

# Bill as Introduced

SB 58-FN-A - AS INTRODUCED

2011 SESSION

11-0999  
09/03

SENATE BILL

**58-FN-A**

AN ACT

adding qualified community development entities to the definition of "qualified investment company" under the business profits tax and the business enterprise tax.

SPONSORS:

Sen. Odell, Dist 8

COMMITTEE:

Ways and Means

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ANALYSIS

This bill adds qualified community development entities to the definition of "qualified investment company" under the business profits tax and the business enterprise tax.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Eleven*

AN ACT                adding qualified community development entities to the definition of "qualified investment company" under the business profits tax and the business enterprise tax.

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

1            1 Purpose. The general court finds:

2            I. The New Hampshire business finance authority has been authorized by the United States  
3 Treasury Department to allocate federal New Markets Tax Credits to support economic development  
4 in certain eligible low-income areas of the state.

5            II. Under the federal New Markets Tax Credit Program, the business finance authority is  
6 required to establish certain "qualified community development entities" for purposes of facilitating  
7 investment by third parties to support economic development transactions.

8            III. This act ensures that "qualified community development entities" established by the  
9 business finance authority will not be subject to the business profits tax, the business enterprise tax,  
10 or the interest and dividends tax. The ultimate recipient of the investment funds, however, will  
11 continue to be subject to these taxes.

12           2 Business Profits Tax; Definitions; Qualified Investment Company. Amend RSA 77-A:1, XXI(a)  
13 to read as follows:

14           XXI(a) "Qualified investment company" means:

15                (1) A regulated investment company as defined in section 851 of the United States  
16 Internal Revenue Code as defined in RSA 77-A:1, XX;

17                (2) An organization that is an investment company under the Investment Company  
18 Act of 1940 as amended; ~~or~~

19                (3) An organization that would be an investment company under the Investment  
20 Company Act of 1940, as amended, but for the exception from investment company status provided  
21 by section 3(c)(1) or 3(c)(7) of said Investment Company Act~~[-]~~; *or*

22                (4) *A qualified community development entity as defined in section 45D of*  
23 *the United States Internal Revenue Code.*

24           3 Business Enterprise Tax; Definitions; Qualified Investment Company. Amend RSA 77-E:1,  
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30 Act of 1940, as amended; ~~or~~

SB 58-FN-A - AS INTRODUCED

- Page 2 -

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3 by section 3(c)(1) or 3(c)(7) of said Investment Company Act[-]; *or*

4                   (4) *A qualified community development entity as defined in section 45D of*  
5 *the United States Internal Revenue Code.*

6           4 Effective Date. This act shall take effect upon its passage.

LBAO  
11-0999  
02/01/11

**SB 58-FN-A - FISCAL NOTE**

**AN ACT** adding qualified community development entities to the definition of "qualified investment company" under the business profits tax and the business enterprise tax.

**FISCAL IMPACT:**

The Department of Revenue Administration states this bill may decrease state revenue by an indeterminable amount in FY 2011 and each year thereafter. This bill would have no fiscal impact on state, county, and local expenditures, or county and local revenues.

**METHODOLOGY:**

The Department of Revenue Administration states this bill adds qualified community development entities to the definition of qualified investment company under the business profits tax (BPT), business enterprise tax (BET), and interest and dividends tax (I&D). The Department states it is not known if any current filers of Business tax or I&D tax returns would qualify as being tax exempt under these new provisions as the Department does not have any data to identify who may be affected by this bill. The Department states this bill should identify the applicable taxable periods that are exempt from this change in order to avoid taxpayers currently subject to the tax filing amended tax returns claiming unknown refunds for prior business activity that is only now deemed exempt from taxation. The exact fiscal impact cannot be determined at this time.

SB 58-FN-A - AS AMENDED BY THE SENATE

03/16/11 0686s  
03/30/11 1181s  
03/30/11 1276s

2011 SESSION

11-0999  
09/03

SENATE BILL      **58-FN-A**

AN ACT            adding qualified community development entities to the definition of "qualified investment company" under the business profits tax and the business enterprise tax.

SPONSORS:        Sen. Odell, Dist 8

COMMITTEE:       Ways and Means

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AMENDED ANALYSIS

This bill adds qualified community development entities to the definition of "qualified investment company" under the business profits tax and the business enterprise tax. The bill also clarifies the a New Hampshire resident investor in a qualified investment company is only taxable on his or her proportionate share of interest and dividend income earned by the qualified investment company.

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STATE OF NEW HAMPSHIRE

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1            1 Purpose. The general court finds:

2            I. The New Hampshire business finance authority has been authorized by the United States  
3 Treasury Department to allocate federal New Markets Tax Credits to support economic development  
4 in certain eligible low-income areas of the state.

5            II. Under the federal New Markets Tax Credit Program, the business finance authority is  
6 required to establish certain “qualified community development entities” for purposes of facilitating  
7 investment by third parties to support economic development transactions.

8            III. This act ensures that “qualified community development entities” established by the  
9 business finance authority will not be subject to the business profits tax, the business enterprise tax,  
10 or the interest and dividends tax. The ultimate recipient of the investment funds, however, will  
11 continue to be subject to these taxes.

