

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 26-1345

BY REPRESENTATIVE(S) McCluskie and Hamrick, Bacon, Boesenecker, Brown, Camacho, Clifford, Duran, English, Froelich, Goldstein, Jackson, Lieder, Lindsay, Lukens, Marshall, Martinez, Mauro, Nguyen, Paschal, Phillips, Ricks, Rutinel, Rydin, Sirota, Smith, Stewart K., Joseph, Woodrow;
also SENATOR(S) Coleman and Simpson, Amabile, Ball, Bridges, Cutter, Exum, Gonzales J., Jodeh, Kipp.

CONCERNING HIGHER EDUCATION FUNDING, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS IN THE REPORT ON THE HIGHER EDUCATION FUNDING ALLOCATION FORMULA.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 23-18-302, **amend** (4)(b), (8), (9), (10), (14), and (17); **repeal** (18); and **add** (2.5), (11.5), and (21.5) as follows:

23-18-302. Definitions - repeal.

As used in this part 3, unless the context otherwise requires:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(2.5) (a) "CO-LOCATED DEGREE PARTNERSHIP" MEANS A PROGRAM FORMALIZED BY A WRITTEN AGREEMENT BETWEEN TWO INSTITUTIONS IN WHICH:

(I) A STUDENT IS ENROLLED AS A DEGREE-SEEKING STUDENT AT THEIR HOME INSTITUTION IN A DEGREE PROGRAM THAT IS NOT OFFERED TO COMPLETION AT THEIR HOME INSTITUTION;

(II) THE STUDENT SUBSEQUENTLY MATRICULATES AS A TRANSFER AND DEGREE-SEEKING STUDENT AT A PARTNER INSTITUTION THAT OFFERS THE DEGREE PROGRAM TO COMPLETION THAT THE STUDENT'S HOME INSTITUTION DOES NOT OFFER TO COMPLETION; AND

(III) FOR A PERIOD OF TIME, AS DEFINED BY THE AGREEMENT BETWEEN THE TWO INSTITUTIONS, THE STUDENT CONTINUES TO PRIMARILY BE LOCATED AT THE HOME INSTITUTION'S CAMPUS, INCLUDING RECEIVING INSTRUCTION, ACADEMIC SERVICES, LIBRARY ACCESS, OR STUDENT SUPPORT SERVICES FROM THE HOME INSTITUTION.

(b) "CO-LOCATED DEGREE PARTNERSHIP" DOES NOT INCLUDE:

(I) AN ARTICULATION PATHWAY WITHOUT A CO-LOCATION DELIVERY COMPONENT, INCLUDING A STATEWIDE, BILATERAL OR MULTILATERAL TRANSFER AGREEMENT;

(II) GENERAL TRANSFER PARTNERSHIPS;

(III) CROSS-REGISTRATION OR COURSE-SHARING PARTNERSHIPS, INCLUDING ONLINE-ONLY COURSE ARRANGEMENTS;

(IV) CONCURRENT OR DUAL ENROLLMENT WITHOUT A CO-LOCATION DELIVERY COMPONENT; OR

(V) ANY PROGRAM IN A DEGREE PROGRAM THAT IS OFFERED TO COMPLETION AT THE STUDENT'S HOME INSTITUTION.

(c) THE DEPARTMENT SHALL ENSURE THAT THE GOVERNING BOARDS COLLECT AND REPORT THE DATA IN A CONSISTENT MANNER.

(4) "Credential completion" means the calculation of student

credential completion by a governing board based on equal weighting of the total resident student completions of postsecondary credentials in a given state fiscal year. The credential completion calculation includes:

(b) Equal weighting for a resident student who transfers out of an institution ~~with a community college role and mission specified in statute, after accumulating at least eighteen credit hours at the institution in a two-year degree program~~ AND TRANSFERRING WITHIN THE NEXT ACADEMIC YEAR INTO ANOTHER INSTITUTION, AREA TECHNICAL COLLEGE, OR LOCAL DISTRICT COLLEGE.

