

# Bill as Introduced

SB 467-FN-A - AS INTRODUCED

2010 SESSION

10-2684  
09/10

SENATE BILL        **467-FN-A**

AN ACT            establishing job creation incentives under the business profits tax and the business enterprise tax.

SPONSORS:        Sen. Bradley, Dist 3; Sen. Barnes, Jr., Dist 17; Sen. Bragdon, Dist 11; Sen. Carson, Dist 14; Sen. Cilley, Dist 6; Sen. Gallus, Dist 1; Sen. Letourneau, Dist 19; Sen. Roberge, Dist 9; Sen. Downing, Dist 22; Rep. Boutin, Merr 9; Rep. Wendelboe, Belk 1; Rep. Major, Rock 8

COMMITTEE:      Ways and Means

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ANALYSIS

This bill allows a deduction from the business profits tax for each new employee for the first 2 years of employment. The bill also allows deductions from the business enterprise tax of compensation for new employees for the first 2 years of employment.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Ten*

AN ACT                    establishing job creation incentives under the business profits tax and the business enterprise tax.

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

1            1 New Paragraph; Business Profits Tax; Deductions. Amend RSA 77-A:4 by inserting after  
2 paragraph XVIII the following new paragraph:

3            XIX. A deduction of \$25,000 for each new employee who has been employed by the business  
4 organization for 2 years or less.

5            2 New Paragraph; Business Enterprise Tax; Special Adjustments. Amend RSA 77-E:3 by  
6 inserting after paragraph III the following new paragraph:

7            IV. In the case of a business enterprise, a deduction of an amount equal to compensation  
8 paid by the business enterprise to new employees during the first 2 years of their employment by  
9 such business enterprise.

10           3 Effective Date. This act shall take effect July 1, 2010.

LBAO  
10-2684  
12/30/09

**SB 467-FN-A - FISCAL NOTE**

**AN ACT** establishing job creation incentives under the business profits tax and the business enterprise tax.

**FISCAL IMPACT:**

The Department of Revenue Administration states the fiscal impact of this bill on state general and education trust fund revenue is indeterminable in FY 2011 and each fiscal year thereafter. This bill will have no fiscal impact on state, county and local expenditures or county and local revenue.

**METHODOLOGY:**

The Department of Revenue Administration states this bill allows a deduction from the business profits tax and business enterprise tax of compensation for new employees for the first 2 years of employment. The Department does not have data to determine the number of employees that a business would have that would qualify for this deduction and therefore did not estimate the fiscal impact of this bill. The Department further believes that allowing different tax treatment to taxpayers with new employees from all other business profits and business enterprise taxpayers may result in constitutional challenges.

# Committee Minutes

**AMENDED  
SENATE CALENDAR NOTICE  
WAYS AND MEANS**

Printed: 01/27/2010 at 3:41 pm

- ✓ Senator Bob Odell Chairman
- ✓ Senator Lou D'Allesandro V Chairman
- ✓ Senator Harold Janeway
- ✓ Senator Deborah Reynolds
- Senator Peggy Gilmour
- ✓ Senator Michael Downing
- ✓ Senator Jeb Bradley

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

**Date: January 27, 2010**

**HEARINGS**

**Tuesday**

**2/2/2010**

WAYS AND MEANS

SH 100

10:30 AM

(Name of Committee)

(Place)

(Time)

**EXECUTIVE SESSION MAY FOLLOW**

**Comments:** COMMISSIONER CLOUGHERTY WILL ADDRESS THE COMMITTEE AT 10:15 A.M. SB 342-FN, SB 350-FN-A AND SB 350-FN-A WERE RECESSED ON 1/19/10. THE PURPOSE OF THIS AMENDED NOTICE IS TO ADD THE PUBLIC HEARINGS FOR SB 467-FN-A AND SB 483-FN-A.

