

Department of Legislative Services  
 Maryland General Assembly  
 2023 Session

FISCAL AND POLICY NOTE  
 Third Reader - Revised

Senate Bill 640

(Senator Jackson, *et al.*)

Budget and Taxation

Ways and Means

Sales and Use Tax - Electricity for Agricultural Purposes - Exemption

This bill exempts the purchase of electricity by a farmer from the State sales and use tax, when used to (1) raise livestock or poultry; (2) prepare, irrigate, or tend the soil; or (3) plant, service, harvest, store, clean, dry, or transport seeds or crops. **The bill takes effect July 1, 2023, and terminates June 30, 2025.**

Fiscal Summary

**State Effect:** General fund and special fund revenues decrease by a significant amount in FY 2024 and 2025. Under one set of assumptions, general fund revenues decrease by approximately \$2.3 million in FY 2024 and 2025 and Blueprint for Maryland’s Future Fund (BMFF) revenues decrease by approximately \$0.3 million. Expenditures are not affected.

(\$ in millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
GF Revenue	(\$2.3)	(\$2.3)	\$0	\$0	\$0
SF Revenue	(\$0.3)	(\$0.3)	\$0	\$0	\$0
Expenditure	0	0	0	0	0
Net Effect	(\$2.6)	(\$2.6)	\$0.0	\$0.0	\$0.0

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

**Local Effect:** None.

**Small Business Effect:** Meaningful. Family farms and other small farms will not have to pay electricity costs for agricultural production activities.

Analysis

**Current Law:** The State sales and use tax does not apply to a sale of the following items for an agricultural purpose: (1) livestock; (2) feed or bedding for livestock; (3) seed,

fertilizer, fungicide, herbicide, or insecticide; (4) baler twine or wire; (5) fuel for use in farm equipment or a farm tractor; and (6) if bought by a farmer, a container to transport farm products that the farmer raises to market; a specified farm vehicle when used in farming; a milking machine, when used in farming; fabrication, processing, or service, by a sawmill, of wood products for farm use in which the farmer retains title; and farm equipment when used to raise livestock; prepare, irrigate, or tend the soil; or plant, service, harvest, store, clean, dry, or transport seeds or crops.

The following document on the Comptroller’s website shows the items of tangible personal property and services that are subject to the State sales and use tax: [Sales and Use Tax List of Tangible Personal Property and Services \(marylandtaxes.gov\)](https://marylandtaxes.gov/Sales-and-Use-Tax-List-of-Tangible-Personal-Property-and-Services).

*State Sales and Use Tax*

The sales and use tax is the State’s second largest source of general fund revenue, accounting for approximately \$6.2 billion in fiscal 2023 and 2024, according to the December 2022 revenue forecast. **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	0.0%
District of Columbia	6.0%; 10.0% for liquor sold for on-the-premises consumption and restaurant meals; 10.25% for alcoholic beverages for consumption off the premises, tickets to specified sporting events, and specified rental vehicles; 8.0% for specified soft drinks
Maryland	6.0% 9.0% for alcoholic beverages
Pennsylvania	6.0% plus 1.0% or 2.0% in certain local jurisdictions
Virginia*	5.3%; 1.0% for eligible food items; 1.0% for specified essential personal hygiene items
West Virginia	6.0% plus 1.0% in specified municipalities

\*An additional state tax of (1) 0.7% is imposed in localities in Central Virginia, Northern Virginia, and the Hampton Roads region; (2) 1.0% in Charlotte, Gloucester, Halifax, Henry, Northampton, and Patrick counties; and (3) 1.7% is imposed in localities in the Historic Triangle. The sales and use tax rate for food and personal hygiene products decreased to 1.0% as of January 1, 2023.

## *Blueprint for Maryland's Future Fund*

Chapter 33 of 2022 altered the distribution of sales and use tax revenues beginning in fiscal 2023. Chapter 33 requires the Comptroller, after making certain other distributions, to pay to the BMFF the following percentage of the remaining sales and use tax revenues:

- 9.2% for fiscal 2023;
- 11.0% for fiscal 2024;
- 11.3% for fiscal 2025;
- 11.7% for fiscal 2026; and
- 12.1% for fiscal 2027 and each subsequent fiscal year.

Chapter 33 also repealed the distribution of sales and use tax revenues to the BMFF from marketplace facilitators, certain out-of-state vendors, and specified digital products or digital codes.

**State Revenues:** General fund and BMFF revenues decrease by a significant amount in fiscal 2024 and 2025. The amount of the revenue decrease depends on the amount of electricity used by farms in the State for agricultural production activities. Based on information provided by the Comptroller's Office and the Maryland Farm Bureau, it is estimated that total sales and use tax revenues may decrease by approximately \$2.6 million in fiscal 2024 and 2025. As a result, general fund revenues decrease by approximately \$2.3 million and BMFF revenues decrease by approximately \$0.3 million. The projected revenue decrease is based on the mid-point for the estimates provided by the two agencies.

An analysis by the Comptroller's Office using data from the U.S. Department of Agriculture (USDA) and energy usage and forecast data for the U.S. agricultural sector by Moody's Analytics (adjusted to Maryland's proportion of total U.S. agricultural output) indicates that total sales and use tax revenues may decrease by approximately \$3.5 million in fiscal 2024. The estimate makes adjustments to account for farms that only receive electricity through a residential rate schedule, rather than a commercial schedule, and therefore do not pay sales taxes on the electricity that they receive.

The Maryland Farm Bureau estimates that total sales and use tax revenues may decrease by up to \$1.7 million each year. The estimate is based on a sampling of farms that receive their electricity through a commercial meter and electricity usage for certain types of agricultural production activities such as dairy and poultry farms.

As a point of reference, the USDA's [2021 State Agriculture Overview for Maryland](#) indicates that there are 12,400 farm operations in the State using approximately

2.0 million acres. Additional information about Maryland agriculture is provided in the [State profile](#).

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### **Additional Information**

**Prior Introductions:** Similar legislation has been introduced within the last three years. See HB 1002 of 2022.

**Designated Cross File:** None.

**Information Source(s):** Comptroller's Office; Maryland Department of Agriculture; Maryland Farm Bureau; Department of Legislative Services

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