

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

REVISED

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

LLS NO. 21-0871.01 Julie Pelegrin x2700

SENATE BILL 21-215

SENATE SPONSORSHIP

Hansen and Rankin, Moreno, Buckner, Fields, Ginal, Gonzales, Jaquez Lewis, Lee, Pettersen, Story, Zenzinger

HOUSE SPONSORSHIP

Herod and McCluskie,

Senate Committees
Appropriations

House Committees
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE USE OF OPEN EDUCATIONAL RESOURCES AT 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 makes several changes to the existing statute concerning open educational resources, as follows:

- Clarifies the definition of open educational resources;
- Authorizes the Colorado open educational resources council (council) to consult with experts who are not

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

HOUSE
2nd Reading Unamended
April 15, 2021

SENATE
3rd Reading Unamended
April 9, 2021

SENATE
2nd Reading Unamended
April 8, 2021

- members of the council in exercising its duties;
- Expands the open educational resources grant program (grant program) to provide grants to develop and replicate entire zero-textbook-cost degree programs;
- Moves preparation of the annual grant program report from the council to the department of higher education (department); and
- Extends the repeal date for the council and the grant program for 5 years.

Under existing law, beginning in the fall of 2021, public institutions of higher education must, before registration, inform students of which courses use open educational resources. The bill directs the commission on higher education to adopt guidelines to require public institutions of higher education, beginning no later than the fall of 2025, to inform students at the point of registration concerning those courses that use open educational resources.

The bill directs the department to review the open educational resources policies adopted across the state and identify and determine the efficacy of policies that expand the use and promote the sustainability of open educational resources. The department must include this information in the annual grant program report.

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

2 **SECTION 1.** In Colorado Revised Statutes, 23-4.5-101, **add** (3)
 3 as follows:

4 **23-4.5-101. Legislative declaration.** (3) (a) THE GENERAL
 5 ASSEMBLY FINDS THAT, SINCE THE OPEN EDUCATIONAL RESOURCES
 6 COUNCIL WAS ESTABLISHED IN 2018 AND THE COUNCIL BEGAN
 7 RECOMMENDING GRANT RECIPIENTS:

8 (I) OPEN EDUCATIONAL RESOURCES PRACTICES AND PHILOSOPHY
 9 HAVE EXPANDED TO PUBLIC INSTITUTIONS THROUGHOUT THE STATE AND
 10 EDUCATORS HAVE ADOPTED INNOVATIVE METHODS OF TEACHING AND
 11 REINVIGORATING CURRICULA; AND

12 (II) THE NUMBER OF COURSES THAT USE OPEN EDUCATIONAL
 13 RESOURCES HAS SIGNIFICANTLY INCREASED, SAVING STUDENTS ALMOST

1 FOUR MILLION DOLLARS IN TEXTBOOK COSTS, THEREBY IMPROVING
2 STUDENT EQUITY IN HIGHER EDUCATION AND LEADING TO INCREASED
3 STUDENT SUCCESS.

4 (b) THE GENERAL ASSEMBLY FINDS, THEREFORE, THAT IT IS IN THE
5 BEST INTERESTS OF THE STATE TO CONTINUE AND EXPAND THE OPEN
6 EDUCATIONAL RESOURCES GRANT PROGRAM TO SUPPORT THE CONTINUED
7 CREATION AND USE OF OPEN EDUCATIONAL RESOURCES FOR INDIVIDUAL
8 COURSES AND TO SUPPORT THE CREATION AND REPLICATION OF
9 ZERO-TEXTBOOK-COST DEGREE PROGRAMS.

10 **SECTION 2.** In Colorado Revised Statutes, 23-4.5-102, **amend**
11 (6); and **add** (8) as follows:

12 **23-4.5-102. Definitions.** As used in this article 4.5, unless the
13 context otherwise requires:

14 (6) "Open educational resources" means high-quality teaching,
15 learning, and research resources that reside in the public domain or have
16 been released under an intellectual property license that permits free use
17 ~~or AND repurposing by others. and may include other resources that are~~
18 ~~legally available and available to students for free or very low cost.~~ Open
19 educational resources may include full courses, course materials,
20 modules, textbooks, faculty-created content, streaming videos, exams,
21 software, and other tools, materials, or techniques used to support access
22 to knowledge.

23 (8) "ZERO-TEXTBOOK-COST DEGREE PROGRAM" MEANS A
24 POSTSECONDARY CREDENTIAL OR DEGREE PROGRAM THAT DOES NOT
25 REQUIRE A STUDENT TO PAY TEXTBOOK COSTS BUT REQUIRES THE
26 STUDENT TO USE ONLY OPEN EDUCATIONAL RESOURCES OR OTHER
27 RESOURCES THAT ARE ENTIRELY FREE TO THE STUDENT.