- |          |            |  |
|----------|------------|--|
| 10:30 AM | SB342-FN   | repealing the \$5,000 surety bond requirement for meals and rentals operators.   |
| 10:45 AM | SB350-FN-A | exempting interest on indebtedness paid by dairy farmers from the business enterprise tax.                                     |
| 11:00 AM | SB351-FN-A | exempting income derived from the sale of cattle from the business profits tax.  |
| 11:15 AM | SB467-FN-A | establishing job creation incentives under the business profits tax and the business enterprise tax.                           |
| 11:30 AM | SB483-FN-A | relative to the interpretation of Internal Revenue Code section 1031 as it relates to taxation under the business profits tax. |

**Sponsors:**

**SB342-FN**

Sen. John Gallus  
Rep. Rip Holden

Sen. Michael Downing

Sen. Sharon Carson

Rep. Paul Ingersoll

**SB350-FN-A**

Sen. Deborah Reynolds  
Rep. Suzanne Smith

Sen. John Gallus  
Rep. Rick Ladd

Sen. Matthew Houde  
Rep. Susan Ford

Rep. Tara Sad

**SB351-FN-A**

Sen. Deborah Reynolds  
Rep. Suzanne Smith

Sen. John Gallus

Sen. Matthew Houde

Rep. Tara Sad

**SB467-FN-A**

✓ Sen. Jeb Bradley  
Sen. Jacalyn Cilley  
Rep. David Boutin

Sen. John Barnes, Jr.  
Sen. John Gallus  
Rep. Fran Wendelboe

Sen. Peter Bragdon  
Sen. Robert Letourneau  
Rep. Norman Major

Sen. Sharon Carson  
Sen. Sheila Roberge  
Sen. Michael Downing

**SB483-FN-A**

Sen. Lou D'Allesandro  
Sen. Peggy Gilmour

Sen. John Gallus  
Rep. Andrew Peterson

Sen. Deborah Reynolds

Rep. W. Douglas Scamman

Gail Brown 271-3076

Sen. Bob Odell

Chairman

# Ways & Means Committee

## Hearing Report

**TO:** Members of the Senate

**FROM:** Sonja Caldwell, *Legislative Aide*

**RE:** Hearing report on SB 467-FN-A – *establishing job creation incentives under the business profits tax and the business enterprise tax.*

**HEARING DATE:** February 2, 2010

**MEMBERS OF THE COMMITTEE PRESENT:** Senator Odell, Senator D'Allesandro, Senator Janeway, Senator Reynolds, Senator Downing, Senator Bradley

**MEMBERS OF THE COMMITTEE ABSENT:** Senator Gilmour

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**Sponsor(s):** Sen. Bradley, Dist 3; Sen. Barnes, Jr., Dist 17; Sen. Bragdon, Dist 11; Sen. Carson, Dist 14; Sen. Cilley, Dist 6; Sen. Gallus, Dist 1; Sen. Letourneau, Dist 19; Sen. Roberge, Dist 9; Sen. Downing, Dist 22; Rep. Boutin, Merr 9; Rep. Wendelboe, Belk 1; Rep. Major, Rock 8

**What the bill does:** This bill allows a deduction from the business profits tax for each new employee for the first 2 years of employment. The bill also allows deductions from the business enterprise tax of compensation for new employees for the first 2 years of employment.

**Who supports the bill:** Sen. Bradley, Sen. Gallus, Sen. Downing, Rep. Norm Major, Rep. Fran Wendelboe

**Who opposes the bill:**

**Summary of testimony received:**

**Senator Bradley**

He said he hoped we'd start to see a dropping of the unemployment rate and that perhaps the bill might not be necessary. Unfortunately the December numbers showed an uptick in unemployment. This small measure is more necessary today than when he filed the legislation. It is intended to help

employers on a temporary two year basis have a small incentive to hire new employees. The bill has two components – it allows a deduction from the BPT for any new hire of \$25,000 and it would exempt employer if his obligation is the BET for paying that tax for 2 years. He believes this is a small amount that could be helpful though it's not going to trigger lots of new hires. Fiscal impact will be small to state. The BET loss for a new employee would be new money so the only thing state would lose is future gains - revenue it was not already receiving. There could be a cost to the state through the \$25,000 deduction for the BPT. However, every person we put back to work is potentially costing tax payers less money through Medicaid or unemployment insurance and other types of things. He said he can understand why the fiscal note is indeterminable, as we never know how much it might cost. Jobs has to be the issue in 2010. This is a reasonable way to proceed with intended costs that are going to be small.

**Senator Odell** asked him if looked at the CROP zones.

**Senator Bradley** said no.

**Senator Odell** said we also have a north country jobs program where grants were given to Sullivan and Coos county only. They were laddered, based on pay scale. He asked if there is any consistency with this in regard to things of the past

**Senator Bradley** said he didn't know

**Senator Odell** closed the hearing.



RB

Date: February 2, 2010  
Time: 11:25 a.m.  
Room: State House Room 100

The Senate Committee on Ways and Means held a hearing on the following:

SB 467-FN-A      establishing job creation incentives under the business profits tax and the business enterprise tax.

