

SECTION III: NARRATIVE

BILL SUMMARY

This bill creates a temporary “gun storage income tax credit” for taxable years beginning on or after January 1, 2026, and prior to January 1, 2029. The credit allows an eligible taxpayer to claim a one-time refundable income tax credit equal to the purchase price of a certified secure gun storage device, not to exceed \$1,000. The Department of Public Safety (DPS) is required to certify eligible purchases, subject to an annual statewide cap of \$500,000 in credits issued on a first-come, first-served basis. Taxpayers must obtain a certificate of eligibility from DPS and submit the certification to the Taxation and Revenue Department within specified timeframes to claim the credit. The bill includes provisions governing refunds, married filing separately, pass-through entities, and reporting requirements, and requires DPS to submit an annual report to the Revenue Stabilization and Tax Policy Committee and the Legislative Finance Committee evaluating program utilization and cost.

FISCAL IMPLICATIONS

DPS believes this credit should be administered by TRD, which is the agency with statutory authority, infrastructure, and expertise to administer refundable tax credits and manage annual credit caps.

HB232 does not appropriate funding to DPS. If DPS is required to administer the application and certification process, the bill would create an unfunded mandate. DPS requires at least one full-time Program Coordinator I within the Law Enforcement Records Bureau to manage applications, verify eligibility, issue certificates, and maintain internal tracking systems. Recurring Annual Costs (FY27+):

- One FTE salary, benefits, overhead \$118,700
- IT Systems maintenance and support \$10,000
- Estimated Annual Ongoing Costs: \$128,700

These costs are recurring through at least FY29 (the bill’s sunset year. No mechanism in HB232 offsets these costs or authorizes DPS to collect administrative fees.)

SIGNIFICANT ISSUES

The significant issues for DPS are as follows:

- DPS does not have the infrastructure, systems, or expertise to administer tax credits or manage refundable credit caps.
- The bill requires DPS to issue certificates but does not authorize TRD to share taxpayer level or aggregate redemption data.
- Without this information, DPS cannot:
 - Determine whether certificates were redeemed or denied
 - Identify duplicate or fraudulent submissions
 - Track utilization of the \$500,000 annual cap
 - Provide accurate program reporting to the Legislature
- This creates a structural accountability gap between certificate issuance (DPS) and credit redemption (TRD).
- The bill requires DPS to verify that secure gun storage “meets technical specifications and requirements relating to safety and standards compliance” (Subsection B) but does not

define those specifications or reference any existing national standard. DPS would need to develop product safety standards from scratch—a function requiring engineering expertise that DPS does not employ—or adopt external standards.

- Under §7-1-8 NMSA 1978, it is unlawful for TRD to reveal taxpayer return information except to entities specifically enumerated in §§7-1-8.1 through 7-1-8.11 NMSA 1978. Section 7-1-8.8 lists the agencies to which confidential return information may be disclosed; DPS is not among them. HB232 does not amend §7-1-8.8 to add DPS.
- The bill defines “secure gun storage” as “a new safe, gun safe, gun case, lock box or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination or other similar means.” This definition encompasses devices ranging from a \$15 keyed pistol case to a \$3,000 biometric gun safe.

PERFORMANCE IMPLICATIONS

DPS cannot measure program performance or outcomes because the agency has no visibility into credit utilization, denial rates, or cap exhaustion. Subsection H requires “the department” to compile an annual report for the Revenue Stabilization and Tax Policy Committee and the LFC, including “the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit.” The referent of “the department” in Subsection H is ambiguous—it could mean DPS (which issues certificates under Subsection B) or TRD (which allows the credit under Subsection A). If DPS is the reporting entity, DPS can report only on certificates issued, not on credits actually claimed, redeemed, denied by TRD, or their fiscal impact. DPS’s role is limited to certificate issuance, with no ability to evaluate program effectiveness or respond to legislative inquiries regarding uptake or fiscal impact.

ADMINISTRATIVE IMPLICATIONS

As described in Fiscal Implications, DPS would need to develop and maintain an application process, verification standards, and certificate tracking system. DPS would need to undertake administrative activities, none of which are currently within DPS’s operational capacity. DPS’s Law Enforcement Records Bureau, the unit most likely to be assigned these duties, already operates at capacity managing criminal history records, sex offender registration, concealed handgun licensing, and the National Instant Criminal Background Check System (NICS) point-of-contact operations.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

The technical issues for DPS are as follows:

- The bill does **not** authorize TRD to share taxpayer information with DPS, even in aggregate form.
- TRD is prohibited under §7-1-8 NMSA 1978 from sharing redemption or denial data without explicit statutory authority. TRD is prohibited from sharing return or return information except to entities enumerated in §§7-1-8.1 through 7-1-8.11. Section 7-1-8.8 lists specific agencies authorized to receive confidential return information; DPS is not included.
- The bill does not define:
 - Certificate format or required elements
 - Verification standards
 - Fraud prevention mechanisms

- Reporting requirements for either agency
- Without reconciliation authority, DPS cannot determine whether the \$500,000 annual cap has been exceeded.
- Section 1(I)(1) defines “firearm” as “a weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosive.” This definition omits frames and receivers, which are included in other NM statutory definitions. See §40-17-2(C) NMSA 1978 (Extreme Firearm Protection Order Act); §32A-2-33(D) NMSA 1978 (child delinquency).

OTHER SUBSTANTIVE ISSUES

The other substantive issues for DPS are as follows:

- Taxpayers may assume DPS has authority over credit approval or denial, which may lead to misdirected complaints.
- The Legislature may be unable to evaluate whether the credit is achieving its intended public safety goals due to the lack of cross-agency reporting.
- The absence of reconciliation mechanisms may increase the risk of duplicate or fraudulent claims.
- If DPS certifies a storage device that subsequently proves defective—resulting in unauthorized access to a firearm and injury or death—DPS may face claims under the New Mexico Tort Claims Act, §§41-4-1 et seq. NMSA 1978.
- The bill provides no administrative appeals process for applicants whose certification is denied. Under general administrative law principles, including the State Rules Act (§14-4-1 et seq. NMSA 1978), DPS would likely need to establish an adjudicatory procedure for disputed denials, further increasing the administrative burden.

ALTERNATIVES

DPS proposes two (2) alternatives:

1. Taxation and Revenue Department: Transfer all certification and reporting functions from DPS to TRD. TRD already handles tax-related matters and could integrate the certification process into their existing systems. They have expertise in processing and verifying tax credit applications.
2. Third-Party Certification Organizations: TRD could contract with private organizations that specialize in product safety certification. These organizations could certify secure gun storage devices and report the eligible credits to TRD.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo will remain.

AMENDMENTS

See Alternatives in above section.