



Notice of Intent to Adopt Rules

A copy of the proposed rules may be obtained at <http://rules.wyo.gov>

Revised May 2018

1. General Information

a. Agency/Board Name*		
b. Agency/Board Address	c. City	d. Zip Code
e. Name of Agency Liaison		f. Agency Liaison Telephone Number
g. Agency Liaison Email Address		
h. Date of Public Notice		i. Comment Period End Date
j. Public Comment URL or Email Address:		
k. Program		

* By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.

2. Legislative Enactment For purposes of this Section 2, "new" only applies to regular rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No. Yes. Please provide the Chapter Numbers and Years Enacted
(eg: 2015 Session Laws Chapter 154):

3. Rule Type and Information

a. Provide the Chapter Number, Title, and Proposed Action for Each Chapter.
Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification.

Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
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Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed

4. Public Comments and Hearing Information

a. A public hearing on the proposed rules has been scheduled. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:
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b. What is the manner in which interested persons may present their views on the rulemaking action?

By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Agency Liaison listed in Section 1 above.

5. Federal Law Requirements

a. These rules are created/amended/repealed to comply with federal law or regulatory requirements. No. Yes. Please complete the boxes below.

Applicable Federal Law or Regulation Citation:
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Indicate one (1):

The proposed rules meet, but do not exceed, minimum federal requirements.

The proposed rules exceed minimum federal requirements.

Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

6. State Statutory Requirements

a. Indicate one (1):

The proposed rule change *MEETS* minimum substantive statutory requirements.

The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b. Indicate one (1):

The Agency has complied with the requirements of W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:

By contacting the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

Not Applicable.

7. Additional APA Provisions

a. Complete all that apply in regards to uniform rules:

These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).

The following chapters do not differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j):

_____ (Provide chapter numbers)

These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Principal Reasons).

_____ (Provide chapter numbers)

b. Checklist

The Statement of Principal Reasons is attached to this Notice and, in compliance with *Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council*, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule.

If applicable: In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Chapter 3, *Types of Rules Filings*, Section 1, Proposed Rules, of the Rules on Rules).

8. Authorization

a. I certify that the foregoing information is correct.

<i>Printed Name of Authorized Individual</i>	
<i>Title of Authorized Individual</i>	
<i>Date of Authorization</i>	

STATEMENT OF PRINCIPAL REASONS FOR ADOPTION OF RULES

Amendments to Chapter 14 of the State Loan and Investment Board's rules are necessary to specify the interest rate for loans made pursuant to two new loan programs created during the 2018 legislative session, the Capital Construction Loan program (W.S. 16-1-111) and the Student Dormitory Capital Construction Loan program (W.S. 21-18-319). Under both programs, loans shall have 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 years. In addition, Chapter 14 is being amended to remove definitions which are provided in Chapter 1 of Board's rules, Practice and Procedure Before the Board, in order to reduce rule length.

Chapter 14
Fees For Administrative Services and Interest Rates

Section 1. Authority.

a) This Chapter is promulgated under the authority of W.S. 11-34-103(a), W.S. 11-34-103(b), W.S. 11-34-121, W.S. 11-34-302(e), W.S. 11-34-118, W.S. 16-1-109, W.S. 11-34-117(a), W.S. 11-34-117(b), W.S. 11-34-117(d), W.S. 16-1-205(b)(i), W.S. 16-1-305(b)(i), W.S. 11-34-306(a), W.S. 11-34-306(c), W.S. 35-11-530(a), W.S. 35-11- 528(e), W.S. 9-12-703(e), W.S. 9-12-703(d), W.S. 21-18-319(a), W.S. 16-1-111(a).

Section 2. Fees.

(a) The Board will collect fees for administrative services occurring from activities associated with its programs conducted in accordance with the following Board rules:

(i) Chapter 7 - Farm Loans:

(A) Application Fee - \$100.00

(B) A fee of 1% of the amount of the loan shall be paid by the borrower at closing.

(ii) Chapter 5 - Small Water Development Project Loans:

(A) Application Fee - \$100.00

(B) A fee of 1% of the amount of the loan shall be paid by the borrower at closing.

(iii) Chapter 7 - Beginning Agricultural Producer Loans:

(A) Application Fee - \$100.00

(B) A fee of 1% of the amount of the loan shall be paid by the borrower at closing.

(iv) Chapter 7 - Loans for the purpose of restoring or enhancing livestock numbers in the state:

(A) Application Fee - \$100.00

(B) A fee of 1% of the amount of the loan shall be paid by the borrower at closing.

- (b) The fee for reamortization of any loan will be 1% of the reamortized amount.

Section 3. Interest Rates.

(a) The Board will charge interest rates on all loans and amortized sales contracts associated with its programs conducted in accordance with the following Board rules:

- (i) Chapter 2 - Joint Powers Act Loans:

- (A) An interest rate not 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; no equity requirement.