Members of Committee present:

Senator Odell  
Senator D'Allesandro  
Senator Janeway  
Senator Reynolds  
Senator Downing  
Senator Bradley

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The Chair, Senator Bob Odell, opened the hearing on SB 467-FN-A and invited the prime sponsor, Senator Bradley, to introduce the legislation.

Jeb E. Bradley, D. 3:      Good morning, Mr. Chairman. I thought I was going to get a reprieve.

Senator Lou D'Allesandro, D. 20:      No reprieve.

Jeb E. Bradley, D. 3:      Not with the two gentlemen at the head table. Thank you very much. For the record, Jeb Bradley, Senate District 3.

I hoped that when I filed this legislation in October that by the time we got to January or February, we would start to see an uptick in employment in New Hampshire, dropping of the unemployment rate, and that perhaps this bill might not be necessary. Unfortunately, the summer numbers showed an uptick in unemployment and 51,625 of our friends and neighbors out of work.

So, I would contend that this small measure is more necessary today than it was when I filed it. It is intended to help employers on a temporary basis, a two-year basis, have a small incentive to hire new employees. It is similar to the proposal the President will outline in Nashua this afternoon. It has two components. It would allow a deduction from the business profits tax for any new hire of \$25,000 for that two-year period, and it would exempt the

employer if his or her obligation is the business enterprise tax from paying that tax for that period of time, the two years.

As I stressed, I believe this is a small amount. Is it going to be something that will trigger large amounts of new hires in New Hampshire? Probably not. But, could it be helpful? I would contend that it absolutely could be. I have tried to design it in such a way that its impact, its fiscal impact to the State will be very small. The business enterprise portion for any new employee is going to be new money. So, the only thing that the State will be losing in that instance is revenue lost that it was not receiving already. In other words, future gains under the business enterprise tax would be reduced for that period of two years. There could be a cost to the State through the \$25,000 deduction for the business profits tax. However, in looking at this on a dynamic basis, every person that we put back to work is potentially costing state taxpayers less money through medicaid types of arrangements or costing less in terms of unemployment insurance, and other types of things that will be out there.

So, when you look at the fiscal note, I understand why it is quite difficult for the Department of Revenue to say it is indeterminable. We never know in instances such as this how much it may cost. But, given the bottom line and the focus of the Governor and, I think, quite frankly, all 424 of us, that jobs has to be the issue in 2010. This is a reasonable way to proceed with intended costs that are going to be small and that it well may help employers be the straw that gets lifted from the camel's back so that employers may feel confident enough to move forward with a small incentive.

So, thank you and I look forward to discussing this in Committee.

Senator Bob Odell, D. 8: Thank you, Senator Bradley. A couple of questions. When you put the bill together, did you look at all at what the, there's a different name for it now, but we have these CROP zones which are economic development zones where there are some tax benefits that people move into?

Jeb E. Bradley, D. 3: I did not, Senator.

Senator Bob Odell, D. 8: We also have a North Country jobs bill. When Senator Green chaired the Finance Committee, he had a jobs program where there was a grant basically to Sullivan and Coos Counties only and they were, I'm going to call it kind of dependent on the pay scale, you would get certain tax benefits from that, certain incentives for that. I just wonder if there is any consistency with this in regard to the other things that we have passed or did the Department....

Jeb E. Bradley, D. 3: You know, I don't know the answer to that question.

Senator Bob Odell, D. 8: Alright.

Jeb E. Bradley, D. 3: Perhaps the representatives from the Department would be far better than me to answer that.

Senator Bob Odell, D. 8: Okay. Alright. Good. Any questions of Senate Bradley? Seeing none, thank you very much.

Jeb E. Bradley, D. 3: Thank you.

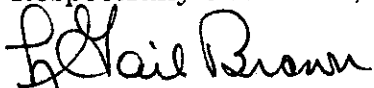
Senator Bob Odell, D. 8: Senator Gallus is signed in in favor of the bill, but does not wish to speak. Senator Downing has signed in in favor of the bill, but does not wish to speak. Senator Letourneau signed in in support, does not wish to speak. Representative Norm Major has signed in in support, but does not wish to speak. Representative Wendelboe has signed in in support, but does not wish to speak. I will put down Senator Bradley.

Jeb E. Bradley, D. 3: You can absolutely sign me in as in favor and willing to speak.

