

CHAPTER 341
HB 1686-FN - FINAL VERSION

15Mar2018... 0155h
15Mar2018... 0831h

2018 SESSION

18-2440
10/06

HOUSE BILL ***1686-FN***

AN ACT relative to applications for and the use of education tax credits.

SPONSORS: Rep. Hill, Merr. 3; Rep. McGuire, Merr. 29; Rep. L. Turcotte, Straf. 4; Rep. Hinch, Hills. 21; Rep. Morrison, Rock. 9; Rep. Ladd, Graf. 4; Sen. Reagan, Dist 17; Sen. Sanborn, Dist 9; Sen. Daniels, Dist 11

COMMITTEE: Ways and Means

AMENDED ANALYSIS

This bill allows a taxpayer to use credit computed under the education tax credit against taxes due and payable under the interest and dividends tax.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in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

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eighteen

AN ACT relative to applications for and the use of education tax credits.

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

1 341:1 Education Tax Credit; Definition; Donation Receipt. Amend RSA 77-G:1, V(a) to
2 read as follows:

3 (a) The business organization's [øø], business enterprise's, ***or individual's***
4 name, address, and federal taxpayer identification number.

5 341:2 Definition; Education Tax Credit Application. Amend RSA 77-G:1, VII to read
6 as follows:

7 VII. "Education tax credit application" means a document developed by the
8 department of revenue administration and submitted by a business organization [øø],
9 business enterprise, ***or individual*** that contains at a minimum:

10 (a) The business organization's [øø], business enterprise's, ***or individual's***
11 name, address, and federal taxpayer identification number.

12 (b) A contact person's name, title, and phone number.

13 (c) The requested donation amount.

14 (d) A signed statement certifying that the business organization [øø], business
15 enterprise, ***or individual*** agrees to make donations in accordance with the requirements
16 established in this chapter.

17 341:3 New Paragraph; Definition Added; Individual. Amend RSA 77-G:1 by inserting
18 after paragraph VIII the following new paragraph:

19 VIII-a. "Individuals," for purposes of being granted credits under this chapter,
20 shall include any entity having taxable interest and dividend income as described in
21 RSA 77:3.

22 341:4 Definition; Scholarship Organization. Amend RSA 77-G:1, XX to read as
23 follows:

24 XX. "Scholarship receipt" means a document developed by the department of
25 revenue administration and submitted by a scholarship organization to the business
26 organization [øø], business enterprise, ***or individual*** and that contains at a minimum:

27 (a) The business organization's [øø], business enterprise's, ***or individual's***
28 name, address, and federal taxpayer identification number.

29 (b) The amount of the donations used or carried forward and the amount not

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1 used.

2 341:5 Contributions to Scholarship Organizations. Amend RSA 77-G:3 to read as
3 follows:

4 77-G:3 Contributions to Scholarship Organizations. For each contribution made to a
5 scholarship organization, a business organization [ø], business enterprise, *or*
6 *individual* may claim a credit equal to 85 percent of the contribution against the
7 business profits tax due pursuant to RSA 77-A, [ø] against the business enterprise tax
8 due pursuant to RSA 77-E, *against the tax on interest and dividends under RSA 77*, *or*
9 apportioned against [~~both~~] *each* provided the total credit granted [~~against both~~] shall
10 not exceed the maximum education tax credit allowed. Credits provided under this
11 chapter shall not be deemed taxes paid for the purposes of RSA 77-A:5, X. The
12 department of revenue administration shall not grant the credit without a scholarship
13 receipt. No business organization [ø], business enterprise, *or individual* shall direct,
14 assign, or restrict any contribution to a scholarship organization for the use of a
15 particular student or nonpublic school. No business organization [ø], business
16 enterprise, *or individual* shall receive more than 10 percent of the aggregate amount of
17 tax credits permitted in RSA 77-G:4.

18 341:6 Scholarship Organizations; Awards. Amend RSA 77-G:5, I(i)(2) to read as
19 follows:

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

33 341:7 Scholarship Applications. Amend RSA 77-G:5, II to read as follows:

34 II.(a) An organization seeking approval as a scholarship organization under this
35 chapter shall submit an application to the department of revenue administration each
36 program year no later than June 15. The department of revenue administration shall
37 approve or deny the application within 30 days of receipt. The department shall deny

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1 any application that fails to meet the statutory requirements and shall notify the
2 scholarship organization of the reasons for denial.

3 (b) A business organization [ø], business enterprise, *or individual* shall
4 submit an education tax credit application to the department of revenue administration
5 no earlier than January 1 and no later than November 15. The department shall approve
6 these applications within 30 days on a first come-first served basis, up to the aggregate
7 tax credit amount allowed under RSA 77-G:4. If multiple education tax credit
8 applications are received on the same day, they shall be processed at random. No
9 business organization [ø], business enterprise, *or individual* shall be granted an
10 education tax credit for more than 10 percent of the aggregate tax credit amount
11 permitted in RSA 77-G:4. The department of revenue administration may approve only a
12 portion of a request if required to prevent exceeding the aggregate tax credit amount
13 allowed under RSA 77-G:4. The approval shall include the amount allowed and the date
14 of approval.

