

[Assembly Bill 960](#) (Brough)

Date: Introduced

Program: Sales and Use Tax

Sponsor: Author

Revenue and Taxation Code: 6361.3

Effective: Upon enactment, but operative 1st day of 1st quarter 90 days after enactment

Michele Pielsticker (Chief) 916.322.2376

Stephanie Cochran (Analyst) 916.322.7281

Tom Trach (Revenue) 916.445.0840

Summary: Exempts from the sales and use tax textbooks purchased by students from an institution of higher education.

Purpose: According to the author, to make textbooks more affordable for students enrolled in colleges, universities, vocational, and professional schools.

Fiscal Impact Summary: For fiscal year 2018-19, estimated state and local revenue loss of \$222 million.

Existing Law: California's Sales and Use Tax Law¹ imposes the sales tax on retailers for the privilege of selling tangible personal property at retail in this state or the use tax upon the storage, use, or other consumption of tangible personal property purchased from a retailer, unless the law provides a specific exemption or exclusion. With the exception of school yearbooks and catalogues, tax generally applies to any books sold to elementary, high school, and college students. Tax also generally applies to any books sold to a library, the state, and any political subdivision of the state.

Proposed Law: The bill adds RTC Section 6361.3 to the Sales and Use Tax Law to provide a sales and use tax exemption for the sale, storage, use, or other consumption in this state of a textbook purchased by a student from an institution of higher education (college) or sold by a person whose primary purpose is to provide textbooks to students attending college, for use as a learning resource. Students must present a valid student identification card or proof of enrollment issued by a college to receive the benefit of the exemption.

The bill contains the following definitions:

- "Institution of higher education" means a public or private college or university that is nationally or regionally accredited or a postsecondary educational institution as defined in Education Code Section 66261.5 as added by Chapter 914 of the Statutes of 1998.
- "Primary purpose" means that at least 50% of all books sold by the entity fit the definition of "textbook."
- "Textbook" means any published material that is assigned for use by a student at any institution of higher education as a source of instructional material, and includes, but is not limited to, any book or edition of a book, as so described, that is required or recommended by an instructor at an institution of higher education for use as a basis for a course of study at that institution. "Textbook" does not include books on audio tape, computer disc, CD-ROM, or similar storage media.

As a tax levy, this bill would take effect immediately, but becomes operative on the first day of the first calendar quarter commencing more than 90 days after enactment.

¹ Part 1 of Division 2 of the Revenue and Taxation Code (RTC) (commencing with Section 6001).

Legislative History: Other recent bills introduced to provide a sales tax exemption for textbooks, all of which failed to pass include:

Year	Bill	Summary
2016	SB 1210 (Gaines)	Partial sales and use tax exemption (3.9375%) on the sale of clothing, footwear, school supplies, books, computers, and educational computer software during a two-day period in August 2017, and every year thereafter, when purchased at a retailer’s physical place of business.
2013	AB 479 (Donnelly)	State tax exemption on textbooks purchased by higher education students or sold by a higher education book store.
2010	AB 1178 (Block)	Partial state sales and use tax exemption on college textbooks and supplies, as defined, by students enrolled in institutions of higher education for the period beginning July 1, 2011, and until January 1, 2015.

Commentary:

1. **Effect of the bill.** Exempts from the sales and use tax textbooks purchased by students from an institution of higher education or sold by an entity whose primary purpose is to provide textbooks to students attending institutions of higher education. Students must present a valid student identification card or proof of enrollment issued by the institution of higher education to be eligible for the exemption.
2. **Making purchases of eligible textbooks.** Purchases must be made from an institution of higher education or from an entity whose primary purpose is to provide textbooks to students attending institutions of higher education. The textbooks may be purchased via internet, mail order, or telephone.
3. **Definition of “institutions of higher education.”** For this exemption, an institution of higher education includes public or private colleges or universities that are nationally or regionally accredited. This includes colleges and universities in the University of California, California State University, and California Community College systems, as well as private colleges. An institution of higher education may include public and private colleges and universities that are not located within California.

In addition, institutions of higher education include professional and vocational schools. In California, private postsecondary education institutions are regulated by the Bureau for Private Postsecondary Education (BPPE) within the Department of Consumer Affairs. The BPPE’s website provides a listing of approved institutions. Approved institutions include beauty colleges, dental and medical assisting programs, massage therapy schools, and truck driving schools. According to the BPPE, there are approximately 1400 approved schools in California.

Since BPPE approves the operation of institutions subject to the California Private Postsecondary Education Act of 2009, the author may wish to amend the bill to provide that a professional or vocational school is one that is approved by BPPE. BOE staff will work with the author’s office to clarify if needed.

4. **States with sales tax exemptions for textbooks.** Currently, twenty-one states have tax exemptions for higher education textbooks: Arizona, Connecticut, Hawaii, Kentucky, Massachusetts, Minnesota, Mississippi, Missouri, Nevada, New Jersey, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, and West Virginia.

Costs: BOE would incur minor costs to notify affected taxpayers, modify tax returns, revise regulations and pamphlets, answer inquiries from industry and the public, program changes, audit claimed amounts, revise sales tax returns, and review returns with claimed exemptions. An estimate of these costs is pending.

Revenue Impact: Background Methodology, and Assumptions. According to the California Student Aid Commission (CSAC) data, which reflects average expenses by California students of higher institutions, average per capita spending on textbooks in fiscal year (FY) 2017-18 is estimated to be \$1,017. Estimated enrollment in higher education (University of California, California State University, California Community College, private universities) in FY 2017-18 is 2.54 million full time students. Based on that data, total purchases of textbooks in FY 2017-18 are estimated to be \$2.59 billion (2.54 million students × \$1,017).

Using the *National Center for Education Statistics (NCES)* enrollment data and *California Student Aid Commission (CSAC)* data, staff forecast higher education total textbook spending in FY 2017-18, FY 2018-19 and FY 2019-20 to be as follows:

	Estimated Textbook Sales		
	FY 2017-18	FY 2018-19	FY 2019-20
Number of students	2.54 million	2.60 million	2.63 million
Average textbook cost	\$1,017	\$1,045	\$1,074
Total Textbook Spending	\$2.59 billion	\$2.71 billion	\$2.82 billion

Revenue Summary: The revenue impact from exempting higher education institution textbooks from sales tax, assuming a January 1, 2018 operative date, and a FY 2017-18 a six-month impact, is:

Sales and Use Tax Revenues				
Tax Component	Rate	2017-18 (6 months)	2018-19	2019-20
State (Basic)	3.94%	\$50,947,147	\$106,646,450	\$111,131,709
Local Revenue 2011	1.06%	13,706,593	28,691,685	29,898,379
Local Revenue 1991	0.50%	6,465,374	13,533,813	14,103,009
Public Safety Fund	0.50%	6,465,374	13,533,813	14,103,009
Bradley Burns	1.25%	16,163,435	33,834,534	35,257,522
Special Districts	0.96%	12,413,518	25,984,922	27,077,777
Total	8.21%	\$106,161,442	\$222,225,217	\$231,571,404

Qualifying Remarks: Under this bill, textbook purchases by students of vocational schools will also be exempt. According to the *BPPE* which oversees and regulates private postsecondary educational institutions, over 300,000 students attend 1,441 vocational schools in the state. These schools cover a broad range of academic disciplines. Examples include barber schools, flight instruction schools, dental schools, truck driving schools. The use of textbooks varies by the disciplines. An example would be that barber school students might not need as many textbooks as dental school students. For this reason, it is difficult to estimate textbook purchases by vocational school students.

This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.