

LEGISLATIVE COMMITTEE MINUTES

# **HB102**

Bill as  
Introduced

HB 102 - AS AMENDED BY THE HOUSE

5Jan2022... 2151h

2021 SESSION

21-0078

10/05

HOUSE BILL **102**

AN ACT establishing a commission to study worldwide combined reporting method for unitary businesses under the business profits tax.

SPONSORS: Rep. Schamberg, Merr. 4

COMMITTEE: Ways and Means

---

AMENDED ANALYSIS

This bill establishes a commission to study worldwide combined reporting method for unitary businesses under the business profits tax.

---

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT                    establishing a commission to study worldwide combined reporting method for unitary businesses under the business profits tax.

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

1            1 Findings. The general court finds that New Hampshire has a unique tax structure. With no  
2 general sales or income tax and no severance tax on natural resources, New Hampshire relies on its  
3 business profits tax more than any other state and most countries. In 1981, the business profits tax  
4 law was amended to allow the department of revenue administration or taxpayers to employ the  
5 combined reporting method of taxation under the unitary business principle.

6            2 Commission on Worldwide Combined Reporting for Unitary Businesses under the Business  
7 Profits Tax. Amend RSA 77-A by inserting after section 23-a the following new section:

8            77-A:23-b Commission on Worldwide Combined Reporting for Unitary Businesses under the  
9 Business Profits Tax. There is established a commission to study the replacement of the water's  
10 edge method by the worldwide combined reporting method for reporting and apportionment of  
11 income under the business profits tax.

12            I. The members of the commission shall be as follows:

13            (a) Three members of the house of representatives, who shall be from the ways and  
14 means committee, appointed by the speaker of the house of representatives.

15            (b) <sup>one</sup>Two members of the senate, appointed by the president of the senate.

16            (c) Three members of the state's business community, one representing in-state  
17 domesticated businesses with less than 100 employees, one representing in-state domesticated  
18 businesses with more than 100 employees, and one representing out-of-state or foreign domesticated  
19 businesses, appointed by the president of the New Hampshire Business and Industry Association.

20            (d) The president of the New Hampshire Society of Certified Public Accountants, or  
21 designee.

22            (e) The commissioner of the department of revenue administration, or designee.

23            (f) The commissioner of the department of business and economic affairs, or designee.

24            (g) The attorney general, or designee.

25            (h) An attorney expert in transnational and New Hampshire business profit tax  
26 accounting issues, appointed by the president of the New Hampshire Bar Association.

27            II. Legislative members of the commission shall receive mileage at the legislative rate when  
28 attending to the duties of the commission.

29            III. The commission shall study the advantages and disadvantages for the state's economy  
30 and revenues of replacement of the current water's edge method by the worldwide combined

HB 102 - AS AMENDED BY THE HOUSE

- Page 2 -

1 reporting method for reporting and apportionment of income under the business profits tax. It shall  
2 consult with national experts in both methods, including economists, business associations, and tax  
3 experts.

4 IV. The members of the commission shall elect a chairperson from among the members. The  
5 first meeting shall be called by the first-named house member. The first meeting of the commission  
6 shall be held within 45 days of the effective date of this section. Six members of the commission  
7 shall constitute a quorum.

8 V. The commission shall report its preliminary findings on or before November 1, 2022 and  
9 issue a final report of its findings and any recommendations for proposed legislation on or before  
10 November 1, 2023, to the president of the senate, the speaker of the house of representatives, the  
11 senate clerk, the house clerk, the governor, and the state library.

12 3 Repeal. RSA 77-A:23-b, relative to the commission on worldwide combined reporting for  
13 unitary businesses under the business profits tax, is repealed.

14 4 Effective Date.

15 I. Section 3 of this act shall take effect November 1, 2023.

16 II. The remainder of this act shall take effect upon its passage.

HB 102 - AS AMENDED BY THE SENATE

5Jan2022... 2151h  
03/17/2022 1048s

2021 SESSION

21-0078  
10/05

HOUSE BILL **102**

AN ACT establishing a commission to study worldwide combined reporting method for unitary businesses under the business profits tax, and relative to the treatment of water or sewerage disposal utilities under the business profits tax.

SPONSORS: Rep. Schamberg, Merr. 4

COMMITTEE: Ways and Means

---

AMENDED ANALYSIS

This bill establishes a commission to study worldwide combined reporting method for unitary businesses under the business profits tax. The bill also provides for the tax treatment of water and sewer disposal utilities under the business profits tax.

-----

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.

HB 102 - AS AMENDED BY THE SENATE

5Jan2022... 2151h  
03/17/2022 1048s

21-0078  
10/05

STATE OF NEW HAMPSHIRE

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

AN ACT                    establishing a commission to study worldwide combined reporting method for unitary businesses under the business profits tax, and relative to the treatment of water or sewerage disposal utilities under the business profits tax.

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

1            1 Findings. The general court finds that New Hampshire has a unique tax structure. With no  
2 general sales or income tax and no severance tax on natural resources, New Hampshire relies on its  
3 business profits tax more than any other state and most countries. In 1981, the business profits tax  
4 law was amended to allow the department of revenue administration or taxpayers to employ the  
5 combined reporting method of taxation under the unitary business principle.

