

HB 503-FN - AS INTRODUCED

2025 SESSION

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07/05

HOUSE BILL

503-FN

AN ACT amending how revenues from taxes are allocated to the education trust fund.

SPONSORS: Rep. Schamberg, Merr. 6

COMMITTEE: Ways and Means

ANALYSIS

This bill increases the rates of the business profits tax, business enterprise tax, and meals and rooms tax, and reestablishes the interest and dividends tax. The bill provides for deposit of the additional revenue in the education trust fund.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Five

AN ACT amending how revenues from taxes are allocated to the education trust fund.

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

1 1 Taxation of Incomes; Rate; New Tax Rate. RSA 77:1 is repealed and reenacted to read as
2 follows:

3 77:1 Rate. The annual tax upon incomes shall be levied at the rate of 5 percent for all taxable
4 periods ending on or after December 31, 2025.

5 2 Taxation of Incomes; Who Taxable; Taxable Income. RSA 77:3 is repealed and reenacted to
6 read as follows:

7 77:3 Who Taxable.

8 I. Taxable income is that income received from interest and dividends during the tax year
9 prior to the assessment date by:

10 (a) Individuals who are inhabitants or residents of this state for any part of the taxable
11 year whose gross interest and dividend income from all sources, including income from a qualified
12 investment company pursuant to RSA 77:4, V, is greater than or equal to \$20,000 during that
13 taxable period.

14 (b) Partnerships, limited liability companies, and associations, the beneficial interest in
15 which is not represented by transferable shares, whose gross interest and dividend income from all
16 sources is greater than or equal to \$20,000, during the taxable year, but not including a qualified
17 investment company as defined in RSA 77-A:1, XXI, or a trust comprising a part of an employee
18 benefit plan, as defined in the Employee Retirement Income Security Act of 1974, section 3.

19 (c) Executors deriving their appointment from a court of this state whose gross interest
20 and dividend income from all sources is greater than or equal to \$20,000 during the taxable year.

21 II. No person shall be subject to tax under RSA 77 solely due to its holding an ownership
22 interest in a qualified investment company as defined in RSA 77-A:1, XXI.

23 3 New Paragraph; Business Profits Tax; Imposition of Tax; New Tax Rate. Amend RSA 77-A:2
24 by inserting after paragraph III the following new paragraph:

25 IV. For all taxable periods ending on or after December 31, 2025, a tax is imposed at the rate
26 of 8.5 percent upon the taxable business profits of every business organization.

27 4 Business Profits Tax; Distribution of Funds. Amend RSA 77-A:20-a, I to read as follows:

28 I. The commissioner shall determine 41 percent of the revenue produced by the **first 7.5**
29 **percent of the** tax imposed by RSA 77-A:2 for each fiscal year and shall certify such amounts to the
30 state treasurer by October 1 of that year for deposit in the education trust fund established by RSA
31 198:39. **The commissioner shall then determine 100 percent of the revenue produced by the**

1 *next one percent of the tax imposed by RSA 77-A:2 for each fiscal year and shall certify such*
2 *amounts to the state treasurer by October 1 of that year for deposit in the education trust*
3 *fund established by RSA 198:39.*

4 5 New Paragraph; Business Enterprise Tax; Imposition of Tax; New Tax Rates. Amend RSA 77-
5 E:2 by inserting after paragraph II the following new paragraph:

6 III. For all taxable periods ending on or after December 31, 2025, a tax is imposed at the
7 rate of 0.75 percent upon the taxable enterprise value tax base of every business enterprise.

8 6 Taxation; Business Enterprise Tax; Distribution of Funds. Amend RSA 77-E:14, I to read as
9 follows:

10 I. The commissioner shall determine 41 percent of the revenue produced by the ***first 0.5***
11 ***percent of the*** tax imposed by RSA 77-E:2 for each fiscal year and shall certify such amounts to the
12 state treasurer by October 1 of that year for deposit in the education trust fund established by RSA
13 198:39. ***The commissioner shall then determine 100 percent of the revenue produced by the***
14 ***next 0.25 percent of the tax imposed by RSA 77-E:2 for each fiscal year and shall certify***
15 ***such amounts to the state treasurer by October 1 of that year for deposit in the education***
16 ***trust fund established by RSA 198:39.***

17 7 Tax on Meals and Rooms; Imposition of Tax; New Tax Rate. Amend RSA 78-A:6, II(g) to read
18 as follows:

19 (g) ~~[Eight and a half]~~ ***Nine*** percent of the charge for taxable meals over \$1.00, provided
20 that fractions of cents shall be rounded up to the next whole cent. ***The last 0.5 percent of the tax***
21 ***for taxable meals and rooms over \$1.00 shall have 100 percent deposited in the education***
22 ***trust fund established in RSA 198:39.***

23 8 Effective Date. This act shall take effect July 1, 2025.

