

ENROLLED ACT NO. 120, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2009 GENERAL SESSION

AN ACT relating to administration of government; providing a uniform determination of population by use of the decennial federal census; providing a definition to be used for references to the federal census; conforming statutes referencing population and the federal census to a uniform use and definition for distributions of revenues and other purposes; repealing inconsistent uses and definitions; specifying applicability; and providing for an effective date.

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

Section 1. W.S. 1-40-118(g)(i)(B), 3-6-113(a)(ii), 7-6-113(b)(i), 8-1-102(a) by creating new paragraphs (xv) and (xvi), 9-4-601(a)(v)(A) and (B), 12-4-101(c), 15-1-201, 15-4-202(e), 15-5-102, 15-5-106(a), 15-5-301, 15-11-105(a), 18-16-102(a)(xi)(B), 21-3-111(b)(ii) and (c), 22-18-111(a)(iii)(D), 22-20-205, 24-2-110(c)(ii), 24-7-103, 31-13-111(b), 35-1-304(a) and (e), 35-11-521(c)(ii)(A), 39-14-801(e)(v)(A), (vi), (vii)(A) and (viii), 39-15-111(h)(iii), 39-17-111(d)(i)(B), (ii) and (iii)(B)(II) and 39-17-211(d)(ii)(A)(II) are amended to read:

1-40-118. Distribution of monies to crime victim service and victim assistance providers.

(g) To the extent the legislature provides funding for victim assistance providers that serve victims of all crimes, the division of victim services shall:

(i) Distribute the state funding provided for victim assistance providers as follows:

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(B) Of the remaining state funding under this subsection, amounts shall be distributed to the victim assistance providers within the counties and the Wind River Indian Reservation on a proportional basis according to each county's and the reservation's population. ~~as established in the most recent federal decennial census.~~ For purposes of the distribution under this subparagraph, the population residing on the Wind River Indian Reservation shall be determined separate from the balance of the population of Fremont county;

3-6-113. Investment of surplus money; notice to bureau.

(a) It shall be the duty of such guardians to invest and keep invested their ward's surplus money, but only in the securities or other property, and in the manner hereinafter indicated, and in which securities or other property the guardian has no interest. The investments, except those provided in paragraphs (i) and (ii) of this subsection hereof, shall be made only upon the prior approval of the court, after notice to the veterans' administration as provided in W.S. 3-6-110, as amended:

(ii) The bonds of this state or of any other state, or any county, school districts, city, or town in the United States with a population ~~as shown by next preceding federal census~~ of not less than one thousand (1,000) inhabitants; and where the laws do not permit such counties, cities, school districts, or towns to become indebted in excess of six percent (6%) of the assessed valuation of property for taxation therein, and where the total indebtedness of such county, school districts, city, or municipality, does not exceed six percent (6%) of the assessed valuation of property for taxation at the time of such investment: provided always, there has been no default

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for more than thirty (30) days during the preceding ten (10) years upon any bonds of the issuing state, county, city or town;

7-6-113. Funding.

(b) Each county shall appropriate funds to supplement the state public defender budget in accordance with an equitable formula determined by the state public defender and the budget division of the department of administration and information in cooperation with the legislative service office, taking into account the following factors:

(i) The population of each county; ~~based on the latest federal census as periodically updated by the bureau of the census;~~

8-1-102. Definitions.

(a) As used in the statutes unless the legislature clearly specifies a different meaning or interpretation or the context clearly requires a different meaning:

(xv) "Last federal census" means the last official federal decennial census as conducted and officially corrected by the bureau of census, including any changes for boundary modifications, to become effective on July 1 next following the receipt of the official census figures;

(xvi) "Population" of a city, town, county, legislative district or other political subdivision shall be determined by resort to the last federal census.

9-4-601. Distribution and use; funds, accounts, cities and towns benefited; exception for bonus payments.

