

CHAPTER 1

THE WYOMING FAMILY COLLEGE SAVINGS PROGRAM

Section 1. The Program; Purpose; Scope; Authority

(a) The Wyoming Family College Savings Program, also known as the College Achievement PlanSM, is established pursuant to W.S. 21-16-801 through W.S. 21-16-808, as repealed, re-enacted, amended and re-codified at W.S. 21-16-809 through W.S. 21-16-818.

(b) The Treasurer promulgates these Regulations in his capacity as the Trustee of the Trust and as the Program Administrator of the Program. The Treasurer expressly finds that these Regulations are necessary to administer the Act and to ensure that the Program is in compliance with Section 529. To the extent necessary to achieve such objective and the other purposes and objectives of the Act, the Treasurer expressly exercises the authority vested in W.S. 21-16-813(c)(viii) to interpret the provisions of the Act in these Regulations.

(c) Generally, these Regulations are promulgated in accordance with W.S. 21-16-813(b) and pursuant to the Wyoming Administrative Procedure Act and the Wyoming Administrative Regulation Review Act. In addition:

(i) Those portions of Section 4 relating to the opening of accounts, account application contents and minimum account contributions are promulgated in accordance with W.S. 21-16-815(a);

(ii) Section 4(b)(iv) (relating to account contributions and methods of contributions) is promulgated in accordance with W.S. 21-16-815(b);

(iii) Section 6 (relating to account withdrawals and holds on withdrawals) is promulgated in accordance with W.S. 21-16-815(c);

(iv) Section 4(b)(v) (relating to changes in designated beneficiaries and rollovers) is promulgated in accordance with W.S. 21-16-815(d), W.S. 21-16-815(e) and W.S. 21-16-815(f);

(v) Sections 4(b)(iv)(F) and 4(b)(vi) (relating to prevention of Excess Contributions) are promulgated in accordance with W.S. 21-16-815(q); and

(vi) Section 9(d) (relating to disclosures on certain transactional documentation) is promulgated in accordance with W.S. 21-16-816(c).

CHAPTER I

Real Estate Mortgages

The reason for adopting these rules is to facilitate the investment of up to \$100,000,000 of certain permanent funds of the state in real estate mortgages pursuant to the provisions of W.S. 9-7-1001(d).

Section 1. Authority.

The State Treasurer, pursuant to W.S. 9-7-1001(d) adopts the following rules governing the investment of permanent funds of the state in real estate mortgages.

Section 2. Definitions.

(a) "Conduit Pass-Through Certificate" means undivided fractional interests in a pool of residential mortgage loans meeting the requirements for eligibility of mortgages to be purchased by the State Treasurer which are originated by Financial Institutions which qualify for origination of mortgages.

(b) "Issuer" is the entity which assembles pools of mortgages for investment by the state. Issuer must:

(i) Underwrite and qualify originators prior to assembling pool.

(ii) Assemble lender commitments.

(iii) Issue insured mortgage pass-through certificates.

(iv) Act as master servicer and monitor performance of sub-servicer according to stipulations of pooling and servicing agreement.

(c) "Originator" is the mortgage lender as defined in W.S. 97-1001(d).

Section 3. Form of Investment.

(a) Whole mortgage loans shall be converted to conduit passthrough certificates as defined in Section 2.a.

(b) Mortgages shall be conventional mortgage loans, not guaranteed or insured by a government agency. They shall be insured by a private mortgage insurer.

(i) Mortgages shall be for loans secured by permanent mortgages on single family dwelling units, including individual condominiums and townhouses.

(ii) Graduated payment loans may be permitted with the consent of the Issuer.

(iii) No mortgage loan which is a part of the conduit pass-through certificate shall contain any provision permitting escalation of the interest rate upon sale by the mortgagor and assumption of the mortgage by a qualified person.

(c) The issuer of the conduit pass-through certificate must agree to service the mortgage loans and make monthly payments of collections of principal and interest thereon to the State Treasurer as a certificate holder, and in the event of default of the mortgage loan, as part of its servicing responsibility, be responsible for the collection of the debt secured by the mortgage.

(d) The servicing obligation of the issuer shall be carried out through the respective originators of the mortgage loans by virtue of servicing agreements between the issuer and originators whereby the originators agree to perform the aforescribed responsibilities of the issuer.

(e) The State Treasurer shall purchase from the issuer ninety percent (90%) of the total amount of the face value of the conduit pass-through certificate.

(f) Each originator shall purchase a conduit pass-through certificate in an amount equal to ten percent (10%) of the face value of all mortgages originated by it and converted to such certificates.

Section 4. Issuer.

(a) The State Treasurer shall designate and approve the issuer for the conduit pass-through certificates.

(b) The conduit pass-through certificates will be purchased from the issuer under a forward commitment from the State Treasurer. The issuer will purchase mortgage loans to be originated by eligible originators. No additional commitment shall be made until the current commitment period has expired.

Section 5. Originators.

(a) Eligible originators must meet the requirements as specified under W.S. 9-7-1001(d), must meet the requirements to be approved by the issuer, and must be willing to originate loans to mortgagors who qualify under Section 6 of these rules.

Section 6. Eligible Mortgagors.

(a) Mortgage loans may be originated for loan applicants who:

(i) Earn a gross family income of not more than \$35,000 per year;

(ii) Are purchasing a new or existing personal residence with a total purchase price not to exceed \$80,000.

Section 7. Fees.

(a) Originators shall be entitled to a servicing fee of 37.5 basis points per annum under contract with the issuer.

(b) Issuer shall be entitled to a fee of 25 basis points per annum for insurance services and guarantee of timely payment of principal and interest.

(c) A commitment fee, to be paid by originator to issuer, shall be established by State Treasurer at the time that the forward commitment is made, and shall not exceed one percent (1%), which fee may be charged by originator to the applicant.

(d) Originator may charge loan origination fee of applicant in any amount not to exceed one and one-half percent (1 1/2%).

(e) In case of loan assumption, an assumption fee may be charged of qualified applicant by originator in an amount not to exceed one percent (1%).

CHAPTER I
THE WYOMING LINKED DEPOSITS ACT
RULES AND REGULATIONS

The reason for adopting these rules is to set forth procedures to be followed by the State Treasurer and the Director of the Department of Audit in the investment of \$175,000,000.00 of funds of the state of Wyoming in deposits in the financial institutions of the state of Wyoming which will be linked to business and agricultural loans made to operators in the state of Wyoming. These rules and regulations are pursuant to the provisions of W.S. 9-4-832.

Section 1. Authority.

(a) The State Treasurer and the Director, pursuant to W.S. 94-832 and W.S. 16-3-101, et seq., adopt the following rules governing the investment of state funds in linked deposits.

(b) This chapter, and the act under which it is adopted, establish a deposit program only. The state's participation in this program in no way constitutes a credit evaluation of the borrower by the state, nor does it place the state in the position of a lender. Any deposit made by the state which is linked to a business or agricultural loan shall not constitute nor give rise to pecuniary liability of the state or a charge against its general credit or taxing powers.

Section 2. Definitions.

(a) "PCA" is the abbreviation for any Production Credit Association, which can be any of the several offices that service loans for Wyoming borrowers under the auspices of the Farm Credit System and through one of the Farm Credit Banks of the System.

(b) "Lender" or "Originator" means the approved depository or PCA office in the state of Wyoming originating the loan.

(c) "Treasurer" means the duly elected and qualified Treasurer of the state of Wyoming or the person then acting in that capacity, pro tem.

(d) "Borrower" means any business or agricultural operator who qualifies under the program who makes application for a loan based on a linked deposit.

(e) "Linked Deposit" means a deposit made by the state of Wyoming in an approved depository which is linked to a business or agricultural loan, and includes an investment made in a bond or debenture issued under special terms by the Farm Credit Administration. Whenever the Treasurer has a valid repurchase agreement contract in place with an approved depository, "linked deposit" can mean a linked repurchase agreement.

(f) "Board of Deposits" means that entity created by W.S. 94-801 comprised of the Governor, Secretary of State, and State Treasurer.

(g) "Approved Depository" means any bank or savings and loan institution that has filed a written application for deposit of public funds and has been so approved by the Board of Deposits.

(h) "Insider Transaction" means a loan to an officer, director, or employee of the originator or to any corporation or partnership in which its officers or directors have a financial interest.

(i) "Job" means a full-time job or full-time equivalent position, the holder of which is paid a salary or hourly wage, subject to federal income tax and social security tax withholding requirements. The term "full-time equivalent" means two or more part-time jobs which, when combined, would receive the same pay as a single full-time employee earns.

(j) "Director" means the director of the newly created Wyoming Department of Audit.

Section 3. Allocation of Funds.

(a) Allocation of linked deposit funds to specific loans shall be on a first-come, first-serve basis.

(b) Whenever all authorized linked deposit funds are in place, the Treasurer will maintain a waiting list of approved applications to be funded in the same order as their approval.

(c) Allocation of funds to the Farm Credit System shall be negotiated periodically and made by prearranged purchase of a dual rate special Farm Credit System bond of a specific amount and maturity. The allocation to specific PCA offices will be normally handled by the Farm Credit Bank of Omaha, Nebraska.

Section 4. General Provisions.

(a) The originators/lenders of linked deposit loans must be approved depositories as defined in Section 2 of these rules, or a lending office of the Farm Credit System.

(b) All loans under the linked deposit program shall be fixed rate for the term of the loan.

(c) No loan or deposit shall have a maturity exceeding five (5) years, but a loan may be renewed for an additional five (5) year period at the discretion of the Treasurer. In the case of Wyoming financial institutions, the interest rate paid on the deposit by the financial institution shall be re-set by the Treasurer at the time of the renewal of the loan, and the rate for Farm Credit System loans will be dependent on the Federal Farm Credit bond rate existing at the time of the state purchase of the special dual-rate Farm Credit System bond (see Section 3(c) and Section 12).

(d) The amount of the interest rate reduction to the borrower and the interest rate reduction on the state deposits shall be the same, and shall be no more than three (3) percentage points with the rate paid to the state being no less than three percent (3%).

(i) For loans, the interest rate reduction shall be applied to the market lending rate of the lender for the type of loan concerned, and the rate shall be reduced by the interest rate reduction on the state deposit up to three (3) percentage points less than the market lending rate on the day of the commitment by the Treasurer's office. The market lending rate for any particular loan is determined solely by

the lender and is not in any way determined by the deposit interest rate. In the situation where a lender does not have a clearly defined market rate, the linked deposit lending rate will be no more than the five (5) year U.S. Treasury bill rate as of the date the loan is made plus five (5) percentage points minus the interest rate reduction on the state deposit up to three (3) percentage points of the linked deposit subsidy. The lender may request approval from the Treasurer for a higher rate because of extenuating circumstances, and the Treasurer may approve such a variance.

(ii) For deposits in Wyoming financial institutions, the interest rate paid shall be based on the bond-equivalent yield of the U.S. Treasury note of the same or nearest maturity, but shall in no case be less than three percent (3%). For the Farm Credit System, the rate is based on the current Federal Farm Credit bond rate (see Section 12).

(e) Loan participation is limited to a maximum of \$750,000.00 per borrower. The Treasurer shall have authority to adjust this amount at any time to a different amount per borrower in order to manage the funds allocated by the legislature.

(f) In the case of a borrower who is an individual linked deposit borrower and also a partner in a partnership or is a stockholder in a corporation which has a linked deposit loan, the total dollar amount of all loans together shall not exceed the limit set by paragraph 4(e) above.

(g) As loans are paid off and deposits returned to the state treasury, the Treasurer shall make those funds available to financial institutions up to the amount authorized by the legislature.

(h) All of the risk in granting a loan is assumed by the originator/lender. The state of Wyoming is in the business of making deposits, not loans, and the state does not guarantee or assume any responsibility for the loans made under the program.

(i) No loans under this program shall be made to an officer, director, or employee of the originator or to any corporation or partnership in which its officers or directors have a financial interest.

(j) No loans shall be made if at any stage of the procedure it is determined by the lender that a purpose of the loan is to allow the borrower to speculate on the market rate of invested funds.

Section 5. Eligible Borrowers.

(a) To be eligible for a loan based on a linked deposit under this program, the borrower must have a business or agricultural enterprise located and operated in the state of Wyoming or must be planning to start a business or agricultural enterprise within the state of Wyoming, and must use the loan for that business or agricultural enterprise. In the case of an agricultural enterprise that is operated across state lines, a majority (51% or better) of the operation must be located or carried out in Wyoming.

(b) A corporation or partnership that meets the requirements of this section shall be qualified for a linked deposit loan.

(c) In addition to the loan requirements of these rules and of the Wyoming Statutes, an originator/lender may set additional credit criteria that a borrower must meet in order to receive the loan.

Section 6. Qualifying of Borrowers by Job Creation or Job Preservation.

(a) To qualify for a linked deposit loan, a borrower must be operating or starting a business or agricultural enterprise which will either create new jobs or preserve jobs that would otherwise be lost if the loan at the reduced rate was not made.

(b) The job created or preserved must be a full-time job.

(c) In the case of part-time or seasonal jobs, the jobs created or preserved must be equal to at least one (1) full-time equivalent.

(d) The hiring of seasonal workers that are normally hired each year in an operation does not constitute new job creation.

(e) One job must be created or preserved for each \$150,000.00 or part thereof principal amount of loan made under this program (i.e., for one job created or saved the loan amount could be from \$1.00 to \$150,000, for two jobs \$150,001 to \$300,000, and so on, up to the maximum range of \$600,001 to \$750,000, which would require at least five (5) jobs to be created or preserved).

(f) Jobs preserved must be actual jobs that will be lost if the loan is not made at the reduced rate, and in the case of a single proprietorship in which only one job is involved, the business would have to be in danger of failing before a linked deposit loan can be made.

(g) Whenever a borrower qualifies for a linked deposit loan, the originating lender will furnish a letter to the Treasurer representing that they have the following information in their files:

(i) Last three (3) years' income tax returns (in the case of an existing business).

(ii) Pro forma financial data.

(iii) A current financial statement from the borrower.

(iv) A written business plan describing intended use of the proceeds and explain how that usage creates or preserves jobs.

(v) Copies of any existing state and federal unemployment tax returns for two (2) years prior.

(vi) Employer's tax identification number or social security number, as appropriate.

(vii) The letter will further represent that the lender has reviewed these documents and has determined that the lower rate loan is necessary to create or preserve jobs, and in a narrative form explain the reason for that determination.

Section 7. Letter of Certification by the Borrower.

A letter of certification must accompany each linked deposit application, and the application must be received and approved by the Treasurer's office before a linked deposit loan is committed or made, both in the case of Wyoming financial institutions or PCA offices. The letter of certification must be prepared and signed by the borrower attesting to the following information:

(a) Job creation:

(i) The number of jobs being created.

(ii) A brief title and/or the job description of the jobs being created.

(iii) The time frame in which these jobs will be created and indicating whether the jobs created are part-time or full-time and the total number of full-time equivalent jobs created.

(b) Job preservation:

(i) The number of jobs being preserved.

(ii) The title and/or job description of the jobs being preserved.

(iii) The name of the individual now holding the job being preserved.

(iv) The time frame in which this job will be lost if the linked deposit loan is not granted and indicating whether the jobs being preserved are part-time or full-time and the total number of full-time equivalent jobs being preserved.

(v) A statement certifying that without the linked deposit loan full-time equivalent jobs would be lost.

Section 8. Competition.

W.S. 9-4-832(f) prohibits making a linked deposit loan if it will create an unfair business advantage over an existing competing business in the local community. In order to implement this provision, the lender shall follow the following procedure:

(a) When a linked deposit loan application is made in a situation in which it is clear no unfair competition to an existing business in the community would be created, then the lender shall so certify to the Treasurer in writing and may proceed with processing the application in accordance with these rules.

(b) If the lending financial institution believes that an unfair business advantage may be created if the loan were to be granted, the lender shall, at the applicant's expense, publish notice of the application once a week for two consecutive weeks in a newspaper of general circulation in the community where the business is located. Form of the notice shall be provided to lending financial institutions by the Treasurer and the Director. Proof of publication shall become a part of the loan file. The

notice shall advise of the lender's intent to place the linked deposit loan and shall notify any person objecting to the loan to make his objection known in writing to the Wyoming State Treasurer, State Capitol, Cheyenne, Wyoming, 82002, stating his reason for this objection to the linked deposit loan and sending a copy of the letter to the lender.

(c) The person objecting to the loan must do so within ten (10) days after the date of the second publication of notice by the lender. Objections must show how the objector will be placed at an unfair competitive disadvantage if the applicant receives the linked deposit loan.

(d) When objections to a loan are received by him, the Treasurer shall investigate the competitive circumstances in the local community as they relate to the proposed loan, and no sooner than fifteen (15) days and no later than thirty (30) days after the second publication of notice by the lender, the Treasurer shall determine whether the loan grants the borrower an unfair business advantage as contemplated by the statute and advise the lending financial institution and the persons objecting to the loan whether the borrower qualifies for a linked deposit loan.

(e) If there is no objection to the loan application made within the time provided, the borrower may be deemed to be qualified for the linked deposit loan.

(f) For purposes of this section, it is deemed that farm and ranch operations are not in competition with one another.

(g) Local community is defined as an area served by a common post office and its branches.

Section 9. Reporting Requirements.

The following information is required by the Treasurer and must be supplied by the Wyoming depository institution as specified in Section 11 or by the Farm Credit System as specified in Section 12:

- (a) Borrower's name and principal county of his operation.
- (b) Loan amount and the number of jobs affected by the loan.
- (c) Loan rate and terms.
- (d) Collateral.
- (e) Length of time the lender and borrower have done business together and any other lender with which that borrower has also done business in the previous five (5) years.
- (f) Purpose of the loan with a description of the business or enterprise.
- (g) Relationship of the borrower, if any, with the financial institution.
- (h) Certification that the loan is not an insider transaction as defined in Section 2(h) of these rules.

(i) Certification that the borrower acknowledges that the loan information is public.

(j) Certification by the borrower and information from the lender that jobs are being created or preserved, as specified in Section 6(g) of the rules.

(k) When a linked deposit maturity exceeds one (1) year, the borrower, through the lender, will submit an annual report containing:

(i) Number of full-time employees before linked deposit.

(ii) Number of full-time employees originally anticipated upon receipt of linked funds.

(iii) Number of full-time employees currently employed.

(iv) A statement that the business continues to meet qualifications for a linked deposit or explaining deficiencies in employment relating to qualifying requirements for a linked deposit.

(l) Whenever the borrower ceases to qualify for a linked deposit loan, as indicated by the annual reports required in this section, the Treasurer shall notify the borrower such determination has been made. Upon receipt of such notice, the borrower shall have a forty-five (45) day period to submit to the Treasurer an explanation and a request for consideration to continue the linked deposit.

Section 10. Annual Report to Legislature.

Annually on or before January 1st, the Treasurer shall compile from the information contained in Section 9 a single report for submission to the legislature which shall include at least the following information:

(a) Name of each borrower.

(b) Loan amount.

(c) Use of the proceeds of the loan.

(d) Number of jobs affected by the loan.

Section 11. Rules of Procedure for Wyoming Depository Institutions.

