall file an impression of the seal with the secretary of state. Every certificate, assignment and conveyance executed by the director pursuant to law and sealed with the seal of his office shall be received as evidence and recorded in the proper recording offices in the same manner as a deed regularly acknowledged as required by law.

9-1-505. Repealed by Laws 1991, ch. 240, § 2.

9-1-506. Authority to issue subpoenas and administer oaths.

In the performance of his duties, the director of the state department of audit may issue subpoenas, administer oaths and enforce obedience of subpoenas and oaths in the same manner as courts of law in this state.

9-1-507. Examination of books of state institutions, agencies and certain districts and entities; independent audit authorized; guidelines.

(a) The director of the state department of audit shall:

(i) Supervise the books, financial accounts and financial records of all state agencies and institutions, counties, school districts and municipalities within the state;

(ii) Repealed by Laws 1993, ch. 75, § 2.

(iii) Require state institutions, state agencies, the entities described in W.S. 16-4-125(c) and incorporated cities and towns with a population of less than four thousand (4,000) inhabitants to file with the department such reports of the books and accounts of the institution, agency, district or entity as the director deems necessary. The director shall promulgate rules under which special districts described in W.S. 16-4-125(c) shall prepare and file an annual report of their books and records with the department of audit. These rules shall apply to special districts which are subject to administration by the courts as provided in subsection (e) of this section. These rules shall provide for different levels of oversight, at the expense of the district, depending upon the higher of the total revenues received or expenditures made by the district during the fiscal year under review subject to the following limitations:

(A) At least one million dollars
(\$1,000,000.00)-an audit by a certified public accountant shall be required;

(B) At least one hundred thousand dollars
(\$100,000.00) but less than one million dollars
(\$1,000,000.00)-requirements shall be greater than those in subparagraph (C) of this paragraph but less than those in subparagraph (A) of this paragraph. The rules shall provide for more stringent oversight requirements for districts with higher total revenues within this range than the requirements for districts with lower total revenues within this range;

(C) Less than one hundred thousand dollars
(\$100,000.00) but more than twenty-five thousand dollars
(\$25,000.00)-the only requirements shall be a proof of cash procedure conducted by an independent third party with a certification from two (2) authorized representatives of the district that the proof of cash procedure was performed by the independent third party in accordance with procedures required by the director and that to the best of their knowledge the financial information used was complete and accurate;

(D) Twenty-five thousand dollars (\$25,000.00) or less - the only requirement shall be the annual report of district revenues, expenses and ending cash balance.

(iv) Require corrections of faults or erroneous systems of accounting and when necessary instruct county and municipal officers in the proper mode of keeping accounts;

(v) Perform an audit or specified procedures of any books and records of any state institution, state agency, incorporated city or town with a population of less than four thousand (4,000) inhabitants or any district or entity described in W.S. 16-4-125(c) whenever the director feels the audit or procedures are necessary. In lieu of performing such audit or procedures, the director may accept an audit or specified procedures performed by a certified public accountant. Specified procedures shall include procedures conducted under one (1) of the following standards:

(A) Current government audit standards issued by the United States comptroller general;

(B) Generally accepted principles and quality standards formally approved by the Association of Inspectors General;

(C) Standards recognized by the Institute of Internal Auditors; or

(D) Standards recognized by the Association of Certified Fraud Examiners.

(vi) Conduct performance measure reviews based on the standards developed in W.S. 28-1-115(a)(ii)(A). The director shall determine the means to be used to verify and validate the performance measures. The results of the reviews shall be reported to the agency head, governor and secretary of state;

(vii) Require each county, city and town, special district and joint powers board in this state to report to the department revenues received and expenditures made each fiscal year. The reports shall be made not later than September 30 for the prior fiscal year. The format of the reports required by this paragraph shall be established by the department of audit by rule. Not later than December 31 of each year, the department shall provide a copy of the report on special districts under

this paragraph to the board of county commissioners for each special district located in that county;

(viii) Beginning 2018, require each special district and other entities specified in W.S. 16-12-202(a) in this state, no matter how formed, except districts created by and subject to administration by the courts, to report to the department and to the county clerk of the county where the special district or other specified entity is located its proposed budget for the next fiscal year. If a special district or other specified entity operates in multiple counties, the special district or other specified entity may post the proposed budget conspicuously on its website or file the proposed budget with each county clerk of the counties in which the special district or other specified entity operates. The report or posting shall be made not later than June 1 of each year. The format of the reports required by this paragraph shall be established by the department of audit by rule no later than December 31, 2017;

(ix) In lieu of the rules described in subparagraphs (iii) (A) through (D) of this subsection, fire protection and water and sewer districts shall be required to comply with the rules to provide for different levels of oversight as follows:

(A) At least one million dollars (\$1,000,000.00)
- an audit by a certified public accountant shall be required;

(B) At least one hundred thousand dollars (\$100,000.00) but less than one million dollars (\$1,000,000.00)
- requirements shall be greater than those in subparagraph (C) of this paragraph but less than those in subparagraph (A) of this paragraph. The rules shall provide for more stringent oversight requirements for districts with higher total revenues within this range than the requirements for districts with lower total revenues within this range;

(C) Less than one hundred thousand dollars (\$100,000.00) but more than twenty-five thousand dollars (\$25,000.00) - the only requirements shall be a proof of cash procedure conducted by an independent third party with a certification from two (2) authorized representatives of the district that the proof of cash procedure was performed by the independent third party in accordance with procedures required by the director and that to the best of their knowledge the financial information used was complete and accurate;

(D) Twenty-five thousand dollars (\$25,000.00) or less - the only requirement shall be the annual report of district revenues, expenses and ending cash balance.

(b) Repealed by Laws 1993, ch. 75, § 2.

(c) Audit procedures performed on all state agencies, institutions and municipalities as defined in W.S. 16-4-102(a)(xiv) within the state shall be performed in accordance with current government audit standards issued by the United States comptroller general and within the standards for audit of governmental units as promulgated by the American Institute of Certified Public Accountants.

(d) Repealed by Laws 2002, Ch. 26, § 2.

(e) The director may waive the oversight requirements of paragraph (a)(iii) of this section for special districts created by and subject to administration by the courts, if the district provides to the director:

(i) An annual written request for a waiver within thirty (30) days after the required annual filing of financial information with the court;

(ii) A copy, certified by the court, of the receipts and disbursements of the district for the fiscal year for which the waiver is requested;

(iii) A copy of the annual budget with the court authorized assessments for the year following the year for which the waiver is requested;

(iv) Other information as the director may reasonably require.

(f) No state agency or board shall impose requirements for audit procedures to be performed upon any public entity described in subsection (c) of this section which exceed the requirements of subsection (c) of this section unless those requirements have been authorized through rules or regulations promulgated by the director of the department of audit and the state agency or board provides funding for the additional audit requirements.

(g) No state agency or board shall require of any recipient of grants or funds, as a condition of receiving the

grant or funds, any audit procedures to be performed which exceed the requirements in subsection (c) of this section unless the state agency or board provides funding for the additional audit requirements through a specific amount in the grant of funds, or unless the requirements are specifically authorized by statute.

(h) The department of audit shall have authority to promulgate rules and regulations to carry out the provisions of the audit procedures authorized by this section including, unless otherwise provided, setting the dollar limits at which audits authorized under subsections (f) and (g) of this section are to be performed for governmental entities in this state and any recipient of state funds.

(j) The director of the department of audit shall certify:

(i) To the state treasurer by October 5 of each year, a list of counties, cities and towns which have failed to comply with paragraph (a)(vii) of this section. The state treasurer shall withhold the annual distribution, which would otherwise be made under W.S. 9-2-1014.1, to any county, city or town failing to comply with paragraph (a)(vii) of this section. The withheld distribution shall be retained in the budget reserve account until the director of the department of audit certifies that the county, city or town has filed the required report;

(ii) To the board of county commissioners and to the special district by October 5 of each year any special district in the county, no matter how formed, which has failed to comply with paragraph (a)(vii) of this section. If, by November 30 of that same year, the district has failed to comply with paragraph (a)(vii) of this section, the director of the department of audit shall file notice with the county commissioners, the county treasurer and the county clerk. The county commissioners shall place a public notice in a newspaper of general circulation in the county indicating the special district is in danger of being dissolved due to failure to comply with the legal reporting requirements. The county commissioners shall assess the special district the cost of the public notice. The county treasurer shall withhold any further distribution of money to the district until the department certifies to the county treasurer that the district has complied with all reporting requirements. If the special district fails to file the required report on or before December 30 of that same year, the county commissioners shall seek to dissolve the special district in accordance with W.S. 22-29-401 et seq. This

paragraph shall apply in addition to any other provision for dissolution in the principal act for a special district.

(k) The director of the department of audit shall report on or before December 31 of each year to the governor and the legislature, financial information regarding counties, cities, towns and special districts. The information shall be obtained from the annual reports collected from the required reports in this section and shall be in a form required by the director. The annual reports and the required reports in this section shall be open for public inspection.

(m) The director of the department of audit shall have the authority to obtain the financial and criminal background of any employee or employment applicant of the department in accordance with W.S. 7-19-106 and 7-19-201.

(n) The director of the department of audit shall have the authority to appoint a public funds administrator who shall serve at the pleasure of the director. The administrator shall have not less than seven (7) years of experience holding all the requirements to practice as a certified public accountant or certified internal auditor. The administrator shall assist the director in his duties to supervise books, financial accounts and financial records of all state agencies and institutions, counties, school districts and municipalities within this state.

9-1-508. Prohibited acts; failure to make return; refusal to give information; hindering or obstructing examination; penalties.

(a) A person commits a felony punishable by a fine of not less than one thousand dollars (\$1,000.00) nor more than five thousand dollars (\$5,000.00), imprisonment for not less than one (1) nor more than five (5) years, or both, if he:

(i) Refuses to make a required return or exhibit to the director of the state department of audit;

(ii) Refuses to give or obstructs access to information required by the director;

(iii) Willfully hinders, obstructs or misleads the director in the execution of his duties;

(iv) In any manner hinders the thorough examination the director is required to make by law.

9-1-509. Duty of county and district attorneys.

When requested by the director of the state department of audit, the county and prosecuting or district attorney shall aid in any investigation or matter, give legal advice, and prosecute criminal cases.

9-1-510. Instructions to public officers; failure of public officer to obey.

(a) The director of the state department of audit shall instruct public officers in the proper handling of the accounts of their offices. A public officer shall handle the accounts of his office strictly in conformance with the instructions of the director. If any officer willfully neglects or refuses to handle his accounts in the manner required, the director may request those in authority to remove the officer.

(b) Reports of books and accounts filed in the office of the director of the state department of audit as required by W.S. 9-1-507(a)(iii) shall be filed within three (3) months after the end of the fiscal year being reported, and shall be in such form and detail as the director may require. Upon a request in writing and good cause shown, the director may allow an extension of time for filing a report or such additional information as may be required.

(c) If a report is not filed in the director's office within the time allowed, the director may proceed to have an audit, or other oversight, as required, performed and may recover the cost of the audit or other oversight in the manner provided in W.S. 16-4-121(e).

9-1-511. Reports of examinations of public offices and institutions; reports on complaints or misconduct charges.

(a) The director of the state department of audit shall prepare a report of each examination of public offices and institutions and he shall keep a permanent file of the reports. He shall provide a copy of reports on state agencies and institutions to the governor, the joint appropriations interim committee and the department of administration and information. Reports of other examinations shall be sent to the appropriate governing body.

(b) The director shall file with the county clerk of the county a copy of every report on a county office or institution, school district or municipal office. Audit reports prepared for agencies by independent accounting firms and accepted in lieu of the director's report shall be similarly filed. The reports shall be open for public inspection.

(c) If a complaint or misconduct charge is made against any officer within the state, a copy of any report, as well as full details of the case, shall be submitted to the governor.

9-1-512. Reports required by law not open for public examination; exceptions; forms for reports.

The director of the state department of audit shall receive and place on file in his office all reports required by law. None of the reports, except as provided by W.S. 9-1-507(k) and the published statement of banks and public offices, are public records or open for public inspection. The state banking commissioner may furnish to the federal reserve bank and its examiners copies of all reports and information pertaining to the condition of the state bank members of the federal reserve system. He may furnish to the federal deposit insurance corporation copies of all reports and information pertaining to the condition of state banks in which the corporation is interested. The state banking commissioner may share examination and other reports with other bank supervisory agencies as authorized by W.S. 13-2-807 and 13-9-316. The director of the state department of audit shall prescribe and distribute the forms for all reports his office is required by law to make.

9-1-513. School finance audits and management studies.

(a) In addition to other duties prescribed under this article, the director of the department of audit shall establish a school finance section within the department to carry out duties prescribed by this section.

(b) The school finance section within the department established under subsection (a) of this section shall:

(i) Conduct periodic audits of each school district pertaining to data required to be submitted to the department of education under law and by rule and regulation of the state superintendent of public instruction for purposes of implementing and operating the "school finance system" as defined under W.S. 21-2-203(a). Audits under this paragraph

shall include audits of systems supporting data collection and shall be performed on each school district at least once within each three (3) year period;

(ii) Conduct management studies of school districts including program evaluations and performance audits, on issues identified by the advisory committee to the department of education, as established under W.S. 21-2-203(d);

(iii) Conduct compliance and effectiveness and efficiency audits of the state department of education with respect to data used in the school finance system, implementation and computations under the school finance system and the allocation of funds to school districts through the school finance system;

(iv) Report findings and recommendations to the department of education resulting from audits and studies conducted on school districts pursuant to this subsection, including recommendations for remedies to identified problems and issues and including the identification and quantification of amounts involved in audit report and study findings;

(v) In addition to paragraph (b)(iv) of this section, provide a written report of each audit or study to the school district for which the audit or report was conducted;

(vi) Maintain a written report of each audit and study conducted under this section;

(vii) Establish a process to ensure school districts and the department of education address and resolve any problems identified within audit and report findings and recommendations and establish the determination of the materiality levels for findings;

(viii) Provide an annual report to the legislature on audits and studies conducted by the department under this section and on district and department of education efforts to resolve identified problems within the audits and reports. Reports under this paragraph shall include written responses by the districts and the department of education submitted in accordance with subsection (c) of this section;

(ix) As a part of the requirements under paragraph (i) of this subsection, conduct periodic audits of career-vocational education information and computations submitted by

districts as necessary for implementation of W.S. 21-13-309(m)(v)(D) and include audit findings in the report to the department of education required under paragraph (iv) of this subsection and the report to the legislature required under paragraph (viii) of this subsection.

(c) School districts and the department of education shall provide access to all data and other information and shall cooperate with the school finance section as necessary to implement this section and to conduct audits and reports required under this section. In addition, each district shall within thirty (30) days following receipt of a copy of the audit or report, file a written response to each audit or report conducted on that district with the department. The state superintendent shall on behalf of the department of education and within thirty (30) days following receipt of a report or audit on the department, file a written response to the report with the department of audit.

(d) The director or his designee shall participate in the advisory committee to the department of education, as required under W.S. 21-2-203(d).

ARTICLE 6 ATTORNEY GENERAL

9-1-601. Appointment; term; removal; special assistant for legislative affairs; qualifications.

(a) The attorney general of the state of Wyoming shall be appointed by the governor with the advice and consent of the senate in accordance with W.S. 28-12-101 through 28-12-103 and may be removed by the governor as provided in W.S. 9-1-202.

(b) If a newly elected governor appoints an attorney general to take office prior to or during the legislative session next following the governor's election, the newly appointed attorney general designee shall become a member of the attorney general's staff to serve as a special assistant to the governor for legislative affairs. When the legislative session adjourns the attorney general's term of office shall terminate.

(c) Prior to his appointment, the attorney general shall have been a practicing attorney for at least four (4) years. At the date of appointment, he shall be in good standing in the courts of record of this state and shall be a resident and elector of the state.

9-1-602. Vacancy in office.

In case of a vacancy in the office of attorney general the governor shall appoint a qualified person to fill the vacancy in accordance with the provisions of W.S. 28-12-101(b).

9-1-603. Duties generally; retention of qualified practicing attorneys; matters in which county or state is party or has interest; assistance to county and district attorneys in felony trials; coordination of county and school safety activities; bankruptcy proceedings.

(a) The attorney general shall:

(i) Prosecute and defend all suits instituted by or against the state of Wyoming, the prosecution and defense of which is not otherwise provided for by law;

(ii) Represent the state in criminal cases in the supreme court;

(iii) Defend suits brought against state officers in their official relations, except suits brought against them by the state;

(iv) Represent the state in suits, actions or claims in which the state is interested in either the Wyoming supreme court or any United States court;

(v) Be the legal adviser of all elective and appointive state officers and of the county and district attorneys of the state;

(vi) When requested, give written opinions upon questions submitted to him by elective and appointive state officers and by either branch of the legislature, when in session;

(vii) Effective July 1, 2000, serve as the designated agency to administer the Wyoming governor's council on developmental disabilities. A memorandum of understanding shall be executed by and between the designated agency and the governor's council, which shall incorporate the provisions of the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 6024;

(viii) Approve or disapprove any contract submitted to him for review within thirty (30) days of submission;

(ix) Establish a call center to accept information related to school and student safety issues and assist in the delivery of that information as necessary to allow for the coordination of local law enforcement, emergency response personnel and school district officials. To the extent possible, the identity of parties reporting information via the call center shall remain unknown to all persons and entities. The attorney general may enact rules as necessary to administer the duties required under this paragraph;

(x) Supervise the Medicaid fraud control unit created by W.S. 42-4-401 et seq.

(b) With the approval of the governor the attorney general may retain qualified practicing attorneys to prosecute fee-generating suits for the state if expertise in a particular field is desirable.

(c) Upon the failure or refusal of any district or county attorney to act in any criminal or civil case or matter in which the county, state or any agency thereof is a party, or has an interest, the attorney general may, at the request of the board of county commissioners of the county involved or of the district judge of the judicial district involved, act on behalf of the county, state or any agency thereof, if after a thorough investigation the action is deemed advisable by the attorney general. The cost of investigation and the cost of any prosecution arising therefrom shall be paid out of the general fund of the county where the investigation and prosecution take place. The attorney general shall also, upon direction of the governor, investigate any matter in any county of the state in which the county, state or any agency thereof may be interested. After investigation, the attorney general shall submit a report of the investigation to the governor and to the district or county attorney of each county involved and may take such other action as he deems appropriate.

(d) When requested by a county or district attorney, the attorney general may assign a member of his staff who is experienced in trial work and in the prosecution of criminal cases to assist in the prosecution of a felony.

(e) All records or information related to the operation of the call center required under paragraph (a)(ix) of this section

are confidential and shall not be deemed a public record under W.S. 16-4-201 et seq. Except pursuant to a court order, the attorney general shall not be compelled to produce any materials obtained in relation to the operation of the call center.

(f) Notwithstanding W.S. 18-3-302(a)(i) or subsection (c) of this section, at the request of the board of county commissioners and if deemed advisable by the attorney general, the attorney general may consult with or act jointly with the county attorney or may act on behalf of the county in a bankruptcy proceeding where the county has an interest in collecting taxes from the entity seeking bankruptcy. The costs of the bankruptcy proceeding shall be allocated pursuant to an agreement between the state and the county.

9-1-604. Office in state capital; private practice prohibited; exception. The attorney general shall keep an office in the state capital, shall not open an office elsewhere and shall not engage in any private practice except to consummate business pending at the time of his appointment if not in conflict with the duties of his office.

9-1-605. Approval of public securities and official bonds; water rights proceedings; investigation of misconduct of county official; report to governor; commencement of action.

(a) The attorney general shall examine, pass upon and approve:

(i) Public securities before permanent funds of the state are invested in them;

(ii) Official bonds executed by state officers.

(b) Under the direction of the governor the attorney general shall institute and pursue proceedings to maintain the state's and its citizens' rights in the waters of interstate streams.

(c) Upon representation to the governor of misconduct or malfeasance in office or the commission of a crime by any county officer in the state and if the governor believes the ends of justice demand or the matter will not be properly investigated and prosecuted by the sheriff and by the district attorney of the county, the governor may direct the attorney general to investigate the case.

(d) Upon completion of the investigation, the attorney general shall report the results of the investigation and his recommendations to the governor. If the governor and the attorney general determine that the attorney general should institute a criminal or civil action, the attorney general shall commence the action. The attorney general shall have the authority and duty vested in district attorneys in this state.

9-1-606. "State official"; defense thereof in civil suit; reimbursement of state.

(a) For the purposes of this section, "state official" means the head of any state agency or an elected state executive official.

(b) When any state official is sued for an official act in a civil lawsuit not involving a tort action governed by W.S. 1-39-104, the attorney general shall provide defense counsel from the attorney general's office or by contracting with private counsel at state expense.

(c) If the judgment in the lawsuit finds the state official was acting outside the scope of his employment, the state official shall reimburse the state for all expenditures made in his defense.

(d) This section shall not be construed to limit the right or obligation of the state to defend any state employee.

9-1-607. Deputy attorneys general; appointment; qualifications; term; duties; certificate of appointment and oath of office.

(a) The attorney general may appoint two (2) deputies, one (1) for civil affairs and one (1) for criminal affairs. Each deputy shall be a member of the Wyoming bar in good standing and shall serve at the pleasure of the attorney general. Each deputy shall have the qualifications and perform the duties required by the attorney general.

(b) When a deputy is appointed the attorney general shall file in the office of the secretary of state a certificate of appointment and the official oath of office of the deputy. The deputy shall not perform any official act until the certificate has been filed.

9-1-608. Assistant attorneys general.

(a) With the approval of the governor, the attorney general may appoint assistant attorneys general necessary for the efficient operation of his office. Each assistant attorney general shall be a member in good standing of the Wyoming bar and shall serve at the pleasure of the attorney general. The assistants shall act under the direction of the attorney general and his deputies. The attorney general, his deputies or his assistants may appear in any courts of the state or the United States and prosecute or defend on behalf of the state. An appearance by the attorney general or his staff does not waive the sovereign immunity of the state.

(b) With the approval of the governor the attorney general may appoint special assistant attorneys general for any purposes. A person shall not be employed as an attorney or legal counsel by any department, board, agency, commission or institution of the state, or represent the state in that capacity, except by the written appointment of the attorney general. Written appointment of the attorney general shall not be required for the employment of legal counsel by elected state officials.

(c) At the request of any state department, board, agency, commission or institution, the attorney general may assign special assistant attorneys general to the department, board, agency, commission or institution.

9-1-609. Salary of deputy attorneys general.

The deputy attorneys general shall receive an annual salary determined by the personnel division.

9-1-610. Administrative and clerical personnel.

Subject to the rules of the personnel division, the attorney general may employ administrative and clerical personnel necessary for the efficient operation of his office.

9-1-611. Division of criminal investigation; created; definitions; director; appointment; qualifications.

(a) The Wyoming division of criminal investigation is created within the office of the attorney general.

(b) As used in this act:

- (i) "Agent" means an agent of the division;
- (ii) "Director" means the director of the division;
- (iii) "Division" means the Wyoming division of criminal investigation;
- (iv) "This act" means W.S. 9-1-611 through 9-1-627.

(c) With the approval of the governor, the attorney general shall appoint a director who is the chief administrative officer and chief agent of the division.

(d) The director shall be a professional law enforcement officer, experienced in modern methods for the detection of crime and the apprehension of criminals. He shall possess the qualifications of an agent under W.S. 9-1-613 and shall have a thorough working knowledge of criminal law and the law of criminal procedure, including the law of arrest, search and seizure and interrogation of criminal suspects. The director shall possess other qualifications required by the attorney general.

9-1-612. Duties of director; deputy directors; appointment; duties; capitol security; security personnel requirements and powers.

(a) The director shall supervise and direct all activities of the division. Subject to the written approval of the attorney general, the director shall prescribe rules and regulations not inconsistent with law to implement this act. The director is responsible to the attorney general for the operation of the division.

(b) With the approval of the attorney general the director may appoint one (1) or more deputy directors who shall perform duties as assigned by the director.

(c) Repealed By Laws 2001, Ch. 45, § 2.

9-1-613. Division agents; appointment; qualifications; continuing education; appointment of persons with specific skills.

(a) The director shall appoint agents who are professional law enforcement officers of honesty, integrity and outstanding ability. Agents shall be adults and shall have at least five (5)

years experience in law enforcement including the detection and investigation of criminal activities or shall possess the educational qualifications required by the director after consultation with and approval by the attorney general and the personnel division.

(b) The director shall establish a system of continuing education and training to ensure that agents of the division are informed of developments in criminal investigative techniques, criminal law and the law of criminal procedure.

(c) The director may employ persons possessing specific skills in the areas of forensic science, criminal identification and the gathering, processing, analysis and security of criminal intelligence.

(d) The director may appoint as agents persons possessing specific skills in the area of criminal investigation.

9-1-614. Division agents; administrative and clerical employees.

Subject to the requirements of the personnel division, the director may employ administrative and clerical employees necessary for the efficient operation of the division.

9-1-615. Division agents; power and authority of agents.

Each agent of the division has the power and authority of any law enforcement officer in this state.

9-1-616. Cooperation with other law enforcement agencies; concurrent jurisdiction.

(a) The division shall cooperate with federal, state, tribal and local law enforcement agencies and officers for the efficient investigation of criminal activity and swift apprehension of persons suspected of violating the criminal laws of this state.

(b) The division shall have concurrent jurisdiction and powers with, and shall not usurp or supersede the jurisdiction and powers of any other law enforcement agencies and officers in this state. However this limitation shall not apply to functions of the division described in W.S. 9-1-618(b).

(c) The division, in accordance with the Wyoming Criminal History Record Act, W.S. 7-19-101 through 7-19-109, shall cooperate with similar agencies of other states and the federal government for the purpose of developing and carrying on a complete interstate, national and international system of criminal identification.

9-1-617. Agents to be safeguarded as peace officers.

Any agent required to perform any official function under this act is entitled to the protections, defenses or immunities provided by law to safeguard a peace officer in the performance of official acts.

9-1-618. Agents to be safeguarded as peace officers; general assistance to state, county or local authorities; investigative duties.

(a) With approval of the attorney general, the division may:

(i) Assist a state, county or local law enforcement authority which requests assistance in investigating and detecting crime and in enforcing the criminal laws of the state;

(ii) Assist in the preparation and prosecution of any criminal case when assistance is requested by a county or district attorney.

(b) The division shall investigate:

(i) Suspected criminal activity when directed by the governor to do so;

(ii) Suspected violations of the Wyoming Controlled Substances Act of 1971 and shall perform all the duties of a law enforcement officer under that act;

(iii) Organized crime which crosses jurisdictional boundaries of local law enforcement agencies;

(iv) Suspected violations of computer crimes as specified in W.S. 6-3-501 through 6-3-507;

(v) Suspected violations involving the sexual exploitation of children as specified in W.S. 6-4-303.

9-1-619. Agents to be safeguarded as peace officers; duty of sheriffs and police to receive and detain prisoners.

Any sheriff, chief of police or other person having charge of a jail or other place of detention shall receive any prisoner arrested by agents of the division within the jurisdiction served by the jail or place of detention and shall detain the person in custody in the same manner as if he were arrested by a peace officer within the jurisdiction.

9-1-620. Agents to be safeguarded as peace officers; agents' credentials; accepting rewards prohibited; oath; political participation prohibited.

(a) The attorney general shall issue proper credentials to each agent of the division.

(b) An agent or employee of the division shall not accept a reward offered for the apprehension or conviction of any person or for the recovery of any property.

(c) Each agent of the division shall subscribe to the oath or affirmation required of other public officials.

(d) An agent or employee of the division shall not participate in partisan, state or local politics.

9-1-621. Repealed by Laws 1986, ch. 32, § 2.

9-1-622. Repealed by Laws 1986, ch. 32, § 2.

9-1-623. Division of criminal investigation; identification systems; information recorded; persons included; systematic maintenance and indexing.

(a) The division shall establish and maintain complete systems for the identification of criminals which comply with modern and accepted methods in the field of criminal identification. The division, in accordance with the Wyoming Criminal History Record Act, W.S. 7-19-101 through 7-19-109, shall obtain, file and preserve for record plates, photographs, outline pictures, fingerprints, measurements, descriptions, modus operandi statements and other information relating to persons who have been:

(i) Convicted of or arrested for any felony;

(ii) Convicted of or arrested for a high misdemeanor or other misdemeanor determined by the division;

(iii) Convicted of violating any of the military, naval or criminal laws of the United States; or

(iv) Convicted of a crime in any other state, country, district or province which, if committed within this state, would be a felony.

(b) All information kept by the division shall be maintained, recorded and indexed in a systematic manner for the purpose of providing a convenient and expeditious method of consultation and comparison.

9-1-624. Division of criminal investigation; uniform procedures and forms for collecting and disseminating identification data; missing persons repository; annual crime statistics report; agencies to cooperate.

(a) The division shall:

(i) Establish uniform procedures and forms for collecting and disseminating criminal identification data;

(ii) Assist law enforcement agencies in establishing and implementing uniform procedures;

(iii) Cooperate with the law enforcement academy to provide to law enforcement agencies and their personnel training, assistance and instruction in the gathering and dissemination of criminal identification data;

(iv) Provide a system for communicating criminal identification data among law enforcement agencies in and outside the state;

(v) Act as a central repository of information and operate a clearinghouse database on missing persons from Wyoming. As a function of the central repository:

(A) The division shall prepare and make publicly available an annual report on information compiled from the missing person clearinghouse. The report shall include biographical information collected on missing persons and include information submitted by federal, state, tribal and local law enforcement agencies located in Wyoming;

(B) The division may make publicly available information about ongoing missing person investigations to aid the efficient investigation and swift recovery of missing persons or when otherwise in the public interest.

(vi) At least annually, compile a report on Wyoming crime statistics and make the report publicly available. The report shall include crime statistics submitted by federal, state, tribal and local law enforcement agencies in addition to the information received pursuant to W.S. 7-19-407 and 7-20-107.

(b) All law enforcement agencies within the state shall cooperate with the division in establishing and maintaining an efficient and coordinated system of identification and in reporting missing persons information to the division.

9-1-625. Division of criminal investigation; adult arrestees to be processed accordingly; data on persons in state custodial institutions; minors.

(a) When an adult is arrested for a felony, high misdemeanor or other misdemeanor determined by the division, the law enforcement agency responsible for the arrest shall process the person in accordance with the uniform procedures prescribed by the division. The law enforcement agency shall send to the division any information required under the Wyoming Criminal History Record Act, W.S. 7-19-101 through 7-19-109, and any additional information requested by the division. An agency making arrests covered by this section may enter into arrangements with other agencies for the purpose of furnishing required information to the division on its behalf.

(b) The administrators of state penal institutions and the superintendents of the Wyoming boys' school and the Wyoming girls' school shall furnish to the division, in the manner and according to the methods prescribed by the division, photographs, fingerprints, modus operandi statements and other required identification of all persons confined in the respective institutions together with any information required under the Wyoming Criminal History Record Act, W.S. 7-19-101 through 7-19-109.

(c) No minor shall be photographed or fingerprinted except in accordance with the Juvenile Justice Act.

9-1-626. Repealed by Laws 1986, ch. 32, § 2.

9-1-627. Authority to compile, disseminate and exchange information; immunity; access to information limited; security precautions.

(a) Any law enforcement officer, the attorney general and his deputies and assistants, and any prosecuting attorney may:

(i) Take fingerprints, photographs and other information relating to criminal identification;

(ii) Compile reports or other documents in writing containing criminal intelligence information, including statements taken from police informants and reports based on the investigation and surveillance of suspected criminal activity;

(iii) Disseminate and exchange criminal identification data and criminal intelligence information among themselves and among law enforcement agencies of other states, tribes or of the federal government.

(b) A person authorized under this section to disseminate or exchange information is not civilly or criminally liable for contributing or for disseminating to authorized persons criminal identification data or criminal intelligence information.

(c) Access to criminal identification and intelligence information is available to law enforcement agencies, the state board of parole and department of corrections as provided by W.S. 7-13-401 through 7-13-411, any agency designated for the purpose provided by W.S. 14-6-227 and the department of family services. Each agency which has that information shall take reasonable security precautions to prevent unauthorized persons from gaining access to it in accordance with rules and procedures established by the division. The rules and procedures may be varied between agencies, depending upon the division's determination of the agency's use of the criminal identification and intelligence information and the adequacy of the agency's security of the information provided by the division under this section.

(d) Access to criminal history record information is available to the Wyoming gaming commission as provided for by law. The commission shall take reasonable security precautions to prevent unauthorized persons from gaining access to criminal history record information in accordance with rules and regulations established by the Wyoming division of criminal

investigation. For the purpose of this subsection "criminal history record information" means information, records and data compiled by criminal justice agencies on individuals for the purpose of identifying criminal offenders consisting of identifiable descriptions of the offenders and notations or a summary of arrests, detentions, indictments, information, pre-trial proceedings, nature and disposition of criminal charges, sentencing, rehabilitation, incarceration, correctional supervision and release. Criminal history record information is limited to information recorded as the result of the initiation of criminal proceedings. It does not include intelligence data, analytical prosecutorial files, investigative reports and files of statistical records and reports in which individual identities are not ascertainable.

9-1-628. Repealed by Laws 1986, ch. 32, § 2.

9-1-629. Repealed by Laws 1986, ch. 32, § 2.

9-1-630. Repealed by Laws 1986, ch. 32, § 2.

9-1-631. Repealed by Laws 1986, ch. 32, § 2.

9-1-632. Wyoming law enforcement academy; created; location.

(a) The Wyoming law enforcement academy is created under the office of the attorney general.

(b) The academy shall be located in Douglas, Wyoming.

9-1-633. Wyoming law enforcement academy; director; appointment; term; qualifications; employees; salaries; curriculum and training programs; fees; disposition.

(a) A director of the Wyoming law enforcement academy shall be appointed by the attorney general with the consent of the governor. The director shall serve at the pleasure of the attorney general. He shall have administrative and operational experience in criminal justice and such other qualifications as are satisfactory to the attorney general.

(b) The director may employ assistants, instructors and other personnel as approved by the attorney general with the consent of the governor. The attorney general may appoint the director as a peace officer, if qualified pursuant to W.S. 9-1-701 through 9-1-707. The director may appoint full-time

staff instructors who qualify pursuant to W.S. 9-1-701 through 9-1-707 to perform as peace officers. Persons appointed as peace officers pursuant to this subsection shall be considered peace officers only:

(i) When on law enforcement academy property;

(ii) When providing security for state personnel or at designated state events or activities;

(iii) When providing security for designated individuals on or about state property; or

(iv) While acting pursuant to W.S. 7-2-106.

(c) The director and staff shall receive salaries fixed by the Wyoming personnel division, department of administration and information.

(d) The academy shall provide education in law enforcement related areas to Wyoming peace officers. The attorney general shall be assisted by, and shall have the curriculum and training programs at the academy evaluated by the Wyoming peace officer standards and training commission.

(e) The director shall charge and collect a fee of at least fifteen dollars (\$15.00) per student per day for advanced courses which exceed the basic statutory requirements. The director shall waive the fees for the division of criminal investigation and may waive the fees for offices, departments or agencies which allow their officers to instruct at the academy at no charge.

(f) The director shall charge and collect a fee sufficient to cover actual direct and indirect costs of coroner basic courses. The fee shall be at least three hundred dollars (\$300.00) per student attending the coroner basic courses.

(g) The director may allow the use of academy facilities by governmental agencies other than law enforcement and shall charge a fee based on actual direct and indirect costs for that use.

(h) No fees shall be charged for:

(i) Peace officer basic courses;

(ii) Detention officer basic courses;

(iii) Repealed By Laws 1999, ch. 148, § 2.

(j) To the extent space is available and under policies established by the director and approved by the attorney general, the academy may permit persons other than peace officers to attend training courses it offers and to charge a fee to recover, at a minimum, the cost of the training and all services provided in conjunction therewith. Prior to admittance a person shall meet all requirements of W.S. 9-1-704(b) (i) through (viii) providing for any background investigation and examinations at the cost of the applicant.

(k) Repealed by Laws 2003, Ch. 120, § 3.

(m) The director shall establish an outreach training services program whereby certain updates, specialized or advanced training courses may be provided locally. The director may seek assistance from the appropriate entities in determining the amount and the specific courses to be offered under the program. The director shall charge and collect a fee to cover the development, delivery and material costs of the training offered by the program.

(n) Revenues received pursuant to subsections (e), (f), (g), (j) and (m) of this section and W.S. 9-1-635 and 31-5-1201(h) shall be credited to an account in the enterprise fund and are continuously appropriated to the attorney general to be expended for the actual direct and indirect costs of providing the services for which the revenues are generated.

(o) As used in this section "full-time staff instructor" means an instructor employed at the academy who works on a yearly basis, with a normal work week of thirty-two (32) or more hours.

9-1-634. Academy to provide coroner training; certification of completion.

(a) The director of the Wyoming law enforcement academy shall provide at the academy or other location within the state a basic coroner's course of at least forty (40) hours. The course shall comply with standards promulgated by the peace officers standards and training commission and the board of coroner standards.

(b) The executive director of the peace officers standards and training commission shall issue an appropriate certificate of completion to any coroner or deputy coroner who completes a coroner training course offered by the academy or which the board of coroner standards has certified as meeting board standards.

9-1-635. Dispatcher training course; certificate upon completion; fees.

(a) The director of the Wyoming law enforcement academy or other training agency may provide at the academy or other location within the state a basic dispatcher course. The course shall comply with standards promulgated by the peace officers standards and training commission.

(b) The director of the Wyoming law enforcement academy or other training agency shall issue an appropriate certificate of course completion to any dispatcher who completes the required training.

(c) Fees charged for dispatcher courses held at the Wyoming law enforcement academy shall be the same as those charged for peace officer courses.

9-1-636. Division of victim services; created; appointment of director and deputy director; administrative and clerical employees; definitions.

(a) The division of victim services is created within the office of the attorney general.

(b) With the approval of the governor, the attorney general shall appoint a director who is the chief administrative officer of the division. The director is responsible to the attorney general for the operation of the division and shall serve at the pleasure of the attorney general.

(c) With the consent of the attorney general and the governor, and subject to legislative appropriation, the director may:

(i) Appoint a deputy director who shall serve at the pleasure of the attorney general and shall perform duties as assigned by the director;

(ii) Employ administrative and other specialized personnel necessary to carry out the functions of the division.

(d) As used in this act:

(i) "Board" means the victim services division advisory board;

(ii) "Crisis intervention services for victims of family violence and sexual assault" means emergency intervention, information, referral services and medical, legal and social services advocacy;

(iii) "Director" means the director of the division;

(iv) "Division" means the victim services division within the office of the attorney general;

(v) "Domestic abuse" means as defined by W.S. 35-21-102(a)(iii);

(vi) "Household member" means as defined by W.S. 35-21-102(a)(iv);

(A) Repealed By Laws 2003, Ch. 173, § 2.

(B) Repealed By Laws 2003, Ch. 173, § 2.

(C) Repealed By Laws 2003, Ch. 173, § 2.

(D) Repealed By Laws 2003, Ch. 173, § 2.

(E) Repealed By Laws 2003, Ch. 173, § 2.

(F) Repealed By Laws 2003, Ch. 173, § 2.

(G) Repealed By Laws 2003, Ch. 173, § 2.

(vii) "Sexual assault" means any act made criminal under W.S. 6-2-302 through 6-2-304, 6-2-314 through 6-2-317 and 6-4-402;

(viii) "Shelter services" means temporary refuge, offered on a twenty-four (24) hour, seven (7) day per week basis to victims of domestic and family violence and sexual assault and their children;

(ix) "This act" means W.S. 9-1-636 through 9-1-638.

9-1-637. Division of victim services; duties of director.

(a) The director shall:

(i) Supervise and direct all activities of the division;

(ii) Report to the attorney general regarding all functions of the division;

(iii) Serve as the state's representative on local, state and national organizations dealing with victim services;

(iv) Serve as the state's liaison with local governmental entities and community service providers to facilitate cooperative efforts to provide victim services;

(v) Consult and cooperate with other departments and agencies involved in victim services;

(vi) Provide public information and education concerning issues relating to victims;

(vii) Receive and take appropriate action to resolve complaints regarding violations of rights afforded to victims under the Victims Bill of Rights, W.S. 1-40-201 through 1-40-210.

9-1-638. Division of victim services; duties and responsibilities.

(a) The division of victim services shall:

(i) Administer a comprehensive statewide plan that provides victim services including, but not limited to, a state program of shelter services for victims of domestic abuse and sexual assault;

(ii) Provide services for victims of crime consistent with current federal funding levels and surcharge funds;

(iii) Review and evaluate all programs receiving appropriated funds;

(iv) Coordinate and provide training, grant application assistance and other support for community based programs and services for victims;

(v) Establish minimum program standards and uniform reporting procedures for community based services and programs for victims supported by state funds and state administered federal funds, including a requirement that each provider of community based services and programs submit an annual unduplicated count of the number of victims it served in accordance with rules and regulations promulgated by the division;

(vi) Enter into contracts for victim services with public or private agencies. The division shall not contract with any entity that is not in substantial compliance with the standards and guidelines promulgated by the division. On all contracts that have not been entered into by competitive bidding, the director shall record on the contract why competitive bidding was not considered;

(vii) Subject to the approval of the attorney general, promulgate rules and regulations necessary to implement the duties and responsibilities assigned to the division.

(viii) Review division of criminal investigation reports from the missing person clearinghouse, as provided in W.S. 9-1-624(a)(v), and coordinate with members of the judiciary, prosecutors, defense counsel, law enforcement and others to provide training on crimes related to missing and murdered persons in the state of Wyoming, including Indian missing and murdered persons.

9-1-639. Attorney general; funds accounting; reporting requirements.

(a) There is created a separate account which the attorney general shall use to account for:

(i) Monies the attorney general administers as trustee pursuant to law or agreement which restricts the use of the money to a specified purpose; and

(ii) Monies which the attorney general holds and disburses as an agent or attorney in fact, which shall include but not be limited to class action litigation recoveries that are to be distributed to any person or business organization,

local government pass-through monies, and contingent fee contracts to be distributed to contract attorneys.

(b) All recoveries, including consumer protection recoveries and class action recoveries, where the attorney general is not designated as the administrator, the trustee or the agent for distribution purposes, shall be deposited into the general fund after deducting litigation costs reimbursed to the attorney general. For purposes of this subsection "litigation costs" shall include expert witness fees, filing fees, reporter costs, other witness fees and costs associated with depositions and discovery.

(c) Monies deposited to the account under subsection (a) of this section may be expended in accordance with W.S. 9-2-1005(b) (ii).

(d) Monies deposited into the account under subsection (a) of this section and not otherwise expended under subsection (c) of this section may be expended by the attorney general in accordance with the purposes for which the monies were received. Monies received by the attorney general for reimbursement of litigation expenses under subsection (b) of this section are continuously appropriated to the attorney general to be expended for the costs of providing the litigation services rendered to collect the recovered monies.

(e) Not later than November 1 of each year, the attorney general shall report to the joint appropriations interim committee on the expenditure of monies received pursuant to this section, W.S. 9-1-633, 9-1-635, 9-1-702 and 9-2-1005. The report shall include an account of the monies in the accounts created in this section for the last fiscal year.

9-1-640. Administrative subpoena authority for investigations of child exploitation.

(a) In any investigation relating to a state offense involving sexual exploitation of children under W.S. 6-4-303, and upon reasonable cause to believe that an Internet service account has been used in the exploitation or attempted exploitation of children, the attorney general or his chief deputy may issue in writing and cause to be served a subpoena requiring the production and testimony described in subsection (b) of this section.

(b) Except as provided in subsection (c) of this section, a subpoena issued under this section may require the production of any records or other documentation relevant to the investigation including:

- (i) Electronic mail address;
- (ii) Internet username;
- (iii) Internet protocol address;
- (iv) Name of account holder;
- (v) Billing and service address;
- (vi) Telephone number;
- (vii) Account status;
- (viii) Method of access to the Internet;
- (ix) Automatic number identification records if access is by modem.

(c) The provider of electronic communication service or remote computing service shall not disclose the following except pursuant to a warrant:

- (i) In-transit electronic communications;
- (ii) Account memberships related to Internet groups, newsgroups, mailing lists or specific areas of interest;
- (iii) Account passwords;
- (iv) Account content to include:
 - (A) Electronic mail in any form;
 - (B) Address books or contact/"buddy" lists;
 - (C) Financial records;
 - (D) Internet proxy content or "Web surfing" history;

(E) Files or other digital documents stored within the account or pursuant to use of the account.

(d) At any time before the return date specified on the subpoena, the person summoned may, in the district court in which the person resides or does business, petition for an order modifying or setting aside the subpoena, or a prohibition of disclosure by a court.

(e) A subpoena under this section shall describe the objects required to be produced and shall prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

(f) If no case or proceeding arises from the production of records or other documentation pursuant to this section within a reasonable time after those records or documentation are produced, the attorney general shall either destroy the records and documentation or return them to the person who produced them.

(g) A subpoena issued under this section may be served by any person who is at least eighteen (18) years of age and who is designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a corporation or partnership or other unincorporated association which is subject to suit under the common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena together with a true copy thereof shall be proof of service.

(h) The attorney general shall annually report the following information to the joint judiciary interim committee no later than February 1 for the preceding calendar year:

(i) The number of requests for administrative subpoenas made under this section;

(ii) The number of administrative subpoenas issued under this section;

(iii) The number of administrative subpoenas issued under this section that were contested;

(iv) The number of administrative subpoenas issued under this section that were suppressed;

(v) The number of search warrants that were issued as a consequence of the issuance of an administrative subpoena under this section;

(vi) The number of individuals who were prosecuted under W.S. 6-4-303 following the issuance of an administrative subpoena under this section.

(j) Except as provided in subsection (h) of this section any information, records or data reported or obtained pursuant to subpoena under this section shall remain confidential and shall not be further disclosed unless in connection with a criminal case related to the subpoenaed materials.

ARTICLE 7

PEACE OFFICER STANDARDS AND TRAINING COMMISSION

9-1-701. Definitions.

(a) As used in this act:

(i) "Commission" means the peace officer standards and training commission;

(ii) "County" means any county which has a law enforcement unit in its jurisdiction;

(iii) "Detention officer" means a person who is employed by a county or municipality on a full-time basis to care for, supervise and control persons detained in a jail or holding facility;

(iv) "Director" means the executive director of the commission;

(v) "Immediate family member" means a spouse, child or parent;

(vi) "Law enforcement unit" means a public agency having police power and charged with enforcing state criminal statutes or municipal ordinances;

(vii) "Municipality" means an incorporated city or town which has a law enforcement unit in its jurisdiction;

(viii) "Part-time or reserve peace officer" means any person having peace officer authority acting less than full time in the service of any county, municipality or state agency, whether compensated or not;

(ix) "Peace officer" means a person as defined by W.S. 7-2-101;

(x) "Peace officer training" means an approved school or local peace officer training program authorized by the commission to train peace officers;

(xi) "Permanent basis" means employed full time as a peace officer;

(xii) "This act" means W.S. 9-1-701 through 9-1-709;

(xiii) "Dispatcher" means a person who is employed by a state, county or municipal law enforcement agency, fire service or licensed ambulance service on a full or part-time basis, to answer and dispatch calls for emergency and nonemergency situations via designated law enforcement and emergency telecommunications equipment;

(xiv) "Certified correctional officer" means a person who is employed by the Wyoming department of corrections on a full-time basis to care for, supervise, control and maintain custody of persons confined in Wyoming department of corrections institutions and who has completed all requirements for certification as a correctional officer under this act;

(xv) "Correctional officer" means a person who is employed by the Wyoming department of corrections on a full-time basis to care for, supervise and maintain custody of persons confined in Wyoming department of corrections institutions;

(xvi) "Correctional officer training" means an approved Wyoming department of corrections preservice academy or other correctional officer training program authorized by the commission to train correctional officers for the state;

(xvii) "Part-time correctional officer" means a person is employed by the Wyoming department of corrections on a part-time basis to care for, supervise and maintain custody of persons confined in Wyoming department of corrections institutions.

9-1-702. Created; membership; removal; compensation; meetings; publication of procedures; standards for certified training; powers and duties.

(a) The peace officer standards and training commission is created. It shall be composed of the attorney general and the following six (6) members who shall be appointed by the governor for a term of three (3) years commencing July 1, 1991, who may be reappointed to subsequent terms and who may be removed by the governor as provided by W.S. 9-1-202:

(i) One (1) representative of a municipal law enforcement agency;

(ii) One (1) representative of a county law enforcement agency;

(iii) One (1) representative of a state law enforcement agency;

(iv) One (1) person who is actively engaged in law enforcement training; and

(v) Two (2) persons at large.

(b) Members of the commission shall receive no compensation, but shall be reimbursed under W.S. 9-3-102 and 9-3-103 for travel and per diem expenses incurred in the performance of their duties.

(c) The commission shall hold at least two (2) meetings per year.

(d) With the approval of the governor, the commission shall establish and publish its procedures.

(e) The commission shall establish standards for certification of peace officer training. The commission shall establish:

(i) Requirements concerning courses of study, attendance, equipment and facilities for peace officer training;

(ii) Qualifications for peace officer training instructors;

(iii) Basic training requirements for peace officers appointed on a permanent basis;

(iv) Basic training requirements for part-time or reserve peace officers;

(v) Basic training requirements for detention officers;

(vi) Categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements with respect to the categories or classifications.

(f) The commission shall:

(i) Recommend to the director studies, surveys and reports regarding the purposes of this act;

(ii) Visit and inspect any peace officer training program at any appropriate time;

(iii) Adopt reasonable rules and regulations pursuant to the Wyoming Administrative Procedure Act;

(iv) Prescribe reasonable minimum qualifications relating solely to physical, mental and moral fitness for persons recruited, appointed or retained as peace officers or dispatchers by the state or a political subdivision;

(v) Grant, suspend or revoke certification of peace officers or dispatchers for substantial failure to comply with this act or the rules of the commission, subject to the contested case procedures of the Wyoming Administrative Procedure Act.

(g) The commission shall establish course requirements and continuing education requirements for coroner training.

(h) The commission shall establish course requirements and continuing education requirements for public safety dispatcher training.

(j) The commission may establish examination and certification fees for administering its duties under this article in accordance with W.S. 33-1-201. Revenues received pursuant to this subsection shall be credited to a separate

account and are continuously appropriated to the attorney general to be expended for the actual direct and indirect costs of providing the services generating the revenues.

(k) The commission shall adopt rules and regulations to:

(i) Establish course requirements and continuing education requirements for correctional officer training; and

(ii) Establish procedures and criteria for the issuance, denial, renewal, suspension and revocation of correctional officer certification. Grounds for denial, suspension or revocation of certification shall include the substantial failure to comply with this act or the rules of the commission. Proceedings regarding a denial, suspension or revocation of certification shall be subject to the contested case procedures of the Wyoming Administrative Procedure Act.

9-1-703. Director; appointment; term; powers and duties.

(a) The director of the commission shall be appointed by the commission with the approval of the governor. The director shall hold office at the pleasure of the commission and with the concurrence of the governor. He shall perform the functions and duties assigned to him by the chairman of the commission.

(b) With the approval of the commission, the director may:

(i) Appoint officers, employees, agents and consultants and prescribe their duties;

(ii) Inspect and approve peace officer and correctional officer training academies, issue certificates of approval to academies and revoke approval or certificates;

(iii) Certify as qualified instructors at approved peace officer and correctional officer training academies and issue appropriate certificates to instructors;

(iv) Certify peace officers, correctional officers and dispatchers who have satisfactorily completed the basic training programs as outlined in this act and issue appropriate certificates to peace officers, correctional officers and dispatchers;

(v) Cause surveys to be made relating to the establishment and operation of peace officer and correctional officer training academies;

(vi) Consult and cooperate with peace officer and correctional officer training academies for the development of the basic and advanced training programs for peace officers;

(vii) Consult and cooperate with universities, colleges, junior colleges and other institutions for the development of specialized courses of study in the state for peace officers in the areas of police science, police administration and the social sciences and other related areas;

(viii) Consult and cooperate with other departments and agencies concerned with peace officer and correctional officer training;

(ix) Report to the commission at regular meetings of the commission and at other times as required and recommend denial, suspension or revocation of certification of a peace officer, correctional officer or dispatcher to the commission as deemed necessary;

(x) Consult and cooperate with universities, colleges, junior colleges and other institutions for the development of specialized courses of study in the state for correctional officers in the areas of inmate management, group dynamics, correctional facility operations, the social sciences and other related areas.

9-1-704. Qualifications for employment as a peace officer; loss of certification for felony conviction; termination from employment.

(a) Within fifteen (15) days after the appointment, termination, resignation or death of any peace officer or dispatcher, written notice thereof shall be given to the commission by the employing agency.

(b) No county, sheriff, mayor, municipality, state agency or any other person authorized by law to appoint peace officers in this state shall appoint any person as a peace officer who does not meet the following qualifications. The person shall:

(i) Be a United States citizen;

(ii) Be an adult;

(iii) Be fingerprinted. Local, state and national fingerprint files shall be searched to determine if the applicant has a criminal record;

(iv) Not have been convicted of a crime for which he could have been imprisoned in a federal penitentiary or state prison;

(v) Hold a high school diploma or evidence of an equivalent achievement;

(vi) Have good moral character as determined by a background investigation. The hiring agency shall complete a background investigation as defined by the commission of any applicant for employment as a peace officer before the applicant may be employed or begin training as a peace officer;

(vii) Be free of any physical, emotional or mental conditions which might adversely affect his performance of duty as a peace officer. Physical condition shall be evaluated by a person licensed to practice medicine. Emotional and mental conditions shall be evaluated by a licensed psychologist or psychiatrist;

(viii) Pass an oral interview examination by the hiring agency.

(c) Notwithstanding any general, specific or local law or charter to the contrary, no person shall receive an original appointment on a permanent basis or hold an appointment on a permanent basis as a peace officer unless the person has been awarded a certificate by the director attesting to his satisfactory completion of an approved peace officer basic training program.

(d) No person shall be appointed as a peace officer on a permanent basis for more than one (1) year unless within one (1) year from the date of appointment he is awarded a certificate by the director attesting that he satisfactorily completed a commission approved peace officer's basic training program.

(e) No person shall be appointed as a detention officer on a permanent basis for more than one (1) year unless within one (1) year from the date of appointment he is awarded a certificate by the director attesting that he satisfactorily

completed a commission approved detention officer basic training program.

(f) Every person who is appointed as a part-time or reserve peace officer shall forfeit his position unless within two (2) years from the date of his appointment he is awarded a certificate by the director attesting that he satisfactorily completed a commission approved peace officer basic training program.

(g) Notwithstanding subsections (c) through (e) of this section, the commission may waive the basic peace officer training program and certify those applicants who can pass a written examination provided by the commission and an oral interview attesting to the applicant's ability in law enforcement. The applicant shall prove that he satisfactorily completed a basic peace officer training program which in the commission's opinion is comparable to that required by this section before waiver is granted.

(h) A person who is convicted of a felony after his appointment as a peace officer is ineligible for continued employment as a peace officer. If the person has been certified under this section, his certification shall be automatically revoked on the date of his conviction. The director shall notify the person and the person's employing agency upon revocation of certification under this subsection.

(j) In the case of termination of a peace officer, the employing agency shall notify the commission and the officer, in writing, of the termination, setting forth in detail the facts and reasons for the termination. If the officer is terminated for failure to comply with this act, or rules promulgated under it, the notice shall so specify. Any officer who has been terminated may present a written statement to the commission responding to the claims made against him or setting forth the facts and reasons for the termination as he believes them to be, and that statement shall become a permanent part of the file. A potential employer may contact the commission to inquire as to the facts and reasons an officer was terminated from any previous employing agency. Unless otherwise prohibited by law, the commission shall, upon request provide to the potential employer all pertinent information which is in its possession.

(k) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a certificate issued by the commission,

the commission shall notify the party named in the court order and the employing agency of the withholding, suspension or restriction of the certificate in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a certificate withheld, suspended or restricted under this subsection.

9-1-705. Peace officer attending authorized school or training program entitled to wages and expenses.

Any peace officer attending any school or training program authorized by the commission for the purpose of meeting the requirements of W.S. 9-1-704 shall be paid his wages as a peace officer by his employer. He shall also receive reimbursement for reasonable expenses as determined by his employer.

9-1-706. Certification without compliance with requirements of W.S. 9-1-704; applicability of civil service provisions.

(a) Any person who has been employed on a permanent basis as a peace officer for ten (10) consecutive years prior to July 1, 1973, and who is currently employed as a peace officer, shall be certified as a peace officer by the director without having complied with W.S. 9-1-704(b) and (c).

(b) Repealed by Laws 1989, ch. 142, § 2.

(c) Nothing in this act shall be construed to except any peace officer from the provisions or requirements of civil service.

(d) An employing agency may establish qualifications and standards for hiring and training that exceed the minimum set by the commission.

9-1-707. Commission may accept grants.

The commission may accept grants of money or materials or property of any kind from the federal government, the state, any agency or political subdivision of the state or any person upon the terms and conditions imposed by the grantor.

9-1-708. Certificate required for permanent employment; temporary employment; waiver or modification of training requirements; wages during training; grandfather provisions.

(a) Notwithstanding any general, specific or local law or charter to the contrary, except as provided in subsection (b) of this section, no person shall be employed as a dispatcher on a permanent or temporary basis unless the person has been awarded a certificate by the director of the peace officer standards and training commission attesting to his satisfactory completion of a commission approved dispatcher basic training program. No county, sheriff, mayor, municipality, state agency or any other person authorized by law to employ dispatchers in this state shall employ any person as a dispatcher who does not meet the employment standards established by commission rule.

(b) A person shall only be employed as a dispatcher on a permanent or temporary basis for two (2) years unless within two (2) years from the original date of employment he is awarded a certificate by the peace officer standards and training commission attesting that he satisfactorily completed a commission approved dispatcher basic training program. The commission may extend the two (2) year time requirement of this section upon the written application of the dispatcher and his employer. The application shall explain the circumstances which make the extension necessary. Factors which the commission may consider in granting or denying the extension include the illness of a dispatcher or a member of his immediate family or the absence of reasonable access to the basic course. The commission shall not grant an extension exceeding two hundred ten (210) days.

(c) Notwithstanding subsections (a) and (b) of this section, the commission may waive the basic dispatcher training program and certify those applicants who pass a written examination provided by the commission and an oral interview attesting to the applicant's ability in law enforcement, fire and ambulance dispatching. The applicant shall prove that he satisfactorily completed a basic dispatcher training program which in the commission's opinion is comparable to that required by this section before waiver is granted.

(d) Any dispatcher attending any school or training program authorized by the commission for the purpose of meeting the requirements of this section shall be paid his wages as a dispatcher by his employer. He shall also receive reimbursement for reasonable expenses as determined by his employer.

(e) Any person who has been employed on a permanent basis as a dispatcher for three (3) consecutive years prior to July 1, 1991, or who has attended and successfully completed the peace

officer's standards and training commission "communications personnel basic course" offered within the state of Wyoming, and who is currently employed as a dispatcher, shall be certified as a dispatcher by the director without having complied with subsection (b) or (c) of this section.

(f) A person who is convicted of a felony after his employment as a dispatcher is ineligible for continued employment as a dispatcher. If the person has been certified under this section, his certification shall be automatically revoked on the date of his conviction. The director shall notify the person and the person's employing agency upon revocation of certification under this section.

(g) Nothing in this section shall be construed to except any dispatcher from any civil service provision or requirement.

9-1-709. Peace officers; retirement and disability credentials.

(a) The director of the peace officer standards and training commission shall authorize the issuance of a retirement or disability identification card to a retired or disabled peace officer upon receipt of an application meeting the requirements of subsection (b) of this section and payment of the required fee.

(b) The application for an identification card under this section shall be signed and verified by the applicant and shall include:

(i) The applicant's name and any other identifying information the commission may require;

(ii) Written verification from the employing agency, in a form satisfactory to the director, that the applicant prior to his retirement or disability was employed by a law enforcement unit in this state and was certified as a peace officer in good standing under this act;

(iii) Proof in a form satisfactory to the director, that the applicant has qualified for retirement under a state or local government retirement system as a peace officer member or suffered injury in the line of duty as a peace officer in this state which resulted in total or partial disability. For purposes of this section total or partial disability shall be determined by provisions of the retirement system of which the

applicant was a member at the time of his injury, but the applicant need not qualify for disability benefits under the system in order to meet the requirements of this section.

(c) At the request of the director of the peace officer standards and training commission, the department of transportation shall prepare and issue an identification card under this section which shall contain:

(i) A distinguishing number assigned to the applicant;

(ii) The applicant's full legal name and resident address;

(iii) A brief description of the applicant including sex, height and weight;

(iv) The applicant's picture;

(v) Information identifying the applicant as a retired or disabled peace officer of the state of Wyoming including the name of the law enforcement unit employing the applicant and the highest rank held by the applicant;

(vi) The certification level held by the applicant under the peace officers standards and training commission.

(d) Identification cards issued under this section shall not expire. The commission shall keep records of data contained in identification cards and may confirm the authenticity of the card to any person.

(e) Upon submission by the applicant of a verified statement to the peace officers standards and training commission that an identification card issued under this section has been lost, destroyed or mutilated, the person to whom it was issued may obtain a new identification card upon furnishing the same documentary evidence required for issuance of an original identification card and paying the fee required by subsection (f) of this section.

(f) Each applicant for an identification card under this section shall pay to the commission a fee of ten dollars (\$10.00) which shall be credited to the highway fund.

(g) No person shall:

(i) Possess any cancelled, fictitious, fraudulently altered or fraudulently obtained identification card issued under this section;

(ii) Lend his identification card to any other person or knowingly permit its use by another;

(iii) Display or represent any identification card not issued to him as being his card;

(iv) Photograph, photostat, duplicate or in any way reproduce any identification card or facsimile thereof in such a manner that it could be mistaken for a valid identification card issued under this section;

(v) Procure an identification card under this section by false swearing, fraud or false statement of any kind or in any form.

(h) Any person who violates any provision of subsection (g) of this section is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00), by imprisonment for not more than ninety (90) days, or both.

9-1-710. Qualifications for employment as a correctional officer; termination of employment; certification without compliance with the requirements of this section.

(a) Within fifteen (15) days after the appointment, termination, resignation or death of any correctional officer or certified correctional officer, written notice thereof shall be given to the commission by the employing agency.

(b) A state agency or any other person authorized by law to appoint correctional officers in this state shall not appoint any person as a correctional officer on or after July 1, 2005, who does not meet the following qualifications. The person shall:

(i) Be a United States citizen;

(ii) Be an adult;

(iii) Submit to fingerprinting and a search of local, state and national fingerprint files to determine whether the

applicant has a criminal record, with a copy of the responses sent to the commission;

(iv) Not have been convicted of any crime for which the applicant could have been punished by imprisonment in a federal or a state penitentiary, unless his conviction is reversed or annulled or he receives a pardon;

(v) Hold a high school diploma or equivalent achievement, with proof forwarded to the commission;

(vi) Be of good moral character as determined by a background investigation. The hiring agency shall complete a background investigation as defined by the commission of any new applicant for employment as a correctional officer before the applicant may be employed or begin training as a correctional officer;

(vii) Be free of any physical, emotional or mental conditions which might adversely affect the applicant's performance as a correctional officer. Physical condition shall be evaluated by a person licensed to practice medicine and by application of a standardized physical fitness performance test as specified by the hiring agency. Emotional and mental conditions shall be evaluated by a licensed psychologist or psychiatrist;

(viii) Successfully pass an oral interview examination and other preemployment examinations specified by the hiring agency.

(c) A person shall not receive an original appointment as a certified correctional officer or hold an appointment on a permanent basis as a certified correctional officer unless the person has been awarded a certificate by the director attesting to his satisfactory completion of an approved correctional officer basic training program and has demonstrated the core competencies of a correctional officer as defined by the employing agency in cooperation with the commission.

(d) A person shall not be appointed as a correctional officer on a permanent basis on or after July 1, 2006 unless within one (1) year from the date of his original appointment he is awarded a certificate by the director attesting that he satisfactorily completed a commission approved correctional officer's basic training program and has demonstrated the core competencies of a correctional officer as defined by the

employing agency in cooperation with the commission. The commission may extend the one (1) year time requirement of this section upon the written application of the correctional officer and his employer. The application shall explain the circumstances which make the extension necessary. Factors which the commission may consider in granting or denying the extension include the illness of a correctional officer or a member of his immediate family or the absence of reasonable access to the basic course. The commission shall not grant an extension exceeding one hundred eighty (180) days.

(e) Every person who is appointed as a part-time correctional officer on or after July 1, 2005, shall forfeit his position unless within two (2) years from the date of his appointment he is awarded a certificate by the director attesting that he satisfactorily completed a commission approved correctional officer basic training program and has demonstrated the core competencies of a correctional officer as defined by the employing agency in cooperation with the commission.

(f) Notwithstanding subsections (b) through (e) of this section, the commission may, upon the recommendation of the employing agency, waive the basic correctional officer training program and certify those applicants who can pass a written examination provided by the commission and an oral interview attesting to the applicant's ability and core competencies in corrections. The applicant shall prove that he satisfactorily completed a basic correctional officer training program which in the commission's opinion is comparable to that required by this section before waiver is granted.

(g) Any correctional officer attending any school or training program authorized by the commission for the purpose of meeting the requirements of this section shall be paid his wages as a correctional officer by his employer. He shall also receive reimbursement for reasonable expenses as determined by his employer.

(h) A person who is convicted of a felony after his appointment as a correctional officer is ineligible for continued employment as a correctional officer. If the person has been certified under this section, his certification shall be automatically revoked on the date of his conviction. The director shall notify the person and the person's employing agency upon revocation of certification under this subsection as defined by the commission.

(j) In the case of termination of a certified correctional officer, the employing agency shall notify the commission and the officer, in writing, of the termination, setting forth in detail the facts and reasons for the termination. If the officer is terminated for failure to comply with this act, or rules promulgated under it, the notice shall so specify. Any officer who has been terminated may present a written statement to the commission responding to the claims made against him or setting forth the facts and reasons for the termination as he believes them to be, and that statement shall become a permanent part of the file. A potential employer may contact the commission to inquire as to the facts and reasons an officer was terminated from any previous employing agency. Unless otherwise prohibited by law, the commission shall, upon request, provide to the potential employer all pertinent information which is in its possession.

(k) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a certificate issued by the commission, the commission shall notify the party named in the court order and the employing agency of the withholding, suspension or restriction of the certificate in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a certificate withheld, suspended or restricted under this subsection.

(m) Any person who has been employed on a permanent basis as a correctional officer for five (5) consecutive years, and who is employed as a correctional officer by the Wyoming department of corrections on July 6, 2006, shall be certified as a certified correctional officer by the director without having complied with subsections (b) through (e) of this section.

(n) The Wyoming department of corrections may establish qualifications and standards for hiring and training that exceed the minimum set by the commission.

9-1-711. Certification and hiring of currently certified peace officers, detention officers and dispatchers.

(a) A law enforcement unit may, following verification from the commission that a person is currently certified by the commission as a peace officer, detention officer or dispatcher, appoint that person to a respectively certified position without further investigation or examination.

(b) The commission shall provide in its rules for the certification to a prospective hiring law enforcement unit that a person is currently certified by the commission as a peace officer, detention officer or dispatcher.

(c) It is the sole responsibility of the prospective hiring law enforcement unit to verify that the person is employed in good standing by another law enforcement unit in this state.

ARTICLE 8 DISTRICT ATTORNEYS

9-1-801. Office created; mandatory and permissive establishment.

There shall be in each judicial district in which any one (1) county has reached a population of sixty thousand (60,000) or more the office of district attorney. In each of the remaining judicial districts there shall be the office of district attorney whenever a majority of the county commissioners in each county within the judicial district shall resolve that such an office of district attorney should be created in that judicial district.

9-1-802. Election; term; qualifications; full-time; private practice prohibited; exception; salary; vacancies.

(a) At the general election in 1982 and every four (4) years thereafter, a district attorney shall be elected in each judicial district in which the office of district attorney has been created six (6) months or more prior to the date of the general election. The district attorney shall serve for a term of four (4) years and until his successor is elected and qualified.

(b) Each district attorney shall have been a licensed attorney for at least four (4) years and a member in good standing of the Wyoming state bar immediately prior to his election.

(c) Each district attorney shall devote full time to the performance of his duties and shall not engage in any private practice except to complete business pending at the time of his election if not in conflict with the duties of his office.

(d) Until January 3, 2011, each district attorney shall receive an annual salary of ninety-four thousand five hundred dollars (\$94,500.00). From and after January 3, 2011, each district attorney shall receive an annual salary of one hundred thousand dollars (\$100,000.00).

(e) A vacancy in the office of district attorney shall be filled by the board or boards of county commissioners under the procedure for filling vacancies in the office of a member of the state legislature or state senator established by W.S. 22-18-111. Vacancies shall be filled until the next general election and the appointee shall be qualified pursuant to subsections (b) and (c) of this section.

9-1-803. Salaries and expenses paid by legislative appropriation.

The salaries of the district attorney, any deputies or assistants and clerical staff and the administrative expenses of the office of district attorney shall be paid pursuant to legislative appropriation.

9-1-804. Duties and powers generally; employment of deputy and assistant district attorneys and other necessary personnel.

(a) In addition to other duties prescribed by law, each district attorney has exclusive jurisdiction to:

(i) Act as prosecutor for the state in all felony, misdemeanor and juvenile court proceedings arising in the counties in his district, and prosecute such cases in the district courts and courts of limited jurisdiction or in other counties upon a change of venue;

(ii) Defend against all petitions for writs of habeas corpus filed in his district by any person charged with or convicted of any public offense in his district. This duty does not extend to petitions filed by inmates of state penal institutions;

(iii) Render assistance as required by the attorney general in the preparation and argument of criminal appeals arising in his district and in the defense of petitions for habeas corpus filed by inmates in state institutions arising from alleged deprivation of rights at the time of or prior to conviction;

(iv) Appear before any judge in the preliminary examination of persons charged with any offense in his district;

(v) Appear at all inquests held by any coroner in his district;

(vi) Appear at all sessions of any grand jury convened in any county within his district.

(b) Each district attorney shall employ and assign to each county in the judicial district at least one (1) of the following to serve at his pleasure: a deputy district attorney, an assistant district attorney or a part-time assistant district attorney. The deputy, assistant or part-time assistant district attorney assigned to a county shall reside in the county and be a resident of Wyoming and his primary responsibility shall be to matters arising in the county.

(c) Subject to the rules of the Wyoming personnel division as to compensation, and as is authorized by the approved budget, each district attorney may employ administrative and clerical personnel necessary for the proper and efficient operation of his office. Such personnel shall serve at the pleasure of the district attorney.

9-1-805. Substitute where conflict of interest or refusal to act.

When the district attorney is interested or refuses to act in a prosecution, the court may direct or permit any member of the bar to act in the district attorney's place.

9-1-806. Deputy district attorneys; appointment; term; qualifications; full-time; private practice prohibited; exception; salary.

(a) As is authorized by the approved budget, each district attorney may employ deputy district attorneys to serve at his pleasure as needed to properly discharge the duties of his office in addition to deputy district attorneys assigned to counties. Each deputy district attorney shall have been a licensed attorney for at least one (1) year and a member in good standing of the Wyoming state bar immediately prior to his employment as deputy district attorney.

(b) Each deputy district attorney shall devote full time to the performance of his duties and shall not engage in any

private practice except to complete business pending at the time of his appointment if not in conflict with the duties of his office.

(c) Deputy district attorneys shall receive an annual salary as determined by the Wyoming personnel division.

9-1-807. Assistant district attorneys; appointment; term; qualifications; full-time; private practice prohibited; exception; salary; part-time; qualifications and salary thereof.

(a) As is authorized by the approved budget, each district attorney may employ assistant district attorneys to serve at his pleasure as needed to properly discharge the duties of his office in addition to assistant district attorneys assigned to counties. Each assistant district attorney shall be a member in good standing of the Wyoming state bar and shall act under the direction of the district attorney and his deputies.

(b) Each full-time assistant district attorney shall devote full time to the performance of his duties and shall not engage in any private practice except to complete business pending at the time of his appointment if not in conflict with the duties of his office.

(c) Full-time assistant district attorneys shall receive an annual salary as determined by the Wyoming personnel division.

(d) Assistant district attorneys who serve in less than a full-time capacity shall be members in good standing of the Wyoming bar and shall act under the direction of the district attorney and his deputies. Part-time assistant district attorneys shall be compensated for services performed in an amount proportionate to the salary allowed for full-time services.

9-1-808. Deputy and assistant district attorneys; powers and duties.

Each deputy and assistant district attorney, under the direction and control of the district attorney, has the same powers and duties as the district attorney by whom he was appointed, except that all acts shall be done in the name of the district attorney.

9-1-809. Per diem and travel expenses.

Each district attorney, deputy district attorney, assistant district attorney or member of a district attorney's staff while traveling on official business shall receive per diem and travel expenses as provided by law for state employees.

9-1-810. Assistance of county attorneys in criminal matters.

Each district attorney may request the assistance of the county attorneys in his district in the preparation, prosecution and argument of criminal matters arising in any county within his district and each county attorney shall render aid and assistance as requested by the district attorney.

9-1-811. Provision of office space.

Each board of county commissioners shall provide suitable office space for the use of the district attorney to properly conduct the business of his office.

ARTICLE 9
STATE ENGINEER

9-1-901. Qualifications.

The state engineer shall have theoretical knowledge and practical and managerial skill and experience which fits him for the position and shall have at least two (2) years of engineering practice and experience in the state and shall be a registered professional engineer.

9-1-902. Duties and powers; representation of state at proceedings relating to water or water use.

(a) The state engineer shall:

(i) Measure and calculate the discharge of streams, from which water is taken for beneficial purposes, commencing work upon those streams most used for irrigation or other beneficial purposes;

(ii) Collect facts and make surveys to determine the most suitable location for constructing works for utilizing the water of the state and to ascertain the location of the lands best suited for irrigation;

(iii) Examine reservoir sites;

(iv) Include in his reports all the facts ascertained by the surveys and examinations, including, wherever practicable, estimates of the cost of proposed irrigation works and of the improvement of reservoir sites;

(v) Know the waterways of the state, and the needs of the state as to irrigation matters;

(vi) Suggest to the governor the amendment or enactment of laws to benefit the state; and

(vii) Keep in his office complete records of his work, observations and calculations, all of which shall be the property of the state.

(b) The state engineer may appear and represent the state of Wyoming in any proceeding or hearing concerning or relating to water or its use, including congressional hearings and hearings before any department, bureau or agency of the United States or of any state.

9-1-903. Repealed by Laws 1989, ch. 94, § 2.

9-1-904. Collection of fees.

(a) The state engineer shall specify by rule and regulation and receive the following nonrefundable fees which shall be collected in advance:

(i) For recording any water right instrument or certificate not otherwise specifically provided for, a reasonable fee not to exceed ten dollars (\$10.00) per page;

(ii) For making copies of any document recorded or filed in the state engineer's office, a reasonable fee shall be assessed not to exceed ten dollars (\$10.00) per page;

(iii) A reasonable fee not to exceed the amount shown shall accompany applications for appropriations for the direct use of the natural unstored flow of water from any surface water source except groundwater as follows:

(A) If water is to be used only for stock or domestic purposes-fifty dollars (\$50.00);

(B) Water used for all other purposes-one hundred dollars (\$100.00).

(iv) A reasonable fee not to exceed the amount specified shall accompany applications for the storage of water as follows:

(A) For reservoirs twenty (20) acre-feet or less-fifty dollars (\$50.00) each;

(B) For reservoirs greater than twenty (20) acre-feet but less than one hundred (100) acre-feet-one hundred dollars (\$100.00) each;

(C) For all other reservoirs-two hundred fifty dollars (\$250.00) each;

(D) Secondary supply applications-one hundred dollars (\$100.00) each;

(E) Reservoir supply ditch applications-one hundred dollars (\$100.00) each.

(v) A reasonable fee not to exceed the amount specified shall accompany groundwater applications:

(A) Domestic or stock wells, twenty-five gallons per minute (25 g.p.m.) or less,-fifty dollars (50.00);

(B) Monitor wells-no fee required;

(C) Repealed by Laws 1993, ch. 146, § 4.

(D) All other wells or groundwater developments-one hundred dollars (\$100.00).

(vi) A reasonable fee not to exceed the amounts shown shall accompany all safety of dams plan reviews required or submitted in accordance with W.S. 41-3-308 as follows:

(A) For dams more than twenty (20) feet but less than forty (40) feet in height or with a capacity of fifty (50) acre-feet or more but less than one hundred (100) acre-feet-one hundred dollars (\$100.00) each;

(B) For dams forty (40) feet in height or more or with a capacity of one hundred (100) acre-feet or more-two hundred fifty dollars (\$250.00) each.

(vii) Reasonable fees for computer and other technical services related to providing water resources information.

(b) The state engineer shall specify by rule and regulation an amount not to exceed fifty dollars (\$50.00) of the fees collected for each application for a permit under subparagraphs (a) (v) (A) and (D) of this section to be deposited into the account created under W.S. 33-42-116 for wells which require the use of a licensed well driller pursuant to W.S. 33-42-103.

9-1-905. Weather modification; legislative declarations.

(a) It is hereby declared that:

(i) The state of Wyoming claims its sovereign right to the use for its residents and best interests of the moisture contained in the clouds and atmosphere within its sovereign state boundaries;

(ii) Although little is known regarding artificial weather modification, research and experimentation shall be encouraged;

(iii) Although the ultimate use of modification methods is speculative, the application of such methods should have proper safeguards and provide sufficient data to protect life, property and public interest.

9-1-906. Weather modification defined; duty of state engineer to gather information relative to experiments in state.

The state engineer shall procure, compile and evaluate information relative to weather modification experiments and activities within the state boundaries. The term "weather modification" means attempting to change or control any of the weather phenomena by chemical, mechanical or physical methods.

9-1-907. Weather modification; permit required; issuance; duration; fee; report of activities; penalties for noncompliance.

(a) It is unlawful for anyone to engage in weather modification activities except by permit prescribed and issued by the state engineer.

(b) A separate permit shall be issued for each experiment or activity. Permits are revocable by the state engineer. Permits are to be issued for one (1) year from October 1 of one year to September 30 of the following year. A fee not to exceed one hundred dollars (\$100.00) shall be charged for each permit issued or renewed. Fees received by the state engineer shall be deposited with the state treasurer to be placed into the general fund. A permit shall be issued only to a person who can demonstrate to the state engineer's satisfaction that he has adequate qualifications in the atmospheric sciences. The state engineer shall promulgate rules and regulations necessary to implement this act.

(c) The state engineer shall demand and receive a written report, in such manner as he shall provide, covering each separate experiment or activity for which a permit is issued.

(d) Any person engaging in a weather modification experiment without a permit is guilty of a misdemeanor and upon conviction is subject to a fine not to exceed five thousand dollars (\$5,000.00) or by imprisonment for not more than ninety (90) days.

9-1-908. Weather modification; authority to receive and expend funds; purposes.

The state engineer is authorized to receive in the name of the state any funds offered or available from any source, and to expend such funds for the expenses of administering this act and for the encouragement of experimentation in weather modification by the University of Wyoming or any other appropriate state or public agency, either by direct grant, by contract or other cooperative means.

9-1-909. Weather modification; state not liable for activities of private persons or groups.

Nothing in W.S. 9-1-905 through 9-1-909 shall be construed to impose or accept any liability or responsibility on the part of the state, the board, or any state officials or employees, for any weather modification activities of any private person or group, nor to affect in any way any contractual, tortious, or

other legal rights, duties or liabilities between any private persons or groups.

CHAPTER 2
AGENCIES, BOARDS, COMMISSIONS AND DEPARTMENTS
GENERALLY

ARTICLE 1
DEPARTMENT OF HEALTH

9-2-101. Creation; definitions; divisions.

- (a) The department of health is created.
- (b) As used in this article:
 - (i) "Department" means the department of health;
 - (ii) "Director" means the director of the department.
- (c) The department is the successor to the board and department of health.
- (d) Repealed by Laws 1991, ch. 221, § 3.
- (e) The department consists of the director who is the chief administrative officer and such divisions as the director may create.
- (f) The director shall appoint and prescribe the duties of officers of the institutions in title 25 under the direct authority and control of the department.

9-2-102. Department of health; duties and responsibilities; state grants.

(a) The department of health is the state mental health authority, the developmental disabilities authority and the substance abuse authority. The department through its divisions has the following duties and responsibilities to:

- (i) Administer comprehensive state programs for mental health, developmental disabilities and substance abuse services;
- (ii) Provide a coordinated network of programs and facilities offering the following services to persons afflicted

with mental illness or developmental disabilities or for substance abuse: diagnosis, treatment, education, care, training, community living, habilitation and rehabilitation;

(iii) Establish minimum standards and approve policies and procedures for the establishment and operation of community-based mental health, substance abuse and developmental disabilities programs receiving state support. The department through its mental health division and its substance abuse division shall annually withhold not less than five percent (5%) of all amounts provided in each contract with a community-based mental health, substance abuse or drug court program or provider and shall not release the funds withheld to the individual program or provider until the respective division and the individual program or provider enter into a written agreement that provides for performance and outcome measures. If the respective division and an individual program or provider do not enter into a mutually agreed upon set of performance and outcome measures, the funds withheld under this paragraph shall revert to the budget reserve account at the end of the biennium in which the funds were withheld;

(iv) Establish minimum standards for all mental health, substance abuse and developmental disabilities services supported by state funds;

(v) Establish a statewide suicide prevention program that includes:

(A) A statewide written plan adopted by the department following at least one (1) statewide public meeting of interested persons and entities;

(B) Assistance to local communities in the development and maintenance of suicide prevention coalitions;

(C) Consultation, technical assistance and training to state and local agencies, organizations and professional groups;

(D) Maintenance of a library of suicide prevention materials and information which shall include copies of or links to Cochrane collaboration systematic reviews or other similar sources relevant to this subject;

(E) Collection and dissemination of information regarding best practices for suicide prevention and intervention.

(b) Repealed By Laws 1998, ch. 81, § 3.

(c) The program may include state grants based on a formula for state and local participation.

(d) Repealed By Laws 1998, ch. 81, § 3.

(e) Repealed by Laws 1984, ch. 31, § 2.

(f) Repealed by Laws 1991, ch. 161, § 4; ch. 221, § 3.

(g) Repealed by Laws 1991, ch. 161, § 4; ch. 221, § 3.

(h) Repealed by Laws 1991, ch. 161, § 4; ch. 221, § 3.

(j) Repealed by Laws 1991, ch. 161, § 4; ch. 221, § 3.

(k) Repealed by Laws 1991, ch. 161, § 4; ch. 221, § 3.

(m) Repealed by Laws 1991, ch. 161, § 4; ch. 221, § 3.

(n) Repealed by Laws 1991, ch. 161, § 4; ch. 221, § 3.

(o) The department shall provide to the joint labor, health and social services interim committee, and any other appropriate legislative committee, periodic reports from the department's internal performance measurement system.

9-2-103. Division administrators; appointment; qualifications; duties; salaries, tenure and removal generally; necessary personnel.

(a) The director shall appoint a separate administrator for the divisions of the department of health and he may discharge the administrators as provided in W.S. 9-2-1706(c)(ii). Appointments under this subsection shall be subject to the following:

(i) The administrator for a division dealing primarily with public health shall:

(A) Have theoretical knowledge and practical and managerial skill and experience which fits him for the position, as determined by the director; and

(B) Repealed By Laws 1998, ch. 20, § 2.

(C) Administer a program for the supervision of volunteer physicians who provide medical care, assistance or medical administrative services without charge for the medical services rendered in an eligible program in compliance with rules and regulations promulgated by the department. To qualify as an eligible program, the medical services shall be provided in any hospital, clinic, health care facility or institution owned or operated by the state, University of Wyoming or any local government. A disclosure statement shall be signed in advance by the recipients informing them of the physician's limited liability under the program.

(ii) Repealed by Laws 2015, ch. 59, § 2.

(b) Repealed by Laws 1987, ch. 185, § 2.

(c) Repealed by Laws 1991, ch. 221, § 3.

(d) Where the director meets the qualifications specified in subsections (a) and (e) of this section and so chooses, the director may serve as the state health officer.

(e) The director shall appoint a state health officer who shall be licensed in Wyoming as a physician and who shall carry out the statutory duties and any other duties assigned to him by the director. The state health officer shall:

(i) Answer directly to the director;

(ii) Not be assigned to any division within the department;

(iii) Have support staff to carry out the duties assigned to him.

9-2-104. Allocation, transfer and abolition of powers, duties and functions within department.

(a) The governor may, after consultation with the director of the department and the departmental advisory council:

(i) Repealed by Laws 1991, ch. 221, § 3.

(ii) Designate the department as the single state agency for the administration of state plans for health and medical services, mental health and developmental disabilities, to administer upon such terms as the governor directs.

9-2-105. Office of planning and administration; created; duties and powers of administrator.

(a) The office of planning and administration is created and shall be under the authority of the director.

(b) The administrator of the office of planning and administration shall:

(i) Coordinate all program administration, including all budget requests, grant applications and plans;

(ii) Advise, consult and cooperate with all departmental agencies, all other state departments, agencies, subdivisions and the federal government;

(iii) Require that all administrators within the department cooperate with the office and report to the office on all matters pertaining to program planning, budgeting and administration; and

(iv) Perform planning as determined by the director.

9-2-106. Duties and powers of director of department.

(a) The director shall:

(i) Consult with the departmental advisory council and establish general policy to be followed in the department in administering programs;

(ii) Disburse and administer all federal funds or other monies allotted to the department;

(iii) Prescribe by rule, order or regulation the conditions under which these monies shall be disbursed and administered;

(iv) Enter into agreements, not inconsistent with the laws of this state, required as conditions precedent to

receiving funds or other assistance. Funds appropriated by the legislature for operation of the department shall be used for the specified purposes only, and the director, in accepting funds from any other source, shall not consent to impairment of the department's statutory responsibilities;

(v) Hold hearings, administer oaths, subpoena witnesses and take testimony as provided by the Wyoming Administrative Procedure Act in all matters relating to the exercise and performance of the powers and duties vested in the department;

(vi) With the assistance of the attorney general bring actions in the courts of the state in the name of the department for the enforcement of public health, mental health and medical services laws; and

(vii) Ensure that the department and all of its divisions promulgate reasonable rules and regulations, after consultation with the departmental advisory council and in compliance with the Wyoming Administrative Procedure Act, for the implementation of all state and federal public health, mental health and medical services laws. When promulgating such rules and regulations the director shall assure that the department uses language which focuses on the importance of a person, rather than a person's disability.

(b) Notwithstanding paragraph (a)(iv) of this section, the director may use funds appropriated by the legislature for the operation of the department to pay health or medical insurance premiums for any resident of Wyoming upon a determination by the director or his designee that:

(i) Due to an injury or illness, the person or his family is or may become unable to pay health or medical insurance premiums;

(ii) The person is or may become eligible for medical services which would be paid for by the state; and

(iii) Payment of the premiums may be less expensive for the state than payment of the medical services.

(c) Health or medical insurance premiums paid for in accordance with subsection (b) of this section shall be reviewed periodically to ensure payment of the premiums does not exceed the cost for provision of medical services. The authority

granted under subsection (b) of this section shall terminate effective June 30, 1996.

(d) The director may authorize the Wyoming life resource center, the Wyoming state hospital, the Wyoming pioneer home, the veterans' home of Wyoming, the Wyoming retirement center and the Wyoming veterans' skilled nursing facility to provide services to persons with conditions other than those specified in the provisions governing those state institutions in title 25 of the Wyoming statutes when the director determines that there is a need for such services, that the services can be provided effectively by the institution, that the services shall be delivered in a manner that assures the safety of all individuals served by the institution and the services provided are statutorily authorized for any of these institutions, the service needs are similar to those authorized for any of these institutions or the services are necessary to protect the public health and safety. The director shall promulgate rules and regulations and policies and procedures necessary to implement this subsection. Nothing in this subsection shall be construed to authorize the director to eliminate services that are otherwise required by statute.

9-2-107. Division advisory councils; appointment; departmental advisory council; created; term; composition; meetings; removal of members; selection of officers; vacancies; expenses.

(a) The director may appoint an advisory council, each of which shall consist of not more than ten (10) members unless otherwise required by law or good practice, to each of the divisions of the department.

(i) Repealed by Laws 1990, ch. 63, § 3; 1991, ch. 221, § 3.

(ii) Repealed by Laws 1991, ch. 221, § 3.

(iii) Repealed by Laws 1991, ch. 221, § 3.

(iv) Repealed by Laws 1991, ch. 221, § 3.

(b) Repealed by Laws 2016, ch. 37, § 2.

(c) Repealed by Laws 2016, ch. 37, § 2.

(d) Repealed by Laws 2016, ch. 37, § 2.

(e) Repealed by Laws 2016, ch. 37, § 2.

(f) Repealed by Laws 2016, ch. 37, § 2.

(g) Repealed by Laws 2016, ch. 37, § 2.

(h) Repealed by Laws 2016, ch. 37, § 2.

9-2-108. Director of department; appointment; removal; duties.

(a) With the advice and consent of the senate the governor shall appoint a director for the department who shall serve under the direction of the governor and who may be removed by the governor as provided in W.S. 9-1-202.

(b) The director shall:

(i) Manage and supervise the department;

(ii) Repealed By Laws 1999, ch. 149, § 1.

(c) Appointments and terms under this section shall be in accordance with W.S. 28-12-101 through 28-12-103.

9-2-109. Vocational rehabilitation; definitions.

(a) As used in W.S. 9-2-109 through 9-2-115:

(i) "Division" means the staff within the department of workforce services who administer vocational rehabilitation programs and provide vocational rehabilitation services;

(ii) "Eligible" means a certification that:

(A) The individual has a physical or mental impairment which constitutes or results in a substantial impediment to employment of the individual;

(B) Vocational rehabilitation services may reasonably be expected to benefit the individual in terms of an employment outcome; and

(C) The individual requires vocational rehabilitation services to prepare for, secure, retain or regain employment.

(iii) "Individual with a significant disability" means an individual:

(A) Who has a severe physical or mental disability which seriously limits one (1) or more functional capacities in terms of an employment outcome;

(B) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(C) Who has one (1) or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, intellectual disability, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, sickle cell anemia, specific learning disability, end stage renal disease or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

(iv) "This act" means W.S. 9-2-109 through 9-2-115.

9-2-110. Division of vocational rehabilitation; administrative duties.

(a) This act shall be administered by the division. In administering this act, the division shall:

(i) Make regulations necessary to implement this act;

(ii) Certify for disbursement funds available for the purposes of this act.

9-2-111. Division of vocational rehabilitation; provision of authorized services; related powers.

(a) Except as otherwise provided by law, the division shall provide the services authorized by this act to eligible individuals with disabilities. The division may:

(i) Cooperate with other departments, agencies and institutions, both public and private, in providing the services authorized by this act to individuals with disabilities;

(ii) Enter into reciprocal agreements with other states to provide for the services authorized by this act to residents of the contracting states;

(iii) Establish and operate rehabilitation facilities and workshops and make grants to public and nonprofit organizations for those purposes;

(iv) Supervise the operation of small businesses established pursuant to this act to be conducted by eligible individuals with disabilities;

(v) Provide training and instruction, including establishing and maintaining research fellowships and traineeships with stipends and allowances, in matters relating to vocational rehabilitation;

(vi) Establish new vending machine sites on any state owned public property, except as provided in subsection (b) of this section, in cooperation with the administrator or governing body in charge of the public property;

(vii) Bid out all vending machine sites located on any state owned public property, except as provided in subsection (b) of this section. Vending machines currently located on public property and under a written contract with a specific renewal or termination date will not be affected by this section until the renewal or termination date;

(viii) Enter into contracts with vendors for the installation and operation of vending machine sites on any state owned public property, except as provided in subsection (b) of this section. These contracts shall include a provision for the payment of commissions to the division based on gross revenues from the vending machines. These commissions shall be placed in an account which shall be used for the establishment and administration of small businesses created under this act. The division may assign a portion of the commissions to operators of small businesses created under this act for the maintenance of their income;

(ix) Promulgate rules and regulations to provide:

(A) Definitions to include the terms "contract bid preference," "small businesses," "public property" and "vending machine sites";

(B) Methods for determining the contract bid preference eligibility under W.S. 9-2-115;

(C) Methods of recovering the cost of establishing small businesses and maintaining equipment;

(D) Methods for determining the portion of commissions to be assigned to small business operators for the maintenance of their income.

(x) Encourage the establishment of vending machine sites and small businesses on privately owned or controlled property.

(b) The provisions of this act shall not apply to state owned public property included in W.S. 36-8-1001 through 36-8-1002 or state owned public property used to conduct the state fair or the Wyoming pioneer memorial museum under W.S. 11-10-101 through 11-10-114 or the University of Wyoming or Wyoming community colleges.

9-2-112. Division of vocational rehabilitation; cooperation with federal government in providing services to individuals with disabilities.

(a) The division shall cooperate with the federal government in implementing federal statutes pertaining to the purposes of this act, including the licensing of blind persons or other individuals with disabilities to operate small businesses on federal property. The division may adopt methods of administration necessary for the proper and efficient operation of agreements with the federal government and to secure the full benefits of the federal statutes.

(b) Upon designation by the governor, the division may perform functions and services for the federal government relating to individuals with a physical or mental disability other than those described in subsection (a) of this section.

9-2-113. Division of vocational rehabilitation; federal and state funds; custody and disbursement by state treasurer; gifts.

(a) The state treasurer is the custodian of all funds received from the federal government for vocational rehabilitation or to implement any agreements authorized by this act. The division of vocational rehabilitation shall disburse federal and state funds available for those purposes and submit receipt and acknowledgement to the state treasurer.

(b) The division may accept and use gifts for carrying out the purposes of this act. The gifts may be held, invested, reinvested and used in accordance with the conditions of the gift.

9-2-114. Division of vocational rehabilitation; services; persons eligible; extent provided at public cost; regulation as to selection of persons to be benefited; right to benefit not transferable.

(a) Vocational rehabilitation services shall be provided to eligible residents with disabilities and to other individuals with disabilities who are eligible under an agreement with another state or the federal government.

(b) Goods or services shall be provided at public cost only to the extent that the individual with disabilities requires financial assistance with respect thereto. However, the following services may be provided at public cost:

(i) Diagnostic and related services, including transportation, required for the determination of eligibility for service and of the nature and scope of the services to be provided;

(ii) Guidance; and

(iii) Job related services, including job search and placement, job retention services and follow-up services.

(c) If vocational rehabilitation services cannot be provided to all eligible individuals with disabilities, the division shall adopt, by regulation, a method for selecting those to whom services will be provided.

(d) The right of any individual to any benefit under this act is not transferable or assignable at law or in equity.

9-2-115. Division of vocational rehabilitation; preference given to eligible individuals with disabilities in operating

small businesses on public property; new construction and remodeling; effect of preference on existing small businesses.

(a) Individuals with disabilities determined to be eligible by the division shall be given a contract bid preference on small contracts, where the small business was established pursuant to this act. The contract bid preference shall apply to small businesses on either public or private property which were established pursuant to this act.

(b) The administrator or governing body in charge of any public property, in cooperation with the division may construct a new facility or remodel a preexisting facility to accommodate a small business established pursuant to this act.

(c) The contract bid preference granted by this section does not affect the rights of persons currently operating a small business on public property and under a written contract with a specific renewal or termination date, until the renewal or termination date. After the renewal or termination date, the division shall bid out the small business contract and apply contract bid preferences where applicable.

9-2-116. Legislative findings; purposes.

The legislature finds that a shortage of primary care physicians and allied health providers exists in the state of Wyoming which limits the availability of adequate health care services for the citizens of the state who live in rural areas. The legislature further finds that the number of qualified physicians and allied health care providers can be increased to enhance the provision of rural health care services by the adoption of incentives to attract more primary care physicians and allied health care providers to communities experiencing these shortages. The legislature therefore enacts the Rural Health Care Act of 1993 to create an office of rural health care and to create a loan repayment program to repay education loans of primary care physicians and allied health care providers who practice for specified periods of time in designated communities which are experiencing shortages.

9-2-117. Office of rural health created; duties.

(a) The office of rural health is created within the department of health. The office shall:

(i) Serve as a clearinghouse for information on primary health care services in communities and rural areas of Wyoming and provide for dissemination of information by appropriate means to interested citizens of the state;

(ii) Provide technical assistance and consultation services to communities and rural areas, including hospitals located in these communities and rural areas, and thereby assist citizens' groups, local officials and health professionals to:

(A) Recruit and retain health care professionals and support personnel as required;

(B) Assess health care needs and priorities in rural areas;

(C) Identify sources of funding and programming, including information on rural health care districts;

(D) Establish strong working relationships with health care professionals throughout the state;

(E) Repealed by Laws 2016, ch. 37, § 2.

(F) Assist in the development of rural health clinics;

(G) Repealed by Laws 2016, ch. 37, § 2.

(iii) Contract, if necessary, with other entities to carry out duties prescribed under this section, and to conduct an active and ongoing recruitment program for physicians and other health care professionals and to engage in the following activities:

(A) Assist communities in their effort to recruit and retain physicians and other health care professionals;

(B) Assist communities in the contact and evaluation of potential candidates;

(C) Conduct community studies to ascertain viable support for health care professionals;

(D) Assist physicians and other health care professionals and their families to find communities that will meet their needs and expectations;

(E) Maintain close liaison with government and private sources of health care providers;

(F) Assess the availability of health care providers in the state;

(G) Facilitate incorporation of mid-level providers into the state health delivery system.

(iv) Collaborate with state agencies, private health organizations and professional and community organizations in a continuing effort to improve needed rural, primary care and other health care services for the people of Wyoming;

(v) Administer the loan repayment programs created by W.S. 9-2-118 and 9-2-119;

(vi) In collaboration with the state health officer and the state chief information officer, represent the department of health in a consortium of state agencies, private health organizations and professional and community organizations to facilitate the operations of a statewide interoperable telemedicine/telehealth network using existing internet protocol based communication and videoconferencing infrastructure and telecommunication services to the extent possible. The consortium shall:

(A) Consist of members appointed by the director of the department of health, to include the Wyoming chief information officer or the officer's designee;

(B) Coordinate the development and promotion of statewide standards for an interoperable telemedicine/telehealth network and, where applicable, promote definitions and standards for statewide electronic health transactions;

(C) Promote and conduct education programs that inform network users that information communicated through the use of telemedicine/telehealth shall conform with state and federal privacy and security laws and information security programs established by the state chief information officer;

(D) Have the authority to seek funds for consortium operation and contract as needed to carry out its responsibilities.

(vii) In collaboration with the state health officer and the state chief information officer or their designees, coordinate with appropriate state agencies to establish incentives to implement, promote and facilitate the voluntary exchange of secure telemedicine/telehealth network information between and among individuals, entities and agencies that are providing and paying for services authorized under the Medicaid program, in conformity with rules adopted by the state chief information officer;

(viii) In collaboration with the state health officer and the state chief information officer or their designees, develop and promote a common direction for a statewide interoperable telemedicine/telehealth network among state agencies, in conformity with rules adopted by the department of enterprise technology services;

(ix) As required by W.S. 33-1-303(a)(iv) and in collaboration with the state health officer and the state chief information officer or their designees, collaborate with professional and occupational licensure boards concerning the promulgation of rules and definitions related to the practice of telemedicine/telehealth and the use of telemedicine/telehealth technologies.

9-2-118. Physician and dentist loan repayment program.

(a) The department is authorized to enter into agreements with physicians and dentists who have graduated from accredited residency programs to provide health care in this state. The agreements shall:

(i) Provide for the physician or dentist to practice medicine in a community of the state from among a list of communities developed by the department. A physician or dentist shall agree to provide medical care for the period of the contract in underserved areas of the state and shall accept patients qualified under the Medical Assistance and Services Act, Title XVIII of the federal Social Security Act and the child health insurance program who seek medical care which the physician or dentist is qualified to provide;

(ii) Provide that the physician or dentist shall be repaid up to one hundred percent (100%) of the amount of outstanding educational loans the physician or dentist has acquired as a direct result of undergraduate or postgraduate educational training directly related to providing medical or dental services, not to exceed thirty thousand dollars (\$30,000.00) per year, in exchange for practicing his profession under the terms of this section;

(iii) Require the physician or dentist to practice for a minimum of three (3) years under the agreement;

(iv) Repealed by Laws 2005, ch. 148, § 2.

(v) Contain other provisions the department deems necessary or appropriate to accomplish the purposes of this section.

(b) The department, in consultation with the appropriate licensing board and professional association, shall promulgate rules necessary to carry out the purposes of this section. In carrying out this section the department shall assess health care needs of the state by geographic areas and practice specialties and shall prioritize and enter into agreements under this section accordingly.

(c) The department may vary the terms of each agreement in accordance with this section based upon the community and the number of the physician's or dentist's patients whose cost of care is reimbursed under Title XVIII of the federal Social Security Act, the child health insurance program or the Wyoming Medical Assistance and Services Act.

(d) Repealed By Laws 2008, Ch. 121, § 3.

9-2-119. Allied health care provider loan repayment program.

(a) The department is authorized to enter into agreements with health care providers licensed or certified to provide health care services in this state including, but not limited to, hospital, medical, surgical, dental, vision, nursing, radiology, mental health, speech language pathology and pharmaceutical services. The agreements shall:

(i) Require the health care provider to provide health care services in a community of the state from among a

list of communities developed by the department. A health care provider shall agree to provide medical care for the period of the contract in underserved areas of the state and shall accept patients qualified under the Medical Assistance and Services Act, Title XVIII of the federal Social Security Act and the child health insurance program who seek medical care which the health care provider is qualified to provide;

(ii) Provide that the health care provider shall be repaid up to one hundred percent (100%) of the amount of outstanding educational loans the provider has acquired as a direct result of undergraduate or postgraduate educational training directly related to providing medical services, not to exceed twenty thousand dollars (\$20,000.00) per year, in exchange for practicing under the terms of this section;

(iii) Require the health care provider to agree to provide health care services for a minimum of three (3) years under the agreement;

(iv) Repealed By Laws 2005, ch. 148, § 2.

(v) Contain other provisions the department deems necessary or appropriate to accomplish the purposes of this section.

(b) The department, in consultation with the appropriate licensing board and professional association, shall promulgate rules necessary to carry out the purposes of this section. In carrying out this section the department shall assess health care needs of the state by geographic areas and particular health care services required and shall prioritize and enter into agreements under this section accordingly.

(c) The department may vary the terms of each agreement in accordance with this section based upon the community and the number of the health care provider's patients whose cost of care is reimbursed under Title XVIII of the federal Social Security Act, the child health insurance program or the Wyoming Medical Assistance and Services Act.

(d) Repealed by Laws 2006, ch. 118 § 2.

(e) In selecting health care providers for agreements pursuant to this section, the department shall give priority when practical to qualified graduates of the University of Wyoming or a Wyoming community college.

9-2-120. Renumbered as 9-4-1203 by Laws 2000, Ch. 52, § 2.

9-2-121. Renumbered as 9-4-1204 by Laws 2000, Ch. 78, § 1.

9-2-122. Substance abuse control plan.

(a) The department of health shall develop a detailed, comprehensive substance abuse control plan for prevention, early intervention and treatment designed to curb alcohol and controlled substance abuse in the state of Wyoming.

(b) The department of health or contractor shall work, to the greatest extent feasible, in collaboration with the University of Wyoming statistical analysis center in determining appropriate data regarding early warning signs of substance abuse.

(c) The plan shall also recommend how the services of schools, community mental health centers, social service providers, local health care providers, law enforcement, corrections and any other entities presently available in the state of Wyoming can better serve the state in responding to substance abuse problems. The substance abuse control plan should decrease the potential overlapping of these services while maintaining a collaborative effort among state and local governmental entities and other organizations to assure maximum leveraging of resources, including people and money. The plan should identify and address the filling of gaps in the continuum of needed services. The substance abuse control plan shall also include recommendations to the executive, legislative and judicial branches of the state of Wyoming regarding programs and funding determinations which those entities may make.

(d) Repealed By Laws 2008, Ch. 44, § 2.

9-2-123. Wyoming investment in nursing loan and grant program; eligibility criteria; procedures.

(a) There is created the Wyoming investment in nursing program administered by the Wyoming community college commission created under W.S. 21-18-201. The program shall be known as the WYIN program. Applicants shall be residents of this state or graduates of a Wyoming high school and may apply for loans from the WYIN program in accordance with this section.

(b) To qualify for a loan under the WYIN program, the applicant shall first:

(i) Be accepted into a nursing education program at a Wyoming community college, the University of Wyoming, or, in the case of a candidate for a doctoral degree, an institution providing the required nursing education courses under contract with the western interstate commission for higher education or in a distance nursing education program at a university that is regionally accredited; and

(ii) Apply for federal financial assistance and any employer-based financial assistance for which the applicant may be eligible. Wyoming community colleges shall allow students who apply for admission into an approved nurse aide training or nursing education program, and who will enroll in fewer than six (6) academic credit hours, to apply for federal financial assistance.

(c) Subject to the availability of funds appropriated for this program, loans under the WYIN program may be granted to applicants enrolled or planning to enroll in nursing education programs as follows:

(i) An applicant who is accepted into a Wyoming licensed practical nurse or registered nursing education program or a baccalaureate degree program in nursing may be eligible for a loan to pay the unmet need, as determined by the Wyoming community college commission or its designee, of attendance at the licensed practical nursing education program or the registered nursing education program leading to an associate's or baccalaureate degree;

(ii) A registered nurse with a baccalaureate degree who holds an unencumbered license with the Wyoming board of nursing and is accepted into a nursing education program at the University of Wyoming leading to a master's degree or doctorate level degree in nursing or nursing education may be eligible for a loan to pay the unmet need of attendance, as determined by the Wyoming community college commission or its designee, provided that in order to receive a loan for either program, the applicant shall agree to repay the loan by teaching nursing at a Wyoming community college or the University of Wyoming. If the applicant registered nurse is not accepted into a nursing education program at the University of Wyoming and upon approval of the Wyoming community college commission, the applicant registered nurse may be accepted into an accredited nursing

education program at a university located outside of the state. Loans awarded for applicants accepted into programs outside of Wyoming shall not exceed the loan amounts available for programs at the University of Wyoming;

(iii) A registered nurse with a master's degree in nursing who holds an unencumbered license with the Wyoming board of nursing and is accepted into a nursing education program at an institution providing the required nursing education courses under contract with the western interstate commission for higher education or in a distance nursing education program at a university that is regionally accredited leading to a doctorate level degree in nursing may be eligible for a loan to pay the unmet need of attendance, as determined by the Wyoming community college commission or its designee, provided that in order to receive a loan for a doctorate level degree program, the applicant shall agree to repay the loan by teaching nursing at a Wyoming community college or the University of Wyoming.

(d) A loan provided under this section shall not exceed the cost of attendance for the approved program, reduced by the amount of any Pell or other federal grant and any employer-based financial assistance received by the applicant.

(e) A recipient of a WYIN loan under this section may repay the loan without cash payment by working in Wyoming as a nurse or nurse educator as provided in subsection (f) of this section. To qualify as repayment under this subsection, and except for graduate students as provided under subsection (q) of this section, work shall be performed within the following time periods which begin with the calendar month following the month in which the student completed the academic program:

(i) If the loan can be repaid with work of two (2) years or less, within three (3) years;

(ii) If the loan can be repaid with work of greater than two (2) years, but no more than four (4) years, within five (5) years;

(iii) If the loan can be repaid with work of greater than four (4) years, within the amount of time the loan could be repaid, plus two (2) years.

(f) Qualified work under subsection (e) of this section shall be credited so that the student's loan balance is reduced on the basis of one (1) year of full-time employment repaying

the loan balance for one (1) academic year of full-time enrollment, or twelve thousand dollars (\$12,000.00) of the loan, whichever is less. Qualified work shall be credited on a proportional basis.

(g) Any recipient of a WYIN loan who fails:

(i) To complete the academic program for which the loan was provided shall commence cash repayment of the loan no later than forty-five (45) days after the recipient leaves the academic program;

(ii) To obtain employment in the targeted occupation for which the person received the education within ninety (90) days after successfully passing the appropriate certification or licensure examination shall commence cash repayment of the loan within one hundred twenty (120) days after successfully passing the appropriate certification or licensure examination;

(iii) The appropriate certification or licensure examination on the first attempt may retake the examination at the next available opportunity before commencing repayment of the loan. The recipient shall notify the Wyoming community college commission or its contractor of the intent to retake the examination and the date the examination will be taken. Any recipient of a WYIN loan who fails the examination after the second attempt shall commence cash repayment of the loan within forty-five (45) days after receipt of notification of the second failure by the board of nursing. If the recipient of a WYIN loan who fails the examination on the first attempt does not retake the examination at the next available opportunity, cash repayment shall commence within forty-five (45) days after the next available examination is conducted.

(h) Loan repayment options under this section may be deferred for a period not to exceed four (4) years while a loan recipient is serving on full-time active duty with any branch of the military services of the United States.

(j) The Wyoming community college commission shall have the powers and duties specified in W.S. 21-18-202 to implement this section and shall establish terms and conditions of loans issued under this section, including:

(i) Interest rates and loan terms;

(ii) The form and process for loan application, review and award;

(iii) Criteria under which students may be relieved from having to repay loans and interest thereon, in whole or in part, where the requirement to repay would cause undue hardship.

(k) Funding of the loan program established under this section shall be by appropriation of the legislature. The Wyoming community college commission shall transfer approved loan amounts to the University of Wyoming and to Wyoming community colleges at which loan recipients are enrolled. In consultation with the university and affected community colleges, the commission shall establish procedures for transferring loan amounts and for reporting requirements on the expenditure of transferred loan amounts.

(m) Cash repayment of loans and interest thereon shall be credited to the general fund.

(n) The Wyoming community college commission shall annually review the loan program established under this section and report to the governor and the legislature in accordance with W.S. 9-2-1014, regarding program results, funds received and loans issued during the preceding academic year, together with the status of all outstanding loan commitments and repayments under the program.

(o) Repealed by Laws 2019, ch. 60, § 2.

(p) For the purposes of this section:

(i) Any person beginning a nursing education program as authorized by this section shall continue to receive funding for the program so long as the person remains eligible as required by this section;

(ii) Repayment of loans provided under this section shall continue as specified in this section until all loan obligations have been satisfied.

(q) A recipient of a WYIN loan under this section and attending a master's or doctorate nursing level program may begin loan repayment through qualified work as authorized under subsections (e) and (f) of this section concurrently with enrollment in the nursing education program, subject to the following:

(i) If the recipient is enrolled in a master's nursing degree program, the recipient shall perform qualified work for not less than one (1) year following completion of the education program;

(ii) If the recipient is enrolled in a doctorate nursing degree program, the recipient shall perform qualified work for not less than two (2) years following completion of the education program.

9-2-124. Prescription drug consumer information and technical assistance program.

The prescription drug consumer information and technical assistance program is created within the department of health. The program shall provide Wyoming residents with advice on the prudent use of prescription drugs and how to access government and private prescription drug programs and discounts. The program shall include consultation by licensed pharmacists for individuals with respect to how the individuals may, with the approval of the appropriate prescribing health care professional, avoid dangerous drug interactions and substitute more cost effective drugs for the drugs prescribed.

9-2-125. Client treatment records; confidentiality; limited disclosure permitted; definitions.

(a) Client registration records and treatment records relating to persons receiving mental health or substance abuse treatment at a treatment facility under contract with the department shall remain confidential, except as provided in this section, W.S. 7-4-201(f), 28-8-107, 28-8-108 and 28-8-111.

(b) The content of any record specified in subsection (a) of this section may be disclosed in accordance with the prior written consent of the person who is the subject of the record, but only to the extent, under the circumstances, and for the purposes as are allowed under the terms of the written consent.

(c) The records specified in subsection (a) of this section shall be provided by the treatment facility or by another division within the department to the mental health division or the substance abuse division for the purpose of determining compliance with state or federal requirements and as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism or drug abuse.

(d) Treatment records of a person may be released without informed written consent of the patient or his legal representative in the following circumstances:

(i) To an agency as necessary for management or financial audits, or program monitoring and evaluation. Information obtained under this paragraph shall remain confidential and may not be used in a manner that discloses the name or other identifying information about the persons whose records are being released;

(ii) For purposes of research as provided in W.S. 9-2-126. Information obtained under this paragraph shall remain confidential and may not be used in a manner that discloses the name or other identifying information about the persons whose records are being released;

(iii) Within the treatment facility where the client is receiving treatment as necessary for the provision of mental health or substance abuse services;

(iv) To a licensed physician or a licensed health care provider who has determined that the life or health of the client is in danger and that treatment without the information contained in the treatment records could be injurious to the client's health. Disclosure under this paragraph shall be limited to the portions of the records necessary to meet the medical emergency;

(v) To a treatment facility that is to receive the client from another treatment facility. The release of records under this subsection shall be limited to the treatment records required by law and those treatment records as necessary for the provision of mental health and substance abuse services;

(vi) To a correctional facility, the board of parole, a corrections employee or contractor who is responsible for the supervision of a person who is receiving mental health or substance abuse services. Release of records under this paragraph is limited to and as follows:

(A) An evaluation report provided pursuant to a written supervision plan;

(B) The discharge summary, including a record or summary of all somatic treatments, at the termination of any treatment provided as part of the supervision plan;

(C) When a person is returned from a treatment facility to a correctional facility or when a person under the supervision of the department of corrections is receiving mental health or substance abuse services from a treatment facility, the information provided under paragraph (v) of this subsection. Disclosure under this paragraph shall be made to clinical staff only;

(D) Any information necessary to establish or implement changes in the person's treatment plan or the level or kind of supervision as determined by the department of corrections, the contractor or the board of parole. In cases involving a person transferred back to a correctional facility, disclosure under this paragraph shall be made to clinical staff only.

(vii) To the person's legal representative or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals or other actions relating to detention, admission, commitment or patient's rights;

(viii) Pursuant to lawful search warrant or other order issued by a court.

(e) The department shall develop and maintain an information system to be used by the department and its divisions that includes a tracking method which allows the department and its divisions to identify mental health and substance abuse clients' participation in any mental health or substance abuse services on an immediate basis. The information system shall not include individual client's case history files. Confidentiality of client information shall be maintained to avoid identification of individual clients. The data elements shall be designed to provide information that is needed to measure performance and achieve service outcomes.

(f) Nothing in this section shall be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, as established by rule and regulation of the department.

(g) As used in W.S. 9-2-125 and 9-2-126:

(i) "Department" means the department of health;

(ii) "Individually identifiable" means that a record contains information which reveals or can likely be associated with the identity of the person or persons to whom the record pertains;

(iii) "Legal representative" means a person legally authorized to give consent for the disclosure of personal records on behalf of a minor or a legally incompetent adult;

(iv) "Registration records" means the records of the department, treatment facilities and other persons providing treatment services under contract with the department which identify persons who are receiving or who at any time have received treatment services for mental illness or substance abuse with monies provided under contract with the department;

(v) "Research" means a planned and systematic sociological, psychological, epidemiological or other scientific investigation carried out by a state agency, by a scientific research professional with a bona fide scientific research organization or by a graduate student currently enrolled in an academic degree curriculum, with an objective to contribute to scientific knowledge, the solution to health problems or the evaluation of public benefit and service programs. "Research" does not include record analysis and data collection that are subjective, do not permit replication and are not designed to yield reliable and valid results;

(vi) "Treatment facility" means any community based program or service provider providing mental health or substance abuse services under contract with the department;

(vii) "Treatment records" means registration, health care and all other records, in any form or medium, concerning persons who are receiving or who at any time have received mental health or substance abuse services from a treatment facility or other persons under contract with the department.

9-2-126. Client treatment records; research; access; disclosure; penalties.

(a) The department may authorize or provide access to or provide copies of an individually identifiable record for

research purposes if informed written consent for the disclosure has been given to the department by the person to whom the record pertains or, in the case of minors and legally incompetent adults, the person's legal representative.

(b) The department may authorize or provide access to or provide copies of an individually identifiable record it has in its control or the registration or treatment records of a treatment facility for research purposes without the informed consent of the person to whom the record pertains or the person's legally authorized representative, only if:

(i) The department adopts research review and approval rules including, but not limited to, the requirement that the research organization appoints a standing human research review board competent to review research proposals as to ethical and scientific soundness and the review board determines that the disclosure request has scientific merit and is of importance in terms of the agency's program concerns, that the research purposes cannot be reasonably accomplished without disclosure of the information in individually identifiable form and without waiver of the informed consent of the person to whom the record pertains or the person's legal representative, that disclosure risks have been minimized, and that remaining risks are outweighed by anticipated health, safety or scientific benefits;

(ii) The disclosure does not violate federal law or regulations; and

(iii) The department negotiates with the research organization receiving the records or record information a written and legally binding confidentiality agreement prior to disclosure. The agreement shall:

(A) Establish specific safeguards to assure the continued confidentiality and security of individually identifiable records or record information;

(B) Ensure that the research organization will report or publish research findings and conclusions in a manner that does not permit identification of the person whose record was used for the research. Final research reports or publications shall not include photographs or other visual representations contained in personal records;

(C) Establish that the research professional will destroy the individual identifiers associated with the records or record information as soon as the purposes of the research project have been accomplished and notify the department to this effect in writing;

(D) Prohibit any subsequent disclosure of the records or record information in individually identifiable form except as provided in subsection (c) of this section; and

(E) Provide for the signature of the research professional, of any of the research professional's team members who require access to the information in identified form, and of the department official authorized to approve disclosure of identifiable records or record information for research purposes.

(c) No research professional who has established an individually identifiable research record from record information pursuant to subsection (b) of this section, or who has established a research record from data or information voluntarily provided by a treatment facility under a written confidentiality assurance for the explicit purpose of research, may disclose the record in individually identifiable form unless:

(i) The person to whom the research record pertains or the person's legal representative has given prior informed written consent for the disclosure;

(ii) The research organization reasonably believes that disclosure will prevent or minimize injury to a person and the disclosure is limited to information necessary to protect the person who has been or may be injured, and the research organization reports the disclosure only to the person involved or the person's guardian, the person's physician and the department;

(iii) The research record is disclosed in individually identifiable form for the purposes of auditing or evaluating a research program and:

(A) The audit or evaluation is authorized or required by federal or state law or regulation or is based upon an explicit provision in a research contract, grant or other written research agreement; and

(B) No subsequent disclosure of the research record in individually identifiable form will be made by the auditor or evaluator except as provided in this section; or

(iv) The research record is furnished in compliance with a search warrant or court order, provided that:

(A) The court issues the search warrant or judicial subpoena concerning the research record solely for the purpose of facilitating inquiry into an alleged violation of law by the research organization using the record for a research purpose or by the agency; and

(B) Any research record obtained pursuant to this paragraph and any information directly or indirectly derived from the research record shall remain confidential to the extent possible and shall not be used as evidence in an administrative or judicial proceeding except against the research organization using the record for a research purpose or against the department.

(d) Unauthorized disclosure, whether willful or negligent, by a research organization that has obtained an individually identifiable record or record information from the department or a treatment facility pursuant to subsection (b) of this section is a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than ten thousand dollars (\$10,000.00), or both. All fines and penalties collected under this section shall be paid to the state treasurer and credited as provided in W.S. 8-1-109. A patient, or in the case of a minor or legally incompetent person, the person's legal representative, may maintain a civil action for damages for unauthorized disclosure of protected health information against any person or entity making such an unauthorized disclosure.

(e) Nothing in W.S. 9-2-125 or 9-2-126 shall require the department to provide client registration records or client treatment records in a format that is not within the technological capabilities of the department at the time the request is made for such records.

9-2-127. Community health centers and rural health clinics; process for grants facilitating capital construction and start up costs; account established; grant criteria.

(a) There is created a process for grants facilitating capital construction and start up costs of community health

centers and rural health clinics. The process shall be administered by the Wyoming department of health.

(b) The primary care support account is created. The account shall consist of those funds appropriated to the account by the legislature and all monies received from federal grants and other contributions, grants, gifts, transfers, bequests and donations to the account. The account is specifically empowered to accept grants, gifts, transfers, bequests and donations. Funds in the account are continuously appropriated to the department for the purpose of providing grants under subsections (c) and (d) of this section.

(c) The department shall establish by rule and regulation an application procedure and calendar for grants awarded under subsection (d) and adopt other rules as necessary to implement this section.

(d) The department shall provide grants, subject to the following:

(i) Before submission to the department, and following public notice and a hearing, the application shall be approved by the board of county commissioners for the county in which the community health center or rural health clinic is located or proposed to be located;

(ii) Grants may be made to community health centers and rural health clinics for one-time startup costs of a new center or clinic, for existing centers or clinics to expand the population served or initiate new services for existing or new centers or clinics to facilitate compliance with quality criteria. The grants shall be used for capital and start up expenses only and shall not be used for ongoing operating expenses;

(iii) Grants to any one (1) center or clinic shall not exceed one million dollars (\$1,000,000.00) of state funds;

(iv) Grant applications shall include evidence of a commitment of local matching funds of at least twenty-five percent (25%) of the state funds grant amount in cash, in kind or both;

(v) Centers or clinics awarded a grant shall provide services to the public regardless of the ability to pay;

(vi) Grant applicants shall provide proof of designation as a rural health clinic or federally qualified community health center; and

(vii) Grants shall be awarded only if the applicant can demonstrate an operating plan that integrates health care services within the entire service community to promote accessibility and quality of care. The plan shall provide for integration enhancement through the use of the Medicare and Medicaid electronic health records program, the small rural hospital improvement program and other similar programs.

(e) A grant recipient under this section shall agree to provide health care services in an underserved community of the state, from among a list of communities developed by the department, for a period of at least three (3) years under the agreement. The recipient shall accept as its first priority and treat without reservation patients qualified under the Medical Assistance and Services Act, Title XVIII of the federal Social Security Act and the child health insurance program who seek medical care which the health care provider is qualified to provide.

(f) The department of health, office of rural health care, shall:

(i) Conduct outreach and education among persons, entities and groups interested in forming a community health center or rural health clinic and submitting a new access point grant application to the United States department of health and human services, health resources and services administration;

(ii) Collect and maintain appropriate data regarding the primary care support program's effect on improvements in community and rural health.

(g) This section is repealed effective June 30, 2021.

9-2-128. Health care innovation; studies; account.

(a) The department is authorized to carry out innovative studies relating to the following:

(i) Reduction of costs associated with long-term care, chronic disease or other health care services to the state of Wyoming;

(ii) Allowing individuals in need of long-term care to remain in their homes and communities;

(iii) Developing necessary long-term care or other health care services in Wyoming;

(iv) Use of broadband internet to access health care services.

(b) There is created the health care innovation account. Funds in the account may include any applicable federal funds and shall be used to carry out innovative studies under this section, subject to legislative appropriation.

(c) Not later than September 30 of each year, the department shall provide a report to the joint labor, health and social services interim committee and the joint appropriations committee relating to funding and studies carried out under this section.

(d) The department may enter into agreements to carry out this section. Except as otherwise provided in this section, agreements under this section shall be exempt from the procurement requirements set forth in W.S. 9-2-1016 and other state laws and rules governing the procurement of services by a state agency. The department shall obtain approval of all agreements from the attorney general.

(e) A person undertaking an innovative study under this section shall make available to the department all documents relating to the study for review upon request. Documents under this section containing any personally identifiable information or any trade secret shall not be subject to the Wyoming Public Records Act.

(f) The department may adopt rules to implement this section, including specifying a method of application for funding and standards for program operation.

(g) As used in this section:

(i) "Innovative study" means a randomized, controlled trial, pilot project, model or analysis conducted under scientific conditions for:

(A) Assessing a new approach to the provision of long-term care, care of chronic diseases, early detection or

other health care services which have no substantially comparable, widely available analogue in Wyoming;

(B) Testing of noninvasive diagnostic equipment. As used in this paragraph, "noninvasive" means equipment that does not cause mental or physical effects on the human body.

(ii) "Innovative study" shall not include the testing of pharmaceuticals, medical procedures or medical devices other than noninvasive diagnostic equipment.

9-2-129. Waiver of rules.

(a) The department may waive existing rules as necessary to carry out an innovative study under W.S. 9-2-128.

(b) The department shall adopt rules specifying standards for a waiver under this section.

9-2-130. Mental health and substance use disorder programming; department of corrections; criminal justice populations.

(a) Pursuant to this section and W.S. 25-1-105(f) and (g), the department of health shall collaborate with the department of corrections to reduce recidivism rates for persons with behavioral health needs and substance use disorders who are involved in the criminal justice system and improve mental health and substance use disorder programming by:

(i) Creating a behavioral health services enhancement program for community providers to improve outcomes for persons involved in the criminal justice system through a separate contract, or in a separate provision in an existing contract, administered by the department of health;

(ii) Adopting standardized, evidence based treatment practices and guidelines for treating and providing programming to persons involved in the criminal justice system with behavioral health and substance use needs;

(iii) Increasing communication between the department of health, the department of corrections and contracted behavioral health providers working with persons involved in the criminal justice system;

(iv) Promoting and requiring to the maximum extent practical and permissible under applicable laws and regulations the portability and universal recognition of mental health and substance use disorder assessment tools and other assessment tools that may be applicable to mental health and substance use disorder treatment; and

(v) Creating a competitive and outcomes based funding stream for behavioral health providers to:

(A) Expand existing services for criminal justice involved populations;

(B) Improve the quality and availability of services and programs;

(C) Train and develop the skills of providers and stakeholders working with persons who have behavior health needs and substance use disorders and who are involved in the criminal justice system.

(b) This section shall not be interpreted to require the creation or maintenance of any duplicate functions, services or programs in the department of health and the department of corrections, but shall be interpreted with W.S. 25-1-105(f) and (g) to require coordination and collaboration between the agencies to assure the creation and maintenance of independent or coordinated functions, services and programs to meet the goals of this section and W.S. 25-1-105(f) and (g).

ARTICLE 2 USE OF WATER IN FONTENELLE RESERVOIR

9-2-201. Repealed by Laws 1985, ch. 235, § 3.

9-2-202. Repealed by Laws 1985, ch. 235, § 3.

9-2-203. Repealed by Laws 1985, ch. 235, § 3.

9-2-204. Repealed by Laws 1985, ch. 235, § 3.

9-2-205. Repealed by Laws 1985, ch. 235, § 3.

9-2-206. Repealed by Laws 1985, ch. 235, § 3.

9-2-207. Repealed by Laws 1985, ch. 235, § 3.

9-2-208. Repealed by Laws 1985, ch. 235, § 3.

9-2-209. Repealed by Laws 1985, ch. 235, § 3.

9-2-210. Repealed by Laws 1985, ch. 235, § 3.

9-2-211. Purchase of storage capacity in Fontenelle Reservoir; governor authorized to contract therefor; powers of commission; limitations on negotiation of contracts for water use.

(a) The governor may negotiate, execute and deliver a contract between the United States of America and the state for the purchase by the state of sixty thousand (60,000) acre-feet of storage capacity in Fontenelle Reservoir with any rights or appurtenances thereto. The total cost of the purchase shall not exceed nine million twenty-six thousand dollars (\$9,026,000.00) for capital costs together with funded interest at the rate of two and six hundred thirty-two thousandths percent (2.632%) from December 31, 1968, to the date of the commencement of payments. All costs shall be paid in not more than forty (40) annual installments of principal plus interest at the rate of two and six hundred thirty-two thousandths percent (2.632%) per annum.

(b) If the governor executes a contract under subsection (a) of this section, the water development commission may:

(i) Formulate and develop comprehensive plans for the development, utilization and sale to potential users of the yield of water stored in Fontenelle Reservoir;

(ii) Consult with and advise water users of the availability of the yield of storage water from Fontenelle Reservoir and the most practicable methods of water development and distribution;

(iii) Enter into contracts for furnishing the water yielded from the storage of Fontenelle Reservoir to water users based on their reasonable needs. All contracts for use of the water shall be approved by the governor and the state engineer;

(iv) Set service rates charged for furnishing water from Fontenelle Reservoir. The revenue received from the charges shall be used to repay the contractual obligation of the state to the United States of America for the purchase of the water storage capacity and water rights. The service rates shall be sufficient to pay all costs, including cost of water, interest,

operating costs and administration costs and to return to the state an amount equal to the maximum rate of interest then being received by the state on investment of its permanent funds;

(v) File with the state engineer's office contracts negotiated with water users and provide the state engineer with information which will enable him to accurately account for and identify water sold and used pursuant to this section.

(c) The water development commission may negotiate contracts with water users only where the proposed use can be accomplished in a manner which will not injure or impair valid existing water rights.

(d) Repealed by Laws 1989, ch. 268, § 6.

ARTICLE 3 WYOMING TRAVEL COMMISSION

9-2-301. Repealed by Laws 1998, ch. 6, § 5.

9-2-302. Repealed by Laws 1998, ch. 6, § 5.

9-2-303. Repealed by Laws 1998, ch. 6, § 5.

9-2-304. Repealed by Laws 1998, ch. 6, § 5.

9-2-305. Repealed By Laws 1998, ch. 6, § 5.

9-2-306. Renumbered by Laws 1998, ch. 6, § 4.

ARTICLE 4 STATE ARCHIVES, MUSEUMS AND HISTORICAL DEPARTMENT

9-2-401. Definitions.

(a) As used in W.S. 9-2-401 through 9-2-415:

(i) Repealed by Laws 1991, ch. 55, § 2.

(ii) "Department" means the department of state parks and cultural resources;

(iii) "Director" means the director of the department;

(iv) "Political subdivision" means a county, municipality, special district or other local government entity;

(v) "Public record" includes the original and all copies of any paper, correspondence, form, book, photograph, photostat, film, microfilm, scan, sound recording, map, drawing or other document, regardless of physical, digital or electronic form or characteristics, which have been made or received in transacting public business by the state, a political subdivision or an agency of the state;

(vi) "Commission" means the Wyoming parks and cultural resources commission.

9-2-402. Repealed by Laws 1991, ch. 55, § 2.

9-2-403. Repealed by Laws 1991, ch. 55, § 2.

9-2-404. Creation of department; director; references to department.

(a) The state archives, museums and historical sections within the department are created and shall be in the charge of the director. The director is subject to the Wyoming Government Reorganization Act of 1989.

(b) The director shall:

(i) Be a college graduate who has had work in social science and history or has educational and administrative experience satisfactory to the commission;

(ii) Perform the duties of the state historian, state archivist and museum curator;

(iii) Have an official seal as director which shall be used to authenticate all official documents, instruments and official acts of the department.

(c) The director may:

(i) Appoint necessary deputies, assistants and employees;

(ii) Acquire by gift, devise, bequest, donation, purchase, lease or otherwise, money, books, manuscripts and other personal property of historical value. He shall hold and

own the property in the name of the state and provide for its restoration, care and preservation;

(iii) Sell books, pamphlets, papers, pictures or other material produced by the department;

(iv) Operate sales desks, or contract under terms determined by the commission with nonprofit and charitable corporations, to sell materials relevant to the interpretation of museums and historic sites;

(v) Do anything necessary to implement W.S. 9-2-404 through 9-2-415.

(d) The proceeds received from sales authorized in subsection (c) of this section shall be deposited in the general fund of the state.

(e) Any statute or legal or other document which refers to the state archives and historical department means the department of state parks and cultural resources which is the successor agency to state archives, museums and historical department.

9-2-405. Classifications of public records.

(a) Public records shall be classified as follows:

(i) Official public records include:

(A) All original vouchers, receipts and other documents necessary to isolate and prove the validity of every transaction relating to the receipt, use and disposition of all public property and public income from all sources whatsoever;

(B) All agreements and contracts to which the state or any agency or political subdivision thereof is a party;

(C) All fidelity, surety and performance bonds in which the state is a beneficiary;

(D) All claims filed against the state or any agency or political subdivision thereof;

(E) All records or documents required by law to be filed with or kept by any agency of the state; and

(F) All other documents or records determined by the records committee to be official public records.

(ii) Office files and memoranda include:

(A) All records, correspondence, exhibits, books, booklets, drawings, maps, blank forms or documents not defined and classified as official public records;

(B) All duplicate copies of official public records filed with any agency of the state or political subdivision thereof;

(C) All documents and reports made for the internal administration of the office to which they pertain but not required by law to be filed or kept with the agency; and

(D) All other documents or records determined by the records committee to be office files and memoranda.

9-2-406. Director; management of public records.

(a) The director shall properly manage and safely keep all public records in his custody, and administer the state archives. He shall:

(i) Manage the archives of the state;

(ii) Centralize the archives of the state to make them available for reference and scholarship and to insure their proper preservation;

(iii) Inspect, inventory, catalog and arrange retention and transfer schedules on all record files of all state departments and other agencies of state government;

(iv) Maintain and secure all state public records and establish safeguards against unauthorized removal or destruction;

(v) Establish and operate state record centers for preserving, servicing, screening and protecting all state public records which must be preserved temporarily or permanently, but which need not be retained in office space and equipment. Centers established and operated pursuant to this paragraph may include one (1) or more digital repositories for temporary or permanent digital records;

(vi) Gather and disseminate to interested agencies information on all phases of records management and current practices, methods, procedures and devices for efficient and economical management of records;

(vii) Establish and operate a state imaging center in which all public records may be scanned or microfilmed. The center shall scan or microfilm public records approved by the head of the office of origin and by the director. All state departments, agencies and political subdivisions thereof shall consult with the director prior to scanning or microfilming within the departments, agencies or political subdivisions and shall comply with the standards for all scanning and microfilming which shall be established by the state archives. The center may scan or microfilm records which are required to be kept a specified length of time or permanently, or to be destroyed by specific methods or under specific supervision. When records are scanned or microfilmed, the reproductions may be substituted for the original documents and retained in lieu of the original documents and the original documents may be destroyed. One (1) copy shall be made and sent to the director whenever any process is used to reproduce public records scheduled for permanent retention with the intent of disposing of the original or copies of the original;

(viii) Maintain necessary facilities for the review of records approved for destruction and their economical disposition by any method approved by the records committee, and supervise the destruction of public records.

9-2-407. Director; duties regarding public records in his custody.

(a) The director shall collect, arrange and make available to the public at reasonable times in his office in original or reproduced form, all records in his custody not restricted by law, including official records of the state and its political subdivisions, of the United States or of foreign nations. He is the legal custodian of all public records in the custody of the commission.

(b) The director may designate an employee of the department to serve as state archivist who may perform all the duties of the director under this act with respect to state records and archives. The director shall furnish certified copies or photocopies of records in his custody on payment in

advance of fees prescribed by the department. Copies of public records transferred pursuant to law from the office of their origin to the custody of the director when certified under seal by the director to be true, complete and correct have the same legal force and effect as evidence as if certified by their original custodian, and shall be admissible in all courts and before all tribunals the same as the originals thereof.

(c) The director has the right of reasonable access to and may examine all public records in Wyoming. He shall examine into and report to the commission on their condition. He shall require their custodians to put them in the custody and condition prescribed by law and to secure their custody, the recovery of records belonging to their offices, the delivery of records to their successors in office and the adoption of sound practices relative to the long-term preservation of records.

9-2-408. Transfer of public records to archives; transfer of records of uncollectible accounts receivable to department; duties of department thereto.

(a) All public records, not required in the current operation of the office where they are made or kept, and all records of every public office of the state, agency, commission, committee or any other activity of the state or political subdivisions which are abolished or discontinued, shall be transferred to the state archives. The transfer of records shall be in accordance with standards and procedures issued by the records committee and subject to an agreement that ensures the safety, preservation and public availability of the records. Any public officer in Wyoming may deliver to the director for preservation and administration records in his custody if the director is willing and able to receive and care for them.

(b) Repealed by Laws 1985, ch. 221, § 2.

(c) Repealed by Laws 1985, ch. 221, § 2.

9-2-409. Designation of records officer by state departments or agencies; duties.

Each department or agency of the state government shall designate a records officer who shall supervise the departmental records program, review record retention schedules and represent the office in all departmental matters before the records committee. The records officer and the director shall prepare

transfer schedules for the transfer of public records to the records centers or to the archives.

9-2-410. Records as property of state; delivery by outgoing officials and employees to successors; management and disposition thereof.

All public records are the property of the state. They shall be delivered by outgoing officials and employees to their successors and shall be preserved, stored, transferred, destroyed or disposed of, and otherwise managed, only in accordance with W.S. 9-2-405 through 9-2-413.

9-2-411. Records committee created; composition; expenses; meetings; action by majority vote; duties as to retention and disposition of public records.

The records committee is created to be composed of the director or his deputy, who shall act as chairman and secretary of the committee, the attorney general or his appointee and the director of the state department of audit or his appointee. Committee members shall serve without additional salary, but shall be entitled to traveling expenses incurred incident to committee business. Expenses shall be paid from the appropriations made for operation of their respective departments or offices. The records committee shall meet upon call by the chairman at least once every quarter. Action by the committee shall be by majority vote and records shall be kept of all committee business. When the disposition of records is considered by the records committee, it shall ascertain the recommendations of the head of the department or the departmental records officer. The records committee shall approve, modify or disapprove the recommendations on retention schedules of all public records and act upon requests to destroy any public records. Any modification of a request or recommendation shall be approved by the head of the agency originating the request or recommendation. The department shall provide forms, approved by the records committee, upon which it shall prepare recommendations to the committee in cooperation with the records officer of the department or other agency whose records are involved. The records committee may issue to state departments, agencies and political subdivisions thereof guidelines and best practices on records management and digital preservation.

9-2-412. Destruction or disposition of public records; procedure.

Public records of the state and political subdivisions shall be disposed of in accordance with W.S. 9-2-411. The records committee may approve a departmental written request upon proper and satisfactory showing that the retention of certain records for a minimum period of ten (10) years is unnecessary and uneconomical. Recommendations for the destruction or disposition of office files and memoranda shall be submitted to the records committee upon approved forms, prepared by the records officer of the agency concerned and the director. The committee shall determine the period of time that any office file or memorandum shall be preserved and may authorize the state archives to arrange for its destruction or disposition.

9-2-413. Reproduction of public records of political subdivisions.

(a) Subject to this section and with the approval of the governing body of the political subdivision, any department, agency, board or individual of any political subdivision may record or copy by any permanent reproductive process approved by the director as required in subsection (c) of this section any public record which the department, agency, board or individual of the political subdivision records, keeps, retains, or is by law, rule or regulation required to record, keep or retain for a period of years or permanently. The permanent reproduction is deemed the original or official copy of the public record so reproduced for all purposes. If any department, agency, board or individual of any political subdivision is required to record any writing or document in books or on other forms, recording done directly onto a permanent storage medium in lieu of the other required form of recordation constitutes compliance with the requirement. One (1) copy shall be made and sent to the director whenever any process is used to reproduce public records with the intent of disposing of the original or copies of the original. One (1) copy of all permanent reproductions shall be retained by the governmental entity or officer having custody of the writings or papers thus recorded or copied as the official copy.

(b) If any document is presented for recording or notation in public records the document shall, after recording, be returned to the party from whom it was received. If the party cannot be located or refuses to accept it, the document shall be disposed of in accordance with W.S. 9-2-411.

(c) Prior to adopting any reproductive process, the governing body of a political subdivision shall consult with the director. If any of the public records which are reproduced pursuant to this section are permanent records or, under the laws, rules or regulations in effect at the time of reproduction, are required to be transferred at a later date to any agency or department of the state, the reproductive process shall be approved by the director as one which clearly and accurately makes copies that will last the time they are to be kept, or can be subsequently reproduced without distortions that substantially affect their legibility.

(d) If the original documents are disposed of as allowed by law, the permanent reproduction retained by the local governmental entity or official shall be stored in a safe place and protected from destruction. Reproductions shall be available to the public for inspection in the same manner as the original documents would have been, and sufficient access shall be available to the public to permit inspection.

(e) The clerk of district court shall not reproduce, for official record purposes, the files of any action or proceeding kept in his office until two (2) years have lapsed since the initial filing in the action or proceeding. The clerk of district court may make certified or other copies of documents in his office for individuals or officials.

(f) In recording, reproducing or copying any public records as authorized by this section and in disposing of the originals or copies, no restrictions or provisions of law regarding recording, reproducing or copying, or the disposition of originals or copies inconsistent with this section apply to the governmental entity or its officers, agents and employees.

9-2-414. Department of commerce; powers and duties relative to museums, historical sites and parks.

(a) The director may:

(i) Assemble and collect archaeological and ethnological collections, relics of the history of the state and material illustrative of the natural history of the state, and works of art;

(ii) Preserve, repair and display in an orderly and educational manner the materials in the possession of the department;

(iii) Store and maintain these materials in the Wyoming state museum, the Wyoming state art gallery and other facilities.

