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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Lopez</u>	<b>LAST UPDATED</b> <u>2/6/24</u>
	<b>ORIGINAL DATE</b> <u>1/26/24</u>
<b>SHORT TITLE</b> <u>Firearm &amp; Ammo Tax Act</u>	<b>BILL NUMBER</b> <u>Senate Bill 90</u>
	<b>ANALYST</b> <u>Graeser</u>

### REVENUE\* (dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
TRD/ Firearms and Ammunition Tax		\$9,400.0	\$19,260.0	\$19,850.0	\$20,460.0	Recurring	Crime Victims Reparation Fund
TRD/ Firearms and Ammunition Tax		\$9,400.0	\$19,260.0	\$19,850.0	\$20,460.0	Recurring	Family Representation and Advocacy Fund

Parentheses ( ) indicate revenue decreases.

\*Amounts reflect most recent analysis of this legislation.

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
TRD	\$132.0	\$3.5	\$0	\$135.5	Nonrecurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

Senate Bill 90 conflicts, duplicates, is a companion to, or relates to (Firearms-related bills - See list by short title in later section):

HB46, HB47, HB58, HB78, HB79, HB114, HB127, HB129, HB137, HB168, HB198, SB5, SB69, SB90, SB204 and SJR12. Of these, only this bill, HB79 and HB81 are tax related.

### Sources of Information

LFC Files

Agency Analysis was Solicited but Not Received From  
Taxation and Revenue Department (TRD)  
Department of Public Safety (DPS)

## SUMMARY

### Synopsis of Senate Bill 90

Senate Bill 90 (SB90) proposes a new excise tax on the sale of firearms and ammunition. The rate of excise tax is 11 percent of the gross sales price. Proceeds of the tax would be split equally

between the crime victims reparation fund and a new family representation and advocacy fund. This new excise tax is imposed in addition to the regular state and local gross receipts tax, although the excise tax is not imposed of the value of goods plus the GRT, nor is the GRT imposed on the value of the goods plus the excise tax.

Sales to peace officers are exempt as are casual sales by individuals who are not in the business of selling firearms and ammunition. Sales at gun shows are not exempted from this tax (or the gross receipts tax), even though the federal registration and wait provisions are waived for gun show sales.

The excise tax is reported and paid under the same provisions as for gross receipts tax. The tax would be administered under the provisions of the tax administration act.

The effective date of this bill is January 1, 2025.

## FISCAL IMPLICATIONS

This bill creates a new fund and earmarks 50 percent of the firearms and ammunition excise tax to the new family representation and advocacy fund. The other half of the new excise tax is earmarked to the existing (underfunded) crime victims reparation fund. The bill does not include a recurring appropriation but diverts or “earmarks” revenue to a particular fund for a particular purpose, representing a recurring loss from the general fund. LFC has concerns with including continuing distribution language in the statutory provisions for funds because earmarking reduces the ability of the Legislature to establish spending priorities.

TRD has provided analysis for the competing HB79. LFC has massaged these data to provide the following analysis:

	FY23
Guns (annual sales value)	172,990
\$ per	\$700
	\$121,100,000
Ammunition	\$212,900,000
Total Receipts	\$334,000,000
Total Rate	11%
New Revenue from tax	\$36,740,000

Using TRD’s analysis, LFC staff created the following estimate:

The industry trade association Safehome.org<sup>1</sup> estimates 172,990 firearms were sold in New Mexico in 2022 – approximately one percent of all U.S. sales. The National Shooting Sports Foundation<sup>2</sup> estimates an economic impact (direct, suppliers and induced) of about \$163 million in 2021.

TRD analyzed the Federal Firearms and Ammunition excise tax collections and allocated about one percent to New Mexico:

Per information released by the Alcohol and Tobacco Tax and Trade Bureau on the

<sup>1</sup> <https://www.safehome.org/data/firearms-guns-statistics>

<sup>2</sup> <https://www.nssf.org/government-relations/impact>

amount of federal firearms and ammunition excise tax (FAET) collected<sup>3</sup> and the Bureau of Alcohol, Tobacco, Firearms and Explosives data on registered weapons,<sup>4</sup> the Taxation and Revenue Department (TRD) estimated the FAET paid by New Mexicans. Using an average federal excise tax on producers and importers,<sup>5</sup> the economy-wide markup, and assuming taxes on producers are fully passed through to prices,<sup>6</sup> TRD calculated the tax base for firearms and ammunition in New Mexico. The fiscal impact used the gross receipts tax (GRT) revenue growth from the December 2023 Consensus Revenue Estimating Group (CREG) forecast as growth rates for future years.

Although this would be a 10 percent increase in net price, it is unlikely that there would be a distinguishable price elasticity effect. Guns and ammo are a luxury purchase with price elasticity in the range of .1 to .3. The 1 to 3 percent reduction in sales attributed to the increase in net price would be indistinguishable. No fewer guns would be purchased than at present.

## SIGNIFICANT ISSUES

This is an effort to internalize the negative externalities of firearms ownership. This effort is similar to other “sin taxes,” such as alcohol or tobacco taxes. Alcohol and tobacco do create negative externalities primarily associated with health effects such as alcoholism and lung cancer. It may be argued that gun ownership does not create health effects, although youth suicide statistics, domestic violence statistics and gun crime including homicide must be weighed in the debate on this excise tax.

## PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability will be met because TRD will report tax collections monthly. There is no requirement that this new tax be included in reports to the Legislature. After a few years, the effectiveness may be assigned to LFC’s evaluators.

## ADMINISTRATIVE IMPLICATIONS

TRD will probably anticipate a moderate implementation cost, similar to the cost of implementing HB79:

TRD will update forms, instructions, and publications and make information system changes. TRD’s Administrative Services Division (ASD) anticipates this bill will take approximately 60 hours, split between two existing full-time employees, to be implemented. TRD’s Information Technology Division (ITD) estimates that implementing the bill will require approximately 600 hours or over three months and \$132 thousand of contractual costs.

TRD approves the January 1, 2025, to allow for proper implementation and testing of the changes in the system and identifying the target population since the distributions under

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<sup>3</sup> <https://www.ttb.gov/tax-audit/tax-collections>

<sup>4</sup> <https://www.atf.gov/firearms/docs/report/2021-firearms-commerce-report/download>

<sup>5</sup> The federal excise tax on the import and production of firearms and ammunition is of 10–11%.

<sup>6</sup> In competitive markets taxes are fully passed through to prices. This assumption is supported by the 2,288 US-based firearms and ammunition producers and the fact that these producers have come under considerable import competition pressure not unlike that experienced by other branches of US manufacturing.

the bill’s Section 1 add additional complexity to the implementation.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY24	FY25	FY26	3 Year Total Cost		
--	\$3.5	--	\$3.5	NR	TRD – ASD - Operating
\$132.0	--	--	\$132.0	NR	TRD – ITD - Contractual Cost

\* In thousands of dollars. Parentheses ( ) indicate a cost saving.

\*\* Recurring (R) or Non-Recurring (NR)

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

A partial list of firearms-related bills follows:

<a href="#">Bill ID</a>	<a href="#">Title</a>	<a href="#">Sponsor</a>
<a href="#">HB 46</a>	FELON IN POSSESSION OF FIREARM PENALTY	<a href="#">William "Bill" R. Rehm</a>
<a href="#">HB 47</a>	UNLAWFUL FIREARMS WHILE TRAFFICKING	<a href="#">William "Bill" R. Rehm</a>
<a href="#">HB 58</a>	NO BACKGROUND CHECK FOR FIREARM SALES	<a href="#">Stefani Lord</a>
<a href="#">HB 78</a>	PERMITLESS FIREARM CARRYING	<a href="#">John Block</a>
<a href="#">HB 79</a>	FIREARM & AMMO GROSS RECEIPTS	<a href="#">John Block</a>
<a href="#">HB 114</a>	FIREARM INDUSTRY ACCOUNTABILITY ACT	<a href="#">Christine Chandler</a>
<a href="#">HB 127</a>	AGE 21 FOR FIREARM PURCHASES	<a href="#">Reena Szczepanski</a>
<a href="#">HB 129</a>	FIREARM SALE WAITING PERIOD CRIMES	<a href="#">Andrea Romero</a>
<a href="#">HB 137</a>	GAS-OPERATED SEMIAUTO FIREARMS EXCLUSION ACT	<a href="#">Andrea Romero</a>
<a href="#">HB 168</a>	NO FIREARMS FOR UNDOCUMENTED PERSONS	<a href="#">Jenifer Jones</a>
<a href="#">HB 198</a>	FELON IN POSSESSION OF FIREARM PENALTY	<a href="#">Dayan Hochman-Vigil</a>
<a href="#">SB 5</a>	FIREARMS NEAR POLLING PLACES	<a href="#">Peter Wirth</a>
<a href="#">SB 69</a>	14-DAY FIREARM SALE WAITING PERIOD	<a href="#">Joseph Cervantes</a>
<a href="#">SB 90</a>	FIREARM & AMMO TAX ACT	<a href="#">Linda M. Lopez</a>
<a href="#">SB 204</a>	FIREARMS ON PLAYGROUNDS	<a href="#">Daniel A. Ivey-Soto</a>
<a href="#">SJR 12</a>	LOCAL GOV'T FIREARM REGULATION, CA	<a href="#">Peter Wirth</a>

Of these, only this bill, HB79 and HB81 are tax related.

## OTHER SUBSTANTIVE ISSUES

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.

LFC notes, provisions of this bill is the earmarking of around \$40 million in revenue. Earmarking is favored by advocates and (usually) agencies because the agency or program does not have to battle for appropriations each year. For the same reason, earmarking is not favored by the LFC because it restricts the Legislature’s ability to properly allocate limited general funding.