

**CHAPTER 287**  
**SB 372-FN-LOCAL – FINAL VERSION**

03/21/12 1128s  
03/28/12 1486s  
16May2012... 2190h  
06/06/12 2487EBA

2012 SESSION

12-2995  
04/10

SENATE BILL                    ***372-FN-LOCAL***

AN ACT                    establishing an education tax credit.

SPONSORS:            Sen. Forsythe, Dist 4; Sen. Bradley, Dist 3; Sen. Bragdon, Dist 11; Sen. Carson, Dist 14; Sen. De Blois, Dist 18; Sen. Gallus, Dist 1; Sen. Groen, Dist 6; Sen. Lambert, Dist 13; Sen. Luther, Dist 12; Sen. Sanborn, Dist 7; Sen. White, Dist 9; Rep. Hill, Merr 6; Rep. Bettencourt, Rock 4; Rep. B. Murphy, Rock 18; Rep. Groen, Straf 1

COMMITTEE:          Education

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AMENDED ANALYSIS

      This bill establishes an education tax credit against the business profits tax and/or the business enterprise tax for business organizations and business enterprises that contribute to scholarship organizations which award scholarships to be used by students to defray educational expenses.

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                             Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT                    establishing an education tax credit.

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

1            287:1 Purpose.

2            I. The general court finds that:

3            (a) It has the inherent power to determine subjects of taxation for general or particular  
4 public purposes.

5            (b) Expanding educational opportunities and improving the quality of educational  
6 services within the state are valid public purposes that the general court may cherish using its  
7 sovereign power to determine subjects of taxation and exemptions from taxation.

8            (c) Ensuring that all parents may exercise and enjoy their basic right to educate their  
9 children as they see fit is a valid public purpose that the general court may promote using its  
10 sovereign power to determine subjects of taxation and exemptions from taxation.

11            (d) Expanding educational opportunities and thereby promoting healthy competition is  
12 critical to improving the quality of education in the state and ensuring that all children have the  
13 opportunity to receive a high quality education.

14            II. The purpose of this act is to:

15            (a) Allow maximum freedom to parents and nonpublic schools to respond to and, without  
16 governmental control, provide for the educational needs of children, and this act shall be liberally  
17 construed to achieve that purpose.

18            (b) Promote the general welfare by expanding educational opportunities for children.

19            (c) Enable children in this state to achieve a higher level of excellence in their education.

20            (d) Improve the quality of education in this state, both by expanding educational  
21 opportunities for children and by creating incentives for schools to achieve excellence.

22            287:2 New Paragraph; Business Profits Tax; Education Tax Credit. Amend RSA 77-A:5 by  
23 inserting after paragraph XIV the following new paragraph:

24            XV. The education tax credit as computed in RSA 77-G:4.

25            287:3 New Section; Business Enterprise Tax; Education Tax Credit. Amend RSA 77-E by  
26 inserting after section 3-c the following new section:

27            77-E:3-d Education Tax Credit. The education tax credit as computed in RSA 77-G:4 shall be

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1 allowed against the tax due under this chapter.

2 287:4 New Chapter; Education Tax Credit. Amend RSA by inserting after chapter 77-F the  
3 following new chapter:

4 **CHAPTER 77-G**  
5 **EDUCATION TAX CREDIT**

6 77-G:1 Definitions. The following definitions shall apply in this chapter:

7 I. "Adequacy cost" means the total cost of the opportunity for an adequate education as  
8 defined in RSA 198:40-a, I-III.

9 II. "Adequacy grant" means the grant calculated under RSA 198:41, or for a chartered public  
10 school, the amount calculated under RSA 194-B:11.

11 III. "Business organization" shall be as defined in RSA 77-A:1, I.

12 IV. "Business enterprise" shall be as defined in RSA 77-E:1, III.

13 V. "Donation receipt" means a document submitted by a scholarship organization that  
14 contains at a minimum:

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

17 (b) The scholarship organization's name and address.

18 (c) The donation amount and date received.

19 VI. "Educational expenses" means the tuition cost of an eligible student to attend a public or  
20 nonpublic school, excluding students who were placed into a nonpublic school by their school district,  
21 and in the case of a home educated student, the academic expenses not to exceed 25 percent of the  
22 average scholarship as defined in RSA 77-G:2, I(b), incurred in a child's home schooling. Educational  
23 expenses shall not include fees or expenses related to participation in athletic programs,  
24 transportation expenses, or the cost of a parent's time expended in the home schooling of his or her  
25 child.