(a) Each loan applicant must first be qualified in accordance with the provisions of Section 6 of these rules; and the letter from the lender required by Section 6(g), and the letter of certification by the borrower, as required by Section 7 of these rules must be received and approved by the Treasurer.

(b) The Treasurer will make a deposit with the financial institutions originating the loan, and the amount of the deposit shall be the same amount as the loan amount or the total of principal balance outstanding in a pool of participating loans.

- (c) Separate contracts will be issued for each deposit made.
- (d) The Treasurer will not make a linked deposit prior to the placement of the loan. The deposit will be made simultaneously with the placement or following placement of the loan.
- (e) The Treasurer shall supply a form to the participating lender on which the lender will certify that the loan is either already in place or will be disbursed to the borrower immediately upon receipt of the linked deposit.
- (f) Loans approved as a "line-of-credit" basis are not eligible for this program. The beginning loan value must be at the highest approved level.
- (g) No deposits will be made with lenders until the collateral is in place and a custody receipt is in the possession of the Treasurer. Collateral, as prescribed by W.S. 9-4-821, shall have a market value equal to one hundred percent (100%) of the amount of the deposit. No mortgages will be accepted as collateral for this program.
- (h) All deposits made under the program, regardless of the length of maturity, shall have interest due and payable to the Treasurer every six (6) months on the calendar day of the month that the deposit was made. Interest shall be computed on a 360-day basis using the actual number of days. When the date falls on a holiday, payment shall be made on the next business day.
- (i) Two (2) weeks prior to the interest due date of each deposit, the total of the principal balance outstanding shall be determined by the lender on the loan or loans which are the basis of each linked deposit, and on the interest due date, the lender shall remit to the Treasurer the difference between the deposit amount and the loan principal amount as of two (2) weeks prior, thus bringing together every six (6) months the loaned amount and the deposit amount.
- (j) On the interest due date, the amounts due under paragraphs (h) and (i) above shall be remitted by the lender to the Treasurer by wire transfer.
- (k) When a single business project is funded by multiple loans (conventional and linked deposit) it shall be a requirement that principal and interest paid shall be applied on a pro rata basis to all the outstanding loans.

Section 12. Rules of Procedure for Production Credit Association.

- (a) Before any linked deposit loan is funded by a PCA office at the reduced interest rate, the application and supplemental agreement form of the Farm Credit District along with the letter from the lender required by Section 6(g) of these rules and the letter of certification by the borrower, as required by Section 7, must be received and approved by the Treasurer.
- (b) The Treasurer shall make a determination of the initial allocation of funds for the Farm Credit System and shall purchase a special bond structured specifically for this program and to provide the following:

(i) The face amount of the bond shall be for the full amount of the initial investment and shall be at the market rate of interest on the date the bond is purchased and of a maturity date to correspond to the maturity of the loans to be placed, up to a maximum of five (5) years.

(ii) The bond shall provide that a dual rate of interest will be paid by the Farm Credit System to the state of Wyoming. The initial rate at purchase shall be the market rate, but as loans are added to the program, a portion of the outstanding face amount of the bond shall be determined daily and subject to a reduced rate of interest of up to three (3) percentage points with the rate paid to the state being no less than three percent (3%).

(iii) The Farm Credit Bank shall make a daily determination of the total principal amount of loans that have qualified under the program and shall issue a certificate every six months showing to what extent the proceeds of the bond have been used under the program. The interest rate reduction of Section 12(b)(ii) will be applied to that principal amount certified. The interest rate reduction given by the state on the Farm Credit bond shall be the same number of percentage points as the reduction given to the borrowers of PCA loans.

(iv) As PCA loans that have participated in this program are paid off by borrowers, the principal amount of each loan paid off shall be deducted from the principal balance that carries the reduced rate of interest.

(v) The Farm Credit Bank shall periodically furnish to the Treasurer certificates which include all of the information specified in Section 9, and which indicate what loans have been added as qualifying loans and which loans have been reduced or paid off under the program.

Section 13. Penalties and Audits.

(a) If a borrower or a lender makes a false statement in order to obtain a linked deposit loan, the Treasurer has the right to impose any combination of the following penalties:

(i) Call the deposit immediately.

(ii) Charge a penalty rate of interest from the date of deposit that is five (5) percentage points above the rate quoted on the linked deposit. The five (5) percentage point differential is composed of the three (3) percentage point subsidy plus a two (2) percentage point penalty fee.

(iii) Prohibit a lender or borrower from participating in the linked deposit program.

(iv) Limit the amount of participation of any lender or borrower by restricting the dollar volume.

(b) When complaints of alleged non-compliance with these rules are received by the Treasurer's office, they will be forwarded to the Director. Together, the two agencies shall evaluate the allegations and determine a course of action.

(c) In addition to the follow-up on complaints referred by the Treasurer, the Director shall audit a sample of loans each year. That sample will be selected using statistically reliable random sampling techniques. All financial records of both the lender and the borrower which provide information relevant to the linked loan shall be made available for these audits. Results of these audits shall be reported to the Treasurer by specifically identified loans.

Section 14. Leaking Underground Storage Tanks.

Pursuant to W.S. 9-4-832, the State Treasurer is authorized to invest funds not to exceed twenty-five million dollars (\$25,000,000) for modification or replacement of underground storage tanks or cleaning up pollution caused by leaking underground storage tanks under W.S. 9-4-832(h). Should the conditions be met and an application be submitted, the following rules will apply:

(a) For purposes of this section, "site remediation" shall be defined as the modification or replacement of underground storage tanks or cleaning up pollution caused by leaking underground storage tanks.

(b) A Wyoming Linked Deposit Loan Application will be submitted to the Treasurer clearly indicating a business linked deposit request for site remediation.

(c) A written estimate will accompany the application from a contractor capable of completing the site remediation, or a bill from a contractor who has already completed the site remediation.

(d) The amount of the loan will not exceed the estimate or actual bill.

(e) Section 6 and Section 8 of these rules and regulations does not apply to this section. All other sections remain in force except as modified in this section for site remediation.

(f) The applicant shall notify the Department of Environmental Quality/Water Quality Division of any modifications. The applicant shall so notify the Department by certified letter and shall provide a copy of that letter with the Wyoming Linked Deposit Loan Application.

(g) All site remediation funded by linked deposits authorized pursuant to W.S. 9-4-832 shall be inspected and approved by the Department of Environmental Quality/Water Quality Division.

Section 15. Prior Rules Repealed.

All prior rules dealing with linked deposit loans are hereby repealed.

CHAPTER 1

LOCAL INVESTMENT POOL

The reasons for adopting these rules is to set forth procedures to be followed by the State Treasurer for the operation of a local investment pool, pursuant to the provisions of W.S. 9-1-416.

Section 1. Authority

The State Treasurer, pursuant to W.S. 9-1-416 and W.S. 16-3-101, et seq., adopts the following rules for the operation of a local investment pool.

Section 2. Definitions.

- (a) "Pool Administrator" is the Wyoming State Treasurer.
- (b) "Pool Participant" shall be any county, municipality, school district, or any other local governmental entity.
- (c) "Investment Pool" or "Pool" is a common fund maintained by the pool administrator consisting of deposits from pool participants.
- (d) "Undivided Interest" is a proportionate share of all assets of the investment pool taken together as a whole and not separated out into parts.

Section 3. Form of Investment.

- (a) The investment pool shall have separated accounts maintained for each pool participant, but all monies will be co-mingled for investment purposes.
- (b) All participants will have an undivided interest in the pool.
- (c) No separate investments will be made for any pool participant.
- (d) No pool participant shall have a claim on any specific asset of the investment pool but shall have an undivided interest based on the proportion of that participant's cash balance as a percentage of the total cash balance of the investment pool.
- (e) Separate accounts will be maintained for each political entity.
- (f) Participant funds will not be co-mingled with State funds.

Section 4. Income Distribution

- (a) All income earned by the pool will be distributed to participants.
- (b) Income will be calculated on each entity's average daily cash balance in the pool.

(c) Interest will be calculated and credited to the principal of each account during the month following that in which it was accrued. Each participant will have the benefit of daily compounding of interest regardless of the date in which his account balance is adjusted and reported.

Section 5. Transaction Amount.

(a) The minimum transaction size for deposit to or withdrawal from the pool will be five hundred dollars (\$500.00).

(b) A maximum transaction size may be set by the State Treasurer based on the total pool size and other situational conditions.

Section 6. Pool Transfers—Deposits to, Withdrawals from.

(a) All deposits may be made by warrant, ACH or wire transfer

(i) Deposits made by warrant will be credited to the entity on the day received but cannot be invested until funds are collected. Mail delays and collection time delays should be considered when transmitting warrants.

(ii) Withdrawals made by wire transfer or by Automated Clearing House (ACH) will be available on the day of transfer.

(b) All costs of wire transfers will be borne by the entity making the deposit to the investment pool.

(c) The State Treasurer will supply complete wire instructions for deposits to the investment pool. Each political entity must provide complete wire or ACH instructions for withdrawals.

(d) All deposits or withdrawals will be confirmed in writing by the State Treasurer.

Section 7. Notice of Withdrawal.

(a) All notices of withdrawal must be received by the State Treasurer's Office prior to ~~11:00 a.m.~~ 2:00 p.m. on the day preceding the day of withdrawal. Requests may be made in writing, by telephone, or by fax. In the case of a telephone request, the request must be confirmed in writing.

Section 8. Reporting Requirements.

(a) All deposits or withdrawals will be confirmed in writing to the pool participant.

(b) Cash balances will be reported monthly.

(c) An interest earnings statement will be provided monthly.

(d) The State Treasurer will respond to all audit confirmations as received.

(e) The State Treasurer will respond to phone inquiries from pool participants.

CHAPTER 1

LOCAL INVESTMENT POOL

The reasons for adopting these rules is to set forth procedures to be followed by the State Treasurer for the operation of a local investment pool, pursuant to the provisions of W.S. 9-1-416.

