

CONSENT CALENDAR

January 26, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Ways and Means to which was referred HB 1541-FN,

AN ACT establishing a deferral from the business profits tax and the business enterprise tax for qualified limited liability startups. Having considered the same, report the same with the following resolution:

RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. John Janigian

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Ways and Means
Bill Number:	HB 1541-FN
Title:	establishing a deferral from the business profits tax and the business enterprise tax for qualified limited liability startups.
Date:	January 26, 2022
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill establishes a five-year deferral from the business profits tax and the business enterprise tax for qualifying limited liability startups. The bill also establishes a committee to study the formation and structure of limited liability companies in New Hampshire. While this bill intends to help foster start-ups, the current tax law already does this by the recently raised thresholds on the business profits tax (BPT) and the business enterprise tax (BET). For tax years ending on or after December 31, 2022 the BPT threshold for filing will be raised from \$50,000 to \$92,000 and the NH Department of Revenue Administration will adjust the threshold biennially based on inflation. The BET threshold will be raised such that businesses with taxable periods ending on or after December 31, 2022, the gross receipts threshold increases from \$220,000 to \$250,000 and the enterprise value base threshold increases from \$111,000 to \$250,000. The increased thresholds for both the BPT and BET are significant enough that they help new businesses thrive without the need for this bill.

Vote 21-0.

Rep. John Janigian
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Ways and Means

HB 1541-FN, establishing a deferral from the business profits tax and the business enterprise tax for qualified limited liability startups. **INEXPEDIENT TO LEGISLATE.**

Rep. John Janigian for Ways and Means. This bill establishes a five-year deferral from the business profits tax and the business enterprise tax for qualifying limited liability startups. The bill also establishes a committee to study the formation and structure of limited liability companies in New Hampshire. While this bill intends to help foster start-ups, the current tax law already does this by the recently raised thresholds on the business profits tax (BPT) and the business enterprise tax (BET). For tax years ending on or after December 31, 2022 the BPT threshold for filing will be raised from \$50,000 to \$92,000 and the NH Department of Revenue Administration will adjust the threshold biennially based on inflation. The BET threshold will be raised such that businesses with taxable periods ending on or after December 31, 2022, the gross receipts threshold increases from \$220,000 to \$250,000 and the enterprise value base threshold increases from \$111,000 to \$250,000. The increased thresholds for both the BPT and BET are significant enough that they help new businesses thrive without the need for this bill. **Vote 21-0.**

HOUSE COMMITTEE ON WAYS AND MEANS

EXECUTIVE SESSION on Bill # HB 1541

BILL TITLE: establishing a deferral from the business profits tax and the business enterprise tax for qualified limited liability startups.

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. Janigian, Seconded by Rep. Turcotte, 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 deferral from the business profits tax and the business enterprise tax for qualified limited liability startups.

Bill #	HB 1541
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]	Second	x		
Jordan Ulery		x		
Rich Lascelles [sub for Fred Doucette]		x		
Tim Lang		x		
Alan Bershtein [Clerk]		x		
Carol McGuire [sub for Robert Elliott]		x		
John Janigian	Motion	x		
Hershel Nunez		x		
Walter Spilsbury		x		
Paul Tudor		x		
Almy, Susan		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 1541

Date: January 20, 2022
LOB Room: 202-204
Time Public Hearing Called to Order: 10:30 AM
Time Public Hearing Adjourned: 11:08AM

Title: establishing a deferral from the business profits tax and the business enterprise tax for qualified limited liability startups.

Sponsors: (Prime) Abramson (R)

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

TESTIMONY

Rep Abramson, Sponsor:

- Introduced the bill
- This bill is intended to allow startups a five year exemption from the annual \$100 filing fee paid to the Sec of State.
- 5 year exemption from BET
- 5 year deferral of BPT
- HB 1541 would help start ups. NY has a 10 year exemption from business taxes for new start ups. NH should be the friendliest New England state to startups.
- Abrami: Why the study committee in section 3? Abramson: Legislative Services inserted that. I'm not sure why.
- Ames: What if the LLC's payroll exceeds \$100k in year three? Abramson: Once payroll exceeds \$100k per year, the company would not be qualified for the deferment.
- Janigan: Isn't current law enough, given the (recently raised) current thresholds? Is this bill necessary? Abramson: In some circumstances, this bill could be of benefit to certain startups.
- Major: The \$100k payroll, does that include benefits and payroll taxes? Abramson: Just the wages would be included.
 - Major: Why \$100k? Keeping payroll under \$100 can be very difficult.
 - Abramson: This bill is designed for really, really small businesses.
- Abrami: Concerned about the mechanics of the bill. LLCs would have to file each year? Abramson: Yes.
- Hakkin-Phillips: Concerns:
 - Why only LLCs and not other entities?
 - Page 2, line 4, regarding termination of the deferral - the language may be too permissive.
 - Section 3, establishment of a committee. Line 31...simplify the startup process? It's already really, really easy to form an LLC.
 - Abramson: This bill is just trying to help startups. We should want to help them in any way possible.
- Ames: Please point to the language that provides for the BET exemption?
 - MA: Legislation services may have erred.

