

HB 1686-FN - AS INTRODUCED

2024 SESSION

24-2448
02/10

HOUSE BILL

1686-FN

AN ACT

relative to requiring excess revenues raised through the statewide education property tax to be remitted to the education trust fund and prohibiting the department of revenue administration from setting negative local and county tax rates on real property.

SPONSORS:

Rep. M. Smith, Straf. 10; Rep. S. Smith, Sull. 3; Rep. Noel, Coos 5; Rep. Cascadden, Coos 5; Rep. Muirhead, Graf. 12; Rep. Kenney, Straf. 10; Rep. Rollins, Sull. 3; Rep. B. Sullivan, Sull. 1; Rep. Spilsbury, Sull. 3

COMMITTEE:

Education

ANALYSIS

This bill requires that all of the proceeds of the statewide education property tax be spent by municipalities on the funding of a constitutionally adequate education or be remitted to the state for deposit in the education trust fund. This bill also prohibits the department of revenue administration from setting negative local or county tax rates.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to requiring excess revenues raised through the statewide education property tax to be remitted to the education trust fund and prohibiting the department of revenue administration from setting negative local and county tax rates on real property.

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

1 1 New Sections; Adequate Education; Excess Statewide Education Property Tax Payment.
2 Amend RSA 198 by inserting after section 47 the following new sections:

3 198:47-a Excess Statewide Education Property Tax Payment.

4 I. Any statewide education property tax collected by a municipality pursuant to a warrant
5 issued by the commissioner of the department of revenue administration pursuant to RSA 76:8 that
6 exceeds the amount determined by the department of education to pay for an adequate education in
7 that municipality shall be remitted to the department of revenue administration on or before March
8 15 of the tax year in which the excess occurs.

9 II. The commissioner of the department of revenue administration shall collect from the
10 municipality the excess tax and pay the excess tax over to the state treasurer for deposit in the
11 education trust fund.

12 III. The amount of such excess to be remitted shall not include any income derived from the
13 investment of funds by the municipal treasurers under RSA 41:29 and RSA 48:16. Any funds
14 remaining after full payment of the excess tax required in paragraph I shall become available for
15 unrestricted use by the municipality.

16 198:47-b Forms. The commissioner shall approve and provide forms relative to the reporting
17 and remitting of excess statewide education property tax by the municipalities.

18 2 Determination of Education Grants. Amend RSA 198:41, I(b) to read as follows:

19 (b) Subtract the amount of the education tax warrant to be issued by the commissioner
20 of revenue administration for such municipality reported pursuant to RSA 76:8 for the next tax year,
21 ***not including the amount of the education tax payment remitted back to the department of***
22 ***revenue administration under 198:47-a***; and

23 3 Assessment of Education Tax; Commissioner's Warrant. Amend RSA 76:8, II to read as
24 follows:

25 II. The commissioner shall issue a warrant under the commissioner's hand and official seal
26 for the amount computed in paragraph I to the selectmen or assessors of each municipality by
27 December 15 directing them to assess such sum and pay it to the municipality for the use of the
28 school district or districts ***and, if there is an excess statewide education property tax payment***
29 ***pursuant to RSA 198:47-a, directing them to assess the amount of the excess payment and***

1 *pay it to the department of revenue administration for deposit in the education trust fund.*

2 Such sums shall be assessed at such times as may be prescribed for other taxes assessed by such
3 selectmen or assessors of the municipality.

4 4 New Paragraph; Setting of Tax Rates by Commissioner; Negative Rates Prohibited. Amend
5 RSA 21-J:35 by inserting after paragraph II the following new paragraph:

6 II-a. The commissioner shall not set negative local, education or county tax rates that offset
7 other taxes on real property.

8 5 Effective Date. This act shall take effect April 1, 2024.

HB 1686-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to requiring excess revenues raised through the statewide education property tax to be remitted to the education trust fund and prohibiting the department of revenue administration from setting negative local and county tax rates on real property.

FISCAL IMPACT: ☒ State ☒ County ☒ Local ☐ None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
Revenue	\$0	\$0	\$0	\$0
Revenue Fund(s)	None			
Expenditures	\$0	Education Trust Fund - (\$29,036,762) General Fund - DRA \$300,000	Indeterminable Decrease	
Funding Source(s)	General Fund, Education Trust Fund			
Appropriations	\$0	\$0	\$0	\$0
Funding Source(s)	None			

- Does this bill provide sufficient funding to cover estimated expenditures? ☒ See Below
- Does this bill authorize new positions to implement this bill? ☒ N/A

Estimated Political Subdivision Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
County Revenue	\$0	Indeterminable Decrease		
County Expenditures	\$0	\$0	\$0	\$0
Local Revenue	\$0	(\$29,036,762)	Indeterminable Decrease	
Local Expenditures	\$0	\$0	\$0	\$0

METHODOLOGY:

This bill requires excess revenues raised through the statewide education property tax (SWEPT) be remitted to the Department of Revenue Administration (DRA) to deposit into the Education Trust Fund (ETF) and prohibits the DRA from setting negative education tax rates. The DRA has provided the following understanding of this bill's intent:

- Section 1 enacts a new RSA 198:47-a, requiring a municipality to remit to the DRA by March 15 of the tax year, the amount of SWEPT collected by that municipality in excess

of the amount determined by the Department of Education (DOE) to pay for an adequate education in that municipality.