6            2 Commission on Worldwide Combined Reporting for Unitary Businesses under the Business  
7 Profits Tax. Amend RSA 77-A by inserting after section 23-a the following new section:

8            77-A:23-b Commission on Worldwide Combined Reporting for Unitary Businesses under the  
9 Business Profits Tax. There is established a commission to study the replacement of the water's  
10 edge method by the worldwide combined reporting method for reporting and apportionment of  
11 income under the business profits tax.

12            I. The members of the commission shall be as follows:

13            (a) Three members of the house of representatives, who shall be from the ways and  
14 means committee, appointed by the speaker of the house of representatives.

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

16            (c) Three members of the state's business community, one representing in-state  
17 domesticated businesses with less than 100 employees, one representing in-state domesticated  
18 businesses with more than 100 employees, and one representing out-of-state or foreign domesticated  
19 businesses, appointed by the president of the New Hampshire Business and Industry Association.

20            (d) The president of the New Hampshire Society of Certified Public Accountants, or  
21 designee.

22            (e) The commissioner of the department of revenue administration, or designee.

23            (f) The commissioner of the department of business and economic affairs, or designee.

24            (g) The attorney general, or designee.

25            (h) An attorney expert in transnational and New Hampshire business profit tax  
26 accounting issues, appointed by the president of the New Hampshire Bar Association.

27            II. Legislative members of the commission shall receive mileage at the legislative rate when  
28 attending to the duties of the commission.

1           III. The commission shall study the advantages and disadvantages for the state's economy  
2 and revenues of replacement of the current water's edge method by the worldwide combined  
3 reporting method for reporting and apportionment of income under the business profits tax. It shall  
4 consult with national experts in both methods, including economists, business associations, and tax  
5 experts.

6           IV. The members of the commission shall elect a chairperson from among the members. The  
7 first meeting shall be called by the first-named house member. The first meeting of the commission  
8 shall be held within 45 days of the effective date of this section. Six members of the commission  
9 shall constitute a quorum.

10           V. The commission shall report its preliminary findings on or before November 1, 2022 and  
11 issue a final report of its findings and any recommendations for proposed legislation on or before  
12 November 1, 2023, to the president of the senate, the speaker of the house of representatives, the  
13 senate clerk, the house clerk, the governor, and the state library.

14           3 Repeal. RSA 77-A:23-b, relative to the commission on worldwide combined reporting for  
15 unitary businesses under the business profits tax, is repealed.

16           4 New Section; Business Profits Tax; Treatment of Water and Sewerage Disposal Utilities.  
17 Amend RSA 77-A by inserting after section 3-c the following new section:

18           77-A:3-d Treatment of Water and Sewerage Disposal Utilities. In determining gross business  
19 profits, a business organization shall apply section 118 of the United States Internal Revenue Code  
20 consistent with the following adjustments:

21           I. The term "contribution to the capital of the taxpayer" includes any amount of money or  
22 other property received from any person, whether or not a shareholder, by a regulated public utility  
23 which provides water or sewerage disposal services if:

24           (a) Such amount is:

25           (1) A contribution in aid of construction; or

26           (2) A contribution to the capital of such utility by a governmental entity providing  
27 for the protection, preservation, or enhancement of drinking water or sewerage disposal services;

28           (b) In the case of a contribution in aid of construction which is property other than water  
29 or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of  
30 paragraph II; and

31           (c) Such amount, or any property acquired or constructed with such amount, is not  
32 included in the taxpayer's rate base for ratemaking purposes.

33           II. An amount meets the requirements of subparagraph I(b) if:

34           (a) An amount equal to such amount is expended for the acquisition or construction of  
35 tangible property described in United States Internal Revenue Code section 1231(b):

36           (1) Which is the property for which the contribution was made or is of the same type  
37 as such property; and



1           (2) Which is used predominantly in the trade or business of furnishing water or  
2 sewerage disposal services;

3           (b) The expenditure referred to in subparagraph (a) occurs before the end of the second  
4 taxable year after the year in which such amount was received; and

5           (c) Accurate records are kept of the amounts contributed and expenditures made, the  
6 expenditures to which contributions are allocated, and the year in which the contributions and  
7 expenditures are received and made.

8           III. For purposes of this section:

9           (a) "Contribution in aid of construction" shall mean as the term is defined by the United  
10 States Department of the Treasury's Treasury Regulations 1.118-2 (2001), except that such term  
11 shall not include amounts paid as service charges for starting or stopping services.

12           (b) "Predominantly" means 80 percent or more.

13           (c) "Regulated public utility" has the meaning given such term by Internal Revenue  
14 Code section 7701(a)(33), except that such term shall not include any utility which is not required to  
15 provide water or sewerage disposal services to members of the general public in its service area.

16           IV. Notwithstanding any other provisions of law, no deduction or credit shall be allowed for,  
17 or by reason of, any expenditure which constitutes a contribution in aid of construction to which this  
18 section applies. The adjusted basis of any property acquired with contributions in aid of construction  
19 to which this section applies shall be zero.

20           5 Applicability; Treatment of Water and Sewerage Disposal Utilities. The provisions of section 4  
21 of this act shall apply to contributions made on or after January 1, 2021.

22           6 Effective Date.

