

Committee Report

CONSENT CALENDAR

February 23, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Municipal and County Government
to which was referred HB 64-LOCAL,**

**AN ACT relative to renewable generation facility
property subject to a voluntary payment in lieu of taxes
agreement. Having considered the same, report the
same with the recommendation that the bill OUGHT TO
PASS.**

Rep. Richard Tripp

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Municipal and County Government
Bill Number:	HB 64-LOCAL
Title:	relative to renewable generation facility property subject to a voluntary payment in lieu of taxes agreement.
Date:	February 23, 2021
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

This bill is a housekeeping bill which clarifies the exclusion of a renewable generation facility's property valuation from the municipality's tax base which is used to determine the statewide education property tax.

Vote 19-0.

Rep. Richard Tripp
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Municipal and County Government

HB 64-LOCAL, relative to renewable generation facility property subject to a voluntary payment in lieu of taxes agreement. **OUGHT TO PASS.**

Rep. Richard Tripp for Municipal and County Government. This bill is a housekeeping bill which clarifies the exclusion of a renewable generation facility's property valuation from the municipality's tax base which is used to determine the statewide education property tax. **Vote 19-0.**

Original: House Clerk

Cc: Committee Bill File

Voting Sheets

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB 64-LOCAL

BILL TITLE: relative to renewable generation facility property subject to a voluntary payment in lieu of taxes agreement.

DATE: February 18, 2021

LOB ROOM: Hybrid

MOTIONS: OUGHT TO PASS

Moved by Rep. Tripp

Seconded by Rep. Pauer

Vote: 19-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep John MacDonald, Clerk



1/22/2021 10:08:26 AM
Roll Call Committee Registers
Report

2021 SESSION

Municipal and County Government

Bill #: HB64-LOCAL Motion: OTP AM #: _____ Exec Session Date: 2/18/21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Dolan, Tom Chairman	19		
Piemonte, Tony Vice Chairman	1		
MacDonald, John T. Clerk	2		
Tripp, Richard P.	3		
Guthrie, Joseph A.	4		
Lascelles, Richard W.	5		
McBride, Everett P.	6		
Melvin, Charles R.	7		
Ayer, Paul F.	8		
Pauer, Diane	9		
Porter, Marjorie A.	10		
Treleaven, Susan GS	11		
Gilman, Julie D.	12		
Maggiore, Jim V.	13		
Stavis, Laurel <i>Rep. Pimentel</i>	14		
Mangipudi, Latha D.	15		
Vann, Ivy C.	16		
Klee, Patricia S.	17		
Gallager, Eric B.	18		
TOTAL VOTE:	19-0		

Public Hearing

House Remote Testify

Municipal and County Government Committee Testify List for Bill HB64 on 2021-02-09

Support: 7 Oppose: 0 Neutral: 1 Total to Testify: 3

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Signed Up</u>
Porter, Marjorie	maporter995@gmail.com	603.464.0225	An Elected Official	Hillsborough District 1	Support	Yes (3m)	2/2/2021 6:35 PM
Aron, Judy	judy.aron@leg.state.nh.us	603.843.5908	An Elected Official	My District	Support	Yes (10m)	2/8/2021 1:30 PM
Grenier, Jim	jgrenier@myfairpoint.net	603.863.5681	An Elected Official	Myself	Support	Yes (0m)	2/6/2021 8:33 AM
Smith, Steven	nhfirst@gmail.com	603.826.5940	An Elected Official	Sullivan 11	Support	No	2/2/2021 1:10 PM
Ward, Senator Ruth	ruth.ward@leg.state.nh.us	603.271.2609	An Elected Official	Senate District 8	Support	No	2/4/2021 2:28 PM
Lord, Kit	kitlord@yahoo.com	603.942.5374	A Member of the Public	Myself	Support	No	2/5/2021 12:15 PM
Wells, Ken	kenwells3@gmail.com	603.735.5756	A Member of the Public	Myself	Support	No	2/8/2021 2:07 PM
Rathbun, Eric	ericrathbun@gmail.com	860.912.3751	A Member of the Public	Myself	Neutral	No	2/9/2021 12:13 AM

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON HB 64-LOCAL

BILL TITLE: relative to renewable generation facility property subject to a voluntary payment in lieu of taxes agreement.

DATE: February 9, 2021

LOB ROOM: Hybrid **Time Public Hearing Called to Order:** 10:29 a.m.

Time Adjourned: 10:55 a.m.

