

# STATE OF NEW YORK

8296

2017-2018 Regular Sessions

## IN ASSEMBLY

June 6, 2017

Introduced by M. of A. SANTABARBARA -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to enacting the college textbook affordability act; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "college textbook affordability act".

3 § 2. The education law is amended by adding a new article 15-D to read  
4 as follows:

### ARTICLE 15-D

#### COLLEGE TEXTBOOK AFFORDABILITY ACT

##### Section 730. Legislative intent.

8 731. New York state open education resources council.

9 732. New York state open source digital library.

10 733. Open educational resources adoption incentive program.

11 734. Open educational resources adoption incentive program  
12 campus plan.

13 § 730. Legislative intent. The college textbook affordability act is  
14 hereby enacted to reduce costs for college students by encouraging  
15 faculty to accelerate the adoption of lower cost, high-quality, open  
16 educational resources. Faculty development shall be a key component of  
17 this acceleration initiative. This initiative shall use, in addition to  
18 any other appropriate resources, those identified, housed, produced, and  
19 otherwise found appropriate pursuant to the New York state open educa-  
20 tion resources council established in section seven hundred thirty-one  
21 of this article and the New York state digital open source library,  
22 established in section seven hundred thirty-two of this article.

23 § 731. New York state open education resources council. 1. The New  
24 York state open education resources council is hereby established in the

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD11723-02-7

1 state university of New York. The council shall be composed of faculty  
2 leaders from state university of New York institutions and community  
3 colleges.

4 2. The council shall have nine members: five members shall be faculty  
5 of the state university of New York, selected by the University Faculty  
6 Senate, and four members shall be community college faculty, selected by  
7 the Faculty Council of Community Colleges. Appointments to the council  
8 shall be made no later than ninety days after the effective date of this  
9 article.

10 3. The council shall be responsible for accomplishing all of the  
11 following:

12 (a)(i) development of a list of fifty strategically selected courses  
13 for which high-quality, affordable, digital open source textbooks and  
14 related materials shall be developed or acquired pursuant to this  
15 section.

16 (ii) in developing the course list pursuant to this paragraph, the  
17 council shall consider the extent to which the selected courses:

18 (A) are among the most highly enrolled courses within state university  
19 of New York institutions and at community colleges;

20 (B) are likely to generate significant savings in textbook costs for  
21 students;

22 (C) demonstrate relative consistency in content across existing text-  
23 book products;

24 (D) provide opportunities for faculty to augment the open textbook  
25 with free faculty-authored materials or other free open education mate-  
26 rials from existing digital libraries and collections;

27 (E) are conducive to discipline-based pedagogies that can be enhanced  
28 with digital resources and interactivity to support improved student  
29 learning success.

30 (b) creation and administration of a standardized, rigorous review and  
31 approval process for open source textbooks and related materials devel-  
32 oped or acquired pursuant to this section. This process shall ensure  
33 that all open source textbooks and related materials developed or  
34 acquired pursuant to this section have been tested and validated as  
35 having met accessibility requirements for students with disabilities  
36 before approval and release. The textbooks and other materials shall  
37 include documentation for students with disabilities that describes  
38 available accessibility features.

39 (c) promotion of strategies for production, access, and use of open  
40 source materials.

41 (d) regularly soliciting and considering, from student associations  
42 advice and guidance on open source education textbooks and related mate-  
43 rials.

44 4. The council shall establish a competitive request for proposal  
45 process in which faculty members, publishers, and other interested  
46 parties may apply for funds to produce the fifty high-quality, afforda-  
47 ble, digital open source textbooks and related materials pursuant to  
48 this section. Nothing in this subdivision shall be construed to limit  
49 or restrict the council from developing or acquiring, either for a  
50 charge or for free, existing high-quality digital open source textbooks  
51 and related materials that otherwise meet the specifications of this  
52 section.

53 5. The council shall submit a report to the legislature and the gover-  
54 nor on the progress of the implementation of this section no later than  
55 six months after the effective date of this article, and submit a final  
56 report by January first, two thousand twenty.

1 6. The textbooks and other materials produced pursuant to this section  
2 shall comply with all of the following requirements:

3 (a) the textbooks and other materials are placed under a creative  
4 commons attribution license that allows others to use, distribute, and  
5 create derivative works based upon the digital material while still  
6 allowing the authors or creators to receive credit for their efforts.

7 (b) the textbooks and other materials are modular in order to allow  
8 easy customization, and are encoded in an extensible markup language  
9 (XML) format, or other appropriate successor format, and are designed  
10 and delivered to achieve interoperability enabling the materials to be  
11 made available reliably and successfully on the widest possible range of  
12 platforms, such as the internet, tablets, smartphones, print, or other  
13 platforms.

