

# Committee Report

**REGULAR CALENDAR**

**February 8, 2021**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Majority of the Committee on Science, Technology and Energy to which was referred HB 119-FN,**

**AN ACT relative to legislative approval of the New Hampshire general court for increases in the systems benefit charge. Having considered the same, report the same with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.**

**Rep. Jose Cambrils**

**FOR THE MAJORITY OF THE COMMITTEE**

**MAJORITY  
COMMITTEE REPORT**

Committee:	<b>Science, Technology and Energy</b>
Bill Number:	<b>HB 119-FN</b>
Title:	<b>relative to legislative approval of the New Hampshire general court for increases in the systems benefit charge.</b>
Date:	<b>February 8, 2021</b>
Consent Calendar:	<b>REGULAR</b>
Recommendation:	<b>INEXPEDIENT TO LEGISLATE</b>

**STATEMENT OF INTENT**

This bill attempts to remove legislative oversight of the systems benefits charge (SBC), which every NH ratepayer pays. The majority finds that legislative approval of SBC is needed to provide transparency and accountability to the voting public. The SBC funds most of the state's energy efficiency activity, as implemented through the NHSaves program, which the state's utilities administer. It currently provides \$62 million. A plan currently under review by the Public Utilities Commission would increase that funding to \$87 million in 2021, with expected additional increases in 2022 and 2023. These large increases demonstrate the need for the legislature to review and approve such proposed hikes in ratepayer costs.

Vote 11-9.

Rep. Jose Cambrils  
FOR THE MAJORITY

Original: House Clerk  
Cc: Committee Bill File

## REGULAR CALENDAR

Science, Technology and Energy

**HB 119-FN**, relative to legislative approval of the New Hampshire general court for increases in the systems benefit charge. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Jose Cambrils for the **Majority** of Science, Technology and Energy. This bill attempts to remove legislative oversight of the systems benefits charge (SBC), which every NH ratepayer pays. The majority finds that legislative approval of SBC is needed to provide transparency and accountability to the voting public. The SBC funds most of the state's energy efficiency activity, as implemented through the NHSaves program, which the state's utilities administer. It currently provides \$62 million. A plan currently under review by the Public Utilities Commission would increase that funding to \$87 million in 2021, with expected additional increases in 2022 and 2023. These large increases demonstrate the need for the legislature to review and approve such proposed hikes in ratepayer costs. **Vote 11-9.**

Original: House Clerk

Cc: Committee Bill File

**REGULAR CALENDAR**

**February 8, 2021**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Minority of the Committee on Science, Technology and Energy to which was referred HB 119-FN,**

**AN ACT relative to legislative approval of the New Hampshire general court for increases in the systems benefit charge. Having considered the same, and being unable to agree with the Majority, report with the recommendation that the bill OUGHT TO PASS.**

**Rep. Jacqueline Chretien**

**FOR THE MINORITY OF THE COMMITTEE**

## **MINORITY COMMITTEE REPORT**

Committee:	<b>Science, Technology and Energy</b>
Bill Number:	<b>HB 119-FN</b>
Title:	<b>relative to legislative approval of the New Hampshire general court for increases in the systems benefit charge.</b>
Date:	<b>February 8, 2021</b>
Consent Calendar:	<b>REGULAR</b>
Recommendation:	<b>OUGHT TO PASS</b>

### **STATEMENT OF INTENT**

This bill clarifies that the Public Utilities Commission (PUC) is empowered by the legislature to set utility rates, including the systems benefits charge (SBC). Testimony stated that the calculation of the SBC is complex, requiring deep and specialized knowledge of electric utilities and that the timely application of this expertise requires more speed and flexibility than the legislative process can supply. These conditions confirm the appropriate nature of delegating rate-setting, including the SBC, to the expertise of the PUC. The New Hampshire Constitution explicitly grants the legislature the ability to confer such authority to designated state entities for the reasons already stated.

Rep. Jacqueline Chretien  
FOR THE MINORITY

Original: House Clerk  
Cc: Committee Bill File

## REGULAR CALENDAR

Science, Technology and Energy

**HB 119-FN**, relative to legislative approval of the New Hampshire general court for increases in the systems benefit charge. **OUGHT TO PASS.**

Rep. Jacqueline Chretien for the **Minority** of Science, Technology and Energy. This bill clarifies that the Public Utilities Commission (PUC) is empowered by the legislature to set utility rates, including the systems benefits charge (SBC). Testimony stated that the calculation of the SBC is complex, requiring deep and specialized knowledge of electric utilities and that the timely application of this expertise requires more speed and flexibility than the legislative process can supply. These conditions confirm the appropriate nature of delegating rate-setting, including the SBC, to the expertise of the PUC. The New Hampshire Constitution explicitly grants the legislature the ability to confer such authority to designated state entities for the reasons already stated.

