

BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 1, 2024

Bill: HB-81, as amended by HCEDC

Sponsor: Representatives Andrea Reeb, Joshua N. Hernandez, Harlan Vincent, Pamela Herndon, and Charlotte Little

Short Title: Gun Storage Tax Credit

Description: This bill creates a new section of the Income Tax Act for a Gun Storage Income Tax Credit. This credit is effective July 1, 2024 through December 31, 2026. This credit is a one-time refundable credit for a taxpayer who purchases gun storage. The credit is for an amount equal to the price paid for secure gun storage, not to exceed \$750. The taxpayer will apply for a certification of eligibility with the Department of Public Safety (DPS). The cap for this credit is \$500,000 in any calendar year. The certificate of eligibility will include the date, amount, and taxable year that the credit may be claimed.

The taxpayer will claim the credit with the Taxation and Revenue Department (Tax & Rev) within one year of the purchase.

The *Commerce and Economic Development Committee* amendment removes from the application that would allow the DPS to require any additional information to determine eligibility for the credit, but also adds that DPS may promulgate rules governing the procedure for administering applications for the credit.

Effective Date: Not specified; 90 days following adjournment (May 15, 2024). Applicability – The provisions of this act apply to taxable years beginning on or after January 1, 2024.

Taxation and Revenue Department Analyst: Pedro Clavijo

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2024	FY2025	FY2026	FY2027	FY2028		
--	(\$500)	(\$500)	(\$500)	--	NR	General Fund

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: Using data from the Bureau of Alcohol, Tobacco, Firearms and Explosives,¹ Tax & Rev identified 122,968 registered firearms in New Mexico. Assuming, on average, each taxpayer owns three firearms,² the potential number of claimants of the credit is 40,989. Assuming that 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 \$500,000 for the aggregate amount of the credits allowed in any calendar year, it can be expected that the number of applications exceeds substantially the number of approved taxpayers.

Policy Issues: Purchasing secure gun storage may ensure the safety and security of firearms and the 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.

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

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

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 Tax & Rev. Adding complexity and exceptions to the tax code does not comport generally with the best tax policy.

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). Tax & Rev 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, Tax & Rev 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 Tax & Rev. 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.

Tax & Rev 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 on this report. For that reason, Tax & Rev recommends that on page 3, lines 23 through 25 and page 4, lines 1 through 5 are stricken in full.

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

Administrative & Compliance Impact: Tax & Rev will need to update forms, instructions, and publications and make information system changes. Tax & Rev’s Administrative Services Division (ASD) anticipates this bill will take approximately 40 hours split between two full-time employees (FTE) to be implemented for a cost of \$2,900. Tax & Rev’s Information Technology Division (ITD) estimates that implementing the bill will require approximately 220 hours or over a month and \$12,210 of staff workload costs. Tax & Rev’s Revenue Process Division (RPD) 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
FY2024	FY2025	FY2026	3 Year Total Cost		
--	\$2.9		\$2.9	NR	Tax & Rev – ASD - Operating
--	\$12.2	--	\$12.2	NR	Tax & Rev – ITD - Staff Workload Costs
--	\$83	\$83	\$166	R	Tax & Rev – RPD - FTE
--	\$10	--	\$10	NR	Tax & Rev – RPD - Staff

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