26 VII. "Education tax credit application" means a document developed by the department of  
27 revenue administration and submitted by a business organization or business enterprise that  
28 contains at a minimum:

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

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

32 (c) The requested donation amount.

33 (d) A signed statement certifying that the business organization or business enterprise  
34 agrees to make donations in accordance with the requirements established in this chapter.

35 VIII. "Eligible student" means a New Hampshire resident who is at least 5 years of age and  
36 no more than 20 years of age, who has not graduated from high school, and

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(a)(1) Who is currently attending a New Hampshire public school, including a chartered public school, and for whom the adequacy grant in the next school year would be reduced if the student were removed from the average daily membership calculation; or

(2) Who received a scholarship under subparagraph (1) or this subparagraph in the prior program year; or

(3) Who does not qualify under subparagraph (1) or (2); and

(b) Whose annual household income is less than or equal to 300 percent of the federal poverty guidelines as updated annually in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. section 9902(2). The scholarship organization shall verify eligibility under this subparagraph.

IX. "Nonpublic school" shall be as defined in RSA 193-A:1.

X. "Owner or operator" means an owner, president, officer, or director of an eligible nonprofit scholarship organization or a person with equivalent decision making authority over an eligible nonprofit scholarship organization.

XI. "Parent" means the natural or adoptive parent or legal guardian of a child.

XII. "Program year" means the year beginning January 1 and ending December 31.

XIII. "Receipt" means a document developed by the department of revenue administration that is issued by the receiving school, or parent in the case of a home educated student, to the scholarship organization which makes payment for educational expenses on behalf of an eligible student and that contains, at a minimum and where applicable:

(a) The name and address of the school if a school is attended or, in the case of a home educated student, the name and address of a parent.

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

(c) The name of the payer and the date and amount of the expense paid.

(d) Receipts for all specific, reimbursed educational expenses.

XIV. "Receiving school" means a public or nonpublic school which the eligible student seeks to attend.

XV. "Release of information form" means a document developed by a receiving school, signed by the parent or guardian of an eligible student, and which acknowledges the consent of the parent or guardian to release of information contained in the receipt.

XVI. "Scholarship impact survey" means a document developed by the department of education and given to the parents of students who have exited a public school under the provisions of RSA 77-G:8. The survey shall solicit the reasons for seeking the scholarship, and any suggested improvements desired in the public school they are leaving.

XVII. "Scholarship organization" means a charitable organization incorporated or qualified to do business in this state that:

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1 (a) Is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal  
2 Revenue Code;

3 (b) Complies with applicable state and federal antidiscrimination and privacy laws;

4 (c) Is registered with the director of charitable trusts; and

5 (d) Has been approved by the department of revenue administration for the purpose of  
6 issuing scholarships as provided in this chapter.

7 XVIII. "Scholarship organization application" means a document developed by the  
8 department of revenue administration and submitted by a scholarship organization that contains at  
9 a minimum:

10 (a) The scholarship organization's name, address, and federal taxpayer identification  
11 number.

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

13 (c) A signed statement that the scholarship organization has met the eligibility  
14 requirements of paragraph XVII, and will comply with the provisions of this chapter.

15 XIX. "Scholarship organization report" means a document developed by the department of  
16 revenue administration and submitted by a scholarship organization to the department of revenue  
17 administration that shall be a public record, notwithstanding RSA 21-J:14, and contains at a  
18 minimum:

19 (a) The number of scholarships granted under subparagraph VIII(a)(1), and the  
20 percentage of these students who were eligible for the federal free and reduced-price meal program  
21 in the final year they were in public school.

22 (b) The number of scholarships granted under subparagraph VIII(a)(2), and the  
23 percentage of these students who were eligible for the federal free and reduced-price meal program  
24 in the final year they were in public school.

25 (c) The number of scholarships granted under subparagraph VIII(a)(3), and the  
26 percentage of these students who were eligible for the federal free and reduced-price meal program  
27 in the prior year.

28 (d) The total dollar amount of all scholarships granted.

29 (e) The total dollar amount of donations spent on administrative expenses pursuant to  
30 RSA 77-G:5, I(f).

31 (f) The total dollar amount to be carried forward pursuant to RSA 77-G:5, I(g).

32 (g) The total dollar amount of donations used and not used for scholarships.

33 (h) The number of scholarships granted.

