

**CHAPTER 357**  
**HB 1819-FN - FINAL VERSION**

8Feb2018... 0295h  
22Mar2018... 1053h  
22Mar2018... 1175h  
05/03/2018 1901s  
23May2018... 2124-EBA

2018 SESSION

18-2384  
10/03

HOUSE BILL            ***1819-FN***

AN ACT                relative to administration of the education tax credit.

SPONSORS:          Rep. Dean-Bailey, Rock. 32; Rep. McGuire, Merr. 29

COMMITTEE:        Education

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ANALYSIS

This bill makes various changes to the administration of applications, awards, and credits issued under the education tax credit program.

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                          Matter which is either (a) all new or (b) repealed and reenacted appears in  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

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Eighteen*

AN ACT relative to administration of the education tax credit.

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

1 357:1 Education Tax Credit; Definition; Eligible Student. Amend RSA 77-G:1,  
2 VIII(a)(1) to read as follows:

3 (a)(1) Who is currently attending a New Hampshire public school, including a  
4 chartered public school, and for whom the adequacy grant in the next school year would  
5 be reduced if the student were removed from the average daily membership calculation,  
6 ***or who is entering kindergarten or first grade; or***

7 357:2 Education Tax Credit; Program Year. Amend RSA 77-G:1, XII to read as  
8 follows:

9 XII. "Program year" means the year beginning [~~January~~] ***July*** 1 and ending  
10 [~~December 31~~] ***June 30***.

11 357:3 Definition; Receipt. Amend RSA 77-G:1, XIII to read as follows:

12 XIII. "Receipt" means [~~a document developed by the department of revenue~~  
13 ~~administration that is issued by the receiving school, or parent in the case of a home~~  
14 ~~educated student, to the scholarship organization which makes payment for educational~~  
15 ~~expenses on behalf of an eligible student and that contains, at a minimum and where~~  
16 ~~applicable]~~ ***proof of payment received by a school from a scholarship organization or, in***  
17 ***the case of a home educated student, a document that is issued by the parent of a home***  
18 ***educated student, to the scholarship organization which makes payment for educational***  
19 ***expenses on behalf of an eligible student and that contains, at a minimum and where***  
20 ***applicable.***

21 (a) [~~The name and address of the school if a school is attended or, in the case~~  
22 ~~of a home educated student, the name and address of a parent]~~ ***The name and address of***  
23 ***a parent of a home educated student.***

24 (b) The name and address of the eligible student for whom the expense has  
25 been paid.

26 (c) The name of the [~~payer~~] ***payee*** and the date and amount of the expense  
27 paid.

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1           ~~[(d) Receipts for all specific, reimbursed educational expenses.]~~

2           357:4 Definition; Scholarship Receipt. Amend RSA 77-G:1, XX to read as follows:

3           XX. "Scholarship receipt" means a document developed by the department of  
4 revenue administration and submitted by a scholarship organization to the business  
5 organization or business enterprise and that contains at a minimum:

6           (a) The business organization's or business enterprise's name, address, and  
7 federal taxpayer identification number.

8           (b) The ~~[amount of the donations used or carried forward and the amount not~~  
9 ~~used]~~ ***donation amount and date received or postmarked.***

10           ***(c) The scholarship organization's name and address.***

11           357:5 Definition; Scholarship Organization Report. Amend RSA 77-G:1, XIX(a) and  
12 (b) to read as follows:

13           (a) The number of scholarships granted under subparagraph VIII(a)(1), and  
14 the percentage of these students who were eligible for the federal free and reduced-price  
15 meal program in the ~~[final year they were in public school]~~ ***prior year.***

16           (b) The number of scholarships granted under subparagraph VIII(a)(2), and  
17 the percentage of these students who were eligible for the federal free and reduced-price  
18 meal program in the ~~[final year they were in public school]~~ ***prior year.***

19           357:6 Definition; Scholarship Organization Report; Survey. Amend the introductory  
20 paragraph of RSA 77-G:1, XIX(k)(1) to read as follows:

21           (k)(1) The aggregated results from a survey, designed by the department of  
22 revenue administration, and administered by the scholarship organization, which shall  
23 solicit ~~[and receive]~~ information from at least 90 percent of the parents or legal  
24 guardians of participating students, broken down by the number of years in the  
25 program. In each case, the respondent shall be asked to gauge their level of agreement  
26 with the statement as follows: "strongly agree," "agree," "no change," "disagree," "strongly  
27 disagree." The following statements shall be included in the survey:

28           357:7 Scholarships. Amend RSA 77-G:2, I(b) to read as follows:

