

FILED

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
LARAMIE COUNTY, WYOMING**

STATE OF WYOMING ex rel)
MARK GORDON, Governor of the)
State of Wyoming,)

Plaintiff,)

v.)

WYOMING STATE BOARD OF)
EQUALIZATION; E. JAYNE MOCKLER,)
in her official capacity as Chairman of the)
Wyoming State Board of Equalization; and)
MARTIN L. HARDSOCG, in his official)
capacity as Vice-Chairman of the Wyoming)
State Board of Equalization,)

Defendants.)

Docket No. 2026-CV-0204298

WYOMING STATE BOARD)
OF EQUALIZATION;)
E. JAYNE MOCKLER, in her official capacity as)
Chairman of the Wyoming State Board of)
Equalization;)
MARTIN L. HARDSOCG, in his official capacity)
As Vice-Chairman of the Wyoming State Board of)
Equalization,)

Plaintiff Counter)

Claimants,	)
v.	)
	)
STATE OF WYOMING ex rel	)
MARK GORDON, Governor of the	)
State of Wyoming,	)
	)
Counter Defendants.	)

MEMORANDUM SUPPORTING MOTION FOR SUMMARY JUDGMENT

The State of Wyoming ex rel. Mark Gordon, Governor of the State of Wyoming, through the Wyoming Attorney General’s Office, submits this memorandum supporting its motion for summary judgment under Rule 56(a) of the Wyoming Rules of Civil Procedure.

I. Introduction

All property, except as otherwise provided in the Wyoming Constitution, is required to be uniformly valued at its full value as defined by the Wyoming Legislature in four classes. Wyo. Const. art. 15, § 11. One of the constitutional exceptions is in Article 15, § 12. That section exempts certain categories of property from taxation. Importantly, and at the heart of this case, it expressly authorizes the Legislature to create additional exemptions by general law. Wyo. Const. art. 15, § 12.

In 2024, the Wyoming Legislature did exactly that and enacted two property tax exemptions for a portion of single-family residential structures and improved land associated with a single-family residential structure. Those property tax exemptions are codified at Wyo. Stat. Ann. § 39-11-105(a)(xliiii) and (xliv) (“Tax Exemptions”).

This case involves the constitutionality of the Tax Exemptions and the State Board of Equalization's role in performing its duties to certify property tax values. On June 16, 2026, the State filed a complaint seeking declaratory relief pursuant to Wyo. Stat. Ann. § 1-37-101 through -115 and Rule 57 of the Wyoming Rules of Civil Procedure, and for injunctive relief under Wyo. Stat. Ann. § 1-28-101 through -111. The complaint asked this Court to declare that the Tax Exemptions are constitutional and that the Board lacks authority to unilaterally determine the constitutionality of the Tax Exemptions. The complaint further requests an injunction requiring the Board to perform its statutorily mandated function of certifying property tax values based on the Tax Exemptions being constitutional. (Compl. ¶¶ 67-72).

Shortly thereafter, the Board answered and made two counterclaims, which address the same primary issue raised in the complaint—whether the Tax Exemptions are unconstitutional. (Answer and Counterclaims, ¶¶ 88-95). Because the Board declared an intent not to apply the Tax Exemptions and certify residential property tax values, the State requested this Court issue a temporary restraining order and preliminary injunction enjoining the Board from determining the constitutionality of the statute and refusing to certify residential real property tax values on the basis of its position. (Mot. Temp. Restraining Order and Prelim. Inj.). This Court granted the State's motion for a temporary restraining order on June 18, 2026. (Order Granting Prelim. Inj.). The parties then stipulated to a preliminary injunction, which this Court granted on July 2, 2026. (Order Granting Stip. Mot. for Prelim. Inj.).

In enacting the Tax Exemptions at issue in this case, the Legislature exercised its constitutional authority to create property tax exemptions. The Board, however, characterizes the Tax Exemptions as “Valuation Cap Statutes” and argues that the statutes produce unfair outcomes and disregard the Constitution’s requirements for uniformity and to value each property at full value. But the Board’s position ignores a critical component of Article 15, § 11 and the Legislature’s express authority in Article 15, § 12 to create exemptions. The Board’s concerns with the statutes do not rise to the level of constitutional infirmities but are instead policy disagreements. The Tax Exemptions are lawfully created exemptions that operate just as every other exemption. Because exemptions are expressly carved out from the requirement to value each property at its fair market value in Article 15, § 11, the Board cannot meet its heavy burden to overcome the presumption that the statutes are constitutional.

