

HB 502-FN - AS INTRODUCED

2025 SESSION

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HOUSE BILL **502-FN**

AN ACT relative to complete corporate reporting for unitary businesses under the business profits tax and revenues from the state education property tax.

SPONSORS: Rep. Schamberg, Merr. 6; Rep. Oppel, Graf. 9

COMMITTEE: Ways and Means

ANALYSIS

This bill:

- I. Repeals the water's edge combined group provisions of the business profits tax.
- II. Requires the department of revenue administration to receive the revenues from the state education property tax and deposit them in the education trust fund.
- III. Revises the procedures for calculating state education grants.
- IV. Modifies the criteria for relief under the low and moderate income homeowners property tax relief program.
- V. Establishes a committee to study the low and moderate income homeowners property tax relief program.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to complete corporate reporting for unitary businesses under the business profits tax and revenues from the state education property tax.

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

1 1 Legislative Intent.

2 I. New Hampshire has a unique tax structure. With no general sales tax or income tax and
3 no severance tax on natural resources, New Hampshire relies on its business profits tax (corporate
4 income tax) more than any other state and most countries. During the legislature's 1981 session, the
5 business profits tax law was changed to allow the department of revenue administration or
6 taxpayers to employ the complete corporate reporting method of taxation under the unitary business
7 principle.

8 II. Before this change, large multi-form corporations were allowed to file their business
9 profits tax returns on a separate accounting/separate entity basis as if unconnected and unrelated to
10 its affiliated sister corporations. This separate method of taxation is inadequate to measure
11 accurately the income of a corporation with non-New Hampshire affiliates and creates a tax
12 disadvantage for smaller New Hampshire corporations which compete with larger multistate and
13 multinational corporations conducting business in New Hampshire.

14 III. Complete corporate reporting treats a parent corporation and its subsidiaries both in the
15 United States and foreign as if a single taxpayer. The purpose of complete corporate reporting is to
16 counteract the profit shifting that takes place between and among a parent and its subsidiaries
17 operating across state lines and international boundaries. The United States Supreme Court
18 endorsed the unitary business principle in the 1980 decision in Mobil vs Commissioner of Taxes,
19 Vermont and Exxon vs Wisconsin Department of Revenue and, in 1983, approved complete corporate
20 reporting in the decision in Container Corporation vs Franchise Tax Board, California. The United
21 States Supreme Court revisited the complete corporate reporting method in 1994 in the decisions in
22 Barclays Bank PLC vs Franchise Tax Board, California and Colgate-Palmolive vs Franchise Tax
23 Board, California and approved it use for both United States and foreign-based multinational
24 corporations. The Court noted that during the intervening years Congress did not pass any laws to
25 prohibit a state from utilizing the complete corporate reporting method.

26 IV. Bowing to pressure from the Reagan Administration, multinational corporations, foreign
27 countries, especially Great Britain, and the New Hampshire governor, the legislature in 1986
28 changed the business profits tax law to restrict state's ability to employ the worldwide unitary
29 method of taxation and, in it's place, adopt the water's edge unitary method which excludes the
30 profits and operations of foreign members of a unitary group. In other words, a multinational

1 corporation is separated into two distinct pieces: one operating in the United States and another
 2 operating outside the United States and treated as unrelated separate taxable entities. In hindsight
 3 and with reports of massive profit shifting to foreign subsidiaries in foreign tax havens over the
 4 intervening years, the 1986 change to the business profits tax was a mistake and should be reversed.
 5 In hindsight, the water's edge method defeats the purpose of unitary combined reporting. The
 6 water's edge method promotes tax havens like Bermuda and Luxembourg and encourages the
 7 shifting of profits from the United States to foreign tax havens.

8 V. Compounding this mistake is the unintended consequence of the water's edge method
 9 that grants a tax advantage to foreign based corporations with United States subsidiaries operating
 10 in New Hampshire. Their United States subsidiaries have been allowed to file their business profits
 11 tax returns on a separate accounting/separate entity basis under the water's edge method. The
 12 federal General Accountability Office (GAO) and a United States Senate committee on governmental
 13 affairs have reported that as high as 72 foreign based corporations that do business in the United
 14 States have paid zero federal income tax. This creates a tax disadvantage for United States-based
 15 corporations big and small. It is the intent of this act to treat all corporations conducting a unitary
 16 business fairly and equally no matter how big no matter where the headquarters are located.