29           (b) The average value of all scholarships awarded by a scholarship  
30 organization, excluding eligible students who received scholarships for educational  
31 expenses related to home education only, shall not exceed \$2,500. Beginning in the  
32 second year of the program, the commissioner of the department of revenue  
33 administration shall annually adjust this amount based on the average change in the  
34 Consumer Price Index for All Urban Consumers, Northeast Region, using the "services  
35 less medical care services" special aggregate index, as published by the Bureau of Labor  
36 Statistics, United States Department of Labor. The average change shall be calculated  
37 using the calendar year ending 12 months prior to the beginning of program year. In

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1 each of the first and second program years, a scholarship organization shall award a  
2 minimum of 70 percent of all scholarships issued to eligible students as defined in RSA  
3 77-G:1, VIII(a)(1) and (2) and, notwithstanding RSA 193-E:5, shall notify the department  
4 of education of the unique pupil identifier and date of birth for each of these students  
5 granted a scholarship [~~by July 15~~] ***within 30 days following the end of each program***  
6 ***year***. The required minimum percentage of all scholarships issued by a scholarship  
7 organization to eligible students as defined in RSA 77-G:1, VIII(a)(1) and (2) shall be  
8 reduced by 5 percent each program year for years 3 through 15 of the program, and, at  
9 the beginning of the sixteenth program year and every program year thereafter, there  
10 shall be no required minimum percentage of scholarships.

11 357:8 Scholarships. Amend RSA 77-G:2, I(d) to read as follows:

12 (d) At least 40 percent of the scholarships awarded by the scholarship  
13 organization to eligible students as defined in RSA 77-G:1, VIII(a)(1) and (2) shall be  
14 awarded to students who qualified for the federal free and reduced-price meal program  
15 in the [~~final year they were in public school~~] ***prior year***.

16 357:9 Education Tax Credit; Aggregate Amount; Carry Forward. RSA 77-G:4 is  
17 repealed and reenacted to read as follows:

18 77-G:4 Tax Credits.

19 I. The aggregate of tax credits issued by the commissioner of the department of  
20 revenue administration to all taxpayers claiming the credit shall not exceed \$5,100,000  
21 for a program year.

22 II. The credit issued to a business organization or business enterprise, or any  
23 unused portion thereof, may be carried forward for no more than 5 succeeding years, but  
24 shall not exceed \$1,000,000 in any given tax year.

25 357:10 Scholarship Organizations; Carry Forward. Amend RSA 77-G:5, I(g) to read as  
26 follows:

27 (g) In the first program year, there shall be no carry forward of unused  
28 eligible contributions. In each program year thereafter, [~~not more than 10 percent of~~  
29 ~~eligible~~] contributions may be carried forward to the following program year.

30 357:11 Scholarship Organizations; Awards. Amend RSA 77-G:5, I(i)(2) to read as  
31 follows:

32 (2) Not ***knowingly*** award a scholarship to any lineal descendant or  
33 equivalent step-person of any proprietor, partner, or member of any business  
34 organization or business enterprise making a contribution to a scholarship organization  
35 and claiming a credit against the business profits tax or business enterprise tax, nor any  
36 lineal descendant or equivalent step-person of any officer, director, or owner of more  
37 than a 5 percent interest in any business organization or business enterprise making a

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1 contribution to a scholarship organization and claiming a credit against the business  
2 profits tax or business enterprise tax, nor any employee who is among the highest-paid  
3 20 percent of paid employees in any business organization or business enterprise  
4 making a contribution to a scholarship organization and claiming a credit against the  
5 business profits tax or business enterprise tax.

6 357:12 Scholarship Application. Amend RSA 77-G:5, II(a)-(c) to read as follows:

7 (a) An organization seeking approval as a scholarship organization under  
8 this chapter shall submit an application to the department of revenue administration  
9 each program year no later than June 15. The department of revenue administration  
10 shall approve or deny the application within 30 days of receipt *of the application or the*  
11 *scholarship organization report, whichever is later.* The department shall deny any  
12 application that fails to meet the statutory requirements and shall notify the scholarship  
13 organization of the reasons for denial.

14 (b) A business organization or business enterprise shall submit an education  
15 tax credit application to the department of revenue administration [~~no earlier than~~  
16 ~~January 1 and no later than November 15.~~ The department shall approve these  
17 applications within 30 days] *no later than May 31 of each program year. Applications*  
18 *received after May 31 shall be processed for the following program year and approved*  
19 *within 30 days of receipt or within 30 days of the department of revenue*  
20 *administration's approval of the scholarship organization, whichever comes later.*  
21 *Applications shall be processed* on a first come-first served basis, up to the aggregate tax  
22 credit amount allowed under RSA 77-G:4. If multiple education tax credit applications  
23 are received on the same day, they shall be processed at random. No business  
24 organization or business enterprise shall be granted an education tax credit for more  
25 than 10 percent of the aggregate tax credit amount permitted in RSA 77-G:4. The  
26 department of revenue administration may approve only a portion of a request if  
27 required to prevent exceeding the aggregate tax credit amount allowed under RSA 77-  
28 G:4. The approval shall include the amount allowed and the date of approval.