- Section 3 of the proposed legislation requires the excess SWEPT amount to be assessed by the municipalities and remitted to the DRA for deposit into the ETF. The excess SWEPT amount to be remitted shall not include income derived from the investment of funds by the municipal treasurer under RSA 41:29 and RSA 48:16. Any funds remaining after full payment of the excess funds shall become available for unrestricted use by the municipality.
- Section 2 amends the calculation of education grants in RSA 198:41, I by excluding the excess SWEPT from the formula.
- Section 4 enacts a new RSA 21-J:35, II-a prohibiting the DRA from setting negative local, education, or county tax rates that offset other taxes on real property.

The DRA has provided the following relative to this bill's potential fiscal impact:

- The SWEPT is currently assessed on each property owner's municipal property tax bill and is entirely locally retained by the municipality, even if the amount of SWEPT assessed and collected by the municipality is in excess of the total cost of education calculated by the Department of Education. This bill would instead require each municipality that assesses and collects SWEPT in excess of the amount for an adequate education calculated by the Department of Education to remit such excess to DRA for deposit into the ETF. As a result, the proposed legislation would result in an indeterminable increase in revenue to the state ETF and a corresponding indeterminable decrease in revenue to municipalities that currently retain excess SWEPT. The DRA is unable to calculate the effect to state revenues because the total cost of an adequate education is calculated by Department of Education. The DRA is able to compare the SWEPT with the DOE's calculation of cost of an adequate education for Tax Year 2023 (FY 2024) of \$810 million. A comparison made at the municipality level showed municipalities with excess SWEPT totaled approximately \$26 million. FY 2025 preliminary estimates indicate this amount would be approximately \$29 million (see additional details below).
- The prohibition against the setting of negative local, education, or county tax rates that offsets other taxes on real property would result in an indeterminable increase to local revenues. This prohibition would be effective April 1, 2024 and therefore shall first apply to tax rates set in the Fall of 2024 and impact local revenues for FY 2025.

- The DRA would be responsible for updating all necessary forms related to this proposed legislation, which would not result in any additional administrative costs that could not be absorbed in the DRA operating budget. However, the proposed legislation contemplates that the DRA will bill and collect excess SWEPT. To administer this new requirement and build out the functionality within the new Revenue Information Management System (RIMS) and on-line user portal Granite Tax Connect (GTC), the estimated cost is \$300,000.

Lastly, the DRA has provided the following technical comments relative to this bill:

- This bill is effective April 1, 2024 and will first apply to warrants for TY 2024 on instructing the assessment for the 2024 SWEPT and collected via the final property tax bill in the fall of 2024 (TY 2024 running from April 1, 2024 through March 31, 2025). As the 2024 warrants were issued by the DRA in September 2023, the DRA is not able to request for the remittance of any excess SWEPT from the municipalities through the Tax Year 2024 SWEPT warrant as required in Section 3 of this proposed legislation. The DRA suggests additional language to be included in Section 3, amending RSA 76:8, II to allow the DRA to issue a separate warrant to collect the excess SWEPT from Tax Year 2024 that is due by March 15, 2025.
- The DRA suggests that additional language be included to require the Department of Education to provide the information of excess SWEPT to the DRA in sufficient time for DRA to issue the warrants.

Section 2 of this bill remits excess Statewide Education Property Tax (SWEPT) collected by municipalities to the education trust fund. While the proposed bill does not explicitly define “excess SWEPT”, the mechanics of how the adequacy formula interacts with SWEPT, makes excess SWEPT revenue equal to SWEPT revenue exceeding the cost of an adequate education. Using this methodology, excess SWEPT is estimated to be \$29,036,762 for FY 2025. Since the proposed bill does not reallocate the excess SWEPT funding to another program after being remitted to the education trust fund, the estimated impact is a decrease of \$29,036,762 in state expenditures, as the excess would not be kept in the form of a grant, and a decrease in local revenue in the form of a reduced state grant. Based on FY 2025 preliminary data, “excess SWEPT” by municipality is as follows:

State Total	\$29,036,762
Alton	\$1,321,539
Bartlett	\$1,323,865

Bridgewater	\$334,983
Cambridge	\$15,417
Carroll	\$490,340
Center Harbor	\$505,349
Clarksville	\$14,113
Dix's Grant	\$1,650
Dixville	\$14,553
Easton	\$26,530
Eaton	\$23,351
Errol	\$90,324
Franconia	\$235,814
Freedom	\$687,553
Gilford	\$146,240
Hale's Location	\$99,692
Harrisville	\$105,664
Hart's Location	\$24,530
Hebron	\$279,117
Holderness	\$552,461
Jackson	\$550,375
Lincoln	\$1,584,356
Martin's Location	\$105
Meredith	\$1,625,279
Millsfield	\$7,209
Moultonborough	\$5,105,266
New Castle	\$1,319,596
New London	\$1,179,248
Newbury	\$973,964
Newington	\$723,992
North Hampton	\$493,169
Odell	\$4,637
Other Unincorp. Places	\$32,514
Pinkham's Grant	\$7,480
Pittsburg	\$400,467
Portsmouth	\$803,917
Randolph	\$8,872
Rye	\$2,264,409
Sandwich	\$284,129
Success	\$21,892
Sugar Hill	\$72,606
Sunapee	\$1,557,735
Tuftonboro	\$1,396,872
Washington	\$23,342
Waterville Valley	\$504,231
Wentworth Location	\$13,217

Wolfeboro	\$1,784,796
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AGENCIES CONTACTED:

Department of Education and Department of Revenue Administration