

SB 128-FN-A-LOCAL - AS INTRODUCED

2021 SESSION

21-0967

10/04

SENATE BILL

***128-FN-A-LOCAL***

AN ACT                    relative to a temporary change to operator compensation under the meals and rooms tax.

SPONSORS:            Sen. Rosenwald, Dist 13; Sen. Watters, Dist 4; Sen. Cavanaugh, Dist 16; Sen. D'Allesandro, Dist 20; Sen. Soucy, Dist 18; Sen. Reagan, Dist 17; Sen. Hennessey, Dist 1; Sen. Prentiss, Dist 5; Sen. Sherman, Dist 24; Rep. Bartlett, Merr. 19; Rep. M. Griffin, Rock. 7; Rep. Leishman, Hills. 24; Rep. Loughman, Rock. 21; Rep. McMahon, Rock. 7

COMMITTEE:        Ways and Means

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ANALYSIS

This bill adjusts for the fiscal year ending June 30, 2022 the amount of meals and rooms tax revenues on taxable meals that an operator is allowed to retain as compensation.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT                      relative to a temporary change to operator compensation under the meals and rooms tax.

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

- 1            1 Short Title. This act shall be known as the restaurant relief act of 2021.
- 2            2 Meals and Rooms Tax; Temporary Adjustment of Operator Retained Percentage. For the
- 3 fiscal year ending June 30, 2022, to compensate any operator licensed under RSA 78-A:4, who sells
- 4 taxable meals, for keeping the prescribed records and the proper account and remitting of taxes by
- 5 them, operators selling a taxable meal and collecting taxes under RSA 78-A:6, II shall be allowed to
- 6 retain 5 percent of the taxes due and to be remitted if the return and payment are timely received by
- 7 the department of revenue administration, as provided in RSA 78-A:8, III.
- 8            3 Effective Date. This act shall take effect July 1, 2021.

**SB 128-FN-A-LOCAL- FISCAL NOTE**  
**AS INTRODUCED**

AN ACT relative to a temporary change to operator compensation under the meals and rooms tax.

**FISCAL IMPACT:**    ☒ State                    ☐ County                    ☐ Local                    ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	Indeterminable Decrease	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0	\$0
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input checked="" type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**LOCAL:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable	\$0	\$0

**METHODOLOGY:**

This bill increases the amount retained by operators who sell taxable meals from 3 percent to 5 percent of the Meals & Rentals taxes due for the fiscal year ending June 30, 2022 if the return and payment are timely received by the Department.

The Department of Revenue Administration is not able to determine the exact impact of the proposed bill because the Department does not know how much total revenues will come from the M&R tax in future years. The Department is able to provide an estimate of the fiscal impact of this bill using M&R data reported by M&R operators in FY 2020. Of the 5,099 M&R operators, 3,936 claimed the 3 percent commission for selling taxable meals. However, some operators sell both taxable meals and taxable rooms/car rentals, and because the bill does not limit the 5 percent commission to only the meals portion for those operators, the Department has assumed the 5 percent applies to all M&R tax collected by these operators. The 3,936 M&R operators claimed a total of \$8,066,692 during FY 2020. If this same group of M&R operators had claimed 5 percent commission on the taxable meals sold in FY 2020, they would have claimed \$13,445,312 in commission, an increase of \$5,378,620.

The Department states this bill may result in an indeterminable decrease in revenue distributed back to the communities pursuant to RSA 78-A:26 in FY 2022. RSA 78-A:26, II states "Each fiscal year, the amount to be distributed shall be equal to the prior year's distribution **plus an**

**amount equal to 75 percent of any increase in the income received from the meals and rooms tax for the fiscal year ending on the preceding June 30, not to exceed \$5,000,000..."** (emphasis added), If the increase in the operator commission results in less of an increase in the amount of revenue that would otherwise have been distributed absent this bill, then it would result in a decrease in revenue to the municipalities. It should also be noted that the Legislature has limited the distribution of aid under RSA 78-A:26. I and II every biennium since FY 2010-2011, to a specific amount.

**AGENCIES CONTACTED:**

Department of Revenue Administration