

LEGISLATIVE COMMITTEE MINUTES

SB3

Bill as Introduced

SB 3-FN - AS INTRODUCED

2021 SESSION

21-1081
10/05

SENATE BILL

3-FN

AN ACT

clarifying the tax treatment of federal Paycheck Protection Program loans.

SPONSORS:

Sen. Bradley, Dist 3

COMMITTEE:

Ways and Means

ANALYSIS

This bill excludes under the business profits tax the business income of a taxpayer received by reason of forgiveness of indebtedness issued or created under the federal Paycheck Protection Program (PPP).

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 clarifying the tax treatment of federal Paycheck Protection Program loans.

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

1 1 New Section; Business Profits Tax; Clarification of PPP Loans. Amend RSA 77-A by inserting
2 after section 3-b the following new section:

3 77-A:3-c Clarification of Tax Treatment of Paycheck Protection Program (PPP) Loans: In
4 determining gross business profits for any period, before net operating loss and special deductions,
5 notwithstanding any other provision of law, a business organization shall apply the provisions of the
6 United States Internal Revenue Code consistent with the following adjustments:

7 I. No amount shall be included in the gross business income of the eligible recipient by
8 reason of forgiveness of indebtedness issued or created under the federal Paycheck Protection
9 Program (PPP) which was first established under the federal Coronavirus Aid, Relief, and Economic
10 Security Act (P.L. 116-136, enacted March 3, 2020) or issued or created under the federal PPP
11 Second Draw Loan Program established under the federal Consolidated Appropriations Act, 2021
12 (P.L. 116-260, enacted December 27, 2020).

13 II. No deduction shall be denied, no tax attribute shall be reduced, and no basis increase
14 shall be denied, by reason of the exclusion from gross business income provided by paragraph I.

15 III. This section shall apply to taxable years ending after March 3, 2020, corresponding with
16 the date of the enactment of the federal Coronavirus Aid, Relief, and Economic Security Act.

17 2 Effective Date. This act shall take effect upon its passage.

LBA
21-1081
2/2/21

**SB 3-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT clarifying the tax treatment of federal Paycheck Protection Program loans.

FISCAL IMPACT:

Due to time constraints, the Office of Legislative Budget Assistant is unable to provide a fiscal note for this bill, as introduced, at this time. When completed, the fiscal note will be forwarded to the Senate Clerk's Office.

AGENCIES CONTACTED:

Department of Revenue Administration

**SB 3-FN FISCAL NOTE
 AS INTRODUCED**

AN ACT clarifying the tax treatment of federal Paycheck Protection Program loans.

FISCAL IMPACT: State County Local None

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

METHODOLOGY:

Federal law allows for loan amounts received by taxpayers from the Paycheck Protection Program (PPP) that are forgiven to not be included in taxable income federally and business expenses paid for with forgiven PPP loans can be deducted. Under the current New Hampshire Business Profits Tax (BPT) statute, loan amounts received by NH taxpayers from the PPP that are forgiven will be included in taxable income for BPT purposes and business expenses paid for with forgiven PPP loans can be deducted. The NH treatment under current law mirrors the normal treatment of forgiven loans for federal tax purposes; the federal government has, however made a policy decision to modify this treatment for forgiven PPP loans. This bill amends the BPT statute to that New Hampshire's treatment of forgiven PPP loan amounts mirror the federal treatment effective upon passage for the taxable periods ending after March 3, 2020.

The Department of Revenue Administration (DRA) is unable to calculate the exact fiscal impact of this bill. Though the list of PPP loan recipients is public, the list cannot be used to reliably calculate the fiscal impact of this bill due to the following limitations:

- The list of PPP loan recipients does not include recipient federal employer identification numbers (FEINs) and therefore there is no reliable way to match the loan recipients on the list to DRA filers. The names on the list may vary significantly with how the taxpayer files with the DRA due to the use of trade names, abbreviations, etc. as well as because many of

our largest filers file combined returns reporting the activity of numerous related entities who may have received PPP loans.

- Under current law, only forgiven PPP loans will be included in the BPT tax base. To be forgiven, certain PPP criteria must be met. As of the date of this fiscal note, the US Small Business Administration (SBA) has not published data related to amounts of PPP loans forgiven.
- Under current law, the taxpayer will include forgiven PPP loans in the tax base, but will deduct any business expenses paid for with forgiven PPP loans. Therefore, in order to calculate the revenue attributable to forgiven PPP loans currently, the DRA would need data on the amount of expenses each taxpayer will first deduct. The DRA does not have this data.
- Under the proposed law, forgiven PPP loans will not be included in the BPT tax base, however business expenses paid for with forgiven PPP loan amounts will remain deductible. Because these deductions for business expenses will not be offset by the forgiven PPP loan proceeds, these business deductions will offset other taxable income from the taxpayer. Therefore, in order to calculate the revenue loss attributable to allowing these business deductions, the DRA would need data on the amount of expenses each taxpayer will deduct that were paid for with forgiven PPP loan proceeds. The DRA does not have this data.

Though the DRA is not able to determine an exact fiscal impact, the DRA believes the eliminating forgiven PPP loans from the BPT tax base by making them not taxable and continuing to allow the deduction of business expenses paid for with forgiven PPP loan proceeds would reduce revenue beginning in FY 2022. This revenue reduction would take the form of reduced estimate payments, reduced return and extension payments, and increased refund requests for taxpayers who will have already filed their tax returns reporting forgiven PPP loan amounts and taxpayers who made estimated tax payments in accordance with the law at that time.

The DRA is able to provide a broad range of the potential impact of this bill based upon publicly available data and making a number of assumptions about the available data that include:

- Of the \$525 billion in PPP loans that went to 5,212,128 recipients nationwide, it is assumed 0.4% or \$2.1 billion of the total amount being apportioned to New Hampshire. The 0.4% apportionment percentage represents the typical amount of taxable business income to NH compared to total national taxable business income.
- From the \$2.1B in PPP loans apportioned to NH, NH recipients with a non-profit status were removed (Those recipients labeled as non-profit include hospitals, nursing homes, churches, and private educational institutions), as well as those recipients with one employee and less

than \$75k in PPP loans. These taxpayers were excluded because they mostly likely would not have a Business Enterprise Tax (BET) or BPT liability in NH, due to the BPT \$75k safe harbor compensation deduction as well as being below the BET thresholds. This results in \$1.8 billion in estimated potentially taxable aid to NH depending on forgiveness and use of funds.

- The PPP requires that certain program criteria be met for the loan to be forgiven. For purposes of our analysis the DRA has assumed that all PPP loans issued will meet program criteria and therefore be forgiven because the SBA has not yet published loan forgiveness data.
- The PPP is designed to provide a direct incentive for businesses to keep their workers on the payroll. Borrowers may be eligible for loan forgiveness if the funds were used for eligible payroll costs, payments on business mortgage interest payments, rent, or utilities during either the 8- or 24-week period after disbursement. Because the PPP requires that recipients spend 60% of the loan proceeds on eligible expenses, the DRA analysis has assumed that 60% of loan proceeds are spent on NH wages to calculate an estimated BET impact.
- In addition to assuming that 60% of PPP loan proceeds are spent on wages, the DRA assumed that an additional 0%, 20%, and 40% were spent on other deductible business expenses in order to calculate a range of the possible fiscal impact of the proposed legislation.
- Assuming 60% of the forgivable loans are spent on wages, \$1.08B would be subject to the current BET rate of 0.60% equating to \$6.5M of BET revenue under each scenario.
- For the high range, we assumed 43.4% of BET taxpayers would have a BET credit against the BPT return, based on TY2018 data. Applying the 43.4% to the \$1.08B and then multiplying it by the current 0.6% BET rate results in an estimated BET credit of \$2.8M to offset any BPT liability. We also assumed 40% was spent on other (non-wage related) deductible business expenses. As wages are a deductible business expense, we applied the total loan amount or 100% (60% + 40%) of \$1.8B to the current BPT rate of 7.7%, resulting in (\$138.6M). Therefore, the high range impact would be \$6.5M BET tax, less (\$2.8M) BET Credit, less (\$138.6M) deductible expense against the BPT, resulting in an estimated (\$134.9M) reduction in revenue.
- For the mid-range, we assumed 43.4% of BET taxpayers would have a BET credit against the BPT return, based on TY2018 data. Applying the 43.4% to the \$1.08B and then multiplying it by the current 0.6% BET rate results in an estimated BET credit of \$2.8M to offset any BPT liability. We also assumed 20% were spent on other (non-wage related) deductible business expenses. As wages are a deductible business expense, we applied 80% (60%+20%) or \$1.44B of the total \$1.8B loan amount. We then multiplied it by the current BPT rate of 7.7%, resulting in (\$110.9M). Therefore, the mid-range impact would be \$6.5M BET tax, less

(\$2.8M) BET credit, less (\$110.9M) deductible expense against the BPT, resulting in an estimated (\$107.2M) reduction in revenue.

- For the low-range, we assumed 43.4% of BET taxpayers would have a BET credit against the BPT return, based on TY2018 data. Applying the 43.4% to the \$1.08B and then multiplying it by the current BET rate of 0.6% results in an estimated BET credit of \$2.8M to offset any BPT liability. In this scenario, we also assumed 0% was spent on other (non-wage related) deductible business expenses. As wages are a deductible business expense, we applied 60% (60%+0%) or \$1.08B of the total \$1.8B loan amount. We then multiplied it by the current BPT rate of 7.7%, resulting in (\$83.2M). Therefore, the low-range impact would be \$6.5M BET tax, less (\$2.8M) BET Credit, less (\$83.2M) deductible expense against the BPT, resulting in an estimated (\$79.5M) reduction in revenue.
- The analysis only includes the possible fiscal impact of the PPP loan issuance through August 8, 2020 and does not estimate the impact of follow-on programs.

Based on the assumptions above, the DRA has provided the possible decreases in revenue as a high of \$134.9 million, middle of \$110.9 million and a low of \$79.5 million.

AGENCIES CONTACTED:

Department of Revenue Administration

**SB 3-FN FISCAL NOTE
AS INTRODUCED**

AN ACT clarifying the tax treatment of federal Paycheck Protection Program loans.

FISCAL IMPACT: State County Local None

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

METHODOLOGY:

The New Hampshire Business Profits Tax (BPT) uses federally reported income as a starting point for purposes of calculating a taxpayer's BPT liability. RSA 77-A:1, XX provides which version of the Internal Revenue Code (IRC) a taxpayer should reference to properly determine federally reported income for BPT purposes in each tax year. For taxable periods beginning on or after January 1, 2020 taxpayers should utilize the IRC in effect on December 31, 2018. Because the BPT references the IRC in effect on December 31, 2018, the New Hampshire tax treatment of certain COVID-19 financial relief programs will vary from the federal treatment of those same programs.

Specifically, federal law allows for loan amounts received by taxpayers from the Paycheck Protection Program (PPP) that are forgiven to not be included in taxable income federally and business expenses paid for with forgiven PPP loans can be deducted. Under the current BPT statute, loan amounts received by NH taxpayers from the PPP that are forgiven will be included in taxable income for BPT purposes and business expenses paid for with forgiven PPP loans can be deducted. The NH treatment under current law mirrors the normal treatment of forgiven loans for federal tax purposes; the federal government has, however made a policy decision to modify this treatment for forgiven PPP loans. This bill amends the BPT statute so that New Hampshire's treatment of forgiven PPP loan amounts mirror the federal treatment effective upon passage for the taxable periods ending after March 3, 2020.

The Department of Revenue Administration (DRA) is unable to calculate the exact fiscal impact of this bill. Though the list of PPP loan recipients is public, the list cannot be used to reliably calculate the fiscal impact of this bill due to the following limitations:

- The list of PPP loan recipients does not include recipient federal employer identification numbers (FEINs) and therefore there is no reliable way to match the loan recipients on the list to DRA filers. The names on the list may vary significantly with how the taxpayer files with the DRA due to the use of trade names, abbreviations, etc. as well as because many of our largest filers file combined returns reporting the activity of numerous related entities who may have received PPP loans.
- Under current law, only forgiven PPP loans will be included in the BPT tax base. To be forgiven, certain PPP criteria must be met. As of the date of this fiscal note, the US Small Business Administration (SBA) has not published data related to amounts of PPP loans forgiven.
- Under current law, the taxpayer will include forgiven PPP loans in the tax base, but will deduct any business expenses paid for with forgiven PPP loans. Therefore, in order to calculate the revenue attributable to forgiven PPP loans currently, the DRA would need data on the amount of expenses each taxpayer will first deduct. The DRA does not have this data.
- Under the proposed law, forgiven PPP loans will not be included in the BPT tax base, however business expenses paid for with forgiven PPP loan amounts will remain deductible. Because these deductions for business expenses will not be offset by the forgiven PPP loan proceeds, these business deductions will offset other taxable income from the taxpayer. Therefore, in order to calculate the revenue loss attributable to allowing these business deductions, the DRA would need data on the amount of expenses each taxpayer will deduct that were paid for with forgiven PPP loan proceeds. The DRA does not have this data.

Though the DRA is not able to determine an exact fiscal impact, the DRA believes eliminating forgiven PPP loans from the BPT tax base by making them not taxable and continuing to allow the deduction of business expenses paid for with forgiven PPP loan proceeds would reduce revenue beginning in FY 2022. This revenue reduction would take the form of reduced estimate payments, reduced return and extension payments, and increased refund requests for taxpayers who will have already filed their tax returns reporting forgiven PPP loan amounts and taxpayers who made estimated tax payments in accordance with the law at that time.

