

# CONSENT CALENDAR

January 26, 2022

## HOUSE OF REPRESENTATIVES

### REPORT OF COMMITTEE

The Committee on Ways and Means to which was referred HB 1338,

AN ACT establishing a committee to study imposing a tax on manufacturers based on the cost to dispose of single-use products and product packaging materials.

Having considered the same, report the same with the following resolution: **RESOLVED**, that it is **INEXPEDIENT TO LEGISLATE**.

Rep. Susan Almy

FOR THE COMMITTEE

## **COMMITTEE REPORT**

Committee:	<b>Ways and Means</b>
Bill Number:	<b>HB 1338</b>
Title:	<b>establishing a committee to study imposing a tax on manufacturers based on the cost to dispose of single-use products and product packaging materials.</b>
Date:	<b>January 26, 2022</b>
Consent Calendar:	<b>CONSENT</b>
Recommendation:	<b>INEXPEDIENT TO LEGISLATE</b>

### **STATEMENT OF INTENT**

Our state is close to a landfill crisis, with most landfills approaching end dates and great difficulty in siting new ones. The bill's intent is to study using a tax on manufacturers to incentivize them to find ways to modify their packaging or products to reduce landfill waste. The Environment and Agriculture Committee is building a major study committee bill to explore all the technical aspects needed to deal with the problem, and is open to including any new items from this bill. Our committee believes that there cannot be a meaningful study of using taxation to advance the sponsors' goal without first having the results of that study. Both single-use and packaging materials are sourced to multiple manufacturers of different components, and many of these are in China. The committee recommends Inexpedient to Legislate, while recognizing the importance of the issue raised.

Vote 21-0.

Rep. Susan Almy  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

### Ways and Means

**HB 1338**, establishing a committee to study imposing a tax on manufacturers based on the cost to dispose of single-use products and product packaging materials. **INEXPEDIENT TO LEGISLATE.** Rep. Susan Almy for Ways and Means. Our state is close to a landfill crisis, with most landfills approaching end dates and great difficulty in siting new ones. The bill's intent is to study using a tax on manufacturers to incentivize them to find ways to modify their packaging or products to reduce landfill waste. The Environment and Agriculture Committee is building a major study committee bill to explore all the technical aspects needed to deal with the problem, and is open to including any new items from this bill. Our committee believes that there cannot be a meaningful study of using taxation to advance the sponsors' goal without first having the results of that study. Both single-use and packaging materials are sourced to multiple manufacturers of different components, and many of these are in China. The committee recommends Inexpedient to Legislate, while recognizing the importance of the issue raised. **Vote 21-0.**

HOUSE COMMITTEE ON WAYS AND MEANS

EXECUTIVE SESSION on Bill # HB 1338

BILL TITLE: establishing a committee to study imposing a tax on manufacturers based on the cost to dispose of single-use products and product packaging materials.

DATE: January 26, 2022

LOB ROOM 202-204

MOTION: (Please check one box)

Options: [ ] OTP, [x] ITL, [ ] Retain (1st year), [ ] Adoption of Amendment #, [ ] Interim Study (2nd year)

Moved by Rep. Almy, Seconded by Rep. Ulery, Vote: 21 - 0

MOTION: (Please check one box)

Options: [ ] OTP, [ ] OTP/A, [ ] ITL, [ ] Retain (1st year), [ ] Adoption of Amendment # (if offered), [ ] Interim Study (2nd year)

Moved by \_\_\_\_\_, Seconded by \_\_\_\_\_, Vote: \_\_\_\_\_

MOTION: (Please check one box)

Options: [ ] OTP, [ ] OTP/A, [ ] ITL, [ ] Retain (1st year), [ ] Adoption of Amendment # (if offered), [ ] Interim Study (2nd year)

Moved by Rep. \_\_\_\_\_, Seconded by Rep. \_\_\_\_\_, Vote: \_\_\_\_\_

CONSENT CALENDAR: [x] YES [ ] NO

Minority Report? [ ] Yes [x] No If yes, author, Rep: \_\_\_\_\_ Motion

Respectfully submitted:

Alan Bershtein

Rep Alan Bershtein, Clerk



**STATE OF NEW HAMPSHIRE  
OFFICE OF THE HOUSE CLERK  
2022 Session - Ways and Means**

Roll Call Committee Registers Report

**Title:**

establishing a committee to study imposing a tax on manufacturers based on the cost to dispose of single-use products and product packaging materials.

