New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

17-0416

HB 539-FN-A-LOCAL, *relative to the distribution of occupancy revenues under the meals and rooms tax to towns and cities.*

House Ways & Means

Under the existing RSA 78-A:26 Meals & Rooms (M&R) Tax distribution formula, after certain deductions are made from M&R Tax revenue, 40% is distributed to municipalities based upon proportional population. Currently, this 40% distribution is limited to the prior year's distribution plus 75% of any increase in M&R Tax revenue from prior year and capped at a $5,000,000 increase from prior year.

This proposed bill amends the M&R Tax distribution formula to eliminate the $5,000,000 cap on any year over year increase in the 40% distribution. Additionally, the proposed legislation includes a provision to distribute the entire amount of the tax on occupancies back to municipalities based upon the proportion of total revenue collected from occupancies attributable to each municipality.

The proposed legislation requires Operators to keep books and records sufficient to show the amount of each tax collected and the municipality where the taxable transaction occurred. The Department shall adopt rules and modify forms sufficient to capture the municipality where each type of transaction occurred. Operators who elect to adopt tax-inclusive sales must report sales allocated based on transaction type and municipality where the taxable transaction occurred.

This proposed bill also amends RSA 21-J:14, the Department's confidentiality provision, by including new language to allow the Department to disclose the total amount of M&R Tax revenue collected on occupancies in each municipality to members of the NH Senate and House of Representatives, except where such municipality has 10 or fewer operators collecting the M&R tax on occupancy.

The bill is effective July 1, 2017.

To implement the proposed legislation, the DRA would have to draft new rules, create new forms and have a vendor update its e-file and telefile systems for M&R Operators to be able to report the municipality where each taxable occupancy occurred. There would be an indeterminable cost in excess of $10,000.

The elimination of the $5,000,000 cap on the year over year increase in the distribution to municipalities under RSA 78-A:26 would be expected to decrease state revenues and increase municipal revenues based on historical growth in M&R Tax revenue. However, the Department is unable to predict future growth in M&R Tax revenue and thus cannot predict whether the cap would have been triggered in the future.

Additionally, the Department cannot fully analyze the fiscal impact of the proposed legislation due to the following issue:

The existing M&R Tax distribution formula requires that 40% of all M&R Tax revenue be distributed to municipalities based upon population. New section RSA 78-A:26, I(d) directs that all revenue attributable to taxable occupancies be distributed to municipalities based on the location where the taxable transaction occurred. Without changes to the remainder of the M&R Tax distribution formula, which references "all revenue" and "net income," it would appear that the existing distribution formula is in conflict with the proposed additional provision.

Lastly, the proposed legislation is effective July 1, 2017. The Department would not have sufficient time to update forms, and reprogram electronic and telefile tax filing systems to collect data on the municipality where each type of tax revenue was collected. Additionally, the distribution of M&R Tax revenue to municipalities is made once a year based on a full year of M&R Tax collection data. As a result, the Department could not administer this new distribution formula until Operators have reported data based on municipality where the taxable occupancy occurred for a complete fiscal year.