
HOUSE BILL 1253

State of Washington

65th Legislature

2017 Regular Session

By Representatives Young, Ortiz-Self, Stambaugh, Bergquist, Kilduff, McCaslin, Van Werven, and Lovick

1 AN ACT Relating to making higher education more affordable by
2 providing incentives for the use of open source instructional
3 materials; adding new sections to chapter 28B.10 RCW; adding a new
4 section to chapter 82.04 RCW; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** College students spend thousands of
7 dollars on textbooks and course materials over the course of their
8 academic career. The cost of textbooks and course materials often
9 acts as a barrier for students and becomes a substantial part of
10 student debt. Technology makes it possible for students to access
11 free digital textbooks and materials and the legislature seeks to
12 reduce costs in higher education by encouraging the use of and
13 creation of new electronic textbooks, manuals, and other
14 instructional materials that are free and easily accessible to
15 students. The legislature intends to create incentives to increase
16 the use of open source materials and to attract not only traditional
17 textbook publishers, but entities from a multitude of sectors that
18 have expertise and knowledge, to make their textbooks and materials
19 available to students for free.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.10
2 RCW to read as follows:

3 (1) A person that publishes or creates open source instructional
4 materials to be used by students attending private or public
5 institutions of higher education in the state is eligible for a tax
6 credit under section 5 of this act if:

7 (a) The person provides the open source instructional materials
8 to the private or public institution of higher education at no cost
9 to the institution;

10 (b) An instructor of the institution officially adopts the open
11 source instructional material as the primary resource for the course;

12 (c) The open source instructional material is provided to
13 students in the course free of charge; and

14 (d) The open source instructional material is used in lieu of
15 materials that students would have been required to purchase.

16 (2) The definitions in this subsection apply to this section and
17 sections 3 and 4 of this act unless the context clearly requires
18 otherwise.

19 (a) "Open source instructional material or materials" means
20 textbooks, manuals, and other similar educational readings, in
21 digital form, that are required or essential to a course of study
22 offered at a private or public institution of higher education.

23 (b) "Person" has the definition in RCW 82.04.030.

24 (3) This section does not authorize any use of instructional
25 materials that would constitute an infringement of copyright laws.

26 NEW SECTION. **Sec. 3.** A new section is added to chapter 28B.10
27 RCW to read as follows:

28 To implement the tax credit provided in section 5 of this act,
29 private and public institutions of higher education must submit
30 annually, by October 31st, to the department of revenue the
31 following:

32 (1) The person's name;

33 (2) Address;

34 (3) The unified business identifier;

35 (4) The certified value of the open source instructional material
36 that was provided by the person, based on the formula established in
37 section 4 of this act; and

38 (5) Any other information the department of revenue requires to
39 implement the tax credit.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 28B.10
2 RCW to read as follows:

3 (1)(a) The certified value of the open source instructional
4 material for purposes of the tax credit authorized under section 5 of
5 this act is calculated as follows: The total number of students who
6 registered and paid for any course of study in which open source
7 instructional materials were adopted for the academic year,
8 multiplied by the cost of the instructional materials that the open
9 source instructional materials replaced.

10 (b) The cost of the instructional materials that are replaced by
11 open source instructional material can be estimated based on the cost
12 of the instructional material that was used by the private or public
13 institution of higher education in the previous academic year for the
14 same course of study.

15 (c) If the private or public institution of higher education did
16 not offer the course of study in the previous academic year in which
17 the open source instructional material has been adopted, the
18 institution may use the cost of instructional materials used for the
19 same course of study offered in another private or public institution
20 of higher education in the current or previous academic year to
21 estimate the cost of the replaced instructional material.

22 (2) The certified value of the open source instructional material
23 must be calculated at the end of the academic year and reported to
24 the department of revenue and the person that provided the open
25 source instructional material by October 31st of the subsequent
26 academic year.