Original: House Clerk

Cc: Committee Bill File

# Voting Sheets



**HOUSE COMMITTEE ON SCIENCE, TECHNOLOGY AND ENERGY**

**EXECUTIVE SESSION on HB 119-FN**

**BILL TITLE:** relative to legislative approval of the New Hampshire general court for increases in the systems benefit charge.

**DATE:** February 8, 2021

**LOB ROOM:** 210-211 Hybrid

**MOTIONS: INEXPEDIENT TO LEGISLATE**

Moved by Rep. Cambrils

Seconded by Rep. Bernardy

Vote: 11-9

**CONSENT CALENDAR: NO**

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep Troy Merner, Acting Clerk

# Hearing Minutes

**HOUSE COMMITTEE ON SCIENCE, TECHNOLOGY AND ENERGY**

**PUBLIC HEARING ON HB 119-FN**

**BILL TITLE:** relative to legislative approval of the New Hampshire general court for increases in the systems benefit charge.

**DATE:** February 1, 2021

**LOB ROOM:** 201 Hybrid                      **Time Public Hearing Called to Order:** 3:07 p.m.

**Time Adjourned:** 4:02 p.m.

**Committee Members:** Reps. Vose, Thomas, Harrington, Notter, Merner, Berezhny, Bernardy, Cambrils, Ploszaj, White, Somssich, Cali-Pitts, Mann, Oxenham, Vincent, McGhee, McWilliams, Chretien, Pimental and Parshall

**Bill Sponsors:**

**Rep. Mann**

**Rep. McWilliams**

**TESTIMONY**

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

- Rep Mann introduced the bill
- Rep Somissich - in favor - Spoke about low income housing
- \* Joseph Kwasnik - In favor - supplied written testimony
- \* Madeleine Mineso - Speaking in favor - supplied written testimony
- \* Catherine Corkery - Supports the bill - On behalf of NH Sierra Club

# House Remote Testify

## Science, Technology and Energy Committee Testify List for Bill HB119 on 2021-02-01

Support: 11 Oppose: 1 Neutral: 0 Total to Testify: 2

<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>
kwasnik, joseph	jkwasnik25@gmail.com	603.730.7148	A Member of the Public	Myself	Support	Yes (2m)	1/31/2021 12:46 PM
Mineau, Madeleine	madeleine@cleanenergynh.org	607.592.6184	A Lobbyist	Clean Energy NH	Support	Yes (2m)	2/1/2021 8:18 AM
Corkery, Catherine	catherine.corkery@sierraclub.org	603.224.8222	A Lobbyist	NH Sierra Club	Support	Yes (2m)	2/1/2021 3:05 PM
Anderson, Keryn	kerynlanderson@gmail.com	603.731.6425	A Member of the Public	Myself	Support	No	2/1/2021 12:42 PM
Straiton, Marie	M.straiton@comcast.net	693.486.2717	A Member of the Public	Myself	Support	No	2/1/2021 1:54 PM
Wells, Ken	kenwells3@gmail.com	603.735.5756	A Member of the Public	Myself	Oppose	No	2/1/2021 4:08 PM
Corell, Elizabeth	Elizabeth.j.corell@gmail.com	603.545.9091	A Member of the Public	Myself	Support	No	2/1/2021 8:27 AM
Willing, Maura	Maura.Willing@Comcast.net	2252506	A Member of the Public	Myself	Support	No	2/1/2021 8:58 AM
Wied, Alex	gencourt.nh@centromere.net	603.674.6202	A Member of the Public	Myself	Oppose	No	2/1/2021 9:12 AM
Marks, Nisa	nisa.marks@gmail.com	703.217.3248	A Member of the Public	New Hampshire Audubon	Support	No	2/1/2021 10:14 AM
Torpey, Jeanne	jtorp51@comcast.net	603.493.8262	A Member of the Public	Myself	Support	No	2/1/2021 10:20 AM
Harley, Tina	tina.harley@leg.state.nh.us	978.457.3004	An Elected Official	Myself	Oppose	No	2/1/2021 11:38 AM
Brennan, Nancy	burningnan14@gmail.com	5291969	A Member of the Public	Myself	Support	No	2/1/2021 11:49 AM
Carter, Lilian	lcarter0914@gmail.com	603.560.7047	A Member of the Public	Myself	Support	No	2/1/2021 2:59 PM
Reardon, Donna	bugs42953@aol.com	603.224.8151	A Member of the Public	Myself	Support	No	1/31/2021 3:52 PM
Beck, Gerald	bentrimone@gmail.com	603.536.3561	A Member of the Public	Myself	Support	No	1/31/2021 7:42 PM
Garen, June	jzanesgaren@gmail.com	603.393.8134	A Member of the Public	Myself	Support	No	1/31/2021 8:18 PM
Damon, Claudia	cordsdamon@gmail.com	603.226.4561	A Member of the Public	Myself	Support	No	1/31/2021 8:27 PM
currier, dorothy	dorourr@gmail.com	603.000.0000	A Member of the Public	Myself	Support	No	1/31/2021 8:38 PM
McWilliams, Rebecca	rebecca.mcwilliams@leg.state.nh.us	603.227.6494	An Elected Official	Merrimack 27	Support	No	1/31/2021 8:42 PM
Ammon, Keith	keithammon@gmail.com	603.325.0083	An Elected Official	Myself	Oppose	No	2/1/2021 12:14 AM
Spencer, Louise	kentstusa@aol.com	603.491.1795	A Member of the Public	Myself	Support	No	1/31/2021 10:34 PM
Rathbun, Eric	ericrathbun@gmail.com	860.912.3751	A Member of the Public	Myself	Support	No	1/31/2021 10:44 PM
Spielman, Kathy	jspielman@comcast.net	603.397.7879	A Member of the Public	Myself	Support	No	2/1/2021 6:13 AM
Spielman, James	jspielman@comcast.net	603.868.1626	A Member of the Public	Myself	Support	No	2/1/2021 6:14 AM
Podlipny, Ann	apodlipny57@comcast.net	603.370.1914	A Member of the Public	Myself	Support	No	2/1/2021 6:34 AM
Oxenham, Evan	evan.oxenham@gmail.com	603.727.9368	A Member of the Public	Myself	Support	No	1/25/2021 4:59 PM
Boyle, Mary	mary.n.boyle@gmail.com	603.252.7898	A Member of the Public	Myself	Support	No	1/25/2021 5:24 PM