**HB 503-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT amending how revenues from taxes are allocated to the education trust fund.

FISCAL IMPACT: This bill does not provide funding.

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<i>Revenue Fund(s)</i>	General Fund and Education Trust Fund			
Expenditures*	\$0	\$20,000	\$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 reinstates the Interest and Dividends Tax (which will be referred to as New Tax) at 5% for all taxable periods ending on or after December 31, 2025; increases the Business Profits Tax from 7.5% to 8.5% for all taxable periods ending on or after December 31, 2025; increases the Business Enterprise Tax from 0.55% to 0.75% for all taxable periods ending on or after December 31, 2025; and, increases the Meals and Rooms tax on meals from 8.5% to 9.0% effective July 1, 2025.

Interest and Dividends (New Tax)

The proposed legislation would reenact only two of the over 40 sections of RSA 77, formerly known as the interest and dividends tax (I&D) which are currently repealed effective January 1, 2025. This New Tax would be applicable to taxable periods ending on or after December 31, 2025. The Department continues to administer the I&D and I&D returns will continue to be audited by the Department for some time following the repeal. The Department is currently taking steps related to the repeal of I&D that include discontinuing the ability for taxpayers to carry a credit forward, returning any attempted overpayments to taxpayers, and notifying taxpayers of their rights regarding refunding of any older credit balances. By the effective date of the proposed bill, these measures will have been almost completely implemented.

To the extent that the intention behind not re-enacting most sections of Chapter 77 is to create a New Tax that operates differently than the repealed I&D, the Department would strongly suggest the New Tax be given a different name and establish it in a new and different RSA to avoid taxpayer confusion. Even if it is the intention of this bill to re-enact the repealed I&D to operate exactly as it formerly did, the ongoing implementation of the current repeal just described will make it impossible to simply continue on with I&D as it currently exists. The Department is therefore analyzing the fiscal impact of the proposed legislation as if it were a New Tax.

Many of the provisions not re-enacted by this bill pertain to what is and is not considered taxable income for purposes of I&D (RSA 77:4, 77:4-b, 77:4-c, 77:4-d, 77:4-e, 77:4-g, 77:4-h, 77:6, 77:7, 77:8, 77:9, 77:10, 77:11, 77:13, 77:14-a, 77:14-b, 77:14-c, and 77:14-d). For purposes of estimating the fiscal impact of the proposed legislation, the Department assumes these same definitional principles would apply to the term “income” when used here. However, to avoid confusion, the Department suggests that a definition of “income” be included in the bill so it is clear whether any or all of the principles in the listed statutes continue to apply.

Two of the provisions not re-enacted in this bill legislation pertain to what exemptions may be claimed from payment of I&D (RSA 77:5 and 77:5-a.). For purposes of estimating the fiscal impact of the proposed legislation, the Department has assumed that these exemptions do not apply to the New Tax and has applied only the new \$20,000 threshold in re-enacted RSA 77:1. If this is not the intention, the proposed legislation may need to be clarified.

The Department assumes it will maintain similar powers of administration and enforcement, though not included in this bill, as it had under the repealed I&D.

The Department is not able to predict future income and dividend income and a corresponding tax liability under the New Tax proposed in this bill. The Department is able to provide an estimate based on assumptions stated above regarding what is included and not included as it relates to the RSA relative to the repealed I&D, as well as the following assumptions below:

- To calculate the potential impact for FY 2025 through FY 2027 and forward, the Tax Year 2022 Gross Taxable I&D income is used.
- Based on an analysis of I&D revenues in prior years to break out the split of tax year revenue to fiscal year revenue, the following splits were found: 6% attributable to two tax years prior, 68% attributable to prior tax year, and 26% attributable to current tax year.
- Using the splits and the TY2022 Gross Taxable I&D Income, the Department estimated a starting point of \$3.2 billion to calculate the FY2025 thru FY2027 and forward revenues.

- The New Tax rate in the proposed legislation was applied based on the relevant tax year in each fiscal year to come up with the revenue for each fiscal year.

