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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Lord/Block/Pettigrew/Vincent</u>	<b>LAST UPDATED</b> <u>2/6/24</u> <b>ORIGINAL DATE</b> <u>1/30/24</u>
<b>SHORT TITLE</b> <u>Gun Storage Income Tax Credit</u>	<b>BILL NUMBER</b> <u>House Bill 266</u>
<b>ANALYST</b> <u>Graeser</u>	

### REVENUE\* (dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
PIT		(\$1,000.0)	(\$1,000.0)	(\$1,000.0)	Indeterminate but minimal loss	Recurring**	General Fund

Parentheses ( ) indicate revenue decreases.

\*\*Although the legislation allows this tax credit for a limited three-year period, it is classified for budgetary purposes as recurring.

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

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
TRD		\$25.1		\$25.1	Nonrecurring	General Fund
TRD		\$83.0	\$83.0	\$166.0	Recurring	General Fund
DPS		\$107.0	\$97.5	\$214.5	Recurring	General Fund
<b>Total</b>		<b>\$215.1</b>	<b>\$180.5</b>	<b>\$405.6</b>		

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

Relates House Bills 46, 47, 58, 78, 79, 81, 114, 127, 129, 137, 168, and 198 and Senate Bills 5, 69, 90, and 204 and Senate Joint Resolution 12

Of these, only this bill, HB79, HB81, HB266 and SB90 are tax related.

### Sources of Information

LFC Files

#### Agency Analysis Received From

Taxation and Revenue Department (TRD) on HB81

Department of Public Safety (DPS) on HB81

## SUMMARY

### Synopsis of House Bill 266

House Bill 266 (HB266) proposes a refundable personal income tax credit (PIT) of 100 percent of the cost of a secure firearm storage cabinet or other secure firearm storage device. A maximum cost of \$1,000 per unit is allowed. A cap of \$1 million each year is provided. The

Department of Public Safety (DPS) must certify the suitability of the individual request and provide this certificate to the applicant. The Taxation and Revenue Department (TRD) may approve the tax credit if the application is within \$1 million and is requested within 12 months of the purchase of the device or cabinet. There is no provision if applications exceed the cap. TRD is required to include the data in the annual tax expenditure report.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or May 15, 2024, if enacted. The refundable credit is applicable to the 2024, 2025 and 2026 tax years, creating fiscal impacts in FY25, FY 26 and FY27, with the possibility of a small amount of rollover to FY28.

## FISCAL IMPLICATIONS

Based on an Amazon search, typical costs for secure gun storage cabinets are \$200 to \$300, so the \$1,000 limit may be inappropriately high. With a total cap of \$1 million annually, limiting the credit to 50 percent of actual costs not to exceed \$300 would increase availability of the credit from at least 1,000 claimants to approximately 3,500 to 4,000 claimants.

TRD expands on this theme:

Using data from the Bureau of Alcohol, Tobacco, Firearms and Explosives,<sup>1</sup> TRD identified 122,968 registered firearms in New Mexico. Assuming, on average, each taxpayer owns three firearms,<sup>2</sup> the potential number of claimants of the credit is 40,989. If each taxpayer spends the maximum credit amount of \$750 on secure gun storage to meet the technical specifications and requirements relating to safety and standards compliance and any additional information that DPS establishes, the sum of applications could be as high as \$31 million. Considering the bill imposes a cap of \$500 thousand for the aggregate amount of the credits allowed in any calendar year, it can be expected that the number of applications substantially exceeds the number of approved taxpayers.

DPS expresses concern that certifying this program creates an unfunded mandate on the agency (See “Administrative Implications”).

## SIGNIFICANT ISSUES

Substantial research<sup>3</sup> supports secure gun storage—particularly in households with children with potential access to the firearms—as an effective way to prevent teen suicides. By providing financial subsidies to gun-owning individuals, HB266 promotes gun safety. Everytown Research and Policy, the research arm of the gun safety organization, reports, “In states with the most protective secure gun storage laws, the rate of gun suicide among young people ages 10 to 24 was lower in 2022 than in 1999. In states with no secure storage laws, the rate increased 36 percent.”

TRD expresses guarded support for the proposal:

Purchasing secure gun storage may ensure the safety and security of firearms and the

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<sup>1</sup> <https://www.atf.gov/firearms/docs/report/2021-firearms-commerce-report/download>

<sup>2</sup> <https://ammo.com/articles/how-many-gun-owners-in-america>

<sup>3</sup> <https://everytownresearch.org/two-decades-of-suicide-prevention-laws-lessons-from-national-leaders-in-gun-safety-policy/#:~:text=In%20states%20with%20the%20most,the%20rate%20increased%2036%20percent.>

people around them. Unauthorized access can be prevented by keeping firearms in a secure storage unit. Secure gun storage also provides high protection against theft and misuse of weapons, especially by children. Furthermore, storing firearms in a secure gun safe reduces the risk of accidental discharge.

While tax incentives may support particular industries or encourage specific social and economic behaviors, the proliferation of such incentives complicates the tax code. Adding more tax incentives: (1) creates special treatment and exceptions to the code, growing tax expenditures or narrowing the tax base, with a negative impact on the General Fund; and (2) increases the burden of compliance on both taxpayers and TRD. Adding complexity and exceptions to the tax code does not comport generally with the best tax policy.

DPS expresses a significant concern that it does not have experience in administering tax programs of this sort:

The most significant issue with this proposed legislation is that DPS does not have the infrastructure nor the expertise to administer tax credits. Tax credits and associated functions relative to tax certifications and administration are responsibilities that belong with the Taxation and Revenue Department to efficiently and expertly establish protocol and processes to carry out the requirements of this bill.

## PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the credit and other information to determine whether the credit is meeting its purpose.

## ADMINISTRATIVE IMPLICATIONS

DPS expresses concern for the administrative assignment pursuant to the provisions of this bill:

DPS believes this credit should be administered by the Taxation and Revenue Department as they are the experienced and expert agency to determine and administer protocol for this legislation.

Proposed legislation does not appropriate any funding for this bill, which would result in an unfunded mandate for DPS if charged with the administrative responsibility for this legislation. If funding were appropriated to DPS rather than the Taxation and Revenue Department as suggested, there will be a need to employ at least one full-time employee (Program Coordinator I) assigned to the Law Enforcement Records Bureau, working closely with the New Mexico State Police, to manage the application process, administer tax certifications, and promulgate technical specifications and requirements to implement the process. This position will also review and approve/deny applications and issue certifications of eligibility to all applicants at an initial FY 2025 cost of \$107 thousand and an annual recurring cost of \$97,500. DPS will require an appropriation to carry out this legislation.

TRD provides an estimate of costs involved in administering this tax credit:

TRD will need to update forms, instructions, and publications and make information system changes. TRD's Administrative Services Division anticipates this bill will take

approximately 40 hours split between two full-time employees for a cost of \$2,900. TRD’s Information Technology Division estimates that implementing the bill will require approximately 220 hours or over a month and \$12,210 of staff workload costs. TRD’s Revenue Process Division estimates that implementing this bill requires one additional FTE, and staff workload costs from one current FTE.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY24	FY25	FY26	3 Year Total Cost		
--	\$2.9		\$2.9	NR	TRD – ASD - Operating
--	\$12.2	--	\$12.2	NR	TRD – ITD – Staff Workload Costs
--	\$83	\$83	\$166	R	TRD – RPD - FTE
--	\$10	--	\$10	NR	TRD – RPD – Staff Workload Costs

\* In thousands of dollars. Parentheses ( ) indicate a cost saving. \*\* Recurring (R) or Non-Recurring (NR).

**Other Issues:** TRD recommends adding that DPS shall provide TRD certificates of eligibility issued electronically at regularly agreed-upon intervals.

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Firearm-related bills are listed below. Of these, only duplicates -- HB79 and SB90 – and near-duplicates HB81 and HB266 are tax-related.

<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 81</a>	GUN STORAGE TAX CREDIT	<a href="#">Andrea Reeb</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="#">Jennifer Jones</a>
<a href="#">HB 198</a>	FELON IN POSSESSION OF FIREARM PENALTY	<a href="#">Dayan Hochman-Vigil</a>
<a href="#">HB 266</a>	GUN STORAGE INCOME TAX CREDIT	<a href="#">Stefani Lord</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>

## TECHNICAL ISSUES

TRD suggests a number of technical issues:

Section 1(I)(1) of the bill defines “firearm”. The New Mexico statutes contain multiple definitions of “firearm” in other acts, not all of which are consistent with the definition in this bill. For example, some definitions include the frame or receiver of a firearm in the definition. *See, e.g.,* Section 40-17-2(C) NMSA 1978 (Extreme Firearm Protection Order Act); Section 32A-2-33(D) NMSA 1978 (child delinquency). TRD suggests adding frames and receivers to the definition in this bill.

As this tax credit is in the Income Tax Act but DPS is the certifying party, TRD

recommends that the language “The department of public safety may promulgate rules governing the procedure for administering the provisions of this subsection” be added.

As the credit cap and certification is managed by DPS and DPS is required to identify the taxpayer, the amount of the credit and the taxable year the credit can be claimed there is no need to have an additional application process with TRD. It is suggested that on page 2 line 23 starting at the end of the period through page 3 line 3 be stricken in full. With the tax year specified on the DPS certificate of eligibility, the credit claims would be limited to that taxable year. If this change is made, the remainder of Subsection C can be combined in Subsection B. However, there will need to be clarification on the cap due to the limitation on the cap of the credit.

TRD is now required by Section 7-1-84 NMSA 1978 to compile and present a tax expenditure budget, which includes the number of taxpayers that claim and the amount of claims for a tax expenditure. Credits are seen as a tax expenditure and will be included in this report. For that reason, TRD recommends that on page 3, lines 23 through 25 and page 4, lines 1 through 5 are stricken in full.

## 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.

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
<p><b>Vetted:</b> 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.</p>	✘	Not discussed in detail during previous sessions or the interim.
<p><b>Targeted:</b> The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals.</p> <p style="padding-left: 40px;">Clearly stated purpose</p> <p style="padding-left: 40px;">Long-term goals</p> <p style="padding-left: 40px;">Measurable targets</p>	✘ ✘ ✘	None stated; implied purpose may be to reduce teen suicides and use of firearms by children.
<p><b>Transparent:</b> The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies</p>	✔	Requires analysis in the Tax Expenditure Report
<p><b>Accountable:</b> 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.</p> <p style="padding-left: 40px;">Public analysis</p> <p style="padding-left: 40px;">Expiration date</p>	✔ ✔	Reams of accessible data analysis supporting secure firearms storage.
<p><b>Effective:</b> 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.</p> <p style="padding-left: 40px;">Fulfills stated purpose</p> <p style="padding-left: 40px;">Passes “but for” test</p>	✘	No purpose stated
<p><b>Efficient:</b> The tax expenditure is the most cost-effective way to achieve the desired results.</p>	✘	The cost to administer this program with the \$500K cap is not efficient.
Key: ✔ Met   ✘ Not Met   ? Unclear		