

# Bill as Introduced

SB 496-FN-A - AS INTRODUCED

2010 SESSION

10-2887  
09/10

SENATE BILL        **496-FN-A**

AN ACT            changing the carry forward periods for the business enterprise tax credit against the business profits tax and increasing the threshold amounts for taxation under the business enterprise tax.

SPONSORS:        Sen. Bragdon, Dist 11; Sen. Barnes, Jr., Dist 17; Sen. Bradley, Dist 3; Sen. Carson, Dist 14; Sen. Downing, Dist 22; Sen. Gallus, Dist 1; Sen. Letourneau, Dist 19; Sen. Roberge, Dist 9; Rep. Renzullo, Hills 27; Rep. Charron, Rock 7; Rep. Welch, Rock 8

COMMITTEE:      Ways and Means

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ANALYSIS

This bill changes the carry forward periods for the business enterprise tax credit against the business profits tax. This bill also increases the threshold amounts for taxation under the business enterprise tax.

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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                     Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 changing the carry forward periods for the business enterprise tax credit against the business profits tax and increasing the threshold amounts for taxation under the business enterprise tax.

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

1 1 Business Profits Tax; Credit for Business Enterprise Tax. Amend RSA 77-A:5, X to read as  
2 follows:

3 X. Taxes paid pursuant to RSA 77-E. Such credit shall be applied in accordance with  
4 RSA 77-E:13. No amount of tax paid pursuant to RSA 77-E and used as a credit against the taxes  
5 due under ~~[RSA 83-C or]~~ RSA 400-A shall be allowed as a credit under this paragraph except as  
6 provided in ~~[RSA 83-C:2-a or]~~ RSA 400-A:34-a. Any unused portion of the credit allowed under this  
7 paragraph may be carried forward and allowed against the tax due under this chapter for ~~[5]~~ 6  
8 taxable periods from the taxable period in which the tax was paid.

9 2 Business Profits Tax; Credit for Business Enterprise Tax. Amend RSA 77-A:5, X to read as  
10 follows:

11 X. Taxes paid pursuant to RSA 77-E. Such credit shall be applied in accordance with  
12 RSA 77-E:13. No amount of tax paid pursuant to RSA 77-E and used as a credit against the taxes  
13 due under RSA 400-A shall be allowed as a credit under this paragraph except as provided in  
14 RSA 400-A:34-a. Any unused portion of the credit allowed under this paragraph may be carried  
15 forward and allowed against the tax due under this chapter for ~~[6]~~ 7 taxable periods from the taxable  
16 period in which the tax was paid.

17 3 Business Profits Tax; Credit for Business Enterprise Tax. Amend RSA 77-A:5, X to read as  
18 follows:

19 X. Taxes paid pursuant to RSA 77-E. Such credit shall be applied in accordance with  
20 RSA 77-E:13. No amount of tax paid pursuant to RSA 77-E and used as a credit against the taxes  
21 due under RSA 400-A shall be allowed as a credit under this paragraph except as provided in  
22 RSA 400-A:34-a. Any unused portion of the credit allowed under this paragraph may be carried  
23 forward and allowed against the tax due under this chapter for ~~[7]~~ 8 taxable periods from the taxable  
24 period in which the tax was paid.

25 4 Business Profits Tax; Credit for Business Enterprise Tax. Amend RSA 77-A:5, X to read as  
26 follows:

27 X. Taxes paid pursuant to RSA 77-E. Such credit shall be applied in accordance with  
28 RSA 77-E:13. No amount of tax paid pursuant to RSA 77-E and used as a credit against the taxes  
29 due under RSA 400-A shall be allowed as a credit under this paragraph except as provided in

1 RSA 400-A:34-a. Any unused portion of the credit allowed under this paragraph may be carried  
2 forward and allowed against the tax due under this chapter for ~~[8]~~ 9 taxable periods from the taxable  
3 period in which the tax was paid.

4 5 Business Profits Tax; Credit for Business Enterprise Tax. Amend RSA 77-A:5, X to read as  
5 follows:

6 X. Taxes paid pursuant to RSA 77-E. Such credit shall be applied in accordance with  
7 RSA 77-E:13. No amount of tax paid pursuant to RSA 77-E and used as a credit against the taxes  
8 due under RSA 400-A shall be allowed as a credit under this paragraph except as provided in  
9 RSA 400-A:34-a. Any unused portion of the credit allowed under this paragraph may be carried  
10 forward and allowed against the tax due under this chapter for ~~[9]~~ 10 taxable periods from the  
11 taxable period in which the tax was paid.