- (ii) Chapter 5 - Small Water Development Project Loans:

- (A) 6% per annum.

- (B) Sales Contracts - Sale of lands acquired through small water development project loan foreclosure:

- (I) 8% per annum for contracts up to 50% of sale price;

- (II) 9% per annum for contracts up to 60% of sale price;

- (III) 10% per annum for contracts up to 70% of sale price.

- (iii) Chapter 7 - Farm Loans:

- (A) 8% per annum for loans up to 50% of appraised value;

- (B) 9% per annum for loans up to 60% of appraised value.

- (C) For “Beginning Agricultural Producer” loans, as defined in Chapter 7, Section 2(c), for the first ten (10) years of the loan the rate shall be the lower of 8% or the average yield on a ten (10) year U.S. Treasury Bond for the previous year, rounded to two (2) decimals, as of the date of loan closing. At the end of ten (10) years the interest rate shall be 8%. Loans to beginning agricultural producers shall not exceed 70% of value.

- (D) For loans for the purpose of enhancing or restoring livestock numbers in the state pursuant to W.S. 11-34-113(j), the interest rate shall be equal to seventy-five percent (75%) of the lowest current rate set by the Board for farm loans.

- (E) Sales Contracts – Sales of lands acquired through farm loan foreclosure:

- (I) 8% per annum for contracts up to 50% of sale price;

(II) 9% per annum for contracts up to 60% of sale price;

(III) 10% per annum for contracts up to 70% of sale price.

(iv) Chapter 11 – Clean Water State Revolving Fund Loans:

(A) 0% per annum on Department of Environmental Quality Loans for corrective actions at leaking underground and aboveground storage tank sites, pursuant to W.S. 16-1-106(b); no equity requirement;

(B) 0% per annum for all eligible applicants that qualify in the funding reserves special program requirement as defined by Chapter 11 Rules and Regulations; no equity requirement;

(C) 2.5% per annum on all other loans; no equity requirement.

(v) Chapter 16 – State Drinking Water Revolving Account:

(A) 0% per annum for all eligible applicants that qualify in the funding reserves special program requirement as defined by Chapter 11 Rules and Regulations; no equity requirement;

(B) 2.5% per annum on all other loans; no equity requirement.

(vi) Chapter 34 - Hydro-Power Development Project Loans:

(A) An interest rate not 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; no equity requirement, but shall not be not less than 4% or greater than 6%.

(vii) Chapter 35 - Municipal Solid Waste Facilities Cease and Transfer Loan and Grant Program:

(A) Interest rates for loans may be at zero percent, up to an annual interest rate equal to the average prime interest rate as determined by W.S. 35-11-528(e). In no event, shall the interest rate exceed an annual interest rate equal to the average prime interest rate as determined by the state treasurer. Interest rates established under this section shall be adjusted on January 1 of each year.

(B) Interest rates shall be established in recognition of the repayment abilities and needs of the applicant eligible for loans under the program.

(viii) Chapter 36 - Aeronautics Loan Program:

(A) An interest rate shall be 5% per annum or as otherwise established by W.S. 9-12-703(d).

(ix) Chapter 37 – Student Dormitory Capital Construction Loans:

(A) Loans shall be at an interest rate of one percent (1%) plus seventy-five thousandths of one percent (0.075%) for each year of the loan term in excess of five (5) years.

(B) Refinanced loans under Chapter 37, shall be at the same rate specified under Section 3(ix)(A) of this Chapter.

(x) Chapter 38 – Capital Construction Loans:

(A) Loans shall be at an interest rate of one percent (1%) plus seventy-five thousandths of one percent (0.075%) for each year of the loan term in excess of five (5) years.

(I) In the event of a prepayment of a loan, the interest rate shall be calculated at the actual loan period but no refund of interest payments shall be made to the borrower.

**RULES AND REGULATIONS
STATE LOAN AND INVESTMENT BOARD**

**Chapter 14
Fees For Administrative Services and Interest Rates**

Section 1. Authority.

a) This Chapter is promulgated under the authority of W.S. 11-34-103(a), W.S. 11-34-103(b), W.S. 11-34-121, W.S. 11-34-302(e), W.S. 11-34-118, W.S. 16-1-109, W.S. 11-34-117(a), W.S. 11-34-117(b), W.S. 11-34-117(d), W.S. 16-1-205(b)(i), W.S. 16-1-305(b)(i), W.S. 11-34-306(a), W.S. 11-34-306(c), W.S. 35-11-530(a), W.S. 35-11- 528(e), W.S. 9-12-703(e), W.S. 9-12-703(d), W.S. 21-18-319(a), W.S. 16-1-111(a).

~~Section 2. Definitions.~~

~~As Used in this chapter:~~

~~(a) — "Board" means the State Loan and Investment Board.~~

~~(b) — "Director" means the Director of the Office of State Lands and Investments.~~

~~(c) — "Office" means the Office of State Lands and Investments.~~

Section 3~~2~~. Fees.

(a) The Board will collect fees for administrative services occurring from activities associated with its programs conducted in accordance with the following Board rules:

(i) Chapter 7 - Farm Loans:

(A) Application Fee - \$100.00

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- (A) Application Fee - \$100.00
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- (iv) Chapter 7 - Loans for the purpose of restoring or enhancing livestock numbers in the state:
 - (A) Application Fee - \$100.00
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(C) For “Beginning Agricultural Producer” loans, as defined in Chapter 7, Section 2(c), for the first ten (10) years of the loan the rate shall be the lower of 8%

or the average yield on a ten (10) year U.S. Treasury Bond for the previous year, rounded to two (2) decimals, as of the date of loan closing. At the end of ten (10) years the interest rate shall be 8%. Loans to beginning agricultural producers shall not exceed 70% of value.

(D) For loans for the purpose of enhancing or restoring livestock numbers in the state pursuant to W. S. 11-34-113(j), the interest rate shall be equal to seventy-five percent (75%) of the lowest current rate set by the Board for farm loans.

(E) Sales Contracts – Sales of lands acquired through farm loan foreclosure:

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(B) Interest rates shall be established in recognition of the repayment abilities and needs of the applicant eligible for loans under the program.

(viii) Chapter 36 - Aeronautics Loan Program:

(A) An interest rate shall be 5% per annum or as otherwise established by W.S. 9-12-703(d).

(ix) Chapter 37 – Student Dormitory Capital Construction Loans:

(A) Loans shall be at an interest rate of one percent (1%) plus seventy-five thousandths of one percent (0.075%) for each year of the loan term in excess of five (5) years.

(B) Refinanced loans under Chapter 38 shall be at the same rate specified under Section 3(ix)(A) of this Chapter.

(x) Chapter 38 – Capital Construction Loans:

(A) Loans shall be at an interest rate of one percent (1%) plus seventy-five thousandths of one percent (0.075%) for each year of the loan term in excess of five (5) years.

(I) In the event of a prepayment of a loan, the interest rate shall be calculated at the actual loan period but no refund of interest payments shall be made to the borrower.

STATEMENT OF PRINCIPAL REASONS FOR ADOPTION OF RULES

The State Loan and Investment Board is adopting Chapter 37 rules to implement the Dormitory Capital Construction Loan program created by the legislature during the 2018 session. (See HEA0067 creating W.S. 21-18-319). The legislation authorizes the Board to negotiate and make loans from the permanent Wyoming mineral trust fund to community college districts for infrastructure projects directly associated with the development and construction of student dormitories, not to exceed \$60,000,000 in aggregate. The rules put in place the necessary administrative framework for the Dormitory Capital Construction Loan program. In particular, the rules provide for program administration and establish disbursement and repayment processes.

Chapter 37
Student Dormitory Capital Construction Loans

Section 1. Authority.

- (a) This Chapter is adopted pursuant to Wyoming Statute (W.S.) 21-18-319.

Section 2. Definitions.

In addition to the definitions in Chapter 1, as used in this Chapter:

(a) “Capital renewal” is the planned replacement of building subsystems such as roofs, electrical systems, HVAC systems and plumbing systems that have reached the end of their useful life.

(b) “Community college” means Casper College, Central Wyoming College, Eastern Wyoming College, Laramie County Community College, Northern Wyoming Community College, Northwest College or Western Wyoming Community College.

(c) “DDA” means demand deposit account.

(d) “Financial review” means audited financial statements.

Section 3. General Policy.

(a) Loans shall be made in such a manner and to such community colleges as shall, in the judgement of the Board, represent a wise investment of state funds.

Section 4. Eligible Applicants.

(a) To be an eligible applicant, community colleges must be able to demonstrate:

(i) A commitment to adequately maintain the project for the term of the loan;

(A) A commitment to adequately maintain the project shall be demonstrated by:

(I) A resolution, adopted by the governing body of the community college, describing its commitment to maintain the project for at least the term of the loan and identifying a funding source for maintenance, and

(II) A maintenance plan.

(ii) All costs for the construction of the dormitory will be funded at the time of receipt of the loan.

(b) Applicants must be compliant with all applicable reporting requirements of the Community College Commission, State Budget Office, and Department of Audit prior to the application being considered by the Board.

Section 5. Eligible Purposes.

(a) Applications for loan shall be made only for the following purposes:

- (i) Construct new student dormitories;
- (ii) Renovate or upgrade buildings or existing student dormitories; and
- (iii) Capital renewal.