17 VI. In addition, a return to the unitary worldwide method will counteract the negative
 18 effects of the territorial taxation system that was adopted in the 2017 Federal Tax Cut and Jobs Act.
 19 The territorial system is more or less the separate accounting/separate entity method that is
 20 inadequate to measure accurately the income of a corporation with non-New Hampshire affiliates.

21 VII. It is the intent of the return to complete corporate reporting to provide substantial
 22 property tax relief by restoring the competitive balance between domestic companies and
 23 multinational enterprises and dedicating any additional revenue to the education trust fund.

24 2 Taxation; Apportionment, Assessment and Abatement of Taxes; Commissioner's Warrant.
 25 Amend RSA 76:8, II to read as follows:

26 II. The commissioner shall issue a warrant under the commissioner's hand and official seal
 27 for the amount computed in paragraph I to the selectmen or assessors of each municipality by
 28 December 15 directing them to assess such sum and ~~[pay it to the municipality for the use of the~~
 29 ~~school district or districts]~~, ***after subtracting 3 percent as compensation for the municipality's***
 30 ***cost carrying out the functions required by this section, pay the remainder to the***
 31 ***department of revenue administration for deposit in the education trust fund. Such***
 32 ***payments by municipalities, and the 3 percent subtractions, shall be made in accordance***
 33 ***with schedules, standards, and procedures established by rules adopted by the department***
 34 ***of revenue administration after consultation with the commissioner of the department of***
 35 ***education.*** Such sums shall be assessed at such times as may be prescribed for other taxes
 36 assessed by such selectmen or assessors of the municipality.

1 3 Taxation; Apportionment, Assessment and Abatement of Taxes; Commissioner's Warrant.
2 Amend RSA 76:11-a, II to read as follows:

3 II. The tax bill shall also contain a statement informing the taxpayer of the types of tax
4 relief for which the taxpayer has the right to apply. ***The statement shall explicitly list the low***
5 ***and moderate income homeowners property tax relief program specified by RSA 198:57 and***
6 ***shall include information on how to apply for the program.*** The following statement shall be
7 considered adequate:

8 "If you are elderly, disabled, blind, a veteran, or veteran's spouse, or are unable to pay taxes due to
9 poverty or other good cause, you may be eligible for a tax exemption, credit, abatement, or deferral,
10 ***which can reduce your current property tax bill.*** For details and application information,
11 contact (insert title of local assessing officials or office to which application should be made ***and***
12 ***deadline for application***). ***Depending on your income, you may also be eligible for a refund***
13 ***of some of your taxes under the low and moderate income homeowners property tax relief***
14 ***program. To find out how to get a refund, call the New Hampshire department of revenue***
15 ***administration at (insert current telephone number here) or visit the department's website***
16 ***(insert current website address here). Applications for refunds are due by June 30.***" This
17 statement shall be prominent, ~~and~~ legible, ***printed in at least 12-point boldface type***, and may
18 either be printed on the tax bill itself, or on a separate sheet of paper enclosed with the tax bill. A
19 municipality may in its discretion choose to include more detailed information about the eligibility
20 criteria for different forms of tax relief, provided, however, that the information in the above
21 statement shall be considered a minimum.

22 4 Definition; Gross Business Profits. Amend RSA 77-A:1, III(f) to read as follows:

23 (f) In the case of any business organization which is part of a ~~[water's edge combined~~
24 ~~group]~~ ***unitary business with combined net income*** and which does not make or file a United
25 States income tax return or schedule under subparagraphs (a)-(d), the amount of net income as
26 would be determinable under the provisions of the United States Internal Revenue Code as defined
27 in RSA 77-A:1, XX and applied within the concepts of RSA 77-A for such business organizations.

28 5 Definition; Combined Net Income. Amend RSA 77-A:1, XIII to read as follows:

29 XIII. "Combined net income" means the revenues less expenses as would be determinable
30 under the provisions of the Internal Revenue Code as defined in RSA 77-A:1, XX and applied within
31 the concepts of RSA 77-A for all business organizations conducting a unitary business regardless of
32 whether such business organizations are required to file a federal income tax return. ***This***
33 ***provision shall authorize the application of complete corporate reporting.***

34 6 Definition; Foreign Dividend. Amend RSA 77-A:1, XVII to read as follows:

35 XVII. "Foreign dividends" as used in RSA 77-A:3, II means dividends from overseas business
36 organizations. ~~[For purposes of RSA 77-A:3, II(b), actual distributions from partnerships, limited~~
37 ~~liability companies, and "S" corporations are dividends for purposes of this definition.]~~

1 7 Education; School Money; Education Trust Fund Created and Invested. Amend RSA 198:39,
2 II(k) to read as follows:

3 (k) ***The full amount of education property tax payments from the department of***
4 ***revenue administration pursuant to RSA 76:8, II.***

5 (l) Any other moneys appropriated from the general fund.