Bill #	HB 1338
Motion	ITL
Amendment #	
Exec Session Date	1/26/22
Consent Calendar?	Yes

Member	Motion / Seconded	Yea	Nay	NV
Patrick Abrami [Vice Chair]		x		
Len Turcotte [sub for Mary Griffin]		x		
Jordan Ulery	Second	x		
Rich Lascelles [sub for Fred Doucette]		x		
Tim Lang		x		
Alan Bershtein [Clerk]		x		
Carol McGuire [sub for Robert Elliott]		x		
John Janigian		x		
Hershel Nunez		x		
Walter Spilsbury		x		
Paul Tudor		x		
Almy, Susan	Motion	x		
Richard Ames(D)		x		
Thomas Southworth				x
Dennis Malloy(D)		x		
Thomas Schamberg(D)		x		
Edith Tucker(D)		x		
Jennie Gomarlo(D)		x		
Mary Jane Wallner [sub for Tom Loughman]		x		
Amanda Gourgue				x
Mary Hakken-Phillips(D)		x		
James Murphy(D)		x		
Norman Major [Chair]		x		
Total Vote		21		2

NH House Committee on Ways and Means  
Public Hearing on: HB 1338

Date: January 20, 2022  
LOB Room: 202-204  
Time Public Hearing Called to Order: 9:00 AM  
Time Public Hearing Adjourned: 9:41 AM

Title: establishing a committee to study imposing a tax on manufacturers based on the cost to dispose of single-use products and product packaging materials

Sponsors: (Prime) Read (I), Frost (D), Labranche (D)

Committee Members: Reps. Major, Abrami, Bershtein, M. Griffin, Ulery, Doucette, Elliott, Janigian, Nunez, Lang, Spilsbury, Tudor, Almy, Ames, Southworth, Malloy, Schamberg, Tucker, Gomarfo, Loughman, Gourgue, Hakken-Phillips and Murphy

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TESTIMONY

Rep Read, Sponsor:

- Introduced the bill
- This bill attempts to stop companies from externalizing the costs of their packaging.
- Many towns have recently reduced their recycling programs due to issues with China's reduced purchasing of recyclable waste.
- This bill would study taxing manufacturers for the cost of disposal of their packaging waste.
- Most likely, the tax would be pennies on the product.
- Abrami: Have any other states taken this approach?
  - Read: I am not aware of any
- Almy: Is there enough information regarding what is recyclable and what is not?
  - Read: Yes, the science is well understood, but a study committee would be helpful. The proposed study committee is only applicable to single use packaging.
- Nunez: Ultimately, wouldn't the consumer foot the cost for any such tax?
  - Read: Yes
- Abrami: This would impact many, many companies (domiciled in many different locations) throughout the supply chain. How could a tax be practically applied?
  - Read: The company that sells to the consumer would be liable to collect the tax. I don't see this as overly complicated. The tax would be on the end product. To avoid the tax, companies could use better materials.
  - Read: This is a tax reduction bill, as it will lower property taxes.
- Major: How would you track the details in order to implement the tax?
  - Read: The state would oversee the tax. There certainly would be an administrative cost by the state. Much of the program could be administered by self-reporting by companies.
- Almy: Shouldn't DES be involved?
  - Read: Yes. In addition to DRA, DES would also be involved.
- Abrami: Is this bill more suitable to be implemented on a federal level?
  - Read: The federal government is dysfunctional.

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Dave Jevet, BIA

- Opposed to the bill
- How would producers be taxed for exports?
- How would imported goods be taxed?
- Why are we focused just on manufacturers? What about the rest of the supply chain and consumers?
- W&Ms might not be the appropriate committee for this idea. Maybe Environment and Agriculture might be helpful.
- Schamberg: Wouldn't it be better for a study committee instead of dismissing the idea outright?
  - The proposed study committee is too narrow. This should be studied as a larger, more comprehensive idea.

Blue Sheet: zero support, one opposed.





