

TITLE 16 - CITY, COUNTY, STATE AND LOCAL POWERS

CHAPTER 1 - INTERGOVERNMENTAL COOPERATION

ARTICLE 1 - IN GENERAL

**16-1-101. Authority to cooperate.**

In exercising, performing or carrying out any power, privilege, authority, duty or function legally vested in any one (1) or more of them by Wyoming law, the state of Wyoming, and any one (1) or more of its counties, municipal corporations, school districts, special districts, public institutions, agencies, boards, commissions and political subdivisions, and any officer or legal representative of any one (1) or more of them, may cooperate with and assist each other, and like entities or authorities of other states, the United States and the Eastern Shoshone and Northern Arapaho Tribes of the Wind River Reservation. Cooperation may be informal or subject to resolution, ordinance or other appropriate action, and may be embodied in a written agreement specifying purposes, duration, means of financing, methods of operations, termination, acquisition and disposition of property, employment of executive and subordinate agents, reciprocation of governmental immunity protections or other limitations of liability pursuant to W.S. 16-1-104(f) and other appropriate provisions.

**16-1-102. Short title.**

This act shall be known and may be cited as the "Wyoming Joint Powers Act".

**16-1-103. Definitions.**

(a) As used in this act:

(i) "Agencies" means Wyoming counties, municipal corporations, school districts, community college districts, 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, joint powers boards formed pursuant to this act or special districts specifically involved in providing facilities or functions enumerated in W.S. 16-1-104(c);

(ii) "This act" means W.S. 16-1-102 through 16-1-110.

**16-1-104. Joint powers, functions and facilities; city-county airport board; eligible senior citizen centers; cooperative public transportation programs.**

(a) Any power, privilege or authority exercised or capable of being exercised by an agency may be exercised and enjoyed jointly with any other agency having a similar power, privilege or authority. No cost shall be incurred, debt accrued, nor money expended by any contracting party, which will be in excess of limits prescribed by law. If the joint business council of the Eastern Shoshone and Northern Arapaho Indian tribes, the business council of the Eastern Shoshone Indian tribe or the business council of the Northern Arapaho Indian tribe participates in a joint powers board under this act with political subdivisions and special districts of Wyoming, the powers of the joint business council, the powers of the business council of the Eastern Shoshone Indian tribe, the powers of the business council of the Northern Arapaho Indian tribe, Wyoming political subdivisions and Wyoming special districts are neither increased or decreased by that participation. Rather the participation of the joint business council, the business council of the Eastern Shoshone Indian tribe or the business council of the Northern Arapaho Indian tribe is intended to facilitate implementation of programs and projects designed to more effectively benefit Wyoming's citizens.

(b) A county may enter into and operate under a joint powers agreement with one (1) or more counties, cities, school districts or community college districts for the performance of any function that the county, city, school district or community college district is authorized to perform, except the planning, expansion, creation, financing or operation of municipally owned electrical facilities.

(c) Specifically, without limiting but subject to the provisions of subsection (a) of this section, two (2) or more agencies may jointly plan, own, lease, assign, sell, create, expand, finance and operate:

(i) Water including surface water drainage, sewerage, water and soil conservation or solid waste facilities;

(ii) Recreational facilities;

(iii) Police protection agency facilities;

(iv) Fire protection agency facilities;

(v) Transportation systems facilities, including airports;

(vi) Public school facilities;

(vii) Community college facilities;

(viii) Hospital and related medical facilities;

(ix) Courthouse and jail or administrative office facilities;

(x) Public health facilities;

(xi) Electrical systems owned by municipalities prior to March 1, 1975;

(xii) Rights-of-way for electric transmission systems, oil and natural gas pipelines, telecommunications and utilities. Any right-of-way acquired under the provisions of this subsection shall follow an existing utility corridor whenever practical;

(xiii) Municipal natural gas facilities and systems.

(d) Any city-county airport board heretofore organized and operating pursuant to W.S. 10-5-101 through 10-5-204 shall be deemed a joint powers board, and shall not be required to reorganize as provided for by W.S. 16-1-106(a) but is subject to all other provisions of this act.

(e) A governing body of an eligible senior citizen center may enter into a joint powers agreement under this act in order to participate in the local government self-insurance program as provided in W.S. 1-42-201 through 1-42-206. An eligible senior citizen center which enters into a joint powers agreement pursuant to this subsection shall be bound by all provisions of the agreement, but shall not be entitled to participate as a member of the joint powers board.

(f) An agency may enter into an agreement with any governmental entity of another state, as defined in W.S. 1-39-103(a)(viii), for purposes of operating a cooperative public transportation program to transport passengers on one (1) or more routes beginning in, ending in or passing through Wyoming. Any agreement entered into under this subsection shall

only apply to the operation of a cooperative public transportation program and shall be conditioned upon the other state extending or agreeing to extend its governmental immunity or other limitations of liability to any governmental entity of Wyoming while operating a cooperative public transportation program. As used in this subsection, "cooperative public transportation program" means a not-for-profit program designed to transport passengers to and from work or to another location on a regularly scheduled basis using vehicles operated by an agency or a governmental entity of another state.

**16-1-105. Joint agreements.**

(a) Any two (2) or more agencies may enter into agreements with each other for joint or cooperative action pursuant to this act. No agreement hereunder nor amendment thereto is effective until:

(i) The governing body of each participating agency has approved the agreement or amendment;

(ii) The agreement or amendment is submitted to and approved by the Wyoming attorney general who shall determine whether the agreement or amendment is compatible with the laws and constitution of Wyoming; and

(iii) The agreement or amendment is filed with the keeper of records of each participating agency.

(b) Agreements shall provide:

(i) The duration of the agreement;

(ii) The organization, composition and nature of any separate legal entity created and the powers delegated to the entity;

(iii) The purpose of the agreement;

(iv) The percent ownership of any facility by each participating agency, unless the facility is to be owned by a joint powers board, in which case the agreement shall indicate the interest of each participating agency in the services or product of the joint powers board or the method by which the interest may be determined;

(v) The joint operation and maintenance of any facility unless delegated to an entity pursuant to paragraph (ii) of this subsection;

(vi) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor;

(vii) The partial or complete termination of the agreement, dissolution of any entity provided therein, and distribution of any facilities, improvements or other property upon partial or complete termination of the agreement;

(viii) Any other necessary and proper matters.

(c) If the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement may provide for an administrator or administrative board responsible for administering the joint or cooperative undertaking and representation of participating agencies on any administrative board.

**16-1-106. Joint powers boards; fiscal manager.**

(a) An agreement pursuant to this act may create a joint powers board to conduct a joint or cooperative undertaking. A joint powers board shall consist of not fewer than five (5) members, all of whom shall be qualified electors of the counties in which the board operates. Members of a joint powers board shall be appointed by the governing bodies of the participating agencies in any proportion or number the bodies feel would adequately reflect their interest. The initial appointments shall be by mutual agreement with staggered terms of one (1), two (2) and three (3) years and are subject to reappointment. Thereafter, appointments for a full term shall be for three (3) year staggered terms. Vacancies for unexpired terms shall be filled by appointment by the governing bodies of the participating agencies. Members of the board may be removed by the governing bodies of the participating agencies. It is not incompatible office holding for an officer or legal representative of a county, municipal corporation, school district, special district, public institution, agency, board, commission or political subdivision to be a member of a joint powers board.

(b) Promptly following appointment of its members, a joint powers board shall meet, organize and elect from its membership

a chairman, vice-chairman, secretary and treasurer. The secretary of a joint powers board shall notify the participating agencies of the board's organization and shall file a certificate with the county clerk and the secretary of state showing its organization. Upon filing the certificate, the joint powers board shall automatically become a body corporate and politic, and a public corporation with power to sue and be sued. The corporation has perpetual existence unless otherwise specified by the agreement providing for the corporation. No individual member of a joint powers board shall be personally liable for any actions or procedure of a joint powers board. When actually engaged in the performance of their duties, members of a joint powers board shall receive no compensation but shall be reimbursed for travel and per diem expenses as provided to state employees.

(c) A joint powers board shall meet at least once every three (3) months at the call of the chairman or within five (5) days after an oral or written request of a majority of the board members.

(d) Within the limits of its authorized and available funds, a joint powers board may employ technical, legal, administrative and clerical assistance and engage the services of research and consulting agencies. In the performance of its duties a joint powers board may utilize the services of any officer or employee of a participating agency with the approval of the governing body of the agency. Upon request of a joint powers board elected and appointed officers and employees of participating agencies shall promptly furnish the board information, statistics and reports under their control and shall otherwise cooperate with a joint powers board.

(e) Any agency participating in a joint powers project may appoint a joint powers board created by the agreement or any of the other agencies participating in the project as its agent to manage the project or to manage the finances of the project. The joint powers agreement may create a single fiscal manager to receive monies and make disbursements for the entire project. The fiscal manager may set up any necessary sinking funds, reserve funds or building funds for the use of the project.

#### **16-1-107. Financing of joint projects.**

(a) Any joint project consisting of property or improvements or an interest therein to be owned by participating

agencies or a joint powers board undertaken pursuant to this act may be financed:

(i) By the contribution of funds from one (1) or more participating agencies which would be available to each agency if proceeding individually;

(ii) By bond issues by one (1) or more participating agencies to construct, improve or acquire an interest in any facility in the same manner as bonds may be issued by the agency for its individual construction, improvement or acquisition of such a facility;

(iii) By revenue bonds issued by a joint powers board to be repaid solely from revenues provided by this section or any revenue received by a joint powers board from the ownership, lease or operation of property or interest in property owned, leased or controlled by the board. Revenue securities may be issued upon majority approval of the members of a joint powers board and may be executed and delivered at any time, in the form, denominations and amounts, and may be redeemed or repurchased prior to maturity with or without premium, and may bear interest as provided by resolution of a joint powers board authorizing the issue. These securities shall meet the procedural requirements and provisions of W.S. 35-2-425 through 35-2-428 as provided for the issuance of bonds by hospital districts;

(iv) By facilities privately owned and leased to two (2) or more agencies or a joint powers board if the lease agreement provides that upon termination of the lease agreement title to the facilities vests in the participating agencies;

(v) By gifts, donations or grants of federal money;

(vi) By industrial development project bonds issued pursuant to W.S. 15-1-701 et seq.

(b) The state treasurer with the approval of the governor may if fiscally prudent invest any permanent state funds in bonds or securities issued pursuant to this act.

**16-1-108. Obligations and responsibilities of participating agencies.**

(a) No participating agency nor any legal entity created pursuant to this act shall construct, operate or maintain any

facility or improvement other than for service to and use by the participating agencies and their resident customers, except for undertakings pursuant to W.S. 16-1-104(c) (xii).

(b) No agreement pursuant to this act shall relieve any participating agency of any obligation or responsibility imposed upon it by law except to the extent of actual and timely performance thereof by a joint powers board or other legal or administrative entity created by an agreement hereunder, the performance may be offered in satisfaction of the obligation or responsibility.

(c) After April 1, 1998, any legal entity created pursuant to this act or any of its participating agencies, which owns, constructs, operates or maintains a municipal or rural domestic water supply system funded in whole or in part by state grants or loans, shall not assess public entities or individual water users in the cooperating agencies' service area water rate charges which exceed the actual costs of providing and delivering water to the point of connection to the public entities' or individual water users' water system. The governing body of the entity may establish one (1) or more service areas in each of which an average water rate may be used for all customers. A one time connection fee or system investment fee reasonably calculated to permit recovery of a proportionate share of the system infrastructure cost necessary to treat and convey the water may also be charged. A one-time fee may also be charged to recover reasonable expenses incurred by the public entity in determining the actual costs of treating and delivering water to the point of connection. Charges for special services such as customer's line maintenance shall be in addition to the water rate. As used in this subsection, "actual costs of providing and delivering water" shall include a proportionate share of the following costs related to the water system:

(i) Fees, interest charges and principal payments on all bonds issued and other indebtedness incurred to construct, purchase or improve the utility;

(ii) Salaries and wages of employees;

(iii) The cost of materials, supplies, utilities and outside services;

(iv) Other costs directly related to the delivery system;



(v) The cost for providing and maintaining a depreciation fund, a fund for emergencies and a fund for acquisition and development of new water rights and water sources;

(vi) Administrative and overhead expenses; and

(vii) The cost of acquiring, transporting, processing and treating water.

(d) If requested by the party seeking water service who resides outside the public entity's service area and upon approval of the public entity, subsection (c) of this section shall not apply if the ratio of the established rate charged to customers outside the area to the rate within the public entities service area is less than one and one-quarter (1.25) to one (1).

**16-1-109. State loan and investment board loans; amount; interest; security; conditions.**

(a) The state loan and investment board may negotiate and make loans to one (1) or more agencies, the University of Wyoming, or joint powers boards presently existing, permitted or created pursuant to the statutes, from the permanent mineral trust funds and other permanent funds of Wyoming not otherwise obligated, not to exceed sixty million dollars (\$60,000,000.00) including all loans previously made and outstanding, and not to exceed a term of forty (40) years for repayment. The board shall set rates of interest on all such loans according to the current rates of interest for similar securities on the commercial market upon a basis which will not be less than the average rate of return realized on all permanent mineral trust fund investments as determined by the state treasurer for the five (5) calendar years immediately preceding the year in which the loan is made. For all loans under this section approved after July 1, 1996, a loan origination fee of one percent (1%) of the loan shall be paid to the state loan and investment board by the borrowing agency, university or joint powers board. The revenue produced by this fee shall be credited to the loss reserve account as provided by W.S. 16-1-110.

(b) In making loans pursuant to this act, the state loan and investment board shall establish requirements and standards which it determines to be necessary and advisable.

(c) Upon approval of a loan, an agency, the university, participating agencies, or a joint powers board shall transfer title or its interest to the property upon which facilities are to be constructed, including later improvements, to the state loan and investment board, or the state loan and investment board may require the security it deems necessary. The recipient of the loan shall make reasonable annual rental charges or loan payments as specified by the state loan and investment board. Upon repayment of the loan, title to or interest in the property and improvements shall be reconveyed to the appropriate agency, university, participating agencies or joint powers board. Where the transfer of title or interest in the property would preclude the obtaining of federal grants or where transfer of title or interest is prohibited by or would be in violation of existing grant-in-aid agreements, the state loan and investment board may waive the requirements of transfer of title or transfer of any interest in the property, and substitute other security of sufficient value as it deems necessary.

(d) Loans under this section shall be made only under the following conditions:

(i) Loans shall be made only for facilities generating user fees only to the extent that the user fees will repay the loan such that the loan can be considered a reasonable and prudent investment of state permanent funds. Any portion of the revenue generating facility unable to be financed by user fees may be financed by a grant under W.S. 9-4-604(g) and (h) to agencies and joint powers boards otherwise authorized to receive grants under those provisions;

(ii) No security other than a lien on the facilities used to generate user fees to repay the loan and pledges of user fees shall be taken to secure the loan except that the entity or joint powers board receiving the loan may also be required to issue revenue bonds to the state to evidence the loan if statutory authority exists for the entity to issue revenue bonds for the facility. No property shall be taken as security unless the property is owned by the entity to which the loan will be made. Upon repayment of the loan, liens against the property and revenue shall be released by the state loan and investment board;

(iii) Loans shall be made to the governmental entity or entities whose inhabitants receive a direct service or benefit from the revenue generating facility;

(iv) The state loan and investment board shall receive annual financial statements from entities receiving loans under this subsection;

(v) No loan shall be made without the written opinion of the attorney general certifying the legality of the transaction and all documents connected therewith;

(vi) The board shall request a review and recommendation from the aeronautics commission on all applications for loans for the construction, development and improvement of airport facilities generating user fees and shall make any loan recommended by the aeronautics commission unless, based upon the credit worthiness of the project, the board determines the loan would not be a prudent investment.

(e) The board, whenever it deems necessary for the better protection of permanent funds of the state invested in loans under this section, may refinance any delinquent loan and reamortize the loan over not more than thirty (30) years from the date of refinancing. All costs of refinancing the loan shall be paid by the borrowing entity and no loan shall be refinanced where it appears refinancing will jeopardize the collection of the loan. An additional fee of one percent (1%) of the amount of the reamortized loan shall be paid by the borrowing entity to the board to be credited to the loss reserve account created by W.S. 16-1-110 as provided by subsection (a) of this section.

**16-1-110. Loss reserve account created; deposits; disposition of funds.**

(a) Revenues received by the state loan and investment board for deposit in the loss reserve account pursuant to W.S. 16-1-109(a) shall be transmitted to the state treasurer for deposit to the credit of the loss reserve account. Funds in the account shall be used for the purposes specified in subsection (b) of this section and to pay the administrative and legal expenses of the board in making collections and foreclosing on loans made pursuant to W.S. 16-1-109. If at the end of any fiscal year, the amount in the loss reserve account exceeds five percent (5%) of the total amount of permanent funds invested by the state in loans pursuant to W.S. 16-1-109, the amount in excess of the five percent (5%) shall be transferred and credited to the general fund.

(b) If, as a result of default in the payment of any loan made pursuant to W.S. 16-1-109, there occurs a nonrecoverable loss either to the corpus of, or interest due to, any permanent fund of the state, the state loan and investment board shall restore the loss to the permanent fund account entitled thereto using any funds available in the loss reserve account created by subsection (a) of this section. If the funds in the loss reserve account are insufficient to restore the full amount of the loss, the board shall submit a detailed report of the loss to the legislature and shall request an appropriation to restore the balance of the loss to the permanent fund account entitled thereto.

**16-1-111. Loans to political subdivisions; requirements; limitations; rulemaking.**

(a) The state loan and investment board may negotiate and make loans from the permanent Wyoming mineral trust fund to political subdivisions of this state as provided in this section. The aggregate sum of all outstanding loans made under this section shall not exceed four hundred million dollars (\$400,000,000.00). The aggregate sum of outstanding loans made for infrastructure projects shall not exceed two hundred million dollars (\$200,000,000.00) and shall not exceed two hundred million dollars (\$200,000,000.00) for road or street projects. Loans may be made for infrastructure projects and street and road projects as provided in this section. The board shall adopt rules and procedures as it deems advisable or necessary to administer the program. The rules shall include requirements and standards which the board determines to be necessary or advisable in accordance with the following:

(i) To qualify for a loan an applicant shall demonstrate:

(A) A commitment to adequately maintain the project for which the loan is requested during a reasonable period of time;

(B) That all project costs will be funded at the time of receipt of the loan, with funding sources specified within the project application;

(C) Compliance with any other criteria developed by the board consistent with this section.

(ii) The determination of whether to make a loan shall include consideration of:

(A) The contribution of the project to health, safety and welfare;

(B) The applicant's need for the project and financial needs of the applicant in relation to the project;

(C) The ability of the applicant to repay the loan.

(b) Loans may be made to cities, towns, counties, school districts and community college districts for infrastructure projects. A loan under this subsection shall be at an interest rate of one percent (1%) plus seventy-five thousandths of one percent (.075%) for each year of the loan term in excess of five (5) years. In the event of prepayment of a loan, the interest rate shall be calculated at the actual loan period, but no refund of interest payment shall be made to the borrowing entity. Any loan made under this subsection shall be for a term of not fewer than five (5) years and not greater than twenty-five (25) years for repayment. Adequate security for loans shall be required and may include:

(i) A pledge of the revenues from the project for which the loan was granted;

(ii) A pledge of other revenues available to the entity receiving the loan;

(iii) A mortgage covering all or any part of the project or by a pledge of the lease of the project;

(iv) Any other security device or requirement deemed advantageous or necessary by the board.

(c) Loans may be made to cities, towns and counties for road or street projects. To qualify for a road or street project loan, in addition to the requirements of subsections (a) and (b) of this section, an applicant shall demonstrate that all related infrastructure including water and sewer is or will be in place at the time of receipt of the loan. No loan shall be provided under this subsection to any city, town or county that has any outstanding or unpaid loan under this subsection. Any loan under this subsection shall be at an interest rate of one percent (1%) plus seventy-five thousandths of one percent

(.075%) for each year of the loan term in excess of five (5) years. In the event of prepayment of a loan, the interest rate shall be calculated at the actual loan period, but no refund of interest payment shall be made to the borrowing entity. Any loan made under this subsection shall be for a term of not fewer than five (5) years and not greater than twenty-five (25) years for repayment. The total loans under this subsection provided in any one (1) year shall not exceed one hundred million dollars (\$100,000,000.00). Not more than thirty-five million dollars (\$35,000,000.00) of road or street loans shall be made in any one (1) year to:

- (i) Towns as defined in W.S. 15-1-101(a)(xiv);
- (ii) Cities as defined in W.S. 15-1-101(a)(iv);
- (iii) Counties.

(d) No loan 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.

(e) There is created a loss reserve account for loans made under this section. A loan origination fee of one-half of one percent (0.5%) of the loan shall be paid by the loan applicant and deposited to the loss reserve account for any loan approved under this section. If, as a result of default in the payment of any loan made under this section, there occurs a nonrecoverable loss either to the corpus of, or interest due to the permanent Wyoming mineral trust fund, the board shall restore the loss to the permanent fund using any funds available in the loss reserve account. If the funds in the loss reserve account are insufficient to restore the full amount of the loss, the board shall submit a detailed report of the loss to the legislature and shall request an appropriation to restore the balance of the loss to the permanent fund. Beginning June 30, 2018, the state treasurer shall transfer funds quarterly from the permanent Wyoming mineral trust fund reserve account to the loss reserve account created in this subsection, in an amount necessary to ensure that as of the last day of each quarter there is an unobligated, unencumbered balance equal to five percent (5%) of the balance of outstanding loans under this section. Any funds transferred to the loss reserve account pursuant to this

subsection which are not necessary to maintain the five percent (5%) balance shall be transferred back to the permanent Wyoming mineral trust fund reserve account on the last day of the quarter.

(f) As used in this section:

(i) "Board" means the state loan and investment board to include the office of state lands and investments;

(ii) "Infrastructure project" means a capital construction project which may lawfully be undertaken within the powers of the political subdivision authorized to receive a loan under this section;

(iii) "Road or street project" means the construction, maintenance or improvement of a public street, road or alley within a city, town or county.

## ARTICLE 2 - STATE REVOLVING ACCOUNT

### **16-1-201. Definitions.**

(a) As used in this article:

(i) "Account" means the state water pollution control revolving loan account created by W.S. 16-1-202;

(ii) "Board" means the state loan and investment board;

(iii) "Capitalization grant" means the federal grant made to Wyoming by the federal environmental protection agency for the purpose of establishing a state water pollution control revolving loan account;

(iv) "Corrective action" means as defined by W.S. 35-11-1415(a) (i);

(v) "Corrective action account" means as defined by W.S. 35-11-1415(a) (ii);

(vi) "Department" means the department of environmental quality;

(vii) "Nonpoint source" means any source of pollution other than a point source as defined by W.S. 35-11-103(a) (x) and

includes leaking underground storage tanks and aboveground storage tanks;

(viii) "Title VI" means Title VI of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1381 to 1387 (Cum. Supp. 1989);

(ix) "Underground storage tank" means as defined by W.S. 35-11-1415(a) (ix);

(x) Repealed by Laws 2019, ch. 186, § 2.

(xi) "Aboveground storage tank" means as defined by W.S. 35-11-1415(a) (xi).

**16-1-202. Account established; state match.**

(a) There is established the state water pollution control revolving loan account. All monies received from federal capitalization grants and all state matching funds shall be deposited in the account and shall be used only to provide financial assistance as authorized in this article.

(b) The twenty percent (20%) state matching funds for each federal capitalization grant payment to the account shall be paid from the corrective action account.

(c) Payments of principal and interest on all financial assistance made under this article shall be deposited in the account. All funds in the account may be used for and are continuously appropriated for financial assistance as authorized in this article.

(d) Any unexpended balance in the account shall be invested by the state treasurer and the interest earned shall be credited to the account.

**16-1-203. Account administration; board powers and duties; department powers and duties; fiscal procedures.**

(a) The board shall administer the account including issuing loans and other forms of financial assistance for the purposes authorized in this article. The board shall adopt reasonable rules and regulations necessary to administer the account within the requirements of this article, Title VI and other federal laws.



(b) The board shall:

(i) Enter an agreement with the federal environmental protection agency regional administrator to receive capitalization grants for the account;

(ii) Receive and review applications for financial assistance from the account from municipalities, counties, joint powers boards, state agencies and other entities constituting a political subdivision under the laws of the state on forms supplied by the board;

(iii) Administer the account including processing and receiving repayments on all financial assistance; and

(iv) Conduct or allow the federal environmental protection agency to conduct an annual audit.

(c) The department shall:

(i) Annually prepare and submit to the federal environmental protection agency and the joint minerals, business and economic development interim committee of the legislature an intended use plan which has been subject to public comment and which identifies the intended uses of monies available to the account;

(ii) Prepare and submit an annual report required by Title VI; and

(iii) Evaluate engineering designs and studies and evaluate technical and administrative management of contracts for all projects in accordance with Title VI.

(d) The board and all recipients of financial assistance from the account shall establish fiscal controls and accounting procedures required by Title VI.

**16-1-204. Environmental review process.**

(a) Through the department the board shall conduct a review of potential environmental impacts of projects receiving assistance from the account. The environmental review process shall:

(i) Contain mechanisms requiring implementation of mitigation measures to ensure the project is environmentally sound;

(ii) Allow the public an opportunity to challenge environmental review determinations and enforcement actions;

(iii) Include documentation of information, processes and premises that influence decisions;

(iv) Require public notice and participation;

(v) Include evaluation criteria and processes allowing consideration of alternative decisions; and

(vi) Comply with the requirements of Title VI and significant issues pertaining to underground storage tanks as specified in Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C. § 6991 et seq.

**16-1-205. Authorized projects; authorized financial assistance.**

(a) The account may be used for financial assistance for the following types of projects:

(i) Construction of wastewater treatment works as allowed by Title VI;

(ii) Implementation of nonpoint source pollution control management programs as allowed by Title VI;

(iii) Other projects as allowed by Title VI.

(b) Financial assistance for the projects authorized in subsection (a) of this section may take the forms provided in Title VI including:

(i) Loans at or below market interest rates or for zero interest. Loans may be awarded only if:

(A) All principal and interest payments on loans are credited directly to the account;

(B) The annual repayment of principal and payment of interest begins not later than one (1) year after project completion;

(C) The loan is fully amortized not later than the useful life of the project or thirty (30) years after project completion, whichever is less; and

(D) Each loan recipient establishes a dedicated source of revenue for repayment of the loan.

(ii) Refinancing existing debt obligations of municipalities, counties, joint powers boards and state agencies for wastewater treatment works for which debt was incurred and building began after March 7, 1985;

(iii) Purchasing insurance for or guaranteeing local debt obligations to improve credit market access or reduce interest rates;

(iv) Security or a source of revenue for the payment of principal and interest on revenue or general obligation bonds issued by the state provided that the net proceeds of the sale of such bonds shall be deposited in the account; and

(v) Loan guarantees for similar revolving accounts established by municipalities, counties or joint powers boards.

(c) Each fiscal year, an amount of up to four percent (4%) of the capitalization grant, four hundred thousand dollars (\$400,000.00) or two-tenths of one percent (0.2%) of the current valuation of the account, whichever amount is greatest, may be used for costs of administering the account. The monies and fees provided by subsection (d) of this section, used to administer the account are not forms of financial assistance which are prioritized under W.S. 16-1-206.

(d) The board, as a condition to making a loan or other financial assistance, may impose a reasonable administrative fee or application fee not to exceed one percent (1%) of the loan amount, that may be paid from the proceeds of the loan or financial assistance or other available funds of the applicant. These fees shall be deposited into the account for purposes of payment of administrative costs of the program.

**16-1-206. Financial assistance priorities.**

(a) If there are publicly owned wastewater treatment works identified as not being in compliance with the federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., then the monies

in the account shall initially be used for such wastewater treatment works.

(b) If there are no publicly owned wastewater treatment works identified as not being in compliance with the Water Pollution Control Act, 33 U.S.C. § 1251 et seq., then the monies in the account shall initially be used for noninterest bearing loans to the department for taking corrective actions at leaking underground and aboveground storage tank sites, orphan site remediation and solid waste landfill remediation as provided by W.S. 35-11-1424.

(c) Principal payments to the account from loans made for corrective actions at leaking underground and aboveground storage tank sites, orphan site remediation and remediation at solid waste landfills may be used for any purposes authorized in this article.

**16-1-207. Department loans; repayment.**

Principal payments on loans made to the department for taking corrective actions at leaking underground and aboveground storage tank and solid waste landfill remediation sites shall be paid from the corrective action account directly to the state water pollution control revolving loan account.

ARTICLE 3 - STATE DRINKING WATER REVOLVING ACCOUNT

**16-1-301. Definitions.**

(a) As used in this article:

(i) "Account" means the state drinking revolving loan account created by W.S. 16-1-302;

(ii) "Administrative account" means the account which may receive up to four percent (4%) of the federal capitalization funds, loan administration and loan application fees which are used to reimburse costs incurred by state agencies in the administration of the program, including but not limited to costs of servicing loans and issuing debt, program start-up costs, financial, management, and legal consulting fees, and costs for support services by state agencies;

(iii) "Board" means the state loan and investment board to include the office of state lands and investments;

(iv) "Capitalization grant" means the federal grant made to Wyoming by the federal environmental protection agency for the purpose of establishing and funding a state drinking water revolving loan account;

(v) "Capacity development" means that a community water system or nontransient noncommunity water system can adequately demonstrate that it has technical, managerial and financial capabilities to ensure current and future operations of the water system in accordance with all drinking water regulations in effect;

(vi) "Commission" means the Wyoming water development commission and includes the water development office;

(vii) "Community water system" means a public water supply which has at least fifteen (15) service connections used year-round by residents, or that regularly provides water to at least twenty-five (25) residents year-round, including, but not limited to, municipalities and water districts;

(viii) "Department" means the department of environmental quality;

(ix) "Noncommunity water system" means a public water supply which is not a community water system, including, but not limited to, public schools, state park recreational areas and state highway public rest areas;

(x) "Nontransient noncommunity water system" means a public water supply which is not a community system and which regularly provides service to at least twenty-five (25) of the same persons for more than six (6) months of the year who are not full-time residents, including, but not limited to, factories, industrial facilities and office buildings;

(xi) "Office of state lands and investments (OSLI)" means the office which provides administrative and operational management of programs of the state loan and investment board;

(xii) "Operator" means the person who is directly responsible and in charge of the operation of a water treatment plant or water distribution system;

(xiii) "Private" means that pertaining to an individual, corporation, partnership, or other legal entity

which is not a political subdivision of the state, county or local government;

(xiv) "Program" means the drinking water state revolving fund program pursuant to section 1452 of the Safe Drinking Water Act (42 U.S.C. § 300j-12);

(xv) "Publicly owned water system" means a water system which is owned, operated, managed and maintained by an entity of the state, county, city, township, town, school district, water district, improvement district, joint powers board or any other entity constituting a political subdivision under the laws of this state which provides water for use and consumption of the general public through pipes and other constructed conveyances, and which is not owned, operated, managed or maintained by a private individual, association or corporation;

(xvi) "Safe Drinking Water Act (SDWA)" means the federal Safe Drinking Water Act including the 1996 amendments (Public Law 104-182, 42 U.S.C. § 300f et seq.);

(xvii) "Source water assessment" means the delineation of the boundaries of an area from which one (1) or more public water supplies receive drinking water, identifying the existence of actual and potential contaminants which may present a threat to public health within the delineated area to determine the susceptibility of the public water supply in the delineated area to such contaminants;

(xviii) "Water supply system" means a system from the water source to the consumer premises consisting of pipes, structures and facilities through which water is obtained, treated, stored, distributed or otherwise offered to the public for household use or use by humans and which is part of a community water system or a noncommunity water system;

(xix) "Wyoming water development office (WWD0)" means the office which provides administrative and operational management of the programs administered by the Wyoming water development commission.

**16-1-302. Account established; state match.**

(a) There is established the state drinking water revolving loan account. All monies received from the federal capitalization grants, exclusive of the four percent (4%)

administration set-aside as authorized under section 1452(a) of the Safe Drinking Water Act (42 U.S.C. § 300j-12), and all state matching funds shall be deposited in the account and shall only be used to provide financial assistance as authorized by this article.

(b) The twenty percent (20%) state matching funds for each federal capitalization grant payment to the account shall be paid fifty percent (50%) out of water development accounts I or II created by W.S. 41-2-124(a) and fifty percent (50%) from the federal mineral royalty capital construction account created by W.S. 9-4-604.

(c) Any unexpended balance in the account shall be invested by the state treasurer and the investment proceeds, including the interest earned, shall be credited to the account.

(d) A separate administrative account shall be established outside of the account for the purpose of paying administrative expenses associated with the program as authorized under the Safe Drinking Water Act. Revenue to this account shall be limited to four percent (4%) of the federal capitalization grant through federal fiscal year 2003 and five hundred thousand dollars (\$500,000.00) per biennium thereafter.

**16-1-303. Account administration; board powers and duties; department powers and duties; water development office powers and duties; fiscal procedures.**

(a) The board, the department and commission are designated as the implementing and administrative agencies for the drinking water state revolving account and shall jointly develop a memorandum of understanding describing the duties and responsibilities of each agency.

(b) The board, subject to select water committee review and recommendation of projects, shall administer the account including issuing loans and other forms of financial assistance for purposes authorized in this article on the basis of a priority listing of eligible projects. The board shall adopt reasonable rules and regulations necessary to administer the account within the requirements of this article, the Safe Drinking Water Act and other federal and state laws, including the content of applications, priority listing for use of funds in accordance with requirements established in section 1452(b)(3) of the Safe Drinking Water Act (42 U.S.C. §

300j-12(b)), criteria for awarding, security, and terms and conditions for making loans and providing financial assistance.