34 (i) The number of scholarships distributed by the organization, per school, and the dollar  
35 range of those scholarships. All home educated students shall be totaled together as a single school.

36 (j) An analysis, broken down by zip code, of the place of residence for each student

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1 receiving a scholarship under this program.

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

8 (A) I am satisfied with the school my child is attending as compared to the school  
9 my child attended prior to the availability of the education tax credit program.

10 (B) My child has seen a measurable improvement in academic achievement.

11 (C) My child would have been unable to attend the school of his or her choice  
12 without the education tax credit program.

13 (2) The survey shall include the following question to the parent or legal guardian of  
14 a participating student: "Excluding the education tax credit scholarship, how much did you pay out  
15 of pocket for your child to attend school this year?"

16 (l) The aggregated results from a survey, designed by the department of education, and  
17 administered by the scholarship organization, which shall solicit and receive information from the  
18 parents or legal guardians of participating students who graduated or stopped attending 2 years  
19 prior. A parent's or legal guardian's response to the survey shall be optional. Results shall be  
20 aggregated by the scholarship organization and published by the department of education. The  
21 survey shall solicit the following information:

22 (1) Whether the student is attending a private, public, community, or vocational  
23 college, or otherwise employed or unemployed.

24 (2) Whether the student graduated or not.

25 (m) The number of participating students who graduated from high school in the  
26 previous year, and the number that dropped out of school.

27 (n) A signed statement that the scholarship organization acknowledges compliance with  
28 the provisions of this chapter.

29 (o) An explanation of information omitted from the report because it would reveal  
30 private data about an individual student.

31 (p) The name of any other scholarship organizations who have agreed to combine their  
32 data with the scholarship organization for the purposes set forth in RSA 77-G:2, II. The agreement  
33 shall only be considered valid if each scholarship organization lists the other scholarship  
34 organizations in the agreement.

35 XX. "Scholarship receipt" means a document developed by the department of revenue  
36 administration and submitted by a scholarship organization to the business organization or business

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enterprise and that contains at a minimum:

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

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

**77-G:2 Scholarships.**

I.(a) An eligible student may receive a scholarship to attend (1) a nonpublic school, except when the student has been placed by the local school district through the special education process; or (2) a public school located outside of the school district in which the student resides and for which the public school is not eligible to receive an adequate education grant payment for the student in the current fiscal year, in an amount not to exceed the tuition cost of the public or nonpublic school. A home education student may also receive a scholarship to cover educational expenses. A student shall not receive a scholarship from more than one scholarship organization.

(b) The average value of all scholarships awarded by a scholarship organization, excluding eligible students who received scholarships for educational expenses related to home education only, shall not exceed \$2,500. Beginning in the second year of the program, the commissioner of the department of revenue administration shall annually adjust this amount based on the average change in the Consumer Price Index for All Urban Consumers, Northeast Region, using the "services less medical care services" special aggregate index, as published by the Bureau of Labor Statistics, United States Department of Labor. The average change shall be calculated using the calendar year ending 12 months prior to the beginning of program year. In each of the first and second program years, a scholarship organization shall award a minimum of 70 percent of all scholarships issued to eligible students as defined in RSA 77-G:1, VIII(a)(1) and (2) and, notwithstanding RSA 193-E:5, shall notify the department of education of the unique pupil identifier and date of birth for each of these students granted a scholarship by July 15. The required minimum percentage of all scholarships issued by a scholarship organization to eligible students as defined in RSA 77-G:1, VIII(a)(1) and (2) shall be reduced by 5 percent each program year for years 3 through 15 of the program, and, at the beginning of the sixteenth program year and every program year thereafter, there shall be no required minimum percentage of scholarships.

(c) The minimum value of a scholarship granted to a student receiving special education programs or services pursuant to RSA 186-C shall be 175 percent of the maximum average scholarship size as defined in subparagraph (b).

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

(e) A student shall reapply each year for a scholarship.

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1           II. Scholarship organizations may meet the percentage requirements of subparagraphs I(b)  
2 and (d) if, pursuant to a mutual agreement, the organizations aggregate their scholarship data and  
3 the aggregated data shows compliance with the percentage requirements.

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

15           77-G:4 Tax Credits.

16           I. The aggregate of tax credits issued by the commissioner of the department of revenue  
17 administration to all taxpayers claiming the credit shall not exceed \$3,400,000 for the first program  
18 year and \$5,100,000 for the second program year, subject to the provisions of paragraph III. In  
19 subsequent years, the aggregate of tax credits shall not exceed the amount allowed for the prior year,  
20 unless adjusted pursuant to paragraph II.

