

New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

24-2014.1

HB 1422, *relative to the rates of the business profits tax, business enterprise tax, communications service tax, and meals and rooms tax.*

Ways and Means

This act shall be known as the Consumer Tax Relief Act

This proposed legislation creates the Consumer Tax Relief Act that reduces the tax rates for Business Profits Tax and Business Enterprise Tax, phases out and repeals the Communications Services Tax, and reduces the Meals & Rental tax rate, and increases the distribution of Meals & Rentals to the Municipal Revenue Fund.

Business Profits Tax

Section 2 of the proposed legislation reduces the Business Profits Tax (BPT) rate by 0.1% per tax year from 7.4% to 7.0% beginning with taxable periods ending on or after December 31, 2025 and ending with taxable periods ending on or after December 31, 2029. The effective date is July 1, 2024.

The fiscal impact of this proposed legislation is an indeterminable decrease to the General Fund (GF) and Education Trust Fund (ETF) starting in FY 2025. The DRA has calculated a possible fiscal impact based on a prior year's revenue as follows:

1. To calculate FY 2025 through FY 2031 revenues under current law as well as the proposed rate changes, the DRA used TY 2021 BPT taxable business profits \$10.31 billion as the starting point. The applicable BPT rate for taxable periods ending on or after December 31, 2021, was 7.7%.
2. The DRA analyzed prior years to break out the split of tax year revenue to fiscal year revenue and applied it to FY 2025 as follows: 15% attributable to TY 2023, 63% attributable to TY 2024, and 22% attributable to TY 2025.
3. Under current law, the BPT rate for taxable periods ending on or after December 31, 2022, is 7.6% and for taxable period ending on or after December 31, 2023, is 7.5%. DRA applied those rates to calculate the estimated revenue under current law, as shown in the second column of the table below.
4. The BPT rate changes contained in this proposed legislation are then applied to calculate an estimated revenue as shown in the third column of the table below.

This calculation was not adjusted for the apportionment methodology change to single sales factor after TY 2021 for taxable periods ending on or after December 31, 2022, the net operating

loss deduction change to single apportionment (apportioned only in the year the loss was generated), and the gross business income threshold changes.

The fiscal impact of the proposed rate reduction may be overstated or understated for future fiscal years depending on whether actual liability is more or less than TY 2021.

Fiscal Impact of Rate Changes by Fiscal Year

Business Profits Tax- Static Analysis Using Tax Year 2021 BPT Tax				
Fiscal Year	Current Law Revenue Using TY2021 BPT Tax	Estimated Revenue with Proposed Legislation	Estimated Fiscal Impact Per Year	Cumulative Fiscal Impact
2025	\$775,100,000	\$771,200,000	\$(3,900,000)	\$(3,900,000)
2026	\$775,100,000	\$762,400,000	\$(12,700,000)	\$(16,600,000)
2027	\$775,100,000	\$752,300,000	\$(22,800,000)	\$(39,400,000)
2028	\$775,100,000	\$741,900,000	\$(33,200,000)	\$(72,600,000)
2029	\$775,100,000	\$731,600,000	\$(43,500,000)	\$(116,100,000)
2030	\$775,100,000	\$723,500,000	\$(51,600,000)	\$(167,700,000)
2031	\$775,100,000	\$722,000,000	\$(53,100,000)	\$(220,800,000)

