

HB 632-FN - AS INTRODUCED

2019 SESSION

19-0724

10/05

HOUSE BILL **632-FN**

AN ACT relative to the education tax credit.

SPONSORS: Rep. Martin, Hills. 23; Rep. Ley, Ches. 9; Rep. Heath, Hills. 14; Rep. Tanner, Sull. 9; Rep. Walz, Merr. 23; Rep. Malloy, Rock. 23; Rep. Ames, Ches. 9; Rep. Luneau, Merr. 10; Rep. Porter, Hills. 1; Sen. Rosenwald, Dist 13; Sen. Dietsch, Dist 9

COMMITTEE: Ways and Means

ANALYSIS

This bill removes the application of the education tax credit in RSA 77-G to taxes due under the interest and dividends tax, and on July 1, 2020 deletes the education tax credit program.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT relative to the education tax credit.

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

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

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

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

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

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

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

12 (c) The requested donation amount.

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

16 3 Definition; Scholarship Organization. Amend RSA 77-G:1, XX to read as follows:

17 XX. "Scholarship receipt" means a document developed by the department of revenue
18 administration and submitted by a scholarship organization to the business organization [s] **or**
19 business enterprise~~[-or individual]~~ and that contains at a minimum:

20 (a) The business organization's [s] **or** business enterprise's~~[-or individual's]~~ name,
21 address, and federal taxpayer identification number.

22 (b) The donation amount and date received or postmarked.

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

24 4 Contributions to Scholarship Organizations. Amend RSA 77-G:3 to read as follows:

25 77-G:3 Contributions to Scholarship Organizations. For each contribution made to a
26 scholarship organization, a business organization [s] **or** business enterprise~~[-or individual]~~ may
27 claim a credit equal to 85 percent of the contribution against the business profits tax due pursuant
28 to RSA 77-A, **or** against the business enterprise tax due pursuant to RSA 77-E, ~~[against the tax on~~
29 ~~interest and dividends under RSA 77,]~~ or apportioned against each provided the total credit granted
30 shall not exceed the maximum education tax credit allowed. Credits provided under this chapter
31 shall not be deemed taxes paid for the purposes of RSA 77-A:5, X. The department of revenue

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1 administration shall not grant the credit without a scholarship receipt. No business organization[;]
2 **or** business enterprise[; ~~or individual~~] shall direct, assign, or restrict any contribution to a
3 scholarship organization for the use of a particular student or nonpublic school. No business
4 organization [;] **or** business enterprise[; ~~or individual~~] shall receive more than 10 percent of the
5 aggregate amount of tax credits permitted in RSA 77-G:4.

6 5 Tax Credits; Aggregate. RSA 77-G:4 is repealed and reenacted to read as follows:

7 77-G:4 Tax Credits. The aggregate of tax credits issued by the commissioner of the department
8 of revenue administration to all taxpayers claiming the credit shall not exceed \$500,000 for a
9 program year.

10 6 Scholarship Organizations; Awards. Amend RSA 77-G:5, I(i)(2) to read as follows:

11 (2) Not knowingly award a scholarship to any lineal descendant or equivalent step-
12 person of any proprietor, partner, or member of any business organization [;] **or** business
13 enterprise[; ~~or individual~~] making a contribution to a scholarship organization and claiming a credit
14 against the business profits tax [;] **or** business enterprise tax[; ~~or tax on interest and dividends~~], nor
15 any lineal descendant or equivalent step-person of any officer, director, or owner of more than a 5
16 percent interest in any business organization[;] **or** business enterprise[; ~~or individual~~] making a
17 contribution to a scholarship organization and claiming a credit against the business profits tax [;]
18 **or** business enterprise tax[; ~~or tax on interest and dividends~~], nor any employee who is among the
19 highest-paid 20 percent of paid employees in any business organization [;] **or** business enterprise[;
20 ~~or individual~~] making a contribution to a scholarship organization and claiming a credit against the
21 business profits tax [;] **or** business enterprise tax[; ~~or tax on interest and dividends~~].