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Dan McGuire, Granite State Taxpayers

- Opposes the bill
- My remarks are about sections one and two, not three.
- This bill is akin to the R&D tax credit. GST prefers uniform tax codes that apply to all entities. This special purpose tax law can be a slippery slope. It's better to have uniform taxes with a low rate instead of picking winners and losers.
- Almy: Are there Constitutional issues with this bill? McGuire: Indeed, there might be.

Blue Sheet: None

House Remote Testify

Ways and Means Committee Testify List for Bill HB1541 on 2022-01-20

Support: 1 Oppose: 0 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>
Richardson, Daniel	Nashua, NH daniel6_22@comcast.net	A Member of the Public	Myself	Support	No	No	1/19/2022 1:59 PM

HB 1541-FN - AS INTRODUCED

2022 SESSION

22-2720

05/10

HOUSE BILL ***1541-FN***

AN ACT establishing a deferral from the business profits tax and the business enterprise tax for qualified limited liability startups.

SPONSORS: Rep. Abramson, Rock. 37

COMMITTEE: Ways and Means

ANALYSIS

This bill establishes a 5-year deferral from the business profits tax and the business enterprise tax for qualifying limited liability startups. The bill also establishes a committee to study the formation and structure of limited liability companies in New Hampshire.

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 deferral from the business profits tax and the business enterprise tax for qualified limited liability startups.

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

1 1 New Section; Business Profits Tax; Qualified LLC Startups; Tax Deferral. Amend RSA 77-A
2 by inserting after section 5-c the following new section:

3 77-A:5-d Tax Deferral; Election and Reporting for Qualified LLC Startups.

4 I. In this section, a "qualified LLC startup" means a limited liability company that was
5 formed to develop a service or innovative product and bring it to market, with a payroll of no more
6 than \$100,000 per year for employees as defined in RSA 275:42, II.

7 II. A business organization that meets the definition of a qualified LLC startup in paragraph
8 I shall be granted a tax deferral for any tax due under this chapter for a period of 5 years from the
9 date of election. During the period of deferment, the qualified LLC startup shall remain responsible
10 for the annual payment of interest.

11 III. Business organizations shall file an election with the commissioner to be a qualified LLC
12 startup with respect to any taxable period on a form prescribed by the commissioner at any time on
13 or before the fifteenth day of the third month immediately following the end of such taxable period.
14 Such an election shall be effective for the taxable period of the qualified LLC startup for which it is
15 made and for all succeeding taxable periods until such election is terminated as provided in this
16 section. No filing fee shall be required to establish the qualified LLC startup.

17 IV. The election to be a qualified LLC startup shall expire 5 years from the date of election.
18 No subsequent election may be made after the expiration, with respect to either the business
19 organization or any successor business organization.

20 V. Every business organization electing treatment as a qualified LLC startup shall, with
21 respect to each taxable period, file a report, in accordance with such rules or forms as the
22 commissioner may prescribe. No filing fee shall be required in conjunction with the report. The
23 report shall set forth the following:

24 (a) The names, addresses, and federal taxpayer identification numbers of the holders of
25 any equity interests in such qualified LLC startup.

26 (b) The name, address, and federal taxpayer identification number of the manager of
27 such qualified LLC startup.

28 (c) The amount of the income received and expenses incurred by the qualified LLC
29 startup for the tax period.

HB 1541-FN - AS INTRODUCED
- Page 2 -

1 (d) Notwithstanding any other provision of this section, a qualified LLC startup shall be
2 deemed to have satisfied the reporting requirements of this section if it files with the commissioner a
3 copy of its federal income tax return, as filed with the Internal Revenue Service.

