

HB 1629-FN - AS INTRODUCED

2026 SESSION

26-3001
07/09

HOUSE BILL ***1629-FN***

AN ACT repealing the business enterprise tax.

SPONSORS: Rep. Ankarberg, Straf. 7; Rep. Tom Mannion, Hills. 1

COMMITTEE: Ways and Means

ANALYSIS

This bill repeals the business enterprise tax and all references thereto.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty-Six

AN ACT repealing the business enterprise tax.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 The State and Its Government; State Treasurer; Application of Receipts. Amend RSA 6:12,
2 I(b)(65) to read as follows:

3 (65) Money received under RSA 77-A, ~~[RSA 77-E,]~~ RSA 78, RSA 78-A, RSA 78-B,
4 RSA 83-F, RSA 284:44 and RSA 284:47, and from the sweepstakes fund, which shall be credited to
5 the education trust fund under RSA 198:39.

6 2 The State and Its Government; State Treasurer; Exemptions From Certain Reporting
7 Requirements. Amend RSA 6:12-k, I(d) to read as follows:

8 (d) RSA 6:12, I, (b)(65), relative to money received under RSA 77-A, ~~[RSA 77-E,]~~ RSA 78,
9 RSA 78-A, RSA 78-B, RSA 83-F, RSA 284:44 and RSA 284:47, and from the sweepstakes fund, which
10 shall be credited to the education trust fund under RSA 198:39.

11 3 The State and Its Government; Department of Administrative Services; Granite State Paid
12 Family Leave Plan. Amend RSA 21-I:99 to read as follows:

13 21-I:99 Granite State Paid Family Leave Plan. There is hereby established the granite state
14 paid family leave plan, which shall be implemented under this subdivision and as provided in RSA
15 282-B ~~[and RSA 77-E]~~.

16 4 The State and Its Government; Statute of Limitations and Penalties; Penalty for Failure to
17 File. Amend RSA 21-J:31 to read as follows:

18 21-J:31 Penalty for Failure to File. Any taxpayer who fails to file a return when due, unless an
19 extension has been granted by the department, shall pay a penalty equal to 5 percent of the amount
20 of the tax due or \$10, whichever is greater, for each month or part of a month during which the
21 return remains unfiled. The total amount of any penalty shall not, however, exceed 25 percent of the
22 amount of the tax due or \$50, whichever is greater. This penalty shall not be applied in any case in
23 which a return is filed within the extended filing period as provided in RSA 77-A:9, ~~[RSA 77-E:8,]~~
24 RSA 83-C:6, RSA 84-A:7, or RSA 84-C:7, or the failure to file was due to reasonable cause and not
25 willful neglect of the taxpayer. The amount of the penalty is determined by applying the
26 percentages specified to the net amount of any tax due after crediting any timely payments made
27 through estimating or other means.

28 5 The State and Its Government; Statute of Limitations and Penalties; Substantial
29 Understatement Penalty. Amend RSA 21-J:33-a, I to read as follows:

30 I. If there is a substantial understatement of tax imposed under RSA 77-A, ~~[RSA 77-E,]~~ RSA
31 78-A, RSA 78-C, RSA 82-A, RSA 83-C, or RSA 84-A for any taxable period, there shall be added to

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1 the tax an amount equal to 25 percent of the amount of any underpayment attributable to such
2 understatement.

3 6 The State and Its Government; Department of Revenue Administration; Extension of Tax
4 Filing Deadlines for Members of the Armed Forces and National Guard. Amend RSA 21-J:46, III to
5 read as follows:

6 III. This section shall apply only to tax returns and associated payments under RSA 77-A
7 ~~[and RSA 77-E]~~.

8 7 Taxation; Tax Expenditure and Potential Liability Reports; Tax Expenditures Specified.
9 Amend RSA 71-C:2 to read as follows:

10 71-C:2 Tax Expenditures Specified. Tax expenditures include, but may not be limited to, the
11 community development finance authority investment tax credit as computed in RSA 162-L:10; the
12 economic revitalization zone tax credit as computed in RSA 162-N:6; the research and development
13 tax credit under RSA 77-A:5, XIII; ~~[the Coos county job creation tax credit under RSA 77-E:3-e]~~ the
14 education tax credit as computed in RSA 77-G:4; the regional career and technical education center
15 tax credit pursuant to RSA 188-E:9-a; and the exemption for qualified regenerative manufacturing
16 companies allowed under RSA 77-A:1, I ~~[and RSA 77-E:1, III]~~.