# House Remote Testify

## Ways and Means Committee Testify List for Bill HB1338 on 2022-01-20

Support: 11 Oppose: 3 Neutral: 0 Total to Testify: 0

Export to Excel

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Fenner-Lukaitis, Elizabeth	Warner, NH glukaitis@mcttelecom.com	A Member of the Public	Myself	Support	No	No	1/17/2022 7:29 AM
Kudlik, Cindy	Grafton, NH CindyKudlik@protonmail.com	An Elected Official	Myself	Oppose	No	No	1/17/2022 11:43 AM
Foss, Carol	Penacook, NH cfoss@nhaudubon.org	A Lobbyist	New Hampshire Audubon	Support	No	No	1/17/2022 4:31 PM
Barndollar, Karin	Portsmouth, NH karin.bdollars@gmail.com	A Member of the Public	Myself	Support	No	No	1/17/2022 10:01 PM
Mayer, Debora	Portsmouth, NH mayer.studio@gmail.com	A Member of the Public	Myself	Support	No	No	1/18/2022 10:42 AM
O'Brien, Rebecca	Portsmouth, NH beccaraum@hotmail.com	A Member of the Public	Myself	Support	No	No	1/18/2022 10:48 AM
Frye, Diana	Portsmouth, NH dfryz@yahoo.com	A Member of the Public	Myself	Support	No	No	1/18/2022 11:19 AM
Richardson, Daniel	Nashua, NH daniel6_22@comcast.net	A Member of the Public	Myself	Support	No	No	1/19/2022 1:55 PM
Dubin, Christina	Portsmouth, NH christinadubin@gmail.com	A Member of the Public	Myself	Support	No	No	1/20/2022 8:10 AM
Osborne, Jason	Auburn, NH housesrepoffice@leg.state.nh.us	An Elected Official	Myself	Oppose	No	No	1/20/2022 8:35 AM
Howard, Raymond	Alton, NH brhowardjr@yahoo.com	An Elected Official	Myself	Oppose	No	No	1/20/2022 10:03 AM
O'Brien, Becca	Portsmouth, NH nh@surfrider.org	A Member of the Public	Surfrider Foundation NH Chapter	Support	No	No	1/20/2022 10:22 AM
Crockett, Robert	Hanover, NH rocroc@gmail.com	A Member of the Public	Myself	Support	No	No	1/20/2022 1:46 PM

Mott-Smith, Wltrud Loudon, NH  
wmottsm@worldpath.net

A Member of the Public Myself

Support No No

1/20/2022 7:39 PM



January 20, 2022

Chairman Major, Vice Chairman Abrami, and Distinguished Members of the House Ways and Means Committee:

The Surfrider Foundation New Hampshire Chapter offers this testimony in support of HB1338 to establish a committee to study imposing a tax on manufacturers based on the cost to dispose of single-use products and product packaging materials.<sup>1</sup>

### **A Growing Cost Burden**

Whether as a percentage of property taxes or a pay-as-you-throw user fee, the burden falls to residents of New Hampshire to cover the costs of tipping and hauling fees for solid waste, transporting recycling to materials recovery facilities (MRF), and the subsequent recovery or disposal. The cost of waste management in New Hampshire is not insignificant. With the State's six landfills that constitutionally cannot restrict interstate commerce, New Hampshire is a desirable destination for surrounding states to send their solid waste. About half of the total waste sent to landfill in New Hampshire is from out of state.<sup>2</sup>

The New Hampshire Department of Environmental Services recommended in its 2019 Biennial Solid Waste Report that to meet statutory waste reduction goals<sup>3</sup> and avoid, assuming the anticipated closure of several existing landfills and no significant reduction in the waste stream, a projected a shortfall of 120,000 tons in annual disposal capacity by 2025, and 10 times that by 2034,<sup>4</sup> that the State

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<sup>1</sup> [http://gencourt.state.nh.us/bill\\_status/pdf.aspx?id=27838&q=billVersion](http://gencourt.state.nh.us/bill_status/pdf.aspx?id=27838&q=billVersion)

<sup>2</sup> Biennial Solid Waste Report. 2019. New Hampshire Department of Environmental Services.

<https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/2020-01/r-wmd-19-02.pdf>

<sup>3</sup> RSA 149-M:2

<sup>4</sup> *ibid.*, 2

should be adopting a plan similar to Massachusetts, where “the Department of Environmental Protection has recently shifted from using a waste reduction/diversion target, to instead use a disposal reduction target as an indicator of overall waste reduction and diversion progress.”<sup>5</sup> This recommendation is in direct alignment with HB1338, which seeks to study what net outcomes shifting the responsibility for the most wasteful product packaging that winds up in our landfills to producers, instead of continuing to fill our landfills and charge our tax-payers for this waste, would manifest.