15 (c) Once an education tax credit application is approved, the business
16 organization [ø], business enterprise, *or individual* shall donate within 60 days of the
17 date of approval, but no later than December 15, or the request shall expire. Donations
18 may be made to multiple scholarship organizations provided the total amount donated
19 by the business organization [ø], business enterprise, *or individual* does not exceed the
20 amount approved.

21 (d) Upon receiving a donation, the scholarship organization shall send a
22 scholarship receipt to the department of revenue administration and to the business
23 organization [ø], business enterprise, *or individual* within 15 days. The department of
24 revenue administration shall notify the scholarship organization and the business
25 organization [ø], business enterprise, *or individual* within 15 days if the donations
26 made ~~[by a business organization or business enterprise]~~ exceed the amount approved.
27 If a business organization [ø], business enterprise, *or individual* fails to donate the total
28 amount approved within the time permitted, the department of revenue administration
29 may grant credit requests in the order specified in subparagraph (b).

30 (e) Notwithstanding RSA 193-E:5, on or before July 15, a scholarship
31 organization shall furnish the unique pupil identifier and date of birth for each student
32 eligible pursuant to RSA 77-G:1, VIII(a)(1) and (2) who is receiving a scholarship, and the
33 subparagraph under which he or she was eligible, to the department of education. The
34 department of education shall notify the scholarship organization within 30 days of any
35 students who are ineligible under RSA 77-G:1, VIII(a)(1). The scholarship organization
36 shall notify the department of education within 30 days if any student eligible under
37 RSA 77-G:1, VIII(a)(1) or (2) is not awarded a scholarship or is awarded a scholarship yet

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1 subsequently returns to public school. The department of education shall return such
2 student to the calculation of the average daily membership in residence, as defined in
3 RSA 189:1-d, IV, for the student's school district of residence, and add the amount
4 calculated under RSA 198:40-a to the adequate education grant amount to the student's
5 school district of residence, and include such amount in the next adequate education
6 grant payment made under RSA 198:42.

7 (f) Repealed.

8 (g) On or prior to December 1, the scholarship organization shall submit a
9 scholarship organization report to the department of revenue administration. The
10 scholarship organization shall also include a scholarship organization application if it
11 intends to issue scholarships under this chapter in the next program year. The
12 department of revenue administration shall review the scholarship organization report
13 and the scholarship receipts to ensure that the administrative expenses requirement set
14 forth in subparagraph I(f) is not exceeded, that the number of scholarships issued under
15 RSA 77-G:1, VIII(a)(1) and (2) meets the requirements of this chapter, and the average
16 scholarship size does not exceed the amount allowed. If any of these requirements are
17 not met, the department of revenue administration may deny a scholarship organization
18 application for subsequent program years and shall notify the scholarship organization
19 of the reasons for denial.

20 (h) A business organization [øf], business enterprise, *or individual* may file
21 for the tax credit after receiving the scholarship receipt, and may file a tax credit
22 request for the subsequent program year up to the amount donated in the current
23 program year.

24 (i) The provisions of this chapter regarding nonpublic schools and their
25 relation to scholarship organizations shall apply only to nonpublic schools that choose
26 to accept scholarship students.

27 341:8 Rulemaking; Applications. Amend RSA 77-G:6, I(f)(2) to read as follows:

28 (2) The application procedure for a business organization [øf], business
29 enterprise, *or individual* applying to a scholarship organization for a tax credit under
30 this chapter.

31 341:9 Exceptions. Amend RSA 77-G:9, III to read as follows:

32 III. Donations made by a business organization [øf], business enterprise, *or*
33 *individual* to a scholarship organization that are not for the purpose of obtaining a tax
34 credit under this chapter shall not be subject to the requirements in this chapter.

35 341:10 New Paragraph; Tax on Interest and Dividends; Credit for Education Tax
36 Credit. Amend RSA 77:18 by inserting after paragraph IV the following new paragraph:

37 V. A taxpayer may elect to credit all or a portion of the education tax credit

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- 1 computed under RSA 77-G:4 against the tax due and payable under this chapter.
- 2 341:11 Education Tax Credit; Aggregate Amount. RSA 77-G:4 is repealed and
- 3 reenacted to read as follows:
- 4 77-G:4 Tax Credits. The aggregate of tax credits issued by the commissioner of the
- 5 department of revenue administration to all taxpayers claiming the credit shall not
- 6 exceed \$5,100,000 for a program year.
- 7 341:12 Effective Date. This act shall take effect July 1, 2018.

Approved: June 28, 2018
Effective Date: July 01, 2018