Proposed Legislation Rates and Split

Fiscal Year	Tax Year	% Applicable to Tax Year	Current Law BPT Rates	Proposed Law BPT Rates
Fiscal Year 2025	Tax Year 2023	15%	7.50%	7.50%
	Tax Year 2024	63%	7.50%	7.50%
	Tax Year 2025	22%	7.50%	7.40%
Fiscal Year 2026	Tax Year 2024	15%	7.50%	7.50%
	Tax Year 2025	63%	7.50%	7.40%
	Tax Year 2026	22%	7.50%	7.30%
Fiscal Year 2027	Tax Year 2025	15%	7.50%	7.40%
	Tax Year 2026	63%	7.50%	7.30%
	Tax Year 2027	22%	7.50%	7.20%
Fiscal Year 2028	Tax Year 2026	15%	7.50%	7.30%
	Tax Year 2027	63%	7.50%	7.20%
	Tax Year 2028	22%	7.50%	7.10%
Fiscal Year 2029	Tax Year 2027	15%	7.50%	7.20%
	Tax Year 2028	63%	7.50%	7.10%
	Tax Year 2029	22%	7.50%	7.00%
Fiscal Year 2030	Tax Year 2028	15%	7.50%	7.10%
	Tax Year 2029	63%	7.50%	7.00%
	Tax Year 2030	22%	7.50%	7.00%
Fiscal Year 2031 and forward	Tax Year 2029 and forward	100%	7.50%	7.00%

Business Enterprise Tax

Section 3 of the proposed legislation reduces the Business Enterprise Tax (BET) rate by 0.1% per tax year from 0.45% to 0.25% beginning with taxable periods ending on or after December 31, 2025 and ending with taxable periods ending on or after December 31, 2027. The effective date is July 1, 2024.

The fiscal impact of this proposed legislation is an indeterminable decrease to the GF and ETF starting in FY 2025. The DRA has calculated a possible fiscal impact based on a prior year’s revenue as follows:

1. To calculate FY 2025 through FY 2029 revenues under current law as well as the proposed rate changes, the DRA used TY 2021 BET tax base of \$41.0 billion as the starting point. The applicable BET rate for taxable periods ending on or after December 31, 2021, was 0.6%.
2. The DRA analyzed prior years to break out the split of tax year revenue to fiscal year revenue and applied it to FY 2025 as follows: 15% attributable to TY 2023, 63% attributable to TY 2024, and 22% attributable to TY 2025.
3. Under current law. The BET rate for taxable periods ending on or after December 31, 2022, is 0.55%. DRA applied this rate to calculate the estimated revenue under current law, as shown in the second column of the table below.
4. The BET rate changes contained in this proposed legislation are then applied to calculate an estimated revenue as shown in the third column of the table below.

This calculation was not adjusted for the gross receipts or the enterprise value tax base threshold changes.

The fiscal impact of the proposed rate reduction may be overstated or understated for future fiscal years depending on whether actual liability is more or less than TY 2021.

Business Enterprise Tax- Static Analysis Using Tax Year 2021 BET Tax				
Fiscal Year	Current Law Revenue Using TY2021 BET Tax	Estimated Revenue with Proposed Legislation	Estimated Fiscal Impact Per Year	Cumulative Fiscal Impact
2024	\$225,400,000	\$225,400,000	\$0	\$0
2025	\$225,400,000	\$216,400,000	(\$9,000,000)	(\$9,000,000)
2026	\$225,400,000	\$181,600,000	(\$43,800,000)	(\$52,800,000)
2027	\$225,400,000	\$140,600,000	(\$84,800,000)	(\$137,600,000)
2028	\$225,400,000	\$108,600,000	(\$116,800,000)	(\$254,400,000)
2029	\$225,400,000	\$102,500,000	(\$122,900,000)	(\$377,300,000)

Fiscal Year	Tax Year	% Applicable to Tax Year	Current Law BET Rates	Proposed Law BET Rates
Fiscal Year 2025	Tax Year 2023	15%	0.55%	0.55%
	Tax Year 2024	63%	0.55%	0.55%
	Tax Year 2025	22%	0.55%	0.45%
Fiscal Year 2026	Tax Year 2024	15%	0.55%	0.55%
	Tax Year 2025	63%	0.55%	0.45%
	Tax Year 2026	22%	0.55%	0.35%
Fiscal Year 2027	Tax Year 2025	15%	0.55%	0.45%
	Tax Year 2026	63%	0.55%	0.35%
	Tax Year 2027	22%	0.55%	0.25%
Fiscal Year 2028	Tax Year 2026	15%	0.55%	0.35%
	Tax Year 2027	63%	0.55%	0.25%
	Tax Year 2028	22%	0.55%	0.25%
Fiscal Year 2029 and forward	Tax Year 2027 and forward	100%	0.55%	0.25%

Communications Services Tax

Sections 4 and 5 of the proposed legislation reduces the Communications Services Tax (CST) from the current rate of 7% for each month through June 2024, to 3.5% for each month from July 2024 through June 2025, and to 1.75% for each month thereafter.

