

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1561

Chapter 268, Laws of 2018

(partial veto)

65th Legislature
2018 Regular Session

OPEN EDUCATIONAL RESOURCES

EFFECTIVE DATE: June 7, 2018

Passed by the House March 5, 2018
Yeas 81 Nays 17

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 2, 2018
Yeas 49 Nays 0

CYRUS HABIB

President of the Senate

Approved March 27, 2018 2:19 PM with
the exception of Section 3, which is
vetoed.

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1561** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 29, 2018

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1561

AS AMENDED BY THE SENATE

Passed Legislature - 2018 Regular Session

State of Washington **65th Legislature** **2017 Regular Session**

By House 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)

READ FIRST TIME 02/24/17.

1 AN ACT Relating to open educational resources; amending RCW
2 28A.300.803; adding a new section to chapter 28B.10 RCW; creating a
3 new section; and providing an expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.10
6 RCW to read as follows:

7 (1) The definitions in this subsection apply throughout this
8 section unless the context clearly requires otherwise.

9 (a) "Campus coordinator" means a designated facilitator to
10 promote, assist, and support the creation of open educational
11 resources by establishing and coordinating training seminars,
12 creating workshops, helping faculty and staff identify available
13 resources and funding, and cataloging and evaluating open educational
14 resources used or created by an institution of higher education's
15 faculty.

16 (b) "Open educational resources" means freely accessible, openly
17 licensed educational textbooks, documents, materials, and media that
18 reside in the public domain for free use and repurposing for the
19 intention of teaching, learning, assessing, and researching.

20 (2)(a) Subject to availability of amounts appropriated for this
21 specific purpose, the student achievement council shall administer

1 the open educational resources grant pilot program for the four-year
2 institutions of higher education. A grant received under the pilot
3 program must be used for either (a)(i) or (ii) of this subsection, or
4 both:

5 (i) Create a designated campus coordinator who will be the campus
6 lead and centralized contact regarding open educational resources; or

7 (ii) Support faculty to adopt and modify, or create new, open
8 educational resources for the purpose of reducing students' cost of
9 attendance. Grant dollars may not be used to duplicate open
10 educational resources that are already free and publicly available.

11 (b) The student achievement council shall develop an application
12 form for the grant, a process for reviewing and selecting grant
13 applicants, a process for awarding grant funding, and a process for
14 the grant awardee to report back to the student achievement council
15 on the use of the grant. The student achievement council shall
16 prioritize applications that estimate the highest cost reduction to
17 students, whether it be on an individual basis or across a field of
18 study or the institution.

19 (c) The student achievement council shall determine how many
20 grants may be awarded based on the funding received for the pilot
21 program.

22 (d) In addition to the grant program, the student achievement
23 council shall conduct outreach to other states and higher education
24 agencies to identify whether there is interest in establishing a
25 multistate open educational resources network to facilitate and
26 establish a platform for peer review, coordinating, and sharing of
27 open educational resources.

28 (e) The student achievement council shall report to the
29 appropriate committees of the legislature in accordance with the
30 reporting requirements in RCW 43.01.036 by December 1, 2019, on the
31 open educational resources grant pilot program and on the outreach
32 conducted regarding a multistate open educational resources network.
33 The report must include information on the number of grant
34 applications received, the number of grants awarded, and an
35 evaluation of how the grants were used to expand the use of open
36 educational resources. In addition, the report must include how the
37 student achievement council conducted outreach to other states on the
38 concept of a multistate open educational resources network and the
39 feedback from those states.

1 (3) By December 1, 2019, the Washington state institute for
2 public policy shall conduct a study on the cost of textbooks and
3 course materials and the use of open educational resources at four-
4 year institutions of higher education across the state and submit a
5 report to the appropriate committees of the legislature in accordance
6 with RCW 43.01.036. The institute shall conduct outreach to relevant
7 stakeholders, including representatives of the publishing community,
8 prior to drafting their final report. To the extent data are
9 available, the study should address:

10 (a) The types of and average cost per student for required
11 textbooks and course materials, including digital access codes and
12 bundled items, in the state, at each four-year institution of higher
13 education, and in specific degree programs;

14 (b) The use of open educational resources at four-year
15 institutions of higher education and in specific degree programs or
16 courses, or both; and

17 (c) Any other information regarding textbooks, course materials,
18 or best practices in the development and dissemination of open
19 educational resources that the Washington state institute for public
20 policy deems relevant.

21 (4) This section expires June 30, 2022.

