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FISCAL IMPACT REPORT

SPONSOR	House Commerce and Economic Development Committee	**LAST UPDATED**	3/06/2025
		ORIGINAL DATE	2/26/2025
SHORT TITLE	Business Security Assistance Act	**BILL NUMBER**	CS/House Bill 421/HCEDCS
		ANALYST	Hanika-Ortiz/ Graeser

APPROPRIATION*
(dollars in thousands)

	FY26	Recurring or Nonrecurring	Fund Affected
Appropriation to new Business Security Assistance Fund	$100,000.0	Nonrecurring	General Fund
To RLD for Program Administration	$4,000.0	Nonrecurring	General Fund

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect the most recent analysis of this legislation.

REVENUE*
(dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
GRT Deduction Tax Rebate	$0	Up to ($5,800.0)	Up to ($5,800.0)	Up to ($5,000.0)	Up to ($6,000.0)	Recurring	General Fund
	$0	Up to ($5,700.0)	Up to ($5,700.0)	Up to ($4,900.0)	Up to ($6,000.0)	Recurring	Local Governments

Parentheses ( ) indicate revenue decreases.
*Amounts reflect the most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Cost	Recurring or Nonrecurring	Fund Affected
RLD	No fiscal impact	$560.0		$560.0	Nonrecurring	General Fund
RLD	No fiscal impact	Up to $920.0	Up to $920.0	Up to $1,840.0	Recurring	General Fund
TRD	No fiscal impact	Up to $50.0		Up to $50.0	Nonrecurring	General Fund
Total	**No fiscal impact**	**$1,530.0**	**Up to $920.0**	**Up to $2,450.0**		

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect the most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
Regulation and Licensing Department (RLD)
Economic Development Department (EDD)

Agency Analysis was Solicited but Not Received From
Taxation and Revenue Department (TRD)

When TRD provides an analysis of the tax expenditure in the bill, this FIR may be updated.

SUMMARY

Synopsis of HCEDC Substitute for House Bill 421

The House Commerce and Economic Development Committee Substitute for House Bill 421 (HB421) appropriates $4 million from the general fund to the Regulation and Licensing Department (RLD) to administer the Business Security Assistance Act and appropriates $100 million from the general fund to the business security assistance fund for rebate payments. RLD would administer the fund including certifying the vendors and approving the vendor rebate payments from the fund.

A certified vendor that sells security equipment or services that has been discounted by 25 percent, may receive a rebate equal to the 25 percent discount in the sale price, provided the total aggregate amount of the rebate for sales to the same business in a calendar year shall not exceed $25 thousand. By September 1, the vendor would apply to RLD for the rebate. Subject to the availability of funding, a rebate would be paid by December 1. On or before December 1 of each year, and until the rebate sunsets, RLD would provide a report to LFC that includes the number of qualified businesses that received a discounted sale and the status of the fund.

The bill adds a new section of the Gross Receipts and Compensating Tax Act that allows a certified vendor's gross receipts from sales of discounted security equipment or services to be deducted from the gross receipts tax (GRT). The taxpayer would report the amount of the deduction separately to the Taxation and Revenue Department (TRD). The deduction would be included in TRD's tax expenditure budget (Section 7-1-84 NMSA 1978,) including the aggregate cost of the deduction. This deduction is permanent and is not sunset.

Lastly, the substitute includes a delayed repeal date of July 1, 2028, for Sections 4 through 6. These sections provide for the rebate program, a new fund for disbursements, and reports to LFC, but the GRT deduction is not sunset.

The effective date of the substitute is July 1, 2025. The rebate provisions sunset effective July 1, 2028. The balance in the business security assistance fund reverts on July 1, 2028. This sets an effective sunset date of about May 1, 2028, to allow RLD to process rebates before the money reverts. The GRT deduction is not sunset.

FISCAL IMPLICATIONS

The substitute makes two appropriations from the general fund: (1) $4 million to RLD for expenditure in FY26 and subsequent fiscal years to implement the Act; and (2) $100 million to a new business security assistance payment fund for rebate payments through FY28. Balances in the fund for FY26 and FY27 shall not revert to the general fund. Balance in the fund remaining at the end of FY28 shall revert to the general fund. This bill creates a new fund, and diverts or "earmarks" revenue, representing a recurring loss from the general fund. LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds because earmarking reduces the ability of the Legislature to establish spending priorities.

To administer the program, RLD will need to contract for expertise to establish the performance requirements for the security equipment and services under the program. Professional services are estimated at $60 thousand, with a recurring need of $45 thousand. Once the program is operational, 2 FTE to manage the equipment certification is estimated at a recurring cost of $150 thousand. Administering the rebate program would also require 2 FTE at a recurring cost of $225 thousand. If a licensing application and approval system is needed, costs would be about $500 thousand per year. Those recurring and nonrecurring expenses are reflected in the table above.

The bill allows a certified vendor's receipts from improving security at a qualified business to be deducted from their gross receipts. This creates a tax expenditure with a cost that is difficult to determine but likely significant. LFC has concerns about the risk to state revenues from tax expenditures and the increase in revenue volatility from erosion of the tax base.

As noted earlier, the rebate section of the substitute sunsets effective July 1, 2028. This means that security systems must be installed prior to or about May 1, 2028, in order for applications for rebates to be processed by RLD.

As currently constructed, RLD will not have access to the startup funds until July 1, 2025. It will take approximately three months to implement the vendor certification and rebate program. This would not decrease the cap amount but would compress the activity into about 31 months.

The cost of the deduction is difficult to determine for several reasons:

1. "Discount" is not defined. The industry can adjust prices at will, meaning it is possible that all sales would become deductible and creditable with the $25 thousand limit per installation;
2. While there is a sunset on the rebate, there is not a sunset on the deduction;
3. The rebate is available for a short period of time and the industry may not be able to increase capacity sufficiently to install 4,000 $25 thousand systems or more cheaper systems; and
4. The deduction applies to the entire cost of the sale. If the installed system costs more than $25,000, then the total cost is deductible.

For the relatively brief period of the rebate, the $100 million appropriation to the fund establishes a base amount for the deduction, assuming that the rebate claims would be based on exactly a 25 percent discount. This implies that the industry would install 4,000 $25,000 systems. $100 million in rebates implies $400 million in deductions over the 31-to-34-month duration of the rebate. Effective GRT rates are about 4.1 percent for the state and 4.025 percent for local governments. After the rebate period, LFC assumes that the pace of installations would fall, perhaps dramatically, but the cost is shown as "Up to" the base amount.

SIGNIFICANT ISSUES

RLD would certify vendors. A certified vendor is described as a pass-through entity as defined in Section 7-3A-2 NMSA 1978 or a business incorporated under the Business Corporation Act or the Limited Liability Act. RLD would also adopt performance standards for security systems and administer the fund including approving rebates from the fund. Rebates would be made by the Department of Finance and Administration from vouchers signed by the superintendent of RLD.

OTHER SUBSTANTIVE ISSUES

As RLD explained in the analysis of the original bill, HB421 would help address financial losses suffered by businesses from property damage and theft, which are constant stressors. The ability to obtain discounted security services and security equipment could make the difference between a business thriving or being forced out of operation. The Economic Development Department (EDD) made similar points and said the bill could also contribute to economic stability by influencing property values, attracting private investment, and lowering insurance costs.

In assessing all tax legislation, LFC staff considers whether the proposal is aligned with committee-adopted tax policy principles. Those five principles:

- **Adequacy**: Revenue should be adequate to fund needed government services.
- **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
- **Equity**: Different taxpayers should be treated fairly.
- **Simplicity**: Collection should be simple and easily understood.
- **Accountability**: Preferences should be easy to monitor and evaluate.

In addition, staff reviews whether the bill meets principles specific to tax expenditures. Those policies and how this bill addresses those issues:

Tax Expenditure Policy Principle	**Met?**	**Comments**
Vetted: The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy Committee, to review fiscal, legal, and general policy parameters.	X	**This proposal has not been adequately discussed**
Targeted: The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals.		The rebate is capped, but the deduction is permanent.
Clearly stated purpose	X	
Long-term goals	X	
Measurable targets	X	
Transparent: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies	?	The reporting requirement for the deduction is sunset. TRD, however, will report costs annually.
Accountable: The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review the tax expenditure and extend the expiration date.		The deduction is permanent.
Public analysis	X	
Expiration date	X	
Effective: The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions "but for" the existence of the tax expenditure.		The rebate will stimulate installations, but the deduction will add nothing additional
Fulfills stated purpose	X	
Passes "but for" test	?	

Efficient: The tax expenditure is the most cost-effective way to achieve the desired results.	**?**	The rebate may be effective, but the deduction may not be warranted.
Key: ✓ Met × Not Met ? Unclear		

AHO/hj/rl/hg/sgs/rl/SL2/sgs