Any potential revenue from the new tax would be deposited into the General Fund. See table 1 for New Tax estimated revenue impact:

Table 1: New Tax Estimated General Fund Revenue (in millions)

Fiscal Year	Current Law Revenue Using TY 2022 Gross Taxable I&D Income	Estimated Revenue with Proposed Bill	Estimated Fiscal Impact for Year	Cumulative Fiscal Impact
2025 (1)	\$0	\$32.2	\$32.2	\$32.2
2026	\$0	\$116.4	\$116.4	\$148.6
2027 and Forward	\$0	\$123.8	\$123.8	\$272.4

(1) This revenue may not be realized until FY 2026 depending on taxpayer estimate behavior

Business Enterprise Tax (BPT) and Business Profits Tax (BET)

The Department has assumed that the business tax rate changes will be applicable beginning in tax year 2025 (applicable to taxable periods ending on or after December 31, 2025) for purposes of estimating the impact on state revenues. However, as a practical matter, the proposed legislation would likely become effective too late in the tax year for taxpayers to change their estimate strategies, such that the additional revenue estimated for FY 2025 is not likely to be fully realized and may instead shift into FY 2026. Additionally, the mid-tax year effective date may result in increased levels of underpayment penalties due to taxpayers being unaware or unable to timely adjust their estimate payments. To avoid these issues, the effective date and applicability provisions could be changed to correspond to the end of tax year 2026 to provide taxpayers sufficient time to adjust.

The Department has assumed that the distribution changes contained in this bill will be applicable to all payments received on or after July 1, 2025, regardless of the tax year to which they relate. However, as this bill proposed different revenue splits to the General Fund and Education Trust Fund (ETF), this bill may impact revenue reporting between the BPT and BET and may result in incongruities between the reported fund splits in a given fiscal year and the actual splits being made at the time of the deposits. This is due to reallocations between the business taxes which are made in a different fiscal year than the fiscal year in which the revenue is received. With the fund splits for both business taxes the same, reallocation between the two taxes does not require reallocation between the two funds. However, when the two taxes have

different fund splits, a reallocation between taxes also requires a reallocation between funds. Adjustments are often made in a different fiscal year than the fiscal year that the revenue is received because most business taxpayers initially make quarterly estimated payments or payments on extension. In these cases, the Department has processes in place to split the revenue received between BPT and BET based on historical data. The final split between the two taxes is not known until the taxpayer files their return, which may be 9 to 18 months after receipt of the first estimate. Consequently, many reallocations occur in a different fiscal year than the fiscal year that the revenue is received. Because under the proposed legislation, the effective BPT ETF split will become 47.9% (7.5% at 41% to the ETF and 1% at 100% to the ETF) and the effective BET ETF split will become 60.6% (.5% at 41% to the ETF and .25% at 100% to the ETF), any revenue initially overallocated to BET prior to receipt of the return will appear as a reduction to ETF revenue in a future fiscal year. This problem is avoided with the current uniform split between the taxes.

Business Enterprise Tax

The Department states this bill will result in an indeterminable decrease of BET revenue to the General Fund and increase to the ETF. The Department is not able to provide the exact fiscal impact of this bill, however using the following assumptions it is able to provide an estimate:

- To calculate FY2025 through FY2027 and forward revenues under current law as well as the proposed rate changes, the Department used TY2022 BET tax base of \$44.5 billion as the starting point. The applicable BET rate for taxable periods ending on or after December 31, 2022, was 0.55%.
- Because revenue for a given tax year is realized in multiple fiscal years, the Department did an analysis based on prior years to break out the split of tax year revenue to fiscal year revenue and applied it to FY2025 and forward as follows: 12% attributable to two tax years prior, 69% attributable to prior tax year, and 19% attributable to current tax year.
- The Department applied the current rate of 0.55% to calculate the estimated revenue under current law and the proposed rate change of 0.75% to calculate the estimated revenue impact of this bill on BET.
- The proposed legislation allocates all the revenue from the rate increase as well as the revenue from an additional 0.05% of the current rate to the ETF. Table 2 below illustrates the impact of distributing the revenue associated with 0.25% of the BET rate to the ETF beginning in FY 2025.
- The estimated fiscal impact does not consider any overpayments/credit carryforwards on file.

Table 2: Impact on BET (In millions)

	Current Law Revenue Using	Proposed Law Revenue	Proposed Bill Impact on Splits
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	TY 2022 BET tax						to GF and ETF		
Fiscal Year	General Fund	ETF	Total	General Fund	ETF	Total	General Fund	ETF	Total
2025(1)	\$144.3	\$100.3	\$244.6	\$141.9	\$119.6	\$261.5	(\$2.4)	\$19.3	\$16.9
2026	\$144.3	\$100.3	\$244.6	\$132.9	\$189.9	\$322.8	(\$11.4)	\$89.6	\$78.2
2027 and forward	\$144.3	\$100.3	\$244.6	\$131.4	\$202.1	\$333.5	(\$12.9)	\$101.8	\$88.9

(1) This revenue may not be realized until FY 2026 depending on taxpayer estimate behavior

Business Profits Tax

The Department states this bill will result in an indeterminable increase of BPT revenue to the ETF. The Department is not able to provide the exact fiscal impact of this bill, however using the following assumptions it is able to provide an estimate:

- To calculate FY2025 through FY2027 and forward revenues under current law as well as the proposed rate changes, the Department used TY2022 BPT tax base of \$11.3 billion as the starting point. The applicable BPT rate for taxable periods ending on or after December 31, 2022, was 7.6%.
- Because revenue for a given tax year is realized in multiple fiscal years, the Department did an analysis based on prior years to break out the split of tax year revenue to fiscal year revenue and applied it to FY2025 and forward as follows: 12% attributable to two years prior, 69% attributable to prior tax year, and 19% attributable to current tax year.
- The Department applied the current rate of 7.5% to calculate revenue under current law and the proposed rate change to 8.5% to calculate the estimated revenue impact of this bill on BPTue under current law, as shown in the second column of the table below.
- The proposed legislation allocates all revenue from the rate increase to the ETF.
- The estimated fiscal impact does not consider any overpayments/credit carryforwards on file.

