

New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

25-0675.0

**HB 635**, relative to taxing non-profit entities who settle illegal immigrants as for-profit entities.

Ways and Means

**This bill:**

**I. Allows taxing non-profit entities who settle illegal immigrants as for-profit entities.**

**II. Allows the department of revenue administration to award bounties to persons who report instances of non-profits settling illegal immigrants to the department.**

The proposed legislation expands the types of entities subject to the Business Enterprise Tax (BET) to include 501(c)(3)'s that settle or re-settle illegal immigrants. Under the United States Internal Revenue Code (IRC) 501(c)(3)s are non-profit corporations formed to carry out a charitable, religious, literary, educational or scientific purpose that is recognized by the Internal Revenue Service as tax exempt.

Section 1 of the proposed legislation amends RSA 77-E:1, III to include enterprises that engage in or attempt to engage in settling or re-settling illegal immigrants including corporations that are expressly made exempt from income taxation under section 501(c)(3) of the IRC. The section further provides examples of activities that would make typically income exempt corporations subject to BET and provides a definition of illegal immigrant.

Section 2 of the proposed legislation amends RSA 77-E:11 by inserting new paragraphs V and VI which allow a bounty program to be developed, administered, and rules adopted by the DRA for individuals who report business enterprises engaging in the activities described in section 1 of the proposed legislation. Bounties provided by the DRA may not exceed 10 percent of the business enterprise tax assessed against the business enterprise in the tax year of the report.

The DRA assumes that expenditures related to the bounty program will come from the General Fund.

The proposed legislation is effective 60 days after its passage. However, there is no applicability date corresponding to a particular taxable period. If the proposed legislation was intended to apply uniformly starting with a particular taxable period, the DRA would recommend the addition of an applicable taxable period end date such as "taxable periods ending on or after December 31, 2025."

The DRA would be responsible for updating all necessary forms and rules related to this proposed legislation, which DRA does not anticipate would result in any additional administrative costs that could not be absorbed in the DRA operating budget.

The proposed legislation may result in an impermissible classification of taxpayers. The DRA recommends that the proposed legislation be reviewed by a constitutional lawyer or the Department of Justice.

The DRA is unable to determine the fiscal impact of this proposed legislation because the DRA does not have information on the number of corporations with 501(c)(3) designations that engage in the settling or re-settling of illegal immigrants. BET revenue would have an indeterminable increase to the General Fund and Education Trust fund to the extent the proposed expansion of the BET base generates taxable income. The timing of such revenue increase would depend on when such business organizations were identified and began to remit taxes.

Further, there would be a potential increase in general fund expenditures related to the bounty program beginning not earlier than FY 2026, but the precise timing and magnitude is again unknown.