(c) The office of state lands and investments shall:

(i) Enter into an agreement with the federal environmental protection agency regional administrator to receive capitalization grants for the account;

(ii) Receive, review and make recommendations to the board and the select water committee for approval of applications for financial assistance from the account in accordance with requirements established by the board for publicly owned water systems of municipalities, counties, joint powers boards, state agencies, and other entities constituting a political subdivision under the laws of the state on forms supplied by the office of state lands and investments;

(iii) Administer the account and administrative account including processing and receiving capitalization grants, the state match, financial assistance agreements, repayments on all financial assistance and all other account revenues;

(iv) Conduct and allow the federal environmental protection agency to conduct an annual audit;

(v) Ensure that all publicly owned water systems which are recipients of financial assistance from the account demonstrate capacity development capabilities in compliance with section 1420 of the Safe Drinking Water Act (42 U.S.C. § 300g-9). The department and the water development office shall assist the office of state lands and investments by reviewing and making determinations on the adequacy of water system capacity development capabilities; and

(vi) Following public input and recommendations from the water development office and department and upon review and recommendation of the intended use plan and the project priority list by the select water committee, the state loan and investment board shall give final authorization and adoption of the annual intended use plans and the final priority listing of eligible projects.

(d) The board, as a condition to making a loan or other financial assistance, may impose a reasonable administrative fee or application fee that may be paid from the proceeds of the



loan or financial assistance or other available funds of the applicant. These fees may be deposited into the administrative account for purposes of payment of administrative costs of the program.

(e) The department shall:

(i) Assist the office of state lands and investment and the commission annually with the preparation and submission to the federal environmental protection agency an intended use plan and the priority listing of projects eligible to receive assistance from the account which have been subject to public comment and which identifies the intended uses of monies available to the account;

(ii) Assist in the preparation and submission of a biennial report required by the Safe Drinking Water Act;

(iii) Assist with the preparation and submission of capitalization grant applications;

(iv) Provide input and assistance in the evaluations on capacity development for water systems in accordance with procedures adopted pursuant to this article;

(v) Provide operator certification and technical competency for water systems in accordance with W.S. 35-11-302(a)(iv) to include all applicants for financial assistance from the program; and

(vi) Ensure that all new or modified community water systems and new or modified nontransient noncommunity water systems commencing operation after October 1, 1999, demonstrate capacity development capabilities and by October 1, 2001, develop a strategy to assist all community and noncommunity water systems in acquiring and maintaining capacity development by adopting procedures governing capacity development in compliance with section 1420 of the Safe Drinking Water Act (42 U.S.C. § 300g-9). The department shall adopt procedures to accomplish this task and shall have the authority to require new systems in noncompliance of capacity development capabilities to take steps to correct inadequacies or cease water system operations. The water development office shall assist the department in the review and adequacy determinations of water system capacity development capabilities.

(f) The commission shall:

(i) Evaluate engineering designs and studies and provide the technical and administrative management of contracts for all projects in accordance with requirements of this article, state program, and the Safe Drinking Water Act;

(ii) Assist the office of state lands and investments and the department annually with the preparation and submission to the federal environmental protection agency an intended use plan and the priority listing of projects eligible to receive assistance from the account which have been subject to public comment and which identifies the intended uses of monies available to the account;

(iii) Provide input and assistance in the evaluations of capacity development for water systems in accordance with procedures developed as authorized by this article; and

(iv) Include in the commission's annual report to the legislature, a report on the status of the drinking water state revolving loan fund.

(g) The office of state lands and investments and all recipients of financial assistance from the account shall establish fiscal controls and accounting procedures in compliance with the Safe Drinking Water Act.

(h) The office of state lands and investments shall require as part of the application and approval process, that all financial assistance applicants obtain or ensure the certification of the operators of the publicly owned water systems in accordance with department rules and regulations prior to obtaining financial assistance approval.

(j) The select water committee shall review and recommend for approval project applications submitted to the committee pursuant to subsection (c)(ii) of this section.

**16-1-304. Environmental review process.**

(a) The department shall conduct and make available to the office of state lands and investments a review of potential environmental impacts of projects receiving assistance from the account. The environmental review process shall:

(i) Contain mechanisms requiring implementation of mitigation measures to ensure the project is environmentally sound;

(ii) Allow the public an opportunity to challenge environmental review determinations and enforcement actions;

(iii) Employ an interdisciplinary approach to identify and mitigate adverse environmental effects including all pertinent state and federal authorities;

(iv) Include documentation of information, processes and premises that influence decisions;

(v) Require public notice and participation;

(vi) Include evaluation criteria and a process allowing consideration of alternative decisions; and

(vii) Comply with the requirements of the Safe Drinking Water Act.

**16-1-305. Authorized projects; authorized financial assistance.**

(a) Subject to select water committee review and recommendation of projects, the account may be used for financial assistance for the planning, design and construction of projects on eligible publicly owned water systems which may be either community or noncommunity water systems. Eligible projects may be comprised of improvements to all components of a water supply system as appropriate and permitted by the Safe Drinking Water Act.

(b) Financial assistance for the projects authorized in subsection (a) of this section may be in the forms authorized by the Safe Drinking Water Act including:

(i) Loans at or below market interest rates. Loans may be awarded only if:

(A) All principal and interest payments on loans are credited directly to the account;

(B) The annual repayment of principal and payment of interest begins not later than one (1) year after project completion;

(C) The loan is fully amortized not later than twenty (20) years after project completion or not later than thirty (30) years for disadvantaged communities providing the period of the loan does not exceed the design life of the project; and

(D) Each loan recipient establishes a dedicated source of revenue for repayment of the loan.

(ii) Refinancing existing debt obligation of publicly owned water systems for planning, design and construction of water systems for which the initial debt was incurred and construction started after July 1, 1993;

(iii) Purchasing insurance for or guaranteeing local debt obligations to improve credit market access or reduce interest rates.

(c) An amount up to four percent (4%) of the capitalization grant may be used for costs of administering the account and shall be deposited into the administrative account.

(d) Repealed By Laws 2010, Ch. 69, § 204.

(e) The board may consider the use of an amount of the allowable percentage of the capitalization grant for all of the established set-asides provided for by the Safe Drinking Water Act.

**16-1-306. Inventory of publicly owned water systems; sanitary surveys.**

(a) The department and water development office shall maintain an inventory of publicly owned water systems within the state, which inventory may consist of such information as the department and water development office deem necessary to include information as provided by the environmental protection agency.

(b) The department and water development office shall conduct sanitary surveys of community and nontransient noncommunity water systems within the state. The sanitary surveys shall be conducted no less than every five (5) years and information contained in the surveys shall be used in establishing the priority ranking list for eligible projects as part of this program.

(c) The costs incurred by the department and water development office to maintain the inventory of publicly owned water systems and to conduct sanitary surveys may be reimbursed to the agencies from the administrative account.

**16-1-307. Transfer of funds.**

The governor may transfer capitalization grant funds from the water pollution control revolving loan account established by W.S. 16-1-202 to the drinking water state revolving fund account created by W.S. 16-1-302 and from the drinking water state revolving fund account to the water pollution control revolving loan account, as authorized by the Safe Drinking Water Act.

**16-1-308. Emergency financial assistance.**

(a) Notwithstanding any provision of W.S. 16-1-303(b) or (j) or 16-1-305(a), the board may, without further select water committee review and recommendation, authorize loans or other forms of financial assistance from the account for purposes authorized in this article, if the board determines:

(i) An emergency exists which significantly threatens the continued operation of a public water system; and

(ii) There is insufficient time to obtain select water committee review and recommendation of the project in order to effectively address the emergency situation.

CHAPTER 2 - FACSIMILE SEALS AND SIGNATURES

**16-2-101. Definitions.**

(a) As used in this act:

(i) "Authorized officer" means any official of this state or any of its departments, agencies or other instrumentalities or any of its political subdivisions whose signature to a public security or instrument of payment is required or permitted;

(ii) "Facsimile signature" means the reproduction by engraving, imprinting, stamping or other means of the manual signature of an authorized officer;

(iii) "Instrument of payment" means a check, draft, warrant or order for the payment, delivery or transfer of funds;

(iv) "Public security" means a bond, note, certificate of indebtedness or other obligation for the payment of money, issued by this state or by any of its departments, agencies or other instrumentalities or by any of its political subdivisions;

(v) "This act" means W.S. 16-2-101 through 16-2-103.

**16-2-102. Facsimile signature; authorized use; legal effect.**

(a) After filing with the secretary of state his manual signature certified by him under oath, any authorized officer may execute or cause to be executed with a facsimile signature in lieu of his manual signature:

(i) Any public security, provided that at least one (1) signature required or permitted to be placed thereon shall be manually subscribed; and

(ii) Any instrument of payment.

(b) Upon compliance with this act by the authorized officer, his facsimile signature has the same legal effect as his manual signature.

**16-2-103. Facsimile seal of state; authorized use; legal effect.**

When the seal of this state or any of its departments, agencies, or other instrumentalities or of any of its political subdivisions is required in the execution of a public security or instrument of payment, the authorized officer may cause the seal to be printed, engraved, stamped or otherwise placed in facsimile thereon. The facsimile seal has the same legal effect as the impression of the seal.

**16-2-104. Repealed by Laws 1982, ch. 75, § 5.**

CHAPTER 3 - ADMINISTRATIVE PROCEDURE

**16-3-101. Short title; definitions.**

(a) This act may be cited as the "Wyoming Administrative Procedure Act".

(b) As used in this act:

(i) "Agency" means any authority, bureau, board, commission, department, division, officer or employee of the state, a county, city or town or other political subdivision of the state, except the governing body of a city or town, the state legislature, the University of Wyoming, the judiciary, the consensus revenue estimating group as defined in W.S. 9-2-1002 and the investment funds committee created by W.S. 9-4-720;

(ii) "Contested case" means a proceeding including but not restricted to ratemaking, price fixing and licensing, in which legal rights, duties or privileges of a party are required by law to be determined by an agency after an opportunity for hearing but excludes designations under W.S. 9-2-1022(h)(i);

(iii) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter or similar form of permission required by law, but it does not include a license required solely for revenue purposes;

(iv) "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license;

(v) "Local agency" means any agency with responsibilities limited to less than statewide jurisdiction, except the governing body of a city or town;

(vi) "Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party;

(vii) "Person" means any individual, partnership, corporation, association, municipality, governmental subdivision or public or private organization of any character other than an agency;

(viii) "Registrar of rules" for state agency rules means the secretary of state. "Registrar of rules" for local agency rules means the county clerk of the county in which the rule is to be effective;

(ix) "Rule" means each agency statement of general applicability that implements, interprets and prescribes law, policy or ordinances of cities and towns, or describes the organization, procedures, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule, but does not include:

(A) Statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public; or

(B) Rulings issued pursuant to W.S. 16-3-106; or

(C) Intraagency memoranda; or

(D) Agency decisions and findings in contested cases; or

(E) Rules concerning the use of public roads or facilities which are indicated to the public by means of signs and signals; or

(F) Ordinances of cities and towns; or

(G) Designations under W.S. 9-2-1022(h)(i); or

(H) A general permit.

(x) "State agency" means any agency with statewide responsibilities;

(xi) "General permit" means a permit issued by the department of environmental quality which authorizes a category or categories of discharges or emissions;

(xii) "Internet" means as defined in W.S. 9-2-1035(a)(iii);

(xiii) "This act" means W.S. 16-3-101 through 16-3-115.

**16-3-102. General rulemaking requirements; assistance and authority of attorney general.**

(a) In addition to other rulemaking requirements imposed by law, each agency shall:



(i) Adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available in connection with contested cases;

(ii) Make available for public inspection all rules and all other written statements of policy or interpretations formulated, adopted or used by the agency in the discharge of its functions;

(iii) Make available for public inspection all final orders, decisions and opinions.

(b) No agency rule, order or decision is valid or effective against any person or party, nor may it be invoked by the agency for any purpose, until it has been filed with the registrar of rules and made available for public inspection as required by this act. This subsection does not apply to orders or decisions in favor of any person or party with actual knowledge of the rule, order or decision.

(c) In formulating rules of practice as required by this section, each agency may request the assistance of the attorney general and upon request the attorney general shall assist the agency or agencies in the preparation of rules of practice.

(d) The office of administrative hearings shall adopt uniform rules for the use of state agencies setting forth the nature and requirements of all formal and informal procedures available in connection with contested cases.

(e) The attorney general may repeal administrative rules of a state agency in accordance with this act if the rules have become obsolete and no other existing agency has authority to repeal the rules.

**16-3-103. Adoption, amendment and repeal of rules; notice; hearing; emergency rules; proceedings to contest; review and approval by governor.**

(a) Prior to an agency's adoption, amendment or repeal of all rules other than interpretative rules or statements of general policy, the agency shall:

(i) Give at least forty-five (45) days notice of its intended action. Notice shall be mailed to all persons making timely requests of the agency for advanced notice of its rulemaking proceedings and to the attorney general, the

secretary of state's office as registrar of rules, and the legislative service office if a state agency. The agency shall submit a copy of the proposed rules, in a format conforming to any requirements prescribed pursuant to subsection (f) of this section, with the notice given to the legislative service office. The notice shall include:

(A) The time when, the place where and the manner in which interested persons may present their views on the intended action;

(B) A statement of the terms and substance of the proposed rule or a description of the subjects and issues involved;

(C) If an amendment or a repeal, the citation to the agency rule to be amended or repealed;

(D) If new rules, a statement that they are new rules and a citation of the statute which authorizes adoption of the rules;

(E) The place where an interested person may obtain a copy of the proposed rules in a format conforming to any requirements prescribed pursuant to subsection (f) of this section;

(F) If the agency asserts that all or a portion of a rule is proposed to be adopted, amended or repealed in order for the state to comply with federal law or regulatory requirements:

(I) A statement that the adoption, amendment or repeal of the rule is required by federal law or regulation together with citations to the applicable federal law or regulation; and

(II) A statement whether the proposed rule change meets minimum federal requirements or whether the proposed rule change exceeds minimum federal requirements.

(G) A statement whether the proposed rule change meets minimum substantive state statutory requirements or whether the proposed rule change exceeds minimum substantive state statutory requirements. If the rule change exceeds minimum substantive state statutory requirements, the agency shall

include a statement explaining the reason why the rule exceeds minimum substantive statutory requirements;

(H) A statement that the agency has complied with the requirements of W.S. 9-5-304 and the location where an interested person may obtain a copy of the assessment used to evaluate the proposed rule pursuant to W.S. 9-5-304;

(J) A concise statement of the principal reasons for adoption of the rule. In compliance with *Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council*, 590 P.2d 1324 (Wyo. 1979), the statement shall include a brief explanation of the substance or terms of the rule and the basis and purpose of the rule;

(K) If a state agency is proposing a rule that differs from the uniform rules listed in subsection (j) of this section, a statement of the reasons for varying from the uniform rules.

(ii) Afford all interested persons reasonable opportunity to submit data, views or arguments, orally or in writing, provided this period shall consist of at least forty-five (45) days from the later of the dates specified under subparagraph (A) of this paragraph, and provided:

(A) In the case of substantive rules, opportunity for oral hearing shall be granted if requested by twenty-five (25) persons, or by a governmental subdivision, or by an association having not less than twenty-five (25) members. No hearing under this subparagraph shall be conducted until at least forty-five (45) days after the later of:

(I) The date notice of intended action is given under paragraph (i) of this subsection; or

(II) The date notice is published if publication is required by subsection (e) of this section.

(B) The agency shall consider fully all written and oral submissions respecting the proposed rule;

(C) If prior to final adoption any person objects to the accuracy of a statement made by the agency pursuant to W.S. 16-3-103(a)(i)(F)(I) or (II), the agency shall:

(I) Provide the objecting person with a written response explaining and substantiating the agency's position by reference to federal law or regulations; and

(II) Include with the final rules submitted for review to the governor and legislative service office a concise statement of the objection and the agency's response.

(D) Upon adoption of the rule, the agency, if requested to do so by an interested person, either prior to adoption or within thirty (30) days thereafter, shall issue a concise statement of the principal reasons for overruling the consideration urged against its adoption.

(iii) Comply with the requirements of W.S. 9-5-304.

(b) When an agency finds that an emergency requires the agency to proceed without notice or opportunity for hearing required by subsection (a) of this section, it may adopt emergency rules. An emergency rule is effective when filed. A state agency emergency rule shall bear the endorsement of the governor's concurrence on the finding of emergency before the registrar of rules accepts the rule for filing. The rule so adopted shall be effective for no longer than one hundred twenty (120) days but the adoption of an identical rule under W.S. 16-3-103(a) or of an emergency rule under this subsection is not precluded. In no case shall identical or substantially similar emergency rules be effective for a total period of more than two hundred forty (240) days. A local agency may proceed with the emergency rule when notice of the emergency is filed with the local registrar of rules.

(c) No rule is valid unless submitted, filed and adopted in substantial compliance with this section. A proceeding to contest any rule on the ground of noncompliance with the procedural requirements of this section must be commenced within two (2) years from the effective date of the rule.

(d) No state agency rule or any amendment, repeal, modification or revision of the rule may be filed with the registrar of rules unless the rule has been submitted to the governor for review and the governor has approved and signed the rule. Except in the case of emergency rules and rules adopted by the game and fish commission fixing general hunting or fishing regulations, season or bag limits or establishing hunting areas, the governor shall not approve any rule until the date of receipt of the legislative management council's recommendation

under W.S. 28-9-106(a) or until forty (40) days after the rule is filed with the legislative service office pursuant to W.S. 28-9-103(b), whichever is sooner. During the process of approving rules, the governor may disapprove any portion of a rule not conforming to paragraphs (d)(i), (ii) or (iii) of this section by clearly indicating the portion of the rule disapproved and the basis for the disapproval. Only those portions of a rule approved by the governor shall be filed with the registrar of rules as provided by W.S. 16-3-104(a). Any portion of a rule disapproved by the governor shall be returned to the agency and shall be null and void and shall not be filed, implemented or enforced. The governor shall report his disapproval of any rule or portion thereof to the management council within fifteen (15) days. The governor shall not approve any rule or any amendment, repeal, modification or revision of the rule unless it:

(i) Is within the scope of the statutory authority delegated to the adopting agency;

(ii) Appears to be within the scope of the legislative purpose of the statutory authority; and

(iii) Has been adopted in compliance with the procedural requirements of this act. For the purposes of this subsection, an "agency" means any authority, bureau, board, commission, department, division, officer or employee of the state, excluding the state legislature and the judiciary.

(e) If a state agency created as a licensing or regulatory board or commission for any profession or occupation regulated under title 33 regularly publishes a newsletter, memorandum or other written or electronic communication which serves as a medium to provide information to members of the regulated profession or occupation, then in addition to the notice requirements of subsection (a) of this section, the agency shall publish within that medium the proposed rules in a format conforming to any requirements prescribed pursuant to subsection (f) of this section. If the agency determines publication in such manner is not practicable, it shall publish within the chosen medium at least once prior to taking final action to adopt, amend or repeal any rule notice of its intended rulemaking proceedings and make available the full text of all proposed changes in the format conforming to any requirements prescribed pursuant to subsection (f) of this section. This subsection shall not apply to emergency rules adopted pursuant to subsection (b) of this section.

(f) The state registrar of rules shall prescribe a format for state agencies to follow in preparing proposed amendments to existing rules which shall ensure that additions to and deletions from existing language are clearly indicated.

(g) Upon receipt of a notice of intended action from a state agency under paragraph (a)(i) of this section, the secretary of state's office shall maintain a file of these notices and make them available for public inspection during regular business hours. A notice shall remain in the file until the rules are adopted or until the agency determines not to take action to adopt the proposed rules. To the extent that resources enable the office to do so, the secretary of state's office shall make these notices available to the public electronically. The secretary of state may promulgate rules specifying the format of notices submitted by state agencies under this subsection. Compliance with this subsection shall not affect the validity of rules promulgated by state agencies.

(h) An agency may incorporate, by reference in its rules and without publishing the incorporated matter in full, all or any part of a code, standard, rule or regulation that has been adopted by an agency of the United States or of this state, another state or by a nationally recognized organization or association, provided:

(i) The agency determines that incorporation of the full text in agency rules would be cumbersome or inefficient given the length or nature of the rules;

(ii) The reference in the rules of the incorporating agency fully identifies the incorporated matter by location, date and otherwise, and states that the rule does not include any later amendments or editions of the incorporated matter;

(iii) The agency, organization or association originally issuing the incorporated matter makes copies of it readily available to the public;

(iv) The incorporating agency maintains and makes available for public inspection a copy of the incorporated matter at cost from the agency and the rules of the incorporating agency state where the incorporated matter is available on the internet as defined in W.S. 9-2-1035(a)(iii); and

(v) The incorporating agency otherwise complies with all procedural requirements under this act and the rules of the registrar of state agency rules governing the promulgation and filing of agency rules.

(j) Each state agency shall adopt as much of the uniform rules promulgated pursuant to the following provisions as is consistent with the specific and distinct requirements of the agency and state or federal law governing or applicable to the agency:

(i) W.S. 16-3-102(d);

(ii) W.S. 16-4-204(e).

**16-3-104. Filing of copies of rules; permanent register; effective dates; manner of preparation; advice and assistance of attorney general.**

(a) Each agency shall file in the office of the registrar of rules a certified copy of each rule adopted by it as approved by the governor. State agencies shall file each rule within seventy-five (75) days of the date of agency action adopting the rule or it is not effective. There shall be noted upon the rule a citation of the authority by which it or any part of it was adopted. The registrar of rules shall keep a permanent register of the rules open to public inspection. Not more than ten (10) days after a state agency files a copy of a rule in the office of the registrar of rules, the agency shall mail a notice that the rule has been filed to each person who was sent a notice under W.S. 16-3-103(a)(i). The notice shall contain a citation to the rule and the date it was filed. Failure to send the notice required under this subsection does not affect the effectiveness of the rule.

(b) Each rule and any amendment or repeal adopted after June 1, 1982 is effective after filing in accordance with subsection (a) of this section and W.S. 28-9-108 except:

(i) If a later date is required by statute or specified in the rule, the later date is the effective date;

(ii) Where the agency finds that an emergency exists and the finding is concurred in by the governor, a rule or amendment or repeal may be effective immediately upon filing with the registrar of rules and if a state agency, also with the legislative service office. Existing rules remain in effect

unless amended or repealed, subject to this section or W.S. 28-9-105 or 28-9-106.

(c) Rules shall be prepared in the manner and form prescribed by the state registrar of rules. The registrar of rules may refuse to accept for filing any rule that does not conform to the prescribed form.

(d) The attorney general shall furnish advice and assistance to all state agencies in the preparation of their regulations, and in revising, codifying and editing existing or new regulations.

**16-3-105. Compilation and indexing of administrative code; charges for copies; authentication by registrar.**

(a) The registrar of state agency rules shall compile, index and publish a Wyoming administrative code. The code shall:

(i) Contain each rule adopted by a state agency, but shall not contain emergency rules;

(ii) Be compiled, numbered and indexed in a unified manner that permits the code to be easily amended and affords ease of use and accessibility to the public, including strong and effective word search capabilities;

(iii) Be available to the public at no charge through the Internet;

(iv) Be updated on the Internet as soon as practicable after the effective date of newly filed or amended rules.

(b) The registrar of state agency rules may make a reasonable charge for any rules published except those furnished to state officers, agencies, members of the legislature or the legislative service office and others in the employment of the state and its political subdivisions requiring the rules in the performance of their duties. The registrar of local agency rules may make a reasonable charge for copies of any rule on file.

(c) The registrar's authenticated file stamp on a rule or publication of a rule shall raise a rebuttable presumption that the rule was adopted and filed in compliance with all requirements necessary to make it effective.



(d) The registrar of state agency rules shall maintain and publish a current index of all state agency rules filed with the registrar. The index shall list the effective date of each set of rules or the effective date of each set of amendments to an agency's rules. Copies of the index shall be distributed as provided by W.S. 16-3-105(b).

**16-3-106. Petition for promulgation, amendment or repeal of rules.**

Any interested person may petition an agency requesting the promulgation, amendment or repeal of any rule and may accompany his petition with relevant data, views and arguments. Each agency may prescribe by rule the form of the petition and the procedure for its submission, consideration and disposition. Upon submission of a petition, the agency as soon as practicable either shall deny the petition in writing (stating its reasons for the denials) or initiate rulemaking proceedings in accordance with W.S. 16-3-103. The action of the agency in denying a petition is final and not subject to review.

**16-3-107. Contested cases; general procedure.**

(a) In any contested case, all parties shall be afforded an opportunity for hearing after reasonable notice served personally or by mail. Where the indispensable and necessary parties are composed of a large class, the notice shall be served upon a reasonable number thereof as representatives of the class or by giving notice by publication in the manner specified by the rules or an order of the agency.

(b) The notice shall include a statement of:

(i) The time, place and nature of the hearing;

(ii) The legal authority and jurisdiction under which the hearing is to be held;

(iii) The particular sections of the statutes and rules involved;

(iv) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved, and thereafter upon application a more definite and detailed statement shall be furnished.

(c) In all contested cases, depositions and discovery relating thereto, agencies shall have the authority to administer oaths and affirmations, subpoena witnesses and require the production of any books, papers or other documents relevant or material to the inquiry. In case of refusal to obey a subpoena issued by the agency in a contested case, deposition or discovery relating thereto, to any person, the district court for the district in which the hearing or deposition or other proceeding is being conducted, or for the district where the person may be served, may upon application by the agency issue to the person refusing to obey the subpoena an order requiring the person to show cause for the refusal or to appear before the agency or other person designated by it there to produce documentary evidence if so ordered or there to give evidence touching the matter in question. Any failure to show cause or obey the order of court may be punished by the court as a contempt thereof.

(d) In all contested cases the agency shall as part of its rules of practice provide that the agency or one (1) of its presiding officers designated by it upon application of any party shall issue a subpoena requiring the appearance of witnesses for the purpose of taking evidence or requiring the production of any books, papers or other documents relevant or material to the inquiry.

(e) The agency upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may quash or modify the subpoena if it is unreasonable and oppressive, or in the event issued pursuant to subsection (g) of this section may condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents or tangible things.

(f) If a subpoena issued pursuant to this section is disobeyed and if the agency fails to apply pursuant to subsection (c) of this section for enforcement any party may apply to the district court for the district having venue under subsection (c) of this section for enforcement pursuant to subsection (c) of this section.

(g) In all contested cases the taking of depositions and discovery shall be available to the parties in accordance with the provisions of Rules 26, 28 through 37 (excepting Rule 37(b) (1) and 37(b) (2) (A) (vii) therefrom) of the Wyoming Rules of

Civil Procedure in effect on the date of the enactment of this act and any subsequent rule amendments thereto. All references therein to the "court" shall be deemed to refer to the appropriate "agency"; all references to the use of the subpoena power shall be references to subsection (c) of this section; all references to "trial" shall be deemed references to "hearing"; all references to "plaintiff" shall be deemed references to "a party". If a party or other witness refuses to be sworn or refuses to answer any question after being directed to do so by the agency in which the action is pending, the refusal to obey the agency order shall be enforced in the same manner as is provided in subsection (c) of this section.

(h) Any agency which is a party to the contested case is subject to the discovery provisions of this section but neither the agency, nor any member, officer or employee shall be required to disclose information which is confidential or privileged under the law and no member of the presiding agency shall be compelled to testify or give a deposition in a contested case. Discovery sought from the agency initially shall be by written application. If the agency refuses to allow discovery in whole or in part the aggrieved party may apply to the presiding officer for an order compelling discovery. If the presiding officer fails or refuses to compel discovery, the aggrieved party may apply to the district court for the district in which the hearing, deposition or other proceeding is being or is to be conducted for an order directed to the agency compelling discovery. The presiding officer or district court shall enter such order as may be appropriate.

(j) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved. Any person compelled to appear in person before any agency or representative thereof shall be accorded the right to be accompanied, represented and advised by counsel or, if permitted by the agency, by other qualified representative.

(k) Every party shall be accorded the right to appear in person or by or with counsel or other duly qualified representative in any agency proceeding in accordance with such rules as the agency prescribes and the pertinent rules of the supreme court of Wyoming. So far as the orderly conduct of public business permits, any interested person may appear before any agency or its responsible officers or employees for the presentation, adjustment or determination of any issue, request or controversy in any proceeding (interlocutory, summary or otherwise) or in connection with any agency function. Every

agency shall proceed with reasonable dispatch to conclude any matter presented to it except that due regard shall be had for the convenience and necessity of the parties or their representatives. Any person representing an agency at a hearing in a contested case in which the agency is a party shall not in the same case serve as presiding officer or provide ex parte advice regarding the case to the presiding officer or to the body or any member of the body comprising the decision makers.

(m) No process, requirement of a report, inspection, or other investigative act or demand shall be issued, made or enforced in any manner or for any purpose except as authorized by law. Every person compelled to submit data or evidence is entitled to retain or, on payment of lawfully prescribed costs, procure a copy of a transcript thereof, except that in a nonpublic investigatory proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony.

(n) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default.

(o) The record in a contested case must include:

(i) All formal or informal notices, pleadings, motions and intermediate rulings;

(ii) Evidence received or considered including matters officially noticed;

(iii) Questions and offers of proof, objections and rulings thereon;

(iv) Any proposed findings and exceptions thereto;

(v) Any opinion, findings, decision or order of the agency and any report by the officer presiding at the hearing.

(p) In all contested cases the proceeding including all testimony shall be reported verbatim stenographically or by any other appropriate means determined by the agency or the officer presiding at the hearing.

(q) Oral proceedings or any part thereof shall be transcribed on request of any party upon payment of the cost thereof.

(r) Findings of fact shall be based exclusively on the evidence and matters officially noticed.

**16-3-108. Contested cases; admissible evidence; cross-examination; judicial notice.**

(a) In contested cases irrelevant, immaterial or unduly repetitious evidence shall be excluded and no sanction shall be imposed or order issued except upon consideration of the whole record or such portion thereof as may be cited by any party and unless supported by the type of evidence commonly relied upon by reasonably prudent men in the conduct of their serious affairs. Agencies shall give effect to the rules of privilege recognized by law. Subject to these requirements and agency rule if the interests of the parties will not be prejudiced substantially testimony may be received in written form subject to the right of cross-examination as provided in subsection (c) of this section.

(b) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given opportunity to compare the copy with the original.

(c) A party may conduct cross-examinations required for a full and true disclosure of the facts and a party is entitled to confront all opposing witnesses.

(d) Notice may be taken of judicially cognizable facts. In addition notice may be taken of technical or scientific facts within the agency's specialized knowledge or of information, data and material included within the agency's files. The parties shall be notified either before or during the hearing or after the hearing but before the agency decision of material facts noticed, and they shall be afforded an opportunity to contest the facts noticed.

**16-3-109. Contested cases; consideration of record; exceptions to decision; briefs and oral argument.**

The agency shall consider the whole record or any portion stipulated to by the parties. In the event a recommended decision is rendered all parties shall be afforded a reasonable opportunity to file exceptions thereto which shall be deemed a part of the record. All parties as a matter of right shall be

permitted to file a brief with the agency and oral argument shall be allowed in the discretion of the agency.

**16-3-110. Contested cases; final decision; contents; notification.**

A final decision or order adverse to a party in a contested case shall be in writing or dictated into the record. The final decision shall include findings of fact and conclusions of law separately stated. Findings of fact if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Parties shall be notified either personally or by mail of any decision or order. A copy of the decision and order shall be delivered or mailed forthwith to each party or to his attorney of record.

**16-3-111. Contested cases; limitations on consultations and participations.**

Unless required for the disposition of ex parte matters authorized by law, members of the agency, employees presiding at a hearing in a contested case and employees assisting the foregoing persons in compiling, evaluating and analyzing the record in a contested case or in writing a decision in a contested case shall not directly or indirectly in connection with any issue in the case consult with any person other than an agency member, officer, contract consultant or employee or other state or federal employee, any party other than the agency or with any agency employee, contract consultant or other state or federal employee who was engaged in the investigation, preparation, presentation or prosecution of the case except upon notice and opportunity for all parties to participate. Nothing herein contained precludes any agency member from consulting with other members of the agency. No officer, employee, contract consultant, federal employee or agent who has participated in the investigation, preparation, presentation or prosecution of a contested case shall be in that or a factually related case participate or advise in the decision, recommended decision or agency review of the decision, or be consulted in connection therewith except as witness or counsel in public proceedings. A staff member is not disqualified from participating or advising in the decision, recommended decision or agency review because he has participated in the presentation of the case in the event the staff member does not assert or have an adversary position.

**16-3-112. Contested cases; presiding officers; qualifications; powers; outside personnel; hearing officers.**

(a) If not otherwise authorized by law there shall preside at the taking of evidence in all contested cases the statutory agency, one (1) or more members of the body which comprises the agency, or an employee of the agency or an employee of another agency designated by the agency to act as presiding officer. The functions of all those presiding in contested cases shall be conducted in an impartial manner. Any officer shall at any time withdraw if he deems himself disqualified provided there are other qualified presiding officers available to act.

(b) Officers presiding at hearings shall have authority, subject to the published rules of the agency and within its power to:

- (i) Administer oaths and affirmations;
- (ii) Issue subpoenas;
- (iii) Rule upon offers of proof and receive relevant evidence;
- (iv) Take or cause depositions to be taken in accordance with the provisions of this act and the rules of the agency;
- (v) Regulate the course of the hearing;
- (vi) Hold conferences for the settlement or simplification of the issues;
- (vii) Dispose of procedural requests or similar matters;
- (viii) Make recommended decisions when directed to do so by the agency; and
- (ix) Take any other action authorized by agency rules consistent with this act.

