

ENROLLED ACT NO. 81, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2003 GENERAL SESSION

AN ACT relating to the Wyoming business council; authorizing the council to contract for air services as specified; requiring approval by the attorney general; providing an appropriation; requiring a report; and providing for an effective date.

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

Section 1. W.S. 9-12-601 and 9-12-602 are created to read:

ARTICLE 6
AIR SERVICES FINANCIAL AID

9-12-601. Wyoming air services enhancement; legislative findings; Wyoming business council authority to contract for services; requirements.

(a) The legislature finds that an adequate and comprehensive system of air service between Wyoming airports and airports located outside the state is vital for economic development within Wyoming. Competition among air service providers within the state is virtually nonexistent and, without competition, services will remain limited and unreliable and high air fares will remain a major impediment to use of air services by Wyoming residents and businesses. Peak air traffic and enplanements in Wyoming occurred when two (2) air carriers served the state in years 1993 and 1994. Further, airports in the state receive federal airport improvement program funds and, based upon enplanements in calendar year 2002 several commercial airports in the state are in danger of losing one million dollars (\$1,000,000.00) each, annually, if enplanements at the airports drop below ten thousand (10,000) for the year.

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(b) The Wyoming business council may enter into agreements to provide financial assistance to persons doing business or who will do business in the state for the enhancement of air services in the state conditioned upon contractual assurances that specified benefits will accrue to the state through increased air traffic and enplanements, including increasing the minimum number of enplanements at airports facing a possible loss of federal airport improvement program funding, increasing ridership between commercial airports in Wyoming and regional airport hubs, lowering airfares for air passengers and increasing the number of routes flown within the state.

(c) The council has primary responsibility and may consult with the aeronautics division of the Wyoming department of transportation or other entities, as necessary, to develop criteria for bids and contracts for financial aid under this section in accordance with W.S. 9-2-1016(b) (iv).

(d) All applications for financial aid under this section shall be submitted to the council which shall investigate and prepare a report concerning the advisability of approving the proposed financial aid for the applicant and concerning any other factors deemed relevant by the council. After consideration of the report, the council shall approve or deny the application. The applicant shall be promptly notified of the decision. In making the decision to approve or deny the application, the council shall give priority to an applicant whereby:

(i) The applicant can provide assurances that the enterprise has a reasonable chance of success and will achieve benchmarks specified by the applicant;

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(ii) Participation by the council is necessary to the success of the enterprise because funding for the enterprise is unavailable in the traditional capital markets, or because funding has been offered on terms that would substantially hinder the success of the enterprise;

(iii) The applicant will use the proceeds of the financial assistance provided under this section only to cover operational costs or acquisition of aircraft suitable for the special requirements of Wyoming airports;

(iv) The financial assistance has the reasonable potential in the opinion of the Wyoming business council to create a substantial amount of air travel originating within the state;

(v) The applicant has already made or is contractually committed to make a substantial financial and time commitment to the enterprise;

(vi) The applicant will not pledge financial aid granted pursuant to this section as collateral for any other purpose than is specified in the contract between the applicant and the council;

(vii) The applicant will provide reasonable assurances that within a time specified by the council, the state shall benefit from its investment by means of commercial airports having sufficient enplanements to retain or reestablish eligibility for federal airport improvement program funding and that commercial airports in the state will receive increased revenues from established passenger facility charges as a result of increased enplanements by the enterprise.

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(e) Before granting any financial aid under this section, the council shall enter into an agreement with the applicant providing for a benefit to the state which is commensurate with the level of risk and amount of the financial aid, using the criteria specified in paragraph (d)(vii) of this section. The attorney general shall review and approve the contract before the council enters into any agreement under this section.

(f) As used in this article, "council" means the Wyoming business council created by W.S. 9-12-103.

(g) The Wyoming business council will establish benchmarks for determining the success of the program.

9-12-602. Wyoming air services enhancement account.

(a) The council shall establish and maintain a Wyoming air services enhancement account under this article to provide the financial aid specified in W.S. 9-12-601 for ventures to enhance air services within the state. Any funds deposited in the account shall only be expended by the council as provided in W.S. 9-12-601 and to administer this article.

(b) Any funds appropriated by the legislature to the account established under subsection (a) of this section shall not lapse as provided by W.S. 9-4-207(a), but shall revert to the transportation enterprise fund as provided by W.S. 9-12-103(c) or upon a finding by the council that no applicant is able to provide the assurances required by W.S. 9-12-601 by June 30, 2004, whichever occurs earlier.

(c) The council shall report to the joint minerals, business and economic development interim committee, the joint appropriations interim committee and the air

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transportation liaison committee no later than September 30, 2003 with respect to any applications it has received under W.S. 9-12-601, including any actions taken and funds expended in consideration of, and pursuant to, any contract entered into under W.S. 9-12-601. If any funds are expended under a contract prior to June 30, 2004, the council shall also report no later than that date and annually thereafter with respect to the performance of any recipient of funds under the contract.

Section 2. There is appropriated two million five hundred thousand dollars (\$2,500,000.00) from the budget reserve account and five hundred thousand dollars (\$500,000.00) from the transportation trust fund created by W.S. 9-4-204(a)(xv) to the Wyoming business council to implement the purposes of this act.

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Section 3. 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