1 **SECTION 3.** In Colorado Revised Statutes, 23-4.5-103, **amend**
2 (4) and (5)(e) as follows:

3 **23-4.5-103. Colorado open educational resources council -**
4 **created - duties - report.** (4) The members of the council serve without
5 compensation but may be reimbursed for reasonable and necessary
6 expenses incurred in serving on the council, as determined by the
7 department. The department shall provide staff and resources to support
8 the council in completing its duties and to assist the public institutions of
9 higher education throughout the state in developing and expanding the
10 use of open educational resources. IN EXERCISING ITS DUTIES, THE
11 COUNCIL MAY CONSULT WITH PERSONS WHO REPRESENT INSTITUTIONS OF
12 HIGHER EDUCATION THAT ARE NOT REPRESENTED ON THE COUNCIL AND
13 WITH OTHER PERSONS WHO HAVE EXPERTISE THAT IS HELPFUL TO THE
14 COUNCIL.

15 (5) The council has the following duties:

16 (e) To ~~prepare and submit~~ WORK WITH THE DEPARTMENT TO
17 PREPARE an annual report concerning the use of open educational
18 resources at the public institutions of higher education in the state, as
19 described in ~~section 23-4.5-105~~ SECTION 23-1-134 (4).

20 **SECTION 4.** In Colorado Revised Statutes, 23-4.5-104, **amend**
21 (1), (2)(b)(III), (4)(a), and (5) as follows:

22 **23-4.5-104. Open educational resources grant program -**
23 **created - report.** (1) There is created in the department of higher
24 education the open educational resources grant program to provide
25 funding for public institutions of higher education, faculty, and staff to
26 create and expand the use of open educational resources across
27 institutions around the state. The grant program consists of grants to:

1 (a) Public institutions of higher education to support creating,
2 adapting, and promoting the use of open educational resources at the
3 institution or on a campus; ~~and~~

4 (b) Faculty and staff of public institutions of higher education,
5 individually or in small groups, to support the creating, adapting, and
6 promoting of open educational resources; AND

7 (c) PUBLIC INSTITUTIONS OF HIGHER EDUCATION TO SUPPORT THE
8 DEVELOPMENT, IMPLEMENTATION, AND REPLICATION OF
9 ZERO-TEXTBOOK-COST DEGREE PROGRAMS. IN RECOMMENDING
10 RECIPIENTS OF A GRANT FOR THIS PURPOSE, THE COUNCIL SHALL
11 PRIORITIZE HIGH-DEMAND INDUSTRY CREDENTIAL PROGRAMS AND
12 HIGH-ENROLLMENT DEGREE PROGRAMS SUCH AS INFORMATION
13 TECHNOLOGY PROGRAMS, HEALTH CARE, AND BUSINESS.

14 (2) (b) An application for an institutional grant may include:

15 (III) The manner in which the courses that use open educational
16 resources will be identified for students prior to the time, AND AT THE
17 POINT, of course registration, which may include identification in the
18 schedule of classes;

19 (4) Each grant recipient, as a condition of receiving the grant,
20 must:

21 (a) Submit to the ~~council~~ DEPARTMENT data concerning the
22 number of students affected by open educational resources developed or
23 adapted using the grant, the estimated amount of student savings that
24 results from using the open educational resources, and measures of the
25 effectiveness of the grant project;

26 (5) The council shall ~~summarize the information received from~~
27 ~~grant recipients as described in subsection (4)(a) of this section and~~

1 ~~include the summarized information in the annual report required in~~
2 ~~section 23-4.5-105.~~ WORK WITH THE DEPARTMENT TO PREPARE AN
3 ANNUAL REPORT CONCERNING IMPLEMENTATION AND DEVELOPMENT OF
4 OPEN EDUCATIONAL RESOURCES AROUND THE STATE, AS DESCRIBED IN
5 SECTION 23-1-134 (3).

6 **SECTION 5.** In Colorado Revised Statutes, **repeal** 23-4.5-105.

7 **SECTION 6.** In Colorado Revised Statutes, **amend** 23-4.5-106
8 as follows:

9 **23-4.5-106. Repeal of article.** This article 4.5 is repealed,
10 effective ~~November 1, 2021.~~ NOVEMBER 1, 2026.

11 **SECTION 7.** In Colorado Revised Statutes, **amend** 23-1-134 as
12 follows:

13 **23-1-134. Commission directive - open educational resources**
14 **- course notice - report - definitions.** (1) The commission shall adopt
15 guidelines to require public institutions of higher education to ensure that,
16 beginning in the fall of 2021, students are informed prior to course
17 registration, AND BEGINNING NO LATER THAN THE FALL OF 2025,
18 STUDENTS ARE ALSO INFORMED AT THE POINT OF COURSE REGISTRATION,
19 concerning which courses and sections use open educational resources or
20 other low-cost materials.

21 (2) THE DEPARTMENT SHALL REVIEW THE POLICIES PERTAINING TO
22 THE CREATION AND USE OF OPEN EDUCATIONAL RESOURCES, INCLUDING
23 OPEN LICENSING POLICIES, ADOPTED BY PUBLIC INSTITUTIONS OF HIGHER
24 EDUCATION THROUGHOUT THE STATE. THE DEPARTMENT SHALL IDENTIFY
25 AND DETERMINE THE EFFICACY OF ANY PROVISIONS INCLUDED IN SAID
26 POLICIES THAT EXPAND THE USE AND PROMOTE THE SUSTAINABILITY OF
27 OPEN EDUCATIONAL RESOURCES.