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24           3 Business Enterprise Tax; Definitions; Qualified Investment Company. Amend RSA 77-E:1,  
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5 Company Act of 1940, as amended, but for the exception from investment company status provided  
6 by section 3(c)(1) or 3(c)(7) of said Investment Company Act~~[-];~~ **or**

7 (4) ***A qualified community development entity as defined in section 45D of***  
8 ***the United States Internal Revenue Code, which entity is owned, controlled, or managed,***  
9 ***directly or indirectly, by the business finance authority of the state of New Hampshire.***

10 4 Taxation of Income; What Taxable. Amend RSA 77:4, V to read as follows:

11 V. For each holder of an ownership interest in a qualified investment company as defined in  
12 RSA 77-A:1, XXI ~~[which is not a qualified investment capital company as defined in RSA 77-A:1,~~  
13 ~~XXIV]~~, which holder is subject to tax under RSA 77, the holder's proportional share of the ***interest***  
14 ***or dividend*** income ***taxable under this chapter***, less any income attributable to United States  
15 government notes or bonds, ~~[of]~~ ***received by*** such qualified investment company shall be treated as a  
16 dividend ***taxable under this chapter to the holder***; however, notwithstanding any other provision  
17 of RSA 77, no actual distribution made to such holder by such qualified investment company shall be  
18 taxable under RSA 77.

19 5 Applicability. Sections 1-3 of this act shall apply to taxable periods ending on or after  
20 December 31, 2010. Section 4 of this act shall apply with respect to all taxable periods subject to  
21 assessment of the tax and appealed pursuant to RSA 21-J:28-b.

22 6 Effective Date. This act shall take effect upon its passage.  
23



LBAO  
11-0999  
02/01/11

**SB 58-FN-A - FISCAL NOTE**

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SB 58-FN-A - FINAL VERSION

03/16/11 0686s  
03/30/11 1181s  
03/30/11 1276s  
4May2011... 1580h  
18May2011... 1859h

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SPONSORS:        Sen. Odell, Dist 8

COMMITTEE:       Ways and Means

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AMENDED ANALYSIS

This bill adds qualified community development entities to the definition of "qualified investment company" under the business profits tax and the business enterprise tax.

The bill also adds a special rule to clarify tax treatment of capital gains earned by holders of ownership interests in qualified investment companies, mutual funds, and unit investment trusts.

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SB 58-FN-A – FINAL VERSION

03/16/11 0686s  
03/30/11 1181s  
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4May2011... 1580h  
18May2011... 1859h

11-0999  
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STATE OF NEW HAMPSHIRE

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4 in certain eligible low-income areas of the state.

5            II. Under the federal New Markets Tax Credit Program, the business finance authority is  
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7 investment by third parties to support economic development transactions.

8            III. This act ensures that “qualified community development entities” established by the  
9 business finance authority will not be subject to the business profits tax, the business enterprise tax,  
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19                    (3) An organization that would be an investment company under the Investment  
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21 by section 3(c)(1) or 3(c)(7) of said Investment Company Act~~[-]~~; *or*

22                    (4) *A qualified community development entity as defined in section 45D of*  
23 *the United States Internal Revenue Code, which entity is owned, controlled, or managed,*  
24 *directly or indirectly, by the business finance authority of the state of New Hampshire.*

25           3 Business Enterprise Tax; Definitions; Qualified Investment Company. Amend RSA 77-E:1,  
26 XIV(a) to read as follows:

XIV.(a) "Qualified investment company" means:

(1) A regulated investment company as defined in section 851 of the United States Internal Revenue Code as defined in RSA 77-E:1, XVII;

(2) An organization that is an investment company under the Investment Company Act of 1940, as amended; [or]

(3) An organization that would be an investment company under the Investment Company Act of 1940, as amended, but for the exception from investment company status provided by section 3(c)(1) or 3(c)(7) of said Investment Company Act[-]; *or*

*(4) A qualified community development entity as defined in section 45D of the United States Internal Revenue Code, which entity is owned, controlled, or managed, directly or indirectly, by the business finance authority of the state of New Hampshire.*

4 Taxation of Income; What Taxable. RSA 77:4, V is repealed and reenacted to read as follows:

V. Amounts reported and taxed federally as dividends or interest to a holder of an ownership interest in a qualified investment company as defined in RSA 77-A:1, XXI, a mutual fund, or a unit investment trust.

5 Taxation of Income; Dividends Earned on Certain Mutual Funds and Distributions Received on Unit Investment Trusts Not Taxable. RSA 77:4-d is repealed and reenacted to read as follows:

77:4-d Special Rule for Qualified Investment Companies, Mutual Funds, and Unit Investment Trusts. Notwithstanding any other provision of RSA 77:4, the following income items shall not be treated as dividends or interest income taxable under this chapter:

I. Amounts accruing to the holder of an ownership interest in a qualified investment company, as defined in RSA 77-A:1, XXI, or a mutual fund or investment income earned or distributions received by the holder of an ownership interest in a unit investment trust, which qualified investment company, mutual fund, or unit investment trust invests solely in New Hampshire tax-exempt tax anticipation notes, bond anticipation notes, and other instruments exempt under New Hampshire law.

II. Amounts reported and taxed federally as capital gains to the holder of an ownership interest in a qualified investment company, as defined in RSA 77-A:1, XXI, a mutual fund, or a unit investment trust.

6 Applicability. Sections 1-3 of this act shall apply to taxable periods ending on or after December 31, 2010. Sections 4 and 5 of this act shall apply to taxable periods beginning on or after January 1, 2011, and also to taxable periods ending before January 1, 2011 if the taxable period is subject to assessment of tax and appealed pursuant to RSA 21-J:28-b.