2/3/2021

House Remote Testify

Liebowitz, Susan	s.w.liebowitz@gmail.com	603.675.2414	A Member of the Public	Myself	Support	No	1/25/2021 8:51 PM
Tower, Stephen	stower@nhla.org	603.261.2818	A Lobbyist	New Hampshire Legal Assistance	Support	No	1/26/2021 11:11 AM
Sharf, Joanna	josharf@gmail.com	603.477.6224	A Member of the Public	Myself	Support	No	1/26/2021 7:38 PM
Richman, Susan	susan7richman@gmail.com	603.868.2758	A Member of the Public	Myself	Support	No	1/28/2021 8:55 PM
Smith, Jennifer	jaycmd7699@gmail.com	603.485.4231	A Member of the Public	Myself	Support	No	1/30/2021 10:45 AM
Potucek, John	potucek1@comcast.net	603.432.9049	An Elected Official	Myself	Oppose	No	1/31/2021 10:12 AM

# Testimony



February 1, 2021

Representative Michael Vose, Chair  
House Science, Technology, & Energy Committee  
Submitted via email

**Testimony on HB119, relative to legislative approval of the New Hampshire general court for increases in the systems benefit charge**

Dear Chairman Vose and members of the Committee,

Clean Energy NH (CENH) is a non-profit member-based organization. We are New Hampshire's leading clean energy advocate that is dedicated to supporting policies and programs that strengthen our state's economy by encouraging a transition to renewable energy and promoting energy efficiency.

**CENH strongly supports HB119 removing the requirement for legislative approval for changes to the System Benefits Charge (SBC).**

*According to RSA 374-F:3, "A nonbypassable and competitively neutral system benefits charge applied to the use of the distribution system may be used to fund public benefits related to the provision of electricity. Such benefits, **as approved by regulators**, may include, but not necessarily be limited to, programs for low-income customers, energy efficiency programs, funding for the electric utility industry's share of commission expenses pursuant to RSA 363-A, support for research and development, and investments in commercialization strategies for new and beneficial technologies."*

CENH firmly believes that the SBC is a utility rate and, like all other utility rates, is best reviewed, regulated, and approved by the regulators at the Public Utilities Commission (PUC) as has been done in the past, such as for the 2018-2020 Energy Efficiency Resource Standard (EERS) and as stated above. It is of note to point out that NH was the last state in New England to establish an EERS and that it is consistent with the State of NH's Energy Strategy to maximize all cost-effective energy efficiency.

