F I S C A L I M P A C T R E P O R T

SPONSOR Sapien **ORIGINAL DATE** 1/17/19 **LAST UPDATED** 1/22/19 **HB**

SHORT TITLE Short-Term Occupancy Rentals Tax **SB** 106/aSCORC

ANALYST Graeser

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY19	**FY20**	**FY21**	**FY22**	**FY23**		
	1,015.0*	2,060.0*	2,090.0*	2,120.0*	Recurring	General Fund (Gross Receipts Tax)
	Probable positive impact: See Fiscal Impact				Recurring	Local Governments (Gross Receipts tax and Lodger's Tax)

* Minimum plausible general fund increase. See Fiscal Impact discussion and Table 1 for more information.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal to Significant	Minimal to Significant	Minimal to Significant	Recurring	Local Governments

Parenthesis ( ) indicate expenditure decreases

Reintroduction of 2017's SB-254 which was vetoed.

SOURCES OF INFORMATION
LFC Files

Responses Received On 2017's SB-254 from
New Mexico Tourism Department (NMTD)

Response Received from
New Mexico Municipal League

SUMMARY

Synopsis of SCORC Amendment

Senate Corporations and Transportation Committee amendment delays the effective date of this bill from July 1, 2019 to January 1, 2020.

Synopsis of Original Bill

Senate Bill 106 removes an exemption from the local-option occupancy tax (3-38-13 et seq. NMSA 1978) for short-term rentals (less than 30 days) by a vendor that does not offer at least three rooms within or attached to a taxable premises for lodging or at least three other premises

for lodging or a combination of these within the taxing jurisdiction.
It appears the intent of this bill is to remove an unanticipated tax exemption for homeowners who rent rooms through third-party websites and applications, as well as to level the playing field between designated and compliant accommodations and somewhat less compliant accommodations.

The effective date of this bill is January 1, 2020 per SCORC amendment.

FISCAL IMPLICATIONS

In general, there might be a positive impact to the general fund by bringing more short-term (and long-term) rentals into the tax base, as local governments could afford to expend more effort in enforcing the occupancy tax and the collateral gross receipts tax. The magnitude of the increase in tax base and the increased focus on compliance is somewhat speculative.

In January 2017, the New Mexico Hospitality Association commissioned an independent census of the short-term rental market in New Mexico. https://newmexicohospitality.org/Closing-LT-Loophole.

This includes rental properties that are intended to be rented to consumers for less than 30 days. The conclusion of this study was the following:

· *4,076* number of short-term rental properties
· *9,296* number of short-term rental rooms
· *$2.6 million* of potential revenue from Lodgers' Tax*
· *$4.3 million* of potential revenue from Gross Receipts Tax*
· *76%* of the properties were identified as multiple properties *OWNED BY ONE OWNER*
**Revenue projections based on an Airbnb national average 40% occupancy rate and 50% compliance. National average occupancy rate estimate provided by Smith Travel Research (STR).*

These results are consistent with an average daily rate of $153 and an average lodger's tax rate of 2.5 percent, so may be considered conservative.

If all jurisdictions in the state were to impose a 5 percent tax, the total lodger's tax increase would approach $7 million. LFC staff believe these results are based on all jurisdictions in the state imposing a lodger's tax of 5 percent on the entire inventory of short-term rentals. Some jurisdictions are administering the imposed lodger's tax well, and for other jurisdiction, voluntary compliance is minimal and there is not sufficient revenue to justify more intense efforts to enforce this tax.

LFC staff have built the survey data into a model. The structure of this LFC model is to assume that only counties and municipalities that currently impose and collect an occupancy tax would expand coverage of the tax to rentals offered on Airbnb and other internet sites, as well as single rooms, casitas or whole houses otherwise offered for rental. Based on these data and reasonable assumptions, the LFC model indicated revenue gains as shown:

	FY20E		
State impact from lodger's tax increase	$0.0		
Municipal impact from lodger's tax increase	$1,400.0	to	$3,150.0
State impact from increased GRT	$1,000.0	to	$1,450.0
County/Muni impact from increased GRT	$1,900.0	to	$3,850.0

To validate the model, LFC staff downloaded Airbnb listings for Santa Fe City. Airbnb currently lists 300+ homes available in Santa Fe and near environs. This compares to 1,130 rooms and about 500 rooms estimated in the survey for the entire Santa Fe County.