6 8 Education; School Money; Low and Moderate Income Homeowners Property Tax Relief.
7 Amend RSA 198:57, III-IV to read as follows:

8 III. An eligible tax relief claimant is a person who:

9 (a) Owns a homestead or interest in a homestead subject to the education tax;

10 (b) Resided in such homestead on ~~April 1 of~~ ***the date of the final tax bill as defined***
11 ***in RSA 76:1-a for*** the year for which the claim is made, except such persons as are on active duty in
12 the United States armed forces or are temporarily away from such homestead but maintain the
13 homestead as a primary domicile; and

14 (c) Realizes total household income of:

15 (1) ~~[\$37,000]~~ ***\$75,000*** or less if a single person;

16 (2) ~~[\$47,000]~~ ***\$90,000*** or less if a married person or head of a New Hampshire
17 household.

18 IV. All or a portion of an eligible tax relief claimant's ~~[state]~~ education property taxes~~[-, RSA~~
19 ~~76:3,]~~ shall be rebated as follows:

20 (a) Multiply the total local assessed value of the claimant's property by the percentage of
21 such property that qualifies as the claimant's homestead;

22 (b) Multiply ~~[\$220,000]~~ ***\$165,000*** by the most current local equalization ratio as
23 determined by the department of revenue administration;

24 (c) Multiply the lesser of the amount determined in subparagraph (a) or (b) by the
25 ~~[education tax rate as shown on the tax bill under RSA 76:11-a]~~ ***sum of the following;***

26 (1) ***The local education tax rate as shown on the tax bill under RSA 76:11***
27 ***and;***

28 (2) ***The state education tax rate as shown on the tax bill under RSA 76:11.***

29 (d) Multiply the product of the calculation in subparagraph (c) by the following
30 percentage as applicable to determine the amount of tax relief available to the claimant, ***provided***
31 ***that the maximum amount of tax relief available to any claimant in any fiscal year shall***
32 ***not exceed \$1,100:***

33 (1) If a single person and total household income is:

34 (A) less than ~~[\$23,100]~~ ***\$25,000***, 100 percent;

35 (B) ~~[\$23,100]~~ ***\$25,000*** but less than ~~[\$27,800, 60 percent]~~ ***\$65,000, a***
36 ***percentage that is reduced by 5 percent for each \$2,000 of household income above \$25,000;***

1 (C) [~~\$27,800 but less than \$32,400, 40 percent; or~~] **more than \$65,000, zero**
2 **percent.**

3 [~~(D) \$32,400 but less than or equal to \$37,000, 20 percent.]~~

4 (2) If a head of a New Hampshire household or a married person and total household
5 income is:

6 (A) less than [~~\$29,400~~] **\$37,500**, 100 percent;

7 (B) [~~\$29,400~~] **\$37,500** but less than [~~\$35,300, 60 percent~~] **\$77,500, a percentage**
8 **that is reduced by 5 percent for each \$2,000 of household income above \$37,500;**

9 (C) [~~\$35,300 but less than \$41,100, 40 percent; or~~] **more than \$77,500, zero**
10 **percent.**

11 [~~(D) \$41,100 but less than or equal to \$47,000, 20 percent.]~~

12 (e) The amount determined by subparagraph (d) is the allowable tax relief in any year,
13 **provided however that the aggregate of tax relief checks issued by the commissioner to all**
14 **taxpayers claiming eligibility for tax relief shall not exceed \$30,000,000 for the fiscal year**
15 **to which the claim applies, exclusive of late filed claims which are accepted by the**
16 **commissioner pursuant to paragraph VI(b) which shall be counted against the \$30,000,000**
17 **limit for the fiscal year in which the claims are received, and that the commissioner shall**
18 **reduce proportionally the amount of each taxpayer's tax relief check for that fiscal year**
19 **when a reduction is necessary to conform to the \$30,000,000 limit for that fiscal year.**

20 9 New Paragraphs; Low and Moderate Income Homeowners Property Tax Relief; Adjustment for
21 Inflation; Forms. Amend RSA 198:57 by inserting after paragraph VIII the following new
22 paragraphs:

23 IX. The amounts specified in subparagraph III(c), IV(b), IV(d), and IV(e) shall be adjusted
24 annually for inflation and rounded to the nearest \$100 by the commissioner of the department of
25 revenue administration based on the average change in the Consumer Price Index for All Urban
26 Consumers, Northeast Region as published by the Bureau of Labor Statistics, United States
27 Department of Labor. The average change shall be calculated using the calendar year ending 12-
28 months prior to the beginning of the program year.