The PUC has the staff, resources, and expertise to properly evaluate proposed changes to the SBC. Furthermore, the PUC has been clearly charged by the legislature as the authority responsible for regulating utility rates such as the SBC. As a utility rate, changes to the SBC are accompanied by extensive, highly technical supporting documentation that requires highly skilled, trained utility analysts to review. It is CENH's understanding that the legislature does not have the same access to these resources and is therefore not in a position to effectively evaluate proposed changes.



**CLEAN ENERGY NH**

Your Voice in All Energy Matters

In addition, proposed changes to the SBC are often made with the expectation of a timely review and approval process. The PUC has the well-established guidelines for review through a clear and transparent docket system that involves ample opportunity for public comment. The legislative schedule may not allow for the same timely review and approval process and therefore CENH is concerned certain programs, such as the state's energy efficiency programs, which rely on SBC funding, may suffer if review and approval are unnecessarily delayed.

The triennial EERS was formed in part to alleviate program start-stops due to budget approval delays or running out of funding that used to cause significant problems for customers and energy efficiency contractors. Having the flexibility to evaluate the SBC on an ongoing basis as necessary is an asset to the state's energy efficiency programs and is not possible due to the legislature's limited time in session.

CENH would also like to point out that although the fiscal note of this bill is described as indeterminable, and although the PUC's description of the methodology for this conclusion details how the agency is not able to project to what extent the SBC may be increased in 2024 or how electric bills may be effected, that the state's energy efficiency programs are designed to be cost-effective so that benefits outweigh costs and have the potential to significantly lower costs for all customers by reducing peak system demand.

For the reasons described above, Clean Energy NH kindly requests that you support HB119 and allow the setting of the SBC, like all utility rates, to be subject to the final approval of the rate experts at the PUC, not the legislature.

Sincerely,

Madeleine Mineau

Executive Director

Clean Energy NH

[madeleine@cleanenergynh.org](mailto:madeleine@cleanenergynh.org)

607-592-6184



January 30, 2021

Chairman Michael Vose  
Science, Technology and Energy Committee  
New Hampshire House of Representatives

RE: HB119-FN AN ACT relative to legislative approval of the New Hampshire general court for increases in the systems benefit charge-**Citizen testimony**

Dear Chairman Vose:

I am today submitting written testimony **in support** of HB119-FN. My reasons for support to the bill are as follows:

1. The New Hampshire Constitution at Part I, Article 28 reads as follows: “No subsidy, charge, tax, impost, or duty shall be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people, or their Representatives in the Legislature, ***or authority derived from that body.***”
2. The requirement for legislative approval of the New Hampshire general court contained in RSA 374-F:3, VI for increases in the systems benefits charge (SBC) was exclusively based on a mistaken reading of the New Hampshire Constitution, without regard to the last 6 words of Part I, Article 28.
3. The authority of the Public Utilities Commission (PUC) to oversee the setting of rates, and ***systems benefit charge to be included in rates*** is specifically authorized by statute in RSA 374-F:3, VI and is therefore the ***authority*** derived from the legislation pursuant to Part I, Article 28 of the New Hampshire Constitution.
4. Requiring legislative approval for increases in the SBC is inconsistent with legislation and the current function of the PUC to set rates and by extension the systems benefit charge. Surely the PUC is better situated to evaluate the needs for increases in the systems benefit charge than the New Hampshire general court and can do so in an effective and timely manner. Let the PUC do its job.

This bill ***should pass*** as it restores the language of the original restructuring legislation, which has worked well for more than 20 years since restructuring.

Thank you for the opportunity to submit this testimony.

Regards,

Joseph Kwasnik, Citizen and taxpayer  
54 Pleasant Street, Unit 8  
Concord, NH 03301  
603-730-7148

Bill as  
Introduced

HB 119-FN - AS INTRODUCED

2021 SESSION

21-0035

10/06

HOUSE BILL            ***119-FN***

AN ACT                relative to legislative approval of the New Hampshire general court for increases in the systems benefit charge.

SPONSORS:            Rep. Mann, Ches. 2; Rep. McWilliams, Merr. 27

COMMITTEE:          Science, Technology and Energy

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ANALYSIS

This bill removes the requirement for legislative approval of changes to the system benefits charge to electric consumers.

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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 Twenty One*

AN ACT                    relative to legislative approval of the New Hampshire general court for increases in the systems benefit charge.

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

1            1 Finding; Intent.

2            I. The requirement for legislative approval of the New Hampshire general court contained in  
3 RSA 374-F:3, VI for increases in the systems benefits charge was exclusively based on a mistaken  
4 reading of the New Hampshire Constitution, without regard to the last 6 words of Part I, Article 28.