Model results for Raton, Angel Fire and Ruidoso were particularly suspect, so the table reports a range of plausible values. However, as the popularity of Airbnb and similar Internet options has grown, the resulting impact on revenues could be significant. Because the occupancy tax currently exempts this type of rental, no data is collected to indicate the magnitude of the losses to local governments. Therefore, the fiscal impact of this bill is largely unknown but significantly positive. Is worth noting New Mexico is less likely to feel substantial revenue impacts from third-party room rental sites compared with other, more densely populated states. A report from Boston University on the sharing economy and the impact of Airbnb on the hotel industry noted the impact is likely to be greater in densely populated cities. The study also estimated a 1 percent increase in local Airbnb listings results in a 0.05 percent decrease in quarterly hotel revenues for the area. This would seem to make the impact so slight as to be ignored, but the paper further notes the impact becomes greater than negligible over time due to the exponential growth in the industry.

Due to regulation and collection issues, while some local governments may aggressively enforce the provision of this bill and pursue revenue collections, other local governments may rely entirely on self-reporting, which is likely to result in little to no gain in revenues.

A municipality may impose by ordinance an occupancy tax for revenues on lodging within the municipality, and the board of county commissioners of a county may impose by ordinance an occupancy tax for revenues on lodging within that part of the county outside of the incorporated limits of a municipality. The occupancy tax shall not exceed 5 percent of the gross taxable rent.

The occupancy tax, and thus the bill's elimination of the exemption, significantly impact tourism-related revenues for local governments. The following portions of the proceeds from the occupancy tax shall be used only for advertising, publicizing, and promoting tourist-related attractions, facilities, and events:

- If the municipality or county imposes an occupancy tax of no more than 2 percent, not less than one-fourth of the proceeds shall be used for those purposes;
- If the occupancy tax imposed is more than 2 percent and the municipality is not located in a class A county or the county is not a class A county, not less than one-half of the proceeds from the first 3 percent of the tax and not less than one-fourth of the proceeds from the tax in excess of 3 percent shall be used for those purposes; and
- If the occupancy tax imposed is more than 2 percent and the municipality is located in a

class A county or the county is a class A county, not less than one-half of the proceeds from the tax shall be used for those purposes.

The proceeds from the occupancy tax in excess of the amount required to be used for advertising, publicizing, and promoting tourist-related attractions, facilities, and events may be used for any purpose authorized in Section 3-38-21 NMSA 1978.

See Table 1 for FY16 occupancy tax revenue collections under the Lodgers' Tax Act for each county and municipality extrapolated to FY19 estimated collections and model results for each county and municipality. Note that these results are preform because the Effective date of the bill would be January 1, 2020, in FY20.

SIGNIFICANT ISSUES

Local revenues in New Mexico and many other states were likely impacted negatively by the increasing popularity of companies such as Airbnb. Because room-sharing marketplace platforms like this provide alternatives to traditional hotel and motel rooms, taxable room rentals probably declined to some degree, reducing revenues to local governments.

The legislation does not contain any detail on processes for regulation and collection of the occupancy tax on these additional room rentals. Because this must be administered on an individual local government basis, and because individuals renting rooms likely are not registered for the purposes of reporting such revenue (and would likely be reluctant and unsure how to do so), this would require significant effort on the part of local governments with regard to education, administration, and collection.