(8) "One-hundred-fifty-percent-of-time graduation rate" means, for a four-year institution, the percentage of first-time, full-time, degree-seeking undergraduate students starting in the fall term and graduating within six years with a bachelor's degree from the same institution, and, for a two-year institution, the percentage of first-time, full-time, associate degree-seeking or undergraduate certificate-seeking students starting in the fall term and completing their declared program within one hundred fifty percent of the normal time to completion, as reported to the ~~integrated postsecondary education data system maintained by the federal department of education. If the integrated postsecondary education data system does not include data for an institution or governing board for prior state fiscal years, the department shall use its available data, as reported by the governing board to the department through the student-unit record database, in place of the missing integrated postsecondary education data system data~~ DEPARTMENT. The department shall ensure that the governing boards collect and report the data in a consistent manner. A student may be counted only once in a state fiscal year for purposes of this ~~performance~~ RESULTS-INFORMED funding metric. STUDENTS ENROLLED IN A CO-LOCATED DEGREE PARTNERSHIP ARE NOT INCLUDED IN THE COHORTS THAT DETERMINE THE ONE-HUNDRED-FIFTY-PERCENT-OF-TIME GRADUATION RATE.

(9) "One-hundred-percent-of-time graduation rate" means, for a four-year institution, the percentage of first-time, full-time, degree-seeking undergraduate students starting in the fall term and graduating within four years with a bachelor's degree from the same institution, and, for a two-year institution, the percentage of first-time, full-time, associate degree-seeking or undergraduate certificate-seeking students starting in the fall term and completing their declared program within one hundred percent of the

normal time to completion, as reported to the ~~integrated postsecondary education data system maintained by the federal department of education.~~ If the ~~integrated postsecondary education data system~~ does not include data for an ~~institution or governing board~~ for prior state fiscal years, the department shall use its available data, as reported by the governing board to the department through the student-unit record database, in place of the ~~missing integrated postsecondary education data system data~~ DEPARTMENT. The department shall ensure that the governing boards collect and report the data in a consistent manner. A student may be counted only once in a state fiscal year for purposes of this ~~performance~~ RESULTS-INFORMED funding metric. STUDENTS ENROLLED IN A CO-LOCATED DEGREE PARTNERSHIP ARE NOT INCLUDED IN THE COHORTS THAT DETERMINE THE ONE-HUNDRED-PERCENT-OF-TIME GRADUATION RATE.

(10) ~~"Pell-eligible~~ "PELL-RECIPIENT student" means an undergraduate student who ~~qualifies for~~ RECEIVES the federal Pell grant or ~~for~~ a grant through a successor program.

(11.5) "PREVIOUS SHARE" MEANS THE PERCENTAGE SHARE OF FUNDING APPROPRIATED TO EACH GOVERNING BOARD FROM THE TOTAL AMOUNT APPROPRIATED IN THE PRECEDING STATE FISCAL YEAR PURSUANT TO SECTIONS 23-18-202 AND 23-18-303.5, EXCLUDING THE AMOUNT APPROPRIATED PURSUANT TO SECTION 23-18-303.5 (3).

(14) "Resident ~~Pell-eligible~~ PELL-RECIPIENT UNDERGRADUATE student population share" means the resident ~~Pell-eligible~~ PELL-RECIPIENT UNDERGRADUATE student head count as a percentage of the overall resident UNDERGRADUATE student population head count, EXCLUDING CONCURRENT ENROLLMENT, AS DEFINED IN SECTION 22-35-103, from the end-of-term fall enrollment collected by the department.

