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FISCAL IMPACT REPORT

SPONSOR Smith DATE TYPED 2/28/05 HB _____

SHORT TITLE Convenience Store Operation Income Tax Credit SB 721

ANALYST Padilla-Jackson

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
(\$750.0)	(\$1,500.0)	Decreasing	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Environment Department (NMED)

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Bill 721 provides a tax credit against personal or corporate income taxes for the purchase of equipment or expenditures on improvements that are necessary to comply with certain statutes and rules that regulate the operation of convenience stores. The tax credit may be up to 50 percent of the cost of the equipment and improvements. Unused tax credits can be carried forward for succeeding taxable years.

The provisions of this bill are applicable to taxable years beginning on or after January 1, 2005.

Significant Issues

NMED notes that the Environmental Improvement Board adopted new regulations in 2004 that require convenience stores to take measures to protect workers from crime. The measures include surveillance cameras, time lock safes, safety training, exterior lighting, signage and security alarms. In addition, stores open between 11:00 PM and 5:00 AM are required to employ two or more workers at night, control access or provide pass through windows. Senate Bill 721

would allow convenience store owners to recoup part of the cost of equipment and improvements necessary for complying with these regulations.

FISCAL IMPLICATIONS

The total fiscal impact, as per TRD's analysis, is -\$1.5 million to the General Fund in FY06. According to the 2003 National Association of Convenience Stores Official Industry Store Count, as of December 31, 2002 there were a total of 884 convenience stores in New Mexico. TRD's fiscal estimate assumes an average expenditure of \$3,000 per store claimed by 1,000 store owners (or \$3 million) times 50 percent (or \$1.5 million). TRD cautions, however, that the total number of stores affected could be substantially different depending on the definition of "convenience store," and the number of convenience stores that would be required to make expenditures to comply with a recent ruling by New Mexico's Environmental Improvement Board pertaining to convenience store safety.

ADMINISTRATIVE IMPLICATIONS

Minimal impacts.

TECHNICAL ISSUES

TRD cautions that the portion of the statute allowing a credit for purchasing equipment or making physical changes as a result of compliance with state or local laws affecting convenience stores is excessively broad, since the language could be read as allowing a credit for changes required by general laws applicable to any business, including zoning laws.

Additionally, the carry-forward provision of the credit is unlimited, which means TRD can never close its books on the credit's use.

OPJ/yr