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H.B. No. 956

Substitute the following for H.B. No. 956:

By: Brown of Brazos

C.S.H.B. No. 956

A BILL TO BE ENTITLED

AN ACT

relating to measures to increase the affordability of textbooks
used for courses at public institutions of higher education;
providing a penalty.

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

SECTION 1. Chapter 51, Education Code, is amended by adding
Subchapter I to read as follows:

SUBCHAPTER I. TEXTBOOKS

Sec. 51.451. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas Building and
Procurement Commission.

(2) "Coordinating board" means the Texas Higher
Education Coordinating Board.

(3) "Faculty member" has the meaning assigned by
Section 51.917.

(4) "Governing board" and "institution of higher
education" have the meanings assigned by Section 61.003.

(5) "Open access publication" means a peer-reviewed
publication that:

(A) is written by an identified author who is an
expert in the subject matter of the publication; and

(B) is lawfully available free of charge through
the Internet.

(6) "Textbook" means a book published primarily for

1 the instruction of postsecondary students.

2 (7) "Textbook bundle" means a textbook offered for
3 sale in combination with other related products.

4 (8) "University-affiliated bookstore" means a
5 bookstore that:

6 (A) sells textbooks for courses offered by an
7 institution of higher education, regardless of whether the
8 bookstore is located on the campus of the institution; and

9 (B) is operated by or with the approval of the
10 institution through ownership, a management agreement, a lease or
11 rental agreement, or otherwise.

12 Sec. 51.452. COST CONSIDERATIONS. (a) A faculty member
13 shall consider cost in selecting textbooks to require or recommend
14 for student use in a course to be taught by the faculty member. A
15 faculty member may not require or recommend a textbook for student
16 use in the course unless the faculty member knows:

17 (1) the publisher's suggested retail price for the
18 textbook; or

19 (2) the approximate retail price that would be charged
20 for the textbook by a university-affiliated bookstore that is
21 affiliated with the institution of higher education offering the
22 course.

23 (b) A faculty member shall consider requiring or
24 recommending an open access publication instead of a traditional
25 textbook for student use in the course if the open access
26 publication would:

27 (1) be more economical for students than a traditional

1 textbook; and

2 (2) provide the necessary instructional content.

3 (c) A faculty member may not indicate to students that a
4 textbook is required for student use in a course to be taught by the
5 faculty member unless the faculty member expects the textbook to be
6 used in the course.

7 (d) The coordinating board shall:

8 (1) monitor costs of textbooks required or recommended
9 for student use in courses at institutions of higher education and
10 periodically recommend to the legislature methods to reduce the
11 cost of those textbooks to students; and

12 (2) collaborate with institutions of higher education
13 and other appropriate entities to facilitate or encourage the
14 development and availability of open access publications that may
15 be used as instructional materials.

16 Sec. 51.453. REDUCING TEXTBOOK REVISIONS. (a) Except as
17 otherwise authorized by Subsection (b), a faculty member may not
18 require or recommend an edition of a textbook for student use in a
19 course to be taught by the faculty member unless the faculty member
20 has information indicating that the publisher of the textbook will
21 not, until at least the third anniversary of the date that edition
22 was initially released for wholesale purchase, release for
23 wholesale purchase a later edition of that textbook.

24 (b) The chair of the appropriate academic department or
25 another official designated by the institution of higher education
26 offering a course may authorize the use in the course of an edition
27 of the textbook otherwise prohibited by Subsection (a) if the chair

1 or other official determines that:

2 (1) the use of the edition:

3 (A) would be more suitable to provide instruction
4 to students than the use of an appropriate alternative textbook; or

5 (B) would cost students significantly less than
6 the use of an appropriate alternative textbook; or

7 (2) another good cause exists.

