

DEPARTMENT OF TAXATION

2001 Fiscal Impact Statement

1. **Patron** Katzen

3. **Committee** House Finance

4. **Title** Retail Sales and Use Tax: Expands
Exemption for Colleges and Institutions of
Learning to Include Nonprofit Schools

2. **Bill Number** HB 2551

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would amend the retail sales and use tax exemption for textbooks sold to students, currently available to nonprofit colleges and other institutions of learning, to include "nonprofit schools."

The effective date of this bill is July 1, 2001.

6. **Fiscal Impact Estimates are:** Not available. See Line 8.

7. **Budget amendment necessary:** None.

8. **Fiscal implications:**

Revenue Impact

Data is not available to provide an estimate of the revenue impact associated with this bill. The current textbook exemption covers "colleges and other institutions of learning" conducted on a "not-for-profit" basis. This bill extends the textbook exemption to "nonprofit schools". While the majority of nonprofit schools qualify as institutions of learning, there may be other educational organizations that may be classified as "nonprofit schools" but do not meet the definition of a college or "other institution of learning." These organizations may include youth interest clubs, home schooling organizations, and other entities. The number and types of organizations that would qualify as "nonprofit schools" that do not benefit from the current exemption is unknown.

Administrative Costs

Administrative costs associated with implementation of this bill are minimal.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

This bill would expand the current exemption for certified textbooks sold to students attending “nonprofit colleges or other institutions of learning” to include textbooks sold to students attending “nonprofit schools”. “Nonprofit schools” already enjoy this exemption, provided they meet the definition of an “institution of learning” set forth in the department’s regulation and upheld by the Virginia Supreme Court in Commonwealth of Virginia v. The Progressive Community Club of Washington County, Virginia, Inc., (1975).

Definition of Institution of Learning - “Institutions of learning” include educational organizations that are similar to a college in their manner of operation. Under the department’s regulation, “institutions of learning” must, 1) employ a professionally-trained faculty; 2) enroll and graduate students on the basis of academic achievement; 3) prescribe courses of study; and 4) provide instruction at regular intervals over a reasonable period of time. Currently, all “nonprofit schools” which meet these criteria enjoy the exemption.

Current Exemption - Currently, the exemption applies to textbooks sold by (1) the college or institution of learning itself, or (2) by any other dealer (such as privately operated bookstore). Further, the exemption applies to textbooks that have been certified by a department or an instructor of a college or institution of learning as required textbooks for students attending such college or institution of learning. The current exemption is limited to required textbooks and does not extend to school supplies, laboratory equipment, personal computers or other items sold to students. This bill would not affect the types of items eligible for the current exemption.

As written, this bill would allow any educational organization that is classified as a “nonprofit school” to enjoy the exemption for textbooks, regardless of whether or not they meet the definition of “institution of learning” set forth in the department’s regulations. The term “nonprofit school” is not defined. These educational organizations may include youth interest groups, home schooling organizations, and similar entities. The number of educational organizations in Virginia that would qualify for the exemption provided by this bill is unknown.

Recently, the issue has been raised regarding the eligibility of home schooling organizations for the current exemption. There has been a question of whether these

organizations employ a professionally trained faculty, as required under the department's regulation. It is the department's understanding that this bill is intended to address and resolve this issue by extending the current exemption to "nonprofit schools."

House Bill 2548 would expand the current exemption for the retail sales and use tax for textbooks sold to students to include textbooks sold to students attending for-profit colleges and other for-profit institutions of learning.

cc: Secretary of Finance

Date: 1/18/01/wbs

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