The DRA is able to provide the potential impact of this bill based upon publicly available data and making a number of assumptions about the available data that include:

- The analysis only includes the possible fiscal impact of the PPP loan issuance through August 8, 2020 and does not estimate the impact of follow-on programs.
- Of the \$525 billion in PPP loans that went to 5,212,128 recipients nationwide, it is assumed 20.0% or \$105 billion should be removed to reflect for PPP loan recipients that are non-profits or that fall below the \$50,000 BPT filing threshold. This brings the total to \$420 billion.
- Of the remaining \$420 billion in PPP loans, it is assumed 0.4% or \$1.7 billion being apportioned to New Hampshire. The 0.4% apportionment percentage represents the typical amount of taxable business income to NH compared to total national taxable business income.
- The \$1.7 billion in PPP loans apportioned to NH is multiplied by the BPT rate of 7.7 percent to determine the maximum potential impact on BPT revenue to be a decrease of \$130.9 million.
- The potential decrease of \$130.9 million is further adjusted to account for the assumption that 80 percent of PPP was spent on wages, which generates business enterprise tax (BET) revenue of \$8.1 million ($(\$1.7 \text{ billion} * 80\%) * 0.6\% \text{ BET rate}$).
- The BPT revenue decrease of \$122.8 million after adjusting for the BET revenue (\$130.9 million - \$8.1 million), is further reduced by 47 percent or \$57.7 million ($47\% * \122.8 million) to account for those taxpayers that have a carry-forward of excess BET credit. These taxpayers would not see their tax liability reduced because they already have BET credits that are in excess of their BPT liability, therefore do not pay BPT.

Based on the assumptions above, it is estimated BPT revenue may decrease by \$65.1 million (\$122.8 million - \$57.1 million).

AGENCIES CONTACTED:

Department of Revenue Administration

**SB 3-FN FISCAL NOTE
 AS INTRODUCED**

AN ACT clarifying the tax treatment of federal Paycheck Protection Program loans.

FISCAL IMPACT: State County Local None

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

METHODOLOGY:

The New Hampshire Business Profits Tax (BPT) uses federally reported income as a starting point for purposes of calculating a taxpayer's BPT liability. RSA 77-A:1, XX provides which version of the Internal Revenue Code (IRC) a taxpayer should reference to properly determine federally reported income for BPT purposes in each tax year. For taxable periods beginning on or after January 1, 2020 taxpayers should utilize the IRC in effect on December 31, 2018. Because the BPT references the IRC in effect on December 31, 2018, the New Hampshire tax treatment of certain COVID-19 financial relief programs will vary from the federal treatment of those same programs.

Specifically, federal law allows for loan amounts received by taxpayers from the Paycheck Protection Program (PPP) that are forgiven to not be included in taxable income federally and business expenses paid for with forgiven PPP loans can be deducted. Under the current BPT statute, loan amounts received by NH taxpayers from the PPP that are forgiven will be included in taxable income for BPT purposes and business expenses paid for with forgiven PPP loans can be deducted. The NH treatment under current law mirrors the normal treatment of forgiven loans for federal tax purposes; the federal government has, however made a policy decision to modify this treatment for forgiven PPP loans. This bill amends the BPT statute so that New Hampshire's treatment of forgiven PPP loan amounts mirror the federal treatment effective upon passage for the taxable periods ending after March 3, 2020.

The Department of Revenue Administration (DRA) is unable to calculate the exact fiscal impact of this bill. Though the list of PPP loan recipients is public, the list cannot be used to reliably calculate the fiscal impact of this bill due to the following limitations:

- The list of PPP loan recipients does not include recipient federal employer identification numbers (FEINs) and therefore there is no reliable way to match the loan recipients on the list to DRA filers. The names on the list may vary significantly with how the taxpayer files with the DRA due to the use of trade names, abbreviations, etc. as well as because many of our largest filers file combined returns reporting the activity of numerous related entities who may have received PPP loans.
- Under current law, only forgiven PPP loans will be included in the BPT tax base. To be forgiven, certain PPP criteria must be met. As of the date of this fiscal note, the US Small Business Administration (SBA) has not published data related to amounts of PPP loans forgiven.
- Under current law, the taxpayer will include forgiven PPP loans in the tax base, but will deduct any business expenses paid for with forgiven PPP loans. Therefore, in order to calculate the revenue attributable to forgiven PPP loans currently, the DRA would need data on the amount of expenses each taxpayer will first deduct. The DRA does not have this data.
- Under the proposed law, forgiven PPP loans will not be included in the BPT tax base, however business expenses paid for with forgiven PPP loan amounts will remain deductible. Because these deductions for business expenses will not be offset by the forgiven PPP loan proceeds, these business deductions will offset other taxable income from the taxpayer. Therefore, in order to calculate the revenue loss attributable to allowing these business deductions, the DRA would need data on the amount of expenses each taxpayer will deduct that were paid for with forgiven PPP loan proceeds. The DRA does not have this data.

Though the DRA is not able to determine an exact fiscal impact, the DRA believes eliminating forgiven PPP loans from the BPT tax base by making them not taxable and continuing to allow the deduction of business expenses paid for with forgiven PPP loan proceeds would reduce revenue beginning in FY 2022. This revenue reduction would take the form of reduced estimate payments, reduced return and extension payments, and increased refund requests for taxpayers who will have already filed their tax returns reporting forgiven PPP loan amounts and taxpayers who made estimated tax payments in accordance with the law at that time.

The DRA is able to provide the potential impact of this bill based upon publicly available data and making a number of assumptions about the available data that include:

- The analysis only includes the possible fiscal impact of the \$762 billion in PPP loans that went to 9,876,741 recipients nationwide as reported by the Small Business Administration on April 18, 2021. The PPP is scheduled to end on May 31, 2021.
- Of the \$762 billion in PPP loans issued, it is assumed 20.0% or \$152 billion should be removed to reflect for PPP loan recipients that are non-profits or that fall below the \$50,000 BPT filing threshold. This brings the total to \$610 billion.
- Of the remaining \$610 billion in PPP loans, it is assumed 0.4% or \$2.4 billion being apportioned to New Hampshire. The 0.4% apportionment percentage represents the typical amount of taxable business income to NH compared to total national taxable business income.
- The \$2.4 billion in PPP loans apportioned to NH is multiplied by the BPT rate of 7.7 percent to determine the maximum potential impact on BPT revenue to be a decrease of \$184.8 million.
- The potential decrease of \$184.8 million is further adjusted to account for the assumption that 80 percent of PPP was spent on wages, which generates business enterprise tax (BET) revenue of \$11.7 million ($(\$2.4 \text{ billion} * 80\%) * 0.6\% \text{ BET rate}$).
- The BPT revenue decrease of \$173.1 million after adjusting for the BET revenue (\$184.8 million - \$11.7 million), is further reduced by 47 percent or \$81.4 million ($47\% * \173.1 million) to account for those taxpayers that have a carry-forward of excess BET credit. These taxpayers would not see their tax liability reduced because they already have BET credits that are in excess of their BPT liability, therefore do not pay BPT.

Based on the assumptions above, it is estimated BPT revenue may decrease by \$91.7 million (\$173.1 million - \$81.4 million).

AGENCIES CONTACTED:

Department of Revenue Administration

**SB 3-FN- FISCAL NOTE
 AS INTRODUCED**

AN ACT clarifying the tax treatment of federal Paycheck Protection Program loans.

FISCAL IMPACT: State County Local None

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

METHODOLOGY:

The New Hampshire Business Profits Tax (BPT) uses federally reported income as a starting point for purposes of calculating a taxpayer's BPT liability. RSA 77-A:1, XX provides which version of the Internal Revenue Code (IRC) a taxpayer should reference to properly determine federally reported income for BPT purposes in each tax year. For taxable periods beginning on or after January 1, 2020 taxpayers should utilize the IRC in effect on December 31, 2018. Because the BPT references the IRC in effect on December 31, 2018, the New Hampshire tax treatment of certain COVID-19 financial relief programs will vary from the federal treatment of those same programs.

Specifically, federal law allows for loan amounts received by taxpayers from the Paycheck Protection Program (PPP) that are forgiven to not be included in taxable income federally and business expenses paid for with forgiven PPP loans can be deducted. Under the current BPT statute, loan amounts received by NH taxpayers from the PPP that are forgiven will be included in taxable income for BPT purposes and business expenses paid for with forgiven PPP loans can be deducted. The NH treatment under current law mirrors the normal treatment of forgiven loans for federal tax purposes; the federal government has, however made a policy decision to modify this treatment for forgiven PPP loans. This bill amends the BPT statute so that New Hampshire's treatment of forgiven PPP loan amounts mirror the federal treatment effective upon passage for the taxable periods ending after March 3, 2020.

The Department of Revenue Administration (DRA) is unable to calculate the exact fiscal impact of this bill. Though the list of PPP loan recipients is public, the list cannot be used to reliably

calculate the fiscal impact of this bill due to the following limitations:

- The list of PPP loan recipients does not include recipient federal employer identification numbers (FEINs) and therefore there is no reliable way to match the loan recipients on the list to DRA filers. The names on the list may vary significantly with how the taxpayer files with the DRA due to the use of trade names, abbreviations, etc. as well as because many of our largest filers file combined returns reporting the activity of numerous related entities who may have received PPP loans.
- Under current law, only forgiven PPP loans will be included in the BPT tax base. To be forgiven, certain PPP criteria must be met. As of the date of this fiscal note, the US Small Business Administration (SBA) has not published data related to amounts of PPP loans forgiven.
- Under current law, the taxpayer will include forgiven PPP loans in the tax base, but will deduct any business expenses paid for with forgiven PPP loans. Therefore, in order to calculate the revenue attributable to forgiven PPP loans currently, the DRA would need data on the amount of expenses each taxpayer will first deduct. The DRA does not have this data.
- Under the proposed law, forgiven PPP loans will not be included in the BPT tax base, however business expenses paid for with forgiven PPP loan amounts will remain deductible. Because these deductions for business expenses will not be offset by the forgiven PPP loan proceeds, these business deductions will offset other taxable income from the taxpayer. Therefore, in order to calculate the revenue loss attributable to allowing these business deductions, the DRA would need data on the amount of expenses each taxpayer will deduct that were paid for with forgiven PPP loan proceeds. The DRA does not have this data.

Though the DRA is not able to determine an exact fiscal impact, the DRA believes eliminating forgiven PPP loans from the BPT tax base by making them not taxable and continuing to allow the deduction of business expenses paid for with forgiven PPP loan proceeds would reduce revenue beginning in FY 2022. This revenue reduction would take the form of reduced estimate payments, reduced return and extension payments, and increased refund requests for taxpayers who will have already filed their tax returns reporting forgiven PPP loan amounts and taxpayers who made estimated tax payments in accordance with the law at that time.

The DRA is able to provide the potential impact of this bill based upon publicly available data and making a number of assumptions about the available data that include:

- On May 4, 2021, the Small Business Administration reported the total PPP loan appropriation of \$814 billion was exhausted ahead of the May 31, 2021 application deadline. This analysis is on the entire \$814 billion.
- Of the \$814 billion in PPP loans issued, it is assumed 20.0% or \$163 billion should be removed to reflect for PPP loan recipients that are non-profits or that fall below the \$50,000

BPT filing threshold. This brings the total to \$651 billion.

- Of the remaining \$651 billion in PPP loans, it is assumed 0.4% or \$2.6 billion being apportioned to New Hampshire. The 0.4% apportionment percentage represents the typical amount of taxable business income to NH compared to total national taxable business income.
- The \$2.6 billion in PPP loans apportioned to NH is multiplied by the BPT rate of 7.7 percent to determine the maximum potential impact on BPT revenue to be a decrease of \$200.2 million.
- The potential decrease of \$200.2 million is further adjusted to account for the assumption that 80 percent of PPP was spent on wages, which generates business enterprise tax (BET) revenue of \$12.6 million ($(\$2.6 \text{ billion} * 80\%) * 0.6\% \text{ BET rate}$).
- The BPT revenue decrease of \$187.6 million after adjusting for the BET revenue (\$200.2 million - \$12.6 million), is further reduced by 47 percent or \$88.2 million ($47\% * \187.6 million) to account for those taxpayers that have a carry-forward of excess BET credit. These taxpayers would not see their tax liability reduced because they already have BET credits that are in excess of their BPT liability, therefore do not pay BPT.

Based on the assumptions above, it is estimated BPT revenue may decrease by \$99.4 million (\$187.6 million - \$88.2 million).

AGENCIES CONTACTED:

Department of Revenue Administration

CHAPTER 74
SB 3-FN - FINAL VERSION

2021 SESSION

21-1081
10/05

SENATE BILL **3-FN**
AN ACT clarifying the tax treatment of federal Paycheck Protection Program loans.
SPONSORS: Sen. Bradley, Dist 3
COMMITTEE: Ways and Means

ANALYSIS

This bill excludes under the business profits tax the business income of a taxpayer received by reason of forgiveness of indebtedness issued or created under the federal Paycheck Protection Program (PPP).

.....

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.

CHAPTER 74
SB 3-FN - FINAL VERSION

21-1081
10/

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT clarifying the tax treatment of federal Paycheck Protection Program loans.