8 Sec. 51.454. LIST OF REQUIRED TEXTBOOKS. (a) Each
9 institution of higher education shall:

10 (1) for each course offered at the institution,
11 compile a list of required textbooks that includes, for each
12 textbook, the International Standard Book Number assigned, if any;

13 (2) except as provided by Subsection (c), post the
14 list on the institution's Internet website as provided by
15 Subsection (b)(2); and

16 (3) except as provided Subsection (c), post any
17 revisions to the list on the institution's Internet website as soon
18 as practicable after the information regarding the revision becomes
19 available.

20 (b) To allow for timely placement of textbook orders by
21 students, each institution of higher education shall:

22 (1) establish a deadline for submission by faculty
23 members of information to be included on the list required by
24 Subsection (a)(1); and

25 (2) as required by Subsection (a)(2), post the list on
26 the institution's Internet website as soon as practicable after the
27 institution has compiled the list but not later than the 30th day

1 before the first day that classes are conducted for the semester or
2 other academic term for which the list is compiled, and maintain the
3 posting at least until the last day on which courses may be added
4 for the semester or term.

5 (c) An institution of higher education may comply with
6 Subsections (a)(2) and (3) by ensuring that a university-affiliated
7 bookstore or another bookstore at which the institution's students
8 generally purchase textbooks, as applicable, posts the list and any
9 revisions on the bookstore's Internet website at the times required
10 by Subsections (a)(3) and (b)(2) for posting by the institution.

11 Sec. 51.455. TEXTBOOK BUNDLES. (a) A
12 university-affiliated bookstore may not sell instructional
13 materials as a textbook bundle unless the publisher that assembled
14 the textbook bundle allows the bookstore to return to the publisher
15 the textbook bundle on the same terms as the publisher allows the
16 bookstore to return to the publisher a textbook that is not part of
17 a textbook bundle and:

18 (1) all of the instructional materials in the textbook
19 bundle are required by a faculty member for student use in a course;
20 or

21 (2) the price of the textbook bundle is lower than the
22 total price would be for all of the instructional materials in the
23 textbook bundle that are required by the faculty member if those
24 materials were sold separately.

25 (b) Except as provided by Subsection (c), a faculty member
26 may not require a textbook bundle for student use in a course unless
27 the publisher that assembled the textbook bundle allows retail

1 sellers of the textbook bundle to students of the institution to
2 return to the publisher the textbook bundle on the same terms as
3 the publisher allows the retail seller to return to the publisher a
4 textbook that is not part of a textbook bundle and:

5 (1) the faculty member intends students to use in the
6 course all of the instructional materials in the textbook bundle;
7 or

8 (2) the condition described by Subsection (a)(2)
9 applies at the time the faculty member selects the instructional
10 materials for the course.

11 (c) The chair of the appropriate academic department or
12 another official designated by an institution of higher education
13 offering a course may authorize the use in the course of a textbook
14 bundle otherwise prohibited by Subsection (b) if the chair or other
15 official determines that:

16 (1) the use of the textbook bundle:

17 (A) would be more suitable to provide instruction
18 to students than the use of appropriate alternative instructional
19 materials that are not in a textbook bundle; or

20 (B) would cost students significantly less than
21 the use of instructional materials provided in another manner; or

22 (2) another good cause exists.

23 Sec. 51.456. EQUALITY OF TREATMENT OF TEXTBOOK RETAILERS.

24 (a) An institution of higher education may not impose greater
25 restrictions on a textbook retailer's advertisement or on promotion
26 of the retailer's textbook business on the institution's campus
27 than the restrictions the institution imposes on such advertisement

1 or promotion on campus by any other similar entity. This subsection
2 does not require that a competitor of a university-affiliated
3 bookstore be allowed to advertise inside the bookstore.

