

ENROLLED ACT NO. 62, SENATE

SIXTY-SECOND LEGISLATURE OF THE STATE OF WYOMING
2014 BUDGET SESSION

AN ACT relating to economic development; providing an appropriation to the revolving investment fund created pursuant to Article XVI, Section 12 of the Wyoming constitution; providing for loans and loan guarantees for economic development projects as specified; requiring matching funds; providing rulemaking authority; and providing for an effective date.

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

Section 1. W.S. 9-12-305 is amended to read:

9-12-305. Economic development enterprise fund account; deposits; continuous appropriation; loans.

Except for fees deposited in accordance with W.S. 9-12-302(b), all repayments of principal and interest to the state in connection with loans made under this article and other funds as appropriated by the legislature for the challenge loan program shall be deposited into the economic development enterprise account within the revolving investment fund. All funds in the account may be used for and are continuously appropriated for loans authorized to be made under this article. Funds within the account may also be transferred upon direction of the governor to the large project account created by 2014 Senate File 97 as enacted into law, if required to meet loans or loan guarantees approved by the state loan and investment board under that law. The total principal balance of outstanding loans shall not exceed the amounts appropriated by the legislature plus interest accrued and collected less any losses of loan principal or interest.

Section 2.

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(a) There is created a large project account within the revolving investment fund created pursuant to article XVI, section 12 of the constitution of the state of Wyoming. Funds with the large project account shall be used exclusively for economic development loans and loan guarantees as provided in this act.

(b) Loans or loan guarantees authorized by this act shall be used exclusively to promote and aid economic development of the state by providing loan guarantees or loans to proposed or existing enterprises which will employ people within the state, provide services in the state, use resources in the state or otherwise add economic value to goods, services or resources within the state consistent with this act.

(c) Loans and loan guarantees provided under this act shall be subject to the following procedures:

(i) Any project shall first be submitted to and reviewed by the governor who may provide preliminary recommendations for the size and parameters of the proposed loan or loan guarantee;

(ii) The project shall then be submitted to and reviewed by the state treasurer who may provide preliminary recommendations for the structure of the proposed loan or loan guarantee;

(iii) The project shall then be submitted for review to the Wyoming business council under the process set forth in W.S. 9-12-601 through 9-12-603;

(iv) The Wyoming business council's recommendations shall be forwarded to the state loan and

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investment board for final approval of the loan or loan guarantee;

(v) Any approved loan or loan guarantee shall thereafter be submitted to the governor for final approval following his determination that the loan or loan guarantee has met the requirements of this act, and the state treasurer's final approval as to the structure of the loan or loan guarantee.

(d) The governor shall recommend and the state loan and investment board shall only approve the issuance of loan guarantees and loans under this act for projects which meet the following minimum requirements:

(i) Are anticipated to have an economic impact and a public benefit greater than the economic impact and public benefit of projects regularly funded under the Wyoming business ready community program;

(ii) Based upon the findings of an independent third party approved by the Wyoming business council, will provide the following minimum public benefits:

(A) The creation of a significant expansion of permanent jobs in the county or counties in which the project will be located;

(B) Significantly increases the assessed valuation of the counties or counties in which the project will be located, by not less than the value of the loans or loan guarantees received by the applicant borrower;

(C) A substantial increase in the sales, property or other tax revenues to the county where the project will be located;

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(D) Promotion of a stable, balanced and diversified economy; and

(E) Private investment in the county or counties in buildings, equipment and direct project infrastructure of not less than three (3) times the amount of any loan or loan guarantee.

(iii) Has a high likelihood of completion.

(e) The state treasurer shall establish the terms of any loan or loan guarantee issued under this section in accordance with the following:

(i) Loans or loan guarantees provided under this section shall be adequately collateralized as determined by the state treasurer. To protect the state's interest, the state treasurer may negotiate protections with respect to any accepted collateral, including but not limited to, escrow accounts, debt limitations, cash sweeps, pledge rights, corporate approval rights and other mechanisms the state treasurer deems appropriate;

(ii) The treasurer shall adopt interest rates to be charged for loans under this section as approved by the state loan and investment board pursuant to this act and following consideration by the Wyoming business council;

(iii) The state treasurer shall ensure through certification by the applicant, or any other manner determined to be adequate by the state treasurer, a commitment of private funds in an amount which is at least three (3) times the requested loan or loan guarantee amount;

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(iv) Loans or loan guarantees shall be used for direct investment in the project and shall not be used or made available to refinance pre-existing debt incurred before commencement of the project;

(v) Borrowers shall demonstrate a balance sheet and cash flow sufficient to demonstrate their ability to repay the loan or loan guarantee;

(vi) Borrowers shall provide security to repay the loan with a residual value sufficient to repay the loan or loan guarantee in event of default;

(vii) When appropriate, the state treasurer may require continuing loan guarantees by affiliates of the borrower;

(viii) Except as provided in this paragraph, the state treasurer shall secure a first security interest in the entire project sufficient to adequately protect the investment of loan proceeds or proceeds guaranteed by the state under this section. If necessary, the state treasurer may accept substitute security which will protect repayment to the state on a basis substantially equivalent to a first security interest on the project. The state treasurer shall insure that any alternate security is sufficient to prudently protect the state's interest in the entire project and any alternate security places the state before any other lender in priority of payment on the entire project in the event of default; and

(ix) The state treasurer shall charge a loan origination fee or loan guarantee fee of one percent (1.0%) of the total loan or guaranteed loan amount. Funds collected under this paragraph shall be deposited in the 2014 funding account or used to pay for the costs of

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experts retained by the state treasurer pursuant to subsection (h) of this section.

(f) No loan or loan guarantee shall be made under this act without the written opinion of the attorney general certifying the legality of the transaction and all documents connected therewith.

(g) Repayment of principal and interest to the state in connection with loans made under this act shall be deposited to the large project account created by this act. Earnings on funds within the account shall be credited to the account. All funds within the account may be used for and are continuously appropriated for the purposes of this act. The total principal balance of outstanding loans under this act shall not exceed the amounts appropriated by the legislature plus interest accrued and collected less any losses of loan principal.

(h) The state treasurer is authorized to employ such experts as necessary to fully evaluate and negotiate the terms and conditions of the loan and loan guarantees. If experts are retained by the state treasurer under paragraph (e)(ix) of this section, payment to experts retained under this section which exceed the loan origination fee or loan guarantee fee shall be made by the Wyoming business council.

(j) The state treasurer shall promulgate necessary rules and regulations for the implementation of this section.

Section 3.

(a) There is appropriated up to twenty-five million dollars (\$25,000,000.00) from the holding account for

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economic development loans created by 2014 House Bill 0001, Section 300(n)(i)(A) as enacted into law, to the large project account within the revolving investment fund created by this act.

(b) The state treasurer is authorized to transfer funds appropriated by this act from the holding account for economic development loans to the large project account within the revolving investment fund as the funds become available beginning with the effective date of this act and ending June 30, 2016, subject to the limitation specified in subsection (a) of this section. Funds in the large project account within the revolving investment fund which are not encumbered as of June 30, 2016 shall not be expended except upon further act of the legislature.

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Section 4. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk