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FISCAL IMPACT REPORT

BILL NUMBER: Senate Bill 131

SHORT TITLE: Residential Apartments in Commercial Zones

SPONSOR: Maestas/Berghmans

LAST ORIGINAL
UPDATE: 2/8/2026 **DATE:** 2/7/2026 **ANALYST:** Montano

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Local Governments	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal		Recurring	Local Governments
District Courts	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal		Recurring	

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Relates to House Bills 17, 138

Sources of Information

LFC Files

Agency or Agencies Providing Analysis
Regulation and Licensing Department
New Mexico Mortgage Finance Authority
New Mexico Municipal League

SUMMARY

Synopsis of Senate Bill 131

Senate Bill 131 (SB131) amends Section 3-21-1 NMSA 1978 or the “Zoning – Authority of County or Municipality” by removing the ability for county or municipality to regulate the height or number of stories of buildings and other structures. The bill also allows one additional dwelling unit per lot in single-family zoning districts, permits residential apartments in commercial zones, prohibits counties and municipalities from restricting duplexes and townhouses in residential zones, and allows small scale commercial uses in residential zones if it complies with local government regulations.

SB131 amends Section 3-21-8 NMSA 1978 or the “Appeals to Zoning Authority” by deleting the zoning authority’s responsibility for hearing and deciding zoning appeals and conferring statutory authority to hear and decide zoning appeals to the district court. The bill also repeals Section 3-21-9 NMSA 1978.

In sections three and four, SB131 creates two new Sections in 3-21 NMSA 1978 that are called “Zoning Applications – Review and Approval” and “Minimum Parking Mandates Prohibited”. Section three requires applications seeking conditional use permits, special use permits, and special exceptions shall be submitted to and decided by a hearing officer delegated by a county or municipality zoning authority. Section four prohibits political subdivisions from imposing minimum parking mandates with an exception of accessible parking spaces.

The provisions of Sections 2 and 3 of SB131 apply to decisions issued and enforcement actions commenced after June 30, 2026.

The effective date of this bill is July 1, 2026.

FISCAL IMPLICATIONS

SB131 is a policy bill and does not include an appropriation. The bill is not anticipated to have any significant fiscal or operational impact on state agencies, including the Construction Industries Division or other divisions of the Regulation and Licensing Department, and the New Mexico Mortgage Finance Authority.

Local governments may experience minimal costs associated with delegating a hearing officer and designating staff to review applications. However, these costs should be minimal due to the responsibilities and regulations of local governments being diminished in SB131.

District courts should see a minimal increase of cases due to zoning appeals becoming the responsibility of the courts; however, zoning decisions are deemed quasi-judicial, and district courts were already required to determine initially whether the decision was illegal or not.

SIGNIFICANT ISSUES

The New Mexico Mortgage Finance Authority provided the following information related to SB131:

The amendments that Senate Bill 131 proposes aim to increase the supply of housing in New Mexico. While the bill does not address “affordable housing” directly, it would ease zoning restrictions that may limit the development of naturally occurring affordable housing and missing middle housing. This bill aims to limit zoning restrictions that local governments may impose to increase housing and commercial development. The following are potential impacts of the proposed legislation:

- Removing restrictions on building heights may allow for greater and more diverse developments across the state of New Mexico.
- Removing restrictions of developing duplexes and townhouses in residential zones may lead to more infill housing units being produced in New Mexico.
- Allowing for development of non-residential developments in residential zones, may lead to positive economic growth across New Mexico.
- Allowing for development of non-residential developments in residential zones may strain the current infrastructure capacity.

The New Mexico Municipal League (NMML) states that the provisions in SB131 infringe on local decision making by removing a local government’s ability to regulate building height and

number of stories, requiring residential apartments to be allowed in commercial zones, allowing duplexes and townhouses in residential zones, allowing one additional dwelling unit within each lot in single-family zones and shifting zoning appeals from local zoning bodies to district courts.

NMML also provided the following information related to SB131:

Municipalities currently enact ordinances and have local planning and zoning boards to manage permitting processes and decisions. The bill limits the ability of local elected officials and their constituents to tailor zoning regulations to community needs, infrastructure capacity, and adopted comprehensive plans, and reduces the role of public input in planning, zoning, and land-use decisions. SB131 would replace locally driven planning with a one-size-fits-all approach that weakens local decision-making and long-standing local zoning and permitting practices.

Local government oversight of zoning and permitting is also critical for public safety. For example, city planners use zoning density requirements and parking requirements to plan and manage traffic flow and congestion. Unplanned increases in traffic congestion are dangerous for drivers, pedestrians, and emergency services when responding to calls. Local government review and permitting also ensures public infrastructure remains operational. For example, water and wastewater systems are designed to accommodate a specific level of demand. Unplanned increases in density, which SB131 would likely cause, place strain on existing systems, resulting in added maintenance costs and/or the need for costly system upgrades.

ADMINISTRATIVE IMPLICATIONS

Local governments will now be required to delegate a zoning official to delegate and determine special zoning application requests and have designated staff to review zoning applications for zoning compliance.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill relates to House Bill 17, Accessory Dwelling Units in Certain Areas and House Bill 138, Zoning Lot Size Requirements.

NM/dw/sgs/sgs/cf/sgs