These rate reductions shall be effective July 1, 2024. DRA assumes that the start of the rate change is applicable to CST activity from taxable periods beginning on or after July 1, 2024.

Sections 6 through 11 of the proposed legislation repeals the CST effective January 1, 2027, and deletes references made to RSA 82-A in other chapters of the RSA.

The fiscal impact of this proposed legislation is an indeterminable decrease to the GF starting in FY 2025. However, using CST data from a prior fiscal year, the DRA can calculate a static analysis using that prior year's data.

FY 2023 CST tax base was the tax collected (\$29.2 million) divided by the tax rate of 7.0% or \$416.9 million for the static base analysis.

The FY 2023 CST tax base is then multiplied by the new proposed tax rates: 2025 3.5% for July 2024 through June 2025, 1.75% for July 2025 through December 2026, and 0% (CST repeal) for January 1, 2027 onwards.

This proposed legislation is effective July 1, 2024 (FY 2025) for the CST phaseout and January 1, 2027 (FY 2028), for the CST repeal. CST is a monthly tax with estimates due by the 15th of

the taxable period the liability is incurred, and the return is due by the 15th of the month following the taxable period.

The following chart provides the total CST estimated revenue impact per fiscal year for the tax rate change from 7.0% to 0.0%.

The fiscal impact of the proposed rate reduction may be overstated or understated for future fiscal years depending on whether actual liability is more or less than FY 2023.

Communication Services Tax Static Analysis Using FY 2023 Revenues				
Fiscal Year	Current Law Revenue Using FY 2023 Tax	Estimated Revenue with Proposed Legislation	Estimated Fiscal Impact Per Fiscal Year	Cumulative Fiscal Impact
FY 2025	\$29,200,000	\$14,600,000	\$(14,600,000)	\$(14,600,000)
FY 2026	\$29,200,000	\$7,300,000	\$(21,900,000)	\$(36,500,000)
FY 2027	\$29,200,000	\$4,100,000	\$(25,100,000)	\$(61,600,000)
FY 2028 and forward	\$29,200,000	\$ -	\$(29,200,000)	\$(90,800,000)

Taxable Periods	Current CST Rate	Proposed CST Rate
07/01/2024 – 06/30/2025	7.00%	3.50%
07/01/2025 – 12/31/2026	7.00%	1.75%
01/01/2027 and forward	7.00%	0.00%

The CST rate reductions is effective July 1, 2024, and the proposed repeal is effective January 1, 2027. CST returns must be filed by the provider/retailer on the 15th day of the month for the preceding calendar month, accompanied by the tax collected. The DRA recommends specifying an applicability date. A suggestion would be applicable to taxable periods beginning on or after July 1, 2024, for the rate reduction and to taxable periods beginning on or after January 1, 2027 for the repeal.

Relative to the repeal of CST, DRA suggests adding additional relevant language as used in the 2023 HB2 as introduced by the Governor, which addresses delinquent filers and DRA’s assistance to the Department of Safety in the administration of the E911 system.

The following suggested additional language ensures that delinquent filers continue to be required to submit and remit the CST to the DRA, as follows:

Returns for Communications Services Taxes; 2027. All persons who are liable for a tax under RSA 82-A as of December 31, 2026, who thereafter are no longer liable for a tax under RSA 82-A because of the passage of this act shall make a return of such taxes due

the commissioner of revenue administration in such manner and on such forms as the commissioner shall prescribe in rules adopted under RSA 541-A. The administrative provisions of RSA 82-A shall remain in effect to permit the audit and collection of taxes upon income taxable under RSA 82-A which is received by persons subject to taxation under that chapter through December 31, 2026, and to permit distribution of that revenue.