(17) "Retention rate" means, for a four-year institution, the percentage of first-time, full-time OR FIRST-TIME, PART-TIME undergraduate students starting in the fall term and returning for their second fall term at the same institution, and, for a two-year institution, the percentage of first-time, full-time OR FIRST-TIME, PART-TIME associate degree-seeking or undergraduate certificate-seeking students starting in the fall term and either returning for or successfully completing their declared program by the second fall term at the same institution, as reported to the ~~integrated postsecondary education data system maintained by the federal department~~

of education. If the integrated postsecondary education data system does not include data for an institution or governing board for prior state fiscal years, the department shall use its available data, as reported by the governing board to the department through the student-unit record database, in place of the missing integrated postsecondary education data system data DEPARTMENT. The department shall ensure that the governing boards collect and report the data in a consistent manner. A student may be counted only once in a state fiscal year for purposes of this performance RESULTS-INFORMED funding metric.

~~(18) (a) "Role and mission share" means the percentage share of funding appropriated to each governing board of the total amount appropriated in the preceding state fiscal year pursuant to sections 23-18-202 and 23-18-303.5, excluding the amount appropriated pursuant to section 23-18-303.5 (3).~~

~~(b) Repealed.~~

~~(21.5) "TOTAL PREVIOUS ADJUSTED SHARE" MEANS THE TOTAL OF THE PREVIOUS ADJUSTED SHARES FOR ALL GOVERNING BOARDS, AS DESCRIBED IN SECTION 23-18-303.5 (1.5)(c).~~

SECTION 2. In Colorado Revised Statutes, 23-18-303.5, **amend** (1)(a), (2) introductory portion, (2)(a), (3), and (7); **repeal** (4), (5), and (8); and **add** (1.3) and (1.5) as follows:

23-18-303.5. Fee-for-service contracts - authorization - results-informed funding.

(1)(a) For the ~~2021-22~~ 2027-28 state fiscal year and each state fiscal year thereafter, the governing board of a state institution of higher education may annually negotiate a fee-for-service contract with the department pursuant to this section for the delivery of higher education services by the institution for the benefit of the state and its residents. Specialty education programs, area technical colleges, and local district colleges are funded pursuant to the provisions of section 23-18-304.

(1.3) Results-informed funding metrics.

(a) THE COMMISSION, IN CONJUNCTION WITH THE DEPARTMENT AND

IN COLLABORATION WITH THE GOVERNING BOARDS, SHALL CALCULATE RESULTS-INFORMED FUNDING FOR EACH GOVERNING BOARD BASED ON THE RATE OF CHANGE OVER TIME IN THE PERFORMANCE OF THE INSTITUTIONS OVERSEEN BY THE GOVERNING BOARD ON THE RESULTS-INFORMED FUNDING METRICS SPECIFIED IN SUBSECTION (1.3)(b) OF THIS SECTION. THE RECOMMENDATION FOR RESULTS-INFORMED FUNDING MAY REFLECT A CHANGE IN THE TOTAL STATE APPROPRIATION, LESS THE AMOUNT APPROPRIATED PURSUANT TO SUBSECTION (3) OF THIS SECTION FROM THE PRECEDING STATE FISCAL YEAR.

(b) THE RESULTS-INFORMED FUNDING METRICS INCLUDE:

(I) RESIDENT STUDENT FULL-TIME EQUIVALENT ENROLLMENT;

(II) CREDENTIAL COMPLETION;

(III) RESIDENT PELL-RECIPIENT UNDERGRADUATE STUDENT POPULATION SHARE;

(IV) RESIDENT UNDERREPRESENTED MINORITY STUDENT POPULATION SHARE;

(V) RETENTION RATE;

(VI) ONE-HUNDRED-PERCENT-OF-TIME GRADUATION RATE;

(VII) ONE-HUNDRED-FIFTY-PERCENT-OF-TIME GRADUATION RATE;
AND

(VIII) RESIDENT FIRST-GENERATION UNDERGRADUATE STUDENT POPULATION SHARE.

(c) (I) IN PREPARING ANNUAL BUDGET RECOMMENDATIONS, THE COMMISSION, IN CONJUNCTION WITH THE DEPARTMENT AND IN COLLABORATION WITH THE GOVERNING BOARDS, MAY ANNUALLY IDENTIFY THE PORTION OF TOTAL RESULTS-INFORMED FUNDING THAT IS ALLOCATED TO EACH RESULTS-INFORMED FUNDING METRIC SPECIFIED IN SUBSECTION (1.3)(b) OF THIS SECTION.