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

1 74:1 New Section; Business Profits Tax; Clarification of PPP Loans. Amend RSA 77-A by
2 inserting after section 3-b the following new section:

3 77-A:3-c Clarification of Tax Treatment of Paycheck Protection Program (PPP) Loans. In
4 determining gross business profits for any period, before net operating loss and special deductions,
5 notwithstanding any other provision of law, a business organization shall apply the provisions of the
6 United States Internal Revenue Code consistent with the following adjustments:

7 I. No amount shall be included in the gross business income of the eligible recipient by
8 reason of forgiveness of indebtedness issued or created under the federal Paycheck Protection
9 Program (PPP) which was first established under the federal Coronavirus Aid, Relief, and Economic
10 Security Act (P.L. 116-136, enacted March 3, 2020) or issued or created under the federal PPP
11 Second Draw Loan Program established under the federal Consolidated Appropriations Act, 2021
12 (P.L. 116-260, enacted December 27, 2020).

13 II. No deduction shall be denied, no tax attribute shall be reduced, and no basis increase
14 shall be denied, by reason of the exclusion from gross business income provided by paragraph I.

15 III. This section shall apply to taxable years ending after March 3, 2020, corresponding with
16 the date of the enactment of the federal Coronavirus Aid, Relief, and Economic Security Act.

17 74:2 Effective Date. This act shall take effect upon its passage.

Approved: June 10, 2021
Effective Date: June 10, 2021

Committee Minutes

SENATE CALENDAR NOTICE
Ways and Means

Sen Bob Giuda, Chair
Sen Lou D'Allesandro, Vice Chair
Sen Gary Daniels, Member
Sen Erin Hennessey, Member
Sen Cindy Rosenwald, Member

Date: February 3, 2021

HEARINGS

Monday

02/08/2021

(Day)

(Date)

Ways and Means

REMOTE 000

9:00 a.m.

(Name of Committee)

(Place)

(Time)

9:00 a.m.	SB 3-FN	clarifying the tax treatment of federal Paycheck Protection Program loans.
9:30 a.m.	SB 103-FN	relative to nexus provisions for certain disaster-related or emergency-related work performed in the state.
9:45 a.m.	SB 99-FN-LOCAL	relative to the amount of meals and rooms tax revenue that is distributed to municipalities.
10:00 a.m.	SB 128-FN-A-LOCAL	relative to a temporary change to operator compensation under the meals and rooms tax.

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/97386908383>
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1-301-715-8592, or 1-312-626-6799 or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833

3. Or iPhone one-tap: 19292056099,,97386908383# or 13017158592,,97386908383#

4. Webinar ID: 973 8690 8383

5. To view/listen to this hearing on YouTube, use this link:

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6. To sign in to speak, register your position on a bill and/or submit testimony, use this link:

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The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 3-FN

Sen. Bradley

SB 103-FN

Sen. Bradley

SB 99-FN-LOCAL

Sen. Ricciardi

Sen. Hennessey

SB 128-FN-A-LOCAL

Sen. Rosenwald

Sen. Soucy

Sen. Sherman

Rep. Loughman

Rep. Abrami

Sen. Avar

Sen. Watters

Sen. Reagan

Rep. Bartlett

Rep. McMahon

Sen. Bradley

Sen. Gannon

Sen. Cavanaugh

Sen. Hennessey

Rep. M. Griffin

Sen. Carson

Rep. Kelsey

Sen. D'Allesandro

Sen. Prentiss

Rep. Leishman

Sonja Caldwell 271-2117

Bob J. Giuda
Chairman

Senate Ways and Means Committee
Sonja Caldwell 271-2117

SB 3-FN, clarifying the tax treatment of federal Paycheck Protection Program loans.

Hearing Date: February 8, 2021

Members of the Committee Present: Senators Giuda, D'Allesandro, Daniels, Hennessey and Rosenwald

Members of the Committee Absent : None

Bill Analysis: This bill excludes under the business profits tax the business income of a taxpayer received by reason of forgiveness of indebtedness issued or created under the federal Paycheck Protection Program (PPP).

Sponsors:
Sen. Bradley

Who supports the bill: Sen. Bradley, David Juvet (BIA), Henry Veilleux (Lodging & Restaurant Assoc.), Karl Heafield (BIA), Michael Auerbach (NH Dental Society), Joe Haas, Bill Ardinger, Bruce Berke (National Federation of Independent Business), Peggy Gilmour (Nashua Chamber of Commerce), Rep. Jess Edwards

Who opposes the bill: Robert Clegg

Who is neutral on the bill: Kevin Kennedy (NH CPA Society)

Summary of testimony presented:
Sen. Bradley

- The purpose of SB3 is to clarify NH law and make it consistent with federal statute and guidelines that the federal paycheck protection program (PPP), whether it be a loan or grant to businesses in NH, is not a taxable event under NH statute. The payroll protection plan, when passed by congress, was designed to keep the American economy afloat during the pandemic.
- When the pandemic hit, unemployment skyrocketed to 15% in March and April, but due to the PPP, our economy has come back, and unemployment is under 4% and businesses were able to keep employees on the job.
- Businesses were also able to use PPP to pay interest on mortgages and pay rent and utilities, all of which helped to prop up the economy in NH.
- The PPP was intended to benefit businesses that had 500 and fewer employees. The largest businesses were not eligible. Those businesses that were not eligible are the largest payers of BPT. Those businesses are doing fairly well. Business tax revenue is \$80 million ahead of plan.

- Congress made it clear the PPP was never intended to be a taxable event as the IRS code was not amended to tax PPP. We in NH are tied to the 2018 IRC. Therefore, DRA has deemed PPP to be taxable. SB3 is a clarification to ensure consistency with federal tax treatment. We should not consider this a revenue loss because it was never intended to be a revenue event.
- He brought this bill in through the Rules Committee last week. This bill is moving at warp speed which is necessary given that businesses are in the process of tax preparation right now.
- With regard to the revenue estimates in the fiscal notes, there is a range of \$80 million to \$135 million. He questioned whether the BET credit has properly been accounted for especially since most of the businesses in question are service related and have many employees and significant BET obligation.
- Some of the businesses that pay BPT also do business in other states and would apportion some of that PPP to taxes or circumstances outside of NH and so he asked if apportionment has been accounted for. It may well be that when the committee looks further at the fiscal note, the impact in terms of revenue may be much less.
- Making it a taxable event would undermine the recovery that PPP helped to ensure we had.

Sen. Rosenwald said she completely agreed that taxing the federal assistance has been a hard burden for businesses, but DRA has been telling us since October that the main reason our business tax revenues are doing so well was because NH was including them in the tax rates. Do you have ideas on how we might pay for this, especially in light of SB13 which would lower the tax rates and cost \$80 million in next budget.

Sen. Bradley said the legislation to reduce the business tax rates is totally separate from SB3. SB3 is a clarification of NH law to be what congress intended. The IRC was never amended in Washington. It was not intended to be a taxable event. Businesses are now surprised to learn that it could be taxable in NH if not for SB3 and this clarification. He thinks the fiscal impact will be significantly less than the fiscal note.

Sen. Rosenwald said the taxes we've collected on the PPP loans in the current fiscal year are not going to be given back.

Sen. Bradley said that would be a question for other experts.

Sen. D'Allesandro agreed with Sen. Rosenwald regarding the fiscal note that it was very complicated. You have to be tax expert to figure it out. He wants to question Sen. Bradley on apportionment and the effect of it on the tax and the intent of the federal govt. was not to use this money to pay taxes. The money was to be used to stimulate the economy.

Sen. Bradley said we all know that people in NH are still struggling and will be for some time, so the PPP was intended to prop up the economy. To turn around and tax those businesses that did what the federal government intended with the money, could undermine the opportunity for recovery. In terms of apportionment, if you're a business that is operating in multiple states, most would apportion part of the loan or grant to their operations in multiple states and we should take that into account.

Sen. D'Allesandro said that Sen. Bradley stated the program was only applicable to businesses with 500 or fewer employees so none of the big payers would be affected by this.

Sen. Bradley said that was correct. 600 of the largest payers of the business taxes didn't qualify for PPP because they had over 500 employees. It was designed to help middle and small businesses.

Commissioner Lindsey Step -- DRA

- She will speak to the taxability of PPP and the difference between the federal and state level.

- At the federal level, the IRC was amended at the end of December, signed into law on December 27th, and it allowed businesses that received PPP to not include the forgiven loan amount in gross income, however they are allowed to take any business expense deductions from that forgiven loan amount. There is an additional benefit provided to them in that they can deduct expenses.
- NH does not recognize that amendment to the federal code because we are tied to the 2018 code, so we treat PPP as we would any other grant so it is included in gross income and expenses can be deducted. For example, if a business received \$100 in PPP, that money would be included in gross income. If they spent that \$100 on wages, that money would be deducted so the tax impact of the PPP is zero. The only time for BPT purposes when we're talking about any potential tax impact is when the business received a PPP loan that was forgiven but they didn't spend it all or spent it on nondeductible expenses, then that amount would be subject to BPT.
- SB3 only addresses PPP, it does not address other grants or aid that businesses may have received. That additional benefit of allowing a deduction, is only going to be afforded to businesses that received PPP.
- Fiscal impact: this is a very complicated fiscal note. They do have public data from the SBA with respect to businesses that received PPP loans. However, it is limited and they don't have ID numbers for these businesses so they can't trace a business' PPP all the way through to what they know their data to be on apportionment and BET.
- The fiscal note starts by using the \$525 billion in PPP loans and apportions .4% to NH and this represents the typical amount of taxable business income overall in the US to the portion attributable to NH. That resulted in \$2.1 billion in loans apportioned to NH. If you look at actual data for PPP loans received by businesses in NH, that number is \$2.6 billion. There is a difference. They tried to account for apportionment by using total data and apportioning that down to .4%. If they used the \$2.6 billion, they would be potentially overcounting NH businesses that apportion to other states and undercounting businesses that apportion to NH but do not have a NH address. That is why they didn't use the \$2.6 billion number.
- They had to make assumptions with respect to how the PPP was spent. They assumed the full \$2.1 billion is forgiven and should be treated as a grant. In order to come up with a range they made assumptions about how much was spent versus how much was saved. They used 60% spent on wages as that was one of the requirements in order for the PPP to be forgiven, that resulted in \$1.08 billion being subject to BET. This would equate to \$6.5 million of BET revenue under this scenario. They then tried to account for that BET revenue as a credit against BPT. 43.4% of BET payers also have a BPT liability. They did take into account the BET credit. There are many businesses that pay BET but don't have a BPT liability. The range of \$80 million to \$134.9 million, assumes some portion of the PPP would flow through to the taxable income line because of not all of the loan being spent.
- They reached out to other states to confirm their analysis and methodology and found it to be consistent to what other states are anticipating.

Sen. Hennessey asked if they had any idea when the state will have better idea what percentage of our PPP loans have been forgiven.

Commissioner Stepp said they have asked that of the SBA but there is a backlog of applications for forgiveness at the SBA. Federal guidance says if you anticipate your PPP will be forgiven you should assume that it is forgiven. If they didn't think these would all be forgiven, SB3 wouldn't be necessary.

Sen. Rosenwald asked why the cost assumption is not in this fiscal year but is in FY22.

Commissioner Stepp said the timing of this impact is likely to be split between FY21 and into FY22. Its for a number of reasons. It will depend on how we see the revenue impact. One way would be refund requests. If businesses made their estimate payments, and if this law is in place when they file a March or April return, they would ask for a refund. Alternatively, they can file their returns with a 7-month extension, meaning some returns could be received in October or November with that refund request. Or if businesses have not made estimate payments assuming this federal treatment, there is a chance we could see reduced return payments in March and April; they would owe less if this bill passes in time. It depends on what businesses have done to date in terms of accounting.

Sen. Rosenwald said the fiscal note seems to only talk about FY22.

Commissioner Stepp said the fiscal note assumes that the timing might not be sufficient in order for businesses to reflect this on their March and April returns given it is the middle of February. The fiscal note assumes businesses would follow the current state treatment on their returns and then need to file an amended return. This is a retroactive tax change. The tax year is closed and some businesses have already filed their returns.

Sen. Daniels asked if businesses that received PPP loans were they given a particular time in which they had to use that money.

Commissioner Stepp said she would get back to him on that. She assumes they spent the money in order to keep their doors open. Their analysis only includes the first round of PPP.

Sen. Giuda asked if it would be possible for DRA to develop a graph with the horizontal axis being the month in which returns are expected and the vertical axis being the impact of this legislation on receipts expended.

Commissioner Stepp said they do have a graph and they can work to make some assumptions to layer the impact of SB3 on top of that. It will be imprecise.

Bill Ardinger (Rath, Young and Pignatelli)

- His law firm represents businesses that could be affected by this bill. Rath and Young received a PPP loan. They will not be affected by this bill, however. He is speaking on his own behalf.
- With regard to the federal tax treatment of PPP loans, what he is going to talk about is going to be contrary to something Commissioner Stepp said. He thinks DRA is one of the best tax administration teams. His comments are designed to be collaborative and not critical.
- The CARES act and the subsequent, consolidated appropriation act did not amend the IRC. This is quite unique in federal tax law. In the CARES act, which established the PPP in section 1102 of that bill, which was enacted on March 27, 2020, the PPP program had a special section (1106i) called taxability and it said for purposes of the IRC of 1986 any amount that would be includable in gross income by reason of PPP forgiveness shall be excluded from gross income. Congress did not change the 2018 code. They said that when the IRS construes it, that it shall not be construed to include PPP loan forgiveness in gross income.
- Where the Commissioner said that Congress amended the 2018 IRC, he believes that is not accurate and that difference is critically important.
- After that CARES act happened, the IRS in May and November said, the congress was quiet on the deductibility on expenses paid for with PPP so we're going to conclude they are not deductible. Congress in December then said the IRS was not right. The 12-27-20 federal law was exactly similar to language in SB3. That federal bill said PPP loan forgiveness is not taxable and PPP expenses are deductible. Congress did not amend the terms of the IRC; they

passed a law that said when you're interpreting that code do not tax the forgiveness and allow the deduction.