7 Effective Date. This act shall take effect upon its passage.

LBAO

11-0999

Amended 05/23/11

**SB 58-FN-A-LOCAL - FISCAL NOTE**

AN ACT            adding qualified community development entities to the definition of "qualified investment company" under the business profits tax and the business enterprise tax.

**FISCAL IMPACT:**

The Department of Revenue Administration states this bill, as amended by the House (Amendment #2011-1859h), may decrease state revenue by an indeterminable amount in FY 2011 and each year thereafter. This bill would have no fiscal impact on state, county, and local expenditures, or county and local revenues.

**METHODOLOGY:**

The Department of Revenue Administration states sections 1 through 3 of this bill exempts qualified community development entities as defined in 26 U.S.C. Sec. 45D that is owned, controlled, or managed, directly or indirectly, by the Business Finance Authority (BFA) of the State of New Hampshire from taxation under the business profits tax (BPT), business enterprise tax (BET), and interest and dividends tax (I&D). The Department states it is not known if any current filers of Business tax or I&D tax returns would qualify as being tax exempt under these new provisions as the Department does not have any data to identify who may be affected by this bill. The bill states sections 4 and 5 of this bill adds a special rule to clarify tax treatment of capital gains earned by holders of ownership interests in qualified investment companies, mutual funds, and unit investment trusts. The Department states it is not clear if some taxpayers have paid tax on this income in the past, as the Department does not have any data in that respect.

The Department states sections 1-3 of this bill would apply to taxable periods ending on or after December 31, 2010, and sections 4 and 5 of this bill would apply to taxable periods beginning on or after January 1, 2011, and also to taxable periods ending before January 1, 2011 if the taxable period is subject to assessment of tax and appeal pursuant to RSA 21-J:28-b. As a result this bill could have a retroactive application and apply to business activity already conducted in closed tax periods. The Department states this bill would allow certain businesses to file amended tax returns and receive refunds of their taxes paid, but are unable to determine the amount in refunds which would be requested or paid at this time.

# Amendments

Senate Ways and Means  
March 7, 2011  
2011-0686s  
09/01

Amendment to SB 58-FN-A

1 Amend RSA 77-E:1, XIV(a)(4) as inserted by section 3 of the bill by replacing it with the following:  
2

3 *(4) A qualified community development entity as defined in section 45D of*  
4 *the United States Internal Revenue Code, which entity is owned, controlled, or managed,*  
5 *directly or indirectly, by the business finance authority of the state of New Hampshire.*  
6

7 Amend the bill by inserting after section 3 the following and renumbering the original section 4  
8 to read as 5:  
9

10 4 Applicability. This act shall apply with respect to all taxable periods ending on or after  
11 December 31, 2010.

# Committee Minutes

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# SENATE CALENDAR NOTICE

## WAYS AND MEANS

Senator Bob Odell Chairman  
 Senator Jim Luther V Chairman  
 Senator David Boutin  
 Senator Lou D'Allesandro  
 Senator Chuck Morse  
 Senator Jim Rausch

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

**Date: February 23, 2011**

### HEARINGS

**Monday**

**3/7/2011**

WAYS AND MEANS

SH 100

11:00 AM

(Name of Committee)

(Place)

(Time)

### EXECUTIVE SESSION MAY FOLLOW

**Comments:** \*\*The Committee will break from 12:00 - 1:00 PM

11:00 AM	SB182-FN-A-L	relative to video lottery and table gaming, providing property tax relief for local economies, providing services for problem gamers, and promoting tourism and public safety.
11:30 AM	SB125-FN-A	relative to the business profits tax deduction for reasonable compensation.
1:00 PM	SB56-FN	authorizing the department of revenue administration to accept credit card payments of taxes.
1:15 PM	SB79-FN	authorizing the department of revenue administration to impose administrative fines for timber tax violations.
1:30 PM	SB132-FN-A-L	establishing exemptions from the real estate transfer tax.
1:45 PM	SB155-FN-A	relative to section 179 expense deductions under the business profits tax.
2:00 PM	SB167-FN-A-L	establishing a production jobs creation credit under the business enterprise tax and making changes affecting small business to the business profits tax, the business enterprise tax, and the meals and rooms tax.

**Sponsors:**

Sonja Caldwell 271-2117

Sen. Bob Odell

Chairman

# SENATE CALENDAR NOTICE

## WAYS AND MEANS

Senator Bob Odell Chairman  
 Senator Jim Luther V Chairman  
 Senator David Boutin  
 Senator Lou D'Allesandro  
 Senator Chuck Morse  
 Senator Jim Rausch

For Use by Senate Clerk's  
 Office ONLY

☐ Bill Status

☐ Docket

☐ Calendar

Proof: ☐ Calendar ☐ Bill Status

**Date: February 23, 2011**

### HEARINGS

**Monday**

**3/7/2011**

**WAYS AND MEANS**

**SH 100**

**11:00 AM**

(Name of Committee)

(Place)

(Time)

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**Comments:** \*\*The Committee will break from 12:00 - 1:00 PM

#### SB182-FN-A-L

Sen. Lou D'Allesandro

Sen. Jim Rausch

Sen. John Gallus

#### SB125-FN-A

Sen. Jeb Bradley

Sen. John Barnes, Jr.

