

CHAPTER 191

EDUCATION - POSTSECONDARY

SENATE BILL 17-258

BY SENATOR(S) Lundberg, Lambert, Moreno, Cooke, Donovan, Fields, Hill, Jahn, Jones, Kefalas, Kerr, Marble, Martinez Humenik, Merrifield, Neville T., Tate, Todd, Zenzinger;
also REPRESENTATIVE(S) Rankin, Hamner, Young, Buckner, Ginal, Gray, Hansen, Herod, Kennedy, Lontine, McLachlan, Michaelson Jenet, Rosenthal, Salazar, Winter, Duran, Singer, Valdez, Van Winkle, Wilson.

AN ACT

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

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

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

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

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

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

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

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

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

(A) FOUR FACULTY MEMBERS;

(B) THREE LIBRARY PROFESSIONALS;

(C) ONE INSTRUCTIONAL DESIGN EXPERT;

(D) ONE INFORMATIONAL TECHNOLOGY EXPERT; AND

(E) ONE ADMINISTRATOR;

(II) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HIGHER EDUCATION OR HIS OR HER DESIGNEE;

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

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

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

AND AT LEAST THREE REPRESENTATIVES FROM FOUR-YEAR PUBLIC INSTITUTIONS OF HIGHER EDUCATION, INCLUDING RESEARCH UNIVERSITIES. TO THE EXTENT PRACTICABLE, THE EXECUTIVE DIRECTOR SHALL APPOINT PERSONS FROM AREAS THROUGHOUT THE STATE WHO ARE REPRESENTATIVE OF THE DEMOGRAPHICS OF THE STATE.

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

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

(4) THE COUNCIL SHALL:

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

(b) SOLICIT INPUT CONCERNING THE USE OF OPEN EDUCATIONAL RESOURCES FROM, AT A MINIMUM, SCHOOL DISTRICTS, CHARTER SCHOOLS, ANY PUBLIC INSTITUTIONS OF HIGHER EDUCATION THAT DO NOT HAVE A REPRESENTATIVE ON THE COUNCIL, STUDENTS ENROLLED IN PUBLIC INSTITUTIONS OF HIGHER EDUCATION, REPRESENTATIVES OF CAMPUS BOOKSTORES, AND REPRESENTATIVES OF COMPANIES THAT PUBLISH TEXTBOOKS FOR POSTSECONDARY COURSES;

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

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

CURRENT.

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

(A) STAFF DEVELOPMENT AND TRAINING AND TECHNOLOGY SUPPORT;

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

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

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

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

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

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

(7) THE COUNCIL SHALL PREPARE A REPORT THAT INCLUDES THE REPORT PREPARED PURSUANT TO SUBSECTION (6) OF THIS SECTION AND THE COUNCIL'S RECOMMENDED INITIATIVES FOR SUPPORTING AND EXPANDING THE USE OF OPEN EDUCATIONAL RESOURCES IN COLORADO. THE COUNCIL SHALL SUBMIT THE REPORT BY NOVEMBER 20, 2017, TO THE JOINT BUDGET COMMITTEE OF THE GENERAL

ASSEMBLY AND THE EDUCATION COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES.

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

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

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

Approved: May 3, 2017