

1-1 By: Kolkhorst S.B. No. 810  
1-2 (In the Senate - Filed February 9, 2017; February 22, 2017,  
1-3 read first time and referred to Committee on Higher Education;  
1-4 April 18, 2017, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 18, 2017,  
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 810 By: Seliger

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to the use of open educational resources.  
1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
1-21 SECTION 1. Section 51.451, Education Code, is amended by  
1-22 adding Subdivision (4-a) to read as follows:  
1-23 (4-a) "Open educational resource" means a teaching,  
1-24 learning, or research resource that is in the public domain or has  
1-25 been released under an intellectual property license that permits  
1-26 the free use, adaptation, and redistribution of the resource by any  
1-27 person. The term may include full course curricula, course  
1-28 materials, modules, textbooks, media, assessments, software, and  
1-29 any other tools, materials, or techniques, whether digital or  
1-30 otherwise, used to support access to knowledge.  
1-31 SECTION 2. Section 51.452, Education Code, is amended by  
1-32 amending Subsection (a) and adding Subsection (d) to read as  
1-33 follows:  
1-34 (a) Each institution of higher education shall:  
1-35 (1) for each semester or academic term, compile a  
1-36 course schedule indicating each course offered by the institution  
1-37 for the semester or term to postsecondary students;  
1-38 (2) with respect to each course, include with the  
1-39 schedule a list of the required and recommended textbooks that  
1-40 specifies, to the extent practicable, the following information for  
1-41 each textbook:  
1-42 (A) the retail price;  
1-43 (B) the author;  
1-44 (C) the publisher;  
1-45 (D) the most recent copyright date; ~~and~~  
1-46 (E) the International Standard Book Number  
1-47 assigned, if any; and  
1-48 (F) whether the textbook is an open educational  
1-49 resource;  
1-50 (3) except as provided by Subsection (b), at the time  
1-51 required by Subsection (c)(2):  
1-52 (A) publish the textbook list with the course  
1-53 schedule on the institution's Internet website and with any course  
1-54 schedule the institution provides in hard copy format to the  
1-55 students of the institution; and  
1-56 (B) make that information available to college  
1-57 bookstores and other bookstores that generally serve the students  
1-58 of the institution; and  
1-59 (4) except as provided by Subsection (b), as soon as  
1-60 practicable after the information becomes available disseminate as

2-1 required by Subdivision (3) specific information regarding any  
2-2 revisions to the institution's course schedule and textbook list.

2-3 (d) If an institution of higher education or a college  
2-4 bookstore publishes a textbook list with a course schedule on an  
2-5 Internet website that provides a search function, the institution  
2-6 or bookstore must:

2-7 (1) ensure that the search function permits a search  
2-8 based on whether a course or section of a course requires or  
2-9 recommends only open educational resources; or

2-10 (2) provide a searchable list of courses and sections  
2-11 of courses that require or recommend only open educational  
2-12 resources.

2-13 SECTION 3. Section 51.453, Education Code, is amended to  
2-14 read as follows:

2-15 Sec. 51.453. TEXTBOOK ASSISTANCE INFORMATION FOR STUDENTS.  
2-16 To the extent practicable, an institution of higher education shall  
2-17 make reasonable efforts to disseminate to its students information  
2-18 regarding:

2-19 (1) available institutional programs for renting  
2-20 textbooks or for purchasing used textbooks;

2-21 (2) available institutional guaranteed textbook  
2-22 buyback programs;

2-23 (3) available institutional programs for alternative  
2-24 delivery of textbook content; ~~and~~

2-25 (4) the availability of courses and sections of  
2-26 courses that require or recommend only open educational resources;  
2-27 and

2-28 (5) other available institutional textbook  
2-29 cost-savings strategies.