The following suggested language allows the DRA to continue to assist the Department of Safety in administration of the E911 system via RAS 106-H:9, as follows:

New Subparagraph; Department of Revenue Administration; Investigations. Amend RSA 21-J:1 by inserting after subparagraph II(c) the following new subparagraph: (d) In order to assist the bureau of emergency communications, division of emergency services and communications, of the department of safety, in its administration of RSA 106-H:9, the department or any officer or employee of the department designated by the commissioner, may undertake investigations concerning matters covered by RSA 106-H:9 and may examine any books, papers, records, or memoranda bearing upon the business transacted or purchased by any such retailer or taxpayer.

And to allow DRA to promulgate rules to assist the Department of Safety, as follows:

New Paragraph; Department of Revenue; Rulemaking Authority. Amend RSA 21-J:13 by inserting after paragraph XIV the following new paragraph: XV. The undertaking of investigations concerning matters covered by RSA 106-H:9 and RSA 21-J:1, II(d).

DRA proposes the amendment to RSA 106-H:9, III(a) in Section 10 of the proposed legislation be made as follows:

III.(a) Notwithstanding any other provision of law, and except as otherwise provided in RSA [~~82-A~~] **21-J:1, II(d)**, the records and files of the department, related to this section, are confidential and privileged. Neither the department, nor any employee of the department, nor any other person charged with the custody of such records or files, nor any vendor or any of its employees to whom such information becomes available in the performance of any contractual services for the department shall disclose any information obtained from the department's records, files, or returns or from any examination, investigation, or hearing, nor may any such employee or person be required to produce any such information for the inspection of any person or for the use in any action or proceeding except as provided in this paragraph.

DRA proposes the amendment to RSA 106-H:9, III(b)(3) in Section 10 of the proposed legislation be made as follows:

(3) Disclosure to the department of revenue administration of records, files, and information required by the department of revenue administration to administer [~~the communications services tax pursuant to RSA 82-A~~] **RSA 21-J:1, II(d)** and to assist the bureau in its administration of RSA 106-H:9.

Meals & Rentals Tax Rate Decrease

Section 12 of the proposed legislation reduces the Meals & Rentals (M&R) Tax under RSA 78-A from the current rate of 8.5% for FY 2024 to 7.5% for FY 2025, to 6.5% for FY 2026, and to 6.0% for fiscal years thereafter. The proposed legislation also repeals the tax for meals costing \$1.00 or less. The DRA assumes that the intention on this bill is to not subject meals of \$1.00 and less to the M&R Tax. See Section D Technical or Mechanical Defects.

The effective date of the M&R rate changes is July 1, 2024. DRA assumes that the start of the rate change is applicable to M&R activity from taxable periods beginning on or after July 1, 2024.

Section 13 of the proposed bill increases the rate of distribution into the Meals and Rooms Municipal Revenue Fund, RSA 78-A:26, III, from 30% to 42.5% over three fiscal years. The distribution rate changes from the current 30% deposited on or before December 1, 2024, to 34% on or before December 1, 2025, to 39.2% on or before December 1, 2026, and to 42.5% on or before December 1, 2027, and each December 1 thereafter. The effective date is July 1, 2024. This proposed change would first affect the distribution beginning in FY 2026 for the required distribution on or before December 1, 2025, based on FY 2025 revenues.

The DRA assumes that increasing the M&R tax deposit into the Meals and Rooms Municipal Revenue Fund will result in an indeterminable increase in municipal revenue. However, with the M&R rate also concurrently being reduced, the DRA assumes the M&R tax rate decrease will reduce the deposits to the Municipal Revenue Fund. County revenues are not impacted by the proposed legislation.

The DRA would be responsible for updating all necessary tax return forms and electronic management systems related to this bill.

The proposed legislation would not result in any additional administrative costs that could not be absorbed in the DRA operating budget.