(c) In all contested cases to the extent that it is necessary in order to obtain compliance with W.S. 16-3-111 the agency (excepting county and municipal agencies and political subdivisions on the county and local level) may request the office of the attorney general to furnish to the agency such

personnel as may be necessary in order for the agency to properly investigate, prepare, present and prosecute the contested case before the agency. The attorney general upon the receipt of the request shall promptly comply with same with no charge being made against the requesting agency's appropriation other than for travel and per diem expenses.

(d) To the extent an agency utilizes an employee of another agency (other than the staff of the attorney general) to preside at a hearing or otherwise the salary of the employee during the period of the employment and the expenses incurred by the employee shall be charged against the appropriation of the using agency.

(e) When required by law an agency shall adopt rules and regulations providing a procedure for the use and the selection of an administrative hearing officer. An agency shall not delegate the authority to make final decisions to an independent administrative hearing officer unless required by law.

#### **16-3-113. License hearings.**

(a) When the grant, denial, suspension or renewal of a license is required by law to be preceded by notice and an opportunity for hearing the provisions of this act concerning contested cases apply.

(b) When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(c) No revocation, suspension, annulment or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gave notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. A cancellation of a driver's license pursuant to W.S. 31-7-121(c)



shall not be valid until the department of transportation gives notice by mail to the licensee of the facts which warrant the intended action and provides the licensee with an opportunity to provide additional evidence or information with respect to the condition at issue within fifteen (15) days of the mailing of the notice. These proceedings shall be promptly instituted and determined.

**16-3-114. Judicial review of agency actions; district courts.**

(a) Subject to the requirement that administrative remedies be exhausted and in the absence of any statutory or common-law provision precluding or limiting judicial review, any person aggrieved or adversely affected in fact by a final decision of an agency in a contested case, or by other agency action or inaction, or any person affected in fact by a rule adopted by an agency, is entitled to judicial review in the district court for the county in which the administrative action or inaction was taken, or in which any real property affected by the administrative action or inaction is located, or if no real property is involved, in the district court for the county in which the party aggrieved or adversely affected by the administrative action or inaction resides or has its principal place of business. The procedure to be followed in the proceeding before the district court shall be in accordance with rules heretofore or hereinafter adopted by the Wyoming supreme court.

(b) The supreme court's authority to adopt rules governing review from agencies to the district courts shall include authority to determine the content of the record upon review, the pleadings to be filed, the time and manner for filing the pleadings, records and other documents and the extent to which supplemental testimony and evidence may be taken or considered by the district court. The rules adopted by the supreme court under this provision may supersede existing statutory provisions.

(c) To the extent necessary to make a decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. In making the following determinations, the court shall review the whole record or those parts of it cited by a party and due account shall be taken of the rule of prejudicial error. The reviewing court shall:

(i) Compel agency action unlawfully withheld or unreasonably delayed; and

(ii) Hold unlawful and set aside agency action, findings and conclusions found to be:

(A) Arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law;

(B) Contrary to constitutional right, power, privilege or immunity;

(C) In excess of statutory jurisdiction, authority or limitations or lacking statutory right;

(D) Without observance of procedure required by law; or

(E) Unsupported by substantial evidence in a case reviewed on the record of an agency hearing provided by statute.

**16-3-115. Judicial review of agency actions; supreme court.**

An aggrieved party may obtain a review of any final judgment of the district court under this act by appeal to the supreme court. The appeal shall be taken as in other civil cases.

CHAPTER 4 - UNIFORM MUNICIPAL FISCAL PROCEDURES; PUBLIC RECORDS, DOCUMENTS AND MEETINGS

ARTICLE 1 - UNIFORM MUNICIPAL FISCAL PROCEDURES

**16-4-101. Short title.**

This act shall be known and may be cited as the "Uniform Municipal Fiscal Procedures Act".

**16-4-102. Definitions.**

(a) As used in this act:

(i) "AICPA" means the American Institute of Certified Public Accountants;

(ii) "Appropriation" means an allocation of money to be expended for a specific purpose;

(iii) "Budget" means a plan of financial operations for a fiscal year or two (2) fiscal years, embodying estimates of all proposed expenditures for given purposes, the proposed means of financing them and what the work or service is to accomplish. "Budget" includes the budget of each fund for which a budget is required by law and the collective budgets for all the funds based upon the functions, activities and projects;

(iv) "Budget officer" means any official appointed by the governing body of a municipality and the county clerk in the case of counties;

(v) "Budget year" means the fiscal year or years for which a budget is prepared;

(vi) "Current year" means the fiscal year in which a budget is prepared and adopted for the ensuing budget year;

(vii) "Department" means a functional unit within a fund which carries on a specific activity, such as a police department within a city general fund, the office of an elected county official or a major program category such as "instruction" in a school district fund;

(viii) "Estimated revenue" means the amount of revenues estimated to be received during the budget year in each fund;

(ix) "Financial and compliance audit" means the determination in accordance with generally accepted auditing standards:

(A) Whether financial operations are properly conducted;

(B) Whether the financial reports of an audited entity are presented fairly; and

(C) Whether the entity has complied with applicable laws and regulations.

(x) "Fiscal year" means the annual period for recording fiscal operations beginning July 1 and ending June 30;

(xi) "Fund balance" means the excess of the assets over liabilities, reserves and contributions, as reflected by a municipality's books of account;

(xii) "Fund deficit" means the excess of liabilities, reserves and contributions over fund assets, as reflected by a municipality's books of account;

(xiii) "Independent auditors" means independent public accountants who have no personal interest in the financial affairs of the entity or in affairs of the officers of the entity being audited and who audit under the standards promulgated by the AICPA for state and local governments;

(xiv) "Municipality" means:

(A) All incorporated first class cities, towns having a population in excess of four thousand (4,000) inhabitants and all towns operating under the city manager form of government;

(B) Counties;

(C) School districts;

(D) Community colleges.

(xv) "Proposed budget" means the budget presented for public hearing as required by W.S. 16-4-109 and formatted as required by W.S. 16-4-104(b);

(xvi) "Requested budget" means a budget presented by the budget officer to the governing body on or before May 15;

(xvii) "Unanticipated income" means income which is received during the budget year which could not reasonably have been expected to be available during the current budget year;

(xviii) "Unappropriated surplus" means the portion of the fund balance of a budgetary fund which has not been appropriated or reserved in an ensuing budget year;

(xix) "Uniform chart of accounts" means the chart of accounts designed for municipalities which have been approved by the director of the state department of audit;

(xx) "This act" means W.S. 16-4-101 through 16-4-125.

**16-4-103. Budget requirements.**

(a) Municipal budgets are required each fiscal year or every other year as provided for in W.S. 16-4-104(h) for all expenditures and funds of the municipalities.

(b) Intragovernmental and enterprise fund municipal budgets are required for adequate management control and for public information including financial statements of condition, work programs and any other costs as the municipal governing body may request. These fund accounts shall not be deemed to have spent amounts in excess of those budgeted when the funds available from all sources are sufficient to cover the additional operating expenditures which have been approved by the governing bodies.

(c) Repealed By Laws 2000, Ch. 7, § 1.

**16-4-104. Preparation of budgets; contents; review; subsequent authorized projects.**

(a) All departments shall submit budget requests to the appropriate budget officer on or before May 1, except as provided for in subsection (h) of this section. On or before May 15, the budget officer shall prepare a requested budget for each fund and file the requested budget with the governing body, except as provided for in subsection (h) of this section. The requested budget shall be prepared to best serve the municipality and county budget officers shall include all departmental requests. The governing body may amend the requested budget and the requested budget as amended shall be the budget proposed for adoption.

(b) The appropriate budget officer shall prepare a proposed budget for each fund and file the proposed budget with the governing body in a timely fashion allowing the governing body to meet the hearing date and notice requirements established by W.S. 16-4-109. The format of the proposed budget shall be prepared to best serve the municipality except that the budget formats for community colleges shall be uniform and approved by the community college commission and the director of the state department of audit. The proposed budget shall set forth:

(i) Actual revenues and expenditures in the last completed budget year;

(ii) Estimated total revenues and expenditures for the current budget year;

(iii) The estimated available revenues and expenditures for the ensuing budget year.

(c) Each proposed and adopted budget shall contain the estimates of expenditures and revenues developed by the budget officer together with specific work programs and other supportive data as the governing body requests. The estimates of revenues shall contain estimates of all anticipated revenues from any source whatsoever including any revenues from state distribution of taxes including sales and use tax including any local optional sales and use tax, lodging tax, fuel tax, cigarette tax and severance tax, federal mineral royalties from the state, any mineral royalty grants from the state loan and investment board, and any local sources including business permits and building permits. The estimates shall be made according to budget year, including the difference from the previous budget year for each source.

(d) Each proposed and adopted budget shall be accompanied by a budget message in explanation of the budget. The budget message shall contain an outline of the proposed financial policies for the budget year and describe in connection therewith the important features of the budgetary plan. It shall also state the reasons for changes from the previous year in appropriation and revenue items and explain any major changes in financial policy.

(e) The proposed budget shall be reviewed and considered by the governing body in a regular or special meeting called for this purpose. Following a public hearing as provided in W.S. 16-4-109, the governing body shall adopt a budget.

(f) This act does not prevent the municipality from undertaking any project authorized by vote of the people after adoption of the budget.

(g) Repealed By Laws 2009, Ch. 90, § 3.

(h) Any incorporated city or town may employ a two (2) year budget cycle and adopt a two (2) year budget under the following conditions:

(i) The two (2) year period shall begin with the city's or town's first fiscal year following a budget session of the legislature;

(ii) For the second year of the budget cycle, the budget officer shall prepare a budget adjustment that includes the original budget and any proposed changes in revenues and expenditures. The governing body shall consider and adopt the second year budget adjustment according to the same procedure that was used for the original two (2) year budget, including all public notices and hearings;

(iii) The city or town shall comply with all other provisions of this act. The requirements of this act may be performed on a biennial basis pursuant to this subsection unless this act specifies that the requirement be performed on a fiscal year or annual basis and the provision in which the requirement appears does not reference this subsection. Any other provision of law imposing reporting or other requirements upon a city or town on an annual or fiscal year basis shall not be affected by the adoption of a biennial year budget pursuant to this subsection unless the provision in which the requirement appears references this subsection.

(j) Repealed by Laws 2008, Ch. 44, § 2.

**16-4-105. Accumulated retained earnings or fund surplus; capital improvements reserve.**

(a) A municipality may accumulate retained earnings in any enterprise or intragovernmental service fund or accumulate a fund surplus in any other fund. With respect to the general fund the accumulated fund balance may be used to meet any legal obligation of the municipality or to:

(i) Provide cash to finance expenditures from the beginning of the budget year until general property taxes and other revenues are collected;

(ii) Provide a reserve to meet emergency expenditures; or

(iii) Provide a reserve by the carryover from one (1) biennium to another of any surplus generated by community service and continuing education programs operated by community colleges.

(b) A municipality may appropriate funds from estimated revenue in any budget year to a reserve for capital improvements and for depreciation within any capital improvements fund, and for the purpose of purchasing or replacing specified equipment or a depreciation reserve for equipment, which has been duly established by ordinance. Money in the reserves may be allowed to accumulate from year to year until the accumulated total is sufficient to permit economical expenditure for the specified purposes. Disbursements from reserves shall be made only by transfer to a revenue account within a capital improvements fund pursuant to an appropriation for the fund. The amount appropriated to reserves under this subsection in any budget year shall not exceed ten percent (10%) of the municipality's total revenues for that budget year.

(c) Expenditures from capital improvement or equipment budget accounts shall conform to all requirements of this act as it relates to the execution and control of budgets.

**16-4-106. Property tax levy.**

The amount of estimated revenue from property tax required by the budget shall constitute the basis for determination of the property tax to be levied for the corresponding tax years subject to legal limitations. The amount of tax shrinkage allowed shall not exceed the actual percentage of uncollected taxes to the total taxes levied for the preceding fiscal year or preceding two (2) fiscal years pursuant to W.S. 16-4-104(h). This section also applies to entities described in W.S. 16-4-125(c).

**16-4-107. Authorized purchases or encumbrances.**

All purchases or all encumbrances on behalf of any municipality shall be made or incurred only upon an order or approval of the person duly authorized to make such purchases except encumbrances or expenditures directly investigated and reported and approved by the governing body.

**16-4-108. Limitation on expenditures or encumbrances; documentation of expenditures.**

(a) No officer or employee of a municipality shall make any expenditure or encumbrance in excess of the total appropriation for any department. The budget officer shall report to the governing body any expenditure or encumbrance made in violation of this subsection.



(b) The expenditure of municipality monies, other than employee contract payments, may be authorized by the governing body when the payee has provided the municipality with an invoice or other document identifying the quantity and total cost per item or for the services rendered included on the invoice or other document and the claim is certified under penalty of perjury by the vendor or by an authorized person employed by the municipality receiving the items or for whom the services were rendered.

**16-4-109. Budget hearings.**

(a) A summary of the proposed budget shall be entered into the minutes and the governing body shall publish the summary at least one (1) week before the hearing date in a newspaper having general circulation in which the municipality is located, if there is one, otherwise by posting the notice in three (3) conspicuous places within the municipality.

(b) Hearings for county budgets shall be held not later than the third Monday in July, for city and town budgets not later than the third Tuesday in June, for school districts and community college districts not later than the third Wednesday in July. The governing board of each municipality shall arrange for and hold the hearings and provide accommodations for interested persons. Copies of publications of hearings shall be furnished to the director of the state department of audit and school districts shall also furnish copies to the state department of education. This section also applies to entities described in W.S. 16-4-125(c) excluding incorporated towns not subject to this act.

(c) Repealed By Laws 2000, Ch. 7, § 1.

(d) Repealed by Laws 2000, Ch. 7, § 1.

**16-4-110. Limitation on appropriations.**

The governing body of a municipality shall not make any appropriation in the final budget of any fund in excess of the estimated expendable revenue of the fund for the budget year.

**16-4-111. Adoption of budget.**

(a) Within twenty-four (24) hours of the conclusion of the public hearing under W.S. 16-4-109(b), the governing body of

each municipality shall, by resolution or ordinance, make the necessary appropriations and adopt the budget, which, subject to future amendment, shall be in effect for the next fiscal year or two (2) fiscal years pursuant to W.S. 16-4-104(h).

(b) Prior to adopting the budget, the county commissioners may veto, in whole or in part, line items of budgets presented by boards which were totally appointed by the county commissioners.

(c) Boards, the members of which are appointed by the county commissioners, shall expend funds only as authorized by the approved budget unless a departure from the budget is authorized by the board of county commissioners.

(d) As provided by W.S. 39-13-104(k), a copy of the adopted budget, certified by the budget officer, shall be furnished the county commissioners for the necessary property tax levies. Certified copies of the adopted budget shall be on file in the office of the budget officer for public inspection. Copies of school district budgets shall be furnished to the state department of education and copies of community college budgets shall be furnished to the community college commission. This section also applies to entities described in W.S. 16-4-125(c) excluding incorporated cities and towns under four thousand (4,000) inhabitants.

**16-4-112. Transfer of unencumbered or unexpended appropriation balances.**

At the request of the budget officer or upon its own motion after publication of notice, the governing body may by resolution transfer any unencumbered or unexpended appropriation balance or part thereof from one (1) fund, department or account to another.

**16-4-113. General fund budget increase.**

The budget of the general fund may be increased by resolution of the governing body. The source of the revenue shall be shown whether unanticipated, unappropriated surplus, donations, etc.

**16-4-114. Emergency expenditures.**

If the governing body determines an emergency exists and the expenditure of money in excess of the general fund budget is necessary, it may make the expenditures from revenues available

under W.S. 16-4-105(a)(ii) as reasonably necessary to meet the emergency. Notice of the declaration of emergency shall be published in a newspaper of general circulation in the municipality.

**16-4-115. Appropriations lapse; prior claims.**

All appropriations excluding appropriations for capital projects shall lapse following the close of the budget year to the extent they are not expended or encumbered. All claims incurred prior to the close of any fiscal year shall be treated as if properly encumbered.

**16-4-116. Transfer of special fund balances.**

If the necessity to maintain any special revenue or assessment fund ceases and there is a balance in the fund, the governing body shall authorize the transfer of the balance to the fund balance account in the general fund. Any balance which remains in a capital improvements or capital projects fund shall be transferred to the appropriate debt service fund or other fund as the bond ordinance requires or to the general fund balance account.

**16-4-117. Interfund loans.**

The governing body may authorize interfund loans from one (1) fund to another at interest rates and terms for repayment as it may prescribe and may invest available cash in any fund as provided by law.

**16-4-118. Special assessments.**

Money received by the municipal treasurer from any special assessment shall be applied towards payment of the improvement for which the assessment was approved. The money shall be used exclusively for the payment of the principal and interest on the bonds or other indebtedness incurred to finance the improvements except as provided in W.S. 16-4-116.

**16-4-119. Financial statements and reports; public inspection.**

(a) The budget officer shall present to the governing body the statement and reports provided by subsection (b) of this section.

(b) Appropriate interim financial statements and reports of financial position, operating results and other pertinent information may be prepared to facilitate management control of financial operations and, where necessary or desired, for external reporting purposes as required by the governing body.

(c) All financial statements made pursuant to this section shall be open for public inspection during regular business hours.

**16-4-120. Prescribed accounting systems.**

(a) Each municipality shall maintain their accounting records in accordance with generally accepted accounting principles.

(b) Each school district and community college shall continue to maintain the uniform system of accounting prescribed by the state department of education and the community college commission.

(c) Each county and special district hospital shall continue to maintain the uniform system of accounting in accordance with generally accepted accounting principles and federal hospital regulations.

**16-4-121. Required annual audits; conduct; expenses; commencement and completion; additional requirements for school audits.**

(a) The governing body of each municipality shall cause to be made an annual audit of the financial affairs and transactions of all funds and activities of the municipality for each fiscal year. At the option of the governing body, audits may be made at more frequent intervals.

(b) The governing body shall make available all documents and records required to perform the audit upon request by the independent auditor.

(c) The audits shall be conducted by independent auditors in accordance with generally accepted auditing standards as promulgated by the AICPA in their guidelines for audits of state and local government units. The audit procedures shall be performed in accordance with "Government Auditing Standards", issued by the comptroller general of the United States. Any

audit performed shall comply with the requirements of W.S. 9-1-507.

(d) The expenses of audits required by this act shall be paid by the municipality for which the audit is made.

(e) The first audit shall commence with the fiscal year ending June 30, 1982 and thereafter at the end of each fiscal year. Except for school audits which shall be completed by November 15 following the end of the audited fiscal year, the audits shall be completed not more than six (6) months after the end of the fiscal year being audited. If within seven (7) months after the end of the fiscal year, a copy of an audit report has not been received by the director of the state department of audit, inquiry shall be made by the director. If the municipality has failed to have an annual audit commenced, the director shall make written demand on the governing body to commence the annual audit within thirty (30) days. If the annual audit report of a municipality is not filed with the director within nine (9) months after the end of the fiscal year, the director shall contract with an independent auditor to conduct the audit and shall reimburse the independent auditor from sufficient state revenues and grants withheld from the municipality when certified by the director to the state treasurer, to pay the expenses of the audit. If there are no state funds which may be withheld, the director shall require the municipality to pay the audit expenses from any funds available and certify the amount to be collected to the attorney general for appropriate legal proceedings.

(f) County memorial hospitals and hospital districts shall have an annual audit conducted by an independent certified public accountant in accordance with generally accepted government auditing standards applicable to the district or entity. The audit expense shall be included in the operating budget of the district or entity.

(g) Each year an audit shall be made in accordance with the requirements of subsection (c) of this section and a report filed for the immediately succeeding fiscal year as necessary to determine foundation program guarantees and account expenditures by school districts.

**16-4-122. Required annual audits; reports; contents and filing.**

(a) Audit reports shall conform to generally accepted accounting principles as provided by W.S. 16-4-121(c).

(b) Copies of the audit reports shall be filed with and preserved by the county clerk of each affected county and shall be open to inspection by any interested person. Copies of all audits shall also be filed with the director of the state department of audit. Copies of school audits shall also be filed with the state department of education on or before December 15 following the end of the audited fiscal year. Copies of community college audit findings shall also be filed with the community college commission and the budget division of the department of administration and information as provided by W.S. 21-18-204.

**16-4-123. Examinations of audit reports; violations; malfeasance by public officers and employees.**

(a) The director of the state department of audit shall monitor and may examine each audit to determine if the audit is in compliance with this act. The director shall have access to the working papers of the auditor. If the director determines an audit is not in compliance with this act, he shall notify the governing body of the municipality and the auditor submitting the audit report and in the case of a school district audit, the state department of education, by submitting to them a statement of deficiencies. If the deficiencies are not corrected within ninety (90) days from the date of the statement of deficiencies or within twelve (12) months after the end of the fiscal year of the municipality, whichever is later, the director shall proceed in the same manner as if no report had been filed.

(b) If the director of the state department of audit, in examining any audit report, finds an indication of violation of state law, he shall, after making an investigation as deemed necessary, consult with the attorney general, and if after investigation and consultation there is reason to believe there has been a violation of state law on the part of any person, the facts shall be certified to the attorney general who shall cause appropriate proceedings to be brought.

(c) If it appears an auditor has knowingly issued an audit report under the provisions of this act containing any false or misleading statement, the director of the state department of audit shall report the matter in writing to the Wyoming board of certified public accountants and to the municipality.

(d) Any member of the governing body or any member, officer, employee or agent of any department, board, commission or other agency who knowingly and willfully fails to perform any of the duties imposed upon him by this act, or who knowingly and willfully violates any of the provisions of this act, or who knowingly and willfully furnishes to the auditor or his employee any false or fraudulent information is guilty of malfeasance and, upon conviction thereof, the court shall enter judgment to remove the person from office or employment. It is the duty of the court rendering the judgment to cause immediate notice of removal from office or employment to be given to the proper officer of the municipality so the vacancy thus caused may be filled.

(e) The director of the state department of audit shall report willful violations of this act by any municipal officer to the attorney general for appropriate criminal and civil proceedings. The county or district attorney shall furnish assistance to the attorney general when requested.

**16-4-124. Payment of expenses to conventions or meetings; required specific appropriation; violation.**

It is unlawful for any board of county commissioners or any town or city council to allow or pay out of the county or city funds, any bill for expenses incurred by any county officer or representative of the county, or of any municipal officer, representative or employee incurred while attending any convention or meeting of any peace officers or other convention or meeting of officers, employees or representatives either within or without the state of Wyoming, unless the adopted budget for the city, town or county provides for the payment of actual expense of any officer while attending meetings or conventions within or without the state of Wyoming and then only after the city or town council or board of county commissioners, as the case may be, shall specifically appropriate for those purposes. Any person violating this section is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00), imprisoned in the county jail for a period of not less than thirty (30) days, nor more than ninety (90) days, or both.

**16-4-125. Fiscal year for governmental entities; budget format for certain entities not subject to the Uniform Municipal Fiscal Procedures Act.**

(a) The fiscal year for all governmental entities within this state, no matter how formed, shall commence on July 1 in each year, except as otherwise specifically provided or authorized by law.

(b) Hospital districts organized under W.S. 35-2-401 through 35-2-438 and rural health care districts organized under W.S. 35-2-701 through 35-2-709 shall have until July 1, 2011 to commence the district fiscal year on July 1 of each year.

(c) Incorporated towns not subject to the Uniform Municipal Fiscal Procedures Act and public entities receiving funds from a municipality as defined by W.S. 16-4-102(a)(xiv), shall prepare budgets in a format acceptable to the director of the state department of audit.

## ARTICLE 2 - PUBLIC RECORDS

### **16-4-201. Definitions; short title.**

(a) As used in this act:

(i) "Custodian" means the official custodian or any authorized person having personal custody and control of the public records in question;

(ii) "Official custodian" means any officer or employee of a governmental entity, who is responsible for the maintenance, care and keeping of public records, regardless of whether the records are in his actual personal custody and control;

(iii) "Person in interest" means the person who is the subject of a record or any representative designated by the person, except if the subject of the record is under legal disability or is the dependent high school student of his parents, "person in interest" means the parent or duly appointed legal representative;

(iv) "Political subdivision" means every county, city and county, city, incorporated and unincorporated town, school district and special district within the state;

(v) "Public records" when not otherwise specified includes any information in a physical form created, accepted, or obtained by a governmental entity in furtherance of its official function and transaction of public business which is



not privileged or confidential by law. Without limiting the foregoing, the term "public records" includes any written communication or other information, whether in paper, electronic, or other physical form, received by a governmental entity in furtherance of the transaction of public business of the governmental entity, whether at a meeting or outside a meeting. Electronic communications solely between students attending a school in Wyoming and electronic communications solely between students attending a school in Wyoming and a sender or recipient using a nonschool user address are not a public record of that school. As used in this paragraph, a "school in Wyoming" means the University of Wyoming, any community college and any public school within a school district in the state;

(vi) Public records shall be classified as follows:

(A) "Official public records" includes 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; all agreements and contracts to which a governmental entity is a party; all fidelity, surety and performance bonds; all claims filed against a governmental entity; all records or documents required by law to be filed with or kept by a governmental entity of Wyoming; and all other documents or records determined by the records committee to be official public records;

(B) "Office files and memoranda" includes all records, correspondence, exhibits, books, booklets, drawings, maps, blank forms, or documents not defined and classified in subparagraph (A) of this subsection as official public records; all duplicate copies of official public records filed with any governmental entity; 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 office; and all other documents or records, determined by the records committee to be office files and memoranda.

(vii) Repealed By Laws 2012, Ch. 74, § 2.

(viii) "This act" means W.S. 16-4-201 through 16-4-205;

(ix) "Application" means a written request for a public record. However, a designated public records person may in his discretion deem a verbal request to be an application;

(x) "Information" means opinions, facts, or data of any kind and in whatever physical form kept or maintained, including, but not limited to, written, aural, visual, electronic or other physical form;

(xi) "Peace officer recording" means any audio or video data recorded by a peace officer, as defined in W.S. 6-1-104(a)(vi), on a camera or other device which is:

(A) Provided to or used by the peace officer in the course of the officer performing official business; and

(B) Designed to be worn on the peace officer's body or attached to a vehicle, as defined in W.S. 6-1-104(a)(xi), used by the officer.

(xii) "Designated public records person" means the person designated as required by W.S. 16-4-202(e) or that person's designee;

(xiii) "Governmental entity" means the state of Wyoming, an agency, political subdivision or state institution of Wyoming.

(b) This act shall be known and may be cited as the "Public Records Act."

**16-4-202. Right of inspection; rules and regulations; unavailability.**

(a) All public records shall be open for inspection by any person at reasonable times, during business hours of the governmental entity, except as provided in this act or as otherwise provided by law, but the official custodian of any public records may make rules and regulations with reference to the inspection of the records as is reasonably necessary for the protection of the records and the prevention of unnecessary interference with the regular discharge of the duties of the custodian or his office. All applications for public records shall be made to the designated public records person.

(b) If the public records requested are not in the custody or control of the governmental entity to whom application is

made, the designated public records person shall notify the applicant within seven (7) business days from the date of acknowledged receipt of the request of the unavailability of the records sought and provide the name and contact information of the appropriate designated public records person if known.

(c) If the public records requested are in the custody and control of the governmental entity to whom application is made, the following shall apply:

(i) If the records are in active use or in storage, and therefore not available at the time an applicant asks to examine them, the designated public records person shall immediately forward the request to the custodian or authorized person having personal custody and control of the public records and shall notify the applicant of this situation within seven (7) business days from the date of acknowledged receipt of the request;

(ii) If a public record is readily available, it shall be released immediately to the applicant so long as the release does not impair or impede the governmental entity's ability to discharge its other duties;

(iii) All public records shall be released not later than thirty (30) calendar days from the date of acknowledged receipt of the request unless good cause exists preventing release as authorized by paragraph (iv) of this subsection;

(iv) If good cause exists preventing release within the time period specified in paragraph (iii) of this subsection, the public records shall be released on a specified date mutually agreed to by the applicant and the governmental entity. If a release date cannot be agreed upon, the applicant may file a complaint with the ombudsman as provided by paragraph (v) of this subsection;

(v) The applicant may at any time file a complaint with an ombudsman designated by the governor or may petition the district court for a determination as to whether the custodian has demonstrated good cause. In determining whether good cause existed, the ombudsman or district court may consider whether the records are privileged or confidential by law or whether release of the records impairs or impedes the governmental entity's ability to discharge its other duties. The ombudsman or the district court shall review the records in camera and

determine whether redaction of privileged or confidential information would permit release of the records.

(d) If a public record exists primarily or solely in an electronic format, the custodian of the record shall so inform the requester. Electronic record inspection and copying shall be subject to the following:

(i) The reasonable costs of producing a copy of the public record shall be borne by the party making the request. The costs may include the cost of producing a copy of the public record and the cost of constructing the record, including the cost of programming and computer services;

(ii) A governmental entity shall provide an electronic record in alternative formats unless doing so is impractical or impossible;

(iii) A governmental entity shall not be required to compile data, extract data or create a new document to comply with an electronic record request if doing so would impair the governmental entity's ability to discharge its duties;

(iv) A governmental entity shall not be required to allow inspection or copying of a record in its electronic format if doing so would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained;

(v) Nothing in this section shall prohibit the governor from enacting any rules pursuant to his authority under W.S. 19-13-104(c)(i).

(e) Each governmental entity shall designate a person to receive all applications for public records. The governmental entity shall submit the name, business email address and business mailing address of the designated public records person to the department of administration and information for publication on the department of administration and information official website. The designated public records person shall serve as a point of contact between the governmental entity and applicants seeking public records.

**16-4-203. Right of inspection; grounds for denial; access of news media; order permitting or restricting disclosure; exceptions.**

(a) The custodian of any public records shall allow any person the right of inspection of the records or any portion thereof except on one (1) or more of the following grounds or as provided in subsection (b) or (d) of this section:

(i) The inspection would be contrary to any state statute;

(ii) The inspection would be contrary to any federal statute or regulation issued thereunder having the force and effect of law; or

(iii) The inspection is prohibited by rules promulgated by the supreme court or by the order of any court of record.

(b) The custodian may deny the right of inspection of the following records, unless otherwise provided by law, on the ground that disclosure to the applicant would be contrary to the public interest:

(i) Records of investigations conducted by, or of intelligence information or security procedures of, any sheriff, county attorney, city attorney, the attorney general, the state auditor, police department or any investigatory files compiled for any other law enforcement or prosecution purposes;

(ii) Test questions, scoring keys and other examination data pertaining to administration of a licensing examination and examination for employment or academic examination. Written promotional examinations and the scores or results thereof shall be available for inspection, but not copying or reproduction, by the person in interest after the examination has been conducted and graded;

(iii) The specific details of bona fide research projects being conducted by a governmental entity or any other person;

(iv) Except as otherwise provided by Wyoming statutes or for the owner of the property, the contents of real estate appraisals made for the governmental entity, relative to the acquisition of property or any interest in property for public use, until such time as title of the property or property interest has passed to the governmental entity. The contents of the appraisal shall be available to the owner of the property or property interest at any time;

(v) Interagency or intraagency memoranda or letters which would not be available by law to a private party in litigation with the agency;

(vi) To the extent that the inspection would jeopardize the security of any structure owned, leased or operated by a governmental entity, facilitate the planning of a terrorist attack or endanger the life or physical safety of an individual, including:

(A) Vulnerability assessments, specific tactics, emergency procedures or security procedures contained in plans or procedures designed to prevent or respond to terrorist attacks or other security threats;

(B) Building plans, blueprints, schematic drawings, diagrams, operational manuals or other records that reveal the building's or structure's internal layout, specific location, life and safety and support systems, structural elements, surveillance techniques, alarms, security systems or technologies, operational and transportation plans or protocols, personnel deployments for airports and other mass transit facilities, bridges, tunnels, emergency response facilities or structures, buildings where hazardous materials are stored, arenas, stadiums and waste and water systems;

(C) Records of any other building or structure owned, leased or operated by a governmental entity that reveal the building's or structure's life and safety systems, surveillance techniques, alarm or security systems or technologies, operational and evacuation plans or protocols or personnel deployments; and

(D) Records prepared to prevent or respond to terrorist attacks or other security threats identifying or describing the name, location, pharmaceutical cache, contents, capacity, equipment, physical features, or capabilities of individual medical facilities, storage facilities or laboratories established, maintained, or regulated by a governmental entity.

(vii) An application for the position of president of an institution of higher education, letters of recommendation or references concerning the applicant and records or information relating to the process of searching for and selecting the president of an institution of higher education, if the records

or information could be used to identify a candidate for the position. As used in this paragraph "institution of higher education" means the University of Wyoming and any community college in this state;

(viii) Sensitive wildlife location data in the custody of the game and fish department which could be used to determine the specific location of an individual animal or a group of animals.

(c) If the right of inspection of any record falling within any of the classifications listed in this section is allowed to any officer or employee of any newspaper, radio station, television station or other person or agency in the business of public dissemination of news or current events, it may be allowed to all news media.