(b) The department shall:

(i) Supervise, maintain, restore, interpret and control museums or historical sites;

(ii) Prepare and arrange all items, objects, furnishings and information in the museums and historical sites;

(iii) Furnish and supervise employees in the museums and historical sites;

(iv) Approve and perform or supervise restorations, improvements, changes and alterations of museums, historic sites and parks under the control of the department;

(v) Interpret historic sites, museums and parks by arranging and preparing all items, objects, furnishings and information relating to historic sites, museums and parks;

(vi) Assume and exercise responsibilities as the state historic preservation officer (SHPO), including supervising and assisting the Wyoming consulting committee on nominations to the national register of historic places and to implement the National Historic Preservation Act of 1966 (Public Law 89-665; 80 Stat. 915; 16 U.S.C. § 470 et seq.), as amended;

(vii) Research and prepare legends for all historic monuments and markers;

(viii) Consult with the parks and cultural resources commission on archives, museums and historical related activities.

(c) As used in this section, "museums" and "historical sites" includes Trails End, Fort Fetterman, Historic Governor's Mansion, Fort Phil Kearney (including the Wagon Box Fight Site and Fetterman Massacre Site), Wyoming State Museum and Fort Bridger.

9-2-415. Director; duties relative to promotion of history of state and region.

(a) The director shall:

(i) Collect books, maps, charts, documents, manuscripts, other papers and any obtainable documentary material illustrative of the history and development of the state and region;

(ii) Collect, compile and publish data of the events which mark the progress of Wyoming from its earliest day to the present time, through the medium of a state historical periodical, to be published as and when the board directs;

(iii) Procure facts and statements relative to the history and ethnology of the Indian tribes and other inhabitants within the state;

(iv) File and carefully preserve all the historical data collected or obtained and arrange and classify it so it is readily accessible for disseminating historical or biographical information requested by the public;

(v) Accept and receive gifts;

(vi) Promote the founding and development of a state historical society and of county historical societies; and

(vii) Create and maintain local and statewide interest in the history of the state and region.

9-2-416. Repealed by Laws 1991, ch. 29, § 6.

9-2-417. Renumbered as 9-2-1026.6 by Laws 1991, ch. 29, § 4.

9-2-418. Renumbered as 9-2-1026.7 by Laws 1991, ch. 29, § 4.

9-2-419. Marking, defacing, removing or tampering with certain materials; penalty.

Any person marking, defacing, removing or tampering in any manner whatsoever with any property acquired under W.S. 9-2-404 through 9-2-415, by the director or, acquired under W.S. 9-2-1026.5 through 9-2-1026.7 by the state librarian or state library board is guilty of a misdemeanor punishable by a fine of not more than one hundred dollars (\$100.00).

5. 9-2-420. Renumbered as 9-2-1026.8 by Laws 1991, ch. 29, §
5. 9-2-421. Renumbered as 9-2-1026.9 by Laws 1991, ch. 29, §
5. 9-2-422. Renumbered as 9-2-1026.10 by Laws 1991, ch. 29, §
5. 9-2-423. Renumbered as 9-2-1026.11 by Laws 1991, ch. 29, §
5. 9-2-424. Renumbered as 9-2-1026.12 by Laws 1991, ch. 29, §
5. 9-2-425. Renumbered as 9-2-1026.13 by Laws 1991, ch. 29, §

ARTICLE 5
EDUCATIONAL TELEVISION COMMISSION

- 9-2-501. Repealed by Laws 1994, ch. 48, § 2.
- 9-2-502. Repealed by Laws 1994, ch. 48, § 2.
- 9-2-503. Repealed by Laws 1994, ch. 48, § 2.

ARTICLE 6
WYOMING COUNCIL FOR WOMEN'S ISSUES

- 9-2-601. Amended and renumbered as W.S. 9-12-501 by Laws 2002, Ch 2., §1.
- 9-2-602. Amended and renumbered as W.S. 9-12-502 by Laws 2002, Ch 2., §1.

ARTICLE 7
NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

- 9-2-701. Commissioners; appointment; term; residence; removal; vacancies; expenses; annual report.

(a) The governor may appoint three (3) commissioners to the national conference of commissioners on uniform state laws. Commissioners shall serve three (3) year terms. Each commissioner shall reside in a different judicial district. The

governor may remove any commissioner as provided in W.S. 9-1-202. Vacancies shall be filled by the governor for the unexpired term.

(b) Each commissioner may be reimbursed under W.S. 9-3-102 and 9-3-103 for per diem and travel expenses incurred in attending any annual conference. Each commissioner shall report annually to the governor on the transactions and recommendations of the conference.

9-2-702. Contribution for expenses of national conference.

Each year, an amount determined by the legislature shall be paid to the national conference of commissioners on uniform state laws as the state's contribution to the expenses of the conference.

ARTICLE 8

GEOLOGIST, GEOLOGICAL SURVEY AND TOPOGRAPHIC MAPPING

9-2-801. Definitions.

(a) As used in W.S. 9-2-801 through 9-2-810:

(i) "Geology" means as defined by W.S. 33-41-102(a)(vi);

(ii) "Geologist" means as defined by W.S. 33-41-102(a)(iv).

(iii) Repealed By Laws 1997, ch. 170, § 2.

9-2-802. Repealed By Laws 1997, ch. 170, § 2.

9-2-803. State geologist; appointment; term; removal; pecuniary interest in mineral property in state prohibited; duties; powers.

(a) The state geologist shall be appointed by the governor with the consent of the senate. He shall hold his office for six (6) years or until his successor is appointed and qualified. No person shall be appointed to this position unless he is a professional geologist as defined by W.S. 9-2-801(a)(ii) with the theoretical knowledge and the practical experience and skill for the position. The governor may remove the state geologist as provided in W.S. 9-1-202.

(b) Neither the state geologist nor the geological program manager shall hold a pecuniary interest in a producing or prospective mineral property of any kind, including oil and gas, in this state.

(c) The state geologist shall:

(i) Examine and report on any state or school lands when requested by the board of land commissioners and make written reports concerning the geology of any lands in which Wyoming is interested and on other matters about which the respective state boards desire information;

(ii) Perform all other acts provided by the laws of Wyoming relating to mineral deposits;

(iii) Make valuation surveys, investigations, appraisements and reports on the mineral resources of the state;

(iv) Keep in his office full and complete records of all work done by him or under his supervision, all of which shall be the property of the state;

(v) Publish all reports, maps and data he considers advisable and of public interest, and distribute the reports, maps and data to the public upon request either free or at a reasonable price;

(vi) Regarding roadside bedrock geological formations shall:

(A) Receive, investigate and attempt to resolve any complaints under W.S. 24-1-118(b)(iii);

(B) Report grievances under W.S. 24-1-118(b)(iii) to the joint minerals, business and economic development interim committee;

(B) Report complaints to the joint minerals, business and economic development interim committee as provided in W.S. 24-1-118(b)(iii);

(C) Consult with the department of transportation as provided in W.S. 24-1-118(b)(iv) on the appropriateness of any signage identifying roadside bedrock geological formations.

(d) The state geologist may:

(i) Designate and supervise mining operations on state and school lands in the interest of economic development;

(ii) Cooperate with the United States government, departments of the state of Wyoming, University of Wyoming or private corporations in geological, topographic, soil and mineral surveys, and in industrial investigations and examinations that may bring about further economic development of the mineral resources of the state. The cooperative activities of his office may be accomplished on whatever basis he determines but in no case shall the cost to the state exceed fifty percent (50%) of the cost of the activity.

9-2-804. Geological survey; created; location of office and headquarters.

A geological survey of Wyoming is created. The office and headquarters of the geological survey shall be in Laramie, Albany County, Wyoming, and may be located at the University of Wyoming.

9-2-805. Geological survey; duties; disposition of materials and specimens collected.

(a) The geological survey shall:

(i) Study the geological formations and rocks of the state with special reference to its metallic and nonmetallic resources;

(ii) Examine the topography and physical features of the state focusing on the way people use the land;

(iii) Seek a comprehensive understanding of the geology of and fossils in the state;

(iv) Prepare and publish:

(A) Reports and maps of the geology and mineral resources of the state;

(B) Reports and maps of the topography and physical features of the state;

(C) Special reports, with necessary illustrations and maps, of the geology of and fossils in the state;

(D) Comprehensive summaries or digests, together with bibliographies and maps, of all literature and reports heretofore published on the geology and mineral resources of Wyoming.

(v) Distribute to the public on request publications and maps either free or at prices determined by the geological survey;

(vi) Furnish advice and consulting services to state departments, agencies and officers;

(vii) Contract with Wyoming state agencies, industry, federal and state geological surveys for services involving any of the foregoing purposes or areas.

(b) The geological survey shall deposit in the geological museum of the University of Wyoming all materials and specimens after the purposes of the geological survey have been served. Duplicates may be distributed to scientific and industrial institutions under regulations adopted by the state geologist and the geological survey board.

9-2-806. Geological survey; state geologist as chief administrative officer; duties; appointment of employees.

(a) The state geologist is the chief administrative officer of the geological survey. With the advice of the geological survey board, the state geologist shall:

(i) Supervise the functions of the geological survey;

(ii) Establish policy for the geological survey.

(b) With the consent of the board and within the appropriation allowed by law, the state geologist may appoint employees necessary to assist him and the board.

9-2-807. Geological survey board; created; membership; term; qualifications; removal; vacancies; election of officers; meetings; quorum; compensation; expenses; duties.

(a) The geological survey board is created. The board consists of eight (8) members, including the governor, the president of the University of Wyoming or his designee, the state oil and gas supervisor and five (5) members appointed for four (4) year terms by the governor with the consent of the senate. The five (5) members shall be qualified electors of the state who possess the knowledge, experience and skill to qualify them for the position. The governor may remove any appointed member as provided in W.S. 9-1-202. Vacancies shall be filled by the governor for the unexpired term. The state geologist is an ex officio member of the board.

(b) At each March meeting, the board shall elect from its members a president, a vice-president and a secretary.

(c) The board shall hold meetings in March, June, September and December. Special meetings may be called by the president or by a majority of the members of the board. A majority of the members of the board constitutes a quorum.

(d) The five (5) public members of the board shall receive no compensation but shall be reimbursed under W.S. 9-3-102 and 9-3-103 for per diem and travel expenses incurred in the performance of their duties.

(e) The board shall:

(i) Assist the state geologist in formulating and directing policies and programs of the geological survey;

(ii) Adopt reasonable rules and regulations for the administration of W.S. 9-2-804 through 9-2-810.

9-2-808. Geological survey; authority to cooperate and exchange information; cost.

The geological survey may cooperate and exchange information with and contract with the United States geological survey, state geological surveys, departments of the state of Wyoming, the University of Wyoming, private industry, scientific institutions and foundations for projects or undertakings which will further the purposes of the geological survey. The cost to the state of Wyoming shall in no case exceed the amount approved therefor by the board.

9-2-809. Geological survey; use of University of Wyoming students for field expeditions; expenses.

The geological survey may organize field expeditions to perform work for the geological survey using University of Wyoming students who are sufficiently advanced in their study of geology to be able to perform the work. Field expedition expenses shall be paid from a general fund appropriation upon authorization by the board.

9-2-810. Legislative declaration of cooperation with United States geological survey.

It is the policy of the state of Wyoming to cooperate in the topographic mapping of the state of Wyoming with the topographic division of the United States geological survey in a program to secure accurate topographic maps of the state and to speed up this mapping.

ARTICLE 9
WYOMING COUNCIL ON THE ARTS

9-2-901. Creation; membership; appointment; removal; qualifications; recommendations thereto; definitions.

(a) The Wyoming arts council board is created as an advisory board within the department of state parks and cultural resources, consisting of ten (10) members appointed by the governor and confirmed by the senate who are removable by the governor as provided in W.S. 9-1-202. The members shall be residents of Wyoming who are known for their competence and experience in the arts.

(b) In making appointments, due consideration shall be given to the recommendations made by representative civic, educational and professional associations and groups, concerned with or engaged in the productions or presentation of the performing and fine arts generally.

(c) As used in this article:

(i) "Board" means the Wyoming arts council board created in subsection (a) of this section;

(ii) "Department" means the department of state parks and cultural resources.

9-2-902. Terms of members; vacancies; chairman and vice-chairman; expenses; personnel.

(a) The term of office of each member of the board is three (3) years. Vacancies shall be filled by the governor for the unexpired term. The board shall select from its membership a chairman and vice-chairman. The members of the board shall receive no compensation, but shall be reimbursed under W.S. 9-3-102 and 9-3-103 for travel and per diem expenses incurred in the performance of their duties.

(b) Repealed by Laws 1989, ch. 140, § 3.

9-2-903. Duties of department; duties of board.

(a) The department, in consultation with the board, shall:

(i) Stimulate and encourage throughout the state the study and presentation of the performing and fine arts and develop public interest and participation therein;

(ii) Make surveys of public and private institutions engaged within the state in:

(A) Artistic and cultural activities, including music, theater, dance, painting, sculpture, architecture; and

(B) Allied arts and crafts such as photography, literature, creative writing, poetry, films, television, radio, sound recording, costume and fashion design, industrial design, ceramic design and folk art.

(iii) Develop appropriate methods and programs to encourage participation in and appreciation of the arts to meet the legitimate needs and aspirations of persons in all parts of the state;

(iv) Encourage public interest in the cultural heritage of our state and expand the state's cultural resources;

(v) Encourage and assist freedom of artistic expression essential for the well-being of the arts;

(vi) Administer and acquire works of art for public buildings in accordance with W.S. 16-6-801 through 16-6-805.

(b) Repealed By Laws 2009, Ch. 101, § 2.

(c) The board may:

(i) Work with the department to encourage and facilitate public interest in the cultural heritage of the state and to expand the state's cultural resources;

(ii) Advise the department on program planning and policy formulation including fiscal policies;

(iii) Participate in the development and review of long and short range plans for the arts in Wyoming and advise the department in developing policies to implement those plans;

(iv) Make recommendations to the director of the department and administrator of the division of cultural resources within the department on the selection of the manager of the Wyoming arts council program;

(v) Appoint committees and task forces to carry out any duties deemed necessary by the board;

(vi) Chair grant review committees or panels and approve the membership of grant review panels, committees and artist rosters;

(vii) Consider recommendations of grant review committees and panels and approve grants to artists, arts organizations and other applicants;

(viii) Review and recommend to the department a budget for arts programs and advise the department on the allocation of state and federal funds;

(ix) Review and recommend arts programs, approve guidelines for programs and oversee the arts grant making functions of the department;

(x) Actively promote and advocate for the arts throughout the state and the region.

9-2-904. Powers; receipt of assistance and data; receipt of money and property.

(a) The board may:

(i) Hold public hearings;

(ii) Repealed By Laws 2009, Ch. 101, § 2.

(iii) Repealed By Laws 2009, Ch. 101, § 2.

(iv) Appoint advisory committees as it deems necessary to carry out its duties.

(b) The department of state parks and cultural resources may request and shall receive from any department, division, board, bureau, commission or agency of the state assistance and data which will enable it properly to carry out its powers and duties hereunder.

(c) The department may receive any money or property of any kind or character, donated, granted or bequeathed to the board, the department or to the state of Wyoming for the purposes of furthering the objectives of the department's arts program. Money received and the proceeds of other property received under this subsection shall be deposited in a separate revenue account to be expended upon legislative appropriation for purposes of this article.

(d) The department may:

(i) Hold public hearings;

(ii) Enter into contracts for services and award grants furthering the objectives of the department's arts program; and

(iii) Enter into contracts with local and regional associations for cooperative endeavors furthering the objectives of the department's arts program.

(e) The department is designated as the official state agency for purposes of receiving and disbursing any federal funds made available for purposes of this article.

9-2-905. Repealed By Laws 2014, Ch. 110, § 103.

9-2-906. Repealed By Laws 2014, Ch. 110, § 103.

9-2-907. Repealed By Laws 2014, Ch. 110, § 103.

9-2-908. Repealed By Laws 2014, Ch. 110, § 103.

9-2-909. Repealed By Laws 2014, Ch. 110, § 103.

9-2-910. Repealed By Laws 2014, Ch. 110, § 103.

9-2-911. Repealed By Laws 2014, Ch. 110, § 103.

ARTICLE 10
DEPARTMENT OF ADMINISTRATION AND INFORMATION

9-2-1001. Creation.

The department of administration and information is created.

9-2-1002. Definitions; powers generally; duties of governor; provisions construed; cooperation with legislature and judiciary; divisions enumerated.

(a) As used in this act:

(i) "Agency" means an office, department, board, commission or operating unit of the executive branch of state government;

(ii) "Department" means the department of administration and information;

(iii) "Entity" means any governmental unit, special district, corporation, partnership or person which will receive a legislative appropriation, directly or indirectly, excluding the legislature, the judiciary and the Wyoming department of transportation, game and fish department, counties, municipalities and school districts;

(iv) "Exception budget" means a budget prepared by an entity containing requests for appropriations which vary from the standard budget as prepared by the budget division or otherwise represents additional or increased services. The agency shall justify the new or increased services and describe all new staff, support services and additional equipment which will be required. The exception budget shall also be used to describe any decreases in nongeneral fund revenues formally supporting an entity's services and for which a general fund appropriation is being requested;

(v) "Executive branch" means the executive department of state government established by article 2, section 1 of the Wyoming constitution;

(vi) Repealed By Laws 1997, ch. 178, § 2.

(vii) "Legislature" means the legislative department of state government established by article 2, section 1 of the Wyoming constitution;

(viii) "Judiciary" means the judicial department of state government established by article 2, section 1 of the Wyoming constitution;

(ix) "Standard budget" means a budget enabling an entity to continue to furnish the same level of services during the ensuing biennium and shall reflect the revenue or appropriation necessary to provide the services. The budget shall include all personnel approved in the preceding biennial budget, a supportive service category and the amount of revenue generated by the entity during the preceding biennium and estimated revenue for the ensuing biennium regardless of the fund to which the monies were deposited. The standard budget shall not include any personnel other than those specifically authorized in the preceding biennial budget. The standard budget shall not include requests for any equipment, any special projects and services nor any requests for special or nonrecurring funding. The limitations regarding authorized personnel and equipment requests in this paragraph shall not apply to the University of Wyoming. The standard budget shall:

(A) Reflect and identify any reductions to expenditures made pursuant to W.S. 9-2-1014.2 in the previous fiscal biennium;

(B) Be reduced by any amount transferred from contingent appropriations pursuant to W.S. 9-2-1014.2 to any fund or account and expended from the fund or account to support services of the standard budget in the previous fiscal biennium.

(x) "This act" means W.S. 9-2-1001 through 9-2-1026.13;

(xi) "Contract employee" means an employee who is hired by any agency for a limited period of time, pursuant to rules promulgated by the human resources division in W.S. 9-2-1022(a) (xi) (F);

(xii) "Base budget" means a budget containing all legislative appropriations as defined by W.S. 9-2-1013(d) (iv), which shall be prepared by the division for each entity containing all programs for the biennium preceding the biennium

for which a standard budget is being prepared pursuant to this act. The base budget and all information accompanying the base budget as required by this act shall be of sufficient detail to parallel components of the standard budget prepared for each entity under this act;

(xiii) "Competitive employment" means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting, and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled;

(xiv) "Employment first" means a concept to facilitate the full inclusion of individuals with disabilities in the workplace and community. Under the employment first approach, community based, integrated employment is the first option for employment services for children and adults with disabilities. Employment first includes competitive employment in an integrated setting;

(xv) "Integrated setting" means with respect to an employment outcome, a setting typically found in the community in which applicants or eligible individuals interact with individuals who do not have disabilities, other than nondisabled individuals who are providing services to those applicants or eligible individuals, to the same extent that individuals who do not have disabilities interact with other persons in comparable positions;

(xvi) "Outstanding obligation legally incurred" means a financial obligation, chargeable to the current biennium's appropriation, that has been lawfully incurred and for which appropriated funds have been reserved but not paid during that biennium. An "outstanding obligation legally incurred" shall include the following:

(A) A master service agreement, master price agreement or other contract was executed or purchase order issued for goods or services but the goods were not received, or the services were not rendered, and paid for during the same biennium;

(B) Goods or services were received pursuant to a purchase order or other contract, but an invoice was not received and paid during the same biennium;

(C) Goods or services and an invoice were received, but payment could not be made during the same biennium;

(D) Salaries were earned and were payable, but were not paid as of the end of the biennium as a result of pay periods not being consistent with the end of the biennium, except that higher education institutions may encumber payrolls for the remainder of the summer session which is in progress at the end of the state's biennium if they have been budgeted and appropriated in such manner;

(E) A written agreement for a grant, loan or award to distribute funds was signed but the funds were not distributed during the same biennium;

(F) A written offer to provide a grant, loan or award to distribute funds was made and upon execution of an agreement a legally binding obligation to distribute the funds would be incurred, but the agreement was not signed by all parties during the biennium.

(xvii) "Budget shortfall" means probable receipts from taxes or other sources of revenue for any fund or account will be less than were anticipated and that those receipts, plus existing revenues in the fund or account which are available, will be less than the amount appropriated;

(xviii) "Contingent appropriation" means an appropriation of funds from the legislative stabilization reserve account which specifically identifies W.S. 9-2-1014.2 in the provision of law making the appropriation. The law providing the contingent appropriation may provide additional conditions on the expenditure of the appropriation, beyond those otherwise provided by law;

(xix) "Structural budget deficit" means that anticipated taxes and other revenues for a fiscal biennium from traditionally available revenues sources are:

(A) Less than appropriations for the general operations of state government for the corresponding fiscal biennium; or

(B) Are projected to be less than the expenses of the general operations of state government, assuming the same

appropriations for general operations as made in the previous fiscal biennium from traditionally available revenue sources plus any increases for those operations required by existing law.

(xx) "Traditionally available revenue sources" means those revenues identified in W.S. 9-2-1013(d)(ii) which are estimated to be deposited or credited to a state fund or account in the two (2) year budget period, and excluding revenues excluded under W.S. 9-2-1013(d) and any balances in any account or fund existing prior to the first day of the fiscal period;

(xxi) "Consensus revenue estimating group" means one (1) or more representatives of the legislative and executive departments of state government, created by agreement of the governor and the legislature to estimate and forecast revenues available to the state for appropriation;

(xxii) "Fund balance," "unappropriated fund balance" or "unobligated, unencumbered fund balance," notwithstanding cash or fund balances reflected in the state of Wyoming's comprehensive annual financial report, means:

(A) The fund cash and petty cash balance from the comparative balance sheet by fund report which is run within five (5) business days following the close of the prior fiscal year;

(B) Less the fund balance reserved encumbrances from the comparative balance sheet by fund report which is run within five (5) days following the close of the prior fiscal year;

(C) Less the remaining unspent appropriations from that fund for previous biennia, including those unspent appropriations from the most recent legislative session that were effective immediately, as computed by the state auditor's office;

(D) Less fund reversions as computed by the state auditor's office;

(E) Less restricted cash as determined by the state auditor's office;

(F) Plus the net accounts receivable due from the federal government or other entities as of June 30 from the

most recently completed fiscal year, as computed by the state auditor's office;

(G) Plus mineral severance taxes, if any, to be distributed to the fund that have been earned in the most recently completed fiscal year but have not yet been distributed, as determined by the department of revenue;

(H) Plus sales and use taxes, if any, to be distributed to the fund that have been earned in the most recently completed fiscal year but have not yet been distributed, as determined by the department of revenue;

(J) Plus federal mineral royalties, if any, to be distributed to the fund that have been earned in the most recently completed fiscal year but have not yet been distributed, as determined by the state treasurer's office.

(b) The department may assist the governor in discharging his duties as chief executive and administrative officer of the executive branch of government of the state of Wyoming. The governor through the department shall:

(i) Improve techniques used for management of state government;

(ii) Coordinate, consolidate and provide services which are used by more than one (1) agency;

(iii) Review agency programs, expenditures and management to identify problems and suggest improvements;

(iv) Promote economy and efficiency in government;
and

(v) Establish uniform standards of administration.

(c) This act shall be construed to provide the governor, through the department, with a more coordinated and responsive system of management of the executive branch of state government, and to preserve and protect the separation of powers mandated by article 2, section 1 of the Wyoming constitution. The legislature and the judiciary shall cooperate with the department and may utilize the services and assistance of the department to achieve economy in government, but procedures affecting the administration of the legislature shall be determined by the legislature and the management council, and

procedures affecting the administration of the judiciary shall be determined by the judges for their respective courts, and they shall not be bound by rules and regulations promulgated by the department.

(d) The department shall consist of the following divisions in addition to the office of the director of the department:

- (i) Budget division;
- (ii) General services division;
- (iii) Human resources division;
- (iv) Repealed By Laws 2012, Ch. 30, § 4.
- (v) Repealed By Laws 1997, ch. 178, § 2.
- (vi) Economic analysis division;
- (vii) Repealed by Laws 1989, ch. 178, § 3.
- (viii) Repealed by Laws 1989, ch. 178, § 3.
- (ix) Repealed By Laws 1997, ch. 178, § 2.
- (x) State library division.

9-2-1003. Director and division administrators; appointment; removal; powers of director.

(a) The governor shall appoint a director of the department with the advice and consent of the senate who shall be the department's executive and administrative head, and who shall hold an ex officio seat on all boards and councils which advise or are within the department.

(b) With the approval of the governor, the director may appoint administrators for each of the divisions. The governor may remove the director and division administrators as provided in W.S. 9-1-202.

(c) The director may:

(i) Employ professional, technical and other assistants to work in the director's office or in any of the

divisions, along with other employees necessary to carry out the purpose of this act;

(ii) Repealed by Laws 1991, ch. 29, § 6.

(iii) Adopt reasonable rules and regulations to administer this act pursuant to the Wyoming Administrative Procedure Act;

(iv) Formulate through his office the policies and programs to be carried out by the department through its respective divisions.

(d) The director shall administer through his office all accounting, billing and collection functions required by the department.

(e) The director shall administer through his office or through a division of the department, the duties of the department under the State Employees' and Officials' Group Insurance Act.

(f) The director shall administer through his office or through a division of the department the duties required under W.S. 35-11-112(d).

9-2-1004. Budget division; duties; receipt of monthly statements of income, revenues and expenditures of state agencies and offices; authority to contract; purposes.

(a) The department through its budget division shall:

(i) In conjunction with the human resources division, assure that all personnel transactions conform to budget requirements;

(ii) Assist and advise the auditor, treasurer, state board of equalization and department of revenue in the discharge of their duties when related to the budgetary or financial affairs of the state;

(iii) Conduct inquiries and investigations into the financial needs, fiscal obligations, expenditures, revenues, receipts, appropriations, funds, accounts, programs, services and activities of agencies. Agencies shall make available to the department all records, books, strategic planning information, correspondence and documents for this purpose and the director

of the state department of audit shall provide assistance when requested by the department to carry out the responsibilities assigned by this act;

(iv) Approve the creation, standardization, identification, abolishment or consolidation of budgetary accounts from which agencies operate subject to other provisions of law;

(v) Prescribe uniform practices and procedures for governing the receipt of federal and other monies for use by agencies when the practices and procedures are not contrary to federal law or regulations.

(b) Repealed By Laws 1997, ch. 178, § 2.

(c) The budget division, with the approval of the governor, may enter into contracts on behalf of the state of Wyoming with the federal government or any agency thereof for the purpose of initiating unified or joint letters of credit, simplified fund matching ratios, consolidated grants-in-aid, cost allocation programs, state audit of federally sponsored programs or any other practice that will allow the more effective, efficient and economical use of state and federal revenues.

9-2-1005. Payment of warrants; budget powers of governor; agency budgets; federal funds; new employees.

(a) No warrant shall be drawn by the auditor or paid by the treasurer:

(i) Unless funds have been previously appropriated or otherwise authorized by law for that purpose;

(ii) When it has been certified by the department that a state agency is in nonconformance with its approved budget;

(iii) If the amount sought to be expended would exceed the appropriation or other funds authorized for its use by law. Reductions imposed upon expenditures pursuant to W.S. 9-2-1014.2 shall be applied in determining whether an expenditure exceeds an appropriation or other funds authorized;

(iv) If the expenditure is in nonconformance with the amounts, programs and approved budget authorized by legislative

appropriation acts except upon notice to the legislature if required and approval of the governor as provided by subsection (b) of this section;

(v) If the agency for which the expenditure was authorized is in noncompliance with a provision of a legislative appropriation act relating to the expenditure;

(vi) If the expenditure relates to a capital improvement project for which total appropriations and authorizations for the project are insufficient except as otherwise authorized by law;

(vii) If the expenditure is for salaries for employees exceeding the maximum number of employees for the agency authorized by a legislative appropriation act except upon notice to the legislature if required and approval of the governor as provided by subsection (b) of this section;

(viii) If the expenditure of general fund monies is requested for a program other than the program for which the expenditure was authorized by the legislature;

(ix) If the expenditure of nonfederal monies appropriated for the personal services budget by a legislative appropriation act is requested for any other purpose;

(x) If the expenditure was authorized for capital improvements but sought to be expended for any other purpose;

(xi) If the expenditure is requested from federal revenues exceeding the amount authorized by a legislative appropriation act except upon notice to the legislature and approval of the governor as provided by subsection (b) of this section;

(xii) If the expenditure is for data processing hardware, software, consultants or training and exceeds the small purchase amount established by the department of enterprise technology services, unless specifically approved by one (1) of the following:

(A) President of the University of Wyoming for the University of Wyoming;

(B) The state chief information officer. A purchase shall not be approved pursuant to this subparagraph if

it fails to conform with the criteria developed pursuant to W.S. 9-2-2906(b) (iii);

(C) Chief justice of the supreme court for the judicial branch;

(D) Director of the legislative service office for the legislative branch; or

(E) President of each community college for his respective community college.

(xiii) If the expenditure is otherwise in violation of law.

(b) Subject to subsection (c) of this section, the governor may:

(i) Authorize revisions, changes or redistributions to approved budgets;

(ii) Authorize revisions, changes, redistributions or increases to amounts authorized for expenditure by legislative appropriation acts from non-general fund sources if in his opinion an emergency financial situation exists, general fund appropriations can be conserved, agency program requirements have significantly changed or unanticipated non-general fund revenues become available and qualify pursuant to W.S. 9-2-1006(a). For any revision, change, redistribution or increase in amounts authorized for expenditure under this paragraph in excess of one hundred thousand dollars (\$100,000.00), the governor's office shall:

(A) Notify the legislature at least ten (10) days in advance of the exercise of authority;

(B) Notify the legislature as soon as practicable after the exercise of authority if the governor determines immediate action is necessary to preserve the public health, safety or welfare or to prevent the potential loss of funds;

(C) Identify in the notice the amount, purpose and non-general fund source of the revision, change, redistribution or increase.

(iii) Subject to subsection (g) of this section, authorize the receipt and expenditure of federal revenues exceeding the amount authorized by a legislative appropriation act as provided by W.S. 9-4-206(b);

(iv) Authorize the implementation of the personnel classification and compensation plan consistent with W.S. 9-2-1022(b);

(v) Authorize transfer of a contingent appropriation to an account or fund to prevent a budget shortfall for any account or fund in accordance with W.S. 9-2-1014.2 and any other condition on the appropriation.

(c) The governor shall not:

(i) Authorize an increase in the amount appropriated to any agency from the general fund by any legislative appropriation act excluding allocations from the governor's emergency appropriation, if any;

(ii) Authorize funds appropriated from the general fund for one (1) program as represented by line appropriations within any legislative appropriation act to be used for another program.

(d) The state auditor, state treasurer and director of the state department of audit shall assist the governor and the department in carrying out legislative appropriation acts with respect to the audit, record keeping and control of budgets approved thereunder.

(e) As used in this section:

(i) "Approved budget" means:

(A) An agency's request for an appropriation for a program and for which an appropriation is made in whole or in part;

(B) The governor's recommended appropriation for an agency program developed pursuant to W.S. 9-2-1010 through 9-2-1013 and for which an appropriation is made in whole or in part;

(C) A budget for a program as developed by the budget division and approved by the governor for appropriations for which no budgeted request was submitted.

(ii) "Program" means a line appropriation within a general appropriation act of the legislature as so designated.

(f) The joint appropriations interim committee of the legislature shall compile the approved budget for each agency's appropriation and transmit the budget to the governor and the agency.

(g) No federal funds in excess of amounts approved by any legislative appropriations act may be accepted or expended until approved by the governor in writing. If the governor disapproves the acceptance or expenditure of federal funds under this subsection and the federal funds are accepted or expended, the state auditor shall not draw any warrant nor shall the state treasurer pay any warrant which would result in the disbursement of funds, directly or indirectly through contracts for services, to the public or private entity involved. For any acceptance or expenditure of federal funds under this paragraph in excess of one million dollars (\$1,000,000.00), the governor's office shall:

(i) Notify the legislature at least ten (10) days in advance of approving the acceptance or expenditure of federal funds;

(ii) Notify the legislature as soon as practicable after approving the acceptance or expenditure of federal funds if the governor determines immediate action is necessary to preserve the public health, safety or welfare or to prevent the potential loss of funds;

(iii) Identify in the notice the amount, intended use and source of the federal funds.

(h) Repealed by Laws 1985, ch. 232, § 202.

(j) Repealed By Laws 2000, Ch. 48, § 3.

(k) Repealed By Laws 2003, Ch. 120, § 3.

(m) Repealed By Laws 2003, Ch. 120, § 3.

(n) Repealed By Laws 2003, Ch. 120, § 3.

(o) The governor shall report monthly to the legislature on the use of the flex authority authorized under this section or any legislative appropriation act during each biennium. The report shall specify:

(i) Appropriations and authorized positions transferred during the biennium, including transfers between expenditure series, programs and agencies with a detailed written description of the transfer;

(ii) Use of the flex authority or authority under paragraph (b)(v) of this section to expend a contingent appropriation to avoid a reduction of expenditures pursuant to W.S. 9-2-1014.2.

(p) The governor shall make available monthly for public inspection information on the exercise of his authority under paragraph (b)(ii), (v) and subsection (g) of this section and under W.S. 9-2-1014.2 for the immediately preceding month. The information shall be made available on the Wyoming public finance and expenditure of funds website created by W.S. 9-2-1036(a).

9-2-1006. Revenues or income of state agencies not part of appropriation or budget; exception; additions to appropriation or budget; reports concerning enterprise fund accounts.

(a) Revenues or income from any source collected, received or accruing to any agency shall not become a part of its appropriation or budget unless such revenues or income is specified by law to be used for such purpose and is approved by the governor after notice is provided to the legislature pursuant to W.S. 9-2-1005(b). Any amount added to its appropriation or budget constitutes the entire appropriation for the full fiscal period.

(b) Each agency maintaining an account within the enterprise fund shall include a report in the agency's biennial budget request submitted under W.S. 9-2-1013 concerning:

(i) The purpose of the account;

(ii) Whether the original mission of the account has been met;

(iii) Whether the operation of the account needs to be continued; and

(iv) Detailed information concerning revenue to and expenditures from the account for the previous biennium.

9-2-1007. Restrictions on indebtedness and expenditures of state agencies; allotment system.

(a) No indebtedness shall be incurred or expenditure made by any agency in excess of the amount appropriated or otherwise authorized by law or where expressly prohibited by law or regulation adopted under this act or prohibited by federal law. Expenditures from the account administered through the surplus property section shall be made only as permitted by federal law. Transfers in budget categories shall not be permitted by the department where the items of appropriation or other revenues are explicitly limited to a defined purpose by law or regulation adopted under this act. No agency shall revise, modify or otherwise change its approved budget without the prior approval of the department through the budget division.

(b) Repealed by Laws 1988, ch. 22, § 1.

9-2-1008. Unexpended, unobligated funds to lapse or be carried over; duty of auditor; reporting.

(a) In the event that the appropriation made or other revenue authorized by law for use by a state agency has not been expended by the close of the fiscal period, it shall lapse or be carried forward as provided by W.S. 9-4-207 after provision is made for payment of outstanding obligations legally incurred during the previous fiscal period. The auditor, after consultation with the department, as of June 30 of each year shall take appropriate action in accordance with this section.

(b) Unexpended appropriations carried forward into the next fiscal biennium pursuant to an outstanding obligation legally incurred shall be expended only for the purposes for which the funds were appropriated or authorized and shall not be revised or converted for another purpose after being carried forward. Upon completion of the purposes for which the funds were carried forward, any remaining funds shall immediately revert to the appropriate fund as specified in W.S. 9-4-207.

9-2-1009. Nonappropriated revenues to be transferred by auditor upon lapse, conversion or otherwise becoming state property.

If nonappropriated revenues under the control of agencies lapse, convert or otherwise become the property of the state, the auditor, after consultation with the department, shall transfer the funds to the general or other appropriate fund.

9-2-1010. Duties of budget division; biennial budgets and appropriations.

(a) The department through the budget division shall:

(i) Prepare the state budget with the assistance of an entity for presentation by the governor to the legislature;

(ii) Prescribe the form, contents and procedure of and for budget documents with the advice of the chairman of the joint appropriations interim committee; and

(iii) Consult with each entity which will require a legislative appropriation either directly or indirectly, excluding the Wyoming department of transportation and the game and fish department except as provided in W.S. 9-2-1011(d), in submitting budget estimates or requests for funds, or for instituting, recording and reporting all financial and budget transactions of the state.

(b) At each budget session budgets shall be prepared and appropriations made for the operation of state government on a biennial basis.

9-2-1011. Duties of budget division; preparation of standard budget estimates; entities to prepare expanded and exception budgets; form; required information; base budgets.

(a) Subject to subsection (c) of this section, the department through the budget division shall prepare standard budget estimates. Entities shall prepare expanded and exception budgets in a form consistent with the standard budgets as directed by the department.

(b) The information developed in budget documents shall include:

(i) Appropriations or other allotted revenues authorized to entities including all types of revenue regardless of source and final fund destination, federal fund identification and expected length of continuance of the federal funding;

(ii) Expenditures, obligations, encumbrances and balances of the agencies from whatever source derived;

(iii) Estimates of revenues and future needs of entities;

(iv) Program changes, descriptions and activities of the agencies;

(v) An explanation of and reasons for anticipated receipts and expenditures of the agencies;

(vi) An assurance that the budget request has been prepared in accordance with the agency plan prepared according to W.S. 28-1-115 and 28-1-116;

(vii) Identification of services reduced as a result of reductions to expenditures made pursuant to W.S. 9-2-1014.2 in the previous fiscal biennium, and services which would have been reduced without transfer and expenditure of a contingent appropriation pursuant to W.S. 9-2-1014.2. Contingent appropriations transferred to each fund or account and expended from each fund or account shall be separately identified.

(c) The budget division shall for purposes of preparing the standard budget for entities under this section, include the base budget and the specific amount the base budget differs from the standard budget estimate. The differences shall be itemized and explained in writing on a standardized form prescribed by rule and regulation of the division. The base budget and accompanying forms shall be included within the budget estimates and related information for each entity as compiled under W.S. 9-2-1012(b).

(d) Except as otherwise provided by law, budgets for the game and fish department and department of transportation shall be submitted to the governor and the budget division as provided in this subsection. The budget shall be submitted in a manner and format approved by the budget division and shall be submitted by the game and fish commission by August 1 of each year and by the transportation commission by October 1 of each

year. The manner and format approved by the budget division shall provide for legislative review. Any modification to the manner and format shall be reported to the joint appropriations committee immediately upon approval.

9-2-1012. Duties of budget division; transmittal of standard budget and manual; return of completed exception and expanded budgets; submission to governor; disposition of excess general fund appropriations; submission of selected budget information to joint appropriations interim committee.

(a) The department through the budget division shall transmit a standard budget and a manual of instruction for the preparation of exception and expanded budgets to entities on or before August 15 of odd numbered years. On or before September 15 of odd numbered years entities shall return the completed exception and expanded budgets.

(b) The director of the department and administrator of the budget division after compiling the requested budget estimates and related information collected from the several agencies of the state shall submit the overall state budget estimate and related information along with their comments and recommendations to the governor no later than November 1 of each budget period.

(c) The governor may, upon examining the budget estimates and requests and after consultation with each agency, approve, disapprove, alter or revise the estimates in accordance with applicable state and federal laws.

(d) The governor through the department may provide for public hearings on any and all agency estimates or requests or other fiscal matters and may require the attendance at such hearings of representatives of the agencies.

(e) In preparing the overall state budget for distribution to the legislature, including any supplemental, budget shortfall or other emergency changes to the budget, the governor shall recommend to the legislature that not less than five percent (5%) of estimated general fund receipts for the next biennial budget period shall be appropriated from the general fund to the budget reserve account within the earmarked fund. This appropriation shall be in addition to any fund balance within the budget reserve account. At the end of each biennial budget period, general fund appropriations for the biennium in excess of expenditures including encumbrances during the biennium, as

identified by the state auditor in accordance with the provisions of W.S. 9-2-1008 and 9-4-207, shall be transferred into the budget reserve account. All funds in the budget reserve account shall be invested by the state treasurer and earnings therefrom shall be credited into the general fund. Appropriations to the account shall not lapse at the end of any fiscal period. Expenditures from the budget reserve account shall be by legislative appropriation only.

(f) In addition to subsection (b) of this section and not later than October 1 of each odd-numbered year, the administrator of the budget division shall file with the legislative service office a copy of the base budget, standard budget estimate and accompanying base budget forms required under W.S. 9-2-1011(c) for each entity. The legislative service office shall provide copies of the information filed under this subsection to the joint appropriations interim committee.

(g) The state employee compensation commission shall submit to the budget division and the joint appropriations interim committee within the time periods specified in subsection (a) of this section its recommendations regarding state employee compensation. The budget division and department shall consider those recommendations in developing budgets and submitting recommendations to the governor pursuant to subsection (b) of this section. When distributing the overall state budget to the legislature, the governor shall summarize the manner in which the proposed budget addresses the recommendations of the state employee compensation commission.

(h) If the governor exercises his authority provided by W.S. 9-2-1022(a)(xi)(F)(VI) to create an at-will employment contract position, the governor shall seek continued authorization for that position by a budget request in the next session of the legislature. If authorization for the at-will employee contract position is not specifically approved in the general appropriations bill, the position shall terminate and shall not be reauthorized in the future without prior legislative approval.

9-2-1013. State budget; distribution of copies to legislators; copies and reports of authorizations; interfund loans.

(a) On or before the third Monday in November of the year preceding the year the legislature convenes in budget session, the governor shall distribute to each legislator electronic, or

upon request printed, copies of the state budget, covering the next biennial budget period beginning on July 1 of the ensuing year, containing the itemized requests of the agencies for appropriations or other funds, estimated revenues and receipts to the state, and his recommendations and conclusions. The state budget shall include:

(i) Expenditures incurred in the two (2) previous fiscal years and estimates of expenditures for the ensuing two (2) fiscal years;

(ii) Revenues during the two (2) previous fiscal years and estimated receipts for the ensuing two (2) fiscal years;

(iii) The indebtedness and obligations of the state;

(iv) The condition of the various funds and the state treasury as a whole;

(v) A general summary of the economic and social conditions of the state;

(vi) Recommendations relative to state program goals and objectives.

(b) The budget division of the department shall furnish to the legislative service office copies of all authorizations by the governor pursuant to W.S. 9-2-1005(b) within ten (10) days following the authorization. The legislative service office shall make quarterly reports of all authorizations by the governor to the legislative management council and the joint appropriations interim committee. The furnishing of copies of authorizations required under this subsection shall be in addition to the notice required by W.S. 9-2-1005(b).

(c) Preparation of supplemental budgets for presentation in general sessions shall also be made within the time frame of W.S. 9-2-1012 and this section.

(d) In addition to the items contained in subsection (a) of this section and notwithstanding any other recommendations made by the governor, the state budget shall also include the governor's recommendations for appropriations for the ensuing two (2) years, or if a supplemental budget request, the remainder of the budget period, subject to the following:

(i) The state budget shall include the governor's recommendations for a total appropriation from the school foundation program account and based upon recommendations of the select school facilities committee under W.S. 28-11-301, a total appropriation for school capital construction purposes for both fiscal years;

(ii) The total recommended appropriations under this subsection for any two (2) fiscal year budget period shall not exceed the total estimated revenues for that two (2) year period. The total estimated revenues computed under this paragraph shall not include increases in existing revenue sources which would be available to the state only after enactment of legislation in addition to existing law, but shall include the unencumbered balances in all other accounts in all other expendable funds subject to this section, and as further provided herein, as those funds are identified in accordance with standards promulgated by the governmental accounting standards board, but specifically excluding pension funds, nonexpendable trust funds, debt service funds and intragovernmental funds, that would be available for that budget period. Funds within the permanent Wyoming mineral trust fund reserve account created under W.S. 9-4-719(b), the common school permanent fund reserve account created under W.S. 9-4-719(f) funds within the legislative stabilization reserve account in excess of the limitation under subparagraph (iii)(C) of this section, or funds within five percent (5%) of estimated general fund receipts for the next biennium to be appropriated to the budget reserve account as required by W.S. 9-2-1012(e) shall not be included in total estimated revenues computed under this paragraph. Funds from a contingent appropriation shall not be included as an estimated source of revenue or funds available unless those funds previously had been authorized to be expended within the fiscal period covering the budget period of the recommendation;

(iii) The total recommended appropriations under this subsection shall not include any of the following:

(A) The diversion of any existing revenue sources which diversion would require enactment of legislation in addition to existing law;

(B) The transfer of funds from an account to another account except transfers from the budget reserve account;

(C) An appropriation from the legislative stabilization reserve account, to the extent the recommended appropriation together with any other recommended contingent appropriation or other recommended appropriation from the legislative stabilization reserve account would exceed in any fiscal year five percent (5%) of the balance of that account as of the first day of the fiscal year in which the recommendation is made;

(D) The transfer of funds from any contingent appropriation shall not be included, unless those funds previously had been authorized to be expended within the fiscal period covering the budget period of the recommendation and remain unexpended, unencumbered and unobligated.

(iv) As used in this subsection, "appropriations" include specific legislative authorization to expend state revenues contained in a budget bill that is enacted into law, an amount to be expended from an account which does not require additional specific legislative authorization, the transfer of funds from the budget reserve account to another account or a specific statutory distribution of a revenue source;

(v) For each submitted budget the governor shall:

(A) Specify the exercise of any authority under W.S. 9-2-1014.2 in the current fiscal biennium;

(B) Identify any structural budget deficit or budget shortfall he believes exists within the fiscal biennium for which the budget is submitted or will exist within the immediately succeeding fiscal biennium;

(C) Include recommendations for the amount of contingent appropriations which should be made or supplemented for the existing fiscal biennium and each of the two (2) immediately succeeding fiscal biennia. The governor shall not recommend a contingent appropriation from the legislative reserve account which would result in the total of all contingent appropriations in any fiscal year exceeding five percent (5%) of the balance of that account as of the first day of the fiscal year in which the recommendation is made.

(vi) Nothing in this subsection prevents the governor from recommending an additional, alternative budget without the limitations specified in this subsection.

(e) Repealed By Laws 2003, Ch. 34, § 1.

(f) Except for an interfund loan made under W.S. 21-13-316, an interfund loan from permanent funds for which an interest rate is not specified by law shall be charged an interest rate equal to the CPI for the twelve (12) month period immediately preceding the effective date of the interfund loan. "CPI" means the consumer price index for United States city average, all urban consumers, not seasonally adjusted, reported by the bureau of labor statistics of the United States department of labor.

9-2-1014. Report required with budget request; format and contents of report; compilation of compendium of agency reports; distribution of copies.

(a) An agency's budget request to the department shall be accompanied by a written, comprehensive report of the programs, objectives, activities and condition covering the previous fiscal period. The report shall be in a format developed by the department, in conjunction with the agency and the legislative service office. Notice of the format requirements shall be forwarded to each agency no later than July 15 of each year. The report shall detail the fiscal affairs of the reporting agency including receipts and expenditures and make recommendations for improving the agency's programs. The report shall include an annual performance report which provides a means of evaluation of the outcomes included in an agency strategic plan required by W.S. 28-1-115 and 28-1-116.

(b) Upon the receipt of all agency reports, the department shall compile and index the information into a single compendium that will facilitate its use by the governor and the legislature. When preparing the compendium the department of administration and information shall in no manner alter or amend the information received from an agency without that agency's written direction. The report of any agency to the department is available pursuant to the Public Records Act.

(c) Electronic or printed copies of the compendium and the state budget document shall be submitted to the governor and to each legislator. Printed copies of the compendium shall be furnished to the budget division and the state library division within the department, the state auditor, the department of audit, the legislative service office, and to any legislator requesting a printed copy.

(d) For each submitted budget the joint appropriations committee shall review any budget shortfall or structural budget deficit identified by the governor or by the committee for the periods specified in 9-2-1013(d)(v). The committee shall report to the legislature the governor's recommendations regarding any budget shortfall or structural budget deficit and the committee's recommendations to the legislature to address a shortfall or deficit. The recommendations shall include:

(i) Specific or general budget reductions;

(ii) Immediate contingent appropriations. Any recommendation for a contingent appropriation from the legislative reserve account shall be limited so that the total of all such contingent appropriations in any fiscal year does not exceed one hundred eight million seven hundred thousand dollars (\$108,700,000.00);

(iii) Recommended expenditure of funds from the legislative stabilization reserve account and other expendable funds; and

(iv) Temporary redistribution of revenue streams.

(e) In making its recommendations, the committee shall consider:

(i) The forecasted length and amount of the shortfall or deficit;

(ii) The amount of funds available within the legislative stabilization reserve account and other expendable funds, and limitations on recommended contingent appropriations from the legislative stabilization account under this section and W.S. 9-2-1013(d)(v);

(iii) Services which would be affected by the budget shortfall or deficit, including any constitutional requirement or lack of a constitutional requirement to provide the services;

(iv) The ability to restructure programs and available revenues to address the budget shortfall or deficit;

(v) Current and forecasted short term and long term economic conditions of the state;

(vi) Recommended depletion rates of expendable funds based upon:

(A) Prudent short and long term savings policies for state government; and

(B) The state's revenue structure.

9-2-1014.1. State budget; requests by recipients of certain earmarked funds for additional funding from the budget reserve account.

(a) Any state agency that receives federal mineral royalties or severance tax distributions may request additional funding from the budget reserve account as provided in this section.

(b) The total amount available for the purpose of this section shall be the estimated deposits into the budget reserve account for the next biennial budget period under W.S. 9-4-601(d) (iv) and 39-14-801(d) (ii).

(c) Any state agency eligible to request additional funds from the budget reserve account under this section shall submit its request as part of the budget process under W.S. 9-2-1010 through 9-2-1014.

(d) The governor shall include his recommendations for additional funding for state agencies and for local governments from the budget reserve account in his budget recommendation submitted under W.S. 9-2-1013 to the legislature. His total recommendations under this section shall not exceed the total amount determined under subsection (b) of this section.

(e) To the extent the legislature appropriates funds under this section from the budget reserve account for local governments, the appropriation shall comply with and be subject to the following:

(i) The amount appropriated to local governments shall not exceed the amount available under subsection (b) of this section, less appropriations under this section to state agencies;

(ii) A total amount shall be annually appropriated to the state treasurer to be distributed to all local governments as follows:

(A) Thirty percent (30%) to counties, in the proportion which the population of the county bears to total state population;

(B) Seventy percent (70%) to cities and towns, each city and town to receive an amount in the proportion which the population of the city or town bears to the population of all cities and towns in Wyoming.

(iii) The distributions to local governments under this section shall be made by the state treasurer no later than October 15, of the fiscal year next following the fiscal year for which the appropriation is made. The distributions shall be from revenues actually recognized in the fiscal year for which the appropriation is made. Any interest earned on invested funds allocated to local governments under this section shall be retained in the budget reserve account.

(f) To the extent that actual recognized revenues are less than the estimated deposits referenced in subsection (b) of this section:

(i) The distribution of any appropriation to local governments under this section shall be reduced by a pro rata amount; and

(ii) The state auditor shall reduce the spending authority of any state agency receiving an appropriation under this section by a pro rata amount.

(g) For the purpose of this section:

(i) "Local government" means any county or municipality;

(ii) Repealed By Laws 2009, Ch. 170, § 2.

(iii) "State agency" means the department of transportation, the University of Wyoming and the water development office.

9-2-1014.2. Budget shortfall measures; expenditure reductions; use of contingent appropriations.

(a) The governor shall periodically review agency budgets and expenditures. If the governor determines during the review

that the probable receipts from taxes or other sources of revenue for any fund or account will be less than were anticipated, and if the governor determines that these receipts plus existing revenues in the fund or account which are available will be less than the amount appropriated, the governor, after complying with the provisions of this section, shall give notice to the state agencies concerned and reduce the amount expended to prevent a deficit. In making any determination under this subsection the governor may but need not consider statutory authority to transfer appropriated funds or use a contingent appropriation to address revenue shortfalls. This subsection shall apply to all appropriations to state agencies regardless of whether the appropriation is for a specified project or purpose, including but not limited to capital construction projects. This subsection shall apply whether the appropriation is to be expended directly by an agency or is made to an agency for distribution to another entity.

(b) Before any expenditure is reduced pursuant to subsection (a) of this section, or if the governor otherwise determines that a shortfall in appropriated funds is likely at any time in a fiscal biennium prior to the convening of the next regular general or budget session of the legislature, the following actions shall be taken:

(i) The governor shall notify the chairmen of the joint appropriations committee, the management council of the legislature and the chairmen of the consensus revenue estimating group of any proposed expenditure reduction and any recommended use of a contingent appropriation. The consensus revenue estimating group shall meet as soon as feasible, review its latest official revenue forecast and determine if adjustments should be made to that forecast in light of existing economic conditions;

(ii) The management council shall forward to the legislature the proposals and recommendations of the governor and assign review of the proposals and recommendations to various standing committees of the legislature as the council deems appropriate;

(iii) The joint appropriations committee shall determine if it should recommend the use of a contingent appropriation to offset any likely budget shortfall for the remainder of the fiscal biennium. In making this determination and any recommendation the committee shall consider:

(A) The expenditure reductions that would be required without use of a contingent appropriation and the impact on services provided. The joint appropriations committee shall consider any comments received from any standing committee of the legislature regarding the potential impact on services;

(B) The period of time any decline in revenues resulting in the budget shortfall is forecasted to last;

(C) The availability of any other existing or projected funds to offset any predicted shortfall;

(D) The amount of time before the next regular general or budget legislative session;

(E) The percentage of the contingent appropriation needed to be used to ensure a budget shortfall will be alleviated until the end of either the fiscal biennium or the convening of a regular legislative session, as the joint appropriations committee deems in the best interests of the state.

(c) The joint appropriations committee shall submit its recommendations to the governor not more than thirty (30) days after receiving notification under this section. After receiving the recommendation the governor may authorize the transfer of any contingent appropriation, subject to any condition placed on the contingent appropriation in the law making the appropriation, to any account or fund as he deems appropriate and to prevent a budget shortfall. The governor shall report all expenditure reductions and uses of contingent appropriations to the joint appropriations committee not later than ten (10) days after his action to implement the expenditure reduction or transfer contingent appropriations.

9-2-1015. Repealed By Laws 1997, ch. 178, § 2.

9-2-1016. General services division.

(a) As used in this section:

(i) "Procurement" means buying, purchasing, renting, leasing or otherwise acquiring any supplies or services. It also includes all functions that pertain to the obtaining of any supply or service, including description of requirements,

selection and solicitation of sources, preparation and award of contract and all phases of contract administration;

(ii) "Services" means the furnishing of labor, time or effort by a contractor to an agency. The term does not include employment agreements;

(iii) "Supplies" means:

(A) All property, including but not limited to, furniture, fixtures, stationery, printing, paper, fuel and equipment of every kind required for use in the offices, service and functions performed by agencies, and for repairing, heating and lighting the state buildings; and

(B) Insurance and bonds from licensed Wyoming agents as required.

(iv) "Principal representative" means the governing board of an agency or its designated representative, or, if there is no governing board, the executive head of an agency including an elected state official. [NOTE: This paragraph will be effective 10/1/2020.]

(b) For the purpose of this subsection the term "agencies" does not include the University of Wyoming, community college districts, or school districts. It does not include the department of transportation except as to paragraphs (xi), (xii) and (xiii) of this subsection. The department through the general services division shall:

(i) Adopt rules governing the procurement, management, control and disposal of all supplies and services required by agencies. The rules shall establish standards and procedures which promote fair and open competition. No agency shall procure supplies or services except in compliance with the rules adopted by the department;

(ii) Adopt standard forms and procedures for regulating the procurement of supplies or services required by agencies;

(iii) Adopt a uniform commodity classification system designating the quality, material and brand of supplies or services required by agencies;

(iv) Adopt standard forms and procedures providing that bids or contracts for supplies or services shall be awarded through the use of competitive sealed bidding, competitive negotiation, noncompetitive negotiation or small purchase procedures as hereafter provided:

(A) Bids or contracts for supplies or services in excess of seven thousand five hundred dollars (\$7,500.00) shall be made by competitive sealed bidding when the configuration or performance specifications, or both, are sufficiently designed to permit award on the basis of the lowest evaluated price as determined in accordance with objective, measurable criteria set forth in the invitation for bids, and when available sources, the time and place of performance, and other conditions are appropriate for the use of competitive sealed bidding;

Note: Effective 10/1/2020 this subparagraph will read as:

Bids or contracts for supplies or services in excess of fifteen thousand dollars (\$15,000.00) shall be made by competitive sealed bidding when the configuration or performance specifications, or both, are sufficiently designed to permit award on the basis of the lowest evaluated price as determined in accordance with objective, measurable criteria set forth in the invitation for bids, and when available sources, the time and place of performance, and other conditions are appropriate for the use of competitive sealed bidding;

(B) Whenever the administrator determines in writing that the use of competitive sealed bidding is not feasible or practical, contracts for supplies or services may be made by competitive negotiation. An elected state official may also contract for supplies or services for his office by competitive negotiation if the contract is for twenty thousand dollars (\$20,000.00) or less and he determines that the use of competitive sealed bidding is not feasible or practical;

Note: Effective 10/1/2020 this subparagraph will read as:

If the use of competitive sealed bidding is not feasible or practical, the principal representative shall, except as otherwise provided in this subparagraph, submit a written determination to the department. If approved by the department, contracts for supplies or services may be made by competitive negotiation. An elected state official may contract for supplies or services for his office by competitive negotiation without

department approval if the contract is for twenty-five thousand dollars (\$25,000.00) or less and the elected state official determines that the use of competitive sealed bidding is not feasible or practical;

(C) Contracts may be made by noncompetitive negotiation only when competition is not feasible, as determined in writing prior to award by the administrator and approved by the governor or his designee. An elected state official may also contract for supplies or services for his office by noncompetitive negotiation if the contract is for twenty thousand dollars (\$20,000.00) or less and he determines that competition is not feasible;

Note: Effective 10/1/2020 this subparagraph will read as:

Contracts may be made by noncompetitive negotiation only when competition is not feasible, as determined in writing by a principal representative and approved by the governor or his designee, except as otherwise provided in this subparagraph. An elected state official may contract for supplies or services for his office by noncompetitive negotiation without the approval of the governor or the governor's designee if the contract is for twenty-five thousand dollars (\$25,000.00) or less and the elected state official determines that competition is not feasible;

(D) Bids or contracts for contractual services, consulting services, and special projects and services, for the purpose of hiring professionals, consultants or contracted services in an amount exceeding one thousand five hundred dollars (\$1,500.00) by an agency require the approval of the governor or his designee prior to state commitment;

Note: Effective 10/1/2020 this subparagraph will read as:

Contracts for contractual services, consulting services, and special projects and services, for the purpose of hiring professionals, consultants or contracted services shall be approved as follows:

(I) Contracts by an agency in an amount exceeding one thousand five hundred dollars (\$1,500.00), but not to exceed fifteen thousand dollars (\$15,000.00), require the approval of the principal representative or the principal representative's designee before the state executes the

contract; [Note: Effective 10/1/2020 this subdivision will read as:]

(II) Contracts by an agency in an amount exceeding fifteen thousand dollars (\$15,000.00) require the approval of the governor or the governor's designee before the state executes the contract, except as provided in subdivision (III) of this subparagraph; [Note: Effective 10/1/2020 this subdivision will read as:]

(III) Contracts by an elected state official shall not require the approval of the governor or the governor's designee before the state executes the contract. [Note: Effective 10/1/2020 this subdivision will read as:]

(E) Agencies shall be authorized to make small purchases in accordance with rules adopted by the department. The rules shall include small purchase procedures which authorize agencies to procure supplies or services not exceeding one thousand five hundred dollars (\$1,500.00), or such higher amount established by the department, but not to exceed seven thousand five hundred dollars (\$7,500.00), without compliance with this paragraph and without prior approval of the department;

Note: Effective 10/1/2020 this subparagraph will read as:

Agencies shall be authorized to make small purchases in accordance with rules adopted by the department. The rules shall include small purchase procedures which authorize agencies to procure supplies not exceeding two thousand five hundred dollars (\$2,500.00), or such higher amount established by the department, but not to exceed fifteen thousand dollars (\$15,000.00), without compliance with this paragraph and without prior approval of the department;

(F) This paragraph shall not apply to the procurement by the department of corrections of raw materials used in a correctional industries program to manufacture goods or to provide services under W.S. 7-16-206(a)(i), the procurement of goods or services from the department of corrections under W.S. 7-16-206(a)(i) when the goods or services produced are not available from other Wyoming manufacturers or service providers, the procurement of professional services under W.S. 9-2-1027 through 9-2-1033, nor to purchases of feed by the game and fish department for winter elk ranges. Subparagraph (E) of this paragraph shall not apply to the

procurement of services or supplies by the offices of state elected officials. Subparagraph (D) of this paragraph shall not apply to the procurement of services by the offices of state elected officials if the contract is for twenty thousand dollars (\$20,000.00) or less;

Note: Effective 10/1/2020 this subparagraph will read as:

This paragraph shall not apply to the procurement by the department of corrections of raw materials used in a correctional industries program to manufacture goods or to provide services under W.S. 7-16-206(a)(i), the procurement of goods or services from the department of corrections under W.S. 7-16-206(a)(i) when the goods or services produced are not available from other Wyoming manufacturers or service providers, the procurement of professional services under W.S. 9-23-101 through 9-23-107, the procurement of capital construction projects under W.S. 9-2-3004 and 9-2-3006 nor to purchases of feed by the game and fish department for winter elk ranges. Subparagraph (E) of this paragraph shall not apply to the procurement of services or supplies by the offices of state elected officials;

(G) If competitive sealed bidding is required the contract shall be let to the responsible private sector bidder making the lowest bid if the private sector bidder's bid is not more than five percent (5%) higher than that of the lowest responsible nonprivate sector bidder;

(H) The director of the department of administration and information or his designee, upon a written finding that it would be more efficient to use federal procurement procedures for contracts let by the Wyoming military department concerning state owned properties under the control of the adjutant general, may authorize federal procurement procedures instead of the procedures required by this paragraph.

(v) Establish and maintain an inventory of all agencies' property purchased in total or in part with state funds or otherwise held in the name of the state. The inventory shall contain the following information: acquisition cost, property description, present value, property location and other information as required;

(vi) Classify all agencies' property into uniform categories as determined by type of property, using agency, location or other factors. Systematically arrange under a

uniform classification a list of all personal property belonging to the state. The inventory shall be arranged to show separately the property pertaining to each state office, institution, department and board. The inventoried property shall be inspected annually, checked and its value fixed. The inventory shall be revised at the same date each year, bringing all newly acquired property into the inventory under its proper classification. All officers and employees in each agency shall assist the department in securing and compiling the information pertaining to their respective agencies;

(vii) Develop a system of numbers by which all tangible personal state property can be identified. Identification numbers shall be affixed to all property unless otherwise provided by the department;

(viii) Supervise and approve disposition by sale or trade-in of all agencies' property which has been deemed to be no longer cost effective to the state. Real property in excess of forty (40) acres in one (1) tract or valued at fifteen thousand dollars (\$15,000.00) or more shall not be disposed of at less than current appraised value as authorized in accordance with rules of the state building commission. No other property shall be disposed of at less than fair market value either for cash or in exchange for credit upon purchase of new property. All sales shall be public and based upon adequate notice except that state owned motor vehicles may be sold at public or dealer auction and except that for the first thirty (30) days after acquisition, any personal property may be made available to those entities qualifying under federal surplus property guidelines through the state surplus property warehouse. The proceeds of sale, less costs of sale, shall be remitted to the treasurer for the benefit of the fund from which the property was purchased. This paragraph shall not apply to, nor shall the department or the state building commission approve or supervise the disposition of land by the state transportation commission;

(ix) Repealed By Laws 1997, ch. 178, § 2.

(x) Require each agency to report in a manner prescribed by the department the acquisition, disposition, transfer, loss or theft of all personal property. No state agency shall dispose of or transfer any personal property without the prior approval of the department;

(xi) Secure and maintain insurance or otherwise protect against fire and other perils on all buildings and

structures and the contents thereof, and other properties owned by the state of Wyoming or any of its agencies. The insurance shall be in an amount which is adequate to protect the interest of the state of Wyoming and, where appropriate, the interest of the United States;

(xii) Secure and maintain insurance against the risks of fire and theft and other insurance deemed necessary or required by law on all motor vehicles, trailer attachments and aircraft owned by the state of Wyoming or any of its agencies. The insurance secured and maintained shall be in an amount which is adequate to protect the interest of the state but not less than the amounts required by W.S. 1-39-101 through 1-39-120. In securing insurance the department shall take full advantage of experience ratings and groupings or master policies to the end that the insurance may be secured at the lowest possible beneficial rates and for the best interest of the state;

(xiii) Secure personal liability and surety bonds for Wyoming peace officers, employees and state officials as required by statute, secure professional liability insurance for Wyoming doctors and nurses employed by the state, and secure liability insurance for all property owned by the state or any of its agencies as required by W.S. 1-39-101 through 1-39-120;

(xiv) Provide assistance requested by the legislature or the judiciary in the procurement of supplies and services;

(xv) Provide central reproduction and other duplication services to agencies;

(xvi) Provide central mail and allied services to agencies;

(xvii) Repealed by Laws 2016, ch. 105, § 4.

(xviii) Repealed by Laws 2016, ch. 105, § 4.

(xix) Lease all property for the state in accordance with rules of the state building commission. Leasing of property by the state shall be conducted on a bid and proposal basis with advertising of space needs and square footage in community or local newspapers. Leasing contracts may be entered into by noncompetitive negotiation only if:

(A) The administrator determines in writing that competitive bidding is not feasible; or

Note: Effective 10/1/2020 this subparagraph will read as:

The administrator of the department determines in writing that competitive bidding is not feasible; or

(B) The lessor is a governmental agency.

(xx) Maintain, repair and replace all state property in accordance with rules of the state building commission;

(xxi) Administratively implement the state building commission's rules relating to the leasing, routine maintenance, management, operation and equipping of state office buildings as provided in W.S. 9-5-101 through 9-5-108;

(xxii) Repealed by Laws 2016, ch. 105, § 4.

(xxiii) Plan for all agency office and other space needs in accordance with the provisions of W.S. 9-5-107, 9-5-108 and rules, procedures and criteria adopted pursuant to that section.

(c) The surplus property section within the division of general services is created, which shall be the state's surplus property agency pursuant to the terms of 40 U.S.C. § 549. The surplus property section may:

(i) Acquire from the United States of America under and in conformance with the Federal Property and Administrative Services Act of 1949, as amended, hereinafter referred to as the "act", property, including equipment, materials, books or other supplies under the control of any department or agency of the United States of America which are usable and necessary for purposes of education, public health or civil defense, including research for any purpose authorized by federal law; to warehouse the property; and to distribute the property within the state to tax-supported medical institutions, hospitals, clinics, health centers, school systems, schools, colleges and universities within the state, to other nonprofit medical institutions, hospitals, clinics, health centers, schools, colleges and universities which have been held exempt from taxation under 26 U.S.C. § 501(c)(3), to civil defense organizations of the state, or political subdivisions and instrumentalities which are established pursuant to state law, and to other types of institutions or activities which are eligible under federal law to acquire the property;

(ii) Receive applications from eligible health and educational institutions for the acquisition of federal surplus real property, investigate the same, obtain expression of views respecting the applications from the appropriate health or educational authorities of the state, make recommendations regarding the need of the applicant for the property, the merits of its proposed program of utilization, the suitability of the property for the purposes, and otherwise assist in the processing of applications for acquisition of real and related personal property of the United States under 40 U.S.C. § 550;

(iii) Make certifications, take action, make expenditures and enter into contracts, agreements and undertakings for and in the name of the state (including cooperative agreements with any federal agencies providing for utilization by and exchange between them of the property, facilities, personnel and services of each by the other), require reports and make investigations as required by law or regulation of the United States of America in connection with the disposal of real property and the receipt, warehousing, utilization and distribution of federal surplus personal property received by the department from the United States of America;

(iv) Act as clearinghouse of information for the public and private nonprofit institutions, organizations and agencies referred to in paragraph (i) of this subsection and other institutions eligible to acquire federal surplus real property, to locate both real and personal property available for acquisition from the United States of America, to ascertain the terms and conditions under which the property may be obtained, to receive requests from the above-mentioned institutions, organizations and agencies and to transmit to them all available information in reference to the property, and to aid and assist the institutions, organizations and agencies in every way possible in the consummation of acquisitions or transactions hereunder;

(v) Cooperate to the fullest extent consistent with the act with the departments or agencies of the United States of America, file a state plan of operation, operate in accordance therewith, and take necessary action to meet the minimum standards prescribed in accordance with the act, make reports in the form and containing the information which the United States of America or any of its departments or agencies requires, and comply with the laws of the United States of America and the

rules and regulations of any of the departments or agencies of the United States of America governing the allocation, transfer, use of, or accounting for, property donable or donated to the state.

(d) Any charges made or fees assessed for the acquisition, warehousing, distribution or transfer of any property of the United States of America for educational, public health or civil defense purposes, including research, shall be limited to those reasonably related to the costs of care and handling in respect to its acquisition, receipt, warehousing, distribution or transfer by the department and, in the case of real property, the charges and fees shall be limited to the reasonable administrative costs of the department incurred in effecting transfer. Revenue resulting from payments of charges and fees shall be paid into the trust and agency fund and shall be utilized for payment of all costs to the department of acquiring, warehousing, distributing and transferring property under the federal surplus property utilization program and be disbursed in accordance with applicable federal regulations.

(e) Any provision of law to the contrary notwithstanding, the governing board, or if none, the executive head, of any agency or of any city, county, school district or other political subdivision may by order or resolution confer upon any officer or employee thereof continuing authority to secure the transfer to it of surplus property under this act, and to obligate the state or political subdivision and its funds to the extent necessary to comply with the terms and conditions of the transfers. This authority conferred upon any officer or employee by any order or resolution shall remain in effect unless and until the order or resolution is duly revoked and written notice of revocation is received by the department.

(f) The section may engage in activities relative to federal excess property in connection with the use of the property by other state agencies, institutions or organizations engaging in or receiving assistance under federal programs. The section may enter into contracts and other agreements for and on behalf of the state, including the cooperative agreements within the purview of section 203(n) of the federal act (40 U.S.C. § 484(j)) with federal agencies, as well as agreements with other groups or associations which will in any way procure the administration of the section's functions but this act relating to the procurement of property shall not apply to the section in the acquisition of federal surplus property.

(g) All meat used or purchased for use in any state institution shall be produced and processed within the United States, and neither the general services division of the department nor anyone else shall negotiate, execute or approve any contract for the purchase of meat to be used in any state institution if the meat has been produced or processed outside the United States. The department shall adopt appropriate rules to carry out the purpose of this subsection.

(h) The general services division shall:

(i) Manage and control all state motor vehicles and equipment including their identification, purchase, lease, replacement, repair and permanent assignment, except for state owned or leased vehicles personally used by or assigned to the governor, secretary of state, state auditor, state treasurer or superintendent of public instruction;

(ii) Establish, update and comply with uniform standards and criteria promoting the economic and effective maintenance and use of motor vehicles consistent with the needs and locations of agencies;

(iii) Repealed by Laws 2018, ch. 108, § 3.

(j) Any state or county employee or officer using a state vehicle without authorization or for purposes other than official business is guilty of a misdemeanor punishable by a fine of not less than fifty dollars (\$50.00) or more than two hundred dollars (\$200.00).

(k) Each elected state official shall report annually by October 31, to the joint appropriations interim committee a list of all contracts entered into by the elected state official during the previous fiscal year for supplies or services, if the contract was not awarded by competitive sealed bidding and the administrator did not determine in writing that the use of competitive sealed bidding was not feasible or practical. The report shall also include a list of all contracts entered into by the elected state official for contractual services, consulting services or special projects and services if the contract was not approved by the governor or his designee.

Note: Effective 10/1/2020 this section will read as:

Each elected state official shall report annually by October 31, to the joint appropriations committee a list of all contracts

entered into by the elected state official during the previous fiscal year for supplies or services, if the contract was not awarded by competitive sealed bidding. The report shall also include a list of all contracts entered into by the elected state official for contractual services, consulting services or special projects and services if the contract was not approved by the governor or his designee.

9-2-1017. Professional liability insurance for peace officers; limits of policy; definition of peace officer.

(a) The state of Wyoming through the department shall purchase a comprehensive professional liability policy providing coverage for all peace officers if:

(i) Coverage is available at a reasonable cost; and

(ii) It is economically more feasible to provide coverage through the purchase of insurance than through self-insurance as provided by W.S. 1-41-101 through 1-41-111.

(b) The limits of the policy shall be no less than the present limits of liability insurance purchased by the state for state law enforcement officers. The policy may provide for a deductible or a retention up to ten thousand dollars (\$10,000.00) which is the responsibility of the governmental entity employing the peace officer for whom the claim was paid.

(c) For the purposes of this section, "peace officer" means as defined by W.S. 7-2-101.

9-2-1018. Repealed By Laws 2012, Ch. 30, § 4.

9-2-1019. Personnel hearings; state employee compensation commission created; duties.

(a) Each personnel appeal hearing shall be conducted by a presiding officer. Pursuant to rules adopted by the administrator of the personnel division, the parties to a personnel appeal shall submit the name of a presiding officer as mutually agreed to. If the parties fail to submit a name within the time allowed, or if that person is, at any time, unable or unwilling to serve, the administrator shall immediately refer the matter to the office of administrative hearings. A hearing officer from the office of administrative hearings may be peremptorily disqualified from acting in a case by the filing of a motion by either party within ten (10) days of receipt of

notice of the assignment of that hearing officer. In any matter, a party may exercise the peremptory disqualification only one (1) time and against only one (1) hearing officer. Either party may seek to disqualify any hearing officer for cause as provided in the Wyoming Rules of Civil Procedure. The presiding officer shall conduct an impartial contested case hearing in accordance with the Wyoming Administrative Procedure Act. A state employee serving as a presiding officer shall not receive a fee for his service but shall be considered engaged in the performance of the duties of his position and shall receive his salary and reimbursement for expenses as provided for state employees. If the presiding officer is from the office of administrative hearings, that office shall be paid at the rate established by that office for services of its hearing officers. The fee received by a presiding officer who is not an employee of the state shall be paid at the same rate established by the office of administrative hearings for services of its hearing officers. The expense of the hearing shall be charged to and borne by the state agency in which the complainant was employed. The presiding officer's authority shall be limited to the following:

(i) To conduct hearings in accordance with W.S. 16-3-112(b) (i) through (vii) of the Wyoming Administrative Procedure Act and the personnel rules of the executive branch of the state;

(ii) To determine if the agency complied with relevant procedural requirements of the personnel rules of the executive branch of the state of Wyoming. Any error or defect in the proceedings which does not affect the substantial rights of either of the parties may be disregarded;

(iii) To determine, based upon the evidence presented at the hearing, whether the agency established facts by a preponderance of the evidence constituting good cause for the personnel action, in which event the action shall be affirmed, or whether the facts established by the agency do not constitute good cause for the personnel action, in which event the action shall be reversed.

(b) Repealed by Laws 1989, ch. 197, § 2.

(c) The decision of a presiding officer under subsection (a) of this section constitutes the final agency action, but any party, including the state of Wyoming, aggrieved by a decision of a presiding officer may seek judicial review of that decision

in the district court pursuant to W.S. 16-3-114. The district court or supreme court may award reasonable attorney fees and costs to the prevailing party.

(d) Upon reversal of a personnel action, the agency shall retain authority to take other management actions, as recommended by the presiding officer, including less severe personnel action, based upon the facts found at the hearing.

(e) The state employee compensation commission is created to review issues related to employee compensation. The commission shall consist of not more than six (6) members to serve two (2) year terms. Three (3) members shall be appointed by the management council of the legislature of whom one (1) shall be from the private sector, and one (1) each from the senate and house of representatives. Two (2) members shall be appointed by the governor, of whom one (1) shall be from the private sector. One (1) member shall be appointed by the chief justice of the Wyoming supreme court but shall be a nonvoting member. The commission shall elect a chairman from among its two (2) legislative members.

(f) Members who are not legislators or state employees shall receive per diem and travel expenses in the same manner and amount provided under W.S. 28-5-101.

(g) The commission shall meet at the call of the governor, or the chairman, and shall review personnel related issues including, but not limited to:

- (i) Decisions relevant to market-based compensation;
- (ii) Proper recognition and appreciation of employees;
- (iii) Review of personnel rules and regulations;
- (iv) Proper manager to employee ratios.

(h) The commission:

(i) Shall function as a liaison between the legislature and the governor and executive branch agencies on matters concerning state employee personnel policies provided in subsection (g) of this section;

(ii) May hold public hearings regarding any of its duties;

(iii) May make and enter into contracts necessary or incidental to carry out any of its duties;

(iv) May recommend legislation on matters concerning state employee personnel issues. Any recommendations from the commission shall be submitted to the management council of the legislature;

(v) Shall appear before the joint appropriations committee as requested by the committee to present recommendations submitted by the commission pursuant to W.S. 9-2-1012(g).

9-2-1020. Repealed by Laws 1989, ch. 197, § 2.

9-2-1021. Repealed by Laws 1989, ch. 197, § 2.

9-2-1022. Duties of department performed through human resources division.

(a) Subject to subsection (b) of this section, the department through the human resources division shall:

(i) Establish and administer a personnel classification schedule covering all agency employees, classifying positions into categories determined by similarity of duties, authority, responsibilities and other relevant factors of employment;

(ii) Establish and administer a consistent, equitable and flexible compensation plan covering all agency employees;

(iii) Supervise employer-employee benefit plans not otherwise provided for by law;

(iv) Maintain an information roster on each employee of the state specifying employee name, employing agency, position classification, rate of compensation, job title, position description and service tenure. The information shall be available for inspection only as provided by the Public Records Act;

(v) Maintain a register of applications made by all persons seeking employment with an agency. Each application

shall be rated on the basis of suitability and qualifications without regard to political affiliation, race, color, sex, creed or age;

(vi) Initiate and administer recruitment programs designed to attract a sufficient quantity of suitable and qualified employees to the service of the state as needed to fulfill service commitments to its citizens;

(vii) Approve all in-service or staff development programs available through agencies or sponsored by the department;

(viii) Approve all agencies' changes related to personnel with respect to compensation, position classification, transfers, job titles, position specifications and leave time;

(ix) Subject to subsection (g) of this section, establish personnel standards governing employee leave time, hours of work, attendance, grievances and terminations;

(x) With the cooperation and assistance of the division of economic analysis, collect and maintain statistical information related to personnel administration from agencies;

(xi) Promulgate reasonable rules:

(A) Which are necessary to administer the classification plan and the compensation plan;

(B) Governing minimum hours of work, attendance regulations, leaves of absence for employees, vacations and the order and manner in which layoffs shall be made;

(C) Concerning recruiting, transfers, discipline, grievances and appeals;

(D) Necessary to administer a program whereby employees may share positions as set forth in subsection (f) of this section;

(E) Repealed By Laws 2009, Ch. 129, § 2.

(F) Necessary to administer a program whereby at-will contract employees may be utilized by agencies to meet programmatic needs. These rules shall be structured so that:

(I) At-will contract employees receive benefits limited to coverage and employer contributions as required by law for social security, worker's compensation, unemployment compensation and group insurance benefits as provided in subdivision (III) of this subparagraph and except as otherwise provided in subdivision (IV) of this subparagraph;

(II) The minimum benefits or rights specifically required under any federal law are provided. In determining the minimum benefits or rights provided under federal law, the rules shall require employment contracts under this subparagraph to be structured so as to exempt at-will contract employees from coverage to the greatest extent possible;

(III) Except as provided in this subdivision and in subdivision (IV) of this subparagraph, no at-will contract employees shall be eligible for or accrue any type of leave or be eligible to participate in or otherwise be covered by state employees' and officials' group insurance, the state retirement system or the deferred compensation program. If the employment contract so provides, an at-will contract employee may be eligible for membership in the state employees' and officials' group insurance plan in accordance with W.S. 9-3-207, or in the case of the Wyoming retirement system an at-will contract employee of a member employer may be enrolled in the system if that employee's wages under the contract are reported on an Internal Revenue Service Form W-2 Wage and Tax Statement, provided the employee pays the total premium or contribution required;

(IV) Notwithstanding subdivision (III) of this subparagraph, if the employment contract so provides, an at-will, year-round, full-time brand inspection contract employee authorized to carry out the duties specified by W.S. 11-20-201 may be eligible for membership in the state employees' and officials' group insurance plan in accordance with W.S. 9-3-207, and the state retirement system under W.S. 9-3-412, provided the employee pays the total premium or total contribution required, or the portion of the premium or contribution, if any, the employment contract directs the employee to pay and the employee's wages under the contract are reported on an Internal Revenue Service Form W-2 Wage and Tax Statement. Subject to the limitations of W.S. 9-3-412(c), the Wyoming livestock board shall have sole discretion to determine the amount of the total premium or contribution to be paid by the employee and the amount to be paid by the board, if any.

The amounts shall be stated in the employment contract. The time limitations provided in subdivision (V) of this subparagraph shall not apply to any employee under this subdivision;

(V) An at-will contract shall be for a term not exceeding twenty-four (24) months subject to renewal of the contract at the end of the contract period and W.S. 9-2-1012(h);

(VI) No at-will employee contract position shall be created unless specifically authorized by legislation or approved by the governor. Any position approved by the governor shall be reported to the joint appropriations committee. Continued authorization of any at-will employee contract position created by the governor shall be subject to legislative review and approval pursuant to W.S. 9-2-1012(h).

(xii) Repealed By Laws 2009, Ch. 129, § 2.

(xiii) Administer all statewide training functions provided by the department;

(xiv) Repealed By Laws 2001, Ch. 55, § 3.

(b) The state compensation plan shall, to the extent not otherwise provided by law, apply to all state executive branch employees except those employees of the University of Wyoming and community colleges. The compensation and classification plan shall be designed to attract and retain a sufficient quantity of quality employees with competitive compensation based on relevant labor markets for each class of employment. The plan shall be based upon principles of fairness and equity and be administered with sound fiscal discipline. The plan shall utilize both fixed and variable compensation as well as noncash reward and recognition programs. All variable compensation benefits under the plan, except as otherwise provided by law, shall be administered by the department as a separately designated and appropriated budget item. The plan shall consist of:

(i) Current job descriptions. These shall describe job content including the nature and level of work performed, responsibilities, requirements to possess professional licenses, certifications or registrations, and assist in job evaluation and classification, pay comparisons with other entities, recruitment, selection and performance appraisal;

(ii) Job content and classification. This process shall formally assign positions to classifications and determine pay grades in one (1) or more pay systems based on an evaluation of the content of jobs using quantitative point factors. At a minimum, these factors shall include knowledge, experience, skill problem solving, accountability and working conditions. These factors and their weights shall be established by the human resources division and reflect the relative importance of job content to the state and to the appropriate local, regional, national market or a combination of these markets as determined by the division. Establishing the value of compensation shall be primarily based on establishing the appropriate market value of the job. For positions for which a market value cannot readily be identified, the value of compensation shall be based on a fair and defensible method. Total compensation, including base salary, benefits, lump sum payments, allowances and other variable elements of compensation shall be targeted at a competitive level when compared to the appropriate labor markets to allow the state to attract and retain the quality and quantity of employees needed to fulfill service commitments to its citizens. The human resources division shall periodically audit and update the system to ensure that it reflects current labor market conditions and at the request of the state employee compensation commission shall review applicable department rules and regulations, or through assessing employee complaints analyze hiring difficulties and turnover statistics;

(iii) Pay data collection and analysis. Data collection shall be based on a defined and relevant labor market that is representative of public and private sector employers. The relevant labor market may be local, regional, national or a combination of these markets as determined by the division to best reflect the relative importance of a job to the state. Data analysis shall identify salary ranges for each pay grade with minimum and maximum dollar limits. The total compensation package for state employees shall be considered in the data collection and analysis;

(iv) Procedures to set and change individual pay rates consistent with subsection (c) of this section;

(v) A performance appraisal system. This system shall measure performance in writing as objectively as possible. The system shall relate differences in performance levels and provide a means of employee advancement within classification pay grades. Evaluators shall be trained in performance appraisal prior to assessing the performance of any employee.

Evaluators shall be required to attend continuing personnel evaluation education programs as deemed necessary by the human resources division. All employees subject to appraisal may respond to the appraisal of their performance in writing;

(vi) When a license, certification or registration is required to perform job duties it shall be included in the position job classification, job advertisement and announcement;

(vii) Data collected under this subsection shall be available to the legislature as needed.

(c) The state compensation plan shall provide for the following procedures to establish and change individual pay rates:

(i) Rates of pay shall be determined using knowledge, skills, abilities, experience, responsibilities, requirements to possess professional licenses, certifications or registrations, and labor market conditions giving consideration to salaries in the public and private sector in the relevant labor market as determined by the division. Rates of pay shall be based on a combination of achievement of performance objectives, recognition of differences in job content, acquisition and application of further knowledge, skills and abilities;

(ii) General pay increases shall be only those approved by the legislature;

(iii) Pay increases based on performance appraisals shall be approved consistent with the performance appraisal system;

(iv) Promotion pay increases may be approved when an employee moves to a higher job grade;

(v) Longevity pay increases shall be approved at a rate of forty dollars (\$40.00) per month for each five (5) years of service. Longevity pay increases shall not be considered as part of base pay;

(vi) Special pay increases may be approved by the governor using available funds.

(d) Repealed by Laws 1989, ch. 52, § 2.

(e) Any employee who has been paid for accumulated vacation or sick leave upon separation and who is rehired within thirty-one (31) days after separation, shall fully reimburse all payments for accumulated vacation or sick leave within thirty-one (31) days after being rehired with all rights. Any person who fails to reimburse the state as herein required shall be terminated.

(f) The human resources division shall establish and administer a program of position sharing subject to the following provisions:

(i) The sharing of any position is subject to approval by the director or chief administrator of the agency;

(ii) Each employee shall work a portion, equal to the employee's share of the full-time position, of the number of hours required for the full-time position being shared;

(iii) Each employee shall receive a portion, equal to the employee's share of the full-time position, of the salary attributable to the full-time position being shared, according to the state classification and compensation plan;

(iv) Position sharing employees are entitled to a portion, equal to the employee's share of the full-time position, of employee benefits accorded to full-time employees. Benefits which cannot be divided, such as participation in the state group health and life insurance programs, shall be accorded to position sharing employees on the same basis as full-time employees without division, but the state's contribution to the insurance or other benefit programs shall be a portion, equal to the employee's share of the full-time position, of the contribution for full-time employees.

(g) The state shall, in accordance with rules promulgated by the human resources division and on behalf of any employee receiving temporary total disability benefits for an injury covered under the Wyoming Worker's Compensation Act and sustained while acting within the scope of employment with the state, for two (2) calendar months following the month in which the injury occurred, pay the employer's contributions to the state group health insurance plan, the state group life insurance plan and to the state retirement system. For the following four (4) calendar months the state shall pay both the employer's and the employee's contributions to the state group health insurance plan, the state group life insurance plan and

the state retirement system. Payments under this subsection shall continue and the injured employee's employment shall be considered continuous until the end of the sixth calendar month following the month in which the injury occurred, until the injured employee returns to work or is terminated or until the injured employee is no longer eligible to receive temporary total disability benefits, whichever first occurs.

(h) In promulgating rules regarding layoffs due to reductions in force, the division shall require:

(i) That each agency shall designate divisions within the agency for the purpose of reduction in force;

(ii) That no layoffs from a reduction in force shall occur within sixty (60) days of any designation under paragraph (i) of this subsection;

(iii) That layoffs due to a reduction in force shall occur within affected divisions designated under paragraph (i) of this subsection and that no employee affected by a reduction in force shall displace any other employee outside his designated division;

(iv) That designations under paragraph (i) of this subsection shall be made by the agency director and are not rules under W.S. 16-3-101 through 16-3-115.

(j) Designations under paragraph (h)(i) of this section:

(i) Shall not be effective until approved by the governor;

(ii) Are not subject to contested case procedures or judicial review under W.S. 16-3-101 through 16-3-115.

(k) Repealed By Laws 2009, Ch. 129, § 2.

(m) A department director or commissioner appointed by the governor shall serve at the pleasure of the governor and may be removed by him as provided by W.S. 9-1-202. If authorized by law or upon approval by the governor, a department director or commissioner may appoint a deputy department director, one (1) or more division administrators, or both, who shall serve at the pleasure of the director or commissioner and may be removed by him at any time without cause. Any person appointed under this subsection shall be covered under the executive compensation

plan. This subsection is not applicable to the game and fish department.

(n) In carrying out the duties of the division under this section, employment first shall be the policy of the state that competitive and integrated employment shall be considered its first option when serving persons with disabilities who are of working age to obtain employment. Employment first applies to programs and services that provide services and support to help obtain employment for persons with disabilities. All state agencies shall follow this policy and ensure that it is effectively implemented in their hiring and in all programs and services administered or funded by the agencies. Nothing in this section shall be construed to require any employer to give preference to hiring people with a disability. All state agencies shall coordinate efforts and shall collaborate within and among the agencies to ensure that state programs, policies, procedures and funding support competitive and integrated employment of individuals with disabilities. All state agencies shall, whenever feasible, share data and information across systems in order to track progress toward full implementation of this subsection. Nothing in this section shall be construed as eliminating any supported employment services as an option when appropriate.

9-2-1023. Repealed By Laws 2008, Ch. 116, § 2.

9-2-1024. Duties performed through division of economic analysis.

(a) The department through the division of economic analysis, in cooperation with other governmental and private agencies, shall:

(i) Assist state agencies in developing statistical and informational management programs by collecting, compiling, analyzing and distributing information and statistics when the information is readily available from other agencies, and eliminate the duplication of collection, compilation and distribution of information or data prepared by agencies;

(ii) Act as overall supervisory and coordinating authority for statistical, informational or research programs conducted by or on behalf of agencies;

(iii) Conduct statistical research and studies on its own authority or as requested by other governmental bodies;

(iv) Establish uniform criteria for collecting, distributing, compiling, reporting and analyzing statistical and other information generated by agencies;

(v) Establish and maintain a central depository of statistical and other data relative to the operation of state government for the economic and environmental life of this state;

(vi) Consolidate into digest form information and reports which lend themselves to compilation;

(vii) Establish uniform criteria for collecting, compiling, analyzing, reporting and distributing economic data for all Wyoming counties related to uses of and economic impacts to state and federal surface and mineral lands, including but not limited to development of agriculture, grazing, minerals, timber, water, industrial resources, recreation and energy production;

(viii) Utilize a nationally recognized model for the compilation and the analysis of the data described in paragraph (vii) of this subsection;

(ix) Collect, compile, analyze, maintain, update, report, distribute and consolidate into digest form the economic data described in paragraph (vii) of this subsection. The analysis shall be independent pertaining to the data collected and shall not express any opinion of the economic impacts determined under paragraph (vii) of this subsection. Any economic data collected, compiled, analyzed, maintained, updated, reported or consolidated by the division of economic analysis under this subsection, other than information that is not available for inspection under W.S. 16-4-201 through 16-4-205, shall be available for public review and comment. This data shall be updated at least once every three (3) years;

(x) Supervise and coordinate statistical, informational or research programs conducted by the division on behalf of counties and establish and maintain a central depository of economic, statistical and other data relative to Wyoming counties;

(xi) Prepare an annual catalog listing the type of statistical information available from state agencies and other sources.

9-2-1025. Repealed by Laws 1989, ch. 178, § 3.

9-2-1026. Purchasing for legislature and judiciary; approval; requirements.

Purchases of supplies and services for the legislature shall be approved by the management council or its designee. Purchases of supplies and services for the judiciary shall be approved by the judges for their respective courts. Purchases of supplies and services by the offices of state elected officials shall be approved by the respective elected official or his designee and made in accordance with the requirements and guidelines of W.S. 9-2-1016. Purchases by the legislature or the judiciary shall be made in accordance with the requirements and guidelines for competitive or negotiated purchases or contracts set forth in W.S. 9-2-1016(b) (iv) (A) and (B).

9-2-1026.1. Repealed By Laws 2012, Ch. 30, § 4.

9-2-1026.2. Repealed By Laws 2012, Ch. 30, § 4.

9-2-1026.3. Repealed By Laws 2005, ch. 142, § 2.

9-2-1026.4. Repealed By Laws 2005, ch. 142, § 2.

9-2-1026.5. Federal library funds.

(a) The director may accept and receive all funds, monies or library materials made available by the federal government for the improvement and development of public library services in the state.

(b) The state treasurer is custodian of all federal funds allocated to the state for statewide library services. The director shall disburse the funds subject to all provisions of law and submit receipt and acknowledgement to the state treasurer.

9-2-1026.6. State librarian; appointment; qualifications; filing of state publications; deposit of designated documents; exchange of session laws.

(a) A state librarian shall be appointed by the director of the department of administration and information and shall serve as the administrator of the state library division of the department. The state librarian shall have:

(i) Completed the required courses in a recognized or accredited library school or shall have educational and library administrative experience required by the human resources division of the department;

(ii) Charge and custody of all materials belonging to the state library.

(b) With the approval of the director, the state librarian may employ within the state library division necessary deputies, assistants and employees and shall:

(i) Develop a budget for the state library and control the expenditures of funds appropriated for and received by the library;

(ii) Accept gifts or grants of any nature for the purpose of carrying on the work of the state library division;

(iii) Report to the director regarding the receipts, disbursements, work and needs of the state library division;

(iv) Expend or disburse gifts and grants as approved in writing by the director;

(v) Adopt policies and projects to fulfill the purposes of this act regarding the state library division.

(c) For purposes of maintaining a state publications depository system, up to seven (7) copies of each publication issued by a state officer, commission, commissioner or board of a state institution shall be deposited with the state library for distribution as follows:

(i) Three (3) copies to the state library permanent file;

(ii) Two (2) copies to the university library;

(iii) One (1) copy to the library of congress;

(iv) One (1) copy to the council of state governments; and

(v) The total number of copies and distributions may be modified at the discretion of the state librarian.

(d) All officers and persons who receive any books, maps, charts or other documents designed for the use of the state library or the department, shall deposit the same immediately on receipt thereof with either the state librarian or the director.

(e) Repealed By Laws 2005, ch. 210, § 3.

(f) The state librarian shall guide local library agencies participating in any state plan for the expenditure of any federal funds or materials. The state librarian shall assure compliance with the policies and methods of administration under the state plan.

(g) The state librarian is responsible for the extension and development of library services throughout the state and shall supervise and superintend the expenditures of monies provided for library services and federal funds allocated to the state for these purposes.

9-2-1026.7. State librarian; acquisition of books and materials; disposition of outdated and unused books; disposition of unused materials and supplies; promulgation of rules.

(a) With the approval of the director, the state librarian may:

(i) Acquire books, materials, equipment and supplies which are necessary for the efficient operation of the state library;

(ii) Sell outdated and unused books in the collection of the state library when the director deems the sale necessary due to limited shelf space;

(iii) Regulate the hours during which the library is open for the use of educators, students and researchers. To accommodate these uses, he may stagger the working schedules of the library employees in accordance with rules and regulations of the human resources division of the department.

(b) Prior to sale under subsection (a) of this section the department of state parks and cultural resources shall be given an opportunity to choose, without charge, books which have special historical value. After the department of state parks and cultural resources has had an opportunity to choose books it desires, any library in this state which is supported by public

funds shall be given an opportunity to take, without charge, books it desires to add to its collection.

(c) At the recommendation of the state librarian the department may dispose of unused materials, supplies or equipment belonging to the state library in any manner provided by law.

(d) The department may promulgate necessary rules and regulations to effectuate the purposes of this section.

9-2-1026.8. Interstate Library Compact; enactment; form.

The Interstate Library Compact is hereby enacted into law and entered into by this state with all states legally joining therein in the form substantially as follows:

INTERSTATE LIBRARY COMPACT

Article I

Because the desire for the services provided by libraries transcends governmental boundaries and can most effectively be satisfied by giving such services to communities and people regardless of jurisdictional lines, it is the policy of the states party to this compact to cooperate and share their responsibilities; to authorize cooperation and sharing with respect to those types of library facilities and services which can be more economically or efficiently developed and maintained on a cooperative basis, and to authorize cooperation and sharing among localities, states and others in providing joint or cooperative library services in areas where the distribution of population or of existing and potential library resources make the provision of library service on an interstate basis the most effective way of providing adequate and efficient service.

Article II

(a) As used in this compact:

(i) "Public library agency" means any unit or agency of local or state government operating or having power to operate a library;

(ii) "Private library agency" means any nongovernmental entity which operates or assumes a legal obligation to operate a library;

(iii) "Library agreement" means a contract establishing an interstate library district pursuant to this compact or providing for the joint or cooperative furnishing of library services.

Article III

(a) Any one (1) or more public library agencies in a party state in cooperation with any public library agency or agencies in one (1) or more other party states may establish and maintain an interstate library district. Subject to the provisions of this compact and any other laws of the party states which pursuant hereto remain applicable, such district may establish, maintain and operate some or all of the library facilities and services for the area concerned in accordance with the terms of a library agreement therefor. Any private library agency or agencies within an interstate library district may cooperate therewith, assume duties, responsibilities and obligations thereto, and receive benefits therefrom as provided in any library agreement to which such agency or agencies become party.

(b) Within an interstate library district, and as provided by a library agreement, the performance of library functions may be undertaken on a joint or cooperative basis or may be undertaken by means of one (1) or more arrangements between or among public or private library agencies for the extension of library privileges to the use of facilities or services operated or rendered by one (1) or more of the individual library agencies.

(c) If a library agreement provides for joint establishment, maintenance or operation of library facilities or services by an interstate library district, such district shall have power to do any one (1) or more of the following in accordance with such library agreement:

(i) Undertake, administer and participate in programs or arrangements for securing, lending or servicing of books and other publications, any other materials suitable to be kept or made available by libraries, library equipment or for the dissemination of information about libraries, the value and significance of particular items therein, and the use thereof;

(ii) Accept for any of its purposes under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, (conditional or otherwise),

from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation, and receive, utilize and dispose of the same;

(iii) Operate mobile library units or equipment for the purpose of rendering bookmobile service within the district;

(iv) Employ professional, technical, clerical and other personnel, and fix terms of employment, compensation and other appropriate benefits; and where desirable, provide for the in-service training of such personnel;

(v) Sue and be sued in any court of competent jurisdiction;

(vi) Acquire, hold, and dispose of any real or personal property or any interest or interests therein as may be appropriate to the rendering of library service;

(vii) Construct, maintain and operate a library, including any appropriate branches thereof;

(viii) Do such other things as may be incidental to or appropriate for the carrying out of any of the foregoing powers.

Article IV

(a) An interstate library district which establishes, maintains or operates any facilities or services in its own right shall have a governing board which shall direct the affairs of the district and act for it in all matters relating to its business. Each participating public library agency in the district shall be represented on the governing board which shall be organized and conduct its business in accordance with provision therefor in the library agreement. But in no event shall a governing board meet less often than twice a year.

(b) Any private library agency or agencies party to a library agreement establishing an interstate library district may be represented on or advise with the governing board of the district in such manner as the library agreement may provide.

Article V

Any two (2) or more state library agencies of two (2) or more of the party states may undertake and conduct joint or cooperative library programs, render joint or cooperative library services, and enter into and perform arrangements for the cooperative or joint acquisition, use, housing and disposition of items or collections of materials which, by reason of expense, rarity, specialized nature, or infrequency of demand therefor would be appropriate for central collection and shared use. Any such programs, services or arrangements may include provision for the exercise on a cooperative or joint basis of any power exercisable by an interstate library district and an agreement embodying any such program, service or arrangement shall contain provisions covering the subjects detailed in article VI of this compact for interstate library agreements.

Article VI

(a) In order to provide for any joint or cooperative undertaking pursuant to this compact, public and private library agencies may enter into library agreements. Any agreement executed pursuant to the provisions of this compact shall, as among the parties to the agreement:

(i) Detail the specific nature of the services, programs, facilities, arrangements or properties to which it is applicable;

(ii) Provide for the allocation of costs and other financial responsibilities;

(iii) Specify the respective rights, duties, obligations and liabilities of the parties;

(iv) Set forth the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters which may be appropriate to the proper effectuation and performance of the agreement.

(b) No public or private library agency shall undertake to exercise itself, or jointly with any other library agency, by means of a library agreement any power prohibited to such agency by the constitution or statutes of its state.

(c) No library agreement shall become effective until filed with the compact administrator of each state involved, and approved in accordance with article VII of this compact.

Article VII

(a) Every library agreement made pursuant to this compact shall, prior to and as a condition precedent to its entry into force, be submitted to the attorney general of each state in which a public library agency party thereto is situated, who shall determine whether the agreement is in proper form and compatible with the laws of his state. The attorneys general shall approve any agreement submitted to them unless they shall find that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public library agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within ninety (90) days of its submission shall constitute approval thereof.

(b) In the event that a library agreement made pursuant to this compact shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing the action of the attorneys general pursuant to paragraph (a) of this article. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the attorneys general.

Article VIII

Nothing in this compact or in any library agreement shall be construed to supersede, alter or otherwise impair any obligation imposed on any library by otherwise applicable law, nor to authorize the transfer or disposition of any property held in trust by a library agency in a manner contrary to the terms of such trust.

Article IX

(a) Any public library agency party to a library agreement may appropriate funds to the interstate library district established thereby in the same manner and to the same extent as to a library wholly maintained by it and, subject to the laws of

the state in which such public library agency is situated, may pledge its credit in support of an interstate library district established by the agreement.

(b) Subject to the provisions of the library agreement pursuant to which it functions and the laws of the states in which such district is situated, an interstate library district may claim and receive any state and federal aid which may be available to library agencies.

Article X

Each state shall designate a compact administrator with whom copies of all library agreements to which his state or any public library agency thereof is party shall be filed. The administrator shall have such other powers as may be conferred upon him by the laws of his state and may consult and cooperate with the compact administrators of other party states and take such steps as may effectuate the purposes of this compact. If the laws of a party state so provide, such state may designate one (1) or more deputy compact administrators in addition to its compact administrator.

Article XI

(a) This compact shall enter into force and effect immediately upon its enactment into law by any two (2) states. Thereafter, it shall enter into force and effect as to any other state upon the enactment thereof by such state.

(b) This compact shall continue in force with respect to a party state and remain binding upon such state until six (6) months after such state has given notice to each other party state of the repeal thereof. Such withdrawal shall not be construed to relieve any party to a library agreement entered into pursuant to this compact from any obligation of that agreement prior to the end of its duration as provided therein.

Article XII

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and

the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

9-2-1026.9. Compliance with local laws prerequisite to entering into library agreement.

No city, town, county, school district or public district of any sort of this state shall be party to a library agreement which provides for the construction or maintenance of a library pursuant to article III, paragraph (c)(vii) of the Interstate Library Compact, nor pledge its credit in support of such a library, or contribute to the capital financing thereof, except after compliance with any laws applicable to such cities, towns, counties, school districts or public districts of any sort relating to or governing capital outlays and the pledging of credit.

9-2-1026.10. "State library agency".

As used in the Interstate Library Compact, "state library agency", with reference to this state, means the state library division of the department.

9-2-1026.11. State and federal aid to interstate library districts.

An interstate library district lying partly within this state may claim and be entitled to receive state aid in support of any of its functions to the same extent and in the same manner as such functions are eligible for support when carried on by entities wholly within this state. For the purpose of computing and apportioning state aid to an interstate library district, this state will consider that portion of the area which lies within this state as an independent entity for the performance of the aided function or functions and compute and apportion the aid accordingly. Subject to any applicable laws of this state, such a district also may apply for and be entitled to receive federal aid for which it may be eligible.

9-2-1026.12. Appointment of compact administrator and deputy administrators; removal.

The governor shall appoint an officer of this state who shall be the compact administrator pursuant to article X of the compact. The governor may also appoint one (1) or more deputy Interstate Library Compact administrators pursuant to article X. The governor may remove any appointee under this section as provided in W.S. 9-1-202.

9-2-1026.13. Notice of withdrawal from compact.

In the event of withdrawal from the interstate Library Compact the governor shall send and receive any notices required by article XI(b) of the compact.

9-2-1027. Short title. (This section is effective now.)

This act is known and may be cited as the "Professional Architectural, Engineering and Land Surveying Services Procurement Act".

9-2-1027. Short title. Note: this law is Renumbered as 9-23-101 by Laws 2020, ch. 30, § 2. effective 10/1/2020.

This act is known and may be cited as the "Professional Architectural, Engineering and Land Surveying Services Procurement Act".

9-2-1028. Definitions. (This section is effective now.)

(a) As used in this act:

(i) "Agency" means any school district, state office, department, board, commission, institution or other operating entity of the state excluding, except as otherwise provided in W.S. 9-2-1031(f) and 9-2-1032(g), the University of Wyoming, community college districts, the Wyoming business council and the Wyoming department of transportation;

(ii) "Department" means the state department of administration and information;

(iii) "Firm" means an individual, corporation, partnership, business trust, association, firm or any other legal entity permitted by law to practice in a specified profession;

(iv) "Principal representative" means the governing board of a school district, department, institution or agency or

its designated representative, or, if there is no governing board, the executive head of a department, institution or agency;

(v) "Professional services" means:

(A) The practice of architecture pursuant to W.S. 33-4-101 through 33-4-117;

(B) The practice of professional engineering or professional land surveying pursuant to W.S. 33-29-201 through 33-29-801.

(vi) "Resident firm" means a firm that:

(A) Possesses a physical office within the state that is staffed by individuals with professional and technical expertise who are employed in the state; and

(B) Certifies in the firm's current statement of qualifications or application that if selected for the project the percentage of the contract costs for professional services specified in this subparagraph shall be performed by individuals or consultants employed in the state who will perform their labor or professional services provided under the contract within the boundaries of the state. The individuals who will perform the professional services shall possess the professional and technical qualifications necessary to perform the work required by the contract. The following percentages shall apply to this subparagraph:

(I) For any projects with project contract costs in an amount equal to twenty million dollars (\$20,000,000.00) or less - fifty percent (50%) of the contract costs;

(II) For capital construction projects with construction contract costs in an amount greater than twenty million dollars (\$20,000,000.00) but less than forty million dollars (\$40,000,000.00) - forty percent (40%) of the contract costs;

(III) For capital construction projects with construction contract costs in an amount equal to forty million dollars (\$40,000,000.00) or more - thirty percent (30%) of the contract costs.

(vii) "This act" means W.S. 9-2-1027 through 9-2-1033.

9-2-1028. Definitions. Note: this law is Renumbered as 9-23-102 by Laws 2020, ch. 30, § 2. effective 10/1/2020.

(a) As used in this act:

(i) "Agency" means any school district, state office, department, board, council, commission, separate operating agency, institution or other instrumentality or operating unit of the state excluding the University of Wyoming, community college districts, the Wyoming business council and the Wyoming department of transportation;

(ii) "Department" means the state construction department;

(iii) "Firm" means an individual, corporation, partnership, business trust, association, firm or any other legal entity permitted by law to practice in a specified profession;

(iv) "Principal representative" means the governing board of an agency or its designated representative, or if there is no governing board, the executive head of an agency;

(v) "Professional services" means:

(A) The practice of architecture pursuant to W.S. 33-4-101 through 33-4-117;

(B) The practice of professional engineering or professional land surveying pursuant to W.S. 33-29-201 through 33-29-801.

(vi) "Resident firm" means a firm that:

(A) Possesses a physical office within the state that is staffed by individuals with professional and technical expertise who are employed in the state; and

(B) Certifies in the firm's current statement of qualifications or application that if selected for the project the percentage of professional services specified in this subparagraph shall be performed by individuals or consultants employed in the state who will perform their labor or

professional services provided under the contract within the boundaries of the state. The individuals who will perform the professional services shall possess the professional and technical qualifications necessary to perform the work required by the contract. The following percentages shall apply to this subparagraph:

(I) For any projects with negotiated fees for professional services in an amount equal to one million five hundred thousand dollars (\$1,500,000.00) or less - fifty percent (50%) of the professional services provided under the firm's contract;

(II) For any projects with negotiated fees for professional services in an amount greater than one million five hundred thousand dollars (\$1,500,000.00) but less than three million dollars (\$3,000,000.00) - forty percent (40%) of the professional services provided under the firm's contract;

(III) For any projects with negotiated fees for professional services in an amount equal to three million dollars (\$3,000,000.00) or more - thirty percent (30%) of the professional services provided under the firm's contract.

(vii) "Negotiated fee" means the fee specified in a written contract for professional services entered into in accordance with W.S. 9-23-106;

(viii) "State procurement website" means a website that the department designates to host information and notices related to procurement under this act;

(ix) "This act" means W.S. 9-23-101 through 9-23-107.

9-2-1029. Duties of department. (This section is effective now.)

(a) The department shall:

(i) Develop and maintain approved lists of qualified architects, engineers and land surveyors for selection under this act; and

(ii) Develop and administer notification procedures for obtaining professional services under this act.

9-2-1029. General duties. Note: this law is Renumbered as 9-23-103 by Laws 2020, ch. 30, § 2. effective 10/1/2020.

(a) *The department shall:*

(i) *Develop and maintain approved lists of qualified architects, engineers and land surveyors for selection under this act; and*

(ii) *Develop and administer notification procedures for obtaining professional services under this act.*

9-2-1030. Qualification procedures. (This section is effective now.)

(a) Any firm desiring to provide professional services to an agency, shall annually submit to the department and [or] the agency a detailed statement of qualifications and performance data, and any other information required by the department or the agency. The department or the agency may request the firm to update its statement before submission in order to reflect changed conditions in the status of the firm.

(b) If professional services in an amount exceeding twenty-five thousand dollars (\$25,000.00) are required, the department or the agency shall notify all qualified architects, engineers and land surveyors of record who have submitted an annual statement of qualifications and performance data. In addition if professional services in an amount exceeding fifty thousand dollars (\$50,000.00) are required, the agency or the department shall give notice in a newspaper of general circulation in the state at least once each week for two (2) consecutive weeks prior to initiation of selection procedures in accordance with W.S. 9-2-1031. All notifications under this subsection shall contain a general description of the proposed project, and shall indicate the procedures by which interested firms may apply for consideration for a contract to provide professional services for the proposed project.

9-2-1030. Qualification procedures; notice. Note: this law is Renumbered as 9-23-104 by Laws 2020, ch. 30, § 2. effective 10/1/2020.

(a) Any firm desiring to provide professional services to an agency, shall submit to the department or the agency a detailed statement of qualifications and performance data, and

any other information required by the department or the agency. Each firm shall submit the statement not less than every two (2) years. The department or the agency may request the firm to update its statement before submission in order to reflect changed conditions in the status of the firm.

(b) For any professional services fee estimated by the agency to exceed fifty thousand dollars (\$50,000.00), the agency or the department shall give notice of the need for professional services in a newspaper of general circulation in the state at least once each week for two (2) consecutive weeks and on the state procurement website for not less than two (2) consecutive weeks prior to initiation of selection procedures in accordance with W.S. 9-23-105. All notifications under this subsection shall contain a general description of the proposed project, and shall indicate the procedures by which interested firms may apply for consideration for a contract to provide professional services for the proposed project.

9-2-1031. Selection procedures. (This section is effective now.)

(a) For each proposed project, the principal representative of the agency for which the project is proposed shall evaluate current statements of qualifications and performance data of firms on file with the department or the agency, together with any applications submitted by other qualified firms, and shall select in accordance with subsection (f) of this section not less than three (3) firms considered qualified to perform the required professional services. The agency shall provide a complete description of the work to the firms selected. These firms shall submit an unpriced proposal to do the work.

(b) In addition to the requirements of subsection (a) of this section, for any professional services fee estimated by the agency to exceed fifty thousand dollars (\$50,000.00), the principal representative shall interview not less than three (3) firms selected from those which have submitted proposals to do the work. The interview shall be recorded and include discussion of each firm's projections of project costs, qualifications, approaches to the project, ability to furnish required professional services, use of alternative methods for furnishing required professional services and an estimated fee based on the agency's description of the work. The estimated fee may be used as a basis, along with the qualifications listed in subsection (a) of this section, for selection by the principal

representative of the most qualified firm for contract negotiations. If unsatisfied with the results of such interviews, the principal representative may select not less than three (3) additional firms for interviews as provided by subsection (a) of this section.

(c) In addition to the requirements of subsection (a) of this section, for any professional services fee estimated by the agency to be fifty thousand dollars (\$50,000.00) or less, the principal representative shall select three (3) firms from which a project specific submittal shall be requested. The information provided by the firm shall include an estimated fee and preliminary scope of services based on the agency's description of the work. The estimated fee may be used as a basis along with the qualifications listed in subsection (a) of this section, for selection by the principal representative of the most qualified firm for contract negotiations.

(d) Nothing in this section prohibits a principal representative from determining that fewer than three (3) firms with current statements on file or which have submitted applications before selection are qualified to perform the required professional services. If a principal representative makes that determination, subsections (b) and (c) of this section apply with respect to the firms the principal representative considers qualified.

(e) The department, in conjunction with the agencies, shall adopt rules and regulations necessary to implement the selection process provided by this section.

(f) Every agency shall base selection of a firm for professional services in accordance with the following:

(i) Except as provided in paragraph (ii) of this subsection, the agency shall select firms that are resident firms as defined by this act. Consideration between these firms shall be based upon:

- (A) The ability of professional personnel;
- (B) Past performance;
- (C) Ability to meet time requirements;
- (D) Location;

(E) Current and projected work loads;

(F) The volume of work previously awarded to the firm by the agency;

(G) The equitable distribution of contracts among the firms considered qualified.

(ii) If less than three (3) firms on file, together with any applications submitted for the project, are resident firms as defined by this act or if the resident firms are determined not qualified by the agency, consideration shall be based upon the considerations listed in subparagraphs (i) (A) through (G) of this subsection;

(iii) For purposes of this subsection, agency as defined in this act shall include the University of Wyoming, community college districts, the Wyoming business council and the Wyoming department of transportation when the proposed project is funded in whole or in part with state funds.

Note: this subsection is Repealed by Laws 2020, ch. 30, § 2. effective 10/1/2020.

(g) The provisions of this section giving preference to resident firms shall not apply to the extent any proposed project will utilize funds, the receipt of which is conditioned to prohibit a residency preference.

9-2-1031. Selection procedures; emergency waiver. Note: this law is Renumbered as 9-23-105 by Laws 2020, ch. 30, § 2. effective 10/1/2020.

(a) For each proposed project, the principal representative of the agency for which the project is proposed shall evaluate current statements of qualifications and performance data of firms on file with the department or the agency, together with any applications submitted by other qualified firms, and shall select in accordance with subsection (f) of this section not less than three (3) firms considered qualified to perform the required professional services. The agency shall provide a complete description of the work to the firms selected. These firms shall submit an unpriced proposal to do the work.

(b) In addition to the requirements of subsection (a) of this section, for any professional services fee estimated by the

agency to exceed fifty thousand dollars (\$50,000.00) the principal representative shall interview not less than three (3) firms selected from those which have submitted proposals to do the work. The interview may include discussion of each firm's projections of project costs, qualifications, approaches to the project, ability to furnish required professional services, use of alternative methods for furnishing required professional services and an estimated fee based on the agency's description of the work. The agency shall keep a record of the interview. The estimated fee, if requested by the agency, may be used as a basis, along with the considerations and requirements of subsection (f) of this section for selection by the principal representative of the most qualified firm for contract negotiations. If unsatisfied with the results of such interviews, the principal representative may select not less than three (3) additional firms for interviews as provided by subsection (a) of this section.

(c) In addition to the requirements of subsection (a) of this section, for any professional services fee estimated by the agency to be fifty thousand dollars (\$50,000.00) or less, the principal representative shall select three (3) firms from which a project specific submittal shall be requested. The information provided by the firm may include an estimated fee and preliminary scope of services based on the agency's description of the work. The estimated fee, if requested by the agency, may be used as a basis along with considerations and requirements of subsection (f) of this section for selection by the principal representative of the most qualified firm for contract negotiations.

(d) Nothing in this section prohibits a principal representative from determining that fewer than three (3) firms with current statements on file or which have submitted applications before selection are qualified to perform the required professional services. If a principal representative makes that determination, subsections (b) and (c) of this section apply with respect to the firms the principal representative considers qualified.

(e) The department, in conjunction with the agencies, shall adopt rules and regulations necessary to implement the selection process provided by this section.

(f) Every agency, the University of Wyoming, each community college district, the Wyoming business council and the

Wyoming department of transportation shall base selection of a firm for professional services in accordance with the following:

(i) Except as provided in paragraph (ii) of this subsection and subsection (g) of this section, the agency, the University of Wyoming, each community college district, the Wyoming business council and the Wyoming department of transportation shall select firms that are resident firms as defined by this act. Consideration between firms shall be based upon:

(A) The ability of professional personnel;

(B) Past performance;

(C) Ability to meet time requirements;

(D) Location;

(E) Current and projected work loads;

(F) The volume of work previously awarded to the firm by the agency;

(G) The equitable distribution of contracts among the firms considered qualified.

(ii) Nonresident firms may be selected if no firms on file, together with any applications submitted for the project, are resident firms as defined by this act or if the resident firms are determined not qualified by the agency, the University of Wyoming, each community college district, the Wyoming business council or the Wyoming department of transportation. Consideration of qualified nonresident firms shall be based upon the considerations listed in subparagraphs (i)(A) through (G) of this subsection.

(iii) Repealed by Laws 2020, ch. 30, § 2.

(g) The provisions of this act requiring selection of resident firms shall not apply if:

(i) Any part of the proposed project is to be paid or has the potential to be paid with funds from the federal government or other nonstate source; and

(ii) *The federal government or the other nonstate source has applicable requirements concerning residency preferences that are inconsistent with this act.*

(h) *Whenever an emergency arises requiring professional services, the principal representative of an agency, the University of Wyoming, the community college district, the Wyoming business council and the Wyoming department of transportation may waive any applicable requirement of W.S. 9-23-104 and this section if the requirement endangers the health, welfare or safety of the public.*

9-2-1032. Contract procedure. (This section is effective now.)

(a) After completing the selection process, the principal representative shall negotiate a written contract with the selected firm as determined by W.S. 9-2-1031 for the provision of services. The principal representative shall consider the estimated value, scope, complexity and professional nature of the services to be rendered when determining a reasonable compensation.

(b) If the principal representative is unable to negotiate a satisfactory contract with the selected firm at a price he determines fair and reasonable, negotiations with that firm shall be terminated. The principal representative shall then begin negotiations with the firm ranked second in order of preference pursuant to W.S. 9-2-1031. If the principal representative fails to negotiate a contract with the second ranked firm, he shall terminate negotiations. The principal representative shall then begin negotiations with the firm ranked third in order of preference.

(c) If the principal representative is unable to negotiate a satisfactory contract with any of the selected firms, he shall:

(i) Select additional firms in order of their competence and qualifications and continue negotiations in accordance with this section and W.S. 9-2-1031, until a contract is reached; or

(ii) Review the contract under negotiation to determine the possible cause for failure to achieve a negotiated contract.

(d) Each contract for professional services entered into by the principal representative shall contain a prohibition against gratuities, kickbacks and contingent fees. The architect, registered land surveyor or professional engineer shall certify under oath that he has not in any way been involved in any gratuities, kickbacks, or contingent fees in connection with his selection or ultimate performance of this contract.

(e) Each contract for professional services entered into by the principal representative shall contain a prohibition against payment based upon a percentage of the construction cost.

(f) This act shall not prohibit continuing contracts between any person providing professional services and any agency.

(g) Each contract for professional services entered into by an agency shall contain a certification by the resident firm providing professional services that the firm will comply with W.S. 9-2-1028(a)(vi)(B). For purposes of this subsection, agency as defined in this act shall include the University of Wyoming, community college districts, the Wyoming business council and the Wyoming department of transportation when the proposed project is funded in whole or in part with state funds.

9-2-1032. Contract procedure. Note: this law is Renumbered as 9-23-106 by Laws 2020, ch. 30, § 2. effective 10/1/2020.

(a) After completing the selection process, the principal representative shall negotiate a written contract with the selected firm as determined by W.S. 9-23-105 for the provision of services. The principal representative shall consider the estimated value, scope, complexity and professional nature of the services to be rendered when determining a reasonable compensation.

(b) If the principal representative is unable to negotiate a satisfactory contract with the selected firm at a price he determines fair and reasonable, negotiations with that firm shall be terminated. The principal representative shall then begin negotiations with the firm ranked second in order of preference pursuant to W.S. 9-23-105. If the principal representative fails to negotiate a contract with the second ranked firm, he shall terminate negotiations. The principal

representative shall then begin negotiations with the firm ranked third in order of preference.

(c) If the principal representative is unable to negotiate a satisfactory contract with any of the selected firms, he shall:

(i) Select additional firms in order of their competence and qualifications and continue negotiations in accordance with this section and W.S. 9-23-105, until a contract is reached; or

(ii) Review the contract under negotiation to determine the possible cause for failure to achieve a negotiated contract.

(d) Each contract for professional services entered into by the principal representative shall contain a prohibition against gratuities, kickbacks and contingent fees. The person providing professional services shall certify that he has not in any way been involved in any gratuities, kickbacks or contingent fees in connection with his selection or ultimate performance of the contract.

(e) Each contract for professional services entered into by the principal representative shall contain a prohibition against payment based upon a percentage of the construction cost.

(f) This act shall not prohibit continuing contracts between any person providing professional services and any agency.

(g) If selection of a resident firm is required under this act, the contract for professional services entered into by an agency, the University of Wyoming, each community college district, the Wyoming business council or the Wyoming department of transportation shall contain a certification by the resident firm providing professional services that the firm will comply with W.S. 9-23-102(a)(vi)(B). This subsection shall not be construed to require a firm to comply with W.S. 9-23-102(a)(vi)(B) if the proposed project is exempt from residence firm selection by W.S. 9-23-105(g) or if selection of a resident firm is waived in accordance with W.S. 9-23-105(h).

9-2-1033. Prohibited acts; civil penalty; initiation of action. (This section is effective now.)

(a) No person, including any agency official or employee, shall:

(i) In any way be involved in any gratuities, kickbacks, or contingent fees in connection with the selection procedure set forth in this act;

(ii) If providing professional services, pay any fee, commission, gift or other consideration contingent upon the award of a contract for professional services pursuant to this act.

(b) Any person violating subsection (a) of this section or subsection (d) of W.S. 9-2-1032 is liable for a penalty not to exceed five thousand dollars (\$5,000.00). The penalty may be recovered in a civil action and damages shall be assessed by the court.

(c) Any action pursuant to this section shall be initiated in Laramie county by the attorney general.

9-2-1033. Prohibited acts; civil penalty; initiation of action. Note: this law is Renumbered as 9-23-107 by Laws 2020, ch. 30, § 2. effective 10/1/2020.

(a) No person, including any agency official or employee, shall:

(i) In any way be involved in any gratuities, kickbacks, or contingent fees in connection with the selection procedure set forth in this act;

(ii) If providing professional services, pay any fee, commission, gift or other consideration contingent upon the award of a contract for professional services pursuant to this act.

(b) Any person violating subsection (a) of this section or W.S. 9-2-1032(d) is liable for a penalty not to exceed five thousand dollars (\$5,000.00). The penalty may be recovered in a civil action and damages shall be assessed by the court.

(c) Any action pursuant to this section shall be initiated in Laramie county by the attorney general.

9-2-1034. Repealed by Laws 1999, Ch. 70, § 1.

9-2-1035. Definitions.

(a) As used in this act:

(i) "Committee" means the joint appropriations committee;

(ii) "Department" means the department of administration and information;

(iii) "Internet" means the internet, World Wide Web or a similar proprietary or common carrier electronic system;

(iv) "Participating state entity" or "state entity" means the state of Wyoming government including the executive, legislative and judicial branches of government, the University of Wyoming and any department, division, agency, board, commission or other instrumentality of those branches;

(v) "Public financial information" means official public records as defined in W.S. 16-4-201(a)(vi)(A) that are required to be made available on the Wyoming public finance and expenditure of funds website as required by this act, but shall not include any information:

(A) Provided pursuant to W.S. 26-34-129, 26-34-130, 28-8-108, 35-2-910 or 35-17-105;

(B) Relating to benefits paid under the Worker's Compensation Act that would reveal the identity of the recipient;

(C) Relating to services provided to juveniles under title 14 or title 21 of the Wyoming statutes that would reveal the identity of the juvenile or his family;

(D) That would violate the Health Insurance Portability and Accountability Act or the Health Care Quality Improvement Act.

(vi) "Local government entity" means any county, municipality, joint powers board, airport board, community college district, school district, special district and any other political subdivision of Wyoming;

(vii) "This act" means W.S. 9-2-1035 through 9-2-1037.

9-2-1036. Wyoming public finance and expenditure of funds website.

(a) There is created the Wyoming public finance and expenditure of funds website to be administered by the department.

(b) The purpose of the Wyoming public finance and expenditure of funds website is to:

(i) Permit Wyoming taxpayers to view and track the use of taxpayer dollars by making participating state entities' and local government entities' public financial information available on the internet;

(ii) Allow a person who has internet access to use the website without paying a fee;

(iii) Allow the public to search public financial information on the Wyoming public finance and expenditure of funds website using criteria established by the department;

(iv) Provide access to financial reports, financial audits, budgets or other financial documents that are used to allocate, appropriate, spend and account for government funds as may be established by rule under W.S. 9-2-1037;

(v) Have a unique and simplified website address;

(vi) Be directly accessible via a link from the main page of the official state website;

(vii) Include other links, features or functions that will assist the public in obtaining and reviewing public financial information; and

(viii) Allow Wyoming citizens to lodge concerns relating to Wyoming state or local government entities expending funds in a manner which the citizen believes unfairly competes with the private sector in providing commercial activities. At a minimum, in implementing this paragraph, the website shall include:

(A) A link entitled "government competition concerns" which contains a means for a citizen to lodge a concern with governmental competition including:

(I) The entity involved;

(II) The activity involved;

(III) Whether the concern is a result of a specific instance or ongoing activity;

(IV) The effect of the competition on the citizen's commercial activity, if applicable;

(V) A means to contact the citizen for further information, if necessary.

(B) Access to all information submitted pursuant to this paragraph, including access to summary data.

(c) The department shall:

(i) Establish and maintain the website, including the provision of equipment, resources and personnel as necessary;

(ii) Maintain an archive of all information posted to the website;

(iii) Coordinate and process the receipt and posting of public financial information from participating state entities and local government entities.

(d) The department may:

(i) Develop plans and make recommendations to the committee related to the implementation of the provisions of this act;

(ii) Determine what public financial information shall be provided by participating state entities and local government entities, provided that the public financial information:

(A) Only includes records that:

(I) Are classified as official public records under W.S. 16-4-201 through 16-4-205;

(II) Are an accounting of monies, funds, accounts, bonds, loans, expenditures or revenues, regardless of source; and

(III) Are owned, held or administered by the participating state entity or local government entity that is required to provide the record.

(B) Is of the type or nature that should be accessible to the public via a website based on considerations of:

(I) The cost effectiveness of providing the information;

(II) The value of providing the information to the public; and

(III) Privacy and security implications.

(iii) Evaluate the cost effectiveness of implementing specific information resources and features on the website and report that information to the committee.

(e) A participating state entity shall permit the public to view the public financial information of the participating state entity via the website, beginning with information that is generated on or after July 1, 2009.

(f) Not later than January 1, 2010, the website shall be operational and permit access to the public financial information of participating state entities. Not later than June 30, 2012 the website shall incorporate features implementing the provisions of paragraph (b)(viii) of this section. Not later than July 1, 2020 the website shall permit access to the public financial information of local government entities.

(g) The state chief information officer shall provide an annual report to the committee on all initiatives, projects and expenditures under this act. Beginning July 1, 2013, the annual report shall include:

(i) The number of concerns with unfair competition received;

(ii) For each state and local government entity subject to a lodged concern, the number of concerns lodged and number of citizens lodging concerns;

(iii) For each state and local government entity which is the subject of a concern, a summary of the complaint and any action the entity reports to the department that was taken in response to the complaint.

(h) A local government entity shall permit the public to view the public financial information of the local government entity via the website, beginning with information that is generated on or after July 1, 2019.

9-2-1037. Rulemaking authority.

(a) The department shall adopt rules to:

(i) Require participating state entities to provide public financial information for inclusion on the Wyoming public finance and expenditure of funds website provided legislative appropriations are available to permit entities to generate the information;

(ii) Define the term "public financial information" as it applies to participating state entities and local government entities in accordance with the provisions of this act; and

(iii) Establish procedures for obtaining, submitting, reporting, storing and providing public financial information on the Wyoming public finance and expenditure of funds website which may include a specified reporting frequency and form.

(b) The department may adopt rules to require a participating entity to list the following information regarding expenditures made by a person under a contract with the participating entity:

(i) The name of the participating entity making the expenditure;

(ii) The name of the person receiving the expenditure;

(iii) The date of the expenditure;

- (iv) The amount of the expenditure;
- (v) The purpose of the expenditure;
- (vi) The name of each party to the contract;
- (vii) An electronic copy of the contract; and
- (viii) Any other criteria designated by rule of the department.

ARTICLE 11
PUBLIC SAFETY COMMUNICATIONS COMMISSION

9-2-1101. Commission; created; definitions.

(a) The public safety communications commission is created.

(b) As used in W.S. 9-2-1101 through 9-2-1104:

(i) "Public safety agency" means any federal, state or political subdivision entity that provides emergency and public safety services, including state agencies employing peace officers enumerated in W.S. 6-1-104(a)(vi)(C) through (F) and approved for participation by the communications commission, fire management services, correctional services, emergency management, emergency and disaster relief services and if desired, county, municipal and federal law enforcement agencies;

(ii) "System" means the wireless communications network providing regional and statewide radio communications capabilities to public safety agencies.

9-2-1102. Commission; composition; appointment of members; removal; terms; officers; vacancies; meetings.

(a) The commission shall consist of eleven (11) voting members to be appointed by the governor and who may be removed by the governor as provided in W.S. 9-1-202. The director of the Wyoming department of transportation, or his designee, shall serve as an ex officio nonvoting member of the commission. The eleven (11) voting members shall be appointed from each of the following associations and agencies from their membership:

(i) Wyoming police chiefs association;

- (ii) Wyoming sheriffs association;
 - (iii) Division of criminal investigation, office of the attorney general;
 - (iv) Wyoming game and fish department;
 - (v) Wyoming department of transportation;
 - (vi) Repealed by Laws 2017, ch. 17, § 2.
 - (vii) Repealed by Laws 2017, ch. 17, § 2.
 - (viii) Wyoming fire chiefs' association;
 - (ix) Repealed by Laws 2017, ch. 17, § 2.
 - (x) Repealed by Laws 2017, ch. 17, § 2.
 - (xi) The public at large;
 - (xii) An ambulance and emergency medical services organization;
 - (xiii) The Wyoming association of municipalities or another municipal government association;
 - (xiv) The Wyoming county commissioners association or another county government association;
 - (xv) Repealed by Laws 2017, ch. 17, § 2.
 - (xvi) Tribal government or a tribal government association.
 - (xvii) Repealed by Laws 2017, ch. 17, § 2.
- (b) Repealed by Laws 1991, ch. 121, § 2.
- (c) The commission shall elect from its members a chairman, a vice-chairman and a secretary. Vacancies in these offices shall be filled by the commission from its membership. The commission shall meet at least once every three (3) months. Appointments by the governor shall be made within thirty (30) days of expiration of membership terms. Nominee lists shall be furnished within ten (10) days upon expiration of any membership term. Each member shall serve a three (3) year term. A vacancy

on the commission shall be filled for the unexpired term by the governor.

(d) The person appointed to the commission pursuant to paragraph (a)(v) of this section shall be the chief technology officer of the Wyoming department of transportation or another employee of the Wyoming department of transportation who oversees information technology or telecommunications systems.

9-2-1103. Commission; compensation of members.

Members of the commission shall receive mileage and per diem provided state employees.

9-2-1104. Commission; powers and duties; advisory capacity to promote system development; public meetings; clerical and administrative support.

(a) The commission shall:

(i) Work with the budget division of the department of administration and information, the department of enterprise technology services, the department of homeland security and the department of transportation in an advisory capacity to promote the development, improvement and efficiency of public safety communications systems in the state;

(ii) Report in writing each year to the governor and the joint transportation, highways and military affairs interim committee concerning any problems related to the installation, operation and maintenance of the system and shall make any recommendations it deems appropriate as a part of the report;

(iii) Submit a plan for statewide system networking to the department of enterprise technology services for inclusion in the statewide telecommunications plan developed pursuant to W.S. 9-2-2906(g);

(iv) In cooperation with participating federal agencies, establish and assess user fees upon any federal law enforcement agency electing to use and participate in the system;

(v) Promulgate necessary rules and regulations governing system operation and participation and upon failure to comply with adopted rules and regulations, may suspend system

use and participation by any participating and noncomplying public safety agency or private entity;

(vi) Determine the participation of public safety agencies and private entities in the wireless communications network;

(vii) On or before May 31 of each odd numbered year, submit to the governor and the joint transportation, highways and military affairs interim committee a report covering the period beginning July 1 of the following year and ending June 30 in the fourth succeeding year detailing the expected costs of implementing the statewide system networking plan. The report shall include projections of one-time and recurring costs.

(b) The commission may hold public meetings throughout the state and may take other appropriate measures to maintain close liaison with regional, county and municipal organizations and agencies involved in the system.

(c) Necessary clerical and administrative support for the commission shall be furnished by the Wyoming department of transportation.

9-2-1105. Repealed By Laws 2004, Chapter 41, § 2.

9-2-1106. Repealed By Laws 2004, Chapter 41, § 2.

ARTICLE 12 SENIOR CITIZENS

9-2-1201. Definitions.

(a) As used in this act:

(i) "Board" means the Wyoming senior services advisory board created by W.S. 9-2-1211;

(ii) "Division on aging" means the division within the Wyoming department of health designated pursuant to W.S. 9-2-1302(a)(iv);

(iii) "Eligible senior center" means an organization that receives funds under the federal administration on aging Title IIIB supportive services program or Title IIIC nutrition program, excluding organizations that only receive Title IIIB supportive services funds used exclusively for transportation.

The term "eligible senior center" may include a community facility or statewide service, which is the focal point for providing a broad spectrum of services including health, mental health, social, nutritional, recreational and educational services for senior citizens;

(iv) "Senior citizen" means any person sixty (60) years of age or older;

(v) "This act" means W.S. 9-2-1201 through 9-2-1215.

9-2-1202. Repealed by Laws 1991, ch. 221, § 3.

9-2-1203. Repealed by Laws 1991, ch. 221, § 3.

9-2-1204. Powers and duties; rules and regulations; addressing problems of senior citizens; funds and grant awards; development of senior citizen programs; report to governor.

(a) The department of health shall:

(i) Adopt rules and regulations necessary to implement this act;

(ii) Operate as the clearinghouse for issues concerning senior citizens within the state;

(iii) Identify critical problems facing senior citizens, develop guidelines to contend with these problems and develop a statewide comprehensive plan for addressing the problems of senior citizens;

(iv) Offer to review the services to senior citizens provided by state agencies and assist the agencies in developing senior citizen services;

(v) Contract with any governmental agency, private group or person to provide services for senior citizens;

(vi) Receive and disburse funds authorized by P.L. 89-73, the "Older Americans Act", or funds appropriated by the legislature, or from private gifts or grants;

(vii) Ensure that any grant award and any disbursement of grant funds are contingent upon the demonstrated assurance of the credibility, the capability and the accountability of the grantee or subgrantee agency or

organization in accordance with appropriate federal regulations, state law or generally accepted public policy;

(viii) Upon request from a local governmental unit, assist in the planning and development of senior citizen programs by local governments;

(ix) Employ field representatives in senior centers strategically located in the state to provide technical assistance, education and information to the state and its political subdivisions;

(x) Assist in the planning and development of programs to educate the public on the aging process, its consequences and problems;

(xi) Collect and analyze data relating to senior citizen population, programs and needs, resources available to meet these needs and programs, governmental agencies involved in senior citizen programs and other pertinent information;

(xii) Inform the governor, the legislature and the public of the problems and needs of senior citizens;

(xiii) Review applications for funding submitted to the department and, if requested, conduct hearings thereon in accordance with the Wyoming Administrative Procedure Act;

(xiv) Operate the state as a single planning and service area under section 305 of the "Older Americans Act", P.L. 89-73, as amended, and establish policies for the administration and implementation of programs under P.L. 89-73;

(xv) Report to the governor as required by W.S. 9-2-1014;

(xvi) Administer the community based in-home services program as provided by W.S. 9-2-1208; and

(xvii) Administer the licensed shelter care program for eligible senior citizens as provided in W.S. 9-2-1209.

9-2-1205. Repealed by Laws 1991, ch. 221, § 3.

9-2-1206. State advisory council; appointment; composition; term; representation; removal.

(a) The department advisory council on aging appointed pursuant to the "Older Americans Act", P.L. 89-73, is established as the state advisory council to a designated division on aging. Each member serving on the council as of April 1, 1991 shall continue to serve until the normal expiration of his term and any member is eligible for reappointment.

(b) The council shall consist of ten (10) members appointed by the director for terms of four (4) years. There shall be one (1) member of the advisory council from each appointment district and one (1) member each representing the pioneer home, the veteran's home and the Wyoming retirement center. All appointments shall be for a four (4) year term. The director may remove any member as provided in W.S. 9-1-202.

(c) The term of any member appointed after July 1, 1981 shall expire on March 1 during the year of regular expiration.

(d) Representation on the council shall be in accordance with the "Older Americans Act", P.L. 89-73.

9-2-1207. State advisory council; officers; meetings; quorum; records; expenses; duties.

(a) The council shall elect each year from its members a chairman, vice-chairman and secretary.

(b) The council shall meet quarterly and at any other time the chairman may direct or upon request of a majority of the council members.

(c) Six (6) members of the council constitute a quorum for the transaction of council business.

(d) Written records shall be kept of all council proceedings.

(e) Council members shall be reimbursed for necessary expenses incurred in the performance of council duties in the manner and amount provided to state employees.

(f) In addition to any other duties prescribed by law the advisory council on aging shall advise the division on aging on long term care issues including, but not limited to, assisted living, adult day care, boarding homes, home health agencies,

hospice care, hospital care, nursing care, personal care and other issues that may face the aging.

9-2-1208. Community based in-home services.

(a) The department of health shall administer a state program to provide community based in-home services for Wyoming senior citizens and disabled adults eighteen (18) years of age and older. Priority shall be given to persons at risk of placement in nursing homes, assisted living or other institutional care settings and the program may serve persons who are not senior citizens if the program's services are needed to avoid institutional placement.

(b) The program authorized by this section may include but is not limited to the following in-home services:

(i) Homemaking services;

(ii) Personal care services;

(iii) Respite care to relieve caregivers;

(iv) Hospice services for individuals who are not able to pay for the care due to lack of income or assets and are not able to qualify for hospice services under the Medicaid program; and

(v) Adult daycare.

(c) The department shall:

(i) Establish a schedule of fees for services provided based upon the client's ability to pay;

(ii) Prescribe conditions of eligibility for services under this section based upon a client evaluation; and

(iii) Promulgate rules and regulations necessary for the administration of the program;

(iv) Repealed By Laws 2007, Ch. 57, § 2.

9-2-1209. Licensed shelter care program established; implementation.

(a) The department of health shall administer a licensed shelter care program in accordance with this section. In administering the licensed shelter care program, the department through rule and regulation shall:

(i) Determine eligibility requirements to assist the elderly who do not qualify to receive medicaid but who are unable to afford private nursing home care;

(ii) Select the least expensive nursing home in the area of the elderly person's residence unless a private source other than the elderly person will pay not less than twenty-five percent (25%) of the difference between what the elderly person is able to contribute and the cost of the institution of the elderly person's choice;

(iii) Provide that where individuals can qualify for medicaid through trusts or otherwise, they shall do so rather than use this program. The program may be used as a transitional program while the individual is qualifying for medicaid.

(b) When the number of elderly persons applying for licensed shelter care assistance exceeds the funds available for the program, the department of health shall create a waiting list and provide assistance as feasible on a first-come first-served basis.

9-2-1210. Wyoming senior services board created.

There is created the Wyoming senior services board. The board shall consult with the division on aging to determine the award of grants under W.S. 9-2-1214.

9-2-1211. Wyoming senior services board; members; expenses.

(a) The Wyoming senior services board shall consist of seven (7) voting members and a nonvoting, ex-officio member, as follows:

(i) The administrator of the division on aging within the department of health or his designee shall serve as a nonvoting, ex-officio member;

(ii) One (1) member of the advisory council on aging appointed by the governor;

(iii) Three (3) persons who are senior citizens appointed by the governor;

(iv) Three (3) members at large appointed by the governor.