The fiscal impact of this proposed legislation is an indeterminable decrease to the GF and ETF starting in FY 2025. In general, tax on occupancy rentals and taxable meals are deposited to the GF and tax on motor vehicle rentals is deposited to the ETF. However, using M&R cash basis revenue data, the DRA can calculate a static analysis the fiscal impact using FY 2023 data.

M&R tax collected on a gross cash basis during FY 2023 was \$456.3 million. Operators retained commissions of \$11.9 million (2.62% of the total collected based on data reported by Operators in FY 2023). Thus, the total tax collected by operators net of commission for FY 2023 was \$444.4 million. The FY 2023 M&R tax base was the total tax collected (\$456.3 million) divided by the tax rate of 8.5%, or \$5,368.5 million for the static tax base.

The FY 2023 M&R tax base is then multiplied by the new proposed tax rates: 7.5% for FY 2025, 6.5% for FY 2026 and 6.0% for fiscal years thereafter, yielding a new estimated amount of tax collected by operators for each of those fiscal years. Using the same rate of commissions from

FY 2023, the commission retained under the new rate is calculated and subtracted from the new liability amount.

This proposed legislation is effective July 1, 2024 (FY 2025). M&R revenue is due by the 15th day of the month following the taxable period. The impact of this proposed M&R tax rate change would only begin in August 2024 onwards.

The following chart provides the total M&R estimated revenue impact per fiscal year for the tax rate change from 8.5% to 6.0%.

The DRA is unable to estimate the fiscal impact on the exclusion of M&R tax on meals costing \$1 and below because the DRA does not distinguish taxable meals of that price range from the other taxable meals. However, due to the cost of such meals, the DRA estimates that the fiscal impact to be nominal.

The fiscal impact of the proposed rate reduction may be overstated or understated for future fiscal years depending on whether actual liability is more or less than FY 2023.

Meals & Rentals Tax - Static Analysis using FY 2023 Revenue				
Fiscal Year	Current Law Revenue (net of commission) Using FY 2023 Tax	Estimated Revenue with Proposed Legislation	Estimated Fiscal Impact Per Fiscal Year	Cumulative Fiscal Impact
2025	\$444,400,000	\$396,700,000	\$(47,700,000)	\$(47,700,000)
2026	\$444,400,000	\$344,500,000	\$(99,900,000)	\$(147,600,000)
2027	\$444,400,000	\$316,000,000	\$(128,400,000)	\$(276,000,000)
2028 and forward	\$444,400,000	\$313,700,000	\$(130,700,000)	\$(406,700,000)

Fiscal Year	Current M&R Rate	Proposed M&R Rate
2025 (collections beginning 8/1/2024)	8.5%	7.5%
2026 (collections beginning 8/1/2025)	8.5%	6.5%
2027 (collections beginning 8/1/2026)	8.5%	6.0%
2028 and forward	8.5%	6.0%

Meals & Rentals Tax Distribution Increase

Under current law, 30% of prior fiscal year’s M&R tax revenue net of DRA’s cost to administer the M&R tax and the motor vehicle rental tax portion of the M&R tax shall be deposited into the

M&R Municipal Revenue Fund. This proposed bill changes that rate from 30% to 42.5% over a period of three fiscal years.

This section of the proposed legislation would result in an indeterminable decrease to the general fund and an indeterminable increase of the same amount to the M&R Municipal Revenue Fund (MRF). The DRA calculated a static analysis of the fiscal impact using historical data and the calculation made above.

To calculate the impact of the MRF transfer, an analysis based on FY 2023’s M&R revenue results (used to calculate the FY2024 MRF transfer) was used to calculate the impact of changing the MRF distribution percentage from 30% to 34%, 39.2% and 42.5%. The FY 2026 through FY 2027 revenue results are calculated based on the proposed tax rate decrease.

The following chart provides the change to the transfer to the Municipal Revenue Fund from 30% to 42.5%, incorporating the M&R tax rate changes 8.5% to 6.0% over three fiscal years.

