

ENROLLED ACT NO. 121, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2009 GENERAL SESSION

AN ACT relating to community colleges; establishing a statewide college system operations and facility funding mechanism based upon a prescribed system wide strategic planning process attaching state funding to state interests; providing for system operational budgeting and program approval and termination aligned with strategic planning; accordingly aligning system components and system accountability measures; creating a mechanism for prioritizing and funding system capital construction needs; modifying facility major maintenance funding and accordingly restricting use of specified revenues; delegating authority and imposing duties upon the community college commission, the department of administration and information and upon community college districts; granting rulemaking authority; imposing reporting requirements; prescribing initial strategic plan development; providing transitional funding thresholds and funding considerations; providing appropriations and authorizing positions; and providing for effective dates.

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

Section 1. W.S. 21-18-225 is created to read:

21-18-225. College maintenance and capital construction funding.

(a) As part of its administrative functions, the community college commission shall identify community college building needs, develop a prioritized list of community college capital construction projects and forward recommendations for community college capital construction projects to the state building commission. The community college commission shall also submit major maintenance budget requests for college buildings to the legislature in

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accordance with this section. Major maintenance budget requests shall be based upon a formula, forms, and a format specified by the budget division of the department of administration and information. College building maintenance budget requests submitted by the community college commission to the legislature and capital construction budget requests forwarded by the state building commission to the legislature shall include only necessary building square footage required for provision of those education programs comprising the statewide college system strategic plan developed and maintained under W.S. 21-18-202(a)(v).

(b) To carry out this section and in accordance with rules and regulations of the state building commission promulgated under W.S. 9-5-107(d) and (e) serving as guidelines for implementation and administration of this section, the commission shall establish and maintain:

(i) A statewide community college building data base comprised of building inventory, specific building condition, square footage, usage, space utilization and building capacity data;

(ii) Statewide planning and reporting criteria and guidelines for use by community college districts in developing and maintaining comprehensive long-range plans for district building needs as required under W.S. 21-18-304(a)(xi), providing necessary guidance to college districts for separating future building space needs and requests attached to the statewide college system strategic plan from other district space requests;

(iii) Methodologies for use by community college districts in computing future student enrollments, building

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space demands and future building needs in establishing long-range plans addressing district building needs.

(c) The commission shall conduct and maintain a comprehensive assessment of community college buildings and future space requirements as defined by the statewide strategic plan. The comprehensive building assessment shall be designed and maintained to provide timely and uniform statewide data on building condition and building longevity and future space requirements. The needs assessment shall be revised annually to reflect current conditions and shall be capable of providing data sufficient to accommodate a five (5) year planning cycle.

(d) On or before November 1 of each year, the commission shall, based upon the assessment performed under subsection (c) of this section and upon facility plans and annual reports submitted by each college pursuant to W.S. 21-18-304(a)(xi), prioritize community college construction needs for the current fiscal year and the succeeding four (4) fiscal years based upon:

(i) Criteria for statewide capacity for education programs aligned to the statewide college system strategic plan;

(ii) Analysis of student enrollment changes based upon commission approved enrollment projection methodology, to determine the need for changes in statewide building capacities over time for delivering statewide education program needs identified within the strategic plan;

(iii) A methodology and process established by the commission for identifying the most critical building needs.

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(e) The commission may modify construction needs prioritized under subsection (d) of this section in any subsequent fiscal year as necessary to address statewide needs as substantiated by data, condition assessments, needs analysis and other information assembled by the commission under this section. Needs receiving a lower priority than previously assigned may be removed or reprioritized by the commission. Construction needs modified under this subsection shall be reported to the general services division of the department of administration and information.

(f) In addition to subsection (d) of this section and on or before November 1 of each year, the commission shall report college building square footage to the general services division of the department of administration and information as necessary for computation of major maintenance funds for community college buildings. The reported square footage shall be restricted to that square footage necessary for the delivery of education programs comprising the statewide college system strategic plan.

(g) Upon prioritizing community college construction needs under subsection (d) of this section, the commission shall not later than November 15 of each year, report the prioritized list to the general services division of the department of administration and information. In accordance with W.S. 9-5-108(a)(ii), the general services division shall review, analyze and study construction needs prioritized under subsection (d) of this section and conduct necessary value engineering analysis, schematic design review, safety and security assessments and other analysis and review prior to submission of recommendations to the state building commission. The state building commission shall consider and incorporate prioritized construction needs recommendations into legislation

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requesting necessary funding, developed under W.S. 9-5-108(a)(ii)(J), for submission to the legislature for review, authorization and approval. The legislation shall also include a separate appropriation for contingency costs associated with recommended construction projects and a separate appropriation for administrative costs of the general services division for management of the recommended construction projects as required by subsection (j) of this section. The community college commission shall submit a separate budget request for project design and planning funds to be available to assist community colleges with costs incurred in developing and providing necessary plans, designs and other information to the general services division for purposes of this subsection. The general services division shall consult with the community college commission in developing recommendations under this subsection.

