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(Howard)

S.B. No. 810

A BILL TO BE ENTITLED

AN ACT

relating to the use of open educational resources.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 51.451, Education Code, is amended by adding Subdivision (4-a) to read as follows:

(4-a) "Open educational resource" means a teaching, learning, or research resource that is in the public domain or has been released under an intellectual property license that permits the free use, adaptation, and redistribution of the resource by any person. The term may include full course curricula, course materials, modules, textbooks, media, assessments, software, and any other tools, materials, or techniques, whether digital or otherwise, used to support access to knowledge.

SECTION 2. Section 51.452, Education Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Each institution of higher education shall:

(1) for each semester or academic term, compile a course schedule indicating each course offered by the institution for the semester or term to postsecondary students;

(2) with respect to each course, include with the schedule a list of the required and recommended textbooks that specifies, to the extent practicable, the following information for each textbook:

- 1 (A) the retail price;
2 (B) the author;
3 (C) the publisher;
4 (D) the most recent copyright date; ~~and~~
5 (E) the International Standard Book Number
6 assigned, if any; and
7 (F) whether the textbook is an open educational
8 resource;

9 (3) except as provided by Subsection (b), at the time
10 required by Subsection (c)(2):

11 (A) publish the textbook list with the course
12 schedule on the institution's Internet website and with any course
13 schedule the institution provides in hard copy format to the
14 students of the institution; and

15 (B) make that information available to college
16 bookstores and other bookstores that generally serve the students
17 of the institution; and

18 (4) except as provided by Subsection (b), as soon as
19 practicable after the information becomes available disseminate as
20 required by Subdivision (3) specific information regarding any
21 revisions to the institution's course schedule and textbook list.

22 (d) If an institution of higher education or a college
23 bookstore publishes a textbook list with a course schedule on an
24 Internet website that provides a search function, the institution
25 or bookstore must:

26 (1) ensure that the search function permits a search
27 based on whether a course or section of a course requires or

1 recommends only open educational resources; or
2 (2) provide a searchable list of courses and sections
3 of courses that require or recommend only open educational
4 resources.

5 SECTION 3. Section 51.453, Education Code, is amended to
6 read as follows:

7 Sec. 51.453. TEXTBOOK ASSISTANCE INFORMATION FOR STUDENTS.
8 To the extent practicable, an institution of higher education shall
9 make reasonable efforts to disseminate to its students information
10 regarding:

11 (1) available institutional programs for renting
12 textbooks or for purchasing used textbooks;

13 (2) available institutional guaranteed textbook
14 buyback programs;

15 (3) available institutional programs for alternative
16 delivery of textbook content; ~~and~~

17 (4) the availability of courses and sections of
18 courses that require or recommend only open educational resources;
19 and

20 (5) other available institutional textbook
21 cost-savings strategies.

22 SECTION 4. Section 51.454(a), Education Code, is amended to
23 read as follows:

24 (a) When a textbook publisher provides information
25 regarding a textbook or supplemental material other than an open
26 educational resource to a faculty member or other person in charge
27 of selecting course materials at an institution of higher

1 education, the publisher shall also provide to the faculty member
2 or other person written information that includes:

3 (1) the price at which the publisher would make the
4 textbook or supplemental material available to a college bookstore
5 or other bookstore that generally serves the students of the
6 institution and, if applicable, to the public;

7 (2) the copyright dates of the current and three
8 preceding editions of the textbook;

9 (3) a description of any substantial content revisions
10 made between the current edition of the textbook or supplemental
11 material and the most recent preceding edition of the textbook or
12 material, including the addition of new chapters, new material
13 covering additional time periods, new themes, or new subject
14 matter;

15 (4) information as to whether the textbook or
16 supplemental material is available in other formats, such as a
17 paperback or unbound version; and

18 (5) the price at which the publisher would make the
19 textbook or supplemental material in any alternative format
20 available to a bookstore described by Subdivision (1) and, if
21 applicable, to the public.

22 SECTION 5. Subchapter C, Chapter 61, Education Code, is
23 amended by adding Section 61.0668 to read as follows:

24 Sec. 61.0668. OPEN EDUCATIONAL RESOURCES GRANT PROGRAM.

25 (a) In this section, "open educational resource" has the meaning
26 assigned by Section 51.451.

27 (b) The board shall establish and administer a grant program

1 to encourage faculty at institutions of higher education to adopt,
2 modify, redesign, or develop courses that use only open educational
3 resources.

4 (c) Under the program, a faculty member of an institution of
5 higher education may apply to the board for a grant to adopt,
6 modify, redesign, or develop one or more courses at the institution
7 to exclusively use open educational resources.

8 (d) For each course identified in an application for a grant
9 under this section, the board shall select at least three persons
10 qualified to review the curriculum of the course, as determined by
11 the board, to evaluate the application with respect to that course.
12 If the application is rejected, the reviewing persons must provide
13 feedback on the application to the faculty member. The feedback may
14 be provided anonymously.

15 (e) A faculty member who receives a grant under the program
16 shall ensure that any open educational resource used in each
17 applicable course is provided to a student enrolled in the course at
18 no cost other than the cost of printing.

