

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 17-1079.01 Julie Pelegrin x2700

SENATE BILL 17-258

SENATE SPONSORSHIP

Lundberg, Lambert, Moreno

HOUSE SPONSORSHIP

Rankin, Hamner, Young

Senate Committees
Appropriations

House Committees
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE USE OF OPEN EDUCATIONAL RESOURCES IN PUBLIC**
102 **INSTITUTIONS OF HIGHER EDUCATION, AND, IN CONNECTION**
103 **THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Joint Budget Committee. The bill creates the open educational resources council (council) in the department of higher education (department). The council includes persons appointed by the executive director of the department from public institutions of higher education, the executive director of the department, the commissioner of education,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
April 7, 2017

SENATE
3rd Reading Unamended
March 30, 2017

SENATE
2nd Reading Unamended
March 29, 2017

and the state librarian.

The bill directs the department to contract with an entity to evaluate the existing use of open educational resources by public institutions of higher education. The council must facilitate the work of the contracting entity, and, taking into account the findings of the contracting entity, recommend initiatives to expand the use of open educational resources. The council must report the findings of the contracting entity and its recommended initiatives to the joint budget committee and the education committees of the general assembly by November 20, 2017.

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

SECTION 1. In Colorado Revised Statutes, **add** 23-1-134 as follows:

23-1-134. Department directive - open educational resource initiatives - council created - report - definitions - legislative declaration - repeal. (1) THE GENERAL ASSEMBLY FINDS THAT THE COSTS OF TEXTBOOKS AND INSTRUCTIONAL MATERIALS HAVE RISEN TO EXORBITANT LEVELS, INCREASING THE COSTS FOR A FIRST-YEAR STUDENT ENROLLED IN A COMMUNITY COLLEGE BY AS MUCH AS TWENTY-TWO PERCENT ABOVE THE STUDENT'S TUITION AND FEES. BECAUSE OF THE HIGH PRICE OF TEXTBOOKS, SOME STUDENTS, ESPECIALLY LOW-INCOME STUDENTS, DO NOT BUY THE TEXTBOOKS REQUIRED FOR A COURSE, RESULTING IN SIGNIFICANT NEGATIVE EDUCATIONAL IMPACTS, INCLUDING IN SOME CASES FAILING THE COURSE. STUDENTS MAY ALSO CHOOSE TO WITHDRAW FROM A COURSE BECAUSE OF THE HIGH COST OF THE TEXTBOOKS THAT THE COURSE REQUIRES. SEVERAL INSTITUTIONS OF HIGHER EDUCATION ACROSS THE COUNTRY HAVE BEGUN PARTICIPATING IN OPEN EDUCATIONAL RESOURCES CONSORTIA THAT MAKE TEXTBOOKS, SYLLABI, COURSE ACTIVITIES, AND READINGS AVAILABLE TO STUDENTS ONLINE FOR NO COST, RESULTING IN SIGNIFICANT STUDENT SAVINGS. IT IS

1 APPROPRIATE TO CONSIDER INITIATIVES TO INCREASE THE USE OF OPEN
2 EDUCATIONAL RESOURCES IN PUBLIC INSTITUTIONS OF HIGHER EDUCATION
3 TO PROVIDE COST SAVINGS AND OTHER EDUCATIONAL BENEFITS FOR
4 STUDENTS ENROLLED IN PUBLIC INSTITUTIONS OF HIGHER EDUCATION,
5 INCLUDING THOSE STUDENTS WHO ARE CONCURRENTLY ENROLLED IN HIGH
6 SCHOOL AND POSTSECONDARY COURSES.

7 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
8 REQUIRES:

9 (a) "COUNCIL" MEANS THE OPEN EDUCATIONAL RESOURCES
10 COUNCIL CREATED IN SUBSECTION (3) OF THIS SECTION.

11 (b) "OPEN EDUCATIONAL RESOURCES" MEANS HIGH-QUALITY
12 TEACHING, LEARNING, AND RESEARCH RESOURCES THAT RESIDE IN THE
13 PUBLIC DOMAIN OR HAVE BEEN RELEASED UNDER AN INTELLECTUAL
14 PROPERTY LICENSE THAT PERMITS FREE USE OR REPURPOSING BY OTHERS
15 AND MAY INCLUDE OTHER RESOURCES THAT ARE LEGALLY AVAILABLE
16 AND AVAILABLE TO STUDENTS FOR FREE OR VERY LOW COST. OPEN
17 EDUCATIONAL RESOURCES MAY INCLUDE FULL COURSES, COURSE
18 MATERIALS, MODULES, TEXTBOOKS, FACULTY-CREATED CONTENT,
19 STREAMING VIDEOS, TESTS, SOFTWARE, AND OTHER TOOLS, MATERIALS, OR
20 TECHNIQUES USED TO SUPPORT ACCESS TO KNOWLEDGE.

21 (c) "PUBLIC INSTITUTION OF HIGHER EDUCATION" MEANS THE
22 STATE INSTITUTIONS OF HIGHER EDUCATION, AS DEFINED IN SECTION
23 23-18-102 (10)(a), THE LOCAL DISTRICT COLLEGES, AND THE AREA
24 TECHNICAL COLLEGES.

25 (3) (a) THERE IS CREATED IN THE DEPARTMENT OF HIGHER
26 EDUCATION THE OPEN EDUCATIONAL RESOURCES COUNCIL, WHICH IS
27 COMPRISED OF THE FOLLOWING MEMBERS:

1 (I) ELEVEN PERSONS FROM PUBLIC INSTITUTIONS OF HIGHER
2 EDUCATION APPOINTED BY THE EXECUTIVE DIRECTOR AS FOLLOWS:

3 (A) FOUR FACULTY MEMBERS;

4 (B) THREE LIBRARY PROFESSIONALS;

5 (C) ONE INSTRUCTIONAL DESIGN EXPERT;

6 (D) ONE INFORMATIONAL TECHNOLOGY EXPERT;

7 (E) ONE ADMINISTRATOR; AND

8 (F) A DIRECTOR OR MANAGER OF A CAMPUS BOOKSTORE OR OTHER
9 EMPLOYEE OF A CAMPUS BOOKSTORE WITH EXPERTISE IN PURCHASING THE
10 INVENTORY OF REQUIRED TEXTS FOR POSTSECONDARY COURSES;

11 (II) A PERSON APPOINTED BY THE EXECUTIVE DIRECTOR WHO IS A
12 REPRESENTATIVE OF A PUBLISHING COMPANY THAT PUBLISHES TEXTBOOKS
13 FOR POSTSECONDARY COURSES;

14 (III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HIGHER
15 EDUCATION OR HIS OR HER DESIGNEE;

16 (IV) THE COMMISSIONER OF EDUCATION APPOINTED PURSUANT TO
17 SECTION 1 (2) OF ARTICLE IX OF THE STATE CONSTITUTION, OR HIS OR HER
18 DESIGNEE; AND

19 (V) THE PERSON EXECUTING THE DUTIES OF THE STATE LIBRARIAN,
20 IF DIFFERENT FROM THE COMMISSIONER OF EDUCATION AS PROVIDED IN
21 SECTION 24-90-104, OR HIS OR HER DESIGNEE.

22 (b) THE EXECUTIVE DIRECTOR SHALL APPOINT THE MEMBERS OF
23 THE COUNCIL BY JULY 1, 2017. IN APPOINTING THE MEMBERS OF THE
24 COUNCIL, THE EXECUTIVE DIRECTOR SHALL ENSURE THAT THE COUNCIL
25 INCLUDES AT LEAST THREE REPRESENTATIVES FROM TWO-YEAR PUBLIC
26 INSTITUTIONS OF HIGHER EDUCATION AND AT LEAST THREE
27 REPRESENTATIVES FROM FOUR-YEAR PUBLIC INSTITUTIONS OF HIGHER

1 EDUCATION, INCLUDING RESEARCH UNIVERSITIES. TO THE EXTENT
2 PRACTICABLE, THE EXECUTIVE DIRECTOR SHALL APPOINT PERSONS FROM
3 AREAS THROUGHOUT THE STATE WHO ARE REPRESENTATIVE OF THE
4 DEMOGRAPHICS OF THE STATE.

5 (c) THE EXECUTIVE DIRECTOR SHALL CONVENE THE FIRST MEETING
6 OF THE COUNCIL NO LATER THAN JULY 15, 2017. AT THE FIRST MEETING,
7 THE COUNCIL MEMBERS SHALL SELECT A MEMBER TO SERVE AS CHAIR OF
8 THE COUNCIL AND A MEMBER TO SERVE AS VICE-CHAIR OF THE COUNCIL.
9 THE COUNCIL SHALL MEET AS OFTEN AS NECESSARY AT THE CALL OF THE
10 CHAIR TO COMPLETE ITS DUTIES.

11 (d) THE MEMBERS OF THE COUNCIL SERVE WITHOUT
12 COMPENSATION BUT MAY BE REIMBURSED FOR REASONABLE AND
13 NECESSARY EXPENSES INCURRED IN SERVING ON THE COUNCIL, AS
14 DETERMINED BY THE DEPARTMENT.

15 (4) THE COUNCIL SHALL:

16 (a) WORK WITH THE ENTITY WITH WHICH THE DEPARTMENT
17 CONTRACTS AS PROVIDED IN SUBSECTION (6) OF THIS SECTION TO REVIEW
18 AND EVALUATE THE EXTENT TO WHICH EACH PUBLIC INSTITUTION OF
19 HIGHER EDUCATION IS USING OPEN EDUCATIONAL RESOURCES AND
20 OPTIONS FOR AND OBSTACLES TO INCREASING THE USE OF OPEN
21 EDUCATIONAL RESOURCES IN PUBLIC INSTITUTIONS OF HIGHER EDUCATION.
22 THE COUNCIL SHALL ENSURE THAT THE EVALUATION IS COMPLETED NO
23 LATER THAN OCTOBER 20, 2017.

24 (b) SOLICIT INPUT CONCERNING THE USE OF OPEN EDUCATIONAL
25 RESOURCES FROM, AT A MINIMUM, SCHOOL DISTRICTS, CHARTER SCHOOLS,
26 ANY PUBLIC INSTITUTIONS OF HIGHER EDUCATION THAT DO NOT HAVE A
27 REPRESENTATIVE ON THE COUNCIL, AND STUDENTS ENROLLED IN PUBLIC

1 INSTITUTIONS OF HIGHER EDUCATION;

2 (c) BASED ON THE RESULTS OF THE EVALUATION, RECOMMEND
3 INITIATIVES FOR INCREASING THE USE OF OPEN EDUCATIONAL RESOURCES
4 THAT ARE LIKELY TO RESULT IN COST SAVINGS AND OTHER EDUCATIONAL
5 BENEFITS FOR STUDENTS ENROLLED IN PUBLIC INSTITUTIONS OF HIGHER
6 EDUCATION, INCLUDING STUDENTS WHO ARE CONCURRENTLY ENROLLED
7 IN HIGH SCHOOL AND POSTSECONDARY COURSES AS PROVIDED IN ARTICLE
8 35 OF TITLE 22. THE COUNCIL SHALL EXAMINE A RANGE OF INITIATIVES
9 AND CONSIDER THE EFFECTIVENESS OF INITIATIVES IMPLEMENTED IN
10 OTHER STATES. THE RECOMMENDED INITIATIVES MAY INCLUDE BUT ARE
11 NOT LIMITED TO:

12 (I) IDENTIFYING OPEN EDUCATIONAL RESOURCE MATERIALS THAT
13 ARE ASSOCIATED WITH THE CORE GENERAL EDUCATION COURSES
14 IDENTIFIED PURSUANT TO SECTION 23-1-125 (3) AND THE CORE
15 COMPETENCIES IDENTIFIED FOR CAREER AND TECHNICAL EDUCATION
16 CREDENTIALS AND DETERMINING THE BEST MECHANISM TO ASSIST
17 FACULTY AND STUDENTS IN IDENTIFYING, ACCESSING, AND USING THESE
18 MATERIALS. IN CONSIDERING THESE ISSUES, THE COUNCIL MAY INCLUDE
19 RECOMMENDATIONS CONCERNING METHODS FOR ENSURING THAT
20 IDENTIFIED MATERIALS ARE OF HIGH QUALITY, ARE LEGALLY AVAILABLE
21 FOR USE, AND REMAIN CURRENT.

22 (II) DEVELOPING RECOMMENDATIONS FOR A GRANT PROGRAM TO
23 PROMOTE ADOPTION AND USE OF OPEN EDUCATIONAL RESOURCES ON A
24 REGIONAL OR STATEWIDE BASIS. THE GRANT PROGRAM MAY PROVIDE
25 FUNDING FOR, BUT NEED NOT BE LIMITED TO, THE FOLLOWING:

26 (A) STAFF DEVELOPMENT AND TRAINING AND TECHNOLOGY
27 SUPPORT;

1 (B) FACULTY INCENTIVES TIED TO IMPLEMENTATION AND USE OF
2 OPEN EDUCATIONAL RESOURCES;