(II) THE JOINT BUDGET COMMITTEE, AFTER CONSIDERING THE

COMMISSION'S ANNUAL BUDGET RECOMMENDATIONS, SHALL DETERMINE THE PORTION OF TOTAL RESULTS-INFORMED FUNDING FOR THE APPLICABLE STATE FISCAL YEAR THAT IS ALLOCATED TO EACH RESULTS-INFORMED FUNDING METRIC SPECIFIED IN SUBSECTION (1.3)(b) OF THIS SECTION. EACH GOVERNING BOARD'S SHARE OF THE FUNDING ALLOCATED FOR EACH RESULTS-INFORMED FUNDING METRIC IS DETERMINED USING THE CALCULATION SET FORTH IN SUBSECTION (1.5) OF THIS SECTION.

(1.5) Results-informed funding - lever one.

(a) THE AMOUNT OF RESULTS-INFORMED FUNDING THAT A GOVERNING BOARD RECEIVES FOR EACH RESULTS-INFORMED FUNDING METRIC SPECIFIED IN SUBSECTION (1.3)(b) OF THIS SECTION IS BASED ON THE RATE OF CHANGE OVER TIME IN THE PERFORMANCE OF THE INSTITUTIONS OVERSEEN BY THE GOVERNING BOARD ON THE RESULTS-INFORMED FUNDING METRIC.

(b) THE RATE OF CHANGE FOR EACH RESULTS-INFORMED FUNDING METRIC IS CALCULATED ANNUALLY FOR A GOVERNING BOARD BY DIVIDING THE AVERAGE OF THE FOUR MOST RECENT YEARS OF ACTUAL DATA REPORTED BY THE GOVERNING BOARD FOR THE RESULTS-INFORMED FUNDING METRIC BY THE AVERAGE OF THE THREE OLDEST OF THE FOUR YEARS OF ACTUAL DATA REPORTED BY THE GOVERNING BOARD FOR THE RESULTS-INFORMED FUNDING METRIC.

(c) THE RATE OF CHANGE FOR THE RESULTS-INFORMED FUNDING METRIC IS THEN MULTIPLIED BY EACH GOVERNING BOARD'S PREVIOUS SHARE, RESULTING IN THE GOVERNING BOARD'S PREVIOUS ADJUSTED SHARE FOR THE RESULTS-INFORMED FUNDING METRIC. THE TOTAL OF THE PREVIOUS ADJUSTED SHARES FOR ALL GOVERNING BOARDS IS THE TOTAL PREVIOUS ADJUSTED SHARE FOR THE RESULTS-INFORMED FUNDING METRIC.

(d) EACH GOVERNING BOARD'S ALLOCATION FOR THE RESULTS-INFORMED FUNDING METRIC IS DETERMINED BY DIVIDING THE GOVERNING BOARD'S PREVIOUS ADJUSTED SHARE FOR THE RESULTS-INFORMED FUNDING METRIC BY THE TOTAL PREVIOUS ADJUSTED SHARE FOR THE RESULTS-INFORMED FUNDING METRIC, ENSURING THAT THE TOTAL AMOUNT OF FUNDING DISTRIBUTED THROUGH THE RESULTS-INFORMED FUNDING METRIC DOES NOT EXCEED THE AMOUNT OF FUNDING ALLOCATED FOR THE RESULTS-INFORMED FUNDING METRIC.

(2) Ongoing performance funding - lever two. ~~Prior to calculating performance funding recommendations pursuant to subsection (4) of this section;~~ The commission, in conjunction with the department and in collaboration with the governing boards, may recommend an additional amount of funding pursuant to this subsection (2) for an institution, which amount is ongoing ~~base~~ PERFORMANCE funding for the receiving institution and is included in the calculation of funding pursuant to this part 3 in subsequent state fiscal years. The commission may recommend an additional amount of funding for the following purposes:

(a) To increase appropriations over the previous state fiscal year in order to make progress toward master plan goals, which may include addressing ~~base~~ PERFORMANCE funding disparities, HISTORIC INEQUITIES, THE UNIQUE ROLE OF AREA TECHNICAL COLLEGES, or funding priorities not addressed through the ~~performance~~ RESULTS-INFORMED funding metrics. The commission shall focus its recommendations on broad institutional, systemwide, or state policy goals.

