

CHAPTER 97

EDUCATION - POSTSECONDARY

SENATE BILL 21-215

BY SENATOR(S) Hansen and Rankin, Moreno, Buckner, Fields, Ginal, Gonzales, Jaquez Lewis, Lee, Pettersen, Story, Zenzinger; also REPRESENTATIVE(S) Herod and McCluskie, Bacon, Bernett, Bird, Cutter, Esgar, Exum, Gonzales-Gutierrez, Hooton, Jackson, Jodeh, Kipp, Lontine, McLachlan, Michaelson Jenet, Ortiz, Weissman, Young, Garnett.

AN ACT

CONCERNING THE USE OF OPEN EDUCATIONAL RESOURCES AT 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, 23-4.5-101, **add** (3) as follows:

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

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

(II) THE NUMBER OF COURSES THAT USE OPEN EDUCATIONAL RESOURCES HAS SIGNIFICANTLY INCREASED, SAVING STUDENTS ALMOST FOUR MILLION DOLLARS IN TEXTBOOK COSTS, THEREBY IMPROVING STUDENT EQUITY IN HIGHER EDUCATION AND LEADING TO INCREASED STUDENT SUCCESS.

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

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

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.

as follows:

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

(6) "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~~ AND 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, exams, software, and other tools, materials, or techniques used to support access to knowledge.

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

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

23-4.5-103. Colorado open educational resources council - created - duties - report. (4) 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. The department shall provide staff and resources to support the council in completing its duties and to assist the public institutions of higher education throughout the state in developing and expanding the use of open educational resources. IN EXERCISING ITS DUTIES, THE COUNCIL MAY CONSULT WITH PERSONS WHO REPRESENT INSTITUTIONS OF HIGHER EDUCATION THAT ARE NOT REPRESENTED ON THE COUNCIL AND WITH OTHER PERSONS WHO HAVE EXPERTISE THAT IS HELPFUL TO THE COUNCIL.

(5) The council has the following duties:

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

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

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

(a) Public institutions of higher education to support creating, adapting, and

promoting the use of open educational resources at the institution or on a campus;
and

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

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

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

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

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

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

(5) The council shall ~~summarize the information received from grant recipients as described in subsection (4)(a) of this section and include the summarized information in the annual report required in section 23-4.5-105.~~ WORK WITH THE DEPARTMENT TO PREPARE AN ANNUAL REPORT CONCERNING IMPLEMENTATION AND DEVELOPMENT OF OPEN EDUCATIONAL RESOURCES AROUND THE STATE, AS DESCRIBED IN SECTION 23-1-134 (3).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) THE SUMMARIZED INFORMATION CONCERNING IMPLEMENTATION OF THE

GRANT PROGRAM AS DESCRIBED IN SECTION 23-4.5-104 (4)(a).

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

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

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

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

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

SECTION 8. Appropriation. For the 2021-22 state fiscal year, \$1,108,200 is appropriated to the department of higher education. This appropriation is from the general fund and is based on an assumption that the department will require an additional 1.0 FTE. To implement this act, the department may use this appropriation for the open educational resources initiatives described in article 4.5 of title 23, C.R.S., and preparation of the report described in section 23-1-134, C.R.S.

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

Approved: May 5, 2021