3 (C) EFFORTS TO CREATE AND BRAND ENTIRE COURSES OR
4 SECTIONS OF COURSES AS FREE-MATERIAL, OPEN-EDUCATIONAL-RESOURCE
5 COURSES; AND

6 (D) INCENTIVES AND SUPPORT FOR LIBRARIES AT PUBLIC
7 INSTITUTIONS OF HIGHER EDUCATION OR LIBRARIES IN CONCURRENT
8 ENROLLMENT SITES TO IMPROVE THE EXISTING INFRASTRUCTURE IN
9 LIBRARIES FOR STORING, ACCESSING, AND SHARING LEARNING MATERIALS
10 AMONG STUDENTS, FACULTY, AND INSTITUTIONS; AND

11 (III) IDENTIFYING STRATEGIES TO LEVERAGE THE OPEN
12 EDUCATIONAL RESOURCE WORK AND KNOWLEDGE AT ONE PUBLIC
13 INSTITUTION OF HIGHER EDUCATION INTO A KNOWLEDGE BASE FOR OTHER
14 INSTITUTIONS, WHICH MAY INCLUDE ACTIVE SHARING OF MATERIALS,
15 METHODS, AND TECHNOLOGY PLATFORMS; MARKETING OF THE OPEN
16 EDUCATIONAL RESOURCES; PROFESSIONAL DEVELOPMENT FOR FACULTY
17 AND TRAINING FOR STUDENTS IN THE USE OF OPEN EDUCATIONAL
18 RESOURCES; AND CONFERENCES PROMOTING THE CREATION AND USE OF
19 OPEN EDUCATIONAL RESOURCES.

20 (5) IN RECOMMENDING INITIATIVES, THE COUNCIL SHALL INCLUDE
21 METHODS FOR EVALUATING THE SUCCESS OF EACH RECOMMENDED
22 INITIATIVE, INCLUDING PROCEDURES FOR EVALUATING COST SAVINGS TO
23 STUDENTS BASED ON THE USE OF OPEN EDUCATIONAL RESOURCE
24 MATERIALS IN COURSES AND SECTIONS. THE EVALUATION MAY INCLUDE
25 OTHER COMPONENTS SUCH AS ASSESSING THE EFFECTIVENESS OF PROGRAM
26 PROCESSES AND MATERIALS AND ASSESSING FACULTY AND STUDENT
27 AWARENESS OF THE INITIATIVE.

1 (6) BY AUGUST 1, 2017, THE DEPARTMENT, IN ACCORDANCE WITH
2 THE APPLICABLE PROVISIONS OF THE "PROCUREMENT CODE", ARTICLES
3 101 TO 112 OF TITLE 24, SHALL CONTRACT WITH AN ENTITY TO REVIEW
4 AND EVALUATE THE EXTENT TO WHICH EACH PUBLIC INSTITUTION OF
5 HIGHER EDUCATION IS USING OPEN EDUCATIONAL RESOURCES AND
6 OPTIONS FOR AND OBSTACLES TO INCREASING THE USE OF OPEN
7 EDUCATIONAL RESOURCES IN PUBLIC INSTITUTIONS OF HIGHER EDUCATION.
8 THE ENTITY SHALL COMPLETE THE REVIEW AND SUBMIT A REPORT TO THE
9 COUNCIL AND THE DEPARTMENT BY OCTOBER 20, 2017.

10 (7) THE COUNCIL SHALL PREPARE A REPORT THAT INCLUDES THE
11 REPORT PREPARED PURSUANT TO SUBSECTION (6) OF THIS SECTION AND
12 THE COUNCIL'S RECOMMENDED INITIATIVES FOR SUPPORTING AND
13 EXPANDING THE USE OF OPEN EDUCATIONAL RESOURCES IN COLORADO.
14 THE COUNCIL SHALL SUBMIT THE REPORT BY NOVEMBER 20, 2017, TO THE
15 JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY AND THE
16 EDUCATION COMMITTEES OF THE SENATE AND THE HOUSE OF
17 REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES.

18 (8) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2018.

19 **SECTION 2. Appropriation.** For the 2017-18 state fiscal year,
20 \$25,000 is appropriated to the department of higher education. This
21 appropriation is from the general fund. To implement this act, the
22 department may use this appropriation for the open educational resources
23 council and to contract with an entity to study the use of open educational
24 resources at public institutions of higher education.

25 **SECTION 3. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, and safety.