(b) The terms of members appointed under paragraphs (a)(ii) through (iv) of this section shall be for four (4) years. Of the initial appointees under paragraph (a)(iii) of this section, two (2) members shall be appointed for two (2) years and one (1) member shall be appointed for four (4) years and of the initial appointees under paragraph (a)(iv) of this section, one (1) member shall be appointed for two (2) years and one (1) member shall be appointed for four (4) years. The governor may remove any member appointed under paragraph (a)(ii) through (iv) of this section as provided in W.S. 9-1-202. A vacancy on the board shall be filled for the balance of the unexpired term. The board shall select one (1) of its voting members to serve as chairman.

(c) The board shall meet not less than two (2) times each year. Members shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their official duties in the manner and amounts provided by law for state employees. Members who are government employees or public officials shall be considered on official business of their agency when performing duties as members of the board.

9-2-1212. Board; duties and responsibilities.

(a) The Wyoming senior services board shall:

(i) Review emergency grant proposals;

(ii) Adopt the basic grant amount, grant formula and approve criteria for emergency grant applications through rules and regulations promulgated by the board to meet the following public purposes:

(A) To meet the demands of Wyoming's growing elderly population;

(B) To enhance services to Wyoming's senior citizens;

(C) To strengthen the opportunity for senior citizens to age in the least restrictive environment possible;

(D) To be cost effective in the provision of services to senior citizens;

(E) To promote compliance with federal and state mandates requiring placement of people in the least restrictive environment; and

(F) To supplement and enhance existing programs providing services to senior citizens in the state.

(iii) Review and monitor the expenditure of monies awarded under W.S. 9-2-1214;

(iv) In consultation with the division on aging, promulgate reasonable rules and regulations in accordance with the Wyoming Administrative Procedure Act to implement the provisions of W.S. 9-2-1210 through 9-2-1215; and

(v) Consider other necessary matters.

(b) In fulfilling its duties under subsection (a) of this section, the board shall:

(i) Consult with the division on aging and the advisory council on aging appointed pursuant to W.S. 9-2-1206, as necessary;

(ii) Consider and may accept federal grants and other contributions, grants, gifts, bequests and donations from any source. Any funds received pursuant to this paragraph are continuously appropriated to the board to be separately accounted for and expended by grants to senior centers for the public purposes specified in paragraph (a)(ii) of this section and need not be expended as part of an authorized basic or emergency grant.

9-2-1213. Division on aging; duties.

(a) The division on aging shall:

(i) Maintain, manage and be responsible for the distribution of the funds appropriated for distribution under W.S. 9-2-1212 and 9-2-1214;

(ii) Disburse the funds appropriated in accordance with awards made by the board pursuant to W.S. 9-2-1212 and 9-2-1214.

9-2-1214. Disbursement of grants.

(a) From the funds available for distribution, the division on aging may first retain not more than one percent (1%) to pay allowable expenses of the board. The board may award grants to senior centers throughout the state to support the purposes specified in W.S. 9-2-1212(a)(ii) from remaining funds available for distribution. The division on aging shall disburse grant funds in accordance with awards made by the board under this section.

(b) Notwithstanding W.S. 9-4-207, unobligated or unencumbered funds retained by the division on aging under this section shall not lapse at the end of a fiscal period and shall remain available for distribution as provided in this section. All funds retained pursuant to this subsection shall be accounted for separately. These funds shall not be required to be distributed pursuant to any grant formula adopted pursuant to this article but shall be available for emergency grants or may be distributed according to a grant formula as determined by the board.

(c) The board, in consultation with the division on aging, shall by rule and regulation establish a formula for distribution of funds remaining available for distribution under this section as follows:

(i) Each eligible senior center in the state shall receive the same basic grant of up to thirty thousand dollars (\$30,000.00) annually from the funds available for distribution;

(ii) Of the amounts remaining after the basic grants are awarded, the board shall annually award ninety-five percent (95%) for grants to eligible senior centers based on the formula developed by the board in consultation with the division on aging. Funds remaining after the award of grants under this paragraph shall be used for emergency grants based upon rules adopted by the board, in consultation with the division on aging. Rules for emergency grants shall provide procedures and criteria for application for and award of emergency grants. Emergency grants shall be paid only if the center has no other available source of funds for the emergency. No emergency grant

shall exceed twenty thousand dollars (\$20,000.00) for any single occurrence.

9-2-1215. Repealed by Laws 2015, ch. 59, § 2.

ARTICLE 13
LONG TERM CARE OMBUDSMAN

9-2-1301. Short title.

This act may be cited as the "Long Term Care Ombudsman Act".

9-2-1302. Definitions.

(a) As used in this act:

(i) Repealed by Laws 1991, ch. 221, § 3.

(ii) "Department" means the department of health;

(iii) "Director" means the director of the department;

(iv) "Division" means a division or section on aging as designated by the director;

(v) "Long term care service" means any service, provided by an assisted living facility, adult day care facility, boarding home, home health agency, hospice, hospital swing bed, nursing care facility, personal care agency or other type of service subject to regulation, certification or licensure by the department, but not including habilitative care;

(vi) "Older Americans Act" means the federal Older Americans Act, as amended;

(vii) "Resident" means any adult who is receiving a long term care service.

9-2-1303. Office created.

There presently exists, pursuant to the Older Americans Act, the office of long term care ombudsman. The office is under the supervision of the department through its director or as otherwise directed by the department.

9-2-1304. Responsibilities.

(a) The responsibilities of the ombudsman shall be to:

(i) Investigate, advocate and mediate on behalf of adults applying for or receiving long term care services, to resolve complaints concerning actions or inactions that may adversely affect resident health, safety, welfare or rights and that do not involve determination of compliance for maintaining a license or certification;

(ii) Provide information to public agencies about the problems of residents receiving long term care services;

(iii) Carry out other activities consistent with the purpose of this act which the department determines appropriate; and

(iv) Monitor the development and implementation of federal, state and local laws, regulations and policies with respect to long term care services in Wyoming.

9-2-1305. Investigations.

(a) The ombudsman shall conduct an appropriate inquiry into all complaints pursuant to this act. The ombudsman shall notify any provider of a long term care service affected by the inquiry.

(b) In conducting an inquiry, the ombudsman shall engage in appropriate actions including:

(i) Making inquiries of affected parties or those with the knowledge of matters necessary to establish, deny or resolve the complaint;

(ii) Entering, at any reasonable time, the facility of a provider of any long term care service subject to regulation, certification or licensure by the department;

(iii) Presenting proper identification to any long term care service provider, if requested.

(c) Any inquiry that requires the inspection or obtaining of medical records or other resident records which are pertinent to the inquiry shall comply with all established privacy notification requirements.

(d) The resident, or resident's guardian, may participate in planning any course of action to be taken on his behalf by the ombudsman.

9-2-1306. Resolution of complaints.

(a) The ombudsman shall attempt to resolve the complaint using mediation and negotiation whenever possible.

(b) Following an investigation, the ombudsman shall report his findings and recommendations to the resident or resident's guardian and may report the findings to any other entity deemed appropriate.

(c) The provider of long term care service complained against shall have a reasonable opportunity to respond to the complaint. If the problem seriously threatens the safety or well-being of a resident, the ombudsman shall refer the complaint to an appropriate agency.

9-2-1307. Confidentiality.

The identity of any resident on whose behalf a complaint is made, or any person providing information to an investigation shall be confidential. The identity of any person shall be disclosed only with the written permission of the individual. If the complaint becomes the subject of a judicial proceeding, the investigative information may be disclosed as required by the court.

9-2-1308. Retaliation.

No person shall discriminate against any resident, relative or guardian of a resident, employee of a long term care service provider or any other person because of the making of a complaint or providing of information, in good faith, to the ombudsman.

9-2-1309. Access to ombudsman.

No resident shall be denied the right to contact the ombudsman.

ARTICLE 14
ECONOMIC DEVELOPMENT AND STABILIZATION BOARD

9-2-1401. Repealed By Laws 1998, ch. 6, § 5.

- 9-2-1402. Repealed By Laws 1998, ch. 6, § 5.
- 9-2-1403. Repealed By Laws 1998, ch. 6, § 5.
- 9-2-1404. Repealed By Laws 1998, ch. 6, § 5.
- 9-2-1405. Repealed By Laws 1998, ch. 6, § 5.
- 9-2-1406. Repealed By Laws 1998, ch. 6, § 5.
- 9-2-1407. Repealed By Laws 1998, ch. 6, § 5.
- 9-2-1408. Repealed By Laws 1998, ch. 6, § 5.
- 9-2-1409. Repealed By Laws 1998, ch. 6, § 5.

ARTICLE 15
MEDICAL REVIEW PANEL

- 9-2-1501. Repealed By Laws 2005, ch. 244, § 2.
- 9-2-1502. Repealed By Laws 2005, ch. 244, § 2.
- 9-2-1503. Repealed By Laws 2005, ch. 244, § 2.
- 9-2-1504. Repealed By Laws 2005, ch. 244, § 2.
- 9-2-1505. Repealed By Laws 2005, ch. 244, § 2.
- 9-2-1506. Repealed By Laws 2005, ch. 244, § 2.
- 9-2-1507. Repealed By Laws 2005, ch. 244, § 2.
- 9-2-1508. Repealed By Laws 2005, ch. 244, § 2.
- 9-2-1509. Repealed By Laws 2005, ch. 244, § 2.
- 9-2-1510. Repealed By Laws 2005, ch. 244, § 2.
- 9-2-1511. Repealed By Laws 2005, ch. 244, § 2.
- 9-2-1512. Repealed By Laws 2005, ch. 244, § 2.
- 9-2-1513. Short title.

This act may be cited as the "Wyoming Medical Review Panel Act of 2005".

9-2-1514. Purpose of provisions.

(a) The purposes of this act are:

(i) To prevent where possible the filing in court of actions against health care providers and their employees for professional liability in situations where the facts do not permit at least a reasonable inference of malpractice; and

(ii) To make possible the fair and equitable disposition of such claims against health care providers as are, or reasonably may be, well founded.

9-2-1515. Definitions.

(a) As used in this act:

(i) "Health care provider" means a person or facility licensed, certified or otherwise authorized by the law of this state to provide health care in the ordinary course of business or practice of a profession, but does not include a person who provides health care solely through the sale or dispensing of drugs or medical devices;

(ii) "Malpractice claim" or "claim" means any claim against a health care provider for alleged medical treatment, alleged lack of medical treatment, or other alleged departure from accepted standards of health care which results in damage to the patient;

(iii) "Panel" means the medical review panel provided for under this act;

(iv) "Reasonable probability" means a factual basis which might lead a reasonable mind to the conclusion. Where there is evidence in the record and room for two (2) opinions, the conclusion shall be reached honestly and upon due consideration;

(v) "Substantial evidence" means relevant and competent evidence that a reasonable mind might accept as adequate to make a finding of fact. It may be less than the weight of the evidence, but it shall not be clearly contrary to the overwhelming weight of the evidence. More is required to

meet the burden than a mere scintilla of evidence or suspicion of the existence of a fact to be established;

(vi) "This act" means W.S. 9-2-1513 through 9-2-1523.

9-2-1516. Service of pleadings; computation of time.

(a) The claim, answer, decision and all other pleadings required to be served under this act shall be served in accordance with the Wyoming Rules of Civil Procedure.

(b) Computation of time periods prescribed or allowed under this act shall be in accordance with rule 6 of the Wyoming Rules of Civil Procedure.

9-2-1517. Panel created; compensation; director of panel; appointment and duties; rulemaking.

(a) There is created the Wyoming medical review panel.

(b) The panel shall have a director who shall be the attorney general or his designee and shall conduct the administrative business of the panel and otherwise implement this act. The director may use the office of administrative hearings as necessary and may employ personnel or contract for services necessary to implement this act. The director shall promulgate rules and regulations in accordance with the Wyoming Administrative Procedure Act to implement this act.

(c) Members of the panel shall receive compensation while engaged in the business of the board of five hundred dollars (\$500.00) per day each day the panel is convened, plus two hundred dollars (\$200.00) per preparation day, not to exceed two thousand dollars (\$2,000.00) per claim reviewed. Compensation for travel and other services shall be as provided in W.S. 9-3-102 and 9-3-103.

9-2-1518. Claims to be reviewed by panel; prohibition on filing claims in court; tolling of statute of limitation; immunity of panel and witnesses; administration.

(a) The panel shall review all malpractice claims against health care providers filed with the panel except those claims subject to a valid arbitration agreement allowed by law or upon which suit has been filed prior to July 1, 2005. Unless submission to the panel is waived in accordance with W.S. 9-2-1519(a), no complaint alleging malpractice shall be filed in

any court against a health care provider before a claim is made to the panel and its decision is rendered. The running of the applicable limitation period in a malpractice action is tolled upon receipt by the director of the claim and does not begin again until thirty (30) days after the panel's final decision, or seventy-five (75) days after the panel's last hearing, whichever occurs earlier.

(b) Panel members are absolutely immune from civil liability for all acts in the course and scope of the duties under this act, including but not limited to communications, findings, opinions and conclusions.

(c) The panel may provide for the administration of oaths, the receipt of claims, the promulgation of forms required under this act, the issuance of subpoenas in connection with the administration of this act, and the performance of all other acts required to fairly and effectively administer this act. A party requesting a subpoena shall bear all costs of mileage and witness fees.

9-2-1519. Claim review procedure; contents of claim; service of claim on provider; answer.

(a) Unless the claimant and respondent agree by written statements to waive submission to the panel, claimants shall submit a claim for the consideration of the panel prior to filing a complaint in any court in this state by addressing a claim, in writing, signed by the claimant or his attorney, to the director of the panel. The claim shall contain:

(i) A statement in reasonable detail of the elements of the health care provider's conduct which are believed to constitute a malpractice claim, the dates the conduct occurred, and the names and addresses of all health care providers having contact with the claimant relevant to the claim and all witnesses;

(ii) A medical record release form, signed by the claimant, authorizing the panel to obtain access to all health care provider records and information pertaining to the claim and, for the purposes of its consideration of this matter only, waiving any privilege as to the contents of those records. Nothing in the statement may in any way be construed as waiving that privilege for any other purpose or in any other context, in or out of court.

(b) The claimant shall submit, within sixty (60) days following receipt of the health care provider's answer as required by subsection (e) of this section, a statement prepared and signed by an expert in the specialty or subspecialty of medical practice at issue, setting forth the basis for the expert's belief that the conduct is believed to constitute a malpractice claim and the evidence currently available to support the expert's opinion.

(c) The claim may be amended by filing an amendment not less than fourteen (14) days prior to the hearing date.

(d) Upon receipt of a claim, the director shall cause a true copy of the claim to be served on the health care providers against whom the claim has been filed.

(e) The health care provider shall answer the claim within sixty (60) days after service of the medical records release required under subsection (b) of this section and shall submit a medical records release authorizing the panel to inspect all health care provider records and information pertaining to the claim except those records which are confidential pursuant to W.S. 35-2-910 or 35-17-105 or 42 U.S.C. 11137(b). The answer shall be filed with the director who shall serve a copy on the claimant. If the health care provider fails to timely file an answer to the claim, the claimant may immediately pursue the claim in a court of competent jurisdiction.

9-2-1520. Panel composition; selection; disqualification of panelist; multiple defendants.

(a) The panel for each claim reviewed under this act shall consist of two (2) health care providers licensed in this state, two (2) attorneys licensed in this state and one (1) lay person unanimously chosen by the first four (4) members, who is not an attorney, health care provider or an employee of an attorney or health care provider. All panel members shall be residents of this state. If feasible the health care provider members of the panel shall be from the health care provider's profession or specialty. In those cases where the theory of respondeat superior or some other derivative theory of recovery is employed, if feasible one (1) member shall be from the individual health care provider's profession or specialty and one (1) member shall be from the profession or specialty of the health care provider named as employer, master or principal.

(b) Within five (5) days of receipt, the director shall notify the state licensing agency of the health care provider involved and the state bar of the filing of the claim. Within fourteen (14) days of notification, the state licensing agency and the state bar shall each provide the director a list of twelve (12) of its members as proposed panelists. To the extent possible, the state licensing agency shall include on the list persons specializing in the same field or discipline as the health care provider against whom the claim is made. The director shall select two (2) from each list to serve as panelists and shall notify the parties and the panel members selected of their selection. The four (4) professional panelists shall unanimously select and appoint one (1) person as a lay panelist. The director shall notify the parties of the name of the lay panelist.

(c) At or prior to the hearing, the panel may, by majority vote, select a chairman from among its members to preside over the panel proceedings, or shall request a hearing officer from the office of administrative hearings to preside over the panel proceedings.

(d) If, within fifteen (15) days of receipt of the notice of selection of the professional panelists, the claimant or the health care provider against whom the claim is made files an affidavit stating his belief that a professional panelist selected by the director cannot be impartial in reviewing the claim, the panel member is disqualified, and the director shall select another from the list. Each party may disqualify not more than three (3) professional panel members under this subsection.

(e) The director may excuse a panelist from serving if the panelist feels his presence on the panel would be inappropriate under the circumstances of the case.

(f) When a claim is filed against two (2) or more health care providers, the claim against each health care provider shall be consolidated for hearing unless by stipulation of all parties or at the discretion of the panel, the claims are heard separately.

9-2-1521. Hearing procedure; review of decision prohibited.

(a) The director shall set a time and place for the hearing and provide notice to all parties at least thirty (30) days prior to the hearing. The proper place for hearing shall be

the county in which an action is required to be brought according to W.S. 1-5-101 through 1-5-109. The hearing date shall not be more than one hundred twenty (120) days after the director receives the submission of the statement required under W.S. 9-2-1519(b) unless the director or panel finds good cause to delay the hearing. At least fifteen (15) days before the hearing the director shall provide each panel member copies of all claims, answers, briefs, records and other documents the director considers necessary.

(b) The hearing shall be conducted in accordance with rules and regulations promulgated by the director. The hearing shall be informal, and the Wyoming Rules of Evidence and, except as specified in this act, the Wyoming Administrative Procedure Act do not apply. No decision of the director or the panel is subject to review in a court. A record of the hearing shall be made. The panel may issue subpoenas to compel the attendance of witnesses as provided under the Administrative Procedure Act. Fees for any witness appearing at a hearing under this section shall be paid by the party calling the witness.

(c) The panel may take the case under advisement or may request that additional facts, records, witnesses or other information be obtained and presented to it at a supplemental hearing, which shall be set for a date not later than thirty (30) days from the beginning date of the original hearing unless the parties consent in writing to a longer period.

9-2-1522. Panel deliberations and decision; decision not binding.

(a) Upon consideration of all the relevant material, the panel shall determine whether there is:

(i) Substantial evidence that the acts complained of occurred and that they constitute malpractice; and

(ii) A reasonable probability that the patient was injured as a result of the acts complained of.

(b) The deliberations of the panel are confidential. All votes of the panel on the questions for discussion shall be by secret ballot. The final decision shall be by a majority vote of the panel and shall be signed by the chairman within forty-five (45) days following the hearing. Failure to issue a timely final decision shall vacate any determination made and shall not

bar the claimant from proceeding with the claim in a court of law.

(c) The final decision shall be in writing and forwarded to the director who shall serve copies on the parties. The panel's decision is not binding upon any party. The decision of the panel and any testimony, documents or materials submitted thereto and incorporated into the decision of the panel shall be admissible in whole or in part solely for purposes of impeachment in any subsequent trial of the matter, subject to the discretion of the trial court and in accordance with the Wyoming Rules of Evidence.

9-2-1523. Confidentiality of panel proceedings; privilege; proceedings and decision inadmissible; assessment of costs.

(a) The director shall maintain records of all proceedings before the panel, which shall include the nature of the act or omissions alleged in the claim, a brief summary of the evidence presented, the final decision of the panel and any majority or minority opinions filed. Except as otherwise required by law, or allowed pursuant to W.S. 9-2-1522(c) any records which may identify any party to the proceedings shall not be made public and are to be used solely for the purpose of compiling statistical data and facilitating ongoing studies of medical malpractice in this state.

(b) No panel member may be called to testify in any proceeding concerning the deliberations, discussions, decisions and internal proceedings of the panel.

(c) Except as provided in W.S. 9-2-1522(c), the claim, answer, decision and any other pleadings served under this act shall not be admissible in any subsequent civil action brought by the claimant against the health care provider for alleged malpractice.

(d) If the claimant files a complaint in court following a panel decision, the plaintiff shall submit to the panel a written statement of the outcome of the litigation within sixty (60) days of the final disposition of the litigation.

ARTICLE 16
WYOMING CENTENNIAL COMMISSION

9-2-1601. Repealed by Laws 2009, Ch. 168, § 205.

- 9-2-1602. Repealed by Laws 2009, Ch. 168, § 205.
- 9-2-1603. Repealed by Laws 2009, Ch. 168, § 205.
- 9-2-1604. Repealed by Laws 2009, Ch. 168, § 205.
- 9-2-1605. Repealed by Laws 2009, Ch. 168, § 205.
- 9-2-1606. Repealed by Laws 2009, Ch. 168, § 205.
- 9-2-1607. Repealed By Laws 2008, Ch. 44, § 2.
- 9-2-1608 Repealed by Laws 2009, Ch. 168, § 205.
- 9-2-1609. Repealed by Laws 2009, Ch. 168, § 205.

ARTICLE 17
REORGANIZATION OF GOVERNMENT

9-2-1701. Short title.

This act may be cited as the "Wyoming Government Reorganization Act of 1989."

9-2-1702. Purpose.

The purpose of this act is to establish a framework whereby the executive branch of state government can be reorganized into a limited number of departments to ensure state resources are effectively and efficiently applied to implement programs and policy established in accordance with law thereby better serving the citizens of Wyoming. This act serves as the basic reorganization act, but each new department of state government as reorganized shall be created by a separate act. These separate acts creating a department establish a procedure under which detailed plans for organization of the department can be developed and submitted for review by the public and final approval by the legislature.

9-2-1703. Definitions.

(a) As used in this act:

(i) "Administrator" means the administrative head of a division within a department;

(ii) "Agency" means any board, commission, council, committee or office in the executive branch of state government except the offices listed in W.S. 9-2-1704(a) and the University of Wyoming;

(iii) "Department" means one (1) of not more than fourteen (14) principal administrative operating units of state government as created by separate legislation establishing a department and in accordance with this act;

(iv) "Department reorganization act" means an act of the legislature to create one (1) or more departments for the purpose of reorganization;

(v) "Department reorganization plan" means the plan for final reorganization of a department developed by a director during the transition period as required by a department reorganization act;

(vi) "Director" means the administrative head of a department;

(vii) "Division" means one (1) of the principal operating units of a department the administrator of which is directly subordinate to the director;

(viii) "Type 1, Type 2 or Type 3 transfers" means as defined in W.S. 9-2-1707(b);

(ix) "Transition period" means the period between the creation of the department under a department reorganization act and the date of implementation of a department reorganization plan as specified by law;

(x) "This act" means W.S. 9-2-1701 through 9-2-1707.

9-2-1704. Reorganization plan; structure; time frame.

(a) Pursuant to this act and other laws establishing individual departments, the entire executive branch of state government shall be organized into not more than sixteen (16) principal departments except for the offices of the following officials and except as provided in subsections (d) and (e) of this section:

(i) Governor;

- (ii) Secretary of state;
- (iii) State treasurer;
- (iv) State auditor;
- (v) Attorney general;
- (vi) Superintendent of public instruction.

(b) Repealed By Laws 2001, Ch. 187, § 3.

(c) The legislature may establish temporary agencies for periods not exceeding four (4) years which are not within a department or the office of an official specified in subsection (a) of this section. At the expiration of four (4) years, the agency and all its programs and functions shall either terminate or be assigned within an established department.

(d) The entities of state government specified in this subsection are designated as separate operating agencies, which are separate and distinct from the departments and offices specified in subsection (a) of this section because of their quasi-judicial responsibility or because of their unique, specialized function which precludes their inclusion in another department. This act does not otherwise apply to separate operating agencies. Separate operating agencies are as follows:

- (i) Adjutant general's department;
- (ii) State public defender's office;
- (iii) State building commission;
- (iv) Public service commission;
- (v) State board of equalization;
- (vi) University of Wyoming;
- (vii) Community college commission;
- (viii) Oil and gas conservation commission;
- (ix) State geological survey;
- (x) State board of parole;

(xi) Office of administrative hearings created by W.S. 9-2-2201;

(xii) Wyoming water development office;

(xiii) Office of state lands and investments;

(xiv) Environmental quality council;

(xv) School facilities commission established under W.S. 21-15-113;

(xvi) Wyoming enhanced and improved oil recovery commission;

(xvii) Office of guardian ad litem.

(e) Notwithstanding subsection (a) of this section, the governor, secretary of state, state treasurer, state auditor and the state superintendent of public instruction shall be subject to W.S. 9-2-1706(c) and (d) with respect to deputies and administrators employed within that office. For purposes of this subsection, the definitions in W.S. 9-2-1703 shall apply to the offices of the specified elected officials. This subsection shall only affect positions filled subsequently to its enactment and shall not be deemed to affect the property interests of current permanent employees within the offices addressed in this subsection.

(f) Repealed By Laws 1996, ch. 74, § 3.

9-2-1705. Authority of governor in reorganization.

(a) Except as otherwise provided in the department reorganization act, with respect to any department created under a department reorganization act, the governor:

(i) Shall appoint the director of the department, with the advice and consent of the senate, and may remove the director as provided in W.S. 9-1-202;

(ii) Shall appoint all members of advisory councils associated with the department as specified by law;

(iii) May approve transfers of positions, persons, property and funds appropriated for such positions, persons or

property, among divisions within a department created under a reorganization act. Nothing in this paragraph authorizes funds to be expended for any purpose other than that for which the funds were appropriated, except as otherwise specifically provided by law;

(iv) Shall annually report to the joint appropriations interim committee, not later than the first business day of each general or budget session, all transfers approved under paragraph (iii) of this subsection since the adjournment of the general or budget session during the previous year, including a summary of all positions, personnel, property and appropriated funds transferred. Nothing in this paragraph authorizes funds to be expended for any purpose other than that for which the funds were appropriated, except as otherwise specifically provided by law;

(v) Notwithstanding any provision of law, may take any action necessary to prevent the loss of federal funds due solely to the effect of government reorganization.

9-2-1706. Department directors; term; authority; division heads.

(a) A department director shall be appointed by the governor, with the advice and consent of the senate. His term of appointment expires at the end of the term of office of the governor during which he was appointed, unless sooner removed.

(b) A department director serves at the pleasure of the governor and may be removed by him as provided in W.S. 9-1-202. Department directors are not subject to the state compensation or personnel system as conditions of their own employment but are otherwise state employees.

(c) Department directors:

(i) Shall:

(A) Serve as administrative head of the department for which appointed;

(B) Appoint administrators of divisions within the department;

(C) Take the final agency action with respect to all matters, except as otherwise specifically provided by law;

(D) Upon initial appointment prepare a department reorganization plan for submission to the legislature at the budget or general session occurring in the calendar year following the creation of the department. The director shall hold public hearings to receive information to assist in developing the plan.

(ii) May, after implementation of the department's reorganization plan:

(A) Remove administrators at will;

(B) With the approval of the governor, transfer functions or programs within the department, or reorganize the department within the limitations established in the budget and the department reorganization act.

(d) Administrators shall be appointed by and serve at the pleasure of the department director and may be removed by him at any time without cause.

9-2-1707. Reorganization method; types of transfer.

(a) If a bill to create a department as part of government reorganization is enacted into law:

(i) The governor shall, not later than July 1 of the year in which the bill is enacted, appoint a department director. The director and any other staff necessary to assist the director during the transition shall serve in positions and be paid from funds available in the existing budgets of agencies and programs assigned to the department by law or appropriated to the governor's office for reorganization;

(ii) Upon his appointment, the director shall become the immediate supervisor of all heads of agencies assigned to the department under a Type 1 transfer. Agency heads assigned under Type 1 transfers retain all rights and privileges under the state compensation and personnel system which existed immediately prior to the appointment of the director. No agency head shall be removed by a director before implementation of a department reorganization plan approved by the legislature but the director may fill vacancies;

(iii) The director shall prepare a plan for reorganization of the department which, after approval by the

governor, shall be submitted on or before October 15 to the specified interim committees and to the legislature not later than December 1 of the year in which the department is created. All state agencies or departments shall cooperate with and provide all requested information to a department director developing a department reorganization plan under this paragraph. Public hearings regarding the plan shall be conducted by at least two (2) interim committees of the legislature specified in the bill creating the department prior to the succeeding legislative session. The plan, as approved by the legislature through a bill, shall be implemented not later than July 1 of the year in which the plan is approved. The plan shall reflect as much of the following basic structure as practicable:

(A) The principal operating unit of a department is a division headed by an administrator;

(B) The principal operating unit of a division is a program headed by a manager;

(C) The principal operating unit of a program is a section headed by a supervisor;

(D) The principal operating unit of a section is a subsection headed by a chief;

(E) Departments may establish field offices which combine division, program, section and subsection functions;

(F) A council is an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives;

(G) A committee is an advisory body created by or without specific statutory enactment for a limited time to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence shall terminate upon the completion of its assignment;

(H) A coordinating council is an interdepartmental advisory body created by law to coordinate programs and activities for which one (1) department has primary responsibility but in which one (1) or more other departments have an interest;

(J) A commission, unless otherwise required by the state constitution, is a body created by specific statutory enactment within a department or the office of the governor exercising limited quasi-legislative or quasi-judicial powers, or both, independently of the director of the department or the governor.

(iv) Except as otherwise specified by law, all boards, commissions, councils or committees associated with an agency, assigned to a department under a Type 1 transfer shall be only advisory upon implementation of the department's reorganization plan. During the transition period, boards, commissions, councils and committees shall retain existing authority for making grants, authorizing programs, rulemaking and for taking final agency action in contested cases, except as otherwise specifically provided in a department reorganization act, but shall have no authority regarding the internal administration of the agency. Any board or commission which grants licenses or permits to engage in a profession or occupation retains full authority to grant, deny or take any other action regarding those licenses or permits as exists under current law.

(b) As used in reorganization acts to create departments, the following described transfers have the effects specified:

(i) Type 1 transfer-A Type 1 transfer is the transfer of an existing agency or substantially all of the functions and programs of an existing agency to a department. This transfer includes the transfer of all positions, personnel, property and appropriated funds to the department to be used for the purposes specified under existing law until implementation of the legislatively approved reorganization plan. The department is responsible for all the programs and functions of an agency assigned to the department through a Type 1 transfer;

(ii) Type 2 transfer-A Type 2 transfer is the transfer of a program or function from an existing agency to a department when that agency is not assigned to the department under a Type 1 transfer and includes the transfer of a program or function from a department to a second department or an existing agency if that agency has not yet been assigned to a department. The positions, personnel, property and appropriated funds associated with the program or function shall not be transferred to or from the department unless specified in the department reorganization plan;

(iii) Type 3 transfer-A Type 3 transfer is the transfer of an agency with a primary function of issuing licenses or permits to engage in a profession or occupation to a department. The department shall provide budget, fiscal, administrative and clerical services to any agency requesting these services, but not affect its authority with respect to licensure. The positions, personnel, property and appropriated funds of these agencies shall not be transferred to the department. Any agency requesting the services described in this paragraph shall compensate the department for them at a reasonable rate established by the department. In addition to offering the optional services specified in this paragraph, the department shall:

(A) Provide administrative oversight of agency procedures to assure that each agency is in compliance with existing statutes that created the agency and that govern the agency's functions;

(B) Provide guidance to agencies in matters pertaining to budget preparation, individual agency administration, personnel and other procedural functions in accordance with rules and regulations promulgated by the department;

(C) Function as a liaison between individual agencies within the department and between agencies and other departments within state government;

(D) Review the current practices of each agency and make recommendations to individual agencies which might improve the efficiency of the agency.

9-2-1708. Repealed By Laws 1999, ch. 149, § 1.

ARTICLE 18
PROFESSIONAL REVIEW PANEL

9-2-1801. Short title.

This act may be cited as the "Wyoming Professional Review Panel Act".

9-2-1802. Purpose.

(a) The purpose of this act is to:

(i) Reduce the costs of professional malpractice claims to both plaintiffs and defendants by a less formal professional review of claims before litigation is pursued in the courts; and

(ii) Improve the ability of the state to regulate professions and ensure professional competence.

9-2-1803. Definitions.

(a) As used in this act:

(i) "Malpractice claim" means any claim against a professional for alleged departure from accepted professional standards which results in damage to the claimant;

(ii) "Panel" means the Wyoming professional review panel provided for under this act;

(iii) "Professional" means a person licensed under title 33 for whom the normal qualifications for licensure include at least a year of specialized post secondary education, or a hospital or nursing care facility;

(iv) "This act" means W.S. 9-2-1801 through 9-2-1812.

9-2-1804. Service of pleadings; computation of time.

(a) The claim, answer, decision and all other pleadings required to be served under this act shall be served in accordance with the Wyoming Rules of Civil Procedure.

(b) Computation of time periods prescribed or allowed under this act shall be in accordance with rule 6 of the Wyoming Rules of Civil Procedure.

9-2-1805. Panel created; compensation; director of panel; appointment and duties; rulemaking.

(a) There is created the Wyoming professional review panel.

(b) The panel shall have a director who shall be appointed by and serve at the pleasure of the governor and shall conduct the administrative business of the panel and otherwise implement this act. The director may employ personnel necessary to

implement this act. The director shall promulgate rules and regulations in accordance with the Wyoming Administrative Procedure Act to implement this act.

(c) Members of the panel shall receive compensation while engaged in the business of the board of forty dollars (\$40.00) per hour for any hour during which a hearing or part of a hearing is held. Compensation for travel and other services shall be as provided by rules and regulations promulgated by the director. Compensation to any panel member under this subsection shall not exceed three hundred twenty dollars (\$320.00) per day.

9-2-1806. Claims to be reviewed by panel; prohibition on filing claims in court; tolling of statute of limitation; immunity of panel and witnesses; administration.

(a) The panel shall review all professional malpractice claims against professionals filed with the panel except those claims subject to a valid arbitration or mediation agreement allowed by law or upon which suit has been filed prior to July 1, 1989. No complaint alleging malpractice shall be filed in any court against a professional before a claim is made to the panel and its decision is rendered. The running of the applicable limitation period in a malpractice action is tolled upon receipt by the director of the application for review and does not begin again until thirty (30) days after the panel's final decision is served upon the claimant.

(b) Panel members and witnesses are absolutely immune from civil liability for all acts in the course and scope of the duties under this act, including but not limited to communications, findings, opinions and conclusions.

(c) The panel may provide for the administration of oaths, the receipt of claims filed, the promulgation of forms required under this act, the issuance of subpoenas in connection with the administration of this act, and the performance of all other acts required to fairly and effectively administer this act. A party requesting a subpoena shall bear all costs of mileage and witness fees.

9-2-1807. Claim review procedure; contents of claim; service of claim on provider; answer.

(a) Claimants shall submit a case for the consideration of the panel prior to filing a complaint in any court in this state

by addressing a claim, in writing, signed by the claimant or his attorney, to the director of the panel. The claim shall contain:

(i) A statement in reasonable detail of the elements of the professional's conduct which are believed to constitute a malpractice claim, the dates the conduct occurred, and the names and addresses of all professionals having contact with the claimant relevant to the claim and all witnesses;

(ii) A statement authorizing the panel to obtain access to all records and information pertaining to the claim and, for the purposes of its consideration of this matter only, waiving any privilege as to the contents of those records. Nothing in the statement may in any way be construed as waiving that privilege for any other purpose or in any other context, in or out of court.

(b) The claim may be amended by filing an amendment not less than fourteen (14) days prior to the hearing date.

(c) Upon receipt of a claim, the director shall cause a true copy of the claim to be served on the professionals against whom the claim has been filed.

(d) The professional shall answer the claim within thirty (30) days after service and shall submit a statement authorizing the panel to inspect all records and information pertaining to the claim except those records which are privileged pursuant to law. The answer shall be filed with the director who shall serve a copy on the claimant.

9-2-1808. Panel composition; selection; disqualification of panelist; multiple defendants.

(a) The panel for each claim reviewed under this act shall consist of two (2) professionals licensed in this state if required by law to be licensed, and three (3) lay persons who are not professionals or an employee of a professional. All panel members shall be residents of this state. If feasible one (1) member of the panel shall be from the professional's profession or specialty. In those cases where the theory of respondeat superior or some other derivative theory of recovery is employed, if feasible one (1) member shall be from the professional's profession or specialty and one (1) member shall be from the profession or specialty of the professional named as employer, master or principal.

(b) Within five (5) days of receipt, the director shall notify the state licensing agency if any, of the professional involved and the governor of the filing of the claim. Within fourteen (14) days of notification, the state licensing agency shall each provide the director a list of twelve (12) of its members as proposed panelists. Within fourteen (14) days of notification, the governor shall also provide the director with a list of twelve (12) people willing and able to serve as panelists. To the extent possible, the state licensing agency shall include on the list persons specializing in the same field or discipline as the professional against whom the claim is made. The director shall select two (2) from each list to serve as panelists and shall notify the parties and the panel members selected of their selection. The four (4) panelists shall unanimously select and appoint one (1) person as the fifth panelist.

(c) At or prior to the hearing, the panel shall select a chairman from among its members. The chairman shall preside over the panel proceedings.

(d) If, within fifteen (15) days of receipt of the notice of selection of panelists, the claimant or the professional against whom the claim is made files an affidavit stating his belief that a panelist selected by the director cannot be impartial in reviewing the claim, the panel member is disqualified, and the director shall select another from the list. Each party may disqualify not more than three (3) panel members under this subsection.

(e) The director may excuse a panelist from serving if the panelist feels his presence on the panel would be inappropriate under the circumstances of the case.

(f) When a claim is filed against two (2) or more professionals, the claim against each professional shall be consolidated for hearing unless by stipulation of all parties or at the discretion of the panel, the claims are heard separately.

9-2-1809. Hearing procedure; review of decision prohibited.

(a) The director shall set a time and place for the hearing and provide notice to all parties at least thirty (30) days prior to the hearing. The hearing date shall not be more than one hundred twenty (120) days after the director receives

the claim unless the panel finds good cause to delay the hearing. At least fifteen (15) days before the hearing the director shall provide each panel member copies of all claims, briefs, records and other documents the director considers necessary.

(b) The hearing shall be conducted in accordance with rules and regulations promulgated by the director. The hearing shall be informal, and the Wyoming Rules of Evidence do not apply. No decision of the director or the panel is subject to review in a court. A record of the hearing may be made if so stipulated by all the parties and the panel.

(c) The panel may take the case under advisement or may request that additional facts, records, witnesses or other information be obtained and presented to it at a supplemental hearing, which shall be set for a date not later than thirty (30) days from the date of the original hearing unless the claimant or his attorney consents in writing to a longer period.

9-2-1810. Panel deliberations and decision; decision not binding.

(a) Upon consideration of all the relevant material, the panel shall determine whether there is:

(i) Substantial evidence that the acts complained of occurred and that they constitute malpractice; and

(ii) A reasonable probability that the claimant was injured as a result of the acts complained of.

(b) The deliberations of the panel are confidential. All votes of the panel on the questions for discussion shall be by secret ballot. The decision shall be by a majority vote of the panel and shall be signed by the chairman.

(c) The decision shall be in writing and forwarded to the director who shall serve copies on the parties. A copy of the decision shall be sent to the professional's state licensing board, if any.

(d) The panel's decision is not binding upon any party. The panel may by stipulation of the parties recommend an award.

9-2-1811. Confidentiality of panel proceedings; privilege; decision not admissible.

(a) The director shall maintain records of all proceedings before the panel, which shall include the nature of the act or omissions alleged in the claim, a brief summary of the evidence presented, the decision of the panel and any majority or minority opinions filed. Except as otherwise required by law, any records which may identify any party to the proceedings shall not be made public and are not subject to subpoena but are to be used solely for the purpose of compiling statistical data and facilitating ongoing studies of professional malpractice in this state.

(b) No panel member may be called to testify in any proceeding concerning the deliberations, discussions, decisions and internal proceedings of the panel.

(c) The decision of the panel is not admissible as evidence in any action.

9-2-1812. Assessments; funding.

(a) The panel shall be funded from assessments levied against and paid by each professional covered by this act. The director shall promulgate rules and regulations to annually establish appropriate assessments based upon the following guidelines:

(i) The total amount of the panel's proposed annual budget shall be prorated among the professional classification covered under this act based on the number of cases reviewed by the panel during the immediately preceding calendar year involving each professional classification;

(ii) The prorated amount determined for each professional classification shall be divided by the number of practicing professionals within each classification to determine the individual assessment.

(b) The director shall certify the amount of each assessment to the appropriate licensing board, agency or authority and the board, agency or authority shall levy and collect the assessments annually at the time annual license fees are collected. Assessments collected under this subsection shall be remitted to the director not later than thirty (30) days from the date of collection and paid immediately by the director to the state treasurer for deposit into the malpractice review account.

(c) Monies in the malpractice review account shall be expended by the panel to carry out the purposes of this act.

ARTICLE 19
WYOMING INDIAN AFFAIRS COUNCIL

9-2-1901. Short title.

This article is known and may be cited as the "Wyoming Indian Affairs Act of 1989."

9-2-1902. Definitions.

(a) As used in this article:

(i) "Council" means the Wyoming Indian Affairs Council created by W.S. 9-2-1903;

(ii) "Government agency" means any agency, department, division, unit, board, commission or other entity of state government.

9-2-1903. Council created; membership; meetings; expenses.

(a) There is created the Wyoming Indian Affairs Council. The council shall consist of seven (7) members appointed by the governor with the advice of the Joint Tribal Council.

(b) The term of board members shall be four (4) years except that of the initial appointees three (3) members shall be appointed for two (2) years and four (4) members for four (4) years. The governor may remove any member as provided in W.S. 9-1-202. Vacancies on the board shall be filled by the governor with the advice of the Joint Tribal Council. The board shall select one (1) of its members to serve as chairman.

(c) Members of the board shall serve without compensation but shall receive travel expenses and per diem in the same manner as state employees for attending and traveling to and from board meetings.

(d) The board shall meet at the call of the chairman or upon request of a majority of the board members. Four (4) members shall constitute a quorum.

9-2-1904. Council powers and duties.

(a) The council shall:

(i) In formulating its work plan, focus attention on programs for cooperating with the Indian tribes living on the Wind River Indian Reservation in matters of common interest, including but not limited to:

- (A) Taxation;
- (B) Water rights;
- (C) Wildlife concerns;
- (D) Educational matters;
- (E) Economic development; and
- (F) The delivery of health and social services.

(ii) At least twice each year invite members of the Shoshone Tribal Council, the Arapahoe Tribal Council and the Joint Tribal Council to meet with them to discuss matters of mutual concern;

(iii) At least once each year arrange for all council members to visit with members of the Shoshone and Arapahoe tribes on the Wind River Indian Reservation and learn from on-site visitation of the physical dimensions of the Indian lands.

(b) The council may contract for the services of an executive director and for stenographic and clerical services as may be necessary.

9-2-1905. Legal services; government agency cooperation.

(a) The attorney general is the legal advisor for the council and shall furnish the council with legal services as required.

(b) Each government agency shall cooperate with the council and provide advice, assistance and support as the council requests.

ARTICLE 20
GOVERNMENT DEPARTMENTS

9-2-2001. Repealed By Laws 1999, ch. 69, § 3.

9-2-2002. Department of employment created; director appointed; structure; merger with department of workforce services.

(a) Repealed By Laws 2012, Ch. 1, § 2.

(b) Repealed By Laws 2012, Ch. 1, § 2.

(c) Repealed By Laws 2012, Ch. 1, § 2.

(d) Repealed By Laws 2012, Ch. 1, § 2.

(e) Repealed By Laws 2012, Ch. 1, § 2.

(f) Repealed By Laws 2012, Ch. 1, § 2.

(g) Repealed By Laws 2012, Ch. 1, § 2.

(h) On or before July 1, 2011, all divisions, programs and functions of the department of employment shall be transferred to the department of workforce services created by W.S.

9-2-2601. The combined department shall be known as the department of workforce services. Any statute or legal or other document which refers to the department of employment shall mean the department of workforce services which is the successor agency to the department of employment.

9-2-2003. Department of audit created; director appointed; structure; authority; reporting.

(a) As part of the reorganization of Wyoming state government, there is created a department of audit consisting of the agencies, programs and functions specified in this section.

(b) The administrative head of the department shall be a director appointed by a majority of the governor, secretary of state and state treasurer with the advice and consent of the senate. The director shall serve for a term of six (6) years and may be removed by a majority of those officials appointing him only for misfeasance, malfeasance or nonfeasance in office. The initial appointment shall be made not later than July 1, 1989 and shall expire on March 1, 1991.

(c) The director shall prepare a plan for reorganization of the agencies, programs and functions specified in this section and submit it to the governor for approval. The department reorganization plan, as approved, shall be submitted to the joint appropriations committee and joint revenue interim committee of the legislature and made available to the public. Each committee shall hold at least one (1) public hearing regarding the plan before the 1990 budget session of the legislature convenes. The plan, as approved by act of the legislature, shall be implemented not later than July 1, 1990. The reorganization plan required under this section shall include the public lands loan and grant examination function within the office of the commissioner of public lands. The Wyoming Government Reorganization Act of 1989 applies to the development and presentation of the plan required under this subsection.

(d) Notwithstanding subsection (c) of this section, the department of audit shall commence operations on July 1, 1989. The department shall consist of the office of the state examiner and staff of the department of revenue and taxation and the state auditor's office transferred to the department of audit by this act. The director of the department, with the approval of the governor, shall structure the department in as similar a manner as practicable to other departments created in accordance with the Wyoming Government Reorganization Act of 1989.

(e) Notwithstanding any other provision of law, the department of audit is authorized to conduct audits for the collection of federal and state mineral royalties and for collection of taxes imposed under Title 39, Wyoming Statutes, and may exercise the same authority with respect to audits that the state auditor and the department of revenue and taxation did on June 30, 1989.

(f) When in the course of an audit of state or federal mineral royalties the department discovers underpayment of private mineral royalties to a Wyoming royalty owner, it shall report the underpayment to the royalty owner if ascertainable.

(g) In addition to the other powers and duties granted by law, either express or implied, the director shall have the following powers and duties:

(i) To coordinate the auditing of state taxes, state royalties, federal mineral royalties and other revenue matters;

(ii) To prescribe reasonable rules and regulations as provided by the Wyoming Administrative Procedure Act, W.S. 16-3-101 through 16-3-115, which are no more stringent nor require more record keeping than the provisions of any or all tax, royalty and other revenue measures which are administered by the state of Wyoming;

(iii) To conduct audits at the request of any state agency, of persons or any other entity providing goods or services or both, to the state of Wyoming under contract. However, the audits shall be limited to matters within the scope of the contract;

(iv) To request the attorney general to issue investigative subpoenas relating to an audit for the following purposes:

(A) To subpoena witnesses to appear before the department auditors for oral examination;

(B) To require the production or disclosure of any matter relevant to the investigation or review including:

(I) The existence, description, nature, custody, condition and location of any books, documents, records or other tangible material; and

(II) The identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of evidence necessary or related to the financial investigation or review.

(h) If any tangible materials subpoenaed under paragraph (g)(iv) of this section are located outside of this state, the person to whom the subpoena is issued shall make the materials available to the department auditors at a convenient location. If any party fails or refuses to obey a subpoena or to provide testimony as required under paragraph (g)(iv) of this section, the attorney general may, upon reasonable notice to all affected persons, apply to the district court for an order compelling compliance.

(j) Within one hundred eighty (180) days of the issuance of a subpoena pursuant to paragraph (g)(iv) of this section, the attorney general shall disclose to the party or parties investigated that the investigation took place and the reasons for it.

(k) The director shall:

(i) Make a full report of any investigation conducted under paragraph (g)(iv) and subsection (h) of this section;

(ii) Maintain the report made under paragraph (i) of this subsection in his files;

(iii) Annually report to the joint revenue interim committee and the joint minerals, business and economic development interim committee on the number, location by county and general extent of the investigations.

9-2-2004. Department of transportation created; director appointed; structure.

(a) As part of the reorganization of Wyoming state government, there is created the Wyoming department of transportation consisting of the agencies, programs and functions specified in this section. The provisions of the Wyoming Government Reorganization Act of 1989, W.S. 9-2-1701 through 9-2-1707, apply to this section except as otherwise provided in this section.

(b) The administrative head of the department shall be a director appointed by the governor.

(c) The following agencies are assigned to the department of transportation under a Type 1 transfer:

(i) Aeronautics commission;

(ii) Highway commission, including the highway department and the state highway patrol.

(d) The department reorganization plan shall consider whether the following functions or programs should be assigned from or to the agency or department specified under a Type 2 transfer:

PROGRAM; FROM; TO

(i) Transportation division; PSC; Transportation

(ii) All of the driver control sections and driver testing and ports of entry section, that portion of the policy

division related to transportation and that portion of the licensing section related to motor vehicles and drivers; DRT; Transportation

(e) As used in this section:

(i) "PSC" means the public service commission;

(ii) "DRT" means the department of revenue and taxation;

(iii) "Transportation" means the department of transportation created under this act.

(f) Notwithstanding W.S. 9-2-1707(a)(iv), the highway commission and aeronautics commission shall continue to exercise full authority under current law until specifically altered by a plan for reorganization of the department of transportation approved by the legislature.

(g) In developing the plan required under W.S. 9-2-1707(a)(iii), the director shall consider:

(i) The extent of the authority of citizen commissions over the department;

(ii) The extent to which the budget of the department should be subject to the statutory budget process;

(iii) Whether the department should contain a functional unit primarily responsible to provide assistance, training and technical support to local units of government;

(iv) Preparing a comprehensive statewide transportation plan to develop and maintain a comprehensive system encompassing all modes of transportation;

(v) What functions should be transferred to or created in the department to insure that it is the department dealing with rail transportation.

9-2-2005. Department of health created; director appointed; structure.

(a) As part of the reorganization of Wyoming state government, there is created the Wyoming department of health consisting of the agencies, programs and functions specified in

this section. The provisions of the Wyoming Government Reorganization Act of 1989, W.S. 9-2-1701 through 9-2-1707, apply to this section.

(b) The administrative head of the department shall be a director appointed by the governor.

(c) The following agencies are assigned to the department of health under a Type 1 transfer:

(i) Division of health and medical services, department of health and social services;

(ii) Division of community programs, department of health and social services excluding the Wyoming Indian Affairs Council which is transferred to the governor's office;

(iii) Commission on aging;

(iv) The following state institutions:

(A) Wyoming state hospital;

(B) Wyoming life resource center;

(C) Wyoming pioneer home;

(D) Veterans' home of Wyoming;

(E) Wyoming retirement center.

(d) The department reorganization plan shall consider whether the following functions or programs should be assigned from or to the agency or department specified under a Type 2 transfer:

PROGRAM; FROM; TO

(i) Homemaker program; DPASS; Health

(ii) Health entitlement programs; DPASS; Health

(e) As used in this section:

(i) "DPASS" means the division of public assistance and social services within the department of health and social services as it existed before this act;

(ii) "Health" means the department of health created under this act.

(f) In developing the plan required under W.S. 9-2-1707(a)(iii), the director shall consider:

(i) A structure to provide a continuum of care for the elderly, developmentally delayed and persons requiring mental health services;

(ii) Ensuring independence of the facility inspection function from institutions within the department;

(iii) Coordination or consolidation of environmental health functions currently performed by the department of environmental quality;

(iv) Coordination or consolidation of food inspection functions currently performed by the department of agriculture;

(v) Elimination or reduction of inspection functions which duplicate inspection functions performed by other state or federal agencies.

(g) The board of land commissioners shall direct, subject to the limitations contained in the constitution of the state of Wyoming, applicable state and federal law and the conveyance instrument, the control, leasing, exchange, care and disposal of all acquired institutional lands not directly utilized for departmental purposes that are managed or associated with the institutions set forth in W.S. 9-2-2005(c) whether held in the name of the state or in the name of the department. Any amount received from transactions involving these lands shall be credited as directed by state or federal law or the conveyance instrument.

(h) All acquired institutional lands managed by the board of land commissioners subject to subsection (g) of this section shall be managed consistent with:

(i) Consideration of the needs of the institution;

(ii) Consideration of alternative uses of the property which are compatible with the mission of the institution; and

(iii) Limitations contained in the constitution of the state of Wyoming, state and federal law and the conveyance instrument.

(j) The board of land commissioners shall consult with the local officials or governing body having regulatory authority over the acquired institutional lands prior to authorizing the use or transfer of acquired institutional lands managed under subsection (g) of this section to another agency or department of the state of Wyoming.

(k) As used in this section, "acquired institutional lands" means state lands acquired by the state for the benefit of state institutions, but shall not include school trust lands or other lands held in trust by the state of Wyoming.

9-2-2006. Department of family services created; director appointed; structure.

(a) As part of the reorganization of Wyoming state government, there is created the Wyoming department of family services consisting of the agencies, programs and functions specified in this section. The provisions of the Wyoming Government Reorganization Act of 1989, W.S. 9-2-1701 through 9-2-1707, apply to this section.

(b) The administrative head of the department shall be a director appointed by the governor.

(c) The following agencies are assigned to the department of family services under a Type 1 transfer:

(i) Division of public assistance and social services, department of health and social services, less programs transferred to other departments under a Type 2 transfer as part of the reorganization of Wyoming state government;

(ii) The following state institutions:

(A) Repealed By Laws 1998, ch. 7, § 2.

(B) Wyoming boys' school;

(C) Wyoming girls' school.

(d) In developing the plan required under W.S. 9-2-1707(a)(iii), the director shall consider:

(i) A youth services plan ensuring a continuum of care is available for troubled youth;

(ii) Development of case management and management information systems;

(iii) Ensuring independence of the facility inspection function from institutions within the department.

(e) The board of land commissioners shall direct, subject to the limitations contained in the constitution of the state of Wyoming, applicable state and federal law and the conveyance instrument, the control, leasing, exchange, care and disposal of all acquired institutional lands not directly utilized for departmental purposes that are managed or associated with the institutions set forth in W.S. 9-2-2006(c) whether held in the name of the state or in the name of the department. Any amount received from transactions involving these lands shall be credited as directed by state or federal law or the conveyance instrument.

(f) All acquired institutional lands managed by the board of land commissioners subject to subsection (e) of this section shall be managed consistent with:

(i) Consideration of the needs of the institution;

(ii) Consideration of alternative uses of the property which are compatible with the mission of the institution; and

(iii) Limitations contained in the constitution of the state of Wyoming, state and federal law and the conveyance instrument.

(g) The board of land commissioners shall consult with the local officials or governing body having regulatory authority over the acquired institutional lands prior to authorizing the use or transfer of acquired institutional lands managed under subsection (e) of this section to another agency or department of the state of Wyoming.

(h) As used in this section, "acquired institutional lands" means state lands acquired by the state for the benefit

of state institutions, but shall not include school trust lands or other lands held in trust by the state of Wyoming.

9-2-2007. Department of revenue created; director appointed; structure.

(a) As part of the reorganization of Wyoming state government, there is created the Wyoming department of revenue consisting of the agencies, programs and functions specified in this section. The provisions of the Wyoming Government Reorganization Act of 1989, W.S. 9-2-1701 through 9-2-1707, apply to this section.

(b) The administrative head of the department shall be a director appointed by the governor.

(c) The following agencies are assigned to the department of revenue under a Type 1 transfer:

(i) Department of revenue and taxation, less:

(A) Programs transferred to other departments under a Type 2 transfer as part of the reorganization of Wyoming state government;

(B) The state board of equalization; and

(C) The state tax commission.

(ii) The Wyoming liquor commission.

(d) The reorganization plan required under W.S. 9-2-1707(a)(iii) shall provide that the state board of equalization and tax commission shall be separate from the department. In developing the reorganization plan required under W.S. 9-2-1707(a)(iii), the director shall consider in consultation with the state board of equalization and the state tax commission administrative support requirements of the state board of equalization and the state tax commission.

(e) In developing the reorganization plan required under W.S. 9-2-1707(a)(iii), the director shall consider the transfer of the mineral audit division from the department of audit to the department of revenue.

9-2-2008. Department of administration and information created; director appointed; structure.

(a) As part of the reorganization of Wyoming state government, there is created the Wyoming department of administration and information consisting of the agencies, programs and functions specified in this section. The provisions of the Wyoming Government Reorganization Act of 1989, W.S. 9-2-1701 through 9-2-1707, apply to this section.

(b) The administrative head of the department shall be a director appointed by the governor.

(c) The following agencies are assigned to the department of administration and information under a Type 1 transfer:

- (i) Department of administration and fiscal control;
- (ii) State library.

(d) Repealed By Laws 2001, Ch. 55, § 3.

(e) The following functions or programs shall be transferred from the department of commerce to the department of administration and information under a Type 3 transfer:

- (i) Board of certified public accountants;
- (ii) Board of architects;
- (iii) Board of barber examiners;
- (iv) Board of chiropractic examiners;
- (v) Board of cosmetology;
- (vi) Board of dental examiner;
- (vii) Board of embalming;
- (viii) Board of hearing aid specialists;
- (ix) Board of medical examiners;
- (x) Board of nursing;
- (xi) Board of nursing home administrators;
- (xii) Board of examiners in optometry;

- (xiii) Gaming commission;
- (xiv) Board of pharmacy;
- (xv) Board of physical therapy;
- (xvi) Board of registration in podiatry;
- (xvii) Mental health professions licensing board;
- (xviii) Board of psychology;
- (xix) Board of radiologic technologists examiners;
- (xx) Real estate commission;
- (xxi) Board of examiners for speech pathology and audiology;
- (xxii) Board of veterinary medicine;
- (xxiii) The Wyoming professional teaching standards board;
- (xxiv) The Wyoming state board of outfitters and professional guides;
- (xxv) The board of occupational therapy;
- (xxvi) The Wyoming board of professional geologists.

9-2-2009. Repealed by Laws 1992, ch. 42, § 4; ch. 55, § 4; ch. 60 § 4.

9-2-2010. Game and fish department created; director appointed.

(a) As part of the reorganization of Wyoming state government, there is created the Wyoming game and fish department consisting of the existing Wyoming game and fish commission and department, and all programs and functions specified in title 23 and otherwise under law. Except for W.S. 9-2-1703(a)(v), (viii) and (ix) and 9-2-1705 through 9-2-1707, the provisions of the Wyoming Government Reorganization Act of 1989, W.S. 9-2-1701 through 9-2-1707, apply to this section.

(b) The administrative head of the department shall be a director who shall serve at the pleasure of the governor and may be removed by him as provided in W.S. 9-1-202. The director shall be appointed by the governor from a list of three (3) qualified candidates submitted by the game and fish commission. Any appointment under this subsection shall be with the advice and consent of the senate.

(c) The department shall not be subject to a transition period as defined in W.S. 9-2-1703(a)(ix). A reorganization plan shall not be required of the director.

9-2-2011. Department of the state engineer created; director appointed.

(a) As part of the reorganization of Wyoming state government, there is created the Wyoming department of the state engineer consisting of the existing Wyoming office of the state engineer and board of control, and all programs and functions specified in title 41 and otherwise under law relating to the state engineer and board of control. Except for W.S. 9-2-1703(a)(v), (viii) and (ix) and 9-2-1705 through 9-2-1707, the provisions of the Wyoming Government Reorganization Act of 1989, W.S. 9-2-1701 through 9-2-1707, apply to this section.

(b) The administrative head and director of the department shall be the state engineer.

(c) The department shall not be subject to a transition period as defined in W.S. 9-2-1703(a)(ix). A reorganization plan shall not be required of the director.

9-2-2012. Department of corrections created; director appointed; structure.

(a) As part of the reorganization of Wyoming state government, there is created the Wyoming department of corrections consisting of the agencies, programs and functions specified in this section. The provisions of the Wyoming Government Reorganization Act of 1989, W.S. 9-2-1701 through 9-2-1707, apply to this section.

(b) The administrative head of the department shall be a director appointed by the governor.

(c) The following agencies are assigned to the department of corrections under a Type 1 transfer:

(i) Department of probation and parole;

(ii) The following state institutions:

(A) Wyoming state penitentiary, including farms and camps operated by the board of charities and reform for the incarceration of persons convicted of felonies;

(B) Wyoming women's center.

(iii) The board of charities and reform, including the community correctional facilities program, the split sentencing program and any other remaining programs under the board.

(d) The board of parole shall be deemed a state agency for budgeting purposes pursuant to W.S. 9-2-1001 through 9-2-1026.

(e) The board of land commissioners shall direct, subject to the limitations contained in the constitution of the state of Wyoming, applicable state and federal law and the conveyance instrument, the control, leasing, exchange, care and disposal of all acquired institutional lands not directly utilized for departmental purposes that are managed or associated with the institutions set forth in W.S. 9-2-2012(c) whether held in the name of the state or in the name of the department. Any amount received from transactions involving these lands shall be credited as directed by state or federal law or the conveyance instrument.

(f) All lands managed by the board of land commissioners subject to subsection (e) of this section shall be managed consistent with:

(i) Consideration of the needs of the institution;

(ii) Consideration of alternative uses of the property which are compatible with the mission of the institution; and

(iii) Limitations contained in the constitution of the state of Wyoming, state and federal law and the conveyance instrument.

(g) The board of land commissioners shall consult with the local officials or governing body having regulatory authority

over the acquired institutional lands prior to authorizing the use or transfer of acquired institutional lands managed under subsection (e) of this section to another agency or department of the state of Wyoming.

(h) As used in this section, "acquired institutional lands" means state lands acquired by the state for the benefit of state institutions, but shall not include school trust lands or other lands held in trust by the state of Wyoming.

9-2-2013. Department of environmental quality created; director appointed; structure.

(a) As part of the reorganization of Wyoming state government, there is created the department of environmental quality consisting of the existing state department of environmental quality, the state office of industrial siting administration and the industrial siting council. Except for the existing environmental quality council, which shall not be within the department of environmental quality but shall be a separate operating agency, and those programs or functions specified by law to be performed by another entity all programs and functions specified in chapters 11 and 12 of title 35 shall be with the department of environmental quality. Except for W.S. 9-2-1703(a)(v) and (ix), the limitation of number of principal departments contained in W.S. 9-2-1703(a)(iii), 9-2-1704(a) and (b), 9-2-1706(c)(i)(D) and 9-2-1707(a)(iii) and (iv), the provisions of the Wyoming Government Reorganization Act of 1989, W.S. 9-2-1701 through 9-2-1707, apply to this section.

(b) The administrative head of the department shall be a director who shall serve at the pleasure of the governor and may be removed by him as provided in W.S. 9-1-202. The director shall be appointed by the governor with the advice and consent of the senate.

(c) The department shall not be subject to a transition period as defined in W.S. 9-2-1703(a)(ix). A reorganization plan shall not be required of the director.

9-2-2014. Wyoming water development office created; director appointed; structure.

(a) As part of the reorganization of Wyoming state government there is created the Wyoming water development office

consisting of the programs and functions specified in this section.

(b) The administrative head of the office shall be a director appointed by the governor with the advice and consent of the senate. The director shall serve at the pleasure of the governor and may be removed by the governor as provided in W.S. 9-1-202. The director's term of appointment shall expire at the end of the term of office of the governor during which he was appointed, unless sooner removed.

(c) The Wyoming water development office shall consist of the Wyoming water development commission, staff and programs.

9-2-2015. Office of state lands and investments; director appointed; structure.

(a) As part of the reorganization of Wyoming state government there is created the state land and farm loan office consisting of the programs and functions specified in this section. From and after April 1, 1997, the state land and farm loan office shall be known and referred to as the office of state lands and investments.

(b) The administrative head of the office shall be a director appointed by the governor with the advice and consent of the senate. The director shall serve at the pleasure of the governor and may be removed by the governor as provided in W.S. 9-1-202.

(c) The office of state lands and investments shall consist of the office of the director and shall administer all programs of the board of land commissioners and state loan and investment board.

9-2-2016. Department of agriculture created; director appointed; structure.

(a) As part of the reorganization of Wyoming state government, there is created the department of agriculture consisting of the existing state department of agriculture, the agricultural mediation board, the wheat marketing commission, the Wyoming beef council, the Wyoming weed and pest council, the board of certification of the Environmental Pesticide Control Act of 1973, the weed and pest board of certification, the interstate agricultural grain marketing commission, the state fair advisory board and all programs and functions specified in

titles 11 and 35 and otherwise under law relating to agriculture and livestock. Except for W.S. 9-2-1703(a)(v) and (ix), the limitation of number of principal departments in W.S. 9-2-1704(a) and 9-2-1707(a)(iii) and (iv), the provisions of the Wyoming Government Reorganization Act of 1989, W.S. 9-2-1701 through 9-2-1707, apply to this section.

(b) The administrative head of the department shall be a director who shall serve at the pleasure of the governor and may be removed by him as provided in W.S. 9-1-202. The director shall be appointed by the governor with the advice and consent of the senate.

(c) The department shall not be subject to a transition period as defined in W.S. 9-2-1703(a)(ix). A reorganization plan shall not be required of the director.

9-2-2017. Department of state parks and cultural resources created; director appointed; structure.

(a) There is created the Wyoming department of state parks and cultural resources consisting of the agencies, programs and functions specified in this section.

(b) The administrative head of the department shall be a director appointed by the governor not later than July 1, 1999, with the advice and consent of the senate. The director may, with the approval of the governor, appoint administrators for each of the divisions. The governor may remove the director and division administrators as provided in W.S. 9-1-202. The director may employ professional, technical and other assistants to work in the director's office or in any of the divisions, along with other employees, as authorized by the legislature, to carry out the duties of the department.

(c) The following agencies are assigned to the department of state parks and cultural resources under a Type 1 transfer:

(i) The division of state parks and historic sites from the department of commerce;

(ii) The parks and cultural resources commission;

(iii) The division of cultural resources from the department of commerce;

(iv) The Wyoming council on the arts from the department of commerce;

(v) The division of administrative services from the department of commerce;

(vi) The Wyoming pioneer memorial museum from the department of agriculture.

(d) As used in this section:

(i) "Commerce" means the department of commerce;

(ii) "Governor" means the office of the governor;

(iii) "State parks and cultural resources" means the department of state parks and cultural resources created by this section.

(e) The following divisions are created within the department of state parks and cultural resources:

(i) Division of parks and historic sites;

(ii) Division of cultural resources.

9-2-2018. Department of workforce services created; director appointed; structure.

(a) As part of the reorganization of Wyoming state government, there is created the Wyoming department of workforce services. The provisions of the Wyoming Government Reorganization Act of 1989, W.S. 9-2-1701 through 9-2-1707 apply to this section, except the requirement under W.S. 9-2-1707(a)(iii) that public hearings regarding the reorganization plan required under subsection (b) of this section be conducted by at least two (2) interim committees of the legislature shall not apply.

(b) The administrative head of the department shall be a director appointed by the governor.

(c) The department reorganization plan shall consider whether the following functions or programs are assigned from or to the agency or department specified under a Type 2 transfer:

PROGRAM; FROM; TO

(i) Displaced worker education and training;
Employment; Workforce services

(ii) Division of vocational rehabilitation;
Employment; Workforce services

(iii) Public employment offices; Employment;
Workforce services

(iv) Veterans' employment services; Employment;
Workforce services

(v) Unemployment insurance program; Employment;
Workforce services

(vi) Repealed By Laws 2006, Chapter 11, § 2.

(vii) Senior community service employment program;
Health; Workforce services

(viii) Wyoming school-to-careers program; Employment;
Workforce services

(ix) Personal opportunities with employment
responsibilities (POWER) program; Family services; Workforce
services

(x) Workforce development training fund; Employment;
Workforce services

(xi) Supplemental nutrition assistance employment
program; Family services; Workforce services

(xii) Other programs that may be identified that may
improve customer satisfaction or reduce program delivery costs.

(d) As used in this section:

(i) "Community college commission" means the
community college commission of Wyoming;

(ii) "Education" means the department of education;

(iii) "Employment" means the department of
employment;

(iv) "Family services" means the department of family services;

(v) "Governor" means the office of the governor;

(vi) "Health" means the department of health;

(vii) "Workforce services" means the department of workforce services created by this section.

(e) In developing the plan required under W.S. 9-2-1707(a)(iii), the director shall consider:

(i) The cost-effectiveness of any recommended transfer;

(ii) Whether the recommended transfer will result in a more efficient provision of service to customers;

(iii) The extent to which the recommended transfer would benefit from involvement by the Wyoming business council;

(iv) Developing a system that will adequately serve customers in both urban and rural areas;

(v) Recommending legislation necessary to allow data sharing for the purpose of evaluating programs and the sharing of a common intake and management information system;

(vi) Identifying outcome-based data for all workforce programs, including those programs not proposed for transfer to the department of workforce services under this section;

(vii) Developing memoranda of understanding for confidentiality of information and data sharing.

(f) To the extent not prohibited by federal law, any agency or program of the state may provide information to the director as necessary to develop the plan required under W.S. 9-2-1707(a)(iii).

(g) The governor may:

(i) Eliminate any council or commission within the department which is not created under state law if no longer required as a condition to receiving federal funds or if no longer necessary to conform with federal law or regulations;

(ii) Consolidate any council or commission within the department which is required in accordance with federal law, but not created under state law, with any other council or commission if the consolidation does not violate federal law or regulations.

(h) Information obtained by any division in the department may be transferred to other divisions within the department so long as the transfer is not restricted by federal law, rule or contract. Such information shall not be disclosed outside of the department except as otherwise provided by law. Any employee who discloses information outside of the department in violation of federal or state law may be terminated without progressive discipline.

9-2-2019. Department of enterprise technology services created.

As part of the reorganization of Wyoming state government, there is created the department of enterprise technology services consisting of the existing division of information technology within the department of administration and information and the position and office of state chief information officer. The department shall not be subject to a transition period as defined in W.S. 9-2-1703(a)(ix). A reorganization plan shall not be required of the director.

9-2-2020. State construction department created.

As part of the reorganization of Wyoming state government, there is created the state construction department consisting of the existing construction management program within the department of administration and information, associated construction management functions of the department of administration and information, and the school facilities department. The state construction department shall not be subject to a transition period as defined in W.S. 9-2-1703(a)(ix). A reorganization plan shall not be required of the director.

9-2-2021. State budget department created; director appointed; structure.

(a) As part of the reorganization of Wyoming state government, there is created the state budget department consisting of the existing budget division of the department of administration and information. Except as otherwise provided in

this section, the provisions of the Wyoming Government Reorganization Act of 1989, W.S. 9-2-1701 through 9-2-1707, shall apply to this section.

(b) The administrative head of the department shall be a director appointed by the governor with the advice and consent of the senate. Not later than May 1, 2020, the governor shall appoint a director in accordance with W.S. 28-12-101(b). Thereafter, appointments for the director of the state budget department shall be in accordance with W.S. 28-12-101 through 28-12-103.

(c) Not later than August 15, 2020, the director shall prepare a plan for reorganization of the agencies, programs and functions specified in this section and submit it to the governor for approval. The director shall include in the reorganization plan recommendations regarding any necessary modifications to state budgeting statutes and other statutes relating to the duties of the state budget department.

(d) After the governor approves the plan for reorganization developed pursuant to this section:

(i) The governor shall, when he deems appropriate, set a schedule for implementation of the reorganization plan;

(ii) The joint appropriations committee shall develop any necessary legislation with respect to the plan and monitor the state budget department's work and progress.

(e) Upon submission of the reorganization plan developed pursuant to this section, the state budget department shall have authority provided by law to the budget division within the department of administration and information and shall operate independently of the department of administration and information.

(f) The state budget department shall be subject to the direction of the existing administrator of the budget division of the department of administration and information who shall serve as the director of the state budget department until the governor appoints a director in accordance with this section.

(g) The director of the state budget department shall have the authority to:

(i) Employ professional, technical and other assistants to work in the director's office, along with other employees necessary to carry out the purpose of this act;

(ii) Adopt reasonable rules and regulations to administer this section pursuant to the Wyoming Administrative Procedure Act;

(iii) Formulate through his office the policies and programs to be carried out by the department.

(h) The budget division of the department of administration and information is assigned to the state budget department under a Type 1 transfer, effective upon the appointment of a director of the state budget department.

(j) The governor may allocate personnel and other resources between the department of administration and information and the state budget department in accordance with a Type 1 transfer. Nothing in this subsection shall authorize the state budget department to gain positions or funds in addition to the positions and funds currently allocated to the budget division of the department of administration and information.

(k) Upon the appointment of a director of the state budget department, the state budget department shall pursue state savings and efficiency initiatives identified in 2017 Wyoming Session Laws, Chapter 183 and 2018 Wyoming Session Laws, Chapter 112 and identified by the government efficiency commission created by 2017 Wyoming Session Laws, Chapter 183 and continued by 2018 Wyoming Session Laws, Chapter 112.

ARTICLE 21 DEPARTMENT OF FAMILY SERVICES

9-2-2101. Department of family services; duties and responsibilities; state grants; authority to contract for shelters; definitions; youth programs.

(a) The department of family services is created. The department of family services is the state youth services authority and the authority for public assistance and social services.

(b) The department shall develop and administer a state program to provide shelter care for youth.

(c) The department shall administer a comprehensive state program for community services for youth which shall include the following:

(i) A coordinated network of services by contracting for shelter services on a regional basis and for juvenile community alternatives on a county basis either through a contract with the county commissioners or through a contract with a single organization designated by the county commissioners. Contracting agencies may establish subcontracts in order to provide those services required by the department. All contracts purchasing services prepared by the department shall provide for periodic program and fiscal review of the operations and expenditure of state funds by the person or organization with whom the department has contracted. All contracts shall be terminated within sixty (60) days upon the occurrence of one (1) of the following unless the deficiency is corrected to the satisfaction of the department:

(A) If the person or organization will not allow on site inspections and review of the programs purchased;

(B) If misuse of state funds is found; or

(C) If the program is not of an acceptable standard or quality.

(ii) Minimum standards and policies and procedures for the establishment and operation of the community services for youth;

(iii) Rules for the granting of contracts;

(iv) Monitoring regional shelter services facilities a minimum of once a year and state funded juvenile community services at least once every three (3) years.

(d) In order to receive juvenile community alternative funds a county shall submit a plan to the department developed by representatives of public and private providers who provide services to troubled youth in the county. The plan shall be in accordance with rules and regulations established by the department. At a minimum the plan shall include:

(i) Identification of gaps in services to troubled youth in the county and an explanation of the proposed projects;

(ii) Goals and objectives that will enable the department to monitor the activities that are funded, the number of children and families served and the outcomes achieved;

(iii) A demonstration of a commitment to keep youth in the home and community and to work with the family either with community alternative funds or through other funding;

(iv) Cooperative agreements among participating agencies which outline the activities to be undertaken by each agency to achieve the goals of the plan.

(e) The purposes of the community services for youth program are to:

(i) Work on the immediate problems of troubled youth in Wyoming communities;

(ii) Work with children and families to encourage the resolution of intrafamily problems through counseling and other services;

(iii) Work on reuniting youth with their families in cases where the child has been placed out of the home and where additional work needs to be done in order for the youth to be reintegrated into the family;

(iv) Strengthen family relationships and promote stable living conditions for troubled youth;

(v) Help youth decide on a future course of action;

(vi) Provide appropriate alternatives to involvement in the correctional system.

(f) Community services for youth may include treatment services either directly or through contracts with other agencies.

(g) In order to qualify for funding under this section, a shelter services provider shall:

(i) House no more than ten (10) children together within one (1) facility. This paragraph shall not:

(A) Limit the number of children who may be served in a region; or

(B) If requested by any local authority, prohibit a provider from providing temporary emergency shelter within one (1) facility to more than ten (10) children under the age of eighteen (18) years for not more than seventy-two (72) consecutive hours.

(ii) Develop individualized programming for children receiving shelter services for thirty (30) days or less which shall be distinct from individualized programming for children who are expected to receive shelter services for longer than thirty (30) days.

(h) As used in this section:

(i) "Community services for youth" means shelter services and juvenile community alternatives;

(ii) "Juvenile community alternatives" means projects which use existing services in a county to divert juveniles from approved correctional programs until no other solution can be determined suitable;

(iii) "Shelter services" means residential services for children through eighteen (18) years of age which shall include:

(A) Temporary shelter;

(B) Crisis counseling;

(C) Family involvement;

(D) Aftercare;

(E) Individualized programming for each child.

(j) If there is an existing shelter in a community that meets the criteria for placement of youth as specified in this section and is sufficient to meet the needs of the community, additional shelters shall not be acquired or constructed.

(k) The department shall administer the low income home energy assistance program in accordance with W.S. 42-2-501.

9-2-2102. Division administrators; appointment.

The director shall appoint a separate administrator for each of the divisions of the department of family services and he may discharge the administrators as provided in W.S. 9-2-1706(c) (ii) .

9-2-2103. Allocation, transfer and abolition of powers, duties and functions within department.

The governor may, after consultation with the director of the department and the departmental advisory council designate the department as the single state agency for the administration of state plans for public assistance and social assistance to administer upon such terms as the governor directs.

9-2-2104. Duties and powers of director of department.

(a) The director shall:

(i) Consult with the departmental advisory council and establish general policy to be followed in the department in administering programs;

(ii) Disburse and administer all federal funds or other monies allotted to the department;

(iii) Prescribe by rule, order or regulation the conditions under which these monies shall be disbursed and administered. Any audit performed shall comply with the requirements of W.S. 9-1-507;

(iv) Enter into agreements, not inconsistent with the laws of this state, required as conditions precedent to receiving funds or other assistance. Funds appropriated by the legislature for operation of the department shall be used for the specified purposes only, and the director, in accepting funds from any other source, shall not consent to impairment of the department's statutory responsibilities;

(v) Hold hearings, administer oaths, subpoena witnesses and take testimony as provided by the Wyoming Administrative Procedure Act in all matters relating to the exercise and performance of the powers and duties vested in the department;

(vi) With the assistance of the attorney general bring actions in the courts of the state in the name of the department for the enforcement of public welfare laws;

(vii) Promulgate reasonable rules and regulations in compliance with the Wyoming Administrative Procedure Act, for the implementation of all state and federal welfare laws;

(viii) Appoint and prescribe the duties of the superintendent of the Wyoming boys' school and the superintendent of the Wyoming girls' school. Each superintendent shall be under the direct authority and control of the director and may be removed by the director at any time without cause;

(ix) Ensure all rules and other written statements of policy or interpretation formulated or adopted by the department use language which focuses on the importance of a person, rather than a person's disability.

(b) Notwithstanding paragraph (a)(iv) of this section, the director may use funds appropriated by the legislature for the operation of the department to pay health or medical insurance premiums for any resident of Wyoming upon a determination by the director or his designee that:

(i) Due to an injury or illness, the person or his family is or may become unable to pay health or medical insurance premiums;

(ii) The person is or may become eligible for medical services which would be paid for by the state; and

(iii) Payment of the premiums may be less expensive for the state than payment of the medical services.

(c) Health or medical insurance premiums paid for in accordance with subsection (b) of this section shall be reviewed periodically to ensure payment of the premiums does not exceed the cost for provision of medical services. The authority granted under subsection (b) of this section shall terminate effective June 30, 1996.

9-2-2105. Director of department; appointment; removal; duties.

With the advice and consent of the senate the governor shall appoint a director for the department who shall serve under the direction of the governor and who may be removed by the governor as provided in W.S. 9-1-202. Appointments and terms under this

section shall be in accordance with W.S. 28-12-101 through 28-12-103.

9-2-2106. Departmental advisory council; created; term; composition; meetings; removal of members; selection of officers; vacancies; expenses.

(a) There is created within the department an advisory council of not more than sixteen (16) members. Each member shall serve a three (3) year term, except legislators shall serve only for the term of office during which they were appointed. The council shall include:

(i) One (1) member of the senate appointed by the president of the senate;

(ii) One (1) member of the house of representatives appointed by the speaker of the house of representatives;

(iii) Not more than fourteen (14) members appointed by the governor to represent the interests of the public and the department.

(b) The departmental advisory council shall meet at least three (3) times each year.

(c) The governor may remove any member of the departmental advisory council, except those appointed from the legislature, as provided in W.S. 9-1-202.

(d) At the first meeting of the departmental advisory council, and annually thereafter when new appointments are made, a chairman, vice-chairman and secretary shall be selected from among the membership by vote of the council members.

(e) Vacancies on the departmental advisory council shall be filled by the appointing authority for the unexpired term.

(f) Members of the departmental advisory council shall not receive compensation for their services, but when actually engaged in the performance of their duties, they shall receive travel expenses, per diem and mileage expenses in the same manner and amount as employees of the state.

9-2-2201. Office created; appointment of director and hearing examiners.

(a) The office of administrative hearings is created as a separate operating agency pursuant to W.S. 9-2-1704(d).

(b) The governor, with the advice and consent of the senate, shall appoint a director of the office who shall serve as the administrative head of the office and as chief hearing examiner. Unless sooner removed, the director's term of appointment expires at the end of the term of office of the governor during which he was appointed. The director serves at the pleasure of the governor and may be removed by him as provided by W.S. 9-1-202. The director shall be a member in good standing of the Wyoming state bar.

(c) The director may appoint additional hearing examiners who are members in good standing of the Wyoming state bar to serve either full or part time as necessary throughout the state. Hearing examiners serve at the pleasure of the director and may be removed by him at any time without cause.

9-2-2202. Duties and function of office.

(a) The office of administrative hearings is the successor agency to the office of independent hearing examiners created by W.S. 27-14-602 and the office of hearing examiners created by W.S. 31-7-105. Effective July 1, 1992:

(i) There is transferred to the office of administrative hearings all positions, personnel, property and appropriated funds of the office of independent hearing examiners and the office of hearing examiners;

(ii) The office of administrative hearings shall assume all duties and responsibilities and exercise all authority of the office of independent hearing examiners and the office of hearing examiners set out in title 27, chapter 14 and title 31, chapters 6, 7, 9 and 17 of the Wyoming statutes.

(b) In addition to conducting hearings pursuant to subsection (a) of this section, the office of administrative hearings may, if requested, provide hearing services for any other state agency, provided:

(i) Hearing services shall be provided to other agencies subject to available resources;

(ii) The cost of the hearing services as determined by the director of the office of administrative hearings shall be paid by the requesting agency to the office of administrative hearings;

(iii) Hearings will be conducted in an impartial manner pursuant to the Wyoming Administrative Procedure Act, applicable provisions of the Wyoming Rules of Civil Procedure and any rules for the conduct of contested cases adopted by the director of the office of administrative hearings which shall take precedence over hearing rules promulgated by the requesting agency. In the case of personnel hearings conducted pursuant to W.S. 9-2-1019, the state personnel rules shall govern the conduct of the hearings;

(iv) Hearings may be held in any area of the state giving consideration to the resources of the office of administrative hearings and the convenience of the parties.

9-2-2203. Rulemaking authority.

The director of the office of administrative hearings shall promulgate reasonable rules and regulations necessary to carry out the functions and responsibilities assigned to the office.

ARTICLE 23 WYOMING CULTURAL TRUST FUND

9-2-2301. Short title.

This article shall be known and may be cited as the "Wyoming Cultural Trust Fund Act."

9-2-2302. Legislative declaration.

(a) The legislature hereby finds that Wyoming and its people possess a unique cultural heritage. The legislature further finds that there is a need to preserve, promote and enhance that unique cultural heritage for the citizens of the state and the nation and for future generations to understand and appreciate the heritage that makes Wyoming unique among the United States.

(b) It is the purpose of this article to promote, preserve and enhance Wyoming's unique cultural heritage by creating a Wyoming cultural trust fund administered by a trust fund board

to coordinate public and private donations and manage the distribution of the investment earnings from the Wyoming cultural trust fund.

9-2-2303. Definitions.

(a) As used in this article:

(i) "Board" means the Wyoming cultural trust fund board established by W.S. 9-2-2305;

(ii) "Division" means the division of cultural resources within the department of state parks and cultural resources, or its successor;

(iii) "Trust fund" means the Wyoming cultural trust fund created by W.S. 9-2-2304.

9-2-2304. Wyoming cultural trust fund established; corpus inviolate; investment by state treasurer.

(a) The Wyoming cultural trust fund is created. The Wyoming cultural trust fund shall consist of those funds designated to the fund by law and all monies collected from federal grants and other contributions, grants, gifts, bequests and donations to the cultural trust fund.

(b) The monies deposited into the Wyoming cultural resources trust fund established pursuant to this section are inviolate and constitute a permanent or perpetual trust fund. The monies shall be transmitted to the state treasurer for credit to the trust fund and shall be invested by the state treasurer as authorized under W.S. 9-4-715(a), (d) and (e) in a manner to obtain the highest return possible consistent with the preservation of the corpus. Any interest earned from investment of the corpus of the trust fund shall be credited by the state treasurer into a separate account and distributed in accordance with W.S. 9-2-2307.

9-2-2305. Wyoming cultural trust fund board; creation; members.

(a) There is created the Wyoming cultural trust fund board. The board shall consist of six (6) members, as follows:

(i) The administrator of the division of cultural resources or his designee who shall serve as an ex officio member of the board, without a vote; and

(ii) Five (5) persons who are residents of Wyoming, appointed by the governor and confirmed by the senate. Board membership shall reflect a broad spectrum of experiences, including, but not limited to, the arts, history, archaeology, humanities and cultural and heritage tourism and shall be selected from the following nominees:

(A) One (1) person nominated by the Wyoming commission on parks and cultural resources;

(B) Two (2) persons nominated by the Wyoming arts council board; and

(C) Two (2) persons nominated by the Wyoming national register review board.

(b) Except for the initial board, each appointed member of the board shall serve for a term of three (3) years. Of the initial appointees, one (1) member shall be appointed for one (1) year, two (2) members shall be appointed for two (2) years and two (2) members shall be appointed for three (3) years. The governor may remove any member as provided in W.S. 9-1-202. A vacancy on the board shall be filled for the balance of the unexpired term. The board shall select one (1) of its members to serve as chairman.

(c) The board shall meet regularly. Members shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their duties in the manner and amounts provided by law for state employees.

9-2-2306. Wyoming cultural trust fund board; duties and responsibilities.

(a) The board shall:

(i) Initiate innovative program planning;

(ii) Review innovative program grants and grant proposals;

(iii) Establish criteria for grant categories and grant applications through rules and regulations;

(iv) Require local matching funds or other in-kind contributions from grantees;

(v) Review and monitor the expenditure of monies from the trust fund to grantees; and

(vi) Consider other necessary matters.

(b) In fulfilling its duties under subsection (a) of this section, the board may:

(i) Consult with the Wyoming arts council and the Wyoming parks and cultural resources commission as necessary;

(ii) Accept federal grants and other contributions, grants, gifts, bequests and donations from any source.

(c) The board shall promulgate reasonable rules and regulations in accordance with the Wyoming Administrative Procedure Act to implement the provisions of W.S. 9-2-2301 through 9-2-2308.

9-2-2307. Disbursement of grants from trust fund investment earnings.

(a) Subject to approval of applications from nonprofit and governmental cultural, historical and arts organizations, the board may award grants to promote, preserve and enhance the unique cultural heritage of Wyoming and its people.

(b) The board shall have the discretion in determining the amount of money under each grant, except that no grant shall be awarded until:

(i) The corpus of the trust fund equals four million dollars (\$4,000,000.00) or July 1, 2000, whichever occurs earlier; and

(ii) The interest earned from the corpus of the fund and available for disbursement is sufficient to adequately fund a project, taking into consideration all other monies or in-kind contributions provided as a match for the project by the grantee.

9-2-2308. Biennial audit; report by board.

(a) The director of the department of audit or his designee shall audit the trust fund created by W.S. 9-2-2304 biennially.

(b) The board shall annually report to the governor, the joint appropriations interim committee and the joint travel, recreation, wildlife and cultural resources interim committee no later than October 1 with respect to all:

(i) Federal grants, state appropriations and other contributions, grants, gifts, bequests and donations received and credited to the Wyoming cultural trust fund during the preceding fiscal year; and

(ii) Grants awarded by the board to nonprofit and governmental cultural, historical and arts organizations.

ARTICLE 24 COURT REORGANIZATION

9-2-2401. Repealed by Laws 2009, Ch. 168, § 205.

ARTICLE 25 GOVERNMENT ELECTRONIC TRANSACTIONS

9-2-2501. Director of department of enterprise technology services; duties; electronic transaction of business.

(a) Repealed By Laws 2005, ch. 174, § 3.

(b) The state chief information officer may provide for any state agency business to be conducted electronically in accordance with rules adopted under this section and in conformity with the provisions of the Uniform Electronic Transactions Act in title 40, chapter 21. No state agency shall be required by the chief information officer to conduct business electronically. Any state agency desiring to conduct business electronically shall adopt the procedures contained in rules of the department of enterprise technology services.

(c) The department of enterprise technology services may enact rules the chief information officer deems necessary to implement this section subject to the provisions of the Uniform Electronic Transactions Act in title 40, chapter 21. The rules shall at a minimum:

(i) Establish standards for all state agencies conducting business electronically;

(ii) Establish parameters for ensuring security in conducting state agency business electronically;

(iii) Establish authorized methods and requirements for conducting business electronically and authenticating identifications. The rules shall require that each individual required by applicable statute or rule to sign any document be specifically identified as acknowledging the document and giving assent to the electronic transmission through a key encryption or other identification procedure unique to that individual;

(iv) Prescribe a procedure for certification by a state agency of information transmitted electronically; and

(v) Prescribe a procedure for converting information transmitted electronically to paper and certifying the paper copy for persons requiring paper copies.

(d) In adopting rules the department of enterprise technology services shall consider whether the rule will allow for efficient, safe, secure and accurate transactions.

(e) Notwithstanding any other provision of law requiring a manual or facsimile signature on information filed with a state agency any information filed electronically which meets the requirements of the rules adopted pursuant to this section shall be considered to be lawfully filed with the state agency for all legal purposes if that agency has authorized the electronic filing.

(f) Nothing in this section shall be construed to affect any requirement of statute or rule that a particular individual or officer of an organization acknowledge a document. Any person using a key encryption or other identification procedure in place of a manual or facsimile signature for any filing under this section shall be subject to the same civil and criminal penalties applicable to persons providing a manual or facsimile signature.

(g) A state agency shall not be liable for any loss or damages arising from errors in or omissions from information filed electronically.

(h) No statutory provision which authorizes facsimile or electronic filing with any state agency shall be superseded by this section or any rule of the department adopted pursuant to this section.

(j) As used in this section, "state agency" means any authority, bureau, board, commission, department, division, institution or officer of the state, except the state legislature and the judiciary.

ARTICLE 26
DEPARTMENT OF WORKFORCE SERVICES

9-2-2601. Department of workforce services; duties and responsibilities; agreements with other agencies authorized; definition; merger with department of employment.

(a) The department of workforce services is created. The department is the authority for workforce services. The department is the successor agency for public employment and training services which previously existed under the department of employment. The department shall perform all functions previously performed by those programs.

(b) The department may submit a plan for the state to the appropriate federal agencies for work activities and programs as authorized under section 102 of the act of congress approved July 22, 2014 entitled "Workforce Innovation and Opportunity Act", P.L. 113-128, 29 U.S.C. 3112 or subsequent similar enactments.

(c) The department shall adopt rules and regulations pursuant to the Wyoming Administrative Procedure Act to implement requirements of the federal Workforce Innovation and Opportunity Act or subsequent similar enactments. When adopting such rules and regulations the department shall use language which focuses on the importance of a person, rather than a person's disability.

(d) The department shall administer expenditures from the workforce development training fund as provided in W.S. 9-2-2604. The department shall administer expenditures from the Wyoming workforce development-priority economic sector partnership subaccount within the economic diversification account as provided in W.S. 9-2-2609 through 9-2-2611 and 9-12-1404.

(e) The department is the designated agency for the state under 29 U.S.C. § 49 et seq. and shall:

(i) Comply with the requirements of and secure benefits for the state under 29 U.S.C. § 49 et seq.;

(ii) Establish and maintain public employment offices throughout the state; and

(iii) Cooperate with federal agencies under 29 U.S.C. § 49 et seq.

(f) The department may cooperate and enter into agreements with the railroad retirement board, any other federal or state agency or any private nonprofit organization for the provision of public employment offices and services and may accept contributions for this purpose.

(g) The department shall take appropriate steps to:

(i) Reduce and prevent unemployment and provide supportive services that are necessary to assist individuals to take part in activities leading to self-sufficiency;

(ii) Encourage and assist in the adoption of practical methods of vocational training, retraining and guidance;

(iii) Investigate, recommend, advise and assist in the establishment and operation of public works reserves by the state and its political subdivisions to be used in times of business depression and unemployment;

(iv) Promote alternative reemployment of unemployed workers throughout the state;

(v) Conduct and publish results of investigations and research studies;

(vi) Assist the Wyoming workforce development council and the state youth council in pursuing their missions and goals; and

(vii) Administer contracts pursuant to W.S. 9-2-2608 and 9-2-2609 through 9-2-2611.

(h) In any civil action to enforce this act, the department may be represented by the attorney general at the request of the department.

(j) As used in this article unless the context requires otherwise, "department" means the department of workforce services.

(k) On or before July 1, 2011, the department of workforce services shall include all divisions, programs and functions previously assigned to the department of employment created by W.S. 9-2-2002.

9-2-2602. Director of department; appointment; removal; duties.

(a) With the advice and consent of the senate the governor shall appoint a director for the department who shall serve under the direction of the governor and who may be removed by the governor as provided in W.S. 9-1-202. Appointments and terms under this section shall be in accordance with W.S. 28-12-101 through 28-12-103.

(b) The director shall:

(i) Disburse and administer all federal funds or other monies allotted to the department;

(ii) Prescribe by rule, order or regulation the conditions under which these monies shall be disbursed and administered. Any audit performed shall comply with the requirements of W.S. 9-1-507;

(iii) Enter into agreements, not inconsistent with the laws of the state, required as conditions precedent to receiving funds or other assistance. Funds appropriated by the legislature for operation of the department shall be used for the specified purposes only, and the director, in accepting funds from any other source, shall not consent to impairment of the department's statutory responsibilities;

(iv) Hold hearings, administer oaths, subpoena witnesses and take testimony as provided by the Wyoming Administrative Procedure Act in all matters relating to the exercise and performance of the powers and duties vested in the department;

(v) With the assistance of the attorney general bring actions in the courts of the state in the name of the department;

(vi) Promulgate reasonable rules and regulations in compliance with the Wyoming Administrative Procedure Act; and

(vii) Appoint a separate administrator for each of the divisions of the department of workforce services and may discharge the administrators as provided in W.S. 9-2-1706(c)(ii).

(c) In order that there may be established and maintained in the state of Wyoming a system of public employment offices, in conformity with an act of congress approved June 6, 1933, providing for the establishment of a national employment system and for cooperation with the states of the promotion of the system and for other purposes, the state of Wyoming accepts the provisions of the act of congress and designates the director of the department of workforce services as its agent in whom is vested all powers necessary to cooperate with the United States department of labor in the establishment and maintenance in Wyoming of a system of employment offices under the control of the United States secretary of labor and to do all things which are necessary under the federal act to obtain the benefits which are available to the state under the provisions of the federal act.

9-2-2603. Vetoed by Governor March 25, 2002.

9-2-2604. Workforce development training fund established.

(a) There is established the Wyoming workforce development training fund. The state treasurer shall invest available revenues in the fund in accordance with law, and earnings from those investments shall be credited to the fund. The revenues in the fund are continuously appropriated to the department of workforce services to be expended as provided in this section.

(b) Revenues in the Wyoming workforce development training fund may be expended for the following:

(i) For all administrative costs incurred by:

(A) The department of workforce services associated with establishing, assessing, collecting and maintaining the state unemployment insurance trust fund and

assessing and collecting the Wyoming workforce development training fund; and

(B) The department of workforce services associated with maintaining the Wyoming workforce development training fund.

(ii) To fund workforce development programs in the department of workforce services with the approval of the governor;

(iii) To provide workforce development programs designed to train, retrain or upgrade work skills for existing Wyoming workers; and

(iv) To provide training for skills necessary for specific economic development initiatives.

(c) Expenditures from the workforce development training fund for purposes authorized in subsection (b) of this section shall be approved by the director of the department of workforce services based on procedures, criteria and performance measures established by regulations. Notification of expenditures approved under paragraphs (b)(iii) and (iv) of this section and a copy of the training fund application shall be provided to the Wyoming business council. The director of the department of workforce services shall report annually to the governor and the legislature on the expenditures made from the training fund in the preceding fiscal year and the results of the activities funded by the training fund.

9-2-2605. Sale of office publications; exception.

The department of workforce services may sell any publication or other duplicated or printed material, other than the biennial report, which it prepares and which the public may desire to purchase.

9-2-2606. Sale of office publications; limitation on charges.

The charges made by the department of workforce services for publications or other duplicated or printed materials, other than the biennial report, which it prepares shall not exceed the cost of materials, printing, duplication, packaging and postage.

9-2-2607. Confidentiality of information; disclosure; reimbursement.

(a) Except as otherwise provided, information maintained pursuant to this article shall not be disclosed in a manner which reveals the identity of the employing unit or the individual. The confidentiality limitations of this section do not apply to transfers of information to the employing unit or the individual when the employing unit or individual who provided the requested information gives written permission for its release, or between the divisions of the department of workforce services so long as the transfer of information is not restricted by federal law, rule or contract. Any employee of the requesting department or agency who discloses information outside of the department in violation of federal or state law may be terminated without progressive discipline.

(b) The department may, upon request, disclose any information obtained under this article to a director or agency head, or his designee or agent, in the executive branch of federal or state government to be used by the public official only for official business in connection with the administration of a law or in the enforcement of a law by that public official. The requesting agency shall reimburse the department for the cost of furnishing this information unless the cost is insignificant. Any employee of the requesting department or agency who discloses information outside of the department in violation of federal or state law may be terminated without progressive discipline.

9-2-2608. Workplace safety contract program.

(a) The department of workforce services shall administer a program of workplace safety contracts as provided in this section.

(b) Upon application from a public or private employer, the department may contract with an employer to take specific actions to increase and provide for effective participation in workplace safety programs created and administered under title 27, chapter 11 or 14 of Wyoming statutes. Contract recipients under this section shall:

(i) Document the number of employees covered under the workplace safety programs created or enhanced by the contract;

(ii) Document decreases in occupational hazards accomplished through participation in the workplace safety programs.

(c) The department shall promulgate rules and regulations for administration of the contract program provided in this section. Contracts under this section shall be conditioned on the following:

(i) The recipient of the contract initiating or participating in a workplace safety program created and administered under title 27, chapter 11 or 14 of Wyoming statutes;

(ii) An in-cash cost sharing contribution of at least ten percent (10%) from the employer;

(iii) No contract under this program shall be made to any individual employer in excess of ten thousand dollars (\$10,000.00);

(iv) Funds expended on contracts under this section shall be used solely for enhancement or implementation of workplace safety programs, including for assistance in the purchase of safety equipment necessary to carry out the programs created and administered under title 27, chapter 11 or 14 of Wyoming statutes.

(d) Repealed by Laws 2018, ch. 29, § 2.

9-2-2609. Purpose.

(a) The Wyoming Workforce Development-Priority Economic Sector Partnership Act is created to meet the training needs of existing businesses in the state and to provide incentives to businesses to locate and expand within the state through government assisted new jobs training.

(b) It is the intent of the legislature to provide training funds to train and educate employees, which will result in the production of high wage and high skilled jobs that will increase the earning potential and employment opportunities for Wyoming employees and enhance and diversify the state's economy.

9-2-2610. Definitions.

(a) As used in this act:

(i) "Applicant" means an employer seeking funding under this act;

(ii) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity;

(iii) "Department" means the department of workforce services created in W.S. 9-2-2018;

(iv) "ENDOW council" means the economically needed diversity options for Wyoming executive council;

(v) "Eligible training provider" means:

(A) The University of Wyoming;

(B) A Wyoming community college district;

(C) An entity operated by a tribal government of either the Northern Arapaho or Eastern Shoshone tribes on the Wind River Indian Reservation;

(D) An entity approved to provide workforce training that is included on the eligible training provider list.

(vi) "Eligible training provider list" means the list maintained by the department of those eligible training providers who may be used to provide workforce training under this act;

(vii) "Employee" means an individual employed in a new job;

(viii) "Employer" means an individual or business entity providing new jobs and entering into a contract under this act;

(ix) "Full-time job" means a predominantly year-round position requiring an average of at least thirty-five (35) hours of work each week;

(x) "New job" means a newly created full-time or part-time job in a priority economic sector business. The term does not include:

(A) Jobs for recalled employees returning to positions held previously, for replacement employees, or for employees newly hired as a result of a labor dispute, seasonal jobs, or other jobs that previously existed within the employment of the employer in the state; or

(B) Jobs created by an employer as the result of an acquisition of a Wyoming entity if those jobs previously existed in the state of Wyoming in the acquired company or entity unless it is demonstrated that the jobs:

(I) Are substantially different as a result of the acquisition; and

(II) Will require new training for the employee to meet new job requirements.

(xi) "Part-time job" means a predominantly year-round position requiring an average of twenty-five (25) to thirty-four (34) hours of work each week;

(xii) "Priority economic sector business" means an employer engaged in establishing or expanding operations within a priority economic sector identified in the twenty (20) year comprehensive economic diversification strategy approved by the governor pursuant to W.S. 9-12-1402 in Wyoming that through the employment of knowledge or labor add value to a product, process or export service that results in the creation of new wealth;

(xiii) "Program" means a workforce training program implemented in accordance with the provisions of this act;

(xiv) "Program costs" means all necessary and incidental costs of providing program services. The term does not include the cost of equipment to be owned or used by the eligible training provider beyond the term of the contract with the department unless the eligible training provider is an entity specified in subparagraphs (v) (A) through (C) of this subsection and the department determines the equipment likely will be used to provide subsequent training in a priority economic sector program under this act or other program funded by the department;

(xv) "Program services" means training and education specifically directed to the new jobs, including:

- (A) All direct training costs, such as:
 - (I) Program promotion;
 - (II) Instructor wages, per diem and travel;
 - (III) Curriculum development and training materials;
 - (IV) Lease of training equipment and training space;
 - (V) Purchase of training equipment subject to the limitations provided in paragraph (xiv) of this subsection;
 - (VI) Miscellaneous direct training costs;
 - (VII) Administrative costs; and
 - (VIII) Assessment and testing.
- (B) In-house or on-the-job training; and
- (C) Subcontracted services with eligible training providers.

(xvi) "Wyoming workforce development-priority economic sector partnership subaccount" or "subaccount" means the subaccount created in W.S. 9-12-1404(a)(iii);

(xvii) "Wyoming workforce development-priority economic sector partnership program" means the workforce training program authorized by this act;

(xviii) "This act" means W.S. 9-2-2609 through 9-2-2611.

9-2-2611. Priority economic sector business workforce training programs; eligibility.

(a) The department, in consultation with the coordinator of economic diversification shall administer the Wyoming workforce development-priority economic sector partnership program. Using available monies within the Wyoming workforce development-priority economic sector partnership subaccount, the department may contract to provide training funds for education

or skills based training for employees for priority economic sector businesses in new jobs. The funds shall be provided to eligible training providers in accordance with contracts between the department, priority economic sector business employers and eligible training providers, for the purpose of providing employees with education and training required for jobs in new or expanding priority economic sector businesses in the state.

(b) To be eligible for funding under the Wyoming employer-workforce partnership program, an applicant shall demonstrate that it is a priority economic sector business.

(c) An applicant shall provide a match of at least one dollar (\$1.00) for every one dollar (\$1.00) requested from the subaccount. The match may include new loans and investments and expenditures for direct project related costs such as new equipment and buildings. The department may consider recent purchases of fixed assets directly related to the proposal on a case-by-case basis. A purchase of fixed assets directly related to the proposed training activities that have been made within ninety (90) days after submission of the application may be considered eligible by the department.

(d) Except as provided in subsection (e) of this section, funding provided under this section may not exceed five thousand dollars (\$5,000.00) for each full-time position and two thousand five hundred dollars (\$2,500.00) for each part-time position for which an employee is being trained. Funding may be provided only for a new job that has an average weekly wage that meets or exceeds the current average weekly wage of the county in which the employees are to be principally employed, provided minimum wage requirements are met. The department may consider the value of employee benefits in calculating the expected annual wage.

(e) The department may, in exceptional circumstances, consider a higher funding ceiling for jobs that will pay high wages and benefits if the need for higher training costs is documented in the application.

(f) Funding under this section shall be proportional to the number of jobs provided, the expected average annual wage of all jobs provided, and the underlying economic indicators of the region where the majority of the jobs will be created.

(g) Funding ceilings shall be determined by the availability of funding, the cost for each job and the quality of the priority economic sector business proposal.

(h) The funding application, at a minimum, shall contain:

(i) A business plan containing information that is sufficient for the department to obtain an adequate understanding of the business to be assisted, including the products or services offered, estimated market potential, management experience of principals, current financial position, and details of the proposed venture. In lieu of a business plan, the department may consider a copy of the current loan application to entities such as the federal business and industry guarantee program or the small business administration;

(ii) Financial statements and projections for the two (2) most recent years of operation and projections for each of the two (2) years following the distribution of funds, including but not limited to balance sheets, profit and loss statements, and cash flow statements. A business operating for less than two (2) years shall provide all available financial statements. Information provided under this paragraph shall be considered confidential and not subject to inspection as provided by W.S. 16-4-203(a)(i);

(iii) A hiring and training plan, which shall include:

(A) A breakdown of the jobs to be created or retained, including the number and type of jobs that are full-time, part-time, skilled, semiskilled or unskilled positions;

(B) A timetable for creating the positions and the total number of employees to be hired;

(C) An assurance that the business will comply with equal opportunity and nondiscrimination laws;

(D) Procedures for outreach, recruitment, screening, training and placement of employees;

(E) A description of the training curriculum and resources;

(F) Written commitments from any agency or organization participating in the implementation of the hiring plan; and

(G) A description of the type and method of training to be provided to employees, the starting wage and wages to be paid after training for each position, the job benefits to be paid or provided, and any payment to eligible training providers.

(j) A contract under this act shall contain provisions:

(i) Certifying that the amount of the funding already expended, together with interest at a rate of four percent (4%) per annum compounded annually from the date the matching funds were provided, will be reimbursed in the event that the priority economic sector business ceases operation in the state of Wyoming within the funding contract period, which may be up to two (2) years;

(ii) Specifying that funding will be provided over the contract period only upon the department verifying the creation of eligible jobs, the hiring of employees for the jobs or the incurring of eligible training expenses; and

(iii) Providing the department with annual reports and a final closeout report that documents the wages paid to an employee upon completion of the training.

(k) The contract shall be signed by the person in the priority economic sector business who is assigned the duties and responsibilities for training and the overall success of the program and by the business's chief executive.

(m) The Wyoming business council shall assist the department with review of information provided under paragraphs (h)(i) and (ii) of this section, as requested by the department. If the department determines that an applicant meets the criteria established in this section and has complied with the applicable procedures and review processes established by the department, the department may recommend funding for a priority economic sector business workforce development program and the disbursement of funds under contract to the eligible training provider. The recipient eligible training provider shall use funds received under the program in accordance with the provisions of the contract. No funding shall be provided for any program without the written opinion of the attorney general

certifying the legality of the transaction and all documents connected therein. Upon recommendation of the department, certification by the attorney general, and approval by the governor or his designee, funding from the Wyoming workforce development-priority economic sector partnership subaccount may be distributed to the eligible training provider.

(n) The department shall provide employers assistance in accessing workforce and education services outside the scope of this act for which employees may be eligible. These additional services shall not be used to replace funding provided under this act after the contract has been finalized.

(o) The department shall:

(i) Adopt rules to implement this act. At minimum the rules shall establish application procedures, requirements and qualifications for funding under this act. The rules may include provisions for agreements as the department determines consistent with this act and appropriate or necessary to ensure adequate consideration is provided to the state for funding under this act;

(ii) Report annually to the joint appropriations committee on the expenditures made from the Wyoming workforce development-priority economic sector partnership subaccount in the preceding fiscal year and the results of each partnership project's activities.

ARTICLE 27 SUBSTANCE ABUSE CONTROL PLAN

9-2-2701. Substance abuse control plan.

(a) The legislature hereby finds that the state of Wyoming has significant problems stemming from the abuse of alcohol and other drugs. In order to confront this challenge it is necessary to implement a comprehensive, integrated substance abuse control plan.

(b) The department of health shall, in consultation with the department of education, department of family services, department of workforce services and department of corrections adopt rules and regulations establishing standards for the effective treatment and prevention of substance abuse. The rules shall be adopted by December 31, 2002, and shall include standards for providers, programs and facilities. The rules

shall include procedures for data collection and analysis, protocols for testing and methods of measuring outcomes. The rules shall require the use of best practices, establish the means for determining priorities for treatment and prevention services, set standards for managing wait lists of patients and establish standards for cross training and continuing education of personnel. The rules shall specify certification requirements for programs, providers and facilities. The rules and regulations shall establish a process for denying continued funding for programs or providers who fail to comply with certification requirements established under this section. The rules and regulations establishing standards for treatment programs in state correctional facilities and the secure facilities authorized under W.S. 9-2-2704 shall be promulgated by the department of corrections, in consultation with the department of health, department of education, department of family services and department of workforce services no later than December 31, 2002.

(c) The department of health shall certify programs, providers and facilities which meet the requirements of the rules and regulations adopted under subsection (b) of this section provided the department of corrections and department of health shall certify programs in state correctional facilities and the secure treatment facilities authorized pursuant to W.S. 9-2-2704. Beginning July 1, 2004, no state funds provided for substance abuse treatment shall be allocated to programs, providers or facilities which are not certified by the department of health. Beginning July 1, 2004, courts shall not refer individuals for substance abuse or related treatment to programs, providers or facilities which are not certified to provide those services for which the individual is referred.

(d) The department of health shall have the authority to contract with a private entity to conduct compliance reviews, quality assurance checks and other related services.

(e) The department of health may allow exceptions to the requirements of rules adopted pursuant to subsection (b) of this section relating to the use of best practices to permit bona fide research to develop new effective treatment, intervention and prevention.

(f) Repealed by Laws 2015, ch. 59, § 2.

9-2-2702. Definitions.

(a) As used in this act:

(i) "Best practices" means intentional methods, procedures or systems that produce consistent, cost-effective prevention or treatment outcomes, which have been validated in replicated randomized control group studies or high quality time series studies, published or reported in reputable scholarly sources. In the absence of high quality research studies, a practice or approach may be selected on the basis of the consensus of prevailing scientific opinion or theory-based procedures published in peer-reviewed journals, until the best practices data are available;

(ii) "Cross training" means acquisition of skills to implement or use prevention, intervention or treatment procedures from different roles, disciplines or perspectives with the intent of improving overall, effective treatment or prevention outcomes. Cross training does not include the acquisition of licensure in another discipline;

(iii) "Patient" means any individual or client for whom confidential medical or psychological records are kept as a part of the provision of treatment or prevention services;

(iv) "Programs and facilities" means coordinated and planned activities or services that receive financial consideration from any source including third party payments or grants for the provision of treatment or prevention services and scientifically related problems, provided however, the term does not include public workshops, public speeches, courses or workshops not holding themselves out as intending to provide therapeutic services;

(v) "Provider" means any individual, partnership, corporation or organization that receives financial consideration from any source including third party payments or grants for the purpose of treatment or prevention services targeting substance abuse or other scientifically related problems such as delinquency, school failure, mental illness or criminal behavior;

(vi) "Therapeutic community" means a comprehensive, research based method of substance abuse and cognitive behavioral treatment, effectively preparing the client for reentry into society;

(vii) "This act" means W.S 9-2-2701 through 9-2-2704.

9-2-2703. Repealed effective July 1, 2004. [9-2-2703(c) repealed this section effective July 1, 2004. (Laws 2002, Sp. Sess., Ch. 81, § 1.)]

9-2-2704. Secure substance abuse treatment.

(a) The department of corrections is authorized to contract with an entity for the provision of secure substance abuse treatment in Wyoming for persons in the custody of the department of corrections subject to the following:

(i) The entity providing the treatment and the facility where it is provided shall be selected in a competitive process following a request for proposals issued by the department of corrections. The proposal selected shall best serve the interests of the state of Wyoming and shall be evaluated by the department of corrections and the department of health on the basis of:

(A) Cost determined by the per diem cost to the state for inmates treated plus other costs incurred by the state;

(B) The quality and appropriateness of the treatment proposed to be provided including the extent to which an effective therapeutic community will be formed within the facility;

(C) The relevant experience of the entity providing the treatment;

(D) The security of the facility;

(E) The location of the proposed facility and the compliance of the location with local zoning and land use planning;

(F) The speed with which the proposed facility can be made available for use;

(G) Arrangements for transporting prisoners to and from the facility; and

(H) Any other factors the department of corrections deems relevant as determined by rules adopted by the department of corrections.

(ii) The contract shall be for a period specified in the contract which shall not exceed ten (10) years;

(iii) The contract shall state that the department of corrections may terminate the contract due to:

(A) Unsatisfactory performance by the entity;

(B) For breach of contract; or

(C) Failure of the department of corrections to receive an adequate appropriation.

(iv) After an initial period specified in the contract the entity may terminate the contract for failure to receive an adequate reimbursement for the services provided. The contract shall contain a mechanism for negotiating an increase in reimbursement due to inflation in costs or changes in programming, but the increase shall be subject to the availability of appropriations;

(v) The contract shall provide that the entity has the right to return to the department of corrections at an institution identified by the department any inmate who:

(A) Poses an undue danger to other inmates or the staff;

(B) Fails to obey the rules of the program; or

(C) Is unwilling or unable to participate in the treatment program or does not make a good faith effort to progress in the treatment program.

(b) The initial facility shall be for one hundred (100) beds to be contracted by the state of Wyoming. The facility may, with the consent of the department of corrections, have other beds for inmates from other governmental jurisdictions.

(c) The department of corrections may subsequently make a long term contract for additional treatment beds at the initial or additional facilities provided the additional treatment beds are specifically authorized in an enacted general appropriations bill. The department of corrections may enter into contracts of less than two (2) years for additional beds within a facility.

(d) Unless delayed for good cause, the department of corrections shall issue the request for proposal authorized by subsection (a) of this section within ninety (90) days of the effective date of this act and shall seek to have a facility in place in operation during the fiscal year commencing July 1, 2003.

(e) The department of corrections may assign any inmate in its custody to a secure treatment facility up to the capacity provided by the contract. Assignment to the facility is at the discretion of the department of corrections and is not the right of any inmate.

(f) The provisions of W.S. 7-22-101 through 7-22-115 do not apply to a secure substance abuse treatment facility created under this section except that the following provisions shall apply:

(i) W.S. 7-22-105 to the extent that American correctional association standards are appropriate for the secure substance abuse facility;

(ii) W.S. 7-22-106;

(iii) W.S. 7-22-107;

(iv) W.S. 7-22-109;

(v) W.S. 7-22-110;

(vi) W.S. 7-22-112(a)(iv) through (ix).

9-2-2705. Repealed By Laws 2008, Ch. 44, § 2.

9-2-2706. Repealed by Laws 2015, ch. 59, § 2.

9-2-2707. Repealed By Laws 2008, Ch. 44, § 2.

9-2-2708. Methamphetamine and substance abuse treatment grants.

(a) Public or private entities may apply for grants to fund access to treatment for persons addicted to methamphetamine and other substances. Grant requests shall be reviewed and awarded by the department of health. Any funds awarded under this section shall not be used to supplant funds being used at

the time of the award by the public or private entity for the purposes specified in this section.

(b) In reviewing and awarding grants under this section, the department of health shall consider:

(i) Geographic distribution of treatment resources;

(ii) A projection of the number of persons who will be treated, using law enforcement statistics with respect to the number of arrests for methamphetamine use and other arrests related to substance abuse in each region of the state and other data demonstrating need;

(iii) The amount of monies or other forms of contribution public or private entities will provide in matching funds. This local match shall be in an amount of not less than one dollar (\$1.00) for every three dollars (\$3.00) of state funds provided.

(c) The department of health shall prepare a request for proposal and solicit proposals from interested public and private entities to increase access to treatment for those who are addicted to methamphetamine and other substances. The request for proposal shall:

(i) Solicit proposals to provide treatment as set forth in this subsection;

(ii) Require that proposals include an amount of monies or other forms of contributions that public or private entities will provide in matching funds. This local match shall be in an amount of not less than one dollar (\$1.00) for every three dollars (\$3.00) of state funds provided;

(iii) Require the proposals to set forth the manner in which the on-going operations of the program will be financially sustained;

(iv) Include other provisions as may be deemed appropriate by the department of health.

(d) Funding requests by the department of health for the purposes identified in this section shall be presented as a separate and specific program in any budget request prepared by the department and submitted by the governor pursuant to W.S. 9-2-1011 and 9-2-1012, and not continued with any other program.

ARTICLE 28
HEALTH CARE COMMISSION

9-2-2801. Repealed by Laws 2006, Ch. 68, § 1.

9-2-2802. Repealed by Laws 2006, Ch. 68, § 1.

9-2-2803. Repealed by Laws 2006, Ch. 68, § 1.

9-2-2804. Termination of article.

W.S. 9-2-2801 through 9-2-2803 are repealed effective June 30, 2009.

ARTICLE 29
DEPARTMENT OF ENTERPRISE TECHNOLOGY SERVICES

9-2-2901. Department of enterprise technology services created.

There is created the department of enterprise technology services.

9-2-2902. Department divisions.

(a) The department shall consist of the following divisions in addition to the office of the director of the department:

(i) Information technology division;

(ii) Information services division.

9-2-2903. Director and division administrators; appointment; removal.

(a) The governor shall appoint a state chief information officer with the advice and consent of the senate. The state chief information officer shall serve as the director of the department of enterprise technology services and shall be the department's executive and administrative head.

(b) With the approval of the governor, the state chief information officer may appoint administrators for each of the divisions. The governor may remove the state chief information officer and division administrators as provided in W.S. 9-1-202.

9-2-2904. Definitions.

(a) As used in this article:

(i) "Agency" means an office, department, board, commission, council, institution, separate operating agency or any other operating unit of the executive branch of state government. "Agency" shall not include the University of Wyoming or Wyoming community colleges;

(ii) "Data analytics" means data analysis, including the ability to use the data for assessment and extraction of policy relevant information;

(iii) "Department" means the department of enterprise technology services;

(iv) "Enterprise data analytics" means data analytics which affect or are conducted by more than one (1) agency;

(v) "Executive branch" means the executive department of state government established by article 2, section 1 of the Wyoming constitution;

(vi) "Information processing software" means all purchased, procured or developed software for use on any information technology equipment;

(vii) "Information technology equipment" means all business and personal computing devices, intelligent handheld devices including tablets and smart phones, printers and other related peripheral equipment;

(viii) "Judiciary" means the judicial department of state government established by article 2, section 1 of the Wyoming constitution;

(ix) "Legislature" means the legislative department of state government established by article 2, section 1 of the Wyoming constitution;

(x) "State chief information officer" means the person appointed in accordance with W.S. 9-2-2903. The state chief information officer shall also function as the director of the department;

(xi) "Telecommunications transport services" means the telecommunication transmission facilities under which voice, data and video communications are distributed between distant locations for use by state agencies, institutions and educational institutions on a shared basis.

9-2-2905. Duties of the department in assisting the governor.

(a) The department may assist the governor in discharging his duties as chief executive and administrative officer of the executive branch of government of the state of Wyoming. The governor through the department shall:

(i) Coordinate, consolidate and provide information technology services which are used by more than one (1) agency;

(ii) Review agency information technology programs, expenditures and management to identify problems and suggest improvements;

(iii) Promote economy and efficiency in government use of information technology;

(iv) Establish uniform standards of information technology administration; and

(v) Establish uniform practices and reporting for government use of payment processor services.

(b) This article shall be construed to provide the governor, through the department, with a more coordinated and responsive system of information technology management of the executive branch of state government, and to preserve and protect the separation of powers mandated by article 2, section 1 of the Wyoming constitution. The legislature and the judiciary shall cooperate with the department and may utilize the services and assistance of the department to achieve economy in government, but information technology procedures affecting the administration of the legislature shall be determined by the legislature and the management council, and information technology procedures affecting the administration of the judiciary shall be determined by the judges for their respective courts, and they shall not be bound by rules and regulations promulgated by the department.

9-2-2906. Office of the state chief information officer and director; authority; duties of department.

(a) The state chief information officer may:

(i) Employ professional, technical and other assistants to work in the director's office or in any of the divisions, along with other employees necessary to carry out the purpose of this article;

(ii) Formulate through his office the policies and programs to be carried out by the department through its respective divisions;

(iii) Require employees or applicants for employment who have access to confidential information or records to submit to fingerprinting in order to obtain state and national criminal history record information as a condition for a position with the department in accordance with W.S. 7-19-106 and 7-19-201.

(b) The department shall carry out the following coordination and management functions:

(i) Develop a biennial information technology plan for the executive branch. The department may inventory agency software, hardware, servers and data centers as it determines necessary to develop the plan, using existing information available to the department and as supplemented by agencies upon request of the department;

(ii) Implement and maintain an information technology governance program for the agencies;

(iii) Establish review criteria for the agencies information technology projects, procurements and purchases;

(iv) Develop and implement recommendations for the proper management of agencies information technology resources;

(v) Review and make recommendations to the governor concerning information technology budget requests made by agencies;

(vi) Adopt information technology policies and standards and ensure agency compliance with the policies and standards;

(vii) Recommend information technology procurement improvements;

(viii) Develop and promote information technology training programs for all branches of government;

(ix) Encourage information technology coordination, information sharing and collaboration among all branches and levels of government in Wyoming;

(x) Enhance geographic information systems coordination among all governmental users of geographic information systems;

(xi) Carry out the duties prescribed by W.S. 9-2-2501;

(xii) Enhance statewide broadband adoption and coordination among all governmental users in coordination with the Wyoming business council and its broadband advisory council;

(xiii) Advise the governor and the legislature on technology and telecommunications matters;

(xiv) Establish, maintain and annually evaluate a quality management model. The quality management model shall include training and assurances for data privacy, protection and use throughout the agency and shall track customer feedback on technology services and oversight. The department shall involve the agencies in assessment of needs, successes and areas of improvement and shall produce customer satisfaction and performance reports. The department shall report its findings from the quality management model in the department's biennial budget request submitted under W.S. 9-2-1013.

(c) The University of Wyoming, Wyoming community colleges, and the judicial and legislative departments of state government may adhere to the standards, policies and plans developed pursuant to subsection (b) of this section to the extent feasible, as determined by the entity or the department of government, as applicable.

(d) The department shall carry out the following oversight and approval functions:

(i) Review agency expenditure requests for information technology or telecommunications personnel, hardware

or software or contractual services for information technology if the expenditure exceeds the maximum amount established by department policy for small purchases. No funds for purchase in excess of the maximum amount shall be expended until the state chief information officer has approved the expenditure. Upon request for expenditure, the state chief information officer shall review the request and shall:

(A) Disapprove a request which fails to meet existing department standards, security, privacy and procurement policies; and

(B) If the state chief information officer determines a less expensive alternative to effectively accomplish the need is available, approve the request only for the lesser amount.

(ii) Review agency expenditures for information technology or telecommunications personnel, hardware or software or contractual services for information technology which are within the maximum amount established by department policy for small purchases as the state chief information officer determines necessary. Agencies shall provide information as requested by the department regarding small purchases;

(iii) Establish and enforce data security and privacy policies and standards for the state data infrastructure. These provisions shall be the minimum security and privacy requirements adhered to by all agencies. Agencies may choose to set additional security and privacy requirements to exceed but not in lieu of or that in any way interfere with the standards set by the state chief information officer;

(iv) Establish policies and standards for enterprise data analytics;

(v) All computer purchases made via the chief information officer's state technology replacement program shall be made in accordance with the provisions of this subsection, using standardized pricing established by the program. All funds appropriated for computer acquisition shall be restricted and not expended for any other purpose.

(e) The department shall provide the following services:

(i) Develop and provide computer and information technology services to agencies and the judiciary and the

legislature. Central delivery of common services shall be promoted to the extent they encourage a more economical and efficient operation of state programs, while maintaining a compatibility of hardware and software among agencies, the legislature and the judiciary;

(ii) Upon request of an agency, provide information and recommendations regarding the installation and acquisition of computer and information technology equipment, the qualifications of information technology personnel and software systems required by the agency. The information and recommendations shall be directed to advising the agency how to comply with the uniform standards, minimize duplication and promote effectiveness in the collection, storage, interchange, retrieval, processing and transmission of information;

(iii) Upon request of an agency, provide enterprise data analytics services;

(iv) Data analytics security services and validation services as directed by the governor;

(v) The department shall annually apply to the universal service administrative company under the federal communications commission for amounts available to the state under the schools and libraries program of the universal service fund. All federal funds received by the state from the schools and libraries program of the universal service fund shall be deposited into the school foundation program account;

(vi) Develop procedures and administer uniform payment processor services and reporting for agencies and upon request, the judiciary and the legislature. In carrying out this paragraph, the department shall:

(A) Administer a statewide contract with a payment processor as provided under W.S. 9-4-217(h);

(B) Develop criteria and procedures for granting waivers to agencies under W.S. 9-4-217(h).

(f) The state chief information officer shall administer through his office all accounting, billing and collection functions required by the department. These activities shall be taken pursuant to policies adopted by the state chief information officer after consultation and in cooperation with the director of the department of administration and

information. The policies shall include provisions for attributing shared costs to agencies receiving common services from the department and for interagency accounting, billing and collection for other services provided to individual agencies. The department of enterprise technology services and the department of administration and information shall jointly develop a memorandum of understanding through which the departments will exchange administrative support, accounting functions and information technology services.

(g) The department shall carry out the following functions:

(i) Establish and promulgate rules and regulations governing the use and funding of telecommunications services, equipment, payment processor services, software and networks by agencies;

(ii) In consultation with state agencies and educational institutions, develop recommendations for a current and long-range telecommunications transport service plan for state government and higher education involving telephone, radio, microwave, facsimile, closed circuit television, teleconferencing, interactive educational training, public radio, public television, data communications, transmission circuits, fiberoptics, satellites and cellular radio and the integration of these mediums into applicable telecommunications networks. The plan shall be submitted to the governor for approval;

(iii) Administer the approved current and long-range plan for use of telecommunications by agencies and coordinate the telecommunications transport service network;

(iv) Inventory current telecommunications infrastructure of agencies, solicit comments and recommendations on needs, practices and technologies for providing telecommunications services in the most efficient manner possible, accommodate economic growth and development in the state and enhance educational opportunities at all levels of instruction;

(v) Review all existing and future agencies telecommunications planning, networks, systems and programs and recommend priorities therefor in accordance with the purposes of this section;

(vi) As appropriate, coordinate the acquisition of compatible telecommunications equipment, software and licensure for telecommunications transport service networks with agencies and with educational institutions;

(vii) Establish telecommunications procedures, standards and records for management of telecommunications transport service networks and facilities for agencies;

(viii) Review, assess and ensure compliance with federal and state telecommunications regulations governing the needs and functions of agencies for telecommunication transport services;

(ix) Provide telecommunications services including billing, installation and repair of telephone services including interstate and intrastate long distance, to agencies;

(x) Coordinate telecommunications network training for agencies.

(h) Notwithstanding subsection (g) of this section:

(i) The director of the Wyoming department of transportation and the colonel of the Wyoming highway patrol shall administer and control the operation, maintenance and conduct of the two-way, land based mobile and related facilities for the public safety radio-microwave systems specifically provided by the department and patrol and performed by radio technicians, dispatchers and telephone operators. The department shall provide and accommodate agency needs as approved jointly by the department and the agency and as agency budgets allow;

(ii) The attorney general shall administer and control the operation and conduct of the criminal law enforcement system and shall coordinate statewide telecommunications network services under this system through the department;

(iii) The University of Wyoming and community college districts shall administer the operation and control of telephone data and video systems on the respective campuses and the department shall coordinate statewide telecommunications network services under these systems;

(iv) Telecommunications transport service requirements for any agency and educational institutions shall be coordinated through the department;

(v) Any public broadcasting service operating in the state shall be responsible for its operational services and federal licensing. The department shall assist in the coordination of any required statewide telecommunications transport services as appropriate;

(vi) The state public safety communications commission established under W.S. 9-2-1101 shall coordinate its statewide telecommunications transport service requirements through the department;

(vii) An agency may independently contract with a private service provider to obtain telecommunications services, equipment, software and networks, provided:

(A) The services, equipment and software meet compatibility standards established by the department; and

(B) The agency's action will result in at least ten percent (10%) savings compared to the cost of similar services, equipment and software provided through the department;

(C) The action is approved as provided by subsection (d) of this section.

(j) The department may, through the infrastructure network developed under the statewide education technology plan in accordance with W.S. 21-2-202(a)(xx), contract with one (1) or more telecommunications providers to provide telecommunications services to:

(i) Private schools if the department determines network capacity is sufficiently available and private schools accessing the network reimburse the department for the costs of services provided under this subsection, including proportionate overhead and administrative costs;

(ii) Private health care providers if services are requested by the department of health under this subsection. The department of health shall:

(A) Determine health care services necessary for the effective and efficient operation of a telehealth network in the state;

(B) Notify the department in writing of the services deemed necessary;

(C) Reimburse the department for costs incurred for the provision of telecommunications services under this subsection from funds available for this purpose, including proportionate overhead and administrative costs;

(D) Develop charges for telecommunication services that cover the costs of the provision of telecommunication services to private health care providers; and

(E) In providing or facilitating the provision of services under this subsection, the department of health shall determine that services are not reasonably available from other sources.

(k) The state chief information officer may authorize a designee to carry out any duties assigned, whether denominated as the state chief information officer or director of the department, unless specifically precluded from doing so by statute.

(m) The department shall adopt reasonable rules and regulations to administer this article pursuant to the Wyoming Administrative Procedure Act.

(n) Nothing in this article shall be construed to authorize the department or the director to regulate or otherwise have any jurisdiction or authority over nongovernmental providers of telecommunications services or broadband services. Nothing in this article shall be construed to authorize the department or the state to be a telecommunications services provider to the private sector. To the extent a network is developed and implemented under subsection (g) of this section to provide telecommunications transport services for state government and higher education, rather than purchasing facilities or providing its own communications services for the creation and operation of the unified network, the state of Wyoming shall purchase services from commercial communications carriers to the fullest extent reasonably feasible. Such a network is limited to use only by:

(i) The executive, legislative and judicial branches of Wyoming state government, including the University of Wyoming and community colleges. In relation to use of this network, "Wyoming state government" does not include local government, cities, towns, counties, hospitals, joint powers boards, special districts or other local governmental entities; and

(ii) Wyoming public schools and public libraries.

(o) The department shall include in the department's biennial budget request submitted under W.S. 9-2-1013 a list of any federal program being implemented by the department. The list shall include the specific statutory authorization, if any, authorizing the department's implementation of the program. The department shall not be required to report any program pursuant to this subsection for which it is providing solely support services for an agency charged with implementing the federal program.

9-2-2907. Repealed by Laws 2016, ch. 30, § 1.

ARTICLE 30
STATE CONSTRUCTION DEPARTMENT

9-2-3001. State construction department created; definitions. (This section is effective now.)

There is created the state construction department.

9-2-3001. State construction department created; definitions. (This section is effective 10/1/2020.)

(a) *There is created the state construction department.*

(b) *As used in this article:*

(i) *"Agency" means any school district, state office, department, board, council, commission, separate operating agency, institution or other instrumentality or operating unit of the state excluding the University of Wyoming, the Wyoming business council and the Wyoming department of transportation. "Agency" shall include a Wyoming community college if the community college is conducting a capital construction project using state funds that requires approval by the community college commission or authorization by the legislature under W.S. 21-18-205(g);*

(ii) "Capital construction project" means new construction, demolition, renovation and capital renewal of or to any public building or facility and any other public improvement necessary for the public building or facility, major maintenance as defined in W.S. 16-6-101(a)(v) and major building and facility repair and replacement as defined in W.S. 21-15-109(a)(iii);

(iii) "Competitive negotiation" means to negotiate for a contract through a request for proposals process or any other similar competitive selection process;

(iv) "Department" means the state construction department;

(v) "Informalities or irregularities in any bid" includes:

(A) Ambiguity as to any part of a bid;

(B) A missing unit bid price;

(C) An erasure or change in a unit bid price not initialed in ink by the bidder.

(vi) "Principal representative" means the governing board of an agency or its designated representative or, if there is no governing board, the executive head of an agency. When applicable, "principal representative" shall include the University of Wyoming board of trustees or its designated representative;

(vii) "State procurement website" means a website that the department designates to host information and notices related to procurement under this article.

9-2-3002. Department divisions.

(a) The department shall consist of the following divisions:

(i) State construction management division;

(ii) School facilities division;

(iii) Operations division.

9-2-3003. Director and division administrators; appointment; removal.

(a) The governor shall appoint a director of the department with the advice and consent of the senate.

(b) With the approval of the governor, the director may appoint administrators for the divisions established by W.S. 9-2-3002(a)(i) and (ii). The governor may remove the director and division administrators as provided in W.S. 9-1-202.

(c) The director's and administrator's salaries shall be determined by the governor.

(d) The director shall be the chief administrative officer of the department with general supervision and control of all activities, functions and employees of the department. He shall devote his entire time to the performance and supervision of the duties conferred on him by law. The director may:

(i) Employ professional, technical and other assistants to work in the department, along with other employees necessary to carry out the purpose of this article;

(ii) Formulate the policies and programs to be carried out by the department through its respective divisions;

(iii) Authorize a designee to carry out any duties assigned, unless specifically precluded from doing so by law.

9-2-3004. Duties of the department.

(a) The department shall staff the state building commission as provided in W.S. 9-5-101 through 9-5-108, and as required by the commission unless staffing of the commission is otherwise specified by law. The administrator of the state construction management division shall function as secretary to the state building commission and the department shall administratively implement the commission's rules relating to the state capital construction.

(b) The department shall staff the school facilities commission as provided in title 21 of the Wyoming statutes, and as required by the commission unless staffing of the commission is otherwise specified by law. The administrator of the school facilities division shall function as secretary to the school

facilities commission and the department shall administratively implement the commission's rules.

(c) The department shall:

(i) Review and make recommendations to the governor concerning capital construction budget requests made by the state building commission, school facilities commission, the University of Wyoming, community college commission and any state agency;

Note: Effective 10/1/2020 this paragraph will read as:

Review and make recommendations to the governor concerning capital construction budget requests made by the state building commission, school facilities commission, the University of Wyoming, community college commission and any agency;

(ii) Adopt capital construction procurement policies and standards and ensure compliance with the policies and standards by state agencies and school districts using any state funds for capital construction projects. The University of Wyoming and Wyoming community colleges may adhere to the standards and policies to the extent feasible, as determined by the university or affected college. The university and Wyoming community colleges shall adhere to any other capital construction requirement specified by law;

Note: Effective 10/1/2020 this paragraph will read as:

Adopt rules governing procurement for capital construction projects pursuant to W.S. 9-2-3006. Wyoming community colleges shall adhere to the rules for any capital construction project using state funds that requires approval by the community college commission or authorization by the legislature under W.S. 21-18-205(g). The University of Wyoming may adhere to the rules to the extent feasible, as determined by the university. The university and Wyoming community colleges shall adhere to any other capital construction requirement specified by law;

(iii) For the procurement of construction of public projects, facilities or structures, be authorized to accept the recommendations of agencies on the award or rejection and readvertisement of bids based upon the qualifications and responsibilities of bidders;

Note: Effective 10/1/2020 this paragraph will read as:

For the procurement of capital construction projects, be authorized to accept the recommendations of agencies on the award or rejection and readvertisement of bids based upon the qualifications and responsibilities of bidders;

(iv) Oversee bonding for the procurement of capital construction projects. Bidders shall provide a bond or other form of guarantee satisfactory to the state of Wyoming as hereafter provided:

(A) A bid bond or other form of bid guarantee satisfactory to the state may be required in an amount equal to ten percent (10%) of the aggregate amount of the bid or contract when a contract to be awarded under the solicitation is expected to exceed one thousand five hundred dollars (\$1,500.00). The bond may be provided by a surety company authorized to do business in the state of Wyoming;

Note: Effective 10/1/2020 this subparagraph will read as:

A bid bond or other form of bid guarantee satisfactory to the state may be required in an amount equal to ten percent (10%) of the aggregate amount of the bid or contract when a contract to be awarded under the solicitation is expected to exceed one hundred fifty thousand dollars (\$150,000.00). The bond may be provided by a surety company authorized to do business in the state of Wyoming;

(B) A bid bond or other form of bid guarantee satisfactory to the state may be retained by the state as surety throughout the term of the awarded contract provided the amount of the contract is less than or equal to fifty thousand dollars (\$50,000.00);

(C) Before any contract for a capital construction project is awarded to any person, the person shall furnish to the state a performance and payment bond or other form of guarantee in accordance with the standards and monetary limits provided in W.S. 16-6-112;

(D) This paragraph does not limit the authority of the state to require a performance bond or other security in addition to bonds, or in circumstances other than the circumstances specified by this subsection;

(E) The department may accept bids submitted by persons who combine their bonding capacity in any way so as to meet the bonding requirements of this paragraph.

(v) Provide the appropriate staff to serve as staff of the state building commission in carrying out the duties of the department under this article and construction management functions under W.S. 9-5-101 through 9-5-108;

(vi) Plan for all construction projects in accordance with the provisions of W.S. 9-5-107, 9-5-108 and rules, procedures and criteria adopted pursuant to those sections;

(vii) Adopt reasonable rules and regulations pursuant to the Wyoming Administrative Procedure Act to administer this article;

(viii) Review the final design, drawings and plans of any capital construction project prior to commencing with bidding to ensure that energy efficient best practice techniques and processes are included in the design of any capital construction project funded with federal funds and for which the state is required to expend state funds to fully or partially pay for operations, routine maintenance or major maintenance expenses for the facility. Upon conclusion of each review, the department shall submit a report of findings to the joint appropriations committee and the joint transportation, highways and military affairs interim committee;

(ix) Administer the Professional Architectural, Engineering and Land Surveying Services Procurement Act. [NOTE: This paragraph will be effective 10/1/2020.]

9-2-3005. Department budget.

(a) The department shall develop and use a standard budget, base budget and exception budget as provided in W.S. 9-2-1010 through 9-2-1014.

(b) Repealed by Laws 2018, ch. 2, § 2.

(c) Repealed by Laws 2018, ch. 2, § 2.

(d) Repealed by Laws 2018, ch. 2, § 2.

(e) Repealed by Laws 2018, ch. 2, § 2.

(f) Repealed by Laws 2018, ch. 2, § 2.

9-2-3006. Procurement for capital construction projects.
Note: this is effective as of 10/1/2020.

(a) Contracts for capital construction projects let by an agency or the University of Wyoming, excluding contracts for professional services under W.S. 9-2-1027 through 9-2-1033 and for capital construction projects delivered through alternate design and construction delivery methods as defined in W.S. 16-6-701(a)(v), shall be let through the use of competitive negotiation, noncompetitive negotiation or competitive sealed bidding as follows:

(i) For any contract with an estimated value equal to fifty thousand dollars (\$50,000.00) or less, the contract shall be let in accordance with the following:

(A) Except as provided in subparagraph (B) of this paragraph, the contract shall be let by competitive negotiation. In conducting the competitive negotiation, the agency or the university shall solicit not less than three (3) independent cost estimates or proposals prior to letting the contract;

(B) If the principal representative of an agency or the university determines competitive negotiation is not feasible, the contract may be let by noncompetitive negotiation;

(C) The contract shall be let to a resident of the state in accordance with W.S. 16-6-102(a).

(ii) Except as otherwise provided in paragraph (iii) of this subsection, for any contract with an estimated value in excess of fifty thousand dollars (\$50,000.00), the contract shall be let in accordance with the following:

(A) The contract shall be let by competitive sealed bidding. The agency or the university shall give notice of the opportunity to bid on the contract on the state procurement website for not less than two (2) consecutive weeks. The notice shall contain a general description of the proposed contract and shall indicate the procedures by which interested persons may apply for consideration;

(B) The contract shall be let to a responsible bidder making the lowest bid except that the contract shall be

let to the responsible certified resident making the lowest bid if the certified resident's bid is not more than five percent (5%) higher than that of the lowest responsible nonresident bidder in accordance with W.S. 16-6-102(a).

(iii) If the principal representative of an agency determines that the use of competitive sealed bidding is not feasible or practical, the principal representative shall submit a written determination to the department. If approved by the department, the contract may be let by competitive negotiation. If competitive negotiation is not feasible or practical, the principal representative shall submit a written determination to the governor. If approved by the governor or the governor's designee the contract may be let by noncompetitive negotiation. Contracts by the university may be let by competitive negotiation or noncompetitive negotiation in accordance with university regulations;

(iv) The director of the department, upon a written finding that it would be more efficient to use federal procurement procedures for capital construction contracts let by the Wyoming military department concerning state owned properties under the control of the adjutant general, may authorize federal procurement procedures instead of the procedures required under this subsection.