(h) The community college commission shall provide copies of the needs assessment, construction priorities and major maintenance square footage established under this section to members of the legislature on or before December 1 of each year.

(j) Subject to amounts made available by legislative appropriation and to any conditions which may be attached to appropriation expenditures, the commission shall distribute state funds for building construction approved and authorized by the legislature. Distributions of state funds for any approved and authorized construction project shall be in accordance with payment schedules established by rule and regulation of the commission. Payments by the commission shall be contingent upon the receipt of any local district funding or commission approved documentation certifying the timely receipt of such funds for the capital construction project as may be required by legislative

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authorization, and shall also include the written approval of the general services division, department of administration and information, of prescribed phases of the construction project and the completion of certain project phases. Construction phases for which approval of the division is required shall be specified by commission rule and regulation, clearly prescribing a process for division review and approval of project plans and specifications, project development and project changes and change orders. In carrying out duties under this subsection, the division may execute powers prescribed under W.S. 9-5-108(a)(iii) in coordination with the commission and the appropriate community college district. No scheduled payment shall be made by the commission without the approval of the division as required by the prescribed process.

(k) Appropriations for major maintenance shall be distributed by the commission to community colleges in amounts determined by the funding formula developed by the general services division of the department of administration and information, subject to restrictions imposed on qualifying square footage pursuant to this section.

Section 2. W.S. 21-18-202(a) by creating a new paragraph (v), (c)(ii), (d)(i), (ii), (e)(v)(A), (B), (C)(intro) and by creating a new subsection (h), 21-18-203(a), 21-18-205(c) and (e) and 21-18-304(a) by creating a new paragraph (xi) are amended to read:

21-18-202. Powers and duties of the commission.

(a) The commission shall perform the following general functions:

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(v) Develop and maintain a statewide college system strategic plan for the delivery of educational programs in Wyoming by each college pursuant to subsection (h) of this section.

(c) The commission shall perform the following administrative functions:

(ii) In accordance with W.S. 21-18-203(a), prepare budget requests for the operation and support of the colleges and the commission, and pursuant to W.S. 21-18-225, prepare budget requests for capital construction and major maintenance;

(d) The commission shall perform the following approval functions:

(i) Approve all new ~~credit certificate and degree~~ programs qualifying for state funding pursuant to the statewide community college strategic plan developed under subsection (h) of this section;

(ii) Review existing ~~certificate and degree~~ programs, determine the most effective and efficient delivery of programs qualifying for state funding pursuant to the statewide community college system strategic plan and terminate state funding for those programs with ~~consistently low enrollment~~ which are inconsistent with the statewide community college system strategic plan;

(e) The commission shall perform the following review and report functions:

(v) (A) The commission shall provide annual reports to the legislature and governor on the performance of individual community colleges and the college system as

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well as on the achievement of statewide priorities as ~~defined by the legislature and as~~ specified in the statewide college system strategic plan. The commission and the colleges shall work together in a collaborative effort in defining the report formats and the methodology and data elements required in preparing the reports and a reasonable time line for completion of reports;

(B) For the reporting effort under this paragraph, the commission shall maintain a management information system and each community college shall maintain accurate administrative records to provide the necessary data to the commission for these studies and reports. ~~The core measurements defined by the American Association of Community Colleges shall be used.~~ The colleges shall provide the commission with all data required in preparing each of the reports the commission shall request. The commission and the colleges shall safeguard all institutional and individual student record data under the provisions of the Privacy Act of 1974 and the Family Educational Rights and Privacy Act or subsequent similar enactments;

(C) Reports provided by the commission to the legislature and governor shall be+ attached with and aligned to the college system performance benchmarks, outcome measures and other performance indicators specified in and defined by the strategic plan.