II. Statement of Facts

The executive power of the State of Wyoming is vested in the Governor. Wyo. Const. art. 4, § 1. The Wyoming Constitution requires the Governor to “expedite all such measures as may be resolved upon by the legislature and shall take care that the laws be faithfully executed.” Wyo. Const. art. 4, § 4. The Governor also has authority to formulate and implement the policies of the executive branch. Wyo. Stat. Ann. § 9-1-201.

The Wyoming Constitution instructs the Legislature to provide by law a state board of equalization. Wyo. Const. art. 15, § 9. It further provides that the “duties of the state board shall be to equalize the valuation on all property in the several counties and such

other duties as may be prescribed by law.” Wyo. Const. art. 15, § 10. Based on the constitutional directive, the Legislature created the Wyoming State Board of Equalization, which comprises three members appointed by the Governor and subject to Senate confirmation. Wyo. Stat. Ann. § 39-11-102.1(a).

The Board is required to annually “examine and compare the abstracts of the counties and equalize the same, so that all taxable property in the state is assessed at its fair market value” and to ensure that all property is uniformly valued within each class of property. Wyo. Stat. Ann. § 39-11-102.1(c)(ii). Thereafter, the Board is required to “certify the valuation to be used for all tax levies on or before the first Monday in August.” *Id.*

Constitutional and Statutory Text

The Wyoming Constitution provides, in relevant part:

All property, except as in this constitution otherwise provided, shall be uniformly valued at its full value as defined by the legislature, in four (4) classes as follows:

- (i) Gross production of minerals and mine products in lieu of taxes on the land where produced;
- (ii) Property used for industrial purposes as defined by the legislature;
- (iii) Residential real property; and
- (iv) All other property, real and personal.

Wyo. Const. art. 15, § 11(a). It further requires that “[a]ll taxation shall be equal and uniform within each class and subclass of property.” Wyo. Const. art. 15, § 11(d). Additionally, it requires “the legislature [to] prescribe the percentage of value which shall

be assessed within each designated class. All taxable property shall be valued at its full value as defined by the legislature[.]” Wyo. Const. art. 15, § 11(b).

Article 15, Section 12 governs property tax exemptions. In relevant part, it provides that specified governmental, religious, and cemetery property “shall be exempt from taxation, and such other property as the legislature may by general law provide.” Property tax exemptions created by the Legislature are generally codified in Wyo. Stat. Ann. § 39-11-105.

Wyoming’s Property Tax Assessment Sequence

County assessors are required to annually value and assess all property at its fair market value as of January 1 of each year. Wyo. Stat. Ann. § 39-13-103(b)(ii). “Fair market value” means “the amount in cash, or terms reasonably equivalent to cash, a well informed buyer is justified in paying for a property and a well informed seller is justified in accepting, assuming neither party to the transaction is acting under undue compulsion, and assuming the property has been offered in the open market for a reasonable time[.]” Wyo. Stat. Ann. § 39-11-101(a)(vi). After the fair market value of property is determined, county assessors must calculate the assessed value for each property. “Assessed value” means the taxable value of the property. Wyo. Stat. Ann. § 39-11-101(a)(i).

All residential real property is assessed at 9.5% of fair market value. Wyo. Stat. Ann. § 39-13-103(b)(iii). Property tax exemptions may either be applied to the fair market value or to the assessed value. *See* Wyo. Stat. Ann. § 39-11-105(c) (explaining how multiple exemptions apply and whether they apply to the assessed value or to the property

value). Mill levies are then applied to each property's resulting assessed or taxable value to calculate property taxes owed. Wyo. Stat. Ann. § 39-13-104.

Enactment of the Tax Exemptions

During the 2024 Budget Session, the Wyoming Legislature introduced House Bill 0045, entitled “Property tax exemption residential structures and land.” (Stip. ¶ 11). The Wyoming Legislature passed HB0045 as House Enrolled Act 0054 and the Governor signed it into law. (Stip. ¶ 13). Those laws are now codified at Wyo. Stat. Ann. §§ 39-11-105(a)(xliii) and 39-11-105(a)(xliv). (Stip. ¶ 13); see also 2024 Wyo. Sess. Laws 228-30; Wyo. Stat. Ann. § 39-11-105(a)(xliii) and (xliv). Wyoming Statute § 39-11 105(a)(xliii) first applied to the 2024 tax year. Wyoming Statute § 39-11-105(a)(xliv) first applied to the 2025 tax year. 2024 Wyo. Sess. Laws 228–30, § 2. (Stip. ¶ 14). The 2024 legislation required the Department of Revenue to promulgate rules necessary to administer the statutes. 2024 Wyo. Sess. Laws 229. (Stip. ¶ 15). The Department promulgated rules, including a calculation example and provisions addressing when the statutes apply. (Stip. ¶ 15, Ex. 3); *Rules, Wyo. Dep’t of Revenue, Property Tax*, ch. 14, § 18 (Oct. 23, 2024).

Text and Administration of the Statutes

Wyoming Statute § 39-11-105(a)(xliii)(A) provides that a portion of a single-family residential structure is exempt from property taxation, and that:

(A) Subject to subparagraph (B) of this paragraph, the amount of the exemption under this paragraph shall be any assessed value of the single family residential structure that is in excess of the prior year assessed value less any exemption authorized under this paragraph in the prior year, plus four percent (4%);

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Subparagraph (B)(II) identifies transfers that are not deemed an acquisition, including transfers between spouses, certain court-ordered transfers, and other specified transfers. Wyo. Stat. Ann. § 39-11-105(a)(xliii)(B)(II). Subparagraph (D) provides a definition of “single family residential structure” for purposes of the exemption. *Id.* § 39-11-105(a)(xliii)(D).

Wyoming Statute § 39-11-105(a)(xliv) provides a parallel exemption for “[a] portion of improved land associated with a single family residential structure,” using the same four-percent formula and the same disqualifying events of specified structural changes and prior-year acquisitions.

Certain types of acquisitions occurring in the prior tax year, and certain types of property improvements, disqualify a property from receiving the benefit of the statutes for a given tax year. Wyo. Stat. Ann. § 39-11-105(a)(xliii) and (xliv); *Rules, Wyo. Dep’t of Revenue, Property Tax*, ch. 14, § 18(f). When an arm’s-length sale or a specified property improvement occurs, the statutes do not apply for that tax year, and the exemption does not apply. Wyo. Stat. Ann. § 39-11-105(a)(xliii)(B)(I)-(II), (a)(xliv)(B)(I)-(II).

For qualifying properties, the property is first valued and assessed, after which a portion of the resulting assessed value is exempted under the statutory formula. Wyo. Stat. Ann. § 39-11-105(a)(xliii)(A), (a)(xliv)(A).

The Department of Revenue’s rules provide the following calculation example for qualifying properties:

2023 assessed value	2024 maximum assessed value (4%)	2024 original assessed value	2024 assessed value exemption amount
10,000	10,400	11,000	600

2024 assessed value	2025 maximum assessed value (4%)	2025 original assessed value	2025 assessed value exemption amount
10,400	10,816	12,000	1,184

Rules, Wyo. Dep't of Revenue, Property Tax, ch. 14, § 18(a)(i).

The Board's Certification Practice and the 2026 Examination

Before property taxes are levied, the Board examines, compares, and equalizes abstract property valuations for all twenty-three counties. Wyo. Stat. Ann. § 39-11-102.1(c)(ii). After examining and equalizing the abstracts, the Board is required to certify the valuation to be used for all tax levies on or before the first Monday in August. Wyo. Stat. Ann. § 39-11-102.1(c)(ii).

On June 11, 2026, the Board issued a document titled Examination Record, Findings, and Report in Support of Residential Property Tax Value Certification Decision, Docket No. 2026-10 (the "Examination"). (Stip. ¶ 20, Ex. 4). The Examination was signed by two of the three Board members, E. Jayne Mockler and Martin L. Hardsocg. (Stip. ¶ 20, Ex. 4). The Examination stated that the assessed residential values, as a class, did not comply with the Wyoming Constitution's full-value or uniformity requirements reflected in Article 15, Section 11. (Stip. ¶ 20, Ex. 4, ¶¶ 34, 58). The Examination stated that the

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Board anticipated it would not be able to certify that the assessed values met those requirements because it believed applying the Tax Exemptions resulted in non-uniform unequal property values. (Stip. ¶ 20, Ex. 4, ¶¶ 34, 59, 64, 69). The Examination includes the statement that the Board is “unable to certify that residential properties in Wyoming are assessed in accordance with Article 15, Section 11 of Wyoming’s Constitution.” (Stip. ¶ 20, Ex. 4, ¶ 69). The Examination also acknowledged that the Board “lacks authority to declare a statute unconstitutional.” (Stip. ¶ 20, Ex. 4, ¶ 58).

2026 Abstract Hearings and this Litigation

The Board’s 2026 abstract hearing schedule began on Monday, June 15, 2026, and was set to continue through Wednesday, July 8, 2026, with two or three counties scheduled on each hearing date. (Stip. ¶ 21). Following the abstract hearings on June 15, 2026, through June 19, 2026, the Board deferred its decision on whether to certify residential property values for the applicable counties on the basis that it believed the residential assessed values, as a class, were not uniform or at full value as required by Article 15, Section 11 of the Wyoming Constitution. (Stip. ¶ 22). After ordered to by the District Court for the First Judicial District, the Board issued letters to each county on July 10, 2026 certifying the market value and assessed values for each type of property. (Stip. ¶ 23, Ex. 5).

III. Legal Standard

Summary judgment is appropriate under Rule 56(a) when “the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment

as a matter of law.” Wyo. R. Civ. P. 56(a). When reviewing a motion for summary judgment, the court “evaluate[s] the record ‘from the viewpoint most favorable to the party opposing the motion for summary judgment, giving that party all the favorable inferences which may be drawn from the facts contained in affidavits, depositions, and other materials appearing in the record.’” *Kudar v. Morgan*, 2022 WY 159, ¶ 11, 521 P.3d 988, 992 (Wyo. 2022) (quoting *Woodward v. Valvoda*, 2021 WY 5, ¶ 12, 478 P.3d 1189, 1196 (Wyo. 2021)).

“The party moving for summary judgment bears the burden of establishing a prima facie case and showing there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” *Wilcox v. Security State Bank*, 2023 WY 2, ¶ 26, 523 P.3d 277, 284 (Wyo. 2023) (quoting *Statzer v. Statzer*, 2022 WY 117, ¶ 11, 517 P.3d 574, 579 (Wyo. 2022)). Once the moving party meets its burden of establishing a prima facie case, “the opposing party is obligated to respond with materials beyond the pleadings to show a genuine issue of material fact.” *Id.* (citation omitted).

“A material fact is one which, if proved, would have the effect of establishing or refuting an essential element of the cause of action or defense asserted by the parties.” *Primrose Retirement Communities, LLC v. Chidorzi Constr. Co., LLC*, 2023 WY 15, ¶ 8, 523 P.3d 1219, 1224 (Wyo. 2023) (quoting *Peterson v. Meritain Health, Inc.*, 2022 WY 54, ¶ 15, 508 P.3d 696, 704 (Wyo. 2022)). “[C]onclusory statements, mere opinions, or categorical assertions of ultimate facts without supporting evidence are insufficient to establish some disputed issue of material fact.” *Bear Peak Res., LLC v. Peak Powder River*

Res., LLC, 2017 WY 124, ¶ 20, 403 P.3d 1033, 1042 (Wyo. 2017) (quoting *In re Estate of McLean*, 2004 WY 126, ¶ 15, 99 P.3d 999, 1005 (Wyo. 2004)).

IV. Argument

In its Examination, the Board signaled its intent not to certify residential property tax values on the basis that it believed the Tax Exemptions were unconstitutional. But the Supreme Court has been clear that administrative agencies lack authority to determine the constitutionality of statutes, and the Board’s refusal to perform its mandatory function to certify residential property tax values on that basis exceeds its authority.

Additionally, the Board labels the Tax Exemption as “valuation cap statutes” and argues that the statutes “cap” the assessed value in violation of Article 15, § 11 of the Wyoming Constitution so that properties are no longer assessed at a uniform percentage of fair market value. (Answer and Counterclaim, ¶¶ 40, 87, 90). The Board incorrectly conflates properly enacted property tax exemptions with statutes that deviate from the constitutional mandate to value property at its fair market value. The Tax Exemptions at issue in this case do not affect the fair market value of property or the assessment rate by which residential real property is taxed. Instead, they are straightforward exercises of the Legislature’s express constitutional authority to exempt property by general law under Article 15, § 12. Moreover, exempt property is expressly carved out of § 11’s uniformity requirement, and the exemptions apply in a uniform method and rate to all residential property statewide. As a result, the Board cannot meet its heavy burden to prove beyond any reasonable doubt that the statutes are unconstitutional.

A. The Board lacks authority to unilaterally determine the constitutionality of the Tax Exemptions and to refuse to certify real property values on that basis.