2-30 SECTION 4. Section 51.454(a), Education Code, is amended to  
2-31 read as follows:

2-32 (a) When a textbook publisher provides information  
2-33 regarding a textbook or supplemental material other than an open  
2-34 educational resource to a faculty member or other person in charge  
2-35 of selecting course materials at an institution of higher  
2-36 education, the publisher shall also provide to the faculty member  
2-37 or other person written information that includes:

2-38 (1) the price at which the publisher would make the  
2-39 textbook or supplemental material available to a college bookstore  
2-40 or other bookstore that generally serves the students of the  
2-41 institution and, if applicable, to the public;

2-42 (2) the copyright dates of the current and three  
2-43 preceding editions of the textbook;

2-44 (3) a description of any substantial content revisions  
2-45 made between the current edition of the textbook or supplemental  
2-46 material and the most recent preceding edition of the textbook or  
2-47 material, including the addition of new chapters, new material  
2-48 covering additional time periods, new themes, or new subject  
2-49 matter;

2-50 (4) information as to whether the textbook or  
2-51 supplemental material is available in other formats, such as a  
2-52 paperback or unbound version; and

2-53 (5) the price at which the publisher would make the  
2-54 textbook or supplemental material in any alternative format  
2-55 available to a bookstore described by Subdivision (1) and, if  
2-56 applicable, to the public.

2-57 SECTION 5. Subchapter C, Chapter 61, Education Code, is  
2-58 amended by adding Section 61.0668 to read as follows:

2-59 Sec. 61.0668. OPEN EDUCATIONAL RESOURCES GRANT PROGRAM.  
2-60 (a) In this section, "open educational resource" has the meaning  
2-61 assigned by Section 51.451.

2-62 (b) The board shall establish and administer a grant program  
2-63 to encourage faculty at institutions of higher education to adopt,  
2-64 modify, redesign, or develop courses that use only open educational  
2-65 resources.

2-66 (c) Under the program, a faculty member of an institution of  
2-67 higher education may apply to the board for a grant to adopt,  
2-68 modify, redesign, or develop one or more courses at the institution  
2-69 to exclusively use open educational resources.

3-1           (d) For each course identified in an application for a grant  
 3-2 under this section, the board shall select at least three persons  
 3-3 qualified to review the curriculum of the course, as determined by  
 3-4 the board, to evaluate the application with respect to that course.  
 3-5 If the application is rejected, the reviewing persons must provide  
 3-6 feedback on the application to the faculty member. The feedback may  
 3-7 be provided anonymously.

3-8           (e) A faculty member who receives a grant under the program  
 3-9 shall ensure that any open educational resource used in each  
 3-10 applicable course is provided to a student enrolled in the course at  
 3-11 no cost other than the cost of printing.

3-12           (f) A faculty member who receives a grant under the program  
 3-13 must submit to the board for each of the four semesters immediately  
 3-14 following the implementation of each applicable course a report  
 3-15 that includes:

3-16                 (1) the number of students who have completed the  
 3-17 course;

3-18                 (2) an estimate of the amount of money saved by a  
 3-19 student due to the use of open educational resources in the course;

3-20                 (3) a description of the open educational resources  
 3-21 used in the course;

3-22                 (4) the number of other faculty members, if any, who  
 3-23 adopted the curriculum of the course; and

3-24                 (5) any other information required by the board.

3-25           (g) A faculty member who receives a grant under the program  
 3-26 may continue to submit a report described by Subsection (f) for a  
 3-27 semester that occurs after the faculty member's duty to submit a  
 3-28 report under that subsection has expired. The board may consider a  
 3-29 faculty member's failure to submit additional reports under this  
 3-30 subsection in evaluating a subsequent grant application submitted  
 3-31 by the faculty member.

3-32           (h) A faculty member who is no longer employed by an  
 3-33 institution of higher education forfeits any grant awarded under  
 3-34 the program.

3-35           (i) The board may not award a grant under the program to a  
 3-36 faculty member of a postsecondary educational institution other  
 3-37 than an institution of higher education.

3-38           (j) Not later than December 1 of each even-numbered year,  
 3-39 the board shall submit to the governor, lieutenant governor,  
 3-40 speaker of the house of representatives, and each standing  
 3-41 legislative committee with primary jurisdiction over higher  
 3-42 education a report on:

3-43                 (1) the total number of grants distributed under the  
 3-44 program;

3-45                 (2) the number of students who completed a course  
 3-46 adopted, modified, redesigned, or developed under the program;

3-47                 (3) an estimate of the total amount of money saved by  
 3-48 students due to the use of open educational resources in courses  
 3-49 adopted, modified, redesigned, or developed under the program;

3-50                 (4) a list of any subject areas that would benefit from  
 3-51 the adoption, modification, or development of open educational  
 3-52 resources; and

3-53                 (5) recommendations on future steps for adopting,  
 3-54 modifying, or developing open educational resources.

