New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

24-2855.1

SB 584, *relative to application of the utility property tax to certain renewable electric generating facilities, and relative to communications services tax revenues.*

Ways and Means

Adds an exemption for the state education property tax for certain electric generating facility property subject to a payment in lieu of taxes as a renewable generating facility, and also transfers 50 percent of the annual communications services tax revenues to the education trust fund.

Under current law, the property used for purposes of generating electricity are subject to Utility Property Tax (UPT) and are excluded from state education tax (SWEPT).

Section 1 of the proposed legislation states that an electric generating facility that is exempt from UPT, under the proposed Section 2, shall not be subject to SWEPT during a prescribed time frame while making payments in lieu of taxes (PILOT) of which the agreement was in effect as of January 1, 2025. That prescribed time frame is the earlier of when the PILOT agreement expires or until January 1, 2030. After this prescribed time frame, 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 DRA for equalization purposes.

Section 2 of the proposed legislation enacts new subparagraph RSA 83-F:1, V(g), which excludes from the definition of "utility property", for the purposes of UPT under RSA 83-F, property used for the purposes of generating electricity owned by entities defined in RSA 362:4-c, I.

Section 3 of the proposed legislation amends the filing requirements in the UPT statute under RSA 83-F:5, V by adding a requirement for the owners of the property exempted from UPT under this proposed legislation be required to submit to the DRA on May 1 of every year an inventory of all utility and non-utility properties. The DRA suggests that the wording on Line 24 of the bill be amended to require the owner to identify the utility property and non-utility property so that the sentence would read as follows:

"…collects sufficient information ~~so that the department can identify~~ ***identifying*** utility and non-utility property…."

Section 4 of the proposed legislation amends RSA 83-F:9 of the UPT statute to subject the electric generating facility as described in Section 1 to SWEPT.

Section 5 of the proposed legislation amends RSA 198:39, II to require the State Treasurer to deposit 50% of the annual revenues collected from the Communications Services Tax (CST) into the Education Trust Fund (ETF).

This proposed legislation shall be effective January 1, 2025. DRA interprets this to mean that this proposed legislation will first apply to property assessed on April 1, 2025 (Tax Year 2025 running from April 1, 2025 through March 31. 2026).

The DRA would be responsible for updating all necessary tax forms and electronic management systems related to this proposed legislation, which would not result in any additional administrative costs that could not be absorbed in the DRA operating budget.

The fiscal impact on UPT due to the exclusion of properties used for the purposes of generating electricity is an indeterminable decrease to the ETF starting in FY2025. The DRA is unable to calculate exact future impact because the DRA is unable to predict the future valuation of such property. However, using UPT revenue from prior fiscal year, the DRA can calculate the fiscal impact had this legislation been in place in a prior year.

The taxable period for UPT runs from April 1 and ends March 31 of the following year. Utility property owners are to submit estimated tax payments to be assessed as of April 1 in the current taxable period, based on the tax assessed for the preceding taxable year, on April 15, June 15, September 15, and December 15. Any remaining tax due shall be paid by January 15 of the following year.

For Tax Year 2022, the properties employed in the generation of electricity were valued at approximately $1.70 billion. Applying the UPT tax rate of $6.60 on each $1,000 of such value resulted in the UPT revenue on properties employed in the generation of electricity of $11.24 million. The ETF in FY2025 would reduce by $5.62 million (half of the $11.24 million). The ETF for FY2026 and onwards would reduce by $11.24 million each fiscal year.

The SWEPT revenue would remain at the statutorily determined amount of $363 million. However, the inclusion of property employed in the generation of electricity would result in a change to the overall statewide 2025 equalized valuation and SWEPT rate. DRA 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 2027 (FY 2028).

The fiscal impact of Section 4 of this proposed legislation is an indeterminable decrease to the General Fund (GF) and an indeterminable increase of the same amount to the ETF starting in FY 2025. The DRA is unable to estimate the exact future impact of the proposed legislation because the DRA cannot predict what revenue from the CST will be in future years. However, using the

CST revenue from prior fiscal year, the DRA can calculate the fiscal impact had this legislation been in place in a prior year.

1. To calculate the revenue impact of the deposit into the ETF, the DRA used FY 2023 cash basis CST revenue, reported by the Department of Administrative Services in the Revenue Focus, of $30.06 million for the starting point.

2. The DRA multiplied the $30.06 million by 50% to estimate the fiscal impact of the deposit of 50% of the annual CST revenue to ETF on a full fiscal year. Because the effective date of the proposed legislation is January 1, 2025, exactly half of a fiscal year, the DRA divided that result above by 2 for the impact on the first fiscal year.

3. The following chart shows the impact of the 50% deposit into the ETF.

Communications Services Tax Static Analysis Using FY 2023 Revenues $ in Millions			
Fiscal Year	**FY 2023 CST General Fund (Current Law)**	**CST General Fund Proposed Legislation**	**Education Trust Fund Proposed Legislation**
FY 2025	$30.06	$22.54	$7.52
FY 2026 and forward	$30.06	$15.03	$15.03

Current RSA 83-F, IV requires utility property owners to remit estimated tax payments to be assessed as of April 1 in the current taxable period, based on the tax assessed for the preceding taxable year. Because tax assessed for the preceding taxable year, prior to the effective date of this proposed legislation, would include properties employed in the generation of electricity, the DRA suggests that additional language be provided to allow utilities that may be implicated by this proposed legislation to exclude the estimated UPT on properties employed in the generation of electricity in their first year of this exclusion.