Meals & Rentals Tax - Static Analysis using FY 2024 Municipal Fund Calculation				
Fiscal Year	M&R Revenue Net of Distribution to MRF and School Building Aid (Using Proposed Tax Rate Change)	Estimated Net Revenue with Proposed Municipal Fund Distribution Rates	Estimated Fiscal Impact Per Fiscal Year	Cumulative Fiscal Impact
2026	\$214,300,000	\$198,900,000	\$(15,400,000)	\$(15,400,000)
2027	\$202,100,000	\$171,400,000	\$(30,700,000)	\$(46,100,000)
2028 and forward	\$208,400,000	\$170,200,000	\$(38,200,000)	\$(84,300,000)

The combined impact of the M&R rate reduction and increase distribution to the MFR are shown in the table below.

Fiscal Year	Estimated Fiscal Impact Per Fiscal Year (Proposed Legislation Compared to Current Law)	Cumulative Fiscal Impact (Proposed Legislation Compared to Current Law)
2025	\$(47,700,000)	\$(47,700,000)
2026	\$(115,300,000)	\$(163,000,000)
2027	\$(159,100,000)	\$(322,100,000)
2028 and forward	\$(168,900,000)	\$(491,000,000)

The proposed legislation amends RSA 78-A:6, II by removing the tax rates for taxable meals of \$1.00 and less. RSA 78-A:3, XXV defines “taxable meals” means any meal for which a charge is

made that is purchased from a person in the business of operating a restaurant, and which is subject to a tax under RSA 78-A:6. Meals of \$1.00 and less would no longer qualify as a “taxable meal” because those meals are no longer subject to tax under RSA 78-A:6. DRA suggests that RSA 78-A:3, XXV also be amended to exclude meals of \$1.00 and less.

M&R operators might find it challenging to implement the change to their point-of-sale system to exclude items of \$1 and below from the M&R tax.

The DRA suggests that the effective date of this proposed legislation be October 1, 2024, as there would not be enough time to inform operators of the rate change using the proposed effective date.

The proposed M&R rate decrease is effective July 1, 2024. M&R returns must be filed by the operator on the 15th day of the month for the preceding calendar month, accompanied by the tax collected. The DRA recommends specifying an applicability date. Should the suggestion of October 1, 2024 above to accepted, DRA suggest an applicable taxable period of on or after October 1, 2024.

Total Impact of the Consumer Tax Relief Act							
Fiscal Year	BPT Estimated Fiscal Impact Per Year	BET Estimated Fiscal Impact Per Year	CST Estimated Fiscal Impact Per Year	M&R Rate Change Estimated Fiscal Impact Per Year	M&R Distribution Estimated Fiscal Impact Per Year	Total Estimated Fiscal Impact Per Year	Cumulative Estimated Fiscal Impact Per Year
2025	\$(3,900,000)	\$(9,000,000)	\$(14,600,000)	\$(47,700,000)	\$-	\$(75,200,000)	\$(75,200,000)
2026	\$(12,700,000)	\$(43,800,000)	\$(21,900,000)	\$(99,900,000)	\$(15,400,000)	\$(193,700,000)	\$(268,900,000)
2027	\$(22,800,000)	\$(84,800,000)	\$(25,100,000)	\$(128,400,000)	\$(30,700,000)	\$(291,800,000)	\$(560,700,000)
2028	\$(33,200,000)	\$(116,800,000)	\$(29,200,000)	\$(130,700,000)	\$(38,200,000)	\$(348,100,000)	\$(908,800,000)
2029	\$(43,500,000)	\$(122,900,000)	\$(29,200,000)	\$(130,700,000)	\$(38,200,000)	\$(364,500,000)	\$(1,273,300,000)
2030	\$(51,600,000)	\$(122,900,000)	\$(29,200,000)	\$(130,700,000)	\$(38,200,000)	\$(372,600,000)	\$(1,645,900,000)
2031	\$(53,100,000)	\$(122,900,000)	\$(29,200,000)	\$(130,700,000)	\$(38,200,000)	\$(374,100,000)	\$(2,020,000,000)