(h) The commission shall prior to the beginning of each biennial budget period, review, update and modify the statewide college system strategic plan. The plan shall clearly prescribe the components of the educational program and attach program components to statewide system priorities. This plan shall serve as the basis for state operational and capital construction budget requests and

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funding of the statewide college system for the applicable biennial budget period. In developing, reviewing and updating the strategic plan, the commission shall:

(i) Consult with the seven (7) community colleges, state and local governmental agencies and other agencies and organizations representing state economic and industry sectors;

(ii) Include mechanisms within the planning process which adhere to the state's interests in establishing a statewide college system identified as assuring statewide access to academic programs, career-technical education and training programs, dual and concurrent enrollment programs, remedial and continuing education programs responding to needs of students, employers and the state workforce, including program access through outreach or coordinated electronic system technology;

(iii) Develop performance benchmarks, outcome measures and other performance indicators which serve as the basis for annual reporting to the legislature and the governor under paragraph (e)(v) of this section, including but not limited to:

(A) Student goal attainment and retention;

(B) Student persistence;

(C) Degree and certificate completion rates;

(D) Placement rate of graduates in the workforce;

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- (E) Licensure and certification pass rates;
 - (F) Demonstration of critical literacy skills;
 - (G) Success in subsequent, related coursework;
 - (H) Number and rate of students who transfer.
- (iv) Attach performance indicators to funding to achieve established results.

21-18-203. Budget procedure.

(a) In collaboration with the boards of the community colleges, the commission shall submit state appropriation requests on behalf of the community college system in compliance with the statewide community college system strategic plan, which are based upon amounts appropriated to the system by the legislature for the biennial period immediately preceding the biennium for which the budget request is to be made. Exception budget requests may be made for any biennial budget period by the commission on behalf of the college system which are in addition to the prior period adjusted amount and unless otherwise specified by the commission, are limited exclusively to the fiscal period for which the request is submitted and shall not be included in the standard budget request of any subsequent biennial budget request. The requests shall be made upon forms and in a format to be determined by the budget division of the department of administration and information.

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21-18-205. Appropriation and distribution of state funds; restrictions; budget authority.

(c) State funding for the assistance of community colleges shall be appropriated to the community college commission unless otherwise specified by law. Subject to the provisions of this section, funds appropriated for each biennium shall be distributed by the commission to community colleges in amounts determined by a funding allocation model adopted by rule of the commission. Funding allocation model components for fixed and variable costs shall be defined by and computed in accordance with guidelines and procedures prescribed by rule and regulation of the commission, applied to the distribution of state appropriations for each biennial budget period and reallocated at a schedule specified by rule and regulation of the commission, but in no event less than once every four (4) years. The commission may maintain a contingency reserve account utilizing any revenue derived under W.S. 9-4-601(b)(iv)(A) to be distributed as a component of the funding allocation model for specific use by the colleges for emergency repairs and preventive maintenance.

(e) The commission may by exception budget, request additional state funding to be designated as special purpose funding, accounted for and distributed separately from distributions under the funding allocation model. Special purpose funding under this subsection shall be limited to amounts and for the period of time specified by the legislature and shall not be included in any subsequent biennial budget unless specifically requested by the commission and approved by the legislature. Funds appropriated pursuant to this subsection shall be distributed in amounts and at times determined by the commission, subject to the following:

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(i) Special purpose funding, accounted for separately, to be designated as adjustments to funding allocation model distributions for the effects of enrollment growth shall not be transferred to or expended for any other purpose. Any amount of this special purpose funding request remaining unexpended or unencumbered at the end of the budget period for which appropriated shall revert according to law;

(ii) Special purpose funding may be requested under this subsection for use by the commission in funding new programs addressing unanticipated and emerging statewide needs during the biennial budget period which are consistent with the statewide community college system strategic plan. Funds appropriated by the legislature for purposes of this paragraph shall be accounted for separately and shall not be transferred or expended for any other purpose or as part of state assistance under subsection (c) of this section. Any unexpended or unencumbered amount of special purpose funding under this paragraph remaining at the end of the budget period for which appropriated shall revert as provided by law.

21-18-304. District board generally; duties.

(a) The community college district board shall:

(xi) Develop and maintain a comprehensive plan of district buildings addressing district long-term building needs, clearly distinguishing those building needs associated with education space needs attached to the statewide college system strategic plan developed by the community college commission under W.S. 21-18-202(a)(v) from other district needs which may be included within the district's long-term plan. Building plans and capital construction requests shall be submitted to the commission

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in a form and format specified by commission rule and regulation. In addition, the board shall provide planning, design and other information required by the department of administration and information under W.S. 21-18-225(g) and shall cooperate with the department and the commission as necessary to undertake any building construction project receiving state funds and addressing needs prioritized by the commission in accordance with W.S. 21-18-225.