(b) Applications for loan may include amounts for the costs associated with the purchase of land, buildings, facilities and rights of way necessary to complete the dormitory project.

Section 6. Application Procedure.

(a) Applications.

(i) Each applicant shall submit a written loan application, on the form furnished by the Office. At a minimum, the application shall include:

(A) A signed resolution stating the amount and term of the loan being requested, name of project, repayment source(s), and agreeing to maintain the project for the life of the loan;

(B) A detailed project summary which includes a breakdown of total project costs, a project timeline and repayment source(s);

(C) Commitment letters from all funding sources, if applicable;

(D) An engineer's Feasibility Statement;

(E) A formal maintenance plan documenting how the applicant will adequately maintain the project for the life of the loan.

(ii) Incomplete applications shall not be submitted to the Board for consideration.

(iii) Any false or misleading statements made by the applicant in an application shall be grounds for summary rejection of the application.

(iv) Timing. Loan applications must be received by the Office at least ninety

(90) calendar days prior to any regularly scheduled meeting of the Board.

(b) Consideration.

(i) The Office shall conduct a preliminary review of all applications received. If the Office identifies issues with the application which would result in a negative recommendation to the Board, the Office shall notify the applicant within thirty (30) days of receiving the application of the issues and the applicant shall have the opportunity to correct the application or withdraw the application. Applicants must cure any defects in their application no later than forty-five (45) calendar days before any regularly scheduled meeting of the Board.

(ii) All applications shall be reviewed by the Attorney General to certify the legality of the transaction and to determine if an election is required by law.

(iii) When determining whether to make a loan, the Board shall consider the following:

(A) The need for the project; and

(I) Need may be demonstrated by:

- (1.) Occupancy rate;
- (2.) Student enrollment compared to available dormitory space;
- (3.) The number of students on a community college's dormitory waiting list; and/or,
- (4.) Any other relevant information demonstrating the need for the project.

(B) The community college's ability to repay the loan.

(I) Ability to repay may be demonstrated by:

- (1.) Other efforts to fund the dormitory projects;
- (2.) The community college's budget; and,
- (3.) Any other relevant information demonstrating financial need.

(c) Funding Prioritization.

(i) First priority shall be granted to community colleges with a significant demonstrated need to increase student dormitory capacity on campus. When determining whether a project qualifies for first priority funding, the Board may consider:

(A) The number of dormitory rooms available compared to number of enrolled students and how that ratio compares to other community colleges in the state;

(B) Student enrollment trends over the past five (5) school years;

(C) Age of current dormitories;

(D) Other affordable available rental space in the community; and,

(E) Any other relevant information that would help the Board determine a community college's need to increase student dormitory capacity on campus.

Section 7. Loan Terms.

(a) Interest rate. The interest rate for loans under this Chapter shall be pursuant to Chapter 14 of the rules as established by the Board and a one-half of one percent (0.5%) origination fee shall be collected on the amount approved.

(b) Length. The term of each loan shall be set by the Board with due regard given to repayment ability, the useful life of the project, and the security offered, but in no event shall the term be less than five (5) years or exceed twenty-five (25) years.

(c) Repayment. Loans shall be payable in equal installments. Payments shall begin within one (1) year from the date of loan funds being deposited into the required DDA.

Section 8. Security.

(a) Every loan shall be evidenced by a promissory note for the principal sum of the loan.

(b) Every loan shall have adequate security in the form of:

(i) Pledge of revenues from the student dormitory for which the loan was granted;

(ii) Pledge of other revenue available to a community college; and/or,

(iii) Any other security deemed adequate to secure repayment of the loan.

(c) If an appraisal for the purchase of land is required, the applicant shall be responsible for ensuring one is completed prior to submitting a loan application.

(i) Office staff shall review and approve the methodology used for valuation of the project and security and the overall market value prior to loan closing.

Section 9. Disbursements.

(a) Upon closing, the loan proceeds shall be deposited in a DDA to be disbursed solely for the approved loan purpose. The borrower shall pay all costs associated with the DDA. Interest earned shall be credited to the borrower.

(b) Borrower shall submit all requests for payment from the DDA on a form provided by the Office, with supporting documentation, as required by the Director.

(i) The Office shall inspect and verify any reports and records required by the Board and submitted by the borrower before proceeds shall be released from the DDA for payment.

Section 10. Ineligible Project Costs.