Sen. David Boutin

Sen. Peter Bragdon

Sen. Sharon Carson

Sen. Tom De Blois

Sen. Jeanie Forrester

Sen. James Forsythe

Sen. John Gallus

Sen. Gary Lambert

Sen. Jim Luther

Sen. Chuck Morse

Sen. Jim Rausch

Sen. Andy Sanborn

Sen. Nancy Stiles

Sen. Raymond White

Rep. Gene Chandler

Rep. David Hess

Rep. Norman Major

Rep. Pamela Tucker

Rep. David Bettencourt

#### SB56-FN

Sen. Bob Odell

#### SB79-FN

Sen. Bob Odell

#### SB132-FN-A-L

Sen. Andy Sanborn

Sen. Peter Bragdon

Sen. James Forsythe

Sen. Raymond White

Sen. Jeb Bradley

Sen. Jim Rausch

Sen. Fenton Groen

Sen. Tom De Blois

Sen. Jeanie Forrester

Rep. Norman Major

Rep. Thomas Keane

Rep. Dan McGuire

Rep. David Bettencourt

Rep. Jennifer Coffey

#### SB155-FN-A

Sen. Jeanie Forrester

Sen. John Gallus

Sen. James Forsythe

Sen. Andy Sanborn

Rep. Colette Worsman

Rep. Gene Chandler

#### SB167-FN-A-L

Sen. Jeb Bradley

Sen. John Barnes, Jr.

Sen. David Boutin

Sen. Sharon Carson

Sen. Tom De Blois

Sen. James Forsythe

Sen. John Gallus

Sen. Gary Lambert

Sen. Jim Luther

Sen. Jim Rausch

Sen. Nancy Stiles

Sen. Raymond White

Rep. Gene Chandler

Rep. William O'Brien

Rep. David Bettencourt

Sonja Caldwell 271-2117

Sen. Bob Odell

Chairman

# Ways and Means Committee

## Hearing Report

**To:** Members of the Senate

**From:** Sonja Caldwell  
Legislative Aide

**Re:** **SB58-FN-A** *—adding qualified community development entities to the definition of "qualified investment company" under the business profits tax and the business enterprise tax.*

**Hearing date:** February 23, 2011

**Members present:** Sen. Odell, Sen. Luther, Sen. Boutin, Sen. D'Allesandro, Sen. Morse, Sen. Rausch

**Members absent:**

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**Sponsor(s):** Sen. Odell, Dist 8

**What the bill does:** This bill adds qualified community development entities to the definition of "qualified investment company" under the business profits tax and the business enterprise tax.

**Who supports the bill:** Jack Donovan (NH Business Finance Authority), Bill Ardinger (NH Business Finance Authority)

**Who opposes the bill:**

**Taking no position:**

**Summary of testimony received:**

**Senator Odell** introduced the bill and said it adds qualified community development entities to the definition of "qualified investment company" under the business profits tax and the business enterprise tax. He said there are a lot of complexities to this bill and he would defer to the experts to address it.

**Jack Downing Bill Ardinger** - The New Markets Tax Credits encourage investment by allowing you to increase the after-tax rate of return on investments. They will help increase investment in the area but it requires an incredibly complex structure to do this. They have to create a series of

intermediaries. The BFA has to set up qualified community development entities for the purpose of facilitating investment by third parties to support economic development transactions. They want these entities to qualify for qualified investment company status so they are not subject to the Business Profits Tax, the Business Enterprise Tax or the Interest and Dividends tax. The bank will still pay tax on interest earned, this just takes out the pass-through entities. The BFA would ultimately bear the tax liability on these transactions.

Senator Odell asked if the money for this is continuing in the federal budget proposal.

They said yes.

Senator Odell asked if this is done through states or entities.

They responded that it is through entities, it doesn't go directly to states. You have to apply and there are competitive rounds. The program has been around 10 years and it is in the federal budget.

Senator Rausch asked for an example of a project or entity that this will enable.

They said there are mills in Newmarket that have sat empty for 30 years. The Town of Newmarket has owned them for 20 years. With these tax credits they located a developer who bought the property and will redevelop it into apartments. It is a \$25 million investment.

Senator Rausch asked if the tax credit is going to the contractor.

They said no, the credits are transferable, you take them and sell them to generate equity to go into the project.

Senator Rausch said currently we have something similar for charitable organizations where they can sell tax credits. He asked how this differs.

They said this is a federal tax credit so it doesn't cost the state anything. It also has broader applicability. They can bring money in from out of state.

Senator Rausch asked if there can be multiple entities and if they could TIF that district.

They responded that they could but they run it through a tight stream to make sure they don't give them any more subsidy than is needed to complete the project.

Senator Rausch asked what type of entities receive the credit.

They said businesses. The tax credit investor wants a rate of return, someone at the bottom of the chart (handout) would be paying less interest on a rate of return to the investor. The beneficiaries are shared.

Senator Odell said that in the Claremont project, the mills were unoccupied for 50 years, and then were sold to three individuals. The city had to build a parking garage and do some road improvements. They got the CDFA tax credits and some private money. The New Markets tax credits were huge in

getting this result. He said the projects are running ahead of schedule. This has stirred a series of things in the area. This has been a catalyst and a key part of the success of the project.

Senator Luther pointed out that the fiscal note says this may decrease state revenue.

They answered that they don't think those who would be affected by this are taxable anyway. They would, however, suggest an amendment to clarify some issues. They want to narrow it down to those owned or controlled by a state entity.

Senator Odell noted that we need the amendment by the 7<sup>th</sup> of March.

Senator Rausch asked if this would only apply to the NHBFA or could other entities enact same process.

They said other groups have set up these entities. They want to make sure there is no question that it only applies to the BFA.