- NH has static conformity with 2018 code. Those words have not changed. What changed is that congress passed a bill saying that when in interpreting that code, PPP loans are not taxable, but PPP expenses are deductible. In that case, we have a situation where he believes current law (NH's current BPT law piggyback's the code language in effect in 2018) has to follow the congressional interpretation of how that language should be construed. The DRA took a different position in its taxpayer information release (TIR) issued in January 2021. He understands that his interpretation is different than the Department's. If Mr. Ardinger is right, and the IRC does not allow taxation of PPP forgiveness and does allow deductions, then SB3 is just a clarification the fiscal note should be zero. However, if the DRA's position in its TIR is correct, then passing SB3 would have a fiscal impact.
- When you look at current business tax revenues, we are up \$78 million. In his view, with regard to those revenues which are collected, he doesn't believe many businesses have filed estimated returns assuming PPP is subject to tax. Most of those loans haven't been forgiven yet so it would be premature to report any of those dollars in your estimates and for them to then be reflected in the receipts that are coming and are reflected in the monthly revenue focus. That \$78 million over plan comes from the fact that 80% of the BPT or \$400 million of the \$520 million is paid for by very large businesses that were not eligible for PPP. Those large businesses have been doing better than hoped. Our smaller businesses are struggling. SB3 is to benefit and protect those smaller businesses. He thinks SB3 is consistent with federal law.

Sen. Giuda said there is a fundamental difference between Mr. Ardinger and Commissioner Stepp with respect to this clarification of taxability. He asked about what other states are doing.

Mr. Ardinger said they are going through the same analysis as NH. Its important to ask the Commissioner if the CARES act amends the code language that we are relying on from 2018. He believes the answer is no.

Sen. D'Allesandro asked if that change in the second CARES act been accepted in other states to modify taxation policy.

Mr. Ardinger said other states have passed and are considering legislation that would follow that federal treatment. That is changing rapidly. He can provide a list of states.

Sen. Giuda asked him to talk about the assumptions with respect to the BET credit and apportionment.

Mr. Ardinger

- A very important part of this revenue estimate must be the reality that many small businesses that received PPP loans don't pay any BPT, but they pay BET. Some examples would be service firms like law firms, medical practices, and marketing firms. They do not have heavy capital requirements with third party shareholders. In those cases, this bill would have no revenue effect because they have BET credits that would more than offset that. The DRA fiscal note tries to identify that effect but it understates the effect.
- That 43.4% is based on a gross analysis of all BPT payers, which include the 600 large businesses that don't qualify for PPP. He thinks the number of taxpayers in a BET position but not a BPT position are larger than the 43.4% the DRA used in fiscal note.
- With regard to apportionment, he likes the Commissioner's explanation for taking into account apportionment. He thinks the DRA is probably on target for apportionment. The smaller businesses that might be subject to BPT probably are based primarily in NH.

- The Department has included an assumption that those businesses who received PPP loans under \$75,000 should be excluded because they would be unlikely to pay BPT or BET returns. He thinks that number should be higher. He thinks the range in the fiscal note will be much lower.

Sen. Rosenwald said if the DRA taxpayer guidance did not exclude PPP loans from taxable income, why does he think companies would not have paid estimates based on that guidance.

Mr. Ardinger responded that the TIR came out at the end of January this year. Even under the TIR guidance, until those loans are forgiven, you do not report them as income. The forgiveness will not happen until this calendar year. Therefore, it would be premature to include any estimated BPT before you get final information about forgiveness. The TIR is simply the views of the DRA, they are not binding.

Bob Clegg

- He is opposed to the bill.
- There are large businesses in NH that have a tendency to break up their entities into smaller groups. The same people may have benefited from the CARES act by having different locations listed as LLCs.
- A lot of people took advantage of the money to get by during the pandemic, but it is important to remember that money was taxpayer dollars. Too many of those people who took the taxpayer dollars did not really need it. Some of those people bought boats and other items for enjoyment because the PPP money replaced the money they would have used otherwise. He believes it is wrong to now give them another benefit out of the taxpayer pocket.
- He does not see any relief for those who received unemployment. A lot of people stayed out of work for fear of the Covid-19 virus and with the \$600 benefit, made more than they would have if they went to work. He asked where the break is for them because they are going to find that money is taxable.
- He thinks the system should be left alone. If you took PPP money to pay your employees and they made money for the business, then there is a tax bill.
- He asked why it is that if you reached your hand into the pocket of the taxpayers that you get forgiveness but if you reached into your own pocket and kept your employees working you are not being given the same break. This is not equitable. It does not treat taxpayers equally. You cannot give one side more benefit than everyone else.
- In NH, everyone should be treated the same. Those who found a way to make money off the crisis should not get to benefit again.

Dave Juvet (BIA)

- BIA did not apply for the first or second round of PPP loans as they are a 501C6 and were not eligible. They have applied for a loan under the new corona virus stimulus act passed in December.
- The BIA supports this legislation.

Karl Heafield (CPA with Baker, Newman, Noyes)

- It is important to understand that because the PPP loans were used by businesses primarily for payroll, NH has benefited from a revenue standpoint because that payroll is subject to the BET. If they had not had access to PPP loans and were forced to lay off workers, BET revenues would have been lower. Those wages they paid bring BET revenue to the state.
- As a CPA that works with businesses to prepare tax returns, this clarification needs to be made quickly. Many have a tax return coming due in a few weeks and whether they file an

extension or a return, they need to understand how these funds will be reported on those returns.

Sen. Giuda asked what happens if the legislature does not move on this bill expeditiously and how that would impact his clients' tax return process.

Mr. Heafield said it would cause confusion. There are different interpretations as to how the 2018 code should be treated vs. the TIR from the DRA. Many taxpayers will follow the DRA TIR and report this as income. If after that, SB3 is adopted, they would have to file amended returns to properly reflect their taxes. There will be multiple filings required of businesses to get in compliance. This would create a lot of confusion and extra work for everyone, including the DRA.

Michael Auerbach

- He is the Executive Director of the NH Dental Society. They are in favor of SB3. They are a professional organization representing 800 dentists.
- Dental offices are not just caregivers, most are small private businesses who own or rent office space. Like other small businesses they suffered last year from the pandemic. They had to close or treat only emergencies for a period. This forced layoffs.
- Central to keeping offices afloat were PPP loans.
- Over the last 9 months, dental practices have been scheduling patients whose delayed care created an oral health emergency and are also toiling to recover financially from the enormous losses of that two-month shutdown.
- Very grateful to Sen. Bradley for taking the initiative to help protect NH dental practices by exempting them from paying BPT and BET on PPP loans.
- SB3 will help their members save money and support employees.

Kevin Kennedy

- CPA in NH. He is representing the CPA Society. The Society is neutral on the bill.
- They think practitioners are looking to file returns but are holding off pending this bill. They urge the legislature to act expeditiously on this bill. They hope the bill is applied uniformly to all years regardless of when the loan is forgiven. That is how the bill is currently worded.
- If there is question about IRS conformity, and the bill is not passed, they are not sure how this might come up later on.
- There could be a noncompliance with taxpayers with people who assume the PPP is not taxable for state purposes since it is not taxable for federal purposes.

Joseph Haas

- He signed in support of the bill but noted the unfairness mentioned by a previous speaker.
- He cited the constitution and mentioned free enterprise and competition.
- He said the senators are there to help people who are working. He used to be a landlord and could not get an SBA loan. He believes the senators' job description is to pass bills and hear grievances. He referenced a grievance he submitted via email. He wants a grievance committee.
- He wants help for his enterprise.

He did not apply for PPP.

Speakers

<u>Name</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Signed Up</u>
Bradley, Jeb	An Elected Official	Myself SD 3	Support	Yes	2/5/2021 12:46
Juvet, David	A Lobbyist	Business & Industry Association (BIA)	Support	Yes	2/5/2021 9:04
Veilleux, Henry	A Lobbyist	NH Lodging & Restaurant Association	Support	Yes	2/6/2021 17:59
Heafield, Karl	A Member of the Public	NH BIA	Support	Yes	2/5/2021 9:26
Auerbach, Michael	A Lobbyist	New Hampshire Dental Society	Support	Yes	2/8/2021 6:34
Kennedy, Kevin	A Member of the Public	NHSCPAs	Neutral	Yes	2/5/2021 15:37
Haas, Joe	A Member of the Public	Myself	Support	Yes	2/8/2021 7:57
Clegg, Robert	A Member of the Public	Myself	Oppose	Yes	2/8/2021 8:18
Ardinger, Bill	A Member of the Public	Myself	Support	Yes	2/8/2021 8:54
Berke, Bruce	A Lobbyist	National Federation of Independent Business	Support	No	2/8/2021 8:55
Gilmour, Peggy	A Lobbyist	Greater Nashua Chamber of Commerce	Support	No	2/8/2021 8:38
Edwards, Rep Jess	An Elected Official	Rockingham District 4 (Auburn, Chester, Sandown)	Support	No	2/8/2021 8:46

Testimony

Sonja Caldwell

From: Joseph S. Haas <JosephSHAas@hotmail.com>
Sent: Friday, February 5, 2021 9:23 AM
To: Tricia Melillo; Jeb Bradley; Kevin Avard; Cindy Rosenwald; Sharon Carson; Donna Soucy; Gary Daniels
Cc: Bob Giuda; Lou D'Allesandro; Erin Hennessey; Sonja Caldwell; Blodgett, Sarah; gardnersdickandnina@gmail.com; ckeating@courts.state.nh.us; dino@hayesrealestate.net; info@hayesrealestate.net; Alan Seidman; phil@green-utter.com
Subject: My written testimony for SB3 on the PPP Federal dis-connect on Monday morning.

Would the Committee Clerk " Sonja Caldwell " please print this out and add to the file.

To: The N.H. General Court Members of BOTH: (1) The Senate Rules Committee) and (2) The Senate Ways & Means Committee

[http://www.gencourt.state.nh.us/senate/committees/committee_details.aspx?cc=35] (in the cc: part above) .

RE: this be my written testimony for to verbally summarize by Zoom on Monday morning.

Dear Senators:

You have before you a request to un-do a Federal adoption so as to give greater "free enterprise" to all our people here who endeavor to make a living by their chosen profession, and that is for the word "all" meaning 100% of them were eligible to apply for a PPP loan for their business or not. They all, of everyone of one them, entitled to do so.

Plus a little bit of history on this here of that five years prior to your Legislative adoption in 2018, it was the Judiciary, in the Judicial branch of government, that also chose to make another adoption: to adopt the Federal counter-claim rule in 2013, but that 21 years prior to that, in 1992 the N.H. Supreme Court heard a case involving what had not yet been adopted as such, but went by this future rule anyway. Such action was a pretense = "an attempt to make something that is not the case appear true.". In other words a false rule that did not exist. The details of which were sent to your Prime Sponsor Jeb Bradley and others here on: "Tuesday, February 2, 2021 8:41 PM " that would he please share with you that and the e-mail also to and from the Rule Committee Clerk.

To pretense, or false rule is against the law! especially when they KNOW it. It's against Article 83 of our N.H. Constitution. But did the judges KNOW this? No. Why not? Because their Court Clerk did FAIL and REFUSE to tell them of this in a document filed with his office. He did FAIL and refuse to process this, to administer [*] this information over to them. To "refrain" [**] to do so, that resulted in at least four other parties having to expend hundreds of thousands of dollars in attorney fees to TRY to get around it, that one party in Littleton did by the Supremes calling it an aberration = " a departure from what is normal, usual, or expected, typically one that is unwelcome. " . The other three from in Dover, Concord and Hanover were not as fortunate.

Now why should you be concerned with this? Because :

(1) you did put on-the-books years ago for The Judicial Council to be concerned with the proper administration [*] of justice within the courts but that they be: in Contempt of Court": The N.H. General Court. They too did FAIL and REFUCSE to alert The Supreme Court. They noticed one member thereof who just happened to be a member of The Council too, but that all he did was tell them / The Council that he had talked to the existing / then Court Clerk that if such a "Notice of Errors:" be reported to her then the Clerk, that such will not merely collect dust as the other one did, but to be processed. Any "Reader" be one of either within the case or not, either on the direct or in-direct or having no connection at all. By Article 14 there shall be "complete" justice and that does not mean a "part" or: of this was merely a "Memorandum Opinion" be that as so defined.

(2) and that it's in the first part of your job description. Article 31: " The Legislature shall assemble for the redress of public grievances and for making such laws as the public good may require. " .