21           II. Beginning with the second program year, if the amount of the total donations used for  
22 scholarships exceeds 80 percent of the current program year's tax credits allowed, the aggregate of  
23 tax credits allowed for the next program year shall increase by 25 percent, subject to the provisions  
24 of paragraph III.

25           III. In each program year, the increase in the aggregate of tax credits allowed pursuant to  
26 paragraphs I and II shall be contingent upon the board of directors of the community development  
27 finance authority certifying in writing to the commissioner of the department of revenue  
28 administration by the December 1 preceding the program year that the community development  
29 finance authority has received \$5,000,000 or more in contributions for the state fiscal year or that  
30 the authority has received contribution offers sufficient to meet its state fiscal year limit but did not  
31 meet its limit for other reasons.

32           77-G:5 Scholarship Organizations.

33           I. A scholarship organization shall:

34               (a) Provide scholarships from eligible contributions to eligible students to defray  
35 educational expenses.

36               (b) Not restrict or reserve scholarships for use at a single nonpublic school and not



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1 restrict or reserve a scholarship for a specific student or a specific person.

2 (c) Verify a student's eligibility to apply for and receive a scholarship through transcripts  
3 and attendance records.

4 (d) Not have an owner or operator who also owns or operates a nonpublic school that  
5 participates in the education tax credit program.

6 (e) Not have an owner or operator who in the last 7 years has filed for personal  
7 bankruptcy or corporate bankruptcy in a business organization or business enterprise of which he or  
8 she owned more than 20 percent.

9 (f) Not use more than 10 percent of eligible contributions used during the program year  
10 in which the contributions are collected, and for which scholarship receipts were issued for tax credit  
11 purposes, for administrative expenses. Administrative expenses shall be reasonable and necessary  
12 for the organization's management and distribution of eligible contributions pursuant to this  
13 chapter.

14 (g) In the first program year, there shall be no carry forward of unused eligible  
15 contributions. In each program year thereafter, not more than 10 percent of eligible contributions  
16 may be carried forward to the following program year. Any amount carried forward shall be  
17 expended for annual or partial year scholarships in the program year into which the amount is  
18 carried forward.

19 (h) Maintain separate accounts for scholarship funds, non-tax credit donations, and  
20 operating funds.

21 (i)(1) Not award a scholarship to any lineal descendent or equivalent step-person of any  
22 officer, director, or employee of any scholarship organization; and

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

33 (j) Provide to each school district which receives a stabilization grant pursuant to RSA  
34 77-G:8 a copy of the aggregated results of the scholarship impact survey, including total number of  
35 students who received scholarships from that school district under RSA 77-G:1, VIII(a)(1).

36 II.(a) An organization seeking approval as a scholarship organization under this chapter

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1 shall submit an application to the department of revenue administration each program year no later  
2 than June 15. The department of revenue administration shall approve or deny the application  
3 within 30 days of receipt. The department shall deny any application that fails to meet the statutory  
4 requirements and shall notify the scholarship organization of the reasons for denial.

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

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

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

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

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1 RSA 189:1-d, IV, for the student's school district of residence, and add the amount calculated under  
2 RSA 198:40-a, I-III to the adequate education grant amount to the student's school district of  
3 residence, and include such amount in the next adequate education grant payment made under  
4 RSA 198:42.

5 (f) On or before December 1, the scholarship organization shall send a scholarship  
6 receipt to the business organization or business enterprise and to the department of revenue  
7 administration. The scholarship receipt shall include the amount of the donation that was used  
8 under this chapter which is eligible for the tax credit, and the amount that was not used. The  
9 scholarship organization shall return any unused funds to the business organization or business  
10 enterprise.

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

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

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

27 77-G:6 Department of Revenue Administration; Requirements.

28 I. The department of revenue administration shall:

29 (a) Develop, and annually verify and update, by February 1, a list of eligible nonprofit  
30 scholarship funding organizations that meet the requirements of this chapter. The department shall  
31 post this list on the department's Internet website and update the list monthly until July 15. The  
32 department shall forward the list and any updates to the commissioner of the department of  
33 education who shall post the list on the department of education's Internet website.

34 (b) Conduct or require audits in response to any reasonable complaints made. The cost  
35 of an independent audit shall be paid by the scholarship organization, but this cost shall be excluded  
36 from the administrative expenses requirement set forth in RSA 77-G:5, I(f).