(d) The custodian shall deny the right of inspection of the following records, unless otherwise provided by law:

(i) Medical, psychological and sociological data on individual persons, exclusive of coroners' verdicts and written docketts as provided in W.S. 7-4-105(a);

(ii) Adoption records or welfare records on individual persons;

(iii) Personnel files except those files shall be available to the duly elected and appointed officials who supervise the work of the person in interest. Applications, performance ratings and scholastic achievement data shall be available only to the person in interest and to the duly elected and appointed officials who supervise his work. Employment contracts, working agreements or other documents setting forth the terms and conditions of employment of public officials and employees are not considered part of a personnel file and shall be available for public inspection;

(iv) Letters of reference;

(v) Trade secrets, privileged information and confidential commercial, financial, geological or geophysical data furnished by or obtained from any person;

(vi) Library, archives and museum material contributed by private persons, to the extent of any limitations placed thereon as conditions of the contributions;

(vii) Hospital records relating to medical administration, medical staff, personnel, medical care and other medical information, whether on individual persons or groups, or whether of a general or specific classification;

(viii) School district records containing information relating to the biography, family, physiology, religion, academic achievement and physical or mental ability of any student except to the person in interest or to the officials duly elected and appointed to supervise him;

(ix) Library patron transaction and registration records except as required for administration of the library or except as requested by a custodial parent or guardian to inspect the records of his minor child;

(x) Information obtained through a 911 emergency telephone system or through a verification system for motor vehicle insurance or bond as provided under W.S. 31-4-103(e) except to law enforcement personnel or public agencies for the purpose of conducting official business, to the person in interest, or pursuant to a court order;

(xi) Records or information compiled solely for purposes of investigating violations of, and enforcing, internal personnel rules or personnel policies the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(xii) Information regarding the design, elements and components, and location of state information technology security systems and physical security systems;

(xiii) Records or information relating to individual diagnoses of contagious, infectious, communicable, toxic and genetic diseases maintained or collected by the Wyoming state veterinary laboratory as provided in W.S. 21-17-308(e);

(xiv) Information concerning an agricultural operation, farming or conservation practice, or the land itself, if the information was provided by an agricultural producer or owner of agricultural land in order to participate in a program of a governmental entity. The custodian shall also deny the right of inspection to geospatial information maintained about the agricultural land or operations. Provided, however, that if otherwise permitted by law, the inspection of the information



described in this paragraph shall be allowed in accordance with the following:

(A) The custodian may allow the right of inspection when responding to a disease or pest threat to agricultural operations, if the custodian determines that a threat to agricultural operations exists and the disclosure of information is necessary to assist in responding to the disease or pest threat as authorized by law;

(B) The custodian shall allow the right of inspection of payment information under a program of a governmental entity, including the names and addresses of recipients of payments;

(C) The custodian shall allow the right of inspection if the information has been transformed into a statistical or aggregate form without naming:

(I) Any individual owner, operator or producer; or

(II) A specific data gathering site.

(D) The custodian shall allow the right of inspection if the disclosure of information is pursuant to the consent of the agricultural producer or owner of the agricultural land;

(E) As used in this paragraph:

(I) "Agricultural operation" means the production and marketing of agricultural products or livestock;

(II) "Agricultural producer" means any producer of livestock, crops or dairy products from an agricultural operation.

(xv) Within any record held by a governmental entity, any income tax return or any individual information derived by the governmental entity from an income tax return, however information derived from these documents may be released if sufficiently aggregated or redacted so that the persons or entities involved cannot be identified individually;

(xvi) Except as required in a contested case hearing, any individual records involved in any workers' compensation

claim, however information derived from these documents may be released if sufficiently aggregated or redacted so that the persons or entities involved cannot be identified individually;

(xvii) Any records of the consensus revenue estimating group as defined in W.S. 9-2-1002, that discloses information considered by, or deliberations or tentative decisions of, the group;

(xviii) Information obtained through a peace officer recording provided that:

(A) The custodian shall allow the right of inspection to law enforcement personnel or public agencies for the purpose of conducting official business or pursuant to a court order;

(B) The custodian may allow the right of inspection:

(I) To the person in interest;

(II) If the information involves an incident of deadly force or serious bodily injury as defined in W.S. 6-1-104(a) (x);

(III) In response to a complaint against a law enforcement personnel and the custodian of the information determines inspection is not contrary to the public interest;

(IV) In the interest of public safety.

(xix) Any records of the investment funds committee, created by W.S. 9-4-720, that disclose information considered by the committee, committee deliberations or tentative decisions of the committee.

(e) If the custodian denies access to any public record, the applicant may request a written statement of the grounds for the denial. The statement shall cite the law or regulation under which access is denied and shall be furnished to the applicant.

(f) Any person aggrieved by the failure of a governmental entity to release records on the specified date mutually agreed upon pursuant to W.S. 16-4-202(c) (iv) or by the failure of a governmental entity to comply with an order of the ombudsman pursuant to W.S. 16-4-202(c) (v) may:

(i) Apply to the district court of the district wherein the record is found for an order to direct the custodian of the record to show cause why he should not permit the inspection of the record and to compel production of the record if applicable. An order issued by the district court under this paragraph may waive any fees charged by the state governmental entity;

(ii) File a complaint with the ombudsman who may:

(A) Mediate disputes between the governmental entity and the person;

(B) Prescribe timelines for release of the records;

(C) Waive any fees charged by the governmental entity.

(g) If, in the opinion of the official custodian of any public record, disclosure of the contents of the record would do substantial injury to the public interest, notwithstanding the fact that the record might otherwise be available to public inspection, he may apply to the district court of the district in which the record is located for an order permitting him to restrict disclosure. After hearing, the court may issue an order upon a finding that disclosure would cause substantial injury to the public interest. The person seeking permission to examine the record shall have notice of the hearing served upon him in the manner provided for service of process by the Wyoming Rules of Civil Procedure and has the right to appear and be heard.

(h) Notwithstanding any other provision of this section, the following applies to the Wyoming natural diversity database located at the University of Wyoming and any report prepared by the custodian from that database:

(i) The custodian may charge a reasonable fee for searching the database and preparing a report from that database information. The interpretation of the database in a report shall not contain recommendations for restrictions on any public or private land use;

(ii) The custodian shall allow the inspection of all records in the database at a level of spatial precision equal to the township, but at no more precise level;

(iii) Research reports prepared by the custodian funded completely from nonstate sources are subject to paragraph (b)(iii) of this section;

(iv) Any record contained in the database pertaining to private land shall not be released by the University of Wyoming without the prior written consent of the landowner. Nothing in this paragraph prohibits the release of any information which would otherwise be available from any other information source available to the public if the original source is cited.

**16-4-204. Right of inspection; copies, printouts or photographs; fees.**

(a) In all cases in which a person has the right to inspect and copy any public records he may request that he be furnished copies, printouts or photographs for a reasonable fee to be set by the official custodian. Where fees for certified copies or other copies, printouts or photographs of the record are specifically prescribed by law, the specific fees shall apply. Nothing in this section shall be construed as authorizing a fee to be charged as a condition of making a public record available for inspection.

(b) If the custodian does not have the facilities for making copies, printouts or photographs of records which the applicant has the right to inspect, then the applicant shall be granted access to the records for the purpose of making copies, printouts or photographs. The copies, printouts or photographs shall be made while the records are in the possession, custody and control of the custodian thereof and are subject to the supervision of the custodian. When practical the copy work shall be made in the place where the records are kept, but if it is impractical to do so, the custodian may allow arrangements to be made for this purpose. If other facilities are necessary the cost of providing them shall be paid by the person desiring a copy, printout or photograph of the records. The official custodian may establish a reasonable schedule of time for making copies, printouts or photographs and may charge a reasonable fee for the services rendered by him or his deputy in supervising the copying, printing out or photographing as he may charge for furnishing copies under this section.

(c) After July 1, 2003, any fees or charges assessed by a custodian of a public record shall first be authorized by duly

enacted or adopted statute, rule, resolution, ordinance, executive order or other like authority.

(d) All state agencies may adopt rules and regulations pursuant to the Wyoming Administrative Procedure Act establishing reasonable fees and charges that may be assessed for the costs and services set forth in this section.

(e) The department of administration and information shall adopt uniform rules for the use of state agencies establishing procedures, fees, costs and charges for inspection, copies and production of public records under W.S. 16-4-202(d)(i), 16-4-203(h)(i) and 16-4-204.

**16-4-205. Penalties; remedies.**

Any person who knowingly or intentionally violates the provisions of this act is liable for a penalty not to exceed seven hundred fifty dollars (\$750.00). The penalty may be recovered in a civil action and damages may be assessed by the court.

ARTICLE 3 - FILING OF DOCUMENTS

**16-4-301. When documents deemed filed.**

(a) Any report, claim, tax return, statement or other document or any payment required or authorized to be filed or made to the state of Wyoming or to any political subdivision thereof, which is:

(i) Transmitted through the United States mail, shall be deemed filed or made and received by the state or political subdivisions on the date shown by the post office cancellation mark stamped upon the envelope or other appropriate wrapper containing it;

(ii) Mailed but not received by the state or political subdivisions or where received and the cancellation mark is illegible, erroneous or omitted, shall be deemed filed or made and received on the date it was mailed if the sender establishes by competent evidence that the report, claim, tax return, statement or other document or payment was deposited in the United States mail on or before the date for filing or paying.

(b) In cases of nonreceipt of any report, tax return, statement or other document or payment required by law to be filed or made, the sender shall file with the state or political subdivision a duplicate within thirty (30) days after written notification is given to the sender that the state or political subdivision did not receive the report, tax return, statement or other document or payment or paragraph (a)(ii) of this section does not apply.

**16-4-302. Competent evidence of delivery.**

If any report, claim, tax return, statement or other document or payment is sent by United States mail and either registered or certified, a record authenticated by the United States post office of the registration or certification is competent evidence that the report, claim, tax return, statement or other document or payment was delivered to the state officer or state agency or officer or agency of the political subdivision to which addressed, and the date of registration or certification is deemed the postmarked date.

**16-4-303. Filing date falling on Saturday, Sunday or legal holiday.**

If the date for filing any report, claim, tax return, statement or other document or making any payment falls upon a Saturday, Sunday or legal holiday, the acts shall be considered timely if performed on the next business day.

**16-4-304. Applicability of provisions.**

W.S. 16-4-301 through 16-4-304 apply only to those reports, claims, tax returns, statements and other documents and payments for which failure or neglect to file or make the same subjects a person, firm or corporation to criminal or civil penalties or forfeitures.

ARTICLE 4 - PUBLIC MEETINGS

**16-4-401. Statement of purpose.**

The agencies of Wyoming exist to conduct public business. Certain deliberations and actions shall be taken openly as provided in this act.

**16-4-402. Definitions.**

(a) As used in this act:

(i) "Action" means the transaction of official business of an agency including a collective decision, a collective commitment or promise to make a positive or negative decision, or an actual vote upon a motion, proposal, resolution, regulation, rule, order or ordinance at a meeting;

(ii) "Agency" means any authority, bureau, board, commission, committee, or subagency of the state, a county, a municipality or other political subdivision which is created by or pursuant to the Wyoming constitution, statute or ordinance, other than the state legislature, the judiciary, the consensus revenue estimating group as defined in W.S. 9-2-1002 and the investment funds committee created by W.S. 9-4-720;

(iii) "Meeting" means an assembly of at least a quorum of the governing body of an agency which has been called by proper authority of the agency for the expressed purpose of discussion, deliberation, presentation of information or taking action regarding public business;

(iv) "Assembly" means communicating in person, by means of telephone or electronic communication, or in any other manner such that all participating members are able to communicate with each other contemporaneously;

(v) "This act" means W.S. 16-4-401 through 16-4-408.

**16-4-403. Meetings to be open; participation by public; minutes.**

(a) All meetings of the governing body of an agency are public meetings, open to the public at all times, except as otherwise provided. No action of a governing body of an agency shall be taken except during a public meeting following notice of the meeting in accordance with this act. Action taken at a meeting not in conformity with this act is null and void and not merely voidable.

(b) A member of the public is not required as a condition of attendance at any meeting to register his name, to supply information, to complete a questionnaire, or fulfill any other condition precedent to his attendance. A person seeking recognition at the meeting may be required to give his name and affiliation.

(c) Minutes of a meeting:

(i) Are required to be recorded but not published from meetings when no action is taken by the governing body;

(ii) Are not required to be recorded or published for day-to-day administrative activities of an agency or its officers or employees.

(d) No meeting shall be conducted by electronic means or any other form of communication that does not permit the public to hear, read or otherwise discern meeting discussion contemporaneously. Communications outside a meeting, including, but not limited to, sequential communications among members of an agency, shall not be used to circumvent the purpose of this act.

**16-4-404. Types of meetings; notice; recess.**

(a) In the absence of a statutory requirement, the governing body of an agency shall provide by ordinance, resolution, bylaws or rule for holding regular meetings unless the agency's normal business does not require regular meetings in which case the agency shall provide notice of its next meeting to any person who requests notice. A request for notice may be made for future meetings of an agency. The request shall be in writing and renewed annually to the agency.

(b) Special meetings may be called by the presiding officer of a governing body by giving verbal, electronic or written notice of the meeting to each member of the governing body and to each newspaper of general circulation, radio or television station requesting the notice. The notice shall specify the time and place of the special meeting and the business to be transacted and shall be issued at least eight (8) hours prior to the commencement of the meeting. No other business shall be considered at a special meeting. Proof of delivery of verbal notice to the newspaper of general circulation, radio or television station may be made by affidavit of the clerk or other employee or officer of the agency charged or responsible for distribution of the notice of the meeting.

(c) The governing body of an agency may recess any regular, special, or recessed regular or special meeting to a place and at a time specified in an order of recess. A copy of the order of recess shall be conspicuously posted on or near the



door of the place where the meeting or recessed meeting was held.

(d) The governing body of an agency may hold an emergency meeting on matters of serious immediate concern to take temporary action without notice. Reasonable effort shall be made to offer public notice. All action taken at an emergency meeting is of a temporary nature and in order to become permanent shall be reconsidered and acted upon at an open public meeting within forty-eight (48) hours, excluding weekends and holidays, unless the event constituting the emergency continues to exist after forty-eight (48) hours. In such case the governing body may reconsider and act upon the temporary action at the next regularly scheduled meeting of the agency, but in no event later than thirty (30) days from the date of the emergency action.

(e) Day-to-day administrative activities of an agency, its officers and its employees shall not be subject to the notice requirements of this section.

**16-4-405. Executive sessions.**

(a) A governing body of an agency may hold executive sessions not open to the public:

(i) With the attorney general, county attorney, district attorney, city attorney, sheriff, chief of police or their respective deputies, or other officers of the law, on matters posing a threat to the security of public or private property, or a threat to the public's right of access;

(ii) To consider the appointment, employment, right to practice or dismissal of a public officer, professional person or employee, or to hear complaints or charges brought against an employee, professional person or officer, unless the employee, professional person or officer requests a public hearing. The governing body may exclude from any public or private hearing during the examination of a witness, any or all other witnesses in the matter being investigated. Following the hearing or executive session, the governing body may deliberate on its decision in executive sessions;

(iii) On matters concerning litigation to which the governing body is a party or proposed litigation to which the governing body may be a party;

(iv) On matters of national security;

(v) When the agency is a licensing agency while preparing, administering or grading examinations;

(vi) When considering and acting upon the determination of the term, parole or release of an individual from a correctional or penal institution;

(vii) To consider the selection of a site or the purchase of real estate when the publicity regarding the consideration would cause a likelihood of an increase in price;

(viii) To consider acceptance of gifts, donations and bequests which the donor has requested in writing be kept confidential;

(ix) To consider or receive any information classified as confidential by law;

(x) To consider accepting or tendering offers concerning wages, salaries, benefits and terms of employment during all negotiations;

(xi) To consider suspensions, expulsions or other disciplinary action in connection with any student as provided by law.

(b) Minutes shall be maintained of any executive session. Except for those parts of minutes of an executive session reflecting a members' objection to the executive session as being in violation of this act, minutes and proceedings of executive sessions shall be confidential and produced only in response to a valid court order.

(c) Unless a different procedure or vote is otherwise specified by law, an executive session may be held only pursuant to a motion that is duly seconded and carried by majority vote of the members of the governing body in attendance when the motion is made. A motion to hold an executive session which specifies any of the reasons set forth in paragraphs (a) (i) through (xi) of this section shall be sufficient notice of the issue to be considered in an executive session.

**16-4-406. Disruption of public meetings.**

If any public meeting is willfully disrupted by a person or group of persons so as to render the orderly conduct of the

meeting unfeasible, and order cannot be restored by the removal of the person or persons who are willfully interrupting the meeting, the governing body of an agency may order the removal of the person or group from the meeting room and continue in session, or may recess the meeting and reconvene at another location. Only matters appearing on the agenda may be acted upon in a meeting recessed to another location. A governing body of an agency shall establish procedures for readmitting an individual or individuals not responsible for disturbing the conduct of a meeting. Duly accredited members of the press or other news media except those who participated in a disturbance shall be allowed to attend any meeting permitted by this section.

**16-4-407. Conflict of law.**

If the provisions of this act conflict with any other statute, the provisions of this act shall control.

**16-4-408. Penalty.**

(a) Any member or members of an agency who knowingly or intentionally violate the provisions of this act shall be liable for a civil penalty not to exceed seven hundred fifty dollars (\$750.00) except as provided in this subsection. Any member of the governing body of an agency who attends or remains at a meeting knowing the meeting is in violation of this act shall be liable under this subsection unless minutes were taken during the meeting and the parts thereof recording the member's objections are made public or at the next regular public meeting the member objects to the meeting where the violation occurred and asks that the objection be recorded in the minutes.

(b) 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.

ARTICLE 5 - COLLECTION AND EXTINGUISHING OF DEBTS

**16-4-501. Definition.**

(a) Repealed by Laws 1987, ch. 123, § 2.

(b) As used in this section and W.S. 16-4-502, "entity" means a city, town, county, school district, community college district and special taxing district.

**16-4-502. Collection of debts due a governmental entity; discharge of uncollectible debts.**

(a) The governing body of any governmental entity may authorize the use of the services of a collection agency licensed in Wyoming to assist in the collection of debts due the governmental entity.

(b) Any debt due and owing to a governmental entity, which is determined to be uncollectible, shall be certified to the governing body of the entity by the chief administrative officer of the entity 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; and

(iv) An explanation of what actions have been taken to collect the debt and why the debt has remained unpaid.

(c) The governing body to which uncollectible debts are certified shall review the debts and verify to the satisfaction of the governing body that the debtor has no financial means or assets from which the debt may be satisfied. If the governing body determines a debt is uncollectible, it shall direct that the debt be discharged and extinguished as an account receivable or asset of the governmental entity for which the governing body acts.

(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.

ARTICLE 6 - FEDERAL AID PROGRAM AUDITS

**16-4-601. Audit requirements relating to federal aid; frequency of audits.**

Any federal audit requirement for state agencies that receive federal aid shall be made in accordance with generally accepted government auditing standards on a biennial basis or as the agency may request.

CHAPTER 5 - PUBLIC SECURITIES

ARTICLE 1 - REFUNDING

**16-5-101. Short title.**

This act shall be known and may be cited as the "General Obligation Public Securities Refunding Law".

**16-5-102. Definitions.**

(a) As used in this act:

(i) "Clerk" means the clerk, secretary or other principal clerical officer of the issuer;

(ii) "Federal securities" means the bills, certificates of indebtedness, notes, bonds, or similar obligations which are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States of America;

(iii) "Governing body" means the city council, town council, commission, board of commissioners, board of trustees, board of directors or other body in which the legislative powers of the issuer are vested;

(iv) "Issuer" means the public body issuing any refunding public security pursuant to this act;

(v) "Ordinance" means an ordinance, resolution or other proceeding by which a governing body takes formal action and adopts legislative provisions and matters of some permanency;

(vi) "Public body" means any county, city, town, school district or special district created under the laws of this state or any other local government entity;

(vii) "Public security" means a bond, note, certificate of indebtedness, warrant or other obligation for the payment of money, issued by any public body of this state, or any predecessor of any public body, which is payable, or which may be paid, from ad valorem taxes, or which constitutes a debt or an indebtedness within the meaning of any constitutional or statutory limitation and bonds issued to pay for improvements in

a local improvement district and payable from special assessments under W.S. 15-6-431 through 15-6-447, but excluding any warrant or similar obligation payable within one (1) year from the date of its issuance or any obligation solely payable from a pledge of designated revenues other than ad valorem taxes;

(viii) "Refunding public security" means a public security which is authorized to be issued pursuant to this act;

(ix) "This act" means W.S. 16-5-101 through 16-5-119.

**16-5-103. Authority to refund; purposes therefor.**

(a) Any public security or securities issued by any public body of the state may be refunded, without an election, by the public body which issued them, or any successor thereof, in the name of the public body which issued the public securities being refunded, but subject to provisions concerning their payment and to any other contractual limitations in the proceedings authorizing their issuance or otherwise appertaining thereto, for any one (1) or more of the following purposes:

(i) For extending the maturities of all or any part of outstanding public securities for which payment is in arrears, or for which there is not, or it is certain there will not be, sufficient money to pay the principal or interest on outstanding public securities as the same respectively become due;

(ii) For reducing interest costs or effecting other economies;

(iii) For reorganizing all or any part of the outstanding public securities of a public body in order to equalize tax levies.

**16-5-104. Interest; terms and conditions; negotiability.**

Refunding public securities shall bear interest, payable semiannually or annually, and evidenced by one (1) or two (2) sets of coupons, if any, except that the first coupon or coupons appertaining to a refunding public security may evidence interest for a period not in excess of one (1) year, and refunding public securities may be in one (1) or more series, may bear a date or dates, may mature in an amount or amounts, serially or otherwise, at a time or times not exceeding thirty

(30) years from their respective dates, may be in a denomination or denominations, may be payable in a medium of payment, in a place or places within or without the state, including but not limited to the office of the county treasurer of a county in which the issuer is located wholly or in part, may carry registration privileges, may be subject to terms of prior redemption in advance of maturity in order, or by lot, or otherwise, at a time or times with or without premium, may bear privileges for reissuance in the same or other denominations, may be so reissued (without modification of maturities and interest rates) and may be in a form, either coupon or registered, as may be provided by ordinance of the governing body. Except as the governing body may otherwise provide, the refunding public securities and attached interest coupons shall be fully negotiable within the meaning of and for all purposes of the Uniform Commercial Code-Investment Securities. Except as otherwise provided each holder of a refunding public security, by accepting the security, shall be conclusively deemed to have agreed that the refunding public security is and shall be fully negotiable within the meaning and for all purposes of the Uniform Commercial Code-Investment Securities.

**16-5-105. General prerequisites and limitations.**

No public securities may be refunded hereunder unless the holders voluntarily surrender them for exchange or payment, or unless they either mature or are callable for prior redemption under their terms within twenty-five (25) years from the date of issuance of the refunding public securities. Provision shall be made for paying the public securities being refunded within the stated period of time. No maturity of public security being refunded may be extended over twenty-five (25) years. No public security may be refunded hereunder unless the public security has been outstanding for at least one (1) year since the date of its delivery. The principal amount of the refunding public securities may not exceed the original authorized principal amount of the public securities being refunded. The principal amount of the refunding public securities may be less than or the same as the principal amount of the public securities being refunded so long as provision is duly and sufficiently made for the payment of the public securities being refunded.

**16-5-106. Limitations on number of issues.**

A public body may issue refunding public securities to refund one (1) or more or any part of one (1) or more or all issues of its public securities which are outstanding, and refunding

public securities and public securities authorized for any other purposes may be issued separately or issued in combination in one (1) series or more by any issuer except as hereafter provided. No two (2) or more issues or parts of issues of outstanding public securities shall be refunded by a single issue of refunding public securities unless the taxable property upon which tax levies are being made for payment of the outstanding public securities is identical to the taxable property on which the levies are being made for the payment of all other outstanding public securities proposed to be refunded by the single issue of refunding public securities. No two (2) or more issues or parts of issues of outstanding public securities or refunding public securities and public securities authorized for any other purposes shall be combined in one (1) issue where more than one (1) constitutional or statutory debt limitation is applicable to the combination.

**16-5-107. Maximum allowable indebtedness.**

In no event shall the aggregate amount of indebtedness of any issuer exceed the maximum allowable amount as determined pursuant to the constitutional and statutory provisions, if any, applicable to the issuer. In determining and computing the aggregate amount of indebtedness of any issuer, public securities which have been refunded, as provided in this act, by immediate payment or prior redemption and retirement or by the placement of the proceeds of refunding public securities or investments thereof in escrow, shall not be deemed outstanding indebtedness from and after the date on which sufficient monies are placed with the paying agent of the outstanding public securities for the purpose of immediately paying, or redeeming and retiring the bonds, or from and after the date on which the proceeds of the refunding public securities or investments thereof are placed in escrow.

**16-5-108. Sale or exchange; price.**

Any refunding public securities may be delivered in exchange for the outstanding public securities being refunded or may be publicly or privately sold in the manner determined by the governing body. Refunding public securities may be publicly or privately sold at, above, or below the par value thereof.

**16-5-109. Costs of refunding.**

The incidental costs of the refunding of public securities may be paid by the purchaser of the refunding public securities or



defrayed from the general fund of the public body or from the proceeds of the refunding public securities or from the interest or other yield derived from the investment of the proceeds or from other sources legally available therefor.

**16-5-110. Disposition of proceeds; escrowed proceeds.**

The proceeds of refunding public securities shall either be immediately applied to the retirement of the public securities to be refunded or be placed in escrow in any state or national bank within the state which is a member of the federal deposit insurance corporation and which has trust powers, to be applied to the payment of the public securities being refunded upon their presentation. Any accrued interest and any premium appertaining to a sale of refunding public securities may be applied to the payment of the principal and interest, or both may be deposited in a reserve account, or may be used to defray incidental costs, as the governing body may determine. Any escrow shall not be limited to proceeds of refunding public securities, but may include other monies available for its purpose. Any escrowed proceeds, may be invested or reinvested in federal securities. Escrowed proceeds and investments, together with any interest or other yield to be derived from any investment, shall be in an amount at all times sufficient to cover principal, interest, any prior redemption premium due, and any charges of the escrow agent, to pay the public securities being refunded as they become due at their respective maturities or due at designated prior redemption dates in connection with which the governing body of the issuer shall exercise a prior redemption option. The computations made in determining sufficiency shall be verified by a certified public accountant certificated to practice in this state or in any other state. Any purchaser of any refunding public security is not responsible for the application of the proceeds thereof by the issuer or any of its officers, agents or employees.

**16-5-111. Signing, countersigning, execution or attestation of securities or interest coupons; facsimile seals and signatures.**

Any refunding public security or interest coupon may be signed, countersigned, executed or attested by the public officials who are authorized by law at the time of the issuance of the refunding public securities to sign, countersign, execute or attest public securities of the issuer of the same general character as those public securities and coupons which are being refunded. In the alternative, the governing body may, in its

discretion, designate appropriate public officials to sign, countersign, execute or attest any refunding public security or appurtenant coupon. Any officer so authorized may utilize a facsimile signature in lieu of his manual signature in the manner provided by law, provided that compliance with any law other than this act is not a condition of execution with a facsimile signature of any interest coupon. The clerk may cause the seal or a facsimile of the seal of the issuer to be printed, stamped or otherwise placed on any refunding public security. The facsimile seal shall have the same legal effect as the impression of the seal. Refunding public securities and any coupons bearing the signatures of officers in office on the date of the signing shall be valid and binding obligations of the issuer, notwithstanding that before the delivery and payment any or all persons whose signatures appear have ceased to fill their respective offices. Any officer authorized to sign, countersign, execute or attest any refunding public security or interest coupon, at the time of its execution or of the execution of a signature certificate, may adopt for his facsimile signature the facsimile signature of his predecessor in office in the event the facsimile signature appears upon the refunding public security or coupons, or upon both the public security and coupons.

**16-5-112. Recitals in securities imparting legality.**

Any ordinance authorizing, or any other instrument appertaining to, any refunding public securities may provide that each refunding public security authorized shall recite that it is issued under the authority of this act. The recital shall conclusively impart full compliance with all of the provisions and all public securities issued containing the recital are incontestable for any cause whatsoever after their delivery for value.

**16-5-113. Endorsement.**

The clerk shall endorse a certificate upon every refunding public security that it is issued pursuant to law and is within the debt limit of the issuer.

**16-5-114. Governing body's determination of legality.**

The determination of a governing body that all the limitations hereunder imposed upon the issuance of refunding public securities have been met is conclusive in the absence of fraud or arbitrary and gross abuse of discretion.

**16-5-115. Refunding by divided governing bodies.**

When a public body having outstanding indebtedness has been divided and parts thereof included within two (2) or more other public bodies, by any lawful means, the refunding of the securities requires affirmative action by a majority of the members of the governing bodies of each of the public bodies within which any part of the area of the public body which is being lawfully taxed to pay the outstanding indebtedness is then included except as hereinafter provided. The indebtedness of any public body outstanding at the time a part or parts of the public body are detached therefrom by any lawful means, and which public body has retained its lawful corporate existence subsequent to the detachment of the land from the public body may be refunded by action of the governing body of the public body from which land has been detached with or without concurrence or action by the governing board of the public body, if any, within which the detached land is included.

**16-5-116. Financing; annual property tax; other funds.**

The governing body shall cause to be levied annually, without limitation of rate or amount, upon all taxable property of the issuer, in addition to other authorized taxes, a sufficient sum to pay the principal of and interest on the refunding public securities until the refunding public securities issued pursuant to this act are fully paid. The governing body may apply any other funds that are in the treasury of the issuer and available for payment of the interest or principal as it respectively matures, and the levy or levies provided for may be diminished. Should the tax for the payment of the principal and interest on any refunding public security at any time not be levied or collected in time to meet the payment, or if the refunding public securities are issued at a time which makes it impossible to levy a tax for the initial installments of principal or interest, the principal or interest so maturing shall be paid out of the general fund of the issuer, or from any other funds available for that purpose. For the purpose of reimbursing the fund or funds the money so used may be repaid from the first monies collected from taxes thereafter levied. The full faith and credit of the issuer shall be pledged for the punctual payment of the principal and interest on the refunding public securities. If the public securities to be refunded and the interest accruing would have been paid from taxes levied upon only part of the taxable property within the boundaries of the issuer, the taxes levied for payment or redemption of the

refunding public securities, and the interest accruing shall be levied in the same manner and upon only the same taxable property as would have been levied for the payment of the public securities to be refunded if no refunding of the public securities had been accomplished. Any tax levied to retire any refunding public security issued by a hospital district is subject to the limitations set forth in W.S. 35-2-414, provided any refunding securities issued under this act to refund local improvement bonds shall be payable solely from and secured by the pledge of special assessments under W.S. 15-6-401 through 15-6-448.

**16-5-117. Exemption from taxation; exception.**

The refunding public securities issued by any issuer pursuant to this act, their transfer, and the income therefrom, shall at all times be free from taxation within the state of Wyoming, except for estate taxes.

**16-5-118. Other outstanding securities.**

This act shall have no effect on the legality of any outstanding public security issued for refunding or other purposes pursuant to any other law.

**16-5-119. Scope, authority and effect of provisions.**

This act, without reference to other statutes of the state, except as herein otherwise specifically provided, is full authority for the authorization and issuance of refunding public securities. No other act or law with regard to the authorization or issuance of securities that in any way impedes or restricts the carrying out of the acts herein authorized shall be construed as applying to any proceedings taken or acts pursuant hereto except as otherwise provided. The powers conferred and the limitations imposed by this act are in addition and supplemental to, and not in substitution for, and shall not affect the powers conferred by any other law except as otherwise provided herein.

ARTICLE 2 - VALIDATION

**16-5-201. Short title.**

This act shall be known as the "1965 Public Securities Validation Act".

**16-5-202. Definitions.**

(a) As used in this act:

(i) "Public body" of the state means any state educational institution or other state institution, its board of trustees or other governing body constituting a body corporate, any county, city or town, whether incorporated or governed under a general act, special charter, or otherwise, any school district, high school district, community college district, sanitary and improvement district, hospital district, power district, irrigation district, drainage district, water conservancy district, water district, sewer district, water and sewer district, cemetery district, fire protection district, any other corporate district, any corporate commission or any other political subdivision of the state constituting a body corporate;

(ii) "Public security" means a bond, note, certificate of indebtedness, coupon or other similar obligation for the payment of money, issued by this state or by any public body thereof;

(iii) "State" means the state of Wyoming and any board, commission, department, corporation, instrumentality or agency thereof;

(iv) "This act" means W.S. 16-5-201 through 16-5-204.

**16-5-203. Outstanding securities.**

All public securities of the state and of all public bodies outstanding on February 17, 1965, the right to the payment of which has not been barred by any pertinent statute of limitations, and all acts and proceedings taken, or purportedly taken by or on behalf of the state or any public body under law or under color of law preliminary to and in the authorization, execution, sale, issuance and payment (or any combination thereof) of all such public securities, are hereby validated, ratified, approved and confirmed, including but not necessarily limited to the terms, provisions, conditions and covenants of any resolution or ordinance appertaining thereto, the redemption of public securities before maturity and provisions therefor, the levy and collection of rates, tolls and charges, special assessments, and general and other taxes, and the acquisition and application of other revenues, the pledge and use of the proceeds thereof, and the establishment of liens thereon and

funds therefor, appertaining to such public securities, except as hereinafter provided, notwithstanding any lack of power, authority, or otherwise, and notwithstanding any defects and irregularities in such public securities, acts and proceedings, and in such authorization, execution, sale, issuance and payment. Outstanding public securities are and shall be binding, legal, valid and enforceable obligations of the state or the public body issuing them in accordance with their terms and their authorizing proceedings.

