

1-1 By: Creighton S.B. No. 1092  
 1-2 (In the Senate - Filed March 5, 2021; March 18, 2021, read  
 1-3 first time and referred to Committee on Higher Education;  
 1-4 April 23, 2021, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 8, Nays 0; April 23, 2021,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Creighton	X			
1-9 West			X	
1-10 Birdwell	X			
1-11 Blanco	X			
1-12 Miles	X			
1-13 Paxton	X			
1-14 Springer	X			
1-15 Taylor	X			
1-16 Zaffirini	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1092 By: Creighton

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the disclosure by public institutions of higher  
 1-22 education of certain information regarding textbooks and digital  
 1-23 courseware and certain charges assessed for those items.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Subchapter I, Chapter 51, Education Code, is  
 1-26 amended by adding Section 51.456 to read as follows:

1-27 Sec. 51.456. AUTOMATIC CHARGES FOR TEXTBOOKS OR DIGITAL  
 1-28 COURSEWARE. (a) In this section:

1-29 (1) "Digital courseware" means a system of  
 1-30 instructional content and software designed to support the delivery  
 1-31 of all or part of a particular course. The term does not include a  
 1-32 learning management platform or any other software system designed  
 1-33 to provide support for courses generally.

1-34 (2) "Institution of higher education,"  
 1-35 notwithstanding Section 51.451, has the meaning assigned by Section  
 1-36 61.003.

1-37 (b) An institution of higher education shall disclose to a  
 1-38 student enrolled at the institution as provided by this section an  
 1-39 automatic charge for textbooks or access to digital courseware  
 1-40 assessed by the institution or another entity to the student on the  
 1-41 student's enrollment in a course, course section, or program or in  
 1-42 the institution for the applicable semester or term, regardless of  
 1-43 whether the charge is assessed on an opt-in, opt-out, or compulsory  
 1-44 basis. This subsection does not apply to a charge assessed for a  
 1-45 purchase initiated by the student separately from the enrollment  
 1-46 process at the institution, such as the purchase of a textbook at a  
 1-47 college bookstore that may be charged to the student's account at  
 1-48 the institution.

1-49 (c) For a charge described by Subsection (b) that is  
 1-50 assessed based on the cost of required or recommended textbooks or  
 1-51 access to digital courseware for a certain course or course section  
 1-52 in which the student is enrolled, the institution of higher  
 1-53 education shall:

1-54 (1) in a prominent location in the institution's  
 1-55 course schedule under Section 51.452, state or provide an Internet  
 1-56 website link to:

1-57 (A) the full amount of the charge;

1-58 (B) if the charge is for a textbook in a primarily  
 1-59 electronic format or for access to digital courseware, the terms  
 1-60 under which the publisher of the textbook or digital courseware

2-1 collects and uses student data obtained through a student's use of  
2-2 the textbook or digital courseware; and  
2-3 (C) any provision that allows the student to opt  
2-4 in or opt out of the charge or the collection or use of the student's  
2-5 data; and  
2-6 (2) itemize the charge separately from any other  
2-7 charges assessed for the course or course section in the  
2-8 institution's billing to the student.  
2-9 (d) For a charge described by Subsection (b) that is  
2-10 assessed on the basis of the number of semester credit hours or the  
2-11 equivalent or the number of courses in which the student is enrolled  
2-12 or on any other basis not described by Subsection (c), the  
2-13 institution of higher education shall:  
2-14 (1) except as provided by Subsection (e), include the  
2-15 amount of the charge in the institution's:  
2-16 (A) tuition under Section 54.015; or  
2-17 (B) incidental fees under Section 54.504; and  
2-18 (2) in a prominent location in any written or  
2-19 electronic agreement authorizing the charge, disclose:  
2-20 (A) if the charge is for a textbook in a primarily  
2-21 electronic format or for access to digital courseware, the terms  
2-22 under which the publisher of the textbook or digital courseware  
2-23 collects and uses student data obtained through a student's use of  
2-24 the textbook or digital courseware; and  
2-25 (B) any provision that allows the student to opt  
2-26 in or opt out of the charge or the collection or use of the student's  
2-27 data.  
2-28 (e) Notwithstanding Subsection (d)(1), an institution of  
2-29 higher education is not required to include the amount of a charge  
2-30 described by that subsection in the institution's tuition or  
2-31 incidental fees if the charge is assessed to a student only on an  
2-32 opt-in basis. For purposes of this subsection, a charge is not  
2-33 considered to be assessed on an opt-in basis if:  
2-34 (1) the textbooks or access to digital courseware for  
2-35 which the charge is assessed is required for the student to earn the  
2-36 maximum possible grade for a course in which the student is  
2-37 enrolled; and  
2-38 (2) for a charge for textbooks, the textbooks may only  
2-39 be legally obtained from the institution or certain vendors  
2-40 specified by the institution.  
2-41 (f) An agreement between an institution of higher education  
2-42 and an entity under which the institution assesses on the entity's  
2-43 behalf or allows the entity to assess a charge described by  
2-44 Subsection (b) to students enrolled at the institution:  
2-45 (1) may not provide for a quota, charge, or other  
2-46 penalty based on the number or percentage of:  
2-47 (A) students to whom the charge is assessed; or  
2-48 (B) courses or course sections for which the  
2-49 charge is assessed; and  
2-50 (2) is public information under Chapter 552,  
2-51 Government Code.  
2-52 (g) Any effort by an institution of higher education to  
2-53 reduce the cost of textbooks or access to digital courseware for  
2-54 students enrolled at the institution must also focus on maintaining  
2-55 the quality of education and protecting academic freedom.  
2-56 (h) This section may not be construed to prohibit an  
2-57 institution of higher education from entering into an agreement  
2-58 with an entity under which a charge for textbooks or access to  
2-59 digital courseware is assessed to students enrolled at the  
2-60 institution on an opt-in or opt-out basis.  
2-61 SECTION 2. Section 54.504, Education Code, is amended by  
2-62 adding Subsection (d) to read as follows:  
2-63 (d) If a charge described by Section 51.456(b) is included  
2-64 as part of an institution of higher education's incidental fees  
2-65 under this section that are assessed to each student, or each  
2-66 undergraduate student, enrolled at the institution who does not opt  
2-67 out of the charge, the governing board of the institution shall  
2-68 include a description of the amount of the charge in any notice of  
2-69 the amount of the institution's tuition provided to current or

3-1 prospective students, the parents of current or prospective  
3-2 students, or the public. The description must state or provide an  
3-3 Internet website link to any provision that allows a student to opt  
3-4 out of the charge.

3-5 SECTION 3. This Act applies beginning with the 2022 fall  
3-6 semester.

3-7 SECTION 4. This Act takes effect September 1, 2021.

3-8

\* \* \* \* \*