Senator Boutin requested back-up material.

# Speakers

# SENATE WAYS & MEANS COMMITTEE

Date 2/23/11

Time 1:30 p.m.

Public Hearing on

SB58-FN-A

*(adding qualified community development entities to the definition of "qualified investment company" under the business profits tax and the business enterprise tax.)*

Please check box(es) that apply.

SPEAKING FAVOR ☐ OPPOSED ☐

NAME (Please print)

REPRESENTING

✓	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Jack Donovan /</p> <p>BILL ARSINGER</p>	<p>NH Business Finance Alliance</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
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# Testimony



STATE OF NEW HAMPSHIRE  
OFFICE OF LEGISLATIVE BUDGET ASSISTANT  
FISCAL NOTE WORKSHEET

Date Sent to Agency: 12/27/2010

LSR #: 11-0999.0

Agency: Department of Revenue Administration

Bill #:

SB58

Due to LBAO: 01/11/2011

Amendment #(s):

Correction to a prior  
response? (Y/N):

No

State Fund(s) Affected:

(1) Indicate here what state funds will be affected by the bill: general funds, federal funds, or any special fund. If it is a special fund, please specify.

General: XXXX

Federal:

Other:

	FIRST BIENNIUM			SECOND BIENNIUM	
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
State Revenue	Cannot Be Determined	Cannot Be Determined	Cannot Be Determined	Cannot Be Determined	Cannot Be Determined
State Expenditure	Cannot Be Determined	Cannot Be Determined	Cannot Be Determined	Cannot Be Determined	Cannot Be Determined
Net State Impact	Cannot Be Determined	Cannot Be Determined	Cannot Be Determined	Cannot Be Determined	Cannot Be Determined
County Revenue	Not Applicable				
County Expenditure					
Net County Impact	Not Applicable				
Local Revenue	Not Applicable				
Local Expenditure					
Net Local Impact	Not Applicable				

- NOTE: (1) List only the amount of change in the appropriate column.  
 (2) Place all negative numbers in parenthesis.  
 (3) You may replicate this worksheet.  
 (4) Refer to Guidelines for Fiscal Note Worksheets for further information.

(A) **ASSUMPTIONS:** Explain how estimate was derived. Describe costs that can be absorbed without additional funding. If no estimate can be prepared, **explain why in detail.** If no fiscal impact, **explain why in detail.**

1. This bill could be administered by the Department of Revenue Administration without any additional cost.

2. This bill seeks to exempt Qualified Community Development Entities as defined in 26 U.S.C. § 45D from taxation under New Hampshire's Business Profits Tax (RSA 77-A), the Business Enterprise Tax (RSA 77-E) and the Interest and Dividends Tax (RSA 77). Section 45D of the United States Internal Revenue Code, entitled "New Markets Tax Credit," was enacted in 2000 under the Community Renewal Tax Relief Act. See Section F "Comments" below for further explanation of the federal program.

3. It is not known if any current filers of Business Tax or Interest and Dividends Tax returns would qualify as being tax exempt under these new provisions. The Department does not have any data to identify who may be affected by this bill.

4. This law would take effect upon passage and apply to unspecified taxable periods. See Section E "Technical and Mechanical Defects" below for suggested language to protect the State from retroactive application.

(B) **METHOD:** Show calculations used to determine fiscal impact. **Calculations must agree with and explain totals on first page.**

The potentially negative impact of this bill cannot be determined as the Department does not have any data to make such an estimate. "Potentially negative" is used in reference to this bill simply because the bill proposes to exempt certain organizations from taxation. It is not known if this would affect any current filers or merely entities to be created in the future.

(C) **ESTIMATED FISCAL IMPACT (from A and B):** **Estimated Fiscal Impact must agree with the totals on first page.**

The potentially negative impact of this bill cannot be determined as the Department does not have any data to make such an estimate. "Potentially negative" is used in reference to this bill simply because the bill proposes to exempt certain organizations from taxation. It is not known if this would affect any current filers or merely entities to be created in the future.

(D) ADDITIONAL COUNTY, LOCAL OR LONG-RANGE EFFECTS:

(E) TECHNICAL OR MECHANICAL DEFECTS: Note any conflicts with existing law. Do not comment on the merits of the legislation.

It is suggested that the bill identify the applicable taxable periods that are exempt. For example, "This act shall be applicable for taxable periods ending on or after December 31, 2011." Otherwise, taxpayers who are currently subject to tax would file amended tax returns claiming unknown refunds for prior business activity that is only now deemed exempt from taxation.

(F) OTHER COMMENTS: Include tax variables, federal mandates, etc.

Although the investors in a Qualified Community Development Entity are the taxpayers that receive the federal New Market Tax Credit for investing, this bill would exempt the Qualified Community Development Entity from BPT, BET and I&D.

The "New Markets Tax Credit" program (26 U.S.C. § 45D) encourages investments into privately managed investment institutions – "Qualified Community Development Entities" (QCDEs). In turn, the QCDEs make loans and capital investments in businesses in underserved areas.

By making an investment in a QCDE, an individual or corporate investor receives a federal tax credit against federal income taxes worth 39% of the initial investment. The federal tax credit is distributed over a period of seven years (5% for each of the first three years and then 6% for the final four years).