Section 3. W.S. 21-18-202(b)(vii), (e)(v)(C)(I) through (XIII) and (D) is repealed.

Section 4. [INITIAL STRATEGIC PLAN DEVELOPMENT]

(a) In executing W.S. 21-18-202(h), as amended by section 2 of this act, and prior to development of 2011-2012 biennial budget requests required by W.S. 21-18-202(c)(ii), as amended by section 2 of this act, and W.S. 21-18-225, as created by section 1 of this act, the commission shall:

(i) Following discussions with and consideration of contributions by the seven (7) community colleges, state and local governmental agencies and other agencies and organizations representing state economic and industry sectors required under W.S. 21-18-202(h)(i), as amended under section 2 of this act, report preliminary recommended components of the statewide strategic plan to the governor, to members of the joint appropriations and joint education interim committees of the legislature and to members of the community college planning task force created by 2008 Wyoming session laws, chapter 48, section 327;

(ii) Schedule and conduct a joint meeting of the commission and representatives of the governor, the legislative joint appropriations and joint education

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interim committees and representatives of the community college planning task force, for purposes of joint consideration of the preliminary statewide strategic plan components and state interests identified and incorporated into the plan;

(iii) On or before July 31, 2009, prepare a draft statewide strategic plan forwarded as result of the joint meeting conducted in accordance with paragraph (ii) of this subsection, which shall be of sufficient content and scope to guide budget development under paragraph (iv) of this subsection;

(iv) Utilize the draft statewide strategic plan forwarded under paragraph (iii) of this subsection as the basis for assembling 2011-2012 biennial budget recommendations for operational and facility major maintenance funding required under W.S. 21-18-202(c)(ii), as amended by section 2 of this act, and facility prioritization and funding under W.S. 21-18-225, as created under section 1 of this act;

(v) Submit the draft statewide strategic plan forwarded under paragraph (iii) of this subsection to each president of the seven (7) community colleges. Each president shall provide the draft plan to his district board of trustees. Each board shall review the draft plan and shall appoint a designee to report back to the commission prior to the timelines specified under paragraph (vi) of this subsection and the November 1, 2009, final report date required under 2008 Wyoming Session Laws, chapter 84, section 2. Upon approval of a majority of the designees of each of the seven (7) community college boards of trustees, the commission shall forward the draft statewide strategic plan pursuant to paragraph (vi) of this subsection;

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(vi) Prior to completion of the final statewide strategic plan by November 1, 2009 as required by and in accordance with 2008 Wyoming session laws, chapter 84, section 2, and following approval of the majority of the district board designees in accordance with paragraph (v) of this subsection, convene an additional joint meeting of the commission and representatives of the governor, the legislative joint appropriations and joint education interim committees and representatives of the community college planning task force. Recommendations for components of the statewide strategic plan, to be applied to the 2011-2012 biennium, shall be presented to meeting participants by the commission. No meeting shall occur unless a representative from each of the participants designated under this paragraph is in attendance. Based upon discussions resulting from this meeting, a statewide strategic plan reflecting meeting discussions shall be forwarded by the commission to the governor, members of the joint appropriations and joint education interim committees and members of the community college planning task force;

(vii) Allow any participant of the joint meeting conducted under paragraph (vi) of this subsection to, within thirty (30) days after receipt of a plan forwarded under paragraph (vi) of this subsection, file an exception to or a concern with the forwarded plan. On or before January 1, 2010, the commission shall provide specific recommendations addressing any filed exceptions or concerns to the joint appropriations and joint education interim committees;

(viii) Report the final statewide strategic plan developed under this section and 2008 Wyoming session laws, chapter 84, section 2, and applicable to the 2011-2012 biennium, to the governor and members of the legislature

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prior to the commencement date of the 2010 budget session of the legislature, together with any specific recommendations forwarded under paragraph (vii) of this subsection.

Section 5. [CONSIDERATION OF COLLEGE RESERVES]

(a) In computing the distribution of state appropriations in accordance with W.S. 21-18-205(c) as amended by section 2 of this act, for the biennium commencing July 1, 2010, and ending June 30, 2012, the commission shall not consider the balance of any unrestricted operating funds carried forward by any college from previous biennial budget periods pursuant to W.S. 21-18-205(f) and existing on June 30, 2010. In addition, this balance of funds carried forward and existing on June 30, 2010, shall not be restricted in any manner by the commission.