(b) The department shall adopt standard forms and procedures for the procurement of capital construction projects by an agency in accordance with this section.

(c) Any contract by an agency for a capital construction project in an amount exceeding fifty thousand dollars (\$50,000.00) shall require the approval of the governor or the governor's designee prior to state commitment.

(d) Any contract let under this section shall be in accordance with the applicable contracting and residency preference laws of W.S. 16-6-101 through 16-6-121, 16-6-201 through 16-6-206, 16-6-701 through 16-6-708 and 16-6-1001.

(e) Each agency and the University of Wyoming are authorized to determine the qualifications and responsibilities of bidders or respondents for capital construction projects but shall reject any bid with improper or missing signatures or bids that lack legible numerical values. Each agency and the university may:

(i) Reject any or all bids based on the qualifications and responsibilities of bidders and respondents and readvertise for bids or responses;

(ii) Waive informalities or irregularities in any bid.

(f) No contract shall be divided for the purpose of avoiding the requirements of this section.

ARTICLE 31
OFFICE OF GUARDIAN AD LITEM

9-2-3101. Office created; appointment of director.

(a) The office of guardian ad litem is created as a separate operating agency as provided in W.S. 9-2-1704(d).

(b) The governor, with the advice and consent of the senate, shall appoint a director of the office who shall serve as the administrative head of the office and as chief guardian ad litem. Unless sooner removed, the director's term of appointment expires at the end of the term of office of the governor during which he was appointed. The director serves at the pleasure of the governor and may be removed by him as provided by W.S. 9-1-202. The director shall:

(i) Be a member in good standing of the Wyoming state bar;

(ii) Have experience in guardian ad litem representation, child welfare and juvenile justice;

(iii) Be compensated as determined by the Wyoming personnel division;

(iv) Devote full time to the performance of his duties;

(v) Administer the guardian ad litem program as provided in W.S. 14-12-101 through 14-12-104.

(c) The director shall not engage in private practice except to complete business pending at the time of his appointment.

CHAPTER 3

COMPENSATION AND BENEFITS

ARTICLE 1 SALARIES AND EXPENSES

9-3-101. Salaries; amount; date of payment.

(a) Salaries for clerk of the supreme court and district court reporters shall be determined by the supreme court as authorized by legislative appropriations. Subject to constitutional limitations the following state officers and members of the judiciary shall receive the salaries indicated by the figures following their respective titles:

(i) Governor \$105,000.00

(ii) Secretary of state \$92,000.00

(iii) State auditor\$92,000.00

(iv) State treasurer..... \$92,000.00

(v) Superintendent of public instruction

\$92,000.00

(vi) Repealed by Laws 1988, ch. 96, § 2.

(vii) Repealed by Laws 1988, ch. 96, § 3.

(b) When a state officer is required to simultaneously serve in his office as a temporary or acting replacement for another officer, he shall receive only the salary of the office he holds.

(c) Except as otherwise provided by law, other state employees and officers, including members of boards and commissions, shall receive salaries in amounts as provided by W.S. 9-2-1005(b)(iv) and 27-5-101.

(d) Except for employees paid hourly, or by hard copy payroll check, as determined by the state auditor's office, overtime and shift differential pay and employees and officers of the University of Wyoming, state employees and officers on automatic payroll direct deposit shall be paid on the last working day of the month for wages earned during that month. Hourly pay shall be paid to state employees on automatic payroll

direct deposit on the last working day of the month for wages earned from the sixteenth day of the preceding month through the fifteenth day of the current month. Overtime and shift differential pay shall be paid to state employees on automatic payroll direct deposit no later than the last working day of the month following the month in which overtime and shift differential pay was earned. Employees and officers paid by hard copy payroll check shall have their payroll check mailed and post marked not later than the last working day of the month. The University of Wyoming is exempt from this subsection.

(e) The state auditor and payroll officers for employees of the department of transportation, the University of Wyoming and community colleges may establish payroll check-off programs for state employees under which payments to third-parties are made directly from deductions from state employee payroll payments for supplemental medical plans, disability plans, life insurance plans and annuities. The state auditor and other payroll officers authorized to establish a payroll check-off program may impose an initial fee of up to one thousand five hundred dollars (\$1,500.00) for each deduction filed upon a third-party for which check-off payments are established and thereafter, may impose an annual fee of two dollars (\$2.00) per enrolled employee. The state auditor and other payroll officers authorized to establish a payroll check-off program may establish rules and regulations to implement the program.

(f) Notwithstanding the time limits required by W.S. 27-4-104(a), upon termination of employment, a state employee or officer shall be paid all wages and salaries due for work performed prior to termination on or before the next regular day upon which he would have received the pay if still employed.

9-3-102. Meal allowance; actual expenses; exceptions.

(a) Unless otherwise provided by law, when any state officer or employee is required to travel on overnight trips for official business of the state, he is entitled to receive in addition to transportation expenses as provided by W.S. 9-3-103, lodging expenses, an allowance for meals and incidental expenses and other reimbursable expenses. The lodging and meal and incidental expense allowance shall be as determined by the governor for the state and by the governing body of any other entity using the state rate for that entity, but shall not exceed the published federal travel regulation rates in effect at the time of travel. The meal and incidental expense allowance shall be computed so as to pay seventy-five percent (75%) of the

destination rate on the day of departure, one hundred percent (100%) on all interim days of official travel and seventy-five percent (75%) of the previous day's rate on the day of return. Lodging expenses shall be reimbursed up to the amount prescribed in the federal travel regulation as provided in this subsection. The head of the respective agency may approve lodging expenses in excess of the published rate. In addition:

(i) Meal expenses, either directly billed to the state, or included in registration, seminar and conference fees paid by the state on behalf of the state officer or employee are considered part of the meal and incidental expense allowance and shall be deducted from the allowance claim of the state officer or employee;

(ii) The head of the agency to be charged for the expense, or his designee, shall approve the claim for payment. State officers or employees shall not approve their own claims. The head of the agency is responsible to determine the veracity of each claim;

(iii) Any reimbursable expenses claimed in excess of fifteen dollars (\$15.00) shall be supported by original vendor receipts or a sworn statement attesting to the expense, signed under penalty of false swearing by the claimant, and shall be attached to the voucher submitted to the state auditor for payment.

(b) Instead of the full meal and incidental expense allowance specified in subsection (a) of this section, the state officer or employee will be reimbursed for actual expenses for meals and gratuities while conducting official business of the state, not to exceed seventy-five percent (75%) of the daily meal and incidental expense allowance for the location of the official business if the officer or employee:

(i) Is required to travel on a one (1) day trip of twenty-four (24) hours or less during which it is reasonable to assume no sleep or rest is required; or

(ii) Repealed By Laws 2001, Ch. 101, § 2.

(iii) Is required to eat a meal at an official meeting of a state committee, commission, board or council held in the community of the state officer's or employee's official domicile.

(c) Repealed by Laws 1983, ch. 102, § 2.

(d) Actual expenses in excess of the amounts specified in subsection (a) of this section may be reimbursed for in-state or out-of-state travel, with the prior approval of the agency director if:

(i) Specific prior trip approval has been given by the head of the respective agency if the agency is within the executive branch, the management council for the legislative branch and the chief justice of the supreme court for the judicial branch; and

(ii) The original itemized vendor receipts supporting amounts claimed for lodging and employee meals and gratuities where the total amount of the meal and gratuity exceeds fifteen dollars (\$15.00), accompany the claim submitted to the state auditor for payment. No reimbursement shall be claimed or paid for any alcoholic beverage.

(e) Claims for lodging and meal and incidental expense allowance or actual expense reimbursement shall be submitted to the state auditor for payment in the manner and form prescribed by him.

(f) This section does not apply to the state transportation and game and fish departments.

(g) Any voucher for reimbursement under this section or W.S. 9-3-103 shall be signed and certified under penalty of false swearing pursuant to W.S. 6-5-303.

(h) As used in the section:

(i) "Destination" means the location of the employee at midnight, or if still traveling at midnight, the location where lodging is secured;

(ii) "Incidental expense" means fees and tips given to porters, baggage carriers, bellhops, hotel maids, stewards or stewardesses and others on ships and hotel servants in foreign countries;

(iii) "Meal" means expenses for breakfast, lunch, dinner and related tips and taxes, but does not include expenses incurred for alcoholic beverages, entertainment or any expenses incurred for other persons;

(iv) "Reimbursable expenses" means other expenses that are inherently travel related and not included in the meal and incidental expense allowance.

9-3-103. Transportation expenses; limitation on longevity or length-of-service allowances.

(a) Any state, county or precinct officer or employee required to travel in the performance of the duties of his office is entitled to receive reimbursement for all actual and necessary transportation expenses incurred as provided by one (1) of the following methods:

(i) If common carrier transportation is used, the actual expense not to exceed economy fare charged the general public is reimbursable. If deluxe accommodations are desired, the amount exceeding economy fare shall be paid personally by the officer or employee. Passenger coupons issued by the transportation company or an official fare receipt shall accompany the claim submitted to the state auditor or the board of county commissioners for audit and payment. With prior approval of the respective executive agency head, the management council or the chief justice of the supreme court, actual expenses in excess of the economy fare may be reimbursed;

(ii) If rented, chartered or contracted vehicle transportation is used, reimbursement is limited to reasonable rates determined by the administrative head of the governmental unit where claim is submitted. The vendor's official receipt for charges shall accompany the claim submitted to the state auditor or board of county commissioners for audit and payment;

(iii) If private vehicle transportation is used, reimbursement shall be as determined by the governor for the state and by the governing body of any other entity, based on a mileage allowance not to exceed the maximum nontaxable rates allowed by the internal revenue service at the time of travel.

(A) Repealed By Laws 2001, Ch. 23, § 2.

(B) Repealed By Laws 2001, Ch. 23, § 2.

(C) Repealed By Laws 2001, Ch. 23, § 2.

(b) At the discretion of the administrative head of the governmental unit in which claim is submitted, reimbursement may

be authorized for actual but necessary vehicle parking fees, car wash expenses, toll fees, taxi fares and taxi driver tips.

(c) Before any claim for transportation expenses is paid, the claimant shall present to the state auditor or the board of county commissioners for audit and payment a verified claim made out in separate items properly dated. The value of each item shall be specifically described to the satisfaction of the auditing officer or board to indicate that the expense has been properly incurred for the benefit of the state or county in pursuance of the claimant's official duties.

(d) County commissioners shall at all times receive transportation expense reimbursement when engaged upon official county business. Other officers of the county shall receive transportation expense reimbursement subject to the approval of the board of county commissioners.

(e) No state official or employee shall receive transportation expense reimbursement when traveling from his residence to the place of his employment and return.

(f) A state officer, judge or employee whose salary is fixed by W.S. 9-3-101 or by any other specific act of the legislature shall not receive any additional allowance based on longevity or length of service, or any other compensation, perquisite or allowances whatever except per diem and necessary traveling and moving expenses when otherwise authorized by law. If any officer, judge or employee, or any retired officer, judge or employee, is receiving compensation or retirement benefits on the effective date of this act which include an additional allowance for longevity or length of service previously authorized, those compensation or retirement benefits shall not be immediately reduced or diminished, but that portion of the compensation or retirement benefits being received on the effective date of this act which is attributable to longevity or length of service allowance shall be reduced or disallowed to the extent it is offset by future increases in salary or retirement benefits authorized by act of the legislature. This subsection does not apply to retirement, health insurance or life insurance benefits, but only to compensation received for length of service.

9-3-104. Moving expenses.

(a) When any state officer or employee is transferred from one (1) official station to another within the state of Wyoming

for permanent duty, when the transfer is made at the request of and for the benefit of the state of Wyoming, the employing agency shall pay the actual expenses of transporting the household goods and effects of the officer or employee.

(b) The governor may expend up to twenty thousand dollars (\$20,000.00) in any term of office, from any appropriation to the governor's office not otherwise specifically restricted, for purposes of defraying moving expenses for gubernatorial appointees who are required to move to Cheyenne. Not more than five thousand dollars (\$5,000.00) shall be expended for any one (1) appointee. Any funds expended for this purpose shall be reimbursed to the state by the appointee if the appointee is employed by the state for less than twelve (12) months.

(c) If there is a change in governor as a result of a general election, the governor may expend up to thirty-five thousand dollars (\$35,000.00) from any appropriation to the governor's office not otherwise specifically restricted, for transition staff salaries, travel and other related office expenses. If there is a change of any other elected state official as a result of a general election, the elected official may expend up to fifteen thousand dollars (\$15,000.00) from any appropriation to the official's office not otherwise specifically restricted, for the same purposes.

9-3-105. Reduction in force; defined; maintenance of medical benefits.

(a) As used in this section, "reduction in force" means the involuntary separation of any employee from state employment because of a shortfall of funding, lack of work or organizational changes requiring a reduction in the number of positions of state employment.

(b) The state's share of the health insurance benefits under the group insurance plan for state employees shall be maintained by the state for any state employee separated from employment because of a reduction in force for a period of six (6) months following separation or until the separated employee acquires employment, whichever first occurs.

9-3-106. Interbranch donation of sick leave.

An employee of an entity participating in the state health insurance program may donate accrued sick leave to an employee of another entity participating in the state health insurance

program if authorized by reciprocal personnel policies adopted by the appropriate entities.

ARTICLE 2 INSURANCE PLANS

9-3-201. Group prepaid plans authorized; agreements with insurance companies authorized; limitation on authorized plans and companies; payroll deductions; self-insurance programs; optional school district participation in plan.

(a) The state of Wyoming and its political subdivisions and school districts may obtain group prepaid plans or insurance for life, health, accident or hospitalization for their employees and for elected officials, except for members of the legislature, and enter into agreements with prepaid plans or insurance companies to provide this coverage. Insurance coverage for school district or board of cooperative educational services employees meeting the definition of employee under W.S. 9-3-203(a)(iv), shall, if elected by the district or board under subsection (e) of this section, be provided through the state employees' and officials' group insurance plan in accordance with W.S. 9-3-202 through 9-3-218. Insurance coverage for retired school district or board of cooperative educational services employees shall, if elected by the board or district under subsection (e) of this section and if the retired employee was continuously covered under the board's or district's insurance plan prior to the election, be provided through the state employees' and officials' group insurance plan in accordance with W.S. 9-3-202 through 9-3-218. If a school district or board of cooperative educational services elects to cease participation in the group insurance plan pursuant to subsection (f) of this section, the election shall apply to retired employees of that board or district who are receiving coverage under this subsection.

(b) Prepaid plans or insurance shall be procured only from prepaid plans authorized to do business in the state of Wyoming or from insurance companies authorized to do business in the state of Wyoming and under the full jurisdiction of the Wyoming insurance commissioner.

(c) Upon a request in writing from any employee of the state of Wyoming, any covered political subdivision thereof or a participating school district, the state auditor or the proper officer in any political subdivision or school district may deduct from the wages of the employee the amount of the premium

which the employee has agreed to pay for the prepaid plans or insurance, and to pay or remit the payment directly to the prepaid plan or insurance company issuing the group plan or insurance.

(d) The state and any political subdivision are authorized to utilize a self-insurance program, provided that a defined plan with proper funding is first adopted and the cost of the plan is included in the annual budget and provided the self-insurance program includes any coverage mandated by Wyoming insurance law. Any self-insurance program, including the Wyoming state employees' and officials' group insurance plan, adopted pursuant to this section shall be within the jurisdiction of the insurance commissioner under the provisions of title 26, Wyoming statutes.

(e) Any school district or board of cooperative educational services may elect to participate in the state employees' and officials' group insurance plan by filing notification of election with the department of administration and information on a form and in a manner as prescribed by the department. Participation in the plan for any electing board or district shall commence not less than one hundred twenty (120) days following the date on which the board or district filed notification under this subsection and shall be identical to plans and coverage provided other enrollees under this act. The department shall notify the electing board or district of the date on which the board or district is eligible to participate in the state group insurance plan. An election by a board or district to participate in the state group insurance plan under this subsection is irrevocable for a period of five (5) years from the date on which plan participation originally commenced. In addition to all other remedies available to the department, if a district or board withdraws from the state group insurance plan during the period of irrevocability, the department may assess against the withdrawing board or district the amount by which all claims paid on behalf of employees of the board or district exceeds total premiums paid by the board or district and their employees. A board or district may renew its initial participation in the state group insurance plan without interruption upon submitting notification of renewal to the department prior to expiration of the initial five (5) year participation period. Renewal of plan participation shall be irrevocable for an additional period of not less than five (5) years.

(f) Any school district or board of cooperative educational services which has elected to participate in the state employees' and officials' group insurance plan under subsection (e) of this section may, upon expiration of the initial five (5) years of plan participation required under subsection (e) of this section, elect to cease participation in the state group insurance plan by filing notification of the election to the department on a form and in a manner prescribed by the department. An election under this subsection shall prohibit the board or district from participation in the state group insurance plan for a period of five (5) years commencing on the date plan participation ceased. Participation in the plan for any board or district electing to cease plan participation under this subsection shall be discontinued on a date determined by the department in consultation with the board or district, but in no event later than one hundred twenty (120) days following the date on which the board or district filed notification under this subsection.

9-3-202. Short title.

This act shall be known and may be cited as the "State Employees and Officials Group Insurance Act".

9-3-203. Definitions.

(a) As used in this act:

(i) Repealed By Laws 2001, Ch. 55, § 3.

(ii) "Carrier" means a private insurance company or health maintenance organization, as defined in W.S. 26-34-102(a)(xvi), holding a valid outstanding certificate of authority from the state insurance commissioner, or a nonprofit hospital service plan or a nonprofit medical service plan incorporated as a nonprofit corporation, either of which has had successful experience in the group health insurance field as determined by the commissioner of insurance;

(iii) "Dependent" means an employee's spouse and each unmarried child under the age of twenty-six (26) years, including adopted children, stepchildren and foster children. "Dependent" includes an otherwise qualified dependent of a deceased employee as provided in W.S. 9-3-209(d);

(iv) "Employee" means any employee of a participating school district or participating board of cooperative

educational services whose salary is paid by funds of the district or board, or any official or employee of the state of Wyoming whose salary is paid by state funds, including employees and faculty members of the University of Wyoming and various community colleges in the state, except persons employed on intermittent, irregular, or less than halftime basis and any at-will contract employee who does not meet the requirements established under W.S. 9-2-1022(a)(xi)(F)(III) or (IV).

"Employee" shall not include employees of the agricultural extension service of the University of Wyoming who hold federal civil service appointments, are required to participate in federal civil service retirement and who elect to participate in the federal employees' health benefit program as authorized in W.S. 9-3-210(d);

(v) "Group insurance plan" means the health and life insurance plans defined in this section, the flexible benefits plan or any other group insurance coverages contracted for by the department, including disability insurance, as defined in W.S. 26-5-103(a);

(vi) "Health insurance plan" means a group insurance policy or contract or a medical or hospital service agreement or other health care delivery system provided by a carrier or carriers for the purpose of paying for or reimbursing the cost of hospital and medical care;

(vii) "Hospital and medical benefits" means hospital room and board, other hospital services, certain outpatient benefits, maternity benefits, surgical benefits, including obstetrical care, in-hospital medical care, diagnostic X-ray and laboratory benefits, physician's services provided by house and office calls, prescription drugs, outpatient psychiatric services and other benefits determined by the department. Benefits may be provided on a coinsurance basis, the insured to pay a proportion of the cost of benefits;

(viii) "Life insurance plan" means a group insurance policy or contract provided by a carrier for the purpose of providing life insurance;

(ix) "Official" means any elected or appointed state official who receives compensation other than expense reimbursement from state funds, except for members of the legislature and officials serving on an intermittent, irregular or less than halftime basis;

(x) "Supplemental health insurance plan" or "supplemental plan" means a group insurance contract or a medical or hospital service agreement provided by a carrier for the purpose of paying for or reimbursing the cost of hospital and medical care in excess of or supplemental to medicare or medicaid, or both, which employees or officials and their dependents may be eligible to receive. Supplemental coverage may consist of one (1), a combination of, or alternative plans in the discretion of the department;

(xi) "Department" means the department of administration and information;

(xii) "Flexible benefits plan" means a plan of benefits established by department rules and regulations and adopted pursuant to the Internal Revenue Code of 1986, Title 26 of the United States code and qualified under § 125 of the Internal Revenue Code of 1986. The plan may include benefits authorized by the Internal Revenue Code of 1986 and related federal regulations which are consistent with Wyoming law;

(xiii) "Retiree" means an individual who has terminated his working career as an employee of an employing entity participating in the group insurance plan and who is eligible to receive a retirement benefit under the Wyoming retirement system;

(xiv) "Participating board of cooperative educational services" means any board of educational services formed pursuant to W.S. 21-20-104 which has elected to participate in the state employees' and officials' group insurance plan under W.S. 9-3-201(e) and which has not discontinued plan participation pursuant to an election under W.S. 9-3-201(f);

(xv) "Participating school district" means any school district which has elected to participate in the state employees' and officials' group insurance plan under W.S. 9-3-201(e) and which has not discontinued plan participation pursuant to an election under W.S. 9-3-201(f);

(xvi) "Voluntary participating employer" includes a participating board of cooperative educational services and participating school district;

(xvii) "This act" means W.S. 9-3-202 through 9-3-219.

9-3-204. Repealed By Laws 2001, Ch. 55, § 3.

9-3-205. Administration and management of group insurance program; powers and duties; adoption of rules and regulations; interfund borrowing authority.

(a) The department shall administer and manage the state employees' and officials' group insurance program in accordance with all provisions of title 26 of the Wyoming statutes governing group health benefit plans and rules promulgated thereto. The department, subject to the provisions of this act:

(i) Shall prepare specifications for the health insurance plan and a supplemental plan, the life insurance plan and any other group insurance plan contracted for by the department;

(ii) Shall contract with carriers to underwrite group or supplemental insurance plans;

(iii) Shall determine the methods of claims administration, consistent with title 26 of the Wyoming statutes, under group insurance or supplemental plans, whether by the state or carrier or both;

(iv) Shall determine the eligibility of employees, officials and their dependents to participate in group insurance and supplemental plans;

(v) Shall determine the amount of employee payroll deductions;

(vi) Shall establish a procedure by which the department shall hear complaints by insured employees concerning the allowance and payment of claims, eligibility for coverage and other matters. The department shall take into consideration the authority of the department of insurance to investigate complaints pursuant to title 26 of the Wyoming statutes when establishing this procedure. Unless otherwise provided in the group insurance or supplemental plan or plans, any decision of the department upon complaints is not binding upon either the employee or carrier and the provisions of the Wyoming Administrative Procedure Act shall not apply to the proceedings. The group insurance or supplemental plan or plans may provide that the decision of the department shall be binding upon both the employee and the carrier as to certain disputes and in such event the procedure adopted by the department shall conform to the provisions of the Wyoming Administrative Procedure Act;

(vii) Shall administer state group insurance reserve monies;

(viii) Shall continuously study the operation of the group insurance plan including analysis of:

(A) Gross and net costs, including administrative costs;

(B) Claims administration;

(C) Comprehensive health claims utilization information to determine the causes of plan health care cost increases and strategies to control those costs;

(D) Factors in the plan's design that may adversely affect participation;

(E) The effect of benefit changes;

(F) Contribution levels and recommendations to attract a broad mix of participants to the plan;

(G) Demographic information about existing and eligible participants;

(H) Trends in costs and benefits of the plan relative to other plans.

(ix) May enter into a contract with a carrier to underwrite a supplemental plan and negotiate and enter into amendments to existing health insurance contracts to provide a supplemental plan and determine an effective date;

(x) May determine that employees, officials and their dependents who are eligible for medicare or medicaid, or both, shall be eligible for a supplemental plan and, upon the effective date of the supplemental plan as to employees, officials and their dependents presently covered by the health insurance plan, may transfer them from the health insurance plan to the supplemental plan;

(xi) May negotiate and enter into amendments to existing contracts providing group insurance and supplemental plans to provide appropriate coverage for employees and officials who may become eligible for coverage after the

effective date of those contracts and to provide for their enrollment;

(xii) May contract with carriers to underwrite optional group insurance plans which may be additions to or supplemental to those plans contracted under this act and which are paid for entirely by employees and officials, entirely by the employer, or by both. The contracts shall be designed to provide the fullest benefits at the lowest cost, and the department may contract with the same carriers for the optional group insurance plans as for the other plans contracted for under this act;

(xiii) May contract with any person for the furnishing of actuarial services, the preparation of specifications for group insurance plans and other specialized services which cannot be performed by the department or by state employees. Contracts for these services shall be awarded through responsible competitive bidding at intervals as the department determines, and shall be reviewed annually by the department;

(xiv) May develop, implement and administer a flexible benefits plan and may contract with carriers, third-party administrators or other professionals to develop, administer and implement a flexible benefits plan;

(xv) Repealed By Laws 2001, Ch. 55, § 3.

(xvi) Have authority to audit payroll records of voluntary participating employers to ensure compliance with requirements of this act.

(b) The department shall adopt rules and regulations consistent with the provisions of this act as necessary to carry out its statutory duties and responsibilities under this act.

(c) For the purposes of determining financial condition, ability to fulfill and the manner of fulfillment of its statutory duties, the nature of its operations and compliance with law, the insurance commissioner shall examine the affairs, accounts, records and assets of the Wyoming state employees' and officials' group insurance plan, as often as he deems advisable but not less frequently than every three (3) years. The insurance commissioner may adopt rules consistent with the provisions of this act and title 26 of the Wyoming statutes to identify procedures for conducting examinations of the Wyoming state employees' and officials' group insurance program.

(d) The department shall report the results of the analysis conducted pursuant to paragraph (a)(viii) of this section and suggested activities to manage the plan by December 1 of each year to a committee of the legislature designated by the management council.

(e) Upon request of the director of the department, the state treasurer and the state auditor may utilize interfund loans from the legislative stabilization reserve account to cover the costs of group insurance plan coverage to school districts electing to participate in the group insurance plan under W.S. 9-3-201(e) or the costs of discontinuing plan coverage to districts electing to cease participation under W.S. 9-3-201(f). The interfund loans shall be repaid as soon as anticipated revenue is received. The total amount of interfund loans under this subsection outstanding at any one (1) time shall not exceed sixty million dollars (\$60,000,000.00). The interest charged on each interfund loan under this subsection shall be the interest rate earned on pooled fund investments in the previous fiscal year.

9-3-206. Specifications for insurance plan; submission of bids; change of carriers; notice of rate changes or intent of carrier not to renew; premium tax exemption.

(a) The specifications drawn by the department for the health insurance plan shall include hospital and medical benefits, and comparable benefits for employees who rely solely on spiritual means for healing. The specification drawn by the department for the life insurance plan and any other group insurance plan shall include benefits as determined by the department. Bids shall be submitted to the department within time limits established by the department and, in addition to the carrier's cost proposal, shall include an explanation of the method of claims administration proposed by the carrier and the cost thereof, the amount of total premiums to be retained by the carrier, the purpose for which these retained funds would be allocated, and other information requested by the department.

(b) The department may:

(i) Call for bids and change carriers at its discretion;

(ii) Terminate an existing contract at any time upon sixty (60) days notice in the event of unsatisfactory

performance or noncompliance with the terms of the contract by the carrier.

(c) Any carrier under contract with the department shall give the department sixty (60) days notice of any proposed rate change in the contract specifications or intent not to renew the contract. If the department and the carrier agree during the sixty (60) day period to any rate change in the specifications, the department may renew the contract, as changed, without reopening to bids.

(d) If the department decides to change carriers or to reopen bids on the underwriting of any aspect of the group insurance plan, it shall follow the same procedures in the selection of a subsequent carrier as it did in awarding the initial contract.

(e) Any carrier underwriting any portion of the state's group insurance plan is exempt from paying premium taxes under W.S. 26-4-103 on that portion of its business representing premiums collected from the group insurance plan.

9-3-207. Eligibility for membership in plan; state employees; 31 day period to elect enrollment; new employees; later enrollment.

(a) Any state employee eligible for membership in the group insurance plan at the time the plan becomes effective shall have thirty-one (31) days to either elect to be enrolled or not be enrolled in the plan. The department shall establish the procedure by which eligible employees shall notify the department of their decision within the prescribed thirty-one (31) day period.

(b) An eligible employee who enters state service or service of a voluntary participating employer has thirty-one (31) days from the initial date of employment to elect to be enrolled or not be enrolled in the group insurance plan.

(c) Employees who elect not to be enrolled within the time prescribed in subsections (a) and (b) of this section may be enrolled at a later date upon conditions the department may impose, such as a physical examination or the exclusion of preexisting conditions from coverage.

(d) A retiree is eligible for coverage under the group insurance plan subject to the provisions of W.S. 9-3-218.

(e) An eligible employee of a voluntary participating employer shall have thirty-one (31) days from the date the employer becomes a participating employer and the employees thereof are eligible for participation in the state plan, to elect to be enrolled or not be enrolled in the group insurance plan. A voluntary participating employer's employees shall become eligible on the date the employer's election is effective under W.S. 9-3-201(c).

9-3-208. State officials; 31 day period to elect enrollment; newly appointed or elected officials; later enrollment.

(a) State officials eligible for membership in the group insurance plan at the time the plan becomes effective shall have thirty-one (31) days to either elect to become enrolled or not become enrolled in the plan. The election shall be made according to procedures established by the department.

(b) Eligible state officials appointed or elected after the effective date of the group insurance plan have thirty-one (31) days after the date they officially take office to elect to become enrolled or not become enrolled in the plan.

(c) Eligible state officials who elect not to become enrolled within the time prescribed in subsections (a) and (b) of this section may be enrolled at a later date upon conditions the department may impose, such as a physical examination or the exclusion of preexisting conditions from coverage.

9-3-209. Dependents; election of coverage; later election; change in number of dependents; extended coverage.

(a) Any eligible employee or official may elect to have his dependents covered by the group insurance plan. The election shall be made at the time the employee or official becomes enrolled in the plan, under procedures the department may establish. If dependent coverage is not elected at the time that an employee or official becomes enrolled in the plan, dependent coverage may be elected at a later date under conditions the department may impose, such as physical examination or the exclusion of preexisting conditions from coverage.

(b) Any employee or official who has elected to have his dependents covered as provided in subsection (a) of this

section, and who subsequently has a change in the number of his dependents, may at the time of the change increase or decrease the number of his dependents covered by the group insurance plan under procedures established by the department.

(c) Any employee or official who has no eligible dependents at the time he becomes enrolled in the group insurance plan, and who later has an eligible dependent may, at the time his dependency status changes, elect coverage for the dependent under procedures established by the department.

(d) The dependents of any employee or official who has elected to have his dependents covered as provided in subsection (a) of this section, and who suffers a work related death as a result of employment as an official or employee, shall continue to be covered for a period of six (6) months after the date of the employee's or official's death. The state auditor shall ascertain the employing agency's contribution pursuant to W.S. 9-3-210 for the six (6) month period and shall pay the department the amount required for the coverage. The dependents shall be responsible for any portion required to be paid by the employee for coverage during the six (6) month period.

9-3-210. Amount of state's contribution; estimates submitted to state budget officer; specified employees participation in federal program; participating employers contributions.

(a) Except for voluntary participating employers, the state shall contribute monthly the amount established and appropriated by the legislature for each employee and official enrolled in the plan in accordance with subsections (b) and (c) of this section.

(b) Any state agency, department or institution, including the University of Wyoming and the community colleges in the state, shall pay monthly to the department the amount established and appropriated by the legislature for each eligible employee or official electing to become covered by any portion of the group insurance plan as the contribution of the state to that plan during the period the employee or official is enrolled in the plan. Amounts appropriated by the legislature from the general fund for University of Wyoming and community college employer contributions under this section shall include amounts necessary to fully fund the employer's contribution for those eligible and enrolled employees whose compensation is partially or fully funded from nonfederal sources, but the

University of Wyoming shall exclude amounts necessary to fully fund the employer's contribution for those eligible and enrolled employees whose compensation is partially or fully funded from contracts, grants and auxiliary services. If federal funds are not available, the amounts necessary to fully fund the employer's contribution for those eligible and enrolled employees shall be included in the general fund appropriation. If the monthly premium for coverage of the employee or official is less than the amount established and appropriated by the legislature, the balance may be applied to the premium for coverage of dependents, or to the premium for any optional group insurance coverage made available by the department, if so elected.

(c) Each state agency, department or institution, including the University of Wyoming and the community colleges in the state shall estimate the amount required for its participation in the group insurance plan for the next biennium and shall submit the estimate to the state budget officer at the time the state budget officer makes the request.

(d) Notwithstanding any other provision contained in W.S. 9-3-201 or the State Employees' and Officials' Group Insurance Act, employees of the agricultural extension service of the University of Wyoming who hold federal civil service appointments and are required to participate in federal civil service retirement may elect to participate in the federal employees' health insurance program. For eligible employees participating in the federal employees' health insurance program the state shall contribute monthly an amount toward the federal employees health insurance program costs which is in excess of the federal contribution thereto but which does not exceed the amount which would otherwise be paid under subsection (a) of this section if the employee were enrolled in the state group insurance plan.

(e) A participating school district shall pay to the department the monthly premium established by the department for coverage of each eligible employee or official of that district electing to become covered by any portion of the group insurance plan. Monthly premiums shall be at minimum no less than rates assessed for coverage of other enrollees qualified under W.S. 9-3-203(a)(iv), and shall be based upon information reported by the participating district to the department, to be in a form and manner prescribed by the department.

(f) A participating board of cooperative educational services shall pay to the department the monthly premium established by the department for coverage of each eligible employee of the employer electing to become covered by any portion of the group insurance plan. Additionally, each participating board of cooperative educational services shall pay to the department a monthly amount equal to the lowest premium for nonsupplemental coverage for each eligible employee of the employer not electing to become covered under the nonsupplemental portion of the group insurance plan. For purposes of this subsection an employee shall not be considered as not electing coverage if that employee is covered by other insurance with benefits comparable to or greater than the coverage provided by the least expensive non-supplemental plan available under this act. Monthly premiums shall be at minimum no less than rates assessed for coverage of other enrollees qualified under W.S. 9-3-203(a)(iv), and shall be based upon information reported by the participating board of cooperative educational services to the department, to be in a form and manner prescribed by the department.

9-3-211. Deductions from salaries of monthly contributions by employees and officials; establishment of procedure.

(a) The amount of monthly contribution to be made by eligible employees and officials enrolled in the group insurance plan for themselves and their dependents shall be deducted from the monthly salaries of the employees and officials by the various agencies or voluntary participating employers and remitted to the department. The procedure for deductions and remittances shall be established by the department. If a flexible benefits plan is chosen, the employees' and officials' contribution shall be applied to the chosen benefits in an amount determined by the employee or official.

(b) The department shall establish procedures for deducting and remitting monthly contributions by eligible retirees enrolled in the group insurance plan which may include deductions from the retiree's state retirement benefits or from the retiree's checking or savings account.

(c) Notwithstanding any other provision of the State Employees' and Officials' Group Insurance Act and for the contributions provided by W.S. 9-2-1022(a)(xi)(F)(IV), the contributions required by subsection (a) of this section may be paid by the Wyoming livestock board for state employee members in order to be treated as employer contributions for the sole

purpose of determining tax treatment under the United States Internal Revenue Code, section 414(h). The amounts shall be stated in the employment contract.

9-3-212. Repealed by Laws 1987, ch. 194, § 2.

9-3-213. Treasurer of monies; bond; deposit in an account of premium cost payments, dividend payments and return of premiums; expenditures; investment of excess portions.

(a) The state treasurer shall be the treasurer of monies under this act, and his general bond to the state of Wyoming shall cover all liabilities for his acts as treasurer. The department shall remit to the treasurer for deposit into a separate account all payments received by the department for the group insurance premium costs from employees and officials, and the state agencies, departments, institutions and voluntary participating employers. The department shall also remit to the treasurer for deposit into the account any dividend payments and return of premium received by the department from any carrier underwriting the group insurance plan. All remittances shall be made as soon as possible after they are received.

(b) Expenditures shall be made from the account, upon certification of the department to the office of the state auditor, only for the following purposes:

(i) The payment of premiums to any carrier underwriting the group insurance or supplemental plan or plans; and

(ii) The state's cost of administering group insurance and supplemental plans, subject to annual appropriation by the legislature based on the submission by the department of a budget request containing detailed information on current and projected administrative costs.

(c) The department shall certify in writing to the state treasurer for investment portions of the monies which in its judgment will not be needed for the payment of premiums to the carriers underwriting the group insurance or supplemental plans.

9-3-214. Repealed by Laws 1987, ch. 194, § 2.

9-3-215. Repealed by Laws 1987, ch. 194, § 2.

9-3-216. Repealed by Laws 1987, ch. 194, § 2.

9-3-217. Advisory panel; composition; compensation.

(a) The director of the department shall establish an advisory panel consisting of active plan participants employed by the state, participating school districts, the University of Wyoming and Wyoming community colleges and of retired employees who are plan participants. The panel shall consist of no more than ten (10) members if there are less than five (5) participating school districts or no more than twelve (12) members if there are at least five (5) participating school districts and, insofar as possible, shall proportionally represent the specified employee groups participating in the group health insurance plan. The advisory panel shall be consulted regarding plan benefits and costs. The director of the department shall, upon receiving notification from at least five (5) school districts electing group insurance plan participation under W.S. 9-3-201(e), appoint two (2) additional advisory panel members to increase the advisory panel to twelve (12) members as provided in this section.

(b) State, participating school district, university and community college employee members of the panel shall suffer no loss of wages for the time devoted to attending meetings of the panel called by the department. All members shall be provided per diem and travel expenses incurred for attending such meetings at the rates provided under W.S. 9-3-102 and 9-3-103.

9-3-218. Retiree membership in plan.

(a) A retiree is eligible for coverage under the group insurance plan at premium rates established by the department, provided:

(i) Application to continue coverage is made to the department within thirty-one (31) days after termination of the retiree's employment;

(ii) The retiree has had medical coverage in effect under the group insurance plan for at least one (1) year immediately prior to the date of retirement and is eligible to receive a retirement benefit under the Wyoming retirement system; and either:

(A) Has attained the age of fifty (50) on the date of retirement and has at least four (4) years of service

credit under the Wyoming retirement system as an employee of one (1) of the employing entities participating in the plan; or

(B) Has at least twenty (20) years of service credit under the Wyoming retirement system as an employee of one (1) of the employing entities participating in the plan.

(b) Within the application period provided under paragraph (a)(i) of this section, the retiree may elect to continue coverage of his eligible dependents under the group insurance plan provided each such dependent was covered under the group insurance plan for at least one (1) year immediately prior to the retiree's date of retirement. An election to add dependents may not be made after the initial application period unless the increase in the number of dependents results from a subsequent marriage, birth or adoption in which case the dependents may be enrolled at a later date upon conditions the department may impose.

(c) The department shall establish procedures by which the eligible retiree shall make application within the thirty-one (31) day period provided under paragraph (a)(i) of this section.

9-3-219. Air ambulance transport services for employees, officials and dependents; reimbursement; sunset.

(a) Emergency and medically necessary air ambulance transport services for employees, officials and their dependents shall be covered under W.S. 42-4-123, subject to availability and any limitations specified by the department of health under W.S. 42-4-123(a) and subject to operation of the air ambulance transport services program under W.S. 42-4-123(b).

(b) Contingent on operation of the air ambulance transport services program under W.S. 42-4-123(b), the department of administration and information shall pay reimbursement for services under this section to the department of health, as specified under W.S. 42-4-123.

(c) This section is repealed effective July 1, 2023.

ARTICLE 3
SOCIAL SECURITY

9-3-301. Definitions.

(a) As used in this act:

(i) "Employee" includes administrative and elective officers of a state or political subdivision thereof;

(ii) "Employment" means any service performed by any employee in the employ of the state, or any political subdivision thereof, for the employer except service which in the absence of an agreement entered into under this act would constitute "employment", as defined in the Social Security Act or service which under the Social Security Act may not be included in an agreement between the state and the federal security administrator entered into under this act;

(iii) "Federal Insurance Contributions Act" means subchapter (A) of chapter 9 of the federal Internal Revenue Code, as the code has been and may from time to time be amended;

(iv) "Federal security administrator" includes any individual to whom the federal security administrator has delegated any of his functions under the Social Security Act, with respect to coverage under such act of employees of states and their political subdivisions;

(v) "Political subdivision" includes any instrumentality of the state, or one (1) or more of its political subdivisions, or of the state and one (1) or more of its political subdivisions, but only if the instrumentality is a juristic entity which is legally separate and distinct from the state or subdivision, and only if its employees are not, by virtue of their relation to the juristic entity, employees of the state or subdivision. "Political subdivision" includes school districts, the Wyoming Education Association, the Wyoming High School Athletic Association, and any other employer within the public school system of Wyoming;

(vi) "Social Security Act" means the act of congress approved August 14, 1935, chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," (including regulations and requirements issued pursuant thereto), as the act has been and may from time to time be amended;

(vii) "State agency" means the office of the state treasurer of the state of Wyoming;

(viii) "Wages" means all remuneration for employment including the cash value of all remuneration paid in any medium other than cash and does not include that part of the

remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act;

(ix) "This act" means W.S. 9-3-301 through 9-3-306.

9-3-302. Administration by secretary of Wyoming retirement system; payment of costs.

All administrative matters pertaining to this act shall be administered by the secretary of the Wyoming retirement system. The cost of such services shall be paid in the manner provided by law.

9-3-303. Agreements with federal security administrator to extend benefits to employees; provisions.

(a) The state treasurer with the approval of the governor may enter on behalf of the state into an agreement with the federal security administrator or his successor, consistent with the terms and provisions of this act for the purpose of extending the benefits of the federal old age and survivors' insurance system to employees of the state, or any political subdivision thereof, with respect to services which constitute employment. The agreement may contain provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions which the state treasurer and federal security administrator agree upon. Except as otherwise required by or under the Social Security Act as to the services to be covered, the agreement shall provide in effect that:

(i) Benefits will be provided for employees, and their dependents and survivors, whose services are covered by the agreement on the same basis as though the services constituted employment within the meaning of Title II of the Social Security Act;

(ii) The state will pay to the secretary of the treasury, at times as prescribed under the Social Security Act, contributions with respect to wages equal to the sum of the taxes which would be imposed by sections 1400 and 1410 of the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that act;

(iii) The agreement is effective with respect to services in employment performed after a date specified therein, or in any modification thereof;

(iv) All services which constitute employment and are performed in the employ of the state or any of its political subdivisions shall be covered by the agreement.

(b) Any instrumentality jointly created by this state and any other state or states, upon the granting of like authority by the other state or states, may:

(i) Enter into an agreement with the federal security administrator whereby the benefits of the federal old age and survivors' insurance system shall be extended to employees of the instrumentality;

(ii) Require its employees to pay (and for that purpose to deduct from their wages) contributions equal to the amounts which they would be required to pay under W.S. 9-3-304(a) if they were covered by an agreement made pursuant to subsection (a) of this section; and

(iii) Make payments to the secretary of the treasury in accordance with the agreement, including payments from its own funds, and otherwise to comply with the agreement.

(c) The agreement under subsection (b) of this section shall, to the extent practicable, be consistent with other provisions of this act.

9-3-304. Governmental employee's contributions; amount; collection by payroll deduction; adjustments; payments from political subdivisions.

(a) Every employee of the state and political subdivision thereof, whose services are covered by an agreement entered into under W.S. 9-3-303, shall be required to pay, for the period of coverage, into the account established by W.S. 9-3-305, contributions, with respect to wages equal to the amount of tax which would be imposed by section 1400 of the Federal Insurance Contributions Act if the services constituted employment within the meaning of that act. The liabilities shall arise in consideration of the employee's retention in the service of the state or political subdivision thereof, or his entry upon such service after the enactment of this act.

(b) The contribution imposed by this section shall be collected through the office of the state treasurer by deducting the amount of the contribution from wages as and when paid. The deductions shall be made by the finance officer of the state, or political subdivision thereof, but failure to make the deduction shall not relieve the employee or the political subdivision as the employer of liability for the contribution.

(c) If more or less than the correct amount of the contribution imposed by this section is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, shall be made, without interest, in the manner and at the times as prescribed by the secretary of the treasury and state treasurer.

(d) Each political subdivision shall pay contributions into the account with respect to wages at the times the state agency by regulation prescribes, in the amounts and at the rates specified in the applicable agreement entered into by the state agency under W.S. 9-3-303.

(e) Payments due from political subdivisions under subsections (b) and (d) of this section, which are delinquent may be recovered by the state with interest at the rate of six percent (6%) per annum in an action brought for that purpose in a court of competent jurisdiction against the political subdivision liable therefor.

9-3-305. Account; establishment; contents; account to be held separate; withdrawals; treasurer and custodian of account; appropriations to account.

(a) A separate account is established which shall consist of and there shall be deposited in the account:

(i) All contributions, interest and penalties collected under W.S. 9-3-304;

(ii) All monies appropriated thereto under this act;

(iii) Any property or securities and earnings thereof acquired through the use of monies belonging to the account;

(iv) Interest earned upon any monies in the account;
and

(v) All sums recovered upon the bond of the custodian or otherwise for losses sustained by the account, and, all other monies received for the account from any other source. All monies in the account shall be mingled and undivided. Subject to the provisions of this act, the state treasurer is vested with full power, authority and jurisdiction over the account, including all monies and property or securities belonging thereto, and may perform any and all acts whether or not specifically designated, which are necessary to the administration thereof and are consistent with the provisions of this act.

(b) The account shall be established and held separate and apart from any other funds or monies of the state and shall be used and administered exclusively for the purpose of this act. Withdrawals from the account shall be made for, and solely for:

(i) Payment of amounts required to be paid to the secretary of the treasury pursuant to an agreement entered into under W.S. 9-3-303(b);

(ii) Payment of refunds provided for in W.S. 9-3-304(c); and

(iii) Refunds of overpayments, not otherwise adjustable, made by a political subdivision or instrumentality.

(c) From the account the custodian of the account shall pay to the secretary of the treasury the amounts and at the times as may be directed by the state treasurer of the state of Wyoming, in accordance with an agreement entered into under W.S. 9-3-303 and the Social Security Act.

(d) The state treasurer is the treasurer and custodian of the account and shall administer it in accordance with this act and shall pay all warrants drawn upon it in accordance with this section and with regulations prescribed pursuant to the agreement between the state, acting through its state treasurer, and the federal government [acting] through the social security department.

(e) In addition to the contributions collected and paid into the account under W.S. 9-3-304, to be available for the purpose of W.S. 9-3-305(b) and (c) until expended, additional sums may be appropriated annually to the account as necessary to make the payments to the secretary of the treasury for which the state of Wyoming is obligated pursuant to an agreement entered

into under W.S. 9-3-303. The funds necessary to support this account shall be included in the budget request presented at each legislative session.

9-3-306. Duties of state treasurer; promulgation of rules and regulations.

The state treasurer shall promulgate rules and regulations not inconsistent with the provisions of this act as necessary or appropriate to the efficient administration of the functions with which he is charged under this act.

9-3-307. Repealed By Laws 1997, ch. 31, § 3.

ARTICLE 4
RETIREMENT

9-3-401. Short title.

This article is known and may be cited as "The Wyoming Retirement Act".

9-3-402. Definitions.

(a) As used in this article:

(i) "Account" or "member account" means:

(A) For a member who has a minimum of four (4) years of service or a member initially employed before July 1, 2018, the member's contributions, the member's contributions paid by an employer under W.S. 9-3-412 and any amounts transferred to the system from a terminated system on behalf of the member, plus interest compounded annually at a rate determined by the board not to exceed the average annual investment yield earned on the assets of the system, subject to subparagraph (C) of this paragraph;

(B) For a member who has fewer than four (4) years of service and who is initially employed on or after July 1, 2018, only the member contributions paid by a reduction in cash salary of the member together with the interest on those contributions, subject to subparagraph (C) of this paragraph;

(C) Commencing July 1, 2019 for a member who has fewer than four (4) years of service, no interest shall accrue

to the member account during any period in which the member is not employed by a participating employer.

(ii) Repealed by Laws 1994, ch. 67, § 3.

(iii) "Actuarial equivalent amount" means a benefit of equal value computed upon the basis of the actuarial assumptions determined by the board;

(iv) "Board" or "retirement board" means the retirement board of the Wyoming retirement system established by this article;

(v) "Disability" means the mental or physical incapacitation of any member including:

(A) "Total disability" which is a disability condition that renders a member unable to engage in any occupation for which he is reasonably suited by training or experience and which is reasonably expected to last at least twelve (12) months; and

(B) "Partial disability" which is a disability condition that renders a member unable to perform the occupation for which he is reasonably suited by training and experience but still allows him to function in other employment and which is reasonably expected to last at least twelve (12) months.

(vi) "Employer" or "participating employer" means:

(A) The state of Wyoming and any department, board, commission or other agency or instrumentality of the state;

(B) Any county, county memorial hospital, special hospital district, city or town or legally constituted department designated to the board by the appropriate governing body as an employer under this article;

(C) Any municipal corporation;

(D) Any school district;

(E) The Wyoming School Activities Association;

(F) The Wyoming Education Association;

- (G) The Wyoming School Boards' Association;
- (H) The Wyoming Public Employees' Association;
- (J) Repealed by Laws 1994, ch. 67, § 3.
- (K) Repealed by Laws 1994, ch. 67, § 3.
- (M) The Wyoming County Commissioners' Association;
- (N) The Wyoming Association of Municipalities;
- (O) Any senior citizen center within the state;
- (P) Community-based mental health, substance abuse, developmental disabilities, family violence and sexual assault programs which receive state support and which operate under standards established by the division of community programs [department of health] pursuant to W.S. 9-2-102, those programs and facilities serving youth certified by the department of family services pursuant to W.S. 9-2-2101 and those programs and facilities serving individuals in need of vocational rehabilitation as certified by the division of vocational rehabilitation pursuant to W.S. 9-2-109;
- (Q) The legislative service office;
- (R) The state judicial branch;
- (S) Any community college;
- (T) The University of Wyoming;
- (U) Any special district; and
- (W) Any other political subdivision of the state or local government or any organization or entity which by virtue of its organization or purpose is considered by the board to be a governmental entity and receives a major portion of its funding from taxing authority delegated by law, from federal, state or local government or from an agency or political subdivision of state or local government.

(vii) "Member" means and includes any full-time or regular part-time employee of an employer, including substitute teachers if treated by the employer as regular, part-time

employees and including law enforcement officers and firefighter members, but "member" does not mean:

- (A) An employee who is compensated:
 - (I) As an independent contractor; or
 - (II) On a fee basis.
- (B) An employee who is reimbursed on a per diem basis;
- (C) An employee whose term of employment is on a temporary basis for less than six (6) months;
- (D) Repealed by Laws 2015, ch. 10, § 2.
- (E) Members of any state board or commission not otherwise employed by the state who elect in writing not to become a member of the system under rules adopted by the board;
- (F) Employees covered by other retirement plans of the state or a political subdivision of the state, including:
 - (I) The supreme court and district court justices' pension plan, and employees covered under the judicial retirement act under W.S. 9-3-701 through 9-3-713;
 - (II) Police pension plans;
 - (III) Repealed By Laws 2008, Ch. 45, § 2.
 - (IV) The paid firemen pension plans;
 - (V) The Wyoming state highway patrol, game and fish warden and criminal investigator retirement program.
- (G) Members of the legislature;
- (H) Students employed by the University of Wyoming, community colleges or school districts;
- (J) Employees of the agricultural extension service of the University of Wyoming who hold a federal civil service appointment and are required to participate in the federal civil service retirement program;

(K) An employee of the University of Wyoming or a community college who earns no more than five thousand five hundred dollars (\$5,500.00) per year for part-time teaching and has elected in writing not to participate in the system under rules adopted by the board;

(M) An at-will contract employee under W.S. 9-2-1022(a)(xi)(F), unless specifically authorized by the contract pursuant to W.S. 9-2-1022(a)(xi)(F)(III) or (IV);

(N) An elected member of a county, municipal or school district commission, council or board, if:

(I) The commission, council or board on which the elected member serves participates in the system;

(II) The elected member is otherwise employed by an entity participating in the system; and

(III) The elected member elects in writing at the beginning of the member's service on the commission, council or board not to become a member of the system, for purposes of his service as an elected official, under rules adopted by the board. An election pursuant to this subdivision is irrevocable during the remainder of the member's service on the commission, council or board.

(viii) Repealed by Laws 1994, ch. 67, § 3.

(ix) "Prior creditable service" means service credit earned by a member prior to April 1, 1953 in one (1) of the terminated systems and for which necessary employer and employee contributions were transferred to the retirement system;

(x) "Employee" means an employee of a participating employer as defined by this article;

(A) Repealed by Laws 1994, ch. 67, § 3.

(B) Repealed by Laws 1994, ch. 67, § 3.

(C) Repealed by Laws 1994, ch. 67, § 3.

(D) Repealed by Laws 1994, ch. 67, § 3.

(E) Repealed by Laws 1994, ch. 67, § 3.

(F) Repealed by Laws 1994, ch. 67, § 3.

(G) Repealed by Laws 1994, ch. 67, § 3.

(H) Repealed by Laws 1994, ch. 67, § 3.

(xi) Repealed by Laws 1994, ch. 67, § 3.

(xii) "Interest" means interest compounded annually at the rate or rates determined by the board, not exceeding the average amount of interest actually earned per annum by the account;

(xiii) "Retire", "retired" or "retirement" means the termination of a member's working career for a salary as an employee and the fulfillment of the requirements for eligibility to receive either a retirement or a disability benefit under this article;

(xiv) "Retirement benefit" or "benefit" means a sum of money paid monthly in accordance with this article to a member who has retired;

(xv) "Retirement system" means the Wyoming retirement system created by this article;

(xvi) "Salary" means the cash remuneration paid to a member in a calendar year, including employee contributions required by W.S. 9-3-412 and including member contributions paid by the employer under a salary reduction arrangement under W.S. 9-3-412(c). "Salary" taken into account for a member shall not exceed the amount specified under section 401(a)(17) of the United States Internal Revenue Code;

(xvii) "Terminated system" or repeal acts in the case of a teacher means the Wyoming teacher retirement system provided by Chapter 159, Session Laws of Wyoming, 1951, and in the case of a state employee means the state employees' retirement association provided by Chapter 42, Session Laws of Wyoming, 1949, as amended by Chapter 140, Session Laws of Wyoming, 1951;

(xviii) "Law enforcement officer" or "officer" means any member who is a county sheriff, deputy county sheriff, municipal police officer, duly authorized investigator of the Wyoming livestock board meeting the specifications of W.S. 7-2-101(a)(iv)(E), investigator employed by the Wyoming state board

of outfitters and professional guides meeting the specifications of W.S. 7-2-101(a)(iv)(J), Wyoming correctional officer, probation and parole agent employed by the Wyoming department of corrections, Wyoming law enforcement academy instructor, University of Wyoming campus police officer, community college police officer, detention officer or dispatcher for law enforcement agencies;

(xix) "Highest average salary" means:

(A) For members not subject to subparagraph (B) of this paragraph, the average annual salary of a member for the highest paid three (3) continuous years of service;

(B) For a general member initially employed after August 31, 2012 the average annual salary of the member for the highest paid five (5) continuous years of service.

(xx) "General member" means a member who is not a law enforcement officer or a firefighter member;

(xxi) "Service credit" means the credit earned by a member for eligibility for benefits and benefits payable under the system. Service credit is earned on the basis of actual years of employment for an employer as a member under rules adopted by the board under W.S. 9-3-417;

(xxii) "System" means the Wyoming retirement system created by this article;

(xxiii) "Year of service" means a twelve (12) month period of employment with an employer as a member;

(xxiv) "Retirement account" means the account established under this article;

(xxv) "Firefighter member" means any employee of a Wyoming national guard fire department crash and rescue unit employed on a full-time basis for firefighting and rescue operations within the department;

(xxvi) "Duty connected" means an illness, injury or disability from an injury or disease which results primarily from a specific act or occurrence determinable by a definite time and place, from a physical or mental trauma which arises from the nature and in the course of a person's law enforcement employment;

(xxvii) "Eligible retirement plan" means:

(A) An annuity contract described in section 403(b) of the Internal Revenue Code;

(B) An eligible plan under section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state;

(C) An individual retirement account or annuity described in section 408(a) or 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includible in gross income; or

(D) A qualified plan described in section 401(a) or 403(a) of the Internal Revenue Code.

(xxviii) "Rollover contribution" means the transfer of funds from an eligible retirement plan, in an amount eligible to be rolled over to a qualified trust in accordance with applicable law and for which the member provides evidence satisfactory to the system that such amount qualifies for rollover treatment;

(xxix) "General member initially employed after August 31, 2012" means a general member, other than a member meeting the provisions of subparagraph (B) of this paragraph, who:

(A) Becomes an employee for whom contributions are made for service performed on or after September 1, 2012 and:

(I) Was not previously a contributing member; or

(II) Was previously a contributing member who withdrew his accumulated contributions and did not redeposit those contributions before September 1, 2012; or

(III) Was previously a contributing member who left service with less than four (4) years service credit, without withdrawing his accumulated contributions, and returned to service on or after September 1, 2012.

(B) A member who was deployed to active military or other emergency service of the United States and who was previously employed by a participating employer prior to September 1, 2012 and withdrew his accumulated contributions, shall not be deemed to be a member initially employed after August 31, 2012 due to the provisions of subdivision (A)(II) of this paragraph, if the withdrawal was in accordance with provisions of the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 et seq., and board rules adopted to meet the requirements of that act.

9-3-403. Wyoming retirement system; establishment; purpose; powers as body corporate.

The Wyoming retirement system is established to provide retirement and other benefits to eligible employees of participating employers. It shall be a body corporate, may sue and be sued and shall have all other powers and privileges of a corporation. In its name all its business shall be transacted, all funds invested and all of its monies, securities and other property held in trust for the purposes of this article.

9-3-404. Wyoming retirement board; responsibility for administration of system; composition; appointment; term; vacancies; meetings; election of chairman.

(a) The responsibility for the administration and operation of the retirement system is vested solely and exclusively in the Wyoming retirement board. The board shall be composed of eleven (11) members, not more than seventy-five percent (75%) of whom shall be from the same political party. The members shall be:

(i) The state treasurer;

(ii) A retired recipient of the retirement system;

(iii) Two (2) members, exclusive of the public school system, the community colleges and the University of Wyoming, one (1) of which is a participant in the Wyoming deferred compensation program established under W.S. 9-3-501 through 9-3-508;

(iv) Two (2) members of the public school system, the community colleges or the University of Wyoming;

(v) Five (5) qualified electors from Wyoming who are known for their public spirit and business or professional ability, none of whom are members and at least two (2) of whom have professional expertise in investments and finance, which shall include managing asset allocation in investment portfolios.

(b) The governor, with the consent of the Wyoming senate, shall appoint all board members other than the state treasurer. Appointed board members shall serve six (6) year terms and may be removed by the governor as provided in W.S. 9-1-202.

(c) A vacancy shall be filled as provided in W.S. 28-12-101.

(d) The board shall meet annually and elect a chairman from among its members. The board shall meet at such other times as the chairman directs or upon request of a majority of its members.

9-3-405. Retirement board duties and powers.

(a) In addition to any other duties prescribed by law, the board shall:

(i) File with the legislative service office:

(A) All system actuarial reports;

(B) An annual audit report by an independent audit firm showing the financial status of the retirement system. The report required by this paragraph shall be submitted as part of the annual report required by W.S. 9-2-1014;

(C) A statement of any proposed benefit changes and the projected cost of the changes to the system.

(ii) At the request of any city, town or county not covered by the state retirement system, negotiate terms and conditions through which the city, town or county and its employees could become members of the state retirement system in accordance with the following terms and conditions:

(A) Any city, town or county may choose to cover only its full-time employees under the retirement system;

(B) Liabilities for any city, town or county's employees' service rendered prior to affiliation with the retirement system and credited by the local retirement program shall be determined according to procedures the board adopts after consultation with the system actuary;

(C) Excluding law enforcement officers, the service rendered by any city, town or county's employees prior to affiliation with the retirement system and which may be credited toward retirement under the retirement system shall not exceed ten (10) years and shall be the shorter of ten (10) years or the period from July 1, 1971 to the entry date of the political subdivision into the retirement system. Service rendered by any city, town or county law enforcement officer prior to affiliation with the retirement system and which may be credited toward retirement under W.S. 9-3-432 shall include all years served as a law enforcement officer with that city, town or county. Effective July 1, 2002, and ending June 30, 2008, any city, town or county may elect to have its law enforcement officers covered under W.S. 9-3-432, if such law enforcement officers were not participating in a pension fund pursuant to W.S. 15-5-301 prior to July 1, 2002. Any such election shall be subject to the following:

(I) The city, town or county shall contribute funds in an amount equivalent to one-half (1/2) the cost of each officer's prior service credits with the city, town or county;

(II) The city, town or county may require the officer to contribute the amount specified in subdivision (I) of this subparagraph as a condition of participation in the election to be covered under W.S. 9-3-432;

(III) The state shall contribute funds in an amount equivalent to one-half (1/2) the cost of each officer's prior service with the city, town or county.

(D) Affiliation with the retirement system shall be effective as of July 1, following a determination of the city, town or county's liabilities and completion of other reasonable procedures as the board directs.

(iii) Receive and act upon reports relating to the operations and funds of the system;

(iv) Ensure that the system is administered according to law;

(v) Serve as investment trustee of the funds of the system;

(vi) Through the director employed under W.S. 9-3-406(a), administer the Wyoming deferred compensation program established under W.S. 9-3-501 through 9-3-508;

(vii) In collaboration with participating employers, provide information, through a variety of methods including a mandatory education program, to all employees who are members as of July 1, 2012, and to all members initially enrolling after July 1, 2012. The information and program shall review retirement benefits, costs expected to be incurred in retirement and income amounts anticipated to be necessary to maintain the member's preretirement standard of living. The information and program shall:

(A) Emphasize that benefits provided under the plans administered by the Wyoming retirement board should not be expected to provide one hundred percent (100%) of the member's required income in retirement;

(B) Advise that no future cost-of-living increases or other benefit increases are incorporated into the plans as constructed;

(C) Contain citation to and the language of W.S. 9-3-428 providing that nothing in Wyoming statutes title 9, chapter 3, article 4, shall be construed to acknowledge any past, present or future liability of or obligate the state of Wyoming for contribution except the employer's contributions provided for in that article, to either the Wyoming retirement system provided by that article or any other retirement system previously existing in the state of Wyoming.

(b) The board may establish special pay plans that upon retirement or separation from service, entitle an employee of the state to a contribution to a qualified retirement plan established in the employee's name. Special pay plans established under this paragraph shall be in compliance with section 401(a) of the federal Internal Revenue Code, which reduce the federal tax burden on accumulated vacation, sick or other accumulated leave payments to employees upon retirement or separation from service. In the event an employee elects to

withdraw his contribution to the special pay plan prior to reaching age fifty-five (55), the state shall reimburse the employee the difference between any Federal Insurance Contributions Act (FICA) and any Medicare tax savings to the employee and any early withdrawal penalty imposed by the Internal Revenue Service.

(c) For purposes of preparation of the administration and operational budget of the board, the board shall operate on a fiscal year commencing on July 1. The board may operate the state retirement account and any other retirement account under its management upon a calendar year basis or a fiscal year basis as the board determines appropriate.

(d) For purpose of calculating member accounts, the board may establish reporting requirements for any retirement plan, program and system administered by the board to determine the amount or percentage of the employee or member contribution that is paid by a reduction in cash salary of the employee or member.

9-3-406. Retirement board; employment and compensation of director, consulting actuary and assistants; director designated secretary; compensation of members; quorum; seal.

(a) The board shall employ a director and a consulting actuary and other professional and clerical assistants necessary for the administration of the retirement system and the Wyoming deferred compensation program established under W.S. 9-3-501 through 9-3-508. The compensation of employees shall be fixed by the board, subject to confirmation and approval by the human resources division and together with all other necessary expenses of the board shall be paid by vouchers drawn on the state treasurer of Wyoming. The director shall also serve, without additional compensation, as secretary of the board. The board shall have the authority to obtain the financial and criminal background history of an employee or employment applicant of the Wyoming retirement system in accordance with W.S. 7-19-106 and 7-19-201. In fixing compensation of employees the board may implement and administer a performance compensation plan in accordance with this subsection. The plan shall:

(i) Be limited to those at-will employees of the board listed in paragraph (ii) of this subsection who are directly engaged in investing assets of the retirement system;

(ii) Be limited to the following participating employees:

- (A) Chief investment officer;
- (B) Senior investment officer;
- (C) Investment officer;
- (D) Senior analyst;
- (E) Analyst.

(iii) Seek to maximize total returns net of fees on investments authorized by law and in the best interest of the retirement system;

(iv) Be based solely on investment performance exceeding investment benchmarks established pursuant to this paragraph. The board shall establish investment benchmarks, which shall be approved by the investment funds committee created by W.S. 9-4-720, for each fund and account for an investment period. No performance compensation shall be paid under the plan unless the board determines, subject to review by the investment funds committee, that the established benchmarks have been exceeded;

(v) Measure investment performance during an investment period based one hundred percent (100%) on total fund performance. For purposes of this subsection, "total fund" means the total or overall investment portfolio of the retirement system;

(vi) Provide that payments for investment performance for any one (1) investment period shall be as follows:

(A) For payments earned in fiscal year 2020 - the investment performance beginning July 1, 2019 and ending June 30, 2020;

(B) For payments earned in fiscal year 2021 - the arithmetic average of the investment performance beginning July 1, 2019 and ending June 30, 2020 and the investment performance beginning July 1, 2020 and ending June 30, 2021;

(C) For payments earned in fiscal year 2022 and each fiscal year thereafter - the arithmetic average of the

annual investment performance beginning that fiscal year and the two (2) immediately preceding fiscal years.

(vii) Be funded from investment returns, with each invested fund's share calculated in proportion to the magnitude of aggregate investment earnings of each fund invested, including interest and dividends, which shall be continuously appropriated for payment of performance compensation as authorized by this subsection;

(viii) Include a limit for total payments to all participating employees for performance compensation earned in any one (1) investment period in an amount not to exceed two percent (2%) of net investment returns above the established benchmark of the total fund for that investment period;

(ix) Include a limit for total payments to an individual employee for performance compensation earned in any one (1) investment period in an amount not to exceed the following:

(A) One hundred percent (100%) of a chief investment officer's base salary;

(B) Seventy-five percent (75%) of a senior investment officer's base salary;

(C) Fifty percent (50%) of an investment officer's base salary;

(D) Twenty-five percent (25%) of a senior analyst's or analyst's base salary.

(x) Provide that performance compensation earned in any one (1) investment period will be paid over a three (3) year period as follows:

(A) Twenty-five percent (25%) during the fiscal year immediately following the fiscal year in which the performance compensation was earned;

(B) Twenty-five percent (25%) during the second fiscal year following the fiscal year in which the performance compensation was earned;

(C) Fifty percent (50%) during the third fiscal year following the fiscal year in which the performance compensation was earned.

(xi) Provide that performance compensation shall be forfeited by an employee upon termination of employment subject to an anti-compete agreement for future employment related to asset management. This paragraph shall not apply to termination based on death, disability or retirement;

(xii) Provide that performance compensation shall not be included as compensation for the purpose of computing retirement or pension benefits earned by the employee;

(xiii) Subject participating employees to the following terms and conditions related to leave time:

(A) Chief investment officers, senior investment officers and investment officers shall receive leave time in the same manner and amount as department directors under W.S. 9-2-1706(b);

(B) Senior analysts and analysts shall receive leave time in accordance with standards and rules established or promulgated in accordance with W.S. 9-2-1022(a).

(xiv) Provide that performance compensation shall only be based on performance criteria occurring on or after the execution of an employment contract in accordance with this subsection. No performance compensation shall be paid other than as provided in the employment contract;

(xv) Be submitted to the joint appropriations committee and the select committee on capital financing and investments for comment, and approved by the human resources division, prior to implementation. The human resources division shall not disapprove a performance compensation plan which complies with the requirements of this subsection;

(xvi) Be submitted and administered by the board as a separately designated and appropriated budget unit.

(b) The members of the board, other than the five (5) elector members shall serve without compensation but shall suffer no loss of wages for the time devoted to the duties of the board. The elector members of the board shall receive fifty dollars (\$50.00) per day for the time actually and necessarily

devoted to the duties of the board. All members and employees of the board shall be reimbursed for their expenses incurred through service on the board at rates applicable to other state employees.

(c) A majority of the members of the board constitutes a quorum for the transaction of its business. The board may adopt and use a common seal and alter it at the board's direction.

(d) The board shall report to the joint appropriations committee and the select committee on capital financing and investments by November 1 of each year on the plan authorized by subsection (a) of this section. The report shall include:

(i) Payments and methodology of calculating payments under the plan;

(ii) A measurement quantifying the risk resulting from the variation between the prior year's investment benchmarks and the prior year's actual investments;

(iii) An estimate of future payments under the plan and future expected investment benchmarks.

9-3-407. Retirement board; control and management of account containing assets of retirement system; payments from account.

(a) The retirement account is established.

(b) The board has the control and management of the retirement account which shall contain all the assets of the retirement system.

(c) From the retirement account shall be paid:

(i) Refunds of member accounts in accordance with this article;

(ii) Benefits for members retired under the terminated systems;

(iii) Repealed by Laws 1994, ch. 67, § 3.

(iv) Retirement or disability benefits under this article;

(v) Death and survivor benefits as provided for by this article; and

(vi) Reasonable administrative expenses under this article.

9-3-408. Designated custodian of retirement account; disbursements; investment of account monies.

(a) The board may designate the state treasurer or a master custodial bank approved by the state treasurer as the custodian of the retirement account. Disbursements from the retirement account for purposes specified in W.S. 9-3-407(c) shall be made only upon warrants drawn by the state auditor upon certification by authorized system employees. All retirement account disbursements shall be accounted for in accordance with the uniform state accounting system or in a manner approved by the state auditor or the state treasurer as provided under W.S. 9-4-214. As used in this subsection, "authorized system employees" means the director and his designees who have authorized signatures on file with the state auditor.

(b) The board, or its designee, which shall be registered under the Investment Advisor's Act of 1940 as amended, or any bank as defined in that act, upon written authority, shall invest monies in the retirement account, which investments shall not be considered disbursements for the purposes of W.S. 9-4-214 and subsection (a) of this section. In investing and managing monies in the retirement account, the board, or its designee, shall exercise the judgment and care that a prudent investor would, in light of the purposes, terms, distribution requirements and all other circumstances surrounding the monies in the retirement account, including risk and return objectives established by the board which are reasonably suitable to the purpose of the Wyoming retirement system.

(i) Repealed By Laws 1997, ch. 148, § 2.

(ii) Repealed By Laws 1997, ch. 148, § 2.

(iii) Repealed By Laws 1997, ch. 148, § 2.

(iv) Repealed By Laws 1997, ch. 148, § 2.

(v) Repealed By Laws 1997, ch. 148, § 2.

(vi) Repealed By Laws 1997, ch. 148, § 2.

(c) Repealed By Laws 1997, ch. 148, § 2.

(d) The director of the retirement system, upon approval and authority of the retirement board, may make use of the services of whatever investment board or commission which has been designated by legislative action for the purpose of assisting in the selection of investments for public funds of this state.

(e) The board may for purposes of this section, retain the services of a custodial bank to supervise a program of securities lending in exchange for a fee or other consideration. Supervision of the program shall include:

(i) Procedures to review the creditworthiness of all borrowers;

(ii) Requirements for full collateralization of all loans; and

(iii) Other methods and procedures required by the board for securing the lending program.

(f) Repealed By Laws 2006, Chapter 51, § 2.

9-3-409. Retirement board; rules and regulations; powers and privileges required to perform functions; requiring employers to furnish information and keep records.

(a) The retirement board shall adopt rules and regulations for the administration of the retirement system and the control and disbursement of its assets, the administration of the Wyoming deferred compensation program established under W.S. 9-3-501 through 9-3-508 and shall have the powers and privileges required in the performance of its functions under this article and W.S. 9-3-501 through 9-3-508.

(b) The board shall:

(i) Regulate the duties of participating employers imposed by this article;

(ii) Specify the time, place, amount and manner in which contributions shall be withheld and paid;

(iii) Require employers to furnish information in written or electronic format and keep records necessary for the discharge of its duties under this article. The board shall assist employers in complying with any electronic reporting requirements imposed under this paragraph;

(iv) Require any county memorial hospital or special hospital district electing to participate in the Wyoming retirement system to provide written notice to the board of its election pursuant board issued guidelines. The board shall not implement coverage for any county memorial hospital or special hospital district employee until funds payable to the Wyoming retirement system are received for deposit into the retirement account, as necessary for maintaining the actuarial integrity of the account and funding all liability arising under this act, for years of service prior to the date of entry or expansion of coverage.

9-3-410. Retirement board; actuarial investigation and valuation of system; annual valuation of assets and liabilities to be prepared and published; public record of proceedings.

(a) The retirement board shall keep in convenient form data necessary for actuarial valuations and investigations of the retirement system. At least once in each six (6) year period, the board shall cause an actuarial valuation to be made of the retirement system. An actuarial investigation of all the experience under the retirement system shall be made at times the board directs but not less often than once in each eight (8) year period.

(b) The board shall cause an annual valuation to be made of the assets and liabilities of the retirement system and shall prepare an annual statement of the accrued liability contribution rate which, after approval by the legislature, shall be payable by the employers. The board shall also publish annually the valuation of the assets and liabilities and a statement of receipts and disbursements of the retirement system.

(c) The board shall keep a record of all of its proceedings which shall be open to public inspection.

9-3-411. Retirement board; right to hearing before board; judicial review.

Any person aggrieved by any ruling of the board is entitled to a hearing before the board after giving reasonable notice. The decision of the board upon hearing is a final administrative decision and is subject to judicial review in accordance with the Wyoming Administrative Procedure Act.

9-3-412. Members' contributions; payroll deductions; employer authorized to pay employee's share.

(a) Except as otherwise provided in this section and W.S. 9-3-431 and 9-3-432, every member covered under this article, shall pay into the account eight and one-half percent (8.5%) of his salary for the period from September 1, 2018 through June 30, 2019, eight and three-quarters percent (8.75%) of his salary for the period from July 1, 2019 through June 30, 2020, nine percent (9%) of his salary for the period from July 1, 2020 through June 30, 2021 and thereafter nine and one-quarter percent (9.25%) of his salary. Every firefighter member covered under this article shall pay into the account seven percent (7%) of his salary. Payments shall be deducted each pay period from each member's salary by the chief fiscal officer of each participating employer. Employee contributions shall be transferred to the account in accordance with subsection (c) of this section.

(b) Except as provided by W.S. 9-2-1022(a)(xi)(F)(III) or (IV), in order to be treated as employer contributions for the sole purpose of determining tax treatment under the United States Internal Revenue Code, section 414(h) the contributions required by subsection (a) of this section shall be paid by the employer for state employee members and may be paid by the employer for member employees of political subdivisions of this state. Any contract employee authorized to participate in the state retirement system under W.S. 9-2-1022(a)(xi)(F)(III) shall pay the entire member contribution and the entire employer contribution under W.S. 9-3-413. For the contributions as provided by W.S. 9-2-1022(a)(xi)(F)(IV), the contributions required by subsection (a) of this section may be paid by the Wyoming livestock board for state employee members in order to be treated as employer contributions for the sole purpose of determining tax treatment under the United States Internal Revenue Code, section 414(h). The amounts shall be stated in the employment contract.

(c) The contributions under subsection (b) of this section shall be paid from the source of funds which is used in paying salary to the member. The employer may pay these contributions

by a reduction in cash salary of the member or by an offset against a future salary increase, or by a combination of a reduction in salary and an offset against a future salary increase, provided:

(i) No salary reduction, offset or combination thereof shall exceed the percentage amount actually deducted from a member's salary for contributions to the Wyoming retirement system;

(ii) Except as provided in paragraphs (iii) and (iv) of this subsection, any employer may pay any amount of a member's share of retirement contributions without a salary reduction, offset or combination thereof;

(iii) For state employee members five and fifty-seven hundredths percent (5.57%) of the member's salary shall be paid by the employer without any salary reduction or offset. The remaining portion of the state employee's contribution shall be paid through a reduction in cash salary of the state employee unless specified otherwise by legislative act;

(iv) For full-time brand inspection contract employees authorized to participate in the state retirement system under W.S. 9-2-1022(a)(xi)(F)(IV), not more than five and fifty-seven hundredths percent (5.57%) of the contract employee's salary shall be paid by the livestock board unless specified otherwise by legislative act.

(d) Repealed by Laws 2002, Ch. 82, § 3.

9-3-413. Employer's contributions; payable monthly; transfer to account; interest imposed upon delinquent contributions; recovery.

Except as provided by W.S. 9-2-1022(a)(xi)(F)(III) or (IV), 9-3-431 and 9-3-432, each employer excluding employers of firefighter members, shall on a monthly basis, pay into the account a contribution equal to eight and sixty-two hundredths percent (8.62%) of the salary paid to each of its members covered under this article for the period from September 1, 2018 through June 30, 2019, eight and eighty-seven hundredths percent (8.87%) of the salary paid for the period from July 1, 2019 through June 30, 2020, nine and twelve hundredths percent (9.12%) of the salary paid for the period from July 1, 2020 through June 30, 2021 and thereafter nine and thirty-seven hundredths percent (9.37%) of the salary paid. Employers of

firefighter members shall pay into the account a contribution equal to seven and twelve hundredths percent (7.12%) of the salary paid. Employer contributions for any month, together with the members' contributions for that month, if any, shall be transferred to the board not later than the twelfth day of the following month. These contributions shall be credited to the account in a manner as directed by the board. Any employer failing to transfer contributions under this section in sufficient time for the board to receive the contributions by the twenty-fifth day of the month due shall be assessed interest at the assumed rate of return as determined by the board, compounded annually. Interest imposed under this section shall be payable not later than the twelfth day of the next succeeding month. If the contributions and any interest imposed under this section are not transferred to the board when due, they may be recovered, together with court costs, in an action brought for that purpose in the first judicial district court in Laramie County, Wyoming.

9-3-414. Provision for employers' contributions to be made in budgets; notice to department heads.

Provision for the payment by employers of the employers' contributions under this article shall be made in the budgets of the several departments, divisions and subdivisions of the state government and of other employer units. At least thirty (30) days prior to the date for submission of departmental budgets to the state budget officer, the Wyoming retirement board shall notify all department heads that it will be necessary to include funds in the departmental budget for the payment of employers' contributions under this article for the ensuing appropriation period.

9-3-415. When retirement permitted; service credit.

(a) Except as provided under W.S. 9-3-431 and 9-3-432, normal retirement benefits under the system are payable to a member who:

(i) Has at least four (4) years of service credit and is at least sixty (60) years of age and is not subject to paragraph (ii) of this subsection; or

(ii) If a general member initially employed after August 31, 2012, has at least four (4) years of service credit and is at least sixty-five (65) years of age; or

(iii) Has a combined total of years of service credit and years of age which equals at least eighty-five (85).

(b) Except as provided under W.S. 9-3-432 or subsection (k) of this section, early retirement benefits are payable to a member who has at least four (4) years of service and is at least fifty (50) but not yet sixty (60) years of age or has at least twenty-five (25) years of service and is not yet fifty (50) years of age. The early retirement benefit amount is equal to the normal retirement benefit amount otherwise payable reduced on an actuarial equivalent basis under rules established by the board.

(c) Repealed By Laws 2001, Ch. 38, § 2.

(d) Any vested member may elect to make a one-time purchase of up to five (5) years of service credit as authorized and limited by section 415(c) and 415(n) of the Internal Revenue Code and established in rules promulgated by the board. Any member electing to purchase service credit shall pay into the account a single lump-sum amount equal to the actuarial equivalent of the benefits to be derived from the service credit, the individual's attained age and the benefit structure of the appropriate plan. A member may purchase service credit with personal funds or, subject to rules and regulations established by the board, through rollover contributions. Unless received by the system in the form of a direct rollover, the rollover contribution shall be paid to the system on or before sixty (60) days after the date it was received by the member. Service credit purchased under this subsection shall qualify as service credit defined in W.S. 9-3-402(a)(xxi), 9-3-602(a)(iii), 9-3-702(a)(iii) and 15-5-402(a)(iv) but shall not be used to determine whether a member is a general member initially employed after August 31, 2012.

(e) Any person who is participating in a lawfully established retirement plan of any Wyoming community college or the University of Wyoming as authorized by W.S. 21-19-102 and elects coverage under this article shall have his Wyoming service under both the community college or University of Wyoming retirement plan and under this article counted to meet the eligibility requirements for retirement as specified in this section.

(f) Repealed By Laws 2002, Ch. 82, § 3.

(g) Subject to subsection (h) of this section and in accordance with rule and regulation of the board protecting the actuarial integrity of the system and its status as a federally qualified plan, any retired member rehired after a break in service of not less than thirty (30) days by a participating employer to fill a vacant full-time position of a regular contributing employee in any capacity including, but not limited to, as a contract employee or as an employee of a third party contractor under an agreement with a participating employer, shall notify the board in writing of his election to:

(i) Discontinue retirement benefits and be reinstated as a contributing member; or

(ii) Continue receiving retirement benefits and not be reinstated as a contributing member.

(h) If a retired member is rehired by a participating employer to fill a vacant full-time position of a regular contributing employee in any capacity including, but not limited to, as a contract employee or as an employee of a third party contractor under an agreement with a participating employer, and the retiree is rehired following a break in service of not less than thirty (30) days, the employer shall pay into the account an amount equal to both the members' and employer's contributions required by law under the Wyoming retirement system based upon the retiree's salary. Service by the retiree under this subsection shall not increase retirement benefits under the Wyoming retirement system.

(i) Repealed By Laws 2007, Ch. 78, § 2.

(ii) Repealed By Laws 2007, Ch. 78, § 2.

(j) If any retired member or employer violates subsection (h) of this section, the board shall immediately cancel the retiree's retirement benefit and shall reinstate that member as a contributing member.

(k) For a general member initially employed after August 31, 2012, early retirement benefits are payable to a general member who has at least four (4) years of service and is at least fifty-five (55) but not yet sixty-five (65) years of age or has at least twenty-five (25) years of service and is not yet fifty-five (55) years of age. The early retirement benefit amount is equal to the normal retirement benefit amount

otherwise payable reduced on an actuarial equivalent basis under rules established by the board.

(m) Any vested member who was honorably discharged from the military service of the United States may elect to purchase service credit in the retirement system, subject to the following:

(i) Purchase of service credit shall be as authorized and limited by section 415(c) and 415(n) of the Internal Revenue Code and rules promulgated by the board;

(ii) One (1) year of service credit may be purchased for each year of military service, up to a maximum of eight (8) years;

(iii) Cumulative purchases of service credit under this section and as otherwise authorized under the Wyoming Retirement Act shall not exceed eight (8) years;

(iv) An employee electing to purchase service credit shall pay into the account a single lump-sum amount equal to the actuarial equivalent of the benefits to be derived from the service credit computed on the basis of actuarial assumptions approved by the board and the individual's attained age;

(v) The lump sum may be paid with funds from any source, including rollover contributions, subject to rules and regulations established by the board. Unless received by the retirement system in the form of a direct rollover, the rollover contribution shall be paid to the program not more than sixty (60) days after the date it was received by the member;

(vi) Service credit purchased under this subsection shall not be used to determine vested eligibility to receive benefits under this article;

(vii) Service credit purchased under this subsection shall qualify as service credit defined in W.S. 9-3-402(a)(xxi), 9-3-602(a)(iii), 9-3-702(a)(iii) and 15-5-402(a)(iv) but shall not be used to determine whether a member is a general member initially employed after August 31, 2012.

9-3-416. Members leaving service without withdrawing accumulated contributions eligible for retirement.

Except for law enforcement officers, any member who has left service without withdrawing his accumulated contributions and who has a minimum of four (4) years of service is eligible to receive a retirement benefit computed according to the terms of this article, at the age specified in W.S. 9-3-415(a), (b) or (k). Law enforcement officers leaving service without withdrawing accumulated contributions and who have a minimum of four (4) years of service may receive a retirement benefit amount in accordance with W.S. 9-3-432. Firefighter members leaving service without withdrawing accumulated contributions and who have a minimum of four (4) years of service may receive a retirement benefit amount in accordance with W.S. 9-3-431.

9-3-417. Determination of eligibility for retirement; board to determine equivalent of years of service; credit for military service.

(a) The board shall determine the total years of service creditable to each member for the purpose of determining eligibility for retirement under this article including law enforcement officers for retirement under W.S. 9-3-432. It may require members to file detailed statements of all service as a covered member and to give other necessary information as a condition to the receipt of benefits under this article.

(b) The board shall determine and adopt appropriate rules and regulations defining how much service in any year is the equivalent of one (1) year of service, but in no case shall it allow credit for more than one (1) year of service for all service rendered within one (1) calendar year. In addition, part-time employment shall be credited as follows, with eighty-six (86) or more hours per month considered full-time employment:

(i) Forty (40) or more but less than eighty-six (86) hours per month--one half ($1/2$) month credit;

(ii) less than forty (40) hours per month--one quarter ($1/4$) month credit.

(c) Credit shall be allowed for any period of time after commencement of participation in the retirement program which a member spends in active military or other emergency service of the United States in accordance with rules adopted by the board pursuant to the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 et seq. In accordance with rule and regulation of the board, until June 30, 2018 up to two (2) years

of credit allowed under this subsection may be provided at no cost to the member. After June 30, 2010, each state agency, department or institution, including the University of Wyoming and the community colleges shall estimate the amount required for provision of credits under this subsection for the next biennium and shall include the estimate in the agency's biennial budget request. Provision for payment of employer's contributions under this subsection shall be as provided in W.S. 9-3-414.

(d) Repealed by Laws 1994, ch. 67, § 3.

9-3-418. Amount of service retirement benefit; firefighter members excluded.

(a) The normal retirement benefit for a member who first becomes covered under this article after June 30, 1981 and before September 1, 2012 is equal to two and one-eighth percent (2 1/8%) of the highest average salary multiplied by his years of service credit for the first fifteen (15) years of service credit, and two and one-fourth percent (2 1/4%) of the highest average salary multiplied by his years of service credit for any years of service credit exceeding fifteen (15) years.

(b) The retirement benefit for a member with service after March 31, 1953 but prior to July 1, 1981 is equal to the following:

(i) Repealed by Laws 1994, ch. 67, § 3.

(ii) A monthly benefit amount based on the actuarial equivalent of double the member's account with any applicable increase under W.S. 9-3-419; or

(iii) Two and one-eighth percent (2 1/8%) of the member's highest average salary multiplied by his years of service credit for the first fifteen (15) years of service credit, and two and one-fourth percent (2 1/4%) of the member's highest average salary multiplied by his years of service credit for any years of service credit exceeding fifteen (15) years.

(c) Repealed by Laws 1994, ch. 67, § 3.

(d) Repealed by Laws 1994, ch. 67, § 3.

(e) This section does not apply to any firefighter member covered and vested under W.S. 9-3-431 or any law enforcement member covered and vested under W.S. 9-3-432.

(f) Benefits shall not be payable under the system to the extent that they exceed the limitations imposed by section 415(b) of the United States Internal Revenue Code. The board shall provide any benefits in excess of the limitations under special pay plans authorized under W.S. 9-3-405(b) to the extent the benefits can be provided and the system retain qualified plan status under the Internal Revenue Code.

(g) The normal retirement benefit for a member initially employed after August 31, 2012 is equal to two percent (2%) of the highest average salary multiplied by his years of service credit.

9-3-419. Retirement benefit adjustments.

(a) The retirement benefit specified under W.S. 9-3-418(b) (ii) is subject to the following cumulative increases:

(i) The benefit for covered service prior to July 1, 1975 is increased by twenty-five percent (25%) with a maximum increase of twenty-five dollars (\$25.00) per month;

(ii) The benefit of a member, survivor or beneficiary is increased by forty percent (40%);

(iii) The benefit of a member for service prior to July 1, 1975 is increased by twenty percent (20%).

(iv) Repealed by Laws 1994, ch. 67, § 3.

(v) Repealed by Laws 1994, ch. 67, § 3.

(vi) Repealed by Laws 1994, ch. 67, § 3.

(vii) Repealed by Laws 1994, ch. 67, § 3.

(b) Repealed By Laws 2012, Ch. 107, § 3.

9-3-420. Option as to form of benefit; beneficiary designations.

(a) Subject to uniform rules and regulations the board prescribes, a member may instead of the service retirement

benefits provided in this article, elect one (1) of the following forms of retirement benefits which shall be the actuarial equivalent of the benefit to which he would otherwise be entitled:

(i) A one hundred percent (100%) joint and survivor benefit which provides reduced monthly service retirement benefit payments during the retired member's life and upon his death after retirement continues payments in the same reduced amount to a designated beneficiary during the life of the beneficiary;

(ii) A fifty percent (50%) joint and survivor benefit which provides reduced monthly service retirement benefit payments during the retired member's life and upon his death after retirement continues payments, in the amount of fifty percent (50%) of the reduced amount, to the designated beneficiary during the life of the beneficiary;

(iii) A benefit which provides reduced monthly service retirement payments with provision for the continuance of payments for ten (10) years certain and life thereafter. If the retired member dies within ten (10) years after retirement, the remaining guaranteed payments shall be made to his designated beneficiary. This beneficiary may be changed at any time by written notification to the board as provided in subsection (b) of this section;

(iv) The largest possible benefit for life with no lump sum refund or benefit for anyone else upon the retired member's death;

(v) Any other modified monthly service retirement benefit, including any other modified joint and survivor monthly service retirement benefit, actuarially determined, which the board approves.

(b) An election of an optional benefit shall be in writing and filed with the system prior to the first benefit payment. The election is final and not subject to change unless a designated beneficiary dies prior to the first benefit payment, in which case the election is void, the member may designate a new beneficiary and may select a different option.

(c) The retirement benefits payable under optional forms available under this section shall be the actuarial equivalent

amount of the normal benefit form under W.S. 9-3-415 and, if applicable, 9-3-431 and 9-3-432.

9-3-421. Death benefits; monthly benefit option; refund of excess employee contributions plus interest; medical insurance premiums.

(a) If a member dies before retirement under the system, except as provided in subsection (e) of this section, the member's account plus an additional amount equal to the member's account shall be paid to the member's designated beneficiaries, or in the absence of designated beneficiaries to his estate. If the member is vested, instead of a lump sum payment, a beneficiary may elect to receive the actuarial equivalent of the lump sum of any benefit for life which is available to a retired member as provided in this article. A beneficiary, who is the surviving spouse of the deceased member and who elects to receive the actuarial equivalent of the lump sum, as a life benefit may, within eighteen (18) months of the death of the member, elect to receive the lump sum death benefit otherwise provided in this subsection plus interest accumulated on that amount less any payments received by the surviving spouse.

(b) Unless otherwise provided by the benefit option selected by a member pursuant to W.S. 9-3-420, if any member receiving benefits or his beneficiary receiving retirement benefits under this article dies before the total amount of benefits paid to either the member or his beneficiary or both equals the amount of the member's account at retirement, then the excess, if any, shall be paid to any other named beneficiary, if any, or to the member's estate.

(c) A designated beneficiary of a member, by signed affidavit, may request that medical insurance premiums be paid from the member's account balance for a period not to exceed four (4) months after the death of the member or until a benefit option has been elected.

(d) For purposes of determining a member's account under subsections (a) through (c) of this section, if a member dies before the member has vested under the system, the member's account shall consist of the contributions and interest that accrue in the manner for which contributions and interest accrue for a member who is vested.

(e) If a member initially employed on or after July 1, 2019 who is not vested and is not a current employee at the time

of death, which occurs before retirement under the system, only the member's account shall be paid to the member's designated beneficiaries, or in the absence of designated beneficiaries to the member's estate.

9-3-422. Disability retirement; board determination; reports and examinations; amount; options as to form of benefit.

(a) Except as specified for law enforcement officers under W.S. 9-3-432, any member in service who has ten (10) or more years of service credit during which contributions have been paid because of illness or injury outside of or in the scope of employment, or any firefighter member in service for whom contributions have been paid because of injury in the scope of employment, may retire on account of a total or partial disability in accordance with rules and regulations adopted by the board. In determining mental or physical incapacitation for disability retirement under this section, the board may require physician reports, medical examinations, functional capacity evaluations, vocational examinations and other necessary reports and examinations for purposes of this section. The costs of any functional capacity evaluation, vocational examination or other specialized test required under this subsection shall be paid from the retirement account.

(b) Upon retirement for a total disability and except as provided under W.S. 9-3-431(f) and 9-3-432(h), a member shall receive a monthly disability retirement benefit for the period of his disability equal to one hundred percent (100%) of his service retirement benefit under this article as if the member was eligible for normal retirement benefits. Upon retirement for a partial disability, a member shall receive a monthly disability retirement benefit for the period of his disability equal to fifty percent (50%) of the normal retirement benefit payable to the member as if the member were eligible for normal retirement benefits. Disability benefits are payable for the life of the member or until the member is no longer disabled.

(c) Any employee granted disability retirement under this section shall at the time retirement is granted, elect to receive either the benefit authorized by this section or one (1) of the joint and survivor benefit options specified in W.S. 9-3-420.

9-3-423. Disability; medical and other examinations, tests and evaluations subsequent to retirement; failure to submit to

examinations, tests and evaluations; restoration to service; deduction from benefit for excess earnings.

(a) Once each year during the first five (5) years following retirement of a member for disability under the system, and once in every three (3) year period thereafter, the board may require a member who is not eligible for normal retirement benefits pursuant to W.S. 9-3-415(a) or 9-3-431 to undergo a medical examination by a physician designated by the board or any other examination, test or evaluation determined necessary by the board. If the member refuses to submit to a medical or other examination, test or evaluation, his benefit payments shall be discontinued.

(b) If any member receiving a disability benefit under this article is restored to service, the payment of the benefit shall be discontinued, that member shall become a contributing member of the system and all previous years of service credit including the period of the disability retirement, shall be credited to his service for the purpose of determining eligibility under W.S. 9-3-415 or 9-3-431.

(c) If a member is restored to service from disability retirement and subsequently discontinues his employment for any reason other than a recurrence of the original disability, or another disability, he is not entitled to any disability benefit.

(d) Any member receiving a nonduty-connected total or partial disability benefit who has not reached age sixty (60) shall annually report to the board in a form prescribed by the board, his total earnings for the preceding calendar year from any gainful employment for wages and any worker's compensation benefits. Fifty percent (50%) of the excess of any earnings or benefits over the base pay for the position held at the time of disability shall be deducted, in a manner the board determines, from his disability benefit beginning ninety (90) days following the day the report is due. If any member received a disability benefit for less than twelve (12) months in a calendar year for which earnings were reported, the deduction, if any, shall be determined on a pro rata basis.

9-3-424. Refund of contributions upon termination of employment; procedure; redeposit; limitation on refund.

(a) Except as provided in subsection (b) of this section, any member covered by this article, including an at-will

contract employee under W.S. 9-2-1022(a)(xi)(F)(III) or (IV), who terminates his employment or any employee of the agricultural extension service of the University of Wyoming who has not elected to continue to be covered by this article is entitled to a refund of his account. In addition, any member who is entitled to a refund who is an at-will contract employee under W.S. 9-2-1022(a)(xi)(F)(III), shall be entitled to a refund of his account plus any employer matching contributions made by that member. In addition, any member who is entitled to a refund who is an at-will contract employee under W.S. 9-2-1022(a)(xi)(F)(IV), shall be entitled to a refund of his account plus any employer matching contributions made by that member. The refunds shall be made only upon written request to the board. A member may elect, at the time and in the manner prescribed by the system, to have the refund of his account paid directly to an eligible retirement plan as specified by the member. Any member who withdraws from the system under this section shall forfeit all rights to further benefits, employer matching contributions and service credit under the system. Any person who later returns to service covered by this article may redeposit a single lump-sum amount equal to the amount of the contributions withdrawn, together with an amount equal to the actuarial equivalent of the benefits to be derived from the redeposit, past employer contributions, the individual's attained age and the benefit structure of the appropriate plan, and upon earning not less than two (2) years service credit, may reestablish his service credits as of the time of withdrawal of his contributions. For service prior to July 1, 2002, any law enforcement member covered under W.S. 9-3-432 may redeposit the amount of contributions withdrawn for service covered under W.S. 9-3-432, in a lump sum, together with interest and the actuarial equivalent of the difference between the benefit provided under W.S. 9-3-415 through 9-3-419 and the benefit provided under W.S. 9-3-432, and upon earning not less than two (2) years service credit, may reestablish his service credit as of the time of withdrawal of his contributions. Any redeposit payment pursuant to this subsection shall be made not later than ten (10) years following the date of reemployment or prior to retirement, whichever first occurs. A member may make a redeposit under this subsection with personal funds or, subject to rules and regulations established by the board, through rollover contributions. Unless received by the system in the form of a direct rollover, the rollover contribution shall be paid to the system on or before sixty (60) days after the date it was received by the member. Unless otherwise permitted by section 401(a)(8) of the Internal Revenue Code, forfeitures shall not be

applied to increase the benefits that any employee would otherwise receive under the system.

(b) No member is entitled to a refund of any contributions if he is employed for a salary by an employer.

9-3-425. Right of members retired under terminated systems to retirement benefits from account; no prohibition to increase provided in W.S. 9-3-419.

Any member retired under one (1) of the terminated systems or continued in retirement under the system is entitled to receive service or disability retirement benefits from the retirement account in accordance with the terminated systems. This section does not prohibit an increase in benefits as provided for in W.S. 9-3-419(a).

9-3-426. Benefits, allowances and contents of account exempt from taxation and not subject to execution or attachment; assignment limited; qualified domestic relations order; system assets.

(a) The benefits and allowances and the cash and securities in the account created by this article:

(i) Are exempt from any state, county or municipal tax of this state;

(ii) Are not subject to execution or attachment by trustee process or otherwise, in law or equity, or under any other process whatsoever;

(iii) Shall not be used for any purpose other than a purpose specified in W.S. 9-3-407(c); and

(iv) Are not assignable except as specifically provided in this article.

(b) Repealed by Laws 1993, ch. 149, § 2.

(c) The retirement system including the Wyoming state highway patrol, game and fish warden and criminal investigator retirement program, any paid firemen's pension plan established under the firemen's pension account created by W.S. 15-5-202 and any plan through the volunteer firefighter, EMT and search and rescue pension account established under W.S. 35-9-617, shall pay retirement benefits in accordance with any qualified

domestic relations order for the payment of a specified percentage of a member's benefits or account to an alternate payee, for a specified number of payments or period of time and from a specified retirement plan. Upon request of the alternate payee, a lump sum refund of the alternate payee's percentage of the member's account shall be paid pursuant to the qualified domestic relations order. Acceptance by the alternate payee of the lump sum refund terminates his right to any further payment or benefit provided by the retirement system. Notwithstanding any other provision of law, the retirement system is exempt from the qualified order unless:

(i) Benefits are paid pursuant to the amount, type, form and options otherwise available under the retirement system and except as otherwise provided under this subsection, are paid upon or after the member's retirement or separation from service; and

(ii) Joint survivor benefit options are not available to alternate payees.

(iii) Repealed by Laws 1995, ch. 89, § 2.

(d) The board shall review submitted domestic relations orders and shall promulgate rules and regulations for the determination of the qualified status of a submitted order and for the administration of distributions under the qualified order. Upon a determination that an order is qualified, the board shall notify the participating member and the named alternate payee of the qualified order.

(e) For purposes of this section, "qualified domestic relations order" means any judgment, decree or order including approval of a property settlement agreement, which:

(i) Relates to the provision of child or spousal support or to marital property rights of a spouse, former spouse, child or other dependent of a member;

(ii) Is made pursuant to the domestic relations law of any state; and

(iii) Creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the member's account or of the benefits payable to the member.

9-3-427. Other retirement plans prohibited.

The establishment of any annuity plan, limited service plan, pension or retirement system other than that provided by this article by any department, board, bureau or agency of the state or by any political subdivision of the state is prohibited, except this prohibition does not apply to the Wyoming state highway patrol, game and fish warden and criminal investigator retirement program. Any county memorial hospital or special hospital district that elects to participate in the state retirement system shall not otherwise participate in any other retirement system.

9-3-428. Construction of article; limitation of liability of state; termination of system.

(a) Nothing in this article shall be construed to:

(i) Acknowledge any past, present or future liability of or obligate the state of Wyoming for contribution except the employer's contributions provided for in this article, to either the Wyoming retirement system provided by this article or any other retirement system previously existing in the state of Wyoming; or

(ii) Constitute a contract or binding obligation of any kind whatsoever or, except as provided in subsection (b) of this section to create or grant any vested right or interest in any individual, corporation or body politic.

(b) If the system is terminated, all affected members have a nonforfeitable interest in their benefits that were accrued and funded to date. The value of the accrued benefits to be credited to the account of each affected member shall be calculated as of the date of termination.

(c) Subject to subsection (a) of this section and W.S. 9-3-429(b), the legislature declares its intent that the system is intended to be a permanent system and has not been created for the purpose of income tax benefits.

9-3-429. False statements and records prohibited; right to modify article.

(a) Any person who knowingly makes a false statement or falsifies or permits to be falsified any record used in the

administration of this article, in an attempt to defraud the board, is guilty of a misdemeanor.

(b) The right to alter, amend or repeal this article or any provision thereof is reserved to the legislature.

9-3-430. Application for benefits; benefit payment effective dates; minimum distribution rules.

(a) A member shall submit a written application for benefits to the system before benefits shall begin. The written application for benefits shall be on forms adopted by the board.

(b) Benefits are payable the last day of the month following the month in which the member's final contributions and employer contributions are remitted to the system and the member has submitted a complete and accurate application under subsection (a) of this section. Retirement is effective the day following the member's last working day in the system or anytime after that time when the member qualifies under W.S. 9-3-415, 9-3-416 or 9-3-431.

(c) Benefit payments under the system shall begin by the later of April 1 of the calendar year following the year in which the member reaches age seventy and one-half (70 1/2) years or retires. The member's entire interest in the system shall be distributed over the life of the member or the lives of the member and a designated beneficiary, over a period not extending beyond the life expectancy of the member or the life expectancy of the member and designated beneficiary. If a member dies after distribution of benefits has begun, the remaining portion of the member's interest shall be distributed at least as rapidly as under the method of distribution prior to the member's death. If a member dies before distribution of benefits has begun, the entire interest of the member shall be distributed within five (5) years of the member's death. The five (5) year payment rule shall not apply to any portion of the member's interest which is payable to a designated beneficiary over the life or life expectancy of the beneficiary and which begins within one (1) year after the date of the member's death. The five (5) year payment rule shall not apply to any portion of the member's interest which is payable to a surviving spouse payable over the life or life expectancy of the spouse which begins not later than the date the member would have reached age seventy and one-half (70 1/2) years. The board may by rule and regulation modify distributions under this section in order to provide minimum distributions required by section 401(a)(9) of

the Internal Revenue Code or as otherwise necessary to retain qualified plan status under the Internal Revenue Code.

(d) This section applies to benefits payable under W.S. 9-3-432.

9-3-431. Firefighter members; contributions; benefit eligibility; service and disability retirement benefits; termination of benefits upon failure to make timely contribution payments.

(a) In addition to contributions paid under W.S. 9-3-412 and 9-3-413, each firefighter member shall pay into the account nine and sixty-five hundredths percent (9.65%) of his salary to qualify for benefits under this section. The employer of the firefighter member may pay any or all of the employee contributions imposed under this subsection. The board may increase the contribution percentage required under this subsection by not more than one percent (1%), as necessary to maintain the actuarial integrity of the account as affected by benefits payable under this section. Payments under this subsection shall be made monthly to the account in accordance with W.S. 9-3-412 and 9-3-413.

(b) Normal retirement benefits are payable under this section to any firefighter member who:

(i) Has at least four (4) years of service credit as a firefighter member and is at least sixty (60) years of age;

(ii) Has at least twenty-five (25) years of service credit as a firefighter member and is at least fifty (50) years of age; or

(iii) Is at least fifty-five (55) years of age and has a combined total years of age and years of service credit as a firefighter member which equals not less than seventy-five (75).

(c) Early retirement benefits are payable under this section to any firefighter member who:

(i) Has at least four (4) but less than twenty-five (25) years of service credit as a firefighter member and is at least fifty (50) but less than sixty (60) years of age; or

(ii) Is less than fifty (50) years of age and has at least twenty-five (25) years of service credit as a firefighter member.

(d) The early retirement benefit amount payable under subsection (c) of this section is equal to the normal retirement benefit amount payable under subsection (b) of this section reduced to an actuarial equivalent amount as prescribed by rule and regulation of the board.

(e) The normal benefit for a firefighter member under this section is equal to two and one-half percent ($2\frac{1}{2}\%$) of the highest average salary, as defined by W.S. 9-3-402(a)(xix)(A), multiplied by the member's years of service credit as a firefighter member.

(f) Upon retirement for a partial or total disability as determined and for which the member otherwise qualifies under W.S. 9-3-422, a firefighter member shall receive a monthly disability retirement benefit for the period of qualified disability equal to sixty-five percent (65%) of his salary at the time the disability was incurred. Disability benefits are payable under this subsection for the life of the firefighter member or until the firefighter member is no longer disabled. The firefighter member is subject to reporting, evaluation and excess earnings deduction requirements imposed under W.S. 9-3-423.

(g) The firefighter member retirement benefit program established under this section shall be discontinued by the board, and retirement benefits prescribed under this section shall be discontinued, if at any time contributions for all firefighter members required under subsection (a) of this section are not paid monthly to the retirement system when due as required by subsection (a) of this section. Upon termination of benefits under this subsection, the retirement benefits for firefighter members shall revert to and be paid under W.S. 9-3-415 and as otherwise prescribed for general members under this article. The firefighter member retirement program may be reactivated following application to and approval by the board and payment of the required contributions to cover both normal costs and any additional liability accruing during the period of program termination as determined by the system actuary. If benefits are terminated and not reactivated under this subsection, a firefighter member may receive additional benefits in proportion to the additional contributions paid on his behalf under this section, as determined by the system's actuary.

(h) Benefits shall not be payable under the system to the extent that they exceed the limitations imposed by section 415(b) of the Internal Revenue Code. The board shall provide any benefits in excess of the limitations under special pay plans authorized under W.S. 9-3-405(b) to the extent the benefits can be provided and the system retain qualified plan status under the Internal Revenue Code.

9-3-432. Law enforcement officers; contributions; benefit eligibility; service and disability benefits; death benefits; benefit options.

(a) Each law enforcement officer shall pay into the account eight and six-tenths percent (8.6%) of his salary to fund benefits provided to law enforcement officers. Any contribution required under this subsection or subsection (b) of this section shall be paid by the employer from the source of funds used to pay officer salaries in order to be treated as employer contributions for the sole purpose of determining tax treatment under the United States Internal Revenue Code, § 414(h). These payments by the employer are subject to W.S. 9-3-412(c).

(b) Each employer of a law enforcement officer covered under this article shall pay into the account a contribution equal to eight and six-tenths percent (8.6%) of the salary paid to each of its law enforcement officers covered under this article and may pay into the account any amount of the officer's share of contributions under subsection (a) of this section. Payments under this subsection shall be made monthly to the account in accordance with W.S. 9-3-413 and are subject to the penalties imposed under W.S. 9-3-413 for delinquent contributions. No additional contribution shall be imposed upon the state, any city, town or county for benefits provided law enforcement officers under this article.

(c) Normal retirement benefits are payable under this section to any law enforcement officer who:

(i) Has at least four (4) years of service credit as a law enforcement officer and is at least sixty (60) years of age; or

(ii) Has at least twenty (20) years of service credit as a law enforcement officer regardless of age.

(d) Early retirement benefits are payable to any law enforcement officer who has at least four (4) years but less than twenty (20) years of service credit and is at least fifty (50) years of age.

(e) The normal retirement benefit for a law enforcement officer under this section is equal to two and one-half percent (2.5%) of the highest average salary multiplied by the years of the officer's service credit, as determined under W.S. 9-3-417. The benefit under this subsection shall not exceed seventy-five percent (75%) of the officer's highest average salary. Notwithstanding W.S. 9-3-402(a)(xix), "highest average salary" as used in this section means the average annual salary of a law enforcement officer for the highest paid five (5) continuous years of service.

(f) The early retirement benefit payable under subsection (d) of this section is equal to the normal retirement benefit payable under subsection (e) of this section reduced to an actuarial equivalent amount as prescribed by rule and regulation of the board.

(g) Repealed By Laws 2012, Ch. 107, § 3.

(h) Notwithstanding W.S. 9-3-422, any law enforcement officer in service for which contributions have been paid because of a duty connected illness or injury, or except as otherwise provided under this subsection, any law enforcement officer with ten (10) years of service credit under this article because of a nonduty connected illness or injury, may retire on account of a total or partial disability in accordance with rules and regulations adopted by the board. Any law enforcement officer previously covered under W.S. 15-5-301 through 15-5-314 and transferred under this article may because of a nonduty connected illness or injury and regardless of the number of years of service credit under this article, retire on account of total or partial disability. The board shall determine mental or physical incapacitation for disability retirement under this section in accordance with W.S. 9-3-422(a) and rules and regulation of the board, and the cost of any required examination or test shall be paid as provided by W.S. 9-3-422 and rule and regulation of the board. Any law enforcement officer receiving a nonduty-connected disability benefit under this section is subject to reporting, evaluation and excess earnings deduction requirements imposed under W.S. 9-3-423 and rule and regulation of the board. Upon retirement for a disability as determined and for which a member qualifies under

this section, a law enforcement officer shall for the life of the officer or until the officer is no longer disabled, receive:

(i) For a partial or total duty connected disability incurred, a monthly retirement benefit for the period of qualified disability equal to sixty-two and one-half percent (62.5%) of his salary at the time the disability was incurred;

(ii) For a partial or total nonduty connected disability incurred, a monthly retirement benefit for the period of qualified disability equal to fifty percent (50%) of his salary at the time the disability was incurred.

(j) Notwithstanding W.S. 9-3-421, any surviving spouse of an officer who dies in the scope of employment shall receive a monthly payment equal to sixty-two and one-half percent (62.5%) of the officer's salary at the time of death, plus six percent (6%) of that salary for each child under age eighteen (18), not to exceed one hundred percent (100%) of the officer's salary. Any surviving spouse of an officer who dies outside of the scope of employment shall receive a monthly payment equal to fifty percent (50%) of the officer's salary at the time of death, plus six percent (6%) of that salary for each child under age eighteen (18), not to exceed one hundred percent (100%) of the officer's salary. Notwithstanding any other provision in this subsection, any surviving spouse of any officer who retired under W.S. 15-5-301 through 15-5-314 shall receive a monthly pension equal to two-thirds ($\frac{2}{3}$) of the pension the retired law enforcement officer was receiving at the time of his death, plus sixty dollars (\$60.00) for each child under age eighteen (18), not to exceed one hundred percent (100%) of the officer's salary.

(k) Except as provided by subsection (j) of this section, benefits specified under W.S. 9-3-421 apply to beneficiaries of a deceased officer covered under this article.

(m) Instead of the service retirement benefits provided under this section, any officer may elect one (1) of the forms of retirement benefits specified under W.S. 9-3-420. Unless otherwise provided by a benefit option selected by the officer under W.S. 9-3-420, if an officer receiving benefits or his beneficiary receiving benefits under this section dies before the total amount of benefits paid to either the member or his beneficiary or both equals the amount of the officer's account at retirement, then the excess, if any, shall be paid to any other named beneficiary, if any, or to the officer's estate.

(n) Benefits shall not be payable under the system to the extent that they exceed the limitations imposed by section 415(b) of the Internal Revenue Code. The board shall provide any benefits in excess of the limitations under special pay plans authorized under W.S. 9-3-405(b) to the extent the benefits can be provided and the system retain qualified plan status under the Internal Revenue Code.

(o) Any peace officer as defined by W.S. 6-1-104(a)(vi)(P) shall be eligible for disability benefits and death benefits under this section if the peace officer's disabilities or death are duty connected. Contributions for the benefits shall be paid as follows:

(i) The department of state parks and cultural resources shall pay into the account from general or nongeneral fund sources a contribution equal to one percent (1%) of the salary paid to the officer. No additional contribution shall be imposed upon the state for benefits provided peace officers under this subsection;

(ii) Contributions under this subsection shall be made monthly to the account in accordance with W.S. 9-3-413 and are subject to the provisions of W.S. 9-3-413 for delinquent contributions;

(iii) Contributions under this subsection shall be paid by the employer from the source of funds used to pay peace officer salaries in order to be treated as employer contributions for the sole purpose of determining tax treatment under the United States Internal Revenue Code, § 414(h).

9-3-433. Short title.

This act may be cited as the Uniform Management of Public Employee Retirement Systems (MPERS) Act.

9-3-434. Definitions.

(a) As used in this act:

(i) "Administrator" means the director of the Wyoming retirement system;

(ii) "Agent group of programs" means a group of retirement programs which shares administrative and investment

functions but maintains a separate account for each retirement program so that assets accumulated for a particular program may be used to pay benefits only for that program's participants and beneficiaries;

(iii) "Appropriate grouping of programs" means:

(A) For defined benefit plans, a cost-sharing program or an agent group of programs; and

(B) For defined contribution plans, a group of retirement programs which shares administrative and investment functions.

(iv) "Beneficiary" means a person, other than the participant, who is designated by a participant or by a retirement program to receive a benefit under the program;

(v) "Code" means the federal Internal Revenue Code of 1986, as amended;

(vi) "Cost-sharing program" means a retirement program for the employees of more than one (1) public employer in which all assets accumulated for the payment of benefits may be used to pay benefits to any participants or beneficiaries of the program;

(vii) "Defined benefit plan" means a retirement program other than a defined contribution plan;

(viii) "Defined contribution plan" means a retirement program that provides for an individual account for each participant and for benefits based solely upon the amount contributed to the participant's account, and any income, expenses, gains and losses credited or charged to the account and any forfeitures of accounts of other participants that may be allocated to the participant's account;

(ix) "Employee" includes an officer of a public employer;

(x) "Fair value" means the amount that a willing buyer would pay a willing seller for an asset in a current sale, as determined in good faith by a fiduciary;

(xi) "Fiduciary" means a person who:

(A) Exercises any discretionary authority to manage a retirement system;

(B) Exercises any authority to invest or manage assets of a system;

(C) Provides investment advice for a fee or other direct or indirect compensation with respect to assets of a system or has any authority or responsibility to do so; or

(D) Is a trustee or a member of a trustee board.

(xii) "Furnish" means:

(A) To deliver personally, to mail to the last known place of employment or home address of the intended recipient, or, if reasonable grounds exist to believe that the intended recipient would receive it in ordinary course, to transmit by any other usual means of communication;

(B) To provide to the intended recipient's public employer if reasonable grounds exist to believe that the employer will make a good faith effort to deliver personally, by mail, or by other usual means of communication; or

(C) To make available in an electronic format to be sent electronically to the intended recipient or to make available in an electronic format at a designated website.

(xiii) "Governing law" means state and local laws establishing or authorizing the creation of a retirement program or system and the principal state and local laws and regulations governing the management of a retirement program or system or assets of either;

(xiv) "Guaranteed benefit policy" means an insurance policy or contract to the extent the policy or contract provides for benefits in a guaranteed amount. The term includes any surplus in a separate account, but excludes any other portion of a separate account;

(xv) "Insurer" means a company, service, or organization qualified to engage in the business of insurance in this state;

(xvi) "Nonforfeitable benefit" means an immediate or deferred benefit that arises from a participant's service, is unconditional, and is enforceable against the retirement system;

(xvii) "Participant" means an individual who is or has been an employee enrolled in a retirement program and who is or may become eligible to receive or is currently receiving a benefit under the program, or whose beneficiaries are or may become eligible to receive a benefit. The term does not include an individual who is no longer an employee of a public employer and has not accrued any nonforfeitable benefits under that employer's retirement program;

(xviii) "Public employer" means this state or any political subdivision, or any agency or instrumentality of this state or any political subdivision, whose employees are participants in a retirement program;

(xix) "Qualified public accountant" means:

(A) An auditing agency of this state or a political subdivision of this state which has no direct relationship with the functions or activities of a retirement system or its fiduciaries other than:

(I) Functions relating to this act; or

(II) A relationship between the system and the agency's employees as participants or beneficiaries on the same basis as other participants and beneficiaries; or

(B) A person who is an independent certified public accountant, certified or licensed by a regulatory authority of a state.

(xx) "Related person" of an individual means:

(A) The individual's spouse or a parent or sibling of the spouse;

(B) The individual's descendant, sibling or parent, or the spouse of the individual's descendant, sibling or parent;

(C) Another individual residing in the same household as the individual;

(D) A trust or estate in which an individual described in subparagraph (A), (B) or (C) has a substantial interest;

(E) A trust or estate for which the individual has fiduciary responsibilities; or

(F) An incompetent, ward or minor for whom the individual has fiduciary responsibilities.

(xxi) "Retirement program" means a program of rights and obligations which a public employer establishes or maintains and which, by its express terms or as a result of surrounding circumstances:

(A) Provides retirement income to employees; or

(B) Results in a deferral of income by employees for periods extending to the termination of covered employment or beyond.

(xxii) "Retirement system" means an entity established or maintained by a public employer to manage one (1) or more retirement programs, or to invest or manage the assets of one (1) or more retirement programs;

(xxiii) "Trustee" means a person who has ultimate authority to manage a retirement system or to invest or manage its assets;

(xxiv) "This act" means W.S. 9-3-433 through 9-3-452.

9-3-435. Scope.

(a) This act applies to all retirement programs and retirement systems, except:

(i) A retirement program that is unfunded and is maintained by a public employer solely for the purpose of providing deferred compensation for a select group of management employees or employees who rank in the top five percent (5%) of employees of that employer based on compensation;

(ii) A severance-pay arrangement under which:

(A) Payments are made solely on account of the termination of an employee's service and are not contingent upon the employee's retiring;

(B) The total amount of the payments does not exceed the equivalent of twice the employee's total earnings from the public employer during the year immediately preceding the termination of service; and

(C) All payments are completed within twenty-four (24) months after the termination of service.

(iii) An arrangement or payment made on behalf of an employee because the employee is covered by Title II of the Social Security Act, as amended (42 U.S.C. Section 401 et seq.);

(iv) A qualified governmental excess benefit arrangement within the meaning of section 415(m) of the code;

(v) An individual retirement account or individual retirement annuity within the meaning of section 408 of the code;

(vi) A retirement program consisting solely of annuity contracts or custodial accounts satisfying the requirements of section 403(b) of the code; or

(vii) A program maintained solely for the purpose of complying with workers' compensation laws or disability insurance laws.

9-3-436. Establishment of trust.

(a) Except as otherwise provided in subsection (b) of this section, all assets of a retirement system are held in trust for the exclusive benefit of the members, retirees and beneficiaries of the system, including reasonable administrative expenses. The trustee has the exclusive authority, subject to this act, to invest and manage those assets.

(b) Assets of a retirement system which consist of insurance contracts or policies issued by an insurer, assets of an insurer, and assets of the system held by an insurer need not be held in trust.

(c) If an insurer issues a guaranteed benefit policy to a retirement system, assets of the system include the policy but not assets of the insurer.

(d) If a retirement system invests in a security issued by an investment company registered under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), the assets of the system include the security, but not assets of the investment company.

9-3-437. Powers of trustee.

(a) In addition to other powers conferred by the governing law, a trustee has exclusive authority, consistent with the trustee's duties under this act, to:

(i) Establish an administrative budget sufficient, subject to legislative approval, to perform the trustee's duties and, as appropriate and reasonable, draw upon assets of the retirement system to fund the budget;

(ii) Obtain by employment or contract the services necessary to exercise the trustee's powers and perform the trustee's duties, including actuarial, auditing, custodial, investment and legal services; and

(iii) Procure and dispose of the goods and property necessary to exercise the trustee's powers and perform the trustee's duties.

9-3-438. Delegation of functions.

(a) A trustee or administrator may delegate functions that a prudent trustee or administrator acting in a like capacity and familiar with those matters could properly delegate under the circumstances.

(b) The trustee or administrator shall exercise reasonable care, skill and caution in:

(i) Selecting an agent;

(ii) Establishing the scope and terms of the delegation, consistent with the purposes and terms of the retirement program; and

(iii) Periodically reviewing the agent's performance and compliance with the terms of the delegation.

(c) In performing a delegated function, an agent owes a duty to the retirement system and to its participants and beneficiaries to comply with the terms of the delegation and, if a fiduciary, to comply with the duties imposed by W.S. 9-3-439.

(d) A trustee or administrator who complies with subsections (a) and (b) of this section is not liable to the retirement system or to its participants or beneficiaries for the decisions or actions of the agent to whom the function was delegated.

(e) By accepting the delegation of a function from the trustee or administrator, an agent submits to the jurisdiction of the courts of this state.

(f) A trustee may limit the authority of an administrator to delegate functions under this section.

9-3-439. General duties of trustee and fiduciary.

(a) A trustee or other fiduciary shall discharge duties with respect to a retirement system:

(i) Solely in the interest of the participants and beneficiaries;

(ii) For the exclusive purpose of providing benefits to participants and beneficiaries and paying reasonable expenses of administering the system;

(iii) With the care, skill and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;

(iv) Impartially, taking into account any differing interests of participants and beneficiaries;

(v) Incurring only costs that are appropriate and reasonable; and

(vi) In accordance with a good-faith interpretation of the law governing the retirement program and system.

9-3-440. Duties of trustee in investing and managing assets of retirement system.

(a) In investing and managing assets of a retirement system pursuant to W.S. 9-3-439, a trustee with authority to invest and manage assets:

(i) Shall consider among other circumstances:

(A) General economic conditions;

(B) The possible effect of inflation or deflation;

(C) The role that each investment or course of action plays within the overall portfolio of the retirement program or appropriate grouping of programs;

(D) The expected total return from income and the appreciation of capital;

(E) Needs for liquidity, regularity of income and preservation or appreciation of capital; and

(F) For defined benefit plans, the adequacy of funding for the plan based on reasonable actuarial factors.

(ii) Shall diversify the investments of each retirement program or appropriate grouping of programs unless the trustee reasonably determines that, because of special circumstances, it is clearly prudent not to do so;

(iii) Shall make a reasonable effort to verify facts relevant to the investment and management of assets of a retirement system;

(iv) May invest in any kind of property or type of investment consistent with this act; and

(v) May consider benefits created by an investment in addition to investment return only if the trustee determines that the investment providing these collateral benefits would be prudent even without the collateral benefits.

(b) A trustee with authority to invest and manage assets of a retirement system shall adopt a statement of investment objectives and policies for each retirement program or

appropriate grouping of programs. The statement shall include the desired rate of return on assets overall, the desired rates of return and acceptable levels of risk for each asset class, asset-allocation goals, guidelines for the delegation of authority and information on the types of reports to be used to evaluate investment performance. At least annually, the trustee shall review the statement and change or reaffirm it.

9-3-441. Special application of duties.

(a) A trustee may return a contribution to a public employer or employee, or make alternative arrangements for reimbursement, if the trustee determines the contribution was made because of a mistake of fact or law.

(b) Upon termination of a retirement program, a trustee may return to a public employer any assets of the program remaining after all liabilities of the program to participants and beneficiaries have been satisfied.

(c) If a retirement program provides for individual accounts and permits a participant or beneficiary to exercise control over the assets in such an account and a participant or beneficiary exercises control over those assets:

(i) The participant or beneficiary is not a fiduciary by reason of the exercise of control; and

(ii) A person who is otherwise a fiduciary is not liable for any loss, or by reason of any breach of fiduciary duty, resulting from the participant's or beneficiary's exercise of control.

(d) If an insurer issues to a retirement system a contract or policy that is supported by the insurer's general account, but is not a guaranteed benefit policy, the insurer complies with W.S. 9-3-439 if it manages the assets of the general account with the care, skill and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose, taking into account all obligations supported by the general account.

9-3-442. Reviewing compliance.

(a) Compliance by a trustee or other fiduciary with W.S. 9-3-438 through 9-3-440 shall be determined in light of the

facts and circumstances existing at the time of the trustee or fiduciary's decision or action and not by hindsight.

(b) A trustee's investment and management decisions shall be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the program or appropriate grouping of programs.

9-3-443. Liability of trustee or other fiduciary.

(a) Except as provided in subsection (e) of this section, a trustee or other fiduciary who breaches a duty imposed by this act is personally liable to a retirement system for any losses resulting from the breach and any profits made by the trustee or other fiduciary through use of assets of the system by the trustee or other fiduciary. The trustee or other fiduciary is subject to other equitable remedies as the court considers appropriate, including removal.

(b) An agreement that purports to limit the liability of a trustee or other fiduciary for a breach of duty under this act is void.

(c) A retirement system may insure itself against liability or losses occurring because of a breach of duty under this act by a trustee or other fiduciary.

(d) A trustee or other fiduciary may insure against liability or losses occurring because of a breach of duty under this act if the insurance is purchased or provided either by the trustee or fiduciary personally or, on the trustee or fiduciary's behalf, by this state, the retirement system, a public employer whose employees participate in a retirement program served by the trustee or fiduciary, an employee representative whose members participate in a retirement program served by the trustee or fiduciary or the trustee or fiduciary's employer.

(e) Notwithstanding subsection (a) of this section and as provided in the Wyoming Governmental Claims Act, individual board members of a retirement system are immune from liability while acting within the scope of administering and operating a retirement system and are not personally liable for breaches of fiduciary duties in carrying out system administration and operation except in cases of willful misconduct, intentional torts or illegal acts.

9-3-444. Open meetings and records.

(a) A multimember body having authority to invest or manage assets of a retirement system may deliberate about, or make tentative or final decisions on, investments or other financial matters in executive session if disclosure of the deliberations or decisions would jeopardize the ability to implement a decision or to achieve investment objectives.

(b) A record of a retirement system that discloses deliberations about, or a tentative or final decision on, investments or other financial matters is not a public record under the Wyoming Public Records Act, W.S. 16-4-201 through 16-4-205 to the extent and so long as its disclosure would jeopardize the ability to implement an investment decision or program or to achieve investment objectives.

9-3-445. Disclosure to public.

(a) An administrator of a retirement system shall prepare and disseminate:

(i) A summary plan description of each retirement program;

(ii) A summary description of any material modification in the terms of the program and any material change in the information required to be contained in the summary plan description, to the extent the modification or change has not been integrated into an updated summary plan description;

(iii) An annual disclosure of financial and actuarial status; and

(iv) An annual report.

(b) An administrator shall make available for public examination in the principal office of the administrator and in other places if necessary to make the information reasonably available to participants:

(i) The governing law of the retirement program and system;

(ii) The most recent summary plan description;

(iii) Summary descriptions of modifications or changes described in paragraph (a)(ii) of this section that have been provided to participants and beneficiaries but not yet integrated into the summary plan description;

(iv) The most recent annual disclosure of financial and actuarial status; and

(v) the most recent annual report.

(c) Upon written request by a participant, beneficiary or member of the public, the administrator shall provide a copy of any publication described in subsection (b) of this section. Except as otherwise provided in W.S. 9-3-446(a), the administrator may charge a reasonable fee to cover the cost of providing copies and shall provide the copies within thirty (30) days after receiving payment.

9-3-446. Disclosure to participants and beneficiaries.

(a) An administrator shall furnish to each participant and to each beneficiary who is receiving benefits under a retirement program:

(i) A copy of the most recent summary plan description, along with any summary descriptions of modifications or changes described in W.S. 9-3-445(a)(ii), within three (3) months after a person becomes a participant or, in the case of a beneficiary, within three (3) months after a person first receives benefits, or, if later, within four (4) months after the retirement program becomes subject to this act;

(ii) The summary description of any modifications or changes described in W.S. 9-3-445(a)(ii), within seven (7) months after the end of the fiscal year in which a modification or change has been made;

(iii) A copy of an updated summary plan description that integrates all modifications and changes at intervals not exceeding five (5) years; and

(iv) The annual report within seven (7) months after the end of each fiscal year.

(b) An administrator shall provide to a participant or beneficiary a statement containing information that would permit the participant or beneficiary to estimate projected benefits

reasonably, to the extent the information is regularly maintained by the retirement system. The information shall be provided with the annual report or upon written request of the participant or beneficiary. The information need not be provided to a participant or beneficiary who is currently receiving benefits.

(c) A participant who is not currently receiving benefits is entitled without charge to one (1) statement under subsection (b) of this section during any fiscal year. The administrator may charge a reasonable fee to cover the cost of providing other statements. The administrator shall provide the statements within thirty (30) days after the participant or beneficiary's request or, if a fee is charged, within thirty (30) days after receiving payment.

9-3-447. Reports to agency.

(a) An administrator shall file with the retirement system a copy of:

(i) The governing law of the retirement program and system within four (4) months after the system becomes subject to this act and an updated copy at least once every year thereafter;

(ii) The summary plan description within four (4) months after the system becomes subject to this act and of updated summary plan descriptions at the same time they are first furnished to any participant or beneficiary under W.S. 9-3-446(a) (iii);

(iii) Any summary description of modifications or changes within seven (7) months after the end of the fiscal year in which a modification or change has been made; and

(iv) The annual disclosure of financial and actuarial status and annual report within seven (7) months after the end of each fiscal year.

9-3-448. Summary plan description.

(a) A summary plan description and a summary description of modifications or changes under W.S. 9-3-445(a) (ii) shall be written in a manner calculated to be understood by the average participant and be accurate and sufficiently comprehensive

reasonably to inform the participants and beneficiaries of their rights and obligations under the retirement program.

(b) A summary plan description shall contain:

(i) The name of the retirement program and system and type of administration;

(ii) The name and business address of the administrator;

(iii) The name and business address of each agent for service of process;

(iv) Citations to the governing law of the retirement program and system;

(v) A description of the program's requirements respecting eligibility for participation and benefits;

(vi) A description of the program's provisions providing for nonforfeitable benefits;

(vii) A description of circumstances that may result in disqualification, ineligibility or denial or loss of benefits;

(viii) A description of the benefits provided by the program, including the manner of calculating benefits and any benefits provided for spouses and survivors;

(ix) The source of financing of the program;

(x) The identity of any organization through which benefits are provided;

(xi) The date the fiscal year ends;

(xii) The procedures to claim benefits under the program and the administrative procedures available under the program for the redress of claims that are denied in whole or in part; and

(xiii) Notice of the availability of additional information pursuant to W.S. 9-3-445(b) and (c), 9-3-446(b) and (c) and 9-3-447.

9-3-449. Annual disclosure of financial and actuarial status.

(a) An annual disclosure of financial and actuarial status shall contain:

(i) The name of the retirement system and identification of each retirement program and, when programs are in an appropriate grouping of programs, of each appropriate grouping of programs;

(ii) The name and business address of the administrator;

(iii) The name and business address of each trustee and each member of a trustee board and a brief description of how the trustee or member was selected;

(iv) The name and business address of each agent for the service of process;

(v) The number of employees covered by each retirement program not in an appropriate grouping of programs, or by each appropriate grouping of programs, or both;

(vi) The name and business address of each fiduciary;

(vii) The current statement of investment objectives and policies required by W.S. 9-3-440(b);

(viii) Financial statements and notes to the financial statements in conformity with generally accepted accounting principles;

(ix) An opinion on the financial statements by a qualified public accountant in conformity with generally accepted auditing standards;

(x) In the case of a defined benefit plan, actuarial schedules and notes to the actuarial schedules in conformity with generally accepted actuarial principles and practices for measuring pension obligations;

(xi) In the case of a defined benefit plan, an opinion by a qualified actuary that the actuarial schedules are complete and accurate to the best of the actuary's knowledge, that each assumption and method used in preparing the schedules

is reasonable, that the assumptions and methods in the aggregate are reasonable, and that the assumptions and methods in combination offer the actuary's best estimate of anticipated experience;

(xii) A description of any material interest, other than the interest in the retirement program itself, held by any public employer participating in the system or any employee organization representing employees covered by the system in any material transaction with the system within the last three (3) years or proposed to be effected;

(xiii) A description of any material interest held by any trustee, administrator or employee who is a fiduciary with respect to the investment and management of assets of the system, or by a related person, in any material transaction with the system within the last three (3) years or proposed to be effected;

(xiv) A schedule of the rates of return, net of total investment expense, on assets of the system overall and on assets aggregated by category over the most recent one (1), three (3), five (5) and ten (10) year periods, to the extent available, and the rates of return on appropriate benchmarks for assets of the system overall and for each category over each period;

(xv) A schedule of the sum of total investment expense and total general administrative expense for the fiscal year expressed as a percentage of the fair value of assets of the system on the last day of the fiscal year, and an equivalent percentage for the preceding five (5) fiscal years; and

(xvi) A schedule of all assets held for investment purposes on the last day of the fiscal year aggregated and identified by issuer, borrower, lessor or similar party to the transaction stating, if relevant, the asset's maturity date, rate of interest, par or maturity value, number of shares, cost and fair value and identifying any asset that is in default or classified as uncollectible.

9-3-450. Annual report.

(a) An annual report shall contain:

(i) The name and business address of each trustee and each member of a trustee board;

(ii) The financial statements, but not the notes, required by W.S. 9-3-449(a)(viii);

(iii) For defined benefit plans, the actuarial schedules, but not the notes, required by W.S. 9-3-449(a)(x);

(iv) The schedules described in W.S. 9-3-449(a)(xiv) and (xv);

(v) A brief description of and information about how to interpret the statements and schedules;

(vi) Other material necessary to summarize fairly and accurately the annual disclosure of financial and actuarial status; and

(vii) Notice of the availability of additional information pursuant to W.S. 9-3-445(b) and (c), 9-3-446(b) and (c) and 9-3-447.

9-3-451. Enforcement.

(a) An action may be maintained by:

(i) A public employer, participant, beneficiary or fiduciary for any one (1) or more of the following purposes:

(A) To enjoin an act, practice or omission that violates this act;

(B) For appropriate equitable relief for a breach of trust under W.S. 9-3-443;

(C) For other appropriate equitable relief to redress the violation of or to enforce this act; or

(ii) The retirement system to enjoin any violation of W.S. 9-3-447.

(b) In an action under this section by a participant, beneficiary or fiduciary, the court may award reasonable attorney fees and costs to either party.

9-3-452. Alienation of benefits.

Benefits of a retirement program may not be assigned or alienated and shall be exempt from claims of creditors, except as otherwise provided by state law.

9-3-453. Public employee retirement plans; funding; legislative findings; required determinations for benefit increases.

(a) The legislature finds:

(i) Wyoming public employee retirement plans' actuarial funding levels are higher than many public employee retirement plans in other states, but as constructed by statute, the Wyoming plans were not intended to and cannot support cost of living or other benefit increases. Numerous indicators support this conclusion;

(ii) The ratio of the actuarial value of assets to the actuarial accrued liability, or the "funded ratio" is a standard measure of a plan's funded status at a given point in time. Funded ratios of the various retirement plans were as follows:

(A) The public employee retirement plan administered by the Wyoming retirement board under W.S. 9-3-401 through 9-3-430 had a funded ratio of eighty-four and six-tenths percent (84.6%) as of January 1, 2011, down from eighty-seven and five-tenths percent (87.5%) on January 1, 2010. On a market value of assets basis, the plan's funded ratio was eighty and one-tenth percent (80.1%) as of January 1, 2011, an improvement from seventy-five and seven-tenths percent (75.7%) as of January 1, 2010;

(B) The Wyoming state highway patrol, game and fish warden and criminal investigator retirement plan administered by the Wyoming retirement board under W.S. 9-3-601 through 9-3-620, had a funded ratio of eighty-four and one-tenth percent (84.1%) as of January 1, 2011, down from eighty-seven and four-tenths percent (87.4%) on January 1, 2010. On a market value of assets basis, the funded ratio was seventy-nine and four-tenths percent (79.4%) as of January 1, 2011, an improvement from seventy-five and three-tenths percent (75.3%) as of January 1, 2010;

(C) The law enforcement plan administered by the Wyoming retirement board under W.S. 9-3-401 through 9-3-432, had a funded ratio of ninety-nine and nine-tenths percent (99.9%) as

of January 1, 2011, down from one hundred two and two-tenths percent (102.2%) as of January 1, 2010. On a market value of assets basis, the plan's funded ratio was ninety-five and three-tenths percent (95.3%) as of January 1, 2011, an improvement from eighty-nine percent (89.0%) as of January 1, 2010;

(D) The judicial retirement plan administered by the Wyoming retirement board under W.S. 9-3-701 through 9-3-713, had a funded ratio of one hundred eight and five-tenths percent (108.5%) as of January 1, 2011, slightly up from one hundred eight and two-tenths percent (108.2%) on January 1, 2010. On a market value of assets basis, the plan's funded ratio was one hundred four and four-tenths percent (104.4%) as of January 1, 2011 an improvement from ninety-five and one-tenth percent (95.1%) as of January 1, 2010;

(E) The paid firemen plan B, administered by the Wyoming retirement board under W.S. 15-5-401 through 15-5-422, had a funded ratio of one hundred fifteen and seven-tenths percent (115.7%) as of January 1, 2011, down from one hundred sixteen and two-tenths percent (116.2%) as of January 1, 2010. On a market value of assets basis, the plan's funded ratio was one hundred eleven and three-tenths percent (111.3%) as of January 1, 2011, an improvement from one hundred two percent (102.0%) as of January 1, 2010;

(F) The air national guard firefighters plan administered by the Wyoming retirement board under W.S. 9-3-401 through 9-3-431 had a funded ratio of seventy-seven and four-tenths percent (77.4%) as of January 1, 2011. On a market value of assets basis, the plan's funded ratio was eighty and one-tenth percent (80.1%) as of January 1, 2011. 2011 was the first year this plan was isolated for review from the public employees plan under W.S. 9-3-401 through 9-3-430;

(G) The paid firemen plan A administered by the Wyoming retirement board under W.S. 15-5-201 through 15-5-209, had a funded ratio of eighty-five and six-tenths percent (85.6%) as of January 1, 2011 down from ninety-one and two-tenths percent (91.2%) as of January 1, 2010. On a market value of assets basis, the plan's funded ratio was seventy-eight and nine-tenths percent (78.9%) as of January 1, 2011, an improvement from seventy-six and seven-tenths percent (76.7%) as of January 1, 2010;

(H) The volunteer firefighters plan administered by the volunteer fireman's pension board under W.S. 35-9-601

through 35-9-615, had a funded ratio of one hundred four and six-tenths percent (104.6%) as of January 1, 2011, down from one hundred eight and nine-tenths percent (108.9%) as of January 1, 2010. On a market value of assets basis, the plan's funded ratio was ninety-eight and six-tenths percent (98.6%) as of January 1, 2011, an improvement from ninety-three and five-tenths percent (93.5%) as of January 1, 2010;

(J) The volunteer emergency medical technician's plan, administered by the volunteer emergency medical technician's pension board under W.S. 35-29-101 through 35-29-112, had a funded ratio of one hundred seventeen and eight-tenths percent (117.8%) as of January 1, 2011, up from eighty-three and six-tenths percent (83.6%) as of January 1, 2010. On a market value of assets basis, the plan's funded ratio was one hundred twenty-nine and five-tenths percent (129.5%) as of January 1, 2011, an improvement from ninety and seven-tenths percent (90.7%) as of January 1, 2010. While the funded ratio has increased, reliance on the improvement as an indication of this plan's financial health would be misplaced as the legislation establishing the plan provided a general fund appropriation of nine hundred seventy-eight thousand two hundred dollars (\$978,200.00) to fund the difference between the actuarially determined premium for participation in the plan and the contributions required by law. The contributions required by law are insufficient to support the stated benefits under the plan and no long term external funding source was provided when the plan was established, nor thereafter.

(iii) All of the funded ratios specified in paragraph (ii) of this subsection, except for the paid firemen's plan A, were calculated with the assumptions of no benefit increases or additional cost-of-living adjustment increases;

(iv) Actuarial funded ratios at any single point in time disclose only a portion of the soundness of the retirement plans. Underlying the ratios is an assumed eight percent (8%) investment return (composed of a three and one-half percent (3.5%) inflation rate and a four and one-half percent (4.5%) net real rate of return) on each of the various funds. The average market value returns for the largest plan under the board's administration has been three and sixty-three hundredths percent (3.63%) for the last five (5) years and four and twenty-three hundredths percent (4.23%) for the last ten (10) years, both well below the assumed eight percent (8%). The retirement system's actuary has stated: "Even seemingly minor changes in the assumptions can materially change the liabilities,

calculated contribution rates and funding periods." Investment returns of less than one-half (1/2) of the assumed rate is a major deviation from assumptions;

(v) Where the current actuarial value of assets is higher than the market value of assets, continued recovery in the investment markets will be needed over the next few years, annual returns in excess of the assumed investment return of eight percent (8.0%), to keep the plans' funded ratios and unfunded actuarial accrued liability relatively stable in the short term;

(vi) While investments in markets have been authorized by constitutional amendment for retirement funds and supported by legislative authorization, if annual realized returns are lower than assumed or higher than assumed, the funded ratios are respectively overstated or understated;

(vii) The public employee plan administered under W.S. 9-3-401 through 9-3-430 has by far the largest membership as it contains eighty-eight and six-tenths percent (88.6%) of the membership of all public employee retirement plans administered by the Wyoming retirement board. The actuarial funded ratio for this plan has dropped from one hundred thirteen and seventy-seven hundredths percent (113.77%) in 2001 to eighty-four and fifty-nine hundredths percent (84.59%) in 2011, even though the actuarial accrued liability in 2001 was calculated using the maximum cost-of-living adjustment authorized by statute and the 2011 liability was calculated using no cost-of-living liability. In light of the lower funded ratio, the Wyoming retirement board recommended and the Legislature enacted in 2010 a combined employer and employee contribution increase from eleven and twenty-five hundredths percent (11.25%) to fourteen and twelve hundredths percent (14.12%) effective September 1, 2010;

(viii) Actuarial funded ratios have fallen over the past decade for all other plans identified in this section, other than the judicial retirement plan. The funded ratio of the volunteer firefighter's plan and the firefighter's plan B have dropped by over fifty (50) percentage points. These decreases were incurred in spite of a change in assumptions from a maximum cost-of-living increase allowed by statute to no cost-of-living increase, except for the paid firemen plan A;

(ix) From 1991 through 2008, cost-of-living increases ranging from one percent (1%) to three percent (3%) were

provided for eighteen (18) consecutive years in the largest public employee retirement plan, resulting in cumulative increases in an employee's benefit amount ranging from one and three-hundredths (1.03%) for employees first eligible for a cost-of-living adjustment in 2008 to thirty-four percent (34%) for those eligible for a cost-of-living adjustment in 1991;

(x) Other benefit increases have been provided by legislation, including a 2001 enactment of an increased benefit multiplier for each year of service in the largest plan, which resulted in an increased cost of over five hundred twenty-one million dollars (\$521,000,000.00) through July 1, 2011. An ad hoc increase of three dollars (\$3.00) per month per year of service made in the same legislation resulted in over two hundred seventeen million dollars (\$217,000,000.00) in increased costs to the plan over the same period;

(xi) As of January 1, 2011, it is estimated that over forty (40) years will be required until the largest public employee plan currently administered by the Wyoming retirement board meets a one hundred percent (100%) actuarial funded ratio. Other plans administered by the Wyoming retirement board, volunteer firefighters pension board and volunteer emergency medical technician's pension board have higher or lower funded ratios;

(xii) Stability in providing stated benefits is a critical feature of a retirement plan. With large portions of public employee retirement plans invested in markets and with market fluctuations having a significant effect on funded ratios, actuarial funded ratios in excess of one hundred percent (100%) are necessary to maximize stability in providing stated benefits;

(xiii) It is the intent of the legislature that all public employee retirement plans be managed to maintain an actuarial funded ratio of not less than one hundred percent (100%) and that the retirement board determine from time to time an appropriate level of funding sufficient to withstand market fluctuations without experiencing reductions below the desired one hundred percent (100%) funding ratio;

(xiv) It is the intent of the legislature that cost-of-living increases and changes to multipliers be allowed only in the event that the actuarial funded level for the affected plan remains above one hundred percent (100%), plus the additional percentage the retirement board determines is

reasonably necessary to withstand market fluctuations. This determination is to be made for the entire amortization period affected by the change using then current actuarial assumptions.

9-3-454. Required determinations for recommended benefit increases.

(a) In accordance with the findings specified in W.S. 9-3-453:

(i) All plans shall be managed to maintain their actuarial funded ratio at or above one hundred percent (100%) throughout the life of the plan. The actual funded ratio recommended by the board shall provide for an appropriate margin above this funding ratio to allow for market fluctuations above the one hundred percent (100%) base;

(ii) No benefit changes, including cost-of-living increases and changes to multipliers, shall be recommended for implementation by the legislature unless the system's actuaries provide an opinion that the funded ratio of the plan will remain above the funding level set out in paragraph (i) of this subsection throughout the life of the benefit change;

(iii) Any analysis upon which a proposed benefit change is proposed shall include a decision matrix which shall include the following minimum elements:

(A) Consideration of the current actuarial value in relation to current market value of assets;

(B) A fully amortized cost over the full applicable term of the benefit increase;

(C) Current and expected actuarial funded ratios with and without the increase;

(D) A review of assumptions made in determining funded ratios and a review of anticipated funded ratios with differing investment return assumptions;

(E) Recognition of potential effects of the increase on plan participants' working and retirement periods;

(F) The potential isolation, by establishment of separate accounts, of the liability incurred as a result of the cost of living or other benefit increase;

(G) The appropriate level of actuarial funding ratio above one hundred percent (100%) needed to buffer the plan from market fluctuations.

(b) Nothing in this section shall affect the authority of the board to grant a cost-of-living adjustment as authorized by W.S. 15-5-204.

ARTICLE 5 DEFERRED COMPENSATION PROGRAM

9-3-501. Definitions.

(a) As used in this article:

(i) Repealed By Laws 2001, Ch. 64, § 2.

(ii) "Board" means the Wyoming retirement board established under W.S. 9-3-404(a);

(iii) "Employee" means any person including any elected official employed by and receiving compensation from the state of Wyoming or a county, city, town or other political subdivision, but does not include any at-will contract employee under W.S. 9-2-1022(a)(xi)(F);

(iv) "Plan document" means the official document recorded with the secretary of state and adopting and establishing a deferred compensation program for Wyoming under Public Law 95-600;

(v) "Program" means the Wyoming deferred compensation program established in accordance with the plan document;

(vi) Repealed by Laws 2015, ch. 10, § 2.

(vii) "Provider" means any corporation licensed to do business in this state and providing investment products to program participants under contract and in accordance with this article;

(viii) Repealed by Laws 2019, ch. 186, § 2.

9-3-502. Establishment of program by state; administration by Wyoming retirement board; establishment of separate deferred

compensation by political subdivisions; investment permitted; limitation on amount deferred; taxability.

(a) The board shall establish and administer the program for employees in addition to any retirement, pension, benefit or other deferred compensation programs established by the governmental entity. Subject to requirements of this article, any county, city, town or other political subdivision may establish and administer a deferred compensation program separate from the program established under this article. A county, city, town or other political subdivision which wishes to enter into the state program established under this article shall adopt the plan document, provide the program to employees in accordance with this article and be subject to program administration by the board. A county, city, town, other political subdivision of the state or an entity or institution of the state which does not utilize the state auditor's office for payroll services may provide for automatic enrollment of new employees into the state program pursuant to W.S. 9-3-509 and pursuant to the requirements of this subsection.

(b) Any employee may enter into a written agreement with the program or a separate deferred compensation program established by a county, city, town or other political subdivision to defer any part of his compensation for investment as provided by this article or an employee may be automatically enrolled as provided in W.S. 9-3-509 and subsection (a) of this section. The total annual amount deferred may at no time exceed the employee's annual salary under applicable salary schedules or compensation plans.

(c) Compensation deferred pursuant to this article shall be included as compensation for the purpose of computing retirement or pension benefits earned by the employee, but the deferred compensation is exempt from state taxation to the same extent as it is exempt from federal income taxes.

9-3-503. Investment of deferred compensation; limitation on approved investment plans; enrolling and servicing fees; holding of funds; limited liability of state and political subdivision.

(a) The board may approve investment of deferred compensation in insurance and annuity contracts or other investment plans upon competitive bidding. No investment plan shall be approved unless the plan is offered by a provider and is subject to rules and regulations of applicable federal and

state regulatory agencies. The board may establish an account for the purpose of conducting the daily financial operations of the program and to avoid having to liquidate investments prior to maturity. The funds in this account shall be invested in, and be subject to the same terms and conditions as the pools for investments established under W.S. 9-1-416 and 9-4-831(a) (xxvii).

(b) The board may establish by contract the fees for enrolling program participants and servicing participant accounts with providers. Fees shall be established at amounts necessary to maintain the account balance in accordance with W.S. 9-3-507.

(c) All compensation deferred pursuant to this article and all earnings thereon shall be held in trust or pursuant to custodial accounts or contracts meeting the requirements of 26 USC 457(g) and for the exclusive benefit of program participants and their beneficiaries. An account is established to be used by the board for depositing deferred compensation and earnings on deferred compensation as necessary to fulfill the requirements of this article. Funds in the account shall be held separately from all other funds and monies held by the state and shall be expended only as provided by this article and pursuant to written agreements entered into under this article. Notwithstanding the provisions of this subsection, the financial liability of the state, county, city, town or other political subdivision is limited to the value of the investment plan purchased.

9-3-504. Repealed By Laws 2001, Ch. 64, § 2.

9-3-505. Duties of Wyoming retirement board.

(a) The board shall:

(i) Invest compensation deferred pursuant to this article;

(ii) Select providers and review and evaluate provider contracts and provider investment plans;

(iii) Repealed by Laws 2015, ch. 10, § 2.

(iv) Establish policy governing overall operation of the program.

9-3-506. Repealed by Laws 2015, ch. 10, § 2.

9-3-507. Special account for administrative expenses; deposits and expenditures; account balance specified; audit required.

(a) The board shall deposit all fees paid by providers under the program for enrollment and servicing of accounts of program participants and all amounts deducted from compensation deferred by program participants for administrative and accounting purposes, into an account with a financial institution selected by the board. The board shall account for all deposits into and all authorized payments from the account.

(b) Expenditures from the account established under subsection (a) of this section shall be for the following administrative expenses:

(i) Enrollment of program participants;

(ii) Servicing of accounts established for program participants;

(iii) Necessary accounting, legal and other professional services;

(iv) Per diem and travel expense reimbursement to members and employees of the board for time actually devoted to the administration of and responsibilities imposed under this article; and

(v) Other necessary administrative costs incurred in administering the program.

(c) The account balance shall be an amount sufficient to meet the annual administrative expenses of the program. The board shall conduct contract negotiations with providers to establish enrolling and servicing fees imposed upon the program at an amount necessary to pay administrative expenses from the account while providing the maximum investment earnings and benefits to program participants.

(d) The board shall provide for an independent audit of the account on an annual basis. A summary of the audit and its findings shall be included as part of the annual report by the board as required by law.

9-3-508. Amount of state's contribution; qualified annuity plan contributions authorized; estimates submitted to state budget officer.

(a) The state shall contribute monthly to the program the amount established and appropriated by the legislature for each employee and official contributing to and participating in the program in accordance with subsections (b) and (c) of this section, except that there shall be no state contribution for any member of the legislature eligible for participation in the program solely in his capacity as a state legislator. Any legislative appropriation under any act adopted by the legislature for contributions under this section shall be expended solely for the purposes specified in this section during the budget period for which the appropriation is made and shall not be carried forward for contributions in succeeding budget periods.

(b) Any state agency, department or institution including the University of Wyoming and the community colleges in the state, shall pay monthly to the board the amount established and appropriated by the legislature for each qualified employee or official participating in the program. For purposes of this subsection, "qualified employee or official" means any employee or official contributing monthly to the program through salary deferrals in an amount equal to or greater than the amount specified. To qualify for the state contribution available pursuant to subsection (a) of this section, the employee or official shall contribute monthly to the program from their salary an amount not less than the per person amount established and appropriated by the legislature under subsection (a) of this section.

(c) Each state agency, department and institution shall estimate the amount required for its participation in the program for the next biennium and shall submit the estimate to the state budget officer to be included within the budget request.

(d) For any qualified employee electing contributions under this subsection instead of under subsections (a) and (b) of this section, the University of Wyoming and the community colleges shall contribute monthly to a qualified annuity plan under 26 U.S.C. 403(b) for the qualified employee subject to the following:

(i) The amount computed shall be equal to the amount established and appropriated by the legislature under subsections (a) and (b) of this section;

(ii) "Qualified employee" as used in this subsection means any employee contributing to a qualified annuity plan under 26 U.S.C. 403(b) in an amount equal to or greater than the amount specified under paragraph (d)(i) of this section;

(iii) The university and the Wyoming community college commission shall estimate the amount required for respective participation under this subsection for the next biennium and shall submit the estimate to the state budget officer to be included within the budget request.

9-3-509. Enrollment of state employees in the plan; notice to employee; contribution rate; investment of funds by retirement system; withdrawal period; plan document to provide for automatic enrollment.

(a) On and after July 1, 2015, a person who begins employment, or returns to employment after a break in service, with any state agency, department or institution which utilizes the state auditor's office for payroll services, including the legislature and the judiciary, and who is otherwise eligible to participate in the program, shall be automatically enrolled in the program as provided in this section.

(b) An employee enrolled in the program under this section shall have:

(i) An opt out period in which the employee may elect to not participate in the program. No contribution shall be made to the program by or on behalf of the employee during the pendency of the opt out period. An employee's opt out period shall begin thirty (30) days after enrollment in the program; and

(ii) A ninety (90) day permissible withdrawal period from the program beginning on the date of the employee's first contribution to the program. An employee may withdraw his total account balance from the program within the permissible withdrawal period.

(c) An employee automatically enrolled in the program under this section shall contribute three percent (3%) of the employee's monthly pre-tax includible compensation to the

employee's account under the program after the expiration of the employee's opt out period provided in paragraph (b)(i) of this section. An employee automatically enrolled in the program under this section may elect in writing to change the employee's contribution rate pursuant to the plan document as defined in W.S. 9-3-502(a).

(d) After the expiration of an employee's ninety (90) day permissible withdrawal period, the retirement system shall invest all contributions made by or on behalf of an employee enrolled in the program pursuant to this section in an age appropriate investment plan based on the projected retirement date of the employee as determined by the retirement system. During the pendency of an employee's permissible withdrawal period provided in paragraph (b)(ii) of this section, the retirement system shall invest all contributions made by or on behalf of the employee enrolled in an investment plan with limited exposure to market volatilities as determined by the retirement system. An employee enrolled in an investment plan may change investment plans or otherwise invest funds in his account in the same manner as all other participants in the program.

(e) The board shall provide notice in writing to an employee automatically enrolled in the program. Notice under this subsection shall include:

(i) The employee's ability to opt out of the program as provided in paragraph (b)(i) of this section;

(ii) The employee's ninety (90) day permissible withdrawal period from the program provided in paragraph (b)(ii) of this section;

(iii) The employee's automatic level of contribution to the program; and

(iv) The investment plans the employee will be enrolled in within the program during the pendency of the ninety (90) day permissible withdrawal period and following the expiration of the permissible withdrawal period.

(f) An employee enrolled in the program under this section shall have the same rights to participate in the program as all other participants in the program.

(g) The board shall effectuate the purposes of this section in the plan document.

(h) Failure to provide notice under subsection (e) of this section shall not give rise to any additional obligation or liability on the part of the state or the program.

(j) This section shall not apply to any member of the legislature participating in the program solely in his capacity as a state legislator.

ARTICLE 6
STATE HIGHWAY PATROL, GAME
AND FISH WARDEN AND CRIMINAL INVESTIGATOR RETIREMENT

9-3-601. Short title.

This act is known and may be cited as "The Wyoming State Highway Patrol, Game and Fish Warden and Criminal Investigator Retirement Act".

9-3-602. Definitions.

(a) As used in this article:

(i) "Accumulated contribution" means the sum of all the amounts deducted from the compensation of a member subsequent to the effective date of the Wyoming Retirement Act and credited to his individual account;

(ii) "Board" or "retirement board" means the retirement board of the Wyoming retirement system established by the Wyoming Retirement Act;

(iii) "Credited service" means service for which contributions were made and not refunded;

(iv) "Criminal investigator" means any full-time special agent employed by the division of criminal investigation of the attorney general's office who is a sworn peace officer;

(v) "Employee" means:

(A) Any person who is employed by the Wyoming state highway patrol division as a sworn law enforcement officer;

(B) Any person who is commissioned as a full time law enforcement officer of the Wyoming state game and fish department;

(C) Any criminal investigator as defined in paragraph (iv) of this subsection; or

(D) Any person designated and appointed as capitol police under W.S. 9-1-612 and qualified pursuant to W.S. 9-1-701 through 9-1-707.

(vi) "Final actual salary" means the gross salary paid to the employee during the last full month of credited service;

(vii) Repealed By Laws 2001, Ch. 32, § 2.

(viii) "Fund" or "retirement fund" means the Wyoming retirement account established in the Wyoming Retirement Act;

(ix) "Partial disability" means a medically determined physical or mental impairment which renders the employee unable to function as an employee and which is reasonably expected to last at least twelve (12) months;

(x) "Interest" means interest compounded annually at such rate or rates as shall be determined by the board, not exceeding the average amount of interest actually earned per annum by the fund;

(xi) "Retirement program" means the Wyoming state highway patrol, game and fish warden and criminal investigator retirement program created by this article;

(xii) "Salary" for W.S. 9-3-604 and 9-3-605 means the cash remuneration paid, including contributions required by W.S. 9-3-604, to an employee for his services;

(xiii) "Total disability" means a medically determined physical or mental impairment which renders the employee totally unable to work in any occupation for which he is reasonably suited by training or experience and which is reasonably expected to last at least twelve (12) months;

(xiv) "Service credit" means the credit earned by an employee for benefits and benefits payable under the retirement program. Service credit is earned on the basis of actual years

of employment for an employer subject to this article under rules adopted by the board under W.S. 9-3-609;

(xv) "Public law enforcement agency" means a public agency having police power, charged with enforcing state criminal statutes or municipal ordinances and employing law enforcement personnel qualified pursuant to W.S. 9-1-701 through 9-1-707;

(xvi) "Highest average salary" means the employee's average annual salary for the highest paid three (3) continuous years of service;

(xvii) "This act" means W.S. 9-3-601 through 9-3-620;

(xviii) "Duty connected disability" means a disability from an illness, injury or disease which results primarily from a specific act or occurrence determinable by a definite time and place, from a physical or mental trauma which arises from the nature and in the course of a person's law enforcement employment;

(xix) "Eligible retirement plan" means as defined in W.S. 9-3-402(a) (xxvii);

(xx) "Rollover contribution" means as defined in W.S. 9-3-402(a) (xxviii);

(xxi) "Member account" means:

(A) For an employee who has six (6) or more years of service to his credit or an employee initially employed before July 1, 2018, the employee's contributions paid from any source;

(B) For an employee who has fewer than six (6) years of service to his credit and who is initially employed on or after July 1, 2018, only the employee's contributions paid by a reduction in cash salary of the employee.

9-3-603. Administration.

(a) There is created the retirement program which is for the benefit of the employees defined in W.S. 9-3-602(a) (v).

(b) The administration and responsibility for the operation of the retirement program is under the direction and

control of the board. All matters pertaining to the board are applicable to the retirement program created by this article.

9-3-604. Employee contributions.

(a) Except as otherwise provided in this section, every employee covered by this article shall pay into the fund thirteen and fifty-four hundredths percent (13.54%) of his salary from September 1, 2013 through June 30, 2014, and thereafter fourteen and fifty-six hundredths percent (14.56%) of his salary. For the period from September 1, 2013 through June 30, 2014 forty-five hundredths percent (.45%), for the period from July 1, 2014 through June 30, 2016 ninety-six hundredths percent (.96%) and for the period from July 1, 2016 through June 30, 2017, fifty-one hundredths percent (.51%) salary contribution required by this subsection shall be paid by the employer on behalf of the member. To the extent the remaining amount is not paid by an employer on behalf of the member, this payment shall be deducted each pay period from employees' salaries by the respective chief fiscal officers of the employers.

(b) The contributions required by subsection (a) of this section shall be paid by the employer for employees covered under this article in order to be treated as employer contributions for the sole purpose of determining tax treatment under the United States internal revenue code.

(c) The contributions under subsection (b) of this section shall be paid from the source of funds which is used in paying salary to the employee. The employer may pay these contributions by a reduction in cash salary of the employee or by an offset against a future salary increase, or by a combination of a reduction in salary and an offset against a future salary increase, provided:

(i) No such salary reduction or offset, or combination thereof, shall exceed the percentage amount actually being deducted from an employee's salary for contributions to the retirement program; and

(ii) Except as otherwise provided in this paragraph, any employer may pay any amount of an employee's share of retirement contributions without a salary reduction or offset, or combination thereof. For the period from July 1, 2012 through June 30, 2014, at least one and sixty-two hundredths percent (1.62%), for the period from July 1, 2014 through June

30, 2016 at least one and ninety-six hundredths percent (1.96%), for the period from July 1, 2016 through June 30, 2017 at least two and thirty hundredths percent (2.30%) and thereafter at least two and sixty-four hundredths (2.64%) of the employee's share of retirement contributions shall be paid through a reduction in cash salary of the employee unless specified otherwise by legislative act.

9-3-605. Employer contributions.

Each employer subject to this article shall pay into the fund a contribution equal to twelve and ninety-six hundredths percent (12.96%) until June 30, 2014, and for the period from July 1, 2014 through June 30, 2015, thirteen and eighty-six hundredths percent (13.86%) and thereafter fourteen and eighty-eight hundredths percent (14.88%) of all salaries paid to its employees. These contributions, together with the employees' contributions, shall be transferred and credited to the retirement program in a manner the board directs.

9-3-606. Transfer of funds to retirement program.

All employee and matching contributions made to the Wyoming retirement system or other retirement system on behalf of an employee now covered under the retirement program and the accrued interest thereon shall be transferred to the retirement program.

9-3-607. Age of retirement.

(a) Any employee with six (6) or more years of service to his credit is eligible to receive a retirement allowance under this article when he attains age fifty (50).

(b) Effective July 1, 1998, any employee retiring after July 1, 1998, with twenty-five (25) or more years of service may elect to retire and receive a benefit upon attaining age fifty (50) as described in W.S. 9-3-610.

(c) Repealed by Laws 1993, ch. 120, §§ 1, 2.

(d) Any employee in service who has attained age sixty-five (65), shall be retired not later than the last day of the calendar month in which his 65th birthday occurs.

9-3-608. Retirement allowance.

Any employee who has left the service, and who has not withdrawn his accumulated contributions, is eligible to receive a retirement allowance computed according to the terms of this article at the age specified in W.S. 9-3-607.

9-3-609. Determination of years of service by board; credit for time spent in military service.

(a) The board shall determine the total years of service creditable to each employee in determining eligibility for retirement under this article. It may require employees to file detailed statements of all service as a state employee and to give other necessary information as a condition to the receipt of benefits.

(b) The board shall establish in appropriate rules and regulations how much service in any year is the equivalent of one (1) year of service, but in no case shall it allow credit for more than one (1) year of service for all service rendered within one (1) calendar year.

(c) Credit shall be allowed for any period of time after commencement of participation in the retirement program which an employee spends in active military or other emergency service of the United States in accordance with rules adopted by the retirement board, pursuant to the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 et seq.

(d) Effective May 27, 1983, if an employee receives a partial or total disability benefit under this article and that employee subsequently returns to service as a highway patrol, criminal investigator, capitol police or game and fish employee, service credit shall be allowed for the period during which the employee received those benefits.

9-3-610. Amount of benefit.

(a) The service retirement allowance payable to an employee under this article at age fifty (50) shall be equal to two and one-half percent (2.5%) of the employee's highest average salary for each year of credited service in the program, provided the retirement allowance does not exceed seventy-five percent (75%) of the highest average salary.

(b) Subject to subsection (c) of this section, effective July 1, 1991, the amount of allowance being paid under subsection (a) of this section shall be increased as follows:

(i) For persons who retired prior to July 1, 1978, eleven dollars (\$11.00) per month for each year of service in Wyoming;

(ii) For persons who retired on or after July 1, 1978 but prior to July 1, 1980, six dollars (\$6.00) per month for each year of service in Wyoming;

(iii) For persons who retired on or after July 1, 1980 but prior to July 1, 1985, three dollars (\$3.00) per month for each year of service in Wyoming;

(iv) For persons who retired on or after July 1, 1985 but prior to July 1, 1987, one dollar (\$1.00) per month for each year of service in Wyoming.

(c) The increases specified in subsection (b) of this section apply only if the legislature appropriates the necessary funds and only for persons with full-time service who submit to the board an application for the increase accompanied by an affidavit verifying the applicant's service and retirement.

(d) Repealed By Laws 2012, Ch. 107, § 3.

(e) In addition to subsections (a), (b) and (d) of this section, the service retirement allowance payable under this article for persons retired prior to April 1, 1996, shall be increased by five dollars (\$5.00) per month for each year of service in Wyoming.

(f) Benefits and allowances shall not be payable under this article to the extent that they exceed the limitations imposed by section 415(b) of the Internal Revenue Code.

9-3-611. Eligibility and amount of disability allowance.

(a) Any employee who suffers a partial or total disability resulting from an individual and specific act, the type of which would normally occur only while employed as an employee, is eligible for a duty-connected disability allowance. If the specific act involves a traumatic event which directly causes an immediate cardiovascular condition resulting in partial or total disability, the employee is eligible for a partial or total duty-connected disability allowance.

(b) Any employee with ten (10) years of credited service who suffers a partial or total disability and who is not eligible for a duty-connected disability allowance is eligible for an ordinary partial or total disability allowance.

(c) The determination of disability and its cause shall be made by the board after receiving the recommendation of its medical committee.

(d) Disability allowances shall be fifty percent (50%) of highest average salary for nonduty connected total or partial disability. Disability allowances shall be sixty-two and one-half percent (62.5%) of highest average salary for duty-connected total or partial disability.

9-3-612. Payment of disability allowance.

(a) Disability allowance payments shall be made to an employee for each month beginning with the month in which he becomes eligible to receive such allowance and ending with the month in which he ceases to be eligible or dies.

(b) Any employee receiving a nonduty-connected disability allowance who has not reached age fifty (50) shall report to the board annually, in a form the board prescribes, his total earnings for the preceding calendar year from any gainful employment for wages and any worker's compensation benefits. One-half (1/2) of the excess of such earnings or benefits, or both, over the base pay of the rank held at the time of disability shall be deducted, in a manner the board determines, from that employee's disability allowance beginning ninety (90) days following the day the report is due. If any member received a disability allowance for less than twelve (12) months in the calendar year for which earnings are reported, the deduction, if any, shall be determined on a pro rata basis.

(c) Any member receiving a partial disability allowance whose disability is found to no longer exist, shall continue to receive the disability allowance if he is actively seeking employment as an employee, as defined by W.S. 9-3-602(a)(v), and has not been offered an employee position. In order to qualify under this subsection, the employee shall report to the board annually, in a form the board prescribes. The board shall establish by rule, requirements for meeting the provisions of this subsection. If the member refuses or fails to meet the requirements of this subsection or applicable rules of the board, his disability allowance shall be discontinued.

9-3-613. Payment on death; duty related.

If a member of the retirement program dies as a result of any activity related to official duties as an employee prior to retirement under this article, a monthly death benefit equal to fifty percent (50%) of the member's final actual salary at time of death shall be paid to the surviving spouse. In addition, an amount equal to five percent (5%) of the final actual salary shall be paid as a benefit for each unmarried child under the age of eighteen (18) years, provided the total death benefit paid to the surviving spouse and children in accordance with this section shall not exceed the employee's final actual salary.

9-3-614. Payment on death; not duty-related death of retired member.

(a) If a member dies prior to retirement and his death is not related to his official duties as an employee, a monthly nonduty death benefit shall be paid to the surviving spouse, equal to two percent (2%) of the member's final actual salary at time of death for each year of credited service. The maximum nonduty death benefit payable to the spouse shall not exceed fifty percent (50%) of the member's final actual salary. In addition, an amount equal to five percent (5%) of the final actual salary shall be paid as a benefit for each unmarried child under the age of eighteen (18) years. The total nonduty death benefit paid to the surviving spouse and children in accordance with this subsection shall not exceed sixty percent (60%) of the employee's final actual salary.

(b) If a retired member of the retirement program dies, the spouse of the deceased member shall receive a benefit equal to fifty percent (50%) of the retirement allowance paid in accordance with W.S. 9-3-607 through 9-3-614. In determining the benefit to be paid to the spouse, no reduction due to social security shall be taken into account. In addition, an amount equal to five percent (5%) of the final actual salary shall be paid as a benefit for each unmarried child under the age of eighteen (18) years. The total benefit paid to the surviving spouse and children on the death of the retired member in accordance with this subsection shall not exceed sixty percent (60%) of the employee's final actual salary.

9-3-615. Election of coverage under Wyoming Retirement Act.

(a) Subject to uniform rules and regulations the retirement board prescribes, instead of the service allowance provided in this article and instead of the benefit specified in W.S. 9-3-614(b), a member of the retirement program may elect one (1) of the following forms of service retirement benefits which shall be the actuarial equivalent of the benefit to which he would otherwise be entitled:

(i) A one hundred percent (100%) joint and survivor benefit which provides reduced monthly service retirement benefit payments during the retired member's life and upon his death after retirement continues payments in the same reduced amount to a designated beneficiary during the life of the beneficiary;

(ii) A benefit which provides reduced monthly service retirement payments with provision for the continuance of payments for ten (10) years certain and life thereafter. If the retired member dies within ten (10) years after retirement, the remaining guaranteed payments shall be made to his designated beneficiary. This beneficiary may be changed at any time by written notification to the board as provided in subsection (b) of this section;

(iii) The largest possible benefit for life with no lump sum refund or benefit for anyone else upon the retired member's death;

(iv) Any other modified monthly service retirement benefit, including any other modified joint and survivor monthly service retirement benefit, actuarially determined, which the board approves.

(b) An election of an optional benefit shall be in writing and filed with the system prior to the first benefit payment. The election is final and not subject to change unless a designated beneficiary dies prior to the first benefit payment, in which case the election is void, the member may designate a new beneficiary and may select a different option. As provided in paragraph (a)(iii) of this section, upon written notice to the board, a member may change a beneficiary at any time during the ten (10) year period.

(c) The retirement benefits payable under optional forms available under this section shall be the actuarial equivalent amount of the normal benefit form under W.S.9-3-610.

9-3-616. Applicability of portions of Wyoming Retirement Act.

Requirements for eligibility for disability retirement under this article, either related or not related to official duties as an employee, shall be in accordance with the disability provisions outlined in the Wyoming Retirement Act.

9-3-617. Refund of contributions upon termination of employment; redeposit of withdrawn contributions; purchase of service credits.

(a) Except as provided in this subsection and subsection (c) of this section, any employee covered by this article who terminates his employment and elects not to continue to be covered by the retirement program is entitled to a refund of his member account together with the regular rate of interest specified by the retirement board. Commencing July 1, 2019 for an employee who has fewer than six (6) years of service, no interest shall accrue to the member account during any period in which the employee is not employed by a participating employer. Refunds may be made only upon written request to the board. Any employee who withdraws from the retirement program under this subsection shall forfeit all rights to further benefits, employer contributions and service credit under this article.

(b) Any employee who later returns to service covered under this article may redeposit the amount of the contributions withdrawn, in lump sum, together with interest, and upon earning not less than two (2) years service credit, may reestablish his service credits as of the time of withdrawal of his contributions. Any redeposit payment pursuant to this subsection shall be made not later than ten (10) years following the date of reemployment or prior to retirement, whichever first occurs.

(c) No employee is entitled to a refund of any contributions if he is employed for a salary by an employer subject to this article.

(d) Any employee may elect to purchase up to five (5) years of service credit for full-time employment in law enforcement which is performed for another state or political subdivision of another state, the federal government or for any public law enforcement agency in Wyoming as authorized and limited by section 415(c) and 415(n) of the Internal Revenue Code and if the employee does not vest in any retirement plan of

the agency for which the prior service being purchased was earned. Any employee electing to purchase service credit shall pay into the account a single lump-sum amount equal to the actuarial equivalent of the benefits to be derived from the service credit computed on the basis of actuarial assumptions approved by the board and the individual's attained age and average salary for the highest three (3) continuous years of covered service. The lump sum may be paid with personal funds or, subject to rules and regulations established by the board, through rollover contributions. Unless received by the retirement program in the form of a direct rollover, the rollover contribution shall be paid to the program on or before sixty (60) days after the date it was received by the member. Service credit purchased under this subsection shall not be used to determine vested eligibility to receive benefits under this article.

9-3-618. Disposition of funds; designated custodian of monies.

Funds accruing to the retirement program under this article shall be commingled with all money on deposit with the state treasurer in the Wyoming retirement account. The board may designate the state treasurer or a custodial bank approved by the state treasurer as the custodian of the monies and shall administer them in accordance with W.S. 9-3-424.

9-3-619. Payment of employers' contribution from highway fund, game and fish fund and attorney general budget.

Provision for the payment of the employers' contribution under this article shall be made in the budget of the Wyoming highway patrol division as approved by the department of transportation out of the state highway fund, in the budget of the Wyoming game and fish commission out of the game and fish fund and in the budget of the attorney general for the division of criminal investigation and for capitol police.

9-3-620. Exemption of benefits from state and local taxes, execution and attachment; benefits paid under qualified domestic relations order.

(a) Benefits and allowances set forth under this article are exempt from any state, county or municipal tax and are not subject to execution or attachment by trustee process or otherwise, in law or equity, or under any other process, and are not assignable except as specially provided in this article.

(b) Notwithstanding subsection (a) of this section, benefits and allowances under this article may be paid in accordance with qualified domestic relations orders pursuant to W.S. 9-3-426.

ARTICLE 7 JUDICIAL RETIREMENT

9-3-701. Short title.

This act is known and may be cited as "The Wyoming Judicial Retirement Act".

9-3-702. Definitions.

(a) As used in this act:

(i) "Account" means an account established for the purpose of accounting for funds used to provide benefits to employees covered under this act;

(ii) "Board" or "retirement board" means the retirement board of the Wyoming retirement system established by the Wyoming Retirement Act, article 4 of this chapter 3;

(iii) "Credited service" means service as a justice of the supreme court, as a district judge or a circuit court judge for which contributions were made and not refunded under this act;

(iv) "Disability" means a determination by the supreme court or a special supreme court of mandatory retirement of the employee for a disability as provided in Wyoming Constitution, Article 5, Section 6(g);

(v) "Employee" means any justice of the supreme court, district judge, chancery court judge or circuit court judge appointed to any of those offices on or after July 1, 1998, and with no prior service as a justice of the supreme court or district judge at the time of the appointment. "Employee" also includes any justice or judge who elects to participate in the judicial retirement program under this act in accordance with W.S. 9-3-713;

(vi) "Employer" means the Wyoming supreme court, for justices, chancery court judges and circuit court judges, or a district court;

(vii) "Highest average salary" means the average annual salary of a member for the highest paid three (3) years of continuous service;

(viii) "Interest" means interest compounded annually at such rate or rates as shall be determined by the board, not exceeding the average amount of interest actually earned per annum by the account;

(ix) "Retirement program" means the Wyoming judicial retirement program created by this act;

(x) "Salary" means the cash remuneration paid, including contributions required by W.S. 9-3-704, to an employee for his services;

(xi) "Member account" means:

(A) For an employee who has a minimum of four (4) years of service or an employee initially employed before July 1, 2018, the employee's contributions paid from any source;

(B) For an employee who has fewer than four (4) years of service and who is initially employed on or after July 1, 2018, only the employee's contributions paid by a reduction in cash salary of the employee.

(xii) "This act" means W.S. 9-3-701 through 9-3-713.

9-3-703. Administration.

(a) There is created the retirement program which is for the benefit of the employees defined in W.S. 9-3-702(a)(v).

(b) The administration and responsibility for the operation of the retirement program is under the direction and control of the board. All matters pertaining to the board are applicable to the retirement program created by this act. For the purposes of administration of this act, the Wyoming Retirement Act applies to this act to the extent not inconsistent with this act, or where by the terms of the Wyoming Retirement Act, its provisions can have no application. Specifically, with respect to this act, W.S. 9-3-408 applies

with respect to investment of funds and service as custodian of funds in the account and the board has rulemaking authority in accordance with W.S. 9-3-409.

9-3-704. Employee contributions.

(a) Except as otherwise provided in this section, every employee covered by this article shall pay into the account nine and twenty-two one-hundredths percent (9.22%) of his salary. To the extent this contribution is not paid by the employer as authorized in this section, this payment shall be deducted each pay period from employees' salaries by the respective fiscal officers of the employers.

(b) The entire contribution required by subsection (a) of this section shall be paid by the employer for employees covered under this article in order to be treated as employer contributions for the sole purpose of determining tax treatment under the United States Internal Revenue Code.

(c) The contributions under subsection (b) of this section shall be paid from the source of funds which is used in paying salary to the employee. The employer may pay these contributions without offset of the employee's salary in the same salary percentage as provided by state employers under W.S. 9-3-412(c). The employer shall also reduce the cash salary of the employee by three and sixty-five hundredths percent (3.65%).

9-3-705. Employer contributions.

Each employer subject to this act shall pay into the account a contribution equal to fourteen and five-tenths percent (14.5%) of the salary paid to each employee covered by this act. These contributions, together with the employees' contributions shall be transferred and credited to the retirement program in a manner the board directs.

9-3-706. Age of retirement.

(a) An employee is eligible for retirement under this act when he has served as a judge of the supreme court, a district court, a chancery court judge, a circuit court or service in any combination of those positions after July 1, 1998, if:

(i) He is at least sixty (60) years of age and has at least twenty (20) years of credited service;

(ii) He is at least sixty-five (65) years of age and has at least four (4) years of credited service;

(iii) He has less than four (4) years of credited service but has served continuously from the date of appointment to the age of seventy (70) years;

(iv) He has not less than ten (10) years and is retired for disability;

(v) He has not less than four (4) years of service to his credit and is at least fifty-five (55) years of age, but any benefit received by an employee under this paragraph shall be reduced by five percent (5%) for each year of retirement prior to age sixty-five (65).

9-3-707. Amount of benefit; adjustments.

(a) Any employee who has left service covered under this act, and who has not withdrawn his accumulated contributions, is eligible to receive a retirement allowance computed according to the terms of this act at the age specified in W.S. 9-3-706. The service retirement allowance payable to an employee under this act is subject to the following:

(i) The amount shall be equal to the percentage computed under paragraph (ii) of this subsection times the employee's highest average salary as defined in W.S. 9-3-702(a)(vii);

(ii) For the purposes of making the computation under paragraph (i) of this subsection, the percentage shall be computed based upon the sum of the following for credited service:

(A) Four percent (4%) for each of the first five (5) years of credited service;

(B) Three percent (3%) for each year from and including the sixth year through the fifteenth year of credited service;

(C) Two percent (2%) for each year from and including the sixteenth year through the twentieth year of credited service;

(D) One percent (1%) for each year from and after the twenty-first year of credited service.

(iii) Repealed by Laws 2008, Ch. 21, § 2.

(iv) For an employee retired for disability, W.S. 9-3-422(a) and (b) apply with respect to computing the amount of the benefit.

(b) Repealed By Laws 2012, Ch. 107, § 3.

(c) W.S. 9-3-430 applies to this act.

(d) Benefits shall not be payable under the program to the extent that they exceed the limitations imposed by section 415(b) of the Internal Revenue Code. The board shall provide any benefits in excess of the limitations under special pay plans authorized under W.S. 9-3-405(b) to the extent the benefits can be provided and the program retain qualified plan status under the Internal Revenue Code.

9-3-708. Death benefits; survivor's benefits.

(a) W.S. 9-3-421 applies to employees and their survivors under this act.

(b) Upon the death of a former employee who is receiving a retirement allowance under this act, the employee's survivor shall receive a monthly retirement allowance during the survivor's life equal to fifty percent (50%) of the allowance received by the former employee under this act at the time of the employee's death.

9-3-709. Refund of contributions upon termination of employment; procedure; redeposit; limitation on refund.

Any employee covered by this act who terminates his employment is entitled to a refund of his member account plus interest thereon, except that commencing July 1, 2019 for an employee who has fewer than four (4) years of service to his credit, no interest shall accrue to the member account during any period in which the employee is not employed by a participating employer. The refunds shall be made only upon written request to the board. Any employee who withdraws from the system under this section shall forfeit all rights to further benefits, employer matching contributions and service credit under the system. Any person who later returns to service covered by this act may

redeposit the amount of the contributions withdrawn, in lump sum, together with interest, if any, and upon earning not less than two (2) years credited service, may reestablish his service credits as of the time of withdrawal of his contributions. Any redeposit payment pursuant to this section shall be made not later than ten (10) years following the date of reemployment or prior to retirement, whichever first occurs.

9-3-710. Disposition of funds; custodian of monies.

Funds accruing to the account used to fund benefits for the program under this act shall be commingled with all money on deposit with the state treasurer in the Wyoming retirement account. The board may designate the state treasurer as the custodian of the retirement account. Disbursements from the account for purposes as specified in W.S. 9-3-407(c) shall be made only upon warrants drawn by the state auditor upon certification by authorized system employees. All disbursements from the account shall be accounted for in accordance with the uniform state accounting system or in a manner approved by the state auditor or the state treasurer as provided under W.S. 9-4-214. As used in this section, "authorized system employees" means the director and his designees who have authorized signatures on file with the state auditor, "director" means the director of the Wyoming retirement system, and "system" means the Wyoming retirement system.

9-3-711. Payment of employers' contribution from budgets.

Provision for the payment of the employers' contribution under this act shall be made in the budget of the Wyoming supreme court and the district courts. Provision for the payment of that portion of the employee's contribution authorized to be made by the employer under this act shall be requested in the budget of the Wyoming supreme court and the district courts.

9-3-712. Exemption of benefits from state and local taxes, execution and attachment; benefits paid under qualified domestic relations order.

(a) Benefits and allowances set forth under this article are exempt from any state, county or municipal tax and are not subject to execution or attachment by trustee process or otherwise, in law or equity, or under any other process, and are not assignable except as specially provided in this article.

(b) Notwithstanding subsection (a) of this section, benefits and allowances under this article may be paid in accordance with qualified domestic relations orders pursuant to W.S. 9-3-426.

9-3-713. Election to transfer into the system established under this act.

(a) Any Wyoming supreme court justice, district judge or circuit court judge appointed before July 1, 1998, may elect to be covered under the retirement system established under this act subject to the following terms and conditions:

(i) The election shall be made by providing notice to the board not later than December 31, 1999, or prior to retirement, whichever is earlier, and making any payment required under paragraph (iii) of this subsection. An election made pursuant to this section may be rescinded at any time before the electing judge or justice collects retirement from the retirement system established under this act;

(ii) For county judges, the board shall transfer the funds in the judge's member account in the retirement system as defined in W.S. 9-3-402(a)(i) and the matching employer contributions along with interest on both to the account created in W.S. 9-3-702(a)(i) to fund retirement under this act;

(iii) A circuit court judge making an election under this section shall also pay to the board an amount determined by the board which shall be deposited into the retirement system account used to fund the retirement benefits under this act. The amount shall be equal to three and sixty-five hundredths percent (3.65%) of his salary for each year of service to be credited under this act plus interest, or an amount sufficient to cover the unfunded liability for retirement benefits under this section after the transfer under paragraph (ii) of this section, whichever is less. Notwithstanding paragraph (i) of this subsection, a circuit court judge appointed before July 1, 1998, may elect to be covered under this act by providing notice to the board not later than December 31, 2003, or prior to retirement, whichever is earlier, and making any payment required under this paragraph.

CHAPTER 4
PUBLIC FUNDS

ARTICLE 1

RECEIPT AND DISBURSEMENT

9-4-101. Fiscal year; delivery of state property by treasurer and auditor to successors.

The fiscal year for all agencies, boards, commissions, departments, instrumentalities or institutions of the state government shall commence on July 1 in each year, except as otherwise specifically provided or authorized by law. At the end of their respective terms of office the treasurer and auditor shall deliver to their successors all official books, papers, records and balances of funds in their possession. If either or both successors are not elected or appointed and qualified, the existing incumbent of the office shall retain the state property until the election or appointment and qualification of his successor occurs.

9-4-102. Creation of expense in excess of appropriation; liability of officer therefor; penalty for violation.

(a) Except as otherwise provided by law, no state officer is authorized to create any expense of any kind or character as a charge against the state in excess of the amount appropriated for his use. Any officer creating an expense in excess of the appropriation is responsible for the expenditure under his official bond.

(b) Any person or board, who violates this section is guilty of a misdemeanor and shall be fined not to exceed two hundred dollars (\$200.00) and may be removed from office.

9-4-103. Account of expenditures; public inspection; vouchers for allowances.

When an appropriation is made by law for any purpose, to be expended for the state, the officer or board having charge of the appropriation shall keep an account therewith, showing when, to whom and for what purpose any portion of the appropriation has been expended. The account shall always be open for public inspection. Every officer or person presenting any voucher to any board for allowance, or to the auditor for payment, shall have affixed to the voucher a full itemized statement in writing covering the claim and the claim shall be approved for allowance by the proper board, department head or officer. Any claims failing to comply with this provision shall be rejected by the auditor or any of the boards to which the claims are presented.

9-4-104. Withholding salary in case of embezzlement of public funds or failure to pay over fees.

If any officer of the state, or of any county or municipal corporation therein, having the custody of public funds, embezzles the funds, or if any public officer whose duty it is to pay into the treasury of the state, county or municipal corporation, any fees collected by him, fails at the times required by law to pay over the fees into the proper public treasury, the officer whose duty it is to audit and allow claims for salary of any officer or to issue a warrant in payment of the salary, may withhold the salary due to the officer, until the embezzlement, if any, is satisfied, or until the fees unlawfully retained by the officer are properly turned over and paid into the proper public treasury. If the director of the state department of audit determines that any embezzlement exists, or that any fees have been improperly retained by any public officer, the auditing officer or board shall withhold the person's salary until embezzlement is satisfied, or the fees are turned into the proper public treasury, or a court of competent jurisdiction arrives at a different conclusion from that of the director and decrees that no embezzlement or failure to pay over fees existed.

9-4-105. Cancellation of unpaid state warrants.

The state auditor shall cancel all state warrants that have been issued for one (1) year and which have not been presented to the state treasurer for payment. The money shall revert to the fund and account upon which the warrant was originally drawn or to the general fund if the original account no longer exists.

9-4-106. Interest on public warrants.

(a) All state, county, school district, town, city or other public warrants issued for any salary, fee or for any public indebtedness, claim or demand which has accrued on any public contract, transaction or liability shall draw interest upon the amount expressed in the warrant from the date of presentation for payment at the treasury or other place at which the warrant may be payable until there are sufficient funds in the treasury for payment. The rate of interest shall be established by the governmental entity based upon market conditions at the time of presentation of the warrant for payment and shall be stated within the warrant. No rate of interest shall be allowed or paid upon a warrant except as established under this section.

(b) Each state or county treasurer or municipal officer authorized to act as treasurer, to whom a warrant is presented for payment and funds in the treasury are insufficient to pay the warrant, shall endorse the words "not paid, for want of funds" and officially sign and date the warrant.

9-4-107. Balancing of accounts.

All fiscal officers of the state shall balance their respective accounts at 12:00 noon on December 31, and at 12:00 noon on June 30 in each year.

ARTICLE 2
FUNDS CONSOLIDATION

9-4-201. Repealed By Laws 2005, ch. 231, § 2.

9-4-202. Legislative purpose.

This act reserves to the legislature the authority to establish funds outside of constitutional requirements. Provision is made to facilitate the handling of federal grants and other revenues which shall remain restricted according to the terms under which they are received. It is the policy of the legislature that all general governmental programs, activities and functions shall be subject to its review regardless of the sources of revenue available to the various departments, institutions or agencies except as otherwise provided.

9-4-203. Definitions.

(a) As used in this act:

(i) "Activity" means a specific and distinguishable line of work performed by one (1) or more organizational components of a governmental unit or capital outlay for the purpose of accomplishing a function for which the governmental unit is responsible;

(ii) "Appropriation" means an authorization granted by the legislature to make expenditures and to incur obligations for specific purposes;

(iii) "Earmarked revenue" means revenue which is dedicated by law for expenditure for specified activities, functions or programs and limited in the amount expended for the

activities by the amount of money deposited to the credit of the governmental unit responsible for the specified functions and activities;

(iv) "Earned federal money" means any federal money receipt which is:

(A) Reimbursement for state money disbursed under a contractual relationship;

(B) Reimbursement of administrative overhead;

(C) Reimbursement for general state overhead from the statewide cost allocation;

(D) To finance a state activity that is being performed as a regular state funded activity;

(E) Reimbursement for an overmatch of federal money for any reason for which there is no obligation to carry forward for additional state funding or requiring a refund to the federal government; or

(F) The result of a lapse in a federal activity that does not require refunding to the federal government.

(v) "Fiscal period" means the period from July 1 through June 30 of each year established for the purpose of determining the financial position and the results of a governmental unit except as otherwise specifically provided or authorized by law;

(vi) "Function" means a group of related activities aimed at accomplishing a major service or program for which a governmental unit is responsible;

(vii) "Fund" means an independent fiscal and accounting entity with a self-balancing set of accounts recording cash or other resources together with all related liabilities, reserves, and equities which are segregated for the purpose of carrying on specific activities or functions or attaining specific objectives in accordance with law;

(viii) "Fund accounts" means the accounts necessary to set forth the financial operations and the financial position of the various components of any fund;

(ix) "Lapse" means the automatic termination of an appropriation;

(x) "Restricted revenue" means revenue which is dedicated by law for expenditure for specified activities, functions or programs and limited in the amount expended by legislative appropriation;

(xi) "Surplus" means the excess of assets of a specific fund or account over its liabilities;

(xii) "Unappropriated surplus" means that portion of the surplus of a specific fund or account which is not segregated for specific purposes;

(xiii) "This act" means W.S. 9-4-201 through 9-4-224.

9-4-204. Funds established; use thereof.

- (a) Repealed By Laws 2005, ch. 231, § 2.
- (b) Repealed By Laws 2005, ch. 231, § 2.
- (c) Repealed By Laws 2005, ch. 231, § 2.
- (d) Repealed By Laws 2005, ch. 231, § 2.
- (e) Repealed By Laws 2005, ch. 231, § 2.
- (f) Repealed By Laws 2005, ch. 231, § 2.
- (g) Repealed By Laws 2005, ch. 231, § 2.
- (h) Repealed By Laws 2005, ch. 231, § 2.
- (j) Repealed By Laws 2005, ch. 231, § 2.
- (k) Repealed By Laws 2005, ch. 231, § 2.
- (m) Repealed By Laws 2005, ch. 231, § 2.
- (n) Repealed By Laws 2005, ch. 231, § 2.
- (o) Repealed By Laws 2005, ch. 231, § 2.
- (p) Repealed By Laws 2005, ch. 231, § 2.

(q) Repealed By Laws 2005, ch. 231, § 2.

(r) Repealed By Laws 2005, ch. 231, § 2.

(s) It is the intent of the legislature to establish uniform requirements for state government accounting and financial reporting in accordance with the generally accepted accounting principles (GAAP) as promulgated by the governmental accounting standards board (GASB), or its successor bodies, so that the financial position and the results of operations of state government can be publicly available to citizens, legislators, financial institutions and others interested in such information. To implement these requirements:

(i) The state auditor shall assign accounting for activities and programs of Wyoming state government to funds and classify each into fund types and account groups as specified in subsection (t) of this section in accordance with generally accepted accounting principles;

(ii) All state agencies in all branches of government and specifically the budget division of the department of administration and information, the governor and the consensus revenue estimating group shall use the fund types specified in subsection (t) of this section in preparing state budget documents, budget recommendations, revenue estimates and legislation;

(iii) The state auditor may, in consultation with the chief executive officers of the state agencies significantly involved in the operation of the fund, change the classification of funds between fund types when the operation of the fund changes or when there is a change in the application of generally accepted accounting principles;

(iv) The state auditor, after consultation with the chief executive officer of the state agency significantly involved in the operation of the affected fund or account, may merge, combine or segregate any fund or account that is or may be provided by law;

(v) Within six (6) months after the end of each fiscal year, the state auditor shall publish a comprehensive annual financial report that shall conform as nearly as practicable to established governmental reporting standards. The financial statements shall be prepared in accordance with generally accepted accounting principles and shall contain

certificates of examination by the department of audit or any other independent auditor that may be assigned; and

(vi) A deviation from generally accepted accounting principles shall not be made unless authorized by law.

(t) As provided in subsection (s) of this section, the state auditor shall use the following fund types to classify state activities and programs for accounting purposes as specified:

(i) Governmental fund types:

(A) General fund - to account for the ordinary operation of state government, and shall receive all revenues and account for all expenditures not otherwise provided for by law in any other fund. General fund appropriations shall not be transferred to any other fund or account for expenditure except as otherwise provided by law;

(B) Special revenue fund - to account for the proceeds of specific revenue sources, other than expendable trusts or for major capital projects that are legally restricted to be expended for specified purposes;

(C) Capital projects fund - to account for financial resources to be used for the acquisition or construction of major capital facilities;

(D) Debt service fund - to account for the accumulation of, and the payment of, general long term debt principal and interest.

(ii) Proprietary fund types:

(A) Enterprise fund - to account for operations:

(I) That are financed and operated in a manner similar to private business enterprise where the intent of the governing body is that the costs and expenses, including depreciation, of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges; or

(II) Where the governing body has decided that periodic determination of revenues earned, expenses

incurred or net income is appropriate for capital accountability or other purposes.

(B) Internal service fund - to account for the financing of goods or services provided by one (1) department or agency to other departments or agencies of the governmental unit, or to other governmental units, on a cost-reimbursement basis.

(iii) Fiduciary fund types:

(A) Private-purpose trust funds - to account for any trust arrangement not properly reported in a pension trust fund or an investment trust fund under which principal and income benefit individuals, private organizations or other governments;

(B) Investment trust funds - to account for legally separate governments pooling their resources in an investment portfolio for the benefit of all participants;

(C) Pension and other employee benefit trust funds - to account for the assets held by state government as trustee for employee retirement systems;

(D) Agency funds - to account for assets that state government holds on behalf of others as their agent.

(iv) College and university financial information - the financial data of state governmental colleges and universities that are considered to be part of the state government and that apply the provisions of the American institute of certified public accountants industrial audit guide. Audits of colleges and universities should be included with the financial data of the state government but may be presented separately from the fund types of the state government.

(u) Other funds defined as follows shall be classified by the state auditor pursuant to subsections (s) and (t) of this section:

(i) Highway fund - to account for all revenues the expenditures of which are constitutionally restricted to highway purposes or which are available for expenditure by the Wyoming transportation commission excluding general fund appropriations;

(ii) Game and fish fund - to account for all revenues received by the game and fish department the expenditures of which are restricted to wildlife purposes or which are available for expenditure by the Wyoming game and fish commission excluding general fund appropriations;

(iii) Permanent Wyoming mineral trust fund - to account for the proceeds from an excise tax levied by constitutional or statutory law, on the privilege of extracting or severing minerals designated by constitutional or statutory law. The proceeds of the fund are inviolate and constitute a permanent or perpetual trust fund which shall be invested, or loaned to political subdivisions of the state, only as the legislature directs. All income from the fund shall be deposited annually in the general fund;

(iv) Permanent land fund - to account for the resources received and held as trustee of the land grants made to the state by the federal government as provided by W.S. 9-4-305(b);

(v) Permanent land income fund - to account for the income from the permanent land fund, land grants and income from other sources as provided by W.S. 9-4-305(c);

(vi) The excellence in higher education endowment fund - to consist of funds appropriated or designated to the fund by law, or by gift from whatever source. In accordance with Wyoming Constitution Article 15, Section 20, monies within the fund shall not be expended and may be invested in the same manner as other permanent funds of the state. Earnings from investment of monies within the fund are subject to the spending policy as provided in W.S. 9-4-719 and shall be distributed and expended as provided by law. Earnings in excess of spending policies shall be retained as provided by W.S. 9-4-719;

(vii) Hathaway student scholarship endowment fund - to consist of funds appropriated or designated to the fund by law, or by gift from whatever source. In accordance with Wyoming Constitution Article 15, Section 20, monies within the fund shall not be expended and may be invested in the same manner as other permanent funds of the state. Earnings from investment of monies within the fund shall be distributed and expended as provided by law;

(viii) Hathaway expand Wyoming scholarship endowment fund - to consist of funds appropriated or designated by law, or

by gift from whatever source. In accordance with Wyoming Constitution Article 15, Section 20, monies within the fund shall not be expended and may be invested in the same manner as other permanent funds of the state. Earnings from investment of monies within the fund shall be distributed and expended as provided by law. No state funds shall be appropriated or deposited into the fund.

9-4-205. Appropriations and expenditures.

(a) The revenues and other resources of the general fund, the special revenue fund insofar as it contains restricted revenue, federal funds and the permanent land fund as provided by W.S. 9-4-310 are subject to legislative review and appropriation for each fiscal period.

(b) Expenses required in administrative activities chargeable to accounts within the special revenue fund and the highway fund excluding the department of transportation shall be provided by legislative appropriation from the general fund. Monthly, as the general fund appropriations are expended, corresponding amounts shall be transferred from the proper accounts within the funds specified in this subsection to the general fund. The administrative expenses chargeable to these accounts shall be included in the governor's budget to the legislature as provided by law.

(c) The revenues and other resources in any funds created by this act which are not affected by subsection (a) or (b) of this section may be expended pursuant to law or agreement if in conformity with the requirements of the budget division of the department of administration and information, if any.

(d) Authority to spend enterprise fund accounts shall be based upon budgets submitted in the same manner as for other units of state government. The budgets shall be supported by complete financial and operating statements together with cost analyses and comparisons to provide a base for financial planning.

(e) Authority to spend internal service fund accounts shall be based on the approved budget requests of the serviced units of state government. Additional authority to spend may be requested and shall be supported by financial and operating statements together with cost analyses and comparisons to provide a base for financial planning.

9-4-206. Disposition of revenue; cash accounts; investment of monies held by state institutions.

(a) Receipts of revenue and other resources that require allocation into more than one (1) fund or to more than one (1) governmental unit shall be deposited in an account for holding until allocated in accordance with law. All revenue and money received or held by a state governmental unit shall be placed in the appropriate fund except as otherwise provided. Except as otherwise provided by law, no bank accounts shall be opened or maintained nor shall revenue, cash, checks or other written instruments, notes, mortgages, securities, performance bonds or other similar obligations be held by any state governmental unit except the state treasurer.

(b) Supplemental additions to approved budgets for acceptance and expenditure of federal funds authorized for acceptance by the governor after notice is provided to the legislature pursuant to W.S. 9-2-1005(b) shall be in writing, signed by the governor or his designated representative with copies to the state auditor and department of administration and information. Upon approval by the governor, federal revenue that is accepted and which will result in a saving or replacement of state monies to accomplish a budgeted activity or function shall be transferred to the general fund with appropriate explanation.

(c) The state treasurer may establish cash accounts for state government units. The cash accounts may be for purposes of making change, for the payment of small local purchases, refunds under one hundred dollars (\$100.00), or, in the case of the state fair, for any expenditures authorized by law. Cash accounts shall be reimbursed at least monthly by submitting a certified voucher supported by the documentation required by the state auditor for issuance of a state warrant from the appropriate accounts in the same manner as other vouchers are submitted for payment. The reimbursement warrant shall be paid from the appropriate account and charged to the budgeted expense classifications, if any. Money provided by this subsection may be placed in demand deposits for disbursement. All approved change and petty cash accounts shall be an accountable cash item within the state treasurer's cash accountability and supported by receipts from the administrator of the state unit holding change or petty cash accounts.

(d) The state treasurer may establish a cash account within his office to facilitate the processing and payment of cash refunds, or other fund cash disbursements, under one

hundred dollars (\$100.00). Money provided by this subsection may be placed in a demand deposit for disbursement. The cash account shall be reimbursed at least monthly by submitting a certified voucher supported by the documentation required by the state auditor for issuance of a state warrant from the appropriate accounts.

(e) Excluding compensation earned by prisoners confined to a state penal institution, to the greatest extent possible all monies held by any state institution belonging to patients, residents or inmates of the state institution shall be deposited or held at the location of the institution, to earn the highest available rate of interest on an investment insured by the United States government or agency or any department thereof and to be available for withdrawal without penalty, and need not be accounted for within the agency fund. With the consent of the person owning the money or of any person legally responsible for that person's financial affairs the monies may be invested in accounts or certificates of deposit insured by the United States government, agency or department which are for a fixed term and have a penalty for early withdrawal. Each chief administrator of an institution is accountable for all monies. An account shall be kept for each individual showing all receipts, disbursements and monies by type of account. To the greatest extent possible, all monies not invested in fixed term investments shall be deposited in individual savings accounts to accrue interest for each individual. Monies not so deposited shall be kept in a separate pooled demand account. The total receipts, disbursements and balances shall be reported monthly to the state treasurer and state auditor for disclosure in the state financial reports. Upon discharge all money plus accrued interest held on behalf of a patient, resident or inmate, excluding lawful charges, shall be returned to that person or a duly authorized person. If the patient, resident or inmate, or other duly authorized person, cannot be found, or in the event of death of the patient, resident or inmate, the money plus accrued interest, excluding lawful charges, shall after a reasonable effort to find and notify the heirs has failed, be transmitted to the state treasurer to be held or distributed as provided by W.S. 9-5-203.

9-4-207. Disposition of unexpended appropriations.

(a) All unexpended general fund appropriations shall lapse as of the end of the fiscal period excluding appropriations for purposes as specified in subsection (d) of this section.

(b) All unexpended federal funds appropriations and budget authorizations to accept and expend federal funds as provided by W.S. 9-4-206(b) shall be reviewed by the department of administration and information at the end of the fiscal period. The department may authorize amounts to be carried forward into the next fiscal period which are necessary to complete activities or functions in progress, for activities or functions not then started, and for purposes as specified in subsection (d) of this section. Federal funds not carried forward shall revert to the general fund unless federal requirements provide otherwise or unless otherwise provided by the legislature.

(c) Unexpended appropriations from any funds created by this act not specified in subsection (a) or (b) of this section shall lapse at the end of the fiscal period and be accounted for as unappropriated surplus within the fund or account if applicable, excluding appropriations for purposes as specified in subsection (d) of this section.

(d) Appropriations for the purposes specified in this subsection shall be excluded from reverting pursuant to subsections (a) through (c) of this section. Appropriations which do not revert pursuant to this subsection shall be expended only on the projects for which the funds were appropriated. Funds subject to this subsection are appropriations:

(i) For capital outlays;

(ii) For information technology projects which have been certified by the state chief information officer as having a defined scope, defined process to ensure competitive bidding, and an identified need for continuing the expenditure beyond the applicable fiscal period from unexpended appropriations. The certification shall be provided to the state auditor prior to the end of the applicable fiscal period;

(iii) Which are specifically designated by law as not subject to reversion under this section.

(e) In each even numbered year:

(i) For purposes of reverting unexpended appropriations:

(A) Not later than July 15, the state auditor shall provide to each affected agency a list of existing

unexpended appropriations or authorizations from all prior fiscal periods;

(B) Not later than August 15, each agency shall provide to the auditor a list of existing unexpended appropriations or authorizations for all prior fiscal periods and amounts which can be reverted;

(C) Not later than October 1, the auditor shall revert any unexpended appropriation for which there is no legal authority to carry forward the appropriation into the next fiscal period.

(ii) For purposes of reporting unexpended appropriations:

(A) Not later than October 15, the state auditor shall provide to each affected agency a list of existing unexpended appropriations or authorizations from all prior fiscal periods;

(B) Not later than November 15, each agency shall provide to the state auditor the nature of each outstanding obligation, the authority to maintain any unexpended appropriation and a timeline for expenditure of funds to meet any outstanding obligation legally incurred.

(iii) Not later than December 1, the auditor shall:

(A) Repealed by Laws 2016, ch. 8, § 2.

(B) In consultation with the department of administration and information, report to the governor and joint appropriations interim committee on all unexpended appropriations or authorizations remaining after September 30. The state chief information officer shall be consulted for purposes of information technology projects within the report. The report shall include:

(I) Identification of the provision of law initially appropriating the funds;

(II) The amount of funds not reverted;

(III) An explanation of why each amount did not revert and for each capital outlay or information technology

project for which funds did not revert, a description of the project;

(IV) The anticipated date upon which the funds will revert;

(V) For funds not reverted pursuant to W.S. 9-2-1008, the fund type, purpose and timeline for expenditure of funds to meet any outstanding obligation legally incurred;

(VI) The account or fund to which the funds will revert.

(f) For purposes of subsection (e) of this section funds within an account or fund established by codified statute as not subject to reversion or lapse at the end of a fiscal period shall not be considered as reportable funds.

(g) The state auditor, in consultation with the department of administration and information, shall accommodate the department of transportation's October through September fiscal period in implementing the reporting requirements of subsections (e) and (f) of this section regarding the disposition of unexpended appropriations while still identifying any reversions by October 1 of each even numbered year.

9-4-208. Refunds.

(a) Except as provided by W.S. 9-4-204(t)(iii)(D) and 9-4-206(c) and (d), money paid into the state treasury through error or under circumstances such that the state is not legally entitled to retain it, may be refunded upon the submission of a verified claim therefor. The claimant shall present his verified claim, together with a complete statement of facts and reasons for which the refund is claimed, to the head of the state agency concerned, who shall forthwith examine it, attach his approval or disapproval of the claim and his reasons, and submit the claim to the state auditor for settlement in the manner provided by law. At the discretion of the head of the state agency concerned, the verified claim of the claimant may be waived, and the refund made upon certification by the head of the state agency concerned.

(b) There is appropriated to the person or entity entitled to a refund under this section, from the fund or account in the state treasury to which the money was credited, an amount sufficient to make the refund and payment.

9-4-209. Governor's emergency expenditures.

(a) The legislature shall appropriate money from the general fund to the governor for use as hereafter provided.

(b) The money appropriated pursuant to subsection (a) of this section is subject to allocation and expenditure by the governor to meet emergency and unanticipated requirements:

(i) Necessary to insure the proper functioning of state government and to render essential state services when the legislature is not in session;

(ii) Which were not foreseeable or predictable at the time of the preparation and adoption of the budget and the passage of appropriation measures during the session of the legislature immediately preceding the occurrence of the emergency or requirement; and

(iii) For which other money is unavailable or is insufficient.

(c) Requests by a state department or agency for the allocation and expenditure of money appropriated pursuant to subsection (a) of this section shall be made by the administrative head of the department or agency in writing to the governor specifying the circumstances which are deemed necessary to require the requested allocation and expenditure by the governor. Written notification of the request and grant of money, if any, shall be distributed as provided in W.S. 9-4-206(b).

9-4-210. Repealed By Laws 2005, ch. 231, § 2.

9-4-211. Repealed By Laws 2005, ch. 231, § 2.

9-4-212. Creation of new funds; references to word "fund"; discontinuance of existing funds.

Direct or indirect references to the word "fund" when used to identify a separate accounting entity wherever contained in the Wyoming statutes shall be construed to mean account unless the fund is established by statute. No existing statutory fund shall be discontinued or abolished without the approval of the legislature.

9-4-213. Earned federal money.

All earned federal money received by a state department or institution shall be credited to the fund or account out of which the department, agency or institution made the expenditure resulting in the earned federal money.

9-4-214. Control and budgetary accounts; uniform accounting systems.

(a) The state auditor shall establish general control accounts for each fund appropriation included in legislative appropriation acts to reflect the amount of expenditure approved charging against each type of fund the expenditures as made to disclose the unexpended authorizations. The department of administration and information shall establish budgetary accounts as necessary. The state auditor, state treasurer and the department of administration and information shall develop and maintain the state's uniform centralized accounting system and methods for identifying, classifying and reporting revenues, receipts and disbursements including accounts and subaccounts for all nonappropriated state funds and shall develop and implement a uniform modified accrual accounting system.

(b) For purposes of this section, "disbursements" does not include payments made for investments by the Wyoming retirement system, its agents or its trustees in connection with portfolio changes, provided any such payments shall be accounted for by the Wyoming retirement board, not less than monthly, in a manner acceptable to the state auditor and the state treasurer.

9-4-215. University's fund structure and accounting.

The fund structure and accounting of the University of Wyoming are excluded from the operation of this act except insofar as specific disposition is made of funds utilized by the university.

9-4-216. Financial advisory council.

(a) There is established a financial advisory council consisting of the state auditor, the state treasurer, the director of the state department of audit, the director of the department of administration and information, the director of the state budget department, the director of the department of revenue, a member or designee of the joint appropriations committee, and other persons the governor appoints as ex officio

members without voting privileges. The state auditor is chairman of the financial advisory council.

(b) The financial advisory council shall oversee the design and implementation of a uniform state accounting system applicable to all state agencies, departments, boards, commissions and institutions which will insure that all fiscal data is accumulated, processed and reported to provide compatible fiscal management information and to make possible full disclosure and fair presentation of financial position and operating results in accordance with generally accepted governmental accounting principles. Generally accepted governmental accounting principles, definitions and procedures as outlined by the national committee on government accounting in the publication "Governmental Accounting, Auditing, and Financial Reporting" shall be used as a guide by the financial advisory council in the accounting methodology. If there is a conflict between legal provisions and generally accepted governmental accounting principles, the legal provisions will take precedence.

(c) Under the guidance and with consent of the financial advisory council the department of administration and information shall hire specialized state personnel to develop the capability, and may secure the services of professional consultants, to implement this act and related fiscal procedures.

9-4-217. Uniform state accounting system.

(a) Notwithstanding any other provision of law, the legislative, the judiciary and each executive branch agency as defined by W.S. 9-2-1002(a)(i), including the University of Wyoming, the game and fish department and the Wyoming department of transportation, shall use the uniform state accounting system designated by the state auditor.

(b) All state agencies are required to use the uniform state accounting system to account for all revenue, budget and expenditure transactions. Procedures for the use of this system shall be prescribed by the state auditor.

(c) The state auditor shall promulgate reasonable rules and regulations necessary to carry out this section.

(d) The state auditor shall prescribe what accounts shall be kept by each state agency in addition to the uniform state

accounting system maintained in the state auditor's office. In prescribing what accounts shall be kept by each state agency, the state auditor shall take care that there shall be no unnecessary duplication.

(e) The state auditor, with assistance from the department of audit, the budget division of the department of administration and information, and the state treasurer shall prescribe such internal control procedures for any state agency as he deems necessary to assure assets are properly safeguarded, accounting entries are accurate and reliable, and assets and resources are being utilized consistent with the requirements of the law and duly established managerial policies in an effective, economical and efficient manner.

(f) Repealed By Laws 1999, ch. 22, § 2.

(g) Repealed By Laws 1999, ch. 22, § 2.

(h) The department of enterprise technology services shall contract with a payment processor for statewide payment processing services that each executive branch agency as defined by W.S. 9-2-1002(a)(i), including the game and fish department and the Wyoming department of transportation, shall utilize, except as specifically prohibited by law or as otherwise provided in this subsection, to allow any tax, assessment, license, permit, fee, fine, or other money owing to the state or collectible by the state on behalf of another unit of government to be paid by negotiable paper, or in payment of any bail deposit or other trust deposit. If the administrative head of a division within a department determines that it is not feasible to utilize the statewide payment processor contract the administrative head shall request a waiver from the state chief information officer. If the waiver is granted, the division may, except as otherwise prohibited by law, contract with a payment processor for the purposes specified in this subsection and as reasonably limited by the waiver. The University of Wyoming, Wyoming community colleges and the judicial and legislative departments of state government may, except as otherwise prohibited by law, contract with a payment processor or utilize the statewide payment processor contract for the purposes specified in this subsection. As used in this subsection, "negotiable paper" means money orders, paper arising from the use of a lender credit card as defined in W.S. 40-14-140(a)(ix), checks and drafts, including, without limitation, sales drafts and checks and drafts signed by a holder of a lender credit card issued by a bank maintaining a revolving loan

account as defined in W.S. 40-14-308, for lender credit card holders. The acceptance of negotiable paper by the state or any of its agencies under this subsection shall be in accordance with and subject to the same terms and conditions provided by W.S. 18-3-505. Any fees assessed for processing a payment under this subsection may be borne by the agency or person tendering payment. Any fees borne by the person tendering payment pursuant to this subsection may be used by the state auditor or the agency responsible for the collection of such fees to pay the processing costs of rendering the payment transaction.

9-4-218. Federal natural resource policy account created; purposes.

(a) There is created an account known as the "federal natural resource policy account." Funds within the account may be expended by the governor on behalf of the state of Wyoming and its local governments, to take any of the actions specified in this subsection related to federal land, water, air, mineral and other natural resource policies which may affect the tax base of the state, wildlife management, state species, recreation, private property rights, water rights or leasehold rights. Funds also may be expended for preparing and participating in environmental impact statements and environmental assessments, including analysis of economic or social and natural or physical environmental effects on the human environment. Funds also may be expended for coordinating and participating in rangeland health assessments pursuant to W.S. 11-2-207. The governor may expend funds from the federal natural resource policy account for:

(i) Participation of the state, a state agency or a county as a joint lead agency to prepare an environmental impact statement in accordance with regulations promulgated by the federal council on environmental quality;

(ii) Participation of the state, a state agency or a county as a cooperating agency in accordance with regulations promulgated by the federal council on environmental quality. Participation may include:

(A) Involvement in the National Environmental Policy Act (NEPA) process at the earliest possible time;

(B) Involvement in the scoping process described in regulations promulgated by the federal council on environmental quality;

(C) Development of information and preparation of environmental analyses including portions of the environmental impact statement in which Wyoming has special expertise;

(D) Assisting the state, a state agency or counties in collecting, compiling, analyzing and distributing economic impact data related to federal natural resource policy formation and participation in policy development;

(E) Making staff support available at the lead agency's request to enhance Wyoming's interdisciplinary capability; and

(F) Expenditure of state or county funds.

(iii) Investigating, initiating, intervening or otherwise participating in litigation, or taking any other legal action by the state, a state agency or the counties of the state individually or jointly, that furthers the purposes of this subsection. In carrying out this subsection, the attorney general or the counties, with approval of the governor, may retain qualified practicing attorneys to act for the state or the counties, including providing representation in other forums with the federal government or other state or county governments that may preclude or resolve any outstanding issues or attempting to influence pertinent federal legislation;

(iv) Participation in monitoring of federal natural resource issues, including the collection, review, analysis or dissemination of any material that may be required for legal action or to support any other purpose authorized under this section;

(v) Training seminars educating state and local government officials and employees on the provisions and requirements of the federal National Environmental Policy Act of 1969 and related federal rules and regulations, and on the processes used by federal agencies in administering federal law;

(vi) Development of rangeland health assessments in compliance with W.S. 11-2-207;

(vii) Participation in the formulation, preparation and implementation of environmental impact statements and

associated records of decision and other federal management decisions;

(viii) Development and revision of comprehensive natural resource management plans prepared by counties. Plans funded pursuant to this paragraph shall:

(A) Identify objectives and priorities for the use, development and protection of natural resources and land in Wyoming;

(B) Be based on criteria established by the governor's office in consultation with the counties and consistently applied in each comprehensive natural resource management plan;

(C) Serve as a basis for communicating and coordinating with the federal government and its agencies on land and natural resource management issues;

(D) Be developed or revised in public meetings held in accordance with W.S. 16-4-401 through 16-4-408. The public meetings shall allow for participation and contribution from the public.

(b) All funds including any recovered court costs and earned interest remaining in the federal natural resource policy account at the end of a biennium shall remain in the account to implement the purposes of this section.

(c) In the expenditure of funds from the federal natural resources policy account pursuant to this section, preference shall be given to those funding requests that:

(i) Enhance the ability of a county to participate in federal natural resource policy matters;

(ii) Fund actions taken under paragraph (a)(iii) of this section as the governor determines necessary or advisable to protect or promote the state's jurisdictional, economic or property interests which may be affected by actions taken by the environmental protection agency or other federal agencies;

(iii) Fund actions taken under subsection (a) of this section as the governor determines necessary or advisable to facilitate federal permitting of proposed activities which may

bring about further economic development of the natural resources of the state; or

(iv) Add to the internal expertise of the state or a state agency to participate in federal natural resource policy matters.

(d) The governor shall report in the governor's office budget request submitted pursuant to W.S. 9-2-1013:

(i) All actions taken pursuant to this section;

(ii) All expenditures from the federal natural resource policy account in each of the immediately preceding two (2) fiscal years;

(iii) The purpose of each expenditure.

9-4-219. Legislative stabilization reserve account created; purposes; legislative deficit control account.

(a) The legislative stabilization reserve account created by 2005 Wyoming Session Laws, Chapter 191, Section 4, Section 301(d) is continued and codified. Funds within the account shall only be expended by legislative appropriation. All funds within the account shall be invested by the state treasurer as authorized under W.S. 9-4-715(a), (d), (e) and (q) and all investment earnings from the account shall be credited to the general fund.

(b) To the extent funds are available after all other appropriations or transfers from the legislative stabilization reserve account to be made on or prior to June 30 of the applicable fiscal year have been made, an amount necessary to restore the unobligated, unencumbered balance within the public school foundation program account to one hundred million dollars (\$100,000,000.00) on June 30 of each fiscal year shall be transferred from the legislative stabilization reserve account into the public school foundation program account. This subsection is repealed the month immediately following the date that the state auditor and the state treasurer first certify to the governor and the department of revenue, and the governor certifies the same to the secretary of state, that the unobligated, unencumbered balance in the legislative stabilization reserve account is less than five hundred million dollars (\$500,000,000.00).

(c) There is created the legislative deficit control account within the legislative stabilization reserve account. Funds within the account shall only be expended by legislative appropriation. All funds within the account shall be invested by the state treasurer as authorized under W.S. 9-4-715(a), (d) and (e) and all investment earnings from the account shall be credited to the general fund. W.S. 9-4-715(q) shall not apply to the investment of this account. For purposes of accounting and investing only, the legislative deficit control account shall be treated as a separate account from the legislative stabilization reserve account.

9-4-220. Strategic investments and projects account created; purposes.

(a) The strategic investments and projects account created by 2013 Wyoming Session Laws, Chapter 73, Section 4, Section 300(e) is continued and codified. Funds within the account shall only be expended by legislative appropriation. Subject to subsection (b) of this section, the governor may include appropriation requests from funds available within the strategic investments and projects account within his biennial budget requests for one-time expenditures as he deems necessary. All funds within the account shall be invested by the state treasurer and all investment earnings from the account shall be credited to the general fund, except as provided by W.S. 9-4-220.1(a).

(b) For fiscal year 2021 and in each fiscal year thereafter unencumbered and unobligated funds available for expenditure in the strategic investments and projects account shall be expended for the following purposes and subject to the following:

(i) An amount equal to forty-five percent (45%) of the maximum amount which may be credited to the strategic investments and projects account pursuant to W.S. 9-4-719(q) shall be credited to a school major maintenance subaccount. Funds within the subaccount shall be expended only for school major maintenance obligations of the state. For purposes of accounting and investing only, the school major maintenance subaccount shall be treated as a separate account from the strategic investments and projects account;

(ii) After making transfers to the Wyoming state penitentiary capital construction account under W.S. 9-4-220.1, on June 30, 2021 for fiscal year 2021 and June 30 of each fiscal

year thereafter sixty-five percent (65%) of the funds in excess of the amount calculated under paragraph (i) of this subsection shall be credited to the legislative deficit control account within the legislative stabilization reserve account. The remainder may be expended as appropriated by the legislature.

9-4-220.1. Wyoming state penitentiary capital construction account; funds transferred to the account.

(a) There is created the Wyoming state penitentiary capital construction account within the strategic investments and projects account created by W.S. 9-4-220. Funds in the account shall only be expended upon legislative appropriation. Through the fiscal year ending June 30, 2034, all funds within the account shall be invested in the pool A investment account by the state treasurer pursuant to W.S. 9-4-715(p). Thereafter, all funds within the account shall be invested as determined by the state treasurer. All investment earnings from the account shall be credited to the account. For purposes of accounting and investing only, the Wyoming state penitentiary capital construction account shall be treated as a separate account from the strategic investments and projects account.

(b) Beginning on June 30, 2021 for fiscal year 2021 and June 30 of each fiscal year thereafter as provided in this subsection, the state treasurer shall transfer ten million dollars (\$10,000,000.00), or as much thereof as is available, from any unobligated funds within the strategic investments and projects account to the Wyoming state penitentiary capital construction account. The state treasurer shall cease transferring funds to the Wyoming state penitentiary capital construction account pursuant to this subsection on July 1, 2038.

9-4-221. State facilities construction account created; purposes.

The state facilities construction account created by 2014 Wyoming Session Laws, Chapter 26, Section 300(h) is continued. Funds within the account shall only be expended upon legislative appropriation. All funds within the account shall be invested by the state treasurer and all investment earnings from the account shall be deposited to the account.

9-4-222. University of Wyoming science initiative account created; purposes.

The University of Wyoming science initiative account created by 2015 Wyoming Session Laws, Chapter 142, Section 317(c) is continued. Funds within the account shall only be expended upon legislative appropriation. All funds within the account shall be invested by the state treasurer and all investment earnings from the account shall be credited to the general fund.

9-4-223. Casper state facilities account created; purposes.

The Casper state facilities account created by 2015 Wyoming Session Laws, Chapter 142, Section 346, footnote (f) is continued. Funds within the account shall only be expended upon legislative appropriation. All funds within the account shall be invested by the state treasurer and all investment earnings from the account shall be credited to the general fund.

9-4-224. School lands mineral royalties account.

The school lands mineral royalties account is created. Funds within the account shall only be expended upon legislative appropriation. All funds within the account shall be invested by the state treasurer as authorized by law and all investment earnings from the account shall be credited to the school lands mineral royalties account.

ARTICLE 3
STATE INSTITUTIONS

9-4-301. Payment of expenses of charitable institutions; general fund.

Where special provision is not otherwise made by law the expenses of supporting the state charitable institutions shall be paid out of the general fund.

9-4-302. Payment of expenses of charitable institutions; special county tax.

Whenever it appears to the state board of equalization that there will not be sufficient money in the general fund to pay the expenses of supporting the state charitable institutions in addition to paying the other expenses authorized to be paid from the general fund by legislative appropriation, the board of equalization, at the time of making the annual assessment for state purposes, may direct the boards of county commissioners of the several counties to levy on all taxable property a special

tax not exceeding one (1) mill on each dollar of the assessed valuation thereof, for the purpose of raising sufficient money which, together with the money available therefor in the general fund, is sufficient to pay the expenses of supporting the state charitable institutions as authorized by the legislature. The money raised by the special tax shall be credited to the general fund.

9-4-303. Payment of monies and income into state treasury.

(a) Except as otherwise provided by law, all monies and income received or collected by any public institution of this state for the care of patients therein, for the maintenance of prisoners therein, or as compensation for any matter whatsoever, received from the institution, shall be paid into the state treasury as frequently as their procedure and their location will permit and credited to the general fund and shall not be paid out except in pursuance of a lawful appropriation. The legislature may provide for the deposit of monies and income received or collected by any public institution of this state into other accounts provided those funds shall be expended to further the mission of the public institution as provided by law.

(b) Except as otherwise provided by law all monies donated to any public institution or organization belonging to the state, whether educational, charitable, military or of other public nature, and any and all monies donated to the state for the use or benefit of the institutions and organizations shall be deposited in the state treasury in the appropriate accounts and shall not be withdrawn except in the manner provided in W.S. 9-4-304. The legislature may provide for the deposit of monies donated to any public institution or organization of this state into a separate fund provided those monies shall be expended to further the mission of the public institution or organization as provided by law.

9-4-304. Disbursement of monies from state treasury.

No monies deposited in the state treasury for the purposes specified in W.S. 9-4-303(b) and 9-4-306 shall be expended or disbursed except upon itemized claims, and the itemized claims shall be approved for payment by the respective boards of trustees, or other boards or officers under whose authority the monies are by law authorized to be disbursed. The itemized claims shall then be audited by the state auditor, who, if satisfied that the monies are being properly disbursed according

to law, shall issue his warrant for the amounts of the claims. The warrants shall be paid by the state treasurer out of the particular fund or account on which the warrants are drawn.

9-4-305. Disposition of state land revenue.

(a) Any and all funds accruing from state lands set aside for the benefit or use of any public institution or organization specified in W.S. 9-4-303 shall be deposited in the state treasury.

(b) Proceeds from the sale of state lands, mineral royalties and any money designated by the Wyoming constitution or Wyoming statutes as collected shall be transmitted to the state treasurer and credited to the proper accounts within the permanent land fund. As authorized by article 7, section 2 of the Wyoming constitution, thirty-three and one-third percent ($33\frac{1}{3}\%$) of the mineral royalties received from the lease of any school lands shall be deposited into the school lands mineral royalties account. To the extent constitutionally permissible and notwithstanding any other provision of law, at the end of every fiscal year, the state treasurer shall transfer to the corpus of each account within the permanent land fund, except the common school account, from the income earned on the corresponding account within the permanent land fund, to the extent available, an amount as provided by this subsection. In determining the amount to be withheld, the state treasurer shall calculate the fiscal year beginning balance and ignore any appropriations made from the account within that fiscal year. For the fiscal year 2000, he shall transfer an amount equal to five percent (5%) of the inflation rate for the previous twelve (12) month period as determined by the department of administration and information multiplied by the beginning balance of each permanent land fund account, except the common school account. At the end of each succeeding fiscal year, the state treasurer shall increase the amount to be multiplied by that year's inflation rate by five percent (5%) until such time as the multiplier reaches one hundred percent (100%) of the inflation rate, and then multiply that amount by the beginning balance of each permanent land fund account, except the common school account.

(c) Except as provided by subsection (b) of this section, rentals for the ordinary use of the state lands, bonuses, interest on purchase money, interest from investment of money in corresponding accounts within the permanent land fund, and any money designated by the Wyoming constitution or Wyoming statutes

as collected shall be transmitted to the state treasurer and credited to the proper accounts within the permanent land income fund or to the general fund as provided by the Wyoming Funds Consolidation Act and W.S. 9-4-311.

9-4-306. University building account.

The state treasurer may create and maintain an account into which he shall place all monies received for the purpose of constructing and maintaining buildings at the University of Wyoming. He shall draw from the account only the sums which have been authorized by the board of trustees of the university and audited by the state auditor as provided in W.S. 9-4-304.

9-4-307. Crediting of federal land grant income; omnibus account.

(a) Three-fourths ($3/4$) of the income described in W.S. 9-4-305(c) attributable to the lands now remaining undistributed, as donated to the state for state, charitable, educational, penal and reformatory institutions under section 11 of the Act of Admission, shall be credited to the general fund, and one-fourth ($1/4$) of that income shall be credited to the omnibus account within the permanent land income fund for the department of corrections, the department of health and the department of family services.

(b) The omnibus account is an emergency account to be used by the department of corrections, the department of health and the department of family services in the maintenance and upbuilding of state charitable, educational, penal and reformatory institutions upon the unanimous vote of the state loan and investment board at a meeting attended by all board members or following an appropriation by the legislature.

9-4-308. Crediting of federal land grant income; university account.

The income described in W.S. 9-4-305(c) attributable to the lands granted to the state for university purposes under section 8 of the Act of Admission shall be credited to the university account within the permanent land income fund for the University of Wyoming, and shall be paid by the state treasurer to the treasurer of the university upon the request of the board of trustees of the university to be used for the support and maintenance of the University of Wyoming.

9-4-309. Crediting of federal land grant income; game and fish fund.

The income described in W.S. 9-4-305(c) attributable to the lands granted to the state for a state fish hatchery under sections 8 and 11 of the Act of Admission shall be credited to the game and fish fund.

9-4-310. Permanent land fund and land income fund accounts.

(a) The following accounts within the permanent land fund are established to account for revenue dedicated to certain institutions or for certain purposes accruing from grants of land contained in the Act of Admission or acts of congress, or accruing from provisions of the Wyoming constitution or Wyoming statutes:

- (i) Deaf, dumb and blind account;
- (ii) Public buildings account;
- (iii) State hospital account (formerly the insane asylum account);
- (iv) Penitentiary account;
- (v) Poor farm account;
- (vi) Agricultural college account;
- (vii) Common school account;
- (viii) Fish hatchery account;
- (ix) Miner's hospital account;
- (x) Omnibus account;
- (xi) University account;
- (xii) Carey Act account.

(b) No appropriation shall be made from the agricultural college, common school or university accounts within the permanent land fund.

(c) The following accounts within the permanent land income fund are established to be expended as provided by law:

- (i) Agricultural college account;
- (ii) Common school account;
- (iii) University account;
- (iv) Omnibus account;
- (v) Miner's hospital account.

9-4-311. Carey Act revenue.

(a) The state treasurer shall create and maintain an account within the permanent land fund. He shall deposit in the account:

(i) All proceeds from the sale of lands acquired from the United States of America pursuant to Public Law 582, enacted by the United States congress August 13, 1954 (68 Stat. 703);

(ii) All royalties received from oil and gas and other minerals in the lands; and

(iii) All proceeds from the sale of any and all other materials in the lands which might not be classified as mineral.

(b) The income received from investments of the account shall be deposited by the state treasurer in the emergency water projects account as provided in W.S. 41-2-124(f), provided that anytime the unencumbered, unobligated balance in the emergency water projects account equals or exceeds ten million dollars (\$10,000,000.00) the income received from investments shall be deposited in the general fund. All monies derived from rentals of the lands acquired under Public Law 582 (68 Stat. 703) and from timber sales therefrom shall be deposited by the state treasurer in the general fund, and shall be expended therefrom only upon appropriation.

ARTICLE 4
TAYLOR GRAZING ACT FUNDS

9-4-401. Distribution of funds.

(a) All funds received by the state of Wyoming, as its distributive share of the amounts collected by the United States government under the provisions of the act of congress of June 28, 1934 (48 Stat. 1269), known as the Taylor Grazing Act, and any act amendatory thereof, shall be deposited with the state treasurer. Upon receipt the state treasurer shall distribute the money to the several counties of the state in which the public lands are located. The state treasurer shall ascertain from the proper United States officers having the records of receipt from leased or sold public lands the amount of receipts from the sources in this state for each year for which money is received by the state. A separate account shall be kept of the sum received from sale or lease rentals from public lands, which sum shall be segregated by the state treasurer and paid to the county in which the leased or sold public land is located. If any leased or sold land lies in more than one (1) county of the state, each county shall receive a proportional amount of the revenue as the area of the leased or sold public land included within the boundary of the county bears to the total area of the leased or sold public land.

(b) In the case of monies received from grazing fees, the state treasurer shall distribute the fees attributable to the following federal grazing districts as constituted prior to the reorganization of the district boundaries as implemented in 1974 by the bureau of land management to the following county treasurers to be held on behalf of the state grazing districts encompassing the county in the percentages indicated:

(i) Worland grazing district:

(A) Big Horn county treasurer (state grazing district 1)-42.23%;

(B) Hot Springs county treasurer (state grazing district 1)-15.93%;

(C) Park county treasurer (state grazing district 1)-10.04%;

(D) Washakie county treasurer (state grazing district 1)-31.80%.

(ii) Rawlins grazing district:

(A) Fremont county treasurer (state grazing district 2)-31.57%;

(B) Natrona county treasurer (state grazing district 2)-5.46%;

(C) Carbon county treasurer (state grazing district 3)-33.71%;

(D) Albany county treasurer (state grazing district 3)-.03%;

(E) Sweetwater county treasurer (state grazing district 3)-29.23%.

(iii) Rock Springs grazing district:

(A) Sweetwater county treasurer (state grazing district 4)-48.56%;

(B) Fremont county treasurer (state grazing district 4)-3.00%;

(C) Lincoln county treasurer (state grazing district 4)-17.66%;

(D) Uinta county treasurer (state grazing district 4)-8.27%;

(E) Sublette county treasurer (state grazing district 5)-22.51%.

9-4-402. Money credited to general school fund; allocation thereof.

All money received from the lease and sale of public lands within the county shall be placed to the credit of the general school fund of the county, to be proportionately allocated by the county treasurer to the various school districts, exclusive of high school districts, in which the public lands are located and from which the funds are derived.

9-4-403. Money credited to range improvement fund; duties and liability of county treasurer.

All money received from grazing fees of a grazing district regularly established and including public lands shall be placed to the credit of a special fund to be designated "The Range Improvement Fund of Grazing District No. ...". The county

treasurer of the county to which the fees are distributed is the ex officio district treasurer of the district encompassing the county as indicated by W.S. 9-4-401(b) and shall collect, receive, receipt and account for all monies from this source and is liable upon his official bond for the proper care and distribution of the monies.

9-4-404. Expenditure of range improvement fund; cooperative agreements.

(a) Revenue under W.S. 9-4-403 shall be paid out by the county treasurer as requested by the state district grazing board upon written approval signed by the chairman of the state district grazing board as attested to by the secretary of the board.

(b) Each state district grazing board may pay monies out of the range improvement fund of its grazing district:

(i) For the construction and maintenance of range improvements, or any other purpose beneficial to the district. None of the funds shall be used for projects involving construction or maintenance, or both, of range improvements on public or state lands unless some legally constituted and authorized federal, state, county or city department, division, bureau, service, board or commission authorizes the project concerned;

(ii) For the payment of proper administrative salaries, costs and expenses of the board;

(iii) For contributions to the central committee of Wyoming state district grazing boards to defray costs and expenses for activities and projects incurred by the central committee under the written authorization of the state district grazing boards.

(c) Any project involving construction and maintenance of range improvements on public lands within any grazing district established under the provisions of the Taylor Grazing Act shall be undertaken only under cooperative agreements between the state district grazing boards and the federal officials in charge of the district concerned. Any project that is within the jurisdiction of a government entity and does not involve construction or maintenance of range improvements shall be undertaken only under cooperative agreements entered into by the

state district grazing boards and appropriate governmental entities.

9-4-405. State district grazing boards; district boundaries.

(a) A state board for each Taylor Grazing Act district established in Wyoming is created to direct and guide the disposition of the range improvement funds under W.S. 9-4-403 of each Taylor Grazing Act district (48 Stat. 1269) in the state. The distribution shall be most beneficial to the permittees from whom the funds are derived and for the counties involved in each district.

(b) Each board shall be known respectively as the Wyoming State Grazing Board of District in accordance with the following designations:

- (i) Worland district;
- (ii) Lander district;
- (iii) Rawlins district;
- (iv) Rock Springs district;
- (v) Pinedale district.

(c) District boundaries shall be substantially the same as boundaries set for the federal grazing districts as constituted prior to the reorganization of the district boundaries as implemented in 1974 by the bureau of land management, according to the map filed in the state department of agriculture.

(d) Each state district board shall consist of not less than five (5) nor more than nine (9) permittees who hold section 3, Taylor Grazing Act permits and graze livestock upon the public lands within the grazing district for which the state grazing board is created. Officers and directors of corporations and partners of partnerships, or their designated representatives, who conduct the grazing are qualified to serve on the boards on behalf of the corporation or partnership. The term of each member is three (3) years except as provided for in subsection (e) of this section, beginning on January 1 after his election.

(e) In November of each year, each state district grazing board shall conduct an election to fill any existing vacancies. If any vacancy occurs on a state district grazing board for any reason, the remaining board members shall select a qualified successor to fill the vacancy for the unexpired term.

(f) A duly qualified person elected to serve as a member of a state district grazing board shall assume office after taking an oath for the performance of his duties. The permittees holding section 3, Taylor Grazing Act permits to graze livestock on the public lands within the grazing district served by a state district grazing board shall elect the members to serve on that state district grazing board, and each permittee or his designated representative is entitled to one (1) vote.

(g) Each state district grazing board shall appoint a chairman and a nominating committee representative of each geographical area serving on the board, but not including any members of the board, and the committee shall make nominations to fill the expiring positions on the board. Nominations, together with appropriate space for write-in candidates, shall be circulated to the permittees within the district, so that each member may cast his vote for each vacancy on the board. The carryover members of the state district grazing board shall certify the results of the election.

(h) Each state district grazing board shall select its own chairman and secretary from its membership. Employees may be hired by each board. The board shall set the remuneration of each employee and the remuneration shall be considered as administrative expense of the board concerned. The members of each state district grazing board shall receive no compensation but shall be reimbursed under W.S. 9-3-102 and 9-3-103 for travel and per diem expenses incurred in the performance of their duties.

(j) Meetings of a state district grazing board may be called at any time by the chairman or a majority of the members of the board. The board shall meet at least twice each year. Each board may adopt its own rules and regulations for the calling and holding of meetings, but a majority of each board constitutes a quorum for the transaction of business by the board. Action by each board shall be determined by a majority vote of the members present.

9-4-406. Grazing board central committee.

(a) State district grazing boards may establish a central committee to act together in matters of common interest which shall be known as the central committee of Wyoming state grazing boards. The central committee consists of two (2) members selected by and from the membership of each of the state district grazing boards. The members shall serve at the pleasure of their respective state district grazing boards.

(b) The central committee shall:

(i) Select its own officers, secretary, advisors, consultants, and have committees it deems necessary;

(ii) Adopt its own rules for the calling and holding of meetings and the carrying out of instructions received from a majority of the state district grazing boards.

(c) State district grazing boards may use the central committee as they deem proper. The central committee shall not engage in any activity or project except when and as authorized by a majority of the state district grazing boards. The central committee shall not incur any expense incident to its duties and activities except as authorized by a majority of the state district grazing boards.

ARTICLE 5 FOREST RESERVE FUNDS

9-4-501. Money from federal forest reserves; apportionment to counties.

On January 1 of each year, or as soon thereafter as there is any money in the state treasury paid to the state by act of congress, approved June 30, 1906, as amended by act of congress, approved May 23, 1908, or any act amendatory thereto or supplemental thereof, whereby twenty-five percent (25%), or any other proportion, of the money received from each forest reserve in the state is paid to the state to be expended for the benefit of the public schools and public roads of the counties in which the forest reserve is situated, the state treasurer shall apportion the money to the entitled counties in the manner hereinafter described.

9-4-502. Money from federal forest reserves; method of apportionment.

In making the apportionment provided for in W.S. 9-4-501, the state treasurer shall ascertain the amount which has accrued from each United States forest reserve in the state, and shall apportion the revenue to the counties in which the reserve is located in proportion to the acreage of the reserve within the boundaries of the counties.

9-4-503. Money from federal forest reserves; distribution among counties.

Upon making the apportionment provided for in W.S. 9-4-501 through 9-4-504, the state treasurer shall certify to the state auditor the amounts due to the counties, whereupon the state auditor shall issue a warrant payable from the monies received pursuant to W.S. 9-4-501, in favor of the county treasurer of the counties included in the distribution for the amount to which the county is entitled and remit the warrants to the county treasurers.

9-4-504. Money from federal forest reserves; distribution by county commissioners.

Upon the receipt by the county treasurer of the funds, as provided in W.S. 9-4-503, the county commissioners of the county shall apportion the monies between the general school fund and the road fund of their county. Not less than five percent (5%) of the monies shall be credited to either one of the funds.

ARTICLE 6
GOVERNMENT ROYALTY REVENUE

9-4-601. Distribution and use; funds, accounts, cities and towns benefited; exception for bonus payments.

(a) All monies received by the state of Wyoming from the secretary of the treasury of the United States under the provisions of the act of congress of February 25, 1920 (41 Stat. 437, 450; 30 U.S.C. §§ 181, 191), as amended, or from lessees or authorized mine operators and all monies received by the state from its sale of production from federal mineral leases subject to the act of congress of February 25, 1920 (41 Stat. 437, 450; 30 U.S.C. §§ 181, 191) as amended, except as provided by subsection (b) of this section, shall be deposited into an account and the first two hundred million dollars (\$200,000,000.00) of revenues received in any fiscal year shall be distributed by the state treasurer as provided in this subsection. One percent (1%) of these revenues shall be credited

to the general fund as an administrative fee, and the remainder shall be distributed as follows:

(i) Two and one-quarter percent (2 1/4%) to the highway fund to be expended by the transportation commission for permanent construction or maintenance work in the counties to which the royalties are attributable with priority given to roads and highways impacted by mineral development;

(ii) Subject to paragraph (xi) of this section, forty-four and eight-tenths percent (44.8%) to the public school foundation program account subject to allocations under W.S. 9-4-605;

(iii) Except as provided by W.S. 9-4-605(a), and as otherwise provided in this paragraph, twenty-six and one-quarter percent (26 1/4%) to the highway fund subject to allocations under W.S. 9-4-607. For fiscal years 2017 and 2018 funds under this paragraph shall be distributed to the general fund;

(iv) Six and three-quarters percent (6 3/4%) to a separate account for the University of Wyoming. This revenue may be used only for the actual and necessary expenses of constructing, equipping and furnishing new buildings, the repairing of existing buildings, the purchasing of improved or unimproved real estate, the payment of principal and interest on securities issued to finance projects authorized by the legislature or for the payment of principal and interest on securities issued to refund the securities. Payments from this revenue shall be made by the state treasurer only for expenditures approved by the trustees of the university, provided that expenditures for capital construction projects shall only be for projects authorized by the legislature. The trustees of the university are authorized to approve expenditures from this revenue for the payment of principal and interest on any outstanding securities issued pursuant to this paragraph in accordance with the terms of the securities. The trustees of the university shall include within the university's biennial budget request submitted under W.S. 9-2-1013 a report on all expenditures under this paragraph in each of the immediately preceding two (2) fiscal years;

(v) Nine and three-eighths percent (9.375%) to incorporated cities and towns to be used for planning, construction or maintenance of public facilities or providing public services. Any city or town may expend these revenues or pledge future revenues for payment of revenue bonds issued to

provide public facilities. However no city or town shall pledge future revenues to the federal government under 43 U.S.C. § 1747 unless the city or town obtains a written determination from the governor, which he may make in connection with his consultation with the secretary of the interior under 43 U.S.C. § 1747 or otherwise, that the pledge will not affect the distribution of mineral royalties provided in this section. The distribution provided under this paragraph to any city or town shall be reduced by an amount equal to the amount of federal mineral royalties withheld from the state by the federal government to repay any loan to the city or town under 43 U.S.C. § 1747. Pledges of this income for revenue bonds shall not exceed ten (10) years. Each city and town shall receive:

(A) Twelve thousand dollars (\$12,000.00) if the population is three hundred twenty-five (325) persons or less, or fifteen thousand dollars (\$15,000.00) if the population is more than three hundred twenty-five (325) persons; plus

(B) An amount computed by the state treasurer as follows: after deducting the distribution provided by subparagraph (A) of this paragraph, the remainder shall be allocated for distribution to cities and towns within each county in an amount proportionate to the percentage obtained by dividing the average daily membership, as defined in W.S. 21-13-101, of all school districts within each county by the total average daily membership of all school districts in the state. The distribution to each city and town will then be made in the proportion that the population of the city or town bears to the total population of all cities and towns in the county.

(vi) Three and seventy-five hundredths percent (3.75%) to the capital construction account to be expended as provided by W.S. 9-4-604(k)(i) or to fund bonds the proceeds of which will be used under W.S. 9-4-604(g) and one and twenty-five hundredths percent (1.25%) to the highway fund, except for fiscal years 2017 and 2018 funds directed to the highway fund under this paragraph shall be distributed to the general fund;

(vii) Two and seven-tenths percent (2.7%) to the public school capital construction account created by W.S. 21-15-111(a)(i);

(viii) Repealed by Laws 1988, ch. 82, § 2.

(ix) Two and twenty-five one-hundredths percent (2.25%), to the highway fund, except for fiscal years 2017 and

2018 funds under this paragraph shall be distributed to the general fund;

(A) Repealed by Laws 1995, ch. 137, § 1.

(B) Repealed by Laws 1995, ch. 137, § 1.

(C) Repealed by Laws 1995, ch. 137, § 1.

(x) Five--eighths percent (.625%) to the highway fund, except for fiscal years 2017 and 2018 funds under this paragraph shall be distributed to the general fund;

(A) Repealed by Laws 1995, ch. 137, § 1.

(B) Repealed by Laws 1995, ch. 137, § 1.

(xi) Repealed by Laws 2017, ch. 205, § 2; ch. 206, § 2.

(b) The state treasurer shall ascertain and withhold all bonus payments received from the federal government attributable to coal, oil shale or geothermal leases of federal land within Wyoming and shall distribute it as follows:

(i) Fifty percent (50%), the first seven million five hundred thousand dollars (\$7,500,000.00) of which shall be distributed as follows, and any amount in excess of seven million five hundred thousand dollars (\$7,500,000.00) per year shall be deposited into the school capital construction account established under W.S. 21-15-111(a)(i), except for fiscal years 2019, 2021 and 2022 amounts in excess of seven million five hundred thousand dollars (\$7,500,000.00) per year shall be deposited to the school foundation program reserve account created by W.S. 21-13-306.1:

(A) Three-fourths (3/4) shall be credited to the capital construction account for the purposes specified in W.S. 9-4-604(k)(i) or to fund bonds the proceeds of which will be used under W.S. 9-4-604(g);

(B) One-fourth (1/4) to the highway fund.

(ii) Repealed By Laws 2001, Ch. 209, § 3.

(iii) Repealed By Laws 1998, ch. 5, § 4.

(iv) And:

(A) Ten percent (10%) but not to exceed one million six hundred thousand dollars (\$1,600,000.00) per year, to a separate account which may be expended by the community college commission in accordance with and in addition to appropriations available under W.S. 21-18-205(c). Any amount in excess of one million six hundred thousand dollars (\$1,600,000.00) together with any unexpended revenues within the account at the end of any biennial budget period shall be credited to the school capital construction account established under W.S. 21-15-111(a)(i), except for fiscal years 2019, 2021 and 2022 these funds shall be deposited to the school foundation program reserve account created by W.S. 21-13-306.1;

(B) Forty percent (40%) to be deposited to the school capital construction account established under W.S. 21-15-111(a)(i), except for fiscal years 2019, 2021 and 2022 these funds shall be deposited to the school foundation program reserve account created by W.S. 21-13-306.1.

(v) Repealed By Laws 2010, Ch. 69, § 204.

(c) Repealed by Laws 2000, Ch. 97, § 4.

(d) Except as provided in subsections (k) and (m) of this section, any revenue received under subsection (a) of this section in excess of two hundred million dollars (\$200,000,000.00) shall be distributed as follows:

(i) Repealed by Laws 2000, Ch. 97, § 4.

(ii) Repealed by Laws 2000, Ch. 97, § 4.

(iii) Subject to paragraphs (v), (vi) and (viii) of this subsection, one-third (1/3) to the school foundation program account;

(iv) Subject to paragraphs (vii) and (ix) of this subsection, two-thirds (2/3) to the budget reserve account;

(v) From the amounts which would otherwise be distributed to the school foundation program account under paragraph (iii) of this subsection, amounts shall be deposited to the excellence in higher education endowment fund and the Hathaway student scholarship endowment fund created by W.S. 9-4-204(u)(vi) and (vii) in accordance with and subject to the

requirements of this paragraph. The amounts specified in this paragraph shall be reduced as the state treasurer determines necessary to ensure that as of July 1 of each fiscal year, there is an unobligated, unencumbered balance of one hundred million dollars (\$100,000,000.00) within the school foundation program account. Distributions under this paragraph shall be as follows:

(A) Seventy-nine percent (79%) to the Hathaway student scholarship endowment fund, until that account balance equals four hundred million dollars (\$400,000,000.00);

(B) Twenty-one percent (21%) to the excellence in higher education endowment fund until distributions to that fund under this subparagraph equal one hundred five million dollars (\$105,000,000.00);

(C) After the amounts specified in subparagraphs (A) and (B) of this paragraph are deposited to the appropriate fund, remaining funds shall be deposited pursuant to paragraph (vi) of this subsection and then to the school foundation program account as provided in paragraph (iii) of this subsection.

(vi) From the amounts which would otherwise be distributed to the school foundation program account under paragraph (iii) of this subsection and paragraphs (k)(i) and (m)(i) of this section, there is annually appropriated to the common school permanent fund reserve account the amount determined under W.S. 9-4-719(g). The appropriation shall be credited to the account as provided in W.S. 9-4-719(g);

(vii) From the amounts that would otherwise be distributed to the budget reserve account under paragraph (iv) of this subsection and paragraphs (k)(ii) and (m)(ii) of this section, amounts necessary to make the required revenue bond payments as provided by W.S. 9-4-1003(d), but in no event more than eighteen million dollars (\$18,000,000.00) annually;

(viii) Repealed by Laws 2017, ch. 205, § 2; ch. 206, § 2.

(ix) For the period beginning July 1, 2019 and ending June 30, 2049, from the amounts that would otherwise be distributed to the budget reserve account under paragraph (iv) of this subsection, the first eight million dollars (\$8,000,000.00) shall be distributed to a separate account for

the University of Wyoming. These funds are continuously appropriated to the university upon deposit to the account. The University of Wyoming shall reduce its standard budget request for the 2021-2022 biennium by an amount equal to the maximum amount of funds authorized to be deposited under this paragraph. The University of Wyoming shall acknowledge this reduction of its 2021-2022 budget request pursuant to this paragraph in each standard budget request submitted to the governor's office through June 30, 2048.

(e) Repealed By Laws 1998, ch. 5, § 4.

(f) Repealed by Laws 2000, Ch. 97, § 4.

(g) The state, should federal law not proscribe such action, is authorized and empowered to receive its gross percentage share of federal mineral royalties from the production of oil and gas which is due under the provisions of the act of congress of February 25, 1920 (41 Stat. 437, 450; 30 U.S.C. §§ 181, 191) as amended, in the form of the actual production from federal mineral leases covered under that act of congress. If directed by the governor, the production shall be taken by the state in lieu of royalty receipts. The production shall be taken in the same percentage of volume as the gross percentage of royalty proceeds allowed by the act of congress. Any sale or disposal of the production shall be administered by the director of the office of state lands and investments or his designee. The director, subject to criteria established by the governor, shall sell or dispose of any production taken by the state from federal mineral leases. Prior to receipt of any royalties, the director shall promulgate necessary rules and regulations to carry out this subsection.

(h) Repealed by Laws 2002, Ch. 45, § 2, Ch. 62, § 2.

(j) The state, should federal law not proscribe such action, is authorized and empowered to receive its gross percentage share of federal mineral royalties from the production of solid minerals which is due under the provisions of the act of congress of February 25, 1920 (41 Stat. 437, 450; 30 U.S.C. §§ 181, 191) as amended, in the form of a direct cash payment to the state from the lessee or authorized mine operator. If directed by the governor, such payment shall be taken by the state in lieu of royalty payments from the federal government. Prior to exercising this option, the director of the office of state lands and investments shall promulgate necessary rules and regulations to implement this program which shall

include defining the appropriate reporting requirements to ensure proper payment. To the extent possible, the rules and regulations shall rely on current reporting programs and avoid duplicative or additional administrative requirements. The state shall exercise such option for a minimum period of one (1) year and with no less than ninety (90) days notice to the lessee or authorized mine operator.

(k) For the period beginning March 15, 2018 for fiscal years 2018, 2019 and 2020, any revenue received under subsection (a) of this section in excess of five hundred million dollars (\$500,000,000.00) shall be distributed as follows:

(i) For fiscal years 2018 and 2019, two-thirds ($2/3$) and for fiscal year 2020 one-half ($1/2$) to the school foundation program account; and

(ii) For fiscal years 2018 and 2019, one-third ($1/3$) and for fiscal year 2020 one-half ($1/2$) to the budget reserve account.

(m) For fiscal year 2021, any revenue received under subsection (a) of this section in excess of four hundred eighty-five million five hundred thousand dollars (\$485,500,000.00) and for fiscal year 2022, any revenue received under subsection (a) of this section in excess of five hundred million eight hundred thousand dollars (\$500,800,000.00) shall be distributed as follows:

(i) One-half ($1/2$) to the school foundation program account; and

(ii) One-half ($1/2$) to the budget reserve account.

9-4-602. Distribution and use; state treasurer's duty.

(a) Except as hereafter provided, distribution under W.S. 9-4-601 shall be made by the state treasurer within thirty (30) days after the receipt of the government royalty funds for the preceding period. Federal mineral royalties received by the state on a continuing monthly basis shall be distributed under W.S. 9-4-601 by the state treasurer, subject to the following:

(i) Federal mineral royalties earned during each fiscal year shall be recognized as revenue during that fiscal year for accounting purposes;

(ii) Except as provided in paragraph (iii) of this subsection, revenues which are both earned and received during the first three (3) calendar quarters of the fiscal year shall be distributed within the first ten (10) days of October, January and April. For the last quarter of each fiscal year, revenues earned or received shall be distributed not later than June 30. In computing distributions for the last quarter, the state treasurer shall use the most recent consensus revenue estimating group estimates to the extent that earnings cannot be determined by June 30. Not later than September 15, the state treasurer shall compute the actual earnings for the last quarter of the preceding fiscal year and make adjustments to the October distributions in an amount equal to the difference between revenues earned and actual distributions for the preceding fiscal year;

(iii) Federal mineral royalties to be distributed to the public school foundation program account under W.S. 9-4-601(a) (ii) and to or for local governments under W.S. 9-4-601(a) (v) and (vi) shall be distributed as follows:

(A) For distributions to the public school foundation program account, distributions shall be made monthly in an amount equal to one-twelfth (1/12) of the amount estimated to be earned in the current fiscal year based upon the most recent consensus revenue estimating group estimates. For distributions to local governments, distributions shall be made quarterly in an amount equal to one-fourth (1/4) of the amount estimated to be earned in the current fiscal year based upon the most recent consensus revenue estimating group estimates. In computing distributions, the state treasurer shall make adjustments to reflect any changes in the consensus revenue estimating group estimates;

(B) Not later than September 15, the state treasurer shall compute actual earnings for the preceding fiscal year and shall make adjustments to distributions during the current fiscal year in an amount equal to the difference between revenues earned and actual distributions for the preceding fiscal year.

9-4-603. Repealed by Laws 1991, ch. 230, § 3.

9-4-604. Distribution and use; capital construction projects and bonds; municipal, county and special district purposes.

(a) Revenues received under W.S. 9-4-601(a)(vi) and (b)(i) shall be credited to a capital construction account. No money shall be expended from the account until the money has been appropriated by the legislature to the state loan and investment board through the normal budget process to be used in the board's discretion for any purpose authorized by this section. The revenues shall be used to finance state revenue bonds as provided by this section. The balance shall be used for the making of loans or grants to incorporated cities and towns, counties and special districts as provided in this section. No loan or grant shall be made by the state loan and investment board under the provisions of this section until the loan or grant application has been referred by the board to a state agency for review as determined by the board. The state agency shall provide the board with a written review of any loan or grant application referred to the agency and any other assistance requested by the board. No grant shall be made by the state loan and investment board under this section to any county unless the county imposes at least eleven (11) or ninety-one and sixty-seven one-hundredths percent (91.67%) of the available mills authorized by article 15, section 5 of the Wyoming constitution, or unless the county is imposing the optional sales tax authorized under W.S. 39-15-204(a)(i) or (iii). No grant shall be made by the state loan and investment board under this section to any municipality unless the municipality imposes at least seven (7) or eighty-seven and five-tenths percent (87.5%) of the available mills authorized by article 15, section 6 of the Wyoming constitution. No grant shall be made by the state loan and investment board under this section to any special district or other lawful entity which imposes less than eighty percent (80%) of any authorized mill levy. The state loan and investment board may waive the taxation requirements imposed by this subsection for good cause shown such as other funding sources, but in no case shall the state loan and investment board authorize any grant to any municipality under this section which does not impose at least two (2) or twenty-five percent (25%) of the available mills authorized by article 15, section 6 of the Wyoming constitution. The state loan and investment board shall grant money as authorized by this section only when the board finds the grant is necessary to:

(i) Alleviate an emergency situation which poses a direct and immediate threat to health, safety or welfare;

(ii) Comply with a federal or state mandate;

(iii) Provide an essential public service.

(b) The state loan and investment board shall borrow money in a principal amount not to exceed sixty million dollars (\$60,000,000.00) by the issuance from time to time of one (1) or more series of revenue bonds. The board may encumber revenues under W.S. 9-4-601(a)(vi) and (b)(i). Any bonds issued under this section, together with any interest accruing thereon and any prior redemption premiums due in connection therewith, are payable and collectible solely out of revenues authorized. The bond holders may not look to any general or other fund for payment of the bonds except the revenues pledged therefor. The bonds shall not constitute an indebtedness or a debt within the meaning of any constitutional or statutory provision or limitation. The bonds shall not be considered or held to be general obligations of the state but shall constitute special obligations of the state and the board shall not pledge the state's full faith and credit for payment of the bonds.

(c) Except as otherwise provided, bonds issued under this section shall be in a form, issued in a manner, at, above or below par at a discount not exceeding ten percent (10%) of the principal amount of the bonds, at public or private sale, and issued with recitals, terms, covenants, conditions and other provisions not contrary to other applicable statutes, as may be provided by the board in a resolution authorizing their issuance and in an indenture or other appropriate proceedings.

(d) Any bonds issued under this section shall:

(i) Be of denominations of five thousand dollars (\$5,000.00) or multiples thereof;

(ii) Be fully negotiable within the meaning of and for all purposes of the Uniform Commercial Code, W.S. 34.1-1-101 through 34.1-10-104;

(iii) Mature at such time or serially at such times in regular numerical order at annual or other designated intervals in amounts designated and fixed by the board, but not exceeding thirty (30) years from their date;

(iv) Bear interest payable annually, semiannually or at other designated intervals, but the first interest payment date may be for interest accruing for any period not exceeding one (1) year;

(v) Be made payable in lawful money of the United States at the office of the state treasurer or any commercial bank or commercial banks;

(vi) Be printed at a place the board determines;

(vii) Be additionally secured by a reserve fund created from revenues received under W.S. 9-4-601(a)(vi) and (b)(i) or from the proceeds of the bonds, or both, in an amount determined by the state loan and investment board but not to exceed an amount equal to ten percent (10%) of the revenue bonds outstanding.

(e) Before any contract is entered into by the state loan and investment board to retain the services of a financial advisor or to sell the bonds to an underwriter, whether by competitive or negotiated bid, a full disclosure of the terms of the contract including fees to be paid shall be submitted to the management council through the legislative service office.

(f) Proceeds of state revenue bonds shall be credited to a separate account and may be loaned or granted to local governmental entities as hereafter provided. In determining which local governmental entities receive loans or grants, the state loan and investment board shall give priority to projects in those subdivisions of the state socially or economically impacted directly or indirectly by the development of minerals leased under 30 U.S.C. § 181 et seq. Pending distribution the state treasurer shall invest bond proceeds in a manner which complies with all requirements of the internal revenue service to insure the bonds will remain tax free investments.

(g) Not to exceed forty million dollars (\$40,000,000.00) of the total proceeds of all bonds issued under subsection (b) of this section may be loaned or granted to incorporated cities and towns. Loans or grants shall be made only under the following conditions:

(i) Loans may be made for municipal purposes with or without interest. If the state loan and investment board deems it necessary to secure the loan, no security other than pledges of specified revenue to repay a loan shall be required. Before a loan application is approved the board shall determine by proper investigation that:

(A) The applicant will fully utilize all local revenue sources reasonably and legally available for repaying

the loan for which an application is made excluding the local optional sales tax authorized by W.S. 39-15-204(a)(i) or (iii) and 39-16-204(a)(i) or (ii);

(B) The project is necessary for the health, safety and welfare of the inhabitants of the city or town;

(C) The project has been approved by the qualified electors of the city or town.

(ii) Grants may be made for municipal purposes either standing alone or in conjunction with a loan under paragraph (i) of this subsection. Grants may be applied for by a joint powers board with the approval of the city or town which is a member of the board or by one (1) or more cities or towns and shall not be pledged to be payable over a term of years but shall be distributed within a reasonable time following approval. Grants shall be used to finance not more than fifty percent (50%) of the cost of any portion of a project which is unable to be financed under paragraph (i) of this subsection and projects for street, curb, gutter or storm drainage improvements provided the state loan and investment board may make grants in excess of fifty percent (50%) if the board determines that the applicant or the member cities or towns if the applicant is a joint powers board, either levied at least seven (7) mills for operating expenses including special district levies chargeable against the general city or town levy during the current fiscal year or is imposing the optional tax permitted by W.S. 39-15-204(a)(i) or (iii) at the time of the application and is utilizing all other local revenue sources reasonably and legally available to finance the project and:

(A) If the project is for water facilities, that the city or town, either individually or as a member of a joint powers board, has installed or during the project will install, or require the installation of water meters if required by the state loan and investment board, will require the owners of all new additions of land to the city or town to pay all costs of expanding the water system within and to the boundaries of the addition, is enforcing an appropriate water tap fee as determined by the state loan and investment board and has or will adopt water rates which will be adequate to finance the operation and maintenance of the system;

(B) If the project is for sewer facilities, that the city or town, either individually or as a member of a joint powers board, has or will require the owners of all new

additions of land to the city or town to pay all costs of expanding the sewer system within and to the boundaries of the addition, is enforcing an appropriate sewer tap fee as determined by the state loan and investment board and has or will adopt sewer rates which will be adequate to finance the operation and maintenance of the system;

(C) The fifty percent (50%) limitation on grants does not apply to improvements to county or state highways within city or town boundaries unless otherwise required by the state loan and investment board.

(iii) Repayments of loans under paragraph (i) of this subsection shall be credited to a capital reserve account which shall be available for loans or grants for municipal purposes under paragraph (i) or (ii) of this subsection;

(iv) No loans shall be made without the written opinion of the attorney general certifying the legality of the transaction and all documents connected therewith.

(h) Not to exceed twenty million dollars (\$20,000,000.00) of the total proceeds of all bonds issued under subsection (b) of this section may be loaned or granted to counties or special districts. As used in this subsection "special districts" means hospital districts, fire protection districts, sanitary and improvement districts, solid waste disposal districts, service and improvement districts and water and sewer districts. Notwithstanding any other provision of law, no special district, either standing alone or as a member of a joint powers board, shall receive any grant or loan under this section until the special district's grant or loan application has received a written review from the board of county commissioners in any county in which the special district is located. The board of county commissioners shall review: (1) the ability of the special district to fund the project through bonds, (2) whether the project is adverse to the needs, plans or general welfare of the county, (3) whether the special district has utilized local funding resources, and (4) whether the special district has met county standards. If any part of the special district lies within five (5) miles of the corporate limits of any city or town, the special district's grant or loan application shall also receive a written review from the governing body of the city or town. The written review shall be submitted to the state loan and investment board by the special district with its grant or loan application. Loans or grants shall be made only under the following conditions:

(i) Loans, with or without interest, may only be made for county or special district purposes which are permitted by law. If the state loan and investment board deems it necessary to secure the loan, no security other than pledges of specified revenue to repay a loan shall be required. Before a loan application is approved the board shall determine by proper investigation that:

(A) The applicant will fully utilize all local revenue sources reasonably and legally available for repaying the loan excluding the local optional sales tax under W.S. 39-15-204(a)(i) or (iii) and 39-16-204(a)(i) or (ii);

(B) The project is necessary for the health, safety and welfare of the inhabitants of the applicant;

(C) The project has been approved by the qualified electors of the applicant.

(ii) Grants may be made for county or special district purposes either standing alone or in conjunction with a loan under paragraph (i) of this subsection. Grants may be applied for by a joint powers board with the approval of the county or special district which is a member of the board or by one (1) or more counties or special districts and shall not be pledged by the board to be payable over a term of years but shall be distributed within a reasonable time following approval. Grants shall be used to finance not more than fifty percent (50%) of the cost of any portion of a project which is unable to be financed under paragraph (i) of this subsection provided the state loan and investment board may make grants in excess of fifty percent (50%) if the board determines that the applicant either levied at least eleven (11) mills for operating expenses during the current fiscal year or is imposing the optional tax permitted by W.S. 39-15-204(a)(i) or (iii) at the time of the application and is utilizing all other local revenue sources reasonably and legally available to finance the project;

(iii) Repayments of loans under paragraph (i) of this subsection shall be credited to a capital reserve account which shall be available for loans or grants under paragraph (i) or (ii) of this subsection;

(iv) No loans shall be made without the written opinion of the attorney general certifying the legality of the transaction and all documents connected therewith.

(j) After any principal payment date for the bonds issued under subsection (b) of this section, the board shall deposit all revenues received pursuant to W.S. 9-4-601(a)(vi) and (b)(i) which are not required to be otherwise deposited or expended pursuant to the resolution or resolutions authorizing the issuance of bonds in a separate account.

(k) All revenues received under W.S. 9-4-601(a)(vi) and (b)(i) prior to the issuance of bonds under subsection (b) of this section and all revenues in excess of those required to be otherwise expended or retained pursuant to subsection (j) of this section or pursuant to the resolution or resolutions authorizing the issuance of bonds under subsection (b) of this section shall be used or distributed as follows:

(i) Not more than seventy-five percent (75%) may be used by the board to make grants and loans to cities and towns under subsection (g) of this section in the same manner as the proceeds of the bonds are to be used;

(ii) Not more than twenty-five percent (25%) may be granted or loaned by the state loan and investment board to special districts and counties in the state of Wyoming under subsection (h) of this section in the same manner as the proceeds of the bonds are to be used but no revenue shall be distributed to any county which did not levy at least eleven (11) mills for the operation of the county during the preceding fiscal year;

(iii) Funds may be used by the state loan and investment board to provide one-half (1/2) of the twenty percent (20%) state matching funds for each federal capitalization grant to the state drinking water revolving loan account created by W.S. 16-1-302.

(m) The board may issue refunding revenue bonds:

(i) To refund and discharge and extend or shorten the maturities of all or any part of any outstanding bonds issued under this section, including any interest thereon in arrears or about to become due;

(ii) For the purpose of reducing interest costs on bonds issued under this section or effecting other economies; or

(iii) For the purpose of modifying or eliminating any contractual limitations or provisions contained in any indenture or other proceedings authorizing outstanding bonds issued under this section.

(n) Any refunding permitted by subsection (m) of this section shall be accomplished in the manner prescribed by W.S. 16-5-101 through 16-5-119, except any refunding revenue bonds authorized by the board under subsection (m) of this section shall not constitute an indebtedness or a debt within the meaning of any constitutional or statutory provision or limitation or be considered general obligations of the state. The board shall not pledge the state's full faith and credit to the payment of any such refunding revenue bonds. The refunding revenue bonds shall constitute special obligations of the state and may be payable only from the sources authorized in this section for the payment of the bonds refunded. The principal amount of any bonds which have been refunded need not be taken into account in computing compliance with the maximum amounts of bonds authorized to be issued by subsection (b), (g) or (h) of this section.

(o) Notwithstanding subsections (g) and (h) of this section, no money shall be loaned or granted by the state loan and investment board under this section to any applicant for any water development purpose except for the drilling of new wells, emergency situations and except for a water treatment facility or a water distribution system whose primary purpose is to deliver water.

(p) As used in subsection (a) of this section, "essential public service" means a public service facility owned by the applicant and available for use by the general public including: water and sewer projects, storm drainage projects, street and road projects, solid waste disposal projects, local natural gas utility pipelines and distribution systems, acquisition of emergency vehicles, public administration buildings, health care facilities, senior citizens centers, jail and detention facilities, facilities needed to provide services to the disabled, costs to purchase medical equipment that generates revenue sufficient to service a Joint Powers Act loan, as determined by the board, and similar facilities as authorized by the board. To be considered an "essential public service" under this section, local natural gas utility pipelines and distributions center and similar facilities shall be located in rural and unserved areas. "Essential public service" also means refinancing outstanding loans extended to the applicant.

9-4-605. Distribution and use; capital construction projects and bonds; purposes.

(a) Prior to distribution to the public school foundation program account under W.S. 9-4-601(a)(ii), sufficient revenues for the purposes of this section shall be deducted therefrom and credited to a bond repayment account pursuant to the terms of the resolution, indenture or other appropriate proceeding authorizing the issuance of revenue bonds under this section. To the extent that sufficient revenues are not available to fully fund the bond repayment account as provided by this subsection, prior to any distribution to the highway fund under W.S. 9-4-601(a)(iii), sufficient additional revenues for the purpose of this subsection shall be deducted therefrom and credited to the bond repayment account. The revenues deducted shall be used as provided by this section. The balance of the revenues shall be credited to the public school foundation program account.

(b) The state loan and investment board may borrow money in a principal amount not to exceed one hundred five million dollars (\$105,000,000.00) by the issuance from time to time of one (1) or more series of revenue bonds and may encumber revenues under subsection (a) of this section for bonds in total amounts not to exceed one hundred five million dollars (\$105,000,000.00) issued for capital construction projects under subsection (f) of this section. Any bonds issued under this section, together with any interest accruing thereon and any prior redemption premiums due in connection therewith, are payable and collectible solely out of revenues authorized under subsection (a) of this section. The bondholders may not look to any general or other fund for payment of the bonds except the revenues pledged therefor. The bonds shall not constitute an indebtedness or a debt within the meaning of any constitutional or statutory provision or limitation. The bonds shall not be considered or held to be general obligations of the state but shall constitute its special obligations and the board shall not pledge the state's full faith and credit for payment of the bonds.

(c) Except as otherwise provided bonds issued under this section shall be in a form, issued in a manner, at, above or below par at a discount not exceeding ten percent (10%) of the principal amount of the bonds, at public or private sale, and issued with recitals, terms, covenants, conditions and other provisions not contrary to other applicable statutes, as may be

provided by the board in a resolution authorizing their issuance and in an indenture or other appropriate proceeding.

(d) Any bonds issued under this section:

(i) Shall be of denominations of five thousand dollars (\$5,000.00) or multiples thereof;

(ii) Shall be fully negotiable within the meaning of and for all purposes of the Uniform Commercial Code, W.S. 34.1-1-101 through 34.1-10-104;

(iii) Shall mature at a time or times not exceeding thirty (30) years from their date;

(iv) Shall bear interest payable annually, semiannually or at other designated intervals, but the first interest payment date may be for interest accruing for any period not exceeding one (1) year;

(v) Shall be made payable in lawful money of the United States at the office of the state treasurer or by a trustee, registrar, paying agent, or transfer agent within or without the state of Wyoming;

(vi) Shall be printed at a place the board determines;

(vii) May be additionally secured as determined by the state loan and investment board.

(e) The state loan and investment board may retain the services of a financial advisor and sell the bonds to an underwriter, either by competitive or negotiated bid. The terms of any contract including fees to be paid shall be available for public review and inspection.

(f) Proceeds of state revenue bonds under this section shall be credited to the capital construction account and shall be expended for capital construction projects authorized by the legislature. Pending expenditure, the state treasurer shall invest bond proceeds in a manner which complies with all requirements of the internal revenue service to insure the bonds will remain tax free investments.

(g) The board may issue refunding revenue bonds:

(i) To refund and discharge and extend or shorten the maturities of all or any part of any outstanding bonds issued under this section including any interest thereon in arrears or about to become due;

(ii) For the purpose of reducing interest costs on bonds issued under this section or effecting other economies; or

(iii) For the purpose of modifying or eliminating any contractual limitations or provisions contained in any indenture or other proceedings authorizing outstanding bonds issued under this section.

(h) Any refunding permitted by subsection (g) of this section shall be accomplished in the manner prescribed by W.S. 16-5-101 through 16-5-119, except any refunding revenue bonds authorized by the board under this subsection shall not constitute an indebtedness or a debt within the meaning of any constitutional or statutory provision or limitation or be considered general obligations of the state. The board shall not pledge the state's full faith and credit to the payment of the refunding revenue bonds. The refunding revenue bonds shall constitute special obligations of the state and may be payable only from sources authorized in this section for the payment of the bonds refunded. The principal amount of any bonds which have been refunded need not be taken into account in computing compliance with the maximum amounts of bonds authorized to be issued by subsection (b) of this section.

(j) Unless otherwise specifically prohibited by law, all capital construction projects or acquisition of personal property within the projects for which funds are appropriated by the legislature may be constructed or acquired through the issuance of revenue bonds under this section. To the extent bonds are utilized, appropriations for those projects made by the legislature shall be transferred to the common school account provided by W.S. 9-4-310(a)(vii) and shall be invested separate and apart from pooled investments. Notwithstanding the provisions of W.S. 21-13-301, income and earnings from this investment shall be periodically credited to the school foundation program account.

9-4-606. Repealed By Laws 2010, Ch. 69, § 206.

9-4-607. Wyoming transportation enterprise program.

(a) There is established the transportation trust fund. Prior to distribution under W.S. 9-4-601(a)(iii), the following amounts shall be deposited into the transportation enterprise account under W.S. 11-34-131 and the transportation trust fund:

(i) Four million five hundred thousand dollars (\$4,500,000.00) shall be deposited by August 1, 1999 into the transportation enterprise fund. These funds may be expended by the state loan and investment board pursuant to W.S. 11-34-131, as appropriated by the legislature. No money shall be expended from this fund until the money has been appropriated by the legislature to the state loan and investment board; and

(ii) Seven million two hundred forty-two thousand dollars (\$7,242,000.00) shall be deposited on January 1 of the years 2000, 2001 and 2002 into the transportation trust fund.

(b) In addition to the distributions under subsection (a) of this section, ninety percent (90%) of the investment income earned on monies deposited into the transportation trust fund shall be deposited in the transportation enterprise fund to be expended by the state loan and investment board pursuant to W.S. 11-34-131, as appropriated by the legislature. Ten percent (10%) of the investment income earned on monies deposited into the transportation trust fund shall be retained by the transportation trust fund. The state treasurer shall invest the funds in the transportation trust fund as authorized by law in a manner to obtain the highest return possible consistent with the preservation of the trust fund.

ARTICLE 7 INVESTMENT OF STATE FUNDS

9-4-701. Repealed By Laws 2008, Ch. 113, § 4.

9-4-702. Repealed By Laws 2008, Ch. 113, § 4.

9-4-703. Repealed By Laws 2008, Ch. 113, § 4.

9-4-704. Repealed By Laws 2008, Ch. 113, § 4.

9-4-705. Repealed By Laws 2008, Ch. 113, § 4.

9-4-706. Repealed By Laws 2008, Ch. 113, § 4.

9-4-707. Repealed By Laws 2008, Ch. 113, § 4.

9-4-708. Repealed By Laws 2008, Ch. 113, § 4.

9-4-709. Repealed By Laws 2008, Ch. 113, § 4.

9-4-710. Repealed By Laws 2008, Ch. 113, § 4.

9-4-711. Repealed By Laws 2008, Ch. 113, § 4.

9-4-712. Repealed By Laws 2008, Ch. 113, § 4.

9-4-713. Renumbered by Laws 2008, Ch. 113, § 3 as W.S. 9-4-719.

9-4-714. Definitions.

(a) As used in this act:

(i) "Alternative investments" means investments in nontraditional asset classes or in traditional asset classes which are utilized in a nontraditional strategy;

(ii) "Asset classes" means categories of securities with similar characteristics and properties, such as cash equivalents, stocks, bonds and real estate;

(iii) "Board" means the state loan and investment board;

(iv) "Fund" means as defined by W.S. 9-4-203(a)(vii);

(v) "Permanent funds" means the permanent Wyoming mineral trust fund under W.S. 9-4-204(u)(iii), the Wyoming permanent land fund under W.S. 9-4-204(u)(iv), the excellence in higher education endowment fund under W.S. 9-4-204(u)(vi), the Hathaway student scholarship endowment fund under W.S. 9-4-204(u)(vii) and the Hathaway expand Wyoming scholarship endowment fund under W.S. 9-4-204(u)(viii);

(vi) "Committee" means the investment funds committee created by W.S. 9-4-720;

(vii) "Designated chief investment officer" means the employee retained pursuant to W.S. 9-4-715(a);

(viii) "This act" means W.S. 9-4-714 through 9-4-721.

9-4-715. Permissible investments.

(a) The state treasurer, in consultation with the investment funds committee, shall employ a designated chief investment officer who shall have minimum qualifications including at least ten (10) years of experience managing institutional investment portfolios of in excess of five hundred million dollars (\$500,000,000.00), experience with hiring and managing internal and external investment managers and extensive experience in any two (2) or more of the following areas: domestic equity, fixed income securities, international equity or alternative investments. The designated chief investment officer shall provide the state treasurer with information and recommendations regarding the investment of state funds and additional information as requested by the state treasurer. The state treasurer shall compile an annual report which shall include investment, income, individual and aggregate gains and losses by fund and the extent to which the state investment policy is being implemented. Subject to requirements of subsection (c) of this section, state funds may be invested in any investment:

(i) Authorized by the legislature; or

(ii) Authorized or approved by the board.

(b) The state treasurer, or his designee, which shall be registered under the Investment Advisor's Act of 1940 as amended if required to be registered by the terms of that act as amended, may invest up to seventy percent (70%) of the permanent funds in equities, including stocks of corporations pursuant to subsections (c) and (d) of this section. The state treasurer shall report at least annually to the select committee on capital financing and investments, the joint appropriations committee and the investment funds committee on the analysis conducted pursuant to paragraph (d)(ii) of this section and W.S. 9-4-716(b)(ix).

(c) The state treasurer shall obtain the approval of the board prior to the investment of funds in alternative investments, provided:

(i) The investment funds committee shall review any new proposed investment of funds in alternative investments and shall submit recommendations to the board;

(ii) The approval of the board shall be complete after consideration of any recommendation from the investment

funds committee and upon the review and written acceptance by the board of the material terms of the instruments governing the investment;

(iii) Any material adverse change to the terms of instruments governing investments, previously approved by the board, at any time while the investments are held by the state of Wyoming shall require the renewal of approval of such investments by the board.

(d) When approving, acquiring, investing, reinvesting, exchanging, retaining, selling and managing investments of the state of Wyoming, the members of the board, the members of the investment funds committee, the state treasurer, designees of the state treasurer or any other fiduciary appointed by the state treasurer, the board or the investment funds committee shall:

(i) Exercise the judgment and care of a prudent investor as specified by the Uniform Prudent Investor Act, W.S. 4-10-901 through 4-10-913;

(ii) Evaluate the risk of investments using a strategy based on the principles of the capital market theory which are generally accepted and followed by institutional investors including long-term investors. This strategy includes a consideration of the following:

(A) Risks shall be mitigated through diversification of asset classes and investment approaches and through diversification of individual securities;

(B) Prudent risk taking is a necessary element of long-term investing and is needed to achieve the long-term objectives of a fund.

(e) Individual investments or groups of investments made under this act shall not be evaluated solely in isolation but also in the context of the entire investment portfolio and as part of an overall investment strategy of the trust or fund from which the investment is derived, consistent with the policies for such trust or fund established under W.S. 9-4-716 by the board. The purchase of a security or the making of any direct investment by the state treasurer or his designee in a security shall not constitute a delegation of his duties under this article or under any rule promulgated under this article.

(f) Repealed By Laws 2011, Ch. 129, § 207.

(g) The state treasurer may pledge not to exceed three hundred million dollars (\$300,000,000.00) from the common school account in the permanent land fund to guarantee school district bonds under W.S. 9-4-1001(d). These funds shall be invested as other funds in that account, but the state treasurer shall ensure sufficient liquidity of investments to ensure required disbursements can be made. This subsection is repealed effective July 1, 2020.

(h) Repealed by Laws 2016, ch. 110, § 3.

(j) Repealed by Laws 2019, ch. 35, § 2.

(k) Except as provided in subsection (o) of this section, upon request of the board, the state treasurer may invest funds received from sales of state trust lands plus up to two million dollars (\$2,000,000.00) one-time seed money contained in the common school account within the permanent land fund, by purchasing land and improvements thereon within Wyoming as assets of the trust.

(m) Repealed by Laws 2016, ch. 41, § 1.

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

(i) A list of all investment or loan requests made in the previous year, the amount loaned or invested and the status of all investments and loans, including those which are delinquent as to the payment of any installment of principal or interest due;

(ii) Recommendations for future legislation, including recommendations for adjustments to the amount allocated by this subsection and recommendations for adjustments to the amounts allocated under applicable state law for

individual investments authorized or directed by the legislature for a specific public purpose; and

(iii) The cost of the investment to the people of Wyoming in terms of:

(A) Forgone earnings that could have been obtained if the funds had been invested by the state treasurer with the permanent funds of the state;

(B) Administrative and other costs associated with each investment.

(o) Upon request of the board and when determined by the board to be consistent with the duties and obligations owed to beneficiaries of state trust land sales proceeds, the state treasurer shall invest funds received from the sale of state trust lands to the federal government by purchasing federal lands and improvements within Wyoming from the federal government.

(p) There is created the pool A investment account. The state treasurer, or his designee, which shall be registered under the Investment Advisor's Act of 1940 as amended if required to be registered by the terms of that act as amended, pursuant to subsections (c) and (d) of this section and after consultation with the state agency or agencies receiving or administering investment earnings from the monies invested in the pool A investment account, may invest up to seventy percent (70%) of the monies comprising the pool A investment account in equities including stocks of corporations. The state loan and investment board, in consultation with the state agency or agencies receiving or administering investment earnings from the monies invested in the pool A investment account, shall annually review the state investment policy statements for the investment pool created by this subsection as required under W.S. 9-4-716. Monies in the following funds shall be invested in the pool A investment account:

(i) The Wyoming tobacco settlement trust fund created by W.S. 9-4-1203(a);

(ii) The Wyoming wildlife and natural resource trust account created by W.S. 9-15-103(a);

(iii) The Wyoming cultural trust fund established by W.S. 9-2-2304(a);

(iv) The Wyoming public television matching fund account created by W.S. 21-23-202(a);

(v) The trust account within the Wyoming game and fish fund created by W.S. 23-1-501(f);

(vi) Through the fiscal year ending June 30, 2034, the Wyoming state penitentiary capital construction account created by W.S. 9-4-220.1(a);

(vii) The transportation trust fund created by W.S. 9-4-607(a);

(viii) Not more than fifty percent (50%) of all funds received under the Uniform Unclaimed Property Act that are deposited into the unclaimed property account created by W.S. 34-24-124, excluding investment earnings from the account.

