New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

19-0990

SB 301, *relative to the rates of the business profits tax and business enterprise tax, and relative to revenue sharing with cities and towns.*

Senate Ways & Means

Sections 1-2 and 6 of the proposed legislation increase the Business Profits Tax (BPT) rate for taxable periods ending on or after December 31, 2019 back to the rate applicable to taxable periods ending on or after December 31, 2018, from 7.7% to 7.9%.

Sections 3-4 and 6 of the proposed legislation increase the Business Enterprise Tax (BET) rate for taxable periods ending on or after December 31, 2019 back to the rate applicable to taxable periods ending on or after December 31, 2018, from 0.60% to 0.675%.

Section 5 of the proposed legislation suspends the future rate BPT and BET rate reductions for taxable periods ending on or after December 31, 2021.

For each year of the biennium ending June 30, 2021, section 7 of the proposed legislation appropriates the estimated additional amount of revenues produced by retaining the rates applicable to 2018 (instead of the 2019 reductions) for purpose of revenue sharing with the cities and towns. The Department of Revenue Administration (DRA) shall certify the amount in each fiscal year to the state treasurer "by October 1 of that year." (See Section D, Technical or Mechanical Defects). The state treasurer shall distribute the amount to the cities and towns each year. This proposed legislation shall take effect July 1, 2019.

The DRA would like to note that any additional State revenues from the proposed legislation's rate increases would be shared with the cities and towns – i.e., State revenues and expenditures (revenue sharing) would cancel out, but local revenues would increase.

Although the fiscal impact is indeterminable, to calculate a possible impact of the proposed legislation's rate increases, the DRA assumed that the current law's 2019 and 2021 rate reductions would have been in effect for FY2020 through FY2023. We compared the difference in revenues from the 2019 and 2021 rate reductions to the proposed legislation's rate increases.

To calculate the current law's 2019 and 2021 rate reductions as well as the proposed legislation's rate increases, the DRA used the FY2018 cash basis revenue of $775,900,000 from the June 2018 Department of Administrative Services Revenue Focus for the starting point.

The DRA did an analysis based on prior years to break out the split of tax year revenue to fiscal year revenue. The split breakdown used for FY2018 revenue was 13% attributable to tax year 2016, 64% attributable to tax year 2017, and 23% attributable to tax year 2018.

Applying the split to the FY2018 revenue as well as applying the applicable rates creates a base of $47,786,625,316 to use for the starting point.

The rate changes are then applied to the applicable tax and calculated at the new rate to come up with a possible fiscal impact per year, as shown in the table below. However, the fiscal impact of the proposed rate increases may be overstated or understated for future fiscal years depending on whether actual revenue is more or less than FY2018.

Business Taxes – Static Analysis using FY 2018 Revenues

Fiscal Year	FY 2018 Revenues with Current Law's 2019 and 2021 Rate Reductions	FY 2018 Revenues with Proposed Legislation's Rate Increases	Estimated Fiscal Impact Per Year (proposed legislation compared to current law)
2020	$ 710,527,743	$ 748,113,916	$ 37,586,174
2021	$ 692,565,789	$ 748,113,916	$ 55,548,128
2022	$ 658,212,733	$ 748,113,916	$ 89,901,183
2023	$ 651,234,769	$ 748,113,916	$ 96,879,147

Lastly, the proposed legislation provides that, for each fiscal year, the DRA shall certify the amount to be distributed by the state treasurer "by October 1 *of that year*." (Emphasis added). This seems to indicate that the DRA would need to certify the amount in the middle of the fiscal year. Instead, it should provide that the DRA shall certify the amount by October "following the fiscal year," or similar.