

New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

24-2176.1

HB 1515, *reduces the meals and rooms tax rate for taxable meals from 8.5 percent to 7.5 percent and sets a minimum amount of revenue apportioned to towns.*

House Ways & Means

Reduces the meals and rooms tax rate for taxable meals from 8.5 percent to 7.5 percent and sets a minimum amount of revenue apportioned to towns

Section 1 of the proposed legislation reduces the Meals and Rooms (M&R) tax rate on taxable meals under RSA 78-A:6, II from 8.5% to 7.5%. The proposed legislation also repeals the tax rates for meals of \$0.36 to \$1.00. The DRA assumes that the intention on this bill is to not subject meals of \$1.00 and less to the M&R Tax. The M&R tax rate for room occupancy and motor vehicle rentals remains at 8.5%.

Section 2 of the proposed legislation amends the distribution to the Meals and Rooms Municipal Revenue Fund (MRF) under RSA 78-A:26, III to include a minimum transfer amount of \$129,200,000 should the current calculation of 30% of net M&R income of the most recent fiscal year fall below that amount.

Meals & Rooms Tax Rate Decrease

The M&R tax rate change would result in an indeterminable decrease to the General Fund (GF). Using M&R cash basis revenue data, the DRA calculates an estimated fiscal impact based on 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 for FY 2023 was \$444.4 million. Out of the M&R tax collected, the Meals portion of the tax collected on a gross cash basis during FY 2023 was \$357.9 million. Operators retained commission on the Meals tax amounted to \$9.3 million. Thus, the Meals tax remitted to DRA by operators for FY 2023 was \$348.6 million. The FY 2023 Meals tax base was the total tax collected before commission (\$357.9 million) divided by the tax rate of 8.5%, or \$4.2 billion for the static tax base.

The FY 2023 Meals tax base of \$4.2 billion is then multiplied by the new proposed 7.5% tax rate, yielding a new estimated amount of Meals tax collected by operators. The same rate of commission from FY 2023 is subtracted and the Meals tax revenue to be submitted to DRA is calculated.

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 Meals tax rate change would be recognized in August 2024 and onwards.

The following chart provides the total M&R estimated revenue impact per fiscal year for the Meals tax rate change from 8.5% to 7.5%:

Meals & Rooms Tax - Static Analysis using FY 2023 Revenues				
Fiscal Year	FY 2023 M&R Revenue - Current Law (cash basis less commissions)	Estimated FY Revenue with the proposed rate of 7.5% for Meals	Estimated Fiscal Impact Per Fiscal Year (Proposed Legislation Compared to Current Law)	Cumulative Fiscal Impact (Proposed Legislation Compared to Current Law)
2025	\$444,400,000	\$406,700,000	(\$37,700,000)	(\$37,700,000)
2026	\$444,400,000	\$403,300,000	(\$41,100,000)	(\$78,800,000)
2027 and onwards	\$444,400,000	\$403,200,000	(\$41,200,000)	(\$120,000,000)

Meals & Rooms 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 MRF.

The proposed reduction of the Meals tax rate from 8.5% to 7.5% would reduce the MRF transfer for the following fiscal year. Section 2 of the proposed legislation sets a minimum amount of \$129,200,000 that would be transferred to the MRF. Should the calculations under current law result in a MRF transfer of less than \$129,200,000, Section 2 would result in an indeterminable decrease to the GF up to the \$129,200,000 and a similar increase to the MRF. The DRA is unable to estimate the exact future impact of the proposed MRF transfer change because the DRA cannot predict what the total revenues from the

The DRA calculates an estimated fiscal impact based on a static analysis using historical data and the proposed tax rate in the table above.

Each fiscal year’s MRF transfer is calculated based on the M&R tax revenue from the previous fiscal year. FY 2025’s calculation will be based on FY 2024 M&R tax revenue, which will not be affected by the proposed Meals tax rate change to 7.5%. For FY 2026 and beyond, the base M&R tax revenue that will be used to calculate the MRF transfer will include the effect of the Meals tax revenue at the proposed reduced rate of 7.5%. DRA used the results from the estimated FY M&R tax revenue as shown in the table above for FYs 2025 and beyond as the base to perform our calculations for the MRF transfer for FY2026 and beyond. In our calculations, we used the latest (FY 2023) calculated cost to administer of \$2.4 million of the M&R tax as the deduction against each FY’s base before applying the transfer rate of 30% or \$129,200,000.

The following chart provides the change to the transfer to the MRF, with the incorporation of the Meals tax rate change to 7.5%.

M&R Distribution Formula Estimates and Fiscal Impacts to the General Fund				
Fiscal Year	Calculated Transfer at 30% to Municipal Revenue Fund	Estimated Transfer to Municipal Revenue Fund at 30% or \$129,200,000 (whichever is greater)	Difference: Estimated Fiscal Impact Per Year (Proposed Legislation Compared to Current Law)	Cumulative Fiscal Impact (Proposed Legislation Compared to Current Law)
2025	\$129,500,000	\$129,500,000	-	-
2026	\$118,200,000	\$129,200,000	(\$11,000,000)	(\$11,000,000)
2027	\$117,200,000	\$129,200,000	(\$12,000,000)	(\$23,000,000)

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 “taxable meal” because those meals are no longer subject to tax under RSA 78-A:6. M&R operators might find it challenging to implement the change to their Point of Sale (POS) 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.