

HB 318-FN – AS INTRODUCED

2013 SESSION

13-0089  
04/10

HOUSE BILL

***318-FN***

AN ACT relative to collection of the education property tax and establishing a program to rebate certain excess property tax payments of eligible taxpayers.

SPONSORS: Rep. Sapareto, Rock 6; Rep. Weyler, Rock 13

COMMITTEE: Ways and Means

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ANALYSIS

This bill transfers the authority to collect the education property tax from the municipalities to the department of revenue administration. The bill establishes a program for the rebate of excess education property tax payments made by eligible taxpayers in the state. Claims for rebates shall be made to the department of revenue administration and qualifying claims shall be paid from the interest which accumulates on education property taxes collected by the department.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT                   relative to collection of the education property tax and establishing a program to  
                              rebate certain excess property tax payments of eligible taxpayers.

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

1           1 Education Property Tax to be Collected by Department of Revenue Administration. RSA 76:3  
2 is repealed and reenacted to read as follows:

3           76:3 Education Property Tax.

4           I. Beginning July 1, 2014, and every fiscal year thereafter, the commissioner of the  
5 department of revenue administration shall set the education tax rate at a level sufficient to  
6 generate revenue of \$363,000,000 when imposed on all persons and property taxable pursuant to  
7 RSA 76:8, except property subject to tax under RSA 82 and RSA 83-F. The education property tax  
8 rate shall be effective for the following fiscal year. The rate shall be set to the nearest ½ cent  
9 necessary to generate the revenue required in this section.

10          II. The commissioner of the department of revenue administration shall determine the state  
11 portion of the education tax owed by each taxpayer under this section and bill each taxpayer for ½  
12 the amount payable by July 1 and ½ the amount payable by December 1 of each year.

13          III.(a) The selectmen or municipal tax collectors shall send a bill to the taxpayer for all  
14 taxes, interest, additions to tax, and penalties imposed under this chapter. The taxpayer shall remit  
15 the amount due the state to the department of revenue administration. The state treasurer shall  
16 deposit all taxes collected in the education trust fund established under RSA 198:39 and all interest,  
17 additions to tax, and penalties in the education property tax hardship relief fund established under  
18 RSA 198:65.

19          (b) The commissioner shall reimburse a city or town 50 cents for each tax bill sent by the  
20 city or town to a taxpayer for the local portion of the education property tax.

21          IV. The selectmen or municipal tax collectors or the commissioner may institute actions in  
22 the name of the state to recover any tax, interest on tax, additions to tax, or the penalties imposed by  
23 this section.

24          V. In the collection of the tax imposed by this section, the selectmen or municipal tax  
25 collectors or the commissioner may use all of the powers granted to tax collectors under RSA 80 for  
26 the collection of taxes. The commissioner shall also have all of the duties imposed upon the tax  
27 collectors by RSA 80 that are applicable to the commissioner. The provisions of RSA 80:26 shall  
28 apply to the sale of land for the payment of taxes due under this chapter, and the state treasurer is  
29 authorized to purchase the land for the state. If the state purchases the land, the state treasurer

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1 shall certify the purchase to the governor, and the governor shall draw a warrant for the purchase  
2 price out of any money in the treasury not otherwise appropriated.

3 VI. Appeals regarding valuation of property shall be made to the board of tax and land  
4 appeals or the superior court of the county in which the taxpayer resides in the manner prescribed in  
5 RSA 76:16-a and RSA 76:17. Appeals other than appeals of valuation shall be made according to the  
6 procedure and subject to the time limits provided for other taxes administered by the department  
7 under RSA 21-J.

