

SB 326-FN-A-LOCAL – VERSION ADOPTED BY BOTH BODIES

03/28/12 1406s
15May2012... 2205h
06/06/12 2494CofC
06/06/12 2498EBA

2012 SESSION

12-3018
08/09

SENATE BILL ***326-FN-A-LOCAL***

AN ACT relative to state reimbursement of towns and relative to taxation of trusts under the interest and dividends tax.

SPONSORS: Sen. Sanborn, Dist 7; Rep. Bettencourt, Rock 4; Rep. O'Brien, Hills 4

COMMITTEE: Finance

AMENDED ANALYSIS

This bill:

I. Repeals the reduction in certain reimbursements paid to towns and cities who have lost taxable valuation of certain lands.

II. Allows moneys received by the state to pay arrearages under certain river compacts to be distributed to towns listed under such compacts.

III. Eliminates certain taxation of trusts under the interest and dividends tax.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to state reimbursement of towns and relative to taxation of trusts under the interest and dividends tax.

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

1 1 Repeal. RSA 122:4, II, relative to reimbursement to towns and cities of moneys owed by other
2 states, is repealed.

3 2 Contingency. Notwithstanding RSA 122:4, II, if any other state in a river management
4 compact with the state of New Hampshire makes a payment in any amount on an arrearage to the
5 state of New Hampshire, then within 30 days of receiving such payment, the state treasurer shall
6 distribute such money to the towns affected by RSA 484 in the manner prescribed by RSA 122:4, I
7 for the fiscal years ending June 30, 2012 and June 30, 2013. Any additional funds shall lapse to the
8 general fund on June 30, 2013.

9 3 Interest and Dividends Tax; Who Taxable. Amend RSA 77:3, I(b) and (c) to read as follows:

10 (b) Partnerships, limited liability companies, **and** associations, [~~and trusts,~~] the
11 beneficial interest in which is not represented by transferable shares, whose gross interest and
12 dividend income from all sources exceeds \$2,400 during the taxable year, but not including a
13 qualified investment company as defined in RSA 77-A:1, XXI, or a trust comprising a part of an
14 employee benefit plan, as defined in the Employee Retirement Income Security Act of 1974, section
15 3.

16 (c) [~~Fiduciaries~~] **Executors** deriving their appointment from a court of this state whose
17 gross interest and dividend income from all sources exceeds \$2,400 during the taxable year.

18 4 Interest and Dividends Tax; Trusts Not Subject to Tax. Amend RSA 77:4, III to read as
19 follows:

20 III. Dividends, other than stock dividends paid in new stock of the partnership, limited
21 liability company, **or** association[~~, or trust~~] issuing the same, on shares in partnerships, limited
22 liability companies, **or** associations[~~, or trusts~~] the beneficial interest in which is represented by
23 transferable shares.

24 5 Interest and Dividends Tax; Income From Trusts. Amend RSA 77:10 to read as follows:

25 77:10 Income From Trusts. [~~The income received by estates held by trustees, any one of whom~~
26 ~~is an inhabitant of this state, or has derived his appointment from a court of this state, shall be~~
27 ~~subject to the taxes imposed by this chapter, except that~~] **Interest and dividend** income received by

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1 estates held by trustees treated as grantor trusts under section 671 of the United States Internal
2 Revenue Code shall be included in the return of their ~~[owners]~~ **grantor**, to the extent that the
3 ~~[persons to whom the income from the trust is payable, or for whose benefit it is accumulated, are~~
4 ~~inhabitants]~~ **grantor is an inhabitant or resident** of this state. **Income reported by, and taxed**
5 **federally as interest or dividends to, a trust beneficiary who is an individual inhabitant**
6 **or resident of this state with respect to distributions from a trust that is not treated**
7 **as a grantor trust under section 671 of the United States Internal Revenue Code**
8 **shall be included as interest or dividends in the return of such beneficiary and**
9 **subject to taxation in accordance with the provisions of this chapter.**

10 6 Interest and Dividends Tax; Guardians, etc. Amend RSA 77:13 to read as follows:

11 77:13 Guardians, etc. RSA 77:9 ~~[to 12]~~ **through RSA 77:11** shall apply to guardians,
12 conservators, trustees in bankruptcy, receivers, and assignees for the benefit of creditors, so far as
13 apt, to the taxable income received by them ~~[and to their beneficiaries, and to corporations acting as~~
14 ~~trustees or in any other fiduciary capacity]~~.