(3) One-time investments - lever three. ~~After calculating funding recommendations pursuant to subsections (2) and (4) of this section;~~ The commission, in conjunction with the department and in collaboration with the governing boards, may recommend an additional amount of temporary funding pursuant to this subsection (3) for an institution for purposes of making progress toward goals identified in the systemwide master planning process set forth in section 23-1-108 or other areas as identified by the commission. Additional funding received pursuant to this subsection (3) must be allocated for a specific period of time, is not ongoing base funding, and is not included in the calculation of funding pursuant to this part 3 in subsequent state fiscal years or in the calculation of the total state appropriation made pursuant to this part 3.

(4) Performance funding metrics.

~~(a) After calculating funding recommendations pursuant to subsection (2) of this section, the commission, in conjunction with the department and in collaboration with the governing boards, shall calculate performance funding for each governing board based on the rate of change over time in the performance of the institutions overseen by the governing board on the performance funding metrics specified in subsection (4)(b) of this section. The recommendation for performance funding may reflect a~~

~~change in the total state appropriation, less the amount appropriated pursuant to subsection (3) of this section, from the preceding state fiscal year.~~

~~(b) The performance funding metrics include:~~

~~(I) Resident student full-time equivalent enrollment;~~

~~(II) Credential completion;~~

~~(III) Resident Pell-eligible student population share;~~

~~(IV) Resident underrepresented minority student population share;~~

~~(V) Retention rate;~~

~~(VI) One-hundred-percent-of-time graduation rate;~~

~~(VII) One-hundred-fifty-percent-of-time graduation rate; and~~

~~(VIII) Resident first-generation undergraduate student population share.~~

~~(c) (I) Beginning with the 2021-22 state fiscal year, in preparing budget recommendations, the commission, in conjunction with the department and in collaboration with the governing boards, may annually identify the portion of total performance funding that is allocated to each performance funding metric specified in subsection (4)(b) of this section.~~

~~(II) For the 2021-22 state fiscal year and each state fiscal year thereafter, the joint budget committee, after considering the commission's budget recommendations, shall determine the portion of total performance funding for the applicable state fiscal year that is allocated to each performance funding metric specified in subsection (4)(b) of this section. Each governing board's share of the funding allocated for each performance funding metric is determined using the calculation set forth in subsection (5) of this section.~~

~~(5) **Performance funding calculation.**~~

~~(a) The amount of performance funding that a governing board receives for each performance funding metric specified in subsection (4)(b) of this section is based on the rate of change over time in the performance of the institutions overseen by the governing board on the performance funding metric. The rate of change for each performance funding metric is calculated annually for a governing board by dividing the average of the four most recent years of actual data reported by the governing board for the metric by the average of the three oldest of the four years of actual data reported by the governing board for the metric. The rate of change for the performance funding metric is then multiplied by each governing board's role and mission share, resulting in the "governing board role and mission adjusted share" for the performance funding metric. The total of the governing board role and mission adjusted shares for all governing boards is the "total role and mission adjusted share" for the performance funding metric. Each governing board's allocation for the performance funding metric is then determined by dividing the governing board's role and mission adjusted share for the performance funding metric by the total role and mission adjusted share for the performance funding metric, ensuring that the total amount of funding distributed through the performance funding metric does not exceed the amount of funding allocated for the performance funding metric.~~

~~(b) Repealed.~~

(7) When requesting or determining a change in performance RESULTS-INFORMED funding pursuant to ~~subsection (4)~~ SUBSECTION (1.5) of this section and tuition spending authority for governing boards, the department and the joint budget committee shall consider, at a minimum, cost increases to base funding at all institutions, including those related to common policies annually submitted in the governor's November 1 budget request and adopted by the joint budget committee, and the commission's master plan goals.

