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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 929 Session of  
2009

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INTRODUCED BY DINNIMAN AND PICCOLA, JUNE 5, 2009

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REFERRED TO EDUCATION, JUNE 5, 2009

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AN ACT

1 Providing for the sale of certain course materials at  
2 institutions of higher education, for responsibilities of  
3 faculty and institutions of higher education and for college  
4 textbook rental pilot programs; and establishing the College  
5 Textbook Policies Advisory Committee.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the College  
10 Textbook Affordability, Accountability and Accessibility Act.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall  
13 have the meanings given to them in this section unless the  
14 context clearly indicates otherwise:

15 "Advisory committee." The College Textbook Policies Advisory  
16 Committee established under this act.

17 "Bundle." One or more college textbooks or other  
18 supplemental learning materials that may be packaged together to  
19 be sold as course materials for one price.

20 "Campus." The grounds and buildings of an institution of

1 higher education that are designated as such by the institution  
2 of higher education.

3 "Campus bookstore." The bookstore on the campus of, or  
4 otherwise associated with, an institution of higher education.

5 "College textbook." A textbook or set of textbooks used for,  
6 or in conjunction with, a course in postsecondary education at  
7 an institution of higher education.

8 "Custom textbook." A college textbook that is compiled by a  
9 publisher at the direction of a faculty member or other person  
10 or adopting entity in charge of selecting course materials at an  
11 institution of higher education and may include, alone or in  
12 combination, items, such as selections from original instructor  
13 materials, previously copyrighted publisher materials or  
14 copyrighted third-party works. This term does not include purely  
15 aesthetic changes to a textbook when compared with a prior  
16 edition, such as a commemorative edition.

17 "Institution of higher education" or "institution." Any of  
18 the 14 State-owned universities that are part of the  
19 Pennsylvania State System of Higher Education, including the  
20 four State-related universities. The term also includes  
21 community colleges that are members of the Pennsylvania  
22 Commission for Community Colleges and independent or private  
23 colleges or universities that receive an assistance grant under  
24 the act of July 18, 1974 (P.L.483, No.174), known as The  
25 Institutional Assistance Grants Act.

26 "Integrated textbook." A college textbook that is:

27 (1) combined with supplemental materials developed by a  
28 third party and that, by third-party contractual agreement,  
29 may not be offered by publishers separately from the college  
30 textbook with which the supplemental materials are combined;

1 or

2 (2) combined with supplemental materials that are so  
3 interrelated with the content of the textbook that the  
4 separation of the textbook from the supplemental materials  
5 would render the textbook unusable for its intended purpose.

6 "ISBN." International Standard Book Number.

7 "Publisher." An entity that publishes college textbooks or  
8 supplemental materials and markets college textbooks or  
9 supplemental materials to faculty members at institutions of  
10 higher education.

11 "Substantial content." Parts of a college textbook, such as  
12 new chapters, additional eras of time, new themes or new subject  
13 matter.

14 "Supplemental material." Educational material developed to  
15 accompany a college textbook, which may include printed  
16 materials, computer disks, Internet website access and  
17 electronically distributed materials.

18 Section 3. Publisher requirements.

19 (a) Pricing information disclosure.--When a publisher  
20 provides a faculty member or entity in charge of selecting  
21 course materials at an institution of higher education with  
22 information regarding a college textbook or supplemental  
23 material, the publisher shall include, in writing or  
24 electronically, the following:

25 (1) The price at which the publisher would make the  
26 college textbook or supplemental material available to the  
27 campus bookstore of the institution of higher education.

28 (2) The copyright dates of the three previous editions  
29 of the college textbook or supplemental material in the  
30 preceding ten years, if any.

1           (3) The substantial content revisions made between the  
2 current edition of the college textbook or supplemental  
3 material and the previous edition, if any.

4           (4) Whether the college textbook or supplemental  
5 material is available in any other format, including  
6 paperback and unbound, and the price at which the publisher  
7 would make the college textbook or supplemental material in  
8 the other format available to the campus bookstore of such  
9 institution of higher education.

10       (b) Pricing information accountability.--When a publisher  
11 provides a faculty member or entity in charge of selecting  
12 course materials at an institution of higher education with the  
13 price at which the publisher would make the college textbook or  
14 supplemental material available to the campus bookstore of the  
15 institution of higher education as required under this section  
16 or under 20 U.S.C. § 1015 (relating to improvements in market  
17 information and public accountability in higher education), the  
18 publisher shall:

19           (1) Make, for at least six months, the college textbook  
20 supplemental material available to the campus bookstore at  
21 the institution of higher education at or below such price  
22 provided to a faculty member or other entity in charge of  
23 selecting course materials.

24           (2) Notify, in writing or electronically, the faculty  
25 member or entity in charge of selecting course materials and  
26 campus bookstore at least 45 days in advance of any increase  
27 in the price and the amount of increase.

28       (c) Unbundling of college textbooks from supplemental  
29 materials.--

30           (1) A publisher that sells a college textbook and any

1 supplemental material accompanying the college textbook as a  
2 bundle or as an integrated textbook shall also make available  
3 the college textbook and each supplemental material as  
4 separate and unbundled items, each separately priced.

5 (2) A publisher is not required to make available  
6 supplemental items developed by a third party and that, by  
7 third-party contractual agreement, may not be offered by the  
8 publisher separately from the college textbook.

9 (d) Custom textbooks.--When a faculty member or entity in  
10 charge of selecting course materials at an institution of higher  
11 education directs a publisher to compile a custom textbook, the  
12 publisher shall provide, in writing or electronically, prior to  
13 accepting an order for the custom textbook, the price at which  
14 the publishers would make the custom textbook available to the  
15 campus bookstore.

16 (e) Prohibited activity.--No institution of higher education  
17 shall have business dealings related to the sale of college  
18 textbooks with any publisher that is in violation of this  
19 section.

#### 20 Section 4. Faculty responsibilities.

21 (a) General duties.--A faculty member or entity in charge of  
22 selecting college textbooks, supplemental learning materials or  
23 bundled textbook packages for an institution of higher education  
24 shall:

25 (1) Consider the least costly practices in assigning  
26 college textbooks, consistent with educationally sound  
27 practices as determined by the appropriate faculty or entity.

28 (2) Consider the use of college textbooks, supplemental  
29 learning materials and bundled textbook packages for a longer  
30 period of time, to the extent they are not outdated.

1           (3) Work with bookstores to review timeliness and the  
2 processes involved in ordering and stocking selected course  
3 materials, disclose college textbook costs to students and  
4 actively promote and publicize book buyback programs.

5           (4) Provide a written statement to the president or  
6 chancellor of the institution detailing college textbooks or  
7 supplemental learning materials, whether bundled or  
8 unbundled, that are recommended for the course.

9           (5) Provide a written statement to the president or  
10 chancellor of the institution indicating the earliest edition  
11 of any required college textbook or supplemental learning  
12 materials that may be effective for use by a student for a  
13 particular course.

14       (b) Prohibited conduct by faculty.--

15           (1) Faculty shall not demand or receive any payment,  
16 loan, subscription, advance, deposit of money, services or  
17 any thing, present or promised, as an inducement for  
18 requiring students to purchase a specific college textbook  
19 required for coursework or instruction.

20           (2) Notwithstanding the provisions of paragraph (1),  
21 faculty may receive:

22               (i) Sample copies, instructor's copies or  
23 instructional material, not to be sold.

24               (ii) Royalties or other compensation from the sale  
25 of college textbooks that include the writing or work of  
26 the particular faculty member.

27       (c) Construction.--Nothing in this section shall be  
28 construed:

29           (1) To prohibit the faculty member from requiring the  
30 most recent edition of a college textbook.

1           (2) To supersede the institutional autonomy or academic  
2 freedom of instructors or faculty involved in the selection  
3 of college textbooks, supplemental materials and other  
4 classroom materials.

5 Section 5. Responsibilities of institutions of higher  
6 education.

7       (a) General rule.--Except as otherwise provided in this  
8 section, at student registration, each institution shall make  
9 available a listing of all college textbooks and supplemental  
10 learning materials, including the ISBN, required and recommended  
11 for courses to be offered during the upcoming term, provided  
12 that:

13           (1) If the ISBN is not available, the institution shall  
14 include the author, title, publisher and copyright date for  
15 the college textbook or supplemental material.

16           (2) If the institution determines that the disclosure of  
17 the information relating to a college textbook or  
18 supplemental material is not practicable, then the  
19 institution shall so indicate by placing the designation "To  
20 Be Determined" in lieu of the information required in  
21 paragraph (1).

22       (b) Publication.--The institution shall provide the  
23 information required under subsection (a) to existing and  
24 accepted incoming students by posting the information on the  
25 institution's Internet website used for course scheduling,  
26 preregistration and registration. The institution shall inform  
27 students in writing of the availability of the information.

28       (c) Information to college bookstore.--An institution of  
29 higher education shall make available to a college bookstore  
30 that is operated by, or in a contractual relationship or

1 otherwise affiliated with, the institution, as soon as  
2 practicable after the request of the bookstore, the most  
3 accurate information available relating to:

4 (1) The institution's course schedule for the subsequent  
5 academic period.

6 (2) For each course or class offered by the institution  
7 for the subsequent academic period:

8 (i) The information required by subsection (a) for  
9 each college textbook or supplemental material required  
10 or recommended for the course or class.

11 (ii) The number of students enrolled in such course  
12 or class.

13 (iii) The maximum student enrollment for such course  
14 or class.

15 (d) Dissemination of other information to students.--An  
16 institution of higher education is encouraged to disseminate to  
17 students information relating to:

18 (1) Available institutional programs for renting college  
19 textbooks or for purchasing used college textbooks.

20 (2) Available institutional guaranteed college textbook  
21 buyback programs.

22 (3) Available institutional alternative content delivery  
23 programs.

24 (4) Other available cost-saving strategies for acquiring  
25 institutional college textbooks and supplemental materials.

26 Section 6. College textbook rental pilot program.

27 (a) General rule.--An institution of higher education may  
28 establish a college textbook rental pilot program for the  
29 students of any campus. A college textbook rental program may  
30 also be established by:



1           (1) the student government association of the campus  
2 voting to request a college textbook rental pilot program;  
3 and

4           (2) any existing contracts or other established  
5 arrangements with entities operating bookstores that allow or  
6 accommodate the operation of a college textbook rental pilot  
7 program.

8           (b) Task force.--The administrators of a campus with a  
9 college textbook rental pilot program may convene a task force  
10 to determine recommended policies and procedures to establish  
11 and operate a college textbook rental pilot program. The task  
12 force must include students, faculty, administrators and  
13 bookstore managers.

14           (c) Pilot program requirements.--A college textbook rental  
15 pilot program at a campus shall comply with the following:

16           (1) The pilot program shall be self-sustaining through  
17 revenue generated from student tuition and fees, excluding  
18 the initial start-up costs to be paid from supplemental  
19 funding from other sources.

20           (2) The average annual college textbook rental cost for  
21 full-time students may not exceed 33% of the average annual  
22 retail purchase cost of college textbooks for full-time  
23 students.

24           (3) The pilot program may not limit the rights of  
25 faculty to select appropriate college textbooks in accordance  
26 with established policies and procedures.

27           (4) Students shall not be required to participate in the  
28 pilot program.

29           (5) The pilot program may be disbanded with the approval  
30 of the student government association of the campus.

1 (6) (i) The administrators of the campus shall report  
2 to the board of trustees of the institution of higher  
3 education for a period of three years any information  
4 required to effectively evaluate the pilot program,  
5 including, but not limited to, representations to  
6 students, system efficiency and faculty satisfaction.

7 (ii) After three years, the board of trustees shall  
8 report the findings of the pilot program evaluation to  
9 the Education Committee of the Senate and the Education  
10 Committee of the House of Representatives.

11 (d) Powers of campuses with college textbook rental pilot  
12 programs.--The administrators of a campus with a college  
13 textbook rental pilot program may:

14 (1) Charge a nominal campus-based or course-based  
15 college textbook rental fee to each student as a part of  
16 tuition or mandatory fees to cover the costs of administering  
17 the pilot program and maintaining an appropriate stock of  
18 college textbooks. The fee may not exceed \$20 and must be  
19 clearly posted on a student's invoice or bill.

20 (2) Establish policies for the pilot program, including,  
21 but not limited to, implementing practices to achieve the  
22 best possible purchase price for college textbooks and for  
23 the provision of rental services.

24 (3) Institute other procedures necessary to establish  
25 and operate the pilot program in accordance with the  
26 provisions of this act.

27 (4) Charge students a fine for any late, lost or damaged  
28 books, as determined by the pilot program, provided that  
29 students may not be charged a fine for normal college  
30 textbook wear and tear.

1 Section 7. Electronic versions of college textbooks.

2 (a) General rule.--No later than January 1, 2020, an  
3 individual, firm, partnership or corporation that publishes  
4 college textbooks offered for sale at institutions of higher  
5 education shall make the college textbooks available, in whole  
6 or in part, for sale in an electronic format. The price at which  
7 the electronic version of the college textbook is made available  
8 shall not be greater than the price charged for the printed  
9 version. The electronic version of any college textbook shall  
10 contain the same content as the printed version and may be copy  
11 protected.

12 (b) Construction.--Nothing in this section shall be  
13 construed to authorize any use of instructional materials that  
14 would constitute an infringement of copyright under Federal law.

15 (c) Definition.--For purposes of this section, "college  
16 textbook" means a book, not including a novel, that contains  
17 printed material and is intended for use as a source of study  
18 material for a class or group of students, a copy of which is  
19 expected to be available for the use of each of the students in  
20 that class or group.

21 Section 8. College textbook adoption policies.

22 (a) General rule.--An institution of higher education may  
23 implement policies, procedures and guidelines that promote  
24 efforts to minimize the cost of college textbooks for students  
25 at the institution while maintaining the quality of education  
26 and academic freedom. The policies, procedures and guidelines  
27 shall ensure that:

28 (1) The adoption of a college textbook by a faculty  
29 member is made with sufficient lead time so as to confirm  
30 availability of the requested materials and, where possible,

1 ensure maximum availability of used college textbooks.

2 (2) (i) During the college textbook adoption process,  
3 the intent to use all items ordered, particularly each  
4 individual item sold as part of a bundled package, is  
5 affirmatively confirmed before the adoption is finalized  
6 by the faculty member.

7 (ii) If the faculty member does not intend to use  
8 each item in a bundled package, the faculty member shall  
9 notify the bookstore, and the bookstore shall order the  
10 individualized items if:

11 (A) Procurement of the individualized items is  
12 cost effective for both the institution and the  
13 students.

14 (B) The individualized items are made available  
15 by the publisher.

16 (3) Faculty members affirmatively acknowledge the quoted  
17 retail price to the bookstore of any college textbook  
18 selected for use in each course.

19 (4) Faculty members are encouraged to limit their use of  
20 new edition college textbooks when previous editions do not  
21 significantly differ in a substantive way, as determined by  
22 the appropriate faculty member.

23 (5) Required or assigned college textbooks are made  
24 available to students who are otherwise unable to afford the  
25 cost.

26 Section 9. College Textbook Policies Advisory Committee.

27 (a) Establishment.--A standing committee of the State Board  
28 of Education to be known as the College Textbook Policies  
29 Advisory Committee is established. The Department of Education  
30 shall provide staff support for the advisory committee.

1 (b) Membership.--The advisory committee shall be comprised  
2 of:

3 (1) The Deputy Secretary for Higher Education of the  
4 Department of Education or a designee.

5 (2) The chairman of the State Board of Education Higher  
6 Education Council or a designee.

7 (3) One faculty member representing the State System of  
8 Higher Education as recommended by the Chancellor of the  
9 State System of Higher Education.

10 (4) One faculty member representing each of the State-  
11 related institutions as recommended by the chancellors of the  
12 State-related institutions.

13 (5) One faculty member representing community colleges  
14 as recommended by the Commission for Community Colleges.

15 (6) One faculty member representing private and  
16 independent colleges and universities as recommended by the  
17 Association of Independent Colleges and Universities of  
18 Pennsylvania.

19 (7) The chairman and minority chairman of the Education  
20 Committee of the Senate and the chairman and minority  
21 chairman of the House of Representatives or their designees.

22 (8) Six members appointed by the chairman of the State  
23 Board of Education as follows:

24 (i) One member representing college bookstores.

25 (ii) One member representing textbook publishers.

26 (iii) Four student members representing college  
27 students, of whom one must attend a State System of  
28 Higher Education institution, one must attend a  
29 State-related institution, one must attend a community  
30 college and one must attend an independent or private

1 college or university within this Commonwealth. The  
2 student members shall be appointed, respectively, by the  
3 chairman from a list of students recommended by the  
4 Chancellor of the State System of Higher Education, the  
5 chancellors of the State-related institutions, the  
6 Commission for Community Colleges or the Association of  
7 Independent Colleges and Universities of Pennsylvania.

8 (c) Recommendations.--The advisory committee shall examine  
9 national and international efforts relating to college textbook  
10 affordability and accessibility and make recommendations that:

11 (1) Ensure that students have access to affordable  
12 course materials by decreasing costs to students and  
13 enhancing transparency and disclosure with respect to the  
14 selection, purchase, sale and use of course materials.

15 (2) Identify ways to decrease the cost of college  
16 textbooks and supplemental materials for students while  
17 supporting the academic freedom of faculty members to select  
18 high quality course materials for students.

19 (3) Encourage college textbook publishers and  
20 distributors to work with faculty to promote understanding of  
21 the cost to students of purchasing faculty-selected college  
22 textbooks, including the disclosure of prices and bundling  
23 practices.

24 (4) Encourage innovation in the development and use of  
25 course materials, including open-source college textbooks and  
26 other open-source educational resources, that can help  
27 students receive the full value of their educational  
28 investment without excessive cost.

29 (5) Ensure that faculty members are informed of accurate  
30 and relevant pricing information for course materials and

1 that students are protected as a consumer group.

2 (6) Make recommendations to the General Assembly and the  
3 State Board of Education to strengthen existing Federal and  
4 State regulations and to propose any additional and necessary  
5 State laws and regulations.

6 (d) First meeting.--The advisory committee shall hold its  
7 first meeting within 60 days of the effective date of this  
8 section. The advisory committee shall meet at least once  
9 quarterly. Members of the advisory committee shall serve without  
10 compensation. The deputy secretary for Higher Education of the  
11 Department of Education shall serve as committee chair.

12 (e) Report.--No later than 18 months after the effective  
13 date of this section, the advisory committee shall make a report  
14 to the State Board of Education that outlines its findings and  
15 recommendations. The report shall also be delivered to the  
16 Governor's Office, members of the Education Committee of the  
17 Senate and members of the Education Committee of the House of  
18 Representatives. The report shall be updated every three years  
19 and may also be posted on the Department of Education's Internet  
20 website.

21 Section 10. Effective date.

22 This act shall take effect July 1, 2010.