Section 1. Authority

The State Treasurer, pursuant to W.S. 9-1-416 and W.S. 16-3-101, et seq., adopts the following rules for the operation of a local investment pool.

Section 2. Definitions.

- (a) "Pool Administrator" is the Wyoming State Treasurer.
- (b) "Pool Participant" shall be any county, municipality, school district, or any other local governmental entity.
- (c) "Investment Pool" or "Pool" is a common fund maintained by the pool administrator consisting of deposits from pool participants.
- (d) "Undivided Interest" is a proportionate share of all assets of the investment pool taken together as a whole and not separated out into parts.

Section 3. Form of Investment.

- (a) The investment pool shall have separated accounts maintained for each pool participant, but all monies will be co-mingled for investment purposes.
- (b) All participants will have an undivided interest in the pool.
- (c) No separate investments will be made for any pool participant.
- (d) No pool participant shall have a claim on any specific asset of the investment pool but shall have an undivided interest based on the proportion of that participant's cash balance as a percentage of the total cash balance of the investment pool.

(e) Separate accounts will be maintained for each political entity.

(f) Participant funds will not be co-mingled with State funds.

Section 4. Income Distribution

- (a) All income earned by the pool will be distributed to participants.
- (b) Income will be calculated on each entity's average daily cash balance in the pool.

(c) Interest will be calculated and credited to the principal of each account during the month following that in which it was accrued. Each participant will have the benefit of daily compounding of interest regardless of the date in which his account balance is adjusted and reported.

Section 5. Transaction Amount.

(a) The minimum transaction size for deposit to or withdrawal from the pool will be five hundred dollars (\$500.00).

(b) A maximum transaction size may be set by the State Treasurer based on the total pool size and other situational conditions.

Section 6. Pool Transfers—Deposits to, Withdrawals from.

(a) All deposits may be made by warrant, ACH or wire transfer

(i) Deposits made by warrant will be credited to the entity on the day received but cannot be invested until funds are collected. Mail delays and collection time delays should be considered when transmitting warrants.

(ii) Withdrawals made by wire transfer or by Automated Clearing House (ACH) will be available on the day of transfer.

(b) All costs of wire transfers will be borne by the entity making the deposit to the investment pool.

(c) The State Treasurer will supply complete wire instructions for deposits to the investment pool. Each political entity must provide complete wire or ACH instructions for withdrawals.

(d) All deposits or withdrawals will be confirmed in writing by the State Treasurer.

Section 7. Notice of Withdrawal.

(a) All notices of withdrawal must be received by the State Treasurer's Office prior to 2:00 p.m. on the day preceding the day of withdrawal. Requests may be made in writing, by telephone, or by fax. In the case of a telephone request, the request must be confirmed in writing.

Section 8. Reporting Requirements.

(a) All deposits or withdrawals will be confirmed in writing to the pool participant.

(b) Cash balances will be reported monthly.

(c) An interest earnings statement will be provided monthly.

(d) The State Treasurer will respond to all audit confirmations as received.

(e) The State Treasurer will respond to phone inquiries from pool participants.

CHAPTER I INFORMATION PRACTICES

Section 1. Introduction.

These rules pertain to the confidentiality and security of records maintained by the State Treasurer's Office. With these rules and regulations, it is the intention of this agency to establish good practices in the handling of personal information entrusted to this agency for application to all agency personnel and to establish a procedure whereby an individual may have access to available public records subject to agency enabling legislation and to the Wyoming Public Records Law (W.S. 9-692-1 et. seq.) where not covered by said enabling legislation.

Section 2. Definitions.

(a) Access. A way or means of approaching, obtaining, using, etc.; the ability to obtain the information contained in a record.

(b) Agency. Any authority, bureau, board, commission, committee, or subagency or the state, county, municipality or other political subdivision which is created by or pursuant to the Wyoming Constitution, statute, or ordinance, other than the state legislature and the judiciary.

(c) Confidential. The status of personal information according to federal regulations, state statutes, executive order, or agency regulations that connotes some commitment to withhold from authorized users information obtained from an individual or institution.

(d) Disclosure. Providing an individual (other than those authorized access for routine use) the information contained in a record; the release or transfer of information through oral, written, or electronic means.

(e) File. Any aggregation of individual records gathered for a particular purpose and organized or indexed as a unit.

(f) Financial. Fiscal, relating to salary, benefits, profits, debts of and individual.

(g) Individual. Any man, woman, or child, or place of business or organization on whom an agency keeps records or maintains information.

(h) Interest. A right or claim to something; share or participation in something; advantage; welfare; benefit; importance; concern.

(i) Medical. Of or connected with medicine or the practice or study of medicine.

(j) Information. All information that describes anything about an individual such as identifying characteristic, measurements, or test scores; evidences things done by or to an individual, such as records of financial transactions, medical treatments, or other services; any information that is or can be retrieved from a record of record-keeping system by reference to the name, number, or some other identifying feature associated with the individual to whom the information pertains.

(k) Privileged Information. Information that one cannot legally be compelled to divulge, as that to a lawyer from his client; information given with the stipulation that it shall not be divulged further.

(l) Psychological. Of the mind; mental.

(m) Public Interest. Something in which the public, the community at large, has some particular interest, or some interest by which their legal rights or liabilities are affected; interest shared by citizens generally in affairs of local, state or national government.

(n) Record. Any grouping of information about an individual that is maintained in the file of any agency or organization that contains a name or identifying number of symbol assigned to the individual used to make a decision about the rights, character, opportunities, benefits, or liabilities of the individual to whom the record pertains.

(o) Responsible Authority. Any office established by state law as the body responsible for the collection and use of any system of record on persons or summary data; the official involved, or if more than one state official involved, the official designated by the Director of Information Practices.

(p) Right To Know. Conferred upon specific individuals either by statute or jurisprudence to execute the statutory function of the information maintained.

(q) Right To Privacy. The individual's right to be left alone, to decide for himself how much he will share with others his thoughts, his feelings, and the facts of his personal life.

(r) Routine Use. The use of a record for the purpose for which it was collected according to statutory authority or agency regulation.

(s) Sociological. Having to do with the associated life of an individual; social identifiers relating to interaction with society.

(t) Statistical Record. A record maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual.

(u) Subject. An individual or legal entity about whom personal information is maintained in an information system.

(v) System Of Record. A group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol or other identifying particular assigned to the individual.

(w) Trade Secrets. A plan or process, tool, mechanism, or compound known only to its owner and those of his employees to whom it is necessary to confide it; a secret formula or process having commercial value.

Section 3. Disclosure.

Records that are determined by this agency to be public records shall be available for inspection to all inquiries without regard to intended use or purpose during normal business hours of the agency. Records that are determined by the agency to have a confidential classification shall not in any event be communicated to any person who is not the subject of the record unless the subject provides written consent for this agency to disclose such confidential record to any other person or organization. Some records may not be disclosed in any event as specifically covered by the Wyoming Public Records Law.

Section 4. Request For Access.

The individual has the right to know what information state government maintains on him. Subsequently this agency is obligated to allow a person in interest to have physical access to the contents of a record on him subject to restrictions imposed by Wyoming Public Records Act, (W.S. 9-692-3) and to receive copies of such data at this own expense for his personal possession. The agency reserves the right to make the determination as to whether agency records do contain information that pertains to the individual. When denying access to any record, the responsibility authority will inform the requester of the statutory basis for denial of access in accordance with Chapter III of these Rules and Regulations. The person in interest may, pursuant thereto, protest any such denial.

Section 5. Procedure for Access.

This agency shall respond to requests for access to a record within a reasonable time period, not to exceed thirty (30) calendar days, specifying whether access will be granted and the time, place, and circumstances of access. The person requesting access may be accompanied by another person of his or her choosing or may be represented by another person with his or her written approval. Access will be provided only during regular working hours. The original documents may not be removed from the agency. Copies of the record may be provided at the requesters expense at reasonable cost to be determined by each agency. This agency shall request appropriate identification from the person in interest to be presented at the time of access when requesting confidential information.

Section 6. Correction and Amendment

The person in interest has the right to bring to the attention of the responsible authority any erroneous, inaccurate, or misleading information that is contained in his record subject to access restrictions imposed by the Wyoming Public Records Act (W.S. 9-692-1 et. seq.). He or she shall have the right to correct or amend such inaccuracies with a written request to be corrected, the erroneous portion of the record, and the proposed amendment. Correction or amendment may be physical alteration of the record or by the inclusion of the individual "version" of the disputed data. All future use of the record shall include the individuals corrections or amendments. Refusal by the agency to allow correction, amendment or purging or a public record or of a confidential record to which the person in interest is allowed access will be grounds for a hearing as outlined in Chapter III of these Rules and Regulations.

Section 7. Personnel Records.

The individual who is an employee of this agency has the right to view his own employment application, and scholastic achievement data received as part of state employee training that is maintained within the personnel files of this agency. All of the contents of an individual's personnel file shall be available to the duly elected and appointed officials who supervise the work of the employee. Responses to inquiries concerning present or past employees of this agency shall be limited to employment dates and employment responsibilities. The gross annual salary of an employee may be given but only in a manner that affirms or denies the salary information in possession of the inquirer as when financial institutions or prospective employers call to verify information provided them by the former employee. Requests for recommendations of past employees shall be limited to the above information and an affirmative or simple negative response. This agency shall be prepared to fully document and defend any negative recommendations of a past employee, allowing the past employee if he requests, to receive a full written explanation of the negative recommendation. Further, this agency shall allow the past employee to enter his "version" of any facts surrounding his employment with this agency to be made available to any future employer upon his request with the written consent of the past employee.

Section 8. Maintenance of Records.