23           I. Section 3 of this act shall take effect November 1, 2023.

24           II. The remainder of this act shall take effect upon its passage.

25

CHAPTER 12  
HB 102 - FINAL VERSION

5Jan2022... 2151h  
03/17/2022 1048s

2022 SESSION

21-0078  
10/05

HOUSE BILL **102**

AN ACT establishing a commission to study worldwide combined reporting method for unitary businesses under the business profits tax, and relative to the treatment of water or sewerage disposal utilities under the business profits tax.

SPONSORS: Rep. Schamberg, Merr. 4

COMMITTEE: Ways and Means

---

AMENDED ANALYSIS

This bill establishes a commission to study worldwide combined reporting method for unitary businesses under the business profits tax. The bill also provides for the tax treatment of water and sewer disposal utilities under the business profits tax.

---

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.

CHAPTER 12  
HB 102 - FINAL VERSION

5Jan2022... 2151h  
03/17/2022 1048s

21-0078  
10/05

STATE OF NEW HAMPSHIRE

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

AN ACT                    establishing a commission to study worldwide combined reporting method for unitary businesses under the business profits tax, and relative to the treatment of water or sewerage disposal utilities under the business profits tax.

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

1            12:1 Findings. The general court finds that New Hampshire has a unique tax structure. With  
2 no general sales or income tax and no severance tax on natural resources, New Hampshire relies on  
3 its business profits tax more than any other state and most countries. In 1981, the business profits  
4 tax law was amended to allow the department of revenue administration or taxpayers to employ the  
5 combined reporting method of taxation under the unitary business principle.

6            12:2 Commission on Worldwide Combined Reporting for Unitary Businesses Under the Business  
7 Profits Tax. Amend RSA 77-A by inserting after section 23-a the following new section:

8            77-A:23-b Commission on Worldwide Combined Reporting for Unitary Businesses Under the  
9 Business Profits Tax. There is established a commission to study the replacement of the water's  
10 edge method by the worldwide combined reporting method for reporting and apportionment of  
11 income under the business profits tax.

12            I. The members of the commission shall be as follows:

13            (a) Three members of the house of representatives, who shall be from the ways and  
14 means committee, appointed by the speaker of the house of representatives.

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

16            (c) Three members of the state's business community, one representing in-state  
17 domesticated businesses with less than 100 employees, one representing in-state domesticated  
18 businesses with more than 100 employees, and one representing out-of-state or foreign domesticated  
19 businesses, appointed by the president of the New Hampshire Business and Industry Association.

20            (d) The president of the New Hampshire Society of Certified Public Accountants, or  
21 designee.

22            (e) The commissioner of the department of revenue administration, or designee.

23            (f) The commissioner of the department of business and economic affairs, or designee.

24            (g) The attorney general, or designee.

25            (h) An attorney expert in transnational and New Hampshire business profit tax  
26 accounting issues, appointed by the president of the New Hampshire Bar Association.

27            II. Legislative members of the commission shall receive mileage at the legislative rate when  
28 attending to the duties of the commission.

**CHAPTER 12**  
**HB 102 - FINAL VERSION**

- Page 2 -

1           III. The commission shall study the advantages and disadvantages for the state's economy  
2 and revenues of replacement of the current water's edge method by the worldwide combined  
3 reporting method for reporting and apportionment of income under the business profits tax. It shall  
4 consult with national experts in both methods, including economists, business associations, and tax  
5 experts.

6           IV. The members of the commission shall elect a chairperson from among the members. The  
7 first meeting shall be called by the first-named house member. The first meeting of the commission  
8 shall be held within 45 days of the effective date of this section. Six members of the commission  
9 shall constitute a quorum.

10           V. The commission shall report its preliminary findings on or before November 1, 2022 and  
11 issue a final report of its findings and any recommendations for proposed legislation on or before  
12 November 1, 2023, to the president of the senate, the speaker of the house of representatives, the  
13 senate clerk, the house clerk, the governor, and the state library.

14           12:3 Repeal. RSA 77-A:23-b, relative to the commission on worldwide combined reporting for  
15 unitary businesses under the business profits tax, is repealed.

16           12:4 New Section; Business Profits Tax; Treatment of Water and Sewerage Disposal Utilities.  
17 Amend RSA 77-A by inserting after section 3-c the following new section:

18           77-A:3-d Treatment of Water and Sewerage Disposal Utilities. In determining gross business  
19 profits, a business organization shall apply section 118 of the United States Internal Revenue Code  
20 consistent with the following adjustments:

21           I. The term "contribution to the capital of the taxpayer" includes any amount of money or  
22 other property received from any person, whether or not a shareholder, by a regulated public utility  
23 which provides water or sewerage disposal services if:

24                   (a) Such amount is:

25                           (1) A contribution in aid of construction; or

26                           (2) A contribution to the capital of such utility by a governmental entity providing  
27 for the protection, preservation, or enhancement of drinking water or sewerage disposal services;

28                   (b) In the case of a contribution in aid of construction which is property other than water  
29 or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of  
30 paragraph II; and

31                   (c) Such amount, or any property acquired or constructed with such amount, is not  
32 included in the taxpayer's rate base for ratemaking purposes.