(a) The following costs are ineligible:

(i) Costs related to any other infrastructure needs of the community college that are not directly associated with the development and construction, renovation, or capital renewal of student dormitories;

(ii) Costs for preparation or presentation of loan application;

(iii) Costs incurred prior to loan award, except costs for architectural and engineering design, surveying and environmental review, if required;

(iv) Engineering fees, including design, inspection and contract administration costs, over fifteen percent (15%) of the project cost;

(v) Markups by engineers/architects of sub-contractor and other outside charges;

(vi) Costs for transportation, meals, lodging and incidentals incurred offsite from the project or that exceeds the current federal per diem reimbursement rate;

(vii) Costs associated with the borrower's own employees and equipment;

(viii) Costs for real property in excess of current fair market value and costs for an amount of real property in excess of that needed for project purposes;

(ix) Costs related to issuance of bonds;

(x) Legal fees;

(xi) Costs for sidewalks that are owned or maintained by a private property owner; and,

(xii) Costs for a contingency or extra work allowance in excess of ten percent (10%) of estimated construction costs.

Section 11. Defaults and Refinancing.

(a) If a borrower becomes delinquent on its required loan payment, the Board, if deemed necessary for the better protection of the permanent mineral trust fund, may refinance the loan for not more than twenty-five (25) years from the date of refinancing.

(b) Interest rate. The interest rate for refinanced loans under this Chapter shall be pursuant to Chapter 14 of the rules as established by the Board.

(c) The refinancing fee shall be pursuant to W.S. 21-18-319(b)(x).

Section 12. Reporting Requirements.

(a) Annually, by April 30th, the borrower shall provide to the Office:

(i) A report on the progress of the project; and,

(ii) An account statement for the DDA used for holding the loan proceeds.

(b) When the loan is paid in full, the borrower shall provide a comprehensive report to the Office that at a minimum, includes:

(i) A financial review; and,

(ii) A list of accomplishments as a result of the loan.

Section 13. Audits and Inspections.

(a) On an annual basis, records of the borrower shall be, at a minimum, compiled by an independent accounting firm. The borrower shall provide the Office a Compilation, Review or Audited Financial Statement.

(b) The Board may, at its expense, conduct an independent audit of the borrower's records and inspect the construction and operation of the project.

Chapter 37
Student Dormitory Capital Construction Loans

Section 1. Authority.

(a) This Chapter is adopted pursuant to Wyoming Statute (W.S.) 21-18-319.

Section 2. Definitions.

In addition to the definitions in Chapter 1, as used in this Chapter:

(a) “Capital renewal” is the planned replacement of building subsystems such as roofs, electrical systems, HVAC systems and plumbing systems that have reached the end of their useful life.

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(i) A commitment to adequately maintain the project for the term of the loan;

(A) A commitment to adequately maintain the project shall be demonstrated by:

(I) A resolution, adopted by the governing body of the community college, describing its commitment to maintain the project for at least the term of the loan and identifying a funding source for maintenance, and

(II) A maintenance plan.

(ii) All costs for the construction of the dormitory will be funded at the time of receipt of the loan.

(b) Applicants must be compliant with all applicable reporting requirements of the Community College Commission, State Budget Office, and Department of Audit prior to the application being considered by the Board.

Section 5. Eligible Purposes.

(a) Applications for loan shall be made only for the following purposes:

- (i) Construct new student dormitories;
- (ii) Renovate or upgrade buildings or existing student dormitories; and
- (iii) Capital renewal.

(b) Applications for loan may include amounts for the costs associated with the purchase of land, buildings, facilities and rights of way necessary to complete the dormitory project.

Section 6. Application Procedure.

(a) Applications.

(i) Each applicant shall submit a written loan application, on the form furnished by the Office. At a minimum, the application shall include:

(A) A signed resolution stating the amount and term of the loan being requested, name of project, repayment source(s), and agreeing to maintain the project for the life of the loan;

(B) A detailed project summary which includes a breakdown of total project costs, a project timeline and repayment source(s);

(C) Commitment letters from all funding sources, if applicable;

(D) An engineer's Feasibility Statement;

(E) A formal maintenance plan documenting how the applicant will adequately maintain the project for the life of the loan.

(ii) Incomplete applications shall not be submitted to the Board for consideration.

(iii) Any false or misleading statements made by the applicant in an application shall be grounds for summary rejection of the application.

(iv) Timing. Loan applications must be received by the Office at least ninety

(90) calendar days prior to any regularly scheduled meeting of the Board.

(b) Consideration.

(i) The Office shall conduct a preliminary review of all applications received. If the Office identifies issues with the application which would result in a negative recommendation to the Board, the Office shall notify the applicant within thirty (30) days of receiving the application of the issues and the applicant shall have the opportunity to correct the application or withdraw the application. Applicants must cure any defects in their application no later than forty-five (45) calendar days before any regularly scheduled meeting of the Board.

(ii) All applications shall be reviewed by the Attorney General to certify the legality of the transaction and to determine if an election is required by law.