Senator Bob Odell, D. 8: Okay. Is there anyone else who wishes to speak on SB 467? Seeing none, I will close the public hearing on SB 467.

Hearing concluded at 11:30 a.m.

Respectfully submitted,



L. Gail Brown

Senate Secretarial Supervisor

2/24/10

# Speakers



# Testimony

6121

Submission A  
SB 467

January 11, 2010

Senator Robert Odell  
PO Box 23  
Lempster, NH 03605-0023

**Re: Suggested Changes to ER Zone Tax Credits (RSA Chapter 162-N)**

Dear Senator Odell:

Thank you for the opportunity to provide comments on the ER Zone Tax Credit and your willingness to consider suggested changes that will encourage NH businesses to take additional advantage of the resource. As requested, the Division of Economic Development (DED) is submitting recommended changes brought about by previous sub-committee meetings for SB 182.

As discussed, DED offers the following changes to RSA Chapter 162-N.

1) As it now stands, the tax credit legislation was originally created as a pilot program and is due for repeal in 2011. It is generally agreed that while the program is performing, and both communities and businesses are availing themselves of the resource, it is still in the development phase.

Recommendation: Amend RSA Chapter 162-N to remove the repeal date of 2011 or to set a new date to 2015.

2) The current statute at RSA 162-N:2 I(b) states that "The median household income in the census tract or tracts in which the zone is located is less than \$40,500 according to the most recent federal decennial census." (Underline added for emphasis). Should the forced repeal be removed or modified, the stated figure of \$40,500 would be obsolete in the event of a new census (2010).

Recommended statutory change: Amend RSA 162-N:2 I(b) to state: The median household income of the census tract or tracts in which the zone is located is less than 80% of the state median household income according to the most recent federal decennial census."

3) The formula for determining the tax credit is such that one factor can be so low as to be a disincentive for filing.

Mike Bergeron, the State Recruiter for the Division of Economic Development, presented to the Committee and offered an overview of formulaic challenges for the business

Senator Robert Odell

Page 2

determination of a credit; particularly as it pertains to out of state businesses hoping to move to NH. One area in need of improvement is when a business locating in a zone has wonderful job prospects, but for whatever reason, the capital investment is low. This could be due to a leasing arrangement, or even the nature of the business (such as a call center).

The statute at RSA 162-N:6(d) provides that one component of the calculations is to choose the lesser of the following:

- 1) capital investment
- 2) \$20K for each new job created in the fiscal year

In the example we mentioned above, the lesser factor is often the capital investment, even though jobs may be created. This is a disincentive to use the credit.

Recommended statutory change: The Statute at RSA 162-N:6 should be modified to state that the amount of credit to be taken shall be the "greater" (of the following) as opposed to the current standard of "the lesser". Since there is a cap of \$40,000 per year (for a total of \$200,000 over five years) and this is a 4% portion, this should be manageable and be considered an incentive for new companies.

Once these changes are made, the Department will incorporate the changes in the pending rule making process which is currently underway.

Regards

Steve Boucher,  
Communications and Legislative Director

Cc: George Bald, commissioner  
Roy Duddy, Division Director



# Voting Sheets

# Senate Ways & Means Committee

## EXECUTIVE SESSION

Bill # SB 467-FN-A

Hearing date: 2/3/10

Executive session date: 3/3/10

Motion of: DTP

VOTE: 7-0

<p><b>Made by</b> Odell <input type="checkbox"/></p> <p><b>Senator:</b> D'Allesandro <input type="checkbox"/></p> <p>Gilmour <input type="checkbox"/></p> <p>Janeway <input type="checkbox"/></p> <p>Reynolds <input type="checkbox"/></p> <p>Bradley <input checked="" type="checkbox"/></p> <p>Downing <input type="checkbox"/></p>	<p><b>Seconded</b> Odell <input type="checkbox"/></p> <p><b>by Senator:</b> D'Allesandro <input type="checkbox"/></p> <p>Gilmour <input type="checkbox"/></p> <p>Janeway <input type="checkbox"/></p> <p>Reynolds <input type="checkbox"/></p> <p>Bradley <input type="checkbox"/></p> <p>Downing <input checked="" type="checkbox"/></p>	<p><b>Reported</b> Odell <input type="checkbox"/></p> <p><b>by Senator:</b> D'Allesandro <input type="checkbox"/></p> <p>Gilmour <input type="checkbox"/></p> <p>Janeway <input type="checkbox"/></p> <p>Reynolds <input type="checkbox"/></p> <p>Bradley <input checked="" type="checkbox"/></p> <p>Downing <input type="checkbox"/></p>
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Motion of: \_\_\_\_\_