(ix) The emergency water projects account created by W.S. 41-2-124(f), including the voluntary pool program subaccount within that account.

(q) The state treasurer, or his designee, which shall be registered under the Investment Advisor's Act of 1940 as amended if required to be registered by the terms of that act as amended shall invest the legislative stabilization reserve account created in W.S. 9-4-219 in a manner to obtain the highest return possible subject to the following:

(i) Investments shall be made in accordance with investment policy statements adopted by the board under W.S. 9-4-716. In adopting investment policy statements for the legislative stabilization reserve account, the board shall seek to preserve the balance of the account as necessary to address:

(A) A budget shortfall or structural budget deficit through contingent appropriations and expenditures under W.S. 9-2-1014(d)(ii) and (iii);

(B) A published consensus revenue estimating group estimate of revenues that is less than existing legislative appropriations for state government operations or support of public schools;

(C) Other emergencies and needs identified or authorized by the legislature under Wyoming statutes and session laws.

(ii) To the extent funds are available and prior to making any other investments, five hundred million dollars (\$500,000,000.00) shall be invested in short term fixed income investment grade securities;

(iii) After consultation with the budget division of the department of administration and information, up to fifty-five percent (55%) of the unobligated, unencumbered balance of the legislative stabilization reserve account in excess of the amount specified in paragraph (ii) of this subsection, as calculated by the state auditor on October 1 of each fiscal year, may be invested in equities, including stocks of corporations. Investments under this paragraph shall be made in compliance with subsections (c) and (d) of this section;

(iv) Not later than November 1 of each year, the state treasurer shall report to the joint appropriations committee and the select committee on capital financing and investments regarding the annual review of the investment policy statement for the legislative stabilization reserve account and the investment performance of the account.

(r) The state treasurer, or his designee, which shall be registered under the Investment Advisor's Act of 1940 as amended if required to be registered by the terms of that act as amended, pursuant to subsections (c) and (d) of this section, may invest up to seventy-five percent (75%) of the unobligated, unencumbered balance of the permanent Wyoming mineral trust fund reserve account created under W.S. 9-4-719(b) and common school permanent fund reserve account created under W.S. 9-4-719(f) in equities, including stocks of corporations. Investments under this subsection shall be in accordance with investment policy statements adopted by the board under W.S. 9-4-716. In adopting investment policy statements for the permanent Wyoming mineral trust fund reserve account and common school permanent fund reserve account, the board shall seek to preserve the balance of each account in a manner that strives for the highest possible risk-adjusted total return consistent with an appropriate level of safety and liquidity.

9-4-716. State investment policy; investment consultant.

(a) The board, in consultation with the investment funds committee, shall adopt investment policy statements for state funds and shall review those policy statements at least annually. These policy statements shall be subject to the following:

(i) The board may specify groupings of state funds for which separate investment policy statements are appropriate. At a minimum, those groupings shall include state funds for which there is a trust obligation, short term funds for operations and all other funds. The board may determine criteria under which certain funds shall be separately managed;

(ii) Nothing in this section shall be construed to prevent the state treasurer from pooling any state funds for investment purposes, including meeting cash flow requirements in accordance with approved investment policy statements.

(b) The investment policy statements shall include the following:

(i) Nominal return benchmarks;

(ii) Definition of risk and of return;

(iii) Risk tolerance;

(iv) Permissible investments and quality standards;

(v) Liquidity requirements;

(vi) Cash flow projections for the grouping of funds;

(vii) Procedures for selecting and dismissing investment managers when utilized;

(viii) Indices or benchmarks against which the returns will be measured;

(ix) Two (2) risk mitigation metrics for managing and mitigating the risks of investments consistent with the strategy specified in W.S. 9-4-715(d)(ii):

(A) One (1) metric shall specify the maximum percentage of monies in the state fund or state funds that may be invested in securities in consideration of all the factors

developed for the fund's investment policy statement under this subsection; and

(B) One (1) metric shall measure risk in the state fund or state funds using a value at risk measurement technique or other similar risk measurement technique.

(c) The state treasurer, in consultation with the investment funds committee, shall develop and submit proposed investment policy statements for each grouping of state funds specified in subsection (a) of this section and may contract for assistance in developing proposals or in making suggestions for modifications to existing investment policy statements. The state treasurer shall report quarterly to the board and the investment funds committee regarding the performance of investments with respect to each grouping of state funds specified by the board under subsection (a) of this section and such other information as may be required by the board.

(d) The board:

(i) Shall procure the services of a qualified entity to evaluate:

(A) At least annually, the reasonableness and comprehensiveness of the investment policy statements required under this section;

(B) At least quarterly, the performance of the investments for each grouping based upon recognized indices and the reasonableness of the mix of assets in light of anticipated cash flow requirements and the investment policy statements;

(C) At least annually or when market conditions warrant a change or reallocation of investments, the risks of investing state funds using the metrics specified in the investment policy statements pursuant to paragraph (b)(ix) of this section.

(ii) Shall require competition to procure those services required under paragraph (i) of this subsection at least every four (4) years;

(iii) Shall receive an appropriation directed to the office of state lands and investments to be used to compensate the entity retained under paragraph (i) of this subsection for its services.

9-4-717. Additional investment matters.

(a) The state treasurer may form entities required in the general practice employed by banks and brokerage firms for the purpose of designating a "nominee name" in securities transactions.

(b) The state treasurer may offer and pay a reasonable premium for bonds and other securities. The purchase price shall not exceed the market value of the bonds or other securities at the time of purchase. The premium paid for the investments shall be amortized over the life of the investment to the fund or account from which the premium was paid.

(c) The state treasurer directly, or investment managers of state funds, may effect sales or exchanges of investments of state funds, whenever the sale or exchange will result in a loss of principal, if the sale or exchange tends to maximize the total return on the funds invested and is otherwise consistent with implementation of the state investment policy established by the board under W.S. 9-4-716.

(d) As part of the state investment strategy, the state treasurer may retain the services of a custodial bank or an independent securities lending agent to supervise a program of securities lending in exchange for a fee or other consideration. Supervision of the program shall include:

(i) Procedures to review the creditworthiness of all borrowers;

(ii) Requirements for full collateralization of all loans; and

(iii) Other methods and procedures required by the board for securing the lending program.

(e) In making any new investment of state funds under this act or investing state or other funds as otherwise authorized by law, the state treasurer shall consult with the designated chief investment officer or the officer's designee.

9-4-718. Investment managers.

(a) The state treasurer may contract with investment managers and pay for investment services and investment advice subject to the following conditions:

(i) All fees and other costs of contracting for and using the services of an investment manager, except transaction costs and custodial fees, shall be accounted for on at least a quarterly basis;

(ii) Without the approval of the board:

(A) No contract with an investment manager shall permit that manager to manage more than fifteen percent (15%) of the total portfolio of state funds available for investment at the time the contract is executed; and

(B) No investment manager under contract with the state treasurer shall be permitted to act as a securities broker with respect to transactions involving state investments managed by such investment manager, unless the transaction can be made without incurring commission or market impact cost.

(iii) The amount of state funds under contract with an investment manager shall not exceed ten percent (10%) of the total assets managed by that investment manager;

(iv) Investment managers shall be selected based upon a competitive process and with consideration given to the historical performance of prospective managers. No investment manager shall be hired unless approved by a majority vote of the board in consultation with the investment funds committee created by this act. The contract with an investment manager may be terminated by a majority vote of the board;

(v) Investment managers shall be paid on a negotiated flat fee or performance basis based upon net assets invested;

(vi) Contracts with investment managers shall be subject to cancellation upon receipt of thirty (30) days notice by either party;

(vii) The state treasurer shall not contract with any person as an investment manager under this subsection unless that person or that person's firm has prior to the execution of the contract, a verifiable CFA Institute (Chartered Financial Analyst Institute) compliant track record of at least five (5) years with respect to the type of investments regarding which

the investment manager will provide services or the investment manager is employed by an organized and chartered bank trust company with trust assets in excess of one billion dollars (\$1,000,000,000.00). Any prospective manager shall submit to the state treasurer audited financial statements in accordance with the treasurer's rules and regulations and a certified record of the manager's past investment performance prepared by an independent entity;

(viii) Each investment manager shall at least quarterly provide a report to the state treasurer describing the manager's performance relative to mutually agreed upon industry indices and reflecting all brokerage fees and other fees or expenses paid by or fees earned by the manager which are paid by the state under the contract.

(b) Repealed by Laws 2015, ch. 11, § 2.

(c) The state treasurer may contract for services to select an investment manager.

9-4-719. Investment earnings spending policy permanent funds.

(a) The purpose of this section is to establish a spending policy for earnings on permanent fund investments to provide, in descending order of importance:

(i) Consistent, sustainable flow of earnings for expenditure over time;

(ii) Protection of the corpus of the permanent funds against inflation; and

(iii) To the extent practicable, increases in earnings available for expenditure to offset the effects of inflation.

(b) There is created the permanent Wyoming mineral trust fund reserve account. All funds within the account shall be invested by the state treasurer as authorized under W.S. 9-4-715(a), (d), (e) and (r) and all investment earnings from the account shall be credited to the account. Beginning July 1, 2016 for fiscal year 2017 and each fiscal year thereafter, the state treasurer shall transfer unobligated funds from this account to the general fund as necessary to ensure that an amount equal to two and one-half percent (2.5%) of the previous

five (5) year average market value of the permanent Wyoming mineral trust fund, calculated on the first day of the fiscal year, is available for expenditure annually during each fiscal year. As soon as possible after the end of each of the fiscal years beginning on and after July 1, 2017, after making any transfer required pursuant to paragraph (i) of this subsection, revenues in this account in excess of one hundred fifty percent (150%) of the spending policy amount in subsection (d) of this section shall be credited to the permanent Wyoming mineral trust fund. For fiscal year 2020 and for each fiscal year thereafter:

(i) As soon as practicable after the end of the fiscal year, after making any other transfers provided by law from the permanent Wyoming mineral trust fund reserve account, but prior to calculating the balance of the account under this subsection, the state treasurer shall transfer from the account an amount equal to the difference between the maximum amount which may be credited to the strategic investments and project account pursuant to subsection (q) of this section and the amount actually credited to that account in the applicable fiscal year.

(c) The earnings from the permanent Wyoming mineral trust fund under W.S. 9-4-204(u)(iii) during each fiscal year beginning July 1, 2001, in excess of the spending policy established in subsection (d) of this section are appropriated from the general fund to the permanent Wyoming mineral trust fund reserve account. The appropriation shall be credited to the account as soon as practicable after the end of the fiscal year but no later than ninety (90) days after the end of the fiscal year.

(d) The annual spending policy for the permanent Wyoming mineral trust fund is as follows for each fiscal year (FY):

(i) Repealed by Laws 2002, Ch. 80, § 2.

(ii) Repealed By Laws 2004, Chapter 9, § 2.

(iii) Repealed By Laws 2004, Chapter 9, § 2.

(iv) Repealed By Laws 2002, Ch. 80, § 2.

(v) FY 2020 and each fiscal year through 2022 - an amount equal to five percent (5%) of the previous five (5) year average market value of the trust fund, calculated from the first day of the fiscal year;

(vi) FY 2023 - an amount equal to four and three-fourths percent (4.75%) of the previous five (5) year average market value of the trust fund, calculated from the first day of the fiscal year;

(vii) FY 2024 and each fiscal year thereafter - an amount equal to four and one-half percent (4.5%) of the previous five (5) year average market value of the trust fund, calculated from the first day of the fiscal year.

(e) Repealed By Laws 2007, Ch. 148, § 2.

(f) There is created the common school permanent fund reserve account. All funds within the account shall be invested by the state treasurer as authorized under W.S. 9-4-715(a), (d), (e) and (r) and all investment earnings from the account shall be credited to the account. Beginning July 1, 2017 for fiscal year 2018 and each fiscal year thereafter, the state treasurer shall transfer unobligated funds from this account to the common school account within the permanent land income fund as necessary to ensure that an amount equal to the spending policy amount established in subsection (h) of this section is available for expenditure annually during the fiscal year. As soon as possible after the end of each of the fiscal years beginning on and after July 1, 2017, revenues in this account in excess of one hundred fifty percent (150%) of the spending policy amount shall be credited to the common school account within the permanent land fund.

(g) There is annually appropriated to the common school permanent fund reserve account an amount determined under this subsection from funds as provided in W.S. 9-4-601(d)(vi). The amount shall be computed and calculated by the state treasurer. The amount shall be equal to the extent to which earnings from the common school account within the permanent land fund under W.S. 9-4-204(u)(iv) exceed the spending policy established in subsection (h) of this section for that fiscal year. The appropriation shall be credited to the account as soon as practicable after the end of the fiscal year but no later than ninety (90) days after the end of the fiscal year.

(h) The annual spending policy for the common school account within the permanent land fund is as follows for each fiscal year (FY):

(i) Repealed By Laws 2002, Ch. 80, § 2.

(ii) Repealed By Laws 2004, Chapter 9, § 2.

(iii) Repealed By Laws 2004, Chapter 9, § 2.

(iv) Repealed By Laws 2002, Ch. 80, § 2.

(v) FY 2020 and each fiscal year through 2024 - an amount equal to five percent (5%) of the previous five (5) year average market value of the account, calculated from the first day of the fiscal year;

(vi) FY 2025 - an amount equal to four and three-fourths percent (4.75%) of the previous five (5) year average market value of the account, calculated from the first day of the fiscal year;

(vii) FY 2026 and each fiscal year thereafter - an amount equal to four and one-half percent (4.5%) of the previous five (5) year average market value of the account, calculated from the first day of the fiscal year.

(j) Repealed By Laws 2007, Ch. 148, § 2.

(k) There is created the excellence in higher education endowment reserve account. Interest and other earnings on funds within the account shall be credited to the account. As soon as possible after the end of each of the fiscal years beginning on and after July 1, 2017, revenues in this account in excess of one hundred fifty percent (150%) of the spending policy amount in subsection (o) of this section shall be credited to the excellence in higher education endowment fund created by W.S. 9-4-204(u) (vi).

(m) The earnings from the excellence in higher education endowment fund during each fiscal year beginning July 1, 2006, in excess of the spending policy amount established in subsection (o) of this section shall be deposited by the state treasurer to the excellence in higher education endowment reserve account. The excess earnings shall be credited to the reserve account as soon as practicable after the end of the fiscal year but no later than ninety (90) days after the end of the fiscal year.

(n) To the extent the spending policy amount established in subsection (o) of this section exceeds earnings from the excellence in higher education endowment fund for the prior

fiscal year, the state treasurer shall distribute from the excellence in higher education reserve account an amount equal to one-half (1/2) the difference, and such amounts are continuously appropriated from the reserve account for that purpose. Any funds distributed pursuant to this subsection shall be distributed no later than ninety (90) days after the end of the fiscal year and shall be distributed and expended as provided in W.S. 21-16-1201 through 21-16-1203 for earnings from the excellence in higher education endowment fund. The state treasurer in consultation with the University of Wyoming and community college commission, shall report to the governor, joint appropriations interim committee, joint education interim committee and select committee on capital financing and investments no later than November 1, of any year in which funds have been or are anticipated to be distributed from the reserve account under this subsection.

(o) The annual spending policy amount for the excellence in higher education endowment is as follows for each fiscal year (FY):

(i) FY 2018-an amount equal to five percent (5%) of the previous five (5) year average market value of the excellence in higher education endowment fund, as calculated from the first day of the fiscal year;

(ii) FY 2019 and each fiscal year thereafter-an amount equal to four and three-fourths percent (4.75%) of the previous five (5) year average market value of the excellence in higher education endowment fund, calculated from the first day of the fiscal year.

(p) Annually, not later than November 1, the state treasurer, in consultation with the state loan and investment board, shall provide a recommendation to the select committee on capital financing and investments regarding modifications to the spending policy amounts contained in this section. The recommendations shall be consistent with the purposes specified in subsection (a) of this section. The select committee on capital financing and investments shall annually submit a recommendation to all members of the legislature before the convening of the session regarding modifications to the spending policy amounts.

(q) The earnings from the permanent Wyoming mineral trust fund under W.S. 9-4-204(u)(iii) during each fiscal year beginning July 1, 2016, which are less than the spending policy

established in subsection (d) of this section are appropriated from the general fund subject to subsection (s) of this section and the following:

(i) Except as provided in paragraph (iii) of this subsection, any earnings in excess of two and one-half percent (2.5%) of the previous five (5) year average market value of the trust fund, calculated from the first day of the fiscal year and less than or equal to the spending policy amount specified in subsection (d) of this section shall be credited to the legislative stabilization reserve account created by W.S. 9-4-219 and the strategic investments and projects account created by W.S. 9-4-220 in equal amounts;

(ii) The appropriations in this subsection shall be credited to the designated account as soon as practicable after the end of the fiscal year but no later than ninety (90) days after the end of the fiscal year;

(iii) For fiscal year 2019, funds directed to the strategic investments and projects account under paragraph (i) of this subsection shall be credited as follows and in priority order with the first priority fully funded before deposits to the subsequent priority:

(A) An amount equal to nine thousand three hundred seventy-five ten-thousandths percent (0.9375%) of the previous five (5) year average market value of the permanent Wyoming mineral trust fund, calculated on the first day of the fiscal year, to the permanent Wyoming mineral trust fund reserve account;

(B) An amount equal to three thousand one hundred twenty-five ten-thousandths percent (0.3125%) of the previous five (5) year average market value of the permanent Wyoming mineral trust fund, calculated on the first day of the fiscal year, to the strategic investments and projects account.

(r) Repealed by Laws 2017, ch. 205, § 2; ch. 206, § 2.

(s) In any fiscal year or fiscal biennium funds to be deposited to an account under subsection (q) of this section may be deposited to a different fund or account as specified by a general appropriations bill for state government as determined by the legislature to be necessary to alleviate a budget shortfall or structural budget deficit as defined by W.S.

9-2-1002, or to provide appropriations to maintain services as determined by the legislature.

9-4-720. Investment funds committee created; duties.

(a) There is created the investment funds committee. The committee consists of seven (7) voting members including the state treasurer, the designated chief investment officer, the chief investment officer of the Wyoming retirement system and four (4) members appointed by a selection panel in accordance with W.S. 9-4-721. In addition to the voting members, there shall be one (1) ex officio nonvoting member appointed by the governor, and one (1) ex officio nonvoting member appointed by the management council.

(b) The ex officio nonvoting member appointed by the governor shall serve for the term of office of the governor but may be removed by the governor. The ex officio nonvoting member appointed by the management council shall serve a two (2) year term but is eligible for reappointment and may be removed by the management council.

(c) The voting members appointed by a selection panel shall serve a three (3) year term. The voting members are eligible for reappointment. Terms of appointment for voting members shall commence on March 1 of the year of appointment. Any appointed voting member of the committee may be removed by the selection panel at any time or may be removed by the governor for malfeasance or misconduct in office. If an appointed voting position on the committee becomes vacant for any reason, the selection panel shall appoint a member in accordance with W.S. 9-4-721 to fill the position for the remainder of the unexpired term. Appointed voting members of the investment funds committee shall be confirmed by the senate. The selection panel may fill any vacancy occurring between sessions of the legislature by temporary appointment.

(d) The state treasurer shall be the chairman of the committee. The committee shall hold not less than four (4) regularly scheduled meetings each year. Special meetings may be called by the chairman and shall be called by the chairman upon a written request submitted by a majority of the voting members. All matters shall be decided by a majority vote of a quorum of the voting members of the committee, except as otherwise provided in this section.

(e) Meeting facilities, secretarial or clerical assistance, supplies and such other assistance as the committee may require in the performance of its duties shall be provided by the office of the state treasurer. Members of the committee who are not employees or elected officials of the state of Wyoming shall be paid expenses in the manner and amount prescribed for state employees under W.S. 9-3-102 and 9-3-103 for each day of attending and traveling to and from meetings and other activities necessary to the performance of the duties of the committee.

(f) The committee shall:

(i) Review state investment policies and procedures and recommend statutory, rule or policy modifications as the committee deems appropriate to maximize total net returns while protecting principal in a manner that strives for the highest possible risk adjusted total return consistent with an appropriate level of safety, liquidity and consideration of the unique circumstances for each fund;

(ii) Consult with the state treasurer and the board as required by law and as requested by each of those entities regarding the establishment and execution of state investment policies;

(iii) Monitor the investment of state funds in alternative investments;

(iv) Report to the legislature's select committee on capital financing and investments regarding state investment policies, procedures, authority and execution of the same upon request;

(v) Establish or approve investment benchmarks and determine or review whether benchmarks have been exceeded as required by W.S. 9-1-409(e) and 9-3-406(a). Notwithstanding subsections (a) and (b) of this section, members of the committee appointed by the governor or the management council may vote on benchmarks. A member of the committee who is also an employee or board member of the state treasurer's office or the Wyoming retirement system shall not vote on any benchmark.

(g) The committee through the state treasurer's office may contract with consultants having special expertise to assist in the performance of its duties.

(h) Liability of committee members shall be governed by W.S. 1-23-107.

9-4-721. Investment funds committee; selection panel.

(a) There is created the selection panel to appoint voting members to the investment funds committee as provided in W.S. 9-4-720. The panel consists of five (5) members composed of one (1) member appointed by each of the members of the board. Each selection panel member shall possess financial knowledge and experience to qualify them for the position. Once appointed, a selection panel member shall serve for the term of office of the board member who appointed them but may be removed by the appointing board member.

(b) The selection panel shall research and interview candidates for the investment funds committee. The selection panel shall solicit nominations for candidates for the investment funds committee from the state treasurer's office, other members of the investment funds committee, other appropriate entities and the board. Interested persons may apply directly to the panel.

(c) No candidate shall be appointed by the selection panel to the investment funds committee unless the candidate has all of the following qualifications:

(i) Not less than seven (7) years of institutional investment experience involved in the management of a portfolio in excess of five hundred million dollars (\$500,000,000.00);

(ii) A broad understanding of financial markets;

(iii) Not been convicted of or pleads guilty or nolo contendere to a felony violation or been the subject of any disciplinary action involving moral turpitude;

(iv) No conflicts of interest that would lead to a violation of W.S. 6-5-106, 6-5-118, 16-6-118 or other comparable provision of law.

(d) Staff and support for the selection panel shall be provided by the office of the state treasurer. Members of the panel who are not employees or elected officials of the state of Wyoming shall receive per diem and travel expense reimbursement in the manner and amount prescribed for legislators under W.S. 28-5-101.

ARTICLE 8
DEPOSITS AND DEPOSITORIES

9-4-801. Board of deposits; creation; composition; records; meetings; general duties.

The state loan and investment board is established as and shall perform the duties of the board of deposits. The governor is the chairman of the board and the state treasurer is the secretary of the board for the purpose of performing the duties of the board of deposits. The records of the board of deposits kept by the secretary, or a duly certified copy thereof, are prima facie evidence of any action of the board. The board of deposits shall meet quarterly each year, or at any other time, upon the call of the chairman. The board shall designate banks within this state eligible as state depositories for the purpose of receiving on deposit funds of this state.

9-4-802. Board of deposits; application; designation of depositories; revocation of designation.

A bank applying to be a state depository shall file a written application with the secretary of the board of deposits. The application shall be accompanied by a sworn statement of the financial condition of the bank at the time the application is made and a certified resolution providing proper authority of the depository. The secretary of the board of deposits shall review all applications, prepare a recommendation regarding each, and submit a list of all applicants and his recommendations to the board. The secretary of the board shall prepare a list of all financial institutions of the state which are approved by the board to be depositories. The chairman and the secretary of the board shall certify the list to the bank collateral officer who is designated by the state treasurer. Once the bank collateral officer is designated, the state treasurer shall provide a written order to the bank declaring it a state depository until its authority is revoked by the board. Each year, designated state depositories shall submit a current statement of condition, a certified copy of a resolution indicating its authority to act as a state depository has not been revoked and any other information the secretary of the board deems necessary. If, at any time state funds are on deposit with a state depository, a state depository is subject to any public enforcement action by any federal or state regulatory entity, the state depository shall notify the secretary of the board of the regulatory action if the action is

not confidential. The board may revoke a bank's designation as a state depository at any time except that no time deposit, open account shall be withdrawn from a state depository prior to the date of maturity without providing forty-five (45) days prior written notice, absent a default by the state depository.

9-4-803. Deposit of state money in approved depositories; authority of treasurer; rulemaking.

(a) The state treasurer may deposit any portion of the public monies in his possession in any bank chartered under the laws of the United States or under the law of any state if the bank is conducting business in Wyoming and has been approved under W.S. 9-4-801 through 9-4-818 by the board of deposits. As used in W.S. 9-4-801 through 9-4-818, "bank" includes federal and state savings and loan associations. Federal and state savings and loan associations may be designated as depositories for state funds in the same manner as state and national banks.

(b) The state treasurer may promulgate necessary rules and regulations for the implementation of the approved state depository and time deposit, open account programs.

9-4-804. Deposit of state money in approved depositories; required security; contents and form of surety bond; definitions.

(a) Except as otherwise provided in W.S. 9-4-801 through 9-4-815, for the security of state funds, the state treasurer shall require all state depositories to deposit securities of the kind and character described in W.S. 9-4-801 through 9-4-815, or to furnish a surety bond, that meets the requirements of W.S. 9-4-801 through 9-4-815, for the payment of the deposits and interest thereon. Depositories which provide securities as collateral shall provide a report to the state treasurer semiannually in March and September regarding the current balance of and validity of securities so provided for verification by the state treasurer. Surety bonds, when given, shall run to the state of Wyoming, and together with the securities offered shall be approved by the state treasurer. At each quarterly meeting of the state board of deposits, the state treasurer shall provide a report to the board indicating the extent to which state depositories have provided surety bonds or other security in compliance with W.S. 9-4-801 through 9-4-815.

(b) Surety bonds shall:

(i) Be conditioned:

(A) For the payment of the deposit and the interest thereon, as provided in W.S. 9-4-801 through 9-4-815; and

(B) That the depository do and perform whatever may be required by law for a faithful discharge of the trust reposed in the depository.

(ii) Contain the further obligation to settle with and pay to the state treasurer, for the use of the state, interest upon daily balance on the deposits, at the agreed upon rate, which shall not be less than the minimum rate fixed by the board of deposits, payable quarterly on the first business day of January, April, July and October in each year, or when the account is closed. As used in W.S. 9-4-801 through 9-4-815, "business day" means any day other than a Saturday, Sunday, a bank holiday in the state or other day that is considered a holiday for the employees of the state.

(c) Surety bonds provided under this section shall:

(i) Be approved as to form and substance by the attorney general; and

(ii) Be issued by a surety company which:

(A) Is authorized to transact the business of a surety in this state; and

(B) Is rated within the top two (2) ratings by A.M. Best, or has an equivalent rating.

9-4-805. Deposit of state money in approved depositories; other acceptable security.

Instead of furnishing a surety bond as security for the deposits, a depository may pledge any bonds, debentures and other securities in which the state treasurer may by law invest and in an amount equal, at least, to the maximum amount of money at any time to be deposited with the bank. The bonds, debentures and other securities so pledged shall have a market value at least equal to the amount of the deposit. In addition, any depository may furnish as security for the deposit letters of credit issued by any Federal Home Loan Bank in such form as approved by the state treasurer of Wyoming or pledge

conventional first mortgages of Wyoming real estate and notes connected with the mortgages at a ratio of one and one-half to one (1.5:1) of the value of public funds secured by them. A pledge of collateral as security for the deposit of public funds shall be accompanied by a written assignment from the depository vesting legal title thereto to the state and by any other instruments required by the state treasurer. The assignment shall provide that the depository shall pay over deposited public funds and accrued interest thereon to the state treasurer, or his authorized deputy, upon check, order or demand in accordance with this article. The assignment shall also provide that the state has the authority, if the depository defaults, to sell all collateral necessary to realize the full amount of deposited public funds and interest accrued thereon. The interest on bonds, debentures and other securities, so pledged, when paid shall be remitted to the bank so pledging them, as long as it is not in default.

9-4-806. Deposit of state money in approved depositories; bank resolution.

(a) Every bank designated as a depository for funds of the state of Wyoming or any political subdivision thereof shall furnish to the treasurer of the state of Wyoming, or treasurer of the appropriate political subdivision, a certified copy of the resolution adopted by its board of directors which shall be in:

(i) A form acceptable to the state treasurer or treasurer of the appropriate political subdivision; or

(ii) Substantially the following form:

"WHEREAS, it is necessary for (name of designated depository) to properly secure the political division or subdivision for all monies deposited in the bank by the Treasurer of the political division or subdivision, hereinafter called the Treasurer; and

WHEREAS, no deposit will be made in the bank by the Treasurer unless the deposit is properly secured, and the giving of proper security is one of the considerations for receiving the deposits; and

WHEREAS, the Treasurer may, when furnished proper security, carry a maximum credit balance with the bank of Dollars; and

WHEREAS, the Treasurer is willing to receive securities designated by laws of Wyoming as legal collateral security as security for the deposit;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the depository bank that any two of the following named persons, officers of the bank, are authorized and empowered to pledge to the Treasurer of the state or political subdivision securities of this bank which are legal for collateral security for deposit of public funds, and which the Treasurer is willing to accept as collateral security, and in amounts and at the time the Treasurer and bank officers agree upon:

(Bank Officer's Name) (Title)

" " " "

" " " "

BE IT FURTHER RESOLVED that this authority given to the officers of the bank named herein to furnish collateral security to the Treasurer shall be continuing and shall be binding upon the bank until the authority given to the bank officers named herein is revoked or superseded by another resolution of this Board of Directors, verified copy of which shall be delivered by a representative of the bank to the Treasurer or mailed to the Treasurer by registered mail. The right given the officers named herein to pledge security as collateral also includes the right to give additional collateral security and to withdraw such collateral as the Treasurer is willing to surrender and the right to substitute one piece or lot of collateral for another, provided the Treasurer is willing to make such exchange or substitution.

BE IT FURTHER RESOLVED that the bank officers named herein are fully authorized and empowered to execute in the name of the bank such collateral pledge agreement in favor of the Treasurer as the Treasurer requires, and any collateral pledge agreement executed or any act done by the bank officers named herein under the authority of this Resolution shall be as binding and effective upon this bank as though authorized by specific Resolution of the Board of Directors of this Bank.

(b) The certified copy required by subsection (a) of this section shall be provided at the time of the bank's application or within thirty (30) days following the designation by the state board of deposits or proper governing board, as directed

by the state treasurer or treasurer of the appropriate political subdivision.

9-4-807. Deposit of state money in approved depositories; federal insurance; security for deposits not covered.

Any properly designated depository of the public funds of the state, or of any political subdivision thereof, which is entitled to the benefits of deposit insurance provided for by the Federal Deposit Insurance Corporation and the acts of congress relating thereto, shall give and at all times maintain security for the prompt payment and the safekeeping of the whole amount of any such deposit. The deposit insurance provided by the Federal Deposit Insurance Corporation is eligible as the security required for the portion of any deposit that is insured by the corporation, and constitutes all of the security required for the portion. Any portion of the deposit as is not so insured shall be secured by depository bond or approved collateral securities as required by law.

9-4-808. Deposit of state money in approved depositories; responsibility for collateral.

(a) The state of Wyoming, or any political subdivision thereof, which deposits through its treasurer, or other representative, public funds in any designated depository in the state of Wyoming, receiving therefor collateral security, is responsible to the depository for the collateral.

(b) In the event of loss of the collateral, the state or any political subdivision thereof, shall repay to the depository the value and accrued interest of the collateral.

9-4-809. "Time deposit, open account"; definition.

As used in W.S. 9-4-809 through 9-4-812 and 9-4-817 "time deposit, open account" means a deposit, other than a "time certificate of deposit" or a "savings deposit", with respect to which "time deposit, open account" there is in force a written contract between the depositor and the depository bank that neither the whole or any part of the deposit may be withdrawn by the depositor, by check or otherwise, prior to the date of maturity or returned to the depositor by the depository, prior to the date of maturity, without written notice given not less than forty-five (45) days in advance of withdrawals or returns.

9-4-810. "Time deposit, open account"; rate of interest on public funds.

Quarterly each year, taking into consideration all information before it, the board of deposits shall fix the minimum rate of interest to be paid on time deposit, open account. Time deposits shall be at the minimum rate of interest as fixed by the board or at such higher rate as agreed to by the depository bank. The minimum rate shall go into effect on the first day of April, July, October and January following as the case may be, and the rate shall not be changed for three (3) months.

9-4-811. "Time deposit, open account"; payment of interest; accounts of monies.

Interest paid by banks on public funds on time deposit, open account shall be paid to the state treasurer quarterly on the first business day of January, April, July and October as required by the state treasurer. The state treasurer shall require, and every depository shall keep accurate accounts of all monies deposited with it, showing the amounts deposited and when deposited.

9-4-812. Withdrawals of state funds; liability of treasurer for money or bond loss.

The state treasurer or his authorized deputy may withdraw any and all funds deposited for the purpose of paying the appropriations and obligations of the state as lawfully required or whenever he deems it advisable or to the interests of the state to do so except funds deposited as time deposit, open account shall require notice in advance of withdrawal as specified in W.S. 9-4-809. The state treasurer and his sureties are responsible for the faithful performance of the duties of the treasurer under the law, and for a proper accounting and turning over to his successor of all monies paid to the treasurer as such but he shall not be held personally liable for any monies that may be lost by reason of the failure or insolvency of any bank selected as a state depository nor for the deficiency or loss upon any surety bond or securities deposited by any bank, if the surety bond or securities were placed according to law, unless the loss could have been avoided by the exercise of reasonable care and diligence on the part of the treasurer or his deputy, in which case the treasurer is liable to the state for the loss.

9-4-813. Repealed By Laws 1997, ch. 63, § 2.

9-4-814. Sale of collateral.

The state treasurer may sell any or all collateral that may be pledged as security for the deposit of any state funds in any depository under this act, at public or private sale, whenever there shall be a failure or refusal upon the part of any state depository, to pay over the funds, or any part thereof or interest thereon, upon the demand or order of the state treasurer, or his authorized deputy on the state depository. Notice of the sale of collateral given as security for deposits is required only if the state treasurer finds that the collateral is illiquid. If notice is required, it shall be given by publication once each week for three (3) consecutive weeks in a newspaper of general circulation in the county or counties in which real estate, in the case of mortgages, or the local governments, in the case of local government bonds, are located. When a sale of collateral is made by the state treasurer, either at public or private sale, and the collateral has been transferred by the chairman and secretary of the board of deposits, the absolute ownership of the collateral shall vest in the purchasers, upon the payment of the purchase money to the state treasurer. Should there be any surplus after paying the amount due the state and expenses of sale, it shall be paid to the state depository which made the pledge of the collateral.

9-4-815. Recovery of penalties on bonds.

It shall be the duty of the attorney general of the state to enter and prosecute, in the name of the state, to final determination, all suits for the recovery of any penalty arising under the conditions of any bond, securities or mortgages and notes connected with the mortgages given, or required to be given under this act to the state of Wyoming.

9-4-816. Deposits by political subdivisions; "proper governing board" defined.

(a) As used in W.S. 9-4-817 through 9-4-831 "proper governing board" means:

(i) When applied to the deposit of county funds, the board of county commissioners of the county;

(ii) When applied to the deposit of the funds of a city or town, the mayor and council of the city or town;

(iii) When applied to the deposit of school district funds, the board of trustees of the school district;

(iv) When applied to the deposit of irrigation district funds, the board of commissioners of the irrigation district; and

(v) When applied to drainage district funds, the board of commissioners of the drainage district.

9-4-817. Deposits by political subdivisions; selected institutions; security; withdrawals.

(a) To the extent they are not otherwise invested, the monies collected and held by a treasurer of a political subdivision, municipality or special district within this state shall be deposited in banks which qualify as depositories for public monies as specified in W.S. 9-4-803(a).

(i) Repealed by Laws 2017, ch. 98, § 2.

(ii) Repealed by Laws 2017, ch. 98, § 2.

(iii) Repealed by Laws 2017, ch. 98, § 2.

(iv) Repealed by Laws 2017, ch. 98, § 2.

(b) In depositing the monies in the financial institutions authorized by subsection (a) of this section, the treasurer shall select the institution:

(i) Repealed By Laws 1996, ch. 112, § 3.

(ii) Designated as a depository by the proper governing board.

(c) The deposits made pursuant to this section shall be made to the extent that they are:

(i) Fully insured by the Federal Deposit Insurance Corporation; or

(ii) Secured, in accordance with this article, by a pledge of collateral or the furnishing of a surety bond.

(d) Any bank, savings and loan association or federal savings bank, located in the state, may apply to keep the monies upon the following conditions:

(i) All deposits are subject to payment when demanded by the proper treasurer on his check, order or demand, except that all funds deposited on time deposit, open account shall be withdrawable, under W.S. 9-4-809;

(ii) All funds deposited in a savings deposit account shall be withdrawable upon demand provided that the bank or savings and loan association may at any time require giving of notice in writing of an intended withdrawal of thirty (30) days before a withdrawal is made;

(iii) Interest shall be paid upon the amount deposited which constitutes a time deposit, open account;

(iv) All deposits are also subject to regulations imposed by law.

9-4-818. Deposits by political subdivisions; applications by, and approval of, banks; rate of interest; defaults.

(a) Applications by banks and savings and loan associations shall be submitted to the proper governing board and shall be acted upon by the proper governing board as soon thereafter as practicable. Prior to the deposit, the board shall negotiate the rate of interest applicable to the deposit. No monies shall be deposited by any treasurer except in banks and savings and loan associations which have been approved by the proper governing board.

(b) If any depository defaults, the treasurer for the local government may sell any or all collateral that is pledged as security for the deposit of public funds in the depository at public or private sale. Notice of the sale of the collateral is required only if the treasurer determines that the collateral is illiquid. If notice is required, it shall be given by publication in a newspaper of general circulation in the county or counties in which real estate, in the case of mortgages, or local governments, in the case of local government bonds, are located, once each week for three (3) consecutive weeks.

9-4-819. Repealed by Laws 1984, ch. 32, § 2.

9-4-820. Deposits by political subdivisions; surety bonds for security; out-of-county banks.

(a) For the security of the funds deposited the proper treasurer shall require all depositories to give surety bonds for the safekeeping and payment of deposits of public monies and the interest thereon, which bonds shall:

(i) Run to the proper county, city, town or school district;

(ii) Be approved as to form and substance by the proper governing board and legal counsel; and

(iii) Be conditioned:

(A) That the depository shall on the first Monday of January, April, July and October of each year, render to the proper treasurer, and to the proper governing board a statement in duplicate, showing the several daily balances and the amount of public monies held by it during the preceding three (3) months, and the amount of the interest thereon, and how credited; and

(B) For the payment of the deposits, and the interest accrued thereon when demanded by the proper treasurer on his check, order or demand at any time.

(b) The surety bond in form and substance shall be similar, or as near as may be, to the surety bonds required of state depositories and shall conform with W.S. 9-4-804(c).

(c) The bonds shall be issued and placed with the clerk of the county, city, town or school district to which the bond is given.

9-4-821. Deposits by political subdivisions; security in lieu of surety bonds.

(a) Instead of the bonds provided for in W.S. 9-4-820, the banks or savings and loan associations receiving on deposit public funds may, as security therefor, furnish to the proper treasurer of any county, municipality, community college districts or school district, any of the following:

(i) United States treasury bills, notes or bonds, including stripped principal or interest obligations of such

issuances, or any other obligation or security issued by the United States treasury or any other obligation guaranteed as to principal and interest by the United States;

(ii) Bonds, notes, debentures, or any other obligations or securities issued by or guaranteed by any federal government agency or instrumentality, including but not limited to the following to the extent that they remain federal government agencies or instrumentalities, federal national mortgage association, federal home loan bank, federal farm credit bank, federal home loan mortgage corporation and government national mortgage association. All federal agency securities shall be direct issuances of federal agencies or instrumentalities;

(iii) Repealed By Laws 1997, ch. 63, § 2.

(iv) Repealed by Laws 1989, ch. 124, §§ 1, 2.

(v) Repealed By Laws 1997, ch. 63, § 2.

(vi) Conventional first mortgages of Wyoming real estate at a ratio of one and one-half to one (1.5:1) of the value of public funds secured thereby;

(vii) Repealed By Laws 1997, ch. 63, § 2.

(viii) Repealed By Laws 1997, ch. 63, § 2.

(ix) Repealed By Laws 1997, ch. 63, § 2.

(x) Repealed By Laws 1997, ch. 63, § 2.

(xi) Repealed By Laws 1997, ch. 63, § 2.

(xii) Repealed By Laws 1997, ch. 63, § 2.

(xiii) Repealed By Laws 1997, ch. 63, § 2.

(xiv) Repealed By Laws 1997, ch. 63, § 2.

(xv) Repealed By Laws 1997, ch. 63, § 2.

(xvi) Repealed By Laws 1997, ch. 63, § 2.

(xvii) Repealed By Laws 1997, ch. 63, § 2.

(xviii) Repealed By Laws 1997, ch. 63, § 2.

(xix) Bank qualified municipal bonds of this state or of counties, cities, community college districts or school districts of this state or warrants issued by virtue of the laws of this state, or special improvement bonds issued by incorporated cities and towns of the state of Wyoming, at market value;

(xx) Repealed By Laws 1997, ch. 63, § 2.

(xxi) Repealed By Laws 1997, ch. 63, § 2.

(xxii) Repealed By Laws 1997, ch. 63, § 2.

(xxiii) Bank qualified municipal bonds of any state, county, city, community college district or school district or special improvement bonds issued by incorporated cities and towns of any state, at market value and bearing a rating of one (1) of the three (3) highest investment grades provided by a nationally recognized rating organization.

(b) The pledged securities shall be subject to the approval of the proper governing board. This act as it applies to securities when pledged by state depositories, shall apply as near as may be to such securities when pledged to the treasurer of any county, municipality, community college districts or school district. The director of the state department of audit shall promulgate rules to govern the pledge of real estate mortgages.

9-4-822. Repealed By Laws 1997, ch. 63, § 2.

9-4-823. Repealed By Laws 1996, ch. 112, § 3.

9-4-824. Liability of local treasurers for money loss; power to withdraw funds.

No county, city, town, school district, irrigation district or drainage district treasurer is liable on his official bond for money on deposit in any bank under and by direction of the proper legal authority and in conformity with law if the bank has given bond which has been approved as herein provided, except in cases where any loss could have been prevented by the exercise of reasonable care on the part of the treasurer. The proper treasurer may withdraw any or all funds by him deposited in depositories whenever he deems it advisable or to the

interests of the public which he represents, or to pay out money as by law required.

9-4-825. Joint custody agreement for securing local deposits; banks authorized to receive collateral.

Any properly designated depository of the public funds of the state or any political subdivision thereof, and any treasurer of any proper governing board may agree, as an alternate method of securing the deposit of public funds, to place the collateral security in any financial institution, as defined in W.S. 13-1-101(a)(ix) and other than the depository bank, chartered as a state bank or in any national bank other than the depository bank, in any federal reserve bank or branch thereof, in any bank which is a member of the federal reserve system or in any government-sponsored enterprise. The financial institution receiving the collateral security shall be known as the custodian.

9-4-826. Joint custody agreement for securing local deposits; placement of security with custodian; receipt as evidence of deposit.

At the request of the treasurer of the proper governing board, the designated depository shall place the security to be furnished as collateral for the deposit with the custodian agreed upon by the treasurer of the governing board and the depository bank. A joint custody trust receipt is the evidence of the deposit of the collateral security.

9-4-827. Joint custody agreement for securing local deposits; form for receipts.

(a) The joint custody trust receipt of the federal reserve bank of Kansas City or its branches may be in the form adopted and used by the federal reserve bank.

(b) Joint custody trust receipts issued by other banks shall be:

(i) In a form acceptable to the state treasurer or treasurer of the appropriate political subdivision; or

(ii) In substantially the following form:

JOINT CUSTODY RECEIPT

(Name, address of issuer of the Joint Custody Receipt)
hereinafter called the custodian, has received to be held in
safekeeping subject to the joint order

(Name of Treasurer and official title) hereinafter called the
Treasurer and

(Name of depository bank) hereinafter called the Depository Bank
the following described securities:

Following and Subsequent

Description	coupon attached	Par Value
-------------	-----------------	-----------

Mo.	Day	Year
-----	-----	------

Total par value (in writing and figures	\$)
---	----	---

**9-4-828. Joint custody agreement for securing local
deposits; execution and contents of agreement.**

(a) The joint custody agreement shall be executed by the
custodian, the depository bank and the treasurer of the proper
governing board and shall:

(i) Contain the following provisions:

(A) The custodian will detach as they mature and
enter for collection the coupons from the securities and the
proceeds when collected will be credited to the account of the
depository bank unless otherwise ordered by the treasurer;

(B) The custodian will enter matured principal
for collection and hold the proceeds when collected subject to
the joint order of the treasurer and depository bank;

(C) It is understood by the treasurer and
depository bank that the custodian assumes no responsibility for
the nonpayment of interest or principal nor for the validity,
genuineness or enforceability of any of the securities deposited
in safekeeping hereunder nor makes any representation or
warranties expressed or implied, as to the value or worth
thereof, nor for the giving of notice of maturity, calls for
redemption or the exercise of any rights, priorities, privileges
of exchange or conversion or for the timely presentation of
maturing principal or interest of any securities deposited under
this agreement;

(D) The custodian assumes no responsibility with respect to the safekeeping and condition of deposited property beyond the care and custody it gives its own securities held on its own premises. Any and all forms of protective insurance are to be furnished by the treasurer and depository bank at their option and expense. The custodian is not required to furnish any form of protective insurance; and

(E) The custodian shall deliver the securities to the treasurer upon the sole order of the treasurer when supported by a verified certificate of the state banking commissioner certifying under seal that the depository bank has failed or refused to pay all or a portion of the deposit due the treasurer by the depository bank and that under the terms of the pledge agreement executed by the depository bank the treasurer is entitled to delivery of the securities described in this receipt or the proceeds thereof. Otherwise the securities shall be delivered only upon the written joint order and instructions of the treasurer and depository bank; or

(ii) Be in a form and contain provisions as required by the state treasurer or the treasurer of the proper governing board.

9-4-829. Unauthorized use of monies.

The state treasurer, the treasurer of any county, city, town or school district or any other public officer or employee having in his custody or under his control any public monies, who makes a profit, directly or indirectly, by loaning or depositing the monies contrary to law or who uses public monies for any purpose not authorized by law, is guilty of a felony punishable by imprisonment for not more than two (2) years, a fine of not more than five thousand dollars (\$5,000.00), or both and may be removed from office.

9-4-830. Repealed by Laws 1982, ch. 75, § 5; 1983, ch. 171, § 3.

9-4-831. Investment of public funds.

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

(i) United States treasury bills, notes or bonds, including stripped principal or interest obligations of such issuances, or any other obligation or security issued by the United States treasury or any other obligation guaranteed as to principal and interest by the United States;

(ii) Bonds, notes, debentures, or any other obligations or securities issued by or guaranteed by any federal government agency or instrumentality, including but not limited to the following to the extent that they remain federal government agencies or instrumentalities, federal national mortgage association, federal home loan bank, federal farm credit bank, federal home loan mortgage corporation and government national mortgage association. All federal agency securities shall be direct issuances of federal agencies or instrumentalities;

(iii) Repurchase agreements involving securities which are authorized investments under paragraphs (i) and (ii) of this subsection. The securities may be held in a custodial arrangement with a member bank of the federal reserve system or in a segregated account at a federal reserve system bank. The repurchase agreement must provide for daily valuation and have a minimum excess market price reserve of one hundred two percent (102%) of the investment;

(iv) In accordance with W.S. 9-4-803 with respect to the state and W.S. 9-4-817 with respect to local governments, deposits in financial institutions located within the state of Wyoming which offer federal deposit insurance corporation insurance on deposits in the institutions;

(v) Mortgage backed securities that are obligations of or guaranteed or insured issues of the United States, its agencies, instrumentalities or organizations created by an act of congress excluding those defined as high risk. High risk mortgage backed securities are defined as any security which meets either of the following criteria:

(A) Is rated V-6 or higher by Fitch Investors Service or at an equivalent rating by another nationally recognized rating service; or

(B) Is defined as a high risk mortgage security under Section III of the Supervisory Policy Concerning Selection of Securities Dealers and Unsuitable Investment Practices, as

amended by the Federal Financial Institutions Examination Council as created under 12 U.S.C. 3301, et seq., or its successor.

(vi) In bankers acceptances of United States banks eligible for purchase by the federal reserve system;

(vii) In a guaranteed investment contract if issued and guaranteed by a United States commercial bank or a United States insurance company. The credit quality of the issuer and guarantor shall be the highest category of either A. M. Best, Moody's or Standard and Poor's rating service. The contract shall provide the governmental entity a nonpenalized right of withdrawal of the investment if the credit quality of the investment is downgraded;

(viii) A commingled fund of eligible securities listed in this section if the securities are held through a trust department of a bank authorized to do business in this state or through a trust company authorized to do business in this state with total capital of at least ten million dollars (\$10,000,000.00) or which has an unconditional guarantee with respect to those securities from an entity with total capital of at least one hundred million dollars (\$100,000,000.00);

(ix) Interest bearing deposits of a savings and loan association or a federal savings bank authorized to do business in this state to the extent that they are fully insured by the federal deposit insurance corporation, or:

(A) Secured by a pledge of assets and the federal savings bank or savings and loan association is otherwise authorized as a depository as prescribed by law; or

(B) The federal savings bank or savings and loan association is otherwise authorized as a depository as prescribed by law and:

(I) In lieu of a pledge of assets securing an interest bearing deposit, a selected savings and loan association or federal savings bank shall arrange for the deposit of the public funds in interest bearing deposits in one (1) or more banks or savings and loan associations or federal savings banks wherever located in the United States, for the account of the public funds depositor;

(II) At the same time the public funds are deposited pursuant to this subparagraph, the selected savings and loan association or federal savings bank shall receive an amount of deposits from customers of other financial institutions equal to the amount of the public funds initially placed by the public funds depositor;

(III) Each interest bearing deposit shall be insured by the federal deposit insurance corporation; and

(IV) The selected savings and loan association or federal savings bank shall act as custodian for the public funds depositor with respect to the interest bearing deposits placed in the public funds depositor's account.

(x) Interest bearing deposits of a bank authorized to do business in this state to the extent that they are fully insured by the federal deposit insurance corporation or:

(A) Secured by a pledge of assets and the bank is otherwise authorized as a depository as prescribed by law; or

(B) The bank is otherwise authorized as a depository as prescribed by law and:

(I) In lieu of a pledge of assets securing an interest bearing deposit, a selected bank shall arrange for the deposit of the public funds in interest bearing deposits in one (1) or more banks or savings and loan associations or federal savings banks wherever located in the United States, for the account of the public funds depositor;

(II) At the same time the public funds are deposited pursuant to this subparagraph, the selected bank shall receive an amount of deposits from customers of other financial institutions equal to the amount of the public funds initially placed by the public funds depositor;

(III) Each interest bearing deposit shall be insured by the federal deposit insurance corporation; and

(IV) The selected bank shall act as custodian for the public funds depositor with respect to the interest bearing deposits placed in the public funds depositor's account.

(xi) As authorized by W.S. 37-5-605, bonds of the Wyoming energy authority;

(xii) Shares of a money market fund as specified in subsection (g) of this section;

(xiii) Repealed By Laws 1996, ch. 112, § 3.

(xiv) Repealed By Laws 1996, ch. 112, § 3.

(xv) Repealed By Laws 1996, ch. 112, § 3.

(xvi) Repealed By Laws 1996, ch. 112, § 3.

(xvii) Repealed By Laws 1996, ch. 112, § 3.

(xviii) Repealed By Laws 1996, ch. 112, § 3.

(xix) Amended and Renumbered as (ix) by Laws 1996, ch. 112, § 2.

(xx) Amended and Renumbered as (x) by Laws 1996, ch. 112, § 2.

(xxi) Amended and Renumbered as (xi) by Laws 1996, ch. 112, § 2.

(xxii) Repealed By Laws 1996, ch. 112, § 3.

(xxiii) Repealed by Laws 1996, ch. 112, § 3.

(xxiv) Repealed by Laws 1996, ch. 112, § 3.

(xxv) Repealed by Laws 1996, ch. 112, § 3.

(xxvi) Commercial paper of corporations organized and existing under the laws of any state of the United States, provided that at the time of purchase, the commercial paper shall:

(A) Have a maturity of not more than two hundred seventy (270) days; and

(B) Be rated by Moody's as P-1 or by Standard & Poor's as A-1+ or equivalent ratings indicating that the commercial paper issued by a corporation is of the highest quality rating.

(xxvii) Investments as provided in W.S. 9-4-715(a), (d) and (e). Upon request by any county, municipality, school district, joint powers board or any other local governmental entity the state treasurer may provide an investment fund for local government entities under the same terms and conditions as provided in W.S. 9-1-416. The fund shall:

(A) Be a second local investment pool with more long-term redemption options than the local investment pool established under W.S. 9-1-416 and with additional penalties for early withdrawal of funds as provided by rule and regulation adopted by the state treasurer;

(B) Be subject to rules and regulations adopted by the state treasurer as provided in W.S. 9-1-416;

(C) Be invested in a manner to obtain the highest return possible consistent with the preservation of the corpus; and

(D) Except as otherwise provided in this paragraph, be managed in accordance with W.S. 9-1-416.

(b) No investment of public funds under this section shall be made by any of the officials above designated, until the affected fiscal board of the state of Wyoming, the board of county commissioners, the municipal council or the school district board of trustees as the case may be, has first authorized the same.

(c) Repealed By Laws 1996, ch. 112, § 3.

(d) Repealed By Laws 1997, ch. 63, § 2.

(e) Repealed By Laws 1996, ch. 112, § 3.

(f) Repealed By Laws 1996, ch. 112, § 3.

(g) Investments in shares of a diversified money market fund are authorized except that no entity of Wyoming government shall at any time own more than ten percent (10%) of the fund's net assets or shares outstanding. Investments under this subsection are limited to a diversified money market fund which seeks to maintain a stable share value of one dollar (\$1.00), is registered under the Securities Act of 1933 and Investment Company Act of 1940, as amended, and has qualified under state

registration requirements, if any, to sell shares in the state and which:

(i) Invests its assets:

(A) Solely in securities or instruments that have a remaining maturity of three hundred ninety-seven (397) days or less at the time of purchase of shares;

(B) Solely in securities issued by the United States treasury, obligations or securities issued by or guaranteed by any federal government agency or instrumentality, and repurchase agreements collateralized by such instruments at not less than the repurchase price including accrued interest;

(C) So that an average dollar weighted maturity of ninety (90) days or less is maintained at all times; and

(D) Under limitations such that the fund may borrow funds for temporary purposes only by entering into repurchase agreements and only to the extent permitted by federal law.

(ii) Does not impose a sales charge;

(iii) Maintains the highest quality rating from at least one (1) of the nationally recognized rating organizations, such as Standard & Poor's Corporation or Moody's Investor Services;

(iv) Has an operating history of not less than five (5) consecutive years;

(v) Requires submission of sixty (60) days advance notice of any investment policy change, in the case where such policy changes may be approved without approval of the fund's shareholders or requires approval by shareholders entitled to vote a majority, as the term is defined under the Investment Company Act of 1940, as amended, of the fund's shares;

(vi) Is purchased from a person licensed to sell securities in Wyoming through or for an account with an entity which, at the time the investment is made by the state or local government:

(A) Has been continuously engaged in the business of selling securities in Wyoming for the preceding two

(2) years or a financial institution authorized to do business in Wyoming and qualified by law to act as a depository of public funds in this state; and

(B) Currently, and during the preceding two (2) years, continuously had at least one (1) established place of business in this state. As used in this subparagraph, "established place of business" means a place in this state which is actually occupied either continuously or at regular periods by employees or agents of the entity who are licensed to sell securities in this state and where a large share of the entity's business in this state is actually conducted.

(h) Every political subdivision shall have on file a "Statement of Investment Policy." Except for investments by special hospital district boards pursuant to W.S. 35-2-403(d) or county memorial hospitals pursuant to W.S. 18-8-104(d), this policy shall be at least as restrictive with respect to the types of investments authorized as those listed under subsection (a) of this section. The policy shall require that before any person effects any investment transaction on behalf of a political subdivision or offers any investment advice to the governing body of a political subdivision, that person shall sign a statement indicating that he has read the policy and agrees to abide by applicable state law with respect to advice he gives and the transactions he undertakes on behalf of the political subdivision. As used in this subsection, "person" does not include any officer, employee or member of the governing board of the political subdivision for which the investment is made or to which advice is given. As used in this subsection and subsection (j), "political subdivision" means the local government entities listed in the introductory paragraph of subsection (a) of this section. As used in this subsection, "investment" for the purpose of "investment transactions" and "investment advice" does not include deposits in financial institutions as authorized by law. As used in this subsection and paragraph (a)(iv) of this section, "financial institution" means as defined in W.S. 13-1-101(a)(ix).

(j) To enhance the background and working knowledge of political subdivision treasurers in governmental accounting, portfolio reporting and compliance, and investments and cash management, the state auditor and the state treasurer shall conduct voluntary education programs for persons elected or appointed for the first time to any office or as an employee of any political subdivision where the duties of that office or position of employment include taking actions related to

investment of public funds and shall also hold annual voluntary continuing education programs for persons continuing to hold those offices and positions of employment. The state treasurer and state auditor may contract with other persons with special knowledge in this area to provide the training and may also charge a fee for attendance sufficient to defray the cost of the educational program. Nothing in this subsection shall be construed as preventing the state auditor and state treasurer from allowing the general public to attend these education programs upon payment of the appropriate fee.

(k) In connection with, or incidental to, the issuance or carrying of bonds, but only for the purpose of reducing the amount or duration of payment, interest rate, spread or similar risk, or to result in a lower cost of borrowing, and not for purposes of investment, the state treasurer or treasurer of any political subdivision, municipality or special district of this state and the various boards of trustees and boards of directors of county hospitals, airports, fairs and other duly constituted county boards and commissions may enter into contracts which are determined to be necessary or appropriate to hedge risk or to place the obligation of the bonds, in whole or in part, on the interest rate, cash flow or other basis desired, including, but not limited to, contracts commonly known as interest rate swap agreements, interest rate caps or floors, forward payment conversion agreements, futures or hedge contracts.

(m) Any local governmental entity, including the treasurer of any political subdivision, municipality or special district of this state, the various boards of trustees and boards of directors of county hospitals, airports, fairs and other duly constituted county boards and commissions, or their designee, that invests public funds under subsection (a) of this section shall:

(i) Exercise the judgment and care of a prudent investor as specified by the Wyoming Uniform Prudent Investor Act, W.S. 4-10-901 through 4-10-913;

(ii) If the local governmental entity contracts with another person to aid in the investment of public funds, require that the person:

(A) Submit to the jurisdiction of the courts of this state; and

(B) Act as a fiduciary with respect to the investment of public funds by acting solely in the interest of the public and by acting with the care, skill and caution which a prudent person in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose. The contracted person shall incur only costs that are appropriate and reasonable and shall act in accordance with a good faith interpretation of the law governing the investment of public funds.

9-4-832. Repealed by Laws 1986, Sp. Sess., ch. 5, § 2.

9-4-833. Investment of permanent funds.

9-4-834. Repealed By Laws 2008, Ch. 113, § 4.

ARTICLE 9 REFUNDING BONDS

9-4-901. Issuance; principal amount.

Whenever the state of Wyoming has outstanding bonds which are redeemable by their terms or which may be redeemed with the consent of the holders thereof, the governor, with the approval of the state treasurer and attorney general, may issue refunding bonds of the state of Wyoming to be designated "State of Wyoming Refunding Bonds, Series (year)", in a principal amount not exceeding the principal amount of the bonds to be refunded.

9-4-902. Interest rate; maturity; form; record.

(a) If bonds are issued to refund bonds which are redeemable, the interest rate thereon shall be lower than the rate on the bonds to be refunded. If bonds are issued to refund bonds prior to their redeemable date, the interest rate thereon shall not be greater than that of the outstanding bonds to the redemption date, after which time the interest rate on refunding bonds shall be lower than the rate on the bonds to be refunded.

(b) State refunding bonds shall mature serially, either annually or semiannually, in amounts determined by the governor, state treasurer and attorney general. The first maturity shall be not later than three (3) years and the last maturity not later than fifteen (15) years after the date of the bonds. Principal and interest shall be payable in lawful money of the United States of America at the office of the state treasurer and at other places designated in the bonds. Bonds shall be

issued in the denomination of one thousand dollars (\$1,000.00) or some multiple thereof and shall be signed by the governor, attested by the secretary of state under the seal of the state, and countersigned by the state treasurer. Semiannual interest coupons to be attached to the bonds shall bear the facsimile signature of the state treasurer. The proceedings for the issuance and the form of the bonds shall be approved by the attorney general, and each bond shall have endorsed thereon a certificate signed by the auditor and secretary of state that the bond is issued pursuant to law and is within the debt limit. Refunding bonds shall be numbered from one (1) upward, and shall be paid in that order. The state treasurer shall keep a record of all bonds issued hereunder in a book to be kept in his office for that purpose.

9-4-903. Sale or exchange; price; application of proceeds.

The governor and state treasurer may sell refunding bonds at a price not less than the par value thereof and shall apply the proceeds thereof solely to the payment of a like amount of the bonds to be refunded or refunding bonds may be exchanged for a like amount of outstanding bonds. Refunding bonds may be sold or exchanged all at one time, or singly, or in blocks from time to time as determined by the governor and state treasurer, but they shall not be issued unless and until a like amount of outstanding bonds can be paid, redeemed and cancelled.

9-4-904. Tax levy to pay principal and interest.

The state board of equalization shall, each year at the time of making the annual levy for state purposes, direct the boards of county commissioners of the several counties of the state to levy upon all taxable property therein a tax, which, with other funds available for the purpose, is sufficient to pay the principal of and the interest on refunding bonds as the bonds respectively become due and payable. The tax shall be payable in cash, and when paid shall be remitted to the state treasurer to be credited to the debt service fund for the purpose of paying the principal of and the interest on the refunding bonds.

ARTICLE 10
GUARANTEE PROGRAMS FOR BONDS

9-4-1001. Guarantee program for school district bonds.

(a) The state loan and investment board shall administer a school district bond guarantee program in accordance with this

section and may promulgate rules to implement it. This program applies to bonds issued by school districts under W.S. 21-13-701 through 21-13-721 on or before November 1, 2001, only. The program is intended to benefit school districts by guaranteeing payment of bonded indebtedness of creditworthy districts by reducing the interest rate at which the bonds may be issued.

(b) A school district that seeks the guarantee of bonds under this program shall apply to the board on forms prescribed by the board. The board shall review the application, investigate the applicant district and determine whether to approve the application based upon:

(i) The purpose of the bond issue, the district's need for it, including information from the needs assessment under W.S. 21-15-115, whether the district would likely remain within constitutional debt limits after the issue and whether a guarantee under this section would likely result in reduced costs;

(ii) The district's financial status and stability;

(iii) The status of the accreditation of the district by the department of education;

(iv) Any other factor relevant to the issue and guarantee of the bonds which are the subject of the application.

(c) The board may determine to guarantee bonds under this section and may impose terms, conditions and limits on that guarantee as it finds, in its discretion, are necessary to protect state funds and ensure the viability of the program. In addition, the board may guarantee the refunding of bonds issued on or before November 1, 2001, provided the refunding is not combined with any bonds issued after November 1, 2001. A decision by the board not to guarantee bonds under this section is not subject to judicial review under the Wyoming Administrative Procedure Act (W.S. 16-3-101 through 16-3-115).

(d) As a condition of participating in the bond guarantee program under this section, a school district shall enter into agreements necessary to provide that:

(i) The state of Wyoming, through the state treasurer, shall assume responsibility for and make all payments to the district's paying agent in the amount necessary to pay principal and interest on the bonds subject to the guarantee;

(ii) The district shall deposit funds with the state by a certain date and in a sufficient amount so that the state can make the entire principal and interest payment to the district's paying agent in a timely manner;

(iii) If the district fails to comply with paragraph (ii) of this subsection:

(A) The state shall make the full payment due from funds in the common school account in the permanent land fund available under W.S. 9-4-715(g) for this purpose;

(B) To the extent that the district has not deposited sufficient funds with the state to comply with paragraph (ii) of this subsection, the state is deemed to have loaned and the district is deemed to have borrowed those funds subject to the following terms and conditions:

(I) The loan shall bear interest at a rate equal to the average interest earned on investments of the common school account in the permanent land fund in the four (4) calendar quarters preceding the quarter in which the loan occurred;

(II) The loan, including principal and interest, shall be repaid from the district's next major maintenance payments under W.S. 21-15-109 and the next payments from the school foundation program account under W.S. 21-13-313. The loan is not deemed to be a general obligation of the district, and the state shall not require repayment from any source other than as provided in this subdivision;

(III) The district may make additional payments on the loan.

(C) The state loan and investment board may require the district to modify its fiscal practices and its general operations if the board determines that there is a substantial likelihood that the district will not be able to make future payments required under paragraph (ii) of this subsection.

(e) This section is repealed effective July 1, 2020.

9-4-1002. Repealed by Laws 2016, ch. 110, § 3.

9-4-1003. Supplemental coverage program for university revenue bonds.

(a) The state loan and investment board shall administer a university revenue bond supplemental coverage program in accordance with this section and may promulgate rules to implement it. This program applies to bonds issued by the University of Wyoming under W.S. 21-17-402 through 21-17-450. The program is intended to benefit the university by providing supplemental coverage for payment of bonded indebtedness of the university thereby reducing the interest rate at which the bonds may be issued.

(b) If the university seeks supplemental coverage for its revenue bonds under this program, the university shall apply to the board on forms prescribed by the board following legislative authorization of the university to issue revenue bonds. In no case shall the board approve supplemental coverage for bonds if the sale of the bonds would reduce the ratio of university pledged revenue that is available for debt servicing to the cost of interest and principal payments to a level of less than one (1) to one (1). The board shall review the application and determine whether to approve the application based upon:

(i) Whether supplemental coverage under this section would likely result in reduced costs;

(ii) Any other factor relevant to the issue and supplemental coverage for payment of the bonds which are the subject of the application.

(c) The board may determine to provide supplemental coverage for revenue bonds under this section and may impose terms, conditions and limits on that supplemental coverage as it finds, in its discretion, are necessary to protect state funds and ensure the viability of the program. In addition, the board may provide supplemental coverage for refunding of revenue bonds issued on or before November 1, 2015, provided the refunding is not combined with any bonds issued after November 1, 2015. A decision by the board not to approve supplemental coverage for revenue bonds under this section is not subject to judicial review under the Wyoming Administrative Procedure Act.

(d) As a condition of participating in the supplemental coverage program under this section, the university shall enter into agreements necessary to provide that:

(i) The state of Wyoming, through the state treasurer, shall assume responsibility for and make all payments to the university's paying agent in the amount necessary to pay principal and interest on the bonds subject to the supplemental coverage;

(ii) The university shall deposit funds with the state by a certain date and in a sufficient amount so that the state can make the entire principal and interest payment to the university's paying agent in a timely manner;

(iii) If the university fails to comply with paragraph (ii) of this subsection:

(A) The state shall make the full payment due from federal mineral royalties as provided by W.S. 9-4-601(d)(vii) for this purpose;

(B) To the extent that the university has not deposited sufficient funds with the state to comply with paragraph (ii) of this subsection, the state is deemed to have loaned and the university is deemed to have borrowed those funds subject to the following terms and conditions:

(I) The loan shall bear interest at a rate equal to the average interest earned on pooled investments of state funds in the four (4) calendar quarters preceding the quarter in which the loan occurred;

(II) The loan, including principal and interest, shall be repaid from revenues from the university's general fund that are neither state appropriations to the university nor pledged revenues under W.S. 21-17-404(a)(xiv)(A). The loan is not deemed to be a general obligation of the university, and the state shall not require repayment from any source other than as provided in this subdivision;

(III) The university may make additional payments on the loan.

(C) The state loan and investment board may require the university to modify its fiscal practices and its general operations if the board determines that there is a substantial likelihood that the university will not be able to make future payments required under paragraph (ii) of this subsection.

ARTICLE 11
TAX AND REVENUE ANTICIPATION
NOTES

9-4-1101. Definitions.

(a) As used in this act:

(i) "Revenues" means any income or other receipts duly credited to any fund of the state during any fiscal year from any source, including but not limited to income and receipts from taxes, distributions or grants from any other public entity or the federal government and income or receipts from investment of those funds, but excluding the proceeds of any borrowing;

(ii) "This act" means 9-4-1101 through 9-4-1105.

9-4-1102. Authority.

(a) The state treasurer may, with the approval of the governor and the attorney general, issue tax and revenue anticipation notes and interest coupons pertaining to those notes when he determines that as part of the state's investment management program it is prudent to do so to avoid liquidation of investments on terms unfavorable to the state to meet short term cash requirements.

(b) The principal amount of notes issued and outstanding at any time under subsection (a) of this section shall be limited to three hundred million dollars (\$300,000,000.00) but not to exceed the amount of revenue anticipated to be received during the applicable fiscal year and pledged for the repayment of the notes.

9-4-1103. Payment from anticipated revenues; notes do not constitute indebtedness.

(a) Tax and revenue anticipation notes issued under W.S. 9-4-1102 shall be payable solely from those revenues anticipated to be but not yet received and credited to the specified funds or accounts for the fiscal year in which the notes are issued. Each issue of tax and revenue anticipation notes and interest coupons pertaining to those notes, if any, shall mature in the fiscal year issued. The owners or holders of the notes shall not look to any other source for payment of the principal of or any premium or interest on the notes.

(b) Tax and revenue anticipation notes issued under W.S. 9-4-1102 do not constitute an indebtedness or debt within the meaning of the Wyoming constitution, article 16.

9-4-1104. Terms and conditions of issuance.

(a) Tax and revenue anticipation notes:

(i) Shall be issued in a form consistent with the provisions of this act;

(ii) Shall describe the fund or account and the revenue from which the notes are payable;

(iii) Shall bear interest at a rate or rates determined by the state treasurer to be for the best advantage of the state and which shall be set forth in the note; and

(iv) May be redeemable or payable prior to maturity at a time and upon payment of premiums, if any, determined by the state treasurer to be for the best advantage of the state and which shall be set forth in the note.

(b) In connection with the issuance of any notes, the state treasurer may create accounts within any fund as necessary or convenient for the segregation of note proceeds and investment income from the notes. In connection with the issuance of any notes, the state treasurer may make customary covenants on behalf of the state as necessary to secure the notes. Tax and revenue anticipation notes issued under W.S. 9-4-1102 and interest coupons pertaining to these notes shall be executed by the manual or facsimile signature of the state treasurer. The notes shall set forth provisions made under this subsection for the note's security.

(c) When there is an issuance of tax and revenue anticipation notes under W.S. 9-4-1102, the state treasurer shall determine and specify:

(i) The denomination of each issuance;

(ii) The date of issuance;

(iii) The date of maturity which shall be on or before the last day of the fiscal year;

- (iv) Maturity amounts;
- (v) The interest rate;
- (vi) The form and execution of the notes;
- (vii) Payment of notes;
- (viii) Terms of redemption with or without premium;
- (ix) Terms of sale including whether the sale will be public or private;
- (x) Such other terms and conditions as the state treasurer deems necessary or desirable.

9-4-1105. Investment of proceeds; investment earnings.

(a) The state treasurer may invest the proceeds of tax and revenue anticipation notes in any securities or investments authorized by law for funds of the state until necessary to meet the short term cash requirements under W.S. 9-4-1102(a).

(b) Notwithstanding any other provision of law, income from any investment under subsection (a) of this section shall be credited to the fund or account from which the notes are payable.

ARTICLE 12
TOBACCO SETTLEMENT FUNDS

9-4-1201. Definitions.

(a) As used in this act:

(i) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the master settlement agreement;

(ii) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns", "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent (10%) or more, and the term "person" means an individual, partnership, committee,

association, corporation or any other organization or group of persons;

(iii) "Allocable share" means allocable share as that term is defined in the master settlement agreement;

(iv) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

(A) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

(B) Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

(C) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A) of this paragraph. The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette", nine one-hundredths (.09) ounces of "roll-your-own" tobacco shall constitute one (1) individual "cigarette".

(v) "Master settlement agreement" means the settlement agreement (and related documents) entered into on November 23, 1998 by the state and leading United States tobacco product manufacturers;

(vi) "Qualified escrow fund" means an escrow arrangement with a federally or state chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars (\$1,000,000,000.00) where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing or directing the use of the funds' principal except as consistent with W.S. 9-4-1202(b);

(vii) "Released claims" means released claims as that term is defined in the master settlement agreement;

(viii) "Releasing parties" means releasing parties as that term is defined in the master settlement agreement;

(ix) "Tobacco product manufacturer" means, but shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of subparagraphs (A) through (C) of this paragraph, an entity that after the date of enactment of this act directly (and not exclusively through any affiliate):

(A) Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer, as that term is defined in the master settlement agreement, that will be responsible for the payments under the master settlement, agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the master settlement agreement and that pays the taxes specified in subsection II(z) of the master settlement agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);

(B) Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(C) Becomes a successor of an entity described in subparagraph (A) or (B) of this paragraph.

(x) "Units sold" means the number of individual cigarettes sold in the state by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by the state on packs of cigarettes or "roll-your-own" tobacco containers. The department of revenue shall promulgate such regulations as are necessary to ascertain the amount of state excise tax paid on the cigarettes of such tobacco product manufacturer for each year;

(xi) "This act" means W.S. 9-4-1201 through 9-4-1204.

9-4-1202. Requirements.

(a) Any tobacco product manufacturer selling cigarettes to consumers within the state, whether directly or through a distributor, retailer or similar intermediary or intermediaries, after the date of enactment of this act shall do one (1) of the following:

(i) Become a participating manufacturer, as that term is defined in section II(jj) of the master settlement agreement, and generally perform its financial obligations under the master settlement agreement; or

(ii) Place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, as such amounts are adjusted for inflation:

(A) In 2000, \$.0104712 per unit sold after the effective date of this act;

(B) For each of 2001 and 2002, \$.0136125 per unit sold;

(C) For each of 2003 through 2006, \$.0167539 per unit sold;

(D) For each of 2007 and each year thereafter, \$.0188482 per unit sold.

(b) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (a)(ii) of this section shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances:

(i) To pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the state or any releasing party located or residing in the state. Funds shall be released from escrow under this paragraph:

(A) In the order in which they were placed into escrow; and

(B) Only to the extent and at the time necessary to make payments required under such judgment or settlement.

(ii) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the state in a particular year was greater than the master settlement agreement payments, as determined pursuant to section IX(i) of that agreement including after final determination of all adjustments, that such manufacturer would have been required to make on account of such units sold had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(iii) To the extent not released from escrow under paragraph (i) or (ii) of this subsection, funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five (25) years after the date on which they were placed into escrow.

(c) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this section shall annually certify to the attorney general that it is in compliance with this section. The attorney general may bring a civil action on behalf of the state against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall:

(i) Be required within fifteen (15) days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this subsection, may impose a civil penalty in an amount not to exceed five percent (5%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed one hundred percent (100%) of the original amount improperly withheld from escrow;

(ii) In the case of a knowing violation, be required within fifteen (15) days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this subsection, may impose a civil penalty in an amount not to exceed fifteen percent (15%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed three hundred percent (300%) of the original amount improperly withheld from escrow; and

(iii) In the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the state, whether directly or through a distributor, retailer or similar intermediary, for a period not to exceed two (2) years.

(d) Each failure to make an annual deposit required under this section shall constitute a separate violation.

9-4-1203. Tobacco settlement trust fund established; corpus inviolate; investment by state treasurer.

(a) The Wyoming tobacco settlement trust fund is created. The Wyoming tobacco settlement trust fund shall consist of:

(i) All funds received by the state of Wyoming prior to March 15, 2002 as financial recovery under the terms of the master settlement agreement regarding litigation between several states and major tobacco manufacturers, which settlement agreement was approved by the state of Wyoming in November 1998; and

(ii) Any other funds appropriated or designated to the fund by law or by gift from whatever source.

(b) Funds deposited into the Wyoming tobacco settlement trust fund established pursuant to subsection (a) of this section are intended to be inviolate and constitute a permanent or perpetual trust fund which shall be invested by the state treasurer as authorized by law and in a manner to obtain the highest return possible consistent with preservation of the corpus. Any earnings from investment of the corpus of the trust fund and all funds received by the state of Wyoming on or after March 15, 2002 as financial recovery under the terms of the master settlement agreement specified in paragraph (a)(i) of this section shall be credited by the state treasurer into a separate income account.

(c) Revenues deposited into the income account established under subsection (b) shall be expended:

(i) Only for purposes related to the improvement of the health of Wyoming's citizens including:

(A) Efforts in prevention and cessation of tobacco use through school and community based programs; and

(B) Efforts to establish and implement programs to prevent, intervene in, and otherwise limit alcohol and substance abuse; and

(ii) Only upon appropriation by the legislature.

(d) Funds not otherwise appropriated, expended or obligated as provided in subsection (c) of this section shall be transferred to the Wyoming tobacco settlement trust fund on July 1 of each year following the receipt of those funds.

9-4-1204. Tobacco settlement funds; reduction of tobacco use.

(a) Using a science and experience based approach, the department of health shall develop and implement comprehensive tobacco prevention, cessation and treatment programs for Wyoming. These programs shall include peer reviewed science based educational materials on tobacco harm reduction and the comparative risks of alternative nicotine products, vapor products, smokeless tobacco products, cigarettes and other combustible tobacco products. The program should be tailored to provide the most cost effective reduction of tobacco related problems based on available funds for each year.

(b) The department may contract with a third party to develop and implement any part of the program authorized by subsection (a) of this section. Any contract awarded under this subsection shall be awarded on the basis of competitive bids and shall include specific requirements relating to outcome-based evaluations.

(c) The department may solicit proposals for grants under this section by publication of a request for proposals. Grant recipients under this section may include local governments, community-based organizations, schools and other organizations as appropriate. Any request for proposal used during the competitive grant process shall include specific requirements relating to outcome-based evaluation of the grant recipient's performance.

(d) The department shall make every reasonable effort to collaborate and coordinate with other entities of state and local governments and other organizations to assure maximum leveraging of resources, including people and money. The department shall coordinate with those responsible for

controlling the abuse of alcohol and other substances, juvenile delinquency and violence.

(e) The department shall give priority to the following programs in regard to tobacco use in the state:

- (i) Comprehensive community based programs;
- (ii) Public education, including use of media campaigns;
- (iii) Youth involvement programs;
- (iv) School and early childhood programs;
- (v) Enforcement of laws related to access to tobacco products by minors;
- (vi) Programs to promote the cessation of tobacco use;
- (vii) Programs for the treatment of tobacco related diseases.

(f) Any monies appropriated to the department under subsection (g) of this section, after implementing subsections (a) through (e) of this section, shall be used to resolve other health issues of the people of the state of Wyoming.

(g) Subject to appropriation by the legislature, the department shall use funds from the income account established under W.S. 9-4-1203(b) to implement the purposes of this section.

(h) The department shall adopt reasonable rules and regulations in accordance with the Wyoming Administrative Procedure Act to assure a long-range program to accomplish a healthier citizenry.

(j) Repealed by Laws 2015, ch. 59, § 2.

(k) As used in this section:

(i) "Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved or ingested by any other means. "Alternative nicotine product,"

does not include any vapor product, tobacco product, cigarettes, smokeless tobacco product or any product regulated as a drug or device by the United States food and drug administration under subchapter V of the Food, Drug and Cosmetic Act;

(ii) "Smokeless tobacco product" means any tobacco product that consists of cut, ground, powdered or leaf tobacco that is intended to be placed in the oral or nasal cavity;

(iii) "Tobacco product" means any product that contains tobacco and is intended for human consumption, but not including an alternative nicotine product or vapor product;

(iv) "Vapor product" means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or similar product or device including any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or similar product or device. "Vapor product" does not include any product regulated as a drug or device by the United States food and drug administration under subchapter V of the Food, Drug and Cosmetic Act.

9-4-1205. Certifications; directory; tax stamps.

(a) Every tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a distributor, retailer or similar intermediary, shall annually execute and deliver on a form prescribed by the attorney general a certification to the department and the attorney general no later than April 30 of each year, certifying under penalty of false swearing that, as of the date of the certification, the tobacco manufacturer either is a participating manufacturer or is otherwise in full compliance with this act and W.S. 9-4-1202.

(b) A participating manufacturer shall include a complete list of its brand families in its certification under this section. The participating manufacturer shall update its list thirty (30) days prior to any addition to, or modification of, its brand families by executing and delivering a supplemental certification to the department and the attorney general.

(c) In the case of a nonparticipating manufacturer:

(i) The certification shall include a complete list of its brand families:

(A) Separately listing its brand families of cigarettes and the number of units sold for each brand family that were sold in the state during the preceding calendar year;

(B) That have been sold in the state at any time during the current calendar year;

(C) Indicating by an asterisk, any brand family sold in the state during the preceding calendar year that is no longer being sold in the state as of the date of the certification; and

(D) Identifying by name and address any other manufacturer of the brand families in the preceding or current calendar year.

(ii) The certification shall further certify:

(A) That the nonparticipating manufacturer is registered to do business in the state or has appointed a resident agent in the state for service of process and has provided notice with respect to the appointment of an agent as required by W.S. 9-4-1206(b);

(B) That the nonparticipating manufacturer has established and continues to maintain a qualified escrow fund and has executed a qualified escrow agreement that has been reviewed and approved by the attorney general and that governs the qualified escrow fund;

(C) That the nonparticipating manufacturer is in full compliance with W.S. 9-4-1202, this act and any regulations promulgated thereto;

(D) The name, address and telephone number of the financial institution where the nonparticipating manufacturer has established the qualified escrow fund required under W.S. 9-4-1202(a)(ii), the account number of the qualified escrow fund and subaccount number for the state, the amount the nonparticipating manufacturer placed in the fund for cigarettes sold in the state during the preceding calendar year, the date and amount of each deposit and evidence or verification as may

be deemed necessary by the attorney general to confirm the deposit and the amount and date of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from the fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to W.S. 9-4-1202.

(d) A tobacco product manufacturer shall not include a brand family in its certification unless:

(i) In the case of a participating manufacturer, the participating manufacturer affirms that the brand family is to be deemed to be its cigarettes for the purpose of calculating payments under the master settlement agreement for the relevant year, in the volume and shares determined pursuant to the master settlement agreement; or

(ii) In the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of W.S. 9-4-1202.

(e) Nothing in this section shall be construed as limiting or otherwise affecting the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the master settlement agreement or for purposes of this act and W.S. 9-4-1202.

(f) The tobacco product manufacturer shall maintain all invoices and documentation of sales and other information relied upon for the certifications required under this section for a period of five (5) years, unless otherwise required by law to maintain the information for a longer period of time.

(g) The attorney general shall develop and make available for public inspection a directory listing all tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of this section and all brand families that are listed in the certifications, except as follows:

(i) The attorney general shall not include or retain in the directory the name or brand families of any nonparticipating manufacturer who fails to provide the required certification or whose certification the attorney general determines is not in compliance with subsection (c) of this section and W.S. 9-4-1206, unless the attorney general has

determined that the violation has been cured to his satisfaction;

(ii) Neither a tobacco product manufacturer nor a brand family shall be included or retained in the directory if the attorney general concludes that:

(A) In the case of a nonparticipating manufacturer, all escrow payments required pursuant to W.S. 9-4-1202 for any period for any brand family, whether or not listed by the nonparticipating manufacturer, have not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the attorney general; or

(B) All outstanding final judgments, including interest thereon, for violations of W.S. 9-4-1202 have not been fully satisfied for the brand family and the manufacturer.

(h) The attorney general shall update the directory required under subsection (g) of this section as necessary to correct mistakes and to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of this act. A determination by the attorney general to remove from the directory, or not to list on the directory, a tobacco product manufacturer or brand family shall be subject to review as provided by the Wyoming Administrative Procedure Act.

(j) Every licensed wholesaler shall provide and update as necessary a current address to the attorney general for the purpose of receiving any notifications that may be required under this act.

(k) No person shall affix a stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory required under subsection (g) of this section, or sell, offer for sale or possess for sale in this state, cigarettes of a tobacco product manufacturer or brand family not included in the directory.

9-4-1206. Agent for service of process.

(a) Any nonresident or foreign nonparticipating manufacturer who has not registered to do business in the state as a foreign corporation or business entity shall, as a condition precedent to having its brand families listed or retained in the directory required under W.S. 9-4-1205(g),

appoint and continually engage without interruption the services of an agent in this state to act as agent for service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of this act and W.S. 9-4-1202, may be served in any manner authorized by law. The service shall constitute legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, phone number and proof of appointment and availability of the agent to the satisfaction of the attorney general.

(b) The nonparticipating manufacturer shall provide notice to the attorney general thirty (30) calendar days prior to the termination of the authority of an agent appointed under this section and shall further provide proof to the satisfaction of the attorney general of the appointment of a new agent no less than five (5) calendar days prior to the termination of an existing agent appointment. In the event an agent terminates an agency appointment, the nonparticipating manufacturer shall notify the attorney general of the termination within five (5) calendar days and shall include proof to the satisfaction of the attorney general of the appointment of a new agent.

9-4-1207. Reporting of information; escrow installments.

(a) No later than twenty (20) days after the end of a calendar quarter, and more frequently if directed by the attorney general, each licensed wholesaler shall submit information the attorney general requires to facilitate compliance with this act, including, but not limited to, a list by brand family of the total number of cigarettes or in the case of roll your own cigarettes, the equivalent stick count for which the licensed wholesaler affixed stamps during the previous calendar quarter or otherwise paid the tax due for the cigarettes. The licensed wholesaler shall maintain and make available to the attorney general all invoices and documentation of sales of all nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the attorney general for a period of five (5) years.

(b) The department is authorized to disclose to the attorney general any information received under this act and requested by the attorney general for purposes of determining compliance with and enforcing the provisions of this act, implementing the master settlement agreement as defined in W.S. 9-4-1201(a)(v) or resolving any dispute arising under the master settlement agreement. The director of the department and the

attorney general shall share the information received under this act and may share the information with other federal, state or local agencies or with a data clearinghouse or any similar entity or process established under the master settlement agreement or a settlement of any dispute arising under that agreement, only for the purposes of enforcement of this act, W.S. 9-4-1202, enforcement of corresponding laws of other states or implementation of the master settlement agreement or a settlement of any dispute arising under that agreement.

(c) The attorney general may require at any time from the nonparticipating manufacturer, proof from the financial institution in which the manufacturer has established a qualified escrow fund for the purpose of compliance with W.S. 9-4-1202 of the amount of money in the fund being held on behalf of the state, the dates of deposits and listing the amounts of all withdrawals from the account and the dates of the withdrawals.

(d) In addition to the information required to be submitted pursuant to subsection (a) of this section, the attorney general may require a licensed wholesaler or tobacco product manufacturer to submit any additional information including, but not limited to, samples of the packaging or labeling of each family brand as is necessary to enable the attorney general to determine whether a tobacco product manufacturer is in compliance with this act.

(e) To promote compliance with this act, the attorney general may promulgate rules and regulations requiring a tobacco product manufacturer subject to the requirements of W.S. 9-4-1205(c) to make the escrow deposits required in installments during the year in which the sales covered by the deposits are made. The attorney general may require production of information sufficient to enable the attorney general to determine the adequacy of the amount of the installment deposit.

9-4-1208. Penalties and other remedies.

(a) In addition to, or in lieu of, any other civil or criminal remedy provided by law, upon a determination that any person has violated subsection W.S. 9-4-1205(k), the department may revoke or suspend the license of any licensed wholesaler in the manner provided by W.S. 39-18-108(c)(v). Each stamp affixed and each offer to sell cigarettes in violation of W.S. 9-4-1205(k) shall constitute a separate violation. For each violation under W.S. 9-4-1205(k), the department may also impose

a civil penalty in an amount not to exceed the greater of five hundred percent (500%) of the retail value of the cigarettes sold, or five thousand dollars (\$5,000.00) upon a determination of a violation of W.S. 9-4-1205(k).

(b) Any cigarettes that have been sold, offered for sale or possessed for sale in this state, or imported for personal consumption in this state in violation of W.S. 9-4-1205(k) shall be:

(i) Deemed contraband under W.S. 39-18-108(c)(i);

(ii) Subject to seizure and forfeiture as provided in W.S. 39-18-108(c)(i); and

(iii) Destroyed.

(c) The attorney general may seek an injunction to restrain a threatened or actual violation of W.S. 9-4-1205(k) or 9-4-1207(a) or (d) by a licensed wholesaler and to compel the licensed wholesaler to comply with those provisions.

(d) No person shall sell or distribute cigarettes or acquire, hold, own, possess, transport, import or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in this state in violation of W.S. 9-4-1205(k). Any person who violates this section is guilty of a misdemeanor punishable by a fine of not more than one hundred dollars (\$100.00), imprisonment for not more than six (6) months, or both.

(e) Any person who violates W.S. 9-4-1205(k) engages in an unfair and deceptive trade practice in violation of W.S. 40-12-105(a)(i).

(f) In any action brought by the state to enforce this act, the state may recover the costs of investigation, expert witness fees, costs of the action and reasonable attorney fees.

(g) If a court determines that a person has violated any provision of this act, the court shall order any profits, gain or other benefit from the violation to be surrendered and paid to the Wyoming tobacco settlement trust fund established by W.S. 9-4-1203. Unless otherwise expressly provided, the remedies or penalties provided by this act are cumulative to each other and to the remedies or penalties available under all other laws of this state.

9-4-1209. Rules and regulations.

The department and the attorney general may promulgate rules and regulations necessary to effect the purposes of this act.

9-4-1210. Definitions.

(a) As used in this act:

(i) "Brand family" means all styles of cigarettes sold under the same trademark and differentiated by means of additional modifiers or descriptors, including, but not limited to, "menthol," "lights," "kings" and "100s" and includes any brand name, alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors or any other indicia of product identification identical, similar to or identifiable with a previously known brand of cigarettes;

(ii) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

(A) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

(B) Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

(C) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A) of this paragraph. The term "cigarette" includes "roll-your-own" meaning any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of "roll your own" cigarettes, nine one-hundredths (.09) ounces of "roll-your-own" tobacco shall constitute one (1) individual cigarette.

(iii) "Department" means the Wyoming department of revenue;

(iv) "Licensed wholesaler" means a person authorized to affix tax stamps to packages or other containers or cigarettes under W.S. 39-18-102(a) or any person who is required to pay the cigarette tax imposed under W.S. 39-18-103;

(v) "Master settlement agreement" means the settlement agreement, and related documents, entered into on November 23, 1998 by the state and leading United States tobacco product manufacturers;

(vi) "Nonparticipating manufacturer" means any tobacco product manufacturer who is not a participating manufacturer;

(vii) "Participating manufacturer" means as defined in section II(jj) of the master settlement agreement;

(viii) "Qualified escrow fund" means an escrow arrangement with a federally or state chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars (\$1,000,000,000.00) where the arrangement requires that the financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing or directing the use of the funds' principal except as consistent with W.S. 9-4-1202(b);

(ix) "Tobacco product manufacturer" means, but shall not include an affiliate of a tobacco product manufacturer unless the affiliate itself falls within any of subparagraphs (A) through (C) of this paragraph, an entity that after the date of enactment of this act directly and not exclusively through any affiliate:

(A) Manufactures cigarettes anywhere that the manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer, (except where the importer is an original participating manufacturer, as that term is defined in the master settlement agreement, who will be responsible for the payments under the master settlement agreement with respect to the cigarettes as a result of the provisions of subsection II(mm) of the master settlement agreement and who pays the taxes

specified in subsection II(z) of the master settlement agreement, and provided that the manufacturer of the cigarettes does not market or advertise the cigarettes in the United States);

(B) Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(C) Becomes a successor of an entity described in subparagraph (A) or (B) of this paragraph.

(x) "Units sold" means the number of individual cigarettes sold in the state by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer or similar intermediary or intermediaries, during the year in question, as measured by excise taxes collected by the state on packs, or "roll-your-own" tobacco containers, bearing the excise tax stamp of the state. The department of revenue shall promulgate regulations as are necessary to ascertain the amount of state excise tax paid on the cigarettes of such tobacco product manufacturer for each year;

(xi) "This act" means W.S. 9-4-1205 through 9-4-1210.

9-4-1211. Cigarette rolling machines.

Any person who maintains at a retail establishment a machine which enables a person to process tobacco, or any product made or derived from tobacco, into a roll or tube shall be deemed a tobacco product manufacturer and the resulting product shall be deemed a cigarette for purposes of this article.

ARTICLE 13 WYOMING LEGAL TENDER ACT

9-4-1301. Short title.

This article shall be known and may be cited as the "Wyoming Legal Tender Act."

9-4-1302. Definitions.

(a) As used in this article:

(i) "Legal tender" means a recognized medium of exchange for the payment of debts and taxes;

(ii) "Specie" means:

(A) Coin having gold or silver content; or

(B) Refined gold or silver bullion which is coined, stamped or imprinted with its weight and purity and valued primarily based on its metal content and not its form.

9-4-1303. Specie legal tender.

(a) Specie legal tender in Wyoming shall consist of:

(i) Specie coin issued by the United States government at any time;

(ii) Specie coin issued by any foreign government at any time;

(iii) Any other specie that a federal court of competent jurisdiction, by final and unappealable order, rules to be within state authority to make or designate as legal tender. No court of the state of Wyoming shall be deemed to be a court of competent jurisdiction for purposes of this paragraph.

9-4-1304. Taxation issues related specie and specie legal tender.

(a) No specie or specie legal tender shall be characterized as personal property for the purposes of property taxation.

(b) The exchange of one (1) type or form of legal tender for another type or form of legal tender shall not give rise to any tax liability of any kind.

(c) The purchase, sale or exchange of any type or form of specie or specie legal tender shall not give rise to any tax liability of any kind.

9-4-1305. Voluntary use of specie as tender.

Unless specifically provided by law or by contract, no person or legal entity shall have the right to compel any other person or

legal entity to tender specie or to accept specie as legal tender.

CHAPTER 5
PROPERTY AND BUILDINGS

ARTICLE 1
CAPITOL AND STATE BUILDING COMMISSION

9-5-101. State building commission; composition; general powers and duties; conflicts of interest.

(a) The five (5) elected state officers constitute the state building commission. The governor shall be chairman of the commission, but in his absence from any meeting, one (1) of the members may act as chairman, and shall preside at the meeting. All votes taken to decide the commission's final action on any matter shall be recorded.

(b) The state building commission shall promulgate rules under which the general services division has charge and control of the capitol building with respect to its repair and maintenance and shall collect all rents arising from the occupancy of the capitol building. The state building commission may also promulgate rules governing occupancy of the capitol building for executive department officials.

(c) No member of the state building commission shall:

(i) Have a financial interest in any contract entered into or made by the commission, the general services division or by the state construction department;

(ii) Be a surety on any bond conditioned for the performance of any contract entered into or made by the commission, the general services division or by the state construction department;

(iii) Be an agent of any contractor on any contract entered into or made by the commission, the general services division or by the state construction department.

(d) The commission shall oversee the development, creation and modification of a master plan for maintenance, preservation, restoration, rehabilitation, construction and enhancement within the capitol complex. During the development, creation or modification of the capitol complex master plan the commission

may consult with members of the state capitol building rehabilitation and restoration oversight group or members of management council, as applicable. The commission shall have final approval authority of the capitol complex master plan. The commission shall review all proposals to remodel or construct a building, monument or other improvement within the capitol complex for conformance with the master plan. The commission shall notify the management council of the legislature of any proposed adoption of or modifications to the master plan for the capitol complex not less than sixty (60) days prior to taking any action to adopt or modify the plan.

(e) As used in this article:

(i) "Capitol complex" means all state owned grounds and facilities within the area bounded by 26th Street to the north, Pioneer Avenue to the west, 22nd Street to the south, and Warren Avenue to the east, the Pioneer building on Pioneer Avenue and the historic Wyoming governor's mansion and grounds located at the corner of House and 21st streets, all within the city of Cheyenne, Wyoming;

(ii) "Commission" means the state building commission.

9-5-102. State building commission; authority to buy and lease property; acceptance of donations, grants and devises.

(a) In order to obtain building sites for additional office space and state uses and to insure the proper keeping of valuable state records and provide for the expansion of functions of the state, the general services division, with the approval of the state building commission, may buy, take options to buy and lease property to be used for building sites for future state office buildings. The general services division, with the approval of the commission may lease acquired property until it is needed. The general services division, with the approval of the state building commission, in cooperation with the department of workforce services, may acquire lands and buildings in the name of the state of Wyoming by purchase, lease agreement, gift or devise to provide suitable quarters for the administration of the Wyoming Employment Security Law and to develop improvements, maintain and repair the lands and buildings. The commission shall not approve the exercise of any authority under this section for any property which is or would be within the boundaries of the capitol complex which is inconsistent with the master plan for the capitol complex

without providing at least sixty (60) days' notice of the proposed action to the management council of the legislature.

(b) To accomplish the purposes of subsection (a) of this section the general services division, with the approval of the state building commission, may accept donations, grants-in-aid and devises.

9-5-103. State building commission; supervision and control of governor's residence.

The governor's residence and the buildings, grounds and property thereto attached belonging to the state of Wyoming are under the supervision and control of the state building commission.

9-5-104. State building commission; state office buildings; authority to maintain; rental; use of proceeds.

(a) The general services division, in accordance with rules of the state building commission, may maintain, operate, lease, manage and equip state office buildings in Wyoming.

(b) Every department occupying space in a building authorized under subsection (a) of this section, if required to do so by the general services division, in accordance with rules of the state building commission, shall pay to the general services division an annual rental plus a pro rata share of maintenance, janitorial services, utilities and other overhead costs necessary to maintain the building in as good a condition as reasonable and proper use will permit. Payments under this subsection shall be made to the general services division for deposit into a separate account, with receipt and acknowledgement submitted to the state treasurer, to be allocated as follows:

(i) An amount as determined by the capital building commission into the revenue utilities and custodial account to be appropriated by the legislature for payment of utilities and custodial services only; and

(ii) The remaining amount into the facilities management revenue maintenance account until appropriated by the legislature for deferred maintenance of state buildings.

9-5-105. Purchase or lease of state lands and buildings; state building commission authority.

(a) Before purchasing any land for any state purpose, the state agency or board shall, in accordance with rules of the state building commission, determine if any land owned by the state is available and could be used for the state purpose. The agency or board shall, in accordance with rules of the state building commission, negotiate with the agency or board owning or controlling the land for purchase or lease of the lands.

(b) Any state agency, assigned the operation, management or use of a state leased or owned building by statute shall follow rules of the state building commission regarding to the operation, management and use of the building unless the agency adopts rules different than those of the commission in accordance with the provisions of W.S. 9-5-106.

9-5-106. State building commission; powers relative to use of state buildings; rules authorized; exceptions.

(a) The state building commission is authorized to adopt rules and regulations relative to the operation, management and use of any state leased or owned building. If the operation, management and use of a state leased or owned building is assigned by statute to any other state agency that agency may adopt rules and regulations relative to the operation, management and use of the building different than those of the commission.

(b) The secretary to the commission under W.S. 9-2-1016(b)(xxi) shall administratively implement any rules of the state building commission adopted under this section. The director of the department of administration and information may adopt rules and regulations which make violation of rules adopted by the commission under subsection (a) of this section grounds for disciplinary action for any state employee violating the rules of the state building commission regarding operation, management or use of state buildings.

(c) Any state agency, board or commission having authority for the supervision, control or management of state leased or owned buildings located anywhere in the state of Wyoming is authorized to adopt rules and regulations for the operation, management and use of state leased or owned buildings to the same extent as provided by subsections (a) and (b) of this section.

(d) No rule promulgated under W.S. 9-5-101 through 9-5-108 shall apply to facilities occupied by:

(i) The legislature or the members thereof unless the legislative management council has specifically concurred therein. For purposes of this paragraph "facilities occupied by the legislature" shall include those rooms and areas specified in W.S. 28-8-112(a) (i) through (vi) and other facilities specified by law; or

(ii) The judiciary or the members thereof unless the judicial council has specifically concurred therein.

(e) No architectural or structural alteration to the capitol building or its grounds shall be made without approval of the state building commission. Except for emergency maintenance as provided for in this subsection, the state building commission shall not approve of any architectural or structural alteration to the capitol building or grounds without providing notice to the management council of the legislature and without a legislative session convening and adjourning after notice was provided to the management council. Routine maintenance and repair necessary to keep the capitol building in safe and good working order, including janitorial, grounds keeping and maintenance tasks done on a routine basis, shall be conducted in a manner not to alter the capitol building structurally or architecturally to the extent practicable. Major maintenance and repair shall also be conducted in a manner not to alter the capitol building structurally or architecturally to the extent practicable. Emergency maintenance which would structurally or architecturally alter the capitol building shall only be undertaken prior to a legislative session convening and adjourning after notification under this subsection if the maintenance is immediately necessary to keep the capitol building in good working order or to prevent harm to the building. The state building commission shall provide prior notification to the management council of the legislature of any planned major maintenance activity and shall immediately notify the management council of any emergency major maintenance activity.

(f) In managing areas of the capitol building and grounds and the extension from the capitol building to and under the Herschler building, the state building commission and the management council of the legislature shall enter into memoranda of understanding and other agreements as they determine appropriate to provide effective, comprehensive and coordinated visitor, civic education and other services to the public. The agreements shall also provide for:

(i) Maintenance and preservation of the capitol building and grounds and the extension by the general services division subject to direction by the commission;

(ii) Management of meeting rooms and common spaces with a goal of maximizing authorized uses. An elected statewide official's request to schedule a meeting room under control of the legislature shall be accommodated so long as the meeting room was not previously scheduled for use by the legislature or a committee of the legislature;

(iii) Coordination of programs for exhibits, artwork, art collections, statuary and furnishings to reflect and maintain the historic aspects of the capitol building.

(g) The following definitions shall apply to this section, subject to further definition by rule of the commission, provided the rules shall not be less restrictive than the following:

(i) "Architectural alteration" of a building means a material modification to the finish or architectural details of a floor, wall or ceiling, including casing, trim and other attachments thereto, and excluding repair or replacement which attempts to retain existing finishes and architectural details;

(ii) "Structural alteration" of a building means any change in the supporting members of a building, such as bearing walls, columns, beams and girders, or a material change in the dimensions or configurations of a floor, ceiling or wall;

(iii) "Architectural or structural alteration" of grounds shall include material modification of contours or placement or removal of pathways or statues.

9-5-107. Duties and responsibilities with respect to state buildings; state capital construction needs assessment and priorities.

(a) The state construction department shall, subject to the direction of the state building commission and with the assistance of other state agencies as necessary, conduct and maintain a comprehensive needs assessment of existing state buildings and of future space requirements for state agencies. The assessment shall be conducted in accordance with rules of the state building commission adopted pursuant to subsection (d)

of this section and be designed to provide uniform statewide data describing the condition of state buildings and projecting building longevity and space requirements. Through the identification of building conditions and needs, the assessment shall enable the evaluation of capital construction and renovation requirements for all state buildings. The needs assessment shall be revised annually on or before October 1 of each year. The needs assessment shall specify construction and renovation requirements for the remainder of the current fiscal year and the succeeding four (4) fiscal years.

(b) On or before November 1 of each year and based upon the statewide needs assessment of state buildings performed under subsection (a) of this section, the state building commission shall establish and prioritize construction and renovation needs for state buildings. The listing shall specifically identify and prioritize those buildings in need of building construction or renovation and the estimated costs of required construction or renovation during the current fiscal year and during the succeeding four (4) fiscal years.

(c) On or before December 1 of each year, the commission shall provide copies of the needs assessment and statewide construction and renovation priorities established under this section to members of the legislature.

(d) The state building commission shall adopt rules implementing policies for the management of state buildings. The rules shall establish:

(i) Uniform standards and procedures for condition assessments of state buildings;

(ii) Criteria to guide prioritization of construction and renovation needs of state buildings;

(iii) Requirements for planned maintenance schedules designed to eliminate maintenance backlogs and to establish proactive maintenance practices;

(iv) Uniform standards for assessing and approving agency building and other space needs.

(e) Rules and procedures adopted under this section by the state building commission shall be applicable to all state owned buildings unless the operation, management and use of the building has been assigned by statute to a specific state

agency. The agency responsible for the operation and management of a state building exempted by the provisions of this subsection, shall provide the assessment required by subsections (a) through (c) of this section to the state building commission for inclusion in the commission's report to the legislature. The rules adopted by the commission under subsection (d) of this section shall be used as guidelines for the management of state buildings assigned by statute to other state agencies including the University of Wyoming, community college districts, department of transportation, game and fish commission and state institutions.

(f) The state building commission shall meet at least quarterly and shall promulgate rules specifying procedures under which public comment may be received regarding any actions of the commission, excluding promulgation of rules to which the Wyoming Administrative Procedure Act is applicable.

(g) The state building commission shall adopt a formula for major building and facility repair and replacement for community college facilities. The formula shall:

(i) Be based on the gross square footage of buildings and facilities for not more than seven (7) categories of buildings and shall:

(A) Include only buildings providing education programs comprising the statewide college system strategic plan developed and maintained under W.S. 21-18-202(a)(v);

(B) Specifically exclude student housing, student unions and auxiliary services areas funded exclusively through community college generated revenues.

(ii) Use a multiplier to maintain facilities in at least fair condition based on criteria from organizations with expertise in the area of major maintenance funding;

(iii) Otherwise be computed in the same manner as for major maintenance for school facilities under W.S. 21-15-109, including using the most current edition of the R.S. Means construction cost index, as modified to reflect current Wyoming construction costs determined by the department of administration and information, division of economic analysis, to calculate replacement cost.

(h) As used in this section "major building and facility repair and replacement" means the repair or replacement of complete or major portions of building and facility systems at irregular intervals which is:

(i) Required to continue the use of the building or facility at its original capacity for its original intended use, including for compliance with the Americans with Disabilities Act, and including installing fire suppression systems in residential facilities; and

(ii) Typically accomplished by contractors due to the personnel demand to accomplish the work in a timely manner, the level of sophistication of the work or the need for warranted work.

9-5-108. Development of building projects; rehabilitation of building projects.

(a) The commission shall, on the basis of a state needs assessment plan or as otherwise directed by the legislature and after consultation with and advice from state agencies and officials, other appropriate agencies and officials and members of the public, identify and select potential projects to be studied for inclusion in the Wyoming public buildings construction program pursuant to the following schedule:

(i) Level I reconnaissance studies shall, to the extent possible:

(A) Describe the project;

(B) Identify the need for the project;

(C) In cooperation with appropriate local, county and state agencies, assess the status of proposed site ownerships, including existing conflicts and recommendations for resolution of the conflicts and other potential obstacles;

(D) Assess and describe local, state and federal permits required for construction;

(E) Assess environmental considerations and constraints;

(F) Identify legal constraints to development;

(G) Identify alternate sources of space to purchase and lease;

(H) Summarize public testimony received at meetings held by the commission in the county of the proposed construction; and

(J) Contain the commission's recommendation to the legislature whether to terminate further consideration of the proposed project or to continue the project at its current level of study, or to proceed with further activity under paragraph (ii), (iii) or (iv) of this subsection.

(ii) Level II feasibility studies shall to the extent possible:

(A) Include a detailed analysis of factors relevant to development, construction, operation and maintenance;

(B) Identify major problems and opportunities concerning development and the environmental, social and economic effects of development;

(C) Identify the desired sequence of events, including commencement of local, state and federal permitting activities and acquisition of land;

(D) Summarize testimony received at public hearings held by the commission in the county of the proposed construction;

(E) Include soils and other site test drilling procedures;

(F) Contain final concept design and cost estimates;

(G) Include the project financing plan;

(H) Identify the interests in land to be acquired and the proposed means and costs of acquisition. An "interest in land" may include the fee simple title or any other interest in land less than a fee simple; and

(J) Include draft legislation describing in detail the construction, operation and financing of the proposed project.

(iii) Level III construction and operation plans shall proceed as authorized and approved by the legislature under the immediate direction and control of the commission. Pursuant to legislative authorization for public building construction projects and prior to completion of Level III construction the commission may:

(A) Design, construct, acquire or purchase facilities related to the construction projects for use of any feature, facility, function or portion of a project;

(B) Contract for the performance of any power under subparagraph (A) of this paragraph, and consult with or employ experts and professional persons;

(C) Acquire by purchase, lease, appropriation, gift, exchange or eminent domain, necessary land, easements and other property for construction, operation and maintenance of projects and accept gifts, grants and contributions of money from any source;

(D) Contract with, contribute to or receive contributions from any legal subdivision of the state, special district, private corporation or person for the construction, operation, management and maintenance of any project or any interest in any facility or function of a project.

(iv) After completion of Level III construction, the commission shall turn over the project to the general services division of the department of administration and information for the operation and maintenance of state owned facilities constructed under the direction and control of the commission.

(b) State agencies shall cooperate fully with the commission in the preparation of the studies. In the execution of these activities, the commission shall:

(i) Receive and acquire data relating to the project;

(ii) Hold public hearings within the county where the proposed project will be wholly or partly constructed, consult with and receive the views of private persons, local groups,

associations and organizations representing local citizens, industries and the public interest;

(iii) Coordinate the feasibility studies with the plans of other government agencies and departments;

(iv) Undertake studies, investigations, surveys and research relevant to the completion of the study and enter into contracts and arrangements for its completion with any government agency, department or any person, firm, university, institution or state or national organization;

(v) Perform any other related activities or functions relevant and appropriate to the completion of the feasibility study; and

(vi) Maximize the use of all existing information, data, reports and other materials, and no funds shall be expended to duplicate existing information, data, reports and other materials.

(c) The commission may suspend the expenditure of time or funds on a project at any level of activity, if it is established that it would be in the public interest. The commission shall report the reason for any suspension of activity to the legislature.

(d) Any agency seeking to rehabilitate an existing public building shall submit that request to the commission. The commission shall review and develop plans and recommendations for the project as provided in this section.

(e) As used in this section, "project" means any public building and all works and facilities necessary for the planning, construction and utilization of a state owned public building, including the improvement of any feature, facility, function or portion of a project. "Project" does not include those projects for which the operation, management and use of the building, works or the facility has been assigned by law to a specific state agency.

9-5-109. Advisory task force on capitol building rehabilitation and restoration; composition; duties; account created.

(a) Repealed By Laws 2013, Ch. 150, § 4.

(b) Repealed By Laws 2013, Ch. 150, § 4.

(c) Repealed By Laws 2013, Ch. 150, § 4.

(d) Repealed By Laws 2013, Ch. 150, § 4.

(e) Repealed By Laws 2013, Ch. 150, § 4.

(f) Repealed By Laws 2013, Ch. 150, § 4.

(g) Repealed By Laws 2013, Ch. 150, § 4.

(h) Repealed By Laws 2013, Ch. 150, § 4.

(j) There is created the capitol building rehabilitation and restoration account. Funds in the account shall only be expended upon appropriation by the legislature to implement projects approved by the legislature. Notwithstanding any other provision of law, funds within the account shall not be transferred or expended for any other purpose. Notwithstanding W.S. 9-2-1008, 9-2-1012(e), 9-4-207(a) or any other provision of law, funds within the account shall not lapse or revert until directed by the legislature. Earnings on monies within the account shall be deposited to the account.

(k) Repealed by Laws 2019, ch. 197, § 2.

(m) Repealed by Laws 2019, ch. 197, § 2.

(n) Repealed by Laws 2019, ch. 197, § 2.

(o) Repealed by Laws 2019, ch. 197, § 2.

(p) Repealed by Laws 2019, ch. 197, § 2.

(q) Repealed by Laws 2019, ch. 197, § 2.

(r) Repealed by Laws 2019, ch. 197, § 2.

9-5-110. State capitol building rehabilitation and restoration project; definitions.

(a) As used in W.S. 9-5-109 through 9-5-113:

(i) Repealed by Laws 2019, ch. 197, § 2.

(ii) "Department" means the state construction department;

(iii) Repealed by Laws 2019, ch. 197, § 2.

(iv) "Project" means the state capitol building and Herschler state office rehabilitation, restoration and renovation project described in W.S. 9-5-112, including all components of the project.

9-5-111. Repealed by Laws 2019, ch. 197, § 2.

9-5-112. Capitol building rehabilitation and restoration project; components; oversight.

(a) The department shall proceed with level III design and construction for renovation, rehabilitation, restoration and addition to the state capitol building, the Herschler state office building and the connection between the two (2) buildings in accordance with presentations to the management council of the legislature on November 18, 2013 and January 9, 2014, and the provisions of W.S. 9-5-109 through 9-5-113. The project shall proceed as a single funded project with the following components:

(i) Capitol building restoration and rehabilitation;

(ii) Herschler state office building renovation, rehabilitation and additional construction including a structure connecting the Herschler building and the capitol building and addition to the Herschler building;

(iii) Temporary space accommodations within the Herschler building and in other state owned buildings, or in other leased buildings if determined by the governor necessary or advisable for the project, for current occupants of the Herschler building and capitol building;

(iv) Restoration, rehabilitation and renovation of the Herschler building after temporary space accommodations are no longer needed;

(v) Furniture, fixtures and equipment for the project;

(vi) Contingency costs, costs of fees and other costs associated with the project.

(b) Repealed by Laws 2019, ch. 197, § 2.

(c) The Herschler state office building rehabilitation, renovation and addition shall be designed to accommodate offices for elected state officials for which insufficient space is provided within the capitol building restoration, renovation and rehabilitation design.

(d) Repealed by Laws 2019, ch. 197, § 2.

(e) Repealed by Laws 2019, ch. 197, § 2.

(f) The department may expend funds appropriated by the legislature for the project to implement the design, renovation, restoration, rehabilitation, construction and other project components which have been included in the final design plans approved under subsection (e) of this section. Any change order to the approved final design plans in excess of one hundred thousand dollars (\$100,000.00) or in a cumulative amount in excess of one million dollars (\$1,000,000.00) shall require the approval of the governor and a majority of the other voting members of the oversight group which consist of the legislator members and the state treasurer.

9-5-113. Capitol building rehabilitation and restoration project; design and construction execution.

(a) Notwithstanding W.S. 9-5-101 through 9-5-108, for all components of the project:

(i) The state construction department shall be the primary fiscal and contracting agent;

(ii) Level III design and construction shall proceed under the immediate direction and control of the governor in accordance with the provisions of W.S. 9-5-110 through 9-5-113;

(iii) Repealed by Laws 2019, ch. 197, § 2.

ARTICLE 2
GIFTS, ESCHEATS AND FORFEITURES

9-5-201. Grants, gifts and devises to state.

All grants, gifts and devises that have been or may be made to the state, and not otherwise appropriated by the terms of the

grant, gift or devise, shall be accepted as trust funds in the care of the state, and shall be kept for the exclusive benefit of the public schools. The income from the trust funds shall be disbursed as the account for common schools within the permanent land income fund is disbursed.

9-5-202. Right to property within state.

(a) The original and ultimate right of all property, real and personal, within the limits of this state, is in the people thereof.

(b) All property, real and personal, within the limits of this state, which does not belong to any person, belongs to the state. Whenever the title to any property fails for want of legal heirs, it reverts to the state.

9-5-203. Recovery of escheated or forfeited property; general procedure; proceedings where estate without known heirs; unclaimed payments; disposition of property obtained.

(a) Whenever any property escheats or is forfeited to the state for its use, the legal title vests in the state from the time of the escheat or forfeiture. A complaint may be filed by the county attorney of the proper county or by the attorney general in the name of the state of Wyoming against the person or bank which possesses the escheated or forfeited property, in the district court of the proper county for the recovery of the property, alleging the grounds on which the recovery is claimed, and like proceedings in judgment shall be had as in a civil action for the recovery of property. In any such action due proof that any real or personal property has been unclaimed for five (5) years immediately prior to the time of filing the complaint and that the name or whereabouts of the owner of the property is unknown is prima facie evidence of the failure of title to the property for want of legal heirs.

(b) In cases where probate proceedings are commenced upon the estate of any person without known heirs no action under subsection (a) of this section need be brought. The court having jurisdiction of the estate shall enter a decree in the estate, distributing the unclaimed property remaining for distribution in the estate to the state of Wyoming. Where probate proceedings have been commenced but have never been completed, the county attorney or attorney general may proceed as provided by subsection (a) of this section. In any such estate, the failure of any heirs or devisees of the deceased to appear and establish

a claim within the time fixed by the notice of final settlement of the estate for filing objections to the final account and petition for distribution is prima facie evidence of the failure of title to the property of the estate for want of legal heirs or devisees.

(c) In all cases in which any property, or any refunds, dividends or other payments are ordered to be conveyed or paid to persons in the state of Wyoming by a decree, judgment or order of any court or governmental agency, and the property, refunds, dividends or other payments are not claimed by the person entitled thereto within the time fixed or limited by the order of the court or governmental agency directing the payment thereof, the property, refunds, dividends or other payments are the property of the state of Wyoming, subject to subsection (d) of this section. At the expiration of the fixed or limited time, the court or governmental agency shall enter the proper decree, judgment or order directing that the property escheat to the state of Wyoming.

(d) All funds obtained by the state by escheat or forfeiture, shall be paid over to the state treasurer and kept by him in a separate account for a period of five (5) years during which time the monies are payable by him to the true owners upon presentment of a proper claim supported by satisfactory proof of ownership. After expiration of the five (5) year period without lawful claim, the funds shall be credited to the common school permanent land fund account. All real and personal property obtained by the state of Wyoming by escheat or forfeiture shall be received by and shall be under the direction and control of the state treasurer who shall give a receipt to the court therefor. The property shall be held in kind, except as hereinafter provided, by the state treasurer for a period of five (5) years during which time it is subject to claims by the rightful owners who may file their claims in the court which had original jurisdiction of the property. After the expiration of the five (5) year period without lawful claim therefor, the state treasurer shall sell the personal property at public or private sale, and shall sell the real property in the manner provided in W.S. 36-9-101 through 36-9-120 for the sale of state lands. The proceeds received from the sale shall be paid into the state treasury of the state and shall be credited by the state treasurer to the common school permanent land fund account.

(e) All real property held by the state treasurer during the five (5) year redemption period provided by subsection (d)

of this section, may be transferred by the state treasurer to the state board of land commissioners to be administered as other state lands and shall not be sold except as hereafter provided. When any real or personal property will, in the opinion of the state treasurer, depreciate in value, the state treasurer may petition the court which had original jurisdiction over the property, for an order directing the sale of the property. Upon receipt of the order the state treasurer shall dispose of the property as ordered by the court. Any monies obtained by the conversion shall be credited to a separate account for the remaining five (5) years, during which time the monies shall be payable by the state treasurer to the true owners in the manner, and upon proof, as provided in subsection (d) of this section.

(f) This section does not apply to property which is subject to the Uniform Unclaimed Property Act, W.S. 34-24-101 through 34-24-140.

9-5-204. Repealed by Laws 1992, ch. 2, § 2.

9-5-205. Will contests; powers and duties of state treasurer and attorney general.

(a) The state treasurer and the attorney general shall investigate and examine all contests against any will, grant or gift in which the state is a devisee, legatee, beneficiary or grantee for the purpose of ascertaining and becoming advised as to the merits of the contentions of the contestant and the probability or improbability of the contests being successful. After investigation and examination, the state treasurer and attorney general shall consider and determine the advisability of compromising and settling the contests on behalf of the state and consider and determine the terms upon which the contests should be settled and compromised. If the state treasurer and the attorney general deem it to be in the best interests of the state that the contests be settled and compromised, then they may settle and compromise the contests upon terms deemed to be the best interests of the state. The attorney general may enter into and execute, on behalf of the state, agreements or contracts compromising and settling the contests and defining and fixing the terms thereof.

(b) The state treasurer shall:

(i) Receive, take charge of and administer all personal chattels received by the state as a devisee, legatee, beneficiary, grantee or by escheat;

(ii) Convert the same by sale, foreclosure, legal process or otherwise into money; and

(iii) Credit the monies to the funds for which the monies were directed and intended in the grant, gift or devise. When not otherwise directed by the terms of the grant, gift or devise, the monies shall be credited to the common school permanent land fund account.

ARTICLE 3 REGULATORY TAKINGS

9-5-301. Short title.

This act shall be known and may be cited as the "Wyoming Regulatory Takings Act."

9-5-302. Definitions.

(a) As used in this act:

(i) "Constitutional implications" means the unconstitutional taking of private property as determined by the attorney general in light of current case law;

(ii) "Government agency" means the state of Wyoming and any officer, agency, board, commission, department or similar body of the executive branch of state government;

(iii) "Governmental action" or "action":

(A) Means:

(I) Proposed rules by a state agency that if adopted and enforced may limit the use of private property;

(II) Required dedications or exactions from owners of private property by a state agency.

(B) Does not include:

(I) Activity in which the power of eminent domain is exercised formally;

(II) Repealing rules discontinuing governmental programs or amending rules in a manner that lessens interference with the use of private property;

(III) Law enforcement activity involving seizure or forfeiture of private property for violations of law or as evidence in criminal proceedings;

(IV) Orders that are authorized by statute, that are issued by a state agency or a court of law and that were the result of a violation of state law;

(V) Actions necessary to maintain or protect public health and safety.

(iv) "Private property" means property protected by amendments V and XIV of the constitution of the United States or article 1, section 33 of the constitution of the state of Wyoming;

(v) "Taking" means an uncompensated taking of private property in violation of the state or federal constitution;

(vi) "This act" means W.S. 9-5-301 through 9-5-305.

9-5-303. Guidelines and checklist for assessment of takings.

(a) The attorney general shall develop guidelines and a checklist by October 1, 1995, to assist government agencies in the identification and evaluation of actions that have constitutional implications that may result in a taking. The attorney general shall review and update the checklist and guidelines to maintain consistency with changes in the law.

(b) In formulating the guidelines and checklist, the attorney general shall consider the following:

(i) A description of how the action or regulation affects private property;

(ii) The likelihood that the action or regulation may constitute a taking;

(iii) The statutory purpose to be served by the action or regulation;

(iv) Whether the action or regulation advances that purpose;

(v) Whether the restriction imposed is proportionate to the overall problem;

(vi) An estimate of the agency's financial liability should the action or regulation be held to constitute a taking of private property;

(vii) Alternatives considered by the agency, or proposed by the public, which would reduce the impact of the regulation upon private property;

(viii) Any other relevant criteria as may be determined by the attorney general.

9-5-304. Agency responsible to evaluate takings.

(a) The agency shall use the guidelines and checklist prepared pursuant to W.S. 9-5-303 to evaluate proposed administrative actions or regulations that may have constitutional implications.

(b) In addition to the guidelines prepared under W.S. 9-5-303, state agencies shall consider the following criteria in their actions:

(i) If an agency requires a person to obtain a permit for a specific use of private property, conditions imposed on issuing the permit shall directly relate to the purpose for which the permit is issued and shall substantially advance that purpose;

(ii) Any other relevant information as may be determined by the agency.

9-5-305. Declaration of purpose.

The purpose of this act is to establish an orderly, consistent process that better enables governmental bodies to evaluate whether proposed regulatory or administrative actions may result in a taking of private property or violation of due process. It is not the purpose of this act to expand or reduce the scope of private property protections provided in the state and federal constitutions.

CHAPTER 6
NUCLEAR COOPERATION AND RADIOACTIVE
WASTE DISPOSAL

ARTICLE 1
WESTERN INTERSTATE NUCLEAR COOPERATION COMPACT

9-6-101. Western Interstate Nuclear Compact.

The Western Interstate Nuclear Compact, hereinafter called "the compact," is hereby enacted into law and entered into by the state of Wyoming as a party, and is in full force and effect between the state and any other states joining therein in accordance with the terms of the compact, which compact is substantially as follows:

Article I. Policy and Purpose

The party states recognize that the proper employment of scientific and technological discoveries and advances in nuclear and related fields and direct and collateral application and adaptation of processes and techniques developed in connection therewith, properly correlated with the other resources of the region, can assist substantially in the industrial progress of the West and the further development of the economy of the region. They also recognize that optimum benefit from nuclear and related scientific or technological resources, facilities and skills requires systematic encouragement, guidance, assistance, and promotion from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis. It is the purpose of this compact to provide the instruments and framework for such a cooperative effort in nuclear and related fields, to enhance the economy of the West and contribute to the individual and community well-being of the region's people.

Article II. The Board

(a) There is hereby created an agency of the party states to be known as the "western interstate nuclear board" (hereinafter called the board). The board shall be composed of one (1) member from each party state designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. Any member of the board may provide for the discharge of his duties and the performance of his functions thereon (either for the

duration of his membership or for any lesser period of time) by a deputy or assistant, if the laws of his state make specific provisions therefor. The federal government may be represented without vote if provision is made by federal law for such representation.

(b) The board members of the party states shall each be entitled to one (1) vote on the board. No action of the board shall be binding unless taken at a meeting at which a majority of all members representing the party states are present and unless a majority of the total number of votes on the board are cast in favor thereof.

(c) The board shall have a seal.

(d) The board shall elect annually, from among its members, a chairman, a vice-chairman, and a treasurer. The board shall appoint and fix the compensation of an executive director who shall serve at its pleasure and who shall also act as secretary, and who, together with the treasurer, and such other personnel as the board may direct, shall be bonded in such amounts as the board may require.

(e) The executive director, with the approval of the board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the board's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

(f) The board may establish and maintain, independently or in conjunction with any one (1) or more of the party states, or its institutions or subdivisions, a suitable retirement system for its full-time employees. Employees of the board shall be eligible for social security coverage in respect of old-age and survivors insurance provided that the board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

(h) The board may accept for any of its purposes and functions under this compact any and all donations, and grants

of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same. The nature, amount and conditions, if any, attendant upon any donation or grant accepted pursuant to this paragraph or upon any borrowing pursuant to paragraph (g) of this article, together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the board.

(j) The board may establish and maintain such facilities as may be necessary for the transacting of its business. The board may acquire, hold, and convey real and personal property and any interest therein.

(k) The board shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules and regulations. The board shall publish its bylaws, rules, and regulations in convenient form and shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(m) The board annually shall make to the governor of each party state, a report covering the activities of the board for the preceding year, and embodying such recommendations as may have been adopted by the board, which report shall be transmitted to the legislature of said state. The board may issue such additional reports as it may deem desirable.

Article III. Finances

(a) The board shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

(b) Each of the board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. Each of the board's requests for appropriations pursuant to a budget of estimated expenditures shall be apportioned equally among the party states. Subject to appropriation by their respective legislatures, the board shall be provided with such funds by each of the party states as are necessary to provide the means

of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the board.

(c) The board may meet any of its obligations in whole or in part with funds available to it under article II (h) of this compact; provided, that the board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the board makes use of funds available to it under article II (h), the board shall not incur any obligation prior to the allotment of funds by the party jurisdictions which are adequate to meet any such obligation.

(d) Any expenses and any other costs for each member of the board in attending board meetings shall be met by the board.

(e) The board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the board shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become a part of the annual report of the board.

(f) The accounts of the board shall be open at any reasonable time for inspection to persons authorized by the board, and duly designated representatives of governments contributing to the board's support.

Article IV. Advisory Committees

The board may establish such advisory and technical committees as it may deem necessary, membership on which may include but not be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, state and federal government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

Article V. Powers

(a) The board shall have power to:

(i) Encourage and promote cooperation among the party states in the development and utilization of nuclear and related technologies and their application to industry and other fields;

(ii) Ascertain and analyze on a continuing basis the position of the West with respect to the employment in industry of nuclear and related scientific findings and technologies;

(iii) Encourage the development and use of scientific advances and discoveries in nuclear facilities, energy, materials, products, by-products, and all other appropriate adaptations of scientific and technological advances and discoveries;

(iv) Collect, correlate, and disseminate information relating to the peaceful uses of nuclear energy, materials, and products, and other products and processes resulting from the application of related science and technology;

(v) Encourage the development and use of nuclear energy, facilities, installations, and products as part of a balanced economy;

(vi) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspects of:

(A) Nuclear industry, medicine, or education, or the promotion or regulation thereof;

(B) Applying nuclear scientific advances or discoveries, and any industrial commercial or other processes resulting therefrom;

(C) The formulation or administration of measures designed to promote safety in any matter related to the development, use or disposal of nuclear energy, materials, products, by-products, installations, or wastes, or to safety in the production, use and disposal of any other substances peculiarly related thereto.

(vii) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations or research in any of the scientific, technological or industrial fields to which this compact relates;

(viii) Undertake such nonregulatory functions with respect to nonnuclear sources of radiation as may promote the economic development and general welfare of the West;

(ix) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to nuclear fields;

(x) Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures and practices or local laws or ordinances of the party states or their subdivisions in nuclear and related fields, as in its judgment may be appropriate. Any such recommendations shall be made through the appropriate state agency, with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstances which may justify variations to meet local conditions;

(xi) Consider and make recommendations designed to facilitate the transportation of nuclear equipment, materials, products, by-products, wastes, and any other nuclear or related substances, in such manner and under such conditions as will make their availability or disposal practicable on an economic and efficient basis;

(xii) Consider and make recommendations with respect to the assumption of and protection against liability actually or potentially incurred in any phase of operations in nuclear and related fields;

(xiii) Advise and consult with the federal government concerning the common position of the party states or assist party states with regard to individual problems where appropriate in respect to nuclear and related fields;

(xiv) Cooperate with the atomic energy commission, the national aeronautics and space administration, the office of science and technology, or any agencies successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interest;

(xv) Act as licensee, contractor or subcontractor of the United States government or any party state with respect to the conduct of any research activity requiring such license or

contract and operate such research facility or undertake any program pursuant thereto, provided that this power shall be exercised only in connection with the implementation of one (1) or more other powers conferred upon the board by this compact;

(xvi) Prepare, publish and distribute (with or without charge) such reports, bulletins, newsletters or other materials as it deems appropriate;

(xvii) (A) Ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of nuclear incidents in the area comprising the party states, to coordinate the nuclear incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with nuclear incidents;

(B) The board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with nuclear incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact;

(C) Any nuclear incident plan in force pursuant to this paragraph shall designate the official or agency in each party state covered by the plan who shall coordinate requests for aid pursuant to article VI of this compact and the furnishing of aid in response thereto;

(D) Unless the party states concerned expressly otherwise agree, the board shall not administer this summoning and dispatching of aid, but this function shall be undertaken directly by the designated agencies and officers of the party states;

(E) However, the plan or plans of the board in force pursuant to this paragraph shall provide for reports to the board concerning the occurrence of nuclear incidents and the requests for aid on account thereof, together with summaries of the actual working and effectiveness of mutual aid in particular instances;

(F) From time to time, the board shall analyze the information gathered from reports of aid pursuant to article VI and such other instances of mutual aid as may have come to

its attention, so that experience in the rendering of such aid may be available.

(xviii) Prepare, maintain, and implement a regional plan or regional plans for carrying out the duties, powers, or functions conferred upon the board by this compact;

(xix) Undertake responsibilities imposed or necessarily involved with regional participation pursuant to such cooperative programs of the federal government as are useful in connection with the fields covered by this compact.

Article VI. Mutual Aid

(a) Whenever a party state, or any state or local governmental authorities request aid from any other party state pursuant to this compact in coping with a nuclear incident, it shall be the duty of the requested state to render all possible aid to the requesting state which is consonant with the maintenance of protection of its own people.

(b) Whenever the officers or employees of any party state are rendering outside aid pursuant to the request of another party state under this compact, the officers or employees of such state shall, under the direction of the authorities of the state to which they are rendering aid, have the same powers, duties, rights, privileges and immunities as comparable officers and employees of the state to which they are rendering aid.

(c) No party state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on their part while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

(d) All liability that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

(e) Any party state rendering outside aid pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries and maintenance of officers, employees and equipment incurred in

connection with such requests: provided that nothing herein contained shall prevent any assisting party state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving party state without charge or cost.

(f) Each party state shall provide for the payment of compensation and death benefits to injured officers and employees and the representatives of deceased officers and employees in case officers or employees sustain injuries or death while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within the state by or in which the officer or employee was regularly employed.

Article VII. Supplementary Agreements

(a) To the extent that the board has not undertaken an activity or project which would be within its power under the provisions of article V of this compact, any two (2) or more of the party states (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify the purpose or purposes; its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate.

(b) No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the board. The board shall give such approval unless it finds that the supplementary agreement or activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the board.

(c) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the board may administer or otherwise assist in the operation of any supplementary agreement.

(d) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of

such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

(e) The provisions of this article shall apply to supplementary agreements and activities thereunder, but shall not be construed to repeal or impair any authority which officers or agencies of party states may have pursuant to other laws to undertake cooperative arrangements or projects.

Article VIII. Other Laws and Relations

(a) Nothing in this compact shall be construed to have the following effect:

(i) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force;

(ii) Limit, diminish, or otherwise impair jurisdiction exercised by the atomic energy commission, any agency successor thereto, or any other federal department, agency or officer pursuant to and in conformity with any valid and operative act of congress; nor limit, diminish, affect, or otherwise impair jurisdiction exercised by any officer or agency of a party state, except to the extent that the provisions of this compact may provide therefor;

(iii) Alter the relations between the respective internal responsibilities of the government of a party state and its subdivisions;

(iv) Permit or authorize the board to own or operate any facility, reactor, or installation for industrial or commercial purposes.

Article IX. Eligible Parties, Entry Into

Force and Withdrawal

(a) Any or all of the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming shall be eligible to become party to this compact.

(b) As to any eligible party state, this compact shall become effective when its legislature shall have enacted the

same into law; provided, that it shall not become initially effective until enacted into law by five (5) states.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one (1) year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

(d) Guam and American Samoa, or either of them may participate in the compact to such extent as may be mutually agreed by the board and the duly constituted authorities of Guam or American Samoa, as the case may be. However, such participation shall not include the furnishing or receipt of mutual aid pursuant to article VI, unless that article has been enacted or otherwise adopted so as to have the full force and effect of law in the jurisdiction affected. Neither Guam nor American Samoa shall be entitled to voting participation on the board, unless it has become a full party to the compact.

Article X. Severability and Construction

The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant thereto shall be liberally construed to effectuate the purposes thereof.

9-6-102. Nuclear board; state member; appointment and removal.

The member of the western interstate nuclear board representing the state of Wyoming shall be appointed by the governor and may be removed by the governor as provided in W.S. 9-1-202. The member may designate another person as his representative to attend meetings of the board.

9-6-103. Nuclear board; intrastate cooperation.

All departments, agencies and officers of this state and its subdivisions are directed to cooperate with the board in the furtherance of any of its activities pursuant to the compact [§ 9-6-101].

9-6-104. Nuclear board; filing of reports, bylaws and amendments.

The report required to be transmitted to the legislature under article II(m) of W.S. 9-6-101 shall be transmitted to the joint minerals, business and economic development interim committee of the legislature. Pursuant to article II(k) of this compact, the western interstate nuclear board shall file copies of its bylaws and any amendments thereto with the secretary of state of the state of Wyoming.

9-6-105. Laws and benefits applicable to persons dispatched to aid other state.

The laws of the state of Wyoming and any benefits payable thereunder shall apply and be payable to any person dispatched to another state pursuant to article VI of the compact [§ 9-6-101]. If the aiding personnel are officers or employees of the state of Wyoming or any subdivisions thereof, they shall be entitled to the same worker's compensation or other benefits in case of injury or death to which they would have been entitled if injured or killed while engaged in coping with a nuclear incident in their jurisdictions of regular employment.

ARTICLE 2
NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL
RADIOACTIVE WASTE MANAGEMENT

9-6-201. Repealed by Laws 1992, ch. 36, § 2.

9-6-202. Repealed by Laws 1992, ch. 36, § 2.

9-6-203. Repealed by Laws 1992, ch. 36, § 2.

9-6-204. Repealed by Laws 1992, ch. 36, § 2.

9-6-205. Repealed by Laws 1992, ch. 36, § 2.

9-6-206. Generally.

The Northwest Interstate Compact on Low-Level Radioactive Waste Management is hereby enacted into law and entered into by the State of Wyoming as a party, and is in full force and effect between the state and any other states joining therein in accordance with the terms of the compact, which compact is substantially as follows:

ARTICLE I-POLICY AND PURPOSE

The party states recognize that low-level radioactive wastes are generated by essential activities and services that benefit the citizens of the states. It is further recognized that the protection of the health and safety of the citizens of the party states and the most economical management of low-level radioactive wastes can be accomplished through cooperation of the states in minimizing the amount of handling and transportation required to dispose of such wastes and through the cooperation of the states in providing facilities that serve the region. It is the policy of the party states to undertake the necessary cooperation to protect the health and safety of the citizens of the party states and to provide for the most economical management of low-level radioactive wastes on a continuing basis. It is the purpose of this compact to provide the means for such a cooperative effort among the party states so that the protection of the citizens of the states and the maintenance of the viability of the states' economies will be enhanced while sharing the responsibilities of radioactive low-level waste management.

ARTICLE II-DEFINITIONS

As used in this compact:

(1) "Facility" means any site, location, structure, or property used or to be used for the storage, treatment, or disposal of low-level waste, excluding federal waste facilities;

(2) "Low-level waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed applicable federal or state standards for unrestricted release. Low-level

waste does not include waste containing more than ten (10) nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations;

(3) "Generator" means any person, partnership, association, corporation, or any other entity whatsoever which, as a part of its activities, produces low-level radioactive waste;

(4) "Host state" means a state in which a facility is located.

ARTICLE III-REGULATORY PRACTICES

Each party state hereby agrees to adopt practices which will require low-level waste shipments originating within its borders and destined for a facility within another party state to conform to the applicable packaging and transportation requirements and regulations of the host state. Such practices shall include:

(1) Maintaining an inventory of all generators within the state that have shipped or expect to ship low-level waste to facilities in another party state;

(2) Periodic unannounced inspection of the premises of such generators and the waste management activities thereon;

(3) Authorization of the containers in which such waste may be shipped, and a requirement that generators use only that type of container authorized by the state;

(4) Assurance that inspections of the carriers which transport such waste are conducted by proper authorities, and appropriate enforcement action taken for violations;

(5) After receiving notification from a host state that a generator within the party state is in violation of applicable packaging or transportation standards, the party state will take appropriate action to assure that such violations do not recur. Such action may include inspection of every individual low-level waste shipment by that generator.

Each party state may impose fees upon generators and shippers to recover the cost of the inspections and other practices under

this article. Nothing in this article shall be construed to limit any party state's authority to impose additional or more stringent standards on generators or carriers than those required under this article.

ARTICLE IV-REGIONAL FACILITIES

(1) Facilities located in any party state, other than facilities established or maintained by individual low-level waste generators for the management of their own low-level waste, shall accept low-level waste generated in any party state if such waste has been packaged and transported according to applicable laws and regulations.

(2) No facility located in any party state may accept low-level waste generated outside of the region comprised of the party states, except as provided in article V.

(3) Until such time as paragraph (2) of article IV takes effect, facilities located in any party state may accept low-level waste generated outside of any of the party states only if such waste is accompanied by a certificate of compliance issued by an official of the state in which such waste shipment originated. Such certificate shall be in such form as may be required by the host state, and shall contain at least the following:

(A) The generator's name and address;

(B) A description of the contents of the low-level waste container;

(C) A statement that the low-level waste being shipped has been inspected by the official who issued the certificate or by his agent or by a representative of the United States Nuclear Regulatory Commission, and found to have been packaged in compliance with applicable federal regulations and such additional requirements as may be imposed by the host state;

(D) A binding agreement by the state of origin to reimburse any party state for any liability or expense incurred as a result of an accidental release of such waste during shipment or after such waste reaches the facility.

(4) Each party state shall cooperate with the other party states in determining the appropriate site of any facility that

might be required within the region comprised of the party states, in order to maximize public health and safety while minimizing the use of any one (1) party state as the host of such facilities on a permanent basis. Each party state further agrees that decisions regarding low-level waste management facilities in their region will be reached through a good faith process which takes into account the burdens borne by each of the party states as well as the benefits each has received.

(5) The party states recognize that the issue of hazardous chemical waste management is similar in many respects to that of low-level waste management. Therefore, in consideration of the state of Washington allowing access to its low-level waste disposal facility by generators in other party states, party states such as Oregon and Idaho which host hazardous chemical waste disposal facilities will allow access to such facilities by generators within other party states. Nothing in this compact shall be construed to prevent any party state from limiting the nature and type of hazardous chemical or low-level wastes to be accepted at facilities within its borders or from ordering the closure of such facilities, so long as such action by a host state is applied equally to all generators within the region comprised of the party states.

(6) Any host state may establish a schedule of fees and requirements related to its facility, to assure that closure, perpetual care, and maintenance and contingency requirements are met, including adequate bonding.