8 VII. Taxes not paid when due shall be subject to appropriate penalties and interest under  
9 RSA 21-J.

10 2 School Money; Education Trust Fund. Amend the introductory paragraph of RSA 198:39, I to  
11 read as follows:

12 I. The state treasurer shall establish an education trust fund in the treasury. Moneys in  
13 such fund shall not be used for any purpose other than to distribute adequate education grants to  
14 municipalities' school districts and to approved charter schools pursuant to RSA 198:42, to ~~[provide~~  
15 ~~low and moderate income homeowners property tax relief under RSA 198:56 198:61]~~ **reimburse**  
16 **municipalities for the local portion of education property tax relief claims made pursuant**  
17 **to RSA 198:63 and individual taxpayers for the state portion of education property tax**  
18 **relief claims made pursuant to RSA 198:63**, and to fund kindergarten programs as may be  
19 determined by the general court. The state treasurer shall deposit into this fund immediately upon  
20 receipt:

21 3 Reference Change; Source of Funds; Education Trust Fund. RSA 198:39, I(g) is repealed and  
22 reenacted to read as follows:

23 (g) Education property taxes paid over to the state treasurer by the department of  
24 revenue administration pursuant to RSA 76:3.

25 4 Determination of Adequate Education Grants. Amend RSA 198:41, I to read as follows:

26 I. Except for municipalities where all school districts therein provide education to all of their  
27 pupils by paying tuition to other institutions, the ~~[department of education shall determine the total~~  
28 ~~education grant for the municipality as follows:~~

29 ~~(a) Add the per pupil cost of providing the opportunity for an adequate education for~~  
30 ~~which each pupil is eligible pursuant to RSA 198:40-a, I-III, and from such amount;~~

31 ~~(b) Subtract the amount of the education tax warrant to be issued by the commissioner~~  
32 ~~of revenue administration for such municipality reported pursuant to RSA 76:9 for the next tax year]~~

33 **municipality's total education grant shall be the amount calculated in RSA 198:40-a.**

34 5 Reference Change. Amend RSA 198:41, II(b) to read as follows:

35 (b) The total amount paid for items of current education expense as determined by the  
36 department of education ~~[minus the amount of the education property tax warrant to be issued by~~

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1 ~~the commissioner of revenue administration for such municipality reported pursuant to RSA 76:9 for~~  
2 ~~the next tax year].~~

3       6 New Subdivision; Education Property Tax Relief. Amend RSA 198 by inserting after section  
4 61 the following new subdivision:

Education Property Tax Relief

6       198:62 Definitions. In this subdivision:

7           I.(a) “Claimant” means a person who:

8                   (1) Has filed a claim with the department for reduction in such claimant’s property  
9 taxes under this subdivision; and

10                   (2) During the 3 fiscal years preceding the year in which the person files a claim for  
11 relief under this chapter:

12                           (A) Has had an ownership interest in a homestead and was domiciled in the  
13 homestead upon which education property taxes have accrued and for which the person is making a  
14 claim for tax relief from education property taxes in this state; and

15                           (B) Was not a full-time student claimed as a dependent by any taxpayer under  
16 the United States Internal Revenue Code; and

17                   (3) Did not during the prior federal income tax year, pay the alternative minimum  
18 tax.

19           (b) In this paragraph, the term “ownership interest” includes:

20                   (1) A vendee in possession under a land contract;

21                   (2) One or more joint tenants or tenants in common; or

22                   (3) A person who has equitable title, or the beneficial interest for life in the  
23 homestead.

24           II. “Commissioner” means the commissioner of the department of revenue administration.

25           III. “Department” means the department of revenue administration.

26           IV. “Education property taxes” means the sum of the statewide education property tax under  
27 RSA 76:3 and the education portion of property taxes assessed by a municipality.

28           V. “Equalized assessed value” or “equalized assessed valuation” means the modified  
29 assessed valuation of property equalized by the commissioner pursuant to RSA 21-J:3, XIII. In this  
30 paragraph, “modified assessed valuation” means the sum of the assessments of taxable property in a  
31 municipality less the statutory exemptions provided in RSA 72:12-a, 72:12-b, 72:37, 72:39-a, and  
32 72:39-b. “Modified assessed valuation” shall not include optional exemptions provided in  
33 RSA 72:37-b, 72:62, 72:66, and 72:70.

34           VI.(a) “Excess education property taxes” means the sum of the state education rate  
35 determined under RSA 76:3 multiplied by the equalized value of the claimant’s qualifying homestead  
36 and the amount of the local education portion of property taxes assessed on a claimant’s homestead;

1 which is in excess of 10 percent of a claimant’s household income for the calendar year preceding the  
2 tax year of the excess education property tax claim.