33           II. An amount meets the requirements of subparagraph I(b) if:

34                   (a) An amount equal to such amount is expended for the acquisition or construction of  
35 tangible property described in United States Internal Revenue Code section 1231(b):

36                           (1) Which is the property for which the contribution was made or is of the same type  
37 as such property; and

**CHAPTER 12**  
**HB 102 - FINAL VERSION**

- Page 3 -

1           (2) Which is used predominantly in the trade or business of furnishing water or  
2 sewerage disposal services;

3           (b) The expenditure referred to in subparagraph (a) occurs before the end of the second  
4 taxable year after the year in which such amount was received; and

5           (c) Accurate records are kept of the amounts contributed and expenditures made, the  
6 expenditures to which contributions are allocated, and the year in which the contributions and  
7 expenditures are received and made.

8           III. For purposes of this section:

9           (a) "Contribution in aid of construction" shall mean as the term is defined by the United  
10 States Department of the Treasury's Treasury Regulations 1.118-2 (2001), except that such term  
11 shall not include amounts paid as service charges for starting or stopping services.

12           (b) "Predominantly" means 80 percent or more.

13           (c) "Regulated public utility" has the meaning given such term by Internal Revenue  
14 Code section 7701(a)(33), except that such term shall not include any utility which is not required to  
15 provide water or sewerage disposal services to members of the general public in its service area.

16           IV. Notwithstanding any other provisions of law, no deduction or credit shall be allowed for,  
17 or by reason of, any expenditure which constitutes a contribution in aid of construction to which this  
18 section applies. The adjusted basis of any property acquired with contributions in aid of construction  
19 to which this section applies shall be zero.

20           12:5 Applicability; Treatment of Water and Sewerage Disposal Utilities. The provisions of  
21 section 4 of this act shall apply to contributions made on or after January 1, 2021.

22           12:6 Effective Date.

23           I. Section 3 of this act shall take effect November 1, 2023.

24           II. The remainder of this act shall take effect upon its passage.

Approved: April 11, 2022

Effective Date:

I. Section 3 shall take effect November 1, 2023.

II. The remainder shall take effect April 11, 2022.

# Amendments

Sen. Giuda, Dist 2  
March 8, 2022  
2022-1039s  
10/05

Amendment to HB 102

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT establishing a commission to study worldwide combined reporting method for unitary  
4 businesses under the business profits tax, and relative to the treatment of water or  
5 sewerage disposal utilities under the business profits tax.  
6

7 Amend the bill by replacing all after section 3 with the following:

8

9 4 New Section; Business Profits Tax; Treatment of Water and Sewerage Disposal Utilities.

10 Amend RSA 77-A by inserting after section 3-c the following new section:

11 77-A:3-d Treatment of Water and Sewerage Disposal Utilities. In determining gross business  
12 profits, a business organization shall apply section 118 of the United States Internal Revenue Code  
13 consistent with the following adjustments:

14 I. The term "contribution to the capital of the taxpayer" includes any amount of money or  
15 other property received from any person, whether or not a shareholder, by a regulated public utility  
16 which provides water or sewerage disposal services if:

17 (a) Such amount is:

18 (1) A contribution in aid of construction; or

19 (2) A contribution to the capital of such utility by a governmental entity providing  
20 for the protection, preservation, or enhancement of drinking water or sewerage disposal services;

21 (b) In the case of a contribution in aid of construction which is property other than water  
22 or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of  
23 paragraph II; and

24 (c) Such amount, or any property acquired or constructed with such amount, is not  
25 included in the taxpayer's rate base for ratemaking purposes.

26 II. An amount meets the requirements of subparagraph I(b) if:

27 (a) An amount equal to such amount is expended for the acquisition or construction of  
28 tangible property described in United States Internal Revenue Code section 1231(b):

29 (1) Which is the property for which the contribution was made or is of the same type  
30 as such property; and

31 (2) Which is used predominantly in the trade or business of furnishing water or  
32 sewerage disposal services;

1 (b) The expenditure referred to in subparagraph (a) occurs before the end of the second  
2 taxable year after the year in which such amount was received; and

3 (c) Accurate records are kept of the amounts contributed and expenditures made, the  
4 expenditures to which contributions are allocated, and the year in which the contributions and  
5 expenditures are received and made.

6 III. For purposes of this section:

7 (a) "Contribution in aid of construction" shall mean as the term is defined by the United  
8 States Department of the Treasury's Treasury Regulations 1.118-2 (2001), except that such term  
9 shall not include amounts paid as service charges for starting or stopping services.

10 (b) "Predominantly" means 80 percent or more.

11 (c) "Regulated public utility" has the meaning given such term by Internal Revenue Code  
12 section 7701(a)(33), except that such term shall not include any utility which is not required to  
13 provide water or sewerage disposal services to members of the general public in its service area.

14 IV. Notwithstanding any other provisions of law, no deduction or credit shall be allowed for,  
15 or by reason of, any expenditure which constitutes a contribution in aid of construction to which this  
16 section applies. The adjusted basis of any property acquired with contributions in aid of construction  
17 to which this section applies shall be zero.

18 5 Applicability; Treatment of Water and Sewerage Disposal Utilities. The provisions of section 4  
19 of this act shall apply to contributions made on or after January 1, 2021.

20 6 Effective Date.

21 I. Section 3 of this act shall take effect November 1, 2023.

22 II. The remainder of this act shall take effect upon its passage.

UNAPPROVED



2022-1039s

AMENDED ANALYSIS

This bill establishes a commission to study worldwide combined reporting method for unitary businesses under the business profits tax. The bill also provides for the tax treatment of water and sewer disposal utilities under the business profits tax.

