

SB 277-FN - AS INTRODUCED

2025 SESSION

25-0432

07/05

SENATE BILL            **277-FN**

AN ACT                relative to the application of utility property taxes and statewide education property taxes to electric generating facilities.

SPONSORS:            Sen. Lang, Dist 2; Sen. Watters, Dist 4; Sen. Pearl, Dist 17; Rep. Moffett, Merr. 4

COMMITTEE:          Ways and Means

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ANALYSIS

This bill provides:

I. That an electric generating facility exempt from the utility property tax and making a payment in lieu of taxes to the municipality shall not be responsible for payment of the state education tax until such agreement expires or until July 1, 2032, whichever occurs first.

II. For calculation and payment of the utility property tax in future agreements.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to the application of utility property taxes and statewide education property taxes to electric generating facilities.

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

1 1 New Section; Payment in Lieu of Taxes for Combined Heat and Power Agricultural Facilities;  
2 Transition to Payment of State Education Property Tax. Amend RSA 72 by inserting after section  
3 74-b the following new section:

4 72:74-b Transition to Payment of State Education Property Tax. In the case of an electric  
5 generating facility that is exempt from the utility property tax pursuant to RSA 83-F:1, V(g) and  
6 making payments in lieu of taxes to a municipality pursuant to RSA 72:74, if the payment in lieu of  
7 tax agreement was in effect as of July 1, 2027, then the facility shall not be liable for payment of the  
8 state education tax under RSA 76:3 until that payment in lieu of taxes agreement expires or until  
9 July 1, 2032, whichever occurs first. Once payment of the state education tax under RSA 76:3 is  
10 required, it may be included in a payment in lieu of taxes agreement pursuant to a new agreement  
11 reached under RSA 72:74, or be paid in addition to a payment in lieu of taxes agreement if the  
12 underlying agreement has not expired or been reopened and renegotiated. If, under RSA 76:3, the  
13 state education tax is paid separately from the payment in lieu of taxes, then the amount of the state  
14 education tax owed by the facility shall be determined by using the imputed value of the facility that  
15 is calculated and used by the department of revenue administration for purposes of equalization  
16 under RSA 21-J:3, XIII.

17 2 New Subparagraph; Utility Property Tax; Definitions; Exemptions. Amend RSA 83-F:1, V by  
18 inserting after subparagraph (f) the following new subparagraph:

19 (g) Property used for the purposes of generating electricity, except such property owned  
20 by entities as defined in RSA 362:2, I that are engaged in the distribution or transmission of  
21 electricity.

22 3 New Subparagraph; Taxation; Utility Property Taxation; Payment Forms. Amend RSA 83-  
23 F:5, V by inserting after subparagraph (b) the following new subparagraph:

24 (c) As of May 1 of each year the owners of property exempted from the definition of  
25 utility property under RSA 83-F:1, V(g) shall file a form, designated by the commissioner, that  
26 collects sufficient information so that the department can identify utility and non-utility property  
27 and maintain an inventory of assets that are and are not subject to the utility property tax. The  
28 form shall be signed by an authorized representative, subject to the pains and penalties of perjury.  
29 If by May 1 the taxpayer is unable to file the form required under this subparagraph, the taxpayer  
30 shall request an extension from the department. Such extension shall be valid only upon written

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1 confirmation from the department, and shall not exceed 30 days per request. No more than 2  
2 extensions shall be granted in a given tax year.

3 4 Utility Property Tax; Exemption from Education Tax; Reference Added. Amend RSA 83-F:9 to  
4 read as follows:

5 83-F:9 Exemption From Education Tax. Persons and property subject to taxation under this  
6 chapter shall not be subject to tax under RSA 76:3; provided, however, that nothing in this chapter  
7 shall be construed to exempt such persons or property from local school, municipal, district, or  
8 county taxation under RSA 76, ***except as provided in RSA 72:74-b.***

9 5 Effective Date. This act shall take effect July 1, 2027.

**SB 277-FN- FISCAL NOTE**  
 AS INTRODUCED

AN ACT relative to the application of utility property taxes and statewide education property taxes to electric generating facilities.

**FISCAL IMPACT:**

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
<b>Revenue</b>	\$0	\$0	\$0	Indeterminable Decrease
<i>Revenue Fund(s)</i>	Education Trust Fund			
<b>Expenditures*</b>	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			
<b>Appropriations*</b>	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

\*Expenditure = Cost of bill

\*Appropriation = Authorized funding to cover cost of bill

**METHODOLOGY:**

This bill exempts certain electric generating facility properties from the Utility Property Tax (UPT). The bill also does not subject these electric generating facility properties to the Statewide Education Property Tax (SWEPT) while making payments in lieu of taxes (PILOT) of which an agreement was in effect as of July 1, 2027. The properties will not be subject to SWEPT until the PILOT agreement expires or until July 1, 2032, whichever occurs first. However, the SWEPT may be included in a new PILOT or may be paid in addition to the PILOT if the underlying agreement has not expired or been reopened and renegotiated. Should the SWEPT be paid separate from a PILOT, that SWEPT shall be determined using the imputed value of the facility that is calculated and used by the Department of Revenue Administration for equalization purposes.

The Department states exempting properties used for the purposes of generating electric from the UPT will decrease Education Trust Fund funding by an indeterminable amount beginning in FY 2028. The Department is not able to calculate the exact impact as it is not able to determine future valuation of the exempted properties. The Department is able to calculate the potential fiscal impact using Tax Year 2024 information. The properties employed in the generation of electricity were valued at approximately \$1.93 billion in Tax Year 2024. Applying the tax rate of \$6.60 on each \$1,000 of value results in UPT revenue for these specific properties of \$12.72

million. Based on this, Education Trust Fund revenue will decrease by \$5.36 million in FY 2028 and by \$12.72 million in FY 2029 and each year thereafter.

This bill keeps SWEPT at the statutorily required amount of \$363 million; however, the inclusion of property employed in the generation of electricity will result in a change to the overall statewide equalized valuation and SWEPT rate. The Department is unable to predict future equalized value due to the movement of the market prices of property. However, an increase in the property base to be equalized would generally increase the statewide equalized value, which is the denominator in the calculation of the statewide SWEPT rate, and, therefore, reduces the statewide SWEPT rate. Any resulting affect from this would be reflected in the SWEPT warrant for Tax Year 2028 (FY 2029).

Owners of property exempted from the definition of utility property will be required to file a form with the Department that collects sufficient information so that the Department can identify utility and non-utility property and maintain an inventory of assets that are and are not subject to the utility property tax.

The Department would need to update all necessary tax return forms and electronic management systems to reflect the changes contained in this bill; however, it is not anticipated this will result in any additional administrative costs that could not be absorbed in the Department's operating budget.

The Department of Education notes this bill will not change the total amount of SWEPT to be collected (currently \$363 million); however the bill may shift the SWEPT tax base depending on which utilities become obligated to pay the SWEPT tax instead of the UPT and where these utilities are located.

**AGENCIES CONTACTED:**

Department of Revenue Administration and Department of Education