Committee Members: Reps. Dolan, Piemonte, J. MacDonald, Tripp, Guthrie, Lascelles, McBride, Melvin, Ayer, Pauer, Porter, Treleaven, Gilman, Maggiore, Stavis, Mangipudi, Vann, Klee and Gallager

Bill Sponsors:

Rep. Aron
Sen. Ward

Rep. Porter
Rep. McGhee

Rep. Steven Smith

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

***Rep. Judy Aron** - Prime sponsor of the bill. Fixes and clarifies a problem. Identified during an audit in Lemster. Tried to get the bill done last year, due to covid and deadlines, we couldn't get it done. The wind farm was not included DRA can accurately calculate these taxes so there will be no shortfall.

Rep. Mangipudi: Who does it apply to? ANS: Pilot agreement- renewable energy.

Rep. Marjorie Porter - Co-sponsor of the bill. This bill takes care of what the problem was with DRA. Utility property are taxed differently. Renewable energy are utilities, and defined in the new law.

Rep. Pauer: Trouble hearing you. What is a payment in lieu of taxes? ANS: Some properties are not taxable properties. Many of them make a payment to the community. Renewable Energy to attract utilities they were allowed to make payment in lieu of taxes to the community. The pilot program is what is negotiated with the town.

Rep. Dolan: Pilot programs may be agreements between two towns, Londonderry / Manchester airport. The pilot pays a contribution to Londonderry. It helps both the entity and the community.

***Rep. Grenier** - Pilots came in existence to benefit the energy.

Respectfully submitted,

Rep. John MacDonald
Clerk

Testimony

Archived: Thursday, April 15, 2021 9:29:08 AM
From: [loren martin](#)
Sent: Monday, February 8, 2021 4:33:27 PM
To: [~House Municipal and County Govt](#)
Subject: HB 64
Importance: Normal

Dear Sir or Madam;

I am writing to support House Bill 64. I am unable to attend the hearing that is scheduled for tomorrow. Our company is the Assessor for +/- 60 communities throughout the State. The purpose of this bill is clarify the language to be consistent with the original intent of 2014 bill that was passed. As one of the Assessors for the Town of Lempster, I am very familiar with Mr. Jim Grenier and I believe he was one of the original co=sponsors of the 2014 legislation.

The current interpretation of RSA 72:74 by the Department of Revenue has led to DRA failing to exempt those utility properties (renewable energy facilities that have entered into a voluntary payment in lieu of taxes) from the State education property tax. This reading of the statute results in a double taxation on this type of property and ensures they are punished for opting into a PILOT, when I do not believe that was ever the intention. This will hurt many small rural communities that entered into these agreements simply to stop the legal bleeding they were experiencing from years of appeals and high legal costs to defend. Communities greatly affected by this double taxation are Lempster, Groton and Antrim to name just a few. Lempster is affected by about \$43,000 as this is the amount the SWEPT tax is raised for Lempster. Groton is about \$120,000. This is not a fair system nor do I believe it was the intention of the original legislation. As a representative for the 60+ communities we do assessing in, I am writing to support this House Bill and hope this new legislation will pass to protect the small rural communities in NH affected by this.

Sincerely,

Loren J. Martin

Director, Assessing Operations
Avitar Associates of NE, Inc

Archived: Thursday, April 15, 2021 9:29:08 AM

From: jgrenier@myfairpoint.net

Sent: Tuesday, February 2, 2021 4:40:41 PM

To: ~House Municipal and County Govt

Subject: Testimony on HB 64

Importance: Normal

Attachments:

[Testimony HB 64.docx](#) 

Dear Members of House Municipal and County Government,

Attached is testimony for HB 64. I will be signing on to speak by phone.

Respectfully,

Jim Grenier

Testimony for HB 64

Honorable Members of House Municipal and County Government:

The purpose of this bill is to clarify a language issue in RSA 72:74 that has led to DRA failing to exempt many utilities (renewable energy facilities) from the state education property tax. As a cosponsor of the amending legislation (HB 1549; attached), I know it was never the intent to eliminate the exemption of these utilities from the state education property tax (SWEPT henceforth). There was not language in that 2014 bill to eliminate the exemption as several other statutes would have needed to be changed.

It is important to understand the SWEPT is used to determine the state adequacy funds paid to each town. The funds are collected and stay in district. There are some towns that receive no money because the SWEPT raises enough revenue to provide an adequate education (as determined by the NH Legislature). Most towns do receive some level of fiscal support in addition to the SWEPT funds which are entirely local property taxes. When such a town has an increase in SWEPT revenues (all things being equal) there will be a one for one reduction in Adequacy Grant funds from the state and thus an increase in local tax burden.

