

## Assembly Bill No. 798

### CHAPTER 633

An act to amend Section 69999.6 of, and to add and repeal Part 40.1 (commencing with Section 67420) of Division 5 of Title 3 of, the Education Code, relating to postsecondary education.

[Approved by Governor October 8, 2015. Filed with  
Secretary of State October 8, 2015.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 798, Bonilla. College Textbook Affordability Act of 2015.

(1) Existing law establishes the segments of the postsecondary education system in the state, including the California State University, administered by the Trustees of the California State University, and the California Community Colleges, administered by the Board of Governors of the California Community Colleges.

This bill would establish the College Textbook Affordability Act of 2015 to reduce costs for college students by encouraging faculty to accelerate the adoption of lower cost, high-quality open educational resources, as defined.

The bill would create the Open Educational Resources Adoption Incentive Program to provide incentives and reward campus, staff, and faculty efforts to accelerate the adoption of open educational resources. The bill would require that specified moneys for the program be used by campuses to create and support faculty and staff professional development, open educational resource curation activities, curriculum modification, or technology support for faculty, staff, and students, as specified. The bill would authorize the local academic senate of a campus of the California State University or the California Community Colleges to (A) adopt a local campus resolution to increase student access to high-quality open educational resources and reduce the cost of textbooks and supplies for students, and (B) upon adoption of the resolution, develop a specified plan, in collaboration with students and the administration, that describes evidence of the campus' commitment and readiness to spend grant money from the fund to support faculty adoption of open educational resources. The bill would require the California Open Education Resources Council to review and approve the plan, and, if it meets these and other specified requirements, would authorize the Chancellor of the California State University to award an initial grant of up to \$50,000 to the campus from the fund. The bill would require additional bonus grants to be distributed to participating campuses if certain benchmarks are met. The bill would cap the number of initial grants that may be approved by the California Open Education Resources Council each award year at 100. The bill would require the California Digital Open Source Library, also known as the California Open Online Library for Education, in consultation with

the Intersegmental Committee of Academic Senates, to report to the Legislature before September 1 of each year, commencing in 2018, as to whether the grants are increasing the rate of adoption of open educational resources and decreasing textbook costs for college students.

The bill would make these provisions inoperative on September 1, 2020, and would repeal them as of January 1, 2021.

(2) Existing law appropriates, from specified funds, \$5,000,000 to the Chancellor of the California State University to fund, among other things, the establishment and administration of the California Open Education Resources Council and the California Digital Open Source Library.

This bill would specify that \$3,000,000 of those funds are reappropriated for allocation for the Open Educational Resources Adoption Incentive Program. Of the remaining \$2,000,000, the bill would specify that up to \$200,000 may be used for the California Open Online Library for Education and up to \$27,000 may be used for stipends to members of the California Open Education Resources Council, as specified.

*The people of the State of California do enact as follows:*

SECTION 1. Part 40.1 (commencing with Section 67420) is added to Division 5 of Title 3 of the Education Code, to read:

**PART 40.1. COLLEGE TEXTBOOK AFFORDABILITY ACT OF 2015**

67420. This part shall be known, and may be cited, as the College Textbook Affordability Act of 2015.

67421. (a) The College Textbook Affordability Act of 2015 is hereby established to reduce costs for college students by encouraging faculty to accelerate the adoption of lower cost, high-quality, open educational resources. Faculty development shall be a key component of this acceleration initiative. This initiative shall use, in addition to any other appropriate resources, those identified, housed, produced, and otherwise found appropriate pursuant to the California Open Education Resources Council established in Section 66409 and the California Digital Open Source Library, also known as the California Open Online Library for Education, established in Section 66408.

(b) The Open Educational Resources Adoption Incentive Program is hereby established to carry out the purposes of this act. Unless context otherwise requires, “program” in this act means the Open Educational Resources Adoption Incentive Program.

67422. (a) (1) Moneys appropriated in subdivision (f) of Section 69999.6 for the program shall be used by community college and California State University campuses to further the purposes specified in subdivision (a) of Section 67421, including any of the following purposes:

(A) Faculty professional development, which shall include learning about the California Open Online Library for Education established in Section

66408. Faculty who participate in this professional development shall be reimbursed in accordance with their campus' approved plan pursuant to paragraph (2) of subdivision (a) of Section 67424.

(B) Professional development for staff whose work supports providing students with open educational resources.

(C) Open educational resource curation activities. All new open educational resources developed and available that are adopted as course material pursuant to this program shall be added to the California Open Online Library for Education established in Section 66408.

(D) Curriculum modification and requisite release time for faculty in accordance with a campus' approved plan pursuant to paragraph (2) of subdivision (a) of Section 67424 related to the adoption of open educational resources as course materials.

(E) Technology support for faculty, students, and staff whose work furthers the goals specified in a campus' approved plan pursuant to paragraph (2) of subdivision (a) of Section 67424.

(2) Moneys appropriated in subdivision (f) of Section 69999.6 for the program shall not be used for direct compensation for faculty members who adopt open educational resources, except as provided to compensate for professional development pursuant to subparagraph (A) of paragraph (1), or for purchasing new equipment.