12 6 Business Enterprise Tax; Returns. Amend RSA 77-E:5 to read as follows:

13 77-E:5 Returns.

14 I. Every business enterprise having gross business receipts in excess of ~~[\$150,000]~~ \$200,000  
15 as defined by RSA 77-E:1, X, during the taxable period or the enterprise value tax base of which is  
16 greater than ~~[\$75,000]~~ \$100,000, shall, on or before the fifteenth day of the third month in the case  
17 of enterprises required to file a United States corporation tax return, and the fifteenth day of the  
18 fourth month in the case of all other business enterprises, following expiration of its taxable period,  
19 make a return to the commissioner. All returns shall be signed by the business enterprise or by its  
20 authorized representative, subject to the pains and penalties of perjury and the penalties provided in  
21 RSA 21-J:39.

22 II. Every business enterprise shall in addition file a declaration of its estimated business  
23 enterprise tax for its subsequent taxable period; provided, however, if the estimated tax is less than  
24 ~~[\$200]~~ \$260, a declaration need not be filed; and provided further that a declaration shall be filed at  
25 the end of any quarter thereafter in which estimated tax exceeds ~~[\$200]~~ \$260. The declaration shall  
26 be filed when payments are due under RSA 77-E:6.

27 7 Applicability.

28 I. Section 1 of this act shall apply for taxable periods ending on or after July 1, 2010.

29 II. Section 2 of this act shall apply for taxable periods ending on or after July 1, 2011.

30 III. Section 3 of this act shall apply for taxable periods ending on or after July 1, 2012.

31 IV. Section 4 of this act shall apply for taxable periods ending on or after July 1, 2013.

32 V. Section 5 of this act shall apply for taxable periods ending on or after July 1, 2014.

33 8 Effective Date.

34 I. Section 2 of this act shall take effect July 1, 2011.

35 II. Section 3 of this act shall take effect July 1, 2012.

36 III. Section 4 of this act shall take effect July 1, 2013.

37 IV. Section 5 of this act shall take effect July 1, 2014.

38 V. The remainder of this act shall take effect July 1, 2010.

LBAO  
10-2887  
12/31/09

**SB 496-FN-A - FISCAL NOTE**

**AN ACT** changing the carry forward periods for the business enterprise tax credit against the business profits tax and increasing the threshold amounts for taxation under the business enterprise tax.

**FISCAL IMPACT:**

The Department of Revenue Administration states this bill will decrease state general fund and education trust fund revenue by an indeterminable amount 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 increases the carry forward provisions of the business enterprise tax (BET) credit against the business profits tax (BPT) every year for the next five years until the credit is a ten year credit carryover. This bill also increases the threshold amounts for taxation under BET to \$200,000 gross business receipts or a business enterprise value base (BETVB) greater than \$100,000.

**Carryover Provisions:** The Department states that in calendar year 2008, under current five year carryover provision, the BET offset of BPT was \$121.5 million. The Department cannot adequately extrapolate the decrease in state general fund revenue by expanding the BET carry forward from five to ten years, but believes it will be substantial.

**Threshold Provisions:** The Department determined the decrease in state revenue from increasing the BET filing thresholds by analyzing FY 2009 tax data from the 43,753 BET tax returns filed. The Department determined the maximum decrease from the BETVB threshold change (\$75,000 to \$100,000) to be \$6.8 million per year, based on 19,100 businesses that would be under the threshold and no longer pay BET. The Department states the revenue decrease from the gross business receipts threshold change (\$150,000 to \$200,000) is indeterminable because the Department's computer system does not capture gross business receipts of a business to be able to make the calculation.

The Department states that they can administer the provisions of this bill within their existing budget.

# Committee Minutes

**AMENDED**  
**SENATE CALENDAR NOTICE**  
**WAYS AND MEANS**

Printed: 02/12/2010 at 3:24 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: February 12, 2010**

**HEARINGS**

**Tuesday**

**3/2/2010**

**WAYS AND MEANS**

**SH 100**

**10:15 AM**

(Name of Committee)

(Place)

(Time)

**EXECUTIVE SESSION MAY FOLLOW**

**Comments:** THE PURPOSE OF THIS AMENDMENT IS TO RECONVENE SB 389-FN-A, WHICH WAS RECESSED FROM 1/26/10 AND TO CHANGE THE ORDER IN WHICH WE WILL HEAR THE BILLS