3 (b) In this paragraph, “equalized assessed value of the qualifying homestead” means the  
4 local assessed value of the homestead equalized by applying the equalization ratio for the  
5 municipality, as determined by the commissioner pursuant to RSA 21-J:3, XIII, for the year of the  
6 claim.

7 (c) A qualifying homestead is the first \$100,000 of equalized value of a homestead. If a  
8 homestead is owned by 2 or more persons or entities as joint tenants or tenants in common, and one  
9 or more persons or entities are not members of the claimant’s household, “excess education property  
10 taxes” applies to that part of statewide education property taxes levied on the homestead which  
11 reflects the ownership percentage of the claimant and the claimant’s household. If a homestead is an  
12 integral part of a larger unit such as a multi-dwelling building, the statewide education property  
13 taxes shall be that percentage of the total education property taxes accrued as the total inhabitable  
14 area of the claimant’s dwelling is of the total inhabitable area of the building. For purposes of this  
15 paragraph “unit” refers to the parcel of property covered by a single tax statement of which the  
16 homestead is a part.

17 VII.(a) “Homestead” means the dwelling owned by a claimant which is used as the  
18 claimant’s principal place of residence for not less than 240 days in a calendar year and includes the  
19 following:

- 20 (1) The land upon which the dwelling stands;
- 21 (2) Visual and ordinary appurtenant structures such as but not limited to garages,  
22 wood sheds, barns, and other outbuildings;
- 23 (3) The land upon which such appurtenant structures stand;
- 24 (4) Land contiguous to such dwelling and appurtenant structures that is groomed  
25 and maintained around them; and
- 26 (5) Land necessary to the support and service of the dwelling such as but not limited  
27 to driveways and maintained rights-of-way for purposes of ingress and egress to the dwelling.

28 (b) A homestead may consist of a part of a multi-unit dwelling and its proportionate  
29 share of the land upon which it stands and other ordinary appurtenant common facilities.

30 (c) In this paragraph, the term “owned” includes a vendee in possession under a land  
31 contract and one or more joint tenants or tenants in common.

32 (d) “Homestead” shall not include personal property such as furniture, furnishings or  
33 appliances, or structures.

34 (e) Manufactured housing shall be considered a dwelling.

35 VIII. “Household income” means any and all income received by a household, including  
36 disability income, social security income, and other sources of income which are nontaxable under  
37 the United States Internal Revenue Code. “Household income” shall also include all income of any

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1 trust through which the claimant holds equitable title, or the beneficial interest for life, in the  
2 homestead.

3 IX. “Education property tax” means the tax assessed under RSA 76:3.

4 X. “United States Internal Revenue Code” means the United States Internal Revenue Code  
5 of 1986, as amended.

6 198:63 Claims for Education Property Tax Relief.

7 I.(a) A claimant shall be entitled to make claim to the department for education property tax  
8 relief equal to the excess education property taxes assessed under RSA 76:3 on the first \$100,000 of  
9 equalized valuation of the claimant’s homestead.

10 (b) No claim with respect to relief by a claimant under this subdivision shall be allowed  
11 unless the claim is filed with the department by March 1 following the date of notice of tax as defined  
12 in RSA 72:1-d.

13 II. No interest shall be allowed on any relief to which a claimant may be entitled under this  
14 subdivision.

15 III. Annually, the commissioner shall reimburse each city or town for the amount of relief  
16 granted against the local tax portion of the education property tax. Such reimbursement shall be  
17 paid from the education trust fund established in RSA 198:39.

18 IV. No person who qualifies for the alternative minimum tax under federal tax law shall be  
19 eligible to file a claim under this section.

20 V. No person who has claimed a homestead exemption in another state shall be eligible to  
21 claim the homestead exemption under this subdivision in the same tax year.

22 198:64 Reports of Claims. By May 15 of each year, the department shall report to the state  
23 treasurer the qualifying claimants under RSA 198:63.