5            II. Part I, Article 28 of the New Hampshire Constitution reads as follows:  
6 "No subsidy, charge, tax, impost, or duty, shall be established, fixed, laid, or levied, under any  
7 pretext whatsoever, without the consent of the people, or their Representatives in the Legislature, or  
8 authority derived from that body."

9            III. The public utilities commission is empowered and charged by law to oversee the setting  
10 of rates, and a systems benefits charge to be included in the rates is specifically authorized in  
11 statute, and is therefore authority derived from the legislature pursuant to Part I, Article 28.

12            IV. The effect of requiring legislative approval for increases in the systems benefits charge is  
13 to hinder or delay the effective and timely implementation of the Energy Efficiency Resource  
14 Standard framework established by the public utilities commission, which is a strategic program  
15 essential to the well-being of current and future New Hampshire residents. The general court  
16 hereby intends to remove such hindrance or delay.

17            2 Electric Utility Restructuring Policy Principles; System Benefits Charge. Amend RSA 374-  
18 F:3, VI to read as follows:

19            VI. Benefits for All Consumers. Restructuring of the electric utility industry should be  
20 implemented in a manner that benefits all consumers equitably and does not benefit one customer  
21 class to the detriment of another. Costs should not be shifted unfairly among customers. A  
22 nonbypassable and competitively neutral system benefits charge applied to the use of the  
23 distribution system may be used to fund public benefits related to the provision of electricity. Such  
24 benefits, as approved by regulators, may include, but not necessarily be limited to, programs for low-  
25 income customers, energy efficiency programs, funding for the electric utility industry's share of  
26 commission expenses pursuant to RSA 363-A, support for research and development, and  
27 investments in commercialization strategies for new and beneficial technologies. ~~Legislative~~  
28 ~~approval of the New Hampshire general court shall be required to increase the system benefits~~  
29 ~~charge. This requirement of prior approval of the New Hampshire general court shall not apply to~~  
30 ~~the energy efficiency portion of the system benefits charge if the increase is authorized by an order of~~

**HB 119-FN - AS INTRODUCED**

**- Page 2 -**

1 ~~the commission to implement the 3-year planning periods of the Energy Efficiency Resource~~  
2 ~~Standard framework established by commission Order No. 25,932 dated August 2, 2016, ending in~~  
3 ~~2020 and 2023, or, if for purposes other than implementing the Energy Efficiency Resource~~  
4 ~~Standard, is authorized by the fiscal committee of the general court; provided, however, that] No less~~  
5 than 20 percent of the portion of the funds collected for energy efficiency shall be expended on low-  
6 income energy efficiency programs. Energy efficiency programs should include the development of  
7 relationships with third-party lending institutions to provide opportunities for low-cost financing of  
8 energy efficiency measures to leverage available funds to the maximum extent, and shall also  
9 include funding for workforce development to minimize waiting periods for low-income energy audits  
10 and weatherization.

11       3 Effective Date. This act shall take effect 60 days after its passage.

**HB 119-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT relative to legislative approval of the New Hampshire general court for increases in the systems benefit charge.

**FISCAL IMPACT:**     State                     County                     Local                     None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	Indeterminable	Indeterminable	Indeterminable
<b>Expenditures</b>	\$0	Indeterminable	Indeterminable	Indeterminable
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Various Governmental Funds			

**COUNTY:**

<b>Revenue</b>	\$0	Indeterminable	Indeterminable	Indeterminable
<b>Expenditures</b>	\$0	Indeterminable	Indeterminable	Indeterminable

**LOCAL:**

<b>Revenue</b>	\$0	Indeterminable	Indeterminable	Indeterminable
<b>Expenditures</b>	\$0	Indeterminable	Indeterminable	Indeterminable

**METHODOLOGY:**

The Public Utilities Commission (PUC) indicates this bill would eliminate the requirement of prior approval of increases to the System Benefits Charge (SBC) following implementation of the Energy Efficiency Resource Standard in the years 2021, 2022, and 2023, and legislative fiscal committee approval of increases to the SBC for energy efficiency measures unrelated to the implementation of the Energy Efficiency Resource Standard. The PUC states it is not possible to predetermine whether and to what extent the SBC might be increased by the Commission in 2024 or beyond. As a consequence, it is not possible to determine the effect on electric bills paid by the state, county, and local governments. Likewise, it is not possible to determine whether state, county, or local governments would be eligible to receive more or less funding for energy efficiency measures as a result of this bill. Consequently, the effect of the bill on the revenues and expenditures on state, county, and local governments is indeterminate.

It is assumed that any fiscal impact would occur after July 1, 2021.

**AGENCIES CONTACTED:**

Public Utilities Commission

# Fiscal Notes