14 (c) the textbooks and other materials conform to the most current,  
15 ratified standards under Section 508 of the federal Rehabilitation Act  
16 of 1973 (29 U.S.C. Sec. 794d), as amended, and the Web Content Accessi-  
17 bility Guidelines adopted by the World Wide Web Consortium for accessi-  
18 bility. The textbooks and other materials shall be furnished to colleges  
19 and universities for distribution to students with print disabilities.

20 (d) the textbooks and other materials are submitted to, and housed  
21 within, the New York state open source digital library.

22 § 732. New York state open source digital library. 1. The New York  
23 state open source digital library is hereby established, and shall be  
24 administered by the state university of New York, in coordination with  
25 the state's community colleges, for the purpose of housing open source  
26 materials while providing an internet web-based way for students, facul-  
27 ty, and staff to easily find, adopt, utilize, or modify course materials  
28 for little or no cost.

29 2. All material in the New York state open source digital library  
30 shall bear a creative commons attribution license that allows others to  
31 use, distribute, and create derivative works based upon the digital  
32 material while still allowing the authors or creators of the material to  
33 receive credit for their efforts.

34 3. Nothing in this section shall be construed to mandate faculty use  
35 of any particular textbook or related materials.

36 § 733. Open educational resources adoption incentive program. 1. The  
37 state university of New York shall hereby establish an open educational  
38 resources adoption incentive program. With moneys appropriated there-  
39 for, the program shall further the following purposes:

40 (a) faculty professional development, which shall include learning  
41 about the New York state open source digital library established pursu-  
42 ant to section seven hundred thirty-two of this article. Faculty who  
43 participate in this professional development shall be reimbursed in  
44 accordance with their campus' approved plan established pursuant to  
45 section seven hundred thirty-four of this article.

46 (b) professional development for staff whose work supports providing  
47 students with open educational resources.

48 (c) open educational resource curation activities. All new open educa-  
49 tional resources developed and available that are adopted as course  
50 material pursuant to this program shall be added to the New York state  
51 open source digital library.

52 (d) curriculum modification and requisite release time for faculty in  
53 accordance with a campus' approved plan pursuant to section seven  
54 hundred thirty-four of this article related to the adoption of open  
55 educational resources as course materials.

1 (e) technology support for faculty, students, and staff whose work  
2 furtheres the goals specified in a campus' approved plan pursuant to  
3 section seven hundred thirty-four of this article.

4 2. Moneys appropriated for the program shall not be used for direct  
5 compensation for faculty members who adopt open educational resources,  
6 except as provided to compensate for professional development pursuant  
7 to paragraph (a) of subdivision one of this section, or for purchasing  
8 new equipment.

9 3. For the purposes of this article, "open educational resources"  
10 means high-quality teaching, learning, and research resources that  
11 reside in the public domain or have been released under an intellectual  
12 property license, such as a creative commons license, that permits their  
13 free use and repurposing by others, and may include other resources that  
14 are legally available and free of cost to students. "Open educational  
15 resources" include, but are not limited to, full courses, course materi-  
16 als, modules, textbooks, faculty-created content, streaming videos,  
17 tests, software, and any other tools, materials, or techniques used to  
18 support access to knowledge.

19 § 734. Open educational resources adoption incentive program campus  
20 plan. 1. In order to participate in the open educational resources  
21 adoption incentive program, the local faculty senate of a campus of the  
22 state university of New York or of a community college shall:

23 (a) adopt a local campus resolution to increase student access to  
24 high-quality open educational resources and reduce the cost of textbooks  
25 and supplies for students in course sections for which open educational  
26 resources are to be adopted to accomplish cost savings for students; and

27 (b) approve a plan, in collaboration with students and campus adminis-  
28 tration, that describes evidence of the faculty's commitment and read-  
29 iness to effectively use grant funds to support faculty adoption of open  
30 educational resources.

31 2. (a) The plan approved pursuant to subdivision one of this section  
32 may detail technological or staff support to increase the adoption of  
33 open educational resources. The plan shall describe how the faculty will  
34 learn about the New York state open source digital library and other  
35 existing open educational resources.

36 (b) The plan shall include the number of academic departments expected  
37 to be involved in the plan's implementation, the number of course  
38 sections in which open educational resources will be adopted, the  
39 percentage of cost savings for students anticipated on account of the  
40 adoption of open educational resources for each of these course  
41 sections, the ways existing faculty development programs will be  
42 enhanced by the plan's implementation, and the mechanisms that will be  
43 used to distribute adopted open educational resources to students.

44 (c) At their discretion, faculty may choose, for courses that are to  
45 adopt open educational resources under the plan, appropriate resources  
46 for any of the fifty strategically selected courses identified by the  
47 New York state open education resources council pursuant to subparagraph  
48 (i) of paragraph (a) of subdivision three of section seven hundred thir-  
49 ty-one of this article. Other open educational resources may also be  
50 used.