- |                              |            |   |
|------------------------------|------------|---|
| 10:15 AM                     | SB389-FN-A | relative to the interest and dividends tax on certain distributions to investors in investment organizations.   |
| 10:30 AM                     | SB490-FN   | allowing historical racing.   |
| 12:10<br><del>10:45</del> AM | SB496-FN-A | changing the carry forward periods for the business enterprise tax credit against the business profits tax and increasing the threshold amounts for taxation under the business enterprise tax. |
| 11:00 AM                     | SB498-FN-A | relative to taxation of certain tobacco products and requiring a discount to wholesalers on cash purchases of tobacco tax stamps.   |

**Sponsors:**

**SB389-FN-A**

Sen. Matthew Houde

Sen. Harold Janeway

**SB490-FN**

Sen. Kathleen Sgambati

Rep. John DeJoie

Rep. Daniel Sullivan

Rep. Sandra Keans

Sen. Margaret Hassan

Sen. Bette Lasky

**SB496-FN-A**

✓ Sen. Peter Bragdon

Sen. John Barnes, Jr.

Sen. Jeb Bradley

Sen. Sharon Carson

Sen. Michael Downing

Sen. John Gallus

Sen. Robert Letourneau

Sen. Sheila Roberge

Rep. Andrew Renzullo

Rep. Gene Charron

Rep. David Welch

**SB498-FN-A**

Sen. Betsi DeVries

Rep. Daniel Eaton

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 496-FN-A** – *changing the carry forward periods for the business enterprise tax credit against the business profits tax and increasing the threshold amounts for taxation under the business enterprise tax.*

**HEARING DATE:** March 2, 2010

**MEMBERS OF THE COMMITTEE PRESENT:** Senator Odell, Senator Gilmour, Senator Janeway, Senator Reynolds, Senator Downing, Senator Bradley

**MEMBERS OF THE COMMITTEE ABSENT:** Senator D'Allesandro

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**Sponsor(s):** Sen. Bragdon, Dist 11; Sen. Barnes, Jr., Dist 17; Sen. Bradley, Dist 3; Sen. Carson, Dist 14; Sen. Downing, Dist 22; Sen. Gallus, Dist 1; Sen. Letourneau, Dist 19; Sen. Roberge, Dist 9; Rep. Renzullo, Hills 27; Rep. Charron, Rock 7; Rep. Welch, Rock 8

**What the bill does:** This bill changes the carry forward periods for the business enterprise tax credit against the business profits tax. This bill also increases the threshold amounts for taxation under the business enterprise tax.

**Who supports the bill:** Sen. Bragdon, Sen. Letourneau, Sen. Bradley, Sen. Downing, Rep. Welch, Kevin Smith (Cornerstone Action)

**Who opposes the bill:** No one signed in opposition

**Summary of testimony received:**

**Senator Bragdon**

This is a result of discussions with businesses people about what can be done with our state's tax policy to help stimulate economic development and job creation.



8

The bill extends the carry forward period for the BET credit against the BPT by one year for each of the next five years. The net effect of this is an increase of the carry forward period to ten years, from the current level of five years. This will allow businesses who have been facing slow periods now to have more funds available when things pick up again to hire people, extend hours or invest in their companies.

It also increases the threshold amounts which determines if a company files a BET return. The initial threshold was set in 1993 at \$100,000 of receipts or an enterprise value of \$50,000. The threshold was increased by 50% eight years later in 2001 to the current value, which is \$150,000 of receipts or an enterprise value of \$75,000. This bill proposes increasing the threshold by 30% to \$200,000 of receipts or an enterprise value of \$100,000.

It is imperative for our small businesses that our tax policy keep up with inflation. 1/3 of BET filers pay no tax at all, so for many small companies this appears to be a matter of excess paperwork.

**Senator Bradley** said this will help the smallest of our small businesses.

**Senator Janeway** asked if he had any estimate as to where these changes would put us compared to other states.

**Senator Bragdon** said no.



JEB

\$75,000. The proposal here, nine years later, is to increase the threshold by 30% to \$200,000 of receipts or an enterprise value of \$100,000. It is imperative for the sake of our small businesses that our tax policy keep up with inflation. In addition, I read recently in a report from the House that approximately one-third of BET filers pay no tax at all. So, for many small companies, this appears to be a matter of excess paperwork that they probably don't have to do in the first place.

That concludes my comments. I would be happy to answer any questions or take a seat and let other people testify.

Senator Bob Odell, D. 8: Thank you for your testimony, Senator Bragdon. Any questions? Senator Bradley?

Jeb E. Bradley, D. 3: Thank you very much, Senator. Would you believe this bill in some small way reminds me of the debate in Washington about the alternative minimum tax? One of the biggest problems with the AMT is that it is not indexed to inflation. It was designed to catch a so-called hundred and fifty wealthy individuals. It is not a parallel universe of taxation that more and more Americans, in fact, by the end of this decade, I think one in three will be paying and forcing more and more people and their tax preparers to calculate for the AMT. Would you believe that by doing what you propose to do, indexing this in essence for inflation, that we prevent exactly those types of problems and helps the smallest of our small businesses?