A QCDE is any duly organized entity treated as a domestic corporation or partnership for federal income tax purposes (for-profit and non-profit entities) that has been certified as a QCDE by the Community Development Financial Institutions Fund of the United States Department of Treasury. The QCDE must have a primary mission of serving, or providing investment capital for low-income communities or low-income persons; and must maintain accountability to residents of low-income communities through their representation on any governing board of the entity or any advisory board to the entity. In addition, any specialized small business investment company (as defined in 26 U.S.C. § 1044(c)(3)) and any community development financial institution (as defined in 12 U.S.C. § 4702, 103) automatically qualifies as QCDEs.

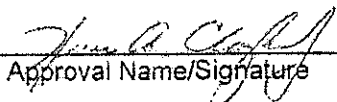
Because sole proprietorships and single member limited liability companies are not considered

corporations or partnerships for federal tax purposes, sole proprietorships and single member limited liability companies do not meet the "legal entity test" and cannot become a QCDE. A governmental entity may, however, become a QCDE if the governmental entity is classified as a corporation or partnership for federal tax purposes and meets the "legal entity test."

A certified QCDE may participate in the program by applying to the Community Development Financial Institutions Fund of the United States Department of Treasury for the allocation of tax credits, which may be offered by the QCDE to investors in exchange for equity investments in the QCDE. Or the QCDE may receive loans or investments (and sell qualifying business loans to) from other QCDEs that have been allocated tax credits. Both for-profit and non-profit QCDEs may apply to the Community Development Financial Institutions Fund for an allocation of tax credits, but only a for-profit QCDE is permitted to provide the tax credit to its investors. If a non-profit QCDE receives an allocation of the tax credits, it must "suballocate" its tax credit allocation to one or more for-profit QCDEs.

For more information on the New Market tax Credits: <http://www.irs.gov/pub/irs-utl/atgnmtc.pdf>