4 (b) If an institution of higher education acts jointly with
5 a university-affiliated bookstore to provide a method for a student
6 to use grant or loan money to purchase textbooks or other
7 instructional materials or for enabling a student to delay paying
8 the costs of textbooks or other instructional materials, the
9 institution shall, to the extent practicable and consistent with
10 Section 51.929, establish a similar arrangement with one or more
11 other retailers that sell textbooks required for a course at the
12 institution and that request to participate in such an arrangement.
13 An institution may comply with this subsection by enabling a
14 student to purchase textbooks or other instructional materials at
15 the university-affiliated bookstore and at the other retailer or
16 retailers by using a credit or debit card funded with the student's
17 grant or loan money, as applicable. The institution may establish
18 reasonable conditions for the other retailer or retailers to
19 satisfy with respect to textbook sales, provided that those
20 conditions do not provide a substantial advantage to the
21 university-affiliated bookstore.

22 Sec. 51.457. STATE PURCHASING; DISCOUNTED PRICES. (a) The
23 commission, in consultation with institutions of higher education
24 and other persons with expertise concerning the sales and pricing
25 of textbooks used in higher education courses, shall attempt to
26 negotiate with publishers of textbooks required for courses offered
27 by an institution of higher education discounted prices for

1 textbooks for some or all of those courses, as determined by the
2 commission. If the commission and a publisher reach an agreement on
3 discounted prices, they shall enter into a contract under which the
4 publisher agrees that, if the publisher sells textbooks subject to
5 the contract to a university-affiliated bookstore, the publisher
6 will sell the textbooks to the bookstore at the prices established
7 by the contract. The commission may not negotiate discounted
8 prices under this subsection for:

9 (1) textbooks prohibited by Section 51.453(a); or

10 (2) textbook bundles prohibited by Section 51.455(a).

11 (b) A faculty member satisfies Sections 51.452(a),
12 51.453(a), and 51.455(b) if the faculty member requires or
13 recommends for student use in a course a textbook that is subject to
14 a contract under this section. This section does not prohibit a
15 faculty member from requiring or recommending for student use in a
16 course a textbook that is not subject to a contract under this
17 section.

18 (c) A university-affiliated bookstore that purchases
19 textbooks from a publisher at discounted prices as provided by a
20 contract described by Subsection (a) shall sell the textbooks when
21 new at a retail price that reflects a percentage discount on the
22 regular retail price equal to the percentage discount negotiated
23 under Subsection (a).

24 (d) Not later than the 60th day before the date of the
25 deadline established under Section 51.454(b)(1), the commission
26 shall:

27 (1) make a list of textbooks subject to discount

1 pricing under this section; and

2 (2) post the list on the commission's Internet
3 website.

4 (e) The commission may adopt rules as necessary to
5 administer this section.

6 Sec. 51.458. ACCEPTING REBATE ON TEXTBOOKS PROHIBITED. (a)
7 In this section, "gift, favor, or service" does not include:

8 (1) faculty training or other staff development;

9 (2) a sample copy or instructor's copy of a textbook
10 or other instructional material, including a map or worksheet; or

11 (3) a royalty or other compensation accepted by a
12 faculty member from the sale of one or more textbooks based wholly
13 or partly on the faculty member's own work.

14 (b) A member of the governing board, an administrator, or a
15 faculty member of an institution of higher education commits an
16 offense if the person:

17 (1) accepts a commission or rebate on the sale of a
18 textbook required or recommended for a course offered by the
19 institution; or

20 (2) accepts a gift, favor, or service that:

21 (A) is given to the person or the institution;

22 and

23 (B) might reasonably tend to influence the person
24 in selecting or contributing to the selection of a textbook for a
25 course offered by the institution.

26 (c) An offense under this section is a Class B misdemeanor.

27 Sec. 51.459. RULES. The coordinating board may adopt rules

1 to administer this subchapter, other than Section 51.457.

2 SECTION 2. Subchapter I, Chapter 51, Education Code, as
3 added by this Act, other than Section 51.458 of that subchapter,
4 applies to textbooks used at public institutions of higher
5 education beginning with the 2008 fall semester.

6 SECTION 3. This Act takes effect September 1, 2007.