**16-5-204. Prior securities; limitations; exceptions.**  
This act validates any public securities heretofore issued and any acts and proceedings heretofore taken which the legislature could have supplied or provided for in the law under which the public securities were issued and the acts or proceedings were taken. This act is limited to the validation of public securities, acts and proceedings to the extent they can be effectuated under the state and federal constitutions. This act does not validate, ratify, approve, confirm or legalize any public security, act, proceeding or other matter the legality of which is being contested in any legal proceeding now pending and undetermined, and does not confirm, validate or legalize any public security, act, proceedings, or other matter which has heretofore been determined in any legal proceeding to be illegal, void or ineffective.

#### ARTICLE 3 - DEBT LIMITATION AND BOND REDEMPTION

**16-5-301. Voidness of excessive indebtedness; liability of officer and sureties.**

Any indebtedness created by any county, city, town or other subdivision of the state in any current year in excess of that authorized by the constitution of the state and for which there are no revenues available for payment during the current year, shall as against the county, city, town or other subdivision of the state, be void and of no effect. Any officer who participates in creating the indebtedness, and the sureties on his official bond, is personally liable to the holder, or holders, of the indebtedness as fully as if the indebtedness had been contracted for his individual benefit. As used in this section, "current year" means from the first Monday in January of a year to the first Monday in January of the next year.

**16-5-302. Issuance of bonds in series; discharge.**

(a) Whenever the issuance of bonds by the state, or any county, city, town, school district or high school district, is lawful, the board or other public body having authority to issue the bonds may divide the issues into series so that:

(i) Substantially equal amounts of the indebtedness mature annually;

(ii) Substantially equal annual tax levies are required for the payment of principal and interest of the bonds; or

(iii) Substantially equal annual tax levies are required for the payment of principal and interest of all outstanding bonds of the state or subdivision thereof issuing the bonds.

(b) The bonds of each series shall be due and payable at a definite date within the period permitted by law for the discharge of the indebtedness.

**16-5-303. Redemption of bonds owned by state.**

Any bond issued by any county, municipality, school district or other political subdivision of the state and which bond the state owns on any interest payment date, upon thirty (30) days written notice to the state treasurer of the state is subject to redemption on the date by the payment of the principal and interest then due on the bond to the treasurer. Redemption shall be made only from sinking funds of the political subdivisions and not from funds obtained by its refunding of the bonds.

ARTICLE 4 - BOND ANTICIPATION NOTES

**16-5-401. Short title.**

This act shall be known and may be cited as the "Bond Anticipation Note Act of 1981".

**16-5-402. Definitions.**

(a) As used in this act:

(i) "Anticipation note" means notes of the issuer, evidencing short-term borrowings, issued in anticipation of the issuance of bonds which a governing body is authorized to issue;

(ii) "Authorizing instrument" means an ordinance, resolution, instrument or other written evidence of a proceeding by which a governing body takes formal action and adopts legislative provisions on matters of some permanency;

(iii) "Bonds" means general obligation bonds or revenue bonds of an issuer;

(iv) "General obligation bonds" means bonds authorized to be issued by a governing body or any successor thereto which are payable or which may be paid from ad valorem taxes or which constitute a debt or an indebtedness of the issuer within the meaning of any constitutional or statutory limitation, which mature one (1) or more years after the date of their issuance and delivery;

(v) "Governing body" means the city council, town council, commission, board of commissioners, board of trustees, board of directors or other legislative body of an issuer in which the legislative powers of the issuer are vested;

(vi) "Issuer" means any Wyoming county, school district, municipal corporation, community college, hospital district, sanitary and improvement district, water district, sewer district, water and sewer district, county improvement and service district or other political subdivision of the state specifically authorized by law to issue any general obligation bond or revenue bond;

(vii) "Revenue bond" means bonds authorized to be issued by a governing body or any successor thereto which are payable from a pledge of designated revenues other than ad valorem taxes or special assessments which mature one (1) or more years after the date of their issuance.

**16-5-403. Authority to issue notes; election thereon.**

(a) If the qualified electors of an issuer authorize the issuance of bonds or the issuance of anticipation notes at an election held pursuant to W.S. 22-21-101 through 22-21-112 and the governing body of the issuer considers it advisable and in the interests of the issuer, to anticipate the issuance of the bonds, the governing body may from time to time and pursuant to an appropriate authorizing instrument issue its bond anticipation notes.



(b) At the election to authorize the issuance of bond anticipation notes, the question shall state the maximum principal amount for which the notes may be issued, which may not exceed the principal amount of the bonds authorized, and the maximum rate of interest that may be paid on the notes.

**16-5-404. Authorizing instrument.**

(a) Anticipation notes issued pursuant to this act shall be authorized by instrument of the issuer which shall:

(i) Describe the bonds in anticipation of which the notes are to be issued;

(ii) Declare the results of the election authorizing the issuance of the bonds wherein the qualified electors of the issuer have approved their issuance in the manner required by law;

(iii) Specify the principal amount of the anticipation notes, the rate of interest and maturity date or dates of the anticipation notes, which maturity date or dates shall not exceed three (3) years from the date of issue of the anticipation notes.

**16-5-405. Manner of issuance; form, terms and conditions.**

Anticipation notes shall be issued and sold in such manner and at such price as the governing body determines by the instrument authorizing their issuance. Anticipation notes shall be in bearer form, except that the governing body may provide for the registration of the anticipation notes in the name of the owner either as to principal alone, or as to both principal and interest, and on such other terms and conditions as the governing body determines in the authorizing instrument. Interest on anticipation notes, not to exceed the rate authorized by the electors, may be payable semiannually, annually or at maturity. Anticipation notes may be made redeemable prior to maturity at the option of the governing body in the manner and upon the terms fixed by the instrument authorizing their issuance. Anticipation notes shall be executed and shall be in such form and have such details and terms as provided in the authorizing instrument.

**16-5-406. Payment, surrender and cancellation.**

Contemporaneously with the issuance of the bonds in anticipation of which anticipation notes have been issued, all anticipation notes issued, even though they may not then have matured, shall be paid, both as to principal and interest to date of payment, and all such notes shall be surrendered and cancelled by the issuer.

**16-5-407. Security; sources of payment.**

(a) Whenever the bonds in anticipation of which notes are issued are to be payable from ad valorem taxes and constitute full general obligations of the municipality, the bond anticipation notes and the interest on them shall be secured by a pledge of the full faith and credit of the municipality in the manner provided in the statutes of the state authorizing their issuance and shall also be made payable from funds derived from the sale of the bonds in anticipation of which the notes are issued.

(b) Whenever the bonds in anticipation of which the anticipation notes are to be issued are to be payable solely from revenues pledged for payment of revenue bonds, as provided in the statutes authorizing their issuance, such anticipation notes and the interest on them shall be secured by a pledge of the income and revenues pledged for payment of the revenue bonds and shall also be made payable from funds derived from the sale of the revenue bonds in anticipation of which the notes are issued.

**16-5-408. Signing, countersigning, execution or attestation of notes; facsimile seals and signatures.**

Any anticipation notes or interest coupon may be signed, countersigned, executed or attested by the public official or officials who are authorized by law at the time of the issuance of the anticipation notes to sign, countersign, execute or attest bonds or interest coupons of the issuer of the same general character as those bonds in anticipation of which the notes are being issued. In the alternative, the governing body may designate appropriate public officials to sign, countersign, execute or attest any anticipation note or appurtenant coupon, if any. Any officer so authorized or designated may utilize a facsimile signature in lieu of his manual signature in the manner provided by law, provided that compliance with any law other than this act is not a condition of execution with a facsimile signature of any interest coupon. The facsimile seal shall have the same legal effect as the impression of the seal.

Anticipation notes and any coupons bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding obligations of the issuer, notwithstanding that before the delivery thereof and payment therefor any or all persons whose signatures appear thereon have ceased to fill their respective offices. Any officer of the issuer authorized or designated to sign, countersign, execute or attest any anticipation note or interest coupon, at the time of its execution or of the execution of a signature certificate, may adopt as and for his or her facsimile signature the facsimile signature of his or her predecessor in office in the event that such facsimile signature appears upon the anticipation note or coupons appertaining thereto, or upon both the anticipation notes and such coupons, after their delivery for value.

**16-5-409. Recital in notes imparting legality.**

Any instrument of an issuer authorizing, or any other instrument appertaining to, any anticipation note may provide that each anticipation note therein authorized shall recite that it is issued under the authority of this act. Such recital shall conclusively impart full compliance with all of the provisions hereof, and all anticipation notes issued containing such recital shall be incontestable for any cause whatsoever after their delivery for value.

**16-5-410. Endorsement.**

The clerk of the issuer shall endorse a certificate upon every anticipation note that the same is issued pursuant to law and is within the debt limit of the issuer if the notes are issued in anticipation of the issuance of general obligation bonds, or, as to notes issued in anticipation of revenue bonds, that they do not constitute a debt of the issuer within the meaning of any constitutional or statutory provision or limitation.

**16-5-411. Governing body's determination of legality.**

The determination of a governing body that all the limitations imposed upon the issuance of anticipation notes have been met shall be conclusive in the absence of fraud or arbitrary and gross abuse of discretion.

**16-5-412. Scope, authority and effect of provisions.**

(a) This act, without reference to other statutes of the state except as herein otherwise specifically provided,

constitutes full authority for the authorization and issuance of anticipation notes hereunder. No other act or law with regard to the authorization or issuance of securities by any issuer that in any way impedes or restricts the carrying out of the acts herein authorized to be done shall be construed as applying to any proceedings taken hereunder or acts done pursuant hereto, except as otherwise expressly provided herein. The powers conferred by this act shall be in addition to and supplemental to, and not in substitution for, and the limitations imposed by this act shall not affect the powers conferred by any other law applicable to any issuer except as otherwise provided herein.

(b) Anticipation notes issued by the University of Wyoming shall be governed by W.S. 21-17-402 through 21-17-450, the University Securities Law.

ARTICLE 5 - GENERAL PROVISIONS AS TO FORM AND MANNER OF  
ISSUANCE, PAYMENT AND TRANSFER OF PUBLIC SECURITIES

**16-5-501. Applicability.**

This article applies to bonds, notes, warrants, certificates or other securities evidencing loans or the advancement of monies, heretofore or hereafter authorized to be issued by or on behalf of the state or any political subdivision, district, public board, agency, commission, authority or other public body corporate in the state pursuant to any general or special act or pursuant to any lawful legislative or home rule provision.

**16-5-502. Form, payment and transfer of securities.**

The securities described in W.S. 16-5-501 shall be in registered or bearer form, with or without interest coupons, be subject to such conditions for transfer, be subject to such provisions for conversion as to denomination or to bearer or registered form, be made registrable or payable, or both, by the treasurer or other officer of the issuing entity, or by trustee, registrar, paying agent or transfer agent within or without the state of Wyoming, be issued, transferred and registered by book entry, be in a denomination, bear such dates, signatures and authentications, and be held in custody by a depository within or without the state of Wyoming, all as may be determined by the entity or the governing body of the entity authorized or empowered to issue the securities. Payment at designated due dates or in installments may be required by the authorizing proceedings to be by check, draft or other medium of payment and

need not be conditioned upon presentation of any security or coupon.

**16-5-503. Determination by resolution or ordinance.**

The determination of the body authorized or empowered to issue securities required by W.S. 16-5-502 shall be made in the resolution or ordinance authorizing the issuance of the securities or in any supplemental ordinance, resolution or other instrument.

**16-5-504. No restriction on other acts.**

This article as to the matters contained herein shall constitute an additional and separate grant of powers and these powers may be exercised without regard to provisions concerning matters in any other act but this article is not a restriction or limitation on the exercise of powers by an issuing entity under any other act.

CHAPTER 6 - PUBLIC PROPERTY

ARTICLE 1 - PUBLIC WORKS AND CONTRACTS

**16-6-101. Definitions.**

(a) As used in this act:

(i) "Resident" means a natural person, association or business entity authorized to be formed under title 17 of the Wyoming statutes, or the laws of another state that are the functional equivalent, and that is certified as a resident by the department of workforce services following receipt of an affidavit executed and sworn to by a chief executive officer of the entity setting forth information required by the department to determine compliance with this act and prior to bidding upon the contract or responding to a request for proposal, subject to the following criteria:

(A) Any natural person who has been a resident of the state for one (1) year or more immediately prior to bidding upon the contract or responding to a request for proposal;

(B) A business entity, each member or equity owner of which has been a resident of the state for one (1) year

or more immediately prior to bidding upon the contract or responding to a request for proposal;

(C) A business entity organized under the laws of the state:

(I) With at least fifty percent (50%) of the equity in the business entity owned by persons who have been residents of the state for one (1) year or more prior to bidding upon the contract or responding to a request for proposal;

(II) Which has maintained its principal office and place of business within the state for at least one (1) year; and

(III) The chief executive officer of the business entity has been a resident of the state for one (1) year or more immediately prior to the business entity's bidding upon the contract or responding to a request for proposal.

(D) A business entity organized under the laws of the state which has been in existence in the state for one (1) year or more and whose chief executive officer has been a resident of the state for one (1) year or more immediately prior to bidding upon the contract or responding to a request for proposal and maintains its principal office and place of business within the state. If at least fifty percent (50%) of the equity in the business entity is owned by nonresidents, the nonresident equity owned by the nonresidents shall:

(I) Have been acquired by nonresidents one (1) year or more immediately prior to bidding upon the contract or responding to a request for proposal; or

(II) If it consists of shares in a corporation, be publicly traded and registered under Section 13 or 15(d) of the Securities Exchange Act of 1934 for one (1) or more classes of its shares.

(E) Repealed by Laws 2013, Ch. 134, § 2.

(F) Repealed by Laws 2013, Ch. 134, § 2.

(G) Repealed by Laws 2013, Ch. 134, § 2.

(H) Repealed By Laws 2011, Ch. 82, § 2.

(J) A business entity organized under the laws of any state which has been in existence for two (2) years or more:

(I) Has continuously maintained a principal office and place of business within the state for at least one (1) year;

(II) Has continuously employed not less than fifteen (15) full-time Wyoming resident employees within the state for one (1) year or more prior to bidding upon the contract or responding to a request for proposal; and

(III) Has paid worker's compensation and unemployment taxes in Wyoming for at least one (1) year and is in good standing with the department of workforce services at the time the bid or request for proposal is submitted.

(K) A business entity which qualifies as a resident pursuant to this paragraph shall not lose that residency solely due to a conversion under the provisions of W.S. 17-26-101 or other reorganization as a different business entity;

(M) No preference under this article shall be awarded to any contractor who is not a certified resident contractor at the time bids are submitted for a public capital construction project, and no contractor shall receive a contingent or retroactive resident certification.

(ii) "Principal office and place of business" means a headquarters or administrative center where:

(A) The high level officers or management direct, control and coordinate the business activities; and

(B) The key business functions are conducted, including, but not limited to project bidding.

(iii) "Chief executive officer" means:

(A) For a corporation, the president of the corporation;

(B) For a partnership other than a limited partnership, a partner;

(C) For a limited partnership, a general partner;

(D) For a limited liability company, a designated member or manager of the limited liability company;

(E) For a business entity not specified in subdivisions (A) through (D) of this paragraph, the entity's president, chairman of the executive committee, senior officer responsible for the entity's business, chief financial officer or any other individual who performs similar functions as specified by rule of the department. The department may authorize by rule the execution of an affidavit required by paragraph (i) of this subsection by an individual holding a position other than as specified in this paragraph, if the individual holds a position with functions similar to a president of a corporation.

(iv) "Department" means the department of workforce services;

(v) "Major maintenance" means the repair or replacement of complete or major portions of building and facility systems at irregular intervals which is required to continue the use of the building or facility at its original capacity for its original intended use and is 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;

(vi) "This act" means W.S. 16-6-101 through 16-6-121.

**16-6-102. Resident contractors; preference limitation with reference to lowest bid or qualified response; decertification; denial of application for residency.**

(a) If a contract is let by the state, any department thereof, or any county, city, town, school district, community college district or other public corporation of the state for the construction, major maintenance or renovation of any public building, or other public structure, or for making any addition thereto, or for any public work or improvements, the contract shall be let, if advertisement for bids or request for proposal is not required, to a resident of the state. If advertisement for bids is required, 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.

(b) If any person who is certified as a resident contractor for any reason loses that certification, that person may not be recertified as a resident for a period of one (1) year from the date of decertification.

(c) If any person who applies for certification as a resident contractor is denied certification because of not meeting the residency requirements, that person may not reapply for certification for a period of one hundred eighty (180) days from the date certification is denied. No person shall be denied certification because of inadvertent omission of information, as determined by the department of workforce services, on an application for resident certification.

(d) Repealed By Laws 1999, Ch. 152, § 2; 2007, Ch. 163, § 2.

(e) The department shall make investigations as necessary to determine whether any person is eligible to receive or continue to hold a certificate of residency. The department may require or permit any person to file a statement in writing at any time, under oath or otherwise as to all the facts and circumstances concerning the matter to be investigated. For the purpose of any investigation under this section, the director of the department or any person designated by him may administer oaths and affirmations, subpoena witnesses, and compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements or other documents or records, which the director or designated person deems relevant or material to the inquiry. In case of refusal to obey a subpoena issued to any person, any Wyoming district court, upon application by the director, may issue to the person an order requiring him to appear before the director or the officer designated by him, to produce documentary evidence if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as contempt of court. The burden of proof regarding the status of the residency is on the person whose residency is in question.

(f) If, after investigation, the department believes that a certificate of residency should be denied or revoked, it shall provide notice to the applicant or certificate holder of its intent to deny or revoke the certificate and of the applicant or

certificate holder's opportunity for a hearing if requested. Any hearing conducted under this subsection shall be conducted in accordance with the Wyoming Administrative Procedure Act.

**16-6-103. Limitation on subcontracting by resident contractors.**

A successful resident bidder shall not subcontract more than thirty percent (30%) of the work covered by his contract to nonresident contractors.

**16-6-104. Preference for Wyoming materials required in contracts.**

Wyoming made materials and products, and Wyoming suppliers of products and materials of equal quality and desirability shall have preference over materials or products produced or supplied outside the state and any contract let shall so provide. The preference created by this section shall be applied in a manner identical to the preference for residence contractors in W.S. 16-6-102.

**16-6-105. Preference for Wyoming materials and Wyoming agricultural products required in public purchases; exception; cost differential; definition.**

(a) A five percent (5%) materials preference for Wyoming materials shall be applied in public purchases, subject to the following:

(i) The preference requirement shall apply to:

(A) Every board, commission or other governing body of any state institution;

(B) Every person acting as purchasing agent for the board, commission or other governing body of any state institution or department; and

(C) Every county, municipality, school district and community college district.

(ii) As used in this section, "materials" means supplies, material, agricultural products, equipment, machinery and provisions to be used in the construction, major maintenance, renovation, regular maintenance and upkeep of public institutions;

(iii) The preference shall be applied in favor of materials that are produced, manufactured or grown in this state, or that are supplied by a resident of the state who is competent and capable to provide the materials within the state of Wyoming;

(iv) Preference shall not be granted for materials of inferior quality to those offered by competitors outside of the state.

(b) As used in this section, "agricultural products" means any horticultural, viticultural, vegetable product, livestock, livestock product, bees or honey, poultry or poultry product, sheep or wool product, timber or timber product.

**16-6-106. Statement of Wyoming materials preference in requests for bids and proposals.**

All requests for bids and proposals for materials, supplies, agricultural products, equipment, machinery and provisions for the construction, major maintenance and renovation of every state, county, municipal, community college district or school district institution shall contain the words "preference is hereby given to materials, supplies, agricultural products, equipment, machinery and provisions produced, manufactured or grown in Wyoming, or supplied by a resident of the state, quality being equal to articles offered by the competitors outside of the state".

**16-6-107. Wyoming materials preference required in construction, major maintenance and renovation of public structures; exception.**

All public buildings, courthouses, public school buildings, public monuments and other public structures constructed in this state shall be constructed and maintained using materials produced or manufactured in Wyoming for construction, major maintenance and renovation projects if Wyoming materials are suitable and can be furnished in marketable quantities. Preference shall not be granted for materials of an inferior quality to those offered by competitors outside of the state, but a differential of five percent (5%) shall be allowed in cost of materials produced or manufactured in Wyoming.

**16-6-108. Governing of federal funds by federal law.**

The operation of this act upon the letting of any public works contract above mentioned, in connection with which, funds are granted or advanced by the United States of America, shall be subject to the effect, if any, of related laws of the United States and valid rules and regulations of federal agencies in charge, governing use and payment of the federal funds.

**16-6-109. Use of insurance for rebuilding state structures.**

When buildings belonging to the state are destroyed, the insurance on the buildings shall be collected by the state treasurer. The governing board of the state institution suffering the loss may draw on the state treasurer for the amount of money collected and use the insurance money for the rebuilding of the structure destroyed if, in the opinion of the governing board, the structure should be rebuilt.

**16-6-110. Limitation on work hours; overtime; exceptions.**

(a) No person shall require laborers, workmen or mechanics to work more than eight (8) hours in any one (1) calendar day or forty (40) hours in any one (1) week upon any public works of the state or any of its political subdivisions except as hereafter authorized. An employee may agree to work more than eight (8) hours per day or more than forty (40) hours in any week, provided the employee shall be paid at the rate of one and one-half (1 1/2) times the regularly established hourly rate for all work in excess of forty (40) hours in any one (1) week. This section does not apply:

(i) In case of emergency caused by fire, flood or danger to life or property; or

(ii) To work upon public or military works or defenses in time of war.

**16-6-111. Penalty for violating work hours provisions.**

Any person who violates this act is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00).

**16-6-112. Contractor's bond or other guarantee; when required; conditions; amount; approval; filing; enforcement upon default.**

(a) Except as provided under W.S. 9-2-3004(c)(iv), any contract entered into with the state, any county, city, town, school district or other political subdivision of the state for the construction, major maintenance or renovation of any public building or other public structure or for any public work or improvement and the contract price exceeds fifty thousand dollars (\$50,000.00), shall require any contractor before beginning work under the contract to furnish the state or any political subdivision, as appropriate, a bond or if the contract price is one hundred fifty thousand dollars (\$150,000.00) or less, any other form of guarantee approved by the state or the political subdivision. The bond or other form of guarantee shall be:

(i) Conditioned for the payment of all taxes, excises, licenses, assessments, contributions, penalties and interest lawfully due the state or any political subdivision;

(ii) For the use and benefit of any person performing any work or labor or furnishing any material or goods of any kind which were used in the execution of the contract, conditioned for the performance and completion of the contract according to its terms, compliance with all the requirements of law and payment as due of all just claims for work or labor performed, material furnished and taxes, excises, licenses, assessments, contributions, penalties and interest accrued in the execution of the contract;

(iii) In an amount not less than fifty percent (50%) of the contract price unless the price exceeds one hundred fifty thousand dollars (\$150,000.00), in which case the appropriate officer, agent or the governing body may fix a sufficient amount;

(iv) Approved by and filed with the appropriate officer, agent or other designee of the state or governing body of the political subdivision.

(b) A bond or other guarantee satisfactory to the state or political subdivision, as the case may be, shall include the obligations specified under subsection (a) of this section even though not expressly written into the guarantee.

(c) In default of the prompt payment of all obligations under the guarantee, a direct proceeding may be brought in any court of competent jurisdiction by the authorized officer or

agency to enforce payment. The right to proceed in this matter is cumulative and in addition to other remedies provided by law.

**16-6-113. Contractor's bond or other guarantee; right of action; notice to obligee; intervention by interested parties; pro rata distribution.**

Any person entitled to the protection of a bond or other form of guarantee approved by the state or any political subdivision under W.S. 16-6-112, may maintain an action for the amount due him. He shall notify the obligee named in the bond or other guarantee of the beginning of the action, giving the names of the parties, describing the guarantee and stating the amount and nature of his claim. No judgment shall be entered in the action within thirty (30) days after the giving of the notice. The obligee or any person having a cause of action may on his motion, be admitted as a party to the action. The court shall determine the rights of all parties to the action. If the amount realized on the bond or other guarantee is insufficient to discharge all claims in full, the amount shall be distributed among the parties pro rata.

**16-6-114. Contractor's bond or other guarantee; requiring new or additional bond or other guarantee; failure to furnish.**

If in its judgment any of the sureties on a bond or other form of guarantee approved by the state or any political subdivision under W.S. 16-6-112 are insolvent or for any cause are no longer proper or sufficient sureties, the obligee may within ten (10) days require the contractor to furnish a new or additional bond or other approved guarantee. If ordered by the obligee, all work on the contract shall cease until a new or additional bond or other guarantee is furnished. If the guarantee is not furnished within ten (10) days, the obligee may at its option determine [terminate] the contract and complete the contract as the agent and at the expense of the contractor and his sureties.

**16-6-115. Contractor's bond or other guarantee; limitation of actions.**

No action shall be maintained on any bond or other form of guarantee satisfactory to the state or any political subdivision under W.S. 16-6-112 unless commenced within one (1) year after the date of first publication of notice of final payment of the contract.

**16-6-116. Final settlement with and payment to contractor; required notices.**

When any public work is let by contract the commission, board or person under whose direction or supervision the work is being carried on and conducted and upon whose approval intermediate and final estimates are paid for the construction of the work, forty (40) days before the final estimate is paid, shall cause to be published in a newspaper of general circulation, published nearest the point at which the work is being carried on, once a week for three (3) consecutive weeks, and also to post in three (3) conspicuous places on the work, a notice setting forth in substance, that the commission, board or person has accepted the work as completed according to the plans and specifications and rules set forth in the contract between the commission, board or person and the contractor, and that the contractor is entitled to final settlement therefor. The notice shall also set forth that upon the 41st day (and the notice shall specify the exact date) after the first publication of the notice the commission, board or person under whose direction or supervision the work has been carried on will pay to the contractor the full amount due under the contract. This section does not relieve the contractor and the sureties on his bond from any claims for work or labor done or materials or supplies furnished in the execution of the contract.

**16-6-117. Final settlement with and payment to contractor; prerequisite filing of contractor's statement of payment; disputed claims.**

In all formal contracts entered into by any person with the state, or any department or commission thereof, or with any county, city, town, school district, high school district, or other public corporation of this state, for the construction of any public building, or the prosecution and completion of any public work, or for repairs upon any public building or public work, no final payment shall be made until the person files with the officer, department or commission of the state, or with the clerk of the county, city, town or school district, or with a similar officer of any other public corporation by which the contract has been made, a sworn statement setting forth that all claims for material and labor performed under the contract have been and are paid for the entire period of time for which the final payment is to be made. If any claim for material and labor is disputed the sworn statement shall so state, and the amount claimed to be due the laborer shall be deducted from the final payment and retained by the state, county, city, town or school

district authority or public corporation until the determination of the dispute, either by judicial action or consent of the parties, and then paid by the agent or agency to the persons found entitled thereto.

**16-6-118. Unlawful interest of officeholders in public contracts or works; exception.**

(a) It is unlawful for any person, now or hereafter holding any office, either by election or appointment, under the constitution or laws of this state, to become in any manner interested, either directly or indirectly, in his own name or in the name of any other person or corporation, in any contract, or the performance of any work in the making or letting of which the officer may be called upon to act or vote. It is unlawful for any officer to represent, either as agent or otherwise, any person, company or corporation, in respect of any application or bid for any contract or work in regard to which the officer may be called upon to vote or to take or receive, or offer to take or receive, either directly or indirectly, any money or other thing of value, as a gift or bribe, or means of influencing his vote or action in his official character. Any contracts made and procured in violation of this subsection are null and void and the person violating this subsection may be removed from office.

(b) Notwithstanding subsection (a) of this section, if any person is interested in any public contract or shall represent any person, company or corporation, but shall disclose the nature and extent thereof to all the contracting parties concerned therewith and shall absent himself during the considerations and vote thereon and not attempt to influence any of the contracting parties and not act directly or indirectly for the governing body in inspection, operation, administration or performance of any contract, then the acts are not unlawful under this section. This section does not apply as to the operation, administration, inspection or performance of banking and deposit contracts and relationships after the selection of a depository.

**16-6-119. State construction; right to reject bids or responses; qualifications of bidders and respondents.**

Every state agency, board, commission, department or institution shall be authorized to determine the qualifications and responsibilities of bidders or respondents on contracts for the construction, major maintenance or renovation of a public project, facility or structure using standard forms and



procedures adopted by the department of administration and information, and may recommend that the department of administration and information reject any or all bids or responses based on the qualifications and responsibilities of bidders and respondents and readvertise for bids or responses.

**16-6-120. Rulemaking; penalties; enforcement.**

(a) The department of workforce services shall promulgate rules and regulations as the department determines necessary or convenient to enforce this act.

(b) Unless punishable under subsection (c) of this section, an individual or a business entity and any officer or member thereof that intentionally falsifies information under this act shall be:

(i) Fined seven hundred fifty dollars (\$750.00) for each violation for each day during which the violation continues;

(ii) Barred from bidding on any contract subject to the provisions of this act or submitting any request for proposal on any project subject to the provisions of this act for one (1) year from the date the violation is corrected.

(c) Any person who signs an affidavit submitted to the department pursuant to W.S. 16-1-101(a), knowing any information contained therein is false, shall be guilty of false swearing punishable as a felony in accordance with W.S. 6-5-303(a).

(d) The department of workforce services is authorized and directed to enforce W.S. 16-6-101 through 16-6-206.

(e) In the event a contractor fails to comply with an order from the department, the director shall refer the matter to the appropriate district or county attorney for enforcement of the department's order.

**16-6-121. Notice required to receive protection under a bond or guarantee; limitation; notice required by owner in project specifications.**

(a) Any subcontractor or materialman entitled to the protection of a bond or other form of guarantee approved by the state or any political subdivision under W.S. 16-6-112 shall give notice of his right to that protection to the prime

contractor. Failure to give notice to a prime contractor who has complied with subsections (f) and (g) of this section waives the subcontractor or materialman's protection under the bond or guarantee and waives any right to a lien for materials or services provided.

(b) The notice shall be given no later than sixty (60) days after the date on which services or materials are first furnished.

(c) The notice shall be sent to the prime contractor by certified mail or delivered to and receipted by the prime contractor or his agent. Notice by certified mail is effective on the date the notice is mailed.

(d) The notice shall be in writing and shall state that it is a notice of a right to protection under the bond or guarantee. The notice shall be signed by the subcontractor or materialman and shall include the following information:

(i) The subcontractor or materialman's name, address and phone number and the name of a contact person;

(ii) The name and address of the subcontractor's or materialman's vendor; and

(iii) The type or description of the materials or services provided.

(e) This section shall only apply where the prime contractor's contract is for fifty thousand dollars (\$50,000.00) or more.

(f) The prime contractor shall post on the construction site a prominent sign citing this section and stating that any subcontractor or materialman shall give notice to the prime contractor of a right to protection under the bond or guarantee and that failure to provide the notice shall waive the subcontractor or materialman's protection under the bond or guarantee and shall waive any right to a lien for materials or services provided.

(g) The owner or his agent shall provide written notice of the information required by this section in the project specifications.

## ARTICLE 2 - PREFERENCE FOR STATE LABORERS

**16-6-201. Short title.**

This act may be cited as the "Wyoming Preference Act of 1971".

**16-6-202. Definitions.**

(a) As used in this act:

(i) "Laborer" means a person employed to perform unskilled or skilled manual labor for wages in any capacity and does not include independent contractors;

(ii) "Resident" includes any person who is a citizen of the United States, or a person who is authorized to work in the United States by an agency of the federal government, and has resided in the state of Wyoming for at least one (1) year immediately preceding his application for employment;

(iii) "Wages" means a payment of money for labor or services according to a contract or any hourly, daily or piece-work basis;

(iv) "This act" means W.S. 16-6-201 through 16-6-206.

**16-6-203. Required resident labor on public works projects; exception.**

(a) Every person who is charged with the duty of construction, reconstructing, improving, enlarging, altering or repairing any public works project or improvement for the state or any political subdivision, municipal corporation, or other governmental unit, shall employ only Wyoming laborers on the project or improvement. Every contract let by any person shall contain a provision requiring that Wyoming labor be used except other laborers may be used when Wyoming laborers are not available for the employment from within the state or are not qualified to perform the work involved. The contract shall contain a provision requiring specific acknowledgement of the requirements of this section. A person required to employ Wyoming laborers may employ other than Wyoming laborers if:

(i) That person informs the nearest state workforce center of his employment needs at least eleven (11) days before work is commenced; and

(ii) The state workforce center certifies that the person's need for laborers cannot be filled from those Wyoming laborers listed with the Wyoming department of workforce services. The department shall respond to a person's request for certification within ten (10) days of the date the information is filed.

(b) Upon request by the workforce center, the general contractor shall provide the most recent construction schedule for the project.

**16-6-204. Employees not covered by provisions.**

All other employees of the contractor or subcontractor, other than laborers as defined by this act, are not covered by this act.

**16-6-205. Enforcement.**

(a) The department of workforce services shall promulgate rules and regulations required to enforce this act and is authorized and directed to enforce this act. For purposes of all investigations, the department shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any books, papers, documents or records which the department deems relevant or material to the inquiry.

(b) Along with each application for payment for a contract subject to this act, the general contractor shall provide to the contracting entity a payroll report for all contractors and subcontractors involved in the project in a form that is consistent with federally certified reporting requirements and includes residency status for each laborer.

(c) This act shall not be enforced in a manner which conflicts with any federal statutes or rules and regulations.

**16-6-206. Failure to employ state laborers; penalty.**

(a) A person who willfully or intentionally fails to use Wyoming laborers as required in this act shall be subject to a civil penalty of not more than one thousand dollars (\$1,000.00) per nonresident laborer employed per day, not to exceed a total penalty of ten percent (10%) of the amount of the person's contract. Each separate case of failure to employ Wyoming laborers on public works projects constitutes a separate offense.

(b) In the event a second offense occurs within a twelve (12) month period from the date of the first offense, the person shall be barred from bidding on any contract subject to the provisions of this act or submitting any request for proposal on any project subject to the provisions of this act for one (1) year from the date the second violation is corrected.

(c) Before a civil penalty is imposed under this section, the department of workforce services shall notify the person accused of a violation. The notice shall be served in accordance with the Wyoming Rules of Civil Procedure and contain:

(i) A statement of the grounds for imposing the civil penalty, including a citation to the statute involved;

(ii) A statement of the facts in support of the allegations;

(iii) A statement informing the person of the right to a hearing and that failure to timely request a hearing will result in imposition of the civil penalty stated.

(d) A request for hearing on a proposed civil penalty shall be in writing and shall be submitted to the department no later than seven (7) days after receipt of the notice from the department. The hearing shall be conducted as a contested case before a hearing examiner of the office of administrative hearings. The hearing shall be no later than fifteen (15) days after receipt of the request for hearing, unless the person subject to the proposed civil penalty requests an extension of time for good cause shown. The hearing officer shall recommend a decision to the director of the department. After hearing or upon failure of the accused to request a hearing, the director of the department shall determine the amount of the civil penalty to be imposed in accordance with the limitations in this section. Judicial review, if any, shall be from the decision of the director and in accordance with the provisions of the Wyoming Administrative Procedure Act.

(e) A civil penalty may be recovered in an action brought by the attorney general in the name of the state of Wyoming in any court of appropriate jurisdiction.

### ARTICLE 3 - PUBLIC PRINTING CONTRACTS

**16-6-301. Preference for resident bidders; exception; "resident" defined; violation.**

(a) Whenever a contract is let by the state or any department thereof, or any of its subdivisions, for public printing, including reports of officers and boards, pamphlets, blanks, letterheads, envelopes and printed and lithographed matter of every kind and description whatsoever, the contract shall be let to the responsible resident making the lowest bid if the resident's bid is not more than ten percent (10%) higher than that of the lowest responsible nonresident bidder. Any successful resident bidder shall perform at least seventy-five percent (75%) of the contract within the state of Wyoming. This section shall not apply to any contract for the compilation, codification, revision, or digest of the statutes or case law of the state.

(b) As used in this section, "resident" means any person or business entity who has been a bona fide resident of this state as defined in W.S. 16-6-101(a)(i), for one (1) year or more immediately prior to bidding upon a contract, and who has an established printing plant in actual operation in the state of Wyoming immediately prior to bidding upon a contract.

(c) Any contract let or performed in violation of this section shall be null and void and no funds shall be paid for the performance thereof.

ARTICLE 4 - PUBLIC FACILITY LIFE-CYCLE COST ANALYSES

**16-6-401. Definitions.**

(a) As used in W.S. 16-6-401 through 16-6-403:

(i) "Economic life" means the projected or anticipated useful life of a major facility as expressed by a term of years;

(ii) "Energy-consumption analysis" means the evaluation of all energy systems and components by demand and type of energy including the internal energy load imposed on a major facility by its occupants, equipment and components, and the external energy load imposed on a major facility by the climatic conditions of its location. The energy-consumption projections shall take into account daily and seasonal variations in energy system output during normal operations;

(iii) "Energy systems" means all utilities, including heating, air-conditioning, ventilating, lighting and the supplying of domestic hot water;

(iv) "Initial cost" means the monies required for the capital construction or renovation of a major facility;

(v) "Life-cycle cost analysis" means a study to compute life-cycle costs, as required in this act;

(vi) "Life-cycle cost" means the cost of a major facility including its initial cost, the cost of the energy consumed over its economic life and the cost of its operation and maintenance;

(vii) "Major facility" means any publicly owned building having eighteen thousand (18,000) square feet or more of gross floor area;

(viii) "Public agency" means every state office, officer, board, commission, committee, bureau, department and all political subdivisions of the state; and

(ix) "Renovation" means revision to a major facility which will affect more than fifty percent (50%) of the gross floor area in the building.

**16-6-402. Computation of life-cycle costs.**

(a) Life-cycle costs shall be the sum of:

(i) Initial cost;

(ii) The reasonably expected fuel costs over the life of the building based on the energy consumption analysis; and

(iii) The reasonable costs of maintenance and operation as they pertain to energy systems.

(b) Life-cycle costs shall be computed for two (2) or more alternatives for construction of the facility.

**16-6-403. Life-cycle cost analyses.**

Public agencies shall, prior to the construction or renovation of any major facility, include in the design phase a provision requiring that life-cycle cost analyses be prepared for two (2)

or more alternatives for the construction of the facility. These life-cycle cost analyses shall be available to the public. The life-cycle costs shall be a consideration in the selection of a building design by a public agency.

ARTICLE 5 - ACCESSIBILITY OF HANDICAPPED TO PUBLIC BUILDINGS

**16-6-501. Building plans and specifications; required facilities; elevators; curb ramps; inspections; exceptions.**

(a) The plans and specifications for the construction of or additions to all buildings for general public use built by the state or any governmental subdivision, school district or other public administrative body within the state, shall provide facilities and features conforming with the specifications set forth in the accessibility and supplemental accessibility requirements of the 2012 edition of the International Building Code.

(i) Repealed by Laws 2015, ch. 158, § 2.

(ii) Repealed by Laws 2015, ch. 158, § 2.

(iii) Repealed by Laws 2015, ch. 158, § 2.

(iv) Repealed by Laws 2015, ch. 158, § 2.

(v) Repealed by Laws 2015, ch. 158, § 2.

(b) Every curb or sidewalk to be constructed or reconstructed in Wyoming, where both are provided and intended for public use, whether constructed with public or private funds, shall provide a ramp at points of intersection between pedestrian and motorized lines of travel and no less than two (2) curb ramps per lineal block. Design for curb ramps shall be designed in accordance with the current Americans With Disabilities Act accessibility guidelines.

(c) Except as provided in this subsection, the state fire marshal or city engineer, or their designee, shall inspect any structure described in subsection (a) of this section at the request of any person. Curb ramps shall be inspected by the city at the request of any person and shall be modified or reconstructed by the contracting authority to meet the requirements of W.S. 16-6-501 through 16-6-504.



(d) Exceptions for good cause may be granted by the state fire marshal for any structure described in subsection (a) of this section or by the city for curb ramps.

**16-6-502. Building plans and specifications; state fire marshal; review and approval.**

All plans and specifications for the construction of or additions to buildings for general public use, built by the state or any governmental subdivision, school district or other public administrative body within this state, shall be submitted for review and approval by the state fire marshal, who shall approve if he finds the plans provide facilities which conform to the specifications set forth in the accessibility and supplemental accessibility requirements of the 2012 edition of the International Building Code.

**16-6-503. Building plans and specifications; state fire marshal; ruling and determination; filing of written objection.**

The state fire marshal shall within five (5) days mail a copy of his ruling and determination to the contracting authority and to any other interested or affected person, as defined under the Wyoming Administrative Procedure Act, who has made timely request of the state fire marshal for receipt of copies of all rulings and determinations. All mailings by the state fire marshal made under this section shall be made by certified mail. Any time within ten (10) days after receipt of the ruling or determination made by the state fire marshal the contracting authority or any other interested or affected person may object to the determination, or any part thereof as the contracting authority or any other interested or affected person deems objectionable by filing a written notice with the state fire marshal, stating the specific grounds of the objection. The written objection shall be filed in the records of the state fire marshal and shall be available for inspection by any person who may be affected.

**16-6-504. Building plans and specifications; hearing on objection; final administrative determination; judicial review.**

(a) Within five (5) days of the receipt of the objection, the state fire marshal shall notify the department of fire prevention and electrical safety of the objection. That department shall set a date for a hearing on the objection to be held not less than ten (10) days nor more than thirty (30) days following receipt of the objection notice from the state fire

marshal. Written notice of the time and place of the hearing shall be given by the department to the contracting authority and any other interested and affected persons at least ten (10) days prior to the date set for the hearing.

(b) The procedure before the department of fire prevention and electrical safety for hearing of objections shall be as provided in the Wyoming Administrative Procedure Act.

(c) Within ten (10) days of the conclusion of the hearing, the department shall rule on the written objections and make the final determination it determines that the evidence warrants. Immediately upon its final determination, the department shall serve a certified copy thereof on the contracting authority and all other interested and affected persons who may have appeared at the hearing, by personal service or by registered or certified mail.

(d) The final decision of the department of fire prevention and electrical safety is subject to review in accordance with the Wyoming Administrative Procedure Act. All proceedings in any district court affecting a determination of the department of fire prevention and electrical safety shall have priority in hearing and determination over all other civil proceedings pending in the court, except election contests.

#### ARTICLE 6 - PAYMENT OF AGENCY ACCOUNTS

##### **16-6-601. Definitions.**

(a) As used in this article:

(i) "Agency" means any department, agency or other instrumentality of the state or of a political subdivision of the state;

(ii) "Goods" means all personal property purchased, procured or contracted for by an agency, including leases of real property or other arrangements for the use of space;

(iii) "Services" means all services purchased, procured or contracted for by an agency, including construction services.

##### **16-6-602. Payment of agency accounts; interest.**

Except as provided by contract, any agency which purchases or procures goods and services from a nongovernmental entity shall pay the amount due within forty-five (45) days after receipt of a correct notice of amount due for the goods or services provided or shall pay interest from the forty-fifth day at the rate of one and one-half percent (1 1/2%) per month on the unpaid balance until the account is paid in full, unless a good faith dispute exists as to the agency's obligation to pay all or a portion of the account.

ARTICLE 7 - CONSTRUCTION CONTRACTS WITH PUBLIC ENTITIES

**16-6-701. Definitions.**

(a) As used in this act:

(i) "Acceptable depository" means a state or national bank or a savings and loan association or credit union in which deposits are insured;

(ii) "Contractor" means any person who is a party to a contract with a public entity to construct, renovate or perform major maintenance of any highway, public building, public work or public improvement, structure or system;

(iii) "Public entity" means this state or a county, city, town or any political subdivision thereof;

(iv) "Substantial completion" means the date when the construction is sufficiently complete, in accordance with the contract documents, as modified by any change orders agreed to by the parties, so that the work or designated portion thereof is available for use by the owner;

(v) "Alternate design and construction delivery method" means the delivery method described by any qualifications based procurement of design and construction services, including all procedures, actions, events, contractual relationships, obligations and forms of agreement for the successful completion of the design and construction, major maintenance or renovation of any public building, work, improvement, facility, structure or system other than by design, bid and build. Alternate design and construction delivery methods available to a public entity include construction manager agent, construction manager at risk or design-builder;

(vi) "Construction manager agent" means a type of construction management delivery where the professional service is procured under existing statutes for professional services. The construction manager agent is a construction consultant providing administrative and management services to the public entity throughout the design and construction phases of a project. Under this delivery method, the construction manager agent is not the contracting agent and is not responsible for purchase orders;

(vii) "Construction manager at-risk" means a type of construction management delivery in which the construction manager at-risk is an advocate for the public entity as determined by the contracts throughout the preconstruction phase of a project. In the construction phase of a project, the construction manager at-risk is responsible for all project subcontracts and purchase orders and may conduct all or a portion of the construction project work. Under this delivery method, the construction manager at-risk is responsible for providing a guaranteed maximum price for the project to the public entity prior to commencing the construction project and the construction manager at-risk shall be required to bond any project with a guaranteed maximum price in excess of two hundred fifty thousand dollars (\$250,000.00) in accordance with W.S. 16-6-112;

(viii) "This act" means W.S. 16-6-701 through 16-6-708;

(ix) "Design-build" means a type of construction delivery method in which there is a single contract between the public entity and a design-builder who furnishes architectural, engineering and other related design services as required for the public project, as well as labor, materials and other construction services necessary to construct the project. A design-builder may be selected by the public entity based on evaluation of responses to a request for qualifications, fixed scope request for proposal or fixed price request for proposal. The following shall apply:

(A) A design-builder may be selected based solely on a response to a request for qualification for projects with an estimated construction cost of five hundred thousand dollars (\$500,000.00) or less provided there are not less than two (2) respondents;

(B) Responses to a fixed scope request for proposal or a fixed price request for proposal shall be used as the bases for selection for a project with an estimated construction cost of more than five hundred thousand dollars (\$500,000.00);

(C) Interested parties shall first respond to a request for qualification. Based on responses to the request for qualification a minimum of two (2) and maximum of five (5) respondents may be selected to respond to a fixed scope request for proposal or a fixed price request for proposal;

(D) The respondent chosen by evaluation to provide the best overall value for the project shall be selected in response to a fixed scope request for proposal or a fixed price request for proposal. The best overall value shall be determined based on criteria set forth by the public entity letting the project and may include, but is not limited to, qualifications, price, quality of materials and products, past experience and schedule;

(E) All unsuccessful respondents to a response for a fixed scope request for proposal or fixed price request for proposal may be compensated at the discretion of the public entity based upon a percentage of the price of the project as proposed by the successful respondent in the respondent's original proposal. Any compensation provided pursuant to this subparagraph shall be clearly specified in the request for proposal.

(x) "Design-builder" means an entity that provides design-build services as described under paragraph (ix) of this subsection whether by itself or through subcontractual arrangements with other entities;

(xi) "Fixed price request for proposal" means a request for an oral and written presentation of all qualifications deemed pertinent to the project by the public entity in addition to a schematic design and detailed description of all materials and products proposed to accommodate a preliminary project program prepared by the public entity and provided in the fixed price request for proposal. The successful respondent shall construct the project described in their design and material and product description for a fixed price prepared by the public entity and provided in the fixed price request for proposal. The final guaranteed maximum price and scope for the project may be altered from the request for

proposal and negotiated with the successful respondent at the discretion of the public entity;

(xii) "Fixed scope request for proposal" means a request for an oral and written presentation of all qualifications deemed pertinent to the project by the public entity in addition to a guaranteed maximum price for a preliminary design prepared by the design builder incorporating all elements of a fixed scope for the project prepared by the public entity and provided in the fixed scope request for proposal. The final guaranteed maximum price and scope for the project may be altered from the request for proposal and negotiated with the successful respondent at the discretion of the public entity;

(xiii) "Request for qualification" means a request for an oral or written presentation of all qualifications deemed pertinent to the project by the public entity. The request for qualification shall include not less than all the provisions contained in W.S. 16-6-707(b).

**16-6-702. Public entity; contracts; partial payments; alternate delivery methods authorized.**

(a) Notwithstanding W.S. 15-1-113(e), a public entity awarding a contract for the construction, major maintenance or renovation of any highway, public building, public work or public improvement, structure or system shall authorize partial payments of the amount due under the contract as stipulated in the contract document or as soon thereafter as practicable, to the contractor if the contractor is satisfactorily performing the contract. No more than ten percent (10%) of the calculated value of any work completed shall be withheld until fifty percent (50%) of the work required by the contract has been performed. Thereafter, the public entity may pay any of the remaining installments without retaining additional funds if, in the opinion of the public entity, satisfactory progress is being made in the work but under no condition shall more than ten percent (10%) be withheld on the remaining fifty percent (50%) of the work required. The withheld percentage of the contract price of the work, major maintenance, renovation or construction shall be retained in an account in the name of the contractor which has been assigned to the public entity until the contract is completed satisfactorily and finally accepted by the public entity. If the public entity finds that satisfactory progress is being made in all phases of the contract, it may, upon written request by the contractor, authorize payment from the withheld

percentage. Before the payment is made, the public entity shall determine that satisfactory and substantial reasons exist for the payment and shall require written approval from any surety furnishing bonds for the contract work.

(b) Alternate design and construction delivery methods may be used by a public entity to design, construct, renovate or perform major maintenance of a public works projects.

**16-6-703. Contract; completion by public entity; partial payments.**

If it becomes necessary for a public entity to take over the completion of any contract, all of the amounts owing the contractor, including the withheld percentage, shall first be applied toward the cost of completion of the contract. Any balance remaining in the retained percentage after completion by the public entity shall be payable to the contractor or the contractor's creditors. The retained percentage which may be due any contractor shall be due and payable as prescribed by W.S. 16-6-116.

**16-6-704. Interest bearing deposit agreement; requirement to enter into.**

A public entity shall enter into an interest bearing deposit agreement with any depository designated by the contractor, after notice to the surety, to provide an agent for the custodial care and servicing of any deposits placed with him pursuant to this act on any contract of more than twenty-five thousand dollars (\$25,000.00). The services shall include the safekeeping of the obligations and the rendering of all services required to effectuate the purposes of this act.

**16-6-705. Custodian for obligations; collection of interest income-payable to contractor.**

The public entity or any depository designated by the contractor to serve as custodian for the obligations pursuant to W.S. 16-6-704 shall collect all interest and income when due on obligations so deposited and shall pay them, when and as collected, to the contractor or as otherwise instructed by the contractor. Any expense incurred for this service shall not be charged to the public entity.

**16-6-706. Applicability of provisions.**

This act does not apply in the case of a contract made or awarded by any public entity if a part of the contract price is to be paid with funds from the federal government or from some other source and if the federal government or the other source has requirements concerning retention or payment of funds which are applicable to the contract and which are inconsistent with this act.

**16-6-707. Construction management alternate delivery method.**

(a) Excluding contracts for professional services, construction management and design-build delivery negotiations by public entities and construction managers shall be in accordance with residency and preference requirements imposed under W.S. 16-6-101 through 16-6-107.

(b) Formal requests for proposal for preconstruction or construction services by a construction manager or a design-builder submitted by a public entity shall require at least the following information:

- (i) The location of the primary place of business;
- (ii) The name and identification of individuals to be assigned to the project;
- (iii) Experience with similar projects;
- (iv) Qualifications;
- (v) Ability to protect the interests of the public entity during the project;
- (vi) Ability to meet project budget and time schedule requirements;
- (vii) Excluding contracts for professional services, compliance with W.S. 16-6-101 through 16-6-107; and
- (viii) For design-build alternative construction delivery methods, the names of the prime consultants used for architectural and engineering design services.

(c) Negotiations between a public entity and a construction manager at-risk shall require that the construction manager at-risk comply with the residency and preference



requirements imposed under W.S. 16-6-101 through 16-6-107 in the procurement of subcontractors and materials.

**16-6-708. Responsibilities under alternative delivery contracts.**

(a) Any construction manager agent, construction manager at risk or design-builder contract awarded shall comply with any reporting and administrative requirements as required by the public entity of the recipient of a design, bid and build contract, including retainage, payment and performance bonding and default of contract.

(b) All bids received under this section including subcontractor bids, shall be opened in public following reasonable public notice.

ARTICLE 8 - WORKS OF ART IN PUBLIC BUILDINGS

**16-6-801. Definitions.**

(a) As used in this article:

(i) "Agency" means any state office, department, board, commission or institution and any community college district to which funds have been appropriated, bonded or otherwise provided by the state for the design and original construction of any new building;

(ii) "Architect" means any person licensed to practice architecture pursuant to W.S. 33-4-101 through 33-4-117 and designated as the project architect for a specific capital construction project;

(iii) "Artist" means any practitioner generally recognized by peers or critics as a professional who produces works of art;

(iv) "Building" means any permanent structure and any appurtenant structure intended to function as an office, courtroom, hearing or meeting room or other space for carrying on the operation of any agency and any auditorium, meeting room, classroom or other educational facility, library or museum space, or information center for use by the public, excluding utility lines, water projects, fish ponds, school buildings, city buildings, county buildings, public restrooms at state parks, separate structures which are not part of a larger

construction project intended solely as storage, warehouse or maintenance and repair facilities;

(v) "Construction cost" means the cost for the actual design and original construction of any new building which is funded in total or in part by appropriated state funds, excluding land acquisition. The phrase does not include the cost for any building funded in part by city or county funds;

(vi) "Department" means the department of state parks and cultural resources acting through the Wyoming arts council established under W.S. 9-2-901;

(vii) "User" means that agency with principal administrative responsibility for the actual use of any building;

(viii) "Works of art" means any frescoe, mosaic, sculpture, drawing, painting, photograph, calligraphy, graphic art, stained glass, wall hanging, tapestry, fountain, ornamental gateway, monument, display, architectural embellishment, craft, architectural landscape or any work of mixed media by an artist.

**16-6-802. Construction of new public buildings; state funds.**

(a) The original construction of any new building shall include works of art for public display, which shall be included by the agency in determining total construction costs of the building at an amount equal to one percent (1%) of total costs but not to exceed one hundred thousand dollars (\$100,000.00) on any one (1) project. Any new construction project for which the total cost is less than one hundred thousand dollars (\$100,000.00) is exempt from this subsection.

(b) Prior to transferring or authorizing the expenditure of any state funds for the original construction of any new building, the state auditor shall transfer to the state treasurer an amount equal to the amount specified under subsection (a) of this section for works of art. Upon receipt, the state treasurer shall deposit the amount transferred into a separate account, together with any grants, gifts or other funds received or appropriated by the state for the sole purpose of acquiring works of art for placement in buildings. Amounts deposited within the separate account shall be expended by the department for the acquisition of works of art by purchase, lease, commission or otherwise, the maintenance of works of art

placed in buildings pursuant to this article and for the administration of this article.

**16-6-803. Department of commerce to acquire works of art; advisory panel to consult in acquisition; procedure; public education programs.**

(a) In administering this article, the department shall in consultation with the advisory panel selected pursuant to subsection (c) of this section, designate works of art and sites for placement within buildings and shall accordingly and as necessary, select, purchase, commission, review, place, accept, sell, exchange or dispose of works of art.

(b) The acquisition of works of art from funds within the separate account established under W.S. 16-6-802(b) shall not require advertisement for bids.

(c) The department shall select a panel to serve in an advisory capacity to the department in selecting and designating works of art, comprised of representatives of the community in which the building is located, the user agency, the art community and the architect involved in the original construction of the building. Each panel member shall receive reimbursement for travel and per diem in the same amount and manner as by law provided for state employees.

(d) The department shall by rule and regulation establish the jury procedure for works of art acquired under this article, which shall at minimum:

(i) Give preference to Wyoming artists;

(ii) Prohibit consideration of any work of art of any panel member or a member of his immediate family for the project on which the panel member is serving;

(iii) Require cooperation and communication with local and national art agencies;

(iv) Provide a process for the transfer of acquired works of art from one (1) location to another.

(e) The department may, upon request of any agency, authorize the acquisition of works of art through the pooling of funds available from small, multiple new construction projects

and through the use of funds within the separate account as matching any funds available from nonstate sources.

(f) In addition to other duties imposed under this article, the department shall develop and implement public education programs on the purpose of this article, the process for selecting works of art for placement in buildings, the state art collection and on the acquired works of art.

**16-6-804. Acquisitions property of state art collection; maintenance; expenses.**

(a) Upon acquisition of any work of art in accordance with this article, the work of art becomes the property of the state art collection and the department, through the state museum, shall:

(i) Maintain an inventory of the acquired work of art;

(ii) Maintain and preserve the work of art; and

(iii) Periodically review and examine the acquired work of art and report to the director of the department on any necessary restoration, repair, deaccession or replacement of the work of art.

(b) The expenses incurred by the department in performing duties imposed under this section shall be paid from the separate account established under W.S. 16-6-802(b), which shall not exceed ten percent (10%) of the total amount expended for any specific work of art.

**16-6-805. Application.**

Nothing in this article shall limit the acquisition or placement of works of art acquired from other nonstate sources nor shall this article limit the use of architectural, functional or structural detailing or garnishing in the construction, remodeling, renovation or restoration of any building.

ARTICLE 9 - USE OF APPRENTICESHIP PROGRAMS ON PUBLIC WORKS  
PROJECTS

**16-6-901. Definitions.**

(a) As used in this act, unless the context clearly requires otherwise:

(i) "Apprentice" means an apprentice enrolled and registered in an approved apprenticeship training program;

(ii) "Apprentice utilization preference" means the preference that is given to public works contract bidders who commit to ensure the appropriate percentage of labor hours will be performed by apprentices;

(iii) "Labor hours" means the total hours of workers receiving an hourly wage who are directly employed on the site of the public works project. "Labor hours" includes hours worked by persons employed by the contractor and all subcontractors working on the project. "Labor hours" does not include hours worked by foremen, superintendents and owners;

(iv) "Approved apprenticeship training program" means an apprenticeship training program approved by and registered with the bureau of apprenticeship and training, United States department of labor;

(v) "Department" means the department of workforce services.

**16-6-902. Apprentices to be used on public works projects; waiver; report.**

(a) For all public works awarded by the state, the University of Wyoming, a community college or a school district pursuant to W.S. 16-6-101 through 16-6-206 estimated to cost one million dollars (\$1,000,000.00) or more, a contractor who commits to ensure that not less than ten percent (10%) of the labor hours shall be worked by apprentices shall have his bid considered as if his bid were one percent (1%) lower than the actual dollar value of his bid. The contractor awarded a contract under this section, after consideration of all other applicable preferences under this chapter, shall be awarded the contract at the actual dollar value of his bid under this section. This subsection shall not apply to those state agencies that have a recognized or approved apprenticeship training program requirement by the United States department of labor or other appropriate federally funded program.

(b) Following award of a contract under subsection (a) of this section, the department may, upon a demonstration of good

cause shown by the contractor, excuse the contractor from the requirement that not less than ten percent (10%) of the labor hours on a specific project be performed by apprentices.

(c) A contractor awarded a contract under this section shall make reasonable efforts to comply with the apprentice utilization preference provisions in this section so that the appropriate percentage of total labor hours is performed by apprentices. The contractor shall report to the department within fifteen (15) days after completion of the project, providing a statement describing compliance with the provisions of subsection (a) of this section if he received preferential consideration of his bid based on a commitment to ensure the specified total labor hours on the project would be performed by apprentices. The department shall report to the agency that awarded the contract, any contractor who received preferential consideration of his bid based on a commitment to ensure the specified total labor hours would be performed by apprentices on a project and who fails to file such report, or who fails to meet the total labor hours commitment for apprentices specified in his bid. Any contractor failing to file a report or failing to meet the total labor hours requirement for apprentices specified in his bid shall forfeit one percent (1%) of the total project cost to the state agency that awarded the contract, which amount shall be credited to the account from which the project was funded, unless good cause is shown as provided in subsection (b) of this section.

(d) The department shall promulgate rules and regulations to implement the provisions of this section.

(e) The department shall provide necessary assistance to an agency awarding a contract subject to the provisions of this section. The department shall collect the following data from each affected contractor for each project covered by this section:

(i) The number of apprentices and labor hours worked by them;

(ii) The number, type and rationale for the exceptions granted under subsection (b) of this section.

(f) Repealed By Laws 2008, Ch. 44, § 2.

(g) By January 1 of each year beginning in 2007, the department shall compile and summarize the collected data in

subsection (e) of this section and provide a report to the governor, the joint labor, health and social services interim committee and the joint education interim committee. The report shall include any recommendations for modifications or improvements to the apprentice utilization program.

#### ARTICLE 10 - CAPITAL CONSTRUCTION PROJECTS

##### **16-6-1001. Capital construction projects restrictions; preference requirements; waivers.**

(a) Unless otherwise prohibited by federal law, any funds appropriated or authorized for expenditure for capital construction projects shall be subject to the restrictions of this section which shall be construed where possible as complimentary and consistent with other statutory requirements relating to competitive bidding and contractor preferences. To the extent the restrictions in this section are inconsistent with other state statutes, this section shall supersede all such inconsistent provisions and shall govern. This section shall be applied as follows:

(i) This paragraph shall apply to any alternate design and construction delivery method as defined in W.S. 16-6-701(a) (v) :

(A) All contracts shall require the construction manager at risk or design builder to conduct an open bid process in compliance with Wyoming contractor preference laws before awarding any subcontracts for work covered under the contract;

(B) Unless exempted pursuant to subparagraph (C) of this paragraph the construction manager at risk or design builder shall award to responsible Wyoming resident contractors not less than seventy percent (70%) of the work covered by the manager's or builder's contract. As used in this subparagraph "work covered" shall be calculated using the total contract price and the total of payments made to all subcontractors under the contract, including materials but excluding from both amounts the price for any part of the contract for which a waiver is provided under subparagraph (C) of this paragraph;

(C) The requirement of subparagraph (B) of this paragraph may be waived for any part of the subcontract work to be performed under the contract. If waived in part, the remaining value of the total subcontract work to be performed under the contract is subject to and shall be used to calculate

compliance with the requirement of subparagraph (B) of this paragraph. A waiver shall require a written determination that:

(I) The work to be performed is specialized or of such a scale that it can be more suitably performed by out-of-state contractors;

(II) The bid amounts submitted by responsible Wyoming subcontractors exceed one hundred five percent (105%) of the costs of out-of-state providers for equivalent quality of work or services;

(III) The enforcement of the requirement would unreasonably delay completion of construction; or

(IV) There were insufficient responsible Wyoming contractors submitting bids to make the seventy percent (70%) requirement.

(V) Repealed by Laws 2012, Ch. 106, § 2.

(D) Any waiver shall be approved in writing by the following persons:

(I) For projects to be completed by the state of Wyoming, by the director of the state construction department;

(II) For projects to be completed by the University of Wyoming, by the president of the university and the chairman of the board of trustees;

(III) For projects subject to review by the state construction department under title 21 of Wyoming statutes, by the director of the state construction department and the chairman of the board of the school facilities commission;

(IV) For projects completed by a community college, by the community college president and its chairman of the board of trustees;

(V) For all other projects, by the respective governing body.

(E) Any approved waiver shall be documented in writing and provided to the governor. Notice of all approved



waivers shall also be published on a website maintained by the state construction department, including a statement of the grounds for the waiver.

(ii) Unless exempted pursuant to subparagraph (D) of this paragraph, this paragraph shall apply to all construction delivery methods:

(A) The procurement of furniture and movable equipment shall be done by competitive bid based upon:

(I) Specifications written for products that are available from Wyoming resident suppliers; or

(II) If specified products are not available from any Wyoming resident supplier, specifications addressing performance standards and functional requirements determined by the agency. The agency may specify suggested individual brands or manufacturers, provided that similar products that meet or exceed specifications shall be accepted as substitute products. Specified products that are not available to any responsible Wyoming resident suppliers shall not be used in any group or package within the bid documents which would exclude responsible Wyoming resident suppliers from submitting a bid on the final bid package. As used in this subdivision, "agency" means any department, agency or other instrumentality of the state or of a political subdivision of the state to which funds are appropriated or authorized for expenditure for capital construction projects and includes any entity that the agency contracts with to administer or award any bid.

(B) No person who was employed by the agency to prepare the bid documents, whether with or without compensation, shall be eligible to bid on the final bid package;

(C) A five percent (5%) preference shall be granted to responsible Wyoming resident suppliers for procurements by public entities subject to this paragraph and that are used in and incorporated into a public capital construction project;

(D) The requirements of subparagraph (A) of this paragraph may be waived by a political subdivision of the state for furniture or movable equipment upon a written determination that the furniture or movable equipment requirements of the project are so specialized or that an item or type of furniture or movable equipment is so unique or uncommon that failure to

waive the requirements would materially impair the functionality of the project. Waivers under this subparagraph shall be approved by the governing body of the political subdivision.

(iii) All bids shall be opened in public at a location designated by the public entity soliciting the bid. This paragraph shall apply to all construction delivery methods;

(iv) Contractor progress payments shall be made only in accordance with this paragraph. If a contracting entity determines that a general contractor in good standing on a project requires a progress payment due for work completed in a workmanlike manner in order to pay a materialman, subcontractor or laborer for their work performed to date, the entity may issue the progress payment upon verification that all materialmen, subcontractors and laborers have been paid for completed work through the date of the most recent previous progress payment. If a progress payment has been withheld by a general contractor due to a reasonable dispute between a general contractor and a materialman, subcontractor or laborer, further progress payments shall not be paid to the general contractor but shall be retained in accordance with the guidelines addressing disputed final payments under the provisions of W.S. 16-6-117. A person submitting false information regarding a progress payment subject to this paragraph shall be subject to the provisions of W.S. 16-6-120.

(b) No funds subject to this section shall be expended unless the contracting agency has submitted a plan to the governor which promotes the employment of responsible Wyoming resident design firms, including professional architectural and engineering services as defined by W.S. 9-2-1028(a)(v), in the planning and design phases of facilities funded with monies subject to this section. The plans shall allow for partnerships between responsible Wyoming design firms, including professional architectural and engineering services, and nonresident firms when necessary to secure specialized services required for a project. The contracting agency shall evaluate and consider overall qualifications, residency, fee proposal, past performance and level of services in the final decisions.

(c) Any entity which has received an appropriation of state funds on or after July 1, 2008, for any capital construction project shall conduct a review of each project funded with state funds to assess whether contractors that were awarded contracts using a resident preference complied in all respects to applicable resident preference laws. If the entity

determines that there is reasonable suspicion that a contractor failed to comply with the resident preference laws, the entity shall report the matter to the department of workforce services and the attorney general. The department of workforce services and the attorney general shall take such enforcement action on behalf of the state of Wyoming and the entity against the contractor as they deem appropriate. An entity shall be required to conduct only one (1) review under this subsection after March 1, 2011.

(d) The governor may modify any requirement of this section by executive order if he determines it to be necessary to promote effective competitive bidding. Any order shall be effective only until June 30, 2012 or until superseded by law.

(e) Repealed by Laws 2013, Ch. 134, § 2.