17 8 Taxation; Tax Expenditure and Potential Liability Reports; Tax Expenditure and Potential
18 Liability Report. Amend RSA 71-C:4, I to read as follows:

19 I. On or before December 15 of every fiscal year the commissioner of the department of
20 revenue administration shall certify in a report to the general court and the governor an analysis of
21 each of the past fiscal year's tax expenditures as identified in RSA 71-C:2, and other credits allowed
22 under RSA 77-A, ~~[RSA 77-E]~~ RSA 77-G, RSA 78, RSA 78-A, 78-B, RSA 82-A, RSA 84-A, RSA 84-C,
23 and RSA 400-A.

24 9 Taxation; Tax Expenditure and Potential Liability Reports; Tax Expenditure and Potential
25 Liability Report. Amend RSA 71-C:4, II(b)(1) to read as follows:

26 (1) Other credits allowed under RSA 77-A, ~~[RSA 77-E]~~, RSA 77-G, RSA 78, RSA 78-
27 A, RSA 78-B, RSA 82, RSA 82-A, RSA 83-E, RSA 84-A, RSA 84-C, and RSA 400-A against the
28 business profits tax imposed by RSA 77-A; and

29 10 Taxation; Business Profits Tax; Election and Reporting for Qualified Investment Companies.
30 Amend RSA 77-A:5-b, IV to read as follows:

31 IV. The qualified investment company shall be subject to the provisions of RSA 77-A:11 ~~[and~~
32 ~~RSA 77-E:10]~~. The commissioner is authorized to audit and enforce such provisions with any of the
33 powers granted under this chapter ~~[and RSA 77-E]~~.

34 11 Taxation; Business Profits Tax; Election and Reporting for Qualified Regenerative
35 Manufacturing Companies. Amend RSA 77-A:5-c, V to read as follows:

1 V. The qualified regenerative manufacturing company shall be subject to the provisions of
2 RSA 77-A:11 [~~and RSA 77-E:10~~]. The commissioner is authorized to audit and enforce such
3 provisions with any of the powers granted under this chapter [~~and RSA 77-E~~].

4 12 Taxation; Business Profits Tax; Payments Due With Returns and With Estimates. Amend
5 RSA 77-A:7, I(a) to read as follows:

6 (a) All business organizations required under RSA 77-A:6, II to make payments of
7 estimated tax shall make such payments in installments as follows: 25 percent is due and payable on
8 the fifteenth day of the fourth month of the subsequent taxable year; 25 percent is due and payable
9 on the fifteenth day of the sixth month of the subsequent taxable year; 25 percent is due and payable
10 on the fifteenth day of the ninth month of the subsequent taxable year; and 25 percent is due and
11 payable on the fifteenth day of the twelfth month of the subsequent taxable year. [~~Any business
12 enterprise tax credit which may be applied under RSA 77-A:5, X may be applied to the estimated tax
13 payments.~~]

14 13 Taxation; Education Tax Credit; Definitions. RSA 77-G:1, IV is repealed and reenacted to
15 read as follows:

16 IV. "Business enterprise" means any profit or nonprofit enterprise or organization, whether
17 corporation, partnership, limited liability company, proprietorship, association, trust, foundation,
18 business trust, real estate trust or other form of organization engaged in or carrying on any business
19 activity within this state, except such enterprises as are expressly made exempt from income
20 taxation under section 501(c)(3) of the United States Internal Revenue Code to the extent such
21 enterprise does not engage in any business activity constituting unrelated business activity as
22 defined by section 513 of the United States Internal Revenue Code. The use of consolidated returns
23 as defined in the United States Internal Revenue Code or of combined reporting is not permitted.
24 Notwithstanding any other provision of this paragraph, an enterprise shall not be characterized as a
25 business enterprise and shall be excluded from taxation at the entity level if it is a qualified
26 investment company or if it is a qualified regenerative manufacturing company.

