

115TH CONGRESS
1ST SESSION

S. 1864

To expand the use of open textbooks in order to achieve savings for students.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 2017

Mr. DURBIN (for himself, Mr. FRANKEN, and Mr. KING) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To expand the use of open textbooks in order to achieve savings for students.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Affordable College
5 Textbook Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The high cost of college textbooks continues
9 to be a barrier for many students in achieving high-
10 er education.

1 (2) According to the College Board, during the
2 2016–2017 academic year, the average student
3 budget for college books and supplies at 4-year pub-
4 lic institutions of higher education was \$1,250.

5 (3) The Government Accountability Office
6 found that new textbook prices increased 82 percent
7 between 2002 and 2012 and that although Federal
8 efforts to increase price transparency have provided
9 students and families with more and better informa-
10 tion, more must be done to address rising costs.

11 (4) The growth of the internet has enabled the
12 creation and sharing of digital content, including
13 open educational resources that can be freely used
14 by students, teachers, and members of the public.

15 (5) According to the Student PIRGs, expanded
16 use of open educational resources has the potential
17 to save students more than a billion dollars annually.

18 (6) Federal investment in expanding the use of
19 open educational resources could significantly lower
20 college textbook costs and reduce financial barriers
21 to higher education, while making efficient use of
22 taxpayer funds.

23 **SEC. 3. DEFINITIONS.**

24 In this Act:

1 (1) EDUCATIONAL RESOURCE.—The term “edu-
 2 cational resource” means an educational material
 3 that can be used in postsecondary instruction, in-
 4 cluding textbooks and other written or audiovisual
 5 works.

6 (2) INSTITUTION OF HIGHER EDUCATION.—The
 7 term “institution of higher education” has the
 8 meaning given the term in section 101 of the Higher
 9 Education Act of 1965 (20 U.S.C. 1001).

10 (3) OPEN EDUCATIONAL RESOURCE.—The term
 11 “open educational resource” means an educational
 12 resource that either resides in the public domain or
 13 has been released under an intellectual property li-
 14 cense that permits its free use, reuse, modification,
 15 and sharing with others.

16 (4) OPEN TEXTBOOK.—The term “open text-
 17 book” means an open educational resource or set of
 18 open educational resources that either is a textbook
 19 or can be used in place of a textbook for a postsec-
 20 ondary course at an institution of higher education.

21 (5) RELEVANT FACULTY.—The term “relevant
 22 faculty” means both tenure track and contingent
 23 faculty members who may be involved in the creation
 24 of open educational resources or the use of open

1 educational resources created as part of the grant
2 application.

3 (6) SECRETARY.—The term “Secretary” means
4 the Secretary of Education.

5 **SEC. 4. GRANT PROGRAM.**

6 (a) GRANTS AUTHORIZED.—From the amounts ap-
7 propriated under subsection (i), the Secretary shall make
8 grants, on a competitive basis, to eligible entities to sup-
9 port projects that expand the use of open textbooks in
10 order to achieve savings for students while maintaining or
11 improving instruction and student learning outcomes.

12 (b) ELIGIBLE ENTITY.—In this section, the term “el-
13 igible entity” means an institution of higher education or
14 group of institutions of higher education.

15 (c) APPLICATIONS.—

16 (1) IN GENERAL.—Each eligible entity desiring
17 a grant under this section, after consultation with
18 relevant faculty, shall submit an application to the
19 Secretary at such time, in such manner, and accom-
20 panied by such information as the Secretary may
21 reasonably require.

22 (2) CONTENTS.—Each application submitted
23 under paragraph (1) shall include a description of
24 the project to be completed with grant funds and—

1 (A) a plan for promoting and tracking the
2 use of open textbooks in postsecondary courses
3 offered by the eligible entity, including an esti-
4 mate of the projected savings that will be
5 achieved for students;

6 (B) a plan for evaluating, before creating
7 new open educational resources, whether exist-
8 ing open educational resources could be used or
9 adapted for the same purpose;

10 (C) a plan for quality review and review of
11 accuracy of any open educational resources to
12 be created or adapted through the grant;

13 (D) a plan for assessing the impact of
14 open textbooks on instruction and student
15 learning outcomes at the eligible entity;

16 (E) a plan for disseminating information
17 about the results of the project to institutions
18 of higher education outside of the eligible enti-
19 ty, including promoting the adoption of any
20 open textbooks created or adapted through the
21 grant; and

22 (F) a statement on consultation with rel-
23 evant faculty, including those engaged in the
24 creation of open educational resources, in the
25 development of the application.

1 (d) SPECIAL CONSIDERATION.—In awarding grants
 2 under this section, the Secretary shall give special consid-
 3 eration to applications that demonstrate the greatest po-
 4 tential to—

5 (1) achieve the highest level of savings for stu-
 6 dents through sustainable expanded use of open
 7 textbooks in postsecondary courses offered by the el-
 8 igible entity;

9 (2) expand the use of open textbooks at institu-
 10 tions of higher education outside of the eligible enti-
 11 ty; and

12 (3) produce—

13 (A) the highest quality open textbooks;

14 (B) open textbooks that can be most easily
 15 utilized and adapted by faculty members at in-
 16 stitutions of higher education;

17 (C) open textbooks that correspond to the
 18 highest enrollment courses at institutions of
 19 higher education; and

20 (D) open textbooks created or adapted in
 21 partnership with entities, including campus
 22 bookstores, that will assist in marketing and
 23 distribution of the open textbook.