(iii) When determining whether to make a loan, the Board shall consider the following:

(A) The need for the project; and

(I) Need may be demonstrated by:

(1.) Occupancy rate;

(2.) Student enrollment compared to available dormitory space;

(3.) The number of students on a community college's dormitory waiting list; and/or,

(4.) Any other relevant information demonstrating the need for the project.

(B) The community college's ability to repay the loan.

(I) Ability to repay may be demonstrated by:

(1.) Other efforts to fund the dormitory projects;

(2.) The community college's budget; and,

(3.) Any other relevant information demonstrating financial need.

(c) Funding Prioritization.

(i) First priority shall be granted to community colleges with a significant demonstrated need to increase student dormitory capacity on campus. When determining whether a project qualifies for first priority funding, the Board may consider:

(A) The number of dormitory rooms available compared to number of enrolled students and how that ratio compares to other community colleges in the state;

(B) Student enrollment trends over the past five (5) school years;

(C) Age of current dormitories;

(D) Other affordable available rental space in the community; and,

(E) Any other relevant information that would help the Board determine a community college's need to increase student dormitory capacity on campus.

Section 7. Loan Terms.

(a) Interest rate. The interest rate for loans under this Chapter shall be pursuant to Chapter 14 of the rules as established by the Board and a one-half of one percent (0.5%) origination fee shall be collected on the amount approved.

(b) Length. The term of each loan shall be set by the Board with due regard given to repayment ability, the useful life of the project, and the security offered, but in no event shall the term be less than five (5) years or exceed twenty-five (25) years.

(c) Repayment. Loans shall be payable in equal installments. Payments shall begin within one (1) year from the date of loan funds being deposited into the required DDA.

Section 8. Security.

(a) Every loan shall be evidenced by a promissory note for the principal sum of the loan.

(b) Every loan shall have adequate security in the form of:

(i) Pledge of revenues from the student dormitory for which the loan was granted;

(ii) Pledge of other revenue available to a community college; and/or,

(iii) Any other security deemed adequate to secure repayment of the loan.

(c) If an appraisal for the purchase of land is required, the applicant shall be responsible for ensuring one is completed prior to submitting a loan application.

(i) Office staff shall review and approve the methodology used for valuation of the project and security and the overall market value prior to loan closing.

Section 9. Disbursements.

(a) Upon closing, the loan proceeds shall be deposited in a DDA to be disbursed solely for the approved loan purpose. The borrower shall pay all costs associated with the DDA. Interest earned shall be credited to the borrower.

(b) Borrower shall submit all requests for payment from the DDA on a form provided by the Office, with supporting documentation, as required by the Director.

(i) The Office shall inspect and verify any reports and records required by the Board and submitted by the borrower before proceeds shall be released from the DDA for payment.

Section 10. Ineligible Project Costs.

(a) The following costs are ineligible:

(i) Costs related to any other infrastructure needs of the community college that are not directly associated with the development and construction, renovation, or capital renewal of student dormitories;

(ii) Costs for preparation or presentation of loan application;

(iii) Costs incurred prior to loan award, except costs for architectural and engineering design, surveying and environmental review, if required;

(iv) Engineering fees, including design, inspection and contract administration costs, over fifteen percent (15%) of the project cost;

(v) Markups by engineers/architects of sub-contractor and other outside charges;

(vi) Costs for transportation, meals, lodging and incidentals incurred offsite from the project or that exceeds the current federal per diem reimbursement rate;

(vii) Costs associated with the borrower's own employees and equipment;

(viii) Costs for real property in excess of current fair market value and costs for an amount of real property in excess of that needed for project purposes;

(ix) Costs related to issuance of bonds;

(x) Legal fees;

(xi) Costs for sidewalks that are owned or maintained by a private property owner; and,

(xii) Costs for a contingency or extra work allowance in excess of then percent (10%) of estimated construction costs.

Section 11. Defaults and Refinancing.

(a) If a borrower becomes delinquent on its required loan payment, the Board, if deemed necessary for the better protection of the permanent mineral trust fund, may refinance the loan for not more than twenty-five (25) years from the date of refinancing.

(b) Interest rate. The interest rate for refinanced loans under this Chapter shall be pursuant to Chapter 14 of the rules as established by the Board.

(c) The refinancing fee shall be pursuant to W.S. 21-18-319(b)(x).

Section 12. Reporting Requirements.

(a) Annually, by April 30th, the borrower shall provide to the Office:

(i) A report on the progress of the project; and,

(ii) An account statement for the DDA used for holding the loan proceeds.

(b) When the loan is paid in full, the borrower shall provide a comprehensive report to the Office that at a minimum, includes:

(i) A financial review; and,

(ii) A list of accomplishments as a result of the loan.

Section 13. Audits and Inspections.

(a) On an annual basis, records of the borrower shall be, at a minimum, compiled by an independent accounting firm. The borrower shall provide the Office a Compilation, Review or Audited Financial Statement.

