2018 Legislative Preview

New Hampshire Legislative Preview: Too Many Tax Cuts?

- Business tax cuts pushed by Republicans will cost $60 million during 2018-19 biennium
- Lawmakers considering shift to market-based sourcing, single-sales factor

By Aaron Nicodemus

New Hampshire Democrats are concerned that business tax cuts recently pushed through by Republicans will start hurting the state's coffers in 2018.

In 2015 and again in 2017, the state Legislature made deep reductions in the rates for the Business Profits Tax (BPT) and the Business Enterprise Tax (BET). Combined revenue from the two business taxes made up 28.5 percent of the state's budget in fiscal year 2016, worth $427 million and $272 million in revenue, respectively, according to the New Hampshire Fiscal Policy Institute.

The first round of business tax cuts is projected to cost the state $9.2 million in revenue in FY 2018 and $30 million in FY 2019, according to the New Hampshire Department of Revenue Administration. The DRA estimated that as a result of the 2017 cuts to business tax rates, tax revenue will drop by $11 million more in FY 2019. And all business tax cuts will cost nearly $60 million in revenue during the 2018-19 biennium, the DRA said.

"They're a pretty big chunk, and we have a pretty lean budget," Rep. Paul Henle (D) told Bloomberg Tax. "Our party doesn't think it's a good idea. "

Rep. Susan Almy (D), member of the House Ways & Means Committee and a former committee chair, calculated the state will need to have 3.4 percent economic growth to generate the revenue lost to business tax cuts in FY 2018 and 6 percent growth in FY 2019.

"I don't think we're going to get any more growth, and we may get less growth," Almy told Bloomberg Tax. She said the state will have to make hard decisions in the FY 2020-21 biennium to pay for the business tax cuts.

Another tax law change in 2017 raised expense deductions for the BPT from $100,000 to $500,000, starting Jan. 1, 2018. That change will reduce state tax revenue by an estimated $9.7 million during the 2018-19 biennium, the New Hampshire Fiscal Policy Institute said.

Cuts Linked to Triggers

The 2015 business tax cuts can't go into effect unless a revenue trigger is hit. On Dec. 22, 2017, the state issued its Comprehensive Annual Financial Report, which concluded that the state hit its revenue trigger, allowing the cuts to take effect.

The business tax cuts approved in 2017 didn't include a revenue trigger, according to Phil Sletten, policy analyst at the New Hampshire Fiscal Policy Institute.

A bill to be introduced in the Legislature during 2018 by Rep. Richard Ames (D) would link the trigger for the 2017 cuts to revenue growth, as well as the Consumer Price Index. However, Democratic bills have a tough climb in the House, because Republicans hold more than half of the 400 seats in the chamber.

Republicans counter that revenue lost by the business tax cuts will be replaced by taxes paid by new businesses and on the value of expansion by existing businesses.

"In my district, in the southern tier of New Hampshire, there has been big expansion" of business along highway corridors, Sen. Regina Birdsell (R) told Bloomberg Tax. Birdsell said she expects that growth to continue.

Potential Tweak

Meanwhile, New Hampshire lawmakers are mulling a shift to market-based sourcing. During the past several years, states have been trending toward market-based sourcing and away from cost-of-performance for purposes of apportioning business income across multiple taxing jurisdictions.

The New Hampshire Legislature convened a commission to study market-based sourcing and single-sales-factor apportionment, and a report is due in November 2018.

Birdsell, who chairs the commission examining the sales factor change to the BPT, said some New Hampshire companies are double paying on business they conduct in Maine and Massachusetts, which have both moved to market-based sourcing.

"We're hopeful we can bring more fairness" into the process for New Hampshire businesses, Birdsell told Bloomberg Tax.

And as with all states, New Hampshire officials will be assessing the state and local impact from the 2017 federal tax law (Pub. L. No. 115-97), signed Dec. 22 by President Donald Trump. The law allows taxpayers to deduct up to $10,000 of property taxes, and state and local income or sales taxes. There was previously no limit on the amount of state and local taxes that could be deducted--and many high-tax states are exploring options to combat the slashed tax break.

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