(b) In addition to subsection (a) of this section and in computing the 2011-2012 biennial budget request for the community college system under W.S. 21-18-203(a), as amended by section 2 of this act, the commission shall adjust the total 2009-2010 state appropriations to the community college system, as approved and adopted by the legislature, combined with the total amount collected from the college four (4) mill levy required under W.S. 21-18-205(a)(ii) as considered by the funding allocation model during this same period, by adding to this amount the sum of the reserve fund balance authorized under W.S. 21-18-205(f) and existing for each college as of June 30, 2007. The total amount computed under this subsection shall constitute the baseline amount for purposes of determining the 2011-2012 biennial budget request.

Section 6. [HOLD HARMLESS]

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Using computations of community college district distributions under the funding allocation model pursuant to W.S. 21-18-202(c)(i) and 21-18-205(c), as amended by section 2 of this act, the community college commission shall to the extent fiscally reasonable, recommend that its budget request for total state appropriations for subsequent distribution to each college district under the funding allocation model for each fiscal year during the biennium commencing July 1, 2010, and ending June 30, 2012, be of an amount sufficient that when combined with the total amount of revenues from the four (4) mill levy required under W.S. 21-18-205(a)(ii) as considered by the funding allocation model for each district during that same biennial period, shall not be less than one hundred percent (100%) of the total amount of state appropriations distributed to each college district during the biennial period beginning July 1, 2008, and ending June 30, 2010, adjusted by adding to this amount the sum of the total amount collected by that district under the required four (4) mill levy considered by the funding allocation model in that biennium and any reserve fund balance existing on June 30, 2007, for that college district.

Section 7. [APPROPRIATIONS AND POSITION AUTHORIZATIONS]

(a) The Wyoming community college commission is authorized one (1) additional full-time at-will administrative support position to assist in the administration of this act. For purposes of this subsection, fifty thousand dollars (\$50,000.00) is appropriated from the general fund to the community college commission for the period commencing on the effective date of this subsection and ending June 30, 2010. This appropriation shall be expended for the costs of the additional position only.

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(b) One hundred fifty thousand dollars (\$150,000.00) is appropriated from the general fund to the Wyoming community college commission for an additional full-time at-will position within the commission to manage data requirements associated with the administration of the strategic planning responsibilities imposed by W.S. 21-18-202(h), as amended by section 2 of this act. This appropriation is for the period commencing on the effective date of this subsection and ending June 30, 2010, and the expenditure of this appropriation shall be restricted to funding the additional position authorized by this subsection.

(c) The community college commission is authorized one (1) additional full-time at-will position to coordinate the commission's community college capital construction process established by W.S. 21-18-225, as created by section 1 of this act, with the general services division, department of administration and information. This position shall also work with the colleges to ensure required and necessary planning information and documentation is prepared and submitted to the general services division as necessary to perform necessary review, study and analysis for development of recommendations to the state building commission. One hundred fifty thousand dollars (\$150,000.00) is appropriated from the general fund to the commission for the period commencing with the effective date of this subsection and ending June 30, 2010. This appropriation shall only be expended for the costs of the additional position.

(d) Three hundred thousand dollars (\$300,000.00) is appropriated from the general fund to the community college commission to develop and maintain the comprehensive assessment of community college buildings and future space

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requirements as required under W.S. 21-18-225(c), as created by section 1 of this act, and to integrate the existing college facilities data base as maintained by the commission with the state facilities data base maintained by the department of administration and information, as necessary to administer W.S. 21-18-225, as created by section 1 of this act. This appropriation shall be expended only for purposes of this subsection and shall be for the period commencing upon the effective date of this subsection, and ending June 30, 2010.

(e) One hundred fifty thousand dollars (\$150,000.00) is appropriated from the general fund to the community college commission to develop guidelines and criteria necessary for segregating variable and fixed cost data as used in establishing components and component proportions for the funding allocation model in accordance with W.S. 21-18-205(c), as amended by section 2 of this act. Established guidelines and criteria shall be used by community college districts in reporting cost data to the commission. Guidelines and criteria shall be adopted by the commission in sufficient time to enable use in model computations effective for the biennium commencing July 1, 2010, and ending June 30, 2012. The appropriation under this subsection shall be for the period commencing upon the effective date of this subsection and ending June 30, 2010, shall be expended for purposes specified in this subsection only and may be used for contractual services as necessary to obtain required analytical expertise in carrying out this subsection.

Section 8. [EFFECTIVE DATES]

(a) Except as provided by subsection (b) of this section, this act is effective July 1, 2009.

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(b) Notwithstanding subsection (a) of this section, sections 4 and 7 are 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 House.

Chief Clerk