#### CHAPTER 7 - RELOCATION ASSISTANCE

##### **16-7-101. Short title.**

This act is known and may be cited as the "Wyoming Relocation Assistance Act of 1973".

##### **16-7-102. Definitions.**

(a) As used in this act:

(i) "Agency" means any department, agency or instrumentality of the state or of a political subdivision of the state, any department, agency or instrumentality of two (2) or more political subdivisions of the state which has the authority to acquire property by eminent domain under state law;

(ii) "Business" means any lawful activity, excepting a farm operation, conducted:

(A) Primarily for the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing or marketing of products, commodities or any other personal property;

(B) For the sale of services to the public;

(C) By a nonprofit organization; or

(D) Solely for the purposes of W.S. 16-7-103, for assisting in the purchase, sale, resale, manufacture, processing or marketing of products, commodities, personal property or services by the erection and maintenance of an outdoor advertising display, whether or not the display is located on the premises on which any of the above activities are conducted.

(iii) "Comparable replacement dwelling" means any dwelling that is:

(A) Decent, safe and sanitary;

(B) Adequate in size to accommodate the occupants;

(C) Within the financial means of the displaced person;

(D) Functionally equivalent to the displaced person's prior dwelling;

(E) Located in an area not subject to unreasonably adverse environmental conditions; and

(F) In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services and the displaced person's place of employment.

(iv) "Displaced person" means except as provided in W.S. 16-7-103(a) and (b) and 16-7-106:

(A) Any person who moves from real property, or moves his personal property from real property:

(I) As a direct result of a written notice of intent to acquire or the actual acquisition of all or part of the real property; or

(II) Upon which the person is a residential tenant, conducts a small business, a farm operation or a business defined in W.S. 16-7-102(a)(ii)(D), as a direct result of rehabilitation, demolition or other displacing activity as the agency may prescribe under a program or project undertaken by a displacing agency in which the displacing agency determines that the displacement is permanent.

(B) Solely for the purposes of W.S. 16-7-103(a) and (b), and 16-7-106, any person who moves from real property or moves his personal property from real property:

(I) As a direct result of a written notice of intent to acquire or the actual acquisition of other real property in whole or in part for a program or project undertaken by a displacing agency; or

(II) As a direct result of rehabilitation, demolition or other displacing activity as the agency may prescribe under a program or project undertaken by a displacing agency where the displacing agency determines that the displacement is permanent.

(C) "Displaced person" does not include:

(I) A person who has been determined according to criteria established by the agency to be either unlawfully occupying the displacement dwelling or to have occupied the dwelling for the purpose of obtaining assistance under this act; and

(II) Any person, other than a person who was an occupant of the property at the time it was acquired, who occupies the property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project.

(v) "Displacing agency" means an agency carrying out a program or project with federal or state financial assistance which causes a person to be a displaced person;

(vi) "Farm operation" means any activity conducted solely or primarily for the production of one (1) or more agricultural products or commodities, including timber, produced in sufficient quantity to be capable of contributing materially to the operator's support as determined by the agency;

(vii) "Federal financial assistance" means a grant, loan, any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual or contribution provided by the United States, except any federal guarantee or insurance;

(viii) "Mortgage" means classes of liens commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the state in which the real property is located together with any credit instruments;

(ix) "Nonprofit organization" means any organization, business or corporation organized under any law of this state or under the law of any other jurisdiction, for a purpose other than the conduct of business for profit, and includes corporations organized for charitable, educational, religious or social and fraternal purposes;

(x) "This act" means W.S. 16-7-101 through 16-7-121.

**16-7-103. Relocation payments to displaced persons.**

(a) Whenever a program or project to be undertaken by a displacing agency will result in the displacement of any person, the displacing agency shall provide for the payment to the displaced person of:

(i) Actual reasonable expenses in moving himself, his family, business, farm operation or other personal property;

(ii) Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate the property, as determined by the agency;

(iii) Actual reasonable expenses in searching for a replacement business or farm; and

(iv) Actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization or small business at its new site, in accordance with criteria to be established by the agency.

(b) Any displaced person eligible for payments under subsection (a) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (a) of this section may receive an expense and dislocation allowance, determined according to a schedule established by the agency.

(c) Any displaced person eligible under criteria established by the agency for payments under subsection (a) of this section who is displaced from his place of business or from his farm operation may elect to accept a fixed payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section. The fixed payment shall be determined by the agency and shall not be less than one thousand dollars (\$1,000.00) nor more than twenty thousand dollars (\$20,000.00). A person whose sole business at the displacement dwelling is the rental of the property to others shall not qualify for a payment under this subsection.

(i) Repealed by Laws 1989, ch. 241, § 2.

(ii) Repealed by Laws 1989, ch. 241, § 2.

**16-7-104. Replacement housing payments; home owners.**

(a) In addition to payments otherwise authorized by this act, the displacing agency shall make a payment not in excess of twenty-two thousand five hundred dollars (\$22,500.00) to any displaced person who is displaced from a dwelling actually owned and occupied by the displaced person for not less than one hundred eighty (180) days prior to the initiation of negotiations for the acquisition of the property. The additional payment shall include:

(i) The amount, if any, which when added to the acquisition cost of the dwelling acquired by the displacing agency, equals the reasonable cost of a comparable replacement dwelling;

(ii) The amount, if any, which will compensate the displaced person for any increased interest costs and other debt service costs which the person is required to pay for financing the acquisition of a comparable replacement dwelling. The amount shall be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage which was a valid lien on the dwelling for not less than one hundred eighty (180) days immediately prior to the initiation of negotiations for the acquisition of the dwelling; and

(iii) Reasonable expenses incurred by the displaced person for evidence of title, recording fees and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(b) The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a replacement dwelling which is decent, safe and sanitary within one (1) year after the date on which he receives final payment from the displacing agent for the acquired dwelling or the date on which the obligation of the displacing agency under W.S. 16-7-107 is met, whichever is later, except that the displacing agency may extend the period for good cause. If the period is extended, the payment under this section shall be based on the costs of relocating the person to a comparable replacement dwelling within one (1) year of such date.

**16-7-105. Replacement housing payment; tenants.**

(a) In addition to amounts otherwise authorized by this act, a displacing agency shall make a payment to or for any displaced person displaced from any dwelling and not eligible to receive a payment under W.S. 16-7-104, providing the displaced person actually and lawfully occupied the dwelling for not less than ninety (90) days immediately prior to:

(i) The initiation of negotiations for acquisition of the dwelling; or

(ii) An event as prescribed by the agency in any case in which displacement is not a direct result of acquisition.

(b) The payment under subsection (a) of this section shall consist of the amount necessary to enable the displaced person to lease or rent, for a period not to exceed forty-two (42) months a comparable replacement dwelling not to exceed five thousand two hundred fifty dollars (\$5,250.00). At the discretion of the displacing agency, a payment under this subsection may be made in periodic installments. Computation of a payment under this subsection to a low-income displaced person for a comparable replacement dwelling shall take into account the person's income.

(c) Any person eligible for a payment under subsections (a) and (b) of this section may elect to apply the payment to a down payment including incidental expenses on the purchase of a decent, safe and sanitary replacement dwelling. That person may at the discretion of the displacing agency be eligible under this subsection for the maximum payment allowed under subsection (b) of this section, except that in the case of a displaced home owner who has owned and occupied the displacement dwelling for at least ninety (90) days but not more than one hundred eighty



(180) days immediately prior to the initiation of negotiations for the acquisition of the dwelling, the payment shall not exceed the payment the person would otherwise have received under W.S. 16-7-104(a) of this act had the person owned and occupied the displacement dwelling one hundred eighty (180) days immediately prior to the initiation of the negotiations.

**16-7-106. Relocation assistance advisory programs; services provided.**

(a) Programs or projects undertaken by a displacing agency shall be planned in a manner that:

(i) Recognizes at an early stage in the planning of the programs or projects and before the commencement of any actions which will cause displacements, the problems associated with the displacement of individuals, families, businesses and farm operations; and

(ii) Provides for the resolution of the problems in order to minimize adverse impacts on displaced persons and to expedite program or project advancement and completion.

(b) Displacing agencies shall ensure that the relocation assistance advisory services described in subsection (c) of this section are made available to all persons displaced by the agency. If the agency determines that any person occupying property immediately adjacent to the property where the displacing activity occurs is caused substantial economic injury due to the activity, the agency may make available the advisory services.

(c) Each relocation assistance advisory program required by subsection (b) of this section shall include measures, facilities or services as may be necessary or appropriate in order to:

(i) Determine and make timely recommendations on the needs and preferences of displaced persons for relocation assistance;

(ii) Assist a person displaced from a business or farm operation in obtaining and becoming established in a suitable replacement location;

(iii) Supply:

(A) Information concerning programs of the federal, state and local governments offering assistance to displaced persons; and

(B) Technical assistance to persons applying for assistance under the programs.

(iv) Provide other advisory services to displaced persons in order to minimize hardships to displaced persons in adjusting to relocation;

(v) The displacing agency shall coordinate relocation activities performed by the agency with other federal, state or local governmental actions in the community which could affect the efficient and effective delivery of relocation assistance and related services; and

(vi) Provide current and continuing information on the availability, sales prices and rental charges of comparable replacement dwellings for displaced home owners and tenants and suitable locations for businesses and farm operations.

(d) Notwithstanding W.S. 16-7-102(a)(iv)(C) in any case in which a displacing agency acquires property for a program or project, any person who occupies the property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project is eligible for advisory services to the extent determined by the displacing agency.

**16-7-107. Assurance of replacement housing; waiver.**

(a) If a program or project undertaken by a displacing agency cannot proceed on a timely basis because comparable replacement dwellings are not available and the displacing agency determines that the dwellings cannot otherwise be made available, the displacing agency may take action as necessary or appropriate to provide dwellings by use of funds authorized for the project. The displacing agency may use this section to exceed the maximum amounts which may be paid under W.S. 16-7-104 and 16-7-105 on a case-by-case basis for good cause as determined in accordance with rules and regulations promulgated by the agency. Regulations issued pursuant to W.S. 16-7-108 may prescribe situations when these assurances may be waived.

(b) No person shall be required to move from a dwelling due to any program or project undertaken by a displacing agency

unless the displacing agency is satisfied that comparable replacement housing is available to the person.

(c) The displacing agency shall assure that a person shall not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a comparable replacement dwelling, except in the case of:

(i) A major disaster as defined in the Disaster Relief Act of 1974, 42 U.S.C. § 5122;

(ii) Any other emergency which requires the person to move immediately from the dwelling because continued occupancy of the dwelling by the person constitutes a substantial danger to the health or safety of the person.

**16-7-108. Assurance of replacement housing; prescription of rules, regulations and procedures by governor.**

(a) The governor shall adopt rules and regulations as may be necessary under federal laws and the rules and regulations promulgated thereunder to assure that:

(i) The payments and assistance authorized by this act shall be administered in a manner which is fair and reasonable, and as uniform as practicable;

(ii) A displaced person who makes proper application for a payment authorized by this act shall be paid promptly after a move or, in hardship cases, be paid in advance; and

(iii) Any person aggrieved by a determination as to eligibility for a payment authorized by this act, or the amount of a payment, may have his application reviewed in accordance with the Wyoming Administrative Procedure Act.

(b) The governor may prescribe other regulations and procedures, consistent with the provisions of this act.

**16-7-109. Assurance of replacement housing; administration of relocation programs.**

In order to prevent unnecessary expense and duplication of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons, with the approval of the governor the agency may enter into contracts with any person for services in connection with those programs,

or may carry out its functions under this act through any federal agency or any department or instrumentality of the state or its political subdivisions having an established organization for conducting relocation assistance programs.

**16-7-110. Available funds.**

(a) Funds appropriated or otherwise available to any state agency or unit of local government for the acquisition of real property or any interest therein for a particular program or project shall also be available to carry out the provisions of this act as applied to that program or project.

(b) No payment or assistance under this act shall be required to be made to any person or included as a program or project cost under this section, if the person receives a payment required by federal, state or local law which is determined by the agency to have substantially the same purpose and effect as the payment under this act.

**16-7-111. Available funds; state financial assistance for local relocation payments and services.**

If an agency of any political subdivision of the state acquires real property, and state financial assistance is available to pay all or part of the cost of the acquisition of that real property, or of the improvement for which the property is acquired, the cost to the agency of providing the payments and services prescribed by this act shall be included as part of the costs of the project for which state financial assistance is available and the agency is eligible for state financial assistance for relocation payments and services in the same manner and to the same extent as other project costs.

**16-7-112. Repealed by Laws 1989, ch. 241, § 2.**

**16-7-113. Displacement payments not considered as income for public assistance purposes.**

No payment received by a displaced person under this act is considered as income or as a resource for the purpose of determining the eligibility or extent of eligibility of any person for assistance under any state law or for the purposes of the state's personal income tax law, corporation tax law or other tax laws. These payments are not considered as income or resources of any recipient of public assistance, and the

payments shall not be deducted from the amount of aid to which the recipient would otherwise be entitled.

**16-7-114. Appeals by aggrieved persons.**

Any person or business concern aggrieved by a final administrative determination pursuant to the Wyoming Administrative Procedure Act concerning eligibility for relocation payments authorized by this act may appeal that determination to the district court in the area in which the land taken for public use is located or in which the building code enforcement activity occurs or the voluntary rehabilitation program is conducted.

**16-7-115. Programs with federal financing; reimbursable expenses of displaced property owner.**

(a) Any agency acquiring real property for a program or project for which federal financial assistance will be available to pay all or any part of the cost of the program or project shall, as soon as practicable after the date of payment of the purchase price or the date of deposit into court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is earlier, reimburse the owner, to the extent the acquiring agency deems fair and reasonable, for expenses he necessarily incurred for:

(i) Recording fees, transfer taxes and similar expenses incidental to conveying such real property to the acquiring agency;

(ii) Penalty costs for prepayment for any preexisting recorded mortgage entered into in good faith encumbering such real property; and

(iii) The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the acquiring agency, or the effective date of possession of the real property by the acquiring agency, whichever is earlier.

**16-7-116. Programs with federal financing; condemnation proceedings; winning owner's reimbursable litigation expenses.**

If a condemnation proceeding is instituted by an agency to acquire real property for a purpose as set forth in W.S. 16-7-115, and the final judgment is that the real property

cannot be acquired by condemnation or that the proceeding is abandoned, the owner of any right, title or interest in the real property shall be paid a sum which will, in the opinion of the court, reimburse the owner for his reasonable attorney, appraisal and engineering fees actually incurred because of the condemnation proceedings. The award of the sums will be paid by the agency which sought to condemn the property.

**16-7-117. Programs with federal financing; inverse condemnation proceedings.**

If an inverse condemnation proceeding is instituted by the owner of any right, title or interest in real property because of the alleged taking of his property for any program or project for which federal financial assistance will be available to pay all or any part of the cost of the program or project, the court, rendering a judgment for the plaintiff in the proceeding and awarding compensation for the taking of property, or attorney for the acquiring agency effecting a settlement of any proceeding, determines and awards or allows to the plaintiff, as a part of the judgment or settlement, a sum which will, in the opinion of the court or the attorney, reimburse the plaintiff for his reasonable costs, disbursements and expenses, including reasonable attorney, appraisal and engineering fees, actually incurred because of the proceeding.

**16-7-118. Programs with federal financing; real property acquisition policies.**

(a) Any agency which acquires real property for a program or project for which federal financial assistance will be available to pay all or any part of the cost of the program or project shall comply with the following policies:

(i) Every reasonable effort shall be made to acquire expeditiously real property by negotiation;

(ii) Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property. The agency may prescribe a procedure to waive the appraisal in cases involving the acquisition by sale or donation of property with a low fair market value;

(iii) Before the initiation of negotiations for real property, an amount shall be established which is reasonably

believed to be just compensation therefor, and that amount shall be offered for the property. In no event shall the amount be less than the approved appraisal of the fair market value of the property. Any decrease or increase in the fair market value of real property, prior to the date of valuation caused by the public improvement for which the property is acquired, or by the likelihood that the property would be acquired for the improvement, other than that due to physical deterioration within the reasonable control of the owner, shall be disregarded in determining the compensation for the property. The owner of the real property to be acquired shall be provided with a written statement of, and summary of the basis for, the amount established as just compensation. If appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated;

(iv) No owner is required to surrender possession of real property before the agreed purchase price is paid or before there is deposited with the court, in accordance with applicable law, for the benefit of the owner, an amount not less than the approved appraisal of the fair market value of the property, or the amount of the award of compensation in the condemnation proceeding of the property;

(v) The construction or development of a program or project for which federal financial assistance will be available to pay all or any part of the cost of the program or project shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling will be available) or to move his business or farm operation without at least ninety (90) days written notice of the date by which the move is required;

(vi) If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the acquiring agency on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier;

(vii) In no event shall the time of condemnation be advanced, or negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, or any other action coercive in nature be taken to compel an agreement on the price to be paid for the property;

(viii) If an interest in real property is to be acquired by exercise of the power of eminent domain, formal condemnation proceedings shall be instituted. The acquiring agency shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property;

(ix) If the acquisition of only a portion of the property would leave the owner with an uneconomic remnant, the agency shall offer to acquire the remnant;

(x) A person whose real property is being acquired in accordance with this section may, after the person has been fully informed of his right to receive just compensation for the property, donate the property, any part of the property, any interest in the property, or any compensation paid for the property to an agency, as the person shall determine;

(xi) For purposes of this section:

(A) "Acquiring agency" means:

(I) An agency as defined in W.S. 16-7-102(a) (i) which has the authority to acquire property by eminent domain under state law; or

(II) An agency or person which does not have the authority to acquire property by eminent domain under state law, to the extent provided by the governor by rules and regulations.

(B) "Appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of adequately described property as of a specific date supported by the presentation and analysis of relevant market information;

(C) "Uneconomic remnant" means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and which the agency has determined has little or no value or utility to the owner.

**16-7-119. Programs with federal financing; buildings, structures and improvements upon acquired property; acquisition of interest; compensation therefor.**



(a) If any interest in real property is acquired for a program or project for which federal assistance will be available to pay all or any part of the cost of the program or project, the acquiring agency shall acquire an equal interest in all buildings, structures or other improvements located upon the real property so acquired and which are required to be removed from the real property or which the head of the acquiring agency determines will be adversely affected by the use to which the real property will be put.

(b) For the purpose of determining the just compensation to be paid for any building, structure or other improvement required to be acquired by subsection (a) of this section, the building, structure or other improvement is deemed to be a part of the real property to be acquired notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove the building, structure or improvement at the expiration of his term, and the fair market value which the building, structure or improvement contributes to the fair market value of the real property to be acquired, or the fair market value of the building, structure or improvement for removal from the real property, whichever is greater, shall be paid to the tenant therefor.

(c) Payment for buildings, structure [structures] or improvements as set forth in this section shall not result in duplication of any payments otherwise authorized by state law. No payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any payment, the tenant shall assign, transfer and release all his right, title and interest in and to the improvements. Nothing in this section shall be construed to deprive the tenant of any rights to reject payment and to obtain payment for the property interests in accordance with other laws of the state.

**16-7-120. Applicability of real property acquisition provisions.**

This act applies only to acquisitions of real property by an agency for a program or project for which federal financial assistance will be available to pay all or any part of the cost of the program or project, except that if any other provision of state law is applicable to the acquisitions, and the provision of state law requires relocation payments and assistance or prescribes land acquisition policies which are equivalent to or are greater or more stringent than the payments, assistance or

policies specified by this act, the other provision of state law applies to the acquisitions.

**16-7-121. Damages in condemnation proceedings.**

Nothing in this act shall be construed as creating, in any condemnation proceedings brought under the power of eminent domain, any element of damages not in existence on the date of enactment of this act.

CHAPTER 8 - OUTDOOR ADVERTISING

**16-8-101. Removal of off-premise outdoor advertising prohibited without compensation; definitions.**

(a) No governmental entity, including the state, or any municipality, county or other political subdivision shall remove or cause to be removed any legally placed off-premise outdoor advertising without paying due compensation in cash or other method of payment mutually agreed upon, to the owner of the off-premise outdoor advertising based upon the fair market value of the off-premise outdoor advertising removed or proposed to be removed.

(b) As used in this section:

(i) "Off-premise outdoor advertising" means any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard or other thing which is designed, intended or used to advertise or inform and which is situated in order to be visible from any street, road or highway and which is located on property which is separate from the premise or property on which the advertised activity is carried out;

(ii) "Fair market value of the off-premise outdoor advertising" means the value of the off-premise outdoor advertising determined in the same manner as provided by W.S. 1-26-704.

CHAPTER 9 - TELEPHONE SERVICE

ARTICLE 1 - EMERGENCY TELEPHONE SERVICE

**16-9-101. Short title.**

This act is known and may be cited as the "Emergency Telephone Service Act".

**16-9-102. Definitions.**

(a) As used in this act:

(i) "Governing body" means the board of county commissioners of a county, city council or other governing body of a city, town or county, the board of directors of a special district or a joint powers board established pursuant to W.S. 16-4-101 through 16-4-110;

(ii) "Local exchange access company" means a franchised telephone company engaged in providing telecommunications services between points within a local calling area;

(iii) "Local exchange access line" means any land line telephone line that connects a telephone subscriber to the local switching office and has the capability of reaching local public safety service agencies by voice communication;

(iv) "911 emergency reporting system" or "911 system" means a telephone system consisting of network, database, services and equipment, including operating and personnel costs as specified in W.S. 16-9-105, using the single three-digit number 911 for reporting police, fire, medical or other emergency situations and enabling the users of a public telephone system, other technology or wireless telecommunications system to reach a public safety answering point to report emergencies by dialing 911. 911 emergency reporting systems may include systems consisting of network, database, services and equipment, including operating and personnel costs as specified in W.S. 16-9-105, using 911 databases and public safety answering points to disseminate warnings to the public of impending hazards, including storms, floods, hazardous materials incidents or other emergencies that could compromise the public safety. For any 911 emergency reporting system that operates a reverse 911 warning system, a quarterly test on the warning system will be conducted by calling random numbers. The level of technology for provision of the 911 emergency reporting system is to be determined by the governing body and may include enhanced wireless 911 services, however, the 911 system shall include a device for telecommunications for the deaf;

(v) "911 emergency tax" is the state-wide tax authorized by W.S. 16-9-109 and a tax on service users within the governing body's designated 911 service area set by the governing body in accordance with this act and assessed on each service user's local exchange access lines and wireless communications access to pay the directly related costs of a 911 system as authorized in accordance with W.S. 16-9-105;

(vi) "Public agency" means any city, town, county, special district, a joint powers board established pursuant to W.S. 16-4-101 through 16-4-110 or other political subdivision of the state located in whole or in part within this state providing or having the authority to provide fire fighting, law enforcement, ambulance, emergency medical or other emergency services;

(vii) "Public safety answering point" means a twenty-four (24) hour local jurisdiction communications facility receiving 911 service calls and directly dispatching emergency response services or relaying calls to the appropriate public or private safety agency or disseminating warnings to the public of impending hazards, including storms, floods, hazardous materials incidents or other emergencies that could compromise the public safety;

(viii) "Service supplier" means any utility, person or entity providing or offering to provide 911 system equipment, database installation, maintenance or local exchange access, wireless communication access or other technological device that under normal operation is designed or routinely used to access 911 services within the 911 service access area, including, for purposes of W.S. 16-9-108 and 16-9-109, a seller of prepaid wireless communications access;

(ix) "Service user" means any person within the local government's designated 911 service area who is provided local exchange access telephone service, wireless communication access service or other technological device that under normal operation is designed or routinely used to access 911;

(x) "This act" means W.S. 16-9-101 through 16-9-110;

(xi) "Enhanced wireless 911 service" means any enhanced 911 service so designated by the Federal Communications Commission, including wireless automatic location identification and automatic number identification;

(xii) "Wireless automatic location identification" means the definition supplied by the Federal Communication Commission regulation that provides for the automatic display on equipment at the public safety answering point of the location of the wireless service user initiating a 911 call to the public safety answering point;

(xiii) "Wireless automatic number identification" means the definition supplied by the Federal Communication Commission regulation that allows the mobile identification number of the wireless service user initiating a 911 call to the public safety answering point;

(xiv) "Wireless carrier" means a provider of commercial mobile services or any other radio communication service that the Federal Communications Commission requires to provide wireless 911 service;

(xv) "Wireless communications access" means the radio equipment and assigned mobile identification number used to connect a wireless customer to a wireless carrier for two-way interactive voice or voice capable services;

(xvi) "Wireless 911 service" means any 911 service provided by a wireless carrier, including enhanced wireless 911 service;

(xvii) "Prepaid wireless communications access" means wireless communications access which requires advance payment that is sold in predetermined units or dollars of which the number declines with use in a known amount.

**16-9-103. Imposition of tax; liability of user for tax; collection; uncollected amounts; discontinuing service prohibited.**

(a) In addition to any other powers for the protection of the public health, a governing body may incur any nonrecurring or recurring costs for the installation, maintenance or operation of a 911 system and may pay these costs by imposing a 911 emergency tax for this service in those portions of the governing body's jurisdiction for which 911 service is to be provided.

(b) In accordance with the provisions of this subsection, and after a public hearing the governing body may, by ordinance in the case of cities and by resolution in the case of counties

or special districts, impose a monthly uniform tax on service users within its designated 911 service area in an amount not to exceed seventy-five cents (\$.75) per month on each local exchange access line, per wireless communications access or other technological device that under normal operation is designed or routinely used to access 911. Only one (1) governing body may impose a 911 emergency tax for each 911 system. Except as provided by W.S. 16-9-109 for prepaid wireless communication access and regardless of the level at which the tax is set, if an assessment is made on both local exchange access facilities and wireless communications access, the amount of the tax imposed per local exchange access facility and the amount of the tax imposed per wireless communications access or access by other technological device that under normal operation is designed or routinely used to access 911, shall be equal. Except as provided by W.S. 16-9-109, the proceeds of the 911 emergency tax shall be set aside in an enterprise fund or other separate accounts from which the receipts shall be used to pay for the 911 system costs authorized in W.S. 16-9-105, and may be imposed at any time following the execution of an agreement with the provider of the service at the discretion of the governing body.

(c) No 911 emergency tax shall be imposed upon more than one hundred (100) local exchange access lines or their equivalent per customer billing.

(d) Collection of any 911 emergency tax from a service user pursuant to this act shall commence at the time specified by the governing body in accordance with this act. Taxes imposed under this act and required to be collected by the service supplier shall be added to and stated separately in the billings to the service user.

(e) Every billed service user shall be liable for any 911 emergency tax imposed under this act until it has been paid to the service supplier or governing body.

(f) An action to collect taxes under subsection (d) of this section may be brought by or on behalf of the public agency imposing the tax. The service supplier shall annually provide the governing body a list of the amounts uncollected along with the names and addresses of delinquent service users. The service supplier is not liable for uncollected amounts.

(g) Any 911 emergency tax imposed under this act shall be collected at the time charges for the telecommunications are

collected under the regular billing practice of the service supplier.

(h) Service shall not be discontinued to any service user by any service supplier for the nonpayment of any tax under this act.

(j) The 911 emergency tax imposed pursuant to this section shall only be imposed upon service users whose address is in those portions of the governing body's jurisdiction for which emergency telephone service shall be provided; however, such 911 emergency tax shall not be imposed upon any state or local governmental entity.

(k) Effective January 1, 2015, and every fiscal year through June 30, 2019, the governing body primarily responsible for the expenditure of revenues collected pursuant to this act shall file with the Wyoming public service commission a statement of its gross receipts and expenditures authorized by this act for the prior fiscal year. The Wyoming public service commission is authorized to promulgate rules in consultation with the governing bodies to develop a statement of revenues and expenditures that, to the maximum extent possible, is uniform across governing bodies.

(m) Except as provided in subsection (k) of this section, this section shall not apply to the 911 emergency tax imposed on prepaid wireless communication access by W.S. 16-9-109.

**16-9-104. Remittance of tax to the governing body; administrative fee; establishment of rate of tax.**

(a) Except as provided in W.S. 16-9-109, any tax imposed under this act and the amounts collected are to be remitted quarterly to the governing body. The amount of the tax collected in one (1) calendar quarter by the service supplier shall be remitted to the governing body no later than fifteen (15) days after the close of the calendar quarter. On or before the sixteenth day of each month following the preceding calendar quarter, a return for the preceding quarter shall be filed with the governing body in a form the governing body and service supplier agree upon. The service supplier required to file the return shall deliver the return together with the remittance of the amount of the tax payable to the governing body. The service supplier shall maintain a record of the amount of each tax collected pursuant to this act. The record shall be

maintained for a period of one (1) year after the time the tax was collected.

(b) Except as provided by W.S. 16-9-109, the service supplier remitting the taxes collected under this act may deduct and retain one percent (1%) of the taxes collected as the cost of administration for collecting the taxes.

(c) At least once each calendar year, the governing body shall establish a rate of tax not to exceed the amount authorized. Amounts collected in excess of necessary expenditures within any fiscal year shall be carried forward to subsequent years and shall only be used for the purposes set forth in W.S. 16-9-105. The governing body shall fix the rate, publish notice of its new rate and notify by mail every local exchange access company at least ninety (90) days before the new rate becomes effective. The governing body may at its own expense require an annual audit of the service supplier's books and records concerning the collection and remittance of the taxes authorized by this act.

(d) This section does not apply to the taxes authorized and collected for prepaid wireless communication access under W.S. 16-9-109.

**16-9-105. Agreements or contract for 911 emergency reporting systems; use of funds collected.**

(a) Any governing body imposing the tax authorized by this act may enter into an agreement directly with any service supplier to the 911 system or may contract and cooperate with any public agency or any other state for the administration of a 911 system in accordance with law.

(b) Funds collected from the 911 emergency tax imposed pursuant to this act shall be spent solely to pay for public safety answering point and service suppliers' equipment and service costs, installation costs, maintenance costs, monthly recurring charges and other costs directly related to the continued operation of a 911 system including enhanced wireless 911 service. Funds may also be expended for personnel expenses necessarily incurred by a public safety answering point. "Personnel expenses necessarily incurred" means expenses incurred for persons employed to:

(i) Take emergency telephone calls and dispatch them appropriately; or



(ii) Maintain the computer data base of the public safety answering point.

(c) Funds collected from the charge pursuant to this act shall be credited to a cash account separate from the general fund of the public agency, for payments for public safety answering points and service supplier costs pursuant to subsection (b) of this section. Any monies remaining in the cash account at the end of any fiscal year shall remain in the account for payments during any succeeding year. If any 911 system is discontinued, monies remaining in the account shall, after all payments to the service supplier pursuant to subsection (b) of this section, be transferred to the general fund of the public agency or proportionately to the general fund of each participating public agency.

**16-9-106. Private listing and wireless subscribers, 911 service.**

Private listing and wireless subscribers in 911 service areas waive privacy afforded by nonlisted or nonpublished numbers to the extent that the name and address associated with the telephone number may be furnished to the 911 system, for call routing, for automatic retrieval of location information and for associated emergency services.

**16-9-107. Confidentiality of information.**

The information obtained through a 911 system shall be considered a public record under W.S. 16-4-201(a)(v) and access to the information may be denied according to law.

**16-9-108. Immunity for providers.**

No basic emergency service provider or service supplier and no employee or agent thereof shall be liable to any person or entity for infringement or invasion of the right of privacy of any person caused or claimed to have been caused, directly or indirectly, by any act or omission in connection with the installation, operation, maintenance, removal, presence, condition, occasion or use of emergency service features, automatic number identification or automatic location identification services and the equipment associated therewith, including the identification of the telephone number, address or name associated with the telephone used by the person accessing 911 service, wireless automatic number identification, wireless

automatic location identification service or text to 911 service. A governmental entity, public safety agency, local exchange access company, telephone exchange access company or wireless carrier that provides access to an emergency system or any officers, agents or employees thereof is not liable as a result of any act or omission except willful and wanton misconduct or gross negligence in connection with developing, adopting, operating or implementing emergency telephone service, enhanced wireless 911 service, text to 911 service or any 911 system.

**16-9-109. State-wide imposition of tax; prepaid wireless; collection; distribution; immunity.**

(a) Except as otherwise provided in this section, on and after July 1, 2016, there is imposed a 911 emergency tax of one and five-tenths percent (1.5%) on every retail sale of prepaid wireless communications access in Wyoming. The tax shall not be imposed on sales of prepaid wireless communications access intended for resale or upon any state or local governmental entity.

(b) A service supplier who sells prepaid wireless communications access shall collect the tax imposed by subsection (a) of this section from each purchaser of prepaid wireless communications access, which purchaser shall be considered a service user. The amount of the tax shall be either separately stated on an invoice, receipt or other similar document that is provided to the service user by the service supplier or shall be otherwise disclosed to the service user.

(c) For purposes of this section, a retail sale of prepaid wireless communications access occurs in Wyoming if the transaction would be sourced to Wyoming under W.S. 39-15-104(f) (xi) (C).

(d) The tax imposed by subsection (a) of this section is the liability of the service user and the service supplier. The service supplier shall be liable to remit all taxes due or collected as provided in subsection (g) of this section.

(e) If the tax collected pursuant to this section is separately stated on an invoice, receipt or similar document provided to the service user by the service supplier, the tax shall not be included in the base for calculating any other tax, fee, surcharge or other charge imposed by this state, any

political subdivision of the state or any intergovernmental agency.

(f) When prepaid wireless communication access is sold with one (1) or more other products or services for a single, nonitemized price, the tax authorized by subsection (a) of this section shall not be applied to a retail sale of prepaid wireless communications access of ten (10) or fewer minutes or which has a value of five dollars (\$5.00) or less.