UNAPPROVED

Amendment to HB 102

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT establishing a commission to study worldwide combined reporting method for unitary  
4 businesses under the business profits tax, and relative to the treatment of water or  
5 sewerage disposal utilities under the business profits tax.  
6

7 Amend RSA 77-A:23-b, I(b) as inserted by section 2 of the bill by replacing it with the following:

8

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

10

11 Amend the bill by replacing all after section 3 with the following:

12

13 4 New Section; Business Profits Tax; Treatment of Water and Sewerage Disposal Utilities.

14 Amend RSA 77-A by inserting after section 3-c the following new section:

15 77-A:3-d Treatment of Water and Sewerage Disposal Utilities. In determining gross business  
16 profits, a business organization shall apply section 118 of the United States Internal Revenue Code  
17 consistent with the following adjustments:

18 I. The term "contribution to the capital of the taxpayer" includes any amount of money or  
19 other property received from any person, whether or not a shareholder, by a regulated public utility  
20 which provides water or sewerage disposal services if:

21 (a) Such amount is:

22 (1) A contribution in aid of construction; or

23 (2) A contribution to the capital of such utility by a governmental entity providing  
24 for the protection, preservation, or enhancement of drinking water or sewerage disposal services;

25 (b) In the case of a contribution in aid of construction which is property other than water  
26 or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of  
27 paragraph II; and

28 (c) Such amount, or any property acquired or constructed with such amount, is not  
29 included in the taxpayer's rate base for ratemaking purposes.

30 II. An amount meets the requirements of subparagraph I(b) if:

31 (a) An amount equal to such amount is expended for the acquisition or construction of  
32 tangible property described in United States Internal Revenue Code section 1231(b):

1 (1) Which is the property for which the contribution was made or is of the same type  
2 as such property; and

3 (2) Which is used predominantly in the trade or business of furnishing water or  
4 sewerage disposal services;

5 (b) The expenditure referred to in subparagraph (a) occurs before the end of the second  
6 taxable year after the year in which such amount was received; and

7 (c) Accurate records are kept of the amounts contributed and expenditures made, the  
8 expenditures to which contributions are allocated, and the year in which the contributions and  
9 expenditures are received and made.

10 III. For purposes of this section:

11 (a) "Contribution in aid of construction" shall mean as the term is defined by the United  
12 States Department of the Treasury's Treasury Regulations 1.118-2 (2001), except that such term  
13 shall not include amounts paid as service charges for starting or stopping services.

14 (b) "Predominantly" means 80 percent or more.

15 (c) "Regulated public utility" has the meaning given such term by Internal Revenue Code  
16 section 7701(a)(33), except that such term shall not include any utility which is not required to  
17 provide water or sewerage disposal services to members of the general public in its service area.

18 IV. Notwithstanding any other provisions of law, no deduction or credit shall be allowed for,  
19 or by reason of, any expenditure which constitutes a contribution in aid of construction to which this  
20 section applies. The adjusted basis of any property acquired with contributions in aid of construction  
21 to which this section applies shall be zero.

22 5 Applicability; Treatment of Water and Sewerage Disposal Utilities. The provisions of section 4  
23 of this act shall apply to contributions made on or after January 1, 2021.

24 6 Effective Date.

25 I. Section 3 of this act shall take effect November 1, 2023.

26 II. The remainder of this act shall take effect upon its passage.

**Amendment to HB 102**  
**- Page 3 -**

2022-1048s

**AMENDED ANALYSIS**

This bill establishes a commission to study worldwide combined reporting method for unitary businesses under the business profits tax. The bill also provides for the tax treatment of water and sewer disposal utilities under the business profits tax.

# 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 23, 2022

**HEARINGS**

Wednesday	03/09/2022	
(Day)	(Date)	
Ways and Means	State House 100	9:00 a.m.
(Name of Committee)	(Place)	(Time)
9:00 a.m.	<b>HB 102</b>	establishing a commission to study worldwide combined reporting method for unitary businesses under the business profits tax.
9:10 a.m.	<b>HB 355</b>	relative to Keno.
9:20 a.m.	<b>HB 364</b>	revising the definition of charitable organizations relative to games of chance.
9:30 a.m.	<b>HB 527</b>	relative to the charitable gift annuities exemption.
9:40 a.m.	<b>HB 591-FN</b>	relative to certain liquor license fees.

**EXECUTIVE SESSION MAY FOLLOW**

**Sponsors:**

**HB 102**

Rep. Schamberg

**HB 355**

Rep. Lang

Rep. Bordes

**HB 364**

Rep. Ulery

**HB 527**

Rep. Infantine

**HB 591-FN**

Rep. Abrami

Rep. Johnson

Rep. Stapleton

Rep. Doucette

Rep. Hough

Rep. Weyler

Rep. Trottier

Sen. Bradley

Sonja Caldwell 271-2117

Bob J. Giuda  
Chairman

**Senate Ways and Means Committee**  
*Sonja Caldwell 271-2117*

**HB 102**, establishing a commission to study worldwide combined reporting method for unitary businesses under the business profits tax.

**Hearing Date:** March 9, 2022

**Members of the Committee Present:** Senators Giuda, Daniels, Hennessey and Rosenwald

**Members of the Committee Absent:** Senator D'Allesandro

**Bill Analysis:** This bill establishes a commission to study worldwide combined reporting method for unitary businesses under the business profits tax. The bill also provides for the tax treatment of water and sewer disposal utilities under the business profits tax.