RSA 72:74, II provides for the DRA to convert a payment in lieu of taxes to an equalized property value. That value should not be used for taxation when calculating the SWEPT tax warrant for a town (RSA 83-F: 9; attached and RSA 76:8; attached). The nonutility valuation for Lempster is \$120,932,969 as calculated on the DRA 2020 Tax Rate Breakdown for Lempster (attached) and yet the 2020 Education Tax Warrant for Lempster (attached) shows a nonutility evaluation of \$143,209,201. This is intrinsically contradictory; it makes no sense grammatically nor logically. What DRA has done for the Education Tax Warrant calculation is to add the equalized value of the wind farm (a utility), \$22,276,381.65 to the Education Tax Warrant. This is unequivocally using the value of the wind farm to generate SWEPT tax dollars and is contrary to RSA 83-F and 76:8. This raises the SWEPT tax for Lempster by \$42,882.03 and results in a loss of that amount in state Adequacy Grant funding.

It should be noted that before Lempster entered into a payment in lieu of taxes (PILOT) with the local wind farm, the equalized value of the wind farm was never used to calculate the SWEPT tax. While Lempster never wanted to enter into a PILOT, frequent legal costs were created by the wind farm pressuring for a PILOT. Ultimately, to save these legal costs Lempster acquiesced. Consequently, the town settled for a lower payment than heretofore taxes from the wind farm and greater SWEPT taxes from DRA. How is that fair????

Do support this bill and fix this inconsistency regarding the exemption from SWEPT and the subsequent loss of state Adequacy Grant funds for many towns with renewable energy facilities. These facilities are a plus for state funds at \$6.60 per thousand from the state utility property tax. This present practice of taxing the windfarm is double state taxation; the utility

property tax plus the SWEPT tax. Do not continue to punish the towns that host these facilities by double taxation and subsequent decreased Adequacy Grant funds.

Respectfully Submitted,

James Grenier; Former NH Representative, Lempster School Board Member and Lempster Town Auditor

Attached Documents

HB 1549 – VERSION ADOPTED BY BOTH BODIES

19Mar2014... 0705h

2014 SESSION

14-2560

10/06

HOUSE BILL 1549

AN ACT relative to assessment of renewable generation facility property subject to a voluntary payment in lieu of taxes agreement.

SPONSORS: Rep. Moffett, Merr 9; Rep. Grenier, Sull 7; Rep. Porter, Hills 1; Sen. Woodburn, Dist 1

COMMITTEE: Municipal and County Government

AMENDED ANALYSIS

This bill clarifies assessment of renewable generation facility property provided for in a voluntary payment in lieu of taxes agreement.

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.

19Mar2014... 0705h

14-2560

10/06

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to assessment of renewable generation facility property subject to a voluntary payment in lieu of taxes agreement.

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

1 Commissioner of Revenue Administration; Equalization of Property. Amend RSA 21-J:3, XIII to read as follows:

XIII. Equalize annually by May 1 the valuation of the property as assessed in the several towns, cities, and unincorporated places in the state including the value of property exempt pursuant to RSA 72:37, 72:37-b, 72:39-a, 72:62, 72:66, and 72:70, **and** property which is subject to tax relief under RSA 79-E:4, [~~and property which is the subject of a payment in lieu of taxes under RSA 72:74~~] by adding to or deducting from the aggregate valuation of the property in towns, cities, and unincorporated places such sums as will bring such valuations to the true and market value of the property, and by making such adjustments in the value of other property from which the towns, cities, and unincorporated places receive taxes or payments in lieu of taxes, **including renewable generation facility property subject to a payment in lieu of taxes agreement under RSA 72:74**, as may be equitable and just, so that any public taxes that may be apportioned among them shall be equal and just. In carrying out the duty to equalize the valuation of property, the commissioner shall follow the procedures set forth in RSA 21-J:9-a.

2 Payment in Lieu of Taxes for Renewable Generation Facilities. Amend RSA 72:74, II to read as follows:

II. A renewable generation facility subject to a voluntary agreement to make a payment in lieu of taxes under this section shall be subject to the laws governing the utility property tax under RSA 83-F. Payments made pursuant to such agreement shall satisfy any tax liability relative to the renewable generation facility that otherwise exists under RSA 72. **The payment in lieu of taxes shall be equalized under RSA 21-J:3, XIII in the same manner as other payments in lieu of taxes.** In the absence of a payment in lieu of taxes agreement, the renewable generation facility shall be subject to taxation under RSA 72.

3 Appraisal of Taxable Property; Renewable Generation Facility PILOT. Amend RSA 75:1 to read as follows:

75:1 How Appraised. The selectmen shall appraise open space land pursuant to RSA 79-A:5, open space land with conservation restrictions pursuant to RSA 79-B:3, land with discretionary easements pursuant to RSA 79-C:7, residences on commercial or industrial zoned land pursuant to RSA 75:11, earth and excavations pursuant to RSA 72-B, land classified as land under qualifying farm structures pursuant to RSA 79-F, buildings and land appraised under RSA 79-G as qualifying historic buildings, residential rental property subject to a housing covenant under the low-income housing tax credit program pursuant to RSA 75:1-a, ***renewable generation facility property subject to a voluntary payment in lieu of taxes agreement under RSA 72:74 as determined under said agreement***, and all other taxable property at its market value. Market value means the property's full and true value as the same would be appraised in payment of a just debt due from a solvent debtor. The selectmen shall receive and consider all evidence that may be submitted to them relative to the value of property, the value of which cannot be determined by personal examination.

4 Applicability. The provisions of this act shall apply beginning with the property tax year ending March 31, 2015.

5 Effective Date. This act shall take effect upon its passage.

CHAPTER 83-F UTILITY PROPERTY TAX

Section 83-F:9

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

Source. 1999, 17:35; 303:8. 2005, 257:3. 2008, 173:15, eff. July 1, 2009.

76:8 Commissioner's Warrant. –

I. (a) The commissioner shall annually determine a municipality's tax base for the education tax by **subtracting** from the total equalized valuation of all property, as determined under RSA 21-J:3, XIII for

the preceding year, property that was then taxable under RSA 82 and RSA 83-F. In determining the tax base, the value of any utility property that is included in the total equalized valuation upon which the statewide education property tax is computed, and is also taxable under RSA 83-F for that year, shall also be subtracted from the tax base, provided the sum value of the utility property represents at least 5 percent of the total equalized value of all property, except property taxable under RSA 82 or RSA 83-F in the preceding year.



Lindsey M. Stepp
Commissioner

Carolynn J. Lear
Assistant Commissioner

**State of New Hampshire
Department of Revenue Administration**

109 Pleasant Street
PO Box 487, Concord, NH 03302-0487
Telephone (603) 230-5000
www.revenue.nh.gov



MUNICIPAL AND PROPERTY
DIVISION
James P. Gerry
Director

Samuel T. Greene
Assistant Director

**EDUCATION TAX WARRANT
FOR TAX YEAR 2020**

November 12, 2019

To the Selectmen or Assessors of **LEMPSTER**

In accordance with the provisions of RSA 76:8 II, you are hereby required to assess the sum of **\$ 275,678** for the 2020 Education Tax. Per RSA 76:3, this amount is based on a uniform rate of \$1.925/1000 of the 2018 equalized valuation without utilities in the amount of **\$143,209,201**.

James P. Gerry, Director
Municipal & Property Division

Note: This warrant amount will be used to calculate your locally assessed state education rate in the fall of 2020.

TDD Access: Relay NH 1-800-735-2964

Individuals who need auxiliary aids for effective communication in programs and services of the Department of Revenue Administration are invited to make their needs and preferences known to the Department.



New Hampshire
Department of
Revenue
Administration

2020
\$24.84

Tax Rate Breakdown Lempster

Municipal Tax Rate Calculation			
Jurisdiction	Tax Effort	Valuation	Tax Rate
Municipal	\$503,541	\$126,595,269	\$3.98
County	\$401,387	\$126,595,269	\$3.17
Local Education	\$1,951,110	\$126,595,269	\$15.41
State Education	\$275,678	\$120,932,969	\$2.28
Total	\$3,131,716		\$24.84

Village Tax Rate Calculation			
Jurisdiction	Tax Effort	Valuation	Tax Rate
Total			

Tax Commitment Calculation	
Total Municipal Tax Effort	\$3,131,716
War Service Credits	(\$22,600)
Village District Tax Effort	
Total Property Tax Commitment	\$3,109,116


 James P. Gerry
 Director of Municipal and Property Division
 New Hampshire Department of Revenue Administration

10/29/2020

Archived: Thursday, April 15, 2021 9:33:03 AM
From: [Judy Aron](#)
Sent: Tuesday, February 9, 2021 10:49:00 AM
To: ~House Municipal and County Govt
Subject: Testimony - HB64 -Local
Importance: Normal

Hello Committee Members,
Here is a copy of my testimony:

Testimony - HB64 -Local 2/9/2021 Municipal and County Government Committee

Thank you Mr. Chairman and Good Morning to Committee Members,

I bring before you today this bill which seeks to fix and clarify a problem within RSA 72:74 Payment in Lieu of Taxes for Renewable Generation Facilities. The problem was identified by the Hon. Jim Grenier of Lempster last year during his auditing duties as town auditor in Lempster.

