

# New Hampshire Department of Revenue Administration

## Fiscal Note Quick Guide

19-0335

**HB 254**, *relative to the provision allowing operators to retain a portion of meals and rooms taxes collected and the appropriation of meals and rooms tax revenues to school building aid.*

### House Ways & Means

The proposed legislation amends RSA 78-A:7, III by possibly reducing the amount of Meals and Rooms (M&R) Tax an operator may retain as compensation (“commission”), from 3% of the taxes due and to be remitted to 3% not to exceed \$100 per month.

The proposed legislation establishes a new paragraph IV under RSA 78-A:26 to also distribute M&R Tax revenues to a new School Building Aid Fund (SBAF). The SBAF is being established to fund school building aid grants. This fund shall be nonlapsing and continually appropriated to the Department of Education.

The M&R Tax revenue distributed to the SBAF is an amount equal to the difference between the uncapped 3% commission under existing law and the new commission of 3% capped at \$100 per month. The Department shall calculate and transfer the difference to the SBAF beginning on July 1, 2019.

The Department would need to update the M&R Tax forms and its information management systems related to the proposed legislation, but without any additional costs that could not be absorbed in its operating budget.

The fiscal impact of the proposed legislation is an indeterminable increase to the State School Building Aid Fund. The fiscal impact is indeterminable because the Department cannot estimate what M&R Tax revenues and commission utilization will be when it goes into effect and afterwards. However, the Department can analyze what the impact would have been if this proposed legislation was in effect during FY2018.

The Department considered all M&R Tax returns filed in FY2018 where the operator retained the 3% commission. The retained commission for M&R Tax returns filed in FY2018 was \$9.5M. Each operator’s commission was then recalculated assuming a \$100 cap per month, reducing commissions to \$2.9M. The difference between the uncapped 3% commission and the 3% commission capped at \$100 for FY2018 returns would have been \$6.6M. This additional \$6.6M in revenue would have been transferred into the SBAF if this act was in effect during FY2018.

The Department would note that section 3 of the proposed legislation directs the Department to determine and transfer the difference between the old and new commission amounts beginning on July 1, 2019, the same day it would go into effect. It seems that the Department would make the transfer once a year for the most recently completed fiscal year (in this case, on July 1, 2019 for

FY2018). However, the Department would not be able to perform the calculation/transfer on that date, because the first M&R Tax returns with the new commission calculation (assuming July 2019) would not be due until August 15, 2019. There would be no difference to transfer from FY2018. The Department recommends that the first transfer to the SBAF occur on August 1, 2020 for FY2020. This would allow all data to be processed and the fiscal year to be closed.

The Department also recommends an applicability date to the proposed legislation later than the effective date of July 1, 2019. The Department would need time to update the M&R Tax forms and its tax systems to accommodate the new commission provision, and to notify operators of the change in commission. The Department recommends an applicability date no sooner than October 1, 2019.