---

**Sponsors:**

Rep. Schamberg

---

**Who supports the bill:** Rep. Schamberg, Rep. Abrami, Donald Ware (Pennichuck Water Works), Bob Scott (DES)

**Who opposes the bill:** no one

**Who is neutral on the bill:** no one

**Summary of testimony presented:**

**Rep. Schamberg**

- Since the NH legislature put the state on course to transition to single sales factor for business taxes beginning in 2023, the study commission established by this bill is necessary to ensure competitiveness and provide a competitive playing field for domestic NH businesses.
- Without comparing the shift to single sales factor with the present Water's Edge method versus the Worldwide reporting tax method, NH domestic businesses could be at a competitive disadvantage, paying more than their fair share.
- A study commission will make sure they have a level tax field with multinational companies in NH and will allow for an in-depth comparison on what is the most equitable tax policy.

**Sen. Giuda**

- Introduced amendment 1039s, which deals with a problem that a number of agencies are here to testify on.



- A provision of the 2017 tax cuts and jobs act eliminated a tax exemption for Contributions in Aid of Construction (CIAC) for water line extensions made by current or prospective customers of private water utilities. This increased costs for water and wastewater projects.
- The recently passed Infrastructure Investment and Jobs Act restores this exemption for private water companies.
- The NH Department of Environmental Services and the Department of Revenue Administration request that the legislature update the state's treatment of CIAC under the business profits tax (BPT) in order to align with the new federal tax code.
- This will ensure that CIAC are not treated as taxable contributions and will mean that water and wastewater funds NH is spending to address water quality issues go farther.

**Mr. Donald Ware- COO Pennichuck Water Works.**

- Largest water utility in NH, serving 18,000 customers.
- Loss of CIAC tax exemption impacted them at the state and federal tax level. The value of the contributed property got treated as normal income which created an immediate tax burden.
- The PUC worked with them to allow the developer to gross up the grant so when tax obligations came through, they could pay it. This creates additional costs for developers and diminishes the value of grants.
- They worked with Senators Shaheen and Hassan and Congresswoman Kuster to get the CIAC tax eliminated at the federal level. Now they are asking the state to do the same. They are looking for reinstatement of the exemption.

**Sen. Rosenwald** asked if with the elimination of this tax, ratepayers could expect water rates to go down.

**Mr. Ware** said that when the tax came into effect, they had the PUC require the tax be paid by the developer, so it was never passed on to ratepayer so it will be rate neutral.

**Sen. Rosenwald** said she thought he said the taxes had been an expense for Pennichuck

**Mr. Ware** said it was an expense, but it was paid by either the developer or the DES. They have collected the tax obligation from the developer or DES since 2017.

**Commissioner Bob Scott DES**

- They have been successful at the federal level getting the exemption reinstated. The BPT at the state has lagged behind that change. The intent is to make the state BPT mirror the change that happened at the federal level. It is important to DES.
- They have the drinking groundwater trust fund and put that money back into communities.
- They have taken advantage of ARPA funds for community projects.
- They see a lot of water contamination issues in the state. In many cases, when private wells are contaminated, the best solution is to get them disconnected from the home and connected to a water system.
- He gave the example of St. Gobain. DES worked with them to get those residents on private wells onto public water with Pennichuck, who then incurred a 30% tax liability at the federal level for taking money from the party responsible for the contamination and putting the residents on public water.
- Another example is the Town of Plaistow, which has a lot of water quality issues. DES asked Hampstead Water Company to accept money from the state to serve Plaistow and they incurred over \$1 million in tax liability for accepting money from the state.

- These are examples of what they are trying to correct with this amendment.

**Carolynn Lear** Assistant Commissioner DRA

- Assisted with drafting of the amendment.
- NH uses federally reported income as a starting point for calculating business tax liability.
- To control the impact of federal changes, NH chooses what version of code we conform to. We are tied to a version of the code that eliminated the CIAC exemption. This would adopt the most recent federal treatment of CIAC for NH BPT purposes without us updating our full reference to the IRC.

**Sen. Hennessey** asked if the effective upon passage date was correct.

**Ms. Lear** said it was correct because there is an applicability section that addresses who this would apply to.

**Sen. Rosenwald** asked if the DRA had calculated the cost.

**Ms. Lear** said they had not, nor could they. It is an extremely narrow class of taxpayers that this applies to; too few taxpayers for them to disclose. Also because of the way they are tied to the federal return, they don't see what would show up as an exemption.

**Sen. Rosenwald** suggested it would not be a giant cost and Ms. Lear said that was a fair statement.

**Sen. Giuda** asked for clarification that this is applicable going forward.

**Ms. Lear** said the applicability date is for contributions starting after January 1, 2022. It could claw back some projects in process during the last two months.

sc

Date Hearing Report completed: March 10, 2022

# Speakers



# Testimony

Thank you Mr. Chairman and the Senate Ways and Means Cmt –

I am Rep. Tom Schamberg – District 4 – Merrimack County – representing the Towns of Wilmot and Sutton

I am presently serving my 3<sup>rd</sup> term on the House Ways and Means Cmt

A quick synopsis of the most important reason for a Study Commission on HB 102 Worldwide reporting is since the NH Legislature has put the state on a course to transition to the single sales factor for business taxes beginning in 2023, is to Improve the competitiveness and ensure a level playing field for domestic based businesses in NH.