AGENCY REPRESENTATIVE PREPARING WORKSHEET: John C. Lighthall NHDRA 271-1321

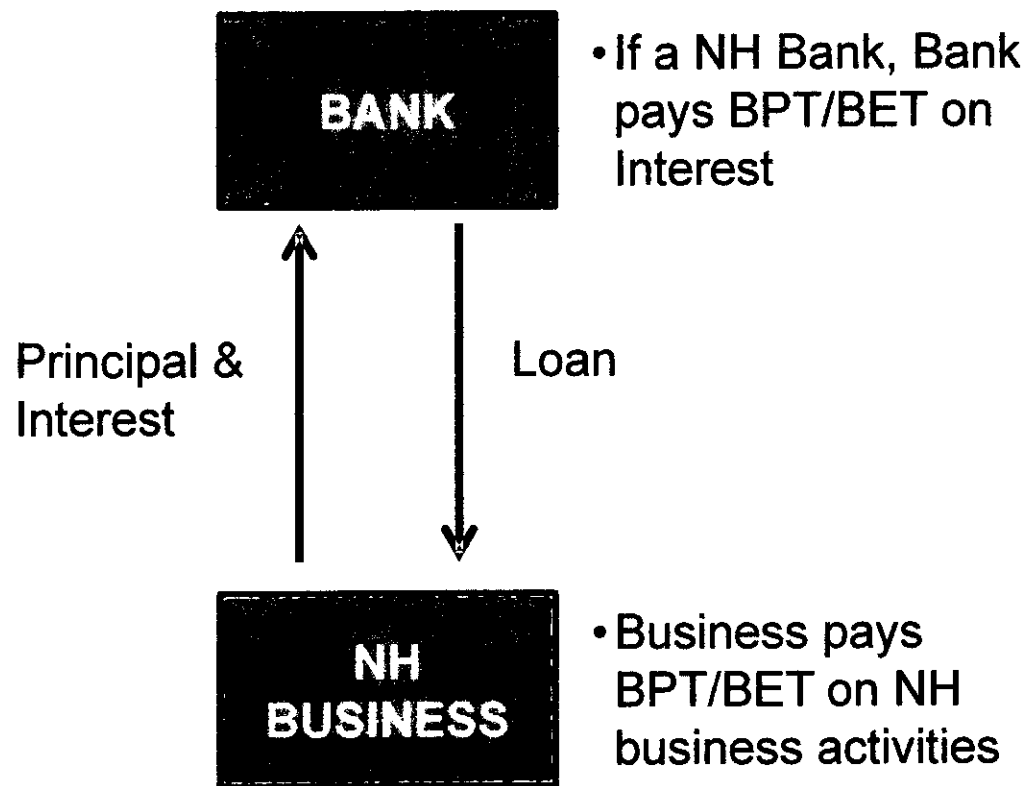
  
Approval Name/Signature

Asst. Commissioner NHDRA 271-2318  
Title, Agency and Phone Number

1 - 27 - 11  
Date

## *SB 58 Will Not Lose State Tax Revenues*

- Typical Structure of Lending Transaction

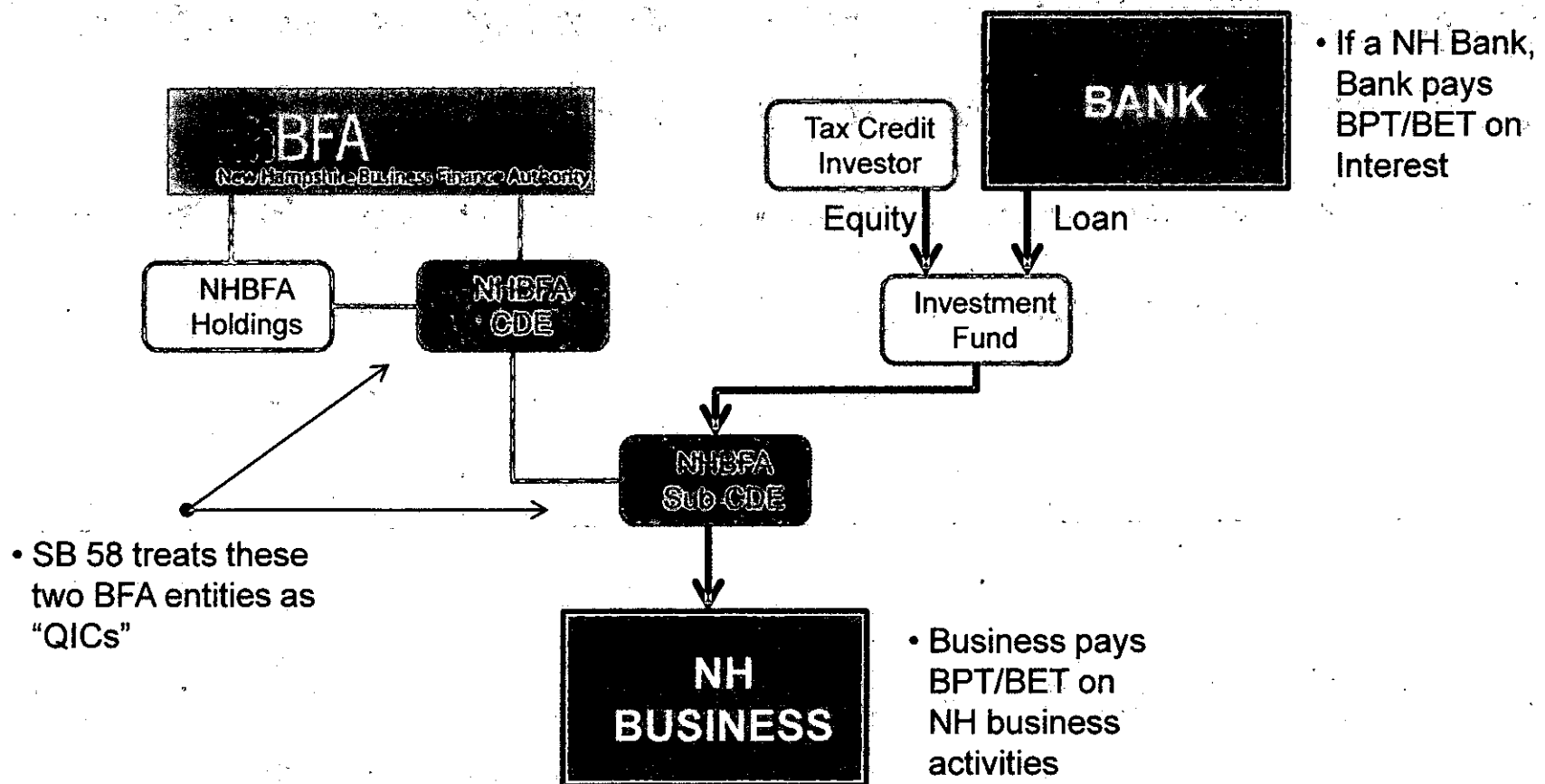


## *SB 58 Will Not Lose State Tax Revenues*

- Reasons for BFA Federal New Markets Tax Credit
  - Attracts new investments in NH Businesses
  - New Markets Tax Credit encourages investment by increasing the after-tax rate of return on the investment
  - Federal NMTC program requires complex structure for maximizing the value of this incentive

# SB 58 Will Not Lose State Tax Revenues

- Typical Structure of NM Tax Credit Transaction



# Voting Sheets



# Senate Ways & Means Committee

## EXECUTIVE SESSION

Bill # **SB58**

Hearing date: 2-23-11

Room: State House - Room 100

Executive session date: \_\_\_\_\_

Motion of: \_\_\_\_\_

VOTE: \_\_\_\_\_

Made by Odell ☐  
Senator: D'Allesandro ☐  
 Luther ☐  
 Boutin ☐  
 Morse ☐  
 Rausch ☐

Seconded Odell ☐  
by Senator: D'Allesandro ☐  
 Luther ☐  
 Boutin ☐  
 Morse ☐  
 Rausch ☐

<u>Committee Member</u>	<u>Present</u>	<u>YES</u>	<u>NO</u>	<u>Reported out by</u>
Senator Odell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Senator D'Allesandro <i>left</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Senator Luther	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Senator Boutin	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Senator Morse	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Senator Rausch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

\*Amendments: \_\_\_\_\_

NOTES: \_\_\_\_\_  
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# Senate Ways & Means Committee

## EXECUTIVE SESSION

Bill # SB 58

Hearing date: \_\_\_\_\_

Room: State House - Room 100

Executive session date: 3-7

Motion of: OTP/A

VOTE: 5-0

Made by Odell ☐  
Senator: D'Allesandro ☐  
Luther ☒  
Boutin ☐  
Morse ☐  
Rausch ☐

Seconded Odell ☐  
by Senator: D'Allesandro ☐  
Luther ☐  
Boutin ☐  
Morse ☐  
Rausch ☒

<u>Committee Member</u>	<u>Present</u>	<u>YES</u>	<u>NO</u>	<u>Reported out by</u>
Senator Odell	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Senator D'Allesandro	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Senator Luther	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Luther
Senator Boutin	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Senator Morse	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Senator Rausch	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

\*Amendments: CS07 Moved Luther and Boutin 5-0

NOTES: ties cmmtty devel entity in nh to IRC  
amend- ties it back to BFA

# Committee Report

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE

Date: March 8, 2011

THE COMMITTEE ON Ways and Means

to which was referred Senate Bill 58-FN-A

AN ACT                      adding qualified community development entities to the  
                                 definition of "qualified investment company" under the  
                                 business profits tax and the business enterprise tax.