24 198:65 Education Property Tax Hardship Relief Fund; Reimbursement to Qualifying Claimants;  
25 Appropriation. An education property tax hardship relief fund is established within the office of the  
26 state treasurer to pay qualified claims made under RSA 198:63. Interest, additions to tax, and  
27 penalties received by the state treasurer under RSA 76:3, III shall be deposited in this fund. Within  
28 30 days of receipt of the report by the department required under RSA 198:65, the state treasurer  
29 shall, to the extent of available funds, reimburse a qualifying claimant by June 15 of each year for  
30 qualified claims received under RSA 198:63. Such payments shall be charged against the fund  
31 established in this section. Payments shall be made to the extent of annual appropriations to the  
32 fund and shall not exceed such annual appropriations to the fund.

33 198:66 One Claimant Per Household. Only one claimant per household per year shall be  
34 entitled to relief under this subdivision.

35 198:67 Claim is Personal. The right to file a claim under this subdivision shall be personal to  
36 the claimant. The right to file a claim under this subdivision shall survive the claimant’s death to

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1 the extent that this right may be exercised on behalf of a claimant by a legal guardian, attorney,  
2 spouse, or another person who could have qualified as the claimant had the decedent not filed.

3 198:68 Administration; Rulemaking.

4 I. This subdivision shall be administered and enforced by the department.

5 II. The department shall adopt rules, pursuant to RSA 541-A, necessary to administer and  
6 enforce this subdivision.

7 198:69 Forms for Claim. The commissioner of revenue administration shall make available  
8 suitable forms with instructions for claimants. Such forms may require claimants to provide all  
9 information reasonably necessary to determining the accuracy of claims, including, but not limited  
10 to, property taxes accrued, changes of homestead, household membership, household income, size  
11 and nature of property claimed as the homestead, and a statement that the property taxes have been  
12 or will be paid by the claimant.

13 198:70 Fraudulent Claims; Penalty. A person shall be guilty of a class B felony who:

14 I. Files a fraudulent claim.

15 II. With fraudulent intent, assisted in the preparation or filing of the fraudulent claim or  
16 supplied information upon which the fraudulent claim was prepared.

17 198:71 Appeals. Any person aggrieved by the denial in whole or in part of a claim under this  
18 subdivision, except when the denial is based upon late filing of claim, may appeal the denial to the  
19 board of tax and land appeals or to the superior court in the county in which the person resides by  
20 filing a petition within 30 days after such denial. Procedures for an appeal of a denial of a claim  
21 shall be the same as the procedures for an appeal of a denial of an abatement of property tax under  
22 RSA 76:16-a–RSA 76:17.

23 198:72 Claim Applied Against Outstanding Liabilities. The amount of any claim otherwise  
24 payable under this subdivision may be applied by the department against any liability outstanding  
25 against the claimant or against anyone who was a member of the household in the taxable year to  
26 which the claim relates.

27 7 New Subparagraph; Special Fund. Amend RSA 6:12, I by inserting after subparagraph (310)  
28 the following new subparagraph:

29 (311) Interest, additions to tax, and penalties received from the commissioner of  
30 revenue administration under RSA 76:3, III.

31 8 Application of Receipts; Reference Deleted. Amend RSA 6:12, I(b)(65) to read as follows:

32 (65) Money received under RSA 77-A, RSA 77-E, RSA 78, RSA 78-A, RSA 78-B,  
33 RSA 83-F, ~~[RSA 198:46,]~~ and from the sweepstakes fund, which shall be credited to the education  
34 trust fund under RSA 198:39.

35 9 Repeal. The following are repealed:

36 I. RSA 76:8, I and II, relative to the commissioner's warrant.

37 II. RSA 76:9, relative to the commissioner's report.

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- 1           III. RSA 198:46, relative to excess education property tax payment.
- 2           IV. RSA 198:47, relative to forms for reporting and remitting of excess education property
- 3 tax.
- 4           V. RSA 198:56-61, relative to the low and moderate income homeowners property tax relief
- 5 program.
- 6           10 Effective Date. This act shall take effect July 1, 2014.



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13-0089  
01/15/13

**HB 318-FN - FISCAL NOTE**

AN ACT                   relative to collection of the education property tax and establishing a program to  
                                  rebate certain excess property tax payments of eligible taxpayers.

**FISCAL IMPACT:**

Due to time constraints, the Office of Legislative Budget Assistant is unable to provide a fiscal note for this bill, **as introduced**, at this time. When completed, the fiscal note will be forwarded to the House Clerk's Office.