(b) The Board may, at its expense, conduct an independent audit of the borrower's records and inspect the construction and operation of the project.

STATEMENT OF PRINCIPAL REASONS FOR ADOPTION OF RULES

The State Loan and Investment Board is adopting Chapter 38 rules to implement the Capital Construction Loan program created by the legislature during the 2018 session. (See HEA0067 creating W.S. 16-1-111). The Capital Construction Loan program allows for loans from the permanent Wyoming mineral trust fund to cities, towns, counties, school districts, and community college districts for infrastructure and road projects, not to exceed four hundred million dollars (\$400,000,000) in aggregate. The total sum of loans made for infrastructure projects shall not exceed two hundred million dollars (\$200,000,000) and the total sum for loans made for road or street projects shall not exceed two hundred million dollars (\$200,000,000). The rules put in place the necessary administrative framework for the Capital Construction Loan Program. In particular, the rules provide for program administration and establish disbursement and repayment processes.

Chapter 38

Capital Construction Loans

Section 1. Authority.

- (a) This Chapter is adopted pursuant to Wyoming Statute (W.S.) 16-1-111.

Section 2. Definitions.

In addition to the definitions in Chapter 1, as used in this Chapter:

- (a) “Capital construction” means new construction, expansion, renovation, or replacement of an existing facility or facilities.
- (b) “City” means any incorporated municipality having a population of four thousand (4,000) or more which has been declared a city or which has taken the necessary steps to be and has been proclaimed a city.
- (c) “DDA” means demand deposit account.
- (d) “Infrastructure project” means a capital construction project which may lawfully be undertaken within the powers of the political subdivision.
- (e) “Political subdivision” means Wyoming cities, towns, counties, school districts, and community college districts.
- (f) “Street and road projects” means the construction, maintenance or improvement of a public street, road or alley within a city, town, or county.
- (g) “Town” means any incorporated municipality, not a city.

Section 3. General Policy.

- (a) Loans shall be made in such a manner and to such parties as shall, in the judgment of the Board, represent a prudent investment of state funds.
- (b) The capital construction loan program is not intended to benefit investors or developers.

Section 4. Eligible Applicants.

- (a) Political subdivisions are eligible for loans for infrastructure projects. In order to qualify for a loan, the political subdivision must be able to demonstrate the following:
- (i) A commitment to adequately maintain the project for the duration of the loan; and,

(ii) All project costs will be funded at the time of receipt of the loan.

(b) Wyoming cities, towns, and counties are eligible for loans for street and road projects. In order to qualify for a loan, the city, town, or county must be able to demonstrate the following:

(i) A commitment to adequately maintain the project for the duration of the loan;

(ii) All project costs will be funded at the time of receipt of the loan;

(iii) All related infrastructure, including water and sewer is or will be in place at the time of receipt of the loan; and,

(iv) No outstanding loans exist under this Chapter for a street and road project.

(c) All projects must be owned by the entity applying for the loan.

(d) Applicants must be compliant with all applicable reporting requirements of the Wyoming Department of Audit and Wyoming Department of Revenue prior to the application being considered by the Board.

Section 5. Eligible Purposes.

(a) Loans may be made for infrastructure projects and street and road projects and may include costs associated with the following purposes:

(i) Purchase of land, buildings, and improvements associated with capital construction;

(ii) Renovation or upgrade of existing infrastructure; and/or

(iii) Planning and construction.

Section 6. Application Procedure.

(a) Applications.

(i) Each applicant shall submit a written loan application on the form furnished by the Office. At a minimum, the application shall include:

(A) A signed resolution stating the amount of the loan being requested, name of project and repayment source(s), and agreeing to maintain the project for the life of the loan;

(B) A detailed project summary which includes a breakdown of total project costs, a project timeline and proposed repayment source(s);

(C) Commitment letters from all funding sources, if applicable;

(D) Engineer's Feasibility Statement;

(E) A formal maintenance plan documenting how the borrower will adequately maintain the project for the life of the loan.

(ii) Incomplete applications shall not be submitted to the Board for consideration.

(iii) Any false or misleading statements made by the applicant in an application shall be grounds for summary rejection of the application.

(iv) Timing. Loan applications must be received by the Office at least ninety (90) calendar days prior to any regularly scheduled meeting of the Board. Applicants must cure any defects in their application no later than forty-five (45) calendar days before any regularly scheduled meeting of the Board.

(b) Consideration.

(i) The Office shall conduct a preliminary review of all applications received. If the Office identifies issues with the application which would result in a negative recommendation to the Board, the Office shall notify the applicant within 30 days of receiving the application of the issue and the applicant shall have the opportunity to correct the application or withdraw the application. Applicants must cure any defects in their application no later than forty-five (45) calendar days before any regularly scheduled meeting of the Board.