(g) All taxes collected under subsection (a) of this section shall be remitted by the service supplier who collected them to the department of revenue as follows:

(i) A service supplier shall remit to the department of revenue all monies collected at the times and in the manner provided by W.S. 39-15-107(a). The department of revenue may establish by rule procedures reasonably necessary to facilitate the transfer of these monies. The service supplier shall be subject to the penalty and enforcement provisions provided by W.S. 39-15-108 for any failure to collect or remit funds;

(ii) A service supplier remitting collected taxes may deduct and retain three percent (3%) of the taxes collected as the cost of administration for collecting the taxes;

(iii) The audit and appeal procedures applicable to the collection of state sales taxes shall apply to the collection and remittance of taxes authorized by this section;

(iv) Pursuant to rules adopted for this purpose, the department of revenue shall establish a procedure by which service suppliers shall document that a transaction is not a retail sale subject to the tax imposed by this section. The procedure shall be substantially similar to the procedure used to document a sale for resale transaction for purposes of sales tax.

(h) The monies collected by the department of revenue under this section shall not be general revenues of the state and shall be held by the department in a separate account for distribution as follows:

(i) The department shall deduct one percent (1%) of the total monies collected to cover its administrative expenses and costs, which amount shall be remitted to the treasurer for credit to the general fund;

(ii) After deduction of the amount authorized by paragraph (i) of this subsection, the department shall pay all remaining amounts collected to each county that imposes and collects the 911 emergency tax authorized by W.S. 16-9-103;

(iii) The payment authorized by paragraph (ii) of this subsection shall be remitted to the county no later than fifteen (15) days after the close of the calendar quarter and is subject to the requirements of paragraph (iv) of this subsection;

(iv) Each county receiving payment pursuant to paragraph (ii) of this subsection shall receive three percent (3%) of the total amount distributed pursuant to paragraph (ii) of this subsection. Each county shall receive the remaining balance of the amount distributed under paragraph (ii) of this subsection in proportion to the percentage that the county's total population relates to the state's total population;

(v) If a governing body other than a county imposes a 911 emergency tax pursuant to W.S. 16-9-103, the county in which that governing body is located shall divide all monies received by the county pursuant to paragraph (iv) of this subsection equally between the county and the governing body;

(vi) All funds received by any governing body pursuant to this subsection shall be expended only for the purposes authorized by W.S. 16-9-105;

(vii) Amounts collected by any governing body pursuant to this subsection in excess of necessary expenditures within any fiscal year shall be carried forward to subsequent years and shall be used only for the purposes authorized by W.S. 16-9-105;

(viii) The department of revenue may promulgate rules necessary to implement this subsection.

(j) The department of revenue and the Wyoming public service commission shall jointly report to the joint corporations, elections and political subdivisions committee on or before July 1, 2019 and every four (4) years thereafter. The report required by this subsection shall contain an analysis of the tax rate imposed by subsection (a) of this section and shall determine whether that tax rate places a tax burden on purchasers of prepaid wireless communication access which is

substantially equivalent to the tax burden imposed by W.S. 16-9-103(b). If the tax burden imposed by this section is not substantially equivalent to the tax burden imposed by W.S. 16-9-103(b), the department and the commission shall advise the committee on the tax rate that would make the burden imposed by the two (2) taxes equivalent. The department of revenue and the Wyoming public service commission may adopt rules requiring the reporting of sales data or other information necessary to complete the analysis required by this subsection.

**16-9-110. Statewide 911 coordinator.**

The governor shall designate an individual within the department of transportation as the statewide 911 coordinator, who shall be a qualified elector of the state and whose duties may be removed by the governor. The coordinator shall be responsible for coordinating with 911 local and state stakeholders to develop a statewide 911 plan and ensuring compliance with federal grant regulations.

ARTICLE 2 - TELECOMMUNICATIONS FOR THE COMMUNICATIONS IMPAIRED

**16-9-201. Definitions.**

(a) As used in this act, unless the context requires otherwise, the following definitions apply:

(i) "Access line" means the facility that allows the customer of a local exchange company or radio communications service provider to access the local or toll network with the exception of dedicated facilities such as a private line;

(ii) "Committee" means the committee on telecommunications services for the communications impaired established by W.S. 16-9-202;

(iii) "Communications impaired" means hearing impaired or speech impaired individuals as defined by the Americans With Disabilities Act of 1990, Title IV, Section 401;

(iv) "Division" means the division of vocational rehabilitation within the department of workforce services;

(v) "Local exchange company" means a telecommunications company that provides telephone access lines to members of the general public who are its customers;

(vi) "Message relay system" means a statewide service through which a communications impaired person, using specialized telecommunications equipment, may send and receive messages to and from a noncommunications impaired person whose telephone is not equipped with specialized telecommunications equipment and through which a noncommunications impaired person may, by using voice communication, send and receive messages to and from a communications impaired person;

(vii) "Program" means the program established by W.S. 16-9-205;

(viii) "Radio communications service provider" means a telecommunications company that provides radio communication service, radio paging or cellular service to members of the general public who are its customers;

(ix) "Specialized telecommunications equipment" means a device that, when connected to a telephone, enables or assists a person who is communications impaired to communicate with another person utilizing the telephone network. The term most commonly refers, but is not limited to, telecommunications devices for the deaf (TDDs);

(x) "This act" means W.S. 16-9-201 through 16-9-210.

**16-9-202. Committee on telecommunications services for the communications impaired; composition; allocation.**

(a) There is created a committee on telecommunications services for the communications impaired.

(b) The committee shall consist of seven (7) members. The membership shall be appointed by the governor and shall consist of one (1) member from each appointment district as provided by W.S. 9-1-218.

(c) The committee is allocated to the division for administrative purposes.

**16-9-203. Term of office; vacancies; officers; bylaws; compensation; conflict of interest.**

(a) Each member of the committee shall serve a term of three (3) years, except that the governor shall appoint two (2) of the initial members to serve terms of one (1) year and two (2) of the initial members to serve terms of two (2) years.

(b) A vacancy on the committee shall be filled in the same manner as the original appointment.

(c) The committee shall choose a chairperson from among its members.

(d) The committee shall establish its own operating procedures.

(e) Members of the committee 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.

(f) In order to avoid a potential conflict of interest, members of the committee representing a potential provider of the message relay system or specialized telecommunications equipment shall abstain from any vote or decision of the committee regarding the award of contracts for those services or equipment by the division.

**16-9-204. Power and duties of the committee.**

(a) The committee shall advise the division as to the administration of the program provided for in W.S. 16-9-205. In fulfilling this duty, the committee shall:

(i) Review and recommend policies and procedures governing administration of the program and ensure the program is in compliance with any applicable state and federal laws or regulations;

(ii) Assist the state in obtaining certification from the federal communications commission that the program is in compliance with such rules and regulations;

(iii) Review the division's budget request for administration of services under the program;

(iv) Monitor the expenditures of funds for the program;

(v) Monitor the quality of the program and the satisfaction of the users;

(vi) Perform any other duties necessary to properly advise the division as to the administration of the program.

**16-9-205. Program established; purpose; responsibilities of the division of vocational rehabilitation.**

(a) The division in consultation with the committee, shall establish and administer a program to provide specialized telecommunications equipment and message relay services to persons who are communications impaired. The purpose of the program shall be to:

(i) Furnish specialized telecommunications equipment to meet the needs of persons who are communications impaired and who might be otherwise disadvantaged in their ability to obtain such equipment; and

(ii) Provide a message relay system to allow persons who are communications impaired to communicate via the telecommunications network with noncommunications impaired persons.

(b) In carrying out its responsibilities, the division shall:

(i) Develop rules, policies and procedures, as may be necessary, to govern administration of the program and ensure the program is in compliance with any applicable state and federal laws or regulations;

(ii) As part of its request for proposals, include provision for an equipment distribution program and utilize a preexisting state agency means test, if available, to determine eligibility for participation in the specialized telecommunications equipment program;

(iii) Implement the message relay system as described in subsection (a)(ii) of this section within one (1) year following the effective date of this act and, to the extent funds generated by the special fee specified in W.S. 16-9-209 are available, implement the specialized telecommunications equipment distribution program described in subsection (a)(i) of this section within two (2) years following the effective date of this act;

(iv) Perform any other duties necessary to properly oversee administration of the program.



**16-9-206. Message relay system; requirements.**

(a) The division, after consultation with the committee, shall contract with a qualified provider to design and implement a message relay system that fulfills the purpose described in W.S. 16-9-205. The division shall award the contract for this service to the provider based upon price, the interests of the communications impaired community in having access to a high-quality and technologically advanced telecommunications system, and all other factors listed in the committee's request for proposal including proposals for a specialized telecommunications equipment distribution program.

(b) Except in cases of willful misconduct, gross negligence or bad faith, neither the committee nor the provider of the message relay system, nor the employees of the provider of the message relay system, shall be liable for any claims, actions, damages or causes of action arising out of or resulting from the establishment, participation in, or operation of the message relay system.

(c) The division shall require, under the terms of the contract, that:

(i) The system be available statewide for operation seven (7) days a week, twenty-four (24) hours per day, including holidays, for both interstate and intrastate calls;

(ii) The system relay all messages promptly and accurately;

(iii) The system maintain the privacy of persons using the system;

(iv) The provider preserve the confidentiality of all telephone communications; and

(v) The system conform to any standards established by applicable state or federal laws or regulations.

**16-9-207. Gifts and grants.**

The committee may accept contributions, gifts and grants, in money or otherwise, to the program established in W.S. 16-9-205. Monetary contributions, gifts and grants must be deposited in the fund created by W.S. 16-9-208.

**16-9-208. Account for telecommunications services for the communications impaired.**

(a) There is created an account for telecommunications services for the communications impaired. The account shall consist of:

(i) All monetary contributions, gifts and grants received by the committee as provided in W.S. 16-9-207; and

(ii) All special fee charges billed and collected pursuant to W.S. 16-9-209.

(b) The money in the account is appropriated to the division to implement this act.

**16-9-209. Special fee.**

(a) The committee shall annually determine the amount of a special fee, not to exceed twenty-five cents (\$.25) per access line per month, based upon available cost data and other information, that will cover the costs of providing intrastate message relay service as provided in Section 401 of the Americans With Disabilities Act of 1990, including the cost of implementing and administering this act. Funding for the interstate portion of the Wyoming relay system shall be provided in a manner consistent with rules and orders adopted by the federal communications commission in implementing the Americans With Disabilities Act.

(b) The committee shall notify the public service commission, in writing, of the amount of the monthly access line special fee determined by the committee. The public service commission shall provide for the inclusion and identification of the special fee on each monthly billing for service from each local exchange company and radio communications service provider.

(c) Each customer of a local exchange company or radio communications service provider shall be liable for payment to the local exchange company or radio communications service provider of any special fee imposed pursuant to this act. In the case of a customer of a radio communications service provider, any fee imposed by this act shall be imposed only if the customer's place of primary use is in this state as provided by the Mobile Telecommunications Sourcing Act, 4 U.S.C. §§ 116

through 126. The provisions of the Mobile Telecommunications Sourcing Act shall apply to this subsection. The local exchange company or radio communications service provider shall not be liable for any uncollected charge, nor shall the company have an obligation to take any legal action to enforce the collection of any charge that is unpaid by its customers.

(d) No customer of a local exchange company shall be required to pay the special fee on more than one hundred (100) access lines per account and no customer of a radio communications service provider shall be required to pay the special fee on more than one hundred (100) radio communication service numbers per account in Wyoming.

(e) Except as provided in subsection (g) of this section, all special fees billed and collected by a local exchange company or radio communications service provider shall be transmitted to the public service commission not later than the last day of the month following the end of the month in which the special fee is collected. All special fees received by the public service commission shall be deposited in the account established by W.S. 16-9-208 with receipt and acknowledgement submitted to the state treasurer.

(f) All special fees billed and collected by a local exchange company or radio communications service provider shall not be considered revenues of the local exchange company or radio communications service provider and are not subject to tax under W.S. 39-15-101 through 39-16-311.

(g) Each local exchange company or radio communications service provider may deduct and retain one percent (1%) of the total charges billed and collected each month to cover administrative expenses in complying with the requirements of subsections (b) through (e) of this section.

**16-9-210. Records; audit.**

(a) Each local exchange company or radio communications service provider shall maintain a record of the special fees billed and collected pursuant to W.S. 16-9-209 for a period of three (3) years from the date of billing or collection, respectively.

(b) The committee may require an audit, at division expense, of the records of each local exchange company or radio

communications service provider to assure proper accounting of all special fees billed and collected pursuant to W.S. 16-9-209.

## CHAPTER 10 - SURFACE WATER DRAINAGE

### ARTICLE 1 - SURFACE WATER DRAINAGE UTILITY ACT

#### **16-10-101. Short title.**

This act shall be known and may be cited as the "Surface Water Drainage Utility Act."

#### **16-10-102. Definitions.**

(a) As used in this act:

(i) "Governing body" means the board of county commissioners of a county, the governing body of a city or town or a joint powers board;

(ii) "Surface water drainage system" means all natural and man-made elements used to convey surface water from the first point of impact with the surface of the earth to a suitable area of disposal or controlled drainage. A surface water drainage system may include, but is not limited to, all pipes, curbs, gutters, treatment facilities, channels, streams, ditches, wetlands, detention and retention basins, ponds and other surface water conveyances and facilities for surface water conveyances, management and treatment, whether public or private;

(iii) "Surface water drainage utility" means an enterprise fund function by which a governing body provides for public needs in the area of surface water drainage management and charges user fees to finance all or a portion of its operations;

(iv) "Surface water drainage management" means the planning, designing, construction, reconstruction, acquisition, operation, improvement, extension or maintenance of a surface water drainage system;

(v) "Surface water drainage area" means the land area of a city, town or county, including any federal flood plain insurance area, served by a surface water drainage system which is under surface water drainage management;

(vi) "This act" means W.S. 16-10-101 through 16-10-110.

**16-10-103. Powers.**

(a) In addition to all other powers provided by law, any governing body may establish a surface water drainage utility to design, plan, construct, reconstruct, acquire, operate, improve, extend or maintain a surface water drainage system, sometimes referred to as a storm water drainage system. To carry out this duty, any city or town may go beyond its corporate limits to hold and acquire property by agreement. To carry out this duty, a county may go beyond its boundaries to hold and acquire property by agreement.

(b) No construction relating to a surface water drainage system shall be undertaken on property within the boundaries of a governing body other than the governing body establishing the surface water drainage system unless both bodies agree to the construction.

(c) In addition to other methods provided by law or ordinance, and subject to voter approval as provided by W.S. 16-10-105(d), a governing body may issue revenue bonds and may levy and collect service charges to finance the surface water drainage utility. A surface water drainage utility may be formed by the governing body of any city or town, or by the county in the unincorporated area of the county, as provided by this act, for all or a portion of the respective municipality by its governing body, or for all or a portion of the unincorporated area of a county by its governing body.

(d) No action shall be undertaken which would interfere with historical, appropriated or beneficial use of any Wyoming water right.

**16-10-104. Formation of a surface water drainage utility.**

Notwithstanding any other provision of law, a surface water drainage utility may be formed by the governing body of any city or town, or by the county in the unincorporated area of a county, as provided by this act, for all or a portion of the respective municipality by its governing body, or for all or a portion of the unincorporated area of a county by its governing body.

**16-10-105. Ordinance or resolution for construction; required and authorized provisions.**

(a) If the governing body of a city, town or county desires to establish a surface water drainage utility pursuant to this act, a county shall do so by resolution and a city or town shall do so by ordinance. The resolution or ordinance shall provide for the administration of the surface water drainage utility either by the governing body of the city, town, county, joint powers board or other board or entity selected by the applicable governing body, including but not limited to a board of public utilities formed pursuant to W.S. 15-7-401. The ordinance or resolution shall contain the specific description of the surface water drainage area to be served by the surface water drainage utility.

(b) Subject to voter approval as provided by subsection (e) of this section, a city, town, county or joint powers board may fund the surface water drainage utility by general and special funds, revenue or other bonds and other forms of indebtedness, service charges or a combination of these sources. The resolution or ordinance establishing the utility, or a resolution or ordinance later adopted by the governing body, shall specify the means of financing the surface water drainage utility by one (1) or more of the following sources:

(i) Revenue or other bonds may be issued meeting the procedural requirements and provisions of W.S. 35-2-425 through 35-2-428 as provided for the issuance of bonds by hospital districts;

(ii) Service charges may be levied by the taxing authority having jurisdiction where the property is located against landowners served by the surface water drainage utility. No service charges may be levied against land assessed as agricultural land under W.S. 39-13-101(a) without the consent of the landowner. Proceeds of the service charges may be used to:

(A) Finance the surface water drainage utility;  
and

(B) Pledge the revenues derived from any service charges for use of the surface water drainage utility, including but not limited to:

(I) Pay the cost of designing, planning, constructing, reconstructing, acquiring, operating, improving, extending and maintaining the surface water drainage system;

(II) Provide an adequate depreciation fund;

(III) If revenue bonds or other forms of indebtedness are issued, pay the principal and interest of the bonds issued; and

(IV) Study surface water drainage requirements.

(iii) Any other source of revenue including the capital facilities tax collected under W.S. 39-15-203(a)(iii) and 39-16-203(a)(ii) if so dedicated.

(c) The governing board shall by resolution or ordinance set the portion of costs to be charged against landowners in the city, town, county or portion thereof, if any, to be paid by the county, city or town as a whole.

(d) The governing body shall not levy service charges outside its jurisdiction without the approval of the governing body having jurisdiction of the affected areas within the surface water drainage area.

(e) A governing body shall not fund a surface water utility until the proposition to impose the means of financing the surface water drainage utility has been submitted to and adopted by the electors within the proposed surface water drainage area under this subsection. Upon adoption of a resolution or ordinance pursuant to subsection (a) of this section, the proposition to impose the means of financing the surface water drainage utility shall be submitted to the electors within the proposed utility on an election date determined by the governing body and authorized under W.S. 22-21-103. A notice of election shall be given in at least one (1) newspaper of general circulation published in the county in which the election is to be held or in the city or town if only a city wide or town wide utility is proposed, and the notice shall specify the proposed means of financing the surface water drainage utility. At the election the ballots shall contain appropriate language explaining the proposed means of financing the surface water drainage utility. If the proposition is adopted, the governing body may proceed to issue revenue bonds or otherwise fund the surface water drainage utility as

specified in the ballot proposition. If the proposition is defeated, a proposition to impose a means of financing the surface water drainage utility shall not again be submitted to the electors within the utility before the next election date authorized under W.S. 22-21-103 and occurring not less than two (2) years after the election at which the proposition was defeated.

**16-10-106. Agreements authorized.**

The state, or any department of the state, may enter into agreements with governing bodies to exercise authorities conferred by this act.

**16-10-107. Surface water drainage utility board.**

(a) Any governing body which creates a surface water drainage utility may establish a surface water drainage utility board to exercise and perform all powers and duties which the governing body could perform under this act. The surface water drainage utility board shall manage, operate, maintain and control the surface water drainage utility and promulgate all rules and regulations necessary for the operation and maintenance of the surface water drainage utility. The surface water drainage utility board may also plan, design, improve, expand or enlarge the surface water drainage system, study surface water drainage requirements and design capital improvements as provided in this act.

(b) A surface water drainage utility board created pursuant to this act shall consist of five (5) members appointed by the governing body. Members shall be residents of that portion of the county where the utility levies its service charges, or absent a service charge, is providing or will provide service. Upon creation of the surface water drainage utility board, one (1) member of the board shall be appointed for a term of two (2) years, two (2) for a term of four (4) years and two (2) for a term of six (6) years. Thereafter, each member shall be appointed for a term of six (6) years.

(c) All meetings, records and accounts of the surface water drainage utility board shall be managed and conducted in accordance with the Public Records Act, W.S. 16-4-201 through 16-4-205, the Uniform Municipal Fiscal Procedures Act, W.S. 16-4-101 through 16-4-125, and the Public Meetings Act, W.S. 16-4-401 through 16-4-408. The salaries, if any, of the members of the surface water drainage utility board shall be fixed by



the board of county commissioners and by the city or town council, as applicable.

(d) The surface water drainage utility board has exclusive control of the surface water drainage utility. The surface water drainage utility board may:

(i) Hire and discharge necessary personnel, and provide for a system of personnel administration;

(ii) Purchase all materials and supplies necessary for the purposes of the surface water drainage system;

(iii) In the name of the county, city, town or joint powers board, acquire and hold property and equipment necessary and convenient for carrying out the purposes of the surface water drainage utility board;

(iv) Issue vouchers or warrants in payment of all claims and accounts incurred by the surface water drainage utility board for the surface water drainage system. When the vouchers or warrants are approved by the surface water drainage utility board, the treasurer of the applicable governing body shall pay and charge them against the proper funds.

(e) The engineer of the county, city, town or joint powers board and staff may provide staff assistance as necessary.

**16-10-108. Refunding revenue bonds.**

A governing body may issue refunding revenue bonds in the manner prescribed by W.S. 16-5-101 through 16-5-119.

**16-10-109. Use of surplus funds.**

(a) A governing body may use any surplus funds arising from the service charge for the purchase and cancellation of any bonds or other forms of indebtedness issued pursuant to this act. The purchase price of the bonds shall not be either:

(i) Greater than par, plus a premium not to exceed fifty percent (50%) of the face value of all unearned interest coupons attached to any bond purchased; or

(ii) More than the actual market price of the bonds or other forms of indebtedness at the time of purchase.

**16-10-110. Recovery of unpaid charges.**

If any service charge is not paid within thirty (30) days after it is due, the amount of the service charge, plus a penalty of ten percent (10%) and a reasonable attorney's and collection agency's fee shall constitute a lien against the land served and may be recovered in a civil action against the landowner by the governing body.

CHAPTER 11 - SHOOTING RANGES

**16-11-101. Definitions.**

(a) As used in this act:

(i) "Local government" means a county, city or town;

(ii) "Sport shooting range" or "range" means an area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or any other similar sport shooting.

**16-11-102. Operation of shooting ranges; liability.**

(a) Notwithstanding any other provision of law, any person who operates or uses a sport shooting range in this state shall not be subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution resulting from the operation or use of the range if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time construction or operation of the range was approved by a local government.

(b) Any person who operates or uses a sport shooting range is not subject to an action for nuisance, and a court of this state shall not enjoin the use or operation of a range on the basis of noise or noise pollution, if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time construction or operation of the range was approved by a local government.

(c) Rules or regulations adopted by any state department or agency for limiting levels of noise in terms of decibel level which may occur in the outdoor atmosphere shall not apply to a sport shooting range exempted from liability under this act.

**16-11-103. Regulation of location and construction.**

This act does not prohibit a local government from regulating the location and construction of a sport shooting range after the effective date of this act.

CHAPTER 12 - SPECIAL DISTRICTS

**16-12-101. Repealed by Laws 2017, ch. 62, § 3.**

**16-12-102. Repealed by Laws 2017, ch. 62, § 3.**

**16-12-103. Repealed by Laws 2017, ch. 44, § 1; ch. 62, § 3.**

**16-12-104. Repealed by Laws 2017, ch. 62, § 3.**

**16-12-105. Repealed by Laws 2017, ch. 62, § 3.**

ARTICLE 2 - GENERAL PROVISIONS

**16-12-201. Definitions.**

(a) As used in this chapter:

(i) "Director" or "district director" means a voting member of the governing body of a special district or other specified entity, regardless of what title is used in the principal act;

(ii) "Principal act" means the statutes under which a special district or other specified entity listed under W.S. 16-12-202(a) is formed or is operating;

(iii) "Special district or other specified entity" means an entity listed under W.S. 16-12-202(a).

**16-12-202. Applicability to special districts and other specified entities; general provisions.**

(a) This chapter applies to the following entities unless otherwise specified:

(i) Airport joint powers boards;

(ii) Cemetery districts;

(iii) Conservation districts;

- (iv) Fire protection districts;
- (v) Flood control districts;
- (vi) Housing authorities;
- (vii) Improvement and service districts;
- (viii) Joint powers boards;
- (ix) Local improvement districts;
- (x) Museum districts;
- (xi) Predator management districts;
- (xii) Recreation districts;
- (xiii) Recreation joint powers boards;
- (xiv) Regional transportation authorities;
- (xv) Resort districts;
- (xvi) Rural health care districts;
- (xvii) Sanitary and improvement districts;
- (xviii) Senior citizens' districts;
- (xix) Solid waste disposal districts;
- (xx) Water and sewer districts;
- (xxi) Water conservancy districts;
- (xxii) Watershed improvement districts;
- (xxiii) Weed and pest districts;
- (xxiv) Other districts as specified by law.

ARTICLE 3 - PUBLIC RECORDS AND MEETINGS

**16-12-301. Short title.**

This article may be cited as the "Special District Public Records and Meetings Act."

**16-12-302. Applicability; filing requirements.**

(a) This article specifies requirements pertaining to public records and meetings of the entities listed in W.S. 16-12-202(a) where the principal act is silent or unclear. The specific provisions of a principal act or the Wyoming Public Records Act, W.S. 16-4-201 through 16-4-205, are effective and controlling to the extent they conflict with this article.

(b) If an entity is authorized to promulgate rules and regulations or adopt ordinances or bylaws, the entity shall file any rules and regulations it promulgates, ordinances or bylaws it adopts and any amendments thereto with the county clerk for each county in which it is located. No rule, regulation, ordinance or bylaw shall be effective unless filed in accordance with this subsection.

**16-12-303. Maintaining public records.**

(a) All special districts and other specified entities shall maintain a copy of the following documents, if the documents exist, provided that the Wyoming Public Records Act and all applicable federal statutes shall control the obligations of disclosure of those documents: adopted minutes of all meetings of the governing board and the governing board's committees and subcommittees, records of meetings of the governing board and the governing board's committees and subcommittees, audits, financial statements, election results, budgets, bylaws, rate schedules, policies and employment contracts with all administrators. When consistent with the requirements of this section, all special districts or other specified entities shall produce an original document upon request.

(b) All special districts and other specified entities shall maintain the records described in subsection (a) of this section for public review at their business office if the business office is open to the public for at least twenty (20) business hours each week.

(c) If a special district or other specified entity cannot maintain the records described in subsection (a) of this section as required under subsection (b) of this section, the special district or other specified entity shall file copies of those

records with the county clerk in the county wherein the largest portion of the district or entity lies. The documents may be in an electronic format unless otherwise specified by the county clerk. The county clerk may specify the format for records filed pursuant to this subsection.

(d) All special districts or other specified entities shall provide by September 30 each year to the county clerk in every county wherein the entity exists a filing specifying where documents required under subsection (a) of this section are maintained for public review.

**16-12-304. Public meetings.**

(a) In addition to the requirements of W.S. 16-4-401 through 16-4-408, all public meetings of special districts and specified entities shall be held in a location accessible to the general public or made accessible to the public for purposes of the meeting.

(b) Notice of any meeting of a special district or specified entity shall be made in compliance with W.S. 16-4-404.

ARTICLE 4 - ADMINISTRATION OF FINANCES

**16-12-401. Applicability.**

This article specifies requirements pertaining to budgeting of the entities listed in W.S. 16-12-202(a) where the principal act is silent or unclear. The specific provisions of a principal act are effective or controlling to the extent they conflict with this article.

**16-12-402. Definitions.**

(a) As used in this article:

(i) "Appropriation" means an allocation of money to be expended for a specific purpose;

(ii) "Budget" means a plan of financial operations for a fiscal year embodying estimates of all proposed expenditures, the proposed means of financing them and what the work or service is to accomplish;

(iii) "Budget year" means the fiscal year or years for which a budget is prepared;

(iv) "Department" means the state department of audit;

(v) "Estimated revenue" means the amount of revenues estimated to be received during the budget year in each fund;

(vi) "Fiscal year" means the annual period for recording fiscal operations beginning July 1 and ending June 30;

(vii) "Fund balance" means the excess of the assets over liabilities, reserves and contributions, as reflected by an entity's books of account;

(viii) "Proposed budget" means the budget presented for public hearing as required by W.S. 16-12-406 and formatted as required by W.S. 9-1-507(a) (viii) and 16-12-403;

(ix) "Unappropriated surplus" means the portion of the fund balance of a budgetary fund which has not been appropriated or reserved in an ensuing budget year.

**16-12-403. Preparation of budgets; contents; review.**

(a) Each special district or other specified entity shall prepare a proposed budget pursuant to W.S. 9-1-507(a) (viii). The proposed budget shall comply with department rules and set forth:

(i) Actual revenues and expenditures in the last completed budget year;

(ii) Estimated total revenues and expenditures for the current budget year;

(iii) The estimated available revenues and expenditures for the ensuing budget year.

(b) The estimates of revenues shall contain estimates of all anticipated revenues from any source whatsoever. The estimates shall be made according to budget year, including the difference from the previous budget year for each source.

(c) Each proposed and adopted budget shall be accompanied by a budget message in explanation of the budget. The budget message shall contain an outline of the proposed financial policies for the budget year and describe in connection

therewith the important features of the budgetary plan. It shall state the amount of reserves on hand and outline the reserve policy for the budget year. It shall also state the reasons for changes from the previous year in appropriation and revenue items and explain any major changes in financial policy.

(d) The proposed budget shall be reviewed and considered by the governing body of the special district or other specified entity in a regular or special meeting called for this purpose. Following a public hearing as provided in W.S. 16-12-406, the special district or other specified entity shall adopt a budget.

**16-12-404. Accumulated reserves or fund surplus.**

(a) A special district or other specified entity may accumulate reserves in any fund. With respect to the general fund the accumulated fund balance may be used to meet any legal obligation of the special district or other specified entity or to:

(i) Provide cash to finance expenditures from the beginning of the budget year until property taxes and other revenues are collected; or

(ii) Provide a reserve to meet emergency expenditures.

(b) Money in the reserves may be allowed to accumulate from year to year until the accumulated total is sufficient for specified purposes in accordance with reserve policy.

**16-12-405. Property tax levy.**

The amount of estimated revenue from property tax required by the budget shall constitute the basis for determination of the property tax to be levied for the corresponding tax years subject to legal limitations.

**16-12-406. Budget hearings.**

(a) At the request of the board of county commissioners and prior to adopting a budget, special districts or other specified entities shall hold a prehearing with the county commissioners. The special district or other specified entity shall hold a budget hearing in accordance with this section. Notice of the budget hearing shall be provided pursuant to the requirements of W.S. 16-12-304(b).



(b) At the request of the board of county commissioners and prior to July 1, the governing board of the special district or other specified entity shall present to the county commissioners:

(i) A proposed budget;

(ii) Verification of elections, public meetings and board member training; and

(iii) The minutes from any meetings the district or other specified entity has held that year.

(c) Hearings for special district or other specified entity budgets shall be conducted not later than the third Thursday in July except as hereafter provided. The governing board of any special district or other specified entity may choose to hold the budget hearing in conjunction with the county budget hearings and so advertise. Copies of publications of hearings shall be furnished to the director of the state department of audit.

**16-12-407. Limitation on appropriations.**

A special district or other specified entity shall not make any appropriation in the final budget of any fund in excess of the estimated expendable revenue and reserves of the fund for the budget year.

**16-12-408. Adoption of budget.**

(a) Within three (3) business days of the conclusion of the public hearing under W.S. 16-12-406, the governing body of each special district or other specified entity shall adopt the budget. Certified copies of the adopted budget shall be on file in the office of the special district or other specified entity and made available for public inspection pursuant to W.S. 16-12-303. The adopted budget shall be filed with the department of audit and county clerk on behalf of the county commissioners no later than July 31. The adopted budget shall be forwarded by the county clerk to the county assessor and county commissioners before mill levies are set.

(b) Prior to adopting the budget, the county commissioners may veto, in whole or in part, line items of budgets presented

by special districts or other specified entities whose entire governing board was appointed by the county commissioners.

**16-12-409. Transfer of unencumbered or unexpended appropriation balances.**

The governing body of a special district or other specified entity may by resolution transfer any unencumbered or unexpended appropriation balance or part thereof from one (1) fund or account to another. Notice under this section shall be provided pursuant to the requirements of W.S. 16-4-404.

**16-12-410. General fund budget increase.**

The budget of the general fund may be increased by resolution of the governing body of the special district or other specified entity. The source of the revenue shall be shown whether unanticipated, unappropriated surplus, donations, etc. Where required by the principal act, the special district or other specified entity shall receive approval by the county commissioners prior to the budget increase.

**16-12-411. Emergency expenditures.**

If the governing body of a special district or other specified entity determines an emergency exists and the expenditure of money in excess of the general fund budget is necessary, it may make the expenditures from available funds as reasonably necessary to meet the emergency. Notice of the declaration of emergency and the amount of the emergency expenditures shall be provided in accordance with W.S. 16-4-404.

**16-12-412. Appropriations lapse; prior claims and obligations.**

All appropriations shall lapse following the close of the budget year to the extent they are not expended or encumbered. All claims and obligations incurred prior to the close of any fiscal year shall be treated as if properly encumbered.

**16-12-413. Transfer of special fund balances.**

If the necessity to maintain any special revenue or assessment fund ceases and there is a balance in the fund, the governing body of the special district or other specified entity shall authorize the transfer of the balance to the fund balance account in the general fund.

**16-12-414. Interfund loans.**

The governing body of the special district or other specified entity may authorize by resolution interfund loans from one (1) fund to another at interest rates and terms for repayment as it may prescribe and may invest available cash in any fund as provided by law. Where required by the principal act, the special district or other specified entity shall receive approval by the county commissioners prior to the interfund loan.