Table 3: Impact on BPT (In millions)

	Current Law Revenue Using TY 2022 BPT			Proposed Law Revenue			Proposed Bill Impact on Splits to GF and ETF (All increased BPT revenue to ETF)		
Fiscal Year	General Fund	ETF	Total	General Fund	ETF	Total	General Fund	ETF	Total
2025(1)	\$500.0	\$347.4	\$847.4	\$500.0	\$368.9	\$868.9	\$0	\$21.5	\$21.5
2026	\$500.0	\$347.4	\$847.4	\$500.0	\$446.8	\$946.8	\$0	\$99.4	\$99.4
2027 and forward	\$500.0	\$347.4	\$847.4	\$500.0	\$460.3	\$960.3	\$0	\$112.9	\$112.9

(1) This revenue may not be realized until FY 2026 depending on taxpayer estimate behavior

Meals and Rooms

This bill increases the rate of the tax on meals over \$1.00 from the current rate of 8.5% to 9.0%. The bill is silent regarding the rate of the tax on rooms and rentals. The Department assumes that the tax rate for room occupancy and rentals will remain the same at 8.5%. The bill also requires that 0.5% of the tax on meals *and rooms* over \$1.00 will be deposited into the ETF. The Department assumes that the 0.5% distribution to the ETF will come from both the meals and room occupancy portions of the tax. This will result in a shift in existing revenue related to room occupancy from the general fund to the ETF.

The Department notes the language is inconsistent with RSA 78-A:26, which directs that all revenue net of the costs of administration, except vehicle rental revenue, and revenue transferred to the Meals and Rooms Municipal Revenue Fund be transferred to the general fund. Currently, the tax on vehicle rentals is distributed to the ETF at 100%. The Department assumes this distribution will remain unchanged. For clarity, the Department suggests all language related to distributions to the ETF in this bill be moved to RSA 78-A:26 under a new paragraph.

This bill would result in an indeterminable decrease to the GF and an indeterminable increase to the ETF. The Department is not able to provide the exact fiscal impact of this bill, however using the following assumptions it is able to provide an estimate:

- Since M&R is due by the 15th day of the month following the taxable period, the impact of this bill would be recognized in August 2025 and onwards.
- To estimate FY2026 revenue under current law as well as under the proposed legislation, the Department used the M&R tax liability reported on a cash basis during FY 2024 of \$476.9 million as the starting point. Operators retained commissions of \$12.5 million (2.6% of the total collected based on data reported by operators in FY 2024). Thus, the total tax remitted to the Department by operators for FY 2024 was \$464.4 million.
- Of the M&R collected, the meals portion of the tax collected on a gross cash basis during FY 2024 was \$377.7 million. Again, operator-retained commission on the meals tax amounted to \$9.8 million. Thus, the meals tax remitted to the Department by operators for FY 2024 was \$367.7 million.
- Assuming operator-retained commissions remain at the same rate, the meals tax of \$367.7 million is divided by 8.5% and then multiplied by 9.0% to calculate the proposed meals tax increase of \$21.6 million to \$389.3 million.

- The bill amends the M&R transfer to the ETF to include 0.5% of the taxes on meals and rooms in addition to 100% of the tax on rentals. Because the 0.5% rate increase only applies to the meals portion of the tax, there is an indeterminable decrease to the General Fund as the rate for the rooms portion of the tax remains unchanged at 8.5%.

Based on these assumptions, the M&R meals portion would increase by \$21.6 million, increasing M&R from \$464.4 million to \$486.0 million. To meet the bills assumed intent of transferring 0.5% of the taxes on meals and rooms and 100% of rentals to the ETF, the General Fund would decrease by (\$2.2 million) and ETF would increase by \$23.8 million.

Administrative Impact

The Department notes it would incur a General Fund cost of approximately \$20,000 in postage costs for a one-time mailer to taxpayers to inform them of the reinstatement of the Interest and Dividends tax (New Tax). The Department would be able to absorb any additional ongoing administrative costs to amend forms, taxpayer portal, and information system.

AGENCIES CONTACTED:

Department of Revenue Administration