When soliciting information from an individual, this agency shall give the following notifications on the form used to solicit the information or on a separate form:

- (a) The statutory or administrative authority of federal regulation that allows this agency to solicit such information.
- (b) The purpose and uses for which the information is sought.
- (c) The public/confidential classification of the solicited information.

In addition, the agency shall:

- (a) Maintain any record that is used to make determinations about an individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual.
- (b) Not maintain any record on how an individual exercises his rights under the First Amendment of the U.S. Constitution.
- (c) Not maintain any system or records whose very existence is a secret from the public.
- (d) Establish physical safeguards and specific security policies for the protection of each system from burglary, misuse, or destruction.
- (e) Give timely notice to the Office of Information Practices when any new personal information system is added to the agency's operation or when there is any new routine use of an established system.

(f) Maintain all systems of personal information in a manner that is conducive to public inspection and access subject to enabling legislation and to the Open Public Records Law.

(g) Maintain only that information about an individual necessary to accomplish the agency's purposes as authorized by statute.

(h) Collect information to the greatest extent possible directly from the individual who is the subject of the record.

Further, this agency shall give the following annual notification to the Office of Information Practices for each personal information system maintained:

- (i) The title and location of the system.
- (j) The major data elements of the system.
- (k) The statutory authority for the classification and collection of information.
- (l) The title, business address, and phone number of the responsible authority for the system.

Section 9. Mailing Lists.

Requests for names and addresses maintained by this agency will be refused unless the requester can prove to the satisfaction of the responsible authority and the Director of the Office of Information Practices that release of the information will promote the health and safety of the citizens of Wyoming. All requests for mailing lists shall be evaluated within thirty (30) days as to whether their request has been approved or denied. The requester may be required to complete an Agreement for Information form identifying the organization or person making the request. A copy of any material to be mailed and a guarantee that the names and addresses furnished will be used only for the stated purpose and will not be transferred to any other party or to a computerized data system will be forwarded to the Office of Information Practices prior to release. If the request for a mailing list is denied, this agency shall so inform the requester within thirty (30) days and the reasons for the refusal will be stated. Denial of permission to release will be grounds for a hearing under the provisions of Chapter III of these Rules.

CHAPTER 1
SMALL BUSINESS ASSISTANCE ACT
RULES AND REGULATIONS

The reason for adopting these rules is to set forth procedures to be followed by the State Treasurer in the investment of up to fifty million dollars (\$50,000,000.00) of permanent funds of the State of Wyoming in the federally guaranteed portion of Small Business Administration (SBA) business and industry loans, pursuant to the provisions of W.S. 9-4-701(e).

Section 1. Authority.

The State Treasurer, pursuant to W.S. 9-4-701(e) and W.S. 163-101, et seq., adopts the following rules governing the investment of permanent funds of the state in the federally guaranteed portion of Small Business Administration loans.

Section 2. Definitions.

(a) "Pooling Agent" is the entity which assembles pools of guaranteed loans for investment by the State.

(b) "Lender" or "originator" is the financial institution originating the loan.

(c) "Treasurer" shall mean the duly elected and qualified treasurer of the State of Wyoming, or the person then acting in that capacity, pro tem.

Section 3. Form of Investment.

The federally guaranteed portion of Small Business Administration loans shall be covered by a Secondary Participation Guaranty and Certification Agreement (SBA Form 1086).

Section 4. Pooling Agent.

(a) The pooling agent or agents must:

(i) Investigate, underwrite and certify that loans tendered to the State Treasurer satisfy all the criteria of law and of these rules.

(ii) Assemble lender commitments.

(iii) Act as servicer and monitor performance of the originating financial institution according to provisions of the pooling and servicing agreement entered into between the pooling agent and the Treasurer.

(b) The pooling agent or agents must agree to service the guaranteed portion of the loans and make monthly payments of collections of principal and interest thereon to the Treasurer, and in the event of default on the guaranteed portion of any such loans, as part of the servicing responsibility, be responsible for its collection.

(c) The servicing obligation of the pooling agent or agents shall be carried out through the respective Small Business Administration qualified Wyoming financial institutions by virtue of servicing agreements between the pooling agent and the Treasurer whereby the pooling agent agrees to perform the responsibilities of the pooling agent, for the fee set forth.

(d) No purchase of loans shall be made in increments of less than three hundred thousand dollars (\$300,000.00).

Section 5. Issuer.

(a) The State Treasurer shall designate and approve the pooling agent or agents for this investment program.

(b) Blocks of loans will be purchased from the pooling agent at regular intervals, not more frequently than monthly. The pooling agent will assemble loans for purchase by the State Treasurer.

Section 6. Originators - Lenders.

The originators of any such loans shall be lending institutions authorized to do business within the State of Wyoming and must meet the requirements to be approved by the Small Business Administration and must be willing to originate loans to qualified business borrowers who qualify under Section 7 of these rules.

Section 7. Eligible Borrowers.

The funds to be made available for loans under this section shall be granted for businesses which are located within the State and provide jobs for the citizens of Wyoming. All proceeds from the loans must be utilized to create or expand a business located within the state as prescribed by Section 8.

Section 8. Use of Proceeds.

The proceeds of the insured portion of any loan which is purchased by the State shall be used for:

- (a) Construction of a new plant;
- (b) Construction of an addition to or remodeling of an existing structure;
- (c) Purchase of new or additional structures or equipment, or both.

(d) Purchase of existing facilities which are to be remodeled or converted to a new purpose for a new enterprise which will create "jobs" as explained in Section 9.

(e) "Construction" means the building of a new building, or an addition to an existing building, or the remodeling of an existing structure. Construction may not have commenced prior to May 1, 1987. Construction of a new structure or an addition to an existing structure shall be defined as commencing with footings and foundations and progressing without interruption through the completion of the project as outlined in its specifications.

(f) For purposes of the May 1, 1987, starting date, construction shall not be construed to include acquisition of a building site, site clearance, land leveling, surveying, planning, architectural work, procuring of initial financing or any other expense incurred prior to the actual construction of the structure contemplated, or the installation of machinery or equipment, as the case may be, although such costs may be included in the funds for which such loan shall have been granted.

(g) "Equipment" means equipment to be purchased which may be new or used, but which does not include refinancing or repair of existing equipment.

(h) The borrower and the originating financial institution must demonstrate compliance with the requirement of the Small Business Assistance Act and these regulations.

(i) Loan proceeds may not be used for:

- (i) Refinancing existing debt;
- (ii) Purchase of an existing business;
- (iii) Working capital;
- (iv) Businesses whose principal activity is providing legal services, accounting services, professional engineering services, dental services, optometry services, ophthalmological services, architectural services, or medical services.

Section 9. Borrower's Qualifications.

To qualify under these rules, any loan made shall assure the creation of additional permanent jobs or preserve existing permanent jobs. For the purposes of this section:

(a) A permanent job shall mean a job which will offer employment to one or more persons projected to be continuous for at least two years. A job may employ two or more persons on a part-time basis resulting in equivalent employment for at least forty (40) hours per week on a continuous and permanent basis.

(b) A permanent job may be seasonal. A "seasonal job" is one which lasts throughout a seasonal business pattern but is projected to be repetitive for the same season of succeeding years, for at least two years.

(c) Preservation of existing employment shall mean that existing employment would be lost unless capital expenditures are made to sustain or continue the necessity for such employment.

(d) A self-employed person who wishes to construct a plant or purchase equipment but who is not immediately able to add new permanent jobs may qualify if he has been self-employed for less than two years and can demonstrate that new permanent employment will result from such expenditure within a period not to exceed two (2) years after granting of such loan by the lender.

Section 10. Allocation of Funds.

(a) No new investments pursuant to these regulations and W.S. 9-4-701(e) may be made after December 31, 1989, or such later date as may be established by the legislature.

(b) The State Treasurer may not purchase the insured portion of any qualified loan prior to May 1, 1987. Only loans approved by the Small Business Administration after May 1, 1987, are eligible for purchase.

(c) When a loan commitment is received by an applicant from the Small Business Administration, the loan rate of interest then in effect as established by the State Treasurer will be held for that applicant for 180 days. Extensions of the 180-day commitment period may be granted at the sole discretion of the State Treasurer. However, the total of all such extensions may not exceed 180 days.

(d) No loan shall be eligible for purchase by the State Treasurer unless the note or obligation secured by mortgage to the originator shall specifically provide that for the term of five years after the effective date of such loan, interest payable thereon shall not be in excess of a rate that is periodically set by the State Treasurer, plus an annual servicing fee not to exceed the total of all fees set forth by the State Treasurer in Section 11(a) of these rules. The interest rate after the five-year term shall be adjusted to the then current interest rate as required in the note and mortgage and as explained in Section 10(f) of these rules.

(e) In the event of default by the borrower, the interest rate to be charged during any period of default shall be the rate which is equal to one and one-half percent (1 1/2%) over the prime rate of Chemical Bank of New York, net to the State of Wyoming. The default rate will be the prime rate plus one and one-half percent (1 1/2%) as of the date the loan became in default.

(f) Commencing with the sixth year of the loan, the interest rate shall change to a new rate, fixed for the remaining term of the loan, which shall be one and one-half percent (1 1/2%) over the prime rate of Chemical Bank of New York, net to the State of Wyoming.

(g) Payment of any installment of principal or interest or multiples thereof then due and outstanding may be made prior to the maturity date thereof without penalty. There is no penalty for prepayment if prepayment is made by the borrower.

(h) The lender is prohibited from repurchasing any such loan or portion thereof.

