F I S C A L   I M P A C T   R E P O R T

SPONSOR Gutierrez | **ORIGINAL DATE** 02/22/11 | **LAST UPDATED** 02/24/11 | **HB** 388

SHORT TITLE College Textbook Purchase Gross Receipts | **SB**

ANALYST Hanika-Ortiz

REVENUE (dollars in thousands)

Estimated Revenue Impact*					R or NR	Fund(s) Affected
FY2011	FY2012	FY2013	FY2014	FY2015		
	($1,920.0)	($1,990.0)	($2,070.0)	($2,150.0)	R	Local Governments
	($2,260.0)	($2,350.0)	($2,450.0)	($2,550.0)	R	General Fund

* In thousands of dollars. Parentheses ( ) indicate a revenue loss.

The U.S. Department of Education's National Center for Education Statistics show slightly more than 140,000 students enrolled in undergraduate, graduate, or professional programs in New Mexico. According to the College Board the national average annual per student spending on books and supplies is $1,137. The estimate from TRD above assumes that one-third of this spending will become deductible under the proposal. An average tax rate of 7.2% is used.

SOURCES OF INFORMATION
LFC Files

Responses Received From
Public Education Department (PED)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 388 amends Section 7-9-13.4 NMSA 1978 to provide an exemption from gross receipts tax for the sale of textbooks and other materials required for courses at public post-secondary institutions regardless of whether or not the bookstore is located on the campus of a public post-secondary institution.

FISCAL IMPLICATIONS

TRD notes that Section 7-9-13.4 provides for an exemption for the sale of "textbooks and other materials" that are required for courses at public post-secondary educational institutions when sale is to a student with a valid school ID. The exemption is currently limited to only those bookstores physically located on a campus that are operated pursuant to a contractual agreement with the institution whose campus they are on. The proposal would switch the exemption to a deduction and expand it to all businesses.

The change proposed in this bill will negatively impact gross receipts tax revenues to the general fund and local governments because sales from retailers that sell books and materials not located on public post-secondary campuses will now be exempt. TRD reports that this proposed tax expenditure creates a trade-off. It allows the State to subsidize spending on certain goods by specific individuals that may be considered more desirable than other spending.

Campus bookstores are currently exempt from gross receipts and governmental gross receipts taxes from the sales of textbooks and other materials. However, there are private bookstores (such as Barnes & Noble) located on campuses that sell textbooks to students through a contractual relationship with the public post secondary institution. Those private bookstore sales are also exempt under current law.

SIGNIFICANT ISSUES

HB 388 clarifies that Section 7-9-13.4 NMSA 1978 refers to textbooks required for courses at a public postsecondary education institution that are sold to students who are enrolled in a New Mexico public postsecondary educational institution.

The bill could help level the playing field for local textbook retailers competing for sales with online vendors that may or may not charge gross receipts tax depending upon if they have a physical presence in New Mexico.

PERFORMANCE IMPLICATIONS

TRD further notes that the proposed deduction offers an advantage to a particular type of business (those that sell textbooks or other materials required for courses to students); therefore, it meets the definition of an economic development tax incentive as defined in Section 9-15-56. The proposal does not however include the items required by the economic development tax incentive guidelines such as a statement of purpose, an agency to evaluate policy goals, reporting requirements, mandatory review, or tracking of job creation.

ADMINISTRATIVE IMPLICATIONS

TRD states there will be a minimal administrative cost to implement; however, it may be difficult for the Department to audit the expanded deduction. The current exemption for a few dozen businesses will be expanded to thousands of businesses. Campus bookstores currently qualifying for the exemption may have better knowledge of what materials are required for courses. It is unlikely that all businesses selling goods that may possibly be required in a college course will have sufficient knowledge to make a proper determination. Businesses will need to upgrade their point of sale cash register systems to tax certain individuals but not others.

School districts purchase textbooks for dual credit courses. PED reimburses these entities for such purchases. These purchases will continue to be tax-exempt under the bill.

TECHNICAL ISSUES

The bill may benefit from language that requires booksellers to obtain documentation from the instructor or institution to show that the college textbooks and materials purchased were required.

The bill may also benefit from a definition of an “off-campus bookstore”.

OTHER SUBSTANTIVE ISSUES

The gross receipts tax rate varies throughout the state from 5.125% to 8.6875% depending on the location of the business. It varies because the total rate combines rates imposed by the state, counties, and, if applicable, municipalities where the businesses are located. The business pays the total gross receipts tax to the state, which then distributes the counties' and municipalities' portions to them.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Students choosing to purchase textbooks and other required materials from off-campus vendors will continue to pay gross receipts taxes on those purchases.

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