ARTICLE V-NORTHWEST LOW-LEVEL WASTE COMPACT COMMITTEE

The governor of each party state shall designate one (1) official of that state as the person responsible for administration of this compact. The officials so designated shall together comprise the northwest low-level waste compact committee. The committee shall meet as required to consider matters arising under this compact. The parties shall inform the committee of existing regulations concerning low-level waste management in their states, and shall afford all parties a reasonable opportunity to review and comment upon any proposed modifications in such regulations. Notwithstanding any provision of article IV to the contrary, the committee may enter into arrangements with states, provinces, individual generators, or regional compact entities outside the region comprised of the party states for access to facilities on such terms and conditions as the committee may deem appropriate. However, it shall require a two-thirds (2/3) vote of all such members,

including the affirmative vote of the member of any party state in which a facility affected by such arrangement is located, for the committee to enter into such arrangement.

ARTICLE VI-ELIGIBLE PARTIES AND EFFECTIVE DATE

(1) Each of the following states is eligible to become a party to this compact: Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming. As to any eligible party, this compact shall become effective upon enactment into law by that party, but it shall not become initially effective until enacted into law by two (2) states. Any party state may withdraw from this compact by enacting a statute repealing its approval.

(2) After the compact has initially taken effect pursuant to paragraph (1) of this article, any eligible party state may become a party to this compact by the execution of an executive order by the governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session of its legislature or July 1, 1983, whichever occurs first, unless the compact has by then been enacted as a statute by that state.

(3) Paragraph (2) of article IV of this compact shall take effect on July 1, 1983, if consent is given by Congress. As provided by Public Law 96-573, Congress may withdraw its consent to the compact after every five (5) year period.

ARTICLE VII-SEVERABILITY

If any provision of this compact, or its application to any person or circumstances, is held to be invalid, all other provisions of this compact, and the application of all of its provisions to all other persons and circumstances, shall remain valid; and to this end the provisions of this compact are severable.

9-6-207. Appointment of compact committee member.

The governor shall appoint one (1) member and an alternate to serve as the Wyoming representative on the committee for the Northwest Interstate Compact on Low-Level Waste Management [§ 9-6-206]. The member and alternate shall serve at the pleasure of the governor and shall receive no compensation, but shall be reimbursed for expenses in the same manner and amount as a state employee to be paid from funds available from the governor's office or from the compact.

9-6-208. Cooperation with the committee.

Consistent with applicable law, all departments, agencies and officers of this state and its subdivisions are directed to cooperate with the committee for the Northwest Interstate Compact on Low-Level Waste Management [§ 9-6-206] in furtherance of any of its activities pursuant to the compact.

9-6-209. Filing of bylaws.

The state representative to the committee for the Northwest Interstate Compact on Low-Level Waste Management [§ 9-6-206] shall file copies of the committee's bylaws and any amendments thereto with the secretary of state of Wyoming.

9-6-210. Administration.

(a) The environmental quality council may promulgate rules necessary to administer this state's rights and responsibilities under the Northwest Interstate Compact on Low-Level Waste Management. Enforcement shall be pursuant to article 9 of chapter 11 of the Wyoming Environmental Quality Act, with the right of judicial review as provided for in W.S. 35-11-1001.

(b) The department of environmental quality shall cooperate and coordinate with all federal and state agencies with jurisdiction over packaging and transportation of low-level radioactive waste in order to avoid inconsistent or duplicative actions.

(c) The council or department shall not impose requirements or regulations more stringent than those required by the compact or by federal law unless otherwise authorized by law, and shall coordinate action taken pursuant to this section with the Wyoming department of transportation.

(d) For the purposes of the Northwest Interstate Compact on Low-Level Waste Management:

(i) Low-level waste as defined in the compact shall not include naturally occurring radioactive materials;

(ii) Regulatory requirements imposed upon generators and transporters of low-level waste shall not be more stringent than applicable federal requirements.

CHAPTER 7
COMMUNITY DEVELOPMENT, AND SCIENCE, TECHNOLOGY
AND ENERGY, AUTHORITIES

ARTICLE 1
COMMUNITY DEVELOPMENT AUTHORITY

9-7-101. Short title.

This act may be cited as the "Wyoming Community Development Authority Act".

9-7-102. Legislative findings.

(a) It is declared that:

(i) There is in this state by reason of the location and expansion of mineral extractive industries and other industrial developments, a critical shortage of adequate housing and a lack of funds of private mortgage lending institutions of the state which are available to finance new and existing housing at reasonable rates;

(ii) It is in the public interest of the citizens of this state to promote the economic welfare of the state and its residents by increasing employment, stimulating economic activity, augmenting sources of tax revenue, fostering economic stability, furthering health care and improving the balance of the state's economy;

(iii) This act constitutes a valid public purpose, of primary benefit to all citizens of the state of Wyoming.

(b) In purchasing loans from or making loans to mortgage lenders, the authority shall give preference to mortgage lenders authorized to do business within the state.

(c) This act and the powers of the authority shall be liberally construed to enable the authority to carry out its purposes.

9-7-103. Definitions.

(a) As used in this act:

(i) "Authority" means the Wyoming community development authority;

(ii) "Board" means the board of directors of the Wyoming community development authority;

(iii) "Bonds" means notes, warrants, bonds, temporary bonds and anticipation notes issued by the authority pursuant to this act;

(iv) "Economic development project" means any land, building or other improvement and all real and personal property including machinery and equipment suitable for:

(A) Manufacturing, processing or assembling agricultural or manufactured products;

(B) Storing, warehousing, distributing or selling agricultural, mining or industrial products or any related processes including research and development;

(C) Health care including any facility used or occupied by any person for providing services in any home for the elderly, any nursing home, rest home or facility providing living space for the developmentally disabled or any person sixty (60) years of age or older;

(D) Airports, parking facilities or storage or training facilities directly related to any other facility specified under this paragraph;

(E) Industrial park facilities;

(F) Sewage or solid waste disposal facilities;

(G) Facilities furnishing electric energy, gas or water;

(H) Any other project which can be financed by a municipality or county pursuant to the definition of project under W.S. 15-1-701(a)(ii);

(J) Secondary, tertiary and enhanced mineral recovery projects.

(v) "Financial institution" means any bank or savings and loan association authorized to do business within this state;

(vi) "Home improvement loan" means a loan of money for the essential alteration, repair or improvement of an existing home;

(vii) "Insurance fund" means the fund created under W.S. 9-7-123;

(viii) "Care facility" means any governmental or nonprofit hospital and may include any land, building, other improvements or equipment and all real and personal, tangible or intangible, property in connection therewith, or any interest therein or combination thereof;

(ix) "Mortgage lender" means a bank, mortgage banking company, trust company, savings bank, savings and loan association, credit union, national banking association, federal savings and loan association or federal credit union maintaining an office in this state and authorized to make mortgage loans in this state or an insurance company authorized to do business in this state;

(x) "Project" means a care facility or a specific residential housing project including any land, building, other improvements or equipment and all real and personal, tangible or intangible, property in connection therewith, or any interest therein or combination thereof, or any portion of a project;

(xi) "Project cost" means the sum total of costs which the authority deems necessary for financing and carrying out a project;

(xii) "Real property" means lands, buildings, improvements, fixtures, structures and interests in land, including water rights and all appurtenances to the land;

(xiii) "Rehabilitation" means the repair, reconstruction, remodeling or improvement of existing housing;

(xiv) "State" means the state of Wyoming;

(xv) "State agency" means any office or instrumentality of the state;

(xvi) "This act" means W.S. 9-7-101 through 9-7-125.

9-7-104. Community development authority; creation; composition; compensation; termination; meetings; surety bonds; personal liability; fiscal control.

(a) This act creates the Wyoming community development authority. The authority is a body corporate operating as a state instrumentality operated solely for the public benefit. Its membership consists of ten (10) directors, seven (7) of whom are appointed by the governor with the advice and consent of the senate. Not more than seventy-five percent (75%) of the appointed directors shall be from the same political party. Directors shall serve for staggered terms of four (4) years each. No appointed director shall serve more than two (2) successive four (4) year terms. A director's term may be terminated by the governor under the same procedure and in the same manner as provided by W.S. 9-1-202(a) or a majority vote of the senate. Directors shall continue in office until their successors are appointed and qualified. If a vacancy occurs, the governor shall appoint a successor to serve in accordance with W.S. 28-12-101. The board of directors shall select one (1) of its members to act as chairman of the board of directors and one (1) member to act as treasurer. The board of directors appoints the executive director of the authority, who serves as the executive secretary to the board and is the chief executive officer of the authority. The executive director serves at the pleasure of the board. The executive director shall be an ex officio member of the board but may not vote. The governor and the state treasurer are members of the board and may vote.

(b) The directors, other than the executive director, the governor and the state treasurer, shall receive compensation for each day or part thereof in which they are engaged in performance of their official duties at the same rate as state legislators and shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties. The board shall fix the salary of the executive director. Subject to the approval of the directors, and pursuant to W.S. 9-7-118 the executive director shall determine the terms of employment, tenure, duties, working conditions, promotion and termination of all other employees which the executive director determines are necessary to carry out the purposes and functions of the authority. Employees of the authority may be covered by and subject to the provisions of the Wyoming Retirement Act, the State Employees and Officials Group Insurance Act and the Wyoming Deferred Compensation Act.

(c) The authority shall exist perpetually or until terminated by law. No termination of the authority shall take effect so long as the authority has bonds and other obligations outstanding, unless adequate provision has been made for the payment thereof. Upon termination of the authority, all its rights and properties shall pass to and be vested in the state.

(d) The board shall determine the date, time, place and method of notice for all regular meetings of the board. A majority of the voting directors of the authority constitutes a quorum for the transaction of any business or the exercise of any power or function of the authority. All matters shall be decided by a majority vote of the voting members of the board. Minutes of board meetings shall be kept, maintained and open to members of the public. Notice of meetings shall be given to the public prior to the meetings and meetings shall be open to the public in accordance with W.S. 16-4-401 through 16-4-408. In emergency circumstances, as unanimously determined by the board members, the board may take action by conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other at the same time. The conversation shall be recorded, immediately transcribed as minutes of the board, and notice given of their availability for public review. The finding by the board that an emergency exists shall be binding and conclusive unless clearly erroneous.

(e) The authority shall execute and maintain at its expense a blanket surety bond covering each director, the executive director and the employees or other officers of the authority in the penal sum of two hundred fifty thousand dollars (\$250,000.00).

(f) Neither the directors, the executive director, the employees of the authority nor any other person executing bonds shall be subject to any personal liability by reason of their issuance.

(g) Notwithstanding any other provision, the directors, the executive director and the employees of the authority shall receive approval in advance from the governor prior to traveling out of state on official business. Except as specifically provided in this act, the provisions of W.S. 9-2-1001 through 9-2-1024 do not apply to the authority.

9-7-105. Community development authority; general powers and duties.

(a) For the purposes of this act, the authority may:

(i) Sue and be sued and procure necessary liability insurance;

(ii) Have a seal;

(iii) Make and execute contracts and other instruments, including financial contracts and instruments which the authority determines are reasonable and advisable to carry out the purposes and programs of the authority;

(iv) Adopt rules and regulations for its organization, for special meetings of the board, for internal management and for its loans, projects, economic development projects, operations, properties and facilities, including regulations governing the purchase, sale, rental, use, occupancy, maintenance, repair and alteration of housing projects. The rules and regulations shall be filed pursuant to the Wyoming Administrative Procedure Act;

(v) Acquire or contract to acquire by grant, purchase, option or otherwise, real, personal or mixed property or any interest in property;

(vi) Own, hold, clear, improve and rehabilitate, and sell, assign, exchange, transfer, convey, lease, mortgage or otherwise dispose of, or encumber the same;

(vii) Sell, lease, assign, transfer, convey, exchange, mortgage or otherwise dispose of or encumber any project or economic development project, and in the case of the sale of any project or economic development project, accept a purchase money mortgage in connection with the sale, and lease, repurchase or otherwise acquire and hold any project or economic development project which the authority has sold, leased or otherwise conveyed, transferred or disposed of;

(viii) Grant options to purchase any project or economic development project or to renew any leases entered into by it in connection with any of its projects or economic development projects, on terms and conditions it considers advisable;

(ix) Prepare plans, specifications, designs and cost estimates for the construction, reconstruction, rehabilitation,

improvement, alteration or repair of any project or economic development project, and modify the plans, specifications, designs or estimates;

(x) Manage any project or economic development project, whether owned or leased by the authority, and enter into agreements for managing any project or economic development project;

(xi) Provide advisory, consultative or educational services, technical assistance and advice to any person in order to carry out the purposes of the authority;

(xii) Borrow money and issue its negotiable bonds and provide for the rights of the holders thereof;

(xiii) Mortgage or pledge any or all of its revenue, income, projects or economic development projects whether owned or later acquired, and assign or pledge the leases on any portion of the projects or economic development projects as security for the payment of the principal and interest on any bonds issued and any agreements made in connection therewith;

(xiv) Deposit or invest any funds of the authority as provided in W.S. 9-7-116;

(xv) Procure insurance against any loss in connection with its property and other assets and operations in amounts and from insurers it deems desirable including, without limitation, participating with the federal government or any agency or instrumentality thereof or any private insurer in any insurance or guaranty program;

(xvi) Engage the services of consultants on a contract basis for rendering professional, financial and technical assistance and advice;

(xvii) Contract for and accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from any other source and pass through or otherwise comply, subject to the provisions of this act, with the terms and conditions thereof;

(xviii) Purchase loans from mortgage lenders, including construction loans or advances, or participations

therein, subject to W.S. 9-7-106, and sell or otherwise dispose of the loans;

(xix) Make loans to mortgage lenders under terms and conditions requiring the proceeds to be used by the mortgage lenders to make mortgages on residential real property, subject to W.S. 9-7-106;

(xx) Enter into loan servicing agreements with any mortgage lender in this state at reasonable fees;

(xxi) Consent to the modification of the terms of any mortgage, loan or contract to which the authority is a party, subject to any contract with bondholders;

(xxii) Make loans, including loans to mortgage lenders to enable the lenders to make loans, to finance projects, including construction loans and advances, under terms and conditions, and with security therefore, as the authority deems appropriate. The authority shall not make any loan, other than loans to mortgage lenders, which is a first lien loan to a homeowner with respect to single family residential property.

(b) The authority shall:

(i) Cooperate with the director of the state department of audit and its own auditors to develop and adopt guidelines relative to the proper handling and accounting for receipts and disbursements of the authority and other financial and administrative policies which shall generally correspond to normal business practices required of financial institutions;

(ii) Provide by rule and regulation that any person assuming a mortgage loan under this chapter shall qualify under existing authority rules and regulations to the extent that rules for qualifying are not in conflict with federal programs.

(c) Repealed by Laws 1988, ch. 87, § 3.

9-7-106. Community development authority; additional powers; purchase of mortgages; loans to lenders; funds appropriated for low interest mortgages.

(a) In addition to the other powers granted in this act, the authority:

(i) May purchase from mortgage lenders or make commitments to purchase, or take assignments from mortgage lenders of notes and mortgages evidencing loans for the purchase, construction or rehabilitation of residential real property in the state. If the notes and mortgages are financed with bond proceeds, the notes and mortgages shall be insured or guaranteed in whole or in part by governmental or private mortgage insurers, including the fund created by W.S. 9-7-123, or otherwise secured as provided in the resolution or trust indenture authorizing bonds of the authority;

(ii) May make loans to mortgage lenders which are general obligations of the respective lenders and may establish maturity dates, repayment schedules, provisions for prepayment, the nature, bond, note or other certificate of indebtedness and other provisions consistent with this section which the authority determines are necessary. The authority shall require as a condition of each loan to a mortgage lender that the mortgage lender, on or before a designated date shall have entered into written commitments to make, and shall proceed as promptly as practicable to make and disburse, new mortgages on residential real property in an aggregate principal amount equal to the amount of the loan;

(iii) Shall require that loans to mortgage lenders are additionally secured as to payment of both principal and interest by a pledge of and lien upon collateral security in the amounts the authority by resolution determines to be necessary to assure the payment of the loans and the interest thereon as they become due. Such collateral security shall be determined by the authority and may consist of those obligations described in W.S. 9-7-105(a)(xiv) or mortgages secured by first mortgage liens on residential real property in the state;

(iv) May, in connection with any mortgage loan or loan to a mortgage lender, foreclose on any property on which the authority holds a mortgage loan, or realize upon any collateral pledged as security, or commence any action to protect or enforce any right conferred upon it by any law, mortgage, contract or other agreement, and bid for and purchase such property or collateral at any foreclosure or at any other sale, or acquire or take possession of any such property or collateral. In the event of a proposed or existing foreclosure or sale of collateral the authority may complete, administer, pay the principal of and interest on any obligations in connection with the property, subordinate its interest to other financing, dispose of, and otherwise deal with the property in

the manner that may be necessary or desirable to protect the interest of the authority therein;

(v) Shall adopt, modify or repeal rules and regulations governing the making of loans to mortgage lenders, the purchase and sale of mortgage loans and the application of the proceeds thereof, including but not limited to rules and regulations relating to:

(A) Housing, income or other reasonable eligibility standards for persons or families to be financed from mortgage loans purchased from mortgage lenders or from loans to mortgage lenders;

(B) Limitations or restrictions as to the location or other qualifications or characteristics of residences to be financed from the proceeds of the purchases or loans;

(C) Restrictions as to the interest rates on loans made from the proceeds of the purchase of mortgage loans or from loans to mortgage lenders or the return realized therefrom by mortgage lenders;

(D) Requirements as to any commitments by mortgage lenders with respect to the application of the proceeds of the purchase or loan; and

(E) Schedules of any fees and charges necessary to provide for expenses and reserves of the authority.

(vi) May adopt a program or issue bonds to purchase mortgage loans or make loans to mortgage lenders if the authority finds:

(A) That the mortgage lending resources of the mortgage lenders are not sufficient to adequately finance the housing needs of the state; and

(B) That the loan to lenders or mortgage loan purchased will promote better housing in the state.

(vii) May make, purchase from lenders, make commitments to purchase or take assignments from mortgage lenders of notes for home improvement loans, or make loans or commitments to lenders for the purpose of making funds available

for home improvement loans. The home improvement loans to lenders shall be secured in a manner the authority determines;

(viii) Shall receive all funds which may be appropriated to it from the state treasury for the purpose of reducing the interest rate on mortgage loans made to low and moderate income persons. The authority shall allocate the lower interest rate mortgages only to persons and families of low and moderate income in need of assistance in obtaining decent, safe and sanitary housing at affordable rates;

(ix) Shall perform other duties consistent with its purpose as authorized by the legislature for the period prescribed by the legislature.

9-7-107. Community development authority; revenue bonds; issuance.

(a) Subject to W.S. 9-7-108, the authority may issue bonds in principal amounts the authority determines necessary to provide sufficient funds for achieving any of its purposes, including the payment of interest, the establishment of reserves and for the purpose of defraying all other project and economic development project costs. All bonds issued under this act are negotiable instruments under the laws of the state unless expressly provided to the contrary on the face of the bonds.

(b) All bonds issued by the authority are payable solely out of special funds consisting of all or part of its revenues, receipts, monies and assets, as designated in the proceedings under which the bonds are authorized. The bonds shall bear interest at the rates, be executed and delivered at times and in denominations, be of terms and maturities, be in bearer form or in registered form as to principal and interest or principal alone, and bear manual or facsimile signatures and seals as determined by the authority.

(c) Bonds may be payable in installments and may bear maturities not exceeding forty-five (45) years from the date issued as determined by the authority.

(d) As determined by the authority, bonds and interest may be payable at a time or place whether within or without the state. Bonds may contain other provisions not inconsistent with this act.

(e) Any bonds issued by the authority may contain an option to redeem all or any part as may be specified. The price of redemption, the terms and conditions and the procedure of notice shall be set forth in the proceedings of the authority and may appear on the face of the bonds.

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

(g) Additional bonds for a particular purpose may be issued provided the later issues shall recognize and protect any prior pledge or mortgage made for any prior issue. Bonds may be issued providing that any later issues for the same project or economic development project may be on a parity with the earlier bonds.

(h) The authority may provide for the issuance of its bonds to refund any bonds of the authority then outstanding, including the payment of any redemption premium and any interest or premium accrued or to accrue to, the earliest or subsequent date of redemption, purchase or maturity of the bonds and, if determined advisable by the authority, for the purpose of paying any part of the cost of acquiring, purchasing, constructing, reconstructing or improving any project or economic development project or for making any loan on any project or economic development project. Refunding shall be accomplished in the manner prescribed by W.S. 16-5-101 through 16-5-119 to the extent it is not inconsistent with this act.

9-7-108. Community development authority; revenue bonds; amount authorized.

(a) Repealed By Laws 1997, ch. 64, § 2.

(b) Repealed By Laws 1997, ch. 64, § 2.

(c) Repealed By Laws 1997, ch. 64, § 2.

(d) Repealed by Laws 1988, ch. 87, § 3.

(e) Repealed By Laws 1997, ch. 64, § 2.

(f) Repealed By Laws 1997, ch. 64, § 2.

(g) Repealed By Laws 2000, Ch. 41, § 2.

(h) In addition to the bonds presently outstanding, any bonds authorized for care facility projects, bonds that may be issued to refund bonds, and bonds the authority may issue from time to time as private activity bonds exempt from federal income taxation under section 146 of the internal revenue code of 1986, as amended, the authority may issue and have outstanding additional bonds in an aggregate amount of up to four hundred million dollars (\$400,000,000.00).

(j) In addition to the bonds authorized by subsection (h) of this section, the authority may issue and have outstanding additional bonds for care facility projects in an aggregate amount of up to two hundred fifty million dollars (\$250,000,000.00).

9-7-109. Community development authority; revenue bonds; security therefor.

(a) The principal and interest on any bonds issued by the authority may be secured by a pledge of any revenues and receipts of the authority or assignment of mortgage loans or other assets purchased and may be secured by a mortgage or other instrument covering all or any part of a project or economic development project, including any additions, improvements, extensions to or enlargements of any project or economic development project later made, or assignment, pledge or any loan or loan participation.

(b) Bonds issued for the purchase, acquisition, construction, reconstruction or improvement of a project or economic development project may also be secured by an assignment of any lease of or mortgage on the project or economic development project and by an assignment of the revenues and receipts derived by the authority from the lease or mortgage of the project or economic development project.

(c) The resolution under which the bonds are authorized and any mortgage, lease or other instrument may contain agreements and provisions for the maintenance of the projects or economic development projects covered, the fixing and collection of rents or other revenues, including monies received in repayment of mortgage loans and interest, the creation and maintenance of special funds from rents or other revenues and the rights and remedies available in the event of default.

(d) Each pledge, agreement, mortgage or other instrument made for the benefit or security of any bonds of the authority is valid and binding from the time when made. The revenues, receipts, monies and assets pledged are immediately subject to the lien of the pledge without delivery or further act. The lien is valid and binding against persons having claims of any kind against the authority whether or not the persons have actual notice of the lien. Neither the resolution nor the indenture or other instrument by which a pledge is created need be recorded or filed.

(e) The authority may provide in the proceedings under which bonds are authorized that any part or all of any project or economic development project may be purchased, constructed, reconstructed or improved by the authority, any municipality or any lessee or designee of the authority, and may also provide for the time and manner of and requisites for disbursements to be made for the cost of construction and for all the certificates and approvals of construction and disbursements as the authority considers necessary.

(f) Any resolution or trust indenture under which bonds of the authority are authorized may contain provisions for vesting in a trustee the properties, rights, powers and duties in trust as the authority determines. This may include any or all of the rights, powers and duties of the trustee appointed by the holders of any issue of bonds pursuant to W.S. 9-7-115, in which event the provisions of W.S. 9-7-115 authorizing the appointment of a trustee by the holders of bonds shall not apply.

9-7-110. Community development authority; revenue bonds; debt service reserve funds; use of monies therein.

(a) Prior to the delivery of each bond issue, the authority may create one (1) or more debt service reserve funds and, at the time the authority determines, shall pay into the funds an amount, as determined by the authority, from:

(i) Proceeds of sale of bonds to the extent provided in the resolution of the authority authorizing the issuance; and

(ii) Other monies which may be received or made available to the authority for the purposes of funds from any other source.

(b) Unless otherwise provided, the monies held in or credited to any debt service reserve fund established under this section shall be used solely for the payment of the principal of bonds of the authority secured by the reserve fund, as the bonds mature or are redeemed prior to maturity, the purchase of such bonds of the authority, the payment of interest on such bonds of the authority or the payment of any redemption premium required to be paid when the bonds are redeemed prior to maturity. The interest earned on the amount deposited in any reserve fund may be used for the purpose of defraying the cost of the authority's operations. Money in any debt service reserve fund shall not be withdrawn if it would reduce the amount of the fund to less than the amount which is pledged in the proceedings authorizing the issuance of the bonds secured by the debt service reserve fund, except for the purpose of paying principal and interest on bonds maturing and becoming due, and for the payment of which other monies of the authority are not available.

9-7-111. Community development authority; revenue bonds; disposition of monies received.

Monies received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues, receipts or income, shall be held as trust funds to be applied solely as provided in the proceedings under which the bonds are authorized. The trustee shall hold and apply the monies for the purposes authorized by this act and by the proceedings authorizing the bonds and included in the trust agreement securing the bonds.

9-7-112. Exemptions from taxation; exceptions.

The exercise of the powers granted by this act constitutes the performance of an essential governmental function. The authority shall not be required to pay any taxes levied by any municipality or political subdivision of the state, other than assessments for local improvements, upon its projects, property or monies. The authority shall not be required to pay state taxes of any kind. Except for estate taxes the authority's projects, property and monies and any bonds issued under this act and the income therefrom, shall be free from taxation of every kind by the state, municipalities and political subdivisions of the state.

9-7-113. Bonds as legal investments.

The bonds of the authority are legal investments which may be used as collateral for public funds of the state, insurance companies, banks, savings and loan associations, investment companies, trustees and other fiduciaries which may properly and legally invest funds in their control or belonging to them in bonds of the authority.

9-7-114. State pledge not to impair bondholder's rights and remedies.

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

9-7-115. Appointment of trustee by bondholders; powers and duties thereof.

(a) If the authority defaults in the payment of principal of or interest on any bonds after they become due, whether at maturity or upon call for redemption, and the default continues for a period of thirty (30) days, or if the authority fails or refuses to comply with the provisions of this act, or defaults in any agreement made with the holders of any bonds, the holders of twenty-five percent (25%) in aggregate principal amount of the bonds of the issue then outstanding, by instrument or instruments filed in the office of the secretary of state, may appoint a trustee to represent the holders of the bonds for the purposes herein provided.

(b) The trustee may, and upon written request of the holders of twenty-five percent (25%) in principal amount of such bonds then outstanding shall, in his or its own name:

(i) By suit, action or proceeding enforce all rights of the bondholders to require the authority to carry out any other agreements with the holders of the bonds and to perform its duties under this act;

(ii) Bring suit upon the bonds;

(iii) By action or suit, require the authority to account as if it were the trustee of an express trust for the holders of the bonds;

(iv) By action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of the bonds;

(v) Declare all the bonds due and payable, and if all defaults are made good, then, with the consent of the holders of twenty-five percent (25%) of the principal amount of the bonds then outstanding, to annul the declaration and its consequences.

(c) In addition, the trustee has all the powers necessary or appropriate for the exercise of any functions specifically set forth in this act or incident to the general representation of bondholders in the enforcement and protection of their rights.

9-7-116. Investment and management of funds.

(a) The authority may invest funds in securities in which state funds may be invested as provided by law or in savings certificates of savings and loan associations and certificates of deposit of banks to the extent they are fully insured by a federal agency or are fully secured by a pledge of assets as provided by law, sell securities it has purchased and deposit securities in any financial institution. Funds deposited in financial institutions shall be secured by obligations authorized as permissible security for state investments. In investing and managing its funds, the authority shall exercise the judgment and care which persons of prudence, discretion and intelligence would exercise under similar circumstances in managing the permanent disposition of their funds, considering the probable income and the probable safety of their capital.

(b) Notwithstanding the provisions of this section, the authority may contract with the holders of any of its bonds, as to the custody, collection, securing, investment and payment of any monies of the authority, of any monies held in trust or otherwise for the payment of bonds, and may carry out the contract. Monies held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of monies may be secured in the same manner as monies of the authority and all banks and trust companies are authorized to give security for these deposits.

(c) Subject to agreements with bondholders, the authority shall prescribe a system of accounts in accordance with generally accepted accounting principles.

(d) The authority shall employ a certified public accountant to examine the books and accounts of the authority including its receipts, disbursements, contracts, reserve funds, sinking funds, investments and any other matters relating to its financial standing. The examination shall be conducted at least once in each year and copies of the examination report shall be filed with the secretary of state, the director of the state department of audit and the legislative service office.

9-7-117. Assistance by state agencies.

(a) Upon request of the authority, any state agency may temporarily assign to the authority officers and employees as it deems necessary to assist the authority in carrying out its functions and duties under this act. Officers and employees so assigned shall not lose their status or rights as public employees.

(b) Upon request of the authority, any state agency may lend technical assistance, render advice and attend meetings with the directors and employees of the authority as the authority requires in carrying out its functions and duties.

9-7-118. Annual report and budget.

(a) The authority shall submit an annual report in the manner provided by W.S. 9-2-1014.

(b) The authority shall submit its budget for review as provided by W.S. 9-2-1010 through 9-2-1014. This section shall not impair or affect any pledge of special funds of the authority to the payment of the revenue bonds authorized by this act.

9-7-119. Conflicts of interest.

(a) The authority shall not purchase from, sell to, borrow from, loan to, contract with or otherwise deal with any corporation, trust, association, partnership or other entity in which any director of the authority has a financial interest. This section does not prohibit the buying, selling or placing of mortgage loans with financial institutions in which a director

has a financial interest. The financial interest shall be disclosed in the minutes of the authority.

(b) Repealed by Laws 1988, ch. 87, § 3.

(c) Repealed by Laws 1988, ch. 87, § 3.

9-7-120. Priorities in commitment of monies.

The authority shall require as a condition to receiving any of its money under this chapter that any mortgage lender receiving money, within the limitation imposed by the amount of money received, shall give reasonable priority to mortgage loan applications made directly to the mortgage lender by qualified, individual home purchasers, before committing any money received from the authority to contractors, builders, real estate developers or real estate agents, except to the extent the authority determines there is a need to encourage the construction of affordable housing and it is reasonable and appropriate to provide or permit commitments to alleviate such need. Any money committed by a mortgage lender to an individual home purchaser under this act may be used for the purchase of new or existing residential dwellings.

9-7-121. Repealed by Laws 1985, ch. 44, § 2.

9-7-122. Repealed by Laws 1988, ch. 87, § 3.

9-7-123. Economic development projects; insurance fund.

(a) The authority may insure payments required by a loan, lease or other credit arrangement for any project or economic development project financed, under terms and conditions prescribed by the authority. The authority may establish one (1) or more separate accounts and may require the payment of fees or premiums, establish application fees and prescribe application, notification, contract and guaranty forms, rules, regulations and guidelines.

(b) Insurance acquired by the authority shall:

(i) Be for a project or an economic development project meeting policies and objectives of this act;

(ii) Be through an applicant approved by the authority;

(iii) Contain amortization provisions satisfactory to the authority; and

(iv) Be for a principal amount, in a form and contain terms for payment of property insurance, repairs, alterations, taxes, assessments, delinquency charges and default remedies as the authority determines necessary.

(c) The authority may enter into an insurance contract, guarantee or other agreement or contract for the insurance fund and any insured loan, lease or other credit agreement. The agreement or contract may contain terms necessary for the insurance program subject to established requirements, including terms relating to loan documentation, review, approval procedures, origination and servicing rights and responsibilities, default obligations and other loan procedures and obligations.

(d) Any contract for insurance made under this section shall provide that claims are payable from the insurance fund or a separate account in the insurance fund. The obligation of the authority to make payments under any insurance contract is limited solely to the insurance fund and is not a debt or liability of the state. Any insurance contract and any rule, regulation or guideline of the authority implementing the insurance program may contain other terms, provisions or conditions the authority considers necessary. Any premium for insuring a loan payment under this section may be determined on a basis, payable by a person in an amount and at a time determined by the authority. The premium amount may differ among any insured loan, lease or other credit agreement.

(e) The authority shall establish an insurance fund held by a trustee or other fiduciary designated by the authority. All insurance fees and premiums shall be deposited into the fund along with up to two million five hundred thousand dollars (\$2,500,000.00) prior to April 1, 1985 and an additional one million five hundred thousand dollars (\$1,500,000.00) thereafter from other revenues and assets of the authority as the authority considers necessary to comply with any contract or agreement entered into under this section.

(f) The insurance fund shall be used to satisfy any claim resulting from a defaulted loan, lease or other credit agreement. The fund may also be used for any other purpose prescribed by the authority pursuant to guaranty contracts with financial institutions under this section including the

protection of the authority's interest in projects during periods of delinquency or upon default.

(g) The minimum reserve requirement for the insurance fund shall be an amount provided by agreement, resolution or indenture with bond holders. No additional loan, lease or other credit agreement may be insured if the amount available in the insurance fund is less than the minimum reserve requirement.

9-7-124. Repealed by Laws 1995, ch. 199, § 2

9-7-125. Subsidiary corporation; economic development loans.

(a) The authority may charter a subsidiary corporation for the purpose of managing or originating economic development loans subject to the following conditions:

(i) The directors of the authority shall also be directors of the subsidiary corporation and are entitled to the same compensation and expenses for such service as provided by W.S. 9-7-104(b) so long as the services do not occur on the same day;

(ii) The subsidiary corporation shall not take equity positions through stock ownership in any corporation or association;

(iii) The subsidiary corporation is subject to the audit requirements of W.S. 9-7-116 and the financial supervision requirements of W.S. 9-7-105(b);

(iv) The subsidiary corporation shall not acquire or originate any economic development loans on and after the effective date of this act;

(v) This section is retroactive and prospective in its application.

ARTICLE 2 SCIENCE, TECHNOLOGY AND ENERGY AUTHORITY

9-7-201. Repealed By Laws 1998, ch. 6, § 5.

9-7-202. Repealed By Laws 1998, ch. 6, § 5.

9-7-203. Repealed By Laws 1998, ch. 6, § 5.

9-7-204. Repealed By Laws 1998, ch. 6, § 5.
9-7-205. Repealed By Laws 1998, ch. 6, § 5.
9-7-206. Repealed By Laws 1998, ch. 6, § 5.
9-7-207. Repealed By Laws 1998, ch. 6, § 5.
9-7-208. Repealed By Laws 1998, ch. 6, § 5.
9-7-209. Repealed By Laws 1998, ch. 6, § 5.
9-7-210. Repealed By Laws 1998, ch. 6, § 5.
9-7-211. Repealed By Laws 1998, ch. 6, § 5.
9-7-212. Repealed By Laws 1998, ch. 6, § 5.
9-7-213. Repealed By Laws 1998, ch. 6, § 5.
9-7-214. Repealed By Laws 1998, ch. 6, § 5.
9-7-215. Repealed By Laws 1998, ch. 6, § 5.
9-7-216. Repealed By Laws 1998, ch. 6, § 5.
9-7-217. Repealed By Laws 1998, ch. 6, § 5.
9-7-218. Repealed By Laws 1998, ch. 6, § 5.
9-7-219. Repealed By Laws 1998, ch. 6, § 5.
9-7-220. Repealed by Laws 1988, ch. 91, § 2.

CHAPTER 8
LAND USE PLANNING

ARTICLE 1
GENERAL PROVISIONS

9-8-101. Repealed By Laws 2013, Ch. 192, § 2.
9-8-102. Repealed By Laws 2013, Ch. 192, § 2.

ARTICLE 2
STATE LEVEL

9-8-201. Repealed By Laws 2013, Ch. 192, § 2.

9-8-202. Repealed By Laws 2013, Ch. 192, § 2.

9-8-203. Repealed By Laws 2013, Ch. 192, § 2.

9-8-204. Repealed By Laws 2013, Ch. 192, § 2.

ARTICLE 3
LOCAL LEVEL

9-8-301. Development of plans.

(a) All local governments shall develop a local land use plan within their jurisdiction.

(b) All incorporated cities and towns shall have the option to develop a land use plan in accordance with the requirements of W.S. 9-8-302(a), or cooperate with the county to develop such a plan under W.S. 9-8-302(b).

(c) All counties shall develop a countywide land use plan which shall incorporate the land use plans of all incorporated cities and towns within the county.

(d) As used in this article:

(i) "Local land use plan" means any written statement of land use policies, goals and objectives adopted by local governments. Such plans shall relate to an explanation of the methods for implementation, however, these plans shall not require any provisions for zoning. Any local land use plan may contain maps, graphs, charts, illustrations or any other form of written or visual communication;

(ii) "Zoning" means a form of regulatory control granted to local governments which may be used to guide and to develop specific allowable land use.

9-8-302. Procedural requirements; intergovernmental cooperation.

(a) The duty, procedures and requirements for public hearings and responsibility for land use planning at the local level shall be exercised by the cities and towns pursuant to

W.S. 15-1-601 et seq. and by the respective counties pursuant to W.S. 18-5-201 et seq.

(b) For the purpose of development of local land use plans, the local government within each city, town and county may cooperate in the development of land use plans in accordance with the powers granted by the Wyoming Joint Powers Act.

CHAPTER 9
ECONOMIC DEVELOPMENT LOAN PROGRAM

- 9-9-101. Repealed by Laws 1991, ch. 151, § 1.**
- 9-9-102. Repealed by Laws 1991, ch. 151, § 1.**
- 9-9-103. Repealed by Laws 1991, ch. 151, § 1.**
- 9-9-104. Repealed by Laws 1991, ch. 151, § 1.**
- 9-9-105. Repealed by Laws 1991, ch. 151, § 1.**
- 9-9-106. Repealed by Laws 1991, ch. 151, § 1.**
- 9-9-107. Repealed by Laws 1991, ch. 151, § 1.**
- 9-9-108. Repealed by Laws 1991, ch. 151, § 1.**
- 9-9-109. Termination of board.**

W.S. 9-9-101 through 9-9-108 are repealed effective July 1, 1995.

CHAPTER 10
WYOMING PARTNERSHIP CHALLENGE LOAN PROGRAM

- 9-10-101. Renumbered By Laws 1998, ch. 6, § 4.**
- 9-10-102. Renumbered By Laws 1998, ch. 6, § 4.**
- 9-10-103. Repealed by Laws 1998, ch. 6, § 5.**
- 9-10-104. Renumbered by Laws 1998, ch. 6, § 4.**
- 9-10-105. Renumbered By Laws 1998, ch. 6, § 4..**
- 9-10-106. Renumbered By Laws 1998, ch. 6, § 4.**

9-10-107. Renumbered By Laws 1998, ch. 6, § 4.

9-10-108. Renumbered by Laws 1998, ch. 6, § 4.

CHAPTER 11
STATE GOVERNMENT FRAUD REDUCTION

9-11-101. Short title.

This chapter may be cited as the "State Government Fraud Reduction Act."

9-11-102. Definitions; applicability.

(a) As used in this chapter:

(i) "Employee" means any person who works an average of twenty (20) hours or more per week during any six (6) month period and who is employed by the state performing a service for wages or other remuneration, excluding an independent contractor;

(ii) "Political subdivision" means a county, municipal or special district governing body or any combination thereof, school district or municipal corporation or a board, department, commission, council, agency or any member or employee thereof;

(iii) "State" means the state of Wyoming and any authority, board, commission, department, division or separate operating agency of the executive, legislative or judicial branch of the state of Wyoming, excluding its political subdivisions.

9-11-103. Discrimination against certain employees prohibited; civil action against employer.

(a) No state employer may discharge, discipline or retaliate against an employee by unreasonably altering the terms, location or conditions of employment because the employee acting in good faith and within the scope of duties of employment:

(i) Reports in writing to the employer what the employee has reasonable cause to believe is a demonstration of fraud, waste or gross mismanagement in state government office;

(ii) Reports in writing to the employer what the employee has reasonable cause to believe is a violation of a law, regulation, code or rule adopted under the laws of this state or the United States;

(iii) Reports in writing to the employer what the employee has reasonable cause to believe is a condition or practice that would put at risk the health or safety of that employee or any other individual;

(iv) Participates or is requested to participate in any investigation, hearing or inquiry; or

(v) Has refused to carry out a directive which is beyond the scope, terms and conditions of his employment that would expose the employee or any individual to a condition likely to result in serious injury or death, after having sought and been unable to obtain a correction of the dangerous condition from the employer.

(b) Subsection (a) of this section does not apply to an employee who has reported or caused to be reported a violation or unsafe condition or practice, unless the employee has first brought the alleged violation, condition or practice to the attention of a person having supervisory authority over the employee and has allowed the state employer a reasonable opportunity to correct that violation, condition or practice. Prior notice to a person having supervisory authority is not required if the employee reasonably believes that the report may not result in prompt correction of the violation, condition or practice. In such cases, the employee shall report the violation, condition or practice to the department or agency director of the state entity with which he is employed or to the office of the governor. In the event the alleged violation, condition or practice occurred within the office of the governor, the employee may report the violation, condition or practice to the office of the secretary of state.

(c) Any employee who is discharged, disciplined or otherwise penalized by a state employer in violation of this section may after exhausting all available administrative remedies, bring a civil action within ninety (90) days after the date of the final administrative determination or within ninety (90) days after the violation, whichever is later, in the district court for the judicial district in which the violation is alleged to have occurred or where the state employer has its principal office. An employee's recovery from any action under

this section shall be limited to reinstatement of his previous job, payment of back wages and re-establishment of employee benefits to which he would have otherwise been entitled if the violation had not occurred. In addition, the court may allow the prevailing party his costs together with reasonable attorney's fees to be taxed by the court. Any employee found to have knowingly made a false report shall be subject to disciplinary action by his employer up to and including dismissal.

(d) A state employer shall ensure that its employees are aware of their rights under this chapter.

9-11-104. Repealed By Laws 2002, Ch. 29, § 1.

CHAPTER 12
WYOMING ECONOMIC DEVELOPMENT ACT

ARTICLE 1
IN GENERAL

9-12-101. Short title.

This chapter shall be known and may be cited as the "Wyoming Economic Development Act."

9-12-102. Definitions.

(a) As used in this act, the following terms have the following meanings, except where the context clearly indicates otherwise:

(i) "Board" means the board of directors of the council;

(ii) "Council" means the Wyoming business council, the body corporate created by this article;

(iii) "Federal agency" means the United States, the President of the United States, and any department, corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by the United States;

(iv) "Financial aid" means:

(A) The infusion of risk capital to persons by making investments for use in the development and exploitation of specific products;

(B) The purchase of securities;

(C) Royalty agreements;

(D) Loans and loan guarantees;

(E) Any contractual arrangement in which the council provides technological services to any person involving the development and exploitation of a specific product.

(v) "Person" means natural persons, firms, foundations, associations, corporations, business trusts, partnerships, joint ventures, and public bodies, including but not limited to the state of Wyoming, any state, and any agency, department, institution, political subdivision or instrumentality of Wyoming or any state;

(vi) "Product" means any product, device, technique or process, which is or may be exploitable commercially and includes products, devices, techniques or processes which have advanced beyond the theoretic stage and are readily capable of being, or have been, reduced to practice but excludes pure research;

(vii) "Venture" means any contractual arrangement with any person whereby the council obtains rights from or in a product or proceeds therefrom in exchange for the granting of financial aid to the person;

(viii) "This act" means W.S. 9-12-101 through 9-12-1509.

9-12-103. Wyoming business council; creation; composition; compensation; termination; meetings; surety bonds; fiscal control.

(a) There is created the Wyoming business council. The council is a body corporate operating as a state instrumentality operated solely for the public benefit. As such it shall have, and is hereby vested with, the powers and duties conferred in this chapter. It shall be governed by a board of directors consisting of fifteen (15) voting directors, appointed by the governor with the advice and consent of the senate. The governor shall be a member and cochairman of the board, but shall not vote. The appointed directors shall have demonstrated leadership and business expertise. An equal number of directors

shall be appointed to initial terms of one (1), two (2) and three (3) years. Thereafter, directors shall serve for terms of three (3) years. No appointed director shall serve more than two (2) successive three (3) year terms. If a vacancy occurs, the governor shall appoint a successor in accordance with W.S. 28-12-101. The governor may remove any board member he appoints for cause and shall remove any director who fails to attend three (3) consecutive regular meetings of the council. No appointed council member shall send a designee to attend a council meeting nor vote by proxy. The board shall select one (1) of its members to act as cochairman of the board. The board shall retain a chief executive officer. The chief executive officer serves at the pleasure of the board. All of the appointed directors shall be appointed at large and at least twelve (12) of the appointed directors shall be residents of Wyoming.

(b) The appointed directors shall receive per diem for attending board meetings in the same amount as state legislators and shall receive no other compensation for serving on the board. The board shall fix the salary of the chief executive officer. Subject to the approval of the directors, the chief executive officer shall determine the terms of employment, tenure, duties, working conditions, promotion and termination of all other employees which the chief executive officer determines are necessary to carry out the purposes and functions of the council. Employees of the council shall be covered by the Wyoming Retirement Act, the State Employees and Officials Group Insurance Act and the Wyoming Deferred Compensation Act.

(c) Upon termination of the council, all its rights and properties shall pass to and be vested in the state.

(d) The council shall determine the date, time, place and method of notice for all regular meetings of the council. A majority of the voting directors of the council constitutes a quorum for the transaction of any business or the exercise of any power or function of the council. Matters shall be decided by a majority vote of the voting members of the council. As unanimously determined by the council members, the council may take action by conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other at the same time.

(e) The council may execute and maintain at its expense a blanket surety bond covering each director, the chief executive officer and the employees or other officers of the council in

the penal sum of two hundred fifty thousand dollars (\$250,000.00).

(f) The council may also form committees and advisory councils, which may include representatives who are not members of the board, to undertake more extensive study and discussion of the issues before the board. The council shall form an advisory council for broadband development and designate a broadband coordinator in accordance with W.S. 9-12-1509.

(g) Except as specifically provided in this act, the following provisions do not apply to the council:

(i) W.S. 9-2-1001 through 9-2-1026;

(ii) W.S. 9-3-101 through 9-3-105;

(iii) The Wyoming Administrative Procedure Act.

(h) Except as specifically provided in this act, the provisions of W.S. 16-4-201 through 16-4-205 and 16-4-401 through 16-4-408 shall apply to the council.

9-12-104. General powers and duties of the council.

(a) Except as otherwise limited by this act, the council may:

(i) Sue and be sued and procure necessary liability insurance;

(ii) Have a seal;

(iii) Make and execute contracts and other instruments;

(iv) Adopt rules and regulations to implement the programs and functions assigned to the council by this act. Any rule adopted by the council shall be submitted to the management council of the legislature in accordance with W.S. 28-9-101 through 28-9-108, approved by the governor as provided in W.S. 16-3-103(d) and filed with the secretary of state;

(v) Acquire or contract to acquire by grant, purchase, option or otherwise, real, personal or mixed property or any interest in property, including patents, copyrights,

trademarks or any other evidence of protection or exclusivity as to products;

(vi) Own, hold, clear, improve and rehabilitate, and sell, assign, exchange, transfer, convey, lease and mortgage real, personal or mixed property or otherwise dispose of, or encumber the same;

(vii) Grant options to purchase any interest in or asset arising out of an agreement;

(viii) Provide advisory, consultative or educational services, technical assistance and advice to any person in order to carry out the purposes of the council;

(ix) Mortgage or pledge any or all of its revenue, income, or interest in or asset arising out of a venture agreement;

(x) Except as otherwise provided in this act, deposit any funds of the council in any financial institutions located within the state;

(xi) Procure insurance against any loss in connection with its property and other assets and operations in amounts and from insurers it deems desirable;

(xii) Engage the services of consultants on a contract basis for rendering professional, financial and technical assistance and advice, including for studies and investigation likely to lead to business development;

Note: Effective 10/1/2020 this paragraph will read as:

Engage the services of consultants on a contract basis for rendering professional, financial and technical assistance and advice, including for studies and investigation likely to lead to business development. The procurement of the professional services of architects, engineers and surveyors shall be in accordance with W.S. 9-23-105(f) through (h) and 9-23-106(g);

(xiii) Contract for and accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from any other source and pass through or otherwise comply, subject to the provisions of this chapter, with the terms and conditions thereof;

(xiv) Enter into agreements with persons doing business or who will do business in this state for the advancement of financial assistance to those persons for research and the development of specific products, procedures and techniques to be developed and produced in this state conditioned upon contractual assurances that the benefits of increasing or maintaining employment and tax revenues shall remain in and accrue to this state;

(xv) Consent to the modification of the terms of any mortgage, loan or contract to which the council is a party;

(xvi) Organize, conduct, sponsor or cooperate in and assist the conduct of special institutes, conferences and demonstrations relating to the stimulation and formulation of business development;

(xvii) Make investments in projects that have potential to stimulate economic development in the state;

(xviii) Render advice and assistance and to provide services to state agencies, local and regional economic development entities, private firms and other persons providing services or facilities for economic development in Wyoming;

(xix) Do all acts and things necessary or convenient to carry out the powers granted to it by this act or any other act;

(xx) Repealed By Laws 2010, Ch. 69, § 204.

(xxi) Repealed by Laws 2008, Ch. 6, § 2.

(b) The board, consistent with this act, shall develop guidelines for each of the areas specified in subsection (a) of this section relative to definitions, types of grants or loans, level of funding and repayment requirements.

9-12-105. Economic development services.

(a) It shall be the duty of the council to encourage, stimulate and support the development and expansion of the economy of the state. The council is charged with the following duties and responsibilities:

(i) To see that there are prepared and carried out effective economic development and diversification marketing and promotional programs;

(ii) To make available, in conjunction and cooperation with localities, chambers of commerce, industrial authorities and other public and private groups, to prospective new businesses basic information and pertinent factors of interest and concern to such businesses;

(iii) To formulate, promulgate and advance programs throughout the state for encouraging the location of new businesses in the state and the retention and growth of existing businesses;

(iv) To encourage and solicit private sector involvement, support and funding for economic development in the state;

(v) To encourage the coordination of the economic development and diversification efforts of public institutions, regions, communities and private industry and collect and maintain data on the development and utilization of economic development and diversification capabilities;

(vi) To establish such offices within and without the state that are necessary to the expansion and development of industries and trade. The council shall establish economic development and diversification regions and offices within the state based upon socioeconomic and geographic similarities;

(vii) To encourage the export of products and services from the state to national and international markets. In addition to conducting international and other market research as authorized in W.S. 9-12-106(b), the council shall employ or contract with persons for purposes of developing new markets and expanding foreign trade efforts, including expanding international markets for Wyoming services, Wyoming agricultural and other products and commodities, and targeted consumer advertising;

(viii) To advise the University of Wyoming and the Wyoming community college commission in designating technical training and other educational programs in Wyoming's community colleges and the University of Wyoming beneficial to economic development and diversification activities in this state;

(ix) To adopt a state broadband enhancement plan.

(b) The council, in consultation with the coordinator of economic diversification, shall implement the "startup:Wyoming" program in priority economic sectors identified in the approved twenty (20) year comprehensive economic diversification strategy under W.S. 9-12-1402(a)(iv). The program shall:

(i) Foster connectivity between entrepreneurs, investors and mentors, aligning local entities through coordinated points of contact in participating Wyoming communities. The efforts shall include methods of communication designed to allow interaction between stakeholders on a regular and consistent basis;

(ii) Provide entrepreneurs with advanced resources to help their business succeed, including mentoring, marketing, legal and other business coaching services;

(iii) In conjunction with the University of Wyoming, community colleges, localities, chambers of commerce, industrial authorities and other public and private groups, develop incubators, accelerators, co-working spaces, makerspaces and other unique work spaces and equipment to foster entrepreneurialism.

(c) The council shall administer a "kickstart:Wyoming" program to provide funding to early stage ventures of Wyoming based entrepreneurs. Funding under this subsection shall be provided upon approval of the council. The council shall adopt rules for funding under this subsection in consultation with the coordinator of economic diversification. Funding shall be in amounts ranging from five thousand dollars (\$5,000.00) to fifty thousand dollars (\$50,000.00) and be provided under the following conditions:

(i) To individuals who reside in Wyoming and to business entities which are, or agree in writing to be, headquartered in Wyoming and organized under the laws of the state of Wyoming and which:

(A) Have committed to maintaining a meaningful nexus to the state of Wyoming, including after commercialization of a service, product, concept, design or any other marketable asset developed with the assistance of the funds;

(B) Proposes a service, product, concept, design or any other marketable asset which has a probability of providing an economic return to the state of Wyoming through creation of jobs, expanded tax base and diversification of the state's economy;

(C) Agree to provide a report to the council on the progress to commercialize the service, product, concept, design or any other marketable asset developed with the assistance of the funds.

(ii) The recipient of funding meets other requirements established by rule of the council to ensure adequate consideration for the amount of the funding provided. In establishing provisions for adequate consideration to the state, the council may include, but is not limited to, requiring a recipient to seek additional nonstate investment funding and specifying requirements for maintaining a nexus to the state.

(d) The council shall administer a small business innovation research matching program in accordance with this subsection. The program shall match federal funds approved for Wyoming based companies as provided in this subsection. The program shall be administered by the council in consultation with the University of Wyoming research office. The following shall apply to the program under this subsection:

(i) To be eligible to receive funding, an entity shall:

(A) Be headquartered in Wyoming and organized under the laws of the state of Wyoming;

(B) Maintain a meaningful nexus to the state of Wyoming, including for not less than three (3) years after commercialization of a service, product, concept, design or any other marketable asset developed with the assistance of funds from the program;

(C) Have received funding under the federal small business innovation research and small business technology transfer programs;

(D) Propose a service, product, concept, design or any other marketable asset which has a probability of providing an economic return to the state of Wyoming through

creation of jobs, expanded tax base and diversification of the state's economy;

(E) Agree to provide a report to the council on or before July 1 of each year in the following manner:

(I) Prior to commercialization, the entity shall report on the progress of the entity to commercialize the service, product, concept, design or any other marketable asset developed with the assistance of funds from this program;

(II) If the entity commercializes a service, product, concept, design or any other marketable asset, and continues to market the product, concept or design or asset, the entity shall report for three (3) years on:

(1) The number of jobs the entity has created;

(2) A salary range per job;

(3) The taxable assets of the entity;

(4) All revenues from sales of the service, product, concept, design or any other marketable asset of the entity.

(F) Comply with the requirements of rules adopted pursuant to this subsection.

(ii) Matching funds shall be awarded to recipients as determined by the council in an amount not to exceed:

(A) For a recipient of a phase I award, a match up to one hundred percent (100%) of the award, not to exceed one hundred thousand dollars (\$100,000.00);

(B) For a recipient of a phase II award, a match up to one hundred percent (100%) of the award, not to exceed two hundred fifty thousand dollars (\$250,000.00).

(iii) Matching funds under this subsection shall be awarded to the recipient as soon as practicable after approval of the matching fund application;

(iv) An entity shall repay all matching funds provided under this subsection plus interest at the rate of four

percent (4%) per annum compounded annually from the date the matching funds were granted if:

(A) The entity commercializes a service, product, concept, design or any other marketable asset developed with the assistance of funds from this program; and

(B) The entity fails to maintain a significant nexus with the state of Wyoming within three (3) years of commercializing a service, product, concept, design or any other marketable asset developed with the assistance of funds from this program and continues to market the service, product, concept, design or asset.

(v) The council shall adopt rules for the program in consultation with the coordinator of economic diversification. The rules shall include but not be limited to:

(A) Application procedures;

(B) The number of awards and amount of funds available for award in any fiscal year;

(C) Timing of issuance of funds awarded under the program;

(D) Eligibility requirements;

(E) Provision for repayment of matching funds plus interest as provided in this subsection;

(F) Provision for service, product, concept, design or asset review and requirements under the program consistent with this subsection;

(G) Provisions to ensure adequate consideration for the amount of the funding provided. The council may include, but is not limited to, assessment of those items specified in W.S. 9-12-1405(b)(i) through (iv), specifying the allowable use of funds, requiring a recipient to seek additional nonstate investment funding and requiring the recipient to conduct its research in Wyoming to the extent practical.

(e) Not later than October 15, 2018 and every October 15 thereafter, the council shall report to the joint minerals, business and economic development interim committee concerning

the programs under subsections (c) and (d) of this section. The report shall include:

(i) A yearly and total summary of the number and amounts of matching funds awarded under each program;

(ii) A description of an entity and a service, product, concept, design or any other marketable asset developed which was commercialized with the assistance of funds from these programs within the prior three (3) years;

(iii) The realized economic impact of each program on the state, including jobs created, salary range per job created and potential impact to the local community.

(f) As used in this section, "commercialization" means the creation by an entity of commercial processes, products and services derived in whole or in part from research undertaken with matching funds awarded under subsection (c) or (d) of this section, which results in realized revenues to the entity of at least three (3) times the matching funds awarded under this section.

9-12-106. Planning and research.

(a) It shall also be the duty of the council to:

(i) Develop a comprehensive economic development strategy for the state, starting the first year of each new gubernatorial administration, consistent with the provisions of this act; and

(ii) Conduct such studies and research, in collaboration with state agencies, university and community colleges, local and regional industrial authorities and organizations, and other persons within and without the state, as the council may deem necessary, to assist in the development of the comprehensive economic strategy and the development of recommendations and advice on the improvement of economic development and related programs and strategies across the state.

(b) The council may establish a Wyoming market research center to conduct regional, national and international market research for Wyoming small businesses and potential entrepreneurs and to conduct market feasibility studies for value added projects across all economic sectors, including

agriculture. The center may utilize the services of student interns from the University of Wyoming and community colleges to provide those students with practical marketing experience.

(i) Repealed By Laws 2011, Ch. 20, § 2.

(ii) Repealed By Laws 2011, Ch. 20, § 2.

9-12-107. Tourism promotion and development.

(a) Repealed By Laws 2007, Ch. 5, § 2.

(b) Repealed By Laws 2003, Ch. 8, § 2.

9-12-108. Coordination of business permits.

(a) The council shall:

(i) Compile information on the federal, state and local requirements necessary to begin and operate a business in Wyoming and make this information available to the public on request;

(ii) Develop application procedures to expedite the state licensing and permitting process;

(iii) Assist prospective businesses in obtaining the necessary federal, state and local permits and licenses;

(iv) Encourage and facilitate the participation of federal, state and local government agencies in permit and license coordination;

(v) Review permit requirements and the value to the state of these permits and prepare recommendations for changes for submission to the appropriate agency, the governor and the legislature.

(b) The council may request assistance from any state agency to carry out its duties under this section. State agencies shall cooperate with the request for assistance.

(c) The Wyoming business council shall prepare and present to the economically needed diversity options for Wyoming (ENDOW) executive council a proposal under which the business council, by exercising the duties and authority provided in this section, will assist businesses within the state in priority economic

sectors identified in the approved twenty (20) year comprehensive economic diversification strategy under W.S. 9-12-1402(a)(iv) in obtaining necessary state, local and federal permits and licenses. The business council shall consult with businesses within Wyoming to identify specific federal, state and local regulations which unduly impede or delay permitting and licensing in the state and shall identify those regulations recommended for review by the entity with jurisdiction to eliminate unnecessary provisions. The business council proposals shall be submitted to the ENDOW executive council not later than July 1, 2018. The ENDOW executive council shall include recommendations for implementation of the business council proposals in its twenty (20) year comprehensive economic diversification strategy plan submitted pursuant to W.S. 9-12-1402(a)(iv) and in its first action plan under W.S. 9-12-1402(a)(v).

9-12-109. Promotion of agriculture.

(a) The council shall encourage and promote the development of agriculture in the state including horticulture, apiculture, livestock, poultry, dairying and the kindred industries and including the development of new value-added agribusiness and product uses and markets for Wyoming agricultural products.

(b) The council shall solicit input from industry groups and in consultation with the economically needed diversity options for Wyoming (ENDOW) executive council:

(i) Develop a strategy to create small regionally located beef processing plants inspected by the United States department of agriculture and mid-to-large sized processing plants for international sales;

(ii) Market Wyoming grown agricultural products in-state, regionally, nationally and internationally, through market development, trade shows and social media and other media outlets;

(iii) Enhance the council's website to promote Wyoming grown agricultural products including match making services between key food system partners;

(iv) Provide loans or grants to be used to fund infrastructure for mid-sized meat processing plants for

international and interstate sales. Loans or grants under this paragraph shall be:

(A) Limited to funding infrastructure for plants processing meat products for export and for interstate sale;

(B) Provided through a program administered by the council, including the Wyoming business ready community program, and subject to all applicable statutes and rules governing the program.

9-12-110. Exemptions from taxation; exceptions.

The exercise of the powers granted by this act constitutes the performance of an essential governmental function. The council shall not be required to pay any taxes levied by any municipality or political subdivision of the state, other than to comply with the Wyoming employment security law and for assessments for local improvements, upon its property or monies. Except as provided herein, the council's monies and the income therefrom, shall be free from taxation of every kind by the state, municipalities and political subdivisions of the state.

9-12-111. Investment and management of funds; audit.

(a) Except as otherwise provided in this act, the council may invest funds not required for immediate disbursement in securities in which state funds may be invested as provided by law, sell securities it has purchased and deposit securities in any financial institution. Funds deposited in financial institutions shall be secured by obligations authorized as permissible security for state investments. In investing and managing its funds, the council shall exercise the judgment and care which persons of prudence, discretion and intelligence would exercise under similar circumstances in managing the permanent disposition of their funds, considering the probable income and the probable safety of their capital.

(b) The director of the department of audit or his designee shall conduct an audit of the books and accounts of the council. The examination shall include a financial and compliance audit of the council's operations as the examiner deems appropriate. The audit shall be conducted at least once in each year and copies of the audit report shall be filed with the secretary of state, the joint minerals, business and economic development committee and the legislative service office.

9-12-112. Annual report and budget.

(a) The council shall submit an annual report in the manner provided by W.S. 9-2-1014 and using the benchmarks prescribed in this act. In addition to the requirements of W.S. 9-2-1014, included within the annual report shall be:

(i) The status of the implementation of the comprehensive economic development strategy and recommended legislative and executive actions related to the implementation of the comprehensive economic development strategy;

(ii) A summary of the total investments made by the council under the Wyoming partnership challenge loan program, article 3 of this chapter, including:

(A) The name of each borrower and the amount of each loan;

(B) An evaluation of the loan success in economic development using appropriate performance indicators as identified by the council;

(C) The cost of the loan program to the people of Wyoming in terms of:

(I) Forgone interest that could have been obtained if the funds had been invested by the state treasurer with the permanent funds of the state;

(II) Administrative and other costs associated with the program.

(D) Revenues and any other benefits obtained from the program.

(iii) Repealed By Laws 2003, Ch. 8, § 2.

(iv) Progress concerning the development of the research marketing center and its self-sufficiency under W.S. 9-12-106(b);

(v) Repealed By Laws 2014, Ch. 7, § 3.

(vi) A summary of the total investments made, if any, by the council under the workforce housing infrastructure program under W.S. 9-12-901 through 9-12-905, including:

(A) The name of each borrower and the amount of each loan;

(B) An evaluation of the loan success in providing workforce housing infrastructure;

(C) The cost of the program to the people of Wyoming in terms of administrative and other costs associated with the program.

(b) The council shall submit its budget for review as provided by W.S. 9-2-1010 through 9-2-1014.

9-12-113. Conflicts of interest.

Council members shall be subject to the provisions of W.S. 16-6-118 and shall abstain from voting in accordance with that section.

9-12-114. Startup-Wyoming investments.

(a) The Wyoming business council in coordination with the economically needed diversity options for Wyoming (ENDOW) executive council, shall prepare a proposal under which the business council will invest in high growth startup business entities which provide opportunity to advance the entrepreneurial ecosystem in Wyoming in priority economic sectors identified in the approved twenty (20) year comprehensive economic diversification strategy under W.S. 9-12-1402(a)(iv). The proposal shall be directed to investments for seed stage development or growth stage funding of business entities. The council shall include in the proposal:

(i) A suggested entity or entities, if any, to oversee the council's investment decisions under this section;

(ii) The council's determination of whether existing statutory authority is sufficient to implement the program, and if additional statutory authority is required suggested legislation providing that authority;

(iii) Whether eligibility requirements for investment, beyond those specified in this section, should be provided by law;

(iv) Whether the council would propose additional rules to implement the program, together with a description of any such rules.

(b) The proposal shall be submitted to the ENDOW executive council not later than July 1, 2018. The ENDOW executive council shall include the proposal, together with changes recommended by the ENDOW executive council, in the twenty (20) year comprehensive economic diversification strategy plan submitted pursuant to W.S. 9-12-1402(a) (iv).

ARTICLE 2

SCIENCE, TECHNOLOGY AND ENERGY FINANCIAL AID

9-12-201. Assumption of science technology and energy authority functions.

In assuming the functions of the science energy and technology authority the council shall administer the program in accordance with the provisions of this act generally and the specific provisions of this article.

9-12-202. Applications for financial aid from the council.

(a) All applications for financial aid shall be submitted to the council who shall investigate and prepare a report concerning the advisability of approving the proposed financial aid for the applicant and concerning any other factors deemed relevant by the council.

(b) The investigation and report shall include such facts about the applicant under consideration as its history, wage standards, job opportunities, stability of employment, past and present financial condition and structure, pro-forma income statements, present and future markets and prospects, integrity of management as well as the feasibility of the proposed product to be granted financial aid, including the state of development of the product as well as the likelihood of its commercial feasibility.

(c) After consideration of the report, the council shall approve or deny the application. The applicant shall be promptly notified of the decision. In making the decision as to approval or denial of an application, the council shall give priority to those applicants whereby:

(i) The proceeds of the seed capital aid will only be used to cover the initial capitalization needs of the enterprise within Wyoming except as otherwise authorized in this article;

(ii) The enterprise has a reasonable chance of success;

(iii) Participation by the council is necessary to the success of the enterprise because funding for the enterprise is unavailable in the traditional capital markets, or because funding has been offered on terms that would substantially hinder the success of the enterprise;

(iv) The enterprise seed capital has the reasonable potential to create a substantial amount of primary employment within the state;

(v) The entrepreneur and other founders of the enterprise have already made or are contractually committed to make a substantial financial and time commitment to the enterprise;

(vi) There is a reasonable possibility that the council will recoup at least its initial investment from seed capital contracts; and

(vii) Binding commitments have been made to the council by the applicant for adequate reporting of financial data to the council including a requirement for an annual or other periodic audit of the books of the enterprise, and for control by the council over the management of the enterprise, so as to protect the investment including the right of access to financial and other records of the enterprise.

(d) In determining the level of financial support to be advanced, the council shall limit its proportion of financial aid consistent with the existence of a market failure in product development financing but shall not provide more than twenty percent (20%) of the funds of the council for any one (1) project. Any financial aid toward product development financing granted pursuant to this section shall be equally matched or exceeded by the applicant. No financial aid granted pursuant to this section shall in any manner be pledged as collateral by the applicant.

(e) Before granting any seed capital financial aid, the council shall enter into an agreement with the applicant

providing for a return to the council which is commensurate with the level of risk and amount of the financial aid.

ARTICLE 3
WYOMING PARTNERSHIP CHALLENGE LOAN PROGRAM

9-12-301. Definitions.

(a) As used in this article:

(i) "Business" means any proposed or existing enterprise which employs people within the state, provides services within the state, uses resources within the state or otherwise adds economic value to goods, services or resources within the state, and includes farm and ranch operations;

(ii) "Community development organization" means a group of private citizens organized as a business entity authorized to do business in this state for the purpose of providing financing for new, existing, or expanding businesses and other economic or community development purposes throughout its community or county, and which may take equity positions and shall take security positions in its borrowers' businesses and appropriate personal guarantees from the owners thereof;

(iii) "Economic development account" means the economic development enterprise account within the revolving investment fund created under article XVI, section 12 of the Wyoming constitution. The account shall consist of funds from payments as provided in W.S. 9-12-305 and other funds as provided by law;

(iv) "State development organization" means a corporation organized under W.S. 17-11-101 through 17-11-120 with the authority to provide financing for new, existing or expanding businesses and to fulfill other economic or community development purposes throughout the state of Wyoming, and which may take equity positions and shall take security positions in its borrowers' businesses and appropriate personal guarantees from the owners thereof;

(v) "Economic disaster" means an event occurring in Wyoming that has an economic impact with total lost revenues to impacted businesses in a twelve (12) calendar month period of at least four million dollars (\$4,000,000.00) or an economic impact with total lost revenues to impacted businesses in four (4) or less counties in a twelve (12) calendar month period of at least

one million dollars (\$1,000,000.00). The business council may use good faith estimates of lost revenues to businesses in determining whether an event qualifies as an economic disaster. Calculation of lost revenues shall only include actual losses incurred and shall not include any future losses;

(vi) "Bridge financing" means the provision of financing for that portion of the total project cost which is calculated by subtracting from total project cost the sum of ownership debt and equity. The council shall not consider a proposal in which the bridge financing component exceeds thirty-five percent (35%) of total project cost or one million dollars (\$1,000,000.00), whichever is less, and the business does not contribute more than fifteen percent (15%) of the total project cost;

(vii) "Guarantee loan participation" means a provision of financing by the council in which the council participates with a lender that has secured a federal guaranteed loan to guarantee repayment of a loan made to a business. The maximum participation by the council shall be fifty percent (50%) of the loan or two million dollars (\$2,000,000.00), whichever is less;

(viii) "Loan guarantee" means a provision of financing by the council in which the council guarantees a portion of a bank loan made to a business;

(ix) "Wyoming main street loan participation" means a provision of financing by the council in which the council participates with a lender that has made a loan to a business for building improvements to maintain the structure's historical character. The maximum participation by the council shall be seventy-five percent (75%) of the loan or one hundred thousand dollars (\$100,000.00), whichever is less;

(x) "Natural gas fueling infrastructure loan" means a loan issued by the council for the costs of the engineering, design, real property, equipment and labor necessary to install a functioning natural gas filling station to fuel motor vehicles which operate on natural gas as a transportation fuel.

9-12-302. Wyoming partnership challenge loan program; creation; rulemaking; administration account.

(a) The council shall establish and administer a partnership challenge loan program under this article and may

contract for necessary professional services. Loans authorized under the program shall be limited, except as otherwise provided under W.S. 9-12-304(c) through (h), to community development organizations and state development organizations and made in accordance with the provisions of W.S. 9-12-304. Any community development organization or state development organization may submit an application to the council to participate in the program on forms prescribed by and subject to rules promulgated by the council.

(b) The council shall establish all fees and interest rates to be charged for each loan as it is underwritten for this program. The interest rate for loans made under this program shall be not less than three percent (3%) per annum. Fees on loans under the program shall be paid monthly and deposited into a program administration account which is continuously appropriated to the council to be expended solely for the purpose of administering this article and loans authorized under it.

9-12-303. Council duties; actions on loan applications.

All complete applications to participate in the loan program established under this article which conform with the criteria established by law and rules promulgated under this article which are submitted to the council shall be considered by the council. The council shall review the application and may communicate directly with the applicant and other lenders or potential lenders of the applicant. The council shall approve or disapprove each application it considers in accordance with this article and rules promulgated under it. In making its determination under this section, the council shall consider whether approval of the application would cause unfair competition with any existing business in the area. The council shall establish loan amortization schedules, terms and conditions for each loan approved.

9-12-304. Criteria for loans.

(a) Except as otherwise provided under subsections (c) through (h) of this section, loans under this article may only be made by the council to community development organizations and state development organizations which meet the following eligibility criteria:

(i) The community development organization or state development organization will contribute an amount of cash or

cash equivalent at least equal to the loan it receives under this article to a program of investment in its area of local economic development;

(ii) The community development organization or state development organization will consolidate the loan it receives under this article and its required contribution under paragraph (i) of this subsection and make loans to Wyoming businesses and investments in support of Wyoming businesses, such as infrastructure construction loans and occupational training loans;

(iii) The community development organization has been endorsed by a resolution of the legislative body of its municipality or county or, in the case of a state development organization, has been endorsed by a resolution of the council; and

(iv) As part of any agreement under this article and to ensure funds loaned or committed under this section are invested by the community development organization or the state development organization in local economic development in a reasonable period of time, the council shall reserve the right to terminate the agreement.

(b) Loans, loan commitments or loan guarantees or any combination thereof shall be made under this article only:

(i) If the total amount to a single community development organization, or to a business for an economic disaster loan as provided under subsection (c) of this section, does not exceed five hundred thousand dollars (\$500,000.00), if the total amount to a business for bridge financing as provided under subsection (d) of this section does not exceed one million dollars (\$1,000,000.00), if the total amount to state development organizations does not exceed three million five hundred thousand dollars (\$3,500,000.00), if the amount to a business for a federally guaranteed loan as provided under subsection (e) of this section does not exceed two million dollars (\$2,000,000.00), if the amount to a business for a loan guarantee does not exceed one hundred thousand dollars (\$100,000.00) per loan guaranteed or eighty percent (80%) of any net loan loss by the bank, whichever is less, if the amount to a business for a Wyoming main street loan participation as provided under subsection (g) of this section does not exceed one hundred thousand dollars (\$100,000.00) or if the amount to a business for a natural gas fueling infrastructure loan as

provided under subsection (h) of this section does not exceed seventy-five percent (75%) of the total project cost or one million dollars (\$1,000,000.00), whichever is less;

(ii) If there are sufficient funds in the economic development enterprise account to fully fund it and all other outstanding commitments, loans, loan guarantees and guarantee loan participations;

(iii) If funds provided by the state are adequately collateralized. The adequacy of the collateral shall be determined by the council;

(iv) Repealed By Laws 2010, Ch. 69, § 208.

(c) Any business or group of businesses may apply to the council for designation of an area of this state as an area in which an economic disaster as defined in W.S. 9-12-301(a)(v) has occurred. The council shall prescribe the form and contents of such applications. The council shall review each application and make a determination as soon as practicable as to whether an economic disaster area designation shall be made. The council may make loans to any business located within the designated economic disaster area that has lost revenue as a result of the economic disaster. Subsection (a) of this section does not apply to economic disaster loans under this subsection.

(d) Any business may apply to the council for bridge financing as defined in W.S. 9-12-301(a)(vi). The council shall prescribe the form and contents of such application. The council shall review each application and make a determination as soon as practicable. In the event of a default for any loan made under this subsection, liability shall be shared proportionately between the state and the lending institution in the same percentage as the source of the loan. The interest of the state and the lending institution shall have priority over any claim of the business receiving the bridge financing or any other third party.

(e) Any business may apply to the council for a guarantee loan participation as defined in W.S. 9-12-301(a)(vii). The council shall prescribe the form and contents of the application. The council shall review each application and make a determination as soon as practicable. The council shall structure any guarantee loan participation so that in the event of default of any loan which is participated in under this subsection:

(i) Liability shall be shared proportionally between the state and the lending institution in the same percentage as the source of the funding for the loan; and

(ii) The interest of the state and the lending institution shall have priority over any claim of the business receiving the financing or any other third party.

(f) Any business may apply to the council for a loan guarantee as defined in W.S. 9-12-301(a)(viii). The council shall prescribe the form and contents of the application. The council shall review each application and make a determination as soon as practicable. The council shall structure any loan guarantee so that in the event of default of any loan that is guaranteed under this subsection:

(i) Liability to the state under the guarantee shall not exceed one hundred thousand dollars (\$100,000.00) per loan guaranteed or eighty percent (80%) of any net loan loss by the bank, whichever is less; and

(ii) The interest of the state and the lending institution shall have priority over any claim of the business receiving the financing or other third party.

(g) Any business may apply to the council for a Wyoming main street loan participation as defined in W.S. 9-12-301(a)(ix). The council shall prescribe the form and contents of the application. The council shall review each application and make a determination as soon as practicable. In the event of a default for any loan made under this subsection, liability shall be shared proportionately between the state and the lender in the same percentage as the source of the loan. The interest of the state and the lender shall have priority over any claim of the business receiving the main street loan participation or any other third party.

(h) Any business may apply to the council for a natural gas fueling infrastructure loan as defined in W.S. 9-12-301(a)(x). The council shall prescribe the form and contents of the application. The council shall review each application and make a determination as soon as practicable. In the event of a default, the state shall have priority over any claim of the business receiving the natural gas fueling infrastructure loan or third party. Notwithstanding W.S. 9-12-303, no interest or principal payments shall be due for the

first two (2) years of the loan term. All deferred interest during the first two (2) years of the loan term shall accrue to the principal balance. All loans issued under this subsection shall not exceed five million dollars (\$5,000,000.00) and after five million dollars (\$5,000,000.00) in loans have been issued, no further loans shall be issued under this subsection without further legislative approval. Subsection (a) of this section does not apply to natural gas fueling infrastructure loans under this subsection. In evaluating applications for a natural gas fueling infrastructure loan, the council shall consider whether:

(i) The geographic area in which the proposed natural gas fueling infrastructure will be located is currently served by existing natural gas fueling infrastructure; and

(ii) The location of the proposed natural gas fueling infrastructure has a significant number of government or private fleet vehicles with the potential to convert to natural gas.

9-12-305. Economic development enterprise fund account; deposits; continuous appropriation; loans.

Except for fees deposited in accordance with W.S. 9-12-302(b), all repayments of principal and interest to the state in connection with loans made under this article and other funds as appropriated by the legislature for the challenge loan program shall be deposited into the economic development enterprise account within the revolving investment fund. All funds in the account may be used for and are continuously appropriated for loans authorized to be made under this article. Funds within the account may also be transferred upon direction of the governor to the large project account within the revolving investment fund if required to meet loans or loan guarantees approved under W.S. 9-12-308. The total principal balance of outstanding loans shall not exceed the amounts appropriated by the legislature plus interest accrued and collected less any losses of loan principal or interest.

9-12-306. Audit; report.

(a) The director of the state department of audit or his designee shall annually examine the loan program created under this article and submit his report of examination to the governor, the legislature and the council. This examination shall include a financial and compliance audit of the council's operations, and such financial audit of borrowers under this article as the examiner deems appropriate. As a condition of any

loan under this article, the borrower shall agree to allow the examiner to examine its books and records. The examiner shall treat all proprietary information received in the course of the examination or audit as confidential.

(b) On or before July 15 of each year, the council shall submit a written report to the joint minerals, business and economic development interim committee reviewing rules adopted by the council during the reporting period, presenting a portfolio of loans made under the program and under W.S. 9-12-308 showing the number of jobs created as a result of loans in the portfolio including whether the jobs are permanent or temporary and presenting a risk analysis of the portfolio of loans prepared by the state banking commissioner. The report, portfolio of loans and risk analysis required under this subsection shall be public records. The risk analysis prepared by the state banking commissioner shall not be subject to the limitations of W.S. 9-1-512.

9-12-307. Penalty.

Any person who knowingly makes a false statement to the council in connection with an application under this article or article 9 of this chapter is guilty of a felony punishable by imprisonment for not more than two (2) years, a fine of not more than two thousand dollars (\$2,000.00), or both.

9-12-308. Large project loan program.

(a) The large project account within the revolving investment fund created pursuant to article 16, section 12 of the Wyoming constitution, created by 2014 Wyoming session laws, chapter 46, section 2, is continued and codified.

(b) Funds in the large project account within the revolving investment fund shall be used exclusively to promote and aid economic development of the state by providing loan guarantees or loans to proposed or existing enterprises that will employ people within the state, provide services in the state, use resources in the state or otherwise add economic value to goods, services or resources within the state consistent with this section.

(c) There is created a loan review committee to review all projects, loans and loan guarantees proposed under this section. The committee shall consist of:

(i) The governor or his designee;

(ii) The treasurer or his designee;

(iii) A member of the board of directors of the council who has expertise in banking or experience in the banking industry, designated by the chief executive officer of the council.

(d) The members of the loan review committee may request assistance from staff of the governor's office, the state treasurer's office, the council and any bank participating in the loan transaction or loan guarantee to review and evaluate proposed projects, loans and loan guarantees under this section.

(e) Loans and loan guarantees provided under this section shall be subject to the following procedures:

(i) Any project shall first be submitted to and reviewed by the council who shall provide preliminary recommendations for the size and parameters of the proposed loan or loan guarantee. For any loan or loan guarantee made by any nonpublic lender the council shall provide electronic notice to all Wyoming financial institutions of the potential loan terms and shall allow not less than fifteen (15) business days for Wyoming financial institutions to respond with expressions of interest with proposed terms. All offers of proposed terms shall be provided to the council, the loan review committee and the person seeking the loan for consideration. All information sent by electronic notice shall be treated in accordance with applicable confidentiality requirements. As used in this paragraph, "Wyoming financial institution" means as defined in W.S. 13-1-501(a)(i). The council shall review the project under the process set forth in W.S. 9-12-601 through 9-12-603. In developing recommendations for the size and parameters of the proposed loan or loan guarantee under this paragraph, the council may work with the bank that would issue the loan or loan guarantee;

(ii) The council shall require all persons seeking a loan to disclose and certify, under penalty of perjury, whether the person holds a position with or has any present, direct business connection to any state, county or municipal officer, employee or instrumentality or has any familial relationship as spouse, child, sibling or parent residing as a member of the same household in the principal place of residence of any state, county or municipal officer or employee. As used in this

paragraph, "direct business connection" includes employer-employee and coprincipal relationships. Information disclosed under this paragraph shall not be the determining factor in the selection process;

(iii) The council shall present the project and the proposed loan or loan guarantee and its terms to the loan review committee, which may accept or deny the proposed loan or amend its terms;

(iv) Upon a favorable recommendation by the council and the loan review committee, the project shall then be submitted to the state loan and investment board for final approval. The council and the loan review committee shall only forward projects and proposed loans under this section that have been determined to meet the requirements of this section;

(v) The state loan and investment board shall vote to accept or deny the project and the terms of the loan or loan guarantee developed for the project.

(f) The council and the loan review committee shall recommend, and the state loan and investment board shall only approve, the issuance of loan guarantees and loans under this section for projects that meet the following requirements:

(i) Are anticipated to have an economic impact and a public benefit greater than the economic impact and public benefit of projects regularly funded under the Wyoming business ready community program;

(ii) Based upon the findings of an independent third party selected and approved by the council, will provide the following minimum public benefits:

(A) The creation of a significant expansion of permanent jobs in the county or counties in which the project will be located;

(B) A significant increase in the assessed valuation of the county or counties in which the project will be located, by not less than the value of the loans or loan guarantees received by the applicant borrower;

(C) A substantial increase in the sales, property or other tax revenues to the county or counties where the project will be located; and

(D) Promotion of a stable, balanced and diversified economy.

(iii) Has a high likelihood of completion.

(g) The council shall establish the terms of any loan, loan participation or loan guarantee issued under this section in accordance with the following:

(i) Loans or loan guarantees provided under this section shall be adequately collateralized. To protect the state's interest, the council may negotiate protections with respect to any accepted collateral, including but not limited to escrow accounts, debt limitations, cash sweeps, pledge rights, corporate approval rights and other mechanisms the council deems appropriate;

(ii) Loans under this section shall bear interest at a fixed or adjustable rate. The interest rate shall be:

(A) Indexed to a rate as determined by rule adopted by the council, plus any additional premium determined by the council to be reasonably commensurate with the risk profile of the loan or loan guarantee, as approved by the loan committee; and

(B) Approved by the loan committee and the state loan and investment board.

(iii) The council shall ensure through certification of the applicant, or any other manner determined to be adequate by the council, a commitment of at least twenty-five percent (25%) of the total cost of the project from funding sources not provided by the state of Wyoming;

(iv) Loans or loan guarantees shall be used for direct investment in the project and shall not be used or made available to refinance preexisting debt incurred before commencement of the project;

(v) Borrowers shall demonstrate a balance sheet and cash flow sufficient to demonstrate their ability to repay the loan or loan guarantee;

(vi) Borrowers shall provide security to repay the loan with a residual value sufficient to repay the loan or loan guarantee in event of default;

(vii) When appropriate, the council may require continuing loan guarantees by affiliates and principals of the borrower;

(viii) Except as provided in this paragraph, the council shall ensure that the lead lender secures a first security interest in the entire project sufficient to adequately protect the investment of loan proceeds or proceeds guaranteed by the state under this section. The security interest shall be shared pro rata with the state in percentage of the loan or loan guarantee. If necessary, the council may allow the lead lender to accept substitute security that will protect repayment to the state on a basis substantially equivalent to a first security interest on the project. The council shall ensure that any alternate security is sufficient to prudently protect the state's pro rata interest;

(ix) The council shall charge a loan origination fee or loan guarantee fee of one percent (1%) of the total loan or guaranteed loan amount. Funds collected under this paragraph shall be deposited in the large project account within the revolving investment fund, less any amounts used to pay the costs of consultants retained pursuant to subsection (k) of this section.

(h) No loan or loan guarantee shall be made under this section without the written opinion of the attorney general certifying the legality of the transaction and all documents connected therewith.

(j) Repayment of principal and interest to the state in connection with loans made under this section shall be deposited to the large project account within the revolving investment fund. All funds within the account may be used for and are continuously appropriated for the purposes of this section. The total principal balance of outstanding loans under this section shall not exceed the amounts appropriated by the legislature plus interest accrued and collected less any losses of loan principal.

(k) The council is authorized to retain experts and service providers as necessary to fully evaluate, negotiate and implement the terms and conditions of the loans and loan

guarantees issued under this section. If an expert or service provider is retained by the council under this subsection, any costs incurred that exceed the loan origination fee or loan guarantee fee set in paragraph (g)(ix) of this section shall be paid by the applicant. The independent third party selected and approved by the council under paragraph (f)(ii) of this section shall not serve as an expert or service provider retained under this subsection.

(m) The council shall promulgate rules necessary for the implementation of this section.

ARTICLE 4 FILM AND VIDEO PROMOTION

- 9-12-401. Repealed By Laws 2003, Ch. 8, § 2.**
- 9-12-402. Repealed by Laws 2007, ch. 73, § 1.**
- 9-12-403. Repealed by Laws 2007, ch. 73, § 1.**
- 9-12-404. Repealed by Laws 2007, ch. 73, § 1.**
- 9-12-405. Repealed by Laws 2007, ch. 73, § 1.**
- 9-12-406. Repealed by Laws 2007, ch. 73, § 1.**
- 9-12-407. Repealed by Laws 2020, ch. 87, § 3.**
- 9-12-408. Renumbered by Laws 2019, ch. 186, § 5 as W.S. 9-12-1405.**
- 9-12-409. Renumbered by Laws 2019, ch. 186, § 5 as W.S. 9-12-114.**

ARTICLE 5 WYOMING COUNCIL FOR WOMEN'S ISSUES

9-12-501. Creation; areas of attention.

(a) The Wyoming council for women's issues is created within the Wyoming business council. The council for women's issues shall focus attention on the status of women in Wyoming with emphasis on the following areas:

- (i) Employment practices;

- (ii) Educational opportunities;
- (iii) Home and community;
- (iv) Legal rights and responsibilities.

(b) As used in this article, unless otherwise specified, "council" means the Wyoming council for women's issues.

9-12-502. Membership; term; appointments; vacancies; removal; officers; acceptance of gifts and donations; expenses.

(a) The council shall be composed of fourteen (14) members, each of whom shall serve for a term of six (6) years. The governor shall make the appointments and fill any vacancies for unexpired terms. The governor may remove any member as provided in W.S. 9-1-202. The council shall be composed of one (1) woman from each of the judicial districts in the state, four (4) persons chosen at large and the chief executive officer of the Wyoming business council or his designee who shall be an ex officio member. Not more than seventy-five percent (75%) of the members shall be from the same political party. Of the initial members appointed from each of the judicial districts, three (3) members shall be appointed for terms of two (2) years, three (3) members shall be appointed for terms of four (4) years and three (3) members shall be appointed for terms of six (6) years.

(b) The council shall elect a chairman and vice-chairman from its members. The Wyoming business council may employ a secretary on a part-time basis to assist the council. The council may accept gifts and donations.

(c) Members of the council shall receive no compensation but shall be reimbursed under W.S. 9-3-102 and 9-3-103 for per diem and travel expenses incurred in the performance of their duties.

ARTICLE 6
COMMUNITY INFRASTRUCTURE PROGRAM

9-12-601. Wyoming business ready community program; purpose; creation; rulemaking.

(a) It is the purpose of this article to promote economic development at the city, town and county level in order to create additional economic health and a stronger state economy.

(b) The council shall establish and administer a Wyoming business ready community program as provided by this article. Any city, town or county may submit an application to the council for a grant or loan under the program on forms prescribed by and subject to rules promulgated by the council. Grants or loans may be applied for by a joint powers board with the approval of all participating agencies to the joint powers agreement. Grants and loans may be made by the council for economic or educational development, planning or infrastructure projects, including the purchase of land, buildings, facilities, telecommunications infrastructure, rights of way, airports, sewer and water projects, roads, landscaping, recreational and convention facilities or other infrastructure determined by the council to be consistent with the purposes of this article. In adopting rules and making grants and loans under this article the council shall require all projects to be related to economic or educational development, planning or infrastructure, which shall not include rehabilitation or expansion of existing infrastructure unless the council determines the rehabilitation or expansion is necessary to meet the purposes of this article. Planning grants and loans shall be limited as provided in subsection (m) of this section. All grants, loans or cooperative agreements made under this article shall be referred by the council to the state loan and investment board for final approval or disapproval. The state loan and investment board may adopt rules as necessary to implement its duties under this article.

(c) Grants shall be matching grants as determined by the council. Loans shall be made at no or low interest rates.

(d) Grants or loans shall be made under this article, only if the applicant demonstrates that upon receipt of the grant or loan, all projected project costs will be funded. Grants or loans for one (1) project may not exceed a maximum annual amount established by rule of the council. Multi-year projects may be awarded up to the maximum annual amount each year, for a period not to exceed three (3) years, as approved by the state loan and investment board. The application shall identify the source of all funds to be used for the project.

(e) Grants or loans may be used to fund project costs in accordance with approved applications and rules of the council. Grant or loan funds may be used to contract with community development organizations and state development organizations in accordance with the purposes of this article and approved applications.

(f) Loans provided under this article shall be adequately collateralized as determined by the council. No loans shall be made without the written opinion of the attorney general certifying the legality of the transaction and all documents connected therewith. An election approving the project and borrowing for the project by the qualified electors of the borrowing entity shall be required only if the attorney general determines such an election is otherwise required by law.

(g) Repayments of loans under this section shall be credited to the business ready community account. The council shall promulgate rules and regulations to identify the type and maximum amount, as a percentage of the total grant, of the revenue that may be recaptured and credited to the account as a result of grants under this section.

(h) The council may also enter into cooperative agreements with the Eastern Shoshone Tribe and the Northern Arapaho Tribe in order to promote the purposes of this article.

(j) Grants may be made by the council for projects, in accordance with rules of the council, which:

(i) Improve the development of businesses that will provide data generation and information technology storage capabilities statewide or in municipalities of the state;

(ii) Encourage and provide for the expansion of existing businesses providing information technology storage enterprises in the state, including those developed through the University of Wyoming business technology center;

(iii) Provide a reduction of the costs of electrical power or bandwidth, or both, to businesses meeting the provisions of paragraph (j)(i) or (ii) of this section. In exchange for providing these reductions in costs, the political subdivision receiving the grant and providing the reduction in costs shall contract with the business to receive direct benefits and indirect economic development benefits including:

(A) A specific amount of capital investment by the business;

(B) A specific minimum payroll created by the business;

(C) The provision of information technology storage services to the state or the political subdivision at a price discounted from the fair market value of the services; and

(D) An agreement to repay with a reasonable rate of return any funds received to reduce costs if the business relocates from the political subdivision prior to the expiration of five (5) years from the date of first receiving funds.

(k) As used in this article:

(i) "Community development organization" means as defined by W.S. 9-12-301(a)(ii);

(ii) "State development organization" means as defined by W.S. 9-12-301(a)(iv).

(m) Planning grants and loans shall:

(i) Not exceed two percent (2%) of the total amount appropriated to the business ready community program in any fiscal year;

(ii) Not exceed one hundred thousand dollars (\$100,000.00) per project;

(iii) Be subject to a twenty-five percent (25%) match requirement, which match shall not be met through funds received from a community development block grant.

(n) Grant and loan recipients shall report the expenditures and progress related to a loan or a grant to the council at least annually and more frequently if deemed necessary by the council. At the end of the term of the grant or loan, the recipient shall furnish a comprehensive report to the council that shall, at a minimum, include a cumulative financial audit and a list of the accomplishments as a result of the grant or loan.

(o) On or before November 1 of each year, the council shall report to the joint appropriations committee and the joint minerals, business and economic development interim committee information on the administration of the business ready community program. The report shall include a list of all grant and loan requests made in the previous twenty-four (24) months, the amount approved by project, expenditures by project and the progress for each project as of the date of the report.

9-12-602. Wyoming business ready community program account.

There is created the business ready community account. Funds shall be credited to the account as provided by law. Funds in the account are continuously appropriated to the council to be used only for cooperative agreements, grants or loans authorized to be made under this article.

9-12-603. Council duties; actions on grant and loan applications.

All complete applications to participate in the grant and loan program established under this article which conform with the criteria established by law and rules promulgated under this article which are submitted to the council shall be considered by the council. The council shall approve or disapprove each application it considers in accordance with this article and rules of the council.

ARTICLE 7
AIR SERVICES FINANCIAL AID

9-12-701. Amended and Renumbered as W.S. 10-3-601 by Laws 2005, ch. 13, § 1.

9-12-702. Amended and Renumbered as W.S. 10-3-602 By Laws 2005, ch. 13, § 1.

9-12-703. Repealed by Laws 2019, ch. 35, § 2.

ARTICLE 8
WYOMING COMMUNITY FACILITIES PROGRAM

9-12-801. Wyoming community facilities program; purpose; creation; administration by council; rulemaking authority; eligible projects.

(a) It is the purpose of this article to assist communities to preserve former school and government facilities that have existing or future community uses.

(b) The council shall administer a Wyoming community facilities program as provided by this article, subject to the approval of grants and loans by the state loan and investment board as provided by this article.

(c) Any qualifying community with a demonstrated need for a community facility, including a city, town, county, joint powers board or other local governmental entity, may submit an application to the council for a grant or loan under this program on forms prescribed by and subject to rules promulgated by the council. Application by a joint powers board shall require the approval of all participating agencies to the joint powers agreement.

(d) Grants or loans may be recommended by the council and awarded by the state loan and investment board for economic development community facilities projects which provide:

(i) Space for community gatherings and functions;

(ii) Appropriate recreational, swimming and athletic facilities for community members, particularly youth;

(iii) Other functions or uses determined by the council to be consistent with the purposes of this article.

(e) In adopting rules and recommending grants and loans under this article, the council shall require all projects to be related to economic development or enhancement of quality of life in a community. Projects may consist of:

(i) The expansion, renovation or remodeling of existing surplus government facilities;

(ii) The purchase of an interest in or cooperative agreements for the expansion, renovation or conversion of school facilities to the extent the facilities exceed statewide school building and facility adequacy standards established by the school facilities commission under W.S. 21-15-115. No ownership interest to the project or facility under a project shall remain with the school district upon expenditure of any funds under this program for any project.

(f) All grants, loans or cooperative agreements recommended by the council shall be referred by the council to the state loan and investment board for final approval or disapproval in accordance with this article.

9-12-802. Community facility qualifications; demonstration of need.

(a) To qualify for a grant or loan under this article, an applicant shall demonstrate:

(i) A commitment by the applicant community to adequately maintain the project facility for which the grant or loan is requested during a reasonable period of time;

(ii) A partnership or other working arrangement or agreement with other local governmental entities to ensure the viability of the project facility over a reasonable period of time;

(iii) The project facility is not otherwise provided in the community or that such a facility exists except that the financing of that facility has not been paid in full;

(iv) The project will not compete with existing governmental organizations or businesses;

(v) The relationship of the project facility to a community economic development plan or to the enhancement of quality of life in the community;

(vi) That all project costs will be funded at the time of receipt of a grant or loan under this article, with funding sources specified within the project application;

(vii) The availability of funds sufficient to maintain the project facility. The project application shall clearly identify maintenance funding sources sufficient to cover maintenance costs for a period of not less than four (4) years;

(viii) Any other criteria developed by the council consistent with the purposes of this article.

9-12-803. Community facility grant and loan; approval by state loan and investment board.

(a) Grants shall be awarded on a matching basis at match proportions recommended by the council and approved by the board.

(b) Grants or loans may be used to fund project costs in accordance with approved applications and rules and regulations established by the council. Grant or loan funds may be used to contract with community development organizations and state development organizations in accordance with this article and

approved project applications. For purposes of this subsection, "community development organizations" shall be as defined under W.S. 9-12-301(a)(ii) and "state development organizations" shall be as defined under W.S. 9-12-301(a)(iv).

(c) Loans provided under this article shall be adequately collateralized as determined by the council. No loans shall be made without the written opinion of the attorney general certifying the legality of the transaction and all documents connected therewith. An election approving the project and borrowing for the project by the qualified electors of the borrowing entity shall be required only if the attorney general determines such an election is otherwise required by law.

(d) Repayments of loans under this article shall be credited to the community facilities program account.

(e) The council shall prioritize proposed cooperative agreements, grants and loans it recommends to the state loan and investment board in accordance with rules it adopts under this article.

(f) The state loan and investment board shall adopt rules as necessary to implement its duties under this article governing the approval or disapproval of projects recommended by the council.

9-12-804. Wyoming community facilities program account.

The community facilities program account is created within the special revenue fund and shall consist of funds credited to the account as provided by law. Funds in the account are continuously appropriated to the council to be used only for cooperative agreements, grants or loans authorized by the state loan and investment board under this article.

9-12-805. Tribal participation in community facilities program.

The council may enter into cooperative agreements with the business council of the Eastern Shoshone Indian Tribe, the business council of the Northern Arapaho Indian Tribe or the joint business council of the Eastern Shoshone and Northern Arapaho Indian Tribes to promote the purposes of the community facilities program and to allow those entities to participate in the program.

ARTICLE 9
COMMUNITY WORKFORCE HOUSING PROGRAM

9-12-901. Wyoming workforce housing infrastructure program; purpose; definitions.

(a) The legislature finds and declares that:

(i) There is in this state by reason of the location and expansion of mineral extractive industries and other economic developments, a critical shortage of adequate housing;

(ii) It is in the public interest of the citizens of this state to facilitate the provision of adequate housing in order to promote the economic welfare of the state and its residents by increasing employment, stimulating economic activity, augmenting sources of tax revenue, fostering economic stability, furthering health care and improving the balance of the state's economy;

(iii) It is the purpose of this article to promote and continue economic development by providing adequate housing necessary to create additional economic health and a stronger state economy;

(iv) This article constitutes a valid public purpose, of primary benefit to all citizens of the state of Wyoming.

(b) As used in this article:

(i) "Community development organization" means as defined by W.S. 9-12-301(a)(ii);

(ii) "Community land trust" means land held in trust as a public investment for the long-term benefit of a community to provide secure, affordable access to land and workforce housing for community residents;

(iii) "State development organization" means as defined by W.S. 9-12-301(a)(iv);

(iv) "Workforce housing" means owner-occupied, residential dwellings;

(v) "Workforce housing infrastructure" means publicly owned infrastructure to a workforce housing subdivision or development, and if determined by the council to be consistent

with the purposes of this article, through a workforce housing subdivision or development. To be considered "workforce housing infrastructure" under this article, the infrastructure shall be for a workforce housing subdivision or development for which the political subdivision making application under this article has required, through zoning or otherwise, the inclusion of a specified percentage or number of housing units at specified maximum initial sale prices or to have a specified initially finished, maximum square footage. In addition, the following shall apply:

(A) "Workforce housing infrastructure" includes:

- (I) Rights of way;
- (II) Sewer and water distribution projects;
- (III) Storm water control and drainage facilities;
- (IV) Streets, roads and bridges;
- (V) Curbs, gutters and sidewalks;
- (VI) Lift stations;
- (VII) Traffic signals;
- (VIII) Street lighting;
- (IX) Payment for the additional costs of over-sizing water and sewer distribution lines through or to a subdivision to accommodate future expansion;
- (X) The purchase of land as necessary to accommodate infrastructure projects;
- (XI) Other infrastructure determined by the council to be consistent with the purposes of this article.

(B) "Workforce housing infrastructure" shall not include:

- (I) Projects, the primary purpose of which is to bring public infrastructure to existing housing which is supplied by a well or uses a septic system. Nothing in this subdivision prohibits the use of funding under this article to

provide such infrastructure as incidental to an approved project;

(II) Refinancing of existing projects that have been financed previously with other resources;

(III) Financing any project under the Wyoming water development program established by W.S. 41-2-112 through 41-2-124;

(IV) Financing any project that does not provide for the construction of additional housing units or that involves rehabilitation or expansion of existing infrastructure unless the council determines the rehabilitation or expansion is necessary to meet the purposes of this article;

(V) Financing any infrastructure project which is not under public ownership.

9-12-902. Wyoming workforce housing infrastructure program; creation; rulemaking.

(a) The council shall establish and administer a Wyoming workforce housing infrastructure program as provided by this article. Any city, town, county or special improvement district may submit an application to the council for a loan under the program on forms prescribed by and subject to rules promulgated by the council. Loans may be applied for by a joint powers board with the approval of all participating agencies to the joint powers agreement. Loans may be made by the council for workforce housing infrastructure projects and community land trust projects. In adopting rules and making loans under this article the council shall require all projects to be related to workforce housing infrastructure or community land trusts.

(b) Loans may be made at zero interest rate, up to an annual interest rate equal to the average prime interest rate as determined in accordance with subsection (e) of this section. The council shall establish criteria for determining the maximum loan amounts subject to final approval by the state loan and investment board.

(c) Loans shall be made under this article, only if the applicant demonstrates that upon receipt of the loan, all projected project costs will be funded. Loans for one (1) project may not exceed a maximum annual amount established by rule of the council. Multi-year projects may be awarded up to

the maximum annual amount each year, for a period not to exceed three (3) years, as approved by the state loan and investment board. The application shall identify the source of all funds to be used for the project.

(d) Loans may be used to fund project costs in accordance with approved applications and rules of the council. Loan funds may be used to contract with community development organizations, state development organizations and nonprofit organizations in accordance with the purposes of this article and approved applications.

(e) Loans provided under this article shall be adequately collateralized as determined by the council. The council shall establish interest rates to be charged for loans under the program, but the interest rate shall not exceed an annual interest rate equal to the average prime interest rate as determined by the state treasurer. To determine the average prime interest rate, the state treasurer shall average the prime interest rate for at least seventy-five percent (75%) of the thirty (30) largest banks in the United States. The interest rate shall be adjusted on January 1 of each year. Interest rates shall be established in recognition of the repayment abilities and needs of the local governmental entity eligible for loans under the program. The council shall establish loan amortization schedules, terms and conditions for each loan approved.

(f) No loans shall be made without the written opinion of the attorney general certifying the legality of the transaction and all documents connected therewith. An election approving the project and borrowing for the project by the qualified electors of the borrowing entity shall be required only if the attorney general determines such an election is otherwise required by law.

(g) Loans and loan commitments or any combination thereof shall be made under this article only:

(i) If there are sufficient funds in the workforce housing infrastructure program account to fully fund it and all other outstanding commitments and loans;

(ii) If repayment of any loan provided by the state is adequately collateralized. The adequacy of the collateral shall be determined by the council, subject to final approval by the state loan and investment board.

(h) Repayments of loans under this section shall be credited to the Wyoming workforce housing infrastructure program account.

(j) The council may also enter into cooperative agreements with the Eastern Shoshone Tribe and the Northern Arapaho Tribe in order to promote the purposes of this article.

(k) After approval of loans, the applicants shall report to the council, as required by the approved application. The report shall include:

(i) The progress of the project until the project is completed;

(ii) Any additional information required by the council to ensure compliance with loan requirements or compliance with this article.

9-12-903. Council duties; actions on loan applications.

(a) All complete applications to participate in the program established under this article, which conform with the criteria established by law and rules promulgated under this article and which are submitted to the council, shall be considered by the council. The council shall approve or disapprove each application considered in accordance with this article and rules promulgated by the council. All loans or cooperative agreements made under this article shall be referred by the council to the state loan and investment board for final approval or disapproval. The state loan and investment board may adopt rules as necessary to implement its duties under this article.

(b) In adopting rules and making funds available under this article, the council shall provide a competitive application and scoring system adequate to measure the benefits of each application. The application scoring system shall target the projects based on ranking criteria which address:

(i) The need for the proposed housing;

(ii) The affordability of the proposed housing;

(iii) The number of additional housing units to be developed, with consideration of the percentage of critical workforce housing needs in the community to be served;

(iv) The extent to which the project is part of an overall community and economic development plan;

(v) The extent to which the project demonstrates readiness;

(vi) Any other criteria determined by the council to be consistent with the purposes of this article.

(c) The council may negotiate and enter into appropriate contracts or memoranda of understanding with Wyoming state agencies, authorities or instrumentalities as necessary or convenient to facilitate the council's duties under this article.

9-12-904. Community land trusts; eligibility; requirements.

(a) Loans made under this article for community land trusts, in addition to meeting other requirements of this article, shall require that:

(i) The land subject of the trust be owned or leased by a political subdivision of the state, including a city, town, county, special improvement district or a housing authority authorized under W.S. 15-10-116;

(ii) The land be used for workforce housing with lots for housing leased and with the political subdivision remaining the owner of the land or the primary lessee;

(iii) The leases of lots be upon such terms as to allow commercial lenders to lend funds for housing construction on terms comparable to housing built on fee owned lands;

(iv) The housing development on lands subject to the trust include a specified percentage or number of housing units at specified maximum initial sale prices or be required to have a specified initially finished, maximum square footage as required by the political subdivision making application under this article, through zoning or otherwise;

(v) The lease terms for housing constructed on the land subject to the trust provide for continuation of the initial long term community benefit through subsequent sales of the housing.

(b) The political subdivision owning or leasing the land subject to the community land trust may fulfill the requirements of this section directly, through a housing authority created pursuant to W.S. 15-10-116, or by agreement with private nonprofit entities.

9-12-905. Wyoming workforce housing infrastructure program account.

(a) There is created the workforce housing infrastructure program account. Funds shall be credited to the account as provided by law. Funds in the account shall be used only upon legislative appropriation for cooperative agreements and loans authorized to be made under this article. Except for any repayments of principal on loans, all funds including any earned interest in the account shall revert to the general fund on April 1, 2011. Any repayments of principal on loans under this article remaining in the workforce housing infrastructure program account at the end of a biennium shall not lapse and shall not revert as provided in W.S. 9-4-207 but shall remain in the account to implement the purposes of this section.

(b) Interest and repayments of principal on loans under this article shall be redeposited into the workforce housing infrastructure program account.

(c) Accrued interest and other earnings on unexpended funds within the account shall be credited to the workforce housing infrastructure program account.

ARTICLE 10
WYOMING TOURISM BOARD

9-12-1001. Wyoming tourism board; creation; composition; appointment; terms; compensation.

(a) There is created the Wyoming tourism board. The board shall serve as the leading proponent of Wyoming's tourism and hospitality industry and shall provide governance and oversight for the division of travel and tourism.

(b) The board shall be comprised of nine (9) members who shall be employed in or associated closely with the travel industry. The board shall be appointed by the governor, and approved with the advice and consent of the senate, in accordance with W.S. 28-12-101 through 28-12-103, as follows:

(i) One (1) member shall be from tourism appointment district 1, consisting of Albany, Carbon and Laramie counties;

(ii) One (1) member shall be from tourism appointment district 2, consisting of Converse, Goshen, Natrona, Niobrara and Platte counties;

(iii) One (1) member shall be from tourism appointment district 3, consisting of Campbell, Crook, Johnson, Sheridan and Weston counties;

(iv) One (1) member shall be from tourism appointment district 4, consisting of Lincoln, Sweetwater and Uinta counties;

(v) One (1) member shall be from tourism appointment district 5, consisting of Big Horn, Hot Springs, Park and Washakie counties;

(vi) One (1) member shall be from tourism appointment district 6, consisting of Fremont, Sublette and Teton counties;

(vii) Three (3) members shall be at-large members appointed to provide geographic and tourism industry balance.

(c) Each appointed member shall serve for three (3) years, except that the initial appointments of the members shall be:

(i) One (1) year for one (1) of the at-large members and the members appointed from tourism appointment district 2 and tourism appointment district 5;

(ii) Two (2) years for one (1) of the at-large members and the members appointed from tourism appointment district 1 and tourism appointment district 3; and

(iii) Three (3) years for one (1) of the at-large members and the members appointed from tourism appointment district 4 and tourism appointment district 6.

(d) No appointed member shall serve more than two (2) consecutive three (3) year terms.

(e) The board shall select a chairman and a vice-chairman from among its members.

(f) The governor may remove any member as provided by W.S. 9-1-202.

(g) Members of the board shall receive mileage and per diem for attending board meetings or other meetings as assigned by the board, in the same amount as state legislators and shall receive no other compensation for serving on the board.

(h) For purposes of this article, "board" means the Wyoming tourism board.

9-12-1002. General powers and duties of the board; rulemaking authority.

(a) The board shall be responsible for implementing the tourism program and functions assigned to the Wyoming business council under the Wyoming Economic Development Act, including the expenditure of all funds appropriated for the tourism program and shall:

(i) Assemble and distribute information concerning the scenic and recreational opportunities and resources of Wyoming;

(ii) Encourage close cooperation between public and private agencies engaged in stimulating recognition of Wyoming recreational resources;

(iii) Implement programs to promote tourism in Wyoming; and

(iv) Administer the film industry financial incentive program as provided in W.S. 9-12-402 through 9-12-406.

(b) The board shall assign a member to attend all regularly scheduled meetings of the Wyoming business council.

(c) The board shall promulgate rules and regulations necessary to implement this article.

MAINSTREET PROGRAM

9-12-1101. Definitions.

(a) As used in this article:

(i) "Board" means the Wyoming main street advisory board;

(ii) "Business area" means a commercial area existing at the time services under the Wyoming main street program are requested by a municipality;

(iii) "Municipality" means a city, town, county or district;

(iv) "Revitalization" means the process of engaging in activities to increase economic activity while preserving and building upon a location's historically significant characteristics.

9-12-1102. Wyoming main street advisory board.

(a) There is created a Wyoming main street advisory board. The board shall consist of seven (7) members appointed by the governor, not more than seventy-five percent (75%) of whom shall be from the same political party. Board members shall elect from their membership a chairman, vice-chairman and secretary.

(b) The governor may remove any member of the board as provided by W.S. 9-1-202.

(c) Board members shall serve a three (3) year term provided that of the initial board, two (2) members shall be appointed for a one (1) year term, two (2) members for two (2) year terms and three (3) members for three (3) year terms. Vacancies on the board shall be filled by appointment of the governor for the unexpired term.

(d) Members of the board shall receive the same per diem, expenses and travel allowance as members of the legislature while in actual attendance at meetings of the board and the performance of their duties relative thereto.

(e) The department shall provide staff services as required by the board to carry out the board's duties.

(f) The board shall meet as often as necessary to conduct business, but not less than three (3) times each year. Meetings shall be called by the chairman. A majority of members of the board shall constitute a quorum.

9-12-1103. Duties of the board.

(a) The board shall:

(i) Assist the council in developing a plan to operate the Wyoming main street program;

(ii) Annually review the program and report findings and recommendations, including recommendations for future legislation, to the governor;

(iii) Provide a comprehensive evaluation of the Wyoming main street program annually to the joint minerals, business and economic development interim committee no later than September 1 of each year. The report shall include findings and recommendations, including recommendations for future legislation.

9-12-1104. Duties of the council.

(a) The council shall establish and administer a Wyoming main street program to coordinate state and local participation in programs offered by the national main street center, created by the national trust for historic preservation, to assist municipalities in planning, managing and implementing programs for the revitalization of business areas.

(b) In carrying out subsection (a) of this section, the council shall:

(i) Enter into contracts to obtain business area revitalization services;

(ii) Subject to legislative authorization, employ any staff necessary to operate the Wyoming main street program;

(iii) With advice from the board, develop a plan describing the objectives of the Wyoming main street program and methods by which the council shall:

(A) Coordinate the activities of that program with private and public sector revitalizations of business areas;

(B) Solicit and use private sector funding for revitalization of business areas;

(C) Assist municipalities engaged in the revitalization of their business areas.

(iv) Coordinate with other state and local public and private entities that provide services to municipalities undertaking projects for the revitalization of business areas;

(v) Provide training, technical assistance and information on the revitalization of business areas to municipalities which do not participate in the Wyoming main street program;

(vi) Repealed By Laws 2009, Ch. 8, § 2.

(c) The council shall promulgate rules necessary to carry out the provisions of this article.

9-12-1105. Main street program.

(a) The council with advice from the board shall determine the number of municipalities to participate in the Wyoming main street program. The council shall select program participants that represent different geographical regions or populations. The council shall hold at least one (1) public hearing before making selections under this subsection.

(b) In making its selection pursuant to subsection (a) of this section, the council, with the assistance of the board, shall develop criteria for use in selecting program participants which relate to at least the following issues:

(i) Private and public sector interest in and commitment to revitalization of a business area selected by the municipality;

(ii) Potential private sector investment in a business area selected by the municipality;

(iii) Local organizational and financial commitment to employ a program manager for not less than three (3) years;

(iv) Local assistance in paying for the services of a design consultant recommended by the advisory board;

(v) Local commitment to assist in training programs to direct activities related to business areas in municipalities that do not participate in the Wyoming main street program.

ARTICLE 12
WYOMING ENERGY PERFORMANCE PROGRAM

9-12-1201. Definitions.

(a) As used in this article:

(i) "Agency" means a branch, agency, department, board, instrumentality or institution of the state of Wyoming, a county, a municipal corporation, a school district, a community college district, the University of Wyoming, the joint business council of the Eastern Shoshone and Northern Arapaho Indian tribes, the business council of the Eastern Shoshone Indian tribe, the business council of the Northern Arapaho Indian tribe, a joint powers board formed pursuant to this act or a special district specifically involved in providing facilities or functions enumerated in W.S. 16-1-104(c);

(ii) "Energy conservation measure" means an energy study, audit, improvement or equipment that is designed to provide energy, water and operational cost savings at least equivalent to the amount expended by a facility owner for such energy study, audit, improvement or equipment over a period of not more than twenty (20) years after the date such improvement or equipment is installed or becomes operational;

(iii) "Energy performance contract" means the contract that allows a facility owner to accomplish energy or water efficiency projects without upfront capital costs or capital appropriations. An energy performance contract shall not be considered to be a contract for public improvement pursuant to W.S. 15-1-113;

(iv) "Energy services company" means the contractor not organized under the auspices of a utility regulated by the public service commission with demonstrated technical, operational, financial and managerial capabilities to design and implement energy conservation measures and the ability to secure necessary financial measures to ensure related guarantees for

operational cost savings and who is responsible for the audit, design, implementation, measurement, verification and guarantee of savings for individual projects;

(v) "Facility owner" means an agency or group of agencies, a public hospital or other public entity responsible for an individual facility or group of facilities;

(vi) "Investment grade energy audit" means the detailed engineering investigation and report of a facility's current energy and water consuming equipment inventory, condition, operation, maintenance and performance, energy baseline, potential energy and water efficiency upgrades, life cycle costs and risks for future performance that provides the justification for the energy performance contract project;

(vii) "Wyoming energy conservation improvement program" means the Wyoming business council state energy office program designed to enable and support development and implementation of energy performance contract projects.

9-12-1202. Energy performance contracting.

The council shall establish a Wyoming energy conservation improvement program which provides support development and implementation of energy performance contract projects to facility owners voluntarily participating in the program. In order to participate in the program, facility owners and energy services companies shall be subject to the provisions of this article and rules adopted pursuant to this article.

9-12-1203. Energy performance contracting.

(a) Upon receipt of a request from a facility owner, the Wyoming business council shall provide the facility owner with a list of energy service companies interested in providing services to the facility owner and qualified by the Wyoming business council to participate in the Wyoming energy conservation improvement program.

(b) The energy services company participating in the Wyoming energy conservation improvement program shall provide an investment grade audit showing the estimated energy and operational cost savings that would result from the proposed energy conservation measures. Before executing any contract or lease purchase agreement under subsection (c) of this section, the energy services company shall provide the facility owner

with plans for the proposed energy conservation measures prepared by an engineer licensed to practice in Wyoming.

(c) Notwithstanding W.S. 15-1-113 and subject to the provisions of subsection (e) of this section, a facility owner may enter into an installment payment contract or lease purchase agreement for an energy or water conservation measure which meets the criteria of this section. Any documents related to negotiations entered into pursuant to this section with individual energy services companies by an agency or facility owner shall be considered trade secrets pursuant to the provisions of the Wyoming Public Records Act, W.S. 16-4-201 through 16-4-205. After a contract has been executed by an agency, the contract and all proposals from energy service companies shall be open records available for public inspection in accordance with the Wyoming Public Records Act.

(d) Energy performance contracts entered into pursuant to the Wyoming energy conservation improvement program shall require the energy services company to provide to the facility owner an annual reconciliation of the guaranteed energy savings. If the reconciliation reveals a shortfall in annual energy savings, the energy services company shall be liable for compensation to the facility owner for such shortfall under the provisions of the energy performance contract. If the reconciliation reveals an excess in annual energy savings, the excess savings shall be retained by the facility owner and shall not be used to cover potential energy savings shortages in subsequent contract years.

(e) An energy performance contract entered into pursuant to the Wyoming energy conservation improvement program may provide for financing, including tax exempt financing, by a third party. The contract for third party financing may be separate from the energy performance contract. A separate contract for third party financing shall include a provision that the third party financier shall not be granted rights or privileges that exceed the rights and privileges available to the energy services company.

(f) The Wyoming business council may provide support under the Wyoming energy conservation improvement program as requested by facility owners for purposes of this section. The Wyoming business council state energy office may fix, charge and collect reasonable fees for any administrative support and resources or other services provided by the Wyoming business council pursuant to this subsection.

(g) If the facility owner fails to appropriate or receive an appropriation of money for a periodic payment due for improvements made through an energy performance contract, any security interest in any property created pursuant to the energy performance contract, may be enforced by the holder of such a security interest against the property.

(h) The term of an energy performance contract shall not exceed twenty (20) years after the date on which the work required by the energy performance contract to implement all energy conservation measures is completed.

(j) The Wyoming business council shall submit to the joint minerals, business and economic development interim committee by October 1, an annual report on the energy performance contracting performed under the Wyoming energy conservation improvement program. The report shall include the number of applications submitted, the number of facility owners, the number of energy performance contracts, the results of the investment grade energy audits and the results of the energy performance contracts.

ARTICLE 13 WYOMING SMALL BUSINESS INVESTMENT CREDIT

9-12-1301. Short title.

This article shall be known and may be cited as the "Wyoming small business investment credit program".

9-12-1302. Definitions.

(a) As used in this article:

(i) "Affiliate" means any person who, directly or indirectly, owns, controls or holds power to vote fifteen percent (15%) or more of the outstanding voting securities or other voting ownership interest of a Wyoming small business investment company or insurance company licensed in this state and includes any person if fifteen percent (15%) or more of the outstanding voting securities or other voting ownership interest of that person are directly or indirectly owned, controlled or held with power to vote by a Wyoming small business investment company or insurance company licensed in this state. "Affiliate" does not include an investment by a participating investor in a

Wyoming small business investment company pursuant to an allocation of premium tax credits under this article;

(ii) "Allocation date" means the date credits under W.S. 9-12-1305 are allocated to participating investors in a Wyoming small business investment company;

(iii) "Council" means the Wyoming business council or any designated subcommittee of its members;

(iv) "Designated capital" means an amount of money that:

(A) Is invested by a participating investor in a Wyoming small business investment company; and

(B) Fully funds the purchase price of a participating investor's qualified debt instrument issued by a Wyoming small business investment company.

(v) "Participating investor" means any insurer licensed in this state with a tax liability under W.S. 26-4-103;

(vi) "Qualified business" means a business which:

(A) Is independently owned and operated;

(B) Is headquartered in Wyoming, its principal operations are located in Wyoming, at least sixty percent (60%) of the employees are employed in Wyoming or the business has committed in writing to move to Wyoming as a condition of the investment;

(C) Has provided evidence acceptable to the council of its intent to remain in Wyoming after receipt of the qualified investment;

(D) Has two hundred fifty (250) employees or less;

(E) Is not a franchise of and has no financial relationship with a Wyoming small business investment company or any affiliate of a Wyoming small business investment company prior to a Wyoming small business investment company's first qualified investment in the business; and

(F) Is not predominately engaged in:

(I) Professional services provided by accountants, doctors or lawyers;

(II) Banking or lending except a bank holding company as defined in W.S. 13-1-101(a)(iii) which is authorized to establish a small business investment company;

(III) Insurance;

(IV) Direct gambling activities; or

(V) Making loans to or investments in a Wyoming small business investment company or an affiliate.

(vii) "Qualified debt instrument" means a debt instrument issued by a Wyoming small business investment company which:

(A) Is issued at par value or a premium;

(B) Has an original maturity date of at least four (4) years from the date of issuance and a repayment schedule which is not faster than a level principal amortization over four (4) years; and

(C) Satisfies the rating criteria to qualify as "NAIC 1" as determined by the securities valuation office of the national association of insurance commissioners.

(viii) "Qualified distribution" means any distribution or payment made by a Wyoming small business investment company in connection with:

(A) The costs and expenses of forming, syndicating and organizing the Wyoming small business investment company, including any fee paid for professional services, and the costs of financing and insuring the obligations of the Wyoming small business investment company;

(B) An annual management fee not to exceed three percent (3%) of designated capital on an annual basis to offset the costs and expenses of managing and operating a Wyoming small business investment company;

(C) Reasonable and necessary fees in accordance with industry custom for ongoing professional services,

including, but not limited to, legal and accounting services related to the operation of a Wyoming small business investment company;

(D) An increase or projected increase in federal or state taxes, including penalties and related interest, of the equity owners of a Wyoming small business investment company resulting from the earnings or other tax liability of a Wyoming small business investment company to the extent that the increase is related to the ownership, management or operation of a Wyoming small business investment company; and

(E) Payments of principal and interest to holders of qualified debt instruments issued by a Wyoming small business investment company.

(ix) "Qualified investment" means the investment of money by a Wyoming small business investment company in a qualified business for the purchase of any debt, debt participation, equity or hybrid security of any nature and description, including a debt instrument or security which has the characteristics of debt but provides for conversion into equity or equity participation instruments such as options or warrants, but shall not include any purchase of a guaranteed portion of a federally guaranteed loan;

(x) "State premium tax liability" means a liability incurred by an insurer under W.S. 26-4-103, or in the case of a repeal or reduction of the liability imposed by W.S. 26-4-103, any other tax liability imposed upon a participating investor by the state;

(xi) "Wyoming small business investment company" means a partnership, corporation, trust or limited liability company organized on a for-profit basis which is certified by the council pursuant to W.S. 9-12-1303.

9-12-1303. Certification.

(a) The Wyoming business council shall provide a form for applying for certification as a Wyoming small business investment company.

(b) An applicant to be certified as a Wyoming small business investment company shall:

(i) File an application with the council and pay a nonrefundable fee equal to the annual certification fee provided under W.S. 9-12-1308(b);

(ii) Submit as part of the application an audited balance sheet which contains an unqualified opinion of an independent certified public accountant issued not more than sixty (60) days before the application date and includes a statement that the applicant has an equity capitalization of five hundred thousand dollars (\$500,000.00) or more in the form of unencumbered cash, marketable securities or other liquid assets; and

(iii) Have at least two (2) principals or persons, employed or engaged to manage the funds who each have a minimum of five (5) years of money management experience in the venture capital or private investment industry or five (5) years of experience as an officer in a commercial bank and acceptable business qualifications as determined by the council in consultation with the Wyoming state banking commissioner.

(c) The council may certify a partnership, corporation, trust or limited liability company which is organized on a for-profit basis and submits an application to be designated as a Wyoming small business investment company if:

(i) The applicant is located, headquartered and licensed or registered to conduct business in Wyoming;

(ii) The applicant has as its primary business the activity of investing cash in qualified businesses;

(iii) After a review of the organizational documents and the business history of each applicant the council determines that the officers and the board of directors, general partners, trustees, managers or members of the applicant are acquainted with the requirements of this article; and

(iv) The applicant has complied with the requirements set forth in subsection (b) of this section for a Wyoming small business investment company and is otherwise qualified pursuant to the provisions of this article.

(d) Not more than forty-five (45) days after the receipt of an application under this section, the council shall issue a certification as a Wyoming small business investment company or refuse to issue the certification and provide to the applicant

the grounds for the refusal and any information that may allow the applicant to obtain certification.

(e) The council shall begin accepting applications for certification as a Wyoming small business investment company not later than January 1, 2011.

(f) The council may contract with an independent third party to review, investigate and certify that the applications under this section and requests under W.S. 9-12-1307(j) and 9-12-1310(c) comply with the provisions of this article.

9-12-1304. Requirements.

(a) An insurance company or affiliate of an insurance company or insurer shall not, directly or indirectly:

(i) Own, whether through rights, options, convertible interest, or otherwise, fifteen percent (15%) or more of the voting securities or other voting ownership interest of a Wyoming small business investment company;

(ii) Manage a Wyoming small business investment company; or

(iii) Control the direction of investments for a Wyoming small business investment company.

(b) A Wyoming small business investment company may obtain one (1) or more guaranties, indemnities, bonds, insurance policies or other payment undertakings for the benefit of its participating investors from any entity, except that in no case shall more than one (1) participating investor of the Wyoming small business investment company, including any affiliates of the participating investor, be entitled to provide such guaranties, indemnities, bonds, insurance policies or other payment undertakings in favor of the participating investors of the Wyoming small business investment company and its affiliates.

(c) This section shall not be construed to preclude a participating investor, insurance company or other party from exercising its legal rights and remedies including, without limitation:

(i) Interim management of a Wyoming small business investment company in the event that a Wyoming small business

investment company is in default of its statutory obligations or its contractual obligations to such participating investor, insurance company or other party;

(ii) Monitoring a Wyoming small business investment company to ensure its compliance with this section; or

(iii) Disallowing any investments that have not been approved by the council pursuant to this article.

9-12-1305. Wyoming small business investment credit.

(a) A participating investor under this article shall earn a credit against any state premium tax liability as provided in this section up to one hundred percent (100%) of the participating investor's investment of designated capital in a Wyoming small business investment company.

(b) A participating investor may claim in the year immediately following a credit under this section for tax years 2013, 2014, 2015, 2016, 2017, 2018 and 2019 in an amount equal to fourteen and two thousand eight hundred fifty-seven ten-thousandths percent (14.2857%) of the participating investor's investment of designated capital.

(c) The credit for any tax year shall not exceed the participating investor's state premium tax liability for that tax year. If the amount of the credit determined under this section for any tax year exceeds the liability for tax under this chapter, the credit may be carried forward to future tax years without limitation. The premium tax credits provided by W.S. 26-19-312, 26-42-111 and 26-43-105, and deposits to the volunteer firefighter, EMT and search and rescue pension account pursuant to W.S. 26-4-102(b)(ii), shall take priority over the premium tax credits provided by this section and shall be calculated using the gross premium tax before the credits provided by this section.

(d) A credit under this section may be used in connection with both final payments and prepayments of a participating investor's state premium tax liability.

(e) A participating investor claiming a credit under this section shall not be required to pay any additional tax or fee as a result of claiming a credit under this article.

(f) If the payment of state premium tax liability by a participating investor would result in a credit against or reduction in any other tax imposed by this state, the amount of such credit or reduction shall not be affected by the issuance of a credit under this section.

(g) Final decertification of a Wyoming small business investment company under W.S. 9-12-1310 shall result in the disallowance and the recapture of a credit under this section. The amount to be disallowed and recaptured shall be assessed as follows:

(i) If decertification of a Wyoming small business investment company is within four (4) years of its allocation date and prior to meeting the requirements of W.S. 9-12-1307(a)(ii), all credits under this section are disallowed. To the extent any credit had been taken, the tax shall be immediately due and payable and the collecting authority is authorized to collect the tax;

(ii) If decertification of a Wyoming small business investment company occurs after the company has met the requirements of W.S. 9-12-1307(a)(ii), no credits under this section are disallowed and no credits that were previously taken under this section shall be recaptured.

(h) A participating investor shall not transfer, agree to transfer, sell or agree to sell a credit under this section until one hundred eighty (180) days or more from the date on which the participating investor invested designated capital. One hundred eighty (180) days or more from the date of investment, a participating investor, or subsequent transferee, may transfer credits based upon rules adopted by the council in consultation with the department of insurance to facilitate such transfers. Any transfer or sale of credits shall not affect the time schedule for claiming a credit. Any tax credit required to be repaid under this section shall remain the liability of the participating investor that actually applied the credit towards its tax liability.

9-12-1306. Aggregate limitations on investment tax credits; allocation.

(a) The aggregate amount of investment tax credits to be allocated to all participating investors of Wyoming small business investment companies under this article shall not exceed thirty million dollars (\$30,000,000.00). No Wyoming

small business investment company, on an aggregate basis with its affiliates, shall file credit allocation claims that exceed thirty million dollars (\$30,000,000.00).

(b) Tax credits shall be allocated to participating investors in the order that the credit allocation claims are filed with the council, provided that all credit allocation claims filed with the council on the same day shall be treated as having been filed contemporaneously. Any credit allocation claims filed with the council prior to the initial credit allocation claim filing date shall be deemed to have been filed on such initial credit allocation claim filing date. The council shall set the initial credit allocation claim filing date to be not less than ninety (90) days and not more than one hundred twenty (120) days after the council begins accepting applications for certification as a Wyoming small business investment company under W.S. 9-12-1303(e).

(c) If two (2) or more Wyoming small business investment companies which are qualified under the provisions of this act file credit allocation claims with the council on behalf of their respective participating investors on the same day and the aggregate amount of credit allocation claims exceeds the lesser of the aggregate limit of investment tax credits under this section or the amount of credits that remain unallocated on that day, the credits shall be allocated among the participating investors who filed on that day on a pro rata basis with respect to the amounts claimed. The pro rata allocation for any one (1) participating investor is the product obtained by multiplying a fraction, the numerator of which is the amount of the credit allocation claim filed on behalf of a participating investor and the denominator of which is the total of all credit allocation claims filed on behalf of all participating investors on that day, by the lesser of the aggregate limit of credits under this section or the amount of credits that remain unallocated on that day.

(d) Not more than ten (10) business days after the council receives a credit allocation claim filed by a Wyoming small business investment company on behalf of one (1) or more of its participating investors, the council shall notify the Wyoming small business investment company of the amount of credits allocated to each of the participating investors of that Wyoming small business investment company. In the event a Wyoming small business investment company does not receive an investment of designated capital from each participating investor required to earn the amount of credits allocated to such participating

investor within ten (10) business days of the Wyoming small business investment company's receipt of a notice of allocation, it shall notify the council on or before the next business day and the credits allocated to such participating investor of the Wyoming small business investment company shall be forfeited. The council shall reallocate credits forfeited under this subsection among the participating investors of the other Wyoming small business investment companies on a pro rata basis with respect to the credit allocation claims filed on behalf of the participating investors.

(e) The council may impose a civil penalty of not more than fifty thousand dollars (\$50,000.00) upon a participating investor which does not invest the full amount of designated capital required to fund the credits allocated to it by the council in accordance with the credit allocation claim filed on its behalf. The council shall provide by rule, notice and opportunity for hearing prior to imposing a civil penalty under this subsection. In determining the amount of the penalty the council shall consider the direct and indirect cost to the state as a result of the investor's failure to invest the full amount of designated capital.

(f) No participating investor, individually or on an aggregate basis with its affiliates, shall file an allocation claim for more than twenty-five percent (25%) of the maximum amount of investment tax credits authorized under this article regardless of whether such claim is made in connection with one (1) or more Wyoming small business investment companies.

(g) The council shall annually certify by January 31, the amount of investment tax credits for which each participating investor qualifies under this article as of December 31 of the previous year. The certification shall be made to the insurance commissioner, and to the entity otherwise authorized to collect the tax due if the credit is allowed against another tax liability to the state.

9-12-1307. Requirements for continuance of certification.

(a) To maintain certification under this article, a Wyoming small business investment company shall make qualified investments as follows:

(i) Within two (2) years after the allocation date, a Wyoming small business investment company shall invest an amount

equal to at least twenty-five percent (25%) of its designated capital in qualified investments; and

(ii) Within four (4) years after the allocation date, a Wyoming small business investment company shall invest an amount equal to at least fifty percent (50%) of its designated capital in qualified investments.

(b) Before making a proposed qualified investment in a specific business, a Wyoming small business investment company shall request from the council a written determination that the proposed investment is a qualified investment in a qualified business. The council shall notify a Wyoming small business investment company within ten (10) business days from the receipt of a request of its determination and an explanation thereof. If the council does not notify the Wyoming small business investment company of its determination within ten (10) business days, the proposed investment is deemed to be a qualified investment in a qualified business.

(c) Any designated capital not invested in qualified investments by a Wyoming small business investment company shall be held or invested in such manner as the Wyoming small business investment company, in its discretion, deems appropriate.

(d) Designated capital and proceeds of designated capital returned to a Wyoming small business investment company after being originally invested in qualified investments may be invested again in qualified investments and such investment shall be considered under the requirements of subsections (a), (e) and (f) of this section for the purposes of making investments of designated capital in qualified investments.

(e) If, within six (6) years after its allocation date, a Wyoming small business investment company has not invested at least seventy percent (70%) of its designated capital in qualified investments, neither the Wyoming small business investment company nor its affiliates shall be permitted to receive management fees.

(f) If, within eight (8) years after its allocation date, a Wyoming small business investment company has not invested one hundred percent (100%) of its designated capital in qualified investments, neither the Wyoming small business investment company nor its affiliates shall be permitted to receive management fees.

(g) A Wyoming small business investment company shall not invest more than twenty percent (20%) of its designated capital in any one (1) qualified business without the specific approval of the council.

(h) For purposes of calculating the investment percentages in this section, the cumulative amount of all qualified investments made by a Wyoming small business investment company from the allocation date shall be considered.

(j) A Wyoming small business investment company may, at any time but not more than once every two (2) years, request that the council determine if the Wyoming small business investment company is in compliance with the requirements of this section. Upon a request under this subsection, the council shall, not later than sixty (60) days after receipt of a request under this subsection, certify that the Wyoming small business investment company has satisfied the requirements of this section as of the date of the request or provide notice of noncompliance and an explanation of the deficiencies. If the council does not provide such notification within the sixty (60) day period, the Wyoming small business investment company shall be deemed to have met the applicable requirements of this section as of the date of the request.

9-12-1308. Wyoming small business investment company reporting requirements.

(a) Each Wyoming small business investment company shall report the following to the council:

(i) As soon as practicable after the receipt of designated capital:

(A) The name of each participating investor from which the designated capital was received, including such participating investor's national association of insurance commissioners (NAIC) identification number;

(B) The amount of each participating investor's investment of designated capital; and

(C) The date on which the designated capital was received.

(ii) On or before January 31 of each year:

(A) The amount of the Wyoming small business investment company's remaining uninvested designated capital at the end of the immediately preceding fiscal year;

(B) Whether the Wyoming small business investment company has invested more than twenty percent (20%) of its total designated capital in any one (1) business;

(C) All qualified investments that the Wyoming small business investment company has made in the previous fiscal year, including the number of employees of each qualified business in which it has made investments at the time of such investment and as of December 1 of the preceding fiscal year; and

(D) For any qualified business where the Wyoming small business investment company no longer has an investment, the Wyoming small business investment company shall provide employment figures for that company as of the last day before the investment was terminated.

(iii) Any information that the council may require by rule and regulation:

(A) Which will help the council ascertain the impact of the Wyoming small business investment company program directly and indirectly on the economy of the state of Wyoming including, without limitation, the number of jobs created by qualified businesses that have received qualified investments; or

(B) Information on the operations of the Wyoming small business investment company that the council requires to determine compliance with the requirements of this article.

(iv) Within ninety (90) days of the close of its fiscal year, annual audited financial statements of the Wyoming small business investment company which shall include the opinion of an independent certified public accountant.

(b) The business council shall set annual certification fees through rule and regulation in the manner provided in W.S. 33-1-201(a). A Wyoming small business investment company shall submit to the council the annual, nonrefundable certification fee on or before April 1 of each year. The council shall transfer the fee to the state treasurer for deposit into the general fund. The annual certification fee shall not be required

for the year if the payment date under this subsection is within six (6) months of the date a Wyoming small business investment company is first certified by the council under W.S. 9-12-1303.

9-12-1309. Distributions.

(a) A Wyoming small business investment company may make a qualified distribution at any time. In order for a Wyoming small business investment company to make a distribution other than a qualified distribution to its equity holders, the cumulative amount of all qualified investments of the Wyoming small business investment company shall equal or exceed one hundred percent (100%) of its designated capital.

(b) A Wyoming small business investment company shall transfer to the state treasurer for deposit into the general fund an amount equal to ten percent (10%) of all distributions to the equity holders of the Wyoming small business investment company, other than qualified distributions and distributions of paid-in capital contributed to a Wyoming small business investment company by the equity holders. A Wyoming small business investment company shall make all contributions required under this subsection concurrently with distributions to its equity owners by payment to the Wyoming business council. The council shall upon receiving payment from the Wyoming small business investment company transmit the funds to the state treasurer for deposit into the general fund. Nothing in this subsection shall be construed to affect qualified distributions.

(c) If, more than ten (10) years after the allocation date, a Wyoming small business investment company has failed to cumulatively invest an amount equal to at least one hundred percent (100%) of its designated capital in qualified investments, the percentage of distributions that a Wyoming small business investment company is required to contribute to the state of Wyoming general fund under subsection (b) of this section shall be twenty-five percent (25%) of all distributions to the equity holders of the Wyoming small business investment company, other than qualified distributions and distributions of paid-in capital contributed to a Wyoming small business investment company by the equity holders.

9-12-1310. Decertification; certification of compliance.

(a) The council shall conduct an annual review of each Wyoming small business investment company to determine if each Wyoming small business investment company is abiding by the

requirements of this article and to ensure that no investment has been made in violation of this article. The cost of the annual review and other determinations under this article including certifications requested under W.S. 9-12-1307(j) and subsection (c) of this section shall be paid by each Wyoming small business investment company according to a fee schedule adopted by the council sufficient to cover actual direct and indirect costs of the review or certification.

(b) Any material violation of this article, including any material misrepresentation made to the council in connection with the application process, is a basis for decertification of a Wyoming small business investment company and the disallowance of credits under W.S. 9-12-1305, provided that in all instances the council shall provide notice to the Wyoming small business investment company of the grounds of a proposed decertification and the opportunity to cure any violation of this article before the decertification becomes effective.

(c) A Wyoming small business investment company may request that the council certify that the company has invested an amount cumulatively equal to one hundred percent (100%) of its designated capital in qualified investments as provided in W.S. 9-12-1307 and has complied with all other requirements provided under this article. Upon a request under this subsection, the council shall notify a Wyoming small business investment company not later than sixty (60) days after receipt of a request under this subsection:

(i) That it has achieved certification under this subsection; or

(ii) That it has not met the requirements of this article, provide a reason for the determination that the company has been determined not to have met the requirements of this article and decertify the company if applicable under subsection (b) of this section.

(d) If the council certifies a Wyoming small business investment company under subsection (c) of this section, the company shall no longer be subject to regulation by the council and shall not be subject to the reporting requirements under W.S. 9-12-1308. If the council does not provide notification within the sixty (60) day period as required in subsection (c) of this section, the Wyoming small business investment company shall be deemed to be certified as provided in subsection (c) of this section.

(e) The council shall provide written notice of any decertification proceedings under this section to the insurance commissioner and to the address of each participating investor whose tax credit may be subject to recapture or forfeiture, using the address shown on the last filing submitted to the council.

9-12-1311. Registration requirements.

Each investment by a participating investor for which a tax credit is awarded under this article shall be registered or specifically exempt from registration in accordance with applicable state or federal law.

9-12-1312. Reports to the governor and legislature.

(a) The council shall make an annual report to the governor, the joint appropriations interim committee and the joint minerals, business and economic development interim committee for review and comment. The report shall include:

(i) The number of Wyoming small business investment companies holding designated capital;

(ii) The amount of designated capital invested in each Wyoming small business investment company;

(iii) The cumulative amount that each Wyoming small business investment company has invested;

(iv) The cumulative amount of follow-on capital that the investments of each Wyoming small business investment company have created in terms of capital invested in qualified businesses at the same time or subsequent to investments made by a Wyoming small business investment company in such businesses by sources other than Wyoming small business investment companies;

(v) The total amount of investment tax credits applied under this article for each year;

(vi) The performance of each Wyoming small business investment company with regard to the requirements for continued certification;

(vii) The classification of the companies in which each Wyoming small business investment company has invested according to industrial sector and size of company;

(viii) The gross number of jobs created by investments made by each Wyoming small business investment company and the number of jobs retained;

(ix) The location of the companies in which each Wyoming small business investment company has invested;

(x) Those Wyoming small business investment companies that have been decertified, including the reasons for decertification; and

(xi) Other related information as necessary to evaluate the effect of this article on economic development.

ARTICLE 14

ECONOMICALLY NEEDED DIVERSITY OPTIONS FOR WYOMING (ENDOW) EXECUTIVE COUNCIL

9-12-1401. Economically needed diversity options for Wyoming executive council; creation; appointment and terms of members.