29 X. Each year, on or about May 1, the department of revenue administration shall mail the
30 current year forms necessary to apply for property tax relief to each homeowner who received
31 property tax relief under the provisions of paragraph IV in the prior year.

32 10 Committee Established. There is established a committee to study the low and moderate
33 income homeowners property tax relief program authorized by RSA 198:57-58.

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

35 (a) Four members of the house of representatives, appointed by the speaker of the house
36 of representatives.

37 (b) Three members of the senate, appointed by the president of the senate.

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

3 III. The committee shall study, with the assistance of the commissioner of the department of
4 revenue administration:

5 (a) Issues relating to the extension of the low and moderate income homeowners
6 property tax relief program to tenants who indirectly pay education property taxes as part of the
7 rent that they pay for the right to live in their principal place of residence and domicile and shall
8 make recommendations regarding said extension;

9 (b) The relationship between household income, property values, and property taxation,
10 as well as the sufficiency of data relating to that relationship that is currently available to the
11 department of revenue administration, including data needed to determine the impact of property
12 tax changes by property classification, value, and ownership status, including owner-occupied, out-
13 of-state, commercial, residential, or other relevant ownership categories, and shall report on its
14 findings and recommendations on said relationship, data sufficiency, and changes in assessment
15 data collected, eligibility, and funding levels that would improve the low and moderate income
16 homeowners property tax relief program.

17 (c) The components of a statewide property tax deferral program designed to provide
18 relief to homeowner property taxpayers where taxpayer-specific circumstances temporarily impair
19 such taxpayers ability to timely pay their property tax bills, and shall make recommendations
20 regarding the development of such a program.

21 (d) The committee may solicit input or testimony from any person or organization the
22 committee deems relevant to the study.

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

27 V. The committee shall report its findings and any recommendations for proposed legislation
28 to the speaker of the house of representatives, the president of the senate, the house clerk, the
29 senate clerk, the governor, and the state library on or before November 1, 2025.

30 11 Repeals. Water's Edge Combined Reporting for Business Profits Taxation. The following are
31 repealed:

32 I. RSA 77-A:1, XV, relative to the definition of water's edge combined group.

33 II. RSA 77-A:1, XVI, relative to the definition of water's edge method.

34 III. RSA 77-A:1, XVIII, relative to the definition of foreign property, payroll and sales.

35 IV. RSA 77-A:2-b, relative to conditions for employment of only water's edge combinations.

36 V. RSA 77-A:3, II(b), relative to apportionment for a combined water's edge group.

37 VI. RSA 77-A:6, IV, relative to returns for water's edge combined group reporting.

Complete Corporate Reporting

A unitary business group under complete corporate reporting, unlike a “water’s edge combined group,” includes foreign incorporated business organizations and so-called “80/20 companies” with 80% or more of the average of their payroll and property outside the United States. Such an overseas business organization is still subject to BPT under the water’s edge method as a separate entity, provided that the business organization by itself is engaged in business activity in New Hampshire.

This change will have an indeterminable fiscal impact on General Fund and Education Trust Fund revenue. The Department of Revenue Administration cannot estimate the BPT liability for a unitary business group under worldwide combined reporting because it does not know their combined net income, the additions and deductions provided in RSA 77-A:4 for members of the group, or the group’s apportionment percentage as provided in RSA 77-A:3. With a water’s edge system of taxation, the BPT is still imposed on foreign dividends paid by foreign subsidiaries to United States parent companies, and for taxable periods beginning on or after January 1, 2020, on global intangible low-taxed income (GILTI). It also applies to any overseas business organization that by itself is engaged in business activity in New Hampshire, but as a separate entity. There would be “winners and losers” depending on the proposed legislation’s effects on the tax base and apportionment.

Additionally, moving to complete corporate reporting may create practical constraints for the Department including obtaining access to the books and records of foreign parent companies, converting foreign currency-denominated assets into their dollar equivalent, and determining taxable business profits without starting from federal taxable income (because under the federal Tax Cuts and Jobs Act of 2017, the United State moved to a more territorial or water’s edge system of taxation).