~~(8) The board of trustees of the Colorado school of mines may study and recommend to the general assembly a different funding structure, including but not limited to a special purpose authority as defined in section 24-77-102 (15), that strengthens the institution and its specialized educational programs while ensuring academic quality and continued opportunities for resident students who meet the admissions criteria of the institution.~~

SECTION 3. In Colorado Revised Statutes, 23-18-306, **amend** (1)(a) introductory portion, (1)(a)(II)(A), and (1)(a)(II)(B); and **repeal** (4) as follows:

23-18-306. Duties and powers of the commission - budget provisions - periodic review of funding formula - report.

(1) (a) For the ~~2021-22 state fiscal year~~ 2027-28 STATE FISCAL YEAR and each state fiscal year thereafter, the department and commission shall submit a budget request by November 1 of each year that includes:

(II) Recommendations for:

(A) Changes in the amount of ~~performance~~ RESULTS-INFORMED funding pursuant to ~~section 23-18-303.5 (4)~~ SPECIFIED IN SECTION 23-18-303.5 (1.5), if any;

(B) The percentage allocation of ~~performance~~ RESULTS-INFORMED funding among the ~~performance~~ RESULTS-INFORMED funding metrics specified in ~~section 23-18-303.5 (4)(b)~~ SECTION 23-18-303.5 (1.3);

~~(4) The commission, in conjunction with the department and in collaboration with the governing boards, shall identify and make recommendations concerning ways to better measure the success of students who are pursuing a credential or degree and who are not included in the first-time, full-time student cohort. On or before July 1, 2022, the commission shall submit its recommendations to the joint budget committee, which may include a recommendation for a statutory change to the calculation of one of the graduation rate performance funding metrics specified in section 23-18-303.5 (4)(b).~~

SECTION 4. In Colorado Revised Statutes, 23-3.3-102, **add** (10) as follows:

23-3.3-102. Assistance program authorized - procedure - audits - definitions - repeal.

(10) (a) NOTWITHSTANDING ANY PROVISION OF THIS TITLE 23 TO THE CONTRARY, FOR THE 2026-27 STATE FISCAL YEAR, THE COMMISSION SHALL NOT ALLOCATE MONEY TO A NONPUBLIC INSTITUTION OF HIGHER

EDUCATION; PRIVATE INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION 23-18-102 (9); OR PROPRIETARY INSTITUTION OF HIGHER EDUCATION, FOR ITS STUDENTS UNDER A PROGRAM OF FINANCIAL ASSISTANCE ESTABLISHED BY THE COMMISSION PURSUANT TO THIS SECTION.

(b) THIS SUBSECTION (10) IS REPEALED, EFFECTIVE JULY 1, 2028.

SECTION 5. In Colorado Revised Statutes, 23-3.3-401, **add** (5) as follows:

23-3.3-401. Work-study program established - requirements.

(5) (a) NOTWITHSTANDING ANY PROVISION OF THIS TITLE 23 TO THE CONTRARY, FOR THE 2026-27 STATE FISCAL YEAR, THE COMMISSION SHALL NOT ALLOCATE MONEY TO A NONPUBLIC INSTITUTION OF HIGHER EDUCATION; PRIVATE INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION 23-18-102 (9); OR PROPRIETARY INSTITUTION OF HIGHER EDUCATION, FOR ITS STUDENTS UNDER A WORK-STUDY PROGRAM ESTABLISHED PURSUANT TO THIS SECTION.

(b) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE JULY 1, 2028.

SECTION 6. Effective date - applicability. This act takes effect upon passage; except that sections 1 to 3 of this act take effect August 1, 2026, and sections 1 to 3 of this act apply to state institution of higher education budgets beginning in state fiscal year 2027-28.

SECTION 7. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO