

TITLE 70

DEPARTMENT OF TRANSPORTATION

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STATE HIGHWAY FUND LOANS FOR LOCAL GOVERNMENTS

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CHAPTER 70:14:01

LOCAL GOVERNMENT LOAN PROGRAM

Section

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70:14:01:01. Definitions. Terms used in this chapter mean:

- (1) “Commission,” the South Dakota Transportation Commission;
- (2) “Department,” the South Dakota Department of Transportation;
- (3) “Highway,” every way or place of whatever nature that is open to the public, as a matter of right, for purposes of vehicular travel, and that is under the jurisdiction of a municipality, county or township. The term “highway” includes a bridge as that term is defined in SDCL 31-14-1;
- (4) “Loan,” a loan from the state highway fund;

(5) “Local government,” a municipality or county authorized by statute to exercise jurisdiction and control over the marking, construction, reconstruction, repair, and maintenance of a highway;

(6) “Project,” the marking, constructing, reconstructing, repairing, or maintenance of a highway.

General Authority: SDCL 31-5-8.

Law Implemented: SDCL 31-5-8.

70:14:01:02. Eligibility. Any local government may apply for a loan pursuant to this chapter to fund a project for a highway under its jurisdiction and control.

The local government shall file the application with the department as required by §§70:14:01:03 and 70:14:01:04.

General Authority: SDCL 31-5-8.

Law Implemented: SDCL 31-5-8.

70:14:01:03. Application. Each application must be submitted on forms provided by the department and must be accompanied by a resolution from the governing body of the local government. The resolution must authorize the application and any funding or other commitments made by the local government.

General Authority: SDCL 31-5-8.

Law Implemented: SDCL 31-5-8.

70:14:01:04. Factors for award. In determining whether to award a loan, the commission shall consider the following factors:

- (1) The availability of other funding for the proposed project;

- (2) The likelihood the proposed project will foster and support economic development;
- (3) Whether a highway emergency exists; and
- (4) The ability of the local government to repay the loan on terms satisfactory to the commission.

70:14:01:05. Interest rate and repayment schedule. The commission shall set the interest rate and the repayment schedule for each loan.

General Authority: SDCL 31-5-8.

Law Implemented: SDCL 31-5-8.

70:14:01:06. Additional conditions. The commission may impose additional terms and conditions on the award and disbursement of any loan. The local government shall comply with all terms and conditions imposed by the commission.

General Authority: SDCL 31-5-8.

Law Implemented: SDCL 31-5-8.

70:14:01:07. Loan agreement. If awarded a loan, the local government shall enter into an agreement with the department concerning the terms and conditions of the loan.

General Authority: SDCL 31-5-8.

Law Implemented: SDCL 31-5-8.

70:14:01:08. Project plans. After execution of the loan agreement, the local government shall submit to the department a project cost estimate and project plans prepared by a professional engineer. The project plans must be stamped by the professional engineer. The professional engineer must be employed by a firm that has a current engineering retainer contract with the department. The local government will not

proceed with letting a project for bids until authorized to do so by the department. Prior to authorizing the project for bid letting, the department may require the local government to make changes to the project plans.

General Authority: SDCL 31-5-8.

Law Implemented: SDCL 31-5-8.

70:14:01:09. Bid letting. The local government shall award a contract for the project within two years of the date of the commission's loan award.

General Authority: SDCL 31-5-8.

Law Implemented: SDCL 31-5-8.

70:14:01:10. Compliance. The department shall monitor compliance with the terms and conditions of the loan agreement and shall disburse loan funds in accordance with the agreement. The department shall perform other tasks necessary to expedite and assist the commission in the administration of each loan.

General Authority: SDCL 31-5-8.

Law Implemented: SDCL 31-5-8.

70:14:01:11. Loan disbursements. The local government shall submit loan disbursement requests based on detailed statements of project expenses incurred by the local government.

General Authority: SDCL 31-5-8.

Law Implemented: SDCL 31-5-8.

70:14:01:12. Access and reporting. The local government shall provide the department with access to the project and the local government's records relating to the project. The local government shall provide all information, documentation, and reports

the department requires to determine compliance with the terms and conditions of the loan agreement and the requirements of this chapter.

General Authority: SDCL 31-5-8.

Law Implemented: SDCL 31-5-8.

70:14:01:13. Default. The commission may determine a local government to be in default if the local government fails to comply with the requirements of the loan agreement or this chapter. The department will notify a local government at least fifteen calendar days prior to the commission's consideration of default. The local government will be afforded an opportunity to address the commission.

If the commission determines a local government has defaulted on the loan, the department shall provide written notice of the default to the local government.

General Authority: SDCL 31-5-8.

Law Implemented: SDCL 31-5-8.