1. The Board lacks authority to determine the constitutionality of statutes enacted by the Legislature.

The first issue in this case is whether the Board has authority to determine whether the Tax Exemptions are unconstitutional and to refuse to certify residential property tax values on that basis. Shortly after filing the complaint in this case, the State requested this Court issue a temporary restraining order and preliminary injunction on the basis of this claim. This Court granted the State's request for a temporary restraining order and subsequently granted the parties stipulated motion for a preliminary injunction. (Order Granting Stip. Mot. for Prelim. Inj.). For the same reasons, this Court should declare the Board lacks authority to determine the constitutionality of the statutes and enter a permanent injunction prohibiting the Board from refusing to apply properly enacted statutes and from refusing to certify residential property tax values based on its opinion of the constitutionality of property tax exemptions.

The Wyoming Supreme Court has clearly and emphatically stated administrative agencies only have authority that is legislatively delegated. *Solvay Chems. Inc. v. Dep't of Revenue*, 2018 WY 124, ¶ 13, 430 P.3d 295, 299 (Wyo. 2018). Delegated authority may be express or implied. "[I]mplied powers are only those derived by necessary implication from express statutory authority granted to the agency." *BP America Prod. Co v. Dep't of Revenue*, 2006 WY 27, ¶ 28, 130 P.3d 438, 466 (Wyo. 2006). Any action taken by an

agency exceeding its authority is “ultra vires and void.” *Solvay Chems. Inc.*, ¶ 13, 430 P.3d at 299.

The Board’s statutory authority is articulated in Wyo. Stat. Ann. § 39-11-102.1 and it is evident that the Board does not have express authority to determine whether a statute is unconstitutional. Furthermore, nothing in the Legislative delegation supports the notion that the Board has implied authority to override the Legislature’s determination that it may constitutionality establish a property tax exemption.

To the contrary, the Supreme Court has unequivocally stated that “[a]dministrative agencies have no authority to determine the constitutionality of a statute[.]” *Torres v. State ex rel. Wyo. Workers’ Safety & Comp. Div.*, 2004 WY 92, ¶ 8, 95 P.3d 794, 796 (Wyo. 2004). An executive branch agency cannot effectively void duly enacted statutes because of its own belief that a statute is unconstitutional. Doing so infringes on both the judicial department and the legislative department, violating separation of powers. *See* Wyo. Const. art. 2, § 1 (stating that no person shall exercise any powers properly belonging to another branch of government); *see also Lockyer v. City & Cnty. of San Francisco*, 95 P.3d 459, 473 (Cal. 2004) (holding that local officials violated separation of powers when they refused to enforce a state statute on the belief that the law is unconstitutional); *S.C. Tax Comm’n v. S.C. Tax Bd. of Review*, 299 S.E.2d 489, 491-93 (S.C. 1983) (holding an administrative agency exceeded its authority when it attempted to invalidate a statutory method).

Despite acknowledging that it “lacks authority to declare a statute unconstitutional,” the Board did precisely that when it concluded that it could not certify real property tax values on the basis that it believed the Tax Exemptions were unconstitutional. (Stip. ¶ 20, Ex. 4, ¶ 58). The Board’s unilateral determination not only exceeds its authority, but it violates the Wyoming Constitution by usurping judicial and legislative authority. Given the clear authority, this Court should find Board lacks authority to unilaterally determine the constitutionality of existing statutes.

2. The Board lacks authority to refuse to certify residential property tax values on the basis that it believes a statute to be unconstitutional.

Additionally, the Board’s refusal to certify residential property tax values based on its own unilateral constitutional judgment violates its mandatory duties. The Legislature created the Board to fulfill its constitutional mandate. Wyo. Const. art. 15, § 9; Wyo. Stat. Ann. § 39-11-102.1. The Legislature requires the Board to examine and compare the abstracts of the counties and equalize them. Wyo. Stat. Ann. § 39-11-102.1(c)(ii). Furthermore, the Board must certify the valuation to be used for all tax levies on or before the first Monday in August. *Id.* The Board’s duty to certify values is not discretionary, it is mandatory.

Administrative agencies have “an affirmative legal duty to implement the laws which are adopted by the Legislature.” *Cook v. Wyo. Oil & Gas Conservation Comm’n*, 880 P.2d 583, 585 (Wyo. 1994). As an administrative agency, the Board is required to presume that all statutes are constitutional and valid until a court decides otherwise. *Id.*

Accordingly, the Board and its members are required to give effect to and faithfully execute the laws of the state, including the Tax Exemptions.