Without comparing the shift to single sales factor with the present Water's Edge Method vs the suggested Worldwide reporting Tax method in HB 102, this may Cause our domestic NH businesses to operate at a significant competitive disadvantage and pay more than their fair share of support to state operations.

Led by House Ways and Means Chairman Major, Vice Chair Abrami and Ranking Member Almy, the House Ways and Means Cmt, in a true bi-partisan spirit voted 22-0 to move in a prudent manner to make sure through a study commission to ~~make sure~~ that domestic NH companies have a level tax field in competition with the many multinational operations here in NH.

Thus the recommendation of a Study Commission endorsed by this Senate's Ways and Means Committee would allow for the in-depth comparison of what is the most equitable tax policy and level playing field for companies based in NH.

I and the House Ways and Means Cmt members urge the Senate Ways and Means Cmt members to vote OTP as Amended.

Thank you for your time and attention to this matter.

**Complete Document**

**Can Be Viewed**

**In Bill Folder**



## **Inequality Project — The America We Need**

**by Tom Schamberg**

Reprinted from *Tax Notes State*, August 3, 2020, p.502

## Inequality Project – The America We Need

by Tom Schamberg

Tom Schamberg is a New Hampshire state representative and member of the New Hampshire House Ways & Means Committee.

In this article, based on a June 19 article he wrote to Kathleen Kingsbury of *The New York Times*, Schamberg discusses H.B. 1567-FN-A, which aims to change the way New Hampshire taxes the profits of multinational corporations.

Copyright 2020 Tom Schamberg.  
All rights reserved.

Late last year, I introduced H.B. 1567-FN-A to change the way New Hampshire taxes the profits of multinational corporations. The purpose of my bill is to counteract the systemic problem of international income tax avoidance by multinational corporations at the state level and level the playing field for all businesses operating in New Hampshire — whether big or small, whether based in the United States or a foreign country.

The millions of dollars in income taxes that multinational corporations avoid paying each year shifts that tax burden to smaller businesses and individuals, which often results in budget cuts across departments of education, health, environment, safety, and so forth — making inequality worse.

New Hampshire relies on its business profits tax (corporate income tax) revenues more than any other state and most countries. From its inception in 1970 and for the next 10 years until 1980, corporations filed their state returns on a separate accounting/separate-entity basis (also known as single accounting). It is better to call it what it is: taxation by separation, allowing profits to be separated from the activities that generate them — in other words, disuniting profits from united activity, or separating the inseparable.

This means that a parent corporation with multiple foreign and domestic subsidiaries would file a tax return only for each member of the group that had a taxable presence in New Hampshire — as if a stand-alone corporation has no relationship to its parent or sister corporations when intercompany transactions are supposed to be at arm's-length prices like between unrelated businesses. The operative term here is arm's-length pricing, in which a corporation's internal accounting department determines those prices as if they were charged to unrelated third parties. It has been estimated that more than 60 percent of world trade is not between third parties, but between subsidiaries owned by multinational corporations.

### Taxation by Separation

Large multiform corporations prefer taxation by separation because it allows them to decide where intercompany expenses are assigned and where profits are reported and taxed (or not taxed), allowing them to divide and avoid. A good example is *Home Depot Inc. v. Arizona Department of Revenue*,<sup>1</sup> in which a Home Depot subsidiary, Homer Inc., was formed in Delaware and assigned Home Depot's trademarks, trade names, and other intellectual property. For the three years in question, Homer Inc. reported income of about \$4.7 billion, while Home Depot, the parent, reported income of about \$3.8 billion from its many locations nationwide. Homer Inc. had just four employees during this period: a lawyer, a paralegal, and two administrative assistants.

Delaware does not tax corporations on the intangible income they receive. This is known as the Delaware loophole — a kind of domestic tax haven. And in every state in which Home Depot

<sup>1</sup>233 Ariz. 449, 314 P.3d 576 (2013).

American-owned businesses will be worse off while foreign multinationals avoid about \$7.4 billion in United States taxes. The delay means that the United States is in effect paying foreign investors to take over our companies with our own tax dollars."<sup>25</sup>

In the desire at both the federal and state levels to attract foreign investment and jobs we have neglected to maintain a level playing field. It remains to be seen if the other members of the New Hampshire legislature and our governor will see the wisdom of H.B. 1567-FN-A and restore our state to a level playing field by adopting unitary worldwide taxation. If not, I look forward to the day that water's-edge taxation is challenged in court because, I believe, it violates the U.S. commerce clause and equal protection under the 14th Amendment. ■

**taxnotes<sup>®</sup>**



## A better Code and Regs. Free.

Both the federal tax code and all final federal tax regulations are now freely accessible through our website as part of our 50-year mission to shed light on tax policy and administration.

[taxnotes.com/research](https://taxnotes.com/research)

**The resources you need  
from the folks you trust.**

<sup>25</sup> Patricia Cohen, "U.S. and Europe May Collide on Taxing Apple and Amazon," *The New York Times*, Oct. 13, 2017.

## **CIAC Tax Repeal**

A provision of the 2017 Tax Cuts and Jobs Act (TCJA) eliminated a tax exemption for Contributions In Aid of Construction (CIAC) for water line extensions made by current or prospective customers of private water utilities. Known as the CIAC (kayak) tax), this increased costs for water and wastewater projects and increased the bureaucratic burden on contractors to these projects.