51 (d) The plan shall describe how the campus will provide access to open  
52 educational resource materials for students, including how the campus  
53 will make hard copies of these materials available for students who lack  
54 access to these materials off campus and make it possible for students  
55 with such access to print hard copies.

1 (e) The plan shall identify the amount of the grant requested. The  
2 amount of the grant requested shall be equal to, or less than, the  
3 number of course sections in which both open educational resources will  
4 be adopted and cost savings for the course section will be greater than  
5 thirty percent, multiplied by one thousand dollars. The amount requested  
6 shall not be greater than fifty thousand dollars. A plan shall commit to  
7 achieving greater than thirty percent cost savings in at least ten  
8 course sections.

9 (f) The plan shall include the percentage of cost savings for each  
10 course section calculated as follows: the percentage of cost savings  
11 shall be the estimated decrease in the costs of books and supplies for a  
12 course section in the current term resulting from the adoption of open  
13 educational resources for that course section, divided by the costs of  
14 books and supplies for that course section in the immediately preceding  
15 academic term.

16 3. The New York state open education resources council may provide  
17 expertise on available open educational resources and best practices for  
18 the adoption of open educational resources for existing courses to  
19 assist in the development of the plan.

20 4. (a) The local faculty senate of a campus of the state university of  
21 New York or the community colleges may submit the resolution and the  
22 plan developed pursuant to this section to the New York state open  
23 education resources council as its application for an initial grant no  
24 later than June thirtieth, two thousand eighteen.

25 (b) (i) The New York state open education resources council shall make  
26 an initial grant to a campus within sixty days of the council's receipt  
27 of the campus' application if the campus has satisfied the requirements  
28 of this section. The New York state open education resources council may  
29 award up to fifty initial grants.

30 (ii) If the total amount requested in applications received pursuant  
31 to subparagraph (i) of this paragraph is equal to or less than two  
32 million dollars, the New York state open education resources council  
33 shall make grants for each approved application equal to the amount  
34 requested in the application. If the total amount requested in applica-  
35 tions received pursuant to subparagraph (i) of this paragraph exceeds  
36 two million dollars, the New York state open education resources council  
37 shall make grants for the full amount requested in approved applications  
38 on a competitive basis based on the strength of the evidence provided of  
39 faculty commitment to the adoption of open educational resources.

40 (c) Each application approved by the New York state open education  
41 resources council shall be submitted by the council to the chancellor of  
42 the state university of New York no later than thirty days after the  
43 council approves the application. The chancellor shall award grants to  
44 recipients in accordance with this section.

45 (d) Administrative support may be provided to the council by the New  
46 York state open source digital library to help the council carry out its  
47 duties in accordance with this part.

48 5. (a) No later than June thirtieth, two thousand nineteen, a campus  
49 may apply for a bonus grant equal to the amount of its initial grant.  
50 The application shall include evidence that the campus has met or  
51 exceeded total cost savings of greater than thirty percent for the  
52 required number of course sections specified in the approved plan for  
53 the campus' initial grant in the two thousand eighteen--two thousand  
54 nineteen academic year.

1 (b) A campus may also compute the total cost savings for each course  
2 section and include that figure in its application for a bonus grant  
3 pursuant to this subdivision.

4 (c) The total cost savings for each course section shall be the number  
5 of students enrolled in a course section multiplied by the per-student  
6 decrease in the costs of books and supplies for the course section in  
7 the term resulting from the adoption of open educational resources.

8 (d) Bonus grants shall be used to further the goals of the campus'  
9 approved plan for its initial grant.

10 (e) If the total amount requested in applications for bonus grants  
11 exceeds the total amount of funds available, the New York state open  
12 education resources council shall award grants on a competitive basis to  
13 approved applications for the full amount of the initial grant based on  
14 the overall percentage savings achieved by the initial plan in the  
15 courses covered by the plan.

16 6. The New York state open education resources council, in consulta-  
17 tion with the New York state open source digital library, shall report  
18 to the legislature, before September first each year, commencing in two  
19 thousand twenty, as to whether the grants are increasing the rate of  
20 adoption of open educational resources and decreasing textbook costs for  
21 college students.

22 § 3. Notwithstanding any other provision of law, rule or regulation  
23 to the contrary, funds obtained as the result of any settlement with the  
24 office of the attorney general shall be used to provide assistance to  
25 the state university of New York for the purposes of carrying out the  
26 provisions of this act. Such monies shall be disbursed to the state  
27 university of New York to be used for any services or expenses in carry-  
28 ing out the provisions of this act; provided that no more than  
29 \$5,000,000 shall be made available from settlement revenue. As used in  
30 this section, the term "settlement revenue" shall mean the sum of all  
31 revenue received as a result of litigation with the office of the attor-  
32 ney general.

33 § 4. This act shall take effect on the ninetieth day after it shall  
34 have become a law and shall expire and be deemed repealed July 1, 2022.