27 14 Taxation; Education Tax Credit. Amend RSA 77-G:3 to read as follows:

28 77-G:3 Contributions to Scholarship Organizations. For each contribution made to a scholarship
29 organization, a business organization, business enterprise, or individual may claim a credit equal to
30 85 percent of the contribution against the business profits tax due pursuant to RSA 77-A[~~, against
31 the business enterprise tax due pursuant to RSA 77-E,~~] or apportioned against each provided the
32 total credit granted shall not exceed the maximum education tax credit allowed. [~~Credits provided
33 under this chapter shall not be deemed taxes paid for the purposes of RSA 77-A:5, X.~~] The
34 department of revenue administration shall not grant the credit without a scholarship receipt. No
35 business organization, business enterprise, or individual shall direct, assign, or restrict any
36 contribution to a scholarship organization for the use of a particular student or nonpublic school. No

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1 business organization, business enterprise, or individual shall receive more than 10 percent of the
2 aggregate amount of tax credits permitted in RSA 77-G:4.

3 15 Public Safety and Welfare; Community Development Finance Authority; New Investment
4 Tax Credit. Amend RSA 162-L:10, I and II to read as follows:

5 I. An investment tax credit equal to 75 percent of the contribution made to the authority
6 during the contributor's tax year shall be allowed against any of the following individually or in
7 combination:

8 (a) Taxes imposed by RSA 77-A.

9 (b) Taxes imposed by RSA 400-A.

10 ~~[(c) Taxes imposed by RSA 77-E.]~~

11 II. Credits provided by this section applied against the liabilities imposed by RSA 400-A
12 ~~[and RSA 77-E]~~ shall be deemed to be taxes paid for the purpose of RSA 77-A:5, III ~~[and X,~~
13 ~~respectively]~~.

14 16 Public Safety and Welfare; Economic Revitalization Zone Tax Credits; Application of
15 Economic Revitalization Zone Tax Credit. Amend RSA 162-N:7 to read as follows:

16 162-N:7 Application of Economic Revitalization Zone Tax Credit. The economic revitalization
17 zone tax credit shall be applied against the business profits tax under RSA 77-A~~[- and any unused~~
18 ~~portion thereof may be applied against the business enterprise tax under RSA 77-E]~~. Any unused
19 portion of the credit allowed under this chapter or any eligible credit in excess of \$40,000 allowed
20 under this chapter, may be carried forward and allowed against taxes due under RSA 77-A ~~[or RSA~~
21 ~~77-E]~~ for 5 taxable periods from the taxable period in which the tax was paid. ~~[For the purpose of the~~
22 ~~credit allowed under RSA 77-A:5, X, the economic revitalization zone credit shall be considered taxes~~
23 ~~paid under RSA 77-E.]~~

24 17 Labor; Employee Leasing Companies; Tax Credits. Amend RSA 277-B:17-a to read as
25 follows:

26 277-B:17-a Tax Credits. ~~[For purposes of determination of business profits tax credits under~~
27 ~~RSA 77-A, Coos county job creation credits under RSA 162-Q, economic revitalization zone credits~~
28 ~~under RSA 162-N, or any other available statutory tax credits provided by this state that are based~~
29 ~~on employment, leased employees shall be deemed employees solely of the client company if an~~
30 ~~election is made pursuant to RSA 77-E:13-a.]~~ A client company shall be entitled to the benefit of any
31 such tax credit arising as the result of the employment of leased employees of such client company.
32 Notwithstanding that the employee leasing company is the W-2 reporting employer, the client
33 company shall continue to qualify for business profits tax credits under RSA 77-A, Coos county job
34 creation credits under RSA 162-Q, economic revitalization zone credits under RSA 162-N, or any
35 other available statutory tax credits. Leased employees working for other client companies of the
36 employee leasing company shall not be counted together. Each employing leasing company shall
37 provide, upon request by a client company, state agency, or department responsible for

1 administration of any such tax credit, employment information reasonably required by such agency
2 or department and necessary to support any request, claim, application, or other action by a client
3 company seeking any such tax credit. This section shall not apply to the administration of RSA 282-
4 A.