29 (c) Once an education tax credit application is approved, the business  
30 organization or business enterprise shall donate [~~within~~] *no later than* 60 days [~~of~~] *after*  
31 *the date of approval* [~~, but no later than December 15,~~] *and no later than June 30 of the*  
32 *program year during which its application was approved* or the request shall expire.  
33 Donations may be made to multiple scholarship organizations provided the total amount  
34 donated by the business organization or business enterprise does not exceed the amount  
35 approved.

36 357:13 Scholarship Organizations; Eligible Students. Amend RSA 77-G:5, II(e)-(g) to  
37 read as follows:

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1           (e) Notwithstanding RSA 193-E:5, ~~[on or before July 15,]~~ ***within 30 days***  
2 ***following the end of each program year***, a scholarship organization shall furnish the  
3 unique pupil identifier and date of birth for each student eligible pursuant to RSA 77-  
4 G:1, VIII(a)(1) and (2) who ~~[is receiving]~~ ***received*** a scholarship, and the subparagraph  
5 under which he or she was eligible, to the department of education. The department of  
6 education shall notify the scholarship organization within 30 days of any students who  
7 are ineligible under RSA 77-G:1, VIII(a)(1). ~~[The scholarship organization shall notify~~  
8 ~~the department of education within 30 days if any student eligible under RSA 77-G:1,~~  
9 ~~VIII(a)(1) or (2) is not awarded a scholarship or is awarded a scholarship yet~~  
10 ~~subsequently returns to public school. The department of education shall return such~~  
11 ~~student to the calculation of the average daily membership in residence, as defined in~~  
12 ~~RSA 189:1-d, IV, for the student's school district of residence, and add the amount~~  
13 ~~calculated under RSA 198:40-a to the adequate education grant amount to the student's~~  
14 ~~school district of residence, and include such amount in the next adequate education~~  
15 ~~grant payment made under RSA 198:42.]~~

16           (f) [Repealed.]

17           (g) ~~[On or prior to December 1,]~~ ***Within 30 days following the end of each***  
18 ***program year***, the scholarship organization shall submit a scholarship organization  
19 report to the department of revenue administration ***for the most recently completed***  
20 ***program year***. The scholarship organization shall also include a scholarship  
21 organization application if it intends to issue scholarships under this chapter in the  
22 next program year. The department of revenue administration shall review the  
23 scholarship organization report and the scholarship receipts to ensure that the  
24 administrative expenses requirement set forth in subparagraph I(f) is not exceeded, that  
25 the number of scholarships issued under RSA 77-G:1, VIII(a)(1) and (2) meets the  
26 requirements of this chapter, and the average scholarship size does not exceed the  
27 amount allowed. If any of these requirements are not met, the department of revenue  
28 administration may deny a scholarship organization application for subsequent  
29 program years and shall notify the scholarship organization of the reasons for denial.

30           357:14 Program Year. Amend RSA 77-G:7, I to read as follows:

31           I. The department of education shall determine the number of students receiving  
32 a scholarship under RSA 77-G:1, VIII(a)(1) and (2) who were counted in the calculation of  
33 the average daily membership in attendance, as defined in RSA 198:38, I, for schools,  
34 other than chartered public schools, for the student's school district of residence and for  
35 each such student, shall deduct the amount calculated under RSA 198:40-a from the total  
36 education grant amount disbursed to the student's school district of residence  
37 calculated pursuant to RSA 198:40-a. This adjustment shall be completed prior to

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1 September 1 of the program year ~~in~~ **after** which the scholarships are granted.

2 357:15 Repeal. RSA 77-G:1, V, relative to the definition of a donation receipt, is  
3 repealed.

4 357:16 Transition Provision. This act shortens the 2018 program year to a 6-month  
5 period running from January 1, 2018 to June 30, 2018. Notwithstanding the provisions of  
6 RSA 77-G:5, I(g) prior to amendment by this act, all education tax credit donations  
7 received by the scholarship organization from January 1, 2018 to June 30, 2018 shall be  
8 carried forward into the 2019 program year, which begins on July 1, 2018 and ends on  
9 June 30, 2019, and shall count as aggregate tax credits under RSA 77-G:4, I for the July 1,  
10 2018 to June 30, 2019 program year. Education tax credit donations received by the  
11 scholarship organization, during the shortened 2018 program year shall be reported on  
12 the scholarship organization's 2019 ED-05, to be submitted under RSA 77-G:5, II(g) and  
13 within 30 days following the June 30, 2019 end of that program year.