Therefore you have this grievance here: "a real or imagined wrong or other cause for complaint or protest, especially unfair treatment. "/ " an official statement of a complaint over something believed to be wrong or unfair. " in this is NOT an imagination = a " fanciful or empty assumption" or: " a thing that is accepted as true or as certain to happen, without proof." because the PROOF does exist, beyond a mere belief; it is REAL. A real wrong that needs to be corrected. It beyond that of what " Orlando Aloysius Battista" said of: " An error doesn't become a mistake until you refuse to correct it. "because the refusal exists in such "refrain" [**] an RSA Ch. 643:1 "refrain" of "Official Oppression": since the TAKING has already occurred and beyond the contract for it to be returned: the rent money stolen in 1984-88 during a Town Tax Sale in which the Town was: wrong! it did not have title. There being a Consent to Docket Markings of ending the case of the Town's Petition to Quite Title that it didn't have (as not having contacted the corporate Clerk in another county, [compare RSA Ch. 529:20 + :26, to RSA Ch. 528: 16 + :18 to the :19 but that a Sheriff Sale case for another day of another violation of the law! , the anti-Article 29 suspension of a statute, called Judicial Legislation, for toward a hoped-for RSA Ch. 4:1 action _____] with this contract of for the \$62,000 stolen by the Town - \$17,500 was to be allowed to go toward the property taxes, thus leaving: \$42,500 that was never turned over as agreed because the Town Attorney THEN went by the make believe rule that then did not exist, and so offset by what I had written into that Notice of Errors that never made it to the full court!!!! that by the case-law a party could retreat to gather \$ resources to return to fight another day.

So now that you KNOW this grievance, of please to deal with it. ____ In Year 2004 my Article 32 Petition (as endorsed by three State Reps by House Rule 36) was filed with the House part of your N.H. General Court, but like I've explained in the next to last paragraph in my e-mail of: " Sent: Thursday, February 4, 2021 2:52 PM " to " Tricia Melillo Legislative Aide " of the Senate Rules Committee, that having been collecting dust over there too, since no House Speaker ever sent it, by House Rule 4 over to the "appropriate committee" . You now have this information, that of to tag this along to the House if/when this SB 3 of 2021 does get out of The Ways & Means Committee this next Monday morning February 8th, because what I'd like to do is ALSO make this known to THEM over there in the House too:

That: BEFORE you deal with the second part of your job description, that you deal with the first part first, of per NOT only Roberts Rules or Order, BUT that of by Rule #____ of The Mason's Manual also.

Yours truly, ----- Joseph S. Haas, of: Gilmanon (and Boscawen too); mailing address: P. O. Box 3842, Concord, N.H. 03302, Tel. 413: 438-3820 (cell phone), e-mail: JosephSHAas at Hotmail dot com

Sonja Caldwell

From: Joseph S. Haas <josephshaas@hotmail.com>
Sent: Monday, February 8, 2021 8:18 AM
To: Sonja Caldwell
Subject: Fw: A Senate Mission Statement please on SB# ___ of 2021:

Hi Sonja,

Here's your copy by forward, as promised for today's SB3 at 9:00 a.m. in Ways & Means.

Yours truly, -- Joe

From: Joseph S. Haas
Sent: Tuesday, February 2, 2021 8:41 PM
To: jeb.bradley@leg.state.nh.us <jeb.bradley@leg.state.nh.us>; shannon.girard@leg.state.nh.us <shannon.girard@leg.state.nh.us>; Lou.Dallesandro@leg.state.nh.us <Lou.Dallesandro@leg.state.nh.us>; sonja.caldwell@leg.state.nh.us <sonja.caldwell@leg.state.nh.us>; Giuda, Bob <Bob.Giuda@leg.state.nh.us>; Griffin.Roberge@leg.state.nh.us <Griffin.Roberge@leg.state.nh.us>; Harold.French@leg.state.nh.us <Harold.French@leg.state.nh.us>; kathryn.cummings@leg.state.nh.us <kathryn.cummings@leg.state.nh.us>; Hff123@aol.com <Hff123@aol.com>; 'brhowardjr@yahoo.com' <brhowardjr@yahoo.com>; Paul Terry <paul@paulterryfornh.com>; governorSununu@nh.gov <governorSununu@nh.gov>; Meagan.Rose@nh.gov <Meagan.Rose@nh.gov>; Joseph.D.Kenney@nh.gov <Joseph.D.Kenney@nh.gov>; Cinde.Warmington@nh.gov <Cinde.Warmington@nh.gov>; Janet.L.Stevens@nh.gov <Janet.L.Stevens@nh.gov>; Ted.Gatsas@nh.gov <Ted.Gatsas@nh.gov>; David.K.Wheeler@nh.gov <David.K.Wheeler@nh.gov>; MeagenK@nhbfa.com <MeagenK@nhbfa.com>; JeremyS@nhbfa.com <JeremyS@nhbfa.com>; JamesKW@nhbfa.com <JamesKW@nhbfa.com>
Cc: Gill, Sean <Sean.Gill@doj.nh.gov>; investinfo@doj.nh.gov <investinfo@doj.nh.gov>; richard.c.tracy@doj.nh.gov <richard.c.tracy@doj.nh.gov>; allison.vachon@doj.nh.gov <allison.vachon@doj.nh.gov>; benjamin.agati@doj.nh.gov <benjamin.agati@doj.nh.gov>; Blodgett, Sarah <Sarah.Blodgett@jc.nh.gov>; gardnersdickandnina@gmail.com <gardnersdickandnina@gmail.com>; ckeating@courts.state.nh.us <ckeating@courts.state.nh.us>; HouseJudiciaryCommittee@leg.state.nh.us <HouseJudiciaryCommittee@leg.state.nh.us>; HouseState-FederalRelationsandVeteransAffairs@leg.state.nh.us <HouseState-FederalRelationsandVeteransAffairs@leg.state.nh.us>; HouseFinanceCommittee@leg.state.nh.us <HouseFinanceCommittee@leg.state.nh.us>; dino@hayesrealestate.net <dino@hayesrealestate.net>; info@hayesrealestate.net <info@hayesrealestate.net>; governorSununu@nh.gov <governorSununu@nh.gov>; humanrights@nh.gov <humanrights@nh.gov>
Subject: A Senate Mission Statement please on SB# ___ of 2021:

Thank you Jeb Bradley <http://gencourt.state.nh.us/Senate/members/webpages/district03.aspx>

cc:

to <http://gencourt.state.nh.us/Senate/members/webpages/district20.aspx> and <http://gencourt.state.nh.us/Senate/members/webpages/district02.aspx> (mentioned below too)

RE: this extracted from the below:

" The reason Granite State businesses face the prospect of having their PPP revenue taxed is because the state of New Hampshire last ALIGNED its tax laws with the federal tax code in 2018." (with emphasis ADDED.)

Now WHY did I do this? Because in 2013 (five years before this) "

Reference: "

Joseph S. Haas

Fri 7/24/2020 11:11 AM

To:

• msearles@courts.state.nh.us

Cc:

- Maggie.Keene@doj.nh.gov;
- benjamin.agati@doj.nh.gov

" and: " From: Gill, Sean <Sean.Gill@doj.nh.gov>Sent: Friday, July 24, 2020 10:35 AM "

= " I just read the "Andrew O'Leary v. Richard Brown & a. Case No. 2014-0734 Supreme Court of New Hampshire December 18, 2015 " " case

at: https://scholar.google.com/scholar_case?case=9253602627980984227&q=Haas+Cathedral+v.+Pare&hl=en&as_sdt=6,30 and see that in 2013 a Rule 10(a) " effective . . . October 1, 2013 " was that the State of N.H. adopted the " the compulsory counterclaim rule "to use withIN the case. And so I find it amazing that of what maybe spurred this on was I guess my numerous complaints to the OTHER "co-equal" branch of government for a "check and balance" over the years and two decades to the Legislature (or N.,H. General Court) that got nowhere for my individual case, of even if I found such a case in the county court(s) today, that Rule is now in-place, but based upon this "crap" of they never got down to "brass tacks" in MY case! "]. " " in The " Notice of Errors".

The A.G. to please give me a written promise in writing that there will be no RSA Ch. 7:6 dismissal by nol pros without the " State (Haas Complainant) v. Rollins, 129 N.H. 684, 685, 533 A.2d 331 (1987). " examination of the evidence by the judge! Judge David Hackett Souter of Weare, now Hopkinton, N.H. <https://caselaw.findlaw.com/nh-supreme-court/1454325.html> wrote this 1987 opinion 13 + 20 = 33 years ago. " <http://www.gencourt.state.nh.us/rsa/html/l/7/7-6.htm> see also: <https://caselaw.findlaw.com/nh-supreme-court/1454325.html> for the: " State (Haas Complainant) v. Rollins, 129 N.H. 684, 685, 533 A.2d 331 (1987). 'therein.

The above included in my e-mail of:

" **From:** Joseph S. Haas

Sent: Tuesday, September 22, 2020 10:05 AM

To: Blodgett, Sarah <Sarah.Blodgett@jc.nh.gov>; gardnersdickandnina@gmail.com <gardnersdickandnina@gmail.com>; ckeating@courts.state.nh.us <ckeating@courts.state.nh.us>

Cc: Gill, Sean <Sean.Gill@doj.nh.gov>; investinfo@doj.nh.gov <investinfo@doj.nh.gov>; richard.c.tracy@doj.nh.gov <richard.c.tracy@doj.nh.gov>; allison.vachon@doj.nh.gov <allison.vachon@doj.nh.gov>; benjamin.agati@doj.nh.gov <benjamin.agati@doj.nh.gov>; Hff123@aol.com <Hff123@aol.com>; 'brhowardjr@yahoo.com' <brhowardjr@yahoo.com>

Subject: \$42,500 x 7 = \$297,500.

" that included the following too:

" Five years and still no \$42,500 . The Council ONLY said verbally that of this will not happen in the current or future tenses only. No official reprimand of Zibel. So gotta sue him criminally by RSA Ch. 594:14 within 2 years of this past Winter-Spring 2020 in Concord Circuit Court to get that written finding of fault and

THEN to a House Money Bill against him and this Article 28-a political subdivision of the State Gov't!
THIEVES! Proverbs 6:30-31 " <http://www.gencourt.state.nh.us/rsa/html/LIX/594/594-14.htm>

&

" Thanks Ron, and especially at the end of this about 3-minute tape of when he tells Dick Cavett that such treaties were either: merriam-webster.com/dictionary/abrogate -d, broken, changed, or altered, of reminds me of what the Town of Ashland (N.H.) did in my case, of finally some justice in The Judicial Council this past January 2015 of that has lead over to an LSR to House Resolution (H.R. #___) next year for the former Clerk of Supreme Court of Howard Zibel to pay the \$42,500+ from his RSA Ch. 93-B:1-5 faithful performance bond for his screw-up, and that has cost other parties \$hundreds of thousands of dollars in attorneys fees! " <http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-VI-93-B.htm>

See also in the:

" From: Joseph S. Haas

Sent: Monday, May 20, 2019 11:37 AM

To: sarah.blodgett@nh.gov <sarah.blodgett@nh.gov>

Cc: ckeating@courts.state.nh.us <ckeating@courts.state.nh.us>; gardnersdickandnina@gmail.com <gardnersdickandnina@gmail.com>

Subject: { Judge Batchelder died } Minutes of two meetings on: Reader Reports please."

" From: Joseph S. Haas Sent: Saturday, May 18, 2019 11:45 AM To: nhrep@outlook.com, (State Rep. Dick Marple)_ Subject: Only 2 of 1992 N.H. Supreme Court judges left to correct THEIR error (caused by Clerk Howard Zibel) The N.H. Supreme Court judges in 1992 were:

https://en.wikipedia.org/wiki/List_of_Justices_of_the_New_Hampshire_Supreme_Court " William F. Batchelder 1981 1995 " A.) " Sherman D. Horton, Jr. 1990 2000 " + B.) " William R. Johnson 1985 1999 " _____ they married sisters, so became brothers-in-law, as well as "brothers" of the B.A.R. Assn. of attorneys. / shysters " _____ these 3 now deceased _____ W. Stephen Thayer III 1986 2000 " & Chief Justice: " David A. Brock (1986–2004) " _____ https://en.wikipedia.org/wiki/W._Stephen_Thayer_III ... & <https://www.courts.state.nh.us/press/2003/aboutcibrock.htm> of now / still in Hopkinton, _____ who I last saw hiking on <https://blog.nhstateparks.org/mt-major-family-friendly-hike/> when I last talked with him at the half-way pointy there on the trail. May either one of these ought to get word of the Zibel BLOCK on my "Notice of Errors" in the 1992 case to teach those there on HOW to correct an error. _____ "

&

"

From: Joseph S. Haas

Sent: Friday, May 17, 2019 3:24 PM

To: _____

Subject: William F. Batchelder, 1926-2019

Died last Tuesday, May 7th = 10 days ago.

