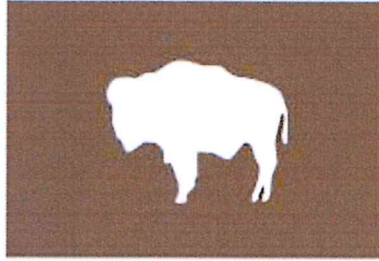


WYOMING OFFICE OF STATE LANDS AND INVESTMENTS

122 West 25th Street
Cheyenne, WY 82002
Phone: 307.777.7331
Fax: 307.777.3524
slfmail@wyo.gov



MATTHEW H. MEAD
Governor

BRIDGET HILL
Director

TO: The Honorable Governor Mead

FROM: Bridget Hill, Director *BH*
(The agency contact person is Macha Bowman, whose telephone number is 777-6629 and e-mail address is macha.ledet@wyo.gov)

RE: Emergency Rules and Regulations
State Loan and Investment Board

DATE: June 11, 2018

During the 2018 Budget Session, the Wyoming Legislature created a new loan program related to community college dormitory construction (2018 House Enrolled Act No. 67). The act created W.S. § 21-18-319 which provided administration and rulemaking authority for the program to the State Loan and Investment Board (Board). The legislation provides authority for the Board to issue loans from the permanent mineral trust fund to eligible community college districts for infrastructure projects directly associated with the development and construction of student dormitories.

To facilitate the Board's timely consideration of loan applications, the Board, at its June 7, 2018, meeting adopted emergency rules to implement the Dormitory Capital Construction Loan program. The rules put in place the necessary administrative framework for the loan program. In particular, the rules provide for program administration and establish disbursement and repayment processes. The Board is adopting emergency rules in order to allow the Board to award loans by the end of this year so that community college districts may take advantage of the 2019 building season. The building season for community colleges is particularly short given that the bulk of the work needs to take place during the summer when fall and spring semester classes are not in session. Additionally, if there was a delay in awarding funding, construction costs may escalate.

Enclosed is the emergency rulemaking packet for Chapter 37 Student Dormitory Capital Construction Loans. Enclosures are:

1. Certification Page
2. Statement of Principal Reasons for Adoption
3. Copies of the Emergency Rules for Chapter 37 (1-clean; 1-strike underscore)

Should you or your staff have any questions regarding this information, please do not hesitate to contact this office.

Enclosures



Certification Page Regular and Emergency Rules

Revised September 2016

Emergency Rules *(After completing all of Sections 1 through 3, proceed to Section 5 below)*

Regular Rules

1. General Information

a. Agency/Board Name Office of State Lands and Investments/State Loan and Investment Board		
b. Agency/Board Address 122 West 25th Street, Herschler Bldg., 1st Floor East	c. City Cheyenne	d. Zip Code 82002
e. Name of Agency Liaison Elizabeth Blackwell		f. Agency Liaison Telephone Number 777-6373
g. Agency Liaison Email Address elizabeth.blackwell@wyo.gov		h. Adoption Date June 7, 2018
i. Program Loan and Investment Board		

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 Enrolled Act Numbers and Years Enacted:

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: 37	Chapter Name: Student Dormitory Capital Construction Loans	<input checked="" 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
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

3. State Government Notice of Intended Rulemaking

a. Date on which the Proposed Rule Packet (consisting of the Notice of Intent as per W.S. 16-3-103(a), Statement of Principal Reasons, strike and underscore format and a clean copy of each chapter of rules were:

- approved as to form by the Registrar of Rules; and
- provided to the Legislative Service Office and Attorney General:

4. Public Notice of Intended Rulemaking

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. No. Yes. N/A

b. A public hearing was held on the proposed rules. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:

c. If applicable, describe the emergency which requires promulgation of these rules without providing notice or an opportunity for a public hearing:

The rules are needed to have rules in place on July 1, 2018 when the new statute goes into effect, to allow the State Loan and Investment Board to consider funding applications this year. This in turn will allow community colleges to take advantage of the 2019 constitution season and avoid considerable cost increases from waiting until 2020.

5. Final Filing of Rules


a. Date on which the Certification Page with original signatures and final rules were sent to the Attorney General's Office for the Governor's signature: June 11, 2018

b. Date on which final rules were approved as to form by the Secretary of State and sent to the Legislative Service Office: June 11, 2018

c. The Statement of Reasons is attached to this certification.

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual	
Printed Name of Signatory	Bridget Hill
Signatory Title	Director, Office of State Lands and Investments
Date of Signature	June 11, 2018

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature	
Date of Signature	

STATEMENT OF PRINCIPAL REASONS FOR ADOPTION OF RULES

The State Loan and Investment Board is adopting emergency Chapter 37 rules to implement the Dormitory Capital Construction Loan program created by the legislature during the 2018 session to facilitate the Board's timely consideration of loan applications. (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. The Board is adopting emergency rules in order to allow the Board to award loans by the end of this year so that community college districts may take advantage of the 2019 building season. The building season for community colleges is particularly short given that the bulk of the work needs to take place during the summer when fall and spring semester classes are not in session.

Chapter 37
Student Dormitory Capital Construction Loans

**Emergency rules are in effect no longer than 120 days after filing
with the Registrar of Rules.**

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.

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

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