

Department of Legislative Services  
2010 Session

FISCAL AND POLICY NOTE

House Bill 16 (Delegate Smigiel)  
Ways and Means

Sales and Use Tax - Exemption - University and College Textbooks

This bill exempts the sale of specified textbooks bought by a full- or part-time student enrolled at an institution of higher education from the State sales and use tax. Full- or part-time students must produce a valid student identification card at the time of purchase. A textbook is defined as a book written, designed, and produced for educational, instructional, or pedagogical purposes, and required for a course at an institution of higher education.

The bill takes effect July 1, 2010.

Fiscal Summary

**State Effect:** General fund revenues decrease by \$17.5 million in FY 2011 and Transportation Trust Fund (TTF) revenues decrease by \$1.0 million. Future year revenues reflect projected enrollment and 3% increases in textbook costs. Expenditures are not affected.

(\$ in millions)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
GF Revenue	(\$17.5)	(\$18.4)	(\$19.2)	(\$19.9)	(\$20.9)
SF Revenue	(\$1.0)	(\$1.0)	(\$1.1)	(\$1.4)	(\$1.5)
Expenditure	0	0	0	0	0
Net Effect	(\$18.5)	(\$19.4)	(\$20.3)	(\$21.3)	(\$22.3)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

**Local Effect:** None.

**Small Business Effect:** Minimal.

## Analysis

**Current Law:** The State sales and use tax rate is 6%. Chapter 348 of 2005 created a textbook consortium in the University System of Maryland (USM) to allow USM institutions to receive volume discounts on the purchase of textbooks by students.

### *Textbook Pricing Policy*

Chapters 520 and 521 of 2009 require each public institution of higher education to develop and implement a campaign to make faculty aware of textbook issues; a procedure by which bookstores and students are made aware of textbook information that must be disclosed; and a best-practices process for faculty in selecting textbooks and course materials.

On the request of a bookstore that sells textbooks and course material and is licensed by the Comptroller to do business in Maryland, meaning it collects Maryland sales and use tax for tangible personal property or taxable services sold, an institution must provide specific information on the textbooks and course materials that have been selected by faculty members including the title, the author, the publisher, the edition, the copyright and publication date; the ISBN; and the anticipated enrollments for the class within specified timeframes. A bookstore that requests this information may not make the information available to students or members of the public until the selection of course materials is finalized by faculty members.

This textbook information must also be posted on the institution's web site within specified timeframes and with notification about whether supplemental materials are required or suggested by faculty and notification about whether earlier editions of assigned textbooks will suffice. Institutions must also disclose if particular textbook or supplemental material selections have been finalized by the faculty member and the potential consequences of purchasing material prior to it being finalized. In addition to this disclosure, an institution, campus bookstore, or other bookstore that offers a college textbook or supplemental material for sale prior to the selection being finalized must provide a caveat regarding the potential consequences of purchasing the particular material prior to it being finalized and the return policy as appropriate.

An institution may grant a faculty member or a campus bookstore a time extension to post the selection of textbooks or supplemental materials. If an extension is granted, the institution is required to post a written explanation for the extension, as appropriate. A public institution of higher education may not encourage or promote the creation or sale of college textbooks that consist of purely aesthetic changes such as a commemorative edition.

Each public institution of higher education must also develop a procedure by which, before selecting and publicizing a textbook selection, faculty members must acknowledge the cost of their textbook selection versus other editions or previous publishers. If the faculty member selects a current textbook edition, he or she must acknowledge that use of a current edition is appropriate due to substantial changes in content from previous editions, the difference in price between the editions, that previous editions may be available to students at a lower price as used books, that a publisher does not need to provide an unbundled version of an integrated textbook, and that supplemental material in a bundle is intended for use in the course.

A textbook publisher that provides information to those in charge of making textbook selections must disclose specific information about the textbooks and materials, including pricing data, and must also itemize substantial content revisions made between current and previous textbook editions. Publishers must also disclose other available formats for the textbook and a list of textbooks that are classified as integrated textbooks. Each institution of higher education must develop a process for faculty members to acknowledge having been informed of these disclosures and the impact that the high cost of college textbooks and supplemental materials has on students.

Publishers and campus bookstores are required to provide and sell textbooks and supplemental materials in the same manner as selected by faculty; however, with the permission of the faculty member, a campus bookstore may sell textbooks and supplemental materials in a different manner than selected to give students lower-cost options. If textbooks or materials are unavailable as ordered, the publisher and the bookstore must work with faculty members to find alternatives and provide them with price information for these alternatives. Publishers selling bundled course materials must make textbooks and supplemental materials available separately.

Chapters 520 and 521 also mandate reports related to the implementation of the new textbook pricing policy. Under the direction of the Board of Regents, USM must conduct a study of changes that USM and its constituent institutions can make to their business models for textbook assignment and purchasing in order to reduce textbook costs. USM must report the results of the study by December 1, 2010.

Public institutions of higher education must report to the Maryland Higher Education Commission (MHEC) by December 1, 2011, on the best-practices policies they develop under the bill to lower the cost of textbooks for their students.

In consultation with the State's four-year public institutions of higher education, the Maryland Association of Community Colleges (MACC), and the Maryland Independent College and University Association (MICUA), MHEC must also conduct a feasibility study regarding the establishment of textbook rental programs and a statewide digital

marketplace for textbooks. MHEC must report the results of the study by December 31, 2011.

*Sales and Use Tax*

The sales and use tax is the State's second largest source of general fund revenue accounting for \$3.5 billion in 2010 and \$3.7 billion in fiscal 2011, according to the December 2009 revenue forecast. In addition, TTF is projected to receive \$0.2 billion in sales and use tax revenues in both fiscal 2010 and 2011. **Exhibit 1** shows the sales and use tax rates in surrounding states and the District of Columbia.

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**Exhibit 1**  
**Sales and Use Tax Rates in Maryland and Surrounding States**

Delaware	0%
District of Columbia	5.75%
Maryland	6%
Pennsylvania	6% plus 1% in certain local jurisdictions 0% sales tax on clothing
Virginia	5%; 2.5% for food, both rates include 1% for local jurisdictions
West Virginia	6%

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**State Fiscal Effect:** Based on a MHEC student survey (Cost of Attendance Survey, 2005-2006), college students in Maryland spent an average of \$905 on textbooks in the 2005-2006 school year. Assuming an annual growth rate of 6% (National Association of College Stores and the General Accounting Office), students will spend approximately \$1,212 on textbooks in fiscal 2011. Beginning in fiscal 2012, it is assumed that the annual growth rate in textbook cost will lower to 3% to reflect legislation enacted in the 2009 session and the recent decline in inflation. **Exhibit 2** shows the estimated average annual textbook cost per student at institutions of higher education.

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**Exhibit 2**  
**Estimated Average Textbook Cost in 2010-2011 Academic Year**

Community Colleges	\$1,277
Four-year Public Institutions	\$1,208
Independent Colleges	\$1,149
<b>Average</b>	<b>\$1,212</b>

Source: Maryland Higher Education Commission; Department of Legislative Services

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MHEC projects that there will be 342,900 students (full- and part-time) enrolled at Maryland institutions of higher education in the 2010-2011 academic year, as shown in **Exhibit 3**. After making adjustments for total course hours, it is estimated that there will be 254,400 full-time equivalent students enrolled in Maryland institutions of higher education in fiscal 2011.

Based on these factors, exempting student textbooks from the State sales and use tax is projected to reduce State sales tax revenues by \$18.5 million in fiscal 2011. Chapter 10 of 2008 altered the distribution of sales and use tax revenues by requiring that, for fiscal 2009 through 2013, 5.3% of revenues be distributed to the TTF. Beginning in fiscal 2014, the amount distributed to the TTF increases to 6.5%.

As a result, the text book exemption proposed by the bill reduces general fund revenues by \$17.5 million in fiscal 2011 while reducing TTF revenues by approximately \$1.0 million. **Exhibit 4** shows enrollment projections for fiscal 2011 through 2015 and the estimated decrease in general fund and TTF revenues.

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**Additional Information**

**Prior Introductions:** HB 1358 of 2009 received a hearing in the House Ways and Means Committee, but no further action was taken on the bill. HB 871 of 2008 received a hearing in the House Ways and Means Committee and was subsequently withdrawn. HB 25 of 2006 received an unfavorable report from the House Ways and Means Committee. HB 70 of 2005 was amended by the House Ways and Means Committee to create a textbook consortium in USM to allow USM institutions to receive volume discounts on the purchase of textbooks by students. As amended, the bill became Chapter 348 of 2005.

**Cross File:** None.

**Information Source(s):** Maryland Higher Education Commission, Maryland Independent College and University Association, Baltimore City Community College, Morgan State University, Department of Legislative Services

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mlm/hlb

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**Exhibit 3**  
**Projected Enrollment at Maryland Institutions of Higher Education**  
**Academic Year 2010-2011**

	<b>Undergraduate</b>		<b>Graduate/Professional</b>	
	<u><b>Full-time</b></u>	<u><b>Part-time</b></u>	<u><b>Full-time</b></u>	<u><b>Part-time</b></u>
Community Colleges	48,973	81,889	-	-
Four-year Public Institutions	82,665	31,787	17,280	26,676
Independent Colleges	24,913	3,038	9,193	16,485
<b>Total</b>	<b>156,551</b>	<b>116,714</b>	<b>26,473</b>	<b>43,161</b>

Source: Maryland Higher Education Commission

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**Exhibit 4**  
**Effect of Exempting Textbooks from the Sales and Use Tax**  
**Fiscal 2011-2015**

	<u><b>FY 2011</b></u>	<u><b>FY 2012</b></u>	<u><b>FY 2013</b></u>	<u><b>FY 2014</b></u>	<u><b>FY 2015</b></u>
Projected Enrollment (full- and part-time)	254,431	259,056	263,351	268,464	272,775
Estimated Average Textbook Cost	\$1,212	\$1,248	\$1,285	\$1,324	\$1,364
Sales Tax on Textbooks	\$72.69	\$74.88	\$77.12	\$79.44	\$81.82
Effect on Revenues (\$ in Millions)					
<b>Total Sales Tax Revenue Decrease</b>	<b>(\$18.5)</b>	<b>(\$19.4)</b>	<b>(\$20.3)</b>	<b>(\$21.3)</b>	<b>(\$22.3)</b>
General Fund Decrease	(\$17.5)	(\$18.4)	(\$19.2)	(\$19.9)	(\$20.9)
TTF Decrease	(\$1.0)	(\$1.0)	(\$1.1)	(\$1.4)	(\$1.5)

Source: Maryland Higher Education Commission; Department of Legislative Services

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