I see his picture on the Main page of The <https://www.nhbar.org/>

" In Memoriam Justice. . . . " [<https://www.merriam-webster.com/dictionary/in%20memoriam>]

See also:

RE: https://www.laoniadailysun.com/community/obituaries/william-foster-batchelder/article_d41e5ea0-767a-11e9-aaf8-c3acad4a336d.html

" a man of integrity " !? <https://www.merriam-webster.com/dictionary/integrity> " the quality or state of being complete or undivided : **COMPLETENESS** " to which my answer to this is: B.S. ! BULL SHIT In his and their 1992 decision of my case of they only gave a "MEMORANDUM OPINION" of a PART/ incomplete opinion, in that I guess they KNEW or anyway DO now / but REFUSE to fix it, unless what? to re-open the lower Superior Court case with a \$150 re-open fee!? that my NOTICE OF ERRORS was never processed by his/their then Court Clerk Howard "Howie Zibel to the judges who were left in "ignorance" and such bad decision was foisted upon others of to have to shell out \$much in legal fees too. The Town of Ashland , N.H. still owes the corporation here (me as the landlord then, and now President & Treasurer) [Corp. Clerk in Strafford t County) of that \$42,500 agreed-upon amount for toward that Stipulation to Docket Markings in the Petition to Quiet Title case of to never-ever again contest the Title! \$60,00 (\$15,000 / yr. x 4 1984-88) THEFT of rents - \$17,500 in taxes (lawful and unlawful, plus interest, etc.) = \$42,500, of to be paid at 10% interest per annum compounded daily by Article 14 for "prompt" as the going rate back then, of see what is now the case at: <https://www.courts.state.nh.us/sitewidelinks/interest.htm>
" https://www.laoniadailysun.com/community/obituaries/william-foster-batchelder/article_d41e5ea0-767a-11e9-aaf8-c3acad4a336d.html

The point being that BEFORE you work on this do-away with this 2018 State nationalization or adoption of the national standards into N.H. law, from back in 2018 (3 years ago) that you please acknowledge the nationalization by case-law in the Judiciary back in 2013 to what did NOT exist back in 1992 but that of which the courts pretended did exist, by their non-follow through with the "Notice of Errors" in my case of from the Clerk to the Supreme Court cases, and of the various cases citing MY case in theirs of costing them tens of thousands of dollars in attorneys fees to have to deal with, that ought not to have been expended, and that I / we were screwed- out- of this \$42,500 by the contract, and so it would be nice of for you to please acknowledge same that of since the Judiciary did, in the past , establish this nationalization and did even PRIOR to its enactment did in-effect suspend such way BEFORE that, that this you in the Legislative Branch can suspend such, as is within your power or authority to do so, as by Article 29, [<https://www.nh.gov/glance/bill-of-rights.htm>] but that when those in the Judiciary do so of even BEFORE its enactment, that you please not only acknowledge this similarity and recommend / suggest that WHEN I sue Zibel in Concord District Court either later this year or next Winter-Spring 2021-22 BEFORE the 2-year statute of limitation, [RSA Ch. 625:8,III(b) at: <http://www.gencourt.state.nh.us/rsa/html/LXII/625/625-8.htm>] that whoever shows up or is involved in this bill of yours from the A.G.'s office that the Directive therein is that WHEN I file suit, that there will be no interference in getting to that finding of fault!

Yours truly, ----- Joe / Joseph S. Haas, of Gilmanton (and: Boscawen too); mailing address: P. O. Box 3842, Concord, N.H. 03302, Tel. 413: 438-3820 (cell phone), e-mail: JosephSHAas at Hotmail dot com

cc: a couple of my House

Members: <http://gencourt.state.nh.us/house/members/member.aspx?member=377237>
and <http://gencourt.state.nh.us/house/members/member.aspx?member=409053> ; plus my State Senator <http://gencourt.state.nh.us/Senate/members/webpages/district07.aspx> too.

And: To both The House Judiciary

[<http://gencourt.state.nh.us/house/committees/committeedetails.aspx?id=5>] and State-Federal Relations

Committee [<http://gencourt.state.nh.us/house/committees/committeedetails.aspx?id=16>] " Error: Transaction (Process ID 164) was deadlocked on lock resources with another process and has been chosen as the deadlock victim. Rerun the transaction. "

Plus: "The standing policy committees of the House are each responsible for specific subject matter. Each committee holds public hearings on all bills assigned to it, considers the subject matter and then makes recommendations on the disposition of those bills to the full House." so likewise to The House Finance Committee too, eh?

[<http://gencourt.state.nh.us/house/committees/committeedetails.aspx?id=22>] Reference former State Rep. Mike Brewster's LSR ___ to HB #___ from Pittsfield, N.H. on this \$42,500 that got the ITL because of this lack of information.

Also: The G&C <https://www.governor.nh.gov/> & <https://www.nh.gov/council/>



Welcome | Governor Christopher T. Sununu

Welcome to the Office of the Governor. I am so proud to serve as New Hampshire's 82nd Governor. Our team is committed to moving our state forward and restoring the value of customer service to state government.

www.governor.nh.gov

Reference the N.H. Article 51 at: <https://www.nh.gov/glance/governor.htm> in that: " **[Art.] 51. [Powers and Duties of Governor as Commander-in-Chief.]** The governor of this state . . . shall . . . execute the laws of the state and of the United States; . . .

June 2, 1784"

and that includes: at: <https://www.nh.gov/glance/literature.htm> = " **[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.]** . . . it shall be the duty of the legislators and magistrates, . . . to encourage . . . rewards, . . . for the promotion of . . . commerce, trades, . . . ; to countenance [support] . . . industry and economy, honesty and punctuality, sincerity, [" the quality of being FREE from pretense, [** deceit, or hypocrisy. "] . . . among the people: . . . Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. . . Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to PREvent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce OR to DESTROY free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; . . . and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against. June 2, 1784" with emphasis ADDED.

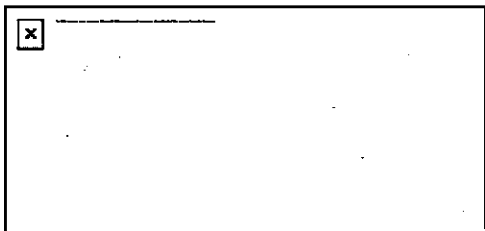
[**] pretense = " an attempt to make something that is not the case appear true. "

Thus / therefore this question: " DO YOU ADMIT: that this is what the Judiciary did in pre- dating this 2013 enactment of " the compulsory counterclaim rule " , and so is guilty of: " pretense = " an attempt to make something that is not the case appear true. " ? reference this money due from the Tax Sale case; [***]

See also that of the Sheriff Sale case too; in that of it NOT "practicing champerty" = in res for what really be in rem, of the "common law" offense of Champerty was done-away with in the Spring of 1992 by the Adkin Plumbing & Heating case

[https://scholar.google.com/scholar_case?case=17227848028707180040&q=adkin+plumbing+NH&hl=en&as_sdt=6,30] since such is what's called "free commercial speech" re: The Beineke case in Vol. 400 Mass. REPORTS page # ___ footnote #7 (1987) as in that newspaper article about Boston Bounty Hunter Bill Devine IN SEARCH OF. . . Missing Heirs to ocean-front land on Nantucket, of having spent over \$1/4 million in attorney fees to win this right, of that of which I claimed equal rights to lands and mineral rights here in New Hampshire, but was pounced on ANYway! See The "Bost\on Herald": of 17 Sept. 1989 @ page 24 or 24 Sept. 1989 @ ppage 17.

All of this also for toward the next BFA [<https://nhbfa.com/>] Public Hearing too, since: at: <https://www.nh.gov/glance/bill-of-rights.htm> = " [Art.] 10. [Right of Revolution.] Government being instituted for the common benefit, protection, and security, of the whole community, and not for the private interest or emolument of any one man, family, or class of men; . . . The doctrine of nonresistance against ARBITRARY power, and oppression, is absurd, slavish, and destructive of the good and happiness of mankind. June 2, 1784 " with emphasis ADDED for both: (1) The "Universal Declaration of Human Rights" at: <https://www.un.org/en/universal-declaration-human-rights/> " 17 (2) No one shall be arbitrarily deprived of his property. " cc: <https://www.nh.gov/hrc/> too regarding Article 17)2) there and the fact that they ONLY take complaints of Civil Rights NOT Civil Liberties! <https://civilrights.findlaw.com/civil-rights-overview/civil-rights-vs-civil-liberties.html#:~:text=Civil%20liberties%20are%20freedoms%20guaranteèd,the%20right%20to%20remain%20silent.> ; and (2) that as I've explained in a multiple of other e-mails about the Article 20 right to trial by jury [<https://www.nh.gov/glance/bill-of-rights.htm>] in real estate matters involving title, [see also: The Morsell case of 1875 at: <https://supreme.justia.com/cases/federal/us/91/357/> [" Morsell v. First National Bank :: 91 U.S. 357 (1875) ; Ref. Judge Nathan Clifford of Rumney, N.H. at: https://en.wikipedia.org/wiki/Nathan_Clifford and: " <https://www.findagrave.com/memorial/5686/nathan-clifford>] for the eligit process for toward a temporary half title called a Moiety Title at: https://en.wikipedia.org/wiki/Moiety_title#:~:text=Moiety%20title%20is%20a%20legal,whole%20of%20ownership%20of%20property.] RSA Ch. 498:5-d at: <http://www.gencourt.state.nh.us/rsa/html/LI/498/498-5-d.htm> and RSA Ch. 625:6 at: <http://www.gencourt.state.nh.us/rsa/html/LXII/625/625-6.htm> " **625:6 All Offenses Defined by Statute.** – No conduct or omission constitutes an offense unless it is a crime or violation under this code or under another statute.



Civil Rights vs. Civil Liberties - FindLaw

"Civil rights" and "civil liberties" are terms that are often used synonymously, interchangeably, but the terms are actually very distinct. Civil liberties are freedoms guaranteed to us by the Constitution to protect us from tyranny (think: our freedom of speech), while civil rights

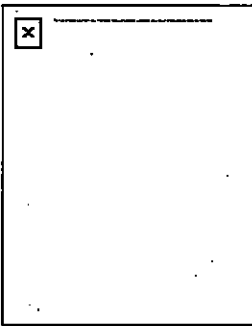
are the legal rights that protect individuals from discrimination (think: employment discrimination).

civilrights.findlaw.com

Source. 1971, 518:1, eff. Nov. 1, 1973. " . Plus the RSA Ch. 480:1-9

[<http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-XLIX-480.htm>] and 511:2

[<http://www.gencourt.state.nh.us/rsa/html/LII/511/511-2.htm>] right of homestead!



Nathan Clifford (1803-1881) - Find A Grave Memorial

US Congressman, Presidential Cabinet Secretary, US Diplomat, Associate Justice of the United States Supreme Court. Represented first ME's 2nd District, then the 3rd District in the House of Representatives, serving from 1839 to 1843. Appointed as US Attorney General in the administration of President James K. Polk,...

www.findagrave.com

JSH

footnote: [***] Hi

Mary, <https://www.courts.state.nh.us/lawlibrary/> and: <https://www.courts.state.nh.us/lawlibrary/index.htm#staff> How many N.H. Article 83 "pretense" court cases are there for here in N.H. ? # _____ and named: _____ v. _____ ? please. in the maroon-colored Statutes book for this in I think it's Vol. 1 or even before that of in The Constitutions book (state and U.,S. combined) ? [not available on-line] as in other words: How many annotation(s) there, AND in your records there or that can be obtained by Sheppardizing by West Law, Lexis Nexis, etc. I'll try <https://scholar.google.com/> later too. Like how many cases = " civil and criminal proceedings in respect to all the wrongs herein declared against." of against " being free from pretense " / the word free in this case defined as: " not under the control or in the power of another; able to act or be done as one wishes. " no compulsion = that word : " the action or state of forcing or being forced to do something; constraint. " . This to you on the forward at the top of the page. Just see it in context by the two and three asterisks please. ** and *** .

Open By Appointment

" / "

The Law Library is reopening to the public by appointment on Monday, October 26, 2020. We will continue to offer curbside service to accommodate borrowers who would prefer not to come in to the Law Library. Visitors will be asked a series of screening questions by security and will be required to wear masks unless the wearing of masks would be

contrary to their health or safety, and to comply with social distancing guidelines. Since the Law Library is located in the supreme court building, visitors should review the information at What to Know Before Coming to a New Hampshire Courthouse.

Appointments will be in 3-hour blocks from 9 a.m. to 12 p.m. and 1 p.m. to 4 p.m. and, for the present, only one visitor at a time will be allowed in the law library.

Researchers wishing to make an appointment should call 603-271-3777 or email lawlibrary@courts.state.nh.us. You must give your name, phone number, and/or email so that we can contact you if needed.

[*** *]

" > From: my other hotmail account

> To: cccwhite@aol.com; jdejoie@little-monkeys.com; james.mackay@leg.state.nh.us; hontgr@aol.com

> Subject: Notice of Errors.

> Date: Wed, 7 Apr 2004 09:03:29 -0400

>

> Dear Reps: This is to follow up yesterday's e-mail.

>

> "THE SUPREME COURT OF NEW HAMPSHIRE CATHEDRAL OF THE BEECHWOODS, INC.& a. v. RICHARD F. PARE & a. Grafton No. 92-270

>

> NOTICE OF ERRORS

>

> --NOW COMES the 'Reader', Joseph Sanders Haas, Jr., of Seven NORTH Main Street, P.O. Box 218, Ashland, N.H. 03217, and does 'notify the Clerk/Reporter' of some errors for 'corrections' to be made before the opinion goes to press.'