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(a) All monies received by the state of Wyoming from the secretary of the treasury of the United States under the provisions of the act of congress of February 25, 1920 (41 Stat. 437, 450; 30 U.S.C. §§ 181, 191), as amended, or from lessees or authorized mine operators and all monies received by the state from its sale of production from federal mineral leases subject to the act of congress of February 25, 1920 (41 Stat. 437, 450; 30 U.S.C. §§ 181, 191) as amended, except as provided by subsection (b) of this section, shall be deposited into an account and the first two hundred million dollars (\$200,000,000.00) of revenues received in any fiscal year shall be distributed by the state treasurer as provided in this subsection. One percent (1%) of these revenues shall be credited to the general fund as an administrative fee, and the remainder shall be distributed as follows:

(v) Nine and three-eighths percent (9.375%) to incorporated cities and towns to be used for planning, construction or maintenance of public facilities or providing public services. Any city or town may expend these revenues or pledge future revenues for payment of revenue bonds issued to provide public facilities. However no city or town shall pledge future revenues to the federal government under 43 U.S.C. § 1747 unless the city or town obtains a written determination from the governor, which he may make in connection with his consultation with the secretary of the interior under 43 U.S.C. § 1747 or otherwise, that the pledge will not affect the distribution of mineral royalties provided in this section. The distribution provided under this paragraph to any city or town shall be reduced by an amount equal to the amount of federal mineral royalties withheld from the state by the federal government to repay any loan to the city or town under 43 U.S.C. § 1747. Pledges of this income for revenue

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bonds shall not exceed ten (10) years. Each city and town shall receive:

(A) Twelve thousand dollars (\$12,000.00) if the population is three hundred twenty-five (325) persons or less, or fifteen thousand dollars (\$15,000.00) if the population is more than three hundred twenty-five (325) persons; ~~according to the latest census estimate of the department of administration and information, division of economic analysis or the latest updated census as provided by subparagraph (B) of this paragraph,~~ plus

(B) An amount computed by the state treasurer as follows: after deducting the distribution provided by subparagraph (A) of this paragraph, the remainder shall be allocated for distribution to cities and towns within each county in an amount proportionate to the percentage obtained by dividing the average daily membership, as defined in W.S. 21-13-101, of all school districts within each county by the total average daily membership of all school districts in the state. The distribution to each city and town will then be made in the proportion that the population of the city or town bears to the total population of all cities and towns in the county. ~~based on the latest federal census as periodically updated by the bureau of the census. Any city or town may use an updated census conducted by the bureau of the census at any time not less than four (4) years following the decennial census.~~

12-4-101. Authority of cities, towns and counties; population figures; number of available licenses and permits; assessment and payment of fees.

(c) Population figures and estimates required by subsection (b) of this section shall be furnished to the

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appropriate licensing authorities within the state by the department of administration and information using population estimates from the United States bureau of the census. The maximum number of licenses and permits available for issuance by a licensing authority pursuant to the population formula provided by W.S. 12-4-201 and 12-4-413, shall be certified and distributed by the commission.

15-1-201. Territories which may incorporate.

(a) Any territory, including multiple territories within one (1) mile of each other and which are connected to a common culinary water system, not included in any incorporated city or town and not ineligible for incorporation under the provisions of W.S. 15-1-411, having a total resident population of not less than two hundred (200) persons and containing within its boundaries an area with a density of at least seventy (70) persons per square mile, may be incorporated as a town in the manner provided in this article. When territories connected to a common culinary water system are incorporated under this act, the pipelines connecting the territories shall be included in the town limits.

(b) For purposes of this article:

(i) "Census" means the census conducted pursuant to W.S. 15-1-202(a);

(ii) "Population" means the population as determined by the census conducted pursuant to W.S. 15-1-202(a).

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15-4-202. Employees; manager; employment, salary, vacancy; attorney; other positions; salaries, duties; municipal judges; experts; exception.

(e) Except as otherwise provided in this subsection, the manager may require any appointive officers and any employees to perform duties and services in one (1) or more departments of the city or town. No person shall receive compensation in addition to the salary of his position for the performance of any required duties. The city attorney is not required to perform any service other than legal service. In cities and towns having a population of more than ten thousand (10,000), ~~according to the last federal census,~~ policemen and firemen are not required to perform any service other than that normally considered to be within their departments. Salaries of the members of the police and fire departments shall be established in conformity with the civil service laws of the state and ordinances of the city applicable to those departments.

15-5-102. Establishment of civil service commission or personnel system.

(a) There is established a fire department civil service commission in each incorporated municipality maintaining a paid fire department and having a population of four thousand (4,000) or more, ~~according to the latest United States census.~~

(b) The governing body in each incorporated municipality maintaining a paid police department and having a population of four thousand (4,000) or more ~~according to the latest United States census~~ which has not established a civil service commission may establish a police department personnel system in a manner as the governing body determines.

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15-5-106. Commissions; classification of positions; working hours; salaries; exceptions; examinations.

(a) The commissions shall classify the various positions in the departments into classes or schedules based upon the nature of the service to be rendered or duties to be performed. The governing body shall then establish uniform working hours and wages for all employees in each class or schedule and may regulate the rate of wages and the number of employees in any class or schedule as necessary. Notwithstanding any other general law fixing salaries or granting authority to fix salaries, the minimum salary for full-time policemen and full-time firemen in any city or town having a population of more than four thousand (4,000) ~~as determined by the last federal census~~ is four hundred twenty-five dollars (\$425.00) per month, with an increase of twenty-five dollars (\$25.00) per month for each year of service rendered until a monthly salary of five hundred twenty-five dollars (\$525.00) is reached. Any city or town may pay a salary in excess of five hundred twenty-five dollars (\$525.00) per month. Persons holding positions of higher grade or rank in these departments shall be compensated in accordance with the responsibility of the position held, but shall receive a total salary of not less than six thousand six hundred dollars (\$6,600.00) per year.

15-5-301. Pension fund; establishment; separate accounts.

The governing body of any city or town maintaining a paid police department and having a population of more than four thousand (4,000) ~~in the last federal census~~, after ten (10) days published notice and a public hearing thereon, may establish a policemen pension fund. Any such fund established prior to July 1, 1981 shall be divided into two

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(2) separate accounts to be known as the existing account and the new account. The existing account shall consist of contributions from police officers employed prior to July 1, 1981 and city or town contributions made in those officers' behalf. The new account shall consist of contributions made from police officers employed after June 30, 1981 and city or town contributions made in those officers' behalf.

15-11-105. Officers in city or town with city manager government; terms; legislative authority; method of selection; alternative method.

(a) The elective officers of a city or town adopting the city manager form of government are councilmen elected as provided by law. There shall be three (3) councilmen in cities and towns having a population of less than four thousand (4,000), seven (7) in those having a population of four thousand (4,000) or more but less than twenty thousand (20,000) and nine (9) in those having a population of twenty thousand (20,000) or more. ~~according to the last preceding United States census.~~ The term of office of a councilman is four (4) years and until his successor is qualified. Legislative authority is vested in the council.

18-16-102. Definitions.

(a) As used in this act:

(xi) "Resort area" means an area that:

(B) Has a permanent population of less than five hundred (500) people; ~~according to the latest federal census as periodically updated by the bureau of the census;~~

21-3-111. Powers of boards of trustees.

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(b) Not later than January 1, 1998, the board of trustees of each school district that has established trustee residence areas before that date shall:

(ii) Establish by resolution a structure for electing members to the board through trustee residence areas with not less than two (2) members of the board elected at-large from the entire district. If the board establishes trustee residence areas under this paragraph, one (1) or more members shall be elected from each area. The boundaries of the trustee residence areas shall be established so that the total deviation in the population between the areas with the greatest and least population shall not, to the extent practicable, exceed ten percent (10%). Data from the ~~most recent~~ last federal census shall be used in determining population within an area for the purpose of implementing this paragraph. The resolution shall include a process for implementing this change so that all elected trustees may serve their full term but that any vacancy shall be filled so as to implement the change as soon as practicable.