19 (f) A faculty member who receives a grant under the program
20 must submit to the board for each of the four semesters immediately
21 following the implementation of each applicable course a report
22 that includes:

23 (1) the number of students who have completed the
24 course;

25 (2) an estimate of the amount of money saved by a
26 student due to the use of open educational resources in the course;

27 (3) a description of the open educational resources

1 used in the course;

2 (4) the number of other faculty members, if any, who
3 adopted the curriculum of the course; and

4 (5) any other information required by the board.

5 (g) A faculty member who receives a grant under the program
6 may continue to submit a report described by Subsection (f) for a
7 semester that occurs after the faculty member's duty to submit a
8 report under that subsection has expired. The board may consider a
9 faculty member's failure to submit additional reports under this
10 subsection in evaluating a subsequent grant application submitted
11 by the faculty member.

12 (h) A faculty member who is no longer employed by an
13 institution of higher education forfeits any grant awarded under
14 the program.

15 (i) The board may not award a grant under the program to a
16 faculty member of a postsecondary educational institution other
17 than an institution of higher education.

18 (j) Not later than December 1 of each even-numbered year,
19 the board shall submit to the governor, lieutenant governor,
20 speaker of the house of representatives, and each standing
21 legislative committee with primary jurisdiction over higher
22 education a report on:

23 (1) the total number of grants distributed under the
24 program;

25 (2) the number of students who completed a course
26 adopted, modified, redesigned, or developed under the program;

27 (3) an estimate of the total amount of money saved by

1 students due to the use of open educational resources in courses
2 adopted, modified, redesigned, or developed under the program;

3 (4) a list of any subject areas that would benefit from
4 the adoption, modification, or development of open educational
5 resources; and

6 (5) recommendations on future steps for adopting,
7 modifying, or developing open educational resources.

8 (k) The board may solicit and accept gifts, grants, and
9 donations from any public or private source for purposes of the
10 program.

11 (l) The board shall adopt rules for the administration of
12 the program.

13 (m) This section expires September 1, 2021.

14 (n) The board may not use appropriated funds in an amount
15 greater than \$200,000 for purposes of the program in the state
16 fiscal biennium ending August 31, 2019. The board may use any
17 amount of other funds available for those purposes. This
18 subsection expires December 1, 2019.

19 SECTION 6. Subchapter C, Chapter 61, Education Code, is
20 amended by adding Section 61.0669 to read as follows:

21 Sec. 61.0669. FEASIBILITY STUDY ON STATE REPOSITORY OF OPEN
22 EDUCATIONAL RESOURCES. (a) In this section, "open educational
23 resource" has the meaning assigned by Section 51.451.

24 (b) The board shall conduct a study to determine the
25 feasibility of creating a state repository of open educational
26 resources. The study must consider:

27 (1) methods for facilitating public access to open

1 educational resources;

2 (2) the resources needed to create the repository; and

3 (3) any potential challenges in creating the
4 repository.

5 (c) In conducting the study, the board shall collaborate
6 with relevant state agencies and other stakeholders, including the
7 Texas Education Agency and representatives of public institutions
8 of higher education and school districts.

9 (d) Not later than September 1, 2018, the board shall submit
10 to the governor, lieutenant governor, speaker of the house of
11 representatives, and each standing legislative committee with
12 primary jurisdiction over higher education a report on the results
13 of the study and any recommendations for legislative or other
14 action. The report must include information on:

15 (1) methods by which open educational resources would
16 be gathered and curated;

17 (2) measures to ensure public access to the
18 repository;

19 (3) methods of encouraging the use of the repository;

20 (4) management of intellectual property rights; and

21 (5) any other measures necessary to ensure the
22 repository's success.

23 (e) The board may not use appropriated funds in an amount
24 greater than \$100,000 for purposes of the study. The board may use
25 any amount of other available funds for purposes of the study and
26 may solicit and accept gifts, grants, and donations for that
27 purpose.

1 (f) This section expires September 1, 2019.

2 SECTION 7. Sections 51.451, 51.452, 51.453, and 51.454,
3 Education Code, as amended by this Act, apply beginning with the
4 2018 spring semester.

5 SECTION 8. (a) As soon as practicable after the effective
6 date of this Act, the Texas Higher Education Coordinating Board
7 shall adopt rules for the administration of the open educational
8 resources grant program under Section 61.0668, Education Code, as
9 added by this Act.

10 (b) Notwithstanding Section 61.0668(j), Education Code, as
11 added by this Act, the Texas Higher Education Coordinating Board
12 shall submit its initial report required under that section not
13 later than December 1, 2019.

14 SECTION 9. This Act takes effect only if a specific
15 appropriation for the implementation of the Act is provided in a
16 general appropriations act of the 85th Legislature.

17 SECTION 10. This Act takes effect immediately if it
18 receives a vote of two-thirds of all the members elected to each
19 house, as provided by Section 39, Article III, Texas Constitution.
20 If this Act does not receive the vote necessary for immediate
21 effect, this Act takes effect September 1, 2017.