(a) There is created the economically needed diversity options for Wyoming (ENDOW) executive council. The members shall represent existing, new and emerging economic sectors or subsectors or have demonstrated executive level experience. The council shall consist of not more than twenty (20) voting members, appointed by the governor with the advice and consent of the senate. The presiding officers of the house and senate and the chairmen of the house and senate minerals, business and economic development committees shall be ex officio, nonvoting members. The governor may remove any appointed member as provided in W.S. 9-1-202. If an appointed member's position is vacant the governor shall appoint a new member as provided in W.S. 28-12-101. The governor, or his designee, shall be a member and chairman of the council, but shall not vote. The council shall elect a vice-chairman from among the appointed members. One-half plus one (1) of the appointed members shall have initial terms of four (4) years and the remaining members shall have initial terms of two (2) years. Thereafter, appointed members shall serve for terms of four (4) years.

(b) In appointing members the governor shall, to the extent practicable, provide for diversity of members based upon existing, new and emerging economic sectors and subsectors. No more than two (2) members shall be appointed to serve concurrently from the same economic subsector.

(c) Members of the council shall not receive compensation for their services, but when engaged in the performance of their duties, they may receive travel expenses, per diem and mileage expenses in the same manner and amount as employees of the state.

(d) The council shall meet as often as necessary to conduct business. Meetings shall be called by the cochairmen. A majority of the voting members of the council shall constitute a quorum for the transaction of any business or the exercise of any power or function of the council.

(e) The council shall be administered by the office of the governor and staffed and supported by the Wyoming business council, community college commission, University of Wyoming and department of workforce services. The council shall, where appropriate and authorized by the governor, make use of the services and facilities of other departments, boards, commissions and agencies of the state of Wyoming.

(f) As used in this article:

(i) "Business development and innovation zone" means defined geographic areas within the state in which local, state and federal permitting and other regulatory requirements will be met for all or significant segments of industry located in the zone or in which industries or businesses would be benefitted substantially as a result of being located in proximity to each other;

(ii) "Economic sector" and "economic subsector" means a primary business activity identified respectively as a sector or subsector in the most recent edition of the North American Industry Classification System (NAICS) manual.

9-12-1402. General powers and duties of the council; economic diversification policy and strategy; authority of governor.

(a) The ENDOW executive council shall:

(i) Receive and evaluate public input, opinions and recommendations regarding the diversification of Wyoming's economy and advise the governor and legislature of any findings or recommendations. The council shall seek the advice of departments, boards, commissions and agencies of the state of Wyoming;

(ii) By August 30, 2017, prepare and submit to the governor and legislature through the joint minerals, business and economic development interim committee, an exhaustive assessment of socioeconomic data, which shall include an examination of state and local fiscal sustainability, existing, new and emerging economic sectors and subsectors of the economy, identification of potential business development and innovation zones, an inventory of existing workforce strengths and deficiencies, economic trends and key enablers for economic growth in the state that translate to viable business development;

(iii) By December 31, 2017, prepare and submit to the governor and legislature a report of its preliminary findings and recommendations in the development of a comprehensive economic diversification strategy. The preliminary report shall evaluate investments necessary to support new and emerging industries or economic sectors, knowledge transfer, infrastructure, international trade, and cooperation between the public sector and private enterprise, assess the relationship between incremental state and local tax revenues, costs of public services and economic diversification and make recommendations as appropriate. The report shall identify specific areas which should be designated as business development and innovation zones. In identifying potential zones the report shall review the establishment of zones including, but not limited to, industries involving agriculture and agricultural business, renewable energy sources, advanced clean coal technologies, nuclear fuel processing and enrichment, hybrid energy sources, enhanced oil recovery, inland distribution ports, international trade, food and beverage industry distribution, promotion, marketing and development of the international trust and fiduciary business and related sectors, emerging research and technological development, existing, new and emerging economic sectors and subsectors, and value added manufacturing involving Wyoming resources. The potential zones shall be described by location in the state, including recommended boundaries. The report shall also identify existing industries in these areas which could be expanded and used to attract other businesses in the same,

related or mutually supporting industries. The report shall identify existing deficiencies and strengths in Wyoming's workforce and workforce training programs;

(iv) By August 1, 2018, prepare and submit to the governor for his approval a twenty (20) year comprehensive economic diversification strategy. The strategy shall contain explicit economic targets to guide the evolution of Wyoming's economy in order to build a sustainable and diversified, value added economy by 2038. The strategy shall identify agency specific or collective actions that can be implemented immediately without new state appropriations and resources and agency specific and collective actions that will require new state appropriations or reallocation of state resources. The strategy shall address the creation of business development and innovation zones and plans to implement the zones. The council may recommend to the governor modifications to the twenty (20) year plan from time to time as it deems advisable;

(v) In coordination with departments, boards, commissions and agencies of the state of Wyoming, develop four (4) year action plans with performance benchmarks, including policy recommendations and budget requests. Each plan shall specify a time period for creating business development and innovation zones within the plan's four (4) year period and a time schedule for full implementation of steps necessary to establish each zone. The council shall submit each action plan to the governor for his approval. After approval by the governor, the council shall, in coordination with departments, boards, commissions and agencies of the state, implement the action plan and provide regular progress reports in meeting targets and shall identify adjustments to be made to the governor and legislature;

(vi) Review with the Wyoming business council, community college commission, University of Wyoming, the department of workforce services, and other state agency directors as determined by the governor and ENDOW executive council to be necessary or desirable, agency enabling legislation, rules and regulations, policies, procedures and other governing mechanisms to determine amendments which would better align agency functions with the economic diversification strategy and to allow for implementation of business development and innovation zones;

(vii) Engage the private sector in review of state laws, rules and regulations, policies, procedures and other

governing mechanisms that inhibit economic diversification efforts, including those which stand as obstacles to the implementation of business development and innovation zones, in order to determine amendments to the same without compromising Wyoming's environmental and workplace standards;

(viii) Have the authority to contract with consultants through the Wyoming business council for rendering of professional, financial and technical assistance and advice, including for studies and investigation likely to lead to economic diversification;

(ix) At the request of the governor, review and make recommendations to the governor for approval on projects submitted for grant and other funding opportunities from nonstate sources which support the economic diversification strategy;

(x) Conduct studies to identify services, facilities and amenities that are attractive to businesses and their employees seeking to relocate but which are substantially lacking or deficient in Wyoming, and identify potential solutions to address those deficiencies to create working and community life climates attractive to a modern day workforce;

(xi) Develop a performance evaluation system, monitor progress and report to the governor the status of programs and activities outlined as goals, objectives or action items in the state's economic diversification strategy;

(xii) In consultation with the University of Wyoming, community colleges, the department of education, department of workforce services and Wyoming business council, review existing career technical education programs and develop recommendations regarding opportunities to better coordinate existing public and private programs, and develop or acquire existing career technical education facilities to further technical education opportunities in the state. The recommendations shall be included in the council's twenty (20) year economic diversification strategy and may be included in the council's four (4) year action plan as determined appropriate by the council.

(b) In carrying out his duties under this article the governor, in consultation with the presiding officers of the legislature, may convene advisors to obtain objective advice in the formulation of economic diversification policy, including

assessing local, national and global conditions and trends and evaluating the significance of those factors relative to Wyoming.

9-12-1403. Coordinator of economic diversification; duties.

(a) The governor shall designate a coordinator of economic diversification, who shall be a qualified elector of the state and who may be removed by the governor as provided in W.S. 9-1-202. The coordinator shall:

(i) Provide administrative support for the ENDOW executive council;

(ii) Direct and oversee the execution of Wyoming's economic diversification strategies and initiatives and the advancement of the interests of Wyoming in policy, program and project development and implementation to support diversification of the economy of Wyoming. Unless law directs a different state entity to undertake those programs and projects the coordinator may initiate or implement those programs and projects;

(iii) Coordinate activities with the Wyoming business council, community college commission, University of Wyoming, department of workforce services, Wyoming department of transportation, department of environmental quality, office of state lands and investments and other departments, boards, commissions, authorities and agencies of the state of Wyoming to assure efficient use of state resources in execution of Wyoming's economic diversification strategy;

(iv) Compile detailed information on all programs and projects undertaken for the purpose of measuring trends, development and progress in the diversification of the economy of Wyoming;

(v) Initiate, implement, sponsor, promote and coordinate policy research, policy development and economic analysis to support diversification of the economy of Wyoming;

(vi) Where appropriate and authorized by the governor, make use of the services and facilities of other departments, boards, commissions and agencies of the state of Wyoming.

9-12-1404. Economic diversification account created; authorized expenditures.

(a) There is created an economic diversification account. All monies in the account are continuously appropriated to the office of the governor to be used for the purposes of this article and as otherwise specified by law, including per diem, mileage and other administrative expenses of the ENDOW executive council. Notwithstanding W.S. 9-2-1008 and 9-4-207, funds in the account or subaccounts of the account shall not lapse at the end of the fiscal period. Interest earned on funds in the account shall be deposited to the account or appropriate subaccount. Within the account shall be subaccounts. For accounting and investment purposes only all subaccounts shall be treated as separate accounts. The subaccounts are as follows:

(i) The agriculture marketing subaccount. Funds within this subaccount may be expended as requested by the Wyoming business council and approved by the governor or his designee to provide funding for purposes of W.S. 9-12-109 and as specified by law;

(ii) The broadband development subaccount. Funds within this subaccount may be expended as requested by the Wyoming business council and approved by the governor or his designee to provide funding for agreements entered into pursuant to W.S. 9-12-1501 through 9-12-1508;

(iii) The Wyoming workforce development-priority economic sector partnership subaccount. Funds within this subaccount may be expended:

(A) As approved by director of the department of workforce services for administrative costs incurred by the department of workforce services associated with administration of the Wyoming workforce development-priority economic sector partnership program under W.S. 9-2-2609 through 9-2-2611; and

(B) As approved by the governor or his designee to provide funding for agreements entered into pursuant to W.S. 9-2-2609 through 9-2-2611;

(iv) The Wyoming research and innovation subaccount. Funds within this subaccount may be expended as requested by the Wyoming business council and approved by the governor or his designee to provide funding for agreements entered into pursuant to W.S. 9-12-1405;

(v) The "startup:Wyoming" subaccount. Funds within this subaccount may be expended as requested by the Wyoming business council and approved by the governor or his designee to provide funding pursuant to W.S. 9-12-105(b) through (f).

(b) The governor may accept, and shall deposit to the account, or to the appropriate subaccount within the account, any gifts, contributions, donations, grants or federal funds specifically designated for purposes of this article or other ENDOW related program.

9-12-1405. Wyoming research and innovation program fund created; authorized expenditures from the fund; rulemaking.

(a) The council shall administer a Wyoming research and innovation program under which matching funds necessary to access federal research and development grant funds or other nonstate funds may be provided as specified in this section. To be eligible to receive funding under the program an entity shall present to the council its proposal to apply for or an existing application for an externally funded grant specific to a priority economic sector identified in the approved twenty (20) year comprehensive economic diversification strategy under W.S. 9-12-1402(a)(iv). The entity shall demonstrate that further research funding from nonstate funds is likely to be provided if funding is provided under this section.

(b) The Wyoming business council, in consultation with the ENDOW executive council and the University of Wyoming shall promulgate rules necessary to carry out the provisions of this section. The rules shall include but not be limited to application procedures, eligibility requirements, the amount of funding which may be provided for any single project, provision for ensuring adequate consideration to the state in exchange for funding any project which does not solely involve a state agency or institution or political subdivision of the state, recapture of funding if the recipient of funds breaches any agreement under the program and prioritization for funding requests. In establishing provisions for adequate consideration to the state, the council may include, but is not limited to, assessment of the following:

(i) The potential for the creation of a high-growth company and number of new jobs created;

- (ii) The amount of nonstate or private financing leveraged to be used by the business in Wyoming;
- (iii) Potential increase in Wyoming based patents;
- (iv) Increase in Wyoming higher education institutions' capacity to respond to new research developments.

ARTICLE 15
BROADBAND DEVELOPMENT PROGRAM

9-12-1501. Broadband development program established; purposes; eligibility; definitions.

(a) A broadband funding program is established under the Wyoming business council to provide funds to eligible applicants in order to promote the expansion of access to broadband service in unserved areas of the state.

(b) Funds may be provided under this article for the acquisition, deployment and installation of infrastructure that supports broadband service at a minimum of at least twenty-five (25) megabits per second download and three (3) megabits per second upload in residential areas and one (1) gigabits per second download speed and one hundred (100) megabits per second upload speed in business corridors.

(c) Except as provided in subsection (d) of this section, eligible applicants for funding awarded under this article are public private partnerships which include:

(i) A business entity authorized to be formed under title 17 of the Wyoming statutes, or the laws of another state that are the functional equivalent, which is authorized to transact business in this state and has experience installing broadband infrastructure and providing broadband services in rural areas; and

(ii) A government entity specified in the following:

(A) A city, town or county or joint powers board; or

(B) A tribal government of either the Northern Arapaho or Eastern Shoshone tribes of the Wind River Indian Reservation.

(d) A governmental entity specified in subparagraph (c)(ii)(A) or (B) of this section shall develop a request for proposals, as prescribed by the council, on such a form as may be promulgated by the council, inviting business entities to participate in a project proposed for funding under this article. If no eligible business entity responds to the request for proposal with a proposal meeting the requirements specified, the governmental entity may apply individually, or jointly with any other governmental entity specified in subsection (c) of this section.

(e) As used in this article, until established otherwise by rule of the Wyoming business council pursuant to subsection (f) of this section, "unserved area" is an area in which there exists no fixed terrestrial broadband service, or in which the maximum fixed terrestrial broadband speed available:

(i) To residential customers is at speeds less than twenty-five (25) megabits per second download and three (3) megabits per second upload;

(ii) To a business corridor within a municipality:

(A) With a population of less than two thousand (2,000), is twenty-five (25) megabits per second download and three (3) megabits per second upload;

(B) With a population of two thousand (2,000) or more, is fifty (50) megabits per second download and five (5) megabits per second upload.

(iii) To a business corridor in an unincorporated area of a county, is twenty-five (25) megabits per second download and three (3) megabits per second upload.

(f) The Wyoming business council may, by rule effective on July 1, 2022, modify the definition of "unserved area" for purposes of this article. The rule shall only modify the definition by providing for upload and download speeds exceeding those specified in subsection (e) of this section as the business council determines appropriate for technological conditions prevailing as of July 1, 2022.

(g) The Wyoming business council shall by rule establish a definition of "business corridor" for purposes of this article. An area shall not be considered a business corridor unless multiple businesses are, or have undertaken permitting,

construction or other substantial steps to be, located in proximity to each other such that the provision of broadband services at the speeds specified in subsections (e) and (f) of this section is technologically and economically feasible.

9-12-1502. Application process.

(a) An eligible applicant shall submit an application to the council on a form prescribed by the council. The council shall develop administrative procedures governing the application and funding process by September 1, 2018. The council shall be responsible for receiving and reviewing applications, entering into contracts and authorizing the distribution of funds under this article, subject to approval by the governor or his designee.

(b) The council shall provide for funding periods not less frequently than biannually. At least thirty (30) days prior to the first day of the funding period for which applications may be submitted, the council shall publish on its official website the specific criteria and any quantitative weighting scheme or scoring system the council will use to evaluate or rank applications.

(c) Funding under this article to a public private partnership shall not require of the partnering business entity:

(i) An open access network;

(ii) Rates, terms and conditions that differ from those the provider offers in its other service areas;

(iii) Rate regulation; or

(iv) Time constraints to build which are not technologically feasible.

9-12-1503. Application contents.

(a) An applicant for funding under this article shall provide the following information on the application:

(i) The location of the project;

(ii) The kind and amount of broadband infrastructure to be deployed for the project, including initial speeds to be achieved and initial price of the service to be provided;

(iii) Evidence regarding the unserved nature of the area where the project is to be located;

(iv) The number of households and businesses passed that will have access to broadband service as a result of the project, or whose broadband service will be upgraded as a result of the project;

(v) Significant community institutions and industries that will benefit from the project;

(vi) Evidence of community support for the project;

(vii) The total cost of the project, including a business plan;

(viii) Sources of funding or in-kind contributions for the project that will supplement any funding under this article, including an examination of any federal grants available to the project. The application shall identify the amount of funding for the project to be provided by each governmental entity and by any business entity participating in the project. Funding provided by any other state source shall be specifically identified;

(ix) Evidence that no later than six (6) weeks before submission of the application the applicant contacted, in writing, all entities who are listed with the council as providing broadband service in the proposed project area to ask for each broadband service provider's plan to upgrade broadband service in the project area to speeds that meet or exceed the speeds proposed in the application, within the time frame specified in the proposed project activities;

(x) The broadband service providers' written responses, if any, to the inquiry made under paragraph (ix) of this subsection;

(xi) Acknowledgement by the governing body, and any partnering business entity by a person with legal authority to bind the business entity, that funding may only be provided in accordance with a contract executed in conformance with this article and is subject to availability and approval of distribution of funds;

(xii) If the application is not submitted jointly with a business entity, an account of the request for proposals issued by the governmental entity applying and responses to the request, if any;

(xiii) Additional information requested by the council.

9-12-1504. Challenge process.

(a) Within three (3) business days of the close of the funding application process, the council shall publish on its official website the proposed geographic broadband service area and the proposed broadband service speeds for each application submitted. An existing broadband service provider may, within thirty (30) days of publication of the information, submit in writing to the council a challenge to an application. A challenge shall contain information demonstrating that:

(i) The provider currently provides or has begun construction or undertaken permitting or other significant steps toward construction to provide broadband service comparable to that in the proposed project at speeds equal to or greater than the speeds proposed in the application and with other capabilities and project size comparable to the project proposed in the application; or

(ii) The provider commits to complete construction of broadband infrastructure and provide broadband service comparable to that in the proposed project at speeds equal to or greater than the speeds proposed in the application and with other capabilities and project size comparable to the project proposed in the application no later than eighteen (18) months after the funding determinations are to be made under this section for the application submitted.

(b) The council shall evaluate the information submitted in a provider's challenge under this section, and is prohibited from funding a project if the council determines the provider is currently providing broadband service or the provider's commitment to provide broadband service that meets the requirements of subsection (a) of this section in the proposed project area is credible.

(c) If the council denies funding to an applicant as a result of a broadband service provider's challenge made under this section, and the broadband service provider does not

fulfill the provider's commitment to provide broadband service in the project area, the council is prohibited from denying funding to an applicant as a result of a challenge by the same broadband service provider for the following two (2) fiscal years, unless the council determines that the broadband service provider's failure to fulfill the provider's commitment was the result of factors beyond the broadband service provider's control.

9-12-1505. Funding determinations.

(a) In evaluating applications and providing funding under this article, the council shall give highest priority to applications which the council determines are public private partnerships.

(b) In evaluating applications and entering into agreements to provide funding, the council shall give priority to applications that meet one (1) or more of the following criteria, with additional priority given for meeting multiple criteria:

(i) Offer new or substantially upgraded broadband service to important community institutions and businesses;

(ii) Serve economically distressed areas of the state, as measured by indices of unemployment, poverty or population loss that are significantly greater than the statewide average;

(iii) Include a component to actively promote the adoption of the newly available broadband services in the community;

(iv) Provide evidence of strong support for the project from citizens, government, businesses and institutions in the community;

(v) Provide access to broadband service to a greater number of unserved households and businesses;

(vi) Provide comparability to service offered in urban areas, both in speed and pricing by reference to standards published by the Federal Communications Commission;

(vii) Provide access to very high speed broadband service to business districts or other business areas and are

likely to secure economic benefits for the surrounding locality;
or

(viii) Leverage greater amounts of funding for the project from other private and public sources.

(c) The council shall endeavor to award grants under this section to qualified applicants in geographically diverse regions of the state.

9-12-1506. Limitations.

(a) No agreement under this article may fund more than fifty percent (50%) of the total cost of a project. At least ten percent (10%) of the project cost shall be matched in total by the governmental entity or governmental entities submitting the application. The council may reduce the minimum local governmental match based upon the merits of the project. Grant funds from other state or federal grant programs may be used to meet the fifty percent (50%) minimum matching requirement under this article, but shall not be used to provide the minimum match required of governmental entities under this subsection unless the council determines the governmental entity is unable to otherwise provide the match.

(b) No single project shall exceed five million dollars (\$5,000,000.00) in funding provided under this article.

(c) The council shall, by rule, adopt provisions to ensure that adequate consideration is provided for the expenditure of public funds on projects funded under this article.

9-12-1507. Application evaluation report.

(a) By June 30 of each year, following adoption of the state broadband enhancement plan, the council shall publish on its website and provide to the joint minerals, business and economic development interim committee a list of all applications for funding under this article received during the previous year and, for each application:

(i) The results of any quantitative weighting scheme or scoring system the council used to fund the applications;

(ii) The amount of funding requested; and

(iii) The funding provided under this article, if any.

(b) Within ninety (90) days after a project's proposed completion date, the council shall review the project and provide in the report under subsection (a) of this section, its determination of whether the project was completed and services rendered in accordance with the agreement under this article. If the council reports that a project was not completed or services are not being rendered in accordance with an agreement, it shall report actions it has taken to enforce the agreement.

9-12-1508. Minimum broadband speeds; rulemaking.

The council shall establish by rule minimum business and residential upload and download speeds which broadband projects must meet upon completion of construction to qualify for funding under this article. In establishing minimum speeds the council shall consider speeds established by the federal communications commission as minimums necessary to be considered "advanced telecommunications capability" and speeds needed to attract businesses to Wyoming communities. Speeds adopted by the council shall meet or exceed a download speed of twenty-five (25) megabits per second and an upload speed of three (3) megabits per second. For projects primarily serving business entities the minimum speed adopted by the council shall be one (1) gigabits per second download speed and one hundred (100) megabits per second upload speed, commencing January 1, 2022.

9-12-1509. Advisory council; broadband coordinator.

(a) The business council shall, in consultation with the economically needed diversity options for Wyoming (ENDOW) executive council, establish a broadband advisory council consisting of eleven (11) members. One (1) member shall be the state chief information officer or his designee. Remaining members shall be appointed by the council from the public at-large, with geographic diversity and to include diverse interests, including backgrounds in economic development, state or local government entities, broadband providers, technology related businesses, health care, education, library services and public safety. At least one (1) representative of the Northern Arapaho or Eastern Shoshone tribes of the Wind River Indian Reservation shall be appointed to the advisory council. One (1) senator appointed by the president of the senate and one (1) representative appointed by the speaker of the house shall serve as legislative liaisons to the advisory council. Legislative

liaisons shall be paid salary, per diem and mileage as provided in W.S. 28-5-101 when attending meetings of the advisory council. Members of the advisory council shall receive no salary, but shall be reimbursed under W.S. 9-3-102 and 9-3-103 for per diem and travel expenses incurred in the performance of their duties.

(b) The advisory council shall provide advice and make recommendations to the business council on the following subjects:

(i) The development of an inventory and map of current broadband availability, as provided by voluntary submission from broadband providers and derived from other resources, including Federal Communications Commission reports, and identification of areas of the state unserved by broadband technology;

(ii) Needs, practices and technologies for providing broadband services in the most efficient manner possible, to accommodate economic growth, diversification and development, and enhance education opportunities;

(iii) Coordination with the ENDOW executive council, the state chief information officer and local and tribal governmental entities to ensure that state and local policies are conducive to development of broadband services;

(iv) Applications received under this article, as requested by the council;

(v) Propose to the council:

(A) A state broadband enhancement plan, for adoption by the council not later than September 1, 2018;

(B) Not later than March 1, 2020, propose recommended changes to upload and download speeds specified in the definition of unserved areas, including unserved residential and business corridors.

(c) The business council shall, in consultation with the ENDOW executive council and the governor's office, designate an employee of the business council as coordinator of broadband services. The person designated shall have expertise in telecommunications and specifically in the provision of broadband services. As directed by the business council, the

coordinator shall staff the broadband advisory council. The coordinator shall, with approval of the business council, accomplish the tasks set forth in paragraphs (b)(i) through (v) of this section and undertake other duties as assigned by the business council in consultation with the governor's office. The business council may contract with a consultant to provide services to the broadband advisory council and to the business council under this act.

CHAPTER 13 GOVERNMENT ETHICS

ARTICLE 1 PUBLIC OFFICIALS, MEMBERS AND EMPLOYEES ETHICS

9-13-101. Short title.

This article shall be known and may be cited as the Ethics and Disclosure Act.

9-13-102. Definitions.

(a) As used in this article:

(i) "Anything of value" means:

(A) A pecuniary item, including money or a bank bill or note;

(B) A promissory note, bill of exchange, order, draft, warrant, check or bond given for the payment of money;

(C) A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money;

(D) A stock, bond, note or other investment interest in an entity;

(E) A right in action;

(F) A gift, tangible good, chattel or an interest in a gift, tangible good or chattel;

(G) A work of art, antique or collectible;

(H) An automobile or other means of personal transportation;

(J) Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested within realty, a leasehold interest or other beneficial interest in realty;

(K) An honorarium or compensation for services arising out of the person's service as a public official, public member or public employee;

(M) The sale or trade of anything of value:

(I) For reasonable consideration that would ordinarily not be available to a member of the public; or

(II) With a rebate or at a discount in its price, unless the rebate or discount is made in the ordinary course of business to a member of the public, or any group or category thereof, but without regard to that person's status as a public official, public member or public employee.

(N) A promise or offer of employment;

(O) Any other thing of value that is pecuniary or compensatory in value to a person.

(ii) "Anything of value" does not mean a campaign contribution properly received and reported, if reportable, as required under the Wyoming Election Code;

(iii) "Compensation" includes:

(A) An advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money or anything of value; or

(B) A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money or anything of value, for services rendered or to be rendered.

(iv) "Compensation" does not include:

(A) Reimbursement of expenses if the reimbursement does not exceed the amount actually expended for the expenses, and if the reimbursement is substantiated by an itemization of expenses; or

(B) Per diem payments or mileage allowances paid by the employing government entity in accordance with applicable law.

(v) "Family member" means an individual:

(A) Who is the spouse, parent, sibling, child, grandparent or grandchild; or

(B) Is a member of the individual's household.

(vi) "Gift" means anything of value to the extent that consideration of equal or greater value is not received, but excludes the following:

(A) Printed informational, educational or promotional material;

(B) A gift that:

(I) Is not used; and

(II) No later than thirty (30) days after receipt, is returned to the donor or delivered to a charitable organization and is not claimed as a charitable contribution for federal income tax purposes.

(C) A gift, devise or inheritance from any of the following, if the donor is not acting as the agent or intermediary for someone other than a person covered by this subparagraph:

(I) An individual's spouse;

(II) An individual's child, parent, grandparent, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle or first cousin;

(III) The spouse of any individual listed in subdivision (II) of this subparagraph;

(IV) Any person, including an organization, which has a bona fide social or private business relationship with the individual, where the circumstances demonstrate that the motivation for the gift arises out of that relationship and not from the recipient's holding of public office or employment. For the purposes of this subdivision, relevant circumstances include but are not limited to the source of funds used by the donor to acquire the gift;

(V) Any person, including an organization, where the gift does result from the person's holding an office or position, but where the gift is of nominal value, is made voluntarily by the donor and is made in recognition of a special occasion, such as marriage, illness or retirement.

(D) A certificate, commemorative token or item, or plaque with a value that does not exceed two hundred fifty dollars (\$250.00);

(E) Food and beverage;

(F) Compensation, per diem or other payments or benefits which the public official, public member or public employee receives in the performance of services for the governmental entity;

(G) Repealed By Laws 1999, ch. 140, § 2.

(H) Any loan, gift, gratuity, special discount or hospitality with a value of two hundred fifty dollars (\$250.00) or less; or

(J) Travel, registration and lodging for any conference or meeting while attending in his official capacity as a public official, public member or public employee.

(vii) "Local office" means the offices of county commissioner, county treasurer, county assessor, county clerk, county sheriff, county coroner, district attorney, county attorney, clerk of the district court, mayor and member of the council of a municipality, member of the board of trustees of a community college district or a school district and member of a joint powers board or special district. As used in this paragraph "special district" means any special district specified under W.S. 22-29-103(a) and any other corporate district authorized to be formed as a political subdivision under the laws of this state;

(viii) "Negotiating" or "negotiate for employment" means a communication, directly or indirectly, with a prospective employer to discuss rendering services for compensation to that prospective employer;

(ix) "Negotiation for employment" means the period that begins with a communication to a prospective employer to discuss rendering services for compensation to the prospective employer;

(x) "Official responsibility or official capacity" means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct government action;

(xi) "Participation" includes decision, approval, disapproval or vote;

(xii) "Public employee" means any of the following state employees:

(A) The attorney general and the director of any department of the executive branch appointed by the governor under W.S. 9-2-1706, or the director of any legislative agency;

(B) The chief executive officer of any separate operating agency under W.S. 9-2-1704(d), except those listed in paragraphs (d)(vi) and (x) of that section;

(C) To the extent the incumbent in the position serves at the pleasure of persons listed in subparagraphs (A) and (B) of this section, administrators of department or agency divisions, and deputy directors of departments;

(D) Commissioners of the public service commission and members of the state board of equalization;

(E) Deputies and administrators of divisions within the offices of state elected officials under W.S. 9-2-1704(a). The positions, in the governor's office, of chief of staff, attorney for intergovernmental affairs and chief of policy are included within this subparagraph.

(xiii) "Public member" means a member appointed to a part-time position on a state board, commission or council. A

public member does not lose this status by receiving reimbursement of expenses or a per diem payment for services. The term includes a member of the board of trustees of the University of Wyoming and the community college commission. The term does not include a public member of an advisory board, advisory commission or advisory council;

(xiv) "Public official" means an individual elected to a state or local office, or an individual who is appointed to fill a vacancy in a state or local office, whether or not the individual has yet assumed the office;

(xv) "State entity" means a state agency, office, department, division, bureau, board, commission or council, including the legislature, Wyoming community development authority and Wyoming science, technology and energy authority. The term does not include a court or an agency in the judicial branch;

(xvi) "State office" means the state offices of governor, treasurer, superintendent of public instruction, auditor, secretary of state and member of the state legislature;

(xvii) "This act" means W.S. 9-13-101 through 9-13-109.

9-13-103. Use of title and prestige of public office.

(a) No public official, public member or public employee shall use his office or position for his private benefit.

(b) As used in this section, "private benefit" means the receipt by the public official, public member or public employee of a gift which resulted from his holding that office.

9-13-104. Nepotism.

(a) No public official, public member or public employee shall advocate or cause the employment, appointment, promotion, transfer or advancement of a family member to an office or position of the state, a county, municipality or a school district. A public official, public member or public employee shall not supervise or manage a family member who is in an office or position of the state, a county, municipality or school district.

(b) A public official, public member or public employee, acting in his official capacity, shall not participate in his official responsibility or capacity regarding a matter relating to the employment or discipline of a family member.

9-13-105. Misuse of office.

(a) A public official, public member or public employee shall not use public funds, time, personnel, facilities or equipment for his private benefit or that of another unless the use is authorized by law.

(b) A public official, public member or public employee shall not use public funds, time, personnel, facilities or equipment for political or campaign activity unless the use is:

(i) Authorized by law; or

(ii) Properly incidental to another activity required or authorized by law and the public official, public employee or public member allocates and reimburses the governmental entity for any additional costs incurred for that portion of the activity not required or authorized by law.

(c) A public official, public employee or public member shall not disseminate to another person official information which the public official, public employee or public member obtains through or in connection with his position, unless the information is available to the general public or unless the dissemination is authorized by law.

9-13-106. Official decisions and votes.

(a) A public official, public member or public employee shall not make an official decision or vote on an official decision if the public official, public member or public employee has a personal or private interest in the matter. In determining whether he has a personal or private interest in a matter the public official shall recognize the importance of his right to represent his constituency and shall abstain from voting only in clear cases of a personal or private interest as defined in this subsection. A public official or public member shall not vote to give money or any direct financial benefit to himself except for tax reductions affecting the general public. For the purposes of this section, a personal or private interest:

(i) Is, with respect to the public official, public employee or public member, an interest which is direct and immediate as opposed to speculative and remote; and

(ii) Is an interest that provides the public official, public employee or public member, a greater benefit or a lesser detriment than it does for a large or substantial group or class of persons who are similarly situated.

(b) A public official, public member or public employee described by subsection (a) of this section shall abstain from voting on the decision and from making any official decision in the matter. The public official's, public member's or public employee's abstention from voting must be recorded in the governmental entity's official records.

(c) This section shall not be construed to supersede W.S. 15-9-220, 16-6-118 or 16-9-203(f). Those provisions shall control to the extent inconsistent with this section.

9-13-107. Actions taken while negotiating for employment.

A public official, public member or public employee may not vote or take an official action in a matter affecting a person with whom the public official, public member or public employee is negotiating for prospective employment.

9-13-108. Disclosure required.

(a) Not later than January 31 annually, each of the state's five (5) elected officials and each member of the Wyoming legislature shall file a financial disclosure form with the secretary of state. The form shall be signed by the elected official or legislator filing it and under a certification that it is accurate. Except as otherwise provided in this subsection, the financial disclosure form shall contain the following information current as of January 15 of that year:

(i) A list of all offices, directorships and salaried employment held by the person filing the form in any business enterprise, but excluding offices and directorships in a nonprofit corporation where no compensation is received for service;

(ii) A list generally describing the sources of, but not the amount of, the member's income;

(iii) A list of all state entities the person, or the person's business enterprise in which the person owns ten percent (10%) or more interest, has a contract with for services and supplies in an amount greater than five thousand dollars (\$5,000.00). The list shall include all contracts subject to this paragraph entered into by the elected official or legislator on and after January 15 of the prior year. For each contract, this list shall include the name and address of the business enterprise, if applicable, and state entity, the type and description of the contract and the effective date and term of the contract. For purposes of this paragraph "state entity" as defined in W.S. 9-13-102(a)(xv) shall include a court or an agency in the judicial branch.

(b) Forms may be submitted by facsimile transmission under the same terms and conditions specified for campaign reports under W.S. 22-25-106. For the purposes of this section, "salaried employment" means an employment relationship under which the employee is compensated, at least in part, by payment of a specified dollar amount for each month, or longer period, of service.

(c) The disclosure form shall be as prescribed by the secretary of state but in substantially the following form:

"State Elected Official Financial Disclosure Form

Name of Official:

Office held:

Business address:

Business phone number:

Home address:

Home phone number:

I. Offices, directorships and employment

a. Offices held in business enterprises (includes partnerships)

Office	Name and address of business enterprise
--------	---

b. Directorships held in business enterprises

Name and address of business enterprise

c. Salaried employment

Job Title Name and address of business enterprise

II. Sources of income

a. Employment Name and address of Employer

b. Business interests Name and address of all business entities but excluding interests if less than ten percent (10%) of the entity is owned, or sole proprietorship from which income is earned, or describe generally

c. Investments Income earned

Yes No

i. Any security or

interest earnings ____ ____

ii. Real estate,

leases, royalties ____ ____

d. Other (Describe generally)

III. Contracts

a. Name and address of business enterprise, if applicable

b. Name and address of state entity

c. Type, description, date and term of contract".

9-13-109. Penalties.

(a) Any person who violates this act is guilty of a misdemeanor punishable upon conviction by a fine of not more than one thousand dollars (\$1,000.00).

(b) Violation of any provision of this act constitutes sufficient cause for termination of a public employee's employment or for removal of a public official or public member from his office or position.

(c) If any action is prohibited both by this act and any provision of title 6, the provisions of this act shall not apply and the provisions of title 6 shall apply.

CHAPTER 14
PROTECTION OF CONSTITUTIONAL RIGHTS

9-14-101. Second amendment defense.

The attorney general may seek to intervene or file an amicus curiae brief in any lawsuit filed in any state or federal court in Wyoming, or filed against any Wyoming citizen or firm in any other jurisdiction for damages for injuries as a result of the use of fire arms that are not defective, if in his judgment, the action endangers the constitutional right of citizens of Wyoming to keep and bear arms. The attorney general is directed to advance arguments that protect the constitutional right to bear arms. Before intervening in any lawsuit pursuant to this section, the attorney general shall obtain the approval of the governor.

9-14-102. Unauthorized federal agency actions.

(a) The legislature finds:

(i) Rules enacted and other actions taken by a federal agency in excess of authority authorized by the United States congress acting within its powers under the United States constitution violate the constitution;

(ii) The federal environmental protection agency has increasingly expanded its rulemaking authority granted by the United States congress;

(iii) Current rulemaking and other actions of the federal environmental protection agency have severely impacted the ability of the state and its citizens to prudently develop the state's natural resources;

(iv) The federal occupational safety and health administration has expanded its regulation of highly hazardous chemicals on questionable authority;

(v) When rulemaking and other actions of the federal environmental protection agency or the federal occupational safety and health administration rest on questionable

congressional authority the state is authorized to protect its interests and the interests of its citizens and should challenge those actions, including unlawful rulemaking.

(b) The legislature declares it is the state's policy to vigorously defend its interests and those of its citizens against rulemaking and other actions of the federal environmental protection agency or the federal occupational safety and health administration which are not authorized by the United States congress or which rest upon questionable authority.

(c) The attorney general may seek to take action before the federal environmental protection agency, the federal occupational safety and health administration or in any state or federal court to stop the enforcement, administration or implementation of rulemaking or other actions taken by those agencies if, in his judgment, the rulemaking or other action exceeds the authority granted by the United States congress or otherwise rests on questionable authority. Before intervening in or initiating any lawsuit pursuant to this section, the attorney general shall obtain the approval of the governor.

CHAPTER 15 WILDLIFE AND NATURAL RESOURCE FUNDING

ARTICLE 1 GENERAL PROVISIONS

9-15-101. Short title.

This act shall be known and may be cited as the "Wyoming Wildlife and Natural Resource Funding Act."

9-15-102. Definitions.

(a) As used in this chapter:

(i) "Board" means the Wyoming wildlife and natural resource trust account board created by W.S. 9-15-104;

(ii) "Income account" means the Wyoming wildlife and natural resource trust income account created by W.S. 9-15-103(b);

(iii) "Large project" means a project for which the total of all grants sought or previously awarded under this act equals or exceeds two hundred thousand dollars (\$200,000.00);

(iv) "Natural resource heritage" means renewable natural resources managed under a balanced stewardship that provides for the optimization of social, economic and cultural benefits for the citizens of Wyoming;

(v) "Select committee" means the select natural resource funding committee created by W.S. 28-11-401;

(vi) "Small project" means a project for which the total of all grants sought or previously awarded under this act is less than two hundred thousand dollars (\$200,000.00);

(vii) "Trust account" means the Wyoming wildlife and natural resource trust account created by W.S. 9-15-103(a);

(viii) "This act" means W.S. 9-15-101 through 9-15-107.

9-15-103. Wyoming wildlife and natural resource trust account created; income account created; expenditures; purposes.

(a) A trust account is created to be known as the Wyoming wildlife and natural resource trust account. The trust account shall consist of those funds designated to the account by law and all monies received from federal grants and other contributions, grants, gifts, transfers, bequests and donations to the trust account. The trust account is specifically empowered to accept grants, gifts, transfers, bequests and donations including those which are limited in their purposes by the grantor. Title to any interest in any real property conveyed to the trust account shall be held in the name of the state of Wyoming and shall be administered by the board of land commissioners. Funds deposited within the trust account are intended to be inviolate and constitute a perpetual trust account which shall be invested by the state treasurer as authorized under W.S. 9-4-715(a), (d) and (e) and in a manner to obtain the highest return possible consistent with preservation of the account corpus.

(b) The state treasurer shall credit annually to a Wyoming wildlife and natural resource trust income account the interest earned from investment of the trust account corpus. The legislature may, from time to time, appropriate funds directly

to the income account for distribution in accordance with the terms of this act. Such specially appropriated funds shall be credited directly by the state treasurer to the income account and are available to the board for award of grants as otherwise permitted by this act.

(c) Individuals and other entities may also grant, give, transfer, bequest or donate funds to the trust account or the income account. Such funds shall be credited by the board, with receipt and acknowledgement submitted to the state treasurer, to either the trust account or the income account, as appropriate, in a manner consistent with the conditions attached to their receipt.

(d) The board may expend funds from the income account for staffing and other administrative expenses authorized under this act. Additional disbursements from the income account shall be for the following purposes:

(i) Improvement and maintenance of existing terrestrial habitat necessary to maintain optimum wildlife populations;

(ii) Preservation of open spaces by purchase or acquisition of development rights;

(iii) Improvement and maintenance of existing aquatic habitat necessary to maintain optimum fish populations;

(iv) Acquisition of terrestrial or aquatic habitat when existing habitat is determined critical, or is present in minimal amounts, and acquisition presents the necessary factor in attaining or preserving desired wildlife or fish population levels;

(v) Conservation, maintenance, protection and development of wildlife resources, the environment and Wyoming's natural resource heritage;

(vi) Participation in water enhancement projects to benefit aquatic habitat for fish populations and allow for other watershed enhancements that benefit wildlife;

(vii) To address and mitigate impacts detrimental to wildlife habitat, the environment and the multiple use of renewable natural resources attributable to residential, mineral and industrial development;

(viii) To mitigate conflicts and reduce potential for disease transmission between wildlife and domestic livestock.

(e) No funds shall be made available under this act for the reintroduction of any native or nonnative game or nongame species pursuant to the Endangered Species Act of 1973, 16 U.S.C. 1531 et seq., as amended.

(f) The board shall not have the power of eminent domain.

(g) No funds shall be disbursed under this act for fee simple title acquisition of real property, nor shall funds be disbursed under this act to purchase water rights to be held by the state of Wyoming.

(h) The board shall not accept any fee simple interest in real property but shall make recommendations to the board of land commissioners regarding acceptance of any such interest. The board of land commissioners shall only accept a fee simple interest in real property under this act, and the Wyoming wildlife and natural resource trust account board shall only accept any other interest in property if the property is willingly conveyed by the holder of the interest. The board of land commissioners may in its sole discretion reject any offer to convey a fee simple interest in real property to any account under this act. The Wyoming wildlife and natural resource trust account board may in its sole discretion reject any offer to convey any other interest in property to any account under this act. Any appraisal of real property conducted at the direction of the board or the board of land commissioners under this act shall reflect the fair market value of the property.

(j) The Wyoming wildlife and natural resource trust account board may recommend that the board of land commissioners dispose of any interest in real property within the trust account when the board determines that disposal of the interest would be in the best interests of the trust account. The net proceeds from any disposition of real property pursuant to this subsection shall be deposited to the trust account.

(k) No water right shall be accepted under this act as a gift, transfer, bequest or donation unless the right is attached to real property accepted under the terms of this act. Any change of use of a water right acquired in this manner shall be done in full compliance with all provisions of Wyoming law.

(m) The board shall not require public access to private land as a condition to receive any grant funds under this act.

(n) Every conservation easement funded in whole or in part with monies made available by this act shall bind the parties thereto to an agreement which provides that the state of Wyoming is a third party beneficiary to the easement solely with the contingent right to enforce the terms of the easement if the grantee fails to enforce any of the terms of the easement. The agreement shall provide that if the easement is transferred for value, sold or extinguished without the consent of the board, the state of Wyoming shall have the right to either take legal action to enforce the terms of the easement or to recover from the proceeds of the transfer for value, sale or extinguishment, the state's pro rata share of the proceeds based on the funds the state provided for the creation of the easement.

(o) No funds shall be disbursed under this act for the purchase of easements which mandate specific livestock or crop management practices.

(p) No funds shall be disbursed under this act for the purchase of easements which prohibit the use of land for ranching or farming if the ranching or farming could be conducted, using current or future technologies and techniques, without infringing on the underlying purpose of the easement.

(q) No funds shall be disbursed under this act for the purchase of easements which prohibit hunting, fishing or trapping.

(r) No funds shall be disbursed under this act unless the person receiving the funds certifies that no gratuities, kickbacks, gifts, commissions, contingency fees or other considerations have been or will be made in connection with the appropriation or the associated grant made by the board.

9-15-104. Wildlife and natural resource trust account board established; terms; meetings; duties.

(a) There is created the Wyoming wildlife and natural resource trust account board. The board shall consist of nine (9) members appointed by the governor and confirmed by the senate, who are residents of Wyoming. The members shall be appointed from each of the appointment districts set forth in W.S. 5-3-101. The board membership shall reflect a broad

spectrum of experiences including wildlife, agriculture, energy, sportsmen and tourism.

(b) Except as otherwise provided by this subsection, each appointed member of the board shall serve for a term of six (6) years. In 2011, three (3) members shall be appointed for six (6) years. In 2012, three (3) members shall be appointed for three (3) years. In 2013 and every second year thereafter, three (3) members shall be appointed for six (6) years. The governor may remove any member as provided in W.S. 9-1-202. Any vacancy occurring between sessions of the legislature may be filled by the governor as provided under W.S. 28-12-101(b). The board shall select one (1) of its members to serve as chair.

(c) Administration of any funds administered by the board shall be by the secretary to the board, who shall be employed by the board. The secretary shall not be housed in any agency which may be a grantee under this act. The secretary to the board shall further act as liaison for the board to other state, federal and local governmental agencies, as well as nonprofit organizations and members of the public who seek to provide input regarding grant proposals.

(d) The board shall meet regularly. Members shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their duties in the manner and amounts provided by law for state employees.

(e) The board shall receive and evaluate applications for grants from the income account, shall forward applications for large projects to the select committee for review and recommendation. The board may approve grants for any small project. Funds in the income account are continuously appropriated for small project grants approved by the board and for approved large projects as specified by subsection (k) of this section.

(f) The board shall adopt rules and regulations in accordance with the Wyoming Administrative Procedure Act as necessary to carry out its duties under this act, including rules to:

(i) Establish criteria for grants from the income account which accomplish the purposes of this act;

(ii) Establish criteria for matching funds or other in-kind contributions from grantees;

(iii) Evaluate, rank and prioritize grant proposals with an emphasis on those projects that are partnerships involving private and public entities;

(iv) Review and monitor grants to grantees;

(v) Evaluate the effects of grant proposals on citizen access to public and state lands for hunting, fishing and recreation activities;

(vi) Establish criteria for the acceptance or rejection of gifts, transfers, bequests and donations including interests in real or personal property, which criteria shall not be inconsistent with this act. Based on those criteria, the board shall make recommendations regarding the acceptance of any fee simple interest in real property to the board of land commissioners. Based on those recommendations, the board of land commissioners shall make a final determination on acceptance or rejection of any fee simple interest in real property under this act;

(vii) Consider the socioeconomic impacts of the grant proposal on the community affected;

(viii) Consider other necessary matters.

(g) In fulfilling its duties under this act the board may:

(i) Consult with other governmental agencies, persons and nonprofit organizations, as necessary;

(ii) Accept or decline federal grants and other contributions, grants, gifts, transfers, bequests and donations of any money, personal property or interests in real property other than a fee simple interest from any source. The board shall make recommendations regarding the acceptance of any fee simple interest in real property to the board of land commissioners;

(iii) Participate with for profit corporations to develop wildlife habitat, but may not divert financial resources to a for profit corporation;

(iv) Recommend to the joint appropriations committee and the select committee that funds be transferred from the income account to the trust account.

(h) The board shall annually report to the governor, the joint appropriations interim committee, the select committee and the joint travel, recreation, wildlife and cultural resources interim committee no later than September 1 with respect to all federal grants, state appropriations and other contributions, grants, gifts, bequests and donations received and credited to the trust account and income account during the preceding fiscal year. The report shall include all grants awarded by the board to nonprofit and governmental organizations and progress made toward the condition of any grant made.

(j) Until the corpus of the trust account exceeds two hundred million dollars (\$200,000,000.00) the governor may also include in his proposed state budget recommendations for additional funding of the corpus of the trust account. The governor may also include in his proposed state budget recommendations for additional funding of the income account.

(k) No funds shall initially be expended from the income account for large projects except upon specific legislative authorization. Following the initial legislative authorization to expend funds for a large project, the board may approve additional grants for that large project not to exceed a total of an additional one hundred thousand dollars (\$100,000.00) and shall forward a notice of any such additional grant to the select committee within thirty (30) days of each approval. Subsequent legislative authorization shall be required for any grant in excess of the limits of this subsection.

9-15-105. Grant applications; eligible entities.

(a) The board may only grant funds to nonprofit and governmental organizations. The board shall award grants to promote, preserve and enhance the wildlife, multiple use, natural resource and environmental heritage of Wyoming and its people. The board shall have the discretion to determine the amount of each grant and any conditions attached to the grant. For the purposes of this act, a grant shall not be used for the acquisition of a fee title interest in real property or any interest in water rights to be held by the state of Wyoming. Grant funds may be used for acquisition of personal property related to the project receiving the grant.

(b) Grants by the board shall not provide a supplement to, or replacement of, the operating budget of any governmental

agency or nonprofit organization except as those funds are directly related to the purposes of the grant.

(c) No grants shall be awarded until rules and regulations adopted by the board pursuant to W.S. 9-15-104(f) have become effective.

9-15-106. Audits.

The director of the department of audit or his designee shall audit the trust account annually. Copies of the audit shall be provided to the governor, the joint appropriations interim committee, the select committee and the joint travel, recreation, wildlife and cultural resources interim committee.

9-15-107. Application to mineral estates.

No provision of this act shall be construed to alter the law of Wyoming regarding the primacy of the mineral estate, to limit access to the mineral estate or to limit development of the mineral estate.

ARTICLE 2
LARGE PROJECT FUNDING

9-15-201. Repealed by Laws 2019, ch. 75, § 2.

ARTICLE 3
2008 LARGE PROJECT FUNDING

9-15-301. Repealed by Laws 2019, ch. 75, § 2.

9-15-302. Repealed by Laws 2019, ch. 75, § 2.

9-15-303. Repealed by Laws 2019, ch. 75, § 2.

9-15-304. Repealed by Laws 2019, ch. 75, § 2.

9-15-305. Repealed by Laws 2019, ch. 75, § 2.

9-15-306. Repealed by Laws 2019, ch. 75, § 2.

9-15-307. Repealed by Laws 2019, ch. 75, § 2.

9-15-308. Repealed by Laws 2019, ch. 75, § 2.

9-15-309. Repealed by Laws 2019, ch. 75, § 2.

9-15-310. Repealed by Laws 2019, ch. 75, § 2.

9-15-311. Repealed by Laws 2019, ch. 75, § 2.

ARTICLE 4
2009 LARGE PROJECT FUNDING

9-15-401. Repealed by Laws 2019, ch. 75, § 2.

9-15-402. Repealed by Laws 2019, ch. 75, § 2.

9-15-403. Repealed by Laws 2019, ch. 75, § 2.

9-15-404. Repealed by Laws 2019, ch. 75, § 2.

9-15-405. Repealed by Laws 2019, ch. 75, § 2.

9-15-406. Repealed by Laws 2019, ch. 75, § 2.

9-15-407. Repealed by Laws 2019, ch. 75, § 2.

9-15-408. Repealed by Laws 2019, ch. 75, § 2.

9-15-409. Repealed by Laws 2019, ch. 75, § 2.

9-15-410. Repealed by Laws 2019, ch. 75, § 2.

ARTICLE 5
2010 LARGE PROJECT FUNDING

9-15-501. Repealed by Laws 2019, ch. 75, § 2.

9-15-502. Repealed by Laws 2019, ch. 75, § 2.

9-15-503. Repealed by Laws 2019, ch. 75, § 2.

9-15-504. Repealed by Laws 2019, ch. 75, § 2.

9-15-505. Repealed by Laws 2019, ch. 75, § 2.

9-15-506. Repealed by Laws 2019, ch. 75, § 2.

9-15-507. Repealed by Laws 2019, ch. 75, § 2.

9-15-508. Repealed by Laws 2019, ch. 75, § 2.

ARTICLE 6
2011 LARGE PROJECT FUNDING

9-15-601. Repealed by Laws 2019, ch. 75, § 2.
9-15-602. Repealed by Laws 2019, ch. 75, § 2.
9-15-603. Repealed by Laws 2019, ch. 75, § 2.
9-15-604. Repealed by Laws 2019, ch. 75, § 2.
9-15-605. Repealed by Laws 2019, ch. 75, § 2.
9-15-606. Repealed by Laws 2019, ch. 75, § 2.
9-15-607. Repealed by Laws 2019, ch. 75, § 2.
9-15-608. Repealed by Laws 2019, ch. 75, § 2.
9-15-609. Repealed by Laws 2019, ch. 75, § 2.
9-15-610. Repealed by Laws 2019, ch. 75, § 2.
9-15-611. Repealed by Laws 2019, ch. 75, § 2.
9-15-612. Repealed by Laws 2019, ch. 75, § 2.
9-15-613. Repealed by Laws 2019, ch. 75, § 2.
9-15-614. Repealed by Laws 2019, ch. 75, § 2.

ARTICLE 7
2012 LARGE PROJECT FUNDING

9-15-701. Repealed by Laws 2019, ch. 75, § 2.
9-15-702. Repealed by Laws 2019, ch. 75, § 2.
9-15-703. Repealed by Laws 2019, ch. 75, § 2.
9-15-704. Repealed by Laws 2019, ch. 75, § 2.
9-15-705. Repealed by Laws 2019, ch. 75, § 2.
9-15-706. Repealed by Laws 2019, ch. 75, § 2.
9-15-707. Repealed by Laws 2019, ch. 75, § 2.

9-15-708. Repealed by Laws 2019, ch. 75, § 2.
9-15-709. Repealed by Laws 2019, ch. 75, § 2.
9-15-710. Repealed by Laws 2019, ch. 75, § 2.
9-15-711. Repealed by Laws 2019, ch. 75, § 2.
9-15-712. Repealed by Laws 2019, ch. 75, § 2.

ARTICLE 8
2013 LARGE PROJECT FUNDING

9-15-801. Repealed by Laws 2019, ch. 75, § 2.
9-15-802. Repealed by Laws 2019, ch. 75, § 2.
9-15-803. Repealed by Laws 2019, ch. 75, § 2.
9-15-804. Repealed by Laws 2019, ch. 75, § 2.
9-15-805. Repealed by Laws 2019, ch. 75, § 2.
9-15-806. Repealed by Laws 2019, ch. 75, § 2.
9-15-807. Repealed by Laws 2019, ch. 75, § 2.
9-15-808. Repealed by Laws 2019, ch. 75, § 2.
9-15-809. Repealed by Laws 2019, ch. 75, § 2.
9-15-810. Repealed by Laws 2019, ch. 75, § 2.
9-15-811. Repealed by Laws 2019, ch. 75, § 2.
9-15-812. Repealed by Laws 2019, ch. 75, § 2.
9-15-813. Repealed by Laws 2019, ch. 75, § 2.
9-15-814. Repealed by Laws 2019, ch. 75, § 2.
9-15-815. Repealed by Laws 2019, ch. 75, § 2.
9-15-816. Repealed by Laws 2019, ch. 75, § 2.
9-15-817. Repealed by Laws 2019, ch. 75, § 2.

ARTICLE 9
2014 LARGE PROJECT FUNDING

9-15-901. Repealed by Laws 2019, ch. 75, § 2.

9-15-902. Repealed by Laws 2019, ch. 75, § 2.

9-15-903. Repealed by Laws 2019, ch. 75, § 2.

9-15-904. Repealed by Laws 2019, ch. 75, § 2.

9-15-905. Repealed by Laws 2019, ch. 75, § 2.

9-15-906. Croonberg Ranch Conservation Easement.

(a) Authorization is granted for funding of the following large project as provided in this section.

(b) Project: Croonberg Ranch conservation easement:

(i) Project sponsor: Wyoming Stock Growers Agricultural Land Trust;

(ii) Project purpose: Permanent use restriction on approximately six thousand six hundred forty (6,640) acres in Albany county in order to:

(A) Preclude loss of habitat for mule deer, antelope, songbirds and other species;

(B) Secure migration routes and crucial habitat for a variety of wildlife species; and

(C) Allow for continued agricultural production.

(iii) Project description: Conservation easement;

(iv) Total project budget: Two million five hundred forty-eight thousand one hundred fifty dollars (\$2,548,150.00);

(v) Project grant: The Wyoming wildlife and natural resource trust account board is authorized to grant to the sponsor five hundred thousand dollars (\$500,000.00) for the purposes specified in this subsection;

(vi) Appropriation: There is appropriated from the income account to the board five hundred thousand dollars (\$500,000.00) or as much thereof as is necessary to carry out the purposes of this subsection. Unexpended and unobligated funds appropriated under this subsection shall revert to the income account on June 30, 2017.

9-15-907. Platte River Casper II.

(a) Authorization is granted for funding of the following large project as provided in this section.

(b) Project: Platte River Casper II:

(i) Project sponsor: City of Casper;

(ii) Project purpose: Restoration and rehabilitation of the Platte River corridor along approximately fourteen (14) miles of habitat through the City of Casper, through vegetation treatment, instream structures and wetland habitat establishment in order to:

(A) Restore habitats for fish in a blue ribbon trout fishery;

(B) Restore streamside habitats for songbirds, waterfowl and other riparian species; and

(C) Provide an enhanced opportunity for economic development associated with wildlife and natural resources.

(iii) Project description: Stream habitat enhancement and restoration;

(iv) Total project budget: Eleven million three hundred eighty-seven thousand five hundred seventy-six dollars and two cents (\$11,387,576.02);

(v) Project grant: The Wyoming wildlife and natural resource trust account board is authorized to grant to the sponsor two million dollars (\$2,000,000.00) for the purposes specified in this subsection;

(vi) Appropriation: There is appropriated from the income account to the board two million dollars (\$2,000,000.00) or as much thereof as is necessary to carry out the purposes of this subsection. Unexpended and unobligated funds appropriated

under this subsection shall revert to the income account on June 30, 2017.

9-15-908. Table Mountain Water II.

(a) Authorization is granted for funding of the following large project as provided in this section.

(b) Project: Table Mountain Water II:

(i) Project sponsor: Wyoming Game and Fish Commission;

(ii) Project purpose: Water development and management of wetland habitats on approximately three hundred ninety-five (395) acres in Goshen county in order to:

(A) Enhance aquatic habitats and nesting areas for waterfowl and upland game birds;

(B) Maintain and increase vital migration habitat for waterfowl; and

(C) Maintain irrigation efficiency for landowners in the area.

(iii) Project description: Water development and aquatic habitat improvement;

(iv) Total project budget: Nine hundred twenty-three thousand eight hundred seventy dollars (\$923,870.00);

(v) Project grant: The Wyoming wildlife and natural resource trust account board is authorized to grant to the sponsor three hundred twenty-four thousand seven hundred dollars (\$324,700.00) for the purposes specified in this subsection;

(vi) Appropriation: There is appropriated from the income account to the board two hundred sixty-four thousand dollars (\$264,000.00) or as much thereof as is necessary to carry out the purposes of this subsection. Unexpended and unobligated funds appropriated under this subsection shall revert to the income account on June 30, 2017.

9-15-909. Repealed by Laws 2019, ch. 75, § 2.

9-15-910. Harmony Diversion.

(a) Authorization is granted for funding of the following large project as provided in this section.

(b) Project: Harmony Diversion:

(i) Project sponsor: Wyoming Game and Fish Commission;

(ii) Project purpose: Improvement and restoration of river function on the Nowood River in Big Horn county in order to:

(A) Allow migration and passage of fish species in the main stem of the Nowood River;

(B) Improve and maintain irrigation efficiency; and

(C) Improve water quality by eliminating sediment discharge in the main stem of the Nowood River.

(iii) Project description: Stream habitat enhancement;

(iv) Total project budget: Two million dollars (\$2,000,000.00);

(v) Project grant: The Wyoming wildlife and natural resource trust account board is authorized to grant to the sponsor five hundred fifty thousand dollars (\$550,000.00) for the purposes specified in this subsection;

(vi) Appropriation: There is appropriated from the income account to the board five hundred fifty thousand dollars (\$550,000.00) or as much thereof as is necessary to carry out the purposes of this subsection. Unexpended and unobligated funds appropriated under this subsection shall revert to the income account on June 30, 2017.

9-15-911. Purple Sage Ranch Conservation Easement.

(a) Authorization is granted for funding of the following large project as provided in this section.

(b) Project: Purple Sage Ranch conservation easement:

(i) Project sponsor: Wyoming Stock Growers
Agricultural Land Trust;

(ii) Project purpose: Permanent use restriction on
approximately two thousand eight hundred (2,800) acres in Carbon
county in order to:

(A) Preclude loss of habitat for mule deer, elk,
antelope, songbirds and other species;

(B) Maintain important river and wetland
habitats;

(C) Secure migration routes and crucial habitat
for a variety of wildlife species; and

(D) Allow for continued agricultural production.

(iii) Project description: Conservation easement;

(iv) Total project budget: One million six hundred
sixty-eight thousand one hundred fifty dollars (\$1,668,150.00);

(v) Project grant: The Wyoming wildlife and natural
resource trust account board is authorized to grant to the
sponsor three hundred seventy-five thousand dollars
(\$375,000.00) for the purposes specified in this subsection;

(vi) Appropriation: There is appropriated from the
income account to the board three hundred seventy-five thousand
dollars (\$375,000.00) or as much thereof as is necessary to
carry out the purposes of this subsection. Unexpended and
unobligated funds appropriated under this subsection shall
revert to the income account on June 30, 2017.

ARTICLE 10 2015 LARGE PROJECT FUNDING

9-15-1001. Repealed by Laws 2019, ch. 75, § 2.

9-15-1002. Neonatal Mule Deer II.

(a) Authorization is granted for funding of the following
large project as provided in this section.

(b) Project: Neonatal Mule Deer II:

(i) Project sponsor: University of Wyoming;

(ii) Project purpose: Research reproduction and recruitment of juvenile mule deer in the Wyoming range in order to:

(A) Determine the causes of loss or lack of retention of neonatal and juvenile deer;

(B) Focus funding and action on habitat enhancement and management of mule deer that will directly address causal factors to loss or lack of retention of juvenile deer.

(iii) Project description: Applied research and habitat assessment;

(iv) Total project budget: Four hundred eighty-nine thousand four hundred sixty-one dollars (\$489,461.00);

(v) Project grant: The Wyoming wildlife and natural resource trust account board is authorized to grant to the sponsor two hundred seventy-nine thousand dollars (\$279,000.00) for the purposes specified in this subsection;

(vi) Appropriation: There is appropriated from the income account to the board one hundred thirty-one thousand dollars (\$131,000.00) or as much thereof as is necessary to carry out the purposes of this subsection. Unexpended and unobligated funds appropriated under this subsection shall revert to the income account on June 30, 2018.

9-15-1003. Repealed by Laws 2019, ch. 75, § 2.

9-15-1004. Repealed by Laws 2019, ch. 75, § 2.

9-15-1005. Little Laramie Conservation Easement.

(a) Authorization is granted for funding of the following large project as provided in this section.

(b) Project: Little Laramie Conservation Easement:

(i) Project sponsor: Rocky Mountain Elk Foundation;

(ii) Project purpose: Permanent deed restriction by conservation easement in order to:

(A) Maintain agricultural production and opportunity on high quality farm and ranch lands in Albany County;

(B) Preclude loss of essential habitats for a wide variety of species including elk, deer, antelope, neotropical migrant songbirds, fish and amphibians; and

(C) Maintain effective stream function and water management on a major river in southeast Wyoming.

(iii) Project description: Conservation easement;

(iv) Total project budget: One million six hundred fifty-three thousand dollars (\$1,653,000.00);

(v) Project grant: The Wyoming wildlife and natural resource trust account board is authorized to grant to the sponsor three hundred forty thousand dollars (\$340,000.00) for the purposes specified in this subsection;

(vi) Appropriation: There is appropriated from the income account to the board three hundred forty thousand dollars (\$340,000.00) or as much thereof as is necessary to carry out the purpose of this subsection. Unexpended and unobligated funds appropriated under this subsection shall revert to the income account on June 30, 2018.

ARTICLE 11 2016 LARGE PROJECT FUNDING

9-15-1101. Lazy BV Conservation Easement.

(a) Authorization is granted for funding of the following large project as provided in this section.

(b) Project: Lazy BV Conservation Easement:

(i) Project sponsor: The Nature Conservancy;

(ii) Project purpose: Restriction on residential development on approximately two thousand five hundred (2,500) acres in Park county in order to:

(A) Maintain key winter ranges and migration corridors for bighorn sheep, elk, deer and moose;

(B) Maintain access to spawning and year-round habitat for Yellowstone cutthroat trout;

(C) Maintain distribution of Greater Sage-grouse in a core population area; and

(D) Maintain agricultural production and opportunity on high quality farm and ranch lands.

(iii) Project description: Conservation Easement;

(iv) Total project budget: One million one hundred sixty-six thousand five hundred thirty-eight dollars (\$1,166,538.00);

(v) Project grant: The Wyoming wildlife and natural resource trust account board is authorized to grant two hundred sixty-nine thousand six hundred thirty-five dollars (\$269,635.00) to the sponsor for the purposes specified in this subsection;

(vi) Appropriation: There is appropriated from the income account to the board two hundred sixty-nine thousand six hundred thirty-five dollars (\$269,635.00) or as much thereof as is necessary to carry out the purposes of this subsection. Unexpended and unobligated funds appropriated under this subsection shall revert to the income account on June 30, 2019.

9-15-1102. Lower Encampment Watershed.

(a) Authorization is granted for funding of the following large project as provided in this section.

(b) Project: Lower Encampment River Restoration:

(i) Project sponsor: Trout Unlimited;

(ii) Project purpose: Stream habitat enhancement, fish passage modification, wetland enhancement and irrigation improvement in order to:

(A) Provide stability to stream function;

(B) Allow natural movement of trout in an area of high recreational value; and

(C) Enhance irrigation efficiency in an area of high productivity for agriculture.

(iii) Project description: Streambank stabilization, channel design and modification and enhancement of diversion structures;

(iv) Total project budget: Two million one thousand four hundred ninety dollars (\$2,001,490.00);

(v) Project grant: The Wyoming wildlife and natural resource trust account board is authorized to grant to the sponsor six hundred thousand dollars (\$600,000.00) for the purposes specified in this subsection;

(vi) Appropriation: There is appropriated from the income account to the board six hundred thousand dollars (\$600,000.00) or as much thereof as is necessary to carry out the purposes of this subsection. Unexpended and unobligated funds appropriated under this subsection shall revert to the income account on June 30, 2019.

9-15-1103. South Pass Aspen II.

(a) Authorization is granted for funding of the following large project as provided in this section.

(b) Project: South Pass Aspen II:

(i) Project sponsor: Wyoming Game and Fish Commission;

(ii) Project purpose: Removal of invasive conifers from sagebrush and aspen habitats in an area with high wildlife populations in the southern Wind River Range in order to:

(A) Provide seasonal and year-long habitats for elk, mule deer, antelope, Greater Sage-grouse and other species; and

(B) Reduce the risk of catastrophic fire in an area with high to very high risk of property damage.

(iii) Project description: Removal of conifer through fire, mechanical, chemical and other methods;

(iv) Total project budget: One million one hundred four thousand one hundred dollars (\$1,104,100.00);

(v) Project grant: The Wyoming wildlife and natural resource trust account board is authorized to grant to the sponsor four hundred forty-five thousand dollars (\$445,000.00) for the purposes specified in this subsection;

(vi) Appropriation: There is appropriated from the income account to the board two hundred fifty thousand dollars (\$250,000.00) or as much thereof as is necessary to carry out the purposes of this subsection. Unexpended and unobligated funds appropriated under this subsection shall revert to the income account on June 30, 2019.

9-15-1104. Rocking Chair Ranch Conservation Easement.

(a) Authorization is granted for funding of the following large project as provided in this section.

(b) Project: Rocking Chair Ranch Conservation Easement:

(i) Project sponsor: Wyoming Game and Fish Commission;

(ii) Project purpose: Restriction on residential development in an area with extremely high wildlife diversity and critical habitat function in Lincoln county in order to:

(A) Maintain habitats and migration corridors for moose, elk, deer, antelope and other species;

(B) Maintain and enhance aquatic function including large wetland resources;

(C) Maintain seasonal habitats for Greater Sage-grouse in a core population area; and

(D) Maintain agricultural production and opportunity on high quality farm and ranch lands.

(iii) Project description: Conservation Easement;

(iv) Total project budget: One million six hundred fifty thousand eight hundred dollars (\$1,650,800.00);

(v) Project grant: The Wyoming wildlife and natural resource trust account board is authorized to grant to the sponsor four hundred thousand dollars (\$400,000.00) for the purposes specified in this subsection;

(vi) Appropriation: There is appropriated from the income account to the board four hundred thousand dollars (\$400,000.00) or as much thereof as is necessary to carry out the purposes of this subsection. Unexpended and unobligated funds appropriated under this subsection shall revert to the income account on June 30, 2019.

CHAPTER 16 ENERGY IMPACTED COUNTY ROADS PROGRAM

9-16-101. Energy impacted county roads program; definitions.

(a) As used in this chapter:

(i) "Board" means the state loan and investment board;

(ii) "Energy impacted counties" means counties which are eligible for funding under this chapter as determined in accordance with W.S. 9-16-102;

(iii) "Energy impacted county road" means a county dedicated and maintained road serving a site or sites, on which energy development has occurred, which requires construction, reconstruction, rehabilitation or expansion as a result of energy development as determined by the board;

(iv) "Road" includes:

(A) Bridges and culverts;

(B) Rights of way; and

(C) Purchase of land to complete a county road and bridge project.

(v) "Program" means the energy impacted county road program created by W.S. 9-16-102.

9-16-102. Energy impacted county roads program; creation, rulemaking.

(a) The board shall establish and administer the energy impacted county roads program as provided by this chapter. Applications for a grant under the program shall be made on forms prescribed by and subject to rules promulgated by the board. Grants may be made by the board for energy impacted county road projects.

(b) The board may award grants to stockpile material for energy impacted county roads.

(c) In awarding grants, the board shall consider the following:

(i) Whether the county's total proposed energy impacted road projects exceed fifteen percent (15%) of the average total annual county expenditures for its road and bridge maintenance and construction expenditures for the preceding five (5) years;

(ii) Whether the county has demonstrated that it has pursued alternative methods of funding including cost sharing from private sources;

(iii) That the funds will not supplant existing funding levels from traditional sources.

(d) After review of the applications the board shall as soon as practical notify the counties of its determination. Energy impacted counties shall remain eligible for grants under the program until the county no longer qualifies under subsection (c) of this section.

(e) Each application submitted to the board under the program shall contain only one (1) proposed energy impacted county road project.

(f) No one county may be eligible to receive an amount in excess of forty percent (40%) of the total funds available at the beginning of the state's fiscal year, without unanimous approval of the board.

(g) Upon completion of the projects, the county shall report the expenditures of all funds.

(h) The legislature may define, specify, authorize or limit the counties or areas within the state eligible for this program and the amounts of distribution.

(j) Funds from this appropriation shall not be used to hire more county employees.

9-16-103. Energy impacted county roads program account.

(a) There is created the energy impacted county roads program account within the office of the treasurer. Funds in the account shall be continually distributed to energy impacted counties to further the purposes of the program at the direction of the board. Funds shall not revert to the general fund until directed by the legislature.

(b) The board shall include within its biennial budget request submitted under W.S. 9-2-1013 a report of the grants awarded and the progress of the program created under this act for each of the immediately preceding two (2) fiscal years.

CHAPTER 17
WYOMING LOTTERY

9-17-101. Short title.

This chapter shall be known and may be cited as the "Wyoming Lottery Act."

9-17-102. Legislative findings and declarations.

(a) It is found and declared by the legislature:

(i) That lottery games are an entrepreneurial enterprise and that the state shall create a public body, corporate and politic, known as the Wyoming lottery corporation, with comprehensive and extensive powers as generally exercised by corporations engaged in entrepreneurial pursuits;

(ii) That lottery games shall be operated and managed in a manner which provides continuing entertainment to the public, maximizes revenues, including revenues to the state and its counties, cities and towns, and ensures that the lottery is operated with integrity and dignity and free of political influence; and

(iii) That the Wyoming lottery corporation shall be accountable to the legislature and to the public through a system of audits and reports.

9-17-103. Definitions.

(a) As used in this chapter:

(i) Repealed by Laws 2019, ch. 33, § 2.

(ii) "Board" means the board of directors of the Wyoming lottery corporation;

(iii) "Central control computer" means a central site computer controlled by the corporation to which all lottery terminals in the state communicate for purposes established by the corporation;

(iv) "Chief executive officer" means the chief executive officer of the Wyoming lottery corporation;

(v) "Corporation" means the Wyoming lottery corporation;

(vi) "Lottery," "lotteries," "lottery game" or "lottery games" means any game of chance approved by the board and operated pursuant to this chapter, specifically limited to a state lottery or multi-state games, and shall not include instant tickets, scratch-off tickets, video lottery terminals or any other electronic game involving direct physical contact between the player and a machine;

(vii) "Major procurement contract" means any gaming product or service costing in excess of seventy-five thousand dollars (\$75,000.00) in a fiscal year including, but not limited to, advertising contracts, annuity contracts, prize payment agreements, consulting services, equipment, tickets and other products and services unique to the Wyoming lottery, but not including materials, supplies, equipment and services common to the ordinary operation of a corporate entity;

(viii) "Member" or "members" means a director or directors of the board of directors of the Wyoming lottery corporation;

(ix) "Net proceeds" means all revenue less direct, indirect, operating and nonoperating expenses consistent with generally accepted accounting principles;

(x) Repealed by Laws 2019, ch. 33, § 2.

(xi) "Retailer" means a person who sells lottery tickets or shares on behalf of the corporation pursuant to a contract;

(xii) "Share" means any intangible evidence of participation in a lottery game;

(xiii) "Ticket" means any tangible evidence issued by the lottery to provide participation in a lottery game;

(xiv) "Vendor" or "retailer" means any person authorized to supply lottery goods or services under this act;

(xv) "Confidential information" includes trade secrets, security measures, systems or procedures, security reports, information concerning bids or other contractual data, the disclosure of which would impair the efforts of the corporation to contract for goods or services on favorable terms, employee personnel information unrelated to compensation, duties, qualifications or responsibilities, information related to agreements under multistate governing organizations and information obtained pursuant to investigations which is otherwise confidential.

9-17-104. Wyoming lottery corporation created; membership of board of directors; appointment; terms; filling of vacancies; conflict of interests; reimbursement for expenses; officers; quorum.

(a) There is created the Wyoming lottery corporation which is a body politic and corporate operating as an instrumentality of the state of Wyoming, with authority to adopt an official seal and to sue and be sued. Notwithstanding any other provision of law, the state is not liable for any liability or deficiency of the Wyoming lottery corporation or any debt incurred by the corporation and the full faith and credit of the state of Wyoming shall not be pledged to any debt of the corporation. The sole recourse of any party contracting with the corporation shall be against the corporation and there shall be no cause of action against the state, or any county, municipality or other political subdivision of the state.

(b) The corporation shall be governed by a board of directors composed of nine (9) members appointed by the governor.

(c) Members shall be residents of the state of Wyoming, shall be prominent persons in their businesses or professions, and shall not have been convicted of any felony offense. A background investigation shall be conducted on each potential board member. The corporation shall be authorized to pay for the actual cost of the investigations and may contract with the division of criminal investigation for the performance of the investigations.

(d) Members shall serve terms of four (4) years, except that of the initial members appointed, four (4) members shall be appointed for initial terms of two (2) years and five (5) members shall be appointed for initial terms of four (4) years.

(e) Members of the board shall not have any direct or indirect interest in an undertaking that puts their personal interest in conflict with that of the corporation, including, but not limited to, an interest in a major procurement contract or a participating retailer.

(f) Each member shall only receive compensation from the corporation for each day or part of a day in which engaged in the performance of their official duties at the same salary and per diem provided members of the state legislature under W.S. 28-5-101 and shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties. Members shall receive no other compensation from the corporation.

(g) The members shall elect from their membership a chairman and vice chairman. The members shall also elect a secretary and treasurer. The officers shall serve for terms as shall be prescribed by the bylaws of the corporation or until their respective successors are elected and qualified. No member of the board shall hold more than any one (1) office of the corporation, except that the same person may serve as secretary and treasurer.

(h) The board of directors may delegate to any one (1) or more of its members, to the chief executive officer or to any agent or employee of the corporation any powers and duties as it may deem proper.

(j) A majority of members in office shall constitute a quorum for the transaction of any business and for the exercise of any power or function of the corporation.

(k) Action may be taken and motions and resolutions adopted by the board at any meeting thereof by the affirmative vote of a majority of present and voting board members.

(m) No vacancy in the membership of the board shall impair the right of the members to exercise all the powers and perform all the duties of the board.

9-17-105. General duties of board of directors.

(a) The board of directors shall provide the chief executive officer with private sector perspectives of a large marketing enterprise. The board shall:

(i) Approve, disapprove, amend or modify the budget recommended by the chief executive officer for the operation of the corporation;

(ii) Approve, disapprove, amend or modify the terms of major lottery procurements recommended by the chief executive officer;

(iii) Hear appeals of hearings required by this chapter;

(iv) Adopt regulations, policies and procedures relating to the conduct of lottery games and as specified in W.S. 9-17-108;

(v) Ensure that lottery games are operated and managed in a manner that maximizes revenues, including revenues to the state and its counties, cities and towns; and

(vi) Perform other functions as specified by this chapter.

9-17-106. Appointment of chief executive officer; compensation.

The board of directors shall appoint and shall provide for the compensation of a chief executive officer who shall be an employee of the corporation and who shall direct the day-to-day

operations and management of the corporation and shall be vested with the powers and duties as specified by the board and by law. The chief executive officer shall serve at the pleasure of the board.

9-17-107. General powers of corporation.

(a) The corporation shall have any and all powers necessary or convenient to its usefulness in carrying out and effectuating the purposes and provisions of this chapter which are not in conflict with the constitution of this state and which are generally exercised by corporations engaged in entrepreneurial pursuits, including, but without limiting the generality of the foregoing, the following powers:

(i) To sue and be sued in contract and in tort and to complain and defend in all courts;

(ii) To adopt and alter a seal;

(iii) To adopt, amend and repeal bylaws, regulations and policies and procedures for the regulation of its affairs and the conduct of its business, to elect and prescribe the duties of officers and employees of the corporation and to perform any other matters as the corporation may determine. In the adoption of bylaws, regulations, policies and procedures or in the exercise of any regulatory power, the corporation shall be exempt from the requirements of W.S. 16-3-101 through 16-3-115;

(iv) To procure or to provide insurance;

(v) To hold copyrights, trademarks and service marks and enforce its rights with respect thereto;

(vi) To initiate, supervise and administer the operation of the lottery in accordance with the provisions of this chapter and regulations, policies and procedures adopted pursuant thereto and in a manner that maximizes revenues, including revenues to the state and its counties, cities and towns;

(vii) To enter into written agreements with one (1) or more other states or sovereigns for the operation, participation in marketing and promotion of a joint lottery or joint lottery games;

(viii) To conduct market research as is necessary or appropriate, which may include an analysis of the demographic characteristics of the players of each lottery game and an analysis of advertising, promotion, public relations, incentives and other aspects of communication;

(ix) To acquire or lease real property and make improvements thereon and acquire by lease or by purchase personal property, including, but not limited to, computers, mechanical, electronic and on-line equipment and terminals and intangible property, including, but not limited to, computer programs, systems and software;

(x) To enter into contracts to incur debt in its own name and enter into financing agreements with any commercial bank or credit provider;

(xi) To be authorized to administer oaths, take depositions, issue subpoenas and compel the attendance of witnesses and the production of books, papers, documents and other evidence relative to any investigation or proceeding conducted by the corporation;

(xii) To appoint and select officers, agents and employees, including professional and administrative staff and personnel, including hearing officers to conduct hearings required by this chapter, and to fix their compensation, pay their expenses and provide a benefit program, including, but not limited to, a retirement plan and a group insurance plan;

(xiii) To select and contract with vendors and retailers;

(xiv) To enter into contracts or agreements with state or local law enforcement agencies for the performance of law enforcement, background investigations and security checks;

(xv) To enter into contracts of any and all types on the terms and conditions the corporation may determine;

(xvi) To establish and maintain banking relationships, including, but not limited to, establishment of checking and savings accounts and lines of credit;

(xvii) To advertise and promote the lottery and lottery games;

(xviii) To act as a retailer, to conduct promotions which involve the dispensing of lottery tickets or shares and to establish and operate a sales facility to sell lottery tickets or shares and any related merchandise; and

(xix) To adopt and amend regulations, policies and procedures as necessary to carry out and implement its powers and duties, organize and operate the corporation, regulate the conduct of lottery games in general and any other matters necessary or desirable for the efficient and effective operation of the lottery or the convenience of the public. The promulgation of these regulations, policies and procedures shall be exempt from the requirements of W.S. 16-3-101 through 16-3-115.

(b) The powers enumerated in subsection (a) of this section are cumulative of and in addition to those powers enumerated elsewhere in this chapter and do not limit or restrict any other powers of the corporation.

9-17-108. Adoption by board of procedures regulating conduct of lottery games.

(a) The board may adopt regulations, policies and procedures regulating the conduct of lottery games in general, including, but not limited to, regulations, policies and procedures specifying:

(i) The type of games to be conducted, specifically limited to a state lottery or a multi-state lottery, and shall not include instant-win tickets, scratch-off ticket games, video lottery terminals or any other electronic game involving direct physical contact between the player and a machine;

(ii) The sale price of tickets or shares and the manner of sale, provided, however, that all sales shall be for cash only and payment by checks, debit cards, credit cards, charge cards or any other form of payment is prohibited;

(iii) The number and amount of prizes;

(iv) The method and location of selecting or validating winning tickets or shares;

(v) The manner and time of payment of prizes, which may include lump sum payments or installments over a period of years;

(vi) The manner of payment of prizes to the holders of winning tickets or shares, including without limitation, provision for payment of prizes not exceeding six hundred dollars (\$600.00) after deducting the price of the ticket or share and after performing validation procedures appropriate to the game and as specified by the board. The board may provide for a limited number of retailers who can pay prizes of up to five thousand dollars (\$5,000.00) after performing validation procedures appropriate to the game and as specified by the board without regard to where the ticket or share was purchased;

(vii) The frequency of games and drawings or selection of winning tickets or shares;

(viii) The means of conducting drawings;

(ix) The method to be used in selling tickets or shares;

(x) The manner and amount of compensation to lottery retailers; and

(xi) Any and all other matters necessary, desirable or convenient toward ensuring the efficient and effective operation of lottery games, the continued entertainment and convenience of the public and the integrity of the lottery.

9-17-109. Duties of chief executive officer.

(a) The chief executive officer of the corporation shall direct and supervise all administrative and technical activities in accordance with the provisions of this chapter and with the regulations, policies and procedures adopted by the board. It shall be the duty of the chief executive officer to:

(i) Facilitate the initiation and supervise and administer the operation of the lottery games in a manner that is consistent with this chapter and maximizes revenues, including revenues to the state and its counties, cities and towns;

(ii) Employ and direct personnel as deemed necessary;

(iii) Employ by contract and compensate persons and firms as deemed necessary;

(iv) Promote or provide for promotion of the lottery and any functions related to the corporation;

(v) Prepare a budget for the approval of the board;

(vi) Require bond from retailers and vendors in amounts as required by the board;

(vii) Report quarterly to the department of audit, the joint revenue interim committee and the board a full and complete statement of lottery revenues and expenses for the preceding quarter; and

(viii) Perform other duties generally associated with a chief executive officer of a corporation of an entrepreneurial nature.

(b) The chief executive officer may for good cause suspend, revoke or refuse to renew any contract entered into in accordance with the provisions of this chapter or the regulations, policies and procedures of the board.

(c) The chief executive officer or his designee may conduct hearings and administer oaths to persons for the purpose of assuring the security or integrity of lottery operations or to determine the qualifications of or compliance by vendors and retailers.

9-17-110. Employees; compensation; restrictions; background investigations; bonding.

(a) The corporation shall establish and maintain a personnel program for its employees and fix the compensation and terms of compensation of its employees, including, but not limited to, production incentive payments.

(b) No employee of the corporation shall have a financial interest in any vendor doing business or proposing to do business with the corporation.

(c) No employee of the corporation with decision making authority shall participate in any decision involving a retailer with whom the employee has a financial interest.

(d) No employee of the corporation who leaves the employment of the corporation may represent any vendor or

lottery retailer before the corporation for a period of two (2) years following termination of employment with the corporation.

(e) A background investigation shall be conducted on each applicant who has reached the final selection process prior to employment by the corporation at the level of division director and above and at any level within any division of security and as otherwise required by the board. The corporation shall be authorized to pay for the actual cost of the investigations and may contract with the division of criminal investigation for the performance of the investigations.

(f) No person who has been convicted of a felony or bookmaking or other forms of illegal gambling or of a crime involving moral turpitude shall be employed by the corporation.

(g) The corporation shall bond corporation employees with access to corporation funds or lottery revenue in an amount as provided by the board and may bond other employees as deemed necessary.

(h) Employees of the corporation shall be covered by the Wyoming Retirement Act and the Wyoming Deferred Compensation Act.

9-17-111. Disposition of lottery proceeds.

(a) As nearly as practical, at least forty-five percent (45%) of the total revenue from the sale of lottery tickets or shares shall be made available as prize money, provided, however, that this subsection shall be deemed not to create any lien, entitlement, cause of action or other private right and any rights of holders of tickets or shares shall be determined by the corporation in setting the terms of its lottery or lotteries.

(b) On or before the fifteenth day of each quarter, the corporation shall transfer to the treasurer's office, for credit to the lottery account which is hereby created, at least seventy-five percent (75%) of the net proceeds from the preceding quarter. Final reconciliation of the transfer to the state under this subsection shall be determined at the end of each fiscal year based on the audited annual financial statements. Upon their deposit into the account, any monies representing a deposit of net proceeds shall then become the unencumbered property of the state of Wyoming and the corporation shall have no power to agree or undertake otherwise.

At least once per fiscal year, these monies shall be paid by the treasurer to the treasurers of the counties, cities and towns for payment into their respective general funds. The percentage of the balance that will be distributed to each county and its cities and towns will be determined by computing the percentage that sales of lottery tickets collected by retailers in each county including its cities and towns bear to total sales of lottery tickets collected by retailers in all counties including their cities and towns. This percentage of the monies shall be distributed within each county as follows:

(i) To each county in the proportion that the population of the county situated outside the corporate limits of its cities and towns bears to the total population of the county including cities and towns;

(ii) To each city and town within the county in the proportion the population of the city or town bears to the population of the county.

(c) Repealed by Laws 2017, ch. 158, § 2.

(d) No general fund monies or any other state funds or monies in any form shall be used to fund any liability or deficiency in the lottery account under this section. No general fund monies or any other state funds or monies in any form shall be used for any program or project started specifically from lottery proceeds unless specifically appropriated by the legislature.

9-17-112. Investigation of vendors; disclosure requirements; restrictions on entry into major procurement contracts.

(a) The corporation shall investigate the financial responsibility, security and integrity of any lottery system vendor who is a finalist in submitting a bid, proposal or offer. At the time of submitting the bid, proposal or offer to the corporation, the corporation may require the following items:

(i) A disclosure of the vendor's name and address and, as applicable, the names and addresses of the following:

(A) If the vendor is a corporation, the officers, directors and each stockholder in the corporation, provided, however, that in the case of owners of equity securities of a publicly traded corporation, only the names and

addresses of those known to the corporation to own beneficially five percent (5%) or more of the securities need be disclosed;

(B) If the vendor is a trust, the trustee and all persons entitled to receive income or benefits from the trust;

(C) If the vendor is an association, the members, officers and directors; and

(D) If the vendor is a partnership or joint venture, all of the general partners, limited partners or joint venturers.

(ii) A disclosure of all the states and jurisdictions in which the vendor does business and the nature of the business for each state or jurisdiction;

(iii) A disclosure of all the states and jurisdictions in which the vendor has contracts to supply gaming goods or services, including, but not limited to, lottery goods and services and the nature of the goods or services involved for each state or jurisdiction;

(iv) A disclosure of all the states and jurisdictions in which the vendor has applied for, has sought renewal of, has received, has been denied, has pending or has had revoked a lottery or gaming license of any kind or had fines or penalties assessed to his license, contract or operation and the disposition in each state or jurisdiction. If any lottery or gaming license or contract has been revoked or has not been renewed or any lottery or gaming license or application has been either denied or is pending and has remained pending for more than six (6) months, all of the facts and circumstances underlying the failure to receive the license shall be disclosed;

(v) A disclosure of the details of any finding or plea, conviction or adjudication of guilt in a state or federal court of the vendor for any felony or any other criminal offense other than a traffic violation;

(vi) A disclosure of the details of any bankruptcy, insolvency, reorganization or corporate or individual purchase or takeover of another corporation, including bonded indebtedness, or any pending litigation of the vendor; and

(vii) Additional disclosures and information as the corporation may determine to be appropriate for the procurement involved. If at least twenty-five percent (25%) of the cost of a vendor's contract is subcontracted, the vendor shall disclose all of the information required by this section for the subcontractor as if the subcontractor were itself a vendor.

(b) A lottery major procurement contract shall not be entered into with any lottery system vendor who has not complied with the disclosure requirements described in subsection (a) of this section and any contract with such a vendor is voidable at the option of the corporation. Any contract with a vendor who does not comply with the requirements for periodically updating the disclosures during the tenure of contract as may be specified in the contract may be terminated by the corporation. The provisions of this section shall be construed broadly and liberally to achieve the ends of full disclosure of all information necessary to allow for a full and complete evaluation by the corporation of the competence, integrity, background and character of vendors for procurements.

(c) A major procurement contract shall not be entered into with any vendor who has been found guilty of a felony related to the security or integrity of the lottery in this or any other jurisdiction.

(d) A major procurement contract shall not be entered into with any vendor if the vendor has an ownership interest in an entity that had supplied consultation services under contract to the corporation regarding the request for proposals pertaining to those particular goods or services.

(e) No lottery system vendor nor any applicant for a major procurement contract may pay, give or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality or service, excluding food and beverages having an aggregate value not exceeding one hundred dollars (\$100.00) in any calendar year, to the chief executive officer, any board member or any employee of the corporation or to a member of the immediate family residing in the same household as the person.

9-17-113. Bonding requirements for vendors; qualifications of vendors; competitive bid requirement.

(a) Each vendor shall, at the execution of the contract with the corporation, post a performance bond or letter of credit from a bank or credit provider acceptable to the

corporation in an amount as deemed necessary by the corporation for that particular bid or contract. In lieu of the bond, a vendor may, to assure the faithful performance of its obligations, deposit and maintain with the corporation securities that are interest bearing or accruing and that are rated in one (1) of the three (3) highest classifications by an established nationally recognized investment rating service. Securities eligible under this section are limited to:

(i) Certificates of deposit issued by solvent banks or savings associations approved by the corporation and which are organized and existing under the laws of this state or under the laws of the United States;

(ii) United States bonds, notes and bills for which the full faith and credit of the government of the United States is pledged for the payment of principal and interest; and

(iii) Corporate bonds approved by the corporation. The corporation which issued the bonds shall not be an affiliate or subsidiary of the depositor. The securities shall be held in trust and shall have at all times a market value at least equal to the full amount estimated to be paid annually to the lottery vendor under contract.

(b) Each vendor shall be qualified to do business in this state. All contracts under this chapter shall be governed by the laws of this state.

(c) No contract shall be let with any vendor in which a public official has an ownership interest of ten percent (10%) or more.

(d) All major procurement contracts shall be competitively bid pursuant to policies and procedures approved by the board unless:

(i) There is only one (1) qualified vendor and that vendor has an exclusive right to offer the service or product; or

(ii) The major procurement contract is an amendment, extension or renewal of an existing contract with terms that are not materially different than the terms of the existing contract.

9-17-114. Statewide network of retailers; commissions; certificate of authority; qualifications of retailers; fees for outlets; review of activities.

(a) The legislature recognizes that to conduct a successful lottery, the corporation needs to develop and maintain a statewide network of lottery retailers that will serve the public convenience and promote the sale of tickets or shares and the playing of lottery games while ensuring the integrity of the lottery operations, games and activities.

(b) The corporation shall make every effort to provide small retailers a chance to participate in the sales of lottery tickets or shares.

(c) The corporation shall provide for compensation to lottery retailers in the form of commissions in an amount of not less than six percent (6%) of gross sales and may provide for other forms of compensation for services rendered in the sale or cashing of lottery tickets or shares.

(d) The corporation shall issue a certificate of authority to each person with whom it contracts as a retailer for purposes of display. Every lottery retailer shall post and keep conspicuously displayed in a location on the premises accessible to the public its certificate of authority. No certificate shall be assignable or transferable.

(e) The board shall develop a list of objective criteria upon which the qualification of lottery retailers shall be based. In developing these criteria, the board shall consider factors including the applicant's financial responsibility, security of the applicant's place of business or activity, accessibility to the public, integrity and reputation. The board shall not consider political affiliation, activities or monetary contributions to political organizations or candidates for any public office.

9-17-115. Retailer contracts not transferable or assignable; restriction on contracts and sales.

(a) No lottery retailer contract shall be transferable or assignable. No lottery retailer shall contract with any person for lottery goods or services except with the approval of the board.

(b) Lottery tickets and shares shall only be sold by the retailer stated on the lottery retailer certificate.

9-17-116. Fidelity fund for retailers; assessments.

(a) The corporation may establish a fidelity fund separate from all other funds and shall assess each retailer a one (1) time fee not to exceed one hundred dollars (\$100.00) per sales location. The corporation is authorized to invest the funds or place the funds in one (1) or more interest bearing accounts. Monies deposited to the fund may be used to cover losses the corporation experiences due to nonfeasance, misfeasance or malfeasance of a lottery retailer. In addition, the funds may be used to purchase blanket bonds covering the Wyoming lottery corporation against losses from all retailers. At the end of each fiscal year, the corporation shall pay to the general lottery fund any amount in the fidelity fund which exceeds two hundred fifty thousand dollars (\$250,000.00) and the funds shall be commingled with and treated as net proceeds from the lottery.

(b) A reserve account may be established as a general operating expense to cover amounts deemed uncollectible. The corporation shall establish procedures for minimizing any losses that may be experienced for the foregoing reasons and shall exercise and exhaust all available options in the procedures prior to amounts being written off to this account.

(c) The corporation may require any retailer to post an appropriate bond, as determined by the corporation, using an insurance company acceptable to the corporation. The amount shall not exceed the applicable district sales average of lottery tickets for two (2) billing periods.

(d) In its discretion, the corporation may allow a retailer to deposit and maintain with the corporation securities, held in trust in the name of the Wyoming lottery corporation, that are interest bearing or accruing. Securities eligible under this subsection shall be limited to:

(i) Certificates of deposit issued by solvent banks or savings associations organized and existing under the laws of this state or under the laws of the United States;

(ii) United States bonds, notes and bills for which the full faith and credit of the United States is pledged for the payment of principal and interest;

(iii) Federal agency securities by an agency or instrumentality of the United States government.

9-17-117. Cancellation, suspension, revocation or termination of retail contracts.

Any retail contract executed by the corporation pursuant to this chapter shall specify the reasons for which a contract may be cancelled, suspended, revoked or terminated by the corporation.

9-17-118. Restrictions on sale of tickets or shares; price; gifts and promotions.

(a) No person shall sell a ticket or share at a price other than established by the corporation unless authorized in writing by the chief executive officer. No person other than a duly certified lottery retailer shall sell lottery tickets, but this subsection shall not be construed to prevent a person who may lawfully purchase tickets or shares from making a gift of lottery tickets or shares to another. Nothing in this chapter shall be construed to prohibit the corporation from designating certain of its agents and employees to sell or give lottery tickets or shares directly to the public.

(b) No lottery retailer shall sell a lottery ticket or share except from the locations listed in his contract and as evidenced by his certificate of authorization unless the corporation authorizes in writing any temporary location not listed in his contract.

(c) No lottery tickets or shares shall be sold to persons under eighteen (18) years of age, but this subsection does not prohibit the purchase of a lottery ticket or share by a person eighteen (18) years of age or older for the purpose of making a gift to any person of any age. In that case, the corporation shall direct payment of proceeds of any lottery prize to an adult member of the person's family or a legal representative of the person on behalf of the underage person.

9-17-119. Prize proceeds subject to attachments, garnishments or executions; validation of winning tickets; prohibited purchases; money dispensing machines; unclaimed prize money.

(a) Except as otherwise provided in this chapter, attachments, garnishments, executions or past-due child support authorized and issued pursuant to law shall be withheld if

timely served upon the corporation. This subsection shall not apply to a retailer.

(b) The corporation shall adopt regulations, policies and procedures to establish a system of verifying the validity of tickets or shares claimed to win prizes and to effect payment of the prizes, except that:

(i) No prize, any portion of a prize or any right of any person to a prize awarded shall be assignable. Any prize or any portion of a prize remaining unpaid at the death of a prize winner shall be paid to the estate of the deceased prize winner or to the trustee of a trust established by the deceased prize winner as settlor if a copy of the trust document or instrument has been filed with the corporation along with a notarized letter of direction from the settlor and no written notice of revocation has been received by the corporation prior to the settlor's death. Following a settlor's death and prior to any payment to a successor trustee, the corporation shall obtain from the trustee a written agreement to indemnify and hold the corporation harmless with respect to any claims that may be asserted against the corporation arising from payment to or through the trust. Notwithstanding any other provisions of this section, any person, pursuant to an appropriate judicial order, shall be paid the prize to which a winner is entitled;

(ii) No prize shall be paid arising from claimed tickets that are:

(A) Stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the corporation within applicable deadlines;

(B) Lacking in captions that conform and agree with the play symbols as appropriate to the particular lottery game involved; or

(C) Not in compliance with any additional specific regulations and public or confidential validation and security tests of the corporation appropriate to the particular lottery game involved.

(iii) No particular prize in any lottery game shall be paid more than once, and in the event of a determination that more than one (1) claimant is entitled to a particular prize, the sole remedy of the claimants is the award to each of them of an equal share in the prize; and

(iv) A holder of a winning cash ticket or share from a lottery game shall claim a cash prize within one hundred eighty (180) days, or for a multi-state or multi-sovereign lottery game within one hundred eighty (180) days, after the drawing in which the cash prize was won. If a valid claim is not made for a cash prize within the applicable period, the cash prize shall constitute an unclaimed prize for purposes of this section.

(c) No prize shall be paid upon a ticket or share purchased or sold in violation of this chapter. The prize shall constitute an unclaimed prize for purposes of this section.

(d) The corporation is discharged of all liability upon payment of a prize.

(e) No ticket or share shall be purchased by and no prize shall be paid to any member of the board of directors, any officer or employee of the corporation or to any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of residence of any member of the board of directors, officer or employee of the corporation. No ticket or share shall be purchased by and no prize shall be paid to any officer, employee, agent or subcontractor of any vendor or to any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of residence of any officer, employee, agent or subcontractor of any vendor if the officer, employee, agent or subcontractor has access to confidential information which may compromise the integrity of the lottery.

(f) No lottery game utilizing an electronic or mechanical machine may use a machine which dispenses coins or currency.

(g) Unclaimed prize money shall be used to offset prize expenses. A portion of unclaimed prize money, not to exceed two hundred thousand dollars (\$200,000.00) annually, shall be used by the corporation to develop, in consultation with the department of health programs for the treatment of compulsive gambling disorder and educational programs related to the disorder.

9-17-120. Confidentiality of information; investigations; supervision and inspections; reports of suspected violations; assistance in investigation of violations.

(a) Except as authorized in this chapter, the corporation is subject to the provisions of W.S. 16-4-201 through 16-4-205 and 16-4-401 through 16-4-408. Confidential information is exempt from the provisions of W.S. 16-4-201 through 16-4-205 and may be discussed during executive session pursuant to W.S. 16-4-405(a). Meetings or portions of meetings devoted to discussing information deemed confidential pursuant to this subsection are exempt from W.S. 16-4-401 through 16-4-408.

(b) The corporation shall perform full criminal background investigations on all potential vendors prior to the execution of any vendor contract. The corporation shall be authorized to pay for the actual cost of the investigations and may contract with the division of criminal investigation for the performance of the investigations.

(c) The corporation or its authorized agent shall:

(i) Conduct criminal background investigations and credit investigations on all potential retailers. The corporation shall be authorized to pay for the actual cost of the investigations and may contract with the division of criminal investigation for the performance of the investigations;

(ii) Supervise ticket or share validation and lottery drawings;

(iii) Inspect at times, determined solely by the corporation, the facilities of any vendor or lottery retailer in order to determine the integrity of the vendor's product or the operations of the retailer in order to determine whether the vendor or the retailer is in compliance with its contract;

(iv) Report any suspected violations of this chapter to the appropriate district attorney or the attorney general and to any law enforcement agencies having jurisdiction over the violation; and

(v) Upon request, provide assistance to any district attorney, the attorney general or a law enforcement agency investigating a violation of this chapter.

9-17-121. Sales to minors; penalty; affirmative defense.

Any person who knowingly sells a lottery ticket or share to a person under eighteen (18) years of age or permits a person

under eighteen (18) years of age to play any lottery game shall be guilty of a misdemeanor and shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for the first offense and for each subsequent offense not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000.00). It shall be an affirmative defense to a charge of a violation under this section that the retailer reasonably and in good faith relied upon representation of proof of age in making the sale.

9-17-122. Penalty for falsely making, altering, forging, uttering, passing or counterfeiting ticket; penalty for attempting to influence winning of prize.

(a) Any person who, with intent to defraud, falsely makes, alters, forges, utters, passes or counterfeits a state lottery ticket is guilty of a felony and shall be punished by a fine not to exceed fifty thousand dollars (\$50,000.00), imprisonment for not more than five (5) years, or both.

(b) Any person who influences or attempts to influence the winning of a prize through the use of coercion, fraud, deception or tampering with lottery equipment or materials is guilty of a felony and shall be punished by a fine not to exceed fifty thousand dollars (\$50,000.00), imprisonment for not more than five (5) years, or both.

9-17-123. Penalty for making false statements or false entries in books or records.

No person shall knowingly or intentionally make a material false statement in any application for a license or proposal to conduct lottery activities or make a material false entry in any book or record which is compiled or maintained or submitted to the board pursuant to the provisions of this chapter. Any person who violates the provisions of this section shall be punished by a fine not to exceed twenty-five thousand dollars (\$25,000.00) or the dollar amount of the false entry or statement, whichever is greater, by imprisonment for not more than five (5) years, or both.

9-17-124. Agreements with agencies of other jurisdictions; restriction on release of records, documents and information.

(a) The corporation may enter into intelligence sharing, reciprocal use or restricted use agreements with the federal government, law enforcement agencies, lottery regulation

agencies and gaming enforcement agencies of other jurisdictions which provide for and regulate the use of information provided and received pursuant to the agreement.

(b) Records, documents and information in the possession of the corporation received pursuant to an intelligence sharing, reciprocal use or restricted use agreement entered into by the corporation with a federal department or agency, any law enforcement agency or the lottery regulation or gaming enforcement agency of any jurisdiction shall be considered investigative records of a law enforcement agency and are not subject to W.S. 16-4-201 through 16-4-205 and shall not be released under any condition without the permission of the person or agency providing the record or information.

9-17-125. Bidding requirements and procedures for contracts.

(a) The corporation shall enter into its contracts for procurements after competitive bidding. The requirement for competitive bidding does not apply in the case of a single vendor having exclusive rights to offer a particular service or product. Procedures adopted by the board shall be designed to allow the selection of proposals that provide the greatest long-term benefit to the state, the greatest integrity for the corporation and the best service and products for the public.

(b) In any bidding process, the corporation may administer its own bidding and procurement or may utilize the services of the department of administration and information or other state agency or subdivision thereof.

9-17-126. Appeals from actions of board.

(a) Any retailer, vendor or applicant for a retailer or vendor contract aggrieved by an action of the board may appeal that decision to the first judicial district court.

(b) The first judicial district court shall hear appeals from decisions of the board and based upon the record of the proceedings before the board may reverse the decision of the board only if the appellant proves the decision to be:

(i) Clearly erroneous;

(ii) Arbitrary and capricious;

(iii) Procured by fraud;

(iv) A result of substantial misconduct by the board;
or

(v) Contrary to the United States constitution or the constitution of Wyoming or the provisions of this chapter.

(c) The district court may remand an appeal to the board to conduct further hearings.

(d) Any person who appeals the award of a major procurement contract for the supply of a lottery ticket system, share system or an on-line or other mechanical or electronic system shall be liable for all costs of appeal and defense in the event the appeal is denied or the contract award upheld.

9-17-127. Corporation authorized to borrow money; validation of debt; restriction on use of money in state general fund and other state funds; purchase or release of goods and services.

(a) The corporation may borrow, or accept and expend, in accordance with the provisions of this chapter, monies as may be received from any source, including income from the corporation's operations, for effectuating its corporate purposes, including the payment of the initial expenses of initiation, administration and operation of the corporation and the lottery.

(b) The corporation shall be self sustaining and self funded. Monies in the state general fund or any other state funds or monies in any form shall not be used or obligated to pay the expenses of the corporation or prizes of the lottery and no claim for the payment of an expense of the lottery or prizes of the lottery may be made against any monies other than monies credited to the corporation operating account.

(c) The corporation may purchase, lease or lease purchase goods or services as necessary to effectuate the purposes of this chapter. The corporation may make procurements which integrate functions including lottery game design, lottery ticket distribution to retailers, supply of goods and services and advertising. In all procurement decisions, the corporation shall take into account the particularly sensitive nature of the state lottery and shall act to promote and ensure security, honesty, fairness and integrity in the operation and

administration of the lottery and the objectives of raising net proceeds.

9-17-128. Reports by corporation; audits; budget; fiscal year.

(a) To ensure the financial integrity of the lottery, the corporation through its board of directors shall:

(i) Submit quarterly and annual reports to the governor, department of audit and the joint revenue interim committee disclosing the total lottery revenues, prize disbursements and expenses of the corporation during the reporting period. The annual report shall additionally describe the organizational structure of the corporation and summarize the functions performed by each organizational division within the corporation;

(ii) Adopt a system of internal audits;

(iii) Maintain weekly or more frequent records of lottery transactions, including the distribution of tickets or shares to retailers, revenues received, claims for prizes, prizes paid, prizes forfeited and other financial transactions of the corporation;

(iv) Contract with a certified public accountant or firm for an annual financial audit of the corporation. The certified public accountant or firm shall have no financial interest in any vendor with whom the corporation is under contract. The certified public accountant or firm shall present an audit report not later than four (4) months after the end of the fiscal year. The certified public accountant or firm shall evaluate the internal controls in effect during the audit period. The cost of this annual financial audit shall be an operating expense of the corporation. The department of audit may at any time conduct an audit of any phase of the operations of the Wyoming lottery corporation at the expense of the state and shall receive a copy of the annual independent financial audit. A copy of any audit performed by the certified public accountant or firm or the department of audit shall be transmitted to the governor, the department of audit, the state auditor and the joint revenue interim committee;

(v) Submit to the governor, the department of audit and the joint revenue interim committee by June 30 of each year a copy of the annual operating budget for the corporation for

the next fiscal year. This annual operating budget shall be approved by the board and be on forms as prescribed by the department of administration and information;

(vi) For informational purposes only, submit to the governor on September 1 of each year a proposed operating budget for the corporation for the succeeding fiscal year. This budget proposal shall also be accompanied by an estimate of the net proceeds to be deposited into the lottery account during the succeeding fiscal year; and

(vii) Adopt the same fiscal year as that used by state government.

CHAPTER 18 NATURAL GAS MOTOR VEHICLES

9-18-101. Repealed by Laws 2013, ch. 97, § 1.

9-18-102. Sunset.

W.S. 9-18-101 is repealed effective June 30, 2017.

CHAPTER 19 SAGE GROUSE IMPLEMENTATION AND MITIGATION CREDITS

ARTICLE 1 SAGE GROUSE IMPLEMENTATION TEAM

9-19-101. Sage grouse implementation team created; membership; duties.

(a) There is created a sage grouse implementation team that shall consist of members appointed by the governor as provided in this subsection and members of the legislature as provided in subsection (b) of this section. Members of the implementation team appointed pursuant to this subsection shall serve staggered terms of four (4) years. As terms of current implementation team members expire, the governor shall appoint each new member or reappointed member to a four (4) year term. The implementation team members appointed by the governor shall consist of the following members:

(i) Not less than two (2) members representing each of the following interests:

(A) Agriculture;

(B) Mining;

(C) Oil and gas industry;

(D) Conservation or sportsmen's groups.

(ii) Not less than one (1) member representing each of the following interests:

(A) County government;

(B) Wind generation and transmission industry.

(iii) Not less than one (1) member representing each of the following agencies:

(A) Wyoming game and fish commission;

(B) Wyoming department of agriculture;

(C) Wyoming department of environmental quality;

(D) Wyoming wildlife and natural resource trust fund board;

(E) Wyoming oil and gas conservation commission;
and

(F) Wyoming office of state lands and investments.

(b) The sage grouse implementation team shall include one (1) member of the house of representatives, appointed by the speaker of the house and one (1) member of the senate appointed by the president of the senate.

(c) The implementation team shall seek cooperation and participation from the following federal entities in carrying out its duties:

(i) United States bureau of land management;

(ii) United States fish and wildlife service;

(iii) United States forest service;

(iv) United States natural resource conservation service.

(d) The governor may remove any member appointed pursuant to subsection (a) of this section as provided in W.S. 9-1-202.

(e) The governor shall appoint a chairman and other officers deemed necessary from among the members. The implementation team may meet as often as deemed necessary by a majority of the implementation team or at the request of the chairman or the governor. Except as otherwise provided in this subsection, members shall serve without salary but may, at the governor's discretion, receive per diem and mileage for attending team meetings in the manner and amounts provided by law for state employees. Members who are government employees or public officials shall be considered on official business of their agency when performing duties as members of the implementation team. Legislative members shall be paid salary, per diem and mileage as provided in W.S. 28-5-101 when performing duties as members of the implementation team. Remaining members may, at the governor's discretion, receive payment authorized by this subsection from the governor's office.

(f) The implementation team shall review data and make recommendations to the governor regarding actions and funding to maintain and enhance sage grouse populations and sage grouse habitats in Wyoming.

(g) The implementation team shall make recommendations to the governor regarding regulatory actions necessary to maintain and enhance sage grouse populations and sage grouse habitats in Wyoming.

ARTICLE 2

SAGE GROUSE IMPLEMENTATION AND MITIGATION CREDITS

9-19-201. Short title. Note: this is effective as of 10/1/2020.

This act shall be known and may be cited as the "Wyoming Greater Sage Grouse Compensatory Mitigation Act."

9-19-202. Definitions. Note: this is effective as of 10/1/2020.

(a) As used in this act:

(i) "Additionality" means the benefits of a compensatory mitigation measure that improve the baseline conditions of impacted resources and their values, services and functions in a manner that is demonstrably new and would not have occurred without the compensatory mitigation measure;

(ii) "Avoidance" means avoiding an impact completely by not taking a certain action or part of an action;

(iii) "Compensatory mitigation" means replacement, substitution or enhancement of ecological functions to offset anticipated losses of those functions caused by impacts to the greater sage grouse;

(iv) "Credit" or "mitigation credit" means a defined unit representing the accrual or attainment of ecological functions or services for the greater sage grouse at a mitigation site or within a mitigation program;

(v) "Debit" means a defined unit representing the loss of ecological functions or services for greater sage grouse at a specific mitigation site or within a mitigation program;

(vi) "Durability" means the effectiveness of a mitigation measure is sustained until the direct, indirect and any other residual impacts of an action on the habitat and population of the greater sage grouse are fully remediated;

(vii) "Ecological function" means the ability of an area to support vegetation and fish and wildlife populations;

(viii) "Effects" mean changes in the environmental conditions that are relevant to the greater sage grouse. Direct effects are caused by an action and occur at the same time and place. Indirect effects are caused by an action but occur at a later time, at another place or both;

(ix) "Habitat assurance" means assurance that compensatory mitigation is adequate to reliably abate threats to greater sage grouse populations and habitat and is adequately offset by more security for habitats and populations where threats have been removed or abated;

(x) "Habitat vulnerability" means actions that occur in highly vulnerable or limiting habitat types that make it more difficult to replace those habitats;

(xi) "Landscape support" means an area encompassing interacting ecosystems and human systems that is characterized by a set of common management concerns;

(xii) "Minimization" means minimizing the impact to habitat and populations by limiting the degree of an action and its implementation;

(xiii) "Mitigation" means all actions to avoid, minimize, restore and compensate for ecological functions;

(xiv) "Performance audit" means an audit conducted to evaluate a mitigation credit provider's compliance with this act and the rules promulgated by the board of land commissioners for the mitigation credit system to ensure that the provider is meeting required habitat, landscape and ecological targets necessary for the continued provision of ecological functions and services for purchased credits;

(xv) "Permitting agency" means the state agency that authorizes a project or action that uses compensatory mitigation credits as mitigation for unavoidable residual impacts associated with the project or action;

(xvi) "Replacement" means a physical and biological metric that will replace an impacted acre with an equal or greater amount of habitat where threats have been removed or abated;

(xvii) "Service area" means a geographic area within which adverse impacts to greater sage grouse that occur may be mitigated or compensated through credits;

(xviii) "Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect or to attempt to engage in that conduct;

(xix) "This act" means W.S. 9-19-201 through 9-19-204.

9-19-203. Compensatory mitigation; guidelines. Note: this is effective as of 10/1/2020.

(a) The compensatory mitigation credit system required under this act shall be established to allow for development to be conducted in a manner that recognizes and achieves an order

of avoidance, minimization and where appropriate and authorized by the permitting agency, compensatory mitigation to ensure the long-term sustainability of greater sage grouse populations and habitats.

(b) The board of land commissioners, after consultation as appropriate with the department of agriculture, the department of environmental quality, the game and fish department, the oil and gas conservation commission, the department of transportation and the Wyoming wildlife and natural resource trust account board, shall adopt rules for the establishment and administration of a compensatory mitigation credit system for greater sage grouse in Wyoming, including rules for evaluating ecological functions, services and values. The rules shall at a minimum provide for:

(i) Science-based criteria under which mitigation credits may be obtained, including provisions that consider additionality, durability, replacement, direct and indirect effects, habitat assurance, habitat vulnerability, occupancy, proximity, access to seasonal habitat and other landscape and habitat needs for the greater sage grouse;

(ii) Establishment of a compensatory mitigation oversight group to consist of representatives of the department of agriculture, the game and fish department, the Wyoming wildlife and natural resource trust account board and the office of state lands and investments to evaluate and provide technical review using the criteria established under paragraph (i) of this subsection and, where appropriate, recommend certification of any mitigation credit provider seeking approval under this act. The group may request assistance from any state, local and federal agency to review credit provider applications and other mitigation measures;

(iii) The service area for the use of compensatory mitigation credits, provided that mitigation shall take place within the state of Wyoming;

(iv) The length of credits to be used and sold, provided that any term credit shall be sold for the period of the expected impact. Credit term expiration before restoration of the impacted location to suitability shall require the party responsible for the mitigation to purchase additional credits or negotiate a credit contract extension. Credit mitigation shall remain in place until the impact to the habitat of greater sage

grouse is restored to suitability. Any term credit sold under this act shall be for a period of not less than five (5) years;

(v) Criteria for the use and sale of compensatory mitigation credits, including specific compensatory mitigation debit requirements for impacts to greater sage grouse core and non-core population areas, that insure equivalence and parity between debit and credit calculations;

(vi) Criteria for other forms of mitigation, including operator-offered measures and restoration credits and measures for reduced or eliminated take;

(vii) The review process for and approval by the board of land commissioners of recommendations submitted by the compensatory mitigation oversight group established in paragraph (ii) of this subsection;

(viii) Requirements for the maintenance and submission by the board of land commissioners of records concerning ecological function and greater sage grouse habitat losses and credit and debit accounts for each mitigation credit provider;

(ix) Requirements for long-term monitoring, management and maintenance of lands associated with mitigation credits obtained under the credit system including monitoring of impacts to sage grouse habitat to ensure that the impacted location is returned to full suitability before a credit purchaser is relieved of liability for mitigation of the impact;

(x) Requirements for periodic financial and performance audits to be conducted on each mitigation credit provider authorized to offer credits and any purchaser of term credits under the compensatory mitigation credit system created by this section. Audits shall be conducted only to ensure that the mitigation credit provider or purchaser are in compliance with the requirements of this act and any rules promulgated for the mitigation credit system;

(xi) Eligibility criteria for mitigation credit providers, including a requirement that a mitigation credit provider shall be a resident of or authorized to conduct business in Wyoming;

(xii) Requirements for financial assurance associated with compensatory mitigation credits obtained under the credit

system, provided that the financial assurance requirements are sufficient to address:

(A) Any corrective measures which a mitigation credit provider or their successor in interest is required to take to ameliorate any material injury or adverse impacts to the land or habitat used for compensatory mitigation for which credits are offered that materially impairs the conservation objectives of that land or habitat;

(B) The bankruptcy or financial failure of a mitigation credit provider authorized to offer credits under the compensatory mitigation credit system;

(C) Maintenance, monitoring and management costs.

(c) Every conservation easement used to serve as a credit under this act shall bind the parties thereto to an agreement that provides that the state of Wyoming is a third-party beneficiary to the easement solely with the contingent rights to enter onto the land subject to the easement for inspection and to enforce the terms of the easement if the grantee fails to enforce any of the terms of the easement. The state shall have the right to access a mitigation credit provider's financial assurances in order to address any of the occurrences specified in W.S. 9-19-203(b) (xii).

(d) Upon the purchase of a credit from a mitigation credit provider approved under this act, the purchaser's obligation for mitigation represented by that credit shall be transferred to the mitigation credit provider for the term of the credit.

(e) The board of land commissioners shall certify any habitat conservation bank that has been certified and approved by the United States fish and wildlife service as meeting or exceeding the requirements of this act until the earlier of:

(i) The federally approved habitat conservation bank is approved under the rules promulgated pursuant to this act; or

(ii) July 1, 2023.

9-19-204. Compensatory mitigation; fees; accounts. Note: this is effective as of 10/1/2020.

(a) The board of land commissioners may create an account exclusively for each mitigation credit provider. The board may accept funds for deposit into each account as part of the financial assurances required under rules adopted by the board of land commissioners pursuant to W.S. 9-19-203(b). The board shall manage the expenditure of funds within each account. Funds within each account shall be invested by the state treasurer as authorized under W.S. 9-4-715(a), (d) and (e).

(b) The board shall collect a fee of one thousand five hundred dollars (\$1,500.00) from each mitigation credit provider for creating an account as provided by subsection (a) of this section. An account established pursuant to subsection (a) of this section shall be subject to an annual fee of one percent (1%) of the account's balance for the annual administration, operation, reporting and accounting of the account. The board shall assess and collect the annual fee on the date set by rule during each year in which the account is in existence. The board shall collect the annual fee by deducting it from the balance of the account.

(c) Each mitigation credit provider shall pay supervisory fees to the board of land commissioners as set forth in the rules and regulations of the board. The supervisory fees shall provide for the costs of audit and other supervisory actions of a mitigation credit provider approved under this act. The fees shall be established by rule of the board and shall be adjusted to assure consistency with the cost of audits.

(d) Fees collected under this section shall be credited to the mitigation credit fund which is hereby created. Funds within the mitigation credit fund are continuously appropriated to the department and shall only be used for purposes of this article.

CHAPTER 20

WYOMING MINERALS TO VALUE ADDED PRODUCTS PROGRAM

9-20-101. Definitions.

(a) As used in this article:

(i) "Account" means the minerals to value added product program account created pursuant to W.S. 9-20-104(a);

(ii) "Minerals to value added products facility" includes a commercial scale mineral to liquid fuels or other value added products facilities but shall not include any

facility which will derive fifty percent (50%) or more of its anticipated revenues from the generation of electricity;

(iii) "Program" means the minerals to value added products program created pursuant to W.S. 9-20-102(a);

(iv) "Tolling fee" means a negotiated fee for the conversion of a feedstock mineral provided by the state of Wyoming under a contract with the operator of a value added facility;

(v) "This act" means W.S. 9-20-101 through 9-20-104.

9-20-102. Wyoming mineral to value added product program; rulemaking authority.

(a) There is created the Wyoming minerals to value added products program. The program is intended to aid economic development of the state by providing mineral product input guarantees to enable the recruitment and operation of commercial scale minerals to value added products facilities, which have demonstrated proof of performance.

(b) The Wyoming business council shall establish and administer the program under this act. Any commercial scale minerals to value added products facility shall submit a proposal to the governor. The governor may provide recommendations for the size and parameters of the proposed contract. An application to participate in the program shall then be submitted to and reviewed by the Wyoming business council under the process set forth in W.S. 9-12-601 through 9-12-603. The application shall be submitted on forms prescribed by, and subject to rules promulgated by, the Wyoming business council. In determining whether to recommend a contract for approval, the Wyoming business council shall consider if the applicant has demonstrated a business plan, balance sheet, sufficient cash flow, commitments to sell the finished product and other indices necessary to demonstrate the applicant's ability to perform under the contract as determined by rule and regulation of the Wyoming business council.

(c) The Wyoming business council shall provide recommendations for terms and conditions contained in a proposed contract. The Wyoming business council's recommendations shall be forwarded to the state loan and investment board for final consideration of the application.

(d) After an application to participate in the program is approved by the state loan and investment board, the Wyoming business council may complete negotiations to contract to supply not more than twenty percent (20%) of the expected mineral supply to the facility for the duration of the contract. Total contract amounts for any one (1) facility shall be set by rule of the state loan and investment board based on the provisions of this act and the expected return to the state of Wyoming, but in no event shall a contract exceed fifty million dollars (\$50,000,000.00).

(e) All complete applications to participate in the minerals to value added products program established under this act which conform to the criteria established by this act and rules and regulations promulgated hereunder, shall be considered. The Wyoming business council shall review the application and may communicate directly with the applicant. A determination by the state loan and investment board to approve or disapprove an application under this act is not appealable.

(f) If the Wyoming business council receives multiple applications to enter a contract under the program, consideration shall be given to whether the applicant has demonstrated a past record of producing jobs in Wyoming and whether the applicant has and is likely to maintain a nexus to the state of Wyoming.

9-20-103. Criteria and procedures for contracts.

(a) In determining whether to recommend or approve a contract under this act, the Wyoming business council and state loan and investment board shall consider if:

(i) There are sufficient funds in the account to fully fund the contract and all other outstanding commitments to the account;

(ii) The contract establishes the terms and conditions of the contract as required by this act, including, but not necessarily limited to:

(A) The duration of the contract to provide feedstock minerals, including the end date for the contract;

(B) Criteria to determine proof of performance on the part of the minerals to value added products facility

prior to expenditure of funds by the state of Wyoming under the contract;

(C) Tolling fees for the conversion of the state's feedstock to a value added product;

(D) Procedures and mechanisms for the sale of the finished product produced under the contract and the deposit of the proceeds of those sales to the account as provided in W.S. 9-20-104.

(b) Contracts considered under this act shall be subject to the following procedures:

(i) The proposed contract shall be submitted to the Wyoming business council for review and determination under the process set forth in W.S. 9-12-601 through 9-12-603;

(ii) The Wyoming business council's recommendations shall be forwarded to the state loan and investment board for final consideration of the contract.

(c) The Wyoming business council shall only recommend, and the state loan and investment board shall only approve, entering into contracts under this act for minerals to value added products facility projects which meet the following minimum requirements:

(i) Are anticipated to have a beneficial economic impact to the state of Wyoming and provide the following minimum public benefits:

(A) The creation of a substantial expansion of permanent jobs in the county or counties in which the project will be located;

(B) A substantial increase in the assessed valuation of the county or counties in which the projects will be located;

(C) A substantial increase in the sales, property or other tax revenues to the county or counties where the project will be located;

(D) Promotion of a stable, balanced and diversified economy; and

(E) Private investment in the county or counties in buildings, equipment and direct project infrastructure of not less than three (3) times the amount of any contract.

(ii) Provide adequate consideration for the state of Wyoming to enter the contract;

(iii) The feedstock materials supplied under the contract shall have been produced substantially in Wyoming;

(iv) The contract shall not create debt of the state of Wyoming beyond the current year's taxes;

(v) The facility to which the feedstock materials is to be supplied has not previously been supplied with feedstock materials from a contract entered into under the program; and

(vi) The terms of the contract are such that the state of Wyoming is likely to realize a positive return on its investment under the contract.

(d) No contract shall be entered into under this act without the written opinion of the attorney general certifying the legality of the transaction and all documents connected therewith.

(e) The governor, Wyoming business council or state loan and investment board is authorized to employ such experts as necessary to fully evaluate an application and negotiate the terms and conditions of a contract under this act. If experts are retained, the cost for the experts shall be paid by the applicant.

(f) The Wyoming business council may contract with such experts as necessary to assist in the performance of its obligations under any contract entered into, including assistance with feed stock purchases and the sale of value added products.

9-20-104. Wyoming mineral to value added product program account; purpose; creation; rulemaking.

(a) There is created a minerals to value added products program account. Funds in the account shall be used exclusively to promote minerals to value added products facilities as provided in this act.

(b) Funds appropriated by the legislature for the program shall be deposited into the account. All funds in the account are continuously appropriated for contracts and other expenses authorized under this act. The total principal balance of outstanding contracts shall not exceed the amounts appropriated by the legislature plus revenues accrued and collected less any losses, currently available in the account.

(c) Any unexpended balance in the account shall be invested by the state treasurer and the interest earned shall be credited to the account.

(d) Revenues generated from any contract entered into under this act shall be deposited into the account and continuously appropriated to the Wyoming business council to be expended solely for the purpose of administering this act and contracts authorized hereunder, except as provided in subsection (e) of this section.

(e) The Wyoming business council shall report by November 1 of each year to the joint appropriations committee and the joint minerals, business and economic development interim committee on the status and condition of the program and the account. The report required under this subsection, and all its contents, shall be a public record. In addition to factors listed in this subsection, the Wyoming business council's report shall include the account fund balance and anticipated potential expenditures, including contracts, under the program for the next three (3) fiscal years, respectively. The joint appropriations committee shall then determine whether to introduce legislation to appropriate a portion, or all, of the funds in the account for purposes other than the program. The report shall further include:

(i) A review of rules adopted by the Wyoming business council or state loan and investment board during the reporting period;

(ii) The portfolio of contracts entered into under the program;

(iii) A risk analysis of the portfolio;

(iv) Any other relevant information as determined by the state loan and investment board or the Wyoming business council.

CHAPTER 21
DATA POLICIES

9-21-101. Data policies.

(a) Every agency shall adopt, enforce and maintain a policy regarding the collection, access, security and use of data. The policy shall, at a minimum, comply with applicable federal and state law, adhere to standards set by the state chief information officer and include the following:

(i) An inventory and description of all data required of, collected or stored by an agency;

(ii) Authorization and authentication mechanisms for accessing the data;

(iii) Administrative, physical and logical security safeguards, including employee training and data encryption;

(iv) Privacy and security compliance standards;

(v) Processes for identification of and response to data security incidents, including breach notification and mitigation procedures;

(vi) In accordance with existing law, processes for the destruction and communication of data.

(b) As used in this section, "agency" means any office, department, board, commission, council, institution, separate operating agency or any other operating unit of the executive branch of state government. "Agency" shall not include the state legislature, judiciary, University of Wyoming or any community college in the state.

(c) The governor, after consultation with the chief information officer, may set a date for specific agencies to comply with subsection (a) of this section and may revise that date as necessary.

CHAPTER 22
LIMITATIONS ON DELEGATES TO A CONVENTION FOR PROPOSING
AMENDMENTS

9-22-101. Definitions.

(a) As used in this chapter:

(i) "Article V application" means a joint resolution passed by the Wyoming legislature on the same subject or containing the same proposed amendment text as two-thirds (2/3) of the other states requiring the United States congress to call an article V convention;

(ii) "Article V convention" means a convention for proposing amendments as expressly provided in article V of the United States constitution;

(iii) "Delegate" or "alternate" means a legislator selected under W.S. 9-22-102(g) to represent the state of Wyoming at an article V convention;

(iv) "Legislative instructions" means instructions given by the state legislature to delegates and alternates before and during an article V convention;

(v) "Unauthorized amendment" means a proposed amendment that is outside the permitted subject matter contained in the article V application or contrary to legislative instructions.

9-22-102. Limitations of authority for delegates to an article V convention.

(a) No delegate shall have authority to vote to allow consideration of, or to approve, an unauthorized amendment for ratification to the United States constitution.

(b) Any delegate shall be directed to vote for procedures and rules mandating that the convention remain a convention of states where each state is represented by one (1) vote.

(c) Any vote made in violation of subsection (a) or (b) of this section shall be null and void, and the delegate making the vote shall be immediately recalled by an official or executive branch committee authorized by a resolution of the legislature and replaced by an alternate as provided in subsection (g) of this section.

(d) Each delegate or alternate shall be required to take the following oath or affirmation: "I do solemnly swear or affirm that to the best of my abilities I will, as a delegate or alternate to an article V convention, uphold the constitution

and laws of the United States of America and Wyoming. I will not vote to allow consideration of or to approve any unauthorized amendment proposed for ratification to the United States constitution. I understand and accept any penalties that Wyoming law may impose on me for violating this oath."

(e) Any delegate who violates the oath contained in subsection (d) of this section shall be guilty of a felony punishable by imprisonment for not more than five (5) years, a fine of not more than ten thousand dollars (\$10,000.00), or both. Additionally, any delegate who violates the oath contained in subsection (d) of this section shall be ineligible to serve as a delegate and any certification of the delegate shall be null and void.

(f) The secretary of state shall certify the selection of the delegates in writing to the article V convention and shall provide a copy of the certification to each delegate. No delegate shall have authority to vote or otherwise serve as a delegate at the article V convention without the certification.

(g) The secretary of state shall notify the president of the Wyoming senate and the speaker of the Wyoming house of representatives in writing of the need to assign delegates or alternates to the article V convention. The members of the senate shall elect three (3) members of the senate to serve as delegates, and the members of the house of representatives shall elect three (3) members of the house of representatives to serve as delegates. If a delegate becomes unable or ineligible to serve, the president of the senate or the speaker of the house shall assign an alternate for the delegate who has become unable or ineligible to serve. An alternate delegate assigned under this subsection shall immediately be entitled to represent Wyoming as a delegate in place of the delegate who has become unable or ineligible to serve, and the secretary of state shall immediately provide certification to the new delegate.

(h) The secretary of state shall notify the article V convention and any delegate involved of the revocation of that delegate's certification should the delegate violate his or her oath to act only within the limits of the authority granted by the state of Wyoming.

(j) The Wyoming attorney general shall enforce the provisions of this section.

PROFESSIONAL ARCHITECTURAL, ENGINEERING AND LAND SURVEYING
SERVICES PROCUREMENT ACT

9-23-101. Short title. Note: this law is Renumbered by 9-2-1027 by Laws 2020, ch. 30, § 2. effective 10/1/2020.

This act is known and may be cited as the "Professional Architectural, Engineering and Land Surveying Services Procurement Act".

9-23-102. Definitions. Note: this law is Renumbered by 9-2-1028 by Laws 2020, ch. 30, § 2. effective 10/1/2020.

(a) As used in this act:

(i) "Agency" means any school district, state office, department, board, council, commission, separate operating agency, institution or other instrumentality or operating unit of the state excluding the University of Wyoming, community college districts, the Wyoming business council and the Wyoming department of transportation;

(ii) "Department" means the state construction department;

(iii) "Firm" means an individual, corporation, partnership, business trust, association, firm or any other legal entity permitted by law to practice in a specified profession;

(iv) "Principal representative" means the governing board of an agency or its designated representative, or if there is no governing board, the executive head of an agency;

(v) "Professional services" means:

(A) The practice of architecture pursuant to W.S. 33-4-101 through 33-4-117;

(B) The practice of professional engineering or professional land surveying pursuant to W.S. 33-29-201 through 33-29-801.

(vi) "Resident firm" means a firm that:

(A) Possesses a physical office within the state that is staffed by individuals with professional and technical expertise who are employed in the state; and

(B) Certifies in the firm's current statement of qualifications or application that if selected for the project the percentage of professional services specified in this subparagraph shall be performed by individuals or consultants employed in the state who will perform their labor or professional services provided under the contract within the boundaries of the state. The individuals who will perform the professional services shall possess the professional and technical qualifications necessary to perform the work required by the contract. The following percentages shall apply to this subparagraph:

(I) For any projects with negotiated fees for professional services in an amount equal to one million five hundred thousand dollars (\$1,500,000.00) or less - fifty percent (50%) of the professional services provided under the firm's contract;

(II) For any projects with negotiated fees for professional services in an amount greater than one million five hundred thousand dollars (\$1,500,000.00) but less than three million dollars (\$3,000,000.00) - forty percent (40%) of the professional services provided under the firm's contract;

(III) For any projects with negotiated fees for professional services in an amount equal to three million dollars (\$3,000,000.00) or more - thirty percent (30%) of the professional services provided under the firm's contract.

(vii) "Negotiated fee" means the fee specified in a written contract for professional services entered into in accordance with W.S. 9-23-106;

(viii) "State procurement website" means a website that the department designates to host information and notices related to procurement under this act;

(ix) "This act" means W.S. 9-23-101 through 9-23-107.

9-23-103. General duties. Note: this law is Renumbered by 9-2-1029 by Laws 2020, ch. 30, § 2. effective 10/1/2020.

(a) The department shall:

(i) Develop and maintain approved lists of qualified architects, engineers and land surveyors for selection under this act; and

(ii) Develop and administer notification procedures for obtaining professional services under this act.

9-23-104. Qualification procedures; notice. Note: this law is Renumbered by 9-2-1030 by Laws 2020, ch. 30, § 2. effective 10/1/2020.

(a) Any firm desiring to provide professional services to an agency, shall submit to the department or the agency a detailed statement of qualifications and performance data, and any other information required by the department or the agency. Each firm shall submit the statement not less than every two (2) years. The department or the agency may request the firm to update its statement before submission in order to reflect changed conditions in the status of the firm.

(b) For any professional services fee estimated by the agency to exceed fifty thousand dollars (\$50,000.00), the agency or the department shall give notice of the need for professional services in a newspaper of general circulation in the state at least once each week for two (2) consecutive weeks and on the state procurement website for not less than two (2) consecutive weeks prior to initiation of selection procedures in accordance with W.S. 9-23-105. All notifications under this subsection shall contain a general description of the proposed project, and shall indicate the procedures by which interested firms may apply for consideration for a contract to provide professional services for the proposed project.

9-23-105. Selection procedures; emergency waiver. Note: this law is Renumbered by 9-2-1031 by Laws 2020, ch. 30, § 2. effective 10/1/2020.

(a) For each proposed project, the principal representative of the agency for which the project is proposed shall evaluate current statements of qualifications and performance data of firms on file with the department or the agency, together with any applications submitted by other qualified firms, and shall select in accordance with subsection (f) of this section not less than three (3) firms considered qualified to perform the required professional services. The

agency shall provide a complete description of the work to the firms selected. These firms shall submit an unpriced proposal to do the work.

(b) In addition to the requirements of subsection (a) of this section, for any professional services fee estimated by the agency to exceed fifty thousand dollars (\$50,000.00) the principal representative shall interview not less than three (3) firms selected from those which have submitted proposals to do the work. The interview may include discussion of each firm's projections of project costs, qualifications, approaches to the project, ability to furnish required professional services, use of alternative methods for furnishing required professional services and an estimated fee based on the agency's description of the work. The agency shall keep a record of the interview. The estimated fee, if requested by the agency, may be used as a basis, along with the considerations and requirements of subsection (f) of this section for selection by the principal representative of the most qualified firm for contract negotiations. If unsatisfied with the results of such interviews, the principal representative may select not less than three (3) additional firms for interviews as provided by subsection (a) of this section.

(c) In addition to the requirements of subsection (a) of this section, for any professional services fee estimated by the agency to be fifty thousand dollars (\$50,000.00) or less, the principal representative shall select three (3) firms from which a project specific submittal shall be requested. The information provided by the firm may include an estimated fee and preliminary scope of services based on the agency's description of the work. The estimated fee, if requested by the agency, may be used as a basis along with considerations and requirements of subsection (f) of this section for selection by the principal representative of the most qualified firm for contract negotiations.

(d) Nothing in this section prohibits a principal representative from determining that fewer than three (3) firms with current statements on file or which have submitted applications before selection are qualified to perform the required professional services. If a principal representative makes that determination, subsections (b) and (c) of this section apply with respect to the firms the principal representative considers qualified.

(e) The department, in conjunction with the agencies, shall adopt rules and regulations necessary to implement the selection process provided by this section.

(f) Every agency, the University of Wyoming, each community college district, the Wyoming business council and the Wyoming department of transportation shall base selection of a firm for professional services in accordance with the following:

(i) Except as provided in paragraph (ii) of this subsection and subsection (g) of this section, the agency, the University of Wyoming, each community college district, the Wyoming business council and the Wyoming department of transportation shall select firms that are resident firms as defined by this act. Consideration between firms shall be based upon:

(A) The ability of professional personnel;

(B) Past performance;

(C) Ability to meet time requirements;

(D) Location;

(E) Current and projected work loads;

(F) The volume of work previously awarded to the firm by the agency;

(G) The equitable distribution of contracts among the firms considered qualified.

(ii) Nonresident firms may be selected if no firms on file, together with any applications submitted for the project, are resident firms as defined by this act or if the resident firms are determined not qualified by the agency, the University of Wyoming, each community college district, the Wyoming business council or the Wyoming department of transportation. Consideration of qualified nonresident firms shall be based upon the considerations listed in subparagraphs (i)(A) through (G) of this subsection.

(iii) Repealed by Laws 2020, ch. 30, § 2.

(g) The provisions of this act requiring selection of resident firms shall not apply if:

(i) Any part of the proposed project is to be paid or has the potential to be paid with funds from the federal government or other nonstate source; and

(ii) The federal government or the other nonstate source has applicable requirements concerning residency preferences that are inconsistent with this act.

(h) Whenever an emergency arises requiring professional services, the principal representative of an agency, the University of Wyoming, the community college district, the Wyoming business council and the Wyoming department of transportation may waive any applicable requirement of W.S. 9-23-104 and this section if the requirement endangers the health, welfare or safety of the public.

9-23-106. Contract procedure. Note: this law is Renumbered by 9-2-1032 by Laws 2020, ch. 30, § 2. effective 10/1/2020.

(a) After completing the selection process, the principal representative shall negotiate a written contract with the selected firm as determined by W.S. 9-23-105 for the provision of services. The principal representative shall consider the estimated value, scope, complexity and professional nature of the services to be rendered when determining a reasonable compensation.

(b) If the principal representative is unable to negotiate a satisfactory contract with the selected firm at a price he determines fair and reasonable, negotiations with that firm shall be terminated. The principal representative shall then begin negotiations with the firm ranked second in order of preference pursuant to W.S. 9-23-105. If the principal representative fails to negotiate a contract with the second ranked firm, he shall terminate negotiations. The principal representative shall then begin negotiations with the firm ranked third in order of preference.

(c) If the principal representative is unable to negotiate a satisfactory contract with any of the selected firms, he shall:

(i) Select additional firms in order of their competence and qualifications and continue negotiations in accordance with this section and W.S. 9-23-105, until a contract is reached; or

(ii) Review the contract under negotiation to determine the possible cause for failure to achieve a negotiated contract.

(d) Each contract for professional services entered into by the principal representative shall contain a prohibition against gratuities, kickbacks and contingent fees. The person providing professional services shall certify that he has not in any way been involved in any gratuities, kickbacks or contingent fees in connection with his selection or ultimate performance of the contract.

(e) Each contract for professional services entered into by the principal representative shall contain a prohibition against payment based upon a percentage of the construction cost.

(f) This act shall not prohibit continuing contracts between any person providing professional services and any agency.

(g) If selection of a resident firm is required under this act, the contract for professional services entered into by an agency, the University of Wyoming, each community college district, the Wyoming business council or the Wyoming department of transportation shall contain a certification by the resident firm providing professional services that the firm will comply with W.S. 9-23-102(a)(vi)(B). This subsection shall not be construed to require a firm to comply with W.S. 9-23-102(a)(vi)(B) if the proposed project is exempt from residence firm selection by W.S. 9-23-105(g) or if selection of a resident firm is waived in accordance with W.S. 9-23-105(h).

9-23-107. Prohibited acts; civil penalty; initiation of action. Note: this law is Renumbered by 9-2-1033 by Laws 2020, ch. 30, § 2. effective 10/1/2020.

(a) No person, including any agency official or employee, shall:

(i) In any way be involved in any gratuities, kickbacks, or contingent fees in connection with the selection procedure set forth in this act;

(ii) If providing professional services, pay any fee, commission, gift or other consideration contingent upon the

award of a contract for professional services pursuant to this act.

(b) Any person violating subsection (a) of this section or W.S. 9-2-1032(d) is liable for a penalty not to exceed five thousand dollars (\$5,000.00). The penalty may be recovered in a civil action and damages shall be assessed by the court.

(c) Any action pursuant to this section shall be initiated in Laramie county by the attorney general.