

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 01/31/17

SPONSOR Trujillo, CA LAST UPDATED \_\_\_\_\_ HB 266

SHORT TITLE Short-Term Rental Occupancy Tax SB \_\_\_\_\_

ANALYST Clark

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19	FY20	FY21		
	Unknown but Positive	Unknown but Positive	Unknown but Positive	Unknown but Positive	Recurring	Local Governments

Parenthesis ( ) indicate revenue decreases

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

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Minimal to Significant	Minimal to Significant	Minimal to Significant	Recurring	Local Governments

Parenthesis ( ) indicate expenditure decreases

Duplicates SB254

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Tourism Department

### SUMMARY

#### Synopsis of Bill

House Bill 266 removes an exemption from the occupancy tax 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.

The effective date of this bill is July 1, 2017.

## **FISCAL IMPLICATIONS**

At the time the exemption was enacted, such websites and applications either did not exist or were in such minimal use as to create very little impact on revenues. However, as the popularity of these 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 unknown but positive.

However, it 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 Attachment 1 for FY16 occupancy tax revenue collections under the Lodgers' Tax Act for each county and municipality.

## 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.

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.

## DUPLICATION

This bill duplicates SB254.

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

## FY16 OCCUPANCY TAX REVENUES &amp; RATES AUTHORIZED BY THE LODGERS' TAX ACT

Lodgers Tax Rate COUNTY		FIRST QUARTER (JULY-SEPT.)	SECOND QUARTER (OCT.-DEC.)	THIRD QUARTER (JAN-MAR)	FOURTH QUARTER (APR.-JUN.)	FY16 GRAND TOTAL
5%	EDDY	\$ 26,473	\$ 22,529	\$ 7,980	\$ 19,662	\$ 76,644
5%	GRANT	\$ 18,064	\$ 16,549	\$ 10,733	\$ 18,583	\$ 63,928
4%	LINCOLN	\$ 19,857	\$ 9,790	\$ 8,390	\$ 11,029	\$ 49,066
5%	LOS ALAMOS	\$ 65,950	\$ 75,666	\$ 50,181	\$ 62,185	\$ 253,981
5%	LUNA	\$ 321	\$ 999	\$ 1,018	\$ 418	\$ 2,755
3%	RIO ARRIBA	\$ 33,501	\$ 16,895	\$ 7,520	\$ 9,137	\$ 67,053
5%	SANDOVAL	\$ 4,745	\$ 4,061	\$ 2,216	\$ 2,655	\$ 13,678
5%	SAN MIGUEL	\$ 14,490	\$ 10,100	\$ 1,256	\$ 3,982	\$ 29,828
4%	SANTA FE	\$ 145,619	\$ 103,851	\$ 49,157	\$ 86,476	\$ 385,103
3%	SIERRA	\$ 1,157	\$ 1,648	\$ 1,275	\$ 1,473	\$ 5,553
3%	SOCORRO	\$ 301	\$ 611	\$ 1,039	\$ 383	\$ 2,334
5%	TAOS	\$ 102,384	\$ 82,568	\$ 70,693	\$ 76,624	\$ 332,269
	<b>TOTALS</b>	<b>\$ 432,862</b>	<b>\$ 345,266</b>	<b>\$ 211,457</b>	<b>\$ 292,606</b>	<b>\$ 1,282,191</b>