1 (3) NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136
2 (11)(a)(I), ON OR BEFORE OCTOBER 1, 2021, AND ON OR BEFORE OCTOBER
3 1 EACH YEAR THEREAFTER THROUGH OCTOBER 1, 2026, THE DEPARTMENT
4 SHALL PREPARE AND SHALL SUBMIT TO THE COMMISSION, THE COUNCIL,
5 THE JOINT BUDGET COMMITTEE, AND THE EDUCATION COMMITTEES OF THE
6 SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR
7 COMMITTEES, A REPORT CONCERNING IMPLEMENTATION AND
8 DEVELOPMENT OF OPEN EDUCATIONAL RESOURCES AROUND THE STATE.
9 THE DEPARTMENT SHALL WORK WITH THE COUNCIL IN PREPARING THE
10 REPORT, AND THE PUBLIC INSTITUTIONS OF HIGHER EDUCATION SHALL
11 COLLABORATE WITH THE DEPARTMENT AND COUNCIL IN PROVIDING THE
12 INFORMATION NECESSARY FOR THE REPORT. AT A MINIMUM, THE REPORT
13 MUST INCLUDE:

14 (a) THE DEGREE TO WHICH ALL PUBLIC INSTITUTIONS OF HIGHER
15 EDUCATION ARE ADOPTING OPEN EDUCATIONAL RESOURCES SUPPORT
16 PROGRAMS AND ENSURING UNIVERSAL AWARENESS OF OPEN EDUCATIONAL
17 RESOURCES AMONG FACULTY AND STUDENTS;

18 (b) DESCRIPTIONS AND EVALUATIONS OF THE EFFICACY OF
19 PROVISIONS INCLUDED IN OPEN EDUCATIONAL RESOURCES POLICIES
20 ACROSS THE STATE THAT EXPAND THE USE AND PROMOTE THE
21 SUSTAINABILITY OF OPEN EDUCATIONAL RESOURCES;

22 (c) THE NUMBER AND PERCENTAGE OF THE COURSES OFFERED BY
23 THE PUBLIC INSTITUTIONS OF HIGHER EDUCATION THAT USE OPEN
24 EDUCATIONAL RESOURCES AS THE PRIMARY RESOURCES FOR THE COURSE;

25 (d) THE NUMBER AND PERCENTAGE OF THE DEGREE PROGRAMS
26 OFFERED BY THE PUBLIC INSTITUTIONS OF HIGHER EDUCATION THAT ARE
27 ZERO-TEXTBOOK-COST DEGREE PROGRAMS;

1 (e) THE OPEN EDUCATIONAL RESOURCES CREATED AND SHARED BY
2 GRANT PROGRAM RECIPIENTS;

3 (f) THE NUMBER OF OPEN EDUCATIONAL RESOURCES REVISED AND
4 ADOPTED BY GRANT PROGRAM RECIPIENTS;

5 (g) FOR PUBLIC INSTITUTIONS OF HIGHER EDUCATION THAT
6 RECEIVE A GRANT THROUGH THE GRANT PROGRAM OR THAT EMPLOY
7 FACULTY OR STAFF THAT RECEIVE A GRANT, THE COURSE ENROLLMENT,
8 COMPLETION, AND PASS RATES FOR COURSES THAT USE OPEN
9 EDUCATIONAL RESOURCES COMPARED TO COURSES THAT DO NOT USE
10 THESE RESOURCES AND THE ENROLLMENT AND COMPLETION RATES FOR
11 ZERO-TEXTBOOK-COST DEGREE PROGRAMS COMPARED TO OTHER DEGREE
12 PROGRAMS; AND

13 (h) THE SUMMARIZED INFORMATION CONCERNING
14 IMPLEMENTATION OF THE GRANT PROGRAM AS DESCRIBED IN SECTION
15 23-4.5-104 (4)(a).

16 ~~(2)~~ (4) As used in this section:

17 (a) "COUNCIL" MEANS THE OPEN EDUCATIONAL RESOURCES
18 COUNCIL CREATED IN SECTION 23-4.5-103.

19 (b) "GRANT PROGRAM" MEANS THE OPEN EDUCATIONAL
20 RESOURCES GRANT PROGRAM CREATED IN SECTION 23-4.5-104.

21 (c) "Public institution of higher education" has the same meaning
22 as provided in ~~section 23-4.5-102~~ SECTION 23-4.5-102 (7).

23 (d) "ZERO-TEXTBOOK-COST DEGREE PROGRAM" HAS THE SAME
24 MEANING AS PROVIDED IN SECTION 23-4.5-102 (8).

25 **SECTION 8. Appropriation.** For the 2021-22 state fiscal year,
26 \$1,108,200 is appropriated to the department of higher education. This
27 appropriation is from the general fund and is based on an assumption that

1 the department will require an additional 1.0 FTE. To implement this act,
2 the department may use this appropriation for the open educational
3 resources initiatives described in article 4.5 of title 23, C.R.S., and
4 preparation of the report described in section 23-1-134, C.R.S.

5 **SECTION 9. Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, or safety.