

HOUSE BILL REPORT

E2SHB 1561

As Passed Legislature

Title: An act relating to open educational resources.

Brief Description: Concerning open educational resources.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Frame, Pollet, Doglio, Kloba, Bergquist, Kilduff, Stanford, Dolan, Peterson, Stonier, Senn, Slatter, Fey, Lovick, Macri, Tarleton, Tharinger, Sawyer, Goodman and Farrell).

Brief History:

Committee Activity:

Higher Education: 1/31/17, 2/8/17 [DPS];

Appropriations: 2/20/17, 2/22/17 [DP2S(w/o sub HE)].

Floor Activity:

Passed House: 3/6/17, 64-34.

Passed House: 1/18/18, 72-24.

Senate Amended.

Passed Senate: 3/2/18, 49-0.

House Concurred.

Passed House: 3/5/18, 81-17.

Passed Legislature.

Brief Summary of Engrossed Second Substitute Bill

- Requires the Student Achievement Council (Council) to administer the Open Educational Resources (OER) Grant Pilot Program for the public, four-year institutions of higher education.
- Requires the Council to conduct outreach to other states and higher education agencies to identify if there is interest in establishing a multistate OER network.
- Requires the Washington State Institute for Public Policy to conduct a study on the costs of textbooks and course materials and on the use of OER at the public, four-year institutions of higher education.
- Makes the K-12 OER Project permanent.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON HIGHER EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Hansen, Chair; Pollet, Vice Chair; Haler, Orwall, Sells, Stambaugh and Tarleton.

Minority Report: Without recommendation. Signed by 2 members: Representatives Holy, Ranking Minority Member; Van Werven, Assistant Ranking Minority Member.

Staff: Megan Mulvihill (786-7304).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Higher Education. Signed by 18 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Bergquist, Cody, Fitzgibbon, Hansen, Hudgins, Jinkins, Kagi, Lytton, Pettigrew, Pollet, Sawyer, Senn, Springer, Stanford, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 14 members: Representatives Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Buys, Caldier, Condotta, Haler, Harris, Manweller, Schmick, Taylor, Vick, Volz and Wilcox.

Minority Report: Without recommendation. Signed by 1 member: Representative Nealey.

Staff: Lily Sobolik (786-7157).

Background:

Open Educational Resources.

Open educational resources (OER) are educational materials and resources that are free and available for use by anyone. Some resources are under license to remix, improve, and redistribute. The OER include full courses, course materials, learning objectives, software, and intellectual property licenses, among other things.

K-12 Open Educational Resources Project.

In 2012 the Legislature passed Engrossed Second Substitute House Bill 2337 which required the Office of Superintendent of Public Instruction (OSPI) to take the lead in developing new, or identifying existing, openly licensed courseware aligned with the Common Core State Standards and license it under an attribution license. The project also required OSPI to advertise the availability of openly licensed courseware, identify an open courseware repository, and provide associated professional development programs. Under the project, the OSPI has: expanded the Reviewed OER library; created a Washington Hub on OER Commons; established a grant program to support K-12 districts adapt, develop, or implement OER; hosted OER summits; delivered OER awareness presentations; joined the

#GoOpen Initiative; and developed OSPI Copyright and Open Licensing Policy. The project is set to expire June 30, 2018.

Washington State Institute for Public Policy.

The Washington State Institute for Public Policy (WSIPP) is a nonpartisan research organization that carries out research at the direction of the Legislature or the Board of Directors. The WSIPP produces reports on a variety of topics of interest to the state and estimates benefit-cost analyses for a variety of state programs.

Summary of Engrossed Second Substitute Bill:

Open Educational Resources Grant Pilot Program.

The Student Achievement Council (Council) must administer the OER Grant Pilot Program for the public, four-year institutions of higher education. The grants must be used for either one or both of the following: (1) to create a designated campus coordinator who will be the campus lead and centralized contact regarding OER; or (2) to support faculty to adopt and modify, or create new OER. Grants cannot be used to duplicate the OER that are already free and publicly used. The Council must develop an application form and processes for selecting applicants, for awarding grant funding, and for the grant awardee to report back on the use of the grant. The Council must prioritize applicants that estimate the highest cost reduction to students and determine how many grants may be awarded based on funding received.