22 **Sec. 2.** RCW 28A.300.803 and 2012 c 178 s 2 are each amended to
23 read as follows:

24 (1)(a) Subject to availability of amounts appropriated for this
25 specific purpose, the superintendent of public instruction shall take
26 the lead in identifying and developing a library of openly licensed
27 courseware aligned with the common core state standards and placed
28 under an attribution license, registered by a nonprofit or for-profit
29 organization with domain expertise in open courseware, that allows
30 others to use, distribute, and create derivative works based upon the
31 digital material, while still allowing the authors or creators to
32 retain the copyright and to receive credit for their efforts.

33 (b) During the course of identification and development of a
34 library of openly licensed courseware, the superintendent:

35 (i) May contract with third parties for all or part of the
36 development;

37 (ii) May adopt or adapt existing high quality openly licensed
38 K-12 courseware aligned with the common core state standards;

1 (iii) May consider multiple sources of openly licensed
2 courseware;

3 (iv) Must use best efforts to seek additional outside funding by
4 actively partnering with private organizations;

5 (v) Must work collaboratively with other states that have adopted
6 the common core state standards and collectively share results; and

7 (vi) Must include input from classroom practitioners, including
8 teacher-librarians as defined by RCW 28A.320.240, in the results
9 reported under subsection (2)(d) of this section.

10 (2) The superintendent of public instruction must also:

11 (a) Advertise to school districts the availability of openly
12 licensed courseware, with an emphasis on the fact that the courseware
13 is available at no cost to the districts;

14 (b) Identify an open courseware repository to which openly
15 licensed courseware identified and developed under this section may
16 be submitted, in which openly licensed courseware may be housed, and
17 from which openly licensed courseware may be easily accessed, all at
18 no cost to school districts;

19 (c) Provide professional development programs that offer support,
20 guidance, and instruction regarding the creation, use, and continuous
21 improvement of open courseware; and

22 (d) Report to the governor and the education committees of the
23 legislature on a biennial basis, beginning December 1, 2013, and
24 ending December 1, 2017, regarding identification and development of
25 a library of openly licensed courseware aligned with the common core
26 state standards and placed under an attribution license, use by
27 school districts of openly licensed courseware, and professional
28 development programs provided.

29 (3) School districts may, but are not required to, use any of the
30 openly licensed courseware.

31 (4) As used in this section, "courseware" includes the course
32 syllabus, scope and sequence, instructional materials, modules,
33 textbooks, including the teacher's edition, student guides,
34 supplemental materials, formative and summative assessment supports,
35 research articles, research data, laboratory activities, simulations,
36 videos, open-ended inquiry activities, and any other educationally
37 useful materials.

38 (5) The open educational resources account is created in the
39 custody of the state treasurer. All receipts from funds collected
40 under this section must be deposited into the account. Expenditures

1 from the account may be used only for the development of openly
2 licensed courseware as described in this section. Only the
3 superintendent of public instruction or the superintendent's designee
4 may authorize expenditures from the account. The account is subject
5 to allotment procedures under chapter 43.88 RCW, but an appropriation
6 is not required for expenditures.

7 ~~((6) This section expires June 30, 2018.))~~

8 ***NEW SECTION. Sec. 3. If specific funding for the purposes of**
9 **this act, referencing this act by bill or chapter number, is not**
10 **provided by June 30, 2018, in the omnibus appropriations act, this**
11 **act is null and void.**

**Sec. 3 was vetoed. See message at end of chapter.*

Passed by the House March 5, 2018.

Passed by the Senate March 2, 2018.

Approved by the Governor March 27, 2018, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 29, 2018.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 3, Engrossed Second Substitute House Bill No. 1561 entitled:

"AN ACT Relating to open educational resources."

Engrossed Second Substitute House Bill 1561 will help expand the use of Open Educational Resources at public higher education institutions. It also intended to make the Open Educational Resources project at the Office of the Superintendent for Public Instruction permanent. I agree with the intended purpose of the bill to increase access to free educational resources to more students. The final budget provided funding to support some of the goals of this bill, including funding for the Washington Student Achievement Council and Washington State Institute for Public Policy; however, funding to continue the Open Educational Resources project at the Office of the Superintendent for Public Instruction in fiscal year 2019 was unintentionally omitted from the final budget. The Office of the Superintendent of Public Instruction is committed to continuing this project and will request the funding for the 2019 supplemental budget. Section 3 is a funding null and void clause that would impact the entire bill.

For these reasons I have vetoed Section 3 of Engrossed Second Substitute House Bill No. 1561.

With the exception of Section 3, Engrossed Second Substitute House Bill No. 1561 is approved."

--- END ---