Senator Peter E. Bragdon, D. 11: Thank you, Senator. I would believe that. I do think it is very important that, for the smallest of businesses, the intent was to exclude them. A small business twenty years ago probably needs to reflect the reality of what a small business now is with inflation and everything else factored in.

Senator Bob Odell, D. 8: Other questions? Senator Janeway?

Senator Harold Janeway, D. 7: Thank you, Mr. Chairman. Good afternoon. Do you have any estimate as to where these changes would put us on the competitive scale of other states? I think we are now at the bottom.

Senator Peter E. Bragdon, D. 11: That's a very easy answer, Senator. No, I do not.

Senator Harold Janeway, D. 7: Thank you.

Senator Bob Odell, D. 8: Thank you, Peter. Follow up? Any other questions? Seeing none, thank you very much.

Senator Peter E. Bragdon, D. 11: Thank you, Mr. Chairman.

Senator Bob Odell, D. 8: Senator Letourneau signed in in support of the bill, but does not wish to speak. Senator Downing signed in in support, but does not wish to speak. Representative Welch, Rockingham 8, signed in in support, does not wish to speak. Kevin Smith from Cornerstone Action signed in in support, does not wish to speak. Senator Bradley signed in in support, and wishes to speak.

Jeb E. Bradley, D. 3: I was just going to introduce it for Senator Bragdon.

Senator Bob Odell, D. 8: Alright. With that, if we have no one else signed up to speak on this bill. Is there anyone else speaking on this bill? Seeing none, I will go ahead and close the public hearing on SB 496.

Hearing concluded at 12:15 p.m.

Respectfully submitted,



L. Gail Brown

Senate Secretarial Supervisor

7/1/10

# Speakers



# Voting Sheets

# Senate Ways & Means Committee

## EXECUTIVE SESSION

Bill # SB 496 FN-A

Hearing date: 3/2/10

Executive session date: 3/3/10

Motion of: OTP

VOTE: 3-4

Made by Odell   
Senator: D'Allesandro   
 Gilmour   
 Janeway   
 Reynolds   
 Bradley   
 Downing

Seconded Odell   
by Senator: D'Allesandro   
 Gilmour   
 Janeway   
 Reynolds   
 Bradley   
 Downing

Reported Odell   
by Senator: D'Allesandro   
 Gilmour   
 Janeway   
 Reynolds   
 Bradley   
 Downing

Motion of: TL

VOTE: 4-3

Made by Odell   
Senator: D'Allesandro   
 Gilmour   
 Janeway   
 Reynolds   
 Bradley   
 Downing

Seconded Odell   
by Senator: D'Allesandro   
 Gilmour   
 Janeway   
 Reynolds   
 Bradley   
 Downing

Reported Odell   
by Senator: D'Allesandro   
 Gilmour   
 Janeway   
 Reynolds   
 Bradley   
 Downing

<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 496-FN-A

AN ACT                    changing the carry forward periods for the business enterprise tax credit against the business profits tax and increasing the threshold amounts for taxation under the business enterprise tax.

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

**IS INEXPEDIENT TO LEGISLATE**

BY A VOTE OF:    4-3

AMENDMENT #        s

Senator Deborah R. Reynolds  
For the Committee

L. Gail Brown 271-3076

## New Hampshire General Court - Bill Status System

**Docket of SB496**

Docket Abbreviations

**Bill Title:** changing the carry forward periods for the business enterprise tax credit against the business profits tax and increasing the threshold amounts for taxation under the business enterprise tax.

*Official Docket of SB496:*

<b>Date</b>	<b>Body</b>	<b>Description</b>
01/27/2010	S	Introduced and Referred to Ways & Means; <b>SJ 4</b> , Pg.59
02/10/2010	S	Hearing: === TIME CHANGE === March 2, 2010, Room 100, State House, 10:45 a.m.; <b>SC7</b>
03/04/2010	S	Committee Report: Inexpedient to Legislate 3/10/10; <b>SC10</b>
03/10/2010	S	Inexpedient to Legislate, <b>RC 14Y-10N, MA, === BILL KILLED === SJ 9</b> , Pg.149

NH House

NH Senate

Contact Us

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

# Other Referrals

# COMMITTEE REPORT FILE INVENTORY

SB496 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: \_\_\_\_\_

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

8/16/10



COMMITTEE SECRETARY