The Board's unilateral conclusion that statutes are unconstitutional exceeds its authority. Further, its refusal to certify residential property tax values on that basis violates its mandatory duties. Wyo. Stat. Ann. § 39-11-102.1(c)(ii). Additionally, its unlawful decision disrupts the entire property tax system—it prevents local governments from using property tax values to calculate their budgets and set their levies. It also injects uncertainty for taxpayers about their residential property tax obligations. This Court should declare that the Board lacks authority to unilaterally determine the constitutionality of the Tax Exemptions and to refuse to certify real property values on that basis.

B. The Tax Exemptions are constitutional.

In considering whether the Tax Exemptions are constitutional, this Court must apply the presumptions and burdens established by the Wyoming Supreme Court. Under Wyoming law, “every statute is presumed constitutional and not to be held in conflict with the constitution unless such conclusion is clear, palpable, unavoidable, and beyond reasonable doubt.” *Dir of Office of State Lands & Invs. v. Merbanco, Inc.*, 2003 WY 73, ¶ 32, 70 P.3d 241, 252 (Wyo. 2003) (citation omitted). A party challenging the constitutionality of a statute “bears a heavy burden of proving [the statute is unconstitutional] **beyond a reasonable doubt**,” and courts are required to “uphold statutes where possible and resolve all doubts in favor of constitutionality.” *Id.* (emphasis added) (citations omitted); *Cathcart v. Meyer*, 2004 WY 49, ¶ 7, 88 P.3d 1050, 1056 (Wyo. 2004).

In analyzing the statutes at issue in this case, this Court must first look to the provisions governing property tax and property tax exemptions in the Wyoming Constitution. In relevant part, the Wyoming Constitution provides:

(a) All property, except as in this constitution otherwise provided, shall be uniformly valued at its full value as defined by the legislature, in four (4) classes as follows:

(i) Gross production of minerals and mine products in lieu of taxes on the land where produced;

(ii) Property used for industrial purposes as defined by the legislature;

(iii) Residential real property; and

(iv) All other property, real and personal.

(b) The legislature shall prescribe the percentage of value which shall be assessed within each designated class. All taxable property shall be valued at its full value as defined by the legislature except agricultural and grazing lands which shall be valued according to the capability of the land to produce agricultural products under normal conditions. . . .

* * *

(d) All taxation shall be equal and uniform within each class and subclass of property. The legislature shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal.

Wyo. Const. art. 15, § 11. Further, it expressly states:

The property of the United States, the state, counties, cities, towns, school districts and municipal corporations, when used primarily for a governmental purpose, and public libraries, lots with the buildings thereon used exclusively for religious worship, church parsonages, church schools and public cemeteries, shall be exempt from taxation, **and such other property as the legislature may by general law provide.**

Wyo. Const. art. 15, § 12 (emphasis added).

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Additionally, the challenged statutes exempt the following property:

(xliii) A portion of a single family residential structure. The following shall apply to the exemption under this paragraph:

(A) Subject to subparagraph (B) of this paragraph, the amount of the exemption under this paragraph shall be any assessed value of the single family residential structure that is in excess of the prior year assessed value less any exemption authorized under this paragraph in the prior year, plus four percent (4%);

* * * *

(xliv) A portion of improved land associated with a single family residential structure. The following shall apply to the exemption under this paragraph:

(A) Subject to subparagraph (B) of this paragraph, the amount of the exemption under this paragraph shall be any assessed value of improved land associated with a residential structure that is in excess of the prior year assessed value less any exemption authorized under this paragraph in the prior year, plus four percent (4%);

Wyo. Stat. Ann. § 39-11-105(a)(xliii)-(xliv).

While the Wyoming Constitution requires “[a]ll property [to] be uniformly valued at its full value as defined by the legislature,” it also expressly authorizes the Legislature to create property tax exemptions. Wyo. Const. art. 15, §§ 11-12. Specifically, § 12 exempts certain categories of property and provides that “such other property as the legislature may by general law provide” shall be exempt from taxation. Wyo. Const. art. 15, § 12. The Wyoming Supreme Court has previously considered the scope of the Legislature’s authority in § 12, and has said:

We are of the opinion that it was clearly intended by section 12 of article 15 not only to declare the property therein specifically enumerated to be exempt,

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but to permit further exemptions to be made by the Legislature in its discretion reasonably exercised, without being limited to the same kind or class of property as that specifically described in the section, and that said section must be construed as so providing.