(i) If the collateral for this loan should be sold or otherwise transferred, or any interest in the borrower is transferred at voluntary or judicial sale or otherwise, or if any part thereof should be so transferred and if the Wyoming State Treasurer does not agree to such transfer then the Wyoming State Treasurer shall have the right after reasonable consideration of said transfer, and 30 days after written notice of the State's refusal, to terminate the subsidized rate and the interest rate of the Note shall go to the rate equal to one and one-half percent (1 1/2%) over the prime rate of Chemical Bank of New York as the date of the notice, and shall remain at said rate for the balance of the term of the loan.

Section 11. Fees.

The total fee for servicing such loans, the collection of payments due thereunder and transmission thereof and accounting therefor to the State Treasurer, and the processing of delinquent loans shall never exceed one and five-tenths percent (1.5%) of the remaining principal amount of the loan, disbursed and accounted for. Below this limit, the State Treasurer shall determine the fees to be charged by loan originators and servicers.

(b) The originator may charge no origination fee other than the permissible loan guarantee fee permitted under Federal Rules and Regulations.

Section 12. Qualification of Loans to be Purchased.

(a) The insured portion of all such loans shall be purchased at par or face value of the principal amount then outstanding and no premium shall be paid or discount or other points shall be permitted.

(b) All notes shall specify a constant rate of interest, and no loans containing a variable or fluctuating rate of interest shall be purchased, except for the reduced rate of interest for the first five years, as provided in Section 10(d) of these rules.

(c) Both the originator of the loan and the pooling agent shall certify to the State Treasurer that both the borrower and the note and mortgage comply in all respects with the applicable statutes of the State of Wyoming and these regulations. If the pooling or servicing agent shall be originator of any such loan, then the qualifications of such loan to participate in this program shall be reviewed and certified by the Wyoming Investment Advisory Council as well as the lender and originator of such loan.

Section 13. Farmer's Home Administration (FmHA).

Any loans purchased from and guaranteed by the Farmer's Home Administration (FmHA) will be negotiated on a case by case basis by the State Treasurer. These loans will not be subject to pooling and will be purchased on an individual basis. All loans purchased must meet all statutory requirements and any other pertinent criteria set forth by the State Treasurer.

(d) The Treasurer, acting as the Trustee and as the Program Administrator, elects for the time being not to exercise the authority granted in the following sections of the Act: (i) W.S. 21-16-815(h) (relating to optional state penalties for non-qualified withdrawals); (ii) W.S. 21-16-815(o) (relating to transfers of accounts due to termination of a Program Management Agreement); and (iii) W.S. 21-16-815(u) (relating to authority of nongovernmental Account Owners).

Section 2. Definitions

(a) **Existing Definitions.** The following terms, as used in these regulations, are defined in W.S. 21-16-810: Account, Account Owner, Committee, Designated Beneficiary, Eligible Education Institution, Financial Institution, Member of the Family, Non-Qualified Withdrawal, Program, Qualified Higher Education Expenses, Qualified Withdrawal, Treasurer, Trust, and Trustee.

(b) **Additional Definitions.** The following definitions shall also apply to the Wyoming Family College Savings Program:

(i) Act means W.S. 21-16-801 through W.S. 21-16-808, as repealed, re-enacted, amended and re-codified at W.S. 21-16-809 through W.S. 21-16-818, as the same may be further amended from time to time.

(ii) Account Application Form means the form approved by the Program Administrator from time to time, as completed by an Eligible Participant to apply to the Program Administrator to establish an Account.

(iii) Account Owner includes the original Account Owner and each successive Eligible Participant to whom the original Account Owner or any subsequent Account Owner has transferred all of its right, title and interest in and to an Account, for which transfer the Program Manager has received and accepted a completed, executed Change of Account Owner Form.

(iv) Active Allocation Portfolio means a Portfolio the assets of which are invested in a combination of Underlying Funds, currently based on the ages of Designated Beneficiaries specified for such Portfolio (or, if so approved by the Program Manager and the Program Administrator, upon the anticipated date of intended use specifically identified by an Account Owner with respect to a Designated Beneficiary).

(v) Approved Allocation means the allocation of assets for a Portfolio as approved by the Program Administrator.

(vi) Approval Allocation Effective Date means the annual date as of which the Approved Allocation for a Portfolio is changed.

(vii) Broker means any individual or entity that is appropriately licensed to distribute to public investors interests in the Program and with whom the Program Administrator (either directly or by delegation to a Program Distributor), has entered into an agreement with respect to the distribution of Trust interests. This term also may include other Financial Institutions, such as, but not limited to, banks and investment advisers, and includes the Program Distributor with respect to Trust interests purchased directly from the Program by an Account Owner without the use of another Broker.

(viii) Business Day means each day on which the New York Stock Exchange is open for trading.

(ix) Cash means U.S. dollars.

(x) Change of Account Owner Form means the form approved by the Program Administrator from time to time, as completed by the current Account Owner to transfer all rights to ownership to a newly named Account Owner.

(xi) Change of Beneficiary Form means the form approved by the Program Administrator from time to time, as completed by the Account Owner to change the current Designated Beneficiary of an Account to a new Designated Beneficiary.

(xii) Code means the Internal Revenue Code of 1986, as amended, and the regulations from time to time promulgated thereunder, including the IRS Regulations.

(xiii) Contribution means Cash deposited into an Account for the benefit of a Designated Beneficiary.

(xiv) Contribution Maximum means the maximum amount that an Account Owner can contribute to an Account, as determined from time to time by the Program Administrator based upon a methodology which calculates such maximum amount on an annual basis using the cost of seven years of tuition, fees, books, supplies and equipment, and room and board at an Eligible Educational Institution selected by the Program Administrator.

(xv) Distribution Agent means any distribution agent employed by the Program Administrator (either directly or by delegation to a Program Distributor) and a Program Distributor pursuant to the Act or any successor provision thereto, and designated as such in a Distribution Agent Agreement.

(xvi) Distribution Agent Agreement means a written agreement between the Program Administrator (either directly or by delegation to a Program Distributor), and a Program Distributor selected by the Program Administrator under W.S. 21-16-813(c) to distribute interests in the Program represented by Accounts.

(xvii) Eligible Participant means an individual or any other "person," within the meaning of Section 529, eligible under the Act and the Code to participate in the Program. Eligibility shall be determined without regard to age, income level or residency of the Eligible Participant or of the Designated Beneficiary.

(xviii) Eligible Scholarship shall have the same meaning as in Section 529 of the Code.

(xix) Excess Contribution means that portion of a Contribution that would or does cause the total amount of all Contributions to exceed the Contribution Maximum.

(xx) Fixed Allocation Portfolio means a Portfolio the assets of which are invested in a combination of Underlying Funds, in accordance with a fixed asset allocation that does not change based on the ages of Designated Beneficiaries specified for such Portfolio.

(xxi) Incoming Rollover Form means the form approved by the Program Administrator from time to time, as completed by the Account Owner to contribute to the Account funds withdrawn from any Qualified Program other than the Program, a Coverdell Education Savings Account, or Series EE or Series I U.S. Savings Bonds.

(xxii) IRS means the Internal Revenue Service of the U.S. Department of the Treasury.

(xxiii) IRS Regulations means the regulations proposed by the IRS to be promulgated under Section 529, as published on August 24, 1998, at pages 45019 through 45032 in volume 63 of the Federal Register, or any successor regulations enacted or proposed by the IRS and which may be relied upon as effective or "safe harbor" regulations upon the direction of the IRS.

(xxiv) Net Asset Value means the aggregate value of the assets in a Portfolio, plus any receivables and less any liabilities of such Portfolio, divided by the number of outstanding Units of that Portfolio.

(xxv) Operating Account means the separate account so denominated and established in the Operating Fund in accordance with Program Management Agreements. The Operating Account is divided into and comprised of a Wyoming administrative fee subaccount, a penalty subaccount and such other subaccounts as may be established under the applicable Program Management Agreement to administer the Trust and the Program.

(xxvi) Operating Fund means that portion of the Trust not held in the Investment Fund.

(xxvii) Participation Agreement means the agreement between each original Account Owner and the Trust governing the Account Owner's Account, which agreement shall be

substantially in the form approved by the Program Administrator and the applicable Program Manager from time to time.

(xxviii) Portfolio means the subaccount established within the Investment Fund to which an Account is assigned, as determined in accordance with these Regulations.

(xxix) Program means the Wyoming Family College Savings Program, also known as the College Achievement PlanSM.

(xxx) Program Administrator means the Treasurer, acting in his capacity as the administrator of the Program.

(xxxi) Program Description means the complete disclosure document or set of documents describing the Program, including any supplement(s) thereto, each as amended from time-to-time, constituting an "official statement" within the meaning of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended, and the rules of the Municipal Securities Rulemaking Board and any successor to the applicable functions thereof.

(xxxii) Program Management Agreement means a written agreement between the Trust and a Program Manager that governs the manner in which the Program Manager is to receive and invest Contributions to Accounts and otherwise to serve as a Program Manager of the Program in accordance with the Act and these Regulations. If the Program Manager is not also the Transfer and Servicing Agent, then the Transfer and Servicing Agent shall also be a party to the Program Management Agreement.

(xxxiii) Program Manager means the financial institution or financial institutions selected by the Treasurer under W.S. 21-16-813(c)(vii) to receive and invest Contributions to Accounts and to serve as a Program Manager of the Program in accordance with the Act and these Regulations.

(xxxiv) Qualified Program means a "qualified tuition program," within the meaning of Section 529, including the Program.

(xxxv) Regulations means these Program Rules and Regulations, as amended from time to time.

(xxxvi) Rollover Contribution means a Contribution to an Account which is transferred to or deposited in the Account from (i) a Qualified Program other than the Program; (ii) a Coverdell Education Savings Account; or (iii) Series EE or Series I U.S. Savings Bonds.

(xxxvii) Rollover Distribution means a distribution or transfer from an Account which is transferred to or deposited in another Qualified Program other than the Program.

(xxxviii) Section 529 means Section 529 of the Code, and any rules or regulations by the IRS (or proposed by the IRS and upon which the IRS has instructed that Qualified Programs may rely), or any successor provision thereto, all as amended from time to time.

(xxxix) Series means a class of Units of a Portfolio.

(xl) State means the State of Wyoming, acting through its executive, administrative, legislative and judicial branches.

(xli) Transfer and Servicing Agent means the financial institution or financial institutions which, under W.S. 21-16-813(c), the Treasurer has retained, employed and contracted with to serve as the Trustee's agent for transferring funds to and from Accounts and for other Account servicing needs necessary to implement the Act. A Program Manager may also serve as a Transfer and Servicing Agent; otherwise the Transfer and Servicing Agent shall also be a party to the applicable Program Management Agreement.

(xlii) Underlying Funds means mutual funds, separate accounts, or investment securities or financial instruments in which assets of the Portfolio are invested.

(xliii) Units means full and fractional interests into which each Portfolio is divided and recorded as such by the Program Manager and Transfer and Servicing Agent applicable to such Portfolios.

(xliv) Withdrawal Request Form means the form approved by the Program Administrator from time to time, as completed by an Account Owner to effect a withdrawal from an Account.

Section 3. Program Structure

(a) The Trust. The Trust is comprised of an Investment Fund and an Operating Fund.

(i) Investment Fund. The Investment Fund initially receives all Contributions to Accounts made by Account Owners pursuant to Participation Agreements. The Investment Fund is invested in Underlying Funds.

(ii) Operating Fund. The Operating Fund is comprised of the Operating Account, which is divided into and comprised of a Wyoming administrative fee subaccount, a penalty subaccount and such other subaccounts as may be established from time to time by the Program Administrator or under the applicable Program Management Agreement to administer the Trust and the Program.

(b) Portfolios.

(i) General.

(A) The Investment Fund may be divided into one or more Portfolios, the Units of which may be further divided into one or more series, through which investment alternatives are made available. Each Portfolio is a separate, segregated account or portfolio of investments held in the Investment Fund.

(B) Every year, on or about December 1, the assets of each Portfolio will be rebalanced to conform to the Approved Allocation and the approved Underlying Fund(s) for such Portfolio. The Program Administrator may request a revision to the matrix of Underlying Funds at any time.

(C) If an Account Owner changes the Designated Beneficiary for an Account, then the Account may, at the Account Owner's option, be reassigned either to the Active Allocation Portfolio that corresponds to the new Designated Beneficiary's age (or, if so approved by the Program Manager and the Program Administrator, upon such other basis, including but not limited to upon the anticipated date of the intended use specifically identified by the Account Owner with respect to the current Designated Beneficiary) to another Fixed Allocation Portfolio, or to any other Portfolio option offered by the Program and described in the then current Program Description.

(D) The Program Administrator or the Program Manager may reject any (or limit the frequency of) changes of a Designated Beneficiary that an Account Owner may make if he believes that the Account Owner has submitted a change request primarily to avoid the limitations on the changes in Portfolio selection under federal tax law.

(i) Initial Portfolios. Contributions made to an Account on behalf of a Designated Beneficiary are invested in Units of one or more Series of one or more Portfolios based on an election on the Account Application (or other appropriate form) made by an Account Owner. Account Owners currently may select from among one or more Active Allocation Portfolio options and one or more Fixed Allocation Portfolio options for the investment of Contributions made to their Accounts. The terms, expenses, and sales charges as well as the availability of different Series of a Portfolio shall be as described in the then current Program Description.

(ii) Subsequent Portfolios and Series. The Program Administrator shall have the authority to increase or decrease the number of Active Allocation Portfolios or Fixed Allocation Portfolios and/or the number of Series of each such Portfolio and to create any additional Portfolios or Series the terms of which shall be as set forth in the then current Program Description, or to terminate or merge any existing Portfolios and/or Series. The Program Administrator shall have the right to alter the basis of assigning Accounts to Active Allocation Portfolios and, subject to receipt of satisfactory assurance that such reassignment would not disqualify the affected Accounts or the Program from treatment, for federal tax purposes, as described in the then current Program Description, to reassign existing Accounts for any reason he deems appropriate, including on the basis of the anticipated date of the intended use specifically identified by the Account Owner with respect to the current Designated Beneficiary.

Net Asset Value. The Program Manager will calculate a Net Asset Value for the Units of each Portfolio on each Business Day as of the close of trading on the New York Stock Exchange (or if trading on that Exchange becomes continuous, then as of 2:00 p.m. Cheyenne time) on that Business Day.

Section 4. Program Distribution and Participation

(a) Program Distribution. The Trust may offer through a Program Distributor, Distribution Agent, and any Broker, on such terms and conditions as may be approved by the Program Administrator from time to time participation in the Program through one or more Series as determined by the Program Administrator, to any Eligible Participant.

(b) Program Participation.

(i) Opening an Account. An Eligible Participant must complete an Account Application Form, which may incorporate the Participation Agreement, and any other documents required by the Trustee, the Program Administrator, the applicable Program Manager or the Eligible Participant's Broker. Completed Account Application Forms must be sent to the Eligible Participant's Broker. No Account shall be established until the applicable Program Manager has accepted account instructions and a copy of a properly completed and signed Account Application Form from the Broker. A separate Account is required for each Designated Beneficiary on whose behalf the Account Owner makes Contributions. Failure to include all information requested on the Account Application Form may result in rejection of the Account Application.

(ii) Entering into a Participation Agreement. Subsequent to or concurrently with opening an Account, an Eligible Participant must provide the information required by and agree to be bound by a Participation Agreement for each Designated Beneficiary on whose behalf the Account Owner intends to make Contributions. The Participation Agreement will contain the Account Owner's certification required by W.S. 21-16-815(q)(iii).

(iii) Assigning Accounts to Portfolios. The Program Manager will assign each Account to a particular Series of a Portfolio based upon information submitted by the Account Owner. If the Account Owner selects the Active Allocation Portfolio option, the Account will be assigned to the Active Allocation Portfolio corresponding to the Designated Beneficiary's age (or, if so approved by the Program Manager and the Program Administrator, upon such other basis, including but not limited to upon the anticipated date of intended use specifically identified by the Account Owner with respect to the Designated Beneficiary). If the Account Owner selects a Fixed Allocation Portfolio or other Portfolio option, the Account will be assigned to the Fixed Allocation Portfolio or other Portfolio selected by the Account Owner on the Account Application Form.

(iv) Contributions to an Account.

(A) Form of Contribution. Contributions must be made in Cash only, but may be made by check, draft or electronic funds transfer. Contributions may be made:

- (I) By lump sum payment;
- (II) Through installment payments;
- (III) By electronic funds transfer from an existing account of the Account Owner pursuant to an automatic, periodic deposit plan;
- (IV) By employer payroll deduction; or
- (V) By such other method as set forth in the then current Program Description.

In order for an Account Owner to make contributions by employer payroll deduction, the Account Owner's employer must be able to meet the Program Manager's and the Broker's operational and administrative requirements for qualified tuition program payroll Contributions.

(B) Amount of Contribution. The Program Administrator shall, by order filed in the Office of the Wyoming State Treasurer, set the minimum amount of initial and subsequent Contributions and the maximum allowable Contribution limit for all Accounts for a Designated Beneficiary. Such amounts shall also be set forth in the then-current Program Description. In the event of conflict between the amounts set forth in the order and in the Program Description, the amounts set forth in the order shall control. All such orders shall be publicly available in accordance with the Wyoming Public Records Act.

(C) Crediting of Contributions. The Program Manager generally shall credit Contributions to an Account as of the same Business Day after being accepted by the Program Manager, provided such Contributions are delivered to and accepted by the Program Manager by 2:00 p.m. Cheyenne Time on such Business Day, or upon such other Business Day as may be agreed to by the Program Administrator and the Program Manager and as set forth in the then current Program Description.

(D) Investing of Contributions. A Contribution is invested in Units of the Series, if any, of the Portfolio(s) designated by the Account Owner or assigned by the Program Manager and Program Administrator on the same Business Day as the crediting of the Contribution to an Account, or upon such other Business Day as may be agreed to by the Program Manager and the Program Administrator and as set forth in the then current Program Description.

(E) Accounting for Contribution. On the Business Day following the investment of a Contribution by the Program Manager, Units (or additional Units) of the Series, if any, of applicable Portfolio(s) will be reflected in the Account.

(F) Overfunding. When Contributions made by an Account Owner are determined to result in an Excess Contribution, the Excess Contribution (as so determined) will be returned to the Account Owner within such time period as set forth in the then current Program Description. All Accounts for the same Designated Beneficiary will be aggregated for purposes of determining the existence and amount of any Excess Contribution.

(G) Hold on Withdrawal of Newly-Contributed Funds: Returned Check Fees. Following receipt of Contributions by check, draft or electronic funds transfer, the Program Manager and the Account Owner's Broker are permitted to reserve the right, subject to applicable law, not to allow Withdrawals of those funds (or their equivalent) for up to fifteen (15) calendar days for checks and drafts, and up to six (6) business days for electronic funds transfers. The Program Manager or Broker may impose a fee on any check returned unpaid by the financial institution upon which it is drawn, which may be deducted from the Account.

(H) Rollover Contributions. Rollover Contributions to an Account must be accompanied by an Incoming Rollover Form or such other form as approved by the Program Administrator. An Incoming Rollover Form (or other approved form) must include all information the Program Manager and/or Program Administrator may require in order to process the Rollover Contribution in accordance with all requirements of the Program, including those specified in these Regulations and applicable federal tax law. The Incoming Rollover Form (or other approved form) must be accompanied by a statement from the administrator or manager of the Qualified Program from which the Rollover Contribution is made detailing the amounts of any earnings on contributions made to such other Qualified Program, together with such other information as the Program Administrator or Program Manager may require in order to identify amounts earned on contributions prior to the Rollover Distribution. Rollover Contributions to an Account may be subject to federal income tax and/or a penalty as required by current federal tax law. Reporting and payment of any such federal income tax or penalty shall be the obligation of the Account Owner.

(v) Changes to an Account

(A) Change in Designated Beneficiary. To change the Designated Beneficiary of an Account, the Account Owner must complete a Change of Beneficiary Form or such other form as the Program Administrator shall approve (and any additional required documentation) to the Broker through whom the Account is opened who will forward the information contained in such documents to the Program Manager so that the Program Manager can process such change in accordance with the requirements of the Program, including those specified in these Regulations and applicable federal law. If the Account Owner's request is properly submitted, the Designated Beneficiary on the Account will be changed to the new Designated Beneficiary in the records of the Program.

(B) Partial Transfer of Account Assets to New Designated Beneficiary. To transfer some, but not all, assets from one Account, the Account Owner must provide such

information as is necessary for the Program Manager to process such transaction in accordance with all requirements of the Program, including those specified in these Regulations and applicable federal tax law. If the Account Owner's request is properly submitted, the amount specified by the Account Owner for transfer from the Account will be transferred to an Account on behalf of the new Designated Beneficiary.

(C) Death of Account Owner. An Account Owner may name a successor Account Owner if permitted by the applicable form, and to the extent permissible in accordance with applicable law. On notification to the Program Manager of the death of the Account Owner, accompanied by a death certificate or other proof of death recognized under law and such other information as the Program Manager requires prior to taking any action regarding the Account, the Program Manager will change the Account Owner for the Account. In the event a successor Account Owner is not named on the Account Application Form or the named successor Account Owner does not accept the Account, and the account owner has not disposed of the Account otherwise in a will, trust or other testamentary disposition, the surviving spouse of the Account Owner will become the Account Owner for the Account. In the event there is no surviving spouse and the Designated Beneficiary is not a minor, the Designated Beneficiary will become the Account Owner for the Account. If the Designated Beneficiary is a minor, the Designated Beneficiary's custodial parent will become the Account Owner for the Account. If the Designated Beneficiary has more than one custodial parent, the custodial parent whose birthday is earlier in the calendar year will become the Account Owner for the Account.

(D) Change in Account Owner. The Account Owner may transfer ownership of an Account to another Eligible Account Owner, if the transfer is made without consideration. To effect such a transfer the Account Owner must notify the Program Manager in a writing, signed by the Account Owner, including the Account number, the reason for the transfer of ownership, a certification that the transfer is made without consideration, and a properly completed Account Application Form for the new Account Owner.

(E) Account Owner Direction of the Investment of Contributions. Account Owners cannot direct the investment of Contributions (or the earnings on Contributions) once they have been used to purchase Units. Account Owners may change how investments are allocated among the available Portfolio options once per calendar year and upon a change in the Designated Beneficiary, as permitted by federal tax law, by contacting the Program Manager. Account Owners may change how new Contributions are allocated among the available Portfolio options at any time by contacting the Broker assigned to the Account or the Program Manager.

(F) General. The ability of Account Owners to effect, and the consequences to Account Owners resulting from, changes in an Account as described in this Section 4, or any successor thereto, may be affected by subsequent changes in federal legislation. The Program Administrator shall have the right to modify the provisions of this Section 4, or any successor thereto, from time to time to comply with the then current federal tax law applicable to the Program.

(iv) Penalties for Misrepresentations. In the event an Account Owner makes any material misrepresentations in any communication with the Trust, the Program Administrator, the Program Manager or any Broker, including, without limitation, on the Account Application, the College Achievement PlanSM Automated Funding Service Form, an Incoming Rollover Form, an Account Maintenance Form, a Withdrawal Request Form, or a Change of Beneficiary Form, the Program Administrator may terminate the Account Owner's Account and charge a fifteen percent (15%) penalty on the investment earnings of the Account.

Section 5. Investment Procedures

Contributions to an Account will be invested by the Program Manager in shares of the Underlying Funds in accordance with the Approved Allocations for the applicable Portfolio.

Section 6. Withdrawal Procedures

(a) Withdrawal Requests. To effect a withdrawal, an Account Owner or Designated Beneficiary must submit a completed Withdrawal Request Form to the Program Manager or the Broker assigned to the Account. No withdrawal is effective unless and until the completed Withdrawal Request Form for such withdrawal is received and accepted by the Program Manager.

(b) Withdrawal Payments. The Net Asset Value for a Series of a Portfolio applicable to a withdrawal will be the Net Asset Value next calculated for such Series of the Portfolio on the Business Day on which the Withdrawal Request Form is accepted by the Program Manager. Withdrawals will be paid by check or, at the request of the Account Owner and upon payment of a reasonable fee to be debited from the Account, by electronic funds transfer, if available. Requests for withdrawals will be satisfied as soon as practicable, but in no event later than thirty (30) days following acceptance of a properly completed Withdrawal Request Form.

Section 7. Program Manager

The Trustee may retain one or more Program Managers to perform any or all of Program services.

Section 8. Public Requests for Information

(a) Access to Public Information. Copies of the Program's annual report or other public information may be obtained or examined at the Office of the State Treasurer at the Wyoming State Capitol, Cheyenne, Wyoming 82002.

(b) Copies of Records. Persons desiring copies of written public records shall submit a request that identifies as particularly as possible the public information being sought. There shall be no charge for the first ten pages of copied records. The Program Administrator shall assess a reasonable fee for copying with respect to each page over ten, not to exceed the actual costs of

providing such copies. If records are requested which contain both public and confidential information, the Program Administrator shall delete the confidential information and provide the remaining information.

(c) Reports to State Library. The Program Administrator shall make annual reports regarding the status of the Trust to the State Library. The annual report may be included in the Treasurer's annual report. The Program Administrator shall provide the State Library with twenty-five (25) copies of such reports.

(d) Confidentiality of Records. Except as is otherwise provided in any Program Management Agreement, any Distribution Agent Agreement, any selling agreement with a Broker, or any other agreement with a service provider to the Program, all Program records identifying Account Owners or Designated Beneficiaries, or amounts deposited, held or withdrawn with respect to an Account shall be confidential financial information.

(e) Inactive and Abandoned Accounts.

(i) Return of Balance of Inactive Accounts. The Program Administrator may notify an Account Owner of any Account in which a balance remains: (A) upon graduation of the Designated Beneficiary from an Eligible Education Institution; (B) upon the completion of any two-year period, after an initial withdrawal, during which no further withdrawal is made; (C) upon the completion of the last period of beneficiary usage projected upon establishment of the Account; or (D) upon determination by the Program Administrator that no Designated Beneficiary exists, of the amount of such balance and may request directions from the Account Owner as to the application of such balance, consistent with these Regulations. If the Account Owner fails to provide such direction with respect to all or part of such balance within seventy-five (75) days, the Program Administrator may conclusively deem the Account to be overfunded in an amount equivalent to the portions of such balance for which no direction has been received.

(ii) Accounts are subject to being deemed "abandoned" or "unclaimed" under the Wyoming Uniform Unclaimed Property Act, W.S. 34-24-101 et seq.

Section 9. Practice and Procedures

(a) Sovereign Immunity. Except as may be provided in a Program Management Agreement or in any Delegation Agreement, Distribution Agent Agreement, or selling agreement with a Broker, the State, the Trust, the Trustee, the Program Administrator, and the Treasurer do not waive sovereign immunity and specifically retain immunity and all defenses available to them as sovereigns pursuant to W.S. 1-39-104(a) and all other State law. Remedies available to Account Owners are limited under their respective Account Application Forms and Participation Agreements. Remedies available to Program Managers, Transfer and Servicing Agents, Brokers and other Program service providers are limited under their respective agreements with the State, the Trust, the Trustee, the Program Administrator, and/or the Treasurer.

(b) In General

(i) Plan Description and Purpose. The Trust was established on March 13, 2000, pursuant to W.S. 21-16-811(a). The purpose of the Trust is to provide a program of savings for future post-secondary costs to help make higher education affordable and accessible to all citizens of Wyoming and citizens of other states who participate in the Program. The Wyoming Statutes and these Regulations provide for the establishment, operation and administration of the Trust and the Program.

(ii) Form of Organization. The Trust shall be the legal form to implement the Program and shall be an instrumentality of the State.

(iii) Trustee. The Trustee of the Trust shall be the Treasurer.

(iv) Construction of Trust Document and Rules. The Trust is intended to qualify as a qualified tuition plan under Section 529. The terms of the Trust documents and these rules shall be construed consistent with this objective.

(v) Practices Generally - The general practices and proceedings before the Treasurer, whether acting as the Trustee or as the Program Administrator, shall take place in accordance with the Act and these Regulations.

(c) Rules of Practice and Procedure. Because the Act does not require that the Treasurer, whether acting as the Trustee or as the Program Administrator, or the Trust to provide notice and opportunity for hearing for any disputes arising out of the Program, rules of practice and procedure are not required under W.S. 16-3-102(a)(i) of the Wyoming Administrative Procedure Act. Should the Treasurer (whether acting as the Trustee or as the Program Administrator) or the Trust elect to provide a formal evidentiary hearing to resolve any complaint or other matter arising out of the Program, he may refer hearing of the matter to the Wyoming Office of Administrative Hearings to be conducted in accordance with the rules and regulations of that agency.

(d) Mandatory Disclosures. Every contract, application, deposit slip or other similar document that may be used in connection with a Contribution to an Account shall clearly indicate that the Account is not insured by the State and that neither the principal deposited nor the investment return is guaranteed by the State.