The Department notes that it will need to develop an auditing program for foreign businesses. It is estimated this auditing program would require the establishment of 3 auditor positions, require contracted services for foreign language and foreign tax expertise, and require travel. The table below shows the estimated costs:

	FY 2026	FY 2027	FY 2028
Auditor Salary and Benefits (Unclassified DD positions) * 3 positions	\$339,000	\$363,000	\$381,000
Travel Costs	\$75,000	\$112,500	\$112,500
Contracted Services (increased 5% each year)	\$750,000	\$787,500	\$826,875
Total	\$1,164,000	\$1,263,000	\$1,320,375

Education Funding

Municipalities collect the approximate \$363 million of SWEPT and retain the SWEPT locally to fund the State's portion of education funding. Although, the SWEPT is locally retained, the total amount of SWEPT collected by the municipalities is still recognized by the State as revenue to the Education Trust Fund (ETF). This bill proposes that the entire amount of SWEPT, less the 3% municipal fee, be remitted back to the State. The municipal fee would result in a \$10.9 million decrease in the amount of SWEPT remitted back to the State for deposit into the ETF. The Department assumes this change would first impact property taxes assessed on April 1, 2026, and collected via the final property tax bill in the fall of 2026. The proposed legislation would therefore begin impacting ETF revenue in FY 2027.

The bill would result in the full education grant to municipalities being awarded for all municipalities with no reduction for SWEPT collected. However, because the SWEPT revenue is being deposited directly into the ETF, there will be no change, except to the extent that SWEPT paid into the ETF exceeds education grants paid out of the ETF. The Department is not able to calculate the fiscal impact of this change for FY 2027 and forward because it does not have the data for those years. However, for FY 2026, had the proposed legislation been in effect, Department of Education's adequacy calculations indicate that approximately \$28.6 million of SWEPT in excess of the education grants for adequacy would have been deposited to the ETF and not returned in grants.

The Department would need to develop forms and modify its systems to implement the electronic filing and payment mechanism necessary to facilitate the payment of the SWEPT to the Department. The Department estimates a one-time expense in FY 2026 of \$300,000 in general funds for this purpose. The Department does not anticipate needing any additional positions related to remitting SWEPT back to the State or the changes to the Low and Moderate Income Homeowners Property Tax Relief program.

The Department is not able to determine the fiscal impact of the portions of this bill impacting the Low and Moderate Income Homeowners Property Tax Relief program as it does not have all the data needed to calculate the fiscal impact. The proposed legislation would increase the maximum qualifying household income, decrease the maximum qualifying homestead value, and adjust the income brackets for award determination, all with respect to the amount of tax relief available to the claimant. Additionally, the proposed legislation would impose a cap on payments of \$30 million in aggregate and \$1,100 per claimant and would change the residence

date for eligibility to the date of the final tax bill. These changes are to be effective January 1, 2026. The Department interprets this proposed effective date as first impacting property taxes assessed on April 1, 2026. The application period for this taxable period will begin on May 1, 2027 with rebates being made starting in FY 2028. The changed eligibility date will permit taxpayers who purchase property during the tax year to apply for Low and Moderate Income Homeowners Property Tax Relief during their first partial year of home ownership.

The Department is unclear how these changes will impact the number of claimants, or the relief amounts which on average and in the aggregate have not yet come near to the capped amounts. However, the Department believes the expansion of the Low and Moderate Income Homeowners Property Tax Relief program to include the rebate of local as well as statewide education property tax would result in an indeterminable increase in state expenditures. The Department anticipates such expenditure might at least double, when analyzed as follows. Looking at data available from the Department of Education for tax year 2020, SWEPT revenue was \$363 million and local education tax revenue was \$2,141 million. In the 2021 claim year (during which rebates were awarded for SWEPT payments in tax year 2020), Low and Moderate Income Homeowners Property Tax Relief rebates of \$1.4 million were awarded to 5,821 claimants, for an average of \$241 per claimant. Since the eligibility criteria in this bill is the same for both state and local education property taxes, and since local education property taxes were several times greater than SWEPT, it is reasonable to assume that the same claimants who received SWEPT rebates would have received an identical local education property tax rebate had the expansion to local taxes been in place during tax year 2020. While it is not possible to know exactly how much additional local tax revenue might be eligible for rebate, it is reasonable to assume that the expansion of the program to include local education property tax would at least double the amount of rebates paid.

AGENCIES CONTACTED:

Department of Revenue Administration