NMML comments:

> This bill removes one of the more confusing exemptions from the municipal occupancy tax statute. The bill would remove the section that grants an exemption if the vendor of the short term rental does not offer at least three rooms within or attached to a taxable premises for lodging or does not offer at least three other premises for lodging, or a combination of the two within the taxing jurisdiction.
>
> Passing this bill would simplify the determination as to which properties are subject to the local occupancy tax. The current language is vague and confusing and subject to multiple interpretations. It is intended to capture those situations where a person might rent out a single bedroom of their home, or the entire home from time-to-time either personally or through one of the short-term-rental facilitators.

This bill promotes the LFC tax policy principles of efficiency, by broadening the tax base, and equity, by treating different taxpayers fairly.

ADMINISTRATIVE IMPLICATIONS

As noted above, this could create minimal to significant administrative impacts for local governments depending on how much effort they put into education, administration, and collection efforts.

RELATIONSHIP

Does the bill meet the Legislative Finance Committee tax policy principles? **1.** Adequacy: Revenue should be adequate to fund needed government services. **2.** Efficiency: Tax base should be as broad as possible and avoid excess reliance on one tax. **3.** Equity: Different taxpayers should be treated fairly. **4.** Simplicity: Collection should be simple and easily understood. **5.** Accountability: Preferences should be easy to monitor and evaluate

OTHER SUBSTANTIVE ISSUES

In February, 2016, the Governmental Accountability Office of the State Auditor's Office published a thorough review of the Occupancy Tax.

https://www.saonm.org/media/uploads/Transparency_Report_-_Lodgers_Tax_Update_Feb_11_2016.pdf

LG/sb/al

County	Avg Room Rate	Available Rooms	Potential Base	Current Lodgers Rate	Current Lodger's Tax Base	Current Lodger's Tax Amount FY19E	Easily Accessible Increase -- Base	Easily Accessible Increase -- Lodger's Tax	Easily Accessible Increase --GRT
Santa Fe	$158	1,130	$3,258,355	4.0%	$10,987,187	$439,487	$3,258,355	$130,334	$232,158
Bernalillo	$110	1,215	$2,439,113	0.0%		$0	$0	$0	$0
Eddy	$152	13	$0	5.0%	$1,833,770	$91,688	$0	$0	$0
Chaves	$150	22	$0	0.0%		$0	$0	$0	$0
Curry	$78	7	$0	0.0%		$0	$0	$0	$0
Lea	$66	2	$0	0.0%		$0	$0	$0	$0
Dona Ana	$96	232	$0	0.0%		$0	$0	$0	$0
Grant	$110	133	$0	5.0%	$785,799	$39,290	$0	$0	$0
Colfax	$292	1,647	$3,510,745	0.0%		$0	$0	$0	$0
Quay	$46	13	$0	0.0%		$0	$0	$0	$0
Roosevelt	$0	0	$0	0.0%		$0	$0	$0	$0
San Miguel	$110	20	$0	5.0%	($31,886)	($1,594)	$0	$0	$0
McKinley	$52	10	$0	0.0%		$0	$0	$0	$0
Valencia	$133	18	$0	0.0%		$0	$0	$0	$0
Otero	$131	107	$0	0.0%		$0	$0	$0	$0
San Juan	$79	35	$0	0.0%		$0	$0	$0	$0
Rio Arriba	$187	130	$0	3.0%	$473,647	$14,209	$0	$0	$0
Union	$80	2	$0	0.0%		$0	$0	$0	$0
Luna	$87	12	$0	5.0%	$70,270	$3,513	$0	$0	$0
Taos	$224	1,321	$2,160,099	5.0%	$6,456,585	$322,829	$2,160,099	$108,005	$157,957
Sierra	$108	47	$0	3.0%	$202,214	$6,066	$0	$0	$0
Torrance	$133	4	$0	0.0%		$0	$0	$0	$0
Hidalgo	$65	2	$0	0.0%		$0	$0	$0	$0
Guadalupe	$0	0	$0	0.0%		$0	$0	$0	$0
Socorro	$86	14	$0	3.0%	$73,923	$2,218	$0	$0	$0
Lincoln	$203	2,881	$0	4.0%	$1,266,964	$50,679	$0	$0	$0
DeBaca	$37	1	$0	0.0%		$0	$0	$0	$0
Catron	$129	3	$0	0.0%		$0	$0	$0	$0
Sandoval	$125	251	$0	5.0%	$26,362	$1,318	$0	$0	$0
Mora	$0	0	$0	0.0%		$0	$0	$0	$0
Harding	$0	0	$0	0.0%		$0	$0	$0	$0
Los Alamos	$0	0	$0	5.0%	$3,345,870	$167,293	$0	$0	$0
Cibola	$150	4	$0	0.0%		$0	$0	$0	$0
		9,276	$11,368,312		$25,490,707	$1,136,998	$5,418,454	$238,339	$390,115
State									$180,502
County									$112,419

Municipality	Avg Room Rate	Available Rooms	Potential Base	Current Lodgers Rate	Current Lodger's Tax Base	Current Lodger's Tax Amount FY19E	Easily Accessible Increase -- Base	Easily Accessible Increase -- Lodger's Tax	Easily Accessible Increase --GRT
SANTA FE	$158	848	$9,775,065	5%	$161,054,150	$8,052,708	$9,775,065	$488,753	$878,168
SF Convention Ctr Fund Act	$158	848	$9,775,065	2%	$161,054,175	$3,221,084	$9,775,065	$195,501	$878,168
ALBUQUERQUE	$110	911	$7,317,338	5%	$216,459,797	$10,822,990	$7,317,338	$365,867	$559,738
ALBQ Hospitality Fee Act 1	$110	911	$7,317,338	1%	$181,689,031	$1,816,890	$7,317,338	$73,173	$559,738
CARLSBAD	$152	13	$144,248	5%	$56,875,294	$2,843,765	$144,248	$7,212	$11,620
ARTESIA				5%	$11,257,870	$562,894			
ROSWELL	$150	22	$240,900	5%	$23,236,428	$1,161,821	$240,900	$12,045	$19,858
Roswell Convention Center	$150	22	$240,900	$2.50		$668,885		$6,935	
CLOVIS	$78	7	$39,858	5%	$14,005,798	$700,290	$39,858	$1,993	$3,334
HOBBS	$66	2	$9,636	5%	$35,447,273	$1,772,364	$9,636	$482	$672
LOVINGTON	$0	0	$0	5%	$776,109	$38,805	$0	$0	$0
LAS CRUCES	$96	232	$1,625,856	5%	$35,885,492	$1,794,275	$1,625,856	$81,293	$142,062
Las Cruces Convention Center	$96	232	$1,625,856	$2.50		$987,992		$44,763	
HATCH				3%	$66,094	$1,983			
MESILLA				5%	$139,135	$6,957			
SILVER CITY	$110	133	$1,067,990	5%	$4,854,011	$242,701	$1,067,990	$53,400	$89,761
HURLEY				3%	($176,209)	($5,286)			
RATON	$292	988	$21,064,471	5%	$6,529,880	$326,494	$21,064,471	$1,053,224	$1,876,228
SPRINGER				3%	$329,676	$9,890			
CIMARRON	$292	0	$0	4%	$325,941	$13,038	$0	$0	$0
EAGLE NEST	$292	0	$0	3%	$594,231	$17,827	$0	$0	$0
ANGEL FIRE	$292	494	$10,532,236	5%	$4,144,844	$207,242	$10,532,236	$526,612	$859,095
TUCUMCARI	$46	13	$43,654	5%	$12,319,753	$615,988	$43,654	$2,183	$3,720
LOGAN				3%	$326,631	$9,799			
PORTALES	$0	0	$0	5%	$3,066,474	$153,324			
LAS VEGAS	$110	20	$160,600	4%	$7,189,070	$287,563	$160,600	$6,424	$13,833
GALLUP	$52	10	$37,960	5%	$23,868,042	$1,193,402	$37,960	$1,898	$3,348
RIO RANCHO	$133	18	$174,762	5%	$5,127,571	$256,379	$174,762	$8,738	$15,353
BELEN				4%	$1,697,981	$67,919			
LOS LUNAS				4%	$1,104,454	$44,178			
ALAMOGORDO	$131	107	$1,023,241	5%	$9,287,298	$464,365	$1,023,241	$51,162	$86,190
CLOUDCROFT				5%	$1,759,227	$87,961			
FARMINGTON	$79	35	$201,845	5%	$25,201,286	$1,260,064	$201,845	$10,092	$15,533
Farmington Convention Center Financing				$2.50	$293,038	$732,596			
AZTEC				5%	$1,597,758	$79,888			
BLOOMFIELD				3%	$1,672,971	$50,189			
CHAMA	$187	130	$1,774,630	4%	$2,046,889	$81,876	$1,774,630	$70,985	$160,887

ESPANOLA				5%	($384,453)	($19,223)			
CLAYTON	$80	2	$11,680	5%	$3,869,491	$193,475	$11,680	$584	$946
DEMING	$87	12	$76,212	5%	$7,097,601	$354,880	$76,212	$3,811	$6,562
COLUMBUS				5%	$64,674	$3,234			
TAOS	$224	661	$10,800,496	5%	$20,946,517	$1,047,326	$10,800,496	$540,025	$975,856
RED RIVER	$224	264	$4,320,198	5%	$14,739,781	$736,989	$4,320,198	$216,010	$398,794
TAOS SKI VALLEY	$224	264	$4,320,198	5%	$7,391,234	$369,562	$4,320,198	$216,010	$423,801
T OR C	$108	47	$370,548	5%	$5,222,479	$261,124	$370,548	$18,527	$32,039
T OR C Convention Center	$108	47	$370,548	1%	$5,173,644	$51,736	$370,548	$3,705	
WILLIAMSBURG				3%	$72,747	$2,182			
ELEPHANT BUTTE				5%	$1,167,572	$58,379			
MOUNTAINAIR				3%	$385,562	$11,567			
MORIARTY	$133	4	$38,836	5%	$4,678,931	$233,947	$38,836	$1,942	$3,210
LORDSBURG	$65	2	$9,490	5%	$3,845,310	$192,265	$9,490	$475	$778
SANTA ROSA	$0	0	$0	5%	$10,812,165	$540,608			
VAUGHN				5%	$1,183,015	$59,151			
SOCORRO	$86	14	$87,892	5%	$8,338,465	$416,923	$87,892	$4,395	$6,822
MAGDALENA				4%	$43,622	$1,745			
RUIDOSO	$203	2,881	$42,693,539	5%	$28,944,110	$1,447,206	$42,693,539	$2,134,677	$3,700,441
CAPITAN				3%	($98,888)	($2,967)			
CARRIZOZO				3%	$219,887	$6,597			
RUIDOSO DOWNS				5%	$3,945,322	$197,266			
FORT SUMNER	$37	1	$2,701	5%	$819,497	$40,975	$2,701	$135	$228
RESERVE	$129	3	$28,251	5%	$91,164	$4,558	$28,251	$1,413	$2,133
BERNALILLO	$125	251	$2,290,375	3%	$3,508,244	$105,247	$2,290,375	$68,711	$193,194
JEMEZ SPRINGS				5%	$250,840	$12,542			
CUBA				3%	$603,049	$18,091			
CORRALES				4%	$75,663	$2,648			
MILAN				3%	$81,945	$2,458			
GRANTS	$150	4	$43,800	5%	$5,731,285	$286,564	$43,800	$2,190	$3,457
Total	$196	8,393	$120,328,506		$801,718,051	$47,288,152	$120,328,506	$6,275,343	$11,925,566
State								$0	$4,692,812
County and Muni									$7,232,754
Excl. Ruidoso, Raton & Angel Fire	$157	4,030	$46,038,260		$762,099,217	$45,307,210	$46,038,260	$2,560,831	$5,489,802
Excl Ruidoso, Raton & Angel Fire State									$1,795,492
Excl Ruidoso, Raton & Angel Fire County and Muni									$3,694,310