5 18 Corporations, Associations, and Proprietors of Common Lands; Dissolution; Effect of
6 Dissolution. Amend RSA 293-A:14.05, (b) to read as follows:

7 (b) Prior to making any distributions of its remaining property among its shareholders
8 according to their interests, the corporation shall first obtain a certificate of dissolution from the
9 department of revenue administration in accordance with RSA 77-A:18 ~~and RSA 77-E:12~~.

10 19 Corporations, Associations, and Proprietors of Common Lands; Dissolution; Reinstatement
11 Following Administrative Dissolution. Amend RSA 293-A:14.22, (a)(4) to read as follows:

12 (4) contain a certificate from the department of revenue administration in
13 accordance with RSA 77-A:18, III~~[- and RSA 77-E:12, III]~~, if such application is received by the
14 secretary of state more than 120 days after the notice of administrative dissolution is mailed.

15 20 Corporations, Associations, and Proprietors of Common Lands; Dissolution; Late
16 Reinstatement. Amend RSA 293-A:14.22-a, (a)(4) to read as follows:

17 (4) Contain a certificate from the New Hampshire department of revenue
18 administration in accordance with RSA 77-A:18, III~~[- and RSA 77-E:12, III]~~;

19 21 Corporations, Associations, and Proprietors of Common Lands; Dissolution; Withdrawal of
20 Foreign Corporation. Amend RSA 293-A:15.20, (b)(6) to read as follows:

21 (6) a statement of withdrawal from the New Hampshire department of revenue
22 administration in accordance with RSA 77-A:18, II ~~and RSA 77-E:12, II~~.

23 22 Repeals. The following are repealed:

24 I. RSA 77-A:5, X, relative to business enterprise tax credits.

25 II. RSA 77-E, relative to the business enterprise tax.

26 III. RSA 162-Q:3, relative to reports filed with the general court concerning the business
27 enterprise tax credit program.

28 IV. RSA 198:39, II(b), relative to funds certified to the state treasurer regarding the
29 business enterprise tax.

30 V. RSA 277-B:9, I(h), relative to responsibilities of employee leasing companies to pay taxes
31 under RSA 77-E.

32 VI. RSA 400-A:34-a, relative to credits for business enterprise taxes.

33 23 Effective Date. This act shall take effect July 1, 2027.

**HB 1629-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT repealing the business enterprise tax.

FISCAL IMPACT:

Estimated State Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
Revenue	\$0	Indeterminable Decrease		
<i>Revenue Fund(s)</i>	General Fund and Education Trust Fund			
Expenditures*	\$0	\$36,500	\$0	\$0
<i>Funding Source(s)</i>	General Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

***Expenditure = Cost of bill**

***Appropriation = Authorized funding to cover cost of bill**

METHODOLOGY:

This bill repeals the Business Enterprise Tax (BET) and associated tax credits effective July 1, 2027. The Department of Revenue Administration notes the bill does not specify which tax year the repeal applies. For purposes of this fiscal note, the Department assumes the first tax year impacted by the repeal is Tax Year (TY) 2028 (taxable periods ending on or after December 31, 2028), which is the first tax year after the July 1, 2027 effective date.

The Department notes language should be added to the bill to effectuate the repeal without eliminating the ability of the Department to continue to administer and audit the tax periods prior to the repeal. Additionally, there may need to be further language cleanup in the statutes with deleted references.

The Department also notes the BET was enacted in 1993 during the pendency of a declaratory judgment action (eventually settled) that argued the business profits tax was unconstitutional because it treats different classes of businesses disparately. Repeal of the tax could again result in the same arguments being litigated.