14 357:17 Definition; Scholarship Receipt; Contingent Version. Amend RSA 77-G:1, XX  
15 to read as follows:

16 XX. "Scholarship receipt" means a document developed by the department of  
17 revenue administration and submitted by a scholarship organization to the business  
18 organization, business enterprise, or individual and that contains at a minimum:

19 (a) The business organization's, business enterprise's, or individual's name,  
20 address, and federal taxpayer identification number.

21 (b) The ~~[amount of the donations used or carried forward and the amount not~~  
22 ~~used]~~ **donation amount and date received or postmarked.**

23 (c) **The scholarship organization's name and address.**

24 357:18 Scholarship Organizations; Awards; Contingent Version. Amend RSA 77-G:5,  
25 I(i)(2) to read as follows:

26 (2) Not **knowingly** award a scholarship to any lineal descendant or  
27 equivalent step-person of any proprietor, partner, or member of any business  
28 organization, business enterprise, or individual making a contribution to a scholarship  
29 organization and claiming a credit against the business profits tax, business enterprise  
30 tax, or tax on interest and dividends, nor any lineal descendant or equivalent step-  
31 person of any officer, director, or owner of more than a 5 percent interest in any  
32 business organization, business enterprise, or individual making a contribution to a  
33 scholarship organization and claiming a credit against the business profits tax, business  
34 enterprise tax, or tax on interest and dividends, nor any employee who is among the  
35 highest-paid 20 percent of paid employees in any business organization, business  
36 enterprise, or individual making a contribution to a scholarship organization and  
37 claiming a credit against the business profits tax, business enterprise tax, or tax on

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1 interest and dividends.

2 357:19 Scholarship Applications; Contingent Version. Amend RSA 77-G:5, II(a)-(c) to  
3 read as follows:

4 II.(a) An organization seeking approval as a scholarship organization under this  
5 chapter shall submit an application to the department of revenue administration each  
6 program year no later than June 15. The department of revenue administration shall  
7 approve or deny the application within 30 days of receipt *of the application or the*  
8 *scholarship organization report, whichever is later*. The department shall deny any  
9 application that fails to meet the statutory requirements and shall notify the scholarship  
10 organization of the reasons for denial.

11 (b) A business organization, business enterprise, or individual shall submit an  
12 education tax credit application to the department of revenue administration [~~no earlier~~  
13 ~~than January 1 and no later than November 15.~~ The department shall approve these  
14 applications within 30 days] *no later than May 31 of each program year. Applications*  
15 *received after May 31 shall be processed for the following program year and approved*  
16 *within 30 days of receipt or within 30 days of the department of revenue*  
17 *administration's approval of the scholarship organization, whichever comes later.*  
18 *Applications shall be processed* on a first come-first served basis, up to the aggregate tax  
19 credit amount allowed under RSA 77-G:4. If multiple education tax credit applications  
20 are received on the same day, they shall be processed at random. No business  
21 organization, business enterprise, or individual shall be granted an education tax credit  
22 for more than 10 percent of the aggregate tax credit amount permitted in RSA 77-G:4.  
23 The department of revenue administration may approve only a portion of a request if  
24 required to prevent exceeding the aggregate tax credit amount allowed under RSA 77-  
25 G:4. The approval shall include the amount allowed and the date of approval.

26 (c) Once an education tax credit application is approved, the business  
27 organization, business enterprise, or individual shall donate [~~within~~] *no later than 60*  
28 *days [of] after* the date of approval, [~~but no later than December 15,~~] *and no later than*  
29 *June 30 of the program year during which its application was approved* or the request  
30 shall expire. Donations may be made to multiple scholarship organizations provided the  
31 total amount donated by the business organization, business enterprise, or individual  
32 does not exceed the amount approved.

33 357:20 Contingency. If HB 1686-FN of the 2018 regular legislative session becomes  
34 law, sections 17-19 of this act shall take effect July 1, 2018 at 12:01 a.m. and sections 4, 11,  
35 and 12 of this act shall not take effect. If HB 1686-FN does not become law, sections 4, 11,  
36 and 12 of this act shall take effect July 1, 2018 and sections 17-19 of this act shall not take  
37 effect.

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1           **357:21 Effective Date.**

2           **I. Sections 9, 13, and 15 of this act shall take effect July 1, 2018, at 12:01 a.m.**

3           **II. Sections 4, 11, 12, and sections 17-19 of this act shall take effect as provided in**  
4 **section 20 of this act.**

5           **III. The remainder of this act shall take effect July 1, 2018.**

**Approved: July 02, 2018**

**Effective Date:**

**I. Sections 9, 13 and 15 shall take effect July 1, 2018 at 12:01 a.m.**

**II. Sections 4, 11, 12 and 17-19 shall take effect as provided in section 20.**

**III. Remainder shall take effect July 1, 2018.**