27 (3) The certified value of any open source instructional material
28 must be estimated annually if a private or public institution of
29 higher education continues to use that open source instructional
30 material in lieu of other instructional material, at no cost to
31 students. However, subsequent estimates of the certified value of
32 previously adopted open source instructional materials is intended to
33 be informational for the review required under section 6 of this act,
34 subsequent estimates of previously adopted material does not qualify
35 for the tax credit authorized under section 5 of this act.

36 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.04
37 RCW to read as follows:

38 (1) Subject to the limits and provisions of this section, a
39 credit is authorized against the tax otherwise due under this chapter

1 or chapter 82.16 RCW for a person that provides at no cost, open
2 source instructional material to a private institution of higher
3 education or public institution of higher education as defined in RCW
4 28B.10.016 that is used in lieu of other instructional materials for
5 any course of study offered at the institution.

6 (2) The credit is equal to fifty percent of the certified value
7 of the open source instructional material as provided by a private or
8 public institution of higher education. The maximum amount of credit
9 that can be claimed under this section is thirty-five thousand
10 dollars per calendar year. Unused credits may be carried forward for
11 the two consecutive calendar years immediately following the year in
12 which the credit was earned.

13 (3) Credits are available on a first-in-time basis. The
14 department must keep a running total of all credits allowed under
15 this section and chapter 82.16 RCW during each calendar year. The
16 department may not allow any credits that would cause the total
17 credits allowed under this section to exceed one million five hundred
18 thousand dollars in any calendar year.

19 (4) No application is necessary for the tax credit. Persons
20 claiming a credit under this section must file electronically with
21 the department. Taxpayers must keep records necessary for the
22 department to determine eligibility under this section including
23 records from a private or public institution of higher education that
24 has adopted the use of open source materials provided at no cost to
25 the institution.

26 (5) Credits may be earned under this section from January 1,
27 2019, to December 31, 2029.

28 (6) Credits earned under this section may not be used after
29 January 1, 2030.

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

32 (a) "Certified value" means the value of open source
33 instructional material as calculated under section 4 of this act.

34 (b) "Open source instructional material" has the definition in
35 section 2 of this act.

36 NEW SECTION. **Sec. 6.** (1) This section is the tax preference
37 performance statement for the tax preference contained in this act.
38 This performance statement is only intended to be used for subsequent
39 evaluation of the tax preference. It is not intended to create a

1 private right of action by any party or be used to determine
2 eligibility for preferential tax treatment.

3 (2) The legislature categorizes this tax preference as one
4 intended to induce certain designated behavior by taxpayers, as
5 indicated in RCW 82.32.808(2)(a).

6 (3) It is the legislature's specific public policy objective to
7 reduce educational costs for students of institutions of higher
8 education by providing a tax credit to businesses that offer open
9 source instructional material at no cost to institutions and
10 students, replacing expensive textbooks or other instructional
11 materials.

12 (4)(a) To measure the effectiveness of the tax preference in
13 section 5 of this act, in achieving the specific public policy
14 objective described in subsection (2) of this section, the joint
15 legislative audit and review committee must, at minimum, evaluate the
16 following:

17 (i) The number of businesses that benefit from the tax credit,
18 including the total annual revenue impact and the average credit
19 amount claimed;

20 (ii) The number of private and public institutions of higher
21 education that are using open source instructional materials;

22 (iii) The number of courses in each private and public
23 institution of higher education using open source instructional
24 material as the main resource for students and the number of students
25 in these courses.

26 (b) The joint legislative audit and review committee may request
27 private and public institutions of higher education to provide the
28 necessary data needed to complete the evaluation under this
29 subsection.

30 (c) The joint legislative audit and review committee must
31 complete the evaluation in this subsection by December 31, 2026, and
32 report the findings to the fiscal committees of the legislature
33 during the 2027 legislative session.

34 NEW SECTION. **Sec. 7.** This act may be known and cited as the
35 textbook affordability via open sourcing act.

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