Recycling costs are another component of the financial burden of waste. Following China’s National Sword policy,<sup>6</sup> where China began refusing tainted bails of recycling materials from the U.S., resulting in serious disruptions of our systems, the cost of MRF contracts for municipalities using single stream recycling also increased, while the market for those recyclables simultaneously plummeted.<sup>7</sup> The financial reality of paying for a service that isn’t reducing cost or generating revenue, has led some New Hampshire municipalities, including Hooksett and Franklin, to significantly modify and decrease their recycling programs.<sup>8</sup> This is concerning as recycling remains an important economic and waste diversion tool, while domestic recycling infrastructure ramps up and the market recovers.

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<sup>5</sup> MassDEP, 2010-2020 Solid Waste Master Plan – p. 17, bottom:  
<https://www.mass.gov/files/documents/2016/08/nw/swmp13f.pdf>

<sup>6</sup> <https://www.surfrider.org/coastal-blog/entry/china-gets-tough-on-plastic-recycling>

<sup>7</sup> <https://www.nhmunicipal.org/town-city-article/state-recycling-markets-new-hampshire>

<sup>8</sup> <https://www.nhmunicipal.org/town-city-article/state-recycling-markets-new-hampshire>



As proposed for study in HB1338, a tax on manufacturers follows the ‘polluter pays’ principle that would shift the cost burden from consumers to manufacturers for proper disposal or recycling of their products. This is similar in concept to extended producer responsibility (EPR),<sup>9</sup> with a currently proposed EPR study bill, HB1111,<sup>10</sup> seeking to establish a commission to study EPR. Product stewardship policies are in place for multiple types of products, including sharps and batteries. They are a proven source reduction tool that all other New England states employ to a greater degree than New Hampshire:<sup>11</sup>

- Maine- 9
- Vermont-8
- Rhode Island-6
- Connecticut-4
- Massachusetts-3
- New Hampshire-1

Nationally, there are at least 118 EPR laws in place across 33 states for products ranging from batteries to solar panels.<sup>12</sup>

### **Single-use Products and Plastic**

Many single-use products are composed of plastic and make up a considerable percentage of our solid waste stream.<sup>13</sup> This is the case for a majority of litter removed from Seacoast beaches by our New Hampshire Chapter volunteers.<sup>14</sup> Although New Hampshire does not include waste characterization data in its biennial reporting, we can estimate the amount of plastic in residential municipal

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<sup>9</sup> [http://publicfiles.surfrider.org/Legal/Surfrider\\_UCLA\\_Briefing\\_Booklet.pdf](http://publicfiles.surfrider.org/Legal/Surfrider_UCLA_Briefing_Booklet.pdf)

<sup>10</sup> [https://www.gencourt.state.nh.us/bill\\_status/billinfo.aspx?id=1654&inflect=2](https://www.gencourt.state.nh.us/bill_status/billinfo.aspx?id=1654&inflect=2)

<sup>11</sup> [https://www.productstewardship.us/page/State\\_EPR\\_Laws\\_Map](https://www.productstewardship.us/page/State_EPR_Laws_Map)

<sup>12</sup> [https://www.productstewardship.us/page/State\\_EPR\\_Laws\\_Map](https://www.productstewardship.us/page/State_EPR_Laws_Map)

<sup>13</sup> *ibid.*, 9

<sup>14</sup> <https://cleanups.surfrider.org/>

solid waste (MSW) by referring to the national average of MSW composition of which plastic accounts for 12.2%.<sup>15</sup> This is similar to New England states that do waste characterization studies, including Rhode Island which reported plastics at 10.7% (2015),<sup>16</sup> Vermont at 12.4% (2018),<sup>17</sup> and Connecticut at 10.7% (2015).<sup>18</sup>

Unfortunately, many of these plastic items are not recyclable as they are made with layers of different types of plastic or materials, or are tainted by food or other contaminants.<sup>19</sup> These items are therefore landfilled or end up in our environment where they photodegrade into microplastics, negatively affecting both marine and human health.<sup>20</sup>

### **Supporting Source Reduction**

Source reduction is at the top of the New Hampshire Solid Waste Hierarchy.<sup>21</sup> Recycling is one tool, but not a stand-alone or singular diversion method, and the overreliance on recycling is evident after the recycling market crash. Studying alternatives to recycling, like a manufacturer tax or fee for disposal of single-use products and packaging as proposed in HB1338, is good for diversification of source reduction methods and achievement of statutorily required reduction goals in New Hampshire. New efforts are exactly what was recommended in the 2019 Report of the Committee to Study Recycling Streams and Solid Waste Management in New Hampshire, and is encapsulated in the statement, “Our state