(ii) All applications shall be reviewed by the Attorney General to certify the legality of the transaction and to determine if an election is required by law.

(iii) The following will be considered when reviewing applications:

(A) The project's contribution to health, safety and welfare of the citizens in the political subdivision as demonstrated by:

(I) The extent the project will protect the citizens from exposure to hazards that may result in adverse consequences;

(II) Achieving compliance with state and federal mandates; or

(III) Any other relevant information demonstrating the project's contribution to the health, safety and welfare of the citizens.

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

(C) The applicant's ability to repay the loan.

Section 7. Loan Terms.

(a) Interest rate. The interest rate for loans under this Chapter shall be pursuant to Chapter 14 of the rules established by the Board and a one-half of one percent (0.5%) origination fee shall be collected on the approved loan amount.

(b) Length. The term for each loan shall be set by the Board with due regard given to repayment ability and the security offered, but in no event shall the term be less than five (5) years or exceed twenty-five (25) years.

(c) Repayment. Loans shall be payable in equal installments. Payments shall begin within one (1) year from the date of loan funds being deposited in the required DDA.

Section 8. Security.

(a) Every loan shall be evidenced by a promissory note for the principal sum of the loan.

(b) Loans shall be adequately secured to the Board's satisfaction. Loans may be secured with:

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

(ii) Pledge of other available revenues to the borrower;

(iii) A mortgage covering all or part of the project;

(iv) An assignment of lease revenues; and/or,

(v) Any other security deemed adequate to secure repayment of the loan.

(c) If an appraisal is required, the applicant shall be responsible for ensuring one is completed prior to submitting a loan application.

(i) Office staff shall review and approve the methodology used for valuation and the overall market value prior to loan closing.

Section 9. Disbursements.

(a) Upon closing, the loan proceeds shall be deposited in a DDA to be disbursed solely for the approved loan purpose. The borrower shall pay all costs associated with the DDA. Interest earned shall be credited to the borrower.

(b) Borrower shall submit all requests for payment from the DDA on a form provided by the Office, with supporting documentation, as required by the Director.

(i) The Office shall inspect and verify any reports and records required by the Board and submitted by the borrower before proceeds shall be released from the DDA for payment.

Section 10. Ineligible Project Costs.

- (a) Costs for preparation or presentation of loan application;
 - (b) Costs incurred prior to loan award, except costs incurred for architectural and engineering design, surveying and environmental review, if required;
 - (c) Engineering fees, including design, inspection and contract administration costs, in excess of fifteen percent (15%) of project cost;
 - (d) Markups by engineers/architects of sub-contractor and other outside charges;
 - (e) Costs for transportation, meals, lodging and incidentals incurred offsite from the project or that exceed the current federal per diem reimbursement rate;
 - (f) Costs associated with the borrower's own employees and equipment;
 - (g) Costs for real property in excess of current fair market value and/or costs for an amount of real property in excess of that needed for project purposes;
 - (h) Costs related to issuance of bonds;
 - (i) Costs for furnishings;
 - (j) Legal fees;
 - (k) Costs for sidewalks that are owned or maintained by a private property owner;
- and,
- (l) Costs for contingency or extra work allowance in excess of 10% of estimated construction costs.

Section 11. Reporting Requirements.

(a) At least annually, more often if deemed necessary by the Office, the borrower shall provide the Office an account statement for the DDA used for holding the loan proceeds.

Section 12. Audits and Inspections.

(a) On an annual basis, records of the borrower shall be, at a minimum, compiled by an independent accounting firm. The borrower shall provide the Office a Compilation, Review or Audited Financial Statement.

(b) The Board may, at its expense, conduct an independent audit of the borrower's records and inspect the construction and operation of the project.

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(a) Loans shall be made in such a manner and to such parties as shall, in the judgment of the Board, inure to the greatest benefit of the state and represent a prudent investment of state funds.

(b) The capital construction loan program is not intended to benefit investors or developers.

Section 4. Eligible Applicants.

(a) Political subdivisions are eligible for loans for infrastructure projects. In order to qualify for a loan, the political subdivision must be able to demonstrate the following:

(i) A commitment to adequately maintain the project for the duration of the

loan; and,

(ii) All project costs will be funded at the time of receipt of the loan.

(b) Wyoming cities, towns, and counties are eligible for loans for street and road projects. In order to qualify for a loan, the city, town, or county must be able to demonstrate the following:

(i) A commitment to adequately maintain the project for the duration of the loan;

(ii) All project costs will be funded at the time of receipt of the loan;

(iii) All related infrastructure, including water and sewer is or will be in place at the time of receipt of the loan; and,

(iv) No outstanding loans exist under this Chapter for a street and road project.

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