Repeal of the federal CIAC Tax has been a bipartisan priority in New Hampshire, with support coming from Sen. Jeanne Shaheen, Rep. Ann Kuster, and Senate President Chuck Morse.

The recently-passed Infrastructure Investment and Jobs Act restores this exemption for private water companies. The New Hampshire Department of Environmental Services and Department of Revenue Administration request that the Legislature update the state's treatment of CIAC under the Business Profits Tax in order to align with the new federal tax code. This amendment accomplishes this goal.

Ensuring that CIAC are not treated as taxable contributions will mean that water and wastewater funds New Hampshire is spending to address water quality issues go farther, and that public and private water utilities receive the same tax treatment for water line extensions.

# Voting Sheets

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

Bill # HB 102

Hearing date: 3-9-22

Executive Session date: 3-9-22

Motion of: 1039 Vote: 4-0

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

Motion of: OTR/A Vote: 4-0

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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Rosenwald	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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"/>

Reported out by: Giuda

Notes: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

# Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Wednesday, March 9, 2022

THE COMMITTEE ON Ways and Means

to which was referred **HB 102**

AN ACT

establishing a commission to study worldwide  
combined reporting method for unitary businesses  
under the business profits tax.

Having considered the same, the committee recommends that the Bill

ought to pass with amendment

BY A VOTE OF: 4-0

AMENDMENT # 1048s

Senator Bob Giuda  
For the Committee

Sonja Caldwell 271-2117



**WAYS AND MEANS**

**HB 102**, establishing a commission to study worldwide combined reporting method for unitary businesses under the business profits tax.

Ought to Pass with Amendment, Vote 4-0.

Senator Bob Giuda for the committee.

**Docket of HB102**

Docket Abbreviations

**Bill Title:** (Second New Title) establishing a commission to study worldwide combined reporting method for unitary businesses under the business profits tax, and relative to the treatment of water or sewerage disposal utilities under the business profits tax.

*Official Docket of HB102.:*

<b>Date</b>	<b>Body</b>	<b>Description</b>
1/4/2021	H	<b>Introduced</b> (in recess of) 01/06/2021 and referred to Ways and Means <b>HJ 2 P. 35</b>
1/27/2021	H	Public Hearing: 02/17/2021 09:00 am Members of the public may attend using the following link: To join the webinar: <a href="https://www.zoom.us/j/98448475898">https://www.zoom.us/j/98448475898</a> / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
2/18/2021	H	==CANCELLED== Full Committee Work Session: 03/02/2021 09:00 am Members of the public may attend using the following link: To join the webinar: <a href="https://www.zoom.us/j/94528213728">https://www.zoom.us/j/94528213728</a> / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
2/18/2021	H	Full Committee Work Session: 03/03/2021 09:00 am Members of the public may attend using the following link: To join the webinar: <a href="https://www.zoom.us/j/92309184005">https://www.zoom.us/j/92309184005</a> / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
3/9/2021	H	Retained in Committee
8/18/2021	H	Full Committee Work Session: 09/07/2021 09:30 am LOB 202 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
8/18/2021	H	==RESCHEDULED== Full Committee Work Session: 09/28/2021 11:00 am LOB 202-204 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
12/8/2021	H	Executive Session: 09/23/2021 09:30 am LOB 205-207
11/12/2021	H	Committee Report: Ought to Pass with Amendment #2021-2151h NT 09/28/2021 (Vote 24-0; CC) <b>HC 48 P. 17</b>
1/10/2022	H	Amendment #2021-2151h (NT): AA VV 01/05/2022 <b>HJ 1</b>
1/10/2022	H	<b>Ought to Pass with Amendment 2021-2151h: MA VV 01/05/2022 HJ 1</b>
1/18/2022	S	Introduced 01/05/2022 and Referred to Ways and Means; <b>SJ 2</b>
2/23/2022	S	==TIME CHANGE== <b>Hearing:</b> 03/09/2022, Room 100, SH, 10:00 am; <b>SC 10A</b>
3/10/2022	S	Committee Report: Ought to Pass with Amendment #2022-1048s, 03/17/2022; <b>SC 11</b>
3/17/2022	S	Committee Amendment #2022-1048s, AA, VV; 03/17/2022; <b>SJ 5</b>
3/17/2022	S	<b>Ought to Pass with Amendment 2022-1048s, MA, VV; OT3rdg; 03/17/2022; SJ 5</b>
4/1/2022	H	House Concurs with Senate Amendment 2022-1048s (Rep. Schamberg): MA VV 03/31/2022 <b>HJ 9</b>
4/1/2022	S	Enrolled Adopted, VV, (In recess 03/31/2022); <b>SJ 8</b>
4/4/2022	H	Enrolled (in recess of) 03/31/2022 <b>HJ 9</b>

4/12/2022

H

Signed by Governor Sununu 04/11/2022; Chapter 12; I Sec 3 EFF  
11/01/2023- II. REM EFF 04/14/2022

---

NH House

NH Senate

---

# Other Referrals

# Senate Inventory Checklist for Archives

Bill Number: HB 102

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 # 10395       - amendment # \_\_\_\_\_

- amendment # 10485       - 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:

SC  
Committee Aide

6-3-22  
Date

Senate Clerk's Office JM