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1 (c) Establish a process by which individuals may notify the department of revenue  
2 administration of any violation by a parent, business organization, business enterprise, scholarship  
3 organization, or nonpublic school of state laws relating to program participation. The department of  
4 revenue administration shall conduct an inquiry of any written complaint of a violation of this  
5 chapter, or make a referral to the appropriate agency for an investigation, if the complaint is signed  
6 by the complainant and is legally sufficient. A complaint is legally sufficient if it contains facts  
7 demonstrating a violation of this chapter or any rule adopted pursuant to this chapter. In order to  
8 determine legal sufficiency, the department of revenue administration may require supporting  
9 information or documentation from the complainant.

10 (d) Create, maintain, and post online the relevant forms and reports, and submit  
11 scholarship organization reports to the members of the house and senate education committees and  
12 to the department of education.

13 (e) Post to the department's website an up-to-date total of the amount of credits  
14 available.

15 (f) No later than January 1, 2013, adopt rules pursuant to RSA 541-A, relative to:

16 (1) The application procedure for a scholarship organization applying to accept  
17 scholarship donations under this chapter.

18 (2) The application procedure for a business organization or business enterprise  
19 applying for a tax credit under this chapter.

20 (3) Complaint procedures, including the filing of a complaint and investigations of  
21 complaints.

22 (4) The design and content of the forms and applications required to be filed with, or  
23 issued by, the department of revenue administration under this chapter.

24 77-G:7 Department of Education; Requirements.

25 I. The department of education shall determine the number of students receiving a  
26 scholarship under RSA 77-G:1, VIII(a)(1) and (2) who were counted in the calculation of the average  
27 daily membership in attendance, as defined in RSA 198:38, I, for schools, other than chartered public  
28 schools, for the student's school district of residence and for each such student, shall deduct the  
29 amount calculated under RSA 198:40-a, I-III from the total education grant amount disbursed to the  
30 student's school district of residence calculated pursuant to RSA 198:40-a, IV(b)-(c). This adjustment  
31 shall be completed prior to September 1 of the program year in which the scholarships are granted.

32 II. The department of education shall verify a student's eligibility under RSA 77-G:1,  
33 VIII(a)(1) upon request of a scholarship organization. The department of education shall assist the  
34 department of revenue administration, upon request, in the investigation of student eligibility  
35 complaints.

36 III. The state board of education shall adopt rules, pursuant to RSA 541-A, relative to forms

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necessary for any surveys required and the procedures for determining and disbursing stabilization grants.

**77-G:8 Scholarship Stabilization Grant.**

I. For each school district, the department of education shall calculate the combined amount of reductions in adequacy cost pursuant to RSA 77-G:7 from students receiving scholarships under RSA 77-G:1, VIII(a)(1) and who were in attendance in that district in the year prior to receiving the scholarships. If this combined amount is greater than 1/4 of one percent of a school district's total voted appropriations for the year prior to the scholarship year, the commissioner of the department of education shall disburse a scholarship stabilization grant for the current and next 3 fiscal years to each such school district equal to the amount of the reductions in excess of 1/4 of one percent. This scholarship stabilization grant shall be included in the September 1 disbursement required pursuant to RSA 198:42.

II. The department of education shall order any scholarship organizations that provided scholarships to students from districts that were awarded stabilization grants pursuant to paragraph I to conduct a scholarship impact survey. The organization shall forward the results of this survey to the department of education and the school board of each district. The department of education shall post the results of this survey online.

**77-G:9 Exceptions.**

I. A receiving nonpublic school or home education program that accepts students benefiting from scholarships, grants, or tax credits shall not be considered an agent of the state or federal government as a result of participating in the program established in this chapter.

II. Except as provided in this chapter, or otherwise provided in law, no state department, agency, or board shall regulate the educational program of a receiving nonpublic school or home education program that accepts students pursuant to this chapter.

III. Donations made by a business organization or business enterprise to a scholarship organization that are not for the purpose of obtaining a tax credit under this chapter shall not be subject to the requirements in this chapter.

**77-G:10 Severability.** If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

**287:5 Applicability.** The first program year of the education tax credit pursuant to RSA 77-G as inserted by section 4 of this act shall begin on January 1, 2013.

**287:6 Effective Date.** This act shall take effect upon its passage.

Approved: Enacted in accordance with Article 44, Part II, N.H. Constitution, without signature of governor, June 27, 2012

Effective Date: June 27, 2012

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