>

> --The Waters v. Hedberg case of 126 N.H. 546 @ 548 (1985) is in-appropriate AND the Moore v. Lebanon case of 96 N.H. 20 @ 22 (1949) is likewise inappropriate because '(t)he defense of a prior suit pending applies only when the plaintiff in both suits is the same person' ft.1 8 A.L.R. 694 @ page 718 for 'prior action in equity', see also p. 716 therein for #7: 'When A. sues B. to recover a specific tract of land or a specific sum of money, B. may content himself with defending himself against the claim of A. as set up in his complaint; he need go no further, although he may go further if he chooses. Not so however, with A.; he must exhaust himself in regard to the specific tract of land or specific sum of money sued for; afterwards, he cannot make as a cause of action.' to which is added the following:

>

> (1) from Moore v. Lebanon, 92 N.H. 20-23 @ 22 (1949) ft.2 that cites:

>

> (a) Merchants v. Kiley, 92 NH 323-328 @ p. 326 (1943): 'When, however, the words 'no further action for the same cause' are added, as in the case at bar, the PLAINTIFF'S right of further action is barred,' (emphasis added)... 'It was plainly... 'a judgment of NOLLE PROSEQUI' which was 'a judgment against the plaintiff'; and;

>

> (b) 2 A.L.R. 2d 514-576 (1948) @ p. 563, section 16: 'a consent decree PREcludes the PLAINTIFF from seeking relief, with respect to the same cause of action, additional to that given by the consent decree.' (emphasis added); plus: 'the decree of a court entered by consent and IN PART PERFORMANCE OF AN AGREEMENT of settlement is NOT a bar to a subsequent suit for an appropriation of the FRUITS of the settlement, as such suit involves another cause of action. ft.3' footnote #3 of ALR also incorporated here. (emphasis added)

>

> (2) from: Thibault v. Lambert, 87 N.H. 77-80 (1934) @ page 79 that cites:

>

> (a) Blodgett v. Berlin Mills Co., 52 NH 215-221 (1934) @ p. 218 Ladd, J.: 'The DEFENDANT has the election whether he will set up his claim in answer to the plaintiff's demand or resort to a cross action;' (emphasis added) and; 'see an elaborate and valuable discussion of the whole subject by MARTIN, J., in Ward v. Fellers, 3 Mich. 281' Gibbs-- January 1854, p. 281-295; Martin, J. @ 285-295 @ p. 293: 'The defense by recoupment is voluntary. The remedy by cross action always subsists.' &

>

> (b) Bascom v. Manning, 52 N.H. 132-136 @ p. 133 (Cheshire, June 1872) citing: Holton v. Gleason, 26 N.H. 501-505 (Grafton, July 1853) summary #2: 'A judgment upon a nonsuit will not estop a party from maintaining a second action for the same case' / unless marked 'with prejudice' as the case here against the Defendants Pare, who were the co-plaintiffs in the prior suit.

>

> --WHEREFORE I call this the Plaintiff/Defendant errors of positions paper. These cases were obtained by digging a little bit deeper into the cases within the cases, and especially footnote #3 of a United States Supreme Court case, that can make this a Federal case if need be.

>

> Yours truly, --- Joseph Sanders Haas, Jr., 7 North Main Street, P. O. Box 218, Ashland, N.H. 03217-0218, Grafton County, U.S.A. 603: 968-7177 Tuesday, April 12th, 1994, A.D.

>

> pc: Christopher Dye, Esq., P.O. Box 376, Bradford, VT 05033 802: 222-4796

> --- John J. McCormack, Esq., P.O.Box 677, Ashland, N.H. 03217 603: 968-7894

> --- Matthew J. Lahey, Esq., Murphy, McLaughlin & Hemeon, 501 Union Ave., Laconia, N.H. 03246 603: 524-4404

>

> footnote #1: 8 A.L.R. (AMERICAN LAW REPORTS) 694: 'Prior action in which claim, might have been asserted by counter claim, set-off, or cross petition, as having or abating subsequent independent action thereof.' II. General Rule b. Application of rule: 10. 'The plaintiff, as defendant in a prior suit in equity, was not obliged to set up his answer in that action matters entitling him to affirmative equitable relief, but could reserve his claims for a separate action. The court said: 'The defense of a prior suit pending applies only when the plaintiffs in both suits is the same person, and both are commenced by himself, and not to cases where there are cross suits by a plaintiff in one suit, because it cannot be said that either is prosecuting two actions against the other within the rule in question.'

>

> ft. 2: cited in: Concrete v. Manchester Bank, 117 N.H. 670-673 @ 672 (1977) from: Waters v. Hedberg, supra.

>

> ft. 3: Union P.R. Co. v. Stewart, (1877) 95 U.S. 279, 24 L. ed. 431."

>

> Note: This case is in Vol. 138 N.H. REPORTS 391 (March 31, 1994) and is labeled as a "MEMORANDUM OPINION" by BATCHELDER, J., a MEMO defined as a BRIEF, so to present this brief to the General Court for conclusion.

>"

RE:

" **From:** NH Senate Republicans <info=nhsenaterepublicans.com@mlsend2.com>
on behalf of NH Senate Republicans <info@nhsenaterepublicans.com>
Sent: Tuesday, February 2, 2021 4:19 PM
To: Joseph S. Haas
Subject: Sen. (Jeb) Bradley files bill to stop PPP tax .

"

Friends,

Today, Senate Majority Leader Jeb Bradley put forth a piece of legislation to finally fix the Paycheck Protection Program (PPP) state tax problems for New Hampshire small businesses.

Sen. Bradley's legislation will make it clear that small businesses receiving PPP Loans from the federal government will not be subject to either the state's BET or BPT taxes. This will resolve one of the most pressing business taxation problems that the new Republican majority inherited upon retaking control of the legislature last year.

[Read about it here!](#) [*]

While Senate Republicans are looking to help small businesses and help families get back to work, Democrats would rather blame Governor Sununu to obscure their past support for higher business taxes!

Help us fight back against the Democrats' false claims by [making a \\$5, \\$25, or \\$100 contribution to the NH Senate Republicans online here \(Secure Link!\)](#)

"

"

The reason Granite State businesses face the prospect of having their PPP revenue taxed is because the state of New Hampshire last aligned its tax laws with the federal tax code in 2018. The congressional exemption is for 2020. "We need to update our laws and do it quickly if we want to protect our businesses from these taxes," Bradley said.

Tuesday morning, Bradley announced legislation to address the issue.

"I'm going to introduce a late bill in the Rules Committee to make the change so businesses don't have to pay state taxes on their PPP monies," Bradley told NHJournal. "Republicans are well aware of the problem, and we know this has to get done."

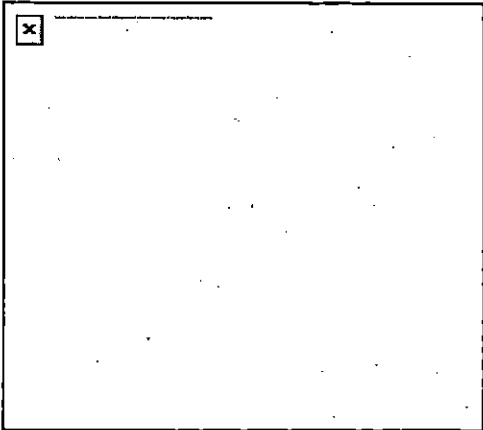
- NH Journal, Feb 2, 2021

"

Thank you,

NH Senate Republicans

" [*] <https://insidesources.com/sen-bradley-to-file-legislative-fix-for-ppp-state-tax-problem/>

	<h2>NH Republicans Filing Legislative Fix for PPP State Tax Problem – InsideSources</h2>
	<p>New Hampshire companies that received federal PPP COVID-19 relief will have to pay state business taxes on it, and Democrats are blaming Gov. Chris Sununu. Congress exempted the money from federal ...</p>
	<p>insidesources.com</p>

NH Republicans Filing Legislative Fix for PPP State Tax Problem

Posted to [Politics](#) February 02, 2021 by [Michael Graham](#)"

New Hampshire companies that received federal PPP COVID-19 relief will have to pay state business taxes on it, and Democrats are blaming Gov. Chris Sununu. Congress exempted the money from federal taxation, but Granite Staters are still on the hook. And, Democrats say, it's all Sununu's fault. "It's unacceptable that under Governor Sununu, our business owners are being taxed on the federal COVID relief they received to keep their doors open," said state Sen. Lou D'Allesandro, D-Manchester.

"It's unfortunate that when Governor Sununu had the opportunity to do the right thing and suspend the tax on businesses, he failed to act. Now, our businesses are paying for his inaction. We urge the Governor to stop any further taxes on New Hampshire businesses who are struggling to get through this pandemic," D'Allesandro said.

But how? How could Sununu "suspend the tax on businesses?" – *any* tax?

Asked by NHJournal to explain how the governor could exempt PPP revenue from taxation via fiat, D'Allesandro simply said, "I'm told he can do it," but didn't say how.

While Sununu has expansive executive order powers due to the COVID-19 emergency, legislative and tax experts who spoke to NHJournal said it was unlikely he could simply set aside tax law with a stroke of his pen.

Even more ironic, says state Sen. Jeb Bradley (R-Wolfeboro), is watching the same Democrats who went to court to limit Sununu's emergency powers a few months ago now attacking him for not exercising power over tax law he doesn't have. One of the lead Democrats in that lawsuit was Sen. D'Allesandro.

"Not to mention the fact that Democrats have been trying to raise business taxes for years. These are the same Democrats trying to stop us from cutting business taxes right now," Bradley said.

Indeed, D'Allesandro released a statement Monday objecting to a GOP-backed plan to cut the state's Business Profits Tax rate. "Over the years, we have reduced the BPT a number of times, proving our willingness to support businesses. However, the COVID-19 pandemic has left the stability of our state revenues in question," D'Allesandro said. "I would urge my colleagues to make the fiscally responsible choice and reject this legislation."

The reason Granite State businesses face the prospect of having their PPP revenue taxed is because the state of New Hampshire last aligned its tax laws with the federal tax code in 2018. The congressional exemption is for 2020. "We need to update our laws and do it quickly if we want to protect our businesses from these taxes," Bradley said.

Tuesday morning, Bradley announced legislation to address the issue.

"I'm going to introduce a late bill in the Rules Committee to make the change so businesses don't have to pay state taxes on their PPP monies," Bradley told NHJournal. "Republicans are well aware of the problem, and we know this has to get done."

And that, according to prominent New Hampshire tax attorney William Ardinger, is the right answer to the debate over Sununu's gubernatorial powers.

"The legislature is in session. They have a voice, and they can determine what the tax rules should be," Ardinger said. "Debating the governor's power is missing the point. Why argue politics when you can just pass a law?"

But will Democrats join GOP efforts to rush it to Sununu's desk in time to keep businesses from getting stuck with the tab?

"Hey, it's always refreshing to see Democrats supporting lower taxes, Bradley said. "Let's see how long it lasts."

UPDATE: Tuesday morning, the NH Senate released the following statement:

"Republicans give their full support to Main Street businesses here in New Hampshire," said Bradley. "PPP loans have been an absolute lifeline for some of our businesses that have been battered by the pandemic and have used the money to stay afloat. They will not be taxed under the BET or the BPT. Our goal is to support Main Street employers and their workers, not to make things harder for them."

Sen. Bob Giuda (R-Warren), Chairman of the Ways & Means Committee echoed Bradley's comments saying, "We realize just how important our Main Street businesses are to New Hampshire's economy. Many of them are struggling with financial stress caused by the pandemic so now is not the time to burden our hardworking men and women with additional taxes. We have a real opportunity to bring New Hampshire back from the pandemic in better shape than ever and that's exactly what we plan to do. Taxing PPP money is definitely not part of that plan."

Sonja Caldwell

From: Stepp, Lindsey <Lindsey.M.Stepp@dra.nh.gov>
Sent: Monday, March 1, 2021 2:51 PM
To: Bob Giuda; Lou D'Allesandro; Erin Hennessey; Cindy Rosenwald; Gary Daniels; Sonja Caldwell
Cc: Lear, Carollynn; Rollins, Melissa
Subject: SB 3 Follow Up Information
Attachments: SB 3 Fiscal Impact_Simple_DRA_3.1.21.pdf

Good afternoon Senate Ways and Means Committee,

As a follow up to the SB 3 discussion this morning, attached is the simple fiscal analysis that I presented. Also, here is a written summary of the analysis:

1. Start with total PPP as of 8/8/2020
2. Remove 20% for PPP to non-profits, businesses under the BPT filing threshold of \$50,000 – the 20% is based off of NH-specific data, but is applied to the total PPP pool
3. Apportion the remaining amount to NH using 0.40% apportionment – the 0.40% is based on NH population and is frequently used by DRA when trying to determine the NH-specific portion of national numbers
4. The resulting \$1.7B is then multiplied by the BPT rate of 7.7% to determine the maximum potential impact of SB 3 on BPT, which results in a potential impact of -\$130.9m
5. The -\$130.9m is reduced by accounting for the fact that the majority of PPP was likely spent on wages, which would generate BET. For this we assume that 80% was spent on wages, resulting in \$8.1m in BET. As BET is a dollar for dollar credit against BPT, the \$8.1m is the amount of PPP for which no additional benefit would be provided under SB 3 because the credit will have already reduced the BPT liability.
6. The remaining -\$122.8m is then reduced by 47% to account for those taxpayers that have carryforward or excess BET credit. Again, these taxpayers would not see a benefit under SB 3 because they already have BET credits that are in excess of their BPT liability and therefore do not pay BPT. Using tax year 2018 data from DRA, 47% of BPT filers are in an excess BET credit position and therefore only pay BET.
7. The final result is a potential fiscal impact of **-\$65.1m**.

Again, this is a very simple analysis based on significant assumptions.