Having considered the same, the committee recommends that the Bill:

**OUGHT TO PASS WITH AMENDMENT**

BY A VOTE OF:    5-0

AMENDMENT # 0686s

Senator Jim Luther  
For the Committee

Sonja Caldwell 271-2117

## New Hampshire General Court - Bill Status System

**Docket of SB58**

Docket Abbreviations

**Bill Title:** adding qualified community development entities to the definition of "qualified investment company" under the business profits tax and the business enterprise tax.

*Official Docket of SB58:*

Date	Body	Description
2/3/2011	S	Introduced and Referred to Ways & Means, <b>SJ 5</b> , Pg.44
2/17/2011	S	Hearing: 2/23/11, Room 100, State House, 1:30 p.m.; <b>SC12</b>
3/8/2011	S	Committee Report: Ought to Pass with Amendment <b>#2011-0686s</b> , 3/16/11; <b>SC15</b>
3/16/2011	S	Committee Amendment 0686s, AA, VV
3/16/2011	S	Ought to Pass with Amendment 0686s, MA, VV; Refer to Finance Rule 4-3
3/24/2011	S	Committee Report: Ought to Pass with Amendment <b>#2011-1181s</b> , 3/30/11; <b>SC17</b>
3/30/2011	S	Committee Amendment 1181s, AA, VV; <b>SJ 11</b> , Pg.223
3/30/2011	S	Sen. Odell Floor Amendment <b>#2011-1276s</b> , AA, VV; <b>SJ 11</b> , Pg.223
3/30/2011	S	Ought to Pass with Amendment 1181s, 1276s, MA, VV; OT3rdg; <b>SJ 11</b> , Pg.223
3/30/2011	S	Passed by Third Reading Resolution; <b>SJ 11</b> , Pg.239
3/31/2011	H	Introduced and Referred to Ways and Means; <b>HJ 35</b> , PG.1240
4/6/2011	H	Public Hearing: 4/12/2011 10:45 AM LOB 202
4/13/2011	H	Executive Session: 4/21/2011 12:30 PM LOB 202
4/19/2011	H	Continued Executive Session: 4/26/2011 10:00 AM LOB 202 If Needed
4/27/2011	H	Committee Report: Ought to Pass with Amendment #1580h for May 4 (Vote 20-0; RC); <b>HC 36</b> , PG.1251
4/27/2011	H	Proposed Committee Amendment <b>#2011-1580h</b> ; <b>HC 36</b> , PG.1275
5/4/2011	H	Amendment #1580h Adopted, VV; <b>HJ 42</b> , PG.1479-1480
5/4/2011	H	Ought to Pass with Amendment #1580h: MA <b>RC 281-47</b> ; <b>HJ 42</b> , PG.1479-1482
5/4/2011	H	Referred to Finance; <b>HJ 42</b> , PG.1482
5/5/2011	H	Public Hearing: 5/10/2011 10:00 AM LOB 210-211 ==RECESSED==
5/10/2011	H	Continued Public Hearing: 5/11/2011 9:30 AM LOB 210-211
5/11/2011	H	Committee Report: Ought to Pass with Amendment #1859h for May 18 (Vote 25-0; RC); <b>HC 39</b> , PG.1324
5/11/2011	H	Proposed Committee Amendment <b>#2011-1859h</b> ; <b>HC 39</b> , PG.1341
5/18/2011	H	Amendment #1859h Adopted, VV; <b>HJ 44</b> , PG.1547
5/18/2011	H	Ought to Pass with Amendment #1859h: MA VV; <b>HJ 44</b> , PG.1547
6/1/2011	S	Sen. Odell Concurs with House Amendment #1580h, #1859h, MA, VV; <b>SJ 19</b>
6/8/2011	H	Enrolled
6/8/2011	S	Enrolled

NH House

NH Senate

# Other Referrals

# COMMITTEE REPORT FILE INVENTORY

SB58 ORIGINAL REFERRAL \_\_\_\_\_ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

X DOCKET (Submit only the latest docket found in Bill Status)

X COMMITTEE REPORT

X CALENDAR NOTICE

X HEARING REPORT

X HANDOUTS FROM THE PUBLIC HEARING

\_\_\_\_ PREPARED TESTIMONY AND OTHER SUBMISSIONS

X SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

X - AMENDMENT # 0686 \_\_\_\_\_ - AMENDMENT # \_\_\_\_\_  
\_\_\_\_ - AMENDMENT # \_\_\_\_\_ \_\_\_\_\_ - AMENDMENT # \_\_\_\_\_

ALL AVAILABLE VERSIONS OF THE BILL:

X AS INTRODUCED \_\_\_\_\_ AS AMENDED BY THE HOUSE  
X FINAL VERSION X AS AMENDED BY THE SENATE

X OTHER (Anything else deemed important but not listed above, such as amended fiscal notes): Fiscal Note worksheet

IF YOU HAVE A RE-REFERRED BILL, YOU ARE GOING TO MAKE UP A DUPLICATE FILE FOLDER

DATE DELIVERED TO SENATE CLERK 7-22-11 SLC  
BY COMMITTEE AIDE