(c) Not later than January 1 of any year in which a general election will be held, the board of trustees of any school district may elect to adopt a resolution under paragraph (b)(i) of this section to have all trustees elected at-large. A board of trustees for a district in which all members are elected at-large may adopt a resolution to establish trustee residence areas under paragraph (b)(ii) of this section only as of January 1 of the first year which follows a decennial federal census and in which a general election will be held.

22-18-111. Vacancies in other offices; temporary appointments.

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(a) Any vacancy in any other elective office in the state except representative in congress or the board of trustees of a school or community college district, shall be filled by the governing body, or as otherwise provided in this section, by appointment of a temporary successor to serve until a successor for the remainder of the unexpired term is elected at the next general election and takes office on the first Monday of the following January. If a vacancy in a four (4) year term of office occurs after the first day for filing an application for nomination pursuant to W.S. 22-5-209, the temporary successor appointed shall serve until the first Monday in January following the second general election thereafter. The following apply:

(iii) If a vacancy occurs in the office of a member of the state legislature:

(D) If the legislative district is in more than one (1) county, the vacancy shall be filled by the combined vote of the boards of county commissioners for those counties. The vote of each county commissioner in attendance shall be weighted so that the total vote of the commissioners from each county shall be in proportion to the population of the legislative district within that county. ~~according to the most recent decennial census.~~ For vacancies created other than by resignation, if the legislative district is in more than one (1) county, the determination of the vacancy shall be made in accordance with this subparagraph.

22-20-205. Determining apportionment of representation at convention.

In the apportionment of representation in the county and state conventions, the last federal census ~~enumeration~~

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~~taken by the United States government~~ is the basis upon which the right to representation in the conventions shall be determined.

24-2-110. Cooperation with counties in construction and maintenance of county roads; allocation of costs; state-county road construction account established.

(c) The gasoline license tax revenues distributed by the state treasurer under W.S. 39-17-111(d)(ii) shall be sent to the county treasurers of the various counties and placed in a separate fund in each county earning its own interest and be expended by the board of county commissioners solely for the road construction and maintenance fund program and as otherwise provided in this subsection. This money shall be allocated as follows:

(ii) The remainder to the counties and the share allocated to each county shall be based fifty percent (50%) upon the percentage ratio which the rural population including the population within the cities and towns with less than one thousand four hundred (1,400) of each county bears to the total rural population of the state ~~according to the last federal census~~ and fifty percent (50%) based upon the percentage ratio which the area of each county bears to the area of the state. Any interest earned on the investment of monies in the fund created by this subsection shall be retained by each county and shall be used for project costs as authorized by this section.

24-7-103. Application of W.S. 24-1-127, 24-7-101 through 24-7-103.

This enactment shall have no application to the usual and necessary diversion of traffic for purposes of road repair or reconstruction, nor shall it apply to any city having a

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population of more than twenty thousand (20,000), ~~people at the last preceding federal census,~~ nor shall the provisions of this act be retroactive from the effective date of this act.

31-13-111. Transmission of return of sale and sale proceeds to county treasurer; payment of expenses and taxes; county abandoned vehicle account; duplicate receipts for proceeds; action for recovery of proceeds.