24 (e) USE OF FUNDS.—An eligible entity that receives
 25 a grant under this section shall use the grant funds to

1 carry out any of the following activities to expand the use
2 of open textbooks:

3 (1) Professional development for any faculty
4 and staff members at institutions of higher edu-
5 cation, including the search for and review of open
6 textbooks.

7 (2) Creation or adaptation of open educational
8 resources, especially open textbooks.

9 (3) Development or improvement of tools and
10 informational resources that support the use of open
11 textbooks, including accessible instructional mate-
12 rials for students with disabilities.

13 (4) Research evaluating the efficacy of the use
14 of open textbooks for achieving savings for students
15 and the impact on instruction and student learning
16 outcomes.

17 (5) Partnerships with other entities, including
18 other institutions of higher education, for-profit or-
19 ganizations, or nonprofit organizations, to carry out
20 any of the activities described in paragraphs (1)
21 through (4).

22 (f) LICENSE.—Educational resources created under
23 subsection (e) shall be licensed under a nonexclusive, irrev-
24 ocable license to the public to exercise any of the rights

1 under copyright conditioned only on the requirement that
2 attribution be given as directed by the copyright owner.

3 (g) ACCESS AND DISTRIBUTION.—The full and com-
4 plete digital content of each educational resource created
5 or adapted under subsection (e) shall be made available
6 free of charge to the public—

7 (1) on an easily accessible and interoperable
8 website, which shall be identified to the Secretary by
9 the eligible entity; and

10 (2) in a machine readable, digital format that
11 anyone can directly download, edit with attribution,
12 and redistribute.

13 (h) REPORT.—Upon an eligible entity’s completion of
14 a project supported under this section, the eligible entity
15 shall prepare and submit a report to the Secretary regard-
16 ing—

17 (1) the effectiveness of the project in expanding
18 the use of open textbooks and in achieving savings
19 for students;

20 (2) the impact of the project on expanding the
21 use of open textbooks at institutions of higher edu-
22 cation outside of the eligible entity;

23 (3) educational resources created or adapted
24 under the grant, including instructions on where the

1 public can access each educational resource under
 2 the terms of subsection (g);

3 (4) the impact of the project on instruction and
 4 student learning outcomes; and

5 (5) all project costs, including the value of any
 6 volunteer labor and institutional capital used for the
 7 project.

8 (i) AUTHORIZATION OF APPROPRIATIONS.—There
 9 are authorized to be appropriated to carry out this section
 10 such sums as are necessary for each of the 5 fiscal years
 11 succeeding the fiscal year during which this Act is enacted.

12 **SEC. 5. PRICE INFORMATION.**

13 Section 133(b) of the Higher Education Act of 1965
 14 (20 U.S.C. 1015b(b)) is amended—

15 (1) by striking paragraph (6);

16 (2) by redesignating paragraphs (7), (8), and
 17 (9), as paragraphs (6), (7), and (8), respectively;
 18 and

19 (3) in paragraph (8), as redesignated by para-
 20 graph (2)—

21 (A) by striking subparagraphs (A) and
 22 (B); and

23 (B) by striking “a college textbook that—
 24 ” and inserting “a college textbook that may in-
 25 clude printed materials, computer disks, website

1 access, and electronically distributed mate-
2 rials.”.

3 **SEC. 6. SENSE OF CONGRESS.**

4 It is the sense of Congress that institutions of higher
5 education should encourage the consideration of open text-
6 books by faculty within the generally accepted principles
7 of academic freedom that establishes the right and respon-
8 sibility of faculty members, individually and collectively,
9 to select course materials that are pedagogically most ap-
10 propriate for their classes.

11 **SEC. 7. REPORT TO CONGRESS.**

12 Not later than 2 years after the date of enactment
13 of this Act, the Secretary shall prepare and submit a re-
14 port to the Committee on Health, Education, Labor, and
15 Pensions of the Senate and the Committee on Education
16 and the Workforce of the House of Representatives detail-
17 ing—

18 (1) the open textbooks created or adapted
19 under this Act;

20 (2) the adoption of such open textbooks;

21 (3) the savings generated for students, States,
22 and the Federal Government through the use of
23 open textbooks; and

24 (4) the impact of open textbooks on instruction
25 and student learning outcomes.

1 **SEC. 8. GAO REPORT.**

2 Not later than 3 years after the date of enactment
3 of this Act, the Comptroller General of the United States
4 shall prepare and submit a report to the Committee on
5 Health, Education, Labor, and Pensions of the Senate and
6 the Committee on Education and the Workforce of the
7 House of Representatives on the cost of textbooks to stu-
8 dents at institutions of higher education. The report shall
9 particularly examine—

- 10 (1) the change of the cost of textbooks;
- 11 (2) the factors that have contributed to the
12 change of the cost of textbooks;
- 13 (3) the extent to which open textbooks are used
14 at institutions of higher education;
- 15 (4) the impact of open textbooks on the cost of
16 textbooks; and
- 17 (5) how institutions are tracking the impact of
18 open textbooks on instruction and student learning
19 outcomes.