(b) For the purposes of this act, a "community college campus" is a community college campus site that has a local academic senate.

67423. As used in this part, "open educational resources" are high-quality teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license, such as a Creative Commons license, that permits their free use and repurposing by others, and may include other resources that are legally available and free of cost to students. "Open educational resources" include, but are not limited to, full courses, course materials, modules, textbooks, faculty-created content, streaming videos, tests, software, and any other tools, materials, or techniques used to support access to knowledge.

67424. (a) In order to participate in the program, the local academic senate of a campus of the California State University or the California Community Colleges shall do both of the following:

(1) Adopt a local campus resolution to increase student access to high-quality open educational resources and reduce the cost of textbooks and supplies for students in course sections for which open educational resources are to be adopted to accomplish cost savings for students.

(2) Approve a plan, in collaboration with students and campus administration, that describes evidence of the faculty's commitment and readiness to effectively use grant funds to support faculty adoption of open educational resources.

(A) The plan may detail technological or staff support to increase the adoption of open educational resources. The plan shall describe how the faculty will learn about the California Open Online Library for Education and other existing open educational resources.

(B) The plan shall include the number of academic departments expected to be involved in the plan's implementation, the number of course sections in which open educational resources will be adopted, the percentage of cost savings for students anticipated on account of the adoption of open educational resources for each of these course sections, the ways existing faculty development programs will be enhanced by the plan's implementation, and the mechanisms that will be used to distribute adopted open educational resources to students.

(C) At their discretion, faculty may choose, for courses that are to adopt open educational resources under the plan, appropriate resources for any of the 50 strategically selected lower division courses identified by the California Open Education Resources Council pursuant to subparagraph (B) of paragraph (1) of subdivision (c) of Section 66409. Other open educational resources may also be used.

(D) The plan shall describe how the campus will provide access to open educational resource materials for students, including how the campus will make hard copies of these materials available for students who lack access to these materials off campus and make it possible for students with such access to print hard copies.

(E) The plan will identify the amount of the grant requested. The amount of the grant requested shall be equal to, or less than, the number of course sections in which both open educational resources will be adopted and cost savings for the course section will be greater than 30 percent, multiplied by one thousand dollars (\$1,000). The amount requested shall not be greater than fifty thousand dollars (\$50,000). A plan shall commit to achieving greater than 30 percent cost savings in at least 10 course sections.

(F) (i) The plan shall include the percentage of cost savings for each course section calculated as follows:

(ii) The percentage of cost savings shall be the estimated decrease in the costs of books and supplies for a course section in the current term resulting from the adoption of open educational resources for that course section, divided by the costs of books and supplies for that course section in the immediately preceding academic term.

(b) The California Open Education Resources Council may provide expertise on available open educational resources and best practices for the adoption of open educational resources for existing courses to assist in the development of the plan.

(c) (1) The local academic senate of a campus of the California State University or the California Community Colleges may submit the resolution and the plan developed pursuant to subdivision (a) to the California Open Education Resources Council as its application for an initial grant no later than June 30, 2016.

(2) (A) The California Open Education Resources Council shall make an initial grant to a campus within 60 days of the council's receipt of the campus' application if the campus has satisfied the requirements of subdivision (a). The California Open Education Resources Council may award up to 100 initial grants.

(B) If the total amount requested in applications received pursuant to subparagraph (A) is equal to or less than two million dollars (\$2,000,000), the California Open Education Resources Council shall make grants for each approved application equal to the amount requested in the application. If the total amount requested in applications received pursuant to subparagraph (A) exceeds two million dollars (\$2,000,000), the California Open Education Resources Council shall make grants for the full amount requested in approved applications on a competitive basis based on the strength of the evidence provided of faculty commitment to the adoption of open educational resources.

(3) Each application approved by the California Open Education Resources Council shall be submitted by the council to the Chancellor of the California State University no later than 30 days after the council approves the application. The chancellor shall award grants to recipients in accordance with this section.

(4) Administrative support may be provided to the council by the California Open Online Library for Education to help the council carry out its duties in accordance with this part.

(5) (A) No later than June 30, 2018, a campus may apply for a bonus grant equal to the amount of its initial grant. The application shall include evidence that the campus has met or exceeded total cost savings of greater than 30 percent for the required number of course sections specified in the approved plan for the campus' initial grant in the 2017–18 academic year.

(B) (i) A campus may also compute the total cost savings for each course section and include that figure in its application for a bonus grant pursuant to subparagraph (A).

(ii) The total cost savings for each course section shall be the number of students enrolled in a course section multiplied by the per-student decrease in the costs of books and supplies for the course section in the term resulting from the adoption of open educational resources.

(6) Bonus grants specified in paragraph (5) shall be used to further the goals of the campus' approved plan for its initial grant. It is the intent of the Legislature that bonus grants support each campus' adoption of open educational resources for at least double the number of course sections, and with at least 30 percent cost savings for each of these course sections, as accomplished by the campus' approved plan for its initial grant.

(7) If the total amount requested in applications for bonus grants exceeds the total amount of funds available, the California Open Educational Resources Council shall award grants on a competitive basis to approved applications for the full amount of the initial grant based on the overall percentage savings achieved by the initial plan in the courses covered by the plan.

(8) It is the intent of the Legislature that initial and bonus grants provide the impetus for campuses to adopt, and continue to use, open educational resources as course materials.

(d) The California Open Online Library for Education, in consultation with the Intersegmental Committee of Academic Senates, shall report to

the Legislature, in accordance with Section 9795 of the Government Code, before September 1 each year, commencing in 2018, as to whether the grants are increasing the rate of adoption of open educational resources and decreasing textbook costs for college students.

67425. This part shall become inoperative on September 1, 2020, and, as of January 1, 2021, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2021, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 69999.6 of the Education Code is amended to read:

69999.6. (a) In enacting this article, it is the intent of the Legislature to accomplish all of the following:

(1) Provide explicit authority to the board to continue to administer accounts for, and make awards to, persons who qualified for awards under the provisions of the Governor's Scholarship Programs as those provisions existed on January 1, 2003, prior to the repeal of former Article 20 (commencing with Section 69995).

(2) Provide for the management and disbursement of funds previously set aside for the scholarship programs authorized by former Article 20 (commencing with Section 69995).

(3) Provide a guarantee should additional funds be needed to cover awards authorized and made pursuant to former Article 20 (commencing with Section 69995).

(b) The board may manage and disburse the funds previously set aside for the scholarship programs authorized by former Article 20 (commencing with Section 69995).

(c) If a person has earned an award under the Governor's Scholarship Programs on or before January 1, 2003, but has not claimed the award on or before June 30, 2004, he or she still may claim the award by a date that is five years from the first June 30 that fell after he or she took the qualifying test. An award shall not be made by the board after that date.

(d) The board shall negotiate with the current manager of the Governor's Scholarship Programs and execute an amended or new management and funding agreement, before January 1, 2013, which shall include, but not be limited to, all of the following:

(1) Terms providing for the return to the General Fund by no later than January 1, 2013, of moneys appropriated to the Governor's Scholarship Programs that are not anticipated to be needed to make awards pursuant to paragraphs (1) and (2) of subdivision (a).

(2) Provisions that authorize the board to pay agreed-upon early withdrawal penalties or fees.

(3) Terms that extend to the final date upon which the board may withdraw funds for a person who earned an award under the Governor's Scholarship Programs.

(e) (1) If funds retained in the Golden State Scholarshare Trust after January 1, 2013, are insufficient to cover the remaining withdrawal requests, it is the intent of the Legislature to appropriate the necessary funds to the

Golden State Scholarshare Trust for the purpose of funding individual beneficiary accounts.

(2) The board shall notify the Department of Finance and the Legislature no later than 10 working days after determining that a shortfall in available funding described in paragraph (1) will occur.

(f) (1) (A) Of the funds transferred to the General Fund pursuant to paragraph (1) of subdivision (d), five million dollars (\$5,000,000) is hereby appropriated to the Chancellor of the California State University, without regard to fiscal years, to fund the establishment and administration of the California Open Education Resources Council and the California Digital Open Source Library, and the development or acquisition of open education resources, or any combination thereof, pursuant to legislation enacted in the 2011–12 Regular Session of the Legislature, provided that the chancellor may provide reimbursement to the California Community Colleges and the University of California for costs those segments, or their representatives, incur in association with the activities described in this paragraph.

(B) Effective January 1, 2016, three million dollars (\$3,000,000) of the moneys appropriated pursuant to this paragraph are hereby reappropriated pursuant to paragraph (4).

(2) Except those moneys allocated pursuant to paragraphs (3) and (4), moneys, or a portion of moneys, appropriated pursuant to paragraph (1) shall not be encumbered unless at least 100 percent of that amount encumbered is matched by private funds and, if not matched by private funds, shall revert to the Golden State Scholarshare Trust for purposes of the Governor’s Scholarship Programs.

(3) Of the unencumbered amount appropriated pursuant to paragraph (1) as of June 30, 2015:

(A) Up to two hundred thousand dollars (\$200,000) may be used for administration of the California Open Online Library for Education. These funds may be used by the California Open Online Library for Education to continue developing and updating its services to provide faculty, staff, and students convenient access to open educational resources as course materials and to provide administrative support for the California Open Educational Resources Council. These funds may be used by the California Open Online Library for Education for purposes of the Open Educational Resources and Adoption Incentive Program until September 1, 2020.

(B) Up to twenty-seven thousand dollars (\$27,000) may be used for stipends to members of the California Open Education Resources Council for these members to carry out their duties in accordance with the Open Educational Resources Adoption Incentive Program.

(4) Of the funds transferred to the General Fund pursuant to paragraph (1) of subdivision (d) and appropriated pursuant to paragraph (1), three million dollars (\$3,000,000) is hereby reappropriated to the Chancellor of the California State University, without regard to fiscal years, for allocation for the Open Educational Resources Adoption Incentive Program.

(g) The board may adopt rules and regulations for the implementation of this article.

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