22 7 Scholarship Applications. Amend RSA 77-G:5, II(b)-(d) to read as follows:

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

35 (c) Once an education tax credit application is approved, the business organization[;] **or**
36 business enterprise, [~~or individual~~] shall donate no later than 60 days after the date of approval,
37 and no later than June 30 of the program year during which its application was approved or the
38 request shall expire. Donations may be made to multiple scholarship organizations provided the

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1 total amount donated by the business organization[;] **or** business enterprise, [~~or individual~~] does not
2 exceed the amount approved.

3 (d) Upon receiving a donation, the scholarship organization shall send a scholarship
4 receipt to the department of revenue administration and to the business organization[;] **or** business
5 enterprise[; ~~or individual~~] within 15 days. The department of revenue administration shall notify
6 the scholarship organization and the business organization[;] **or** business enterprise[; ~~or individual~~]
7 within 15 days if the donations made exceed the amount approved. If a business organization[;] **or**
8 business enterprise[; ~~or individual~~] fails to donate the total amount approved within the time
9 permitted, the department of revenue administration may grant credit requests in the order
10 specified in subparagraph (b).

11 8 Scholarship Receipt. Amend RSA 77-G:5, II(h) to read as follows:

12 (h) A business organization [;] **or** business enterprise[; ~~or individual~~] may file for the
13 tax credit after receiving the scholarship receipt[; ~~and may file a tax credit request for the~~
14 ~~subsequent program year up to the amount donated in the current program year~~].

15 9 Rulemaking; Applications. Amend RSA 77-G:6, I(f)(2) to read as follows:

16 (2) The application procedure for a business organization [;] **or** business enterprise[;
17 ~~or individual~~] applying to a scholarship organization for a tax credit under this chapter.

18 10 Exceptions. Amend RSA 77-G:9, III to read as follows:

19 III. Donations made by a business organization [;] **or** business enterprise[; ~~or individual~~] to
20 a scholarship organization that are not for the purpose of obtaining a tax credit under this chapter
21 shall not be subject to the requirements in this chapter.

22 11 Repeals. The following are repealed:

23 I. RSA 77-G:1, VIII-a, relative to the definition of individuals.

24 II. RSA 77:18, V, relative to the credit against the interest and dividends tax for the
25 education tax credit.

26 12 Application. The amendment to RSA 77-G by sections 1-11 of this act shall apply to the
27 program year beginning July 1, 2019.

28 13 Prospective Repeal of Education Tax Credit Program. The following are repealed July 1,
29 2020:

30 I. RSA 77-G, relative to the education tax credit.

31 II. RSA 77-A:5, XV, relative to education tax credit against business profits taxes.

32 III. RSA 77-E:3-d, relative to education tax credit against business enterprise taxes.

33 14 Effective Date.

34 I. Section 13 of this act shall take effect July 1, 2020.

35 II. The remainder of this act shall take effect upon its passage.

**HB 632-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to the education tax credit.

FISCAL IMPACT: ☒ **State** ☐ **County** ☒ **Local** ☐ **None**

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input checked="" type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

LOCAL:

Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill amends the education tax credit (ETC) program by eliminating the interest and dividends tax (I & D tax) from program use, effective in program year beginning July 1, 2019, and then repealing the ETC program effective July 1, 2020. The impact of this bill is indeterminable, but would result in increased state revenue. As a result of the bill, the Department of Revenue Administration would no longer issue credits that could be used against the I & D tax, effective July 1, 2019, or against the business profits tax (BPT) or business enterprise tax (BET), effective July 1, 2020. However, as the ETC program allows the credit be carried forward for five years if used against the BPT or BET, the full impact of the repeal will not be realized until all the credits issued are used or expire.

The repeal of the ETC program may result in students attending a public school (traditional district or charter) that otherwise would have attended a non-public school or have been home educated. To the extent this occurs, local school district expenditures would increase (as early as FY 2020), as well as state expenditures and local revenue related to adequate education grants to local districts (as early as FY 2021) and charter public schools (as early as FY 2020). For the 2017-18 school year, the statewide average cost per pupil was approximately \$16,000, and in FY 2019, the average total state education grant for district public schools was approximately \$5,500 per pupil, and for charter public schools was approximately \$6,900 per pupil.

AGENCIES CONTACTED:

Department Revenue Administration and Department of Education