The Department states this bill will decrease General Fund and Education Trust Fund revenues by an indeterminable amount. While the Department is not able to provide the exact fiscal

impact, using TY 2023 data with the following assumptions the Department is able to provide an estimated impact of the repeal of the BET:

- the BET tax base in future years will be the same as in TY2023.
- To calculate FY2028 through FY2030 revenues under current law as well as the proposed repeal, the DRA used TY2023 BET tax base of \$46.9 billion as the starting point. The applicable BET rate for taxable periods ending on or after December 31, 2023 was 0.55%.
- Because revenue for a given tax year is realized in multiple fiscal years, the DRA did an analysis based on prior years to break out the split of tax year revenue to fiscal year revenue and applied it to FY2028 as follows: 12% attributable to TY2026, 69% attributable to TY2027, and 19% attributable to TY2028.

Fiscal Year	Tax Year	% Applicable to Tax Year	Current Law BPT Rates	Proposed Law BPT Rates
2028	TY 2026	12%	0.55%	0.55%
	TY 2027	69%	0.55%	0.55%
	TY 2028	19%	0.55%	0.00%
2029	TY 2027	12%	0.55%	0.55%
	TY 2028	69%	0.55%	0.00%
	TY 2029	19%	0.55%	0.00%
2030 and forward	TY 2028 and forward	100%	0.55%	0.00%

Based on the assumptions, the Department is able to provide the potential impact on revenues in the table below.

Business Enterprise Tax All Funds- Static Analysis using TY 2023 Liability				
Fiscal Year	Current Law Revenue Using TY2023 BET Tax	Estimated Revenue with Proposed Legislation	Estimated Fiscal Impact Per Year	Cumulative Fiscal Impact
2028	\$257,800,000	\$208,800,000	(\$49,000,000)	(\$49,000,000)
2029	\$257,800,000	\$30,900,000	(\$226,900,000)	(\$275,900,000)
2030 and Forward	\$257,800,000	\$0	(\$257,800,000)	(\$533,700,000)

Further, the Department provided two additional tables - one showing impact on the General Fund and the other showing the impact on the Education Trust Fund.

Business Enterprise Tax General Fund - Static Analysis using TY 2023 Liability				
Fiscal Year	Current Law Revenue Using TY2023 BET Tax	Estimated Revenue with Proposed Legislation	Estimated Fiscal Impact Per Year	Cumulative Fiscal Impact
2028	\$157,300,000	\$127,400,000	(\$29,900,000)	(\$29,900,000)
2029	\$157,300,000	\$18,800,000	(\$138,500,000)	(\$168,400,000)
2030 and Forward	\$157,300,000	\$0	(\$157,300,000)	(\$325,700,000)

Business Enterprise Tax Education Trust Fund - Static Analysis using TY 2023 Liability				
Fiscal Year	Current Law Revenue Using TY2023 BET Tax	Estimated Revenue with Proposed Legislation	Estimated Fiscal Impact Per Year	Cumulative Fiscal Impact
2028	\$100,500,000	\$81,400,000	(\$19,100,000)	(\$19,100,000)
2029	\$100,500,000	\$12,100,000	(\$88,400,000)	(\$107,500,000)
2030 and Forward	\$100,500,000	\$0	(\$100,500,000)	(\$208,000,000)

The Department states business taxpayers are allowed to carry over 500% of their prior tax year's liability as an overpayment on account for future tax years. With the elimination of the BET tax, carry overs from BET only taxpayers will most likely be refunded. At the end of FY2025 approximately \$152.8 million was estimated to be a liability. Taking the BET split of 24.3% for TY2023 and applying to the percentage of BET only filers of 55.1%, there is potential for an additional \$20.5 million in forced refunds during the FY 2028 and FY 2029. Refunds are issued from the General Fund.

Repealing the BET will eliminate the BET credit available to offset the Business Profits Tax (BPT), increasing BPT revenue. However, the BPT increase will be less than the BET decrease because not all taxpayers have a BPT liability to be offset by a BET credit and not all taxpayer's BET liability exceeds the BPT credit. In those situations, the BET loss in revenue is not offset by an increased BPT liability. For informational purposes, the FY 2024 Tax Expenditure and Potential Liability Report indicated the BET credit used against the BPT was \$177.9 million.

The Department states the proposed legislation would not result in any additional administrative costs that could not be absorbed in its operating budget other than a mail campaign to inform affected taxpayers of the repeal at a cost of approximately \$36,500.

AGENCIES CONTACTED:

Department of Revenue Administration