15 7 Interest and Dividends Tax; Application of Sections. Amend RSA 77:14-d to read as follows:

16 77:14-d Application of Sections. RSA 77:14-a to 77:14-c shall apply, so far as apt, to associations
17 ~~[and trusts]~~, but not to partnerships, limited liability companies, **and** associations~~[-and trusts]~~ the
18 beneficial interest in which is represented by transferable shares.

19 8 Repeal. RSA 77:12, relative to taxation of income from nonresident trustees, is repealed.

20 9 Applicability. Sections 3-8 of this act shall apply to taxable periods ending on or after
21 December 31, 2013.

22 10 Effective Date.

23 I. Section 1 of this act shall take effect July 1, 2013.

24 II. The remainder of this act shall take effect upon its passage.

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LBAO
12-3018
Revised 01/05/12

SB 326 FISCAL NOTE

AN ACT relative to state reimbursement of towns and relative to taxation of trusts under the interest and dividends tax.

FISCAL IMPACT:

The Department of Revenue Administration, Department of Education, Department of Employment Security, and New Hampshire Municipal Association states this bill may have an indeterminable impact on state expenditures and will increase local revenues by \$15,000 in FY 2013 and each year thereafter. There will be no impact on state and county revenues or county and local expenditures.

METHODOLOGY:

The Department of Revenue Administration states this bill would appropriate \$15,000 in state general funds per fiscal year; \$7,500 for Merrimack River Flood Control Compact towns and \$7,500 for the Connecticut River Flood Control Compact towns. The Department states it is unsure as to what state agency would be responsible for administering this law but believes it could be administered without additional administrative costs.

The Department of Education states its Bureau of Vocational Rehabilitation assists eligible New Hampshire citizens with disabilities by providing rehabilitation services to secure suitable employment and financial and personal independence. Additionally, the Department states its Disability Determination Service makes disability determinations for New Hampshire residents who apply for the Social Security Administration's two disability programs. Ultimately, the Department makes payments to a multitude of vendors that provide medical records and services and some of those payments are made to the Community Colleges of Massachusetts or public medical facilities in Massachusetts. The Department states since July 1, 2009 it has paid a total of \$52,961 in federal funds for said services. The Department assumes under this bill, services from Massachusetts institutions will cease July 1, 2012, however is unable to estimate the potential fiscal impact on state expenditures as it is not known what will be owed to Massachusetts institutions on that date.

The Department of Employment security states ceasing payments to Massachusetts, under section 3 of this bill, could result in New Hampshire being sanctioned by the United States

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Department of Labor. Specifically, the Department states it makes payments to other states in accordance with the Interstate Arrangement for Combining Employment and Wages, which totaled \$9,830,859 in FY 2011, and failure to make said reimbursements could result in a federal sanction. The Department further states it makes payments to other states pursuant to the Trade Act of 1974, for a program assisting individuals, who became unemployed as a result of increased imports, return to suitable employment. The Department states at times specific training programs are only available in other states, and between November 2012 and March 2011 it paid Massachusetts state educational institutions \$42,737. The Department states ceasing pay for eligible individuals is a violation of federal law and could also result in federal sanction.

The New Hampshire Municipal Association states this bill would increase revenues of municipalities in the Merrimack River and Connecticut River Flood Control Compacts, in total, by \$15,000 in FY 2013 and each fiscal year thereafter.

The Department of Justice states this bill would request the Attorney General file a lawsuit against the Commonwealth of Massachusetts to recover moneys owed to New Hampshire under the Merrimack River and Connecticut River Flood Control Compacts. The Department states if such a suit were to be filed costs would be absorbed within the Department's existing budget and there would be no fiscal impact.