Also, per the latest weekly PPP report from the SBA, total loans through 2/28/21 is \$678.7B. The full report is available here: <https://www.sba.gov/document/report-paycheck-protection-program-weekly-reports-2021>

Additional data is available here, <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program/ppp-data>, which shows that in terms of forgiveness by dollar amount, 29% of loan amounts have been forgiven, 56% have not yet applied for forgiveness, 14.8% are under review, and less than 1% have been denied forgiveness.

I hope you find this information helpful. Please let me know if you have any additional questions.

Kind regards,
Lindsey

Lindsey M. Stepp
Commissioner
NH Department of Revenue Administration

109 Pleasant Street
PO Box 457
Concord, NH 03302-0457
(603)230-5006
Lindsey.M.Stepp@dra.nh.gov

Simple SB 3 Fiscal Impact

prepared by the Department of Revenue Administration

March 1, 2021

Total PPP as of 8/8/2020		\$525B
% of PPP to Non-Profits, Amounts under Taxable Threshold	20.00%	\$105B
		\$420B
% Apportionment of PPP to NH	0.40%	\$1.7B
BPT rate		7.70%
Resulting Additional Benefit		\$ (130.90) million
PPP loan proceeds spent on wages increasing BET base	80%	\$1.3B
BET Rate:		0.60%
BET Liability		\$ 8.1 million
BPT Liability (after BET credit):		\$ (122.8) million
% of taxpayers with excess BET credits	47%	\$ 57.7 million
		\$ (65.1) million

Voting Sheets

Senate Ways & Means Committee
EXECUTIVE SESSION RECORD
2021-2022 Session

Bill # **SB3-FN**

Hearing date: 2-8-21

Executive Session date: 3-8-21

Motion of: OTP Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Giuda, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. D'Allesandro, VC	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Daniels	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Hennessey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Rosenwald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Giuda, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. D'Allesandro VC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Daniels	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Hennessey	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Rosenwald	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Giuda, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. D'Allesandro, VC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Daniels	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Hennessey	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Rosenwald	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Giuda

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Monday, March 8, 2021

THE COMMITTEE ON Ways and Means

to which was referred SB 3-FN

AN ACT

clarifying the tax treatment of federal Paycheck
Protection Program loans.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 5-0

Senator Bob Giuda
For the Committee

Sonja Caldwell 271-2117

WAYS AND MEANS

SB 3-FN, clarifying the tax treatment of federal Paycheck Protection Program loans.

Ought to Pass, Vote 5-0.

Senator Bob Giuda for the committee.

General Court of New Hampshire - Bill Status System

Docket of SB3

Docket Abbreviations

Bill Title: clarifying the tax treatment of federal Paycheck Protection Program loans.Official Docket of **SB3**:

Date	Body	Description
2/3/2021	S	Introduced 01/06/2021 and Referred to Ways and Means; SJ 3
2/3/2021	S	Remote Hearing : 02/08/2021, 09:00 am; Links to join the hearing can be found in the Senate Calendar; SC 10
3/8/2021	S	Committee Report: Ought to Pass, 03/18/2021; SC 15
3/18/2021	S	Ought to Pass : RC 23Y-0N, MA; OT3rdg; 03/18/2021; SJ 8
3/31/2021	H	Introduced (in recess of) 02/25/2021 and referred to Ways and Means HJ 4 P. 50
4/14/2021	H	Public Hearing: 04/27/2021 10:00 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/95145735422 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
4/28/2021	H	Full Committee Work Session: 05/04/2021 11:00 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/92340576130 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
5/5/2021	H	==RECESSED== Executive Session: 05/11/2021 09:30 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/91063233087 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
5/12/2021	H	Full Committee Work Session: 05/18/2021 09:30 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/96731823451 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
5/19/2021	H	Executive Session: 05/25/2021 09:30 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/96012823030 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
5/25/2021	H	Committee Report: Ought to Pass (Vote 23-0; RC) HC 26 P. 29
6/4/2021	H	Ought to Pass : MA VV 06/04/2021
6/8/2021	H	Enrolled (in recess of) 06/04/2021
6/8/2021	S	Enrolled Adopted, VV, (In recess 06/03/2021); SJ 19
6/15/2021	S	Signed by the Governor on 06/10/2021; Chapter 0074; Effective 06/10/2021

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB3-FN

Senate Committee: Ways & Means

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

- Bill version as it came to the committee
- All Calendar Notices
- Hearing Sign-up sheet(s)
- Prepared testimony, presentations, & other submissions handed in at the public hearing
- Hearing Report
- Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

___ - amendment # ___ ___ - amendment # ___
___ - amendment # ___ ___ - amendment # ___

- Executive Session Sheet
- Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

___ - amendment # ___ ___ - amendment # ___
___ - amendment # ___ ___ - amendment # ___

Post Floor Action: (if applicable) {Clerk's Office}

- ___ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):
- ___ Enrolled Bill Amendment(s)
- ___ Governor's Veto Message


All available versions of the bill: {Clerk's Office}

as amended by the senate as amended by the house
 final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

SLC
Committee Aide

7-14-21
Date

Senate Clerk's Office 

New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

21-1081

SB 3-FN, clarifying the tax treatment of federal Paycheck Protection Program loans.

Senate Ways & Means

The New Hampshire Business Profits Tax (BPT) uses federally reported income as a starting point for purposes of calculating a taxpayer's BPT liability. RSA 77-A:1, XX provides which version of the Internal Revenue Code (IRC) a taxpayer should reference to properly determine federally reported income for BPT purposes in each tax year. Under current law, for taxable periods beginning on or after January 1, 2020 taxpayers should utilize the IRC in effect on December 31, 2018. Because the current BPT statute references the IRC in effect on December 31, 2018, the New Hampshire tax treatment of certain COVID-19 financial relief programs varies from the federal treatment of those same programs under current law. Specifically, under federal law, loan amounts received by taxpayers from the Paycheck Protection Program (PPP) that are forgiven will not be included in taxable income federally and business expenses paid for with forgiven PPP loans can be deducted. Under the current NH BPT statute, loan amounts received by NH taxpayers from the PPP that are forgiven will be included in taxable income for BPT purposes and business expenses paid for with forgiven PPP loans can be deducted. The NH treatment under current law mirrors the normal treatment of forgiven loans for federal tax purposes; the federal government has, however made a policy decision to modify this treatment for forgiven PPP loans.

The proposed legislation would amend the BPT statute so that NH's treatment of forgiven PPP loan amounts would mirror the federal treatment effective upon passage and applicable to taxable periods ending after March 3, 2020.

The DRA is unable to calculate the fiscal impact of the proposed legislation. Although the list of PPP loan recipients has been made public, that list cannot be reliably used to calculate the fiscal impact of the proposed legislation due to the following limitations:

- The list of PPP loan recipients does not include recipient FEINs and therefore there is no reliable way to match the loan recipients on the list to DRA filers. The names on the list may vary significantly with how the taxpayer files with the DRA due to the use of trade names, abbreviations, etc. as well as because many of our largest filers file combined returns reporting the activity of numerous related entities who may have received PPP loans.
- Under current law, only forgiven PPP loans will be included in the BPT tax base. To be forgiven, certain PPP criteria must be met. As of the date of this fiscal note, the US Small Business Administration (SBA) has not published data related to amounts of PPP loans forgiven.
- Under current law, the taxpayer will include forgiven PPP loans in the tax base, but will deduct any business expenses paid for with forgiven PPP loans. Therefore, in order to calculate the revenue attributable to forgiven PPP loans currently, the DRA would need data on the amount of expenses each taxpayer will first deduct. The DRA does not have this data.

- Under the proposed law, forgiven PPP loans will not be included in the BPT tax base, however business expenses paid for with forgiven PPP loan amounts will remain deductible. Because these deductions for business expenses will not be offset by the forgiven PPP loan proceeds, these business deductions will offset other taxable income from the taxpayer. Therefore, in order to calculate the revenue loss attributable to allowing these business deductions, the DRA would need data on the amount of expenses each taxpayer will deduct that were paid for with forgiven PPP loan proceeds. The DRA does not have this data.

Although the DRA cannot calculate the fiscal impact of the proposed legislation, the DRA believes that eliminating forgiven PPP loans from the BPT tax base by making them not taxable, while continuing to allow the deduction of business expenses paid for with forgiven PPP loan proceeds would reduce revenue beginning in FY 2022. This revenue reduction would take the form of reduced estimate payments, reduced return and extension payments, and increased refund requests for taxpayers who will have already filed their tax returns reporting forgiven PPP loan amounts and taxpayers who made estimated tax payments in accordance with the law at that time.

Although the DRA cannot estimate the fiscal impact of the proposed legislation, the DRA has utilized the publicly available list of PPP loan recipients to calculate an extremely general estimate of the revenue loss attributable to the proposed legislation and making a number of assumptions about the available data, including the following:

- On August 8, 2020 the SBA reported that \$525B in PPP loans went to 5,212,128 recipients nationwide. We applied an apportionment percentage of 0.4% to that overall loan amount, resulting in \$2.1B in loans being apportioned to NH. The 0.4% apportionment percentage represents the typical amount of taxable business income to NH compared to total national taxable business income.
- From the \$2.1B in PPP loans apportioned to NH, NH recipients with a non-profit status were removed, as well as those recipients with one employee and less than \$75k in PPP loans. These taxpayers were excluded because they mostly likely would not have a BET or BPT liability in NH, due to the BPT \$75k safe harbor compensation deduction as well as being below the BET thresholds.
- The result is \$1.8B in estimated potentially taxable aid to NH depending on forgiveness and use of funds.
- The PPP requires that certain program criteria be met for the loan to be forgiven. For purposes of our analysis the DRA has assumed that all PPP loans issued will meet program criteria and therefore be forgiven because the SBA has not yet published loan forgiveness data.
- The PPP is designed to provide a direct incentive for businesses to keep their workers on the payroll. Borrowers may be eligible for loan forgiveness if the funds were used for eligible payroll costs, payments on business mortgage interest payments, rent, or utilities during either the 8- or 24-week period after disbursement. Because the PPP requires that recipients spend 60% of the loan proceeds on eligible expenses, the DRA analysis has assumed that 60% of loan proceeds are spent on NH wages to calculate an estimated BET impact.
- In addition to assuming that 60% of PPP loan proceeds are spent on wages, the DRA assumed that an additional 0%, 20%, and 40% were spent on other deductible business expenses in order to calculate a range of the possible fiscal impact of the proposed legislation.

- Assuming 60% of the forgivable loans are spent on wages, \$1.08B would be subject to the current BET rate of 0.60% equating to \$6.5M of BET revenue under each scenario.
- For the high range, we assumed 43.4% of BET taxpayers would have a BET credit against the BPT return, based on TY2018 data. Applying the 43.4% to the \$1.08B and then multiplying it by the current 0.6% BET rate results in an estimated BET credit of \$2.8M to offset any BPT liability. We also assumed 40% was spent on other (non-wage related) deductible business expenses. As wages are a deductible business expense, we applied the total loan amount or 100% (60% + 40%) of \$1.8B to the current BPT rate of 7.7%, resulting in (\$138.6M). Therefore, the high range impact would be \$6.5M BET tax, less (\$2.8M) BET credit, less (\$138.6M) deductible expense against the BPT, resulting in an estimated (\$134.9M) reduction in revenue.
- For the mid-range, we assumed 43.4% of BET taxpayers would have a BET credit against the BPT return, based on TY2018 data. Applying the 43.4% to the \$1.08B and then multiplying it by the current 0.6% BET rate results in an estimated BET credit of \$2.8M to offset any BPT liability. We also assumed 20% was spent on other (non-wage related) deductible business expenses. As wages are a deductible business expense, we applied 80% (60%+20%) or \$1.44B of the total \$1.8B loan amount. We then multiplied it by the current BPT rate of 7.7%, resulting in (\$110.9M). Therefore, the mid-range impact would be \$6.5M BET tax, less (\$2.8M) BET credit, less (\$110.9M) deductible expense against the BPT, resulting in an estimated (\$107.2M) reduction in revenue.
- For the low-range, we assumed 43.4% of BET taxpayers would have a BET credit against the BPT return, based on TY2018 data. Applying the 43.4% to the \$1.08B and then multiplying it by the current BET rate of 0.6% results in an estimated BET credit of \$2.8M to offset any BPT liability. In this scenario, we also assumed 0% was spent on other (non-wage related) deductible business expenses. As wages are a deductible business expense, we applied 60% (60%+0%) or \$1.08B of the total \$1.8B loan amount. We then multiplied it by the current BPT rate of 7.7%, resulting in (\$83.2M). Therefore, the low-range impact would be \$6.5M BET tax, less (\$2.8M) BET credit, less (\$83.2M) deductible expense against the BPT, resulting in an estimated (\$79.5M) reduction in revenue.
- Those recipients labeled as non-profit in the public data from SBA are subtracted from the overall totals. These include hospitals, nursing homes, churches, and private educational institutions. We presume that those recipients not removed from the analysis are all NH BPT taxpayers, which may or may not be true due to filing thresholds, apportionment, and other factors.
- The analysis only includes the possible fiscal impact of the PPP loan issuance through August 8, 2020 and does not estimate the impact of follow-on programs.
- After making the aforementioned assumptions and adjustments, the DRA has calculated a possible fiscal impact reduction range as follows:
 - **High: \$134.9M**
 - **Middle: \$110.9M**
 - **Low: \$79.5M**

The DRA could administer the proposed legislation without an additions to our operating budget.