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

<p><b>Made by</b> Odell <input type="checkbox"/></p> <p><b>Senator:</b> D'Allesandro <input type="checkbox"/></p> <p>Gilmour <input type="checkbox"/></p> <p>Janeway <input type="checkbox"/></p> <p>Reynolds <input type="checkbox"/></p> <p>Bradley <input type="checkbox"/></p> <p>Downing <input type="checkbox"/></p>	<p><b>Seconded</b> Odell <input type="checkbox"/></p> <p><b>by Senator:</b> D'Allesandro <input type="checkbox"/></p> <p>Gilmour <input type="checkbox"/></p> <p>Janeway <input type="checkbox"/></p> <p>Reynolds <input type="checkbox"/></p> <p>Bradley <input type="checkbox"/></p> <p>Downing <input type="checkbox"/></p>	<p><b>Reported</b> Odell <input type="checkbox"/></p> <p><b>by Senator:</b> D'Allesandro <input type="checkbox"/></p> <p>Gilmour <input type="checkbox"/></p> <p>Janeway <input type="checkbox"/></p> <p>Reynolds <input type="checkbox"/></p> <p>Bradley <input type="checkbox"/></p> <p>Downing <input type="checkbox"/></p>
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<u>Committee Member</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Reported out by</u>
Senator Odell, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator D'Allesandro, Vice-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Gilmour	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Janeway	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Reynolds	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Bradley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Downing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

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

# Committee Report

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE

Date: March 4, 2010

THE COMMITTEE ON Ways and Means

to which was referred Senate Bill 467-FN-A

AN ACT                    establishing job creation incentives under the business  
                                 profits tax and the business enterprise tax.

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

**OUGHT TO PASS**

BY A VOTE OF:    7-0

AMENDMENT #        s

Senator Jeb E. Bradley  
For the Committee

L. Gail Brown 271-3076

## New Hampshire General Court - Bill Status System

**Docket of SB467**

Docket Abbreviations

**Bill Title:** establishing job creation incentives under the business profits tax and the business enterprise tax.

*Official Docket of SB467:*

<b>Date</b>	<b>Body</b>	<b>Description</b>
01/13/2010	S	Introduced and Referred to Ways & Means; <b>SJ 2</b> , Pg.30
01/28/2010	S	Hearing: February 2, 2010, Room 100, State House, 11:15 a.m.; <b>SC5</b>
03/04/2010	S	Committee Report: Ought to Pass 3/10/10; <b>SC10</b>
03/10/2010	S	Ought to Pass, Not Voted On
03/10/2010	S	Sen. D'Allesandro Moved Laid on Table, <b>RC 14Y-10N, MA; SJ 9</b> , Pg.147

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 NH House

NH Senate

Contact Us

*New Hampshire General Court Information Systems*  
 107 North Main Street - State House Room 31, Concord NH 03301

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# Other Referrals

# COMMITTEE REPORT FILE INVENTORY

SB 467 ORIGINAL REFERRAL

\_\_\_\_\_ RE-REFERRAL

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

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

COMMITTEE REPORT

CALENDAR NOTICE on which you have taken attendance

HEARING REPORT (written summary of hearing testimony)

HEARING TRANSCRIPT (verbatim transcript of hearing)  
List attachments (testimony and submissions which are part of the transcript) by number [1 thru 4 or 1, 2, 3, 4] here: \_\_\_\_\_

SIGN-UP SHEET

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

\_\_\_\_ - AMENDMENT # \_\_\_\_\_      \_\_\_\_ - AMENDMENT # \_\_\_\_\_  
\_\_\_\_ - AMENDMENT # \_\_\_\_\_      \_\_\_\_ - AMENDMENT # \_\_\_\_\_

ALL AVAILABLE VERSIONS OF THE BILL:

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

PREPARED TESTIMONY AND OTHER SUBMISSIONS (Which are not part of the transcript)

List by letter [a thru g or a, b, c, d] here: A

EXECUTIVE SESSION REPORT

OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):  
\_\_\_\_\_

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

DATE DELIVERED TO SENATE CLERK \_\_\_\_\_

\_\_\_\_\_ COMMITTEE SECRETARY