4 VI. The election provided for in paragraph III may be terminated as follows:

5 (a) By revoking said election by consent of the majority of the members, partners, or
6 shareholders of the qualified LLC startup, or by determination of the manager of the qualified LLC
7 startup. Such revocation must be filed with the department on or before the fifteenth day of the
8 third month of the taxable period to be effective for such period. Any revocation filed after the
9 fifteenth day of the third month of the taxable period shall be effective for the following tax period; or

10 (b) Whenever the company ceases to satisfy the requirements for qualification as a
11 qualified LLC startup as provided in paragraph I.

12 2 New Section; Business Enterprise Tax; Election of Qualified LLC Startup Status; Tax
13 Deferral. Amend RSA 77-E by inserting after section 5-a the following new section:

14 77-E:5-b Election of Qualified LLC Startup Status; Tax Deferral. Business organizations that
15 have elected qualified LLC startup status pursuant to RSA 77-A:5-d shall be qualified LLC startups
16 for the purposes of this chapter for the tax period or periods corresponding to the election. No filing
17 fee shall be required to register as a qualified LLC startup under this chapter. As a qualified LLC
18 startup, the business organization shall be granted a tax deferral for any tax due under this chapter
19 for a period of 5 years from the date of election. During the period of deferment, the qualified LLC
20 startup shall remain responsible for the annual payment of interest. A qualified LLC startup that
21 meets the election and reporting requirements of RSA 77-A:5-d shall be deemed to have met any
22 election and reporting requirements under this chapter.

23 3 Committee Established. There is established a committee to study the formation of limited
24 liability companies.

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

26 (a) Three members of the house of representatives, appointed by the speaker of the
27 house of representatives.

28 (b) Two members of the senate, appointed by the president of the senate.

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

31 III. The committee shall study the procedure for formation of limited liability companies in
32 New Hampshire and ways in which the process can be simplified or modified to support business
33 startups in New Hampshire.

34 IV. The members of the study committee shall elect a chairperson from among the members.
35 The first meeting of the committee shall be called by the first-named house member. The first
36 meeting of the committee shall be held within 45 days of the effective date of this section. Four
37 members of the committee shall constitute a quorum.

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

4 4 Effective Date.

5 I. Section 3 of this act shall take effect upon its passage.

6 II. The remainder of this act shall take effect 60 days after its passage.

**HB 1541-FN- FISCAL NOTE
 AS INTRODUCED**

AN ACT establishing a deferral from the business profits tax and the business enterprise tax for qualified limited liability startups.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
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:

This bill creates a five year Business Profits Tax (BPT) and Business Enterprise Tax (BET) deferral for qualified LLC startups that make an election to utilize the tax deferral. A qualified LLC startup is a limited liability company formed to develop a service or innovative product and bring it to market, with a payroll of no more than \$100,000 per year for employees. A qualified LLC startup that makes a tax deferral election:

- can defer the payment of taxes for up to five years, but must pay interest on such deferral.
- must file an annual report with the Department of Revenue Administration reporting information regarding the qualified LLC startup’s equity interest holders, managers, and income and expenses. A copy of the qualified LLC startup’s federal return is deemed to satisfy this filing requirement.
- can terminate the election by filing a revocation with the Department after a majority vote of the members, partners shareholders, etc. or whenever the qualified LLC startup ceases to meet the qualifications for the election.

The Department anticipates the proposed legislation would initially result in an indeterminable decrease in BPT and BET revenue beginning in FY 2023 for taxpayers making such election. The Department does not have sufficient data to determine how many existing or future BPT and BET taxpayers would be eligible to take such election and therefore cannot estimate the exact fiscal impact.

Ultimately, for many electing qualified LLC startups, the proposed legislation would only effectuate the deferral of their tax liability for up to five years, with the total tax liability plus interest being due after the five year deferral expires. In theory the tax deferral provided by the proposed legislation could be characterized as only a timing provision because the tax is simply being deferred to a later year (with the addition of interest that might not otherwise be paid). However, in some instances, those businesses making the qualified LLC startup election will cease operation with inadequate resources to pay their deferred tax obligation and therefore the proposed legislation could still ultimately result in lost revenue.

The Department would need to update all necessary tax forms and electronic management systems related to the changes contained in this bill, however it is not anticipated this bill would result in any additional administrative costs that could not be absorbed in the Department's operating budget.

AGENCIES CONTACTED:

Department of Revenue Administration