State ex rel. Bd. of Comm'rs of Goshen Cnty. v. Snyder, 212 P. 771, 779 (Wyo. 1923) (involving a challenge to the veteran tax exemption). In *Snyder*, the Court recognized that the right to make exemptions is a “lawmaking power, wherever it has not in terms been taken away.” *Id.* (citation omitted).

The Tax Exemptions in this case result from the Legislature exercising its authority to create property tax exemptions by general law under § 12. In considering whether the Tax Exemptions fit within the Legislature’s express constitutional authority, this Court must consider how the statutes operate. The statutes operate just as any other exemption operates. They do not alter the determination of fair market value or alter the property tax rate for some properties within a class of properties. Instead, they exempt a defined portion of residential value from taxation—precisely what § 12 authorizes. The fact that the amount of the exemption uses a calculation involving the previous years assessed value plus four percent does not alter how the Tax Exemptions operate or the constitutionality of the exemptions.

In its counterclaim, the Board suggests that the Legislature used § 12 to “circumvent” § 11. (Answer and Counterclaims, ¶ 44). The State disputes the Board’s suggestion, but even taken at face value, the Board’s complaints are policy matters—not matters of constitutional interpretation. Additionally, the Board’s characterization that the

statutes are “valuation cap statutes” or that they create a “valuation cap” is immaterial to the text or effect of the Tax Exemptions.

The Supreme Court has been clear that the Legislature is responsible for establishing the “tax policy for the state subject to the limitations of the constitution[.]” *PacifiCorp, Inc., v. Dep’t of Revenue*, 2001 WY 84, ¶ 18, 31 P.3d 64, 69 (Wyo. 2001). Just as the Legislature has done more than forty-five times in Wyo. Stat. Ann. § 39-11-105(a), it made a policy decision to exempt certain property from property tax.

Additionally, the Board’s theory depends on reading § 11 and ignoring § 12. Over a century ago, the Wyoming Supreme Court rejected a similar uniformity challenge to a statutory tax exemption. In *Snyder*, which evaluated the constitutionality of a veteran’s property tax exemption, the court noted that § 11 requires that property be uniformly valued at full value “except as in this constitution otherwise provided[.]” *Id.* 212 P. at 778 (citing Wyo. Const. art. 15, § 11). The court recognized that § 12, which authorizes the Legislature to create exemptions by general law, is precisely one of the constitutional exceptions referenced by § 11. *Id.* at 779.

In addition to § 11, the *Snyder* court also considered the uniformity provision in Article 1, Section 28. It concluded that because exempt property is not “property made subject to taxation,” it falls outside the scope of the uniformity provisions. *Id.* (“[I]t is clear that the tax equality and uniformity required by section 28 of article 1 would not interfere with such exemptions; and it cannot be held to prevent exemptions when lawfully made by the Legislature by express authority of the Constitution.”). Reading Article 1, § 28 and

Article 15, § 11 together, the court held that neither uniformity provision prevents exemptions lawfully enacted by the Legislature under express constitutional authority. *Id.* at 778-79.

This case is sufficiently analogous to *Snyder*, and this Court should reach the same result. The Tax Exemptions were created under the Legislature's express authority in § 12 and because exempt property is not subject to the uniformity provisions in § 11, the Board's argument is without merit. Additionally, the Board's argument that the Tax Exemptions create a disparity between properties that qualify for the exemptions and properties that do not qualify for the exemption does not prove that the Tax Exemptions are unconstitutional. Every exemption creates a disparity between taxed and untaxed property—that is the intended effect of an exemption. The Constitution expressly authorizes exemptions under § 12 and, as a result, authorizes disparities to occur. The Board's assertion that the Tax Exemptions create separate tax burdens—what the Board refers to as “effective tax rates”—is also not evidence of a constitutional violation—it is evidence that a lawful exemption is being properly applied.

To illustrate an example of the disparity created by a lawful exemption, assume two adjacent homes were identical and had the same fair market value, but one qualified for the veterans property tax exemption in Wyo. Stat. Ann. § 39-11-105(a)(xxiv) and the other did not. Applying the Board's logic, the two properties would have different “effective assessment rates” and thus the veterans exemption would be unconstitutional:

	FMV	Tax Rate	Taxable/ Assessed Value	Veterans' Exemption Amount	Adjusted Assessed Value	Board's "Effective Assessment Rate" ¹
Property 1	\$100,000	9.5%	\$9,500	\$6,000	\$3,500	3.5%
Property 2	\$100,000	9.5%	\$9,500	0	\$9,500	9.5%

The “effective assessment rate” calculated in the above table is at the heart of the Board’s challenge to the Tax Exemptions. The Board claims that, as a result of the exemption, the two properties are no longer being assessed at the applicable tax rate for “residential real property”—9.5%—established by Article 15, § 11 and Wyo. Stat. Ann. § 39-13-103(b)(iii). But the lawfully enacted exemption do not alter the determination of fair market value or the rate by which the property is taxed. Instead, the exemption affects the adjusted assessed value for each property exactly as intended—it exempts a defined portion of the residential value from taxation.