Hon. Jim Grenier alerted me, Rep. Porter and others regarding an issue with the way the Department of Revenue (DRA) was dealing with renewable energy-generating facilities valuation calculations for those facilities who have entered into PILOT agreements with their municipalities.

We tried to get this fix in last year when he found the error, but because of passed deadlines and COVID complications regarding work on bills in the Senate, it did not make it through the process.

Without going into too much detail, DRA had been including these facilities into their State Wide Education Property Tax (SWEPT) calculations, although both RSA 76:8 and RSA 83-F:9 make clear they should be excluded from the education tax and instead taxed as utilities. Including them in SWEPT calculations resulted in a decrease in state education aid to the communities where the facility is located--which means local property taxpayers saw their tax bills increase. That is what happened to Lempster taxpayers when the renewable generation facility switched to PILOT payments. The Hon. Jim Grenier was looking at adequacy estimates for 2021 last year for the town of Lempster. Lempster had recently changed to a PILOT agreement with the local windfarm and he saw that the Statewide Education Property Tax (SWEPT) increased by 40% and caused a \$60-70,000 decrease in adequacy funding for their school as a result. He discovered that the windfarm valuation had not been excluded from the tax base valuation as it should have been. The issue was discussed with DRA and Barbara Reid of NHMA, Rep. Marjorie Porter, and Loren Martin of Avatar and they all determined that the language, in this bill that I am presenting, needed to be placed in statute for clarity.

So I am simply making the statutes match up with each other for clarity by submitting the change to RSA 72:74 II which inserts the line "*but shall be excluded from the tax base used to determine statewide education property tax in accordance with RSA 76:8, 1(a)*" to make it clear how the tax calculation is to be calculated in the case of renewable generation facility that has a PILOT agreement with their municipality.

With this in place, DRA can correctly calculate the necessary tax calculations, as the statutes require, for these PILOT facilities which impacts adequacy funding. This is important for the interest of fair taxation and the funding of students in Lempster and other towns that are affected, such as places like Groton and Antrim. Many of our towns may not have even noticed the problem and have been shortchanged on education funding as a result.

I ask you please to pass this bill through this committee and I am happy to take your questions.

Thank you,

Judy Aron
NH State Representative
Sullivan County District 7
(Acworth, Goshen, Langdon, Lempster, Washington)
Environment and Agriculture Committee, Vice-Chair
Transportation, Member
266 Forest Road, South Acworth, NH 03607
603-843-5908

Bill as
Introduced

HB 64-LOCAL - AS INTRODUCED

2021 SESSION

21-0044

10/05

HOUSE BILL

64-LOCAL

AN ACT relative to renewable generation facility property subject to a voluntary payment in lieu of taxes agreement.

SPONSORS: Rep. Aron, Sull. 7; Rep. Porter, Hills. 1; Rep. Steven Smith, Sull. 11; Sen. Ward, Dist 8; Rep. McGhee, Hills. 27

COMMITTEE: Municipal and County Government

ANALYSIS

This bill clarifies the exclusion of a renewable generation facility's payments in lieu of taxes from a municipality's tax base for the education tax.

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 One

AN ACT relative to renewable generation facility property subject to a voluntary payment
in lieu of taxes agreement.

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

1 1 Property Taxation; Renewable Generation Facilities; Equalization. Amend RSA 72:74, II to
2 read as follows:

3 II. A renewable generation facility subject to a voluntary agreement to make a payment in
4 lieu of taxes under this section shall be subject to the laws governing the utility property tax under
5 RSA 83-F. Payments made pursuant to such agreement shall satisfy any tax liability relative to the
6 renewable generation facility that otherwise exists under RSA 72. The payment in lieu of taxes shall
7 be equalized under RSA 21-J:3, XIII in the same manner as other payments in lieu of taxes, **but**
8 **shall be excluded from the tax base used to determine the statewide education property tax**
9 **in accordance with RSA 76:8, I(a)**. In the absence of a payment in lieu of taxes agreement, the
10 renewable generation facility shall be subject to taxation under RSA 72.

11 2 Effective Date. This act shall take effect July 1, 2021.