(b) The sheriff shall transmit to the county treasurer of the county in which the vehicle was impounded by a police officer, with the return of sale, the proceeds of the sale. Upon receipt of the return of sale and proceeds, the county treasurer shall deposit the proceeds in the general funds in the county treasury to the credit of an account to be known as the county abandoned vehicle account. The account is continuously appropriated only for the purpose of this act. When the account totals an amount necessary to carry out the purposes of this act, as set by the board of county commissioners for that county, but not to exceed one dollar (\$1.00) for each resident in the county, according to the ~~most recent decennial~~ last federal census, all revenues thereafter received under this subsection and W.S. 31-3-103(f), together with all interest earned on the account, shall be transferred to the general funds of the county treasurer. Upon receipt of the return of sale disclosing the costs incurred the costs shall be paid from the county abandoned vehicle account to each person or transferred to each governmental entity incurring the expenses. If the expenses exceed the sale proceeds, the allowable expenses prescribed in paragraph (g)(ii) of this section shall be paid.

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35-1-304. Treasurer designated; fund to be created; composition and use of fund; preparation and submission of budget; tax levy authorized.

(a) In the case of a county and/or city health department, the county and/or city treasurer, as a part of his official duties as county and/or city treasurer, shall serve as treasurer of the department, and his official bond as county and/or city treasurer shall extend to and cover his duties as treasurer of the department. In the case of a district health department, the county treasurer of the county in the district having the largest population, ~~as determined by the last federal census,~~ as a part of his official duties as county treasurer, shall serve as treasurer of the district department and his official bond as county treasurer shall extend to and cover his duties as treasurer of the department.

(e) A district board of health shall, annually before April 1st of each year, estimate the total cost of maintaining and operating the department for the ensuing fiscal year and the amount of ~~moneys~~ monies that may be available from unexpended surpluses or from state or federal grants or other grants or donations. The estimates shall be submitted in the form of a budget to a committee composed of the chairmen of the boards of county commissioners and/or city governing body of all counties and/or cities comprising the district. The cost of maintaining and operating the department, over estimated ~~moneys~~ monies from surpluses, grants or donations, shall be apportioned by the committee among the counties comprising the district on a basis of population, ~~as determined by the last federal census,~~ of each participating county in proportion to the total population of all counties comprising the district. The boards of county commissioners of the respective counties shall provide any ~~moneys~~ monies

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necessary to cover the proportionate share of their county. If the cities in the district have chosen to have a biennial budget pursuant to W.S. 16-4-104(h), then the district board of health shall submit their budget to the cities on April 1 of every other year in accordance with the cities' budget. If all the cities in the district are not on the same budget schedule, the district shall still submit a biennial budget. However, for those cities who budget annually, they shall appropriate an annual amount.

35-11-521. Grants for municipal solid waste landfill monitoring.

(c) Grants for eligible costs under subsection (b) of this section may be awarded:

(ii) For up to seventy-five percent (75%) of eligible costs for applicants meeting the following criteria:

(A) Municipalities with a population of less than one thousand three hundred (1,300) ~~according to the latest federal decennial census~~ or which are located within a county where the three (3) year average of the total local government share of state sales and use tax per capita is less than seventy percent (70%) of the statewide per capita average; or

39-14-801. Severance tax distributions; distribution account created; formula.

(e) Deposits into the account created by subsection (a) of this section shall be distributed as follows, subject to subsections (b) through (d) of this section:

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(v) To counties, seventy-eight hundredths percent (0.78%), subject to the following formula:

(A) Fifty percent (50%) of the funds distributed under this paragraph shall be distributed to the counties in the same proportion that the population of the county bears to the population of the state; ~~as determined by the most recent decennial census;~~ and

(vi) To counties, three and one-tenth percent (3.1%), each county to receive an amount in the proportion which the population of the county bears to total state population; ~~population to be determined by resort to the latest federal census as periodically updated by the bureau of the census;~~

(vii) To the road construction and maintenance funds of the various counties as provided by W.S. 24-2-110, two and nine-tenths percent (2.9%), except that each county's share of funds under this subsection shall be computed as follows:

(A) One-third (1/3) shall be distributed to each county in the ratio that the population of the county bears to total state population; ~~based on the most recent decennial federal census;~~

(viii) To cities and towns, nine and twenty-five hundredths percent (9.25%), each city or town to receive an amount in the proportion which the population of the city or town bears to the population of all cities and towns in Wyoming; ~~population to be determined by resort to the latest federal census as periodically updated by the bureau of the census;~~

39-15-111. Distribution.

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(h) If an annexation occurs under W.S. 15-1-404, the department of revenue shall determine whether the proportion of sales taxes to be distributed to the general fund of the county in which the annexation takes place will be reduced by more than five percent (5%) solely as a result of the annexation. If so, then the distribution formula for sales taxes for the affected municipality and county is subject to the following:

(iii) The department of revenue shall proportionally adjust credits for population under paragraphs (i) and (ii) of this subsection for the remainder of the period based upon new population figures if a federal decennial census occurs before the period under paragraph (ii) of this subsection ends.

39-17-111. Distribution.

(d) After certifying the amounts provided by subsection (c) of this section, the department shall certify the balance of taxes collected under this article to the state treasurer who shall distribute the remainder into the accounts within the state highway fund created under this subsection as follows:

(i) Thirteen and one-half percent (13.5%) shall be distributed monthly to county treasurers. Each county treasurer shall credit such revenues to the county road fund for the improvement and maintenance of county roads. The distribution to each county shall be based on:

(B) One-third (1/3) in the ratio in which the rural population including the population within the cities and towns with less than one thousand four hundred

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(1,400) bears to the total rural population of the state; ~~according to the last federal census;~~

(ii) Fourteen percent (14%) shall be credited by the state treasurer to the counties' road construction account in the highway fund for distribution by the department to the county treasurers of the various counties for their road construction funds, except that an amount equal to the contribution required of the counties for the cost of the university's technology transfer program under W.S. 21-17-115(a)(ii) or thirty-one thousand two hundred fifty dollars (\$31,250.00), whichever is less shall be first distributed to the highway fund. Each county treasurer shall credit the revenues to the road construction fund in that county. The department shall allocate to each county a share based fifty percent (50%) upon the ratio which the rural population of each county including the population within the cities and towns with less than one thousand four hundred (1,400) bears to the total rural population of the state ~~according to the last federal census~~ and fifty percent (50%) based on the ratio which the area of the county bears to the total area of the state. Any interest earned on invested funds allocated to counties shall be retained by each county and shall be used for project costs as provided by W.S. 24-2-110(a);

(iii) Fifteen percent (15%) shall be distributed as follows:

(B) The remainder to be distributed monthly to incorporated cities and towns to be used in their street and alley programs as follows:

(II) Twenty-five percent (25%) in the ratio which the population of each city or town bears to

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the total population of all cities and towns ~~according to the last federal census.~~

39-17-211. Distribution.

(d) The state treasurer shall:

(ii) Distribute monthly the remainder as follows:

(A) Twenty percent (20%) shall be distributed to county treasurers. Each county treasurer shall credit the revenues to the county road fund for the improvement and maintenance of county roads. The distribution shall be based on:

(II) One-third (1/3) in the ratio in which the rural population including the population within the cities and towns with less than one thousand four hundred (1,400) bears to the total rural population of the state ~~according to the last federal census.~~

Section 2. W.S. 9-2-1014.1(g)(ii), 24-2-110(e), 39-15-101(a)(iii), 39-17-111(e) and 39-17-201(a)(xvii) are repealed.

Section 3.

(a) No authority to issue any license based upon population shall be diminished by application of this act until the 2010 federal decennial census has been conducted and officially released by the bureau of census.

(b) No distribution of funding shall be diminished or increased based upon application of this act until the 2010 federal decennial census has been conducted and officially

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released by the bureau of census. To the extent any entity's share of funding would be reduced or increased by application of this act before that time, the distribution of funds shall be administered in accordance with the provisions of law prior to the amendment or repeal of such law by this act.

Section 4. This act is effective July 1, 2009.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk