New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

19-1119

HB 2, relative to state fees, funds, revenues, and expenditures.

House Ways & Means

Section 124-126
Meals and Rooms (M&R) Tax; Disposition of Revenue

Section 124 repeals RSA 78-A:26, I(b), relative to disposition of 3.15 percent of the net income from M&R Tax revenue to the department of resources and development, division of travel and tourism development. There is no fiscal impact on account of section 124 because RSA 78-A:26, I(b) is currently suspended by 2017, 156:127 for the biennium ending June 30, 2019.

Section 126 funds the budget of the division of travel and tourism at an amount no less than 3.15 percent of the net income for the most recently completed fiscal year. The fiscal impact of section 126 is indeterminable because the net income from M&R Tax revenue in FY 2020 through FY 2023 is unknown. But it would increase state expenditures by an indeterminable amount. For reference, 3.15 percent of the net income from FY 2018 M&R Tax revenue was $10,467,079.

Both sections take effect July 1, 2019.

Section 131-132
Revenue Information Management System (RIMS) Account

Section 131 amends RSA 21-J:1-b, II to allow the Department of Revenue Administration (DRA) to deposit any revenue increase from existing taxes attributable to the DRA's RIMS project, up to $4 million each fiscal year, in the RIMS account beginning two years sooner, in the fiscal year ending June 30, 2020 rather than the fiscal year ending June 30, 2022. It also requires the DRA to deposit any such revenue increase each fiscal year until deposits total $40 million. The DRA's RIMS project was funded, in part, through the FY 18/19 capital budget. That portion not funded through capital appropriation will be financed through the issuance of bonds that will be repaid by the revenue up-lift generated by RIMS post implementation. The project will replace the DRA's existing inefficient and outdated Tax Information Management System (TIMS) with a modernized, secure, and efficient system that will process, consolidate, and house all the tax information DRA manages in a single system.

The fiscal impact of section 131 is indeterminable but would decrease general fund revenues no greater than $4 million each fiscal year in FY 2020 and FY 2021. Specifically, any revenue increase from existing taxes attributable to RIMS, up to $4 million each fiscal year, in FY 2020 and FY 2021 would be deposited in the RIMS account rather than the general fund.

Section 132 clarifies that notwithstanding any payment of principal on the bonds issued to finance RIMS from the RIMS account beginning with fiscal year 2022, the payment of principal from the general fund shall total $6 million, plus interest. Section 132 is a clarification of the existing provision and therefore has no fiscal impact.

Both sections take effect July 1, 2019.

Section 176-189
Tobacco Tax; Electronic Cigarettes

Section 176 amends the definition of "tobacco products" contained in the Tobacco Tax, namely, RSA 78:1, XIV, to include "any product containing, made, or derived from tobacco or nicotine that is intended for human consumption," including electronic cigarettes, but not tobacco cessation products approved by the United States Food and Drug Administration. Pursuant to RSA 78:7-c, the Tobacco Tax is imposed on tobacco products other than cigarettes at a rate of 65.03% of the wholesale sales price.

Section 177 inserts new paragraph RSA 78:1, XXV to define "electronic cigarette" to mean: "any liquid or substance containing nicotine that is intended to be used with or in a device that can be used to produce a vapor or aerosol from such a liquid or substance, including but not limited to, a device manufactured, distributed, marketed, or sold as an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, or vape pen. 'Electronic cigarette' shall also include any such device, and any component, part, or accessory used in the operation of such a device, but only if sold together with any liquid or substance containing nicotine."

Both sections take effect July 1, 2019.

The fiscal impact of sections 176 and 177 is indeterminable because the number of electronic cigarettes as defined in RSA 78:1, XXV that would be sold and their wholesale sales prices are unknown. But it would increase state revenues.

However, the DRA has calculated a possible one-year fiscal impact based on FY 2019 revenues provided by the State of Pennsylvania. Pennsylvania similarly imposes a tax on e-cigarettes/vapor products but at a rate of 40% of the wholesale sales price. We adjusted Pennsylvania's FY 2019 revenues from e-cigarettes/vapor products for the population difference between New Hampshire and Pennsylvania, and applied our rate of 65.03%. The result is a possible increase of state revenues in the amount of $7.2 million per fiscal year.

Importantly, the DRA notes the effective date of July 1, 2019 likely would not allow the DRA sufficient time to (1) notify taxpayers; (2) revise affected forms; (3) update its information management systems; and (4) adopt rules.

Sections 178-189 relate to regulatory and licensing functions that fall within the purview of either the Liquor Commission or the Department of Health and Human Services. Therefore, the DRA has not analyzed the fiscal impact of these sections.

Section 190
Real Estate Transfer Tax (RETT); Exemption for Pease Development Authority Leases

Section 190 inserts new paragraph RSA 78-B:2, XXIII to specifically exempt from the RETT "a lease of any term by and between the Pease Development Authority and any other person, including any sales, transfers, or assignments of any interest in the leased property." It takes effect July 1, 2019. Under existing law, leases are not subject to the RETT where the term of the lease, including all renewals, is less than 99 years. Section 190 would extend this existing exemption to a lease entered into by the Pease Development Authority, irrespective of the length of the lease.

The fiscal impact of section 190 is indeterminable because the number of leases entered into by Pease Development Authority with a term of at least 99 years that would occur in future years and their prices or consideration are unknown. To the extent there would be any such leases entered into by Pease in the future, the result would be a decrease in RETT revenue.

Section 236-258
Education Trust Fund

The proposed legislation combines the education trust fund into the general fund effective July 1, 2019. Many of the taxes that the DRA administers are currently deposited, in whole or in part, into the Education Trust Fund and would now be deposited into the General Fund. These taxes include the Business Profits Tax, Business Enterprise Tax, Tobacco Tax, Real Estate Transfer Tax, Meals & Rentals Tax, and Utility Property Tax. Additionally, property tax relief pursuant to the Low & Moderate Income Property Tax Relief Program are currently paid from the Education Trust Fund and would be paid from the General Fund were this section enacted.

There is no fiscal impact on account of combining the education trust fund into the general fund because the same state revenues would be deposited now entirely into the general fund. However, with respect to the Business Profits Tax and Business Enterprise Tax, the DRA regularly performs complex calculations to estimate what portion of revenue from each tax should be deposited in the general fund versus the education trust fund. This is somewhat time consuming and also creates the possible risk of errors. At the end of each fiscal year, adjustments are regularly required to "true up" the final split of business tax revenue between the two funds. Eliminating the split of revenues between the education trust fund and general fund will not likely result in a decrease of state expenditures but would contribute to efficiency and accuracy in certain revenue accounting functions performed by the DRA.

The remainder of these sections impact functions falling within the purview of other Executive Branch agencies.

Section 280
Witness Fees

Section 280, I repeals RSA 21-J:26, relative to witness fees for witnesses summoned to appear before the DRA. It takes effect July 1, 2019. The remaining provisions in Section 280 relate to functions administered by other Executive Branch agencies. There is no fiscal impact on account of this section pertaining to the DRA, because the DRA has not recently paid witness fees.