

New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

16-2681

HB 1572-FN, *establishing a broadband deployment tax credit incentive program against the business profits tax and the business enterprise tax.*

House Way & Means Committee

This bill would create a new law, RSA 162-R, Broadband Deployment Tax Credit Program, that the Department of Resources and Economic Development (DRED) would administer. A business organization that qualifies for a credit under the proposed legislation will enter into a written broadband deployment tax credit agreement with DRED. The Department of Revenue Administration (DRA) is to be notified of the final amount of the credit awarded.

The maximum state revenue decrease per year would be the maximum credit allowed under the proposed law, \$2,000,000.

This bill would take effect on July 1, 2016.

The proposed legislation contemplates that the amount of the tax credit will be based upon 15% of the average of the taxpayer's BPT and BET tax liability for the prior 3 years. However, the statute does not indicate how DRED will determine or confirm each taxpayer's prior year's tax liability. Because the DRA is unable to disclose taxpayer information absent an exception to the taxpayer confidentiality statute (RSA 21-J:14) the DRA suggests that the proposed bill should include language requiring the taxpayer to disclose their New Hampshire business tax return information to DRED.

The proposed bill would apply the credit against the Business Profits Tax (BPT) or the Business Enterprise Tax (BET). Typically, a credit may be applied against the BET with any remaining credit being applied against the BPT.

The majority of taxpayers operate on a calendar year. As a result, the indicated applicability date of tax periods beginning on or after July 1, 2016 will fall within the middle of the tax period for most taxpayers. This means that for tax year 2016, most taxpayers would not qualify for the credit because their tax year begins before July 1, 2016. Likewise, the program indicates that it is only applicable for tax periods ending on or before June 30, 2022. Most taxpayers have a December 31 ending tax period. As a result, most taxpayers would be unable to qualify for the credit for tax year 2022 because their tax year ends after June 30, 2022. If this result is inconsistent with the intent of the sponsor of this legislation, the applicability section should read as follows:

Applicability. This act shall apply to taxable periods beginning on or after January 1, 2016 and ending on or before December 31, 2022.