The Council must also conduct outreach to other states and higher education agencies to identify whether there is interest in establishing a multistate OER network to establish a platform for peer review, coordinating, and sharing of OER.

The Council must report to the Legislature by December 1, 2019, on the OER Grant Pilot Program and on the outreach conducted regarding a multistate OER network. The report must include the following information:

- number of grant applications received;
- number of grants awarded;
- evaluation of how the grants were used to expand OER use; and
- how the Council conducted outreach to other states and their feedback on the concept of a multistate OER network.

Campus coordinator and OER are both defined.

Washington State Institute for Public Policy Study.

By December 1, 2019, the WSIPP must conduct a study on the cost of textbooks and course materials, and on the use of OER at the four-year institutions of higher education. The study is to address the types of costs, and average cost per student, for required textbooks and course materials, including digital access codes and bundled items, and in specific degree programs. The study must also review OER use at the institutions and in specific degree programs, courses, or both.

K-12 Open Educational Resources Project.

The K-12 OER Project expiration date is removed, and the project is made permanent.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony (Higher Education):

(In support) This summer a group convened to address textbook costs and why OER are not taking off. That group made three determinations. First, there is no state level data on textbooks to support the cause. Second, OER need someone on campus to champion and facilitate their creation and use. Lastly, faculty do not always have time to develop OER as it may detract from their tenure requirements, especially since OER are not always peer-reviewed and cannot be used for tenure. The bill requires exploration into a multistate platform to facilitate peer review, so rather than reinventing the wheel, Washington can coordinate with other states. The coordinator is essential to helping professors navigate the OER system and inform faculty about OER options. The coordinator can also help with quality control, and ensure that lots of little OER projects around campus know about each other.

Students are the most passionate about textbook costs because they are angry about tuition costs and high student loan debt. When they have to spend a lot on textbooks it is frustrating, especially when students know OER are available. This is essential because students may not be buying textbooks and many have opted out of buying a textbook because of cost.

The institutions are exploring many ways to use OER, especially in high-enrollment general education required courses. However, the institutions struggle to find money to support OER development. There are lots of faculty interested, but not enough resources to expand production. Grants and an incentive driven approach is appreciated.

(Opposed) The study should include the publishing organizations. Free access does not always mean quality. Usually faculty rely on publishers to help them determine quality, and it is not explicit how campus coordinators would determine, or be qualified to determine, quality. In addition, course materials are updated periodically and OER may not be. There seems to be an assumption that OER are not available, but they are widely available.

Staff Summary of Public Testimony (Appropriations):

(In support) Since 2006 the cost of textbooks has increased by 73 percent with a student spending on average around \$1,200 per year. Students are passionate about the cost of textbooks and support OER. Textbooks can be a financial burden that some students cannot afford. Students who do not purchase textbooks due to the cost see their success drop. Other states have adopted similar OER programs, and this would provide the four-year institutions with the resources they need to incentivize faculty and help lower costs to students. Students should not have to take out student loans to buy textbooks. A twelfth edition biology book used for an introductory course costs around \$200, but the previous edition is available

online for around \$5. There are five publishers in the state who have a monopoly on textbooks, and this would promote academic flexibility for professors.

(Opposed) The goal of textbook affordability is supported, but there is no need for the state to incentivize what is already free and easily available. There are full libraries available online that can be found with a simple Google search. This program and funding is not needed.

Persons Testifying (Higher Education): (In support) Representative Frame, prime sponsor; Anna Nepomuceno and Alex Wirth, Associated Students of the University of Washington; Chris Mulick and Michael Caulfield, Washington State University; Joe Timmons, Western Washington University; JoAnn Taricani, University of Washington; Alicia Kinne-Clawson, Eastern Washington University; and Patricia Chantrill, Council of Faculty Representatives.

(Opposed) Diana Carlen, Relx; and Melissa Gombosky, Association of American Publishers.

Persons Testifying (Appropriations): (In support) Anna Nepomuceno, Association Students of the University of Washington Tacoma; and Elissa Goss, Washington Student Association.

(Opposed) Melissa Gombosky, Association of American Publishers.

Persons Signed In To Testify But Not Testifying (Higher Education): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.