Furthermore, the Wyoming Supreme Court expressly considered the veterans property tax exemption and held it does not violate Article 15, §§ 11 and 12. *Miller v. Bd. of Cnty. Comm’rs of Natrona Cnty.*, 337 P.2d 262, 272 (Wyo. 1959). The fact that the veterans exemption is a fixed-dollar exemption and the Tax Exemptions are formula-based exemptions does not change the constitutional analysis. Both are exemptions created by general law under Article 15, § 12. As a result, this Court should find that the Tax

¹ The Board calculates the “Effective Assessment Rate” by dividing the Adjusted Assessed Value by the Fair Market Value.

Exemptions are lawful exemptions enacted under Article 15, § 12 and do not infringe upon the requirements in § 11.

C. The State is entitled to permanent injunction prohibiting the Board from refusing to certify real property values on the basis that it believes the Tax Exemptions to be unconstitutional.

Permanent injunctive relief is authorized by Wyo. Stat. Ann. § 1-28-102. Although authorized by statute, injunctions are equitable relief within the district court's discretion. *CBM Geosolutions, Inc. v. Gas Sensing Technology Corp.*, 2009 WY 113, ¶ 9, 215 P.3d 1054, 1058 (Wyo. 2009). While a preliminary injunction requires a showing of likelihood of success on the merits and irreparable harm, the movant must show success on the merits and irreparable harm to obtain a permanent injunction at the summary judgment stage. *See Schroth v. Kirk*, 2025 WY 24, ¶ 24, 564 P.3d 570, 579 (Wyo. 2025) (applying the summary judgment standard that the movant must be entitled to judgment as a matter of law to permanent injunctions). The Supreme Court has expressly noted it has declined to adopt the federal standard that requires the balance of equities and that an injunction is in the public interest for injunctions under Wyo. Stat. Ann. § 1-28-102. *Degenfelder v. Wyo. Educ. Ass'n*, 2026 WY 54, ¶ 21, 589 P.3d 346, 354 (Wyo. 2026).

The State has established success on the merits. For the reasons in Sections IV.A and IV.B above, the Tax Exemptions are constitutional, and the Board lacks authority to determine otherwise or refuse to certify residential real property values on that basis. Additionally, the State will suffer irreparable harm if this Court does not issue a permanent injunction

The Board's refusal to perform its mandatory duty to certify residential real property values causes irreparable harm. The Board's certification duty is mandatory; it must "certify the valuation to be used for all tax levies on or before the first Monday in August." Wyo. Stat. Ann. § 39-11-102.1(c)(ii). If the Board refuses to do so, the injury cannot be remedied by money damages. Instead, it's decision disrupts the entire property tax system by preventing local governments from utilizing property tax values to calculate their budgets and set their levies, and it creates uncertainty for taxpayers about their residential property tax obligations. No money damages can remedy these harms.

Further, the need for injunctive relief is confirmed by the Board's own conduct. It deferred certification based on its belief that applying the Tax Exemptions violated the constitution, and it certified the values only after this Court ordered it to do so. (Stip. ¶¶ 22-23). The Board's refusal to certify values absent a court order requiring it demonstrates that the Board may be unlikely to do so in the future without a permanent injunction.

V. Conclusion

Based on the foregoing, there are no genuine issues of material fact in this matter. As a matter of law, the State requests that this Court declare that Wyo. Stat. Ann. §§ 39-11-105(a) are constitutional. Furthermore, the State requests this Court declare the Board lacks authority to decide the constitutionality of the Tax Exemptions or to refuse to certify residential property tax values on that basis. The State further requests that this Court permanently enjoin the Board from acting inconsistent with the declarations sought above.

DATED this 15th day of October, 2026.

/s/ James Peters

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CERTIFICATE OF SERVICE

I do hereby certify that I have filed a copy of the foregoing, on this 15th day of October, 2026, and a copy was sent to the following:

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