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

ORIGINAL DATE 2/8/2020
SPONSOR HTRC **LAST UPDATED** **HB** 117HTRCS

SHORT TITLE Lodgers' Tax Exemptions **SB**

ANALYST Graeser

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY20	**FY21**	**FY22**	**FY23**	**FY24**		
	No General Fund Impact				Recurring	General Fund
	Positive Impact in All Areas				Recurring	Local Governments

Parenthesis ( ) indicate revenue decreases

SOURCES OF INFORMATION
LFC Files

Responses Received From
New Mexico Municipal League (NMML) on original bill

No Response Received
Taxation and Revenue Department (TRD)
Department of Finance and Administration, Local Government Division (DFA/LGD)

SUMMARY

Synopsis of Bill

HTRC Committee Substitute for House Bill 117 proposes clarification and changes to the exemptions from and uses of the Lodger's Tax. Specifically:

- Redefines taxable premise to be hotels, motels "or other premises used for lodging that is not the vendee's household or primary residence." This redefinition serves to maintain and expand the types of premises subject to the Lodger's Tax. Also defines "temporary lodging" to mean lodging for the purpose of housing a vendee near to a job location;
- Allows electing local governments to collect the Lodgers' Tax after thirty days, if the premises rented are not the vendee's household or primary residence.
- Revenues collected on the first 30 days of a vendee's rental of a taxable premise is restricted in use by section 3-38-15, however, Lodgers' Tax revenue from the 31st day and subsequent days may be used for any municipal or county purposes so long as the uses are stated in the ordinance imposing the tax;
- Removes the automatic exemption for rental for over 30 consecutive days, or when

evidenced by a written lease; and
- includes a conventional section preserving bond repayment provisions.

The effective date of this bill is July 1, 2020. There is no delayed repeal date.

FISCAL IMPLICATIONS

The changes will primarily affect counties and municipalities in the Southeast region of the state. In those areas, the changes will expose more lodging units to the Lodger's tax by taxing temporary lodging after the current 30-day period. The bill removes restrictions on the use of the additional funds. Under current statute, use of the proceeds of the lodger's tax is restricted to tourist-related activities.

The substitute bill is general and could affect any jurisdiction that has elected a lodger's tax. However, there have been no complaints from jurisdictions outside of the Southeast region about temporary worker housing. Receipts from rentals under 30-days are subject to gross receipts tax, but rentals over 30 days are GRT exempt. Temporary rentals over 30 days do not contribute revenue to the local government, even though the renting population demand local services.

The provisions of this bill may be somewhat difficult to administer in general. Most jurisdictions outside the Southeast may be unwilling to aggressively pursue this source of additional revenue if collection cost outweighs the revenue collected.

SIGNIFICANT ISSUES

NMML has provided the following perspective:

> Some municipalities are experiencing long term rental of taxable premises by companies that are temporarily operating in certain portions of the State. Under current statute, when companies enter into long term agreements to rent taxable premises, after the first 30 days the premises is no longer subject to the Lodgers' Tax. The nature of the long term use of a taxable premises places additional burdens on local governments without an opportunity to defray those costs thru revenues generated by the Lodgers' Tax.
>
> This legislation will allow for continued collection of the Lodgers' Tax on long term rentals of taxable premises and allow the municipality to use certain proceeds to defray the cost of services to the long term renters.

The following definitions apply to the lodger's tax, after the amendments proposed in this bill:

3-38-14. Definitions.
As used in the Lodgers' Tax Act [3-38-13 to 3-38-24 NMSA 1978]:
A. "gross taxable rent" means the total amount of rent paid for lodging, not including the state gross receipts tax or local sales taxes;
B. "lodging" means the transaction of furnishing rooms or other accommodations by a vendor to a vendee who for rent uses, possesses or has the right to use or possess any room or rooms or other units of accommodations in or at a taxable premises;
C. "lodgings" means the rooms or other accommodations furnished by a vendor to a vendee by a taxable service of lodging;
D. "occupancy tax" means the tax on lodging authorized by the Lodgers' Tax Act;

E. "person" means a corporation, firm, other body corporate, partnership, association or individual. "Person" includes an executor, administrator, trustee, receiver or other representative appointed according to law and acting in a representative capacity. "Person" does not include the United States of America, the state of New Mexico, any corporation, department, instrumentality or agency of the federal government or the state government or any political subdivision of the state;
F. "rent" means the consideration received by a vendor in money, credits, property or other consideration valued in money for lodgings subject to an occupancy tax authorized in the Lodgers' Tax Act;
G. "taxable premises" means a hotel, motel or other premises used for lodging that is not the vendee's household or primary residence.
H. "temporary lodging" means lodgings for the purpose of housing a vendee within proximity of the vendee's employment or job location.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB105 contains a somewhat different list of exemptions. SB119 provides an exemption for vendee income below 185 percent of poverty and SB63 proposes a tenancy tax that does not restrict the use of the proceeds of the tax for tourist-related purposes.

Last year's SB106, effective January 1, 2020 extended the lodger's tax to short-term rentals of individual guest houses and fewer than three units.

LG/sb