3-55           (k) The board may solicit and accept gifts, grants, and  
 3-56 donations from any public or private source for purposes of the  
 3-57 program.

3-58           (l) The board shall adopt rules for the administration of  
 3-59 the program.

3-60           (m) This section expires September 1, 2021.

3-61           (n) The board may not use appropriated funds in an amount  
 3-62 greater than \$200,000 for purposes of the program in the state  
 3-63 fiscal biennium ending August 31, 2019. The board may use any  
 3-64 amount of other funds available for those purposes. This  
 3-65 subsection expires December 1, 2019.

3-66           SECTION 6. Subchapter A, Chapter 441, Government Code, is  
 3-67 amended by adding Section 441.021 to read as follows:

3-68           Sec. 441.021. FEASIBILITY STUDY ON STATE REPOSITORY OF OPEN  
 3-69 EDUCATIONAL RESOURCES. (a) In this section, "open educational

4-1 resource" has the meaning assigned by Section 51.451, Education  
4-2 Code.

4-3 (b) The commission shall conduct a study to determine the  
4-4 feasibility of creating a state repository of open educational  
4-5 resources. The study must consider:

4-6 (1) methods for facilitating public access to open  
4-7 educational resources;

4-8 (2) the resources needed to create the repository; and

4-9 (3) any potential challenges in creating the  
4-10 repository.

4-11 (c) In conducting the study, the commission shall  
4-12 collaborate with relevant state agencies and other stakeholders,  
4-13 including the Texas Higher Education Coordinating Board, the Texas  
4-14 Education Agency, and representatives of public institutions of  
4-15 higher education and school districts.

4-16 (d) Not later than September 1, 2018, the commission shall  
4-17 submit to the governor, lieutenant governor, speaker of the house  
4-18 of representatives, and each standing legislative committee with  
4-19 primary jurisdiction over higher education a report on the results  
4-20 of the study and any recommendations for legislative or other  
4-21 action. The report must include information on:

4-22 (1) methods by which open educational resources would  
4-23 be gathered and curated;

4-24 (2) measures to ensure public access to the  
4-25 repository;

4-26 (3) methods of encouraging the use of the repository;

4-27 (4) management of intellectual property rights; and

4-28 (5) any other measures necessary to ensure the  
4-29 repository's success.

4-30 (e) The commission may not use appropriated funds in an  
4-31 amount greater than \$100,000 for purposes of the study. The  
4-32 commission may use any amount of other available funds for purposes  
4-33 of the study and may solicit and accept gifts, grants, and donations  
4-34 for that purpose.

4-35 (f) This section expires September 1, 2019.

4-36 SECTION 7. Sections 51.451, 51.452, 51.453, and 51.454,  
4-37 Education Code, as amended by this Act, apply beginning with the  
4-38 2018 spring semester.

4-39 SECTION 8. (a) As soon as practicable after the effective  
4-40 date of this Act, the Texas Higher Education Coordinating Board  
4-41 shall adopt rules for the administration of the open educational  
4-42 resources grant program under Section 61.0668, Education Code, as  
4-43 added by this Act.

4-44 (b) Notwithstanding Section 61.0668(j), Education Code, as  
4-45 added by this Act, the Texas Higher Education Coordinating Board  
4-46 shall submit its initial report required under that section not  
4-47 later than December 1, 2019.

4-48 SECTION 9. This Act takes effect only if a specific  
4-49 appropriation for the implementation of the Act is provided in a  
4-50 general appropriations act of the 85th Legislature.

4-51 SECTION 10. This Act takes effect immediately if it  
4-52 receives a vote of two-thirds of all the members elected to each  
4-53 house, as provided by Section 39, Article III, Texas Constitution.  
4-54 If this Act does not receive the vote necessary for immediate  
4-55 effect, this Act takes effect September 1, 2017.

4-56

\* \* \* \* \*