Source: DEPARTMENT OF FINANCE &amp; ADMINISTRATION, LOCAL GOVERNMENT DIVISION

\$ 1,282,191

Lodgers Tax Rate MUNICIPALITY		FIRST QUARTER (JULY-SEPT.)	SECOND QUARTER (OCT.-DEC.)	THIRD QUARTER (JAN-MAR)	FOURTH QUARTER (APR.-JUN.)	FY16 GRAND TOTAL
5%	ALAMOGORDO	\$ 131,560	\$ 117,990	\$ 134,011	\$ 146,553	\$ 530,113
5%	ALBUQUERQUE	\$ 3,355,036	\$ 1,789,028	\$ 2,522,586	\$ 4,200,746	\$ 11,867,396
1%	ALBQ Hospitality Fee Act 1	\$ 671,007	\$ 357,806	\$ 504,517	\$ 840,149	\$ 2,373,479
5%	ANGEL FIRE	\$ 40,153	\$ 20,016	\$ 154,608	\$ 63,735	\$ 278,512
5%	ARTESIA	\$ 122,749	\$ 132,580	\$ 41,044	\$ 94,723	\$ 391,096
5%	AZTEC	\$ 7,781	\$ 8,066	\$ 5,775	\$ 29,890	\$ 51,512
4%	BELEN	\$ 16,514	\$ 13,524	\$ 9,908	\$ 12,519	\$ 52,466
3%	BERNALILLO	\$ 32,642	\$ 34,970	\$ 21,094	\$ 31,670	\$ 120,377
3%	BLOOMFIELD	\$ 18,397	\$ 13,963	\$ 12,093	\$ 10,223	\$ 54,676
3%	CAPITAN	\$ 1,807	\$ 1,219	\$ 1,248	\$ 1,248	\$ 5,522
5%	CARLSBAD	\$ 581,367	\$ 477,683	\$ 425,283	\$ 433,958	\$ 1,918,291
3%	CARRIZOZO	\$ 1,598	\$ 1,256	\$ 1,998	\$ 2,235	\$ 7,087
4%	CHAMA	\$ 46,003	\$ 35,169	\$ 5,095	\$ 8,865	\$ 95,132
4%	CIMARRON	\$ 7,399	\$ 6,843	\$ 2,908	\$ 1,594	\$ 18,744
5%	CLAYTON	\$ 55,658	\$ 37,980	\$ 23,809	\$ 29,507	\$ 146,954
5%	CLOUDCROFT	\$ 42,941	\$ 27,280	\$ 23,698	\$ 17,296	\$ 111,215
5%	CLOVIS	\$ 195,538	\$ 178,201	\$ 146,389	\$ 186,920	\$ 707,048
5%	COLUMBUS	\$ 687	\$ 1,037	\$ 929	\$ 1,150	\$ 3,803
3.5%	CORRALES	\$ 1,452	\$ 1,422	\$ 571	\$ 1,252	\$ 4,697
3%	CUBA	\$ 5,317	\$ 3,281	\$ 3,027	\$ 2,280	\$ 13,904
5%	DEMING	\$ 97,571	\$ 85,424	\$ 97,267	\$ 111,871	\$ 392,134
3%	EAGLE NEST	\$ 13,344	\$ 6,032	\$ 6,327	\$ 4,552	\$ 30,255
5%	ELEPHANT BUTTE	\$ 14,730	\$ 8,480	\$ 6,458	\$ 10,273	\$ 39,941
5%	ESPANOLA	\$ 5,549	\$ 3,936	\$ 2,121	\$ 2,734	\$ 14,340
5%	FARMINGTON	\$ 352,581	\$ 359,585	\$ 280,847	\$ 338,688	\$ 1,331,701
\$	2.50 Farmington Convention Center Financing	\$ 219,030	\$ 230,495	\$ 198,115	\$ 216,535	\$ 864,175
5%	FORT SUMNER	\$ 7,849	\$ 8,727	\$ 10,859	\$ 11,051	\$ 38,486
5%	GALLUP	\$ 372,551	\$ 383,340	\$ 278,452	\$ 377,151	\$ 1,411,494
5%	GRANTS	\$ 102,804	\$ 107,926	\$ 61,218	\$ 97,979	\$ 369,928
3%	HATCH	\$ 487	\$ 216	\$ 575	\$ 49	\$ 1,327
5%	HOBBS	\$ 386,255	\$ 297,348	\$ 242,864	\$ 239,937	\$ 1,166,404
3%	HURLEY	\$ -	\$ -	\$ -	\$ -	\$ -
5%	JEMEZ SPRINGS	\$ 5,374	\$ 4,024	\$ 2,748	\$ 3,595	\$ 15,741
5%	LAS CRUCES	\$ 499,942	\$ 519,612	\$ 462,615	\$ 597,027	\$ 2,079,195
\$	2.50 Las Cruces Convention Ctr Financing	\$ 310,273	\$ 307,892	\$ 286,205	\$ 355,277	\$ 1,259,647
4%	LAS VEGAS	\$ 82,679	\$ 72,300	\$ 61,668	\$ 88,727	\$ 305,374
3%	LOGAN	\$ 3,523	\$ 2,429	\$ 910	\$ 2,414	\$ 9,276
5%	LORDSBURG	\$ 51,840	\$ 48,514	\$ 62,618	\$ 56,023	\$ 218,995
4%	LOS LUNAS	\$ 18,470	\$ 13,966	\$ 16,955	\$ 13,226	\$ 62,617
5%	LOVINGTON	\$ 15,305	\$ 10,848	\$ 12,005	\$ 7,109	\$ 45,267
4%	MAGDALENA	\$ 1,343	\$ 834	\$ 670	\$ 757	\$ 3,605
5%	MESILLA	\$ 645	\$ 1,012	\$ 663	\$ 2,719	\$ 5,039
3%	MILAN	\$ 666	\$ 531	\$ 660	\$ 1,069	\$ 2,926
5%	MORIARTY	\$ 61,680	\$ 53,006	\$ 42,947	\$ 55,667	\$ 213,301
3%	MOUNTAINAIR	\$ 737	\$ 649	\$ 434	\$ 709	\$ 2,529
5%	PORTALES	\$ 43,696	\$ 41,579	\$ 28,072	\$ 34,690	\$ 148,036
5%	RATON	\$ 146,780	\$ 85,146	\$ 59,252	\$ 89,508	\$ 380,687
5%	RED RIVER	\$ 275,405	\$ 109,193	\$ 220,703	\$ 110,379	\$ 715,679
5%	RESERVE	\$ 1,329	\$ 1,441	\$ 917	\$ 1,237	\$ 4,924
5%	RIO RANCHO	\$ 86,663	\$ 89,218	\$ 55,098	\$ 98,339	\$ 329,316
5%	ROSWELL	\$ 290,242	\$ 242,683	\$ 222,780	\$ 318,480	\$ 1,074,185
\$	2.50 Roswell Convention Center Financing	\$ 165,891	\$ 141,382	\$ 126,665	\$ 193,754	\$ 627,692
5%	RUIDOSO	\$ 478,183	\$ 319,255	\$ 392,171	\$ 282,551	\$ 1,472,160
5%	RUIDOSO DOWNS	\$ 80,003	\$ 46,195	\$ 40,548	\$ 36,532	\$ 203,279
5%	SANTA FE	\$ 2,356,898	\$ 1,923,164	\$ 1,053,745	\$ 1,626,019	\$ 6,959,827
2%	SF Convention Ctr Fund Act	\$ 942,759	\$ 769,266	\$ 421,498	\$ 650,408	\$ 2,783,931
5%	SANTA ROSA	\$ 170,991	\$ 127,596	\$ 109,676	\$ 160,908	\$ 569,171
5%	SILVER CITY	\$ 75,587	\$ 62,229	\$ 49,989	\$ 73,852	\$ 261,657
5%	SOCORRO	\$ 81,826	\$ 142,355	\$ 106,977	\$ 95,362	\$ 426,520
3%	SPRINGER	\$ 703	\$ 3,156	\$ 2,056	\$ 4,517	\$ 10,432
5%	TAOS	\$ 315,166	\$ 295,704	\$ 249,205	\$ 291,869	\$ 1,151,943
5%	TAOS SKI VALLEY	\$ 34,979	\$ 19,241	\$ 202,914	\$ 77,289	\$ 334,423
5%	T OR C	\$ 56,598	\$ 59,984	\$ 59,651	\$ 73,157	\$ 249,390
1%	T or C Convention Center Funding	\$ 9,314	\$ 9,568	\$ 18,313	\$ 14,542	\$ 51,736
5%	TUCUMCARI	\$ 176,501	\$ 138,009	\$ 115,209	\$ 176,339	\$ 606,058
5%	VAUGHN	\$ 9,459	\$ 16,992	\$ 8,094	\$ 16,252	\$ 50,797
3%	WILLIAMSBURG	\$ 499	\$ 405	\$ 427	\$ 724	\$ 2,055
	<b>TOTAL</b>	<b>\$ 13,760,307</b>	<b>\$ 10,430,203</b>	<b>\$ 9,720,752</b>	<b>\$ 13,138,360</b>	<b>\$ 47,049,621</b>

Source: DEPARTMENT OF FINANCE &amp; ADMINISTRATION, LOCAL GOVERNMENT DIVISION

\$ 47,049,621