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<sup>15</sup> <https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/national-overview-facts-and-figures-materials>

<sup>16</sup> <https://www.rirrc.org/sites/default/files/2017-02/Waste%20Characterization%20Study%202015.pdf>

<sup>17</sup> <https://dec.vermont.gov/sites/dec/files/wmp/SolidWaste/Documents/2018-VT-Waste-Characterization.pdf>

<sup>18</sup> <https://portal.ct.gov/->

[/media/DEEP/waste\\_management\\_and\\_disposal/Solid\\_Waste\\_Management\\_Plan/CMMSFinal2015MSWCharacterizationStudy.pdf?la=en](https://portal.ct.gov/-/media/DEEP/waste_management_and_disposal/Solid_Waste_Management_Plan/CMMSFinal2015MSWCharacterizationStudy.pdf?la=en)

<sup>19</sup> <https://www.greenpeace.org/usa/wp-content/uploads/2020/02/Greenpeace-Report-Circular-Claims-Fall-Flat.pdf>

<sup>20</sup> <https://www.surfrider.org/programs/rise-above-plastics>

<sup>21</sup> <https://www.des.nh.gov/waste/solid-waste/waste-reduction-and-diversion>



must adjust its laws and programs to reflect the new economic, environmental and public health realities of solid waste management".<sup>22</sup>

We ask that you vote HB1338 favorably out of Committee to study how a tax to manufacturers can potentially increase source reduction and lower the climbing cost burden for municipalities and taxpayers, while protecting the marine and terrestrial environments our residents hold dear and rely upon.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Christina Dubin".

Christina Dubin  
Volunteer Secretary and Campaigns Coordinator  
Surfrider Foundation New Hampshire Chapter  
campaigns@nh.surfrider.org

A handwritten signature in blue ink that reads "Melissa Gates".

Melissa Gates  
Northeast Regional Manager  
Surfrider Foundation  
mgates@surfrider.org

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<sup>22</sup> <http://gencourt.state.nh.us/statstudcomm/committees/1476/reports/2019%20Final%20Report.pdf>

**HB 1338 - AS INTRODUCED**

2022 SESSION

22-2550

05/04

HOUSE BILL            **1338**

AN ACT                establishing a committee to study imposing a tax on manufacturers based on the cost to dispose of single-use products and product packaging materials.

SPONSORS:            Rep. Read, Rock. 17; Rep. Frost, Straf. 16; Rep. Labranche, Hills. 22

COMMITTEE:          Ways and Means

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ANALYSIS

This bill establishes a committee to study imposing a tax on manufacturers based on the cost to dispose of single use products and product packaging materials.

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



STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT                    establishing a committee to study imposing a tax on manufacturers based on the cost to dispose of single-use products and product packaging materials.

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

1            1 Committee Established. There is established a committee to study imposing a tax on  
2 manufacturers based on the cost of to dispose of single-use products and product packaging  
3 materials.

4            2 Membership and Compensation.

5            I. The members of the committee shall be as follows:

6            (a) Four members of the house of representatives, 2 of whom shall be members of the  
7 Republican party and 2 of whom shall be members of the Democratic party, appointed by the  
8 speaker of the house of representatives.

9            (b) One member of the senate, appointed by the president of the senate.

10           II. Members of the committee shall receive mileage at the legislative rate when attending to  
11 the duties of the committee.

12           3 Duties. The committee shall study the possibility of imposing a tax on manufacturers based  
13 on the cost of disposing of product packaging or single-use products. The study shall include, but not  
14 limited to, the possibility of entering into an interstate compact, the distribution of tax revenues to  
15 municipalities for the purpose of safely recycling and disposing of solid wastes, a variable tax  
16 structure taxing manufacturers of single-use products and packaging materials commensurate with  
17 the burden on municipalities for disposing such materials, and taxing compostable and easily  
18 recycled materials at a lower rate than difficult to recycle or toxic materials. The committee may  
19 solicit information and testimony from any individual or entity the committee deems relative to the  
20 study.

21           4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from  
22 among the members. The first meeting of the committee shall be called by the first-named house  
23 member. The first meeting of the committee shall be held within 45 days of the effective date of this  
24 section. Three members of the committee shall constitute a quorum.

25           5 Report. The committee shall report its findings and any recommendations for proposed  
26 legislation to the speaker of the house of representatives, the president of the senate, the house  
27 clerk, the senate clerk, the governor, and the state library on or before November 1, 2022.

28           6 Effective Date. This act shall take effect upon its passage.