

**CONSENT CALENDAR**

**April 14, 2022**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Science, Technology and Energy to  
which was referred SB 268-FN,**

**AN ACT relative to the approval of power purchase  
agreements for offshore wind energy resources from  
the Gulf of Maine. Having considered the same, report  
the same with the recommendation that the bill OUGHT  
TO PASS.**

**Rep. Lex Berezhny**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	Science, Technology and Energy
Bill Number:	SB 268-FN
Title:	relative to the approval of power purchase agreements for offshore wind energy resources from the Gulf of Maine.
Date:	April 14, 2022
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS

### STATEMENT OF INTENT

This bill creates the necessary framework for the State of New Hampshire to claim an interest beyond the three miles out from our coast and up to 200 miles. The federal government currently has jurisdiction over waters past three miles and out to 200 miles. By asserting an interest in this area, we would have a say in any offshore wind projects that develop and be able to advocate for our fishermen and other industries that could be affected by such projects.

Vote 21-0.

Rep. Lex Berezhny  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

Science, Technology and Energy

**SB 268-FN**, relative to the approval of power purchase agreements for offshore wind energy resources from the Gulf of Maine. **OUGHT TO PASS.**

Rep. Lex Berezhny for Science, Technology and Energy. This bill creates the necessary framework for the State of New Hampshire to claim an interest beyond the three miles out from our coast and up to 200 miles. The federal government currently has jurisdiction over waters past three miles and out to 200 miles. By asserting an interest in this area, we would have a say in any offshore wind projects that develop and be able to advocate for our fishermen and other industries that could be affected by such projects. **Vote 21-0.**

Original: House Clerk

Cc: Committee Bill File

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

**EXECUTIVE SESSION on SB 268-FN**

**BILL TITLE:** relative to the approval of power purchase agreements for offshore wind energy resources from the Gulf of Maine.

**DATE:** April 12, 2022

**LOB ROOM:** 306 - 308

**MOTIONS:** OUGHT TO PASS

Moved by Rep. Berezny

Seconded by Rep. Lewicke

Vote: 21-0

**CONSENT CALENDAR: YES**

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

Respectfully submitted,

Rep Fred Plett, Clerk



2022 SESSION

## Science, Technology and Energy

 Bill #: SB 268 Motion: OTF AM #: 7:45 AM Exec Session Date: 4/12/22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Vose, Michael Chairman	21		
Thomas, Douglas W. Vice Chairman	1		
Harrington, Michael D.	2		
Notter, Jeanine M. Rep. Farp	3		
Merner, Troy E.	4		
Plett, Fred R. Clerk Rep. Sheehan	5		
Berezhny, Lex	6		
Bernardy, JD	7		
Cambrils, Jose E.	8		
Ploszaj, Tom	9		
White, Nick D.	10		
Somssich, Peter F.	11		
Cali-Pitts, Jacqueline A.	12		
Mann, John E.	13		
Oxenham, Lee Walker	14		
Lewicke, John	15		
Vincent, Kenneth S. (not here)			
McGhee, Kat	16		
McWilliams, Rebecca J. Rep. Gottlieb	17		
Chretien, Jacqueline H. Rep. Fallamone	18		
Pimentel, Roderick L.	19		

Rep en tel



2022 SESSION

Science, Technology and Energy

Bill #:	Motion:	AM #:	Exec Session Date:
Parshall, Lucius			20
<b>TOTAL VOTE:</b>			21 0

HOUSE COMMITTEE ON SCIENCE, TECHNOLOGY AND ENERGY

PUBLIC HEARING ON SB 268-FN

**BILL TITLE:** relative to the approval of power purchase agreements for offshore wind energy resources from the Gulf of Maine.

**DATE:** April 11, 2022

**LOB ROOM:** 306-308                      **Time Public Hearing Called to Order:** 9:00 a.m.

**Time Adjourned:** 9:58 a.m.

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

**Bill Sponsors:**

Sen. Watters

Sen. Avard

Sen. Kahn

Sen. Rosenwald

Sen. Whitley

Sen. Soucy

Sen. Perkins Kwoka

Sen. Sherman

Sen. Cavanaugh

Sen. D'Allesandro

Sen. Prentiss

Rep. Somssich

Rep. Wall

TESTIMONY

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

**Senator David Watters:** Bill provides for a mechanism for NH to protect its interests. Governor Sununu a leader on this, calling task force 4 years ago December 2019, next meeting May 19<sup>th</sup> this year. We want to protect our interests. Lease areas will be identified in 2024. A lot going on. Need to take actions, watch energy and environmental concerns. Need to protect NH interests. Need to protect transit in and out of harbors, and fisheries. We have 3 miles, but we can declare out to 200 miles in a process called constancy. DES and Department of Energy involved. Created a coastal fund in bill. Place to put federal funds and committee to advise. Declaration of interests on page 2. Ties into SB440 relative to the office of offshore wind industry development. Harrington – Page 1 l 3-6 – prior to approving contracts for offshore wind projects – we are now merchant solely, why do we need special provisions for offshore wind? Answer – Of course, you are right, developers develop, but we already provide direction to PUC for contracts – because offshore wind, environmental, etc. – If 30-100 miles out, we have interests that can only be regulated under consistency agreements. Direction to NHPUC as a result. Harrington – Utilities come to PUC now with agreements for power supply, this is no different really, but other states forced utilities to buy – there in no “must buy” anticipated? Answer – no. Not a mandate. Cali-Pitts – Why do we need special board to collect monies and grants? Also, fisheries, what impact this will have? Answer – We have coastal funds but if there are substantial funds coming in from offshore wind, for mitigation, how do we listen to competing interests for expenditure? This is different with respect to fisheries. This is to identify fishing areas to be protected, marine transit lanes, etc. He is on Atlantic Coast fisheries commission. Yes they do a lot to regulate, but this is different – fishing bodies are identified and protected. Somssich – clarification in bill coastal program and an agency advisory body? Answer – coastal program all set up, in stature already, within that program for this purpose, we have this body to advise how to expend funds. McGhee – Is this enabling legislation? Answer – yes. Issue of consistency extraordinary opportunity to protect our interests. Posjay – In committee, any discussion about CT wave energy? Answer – this is just about wind. Parshall – With consistency, would state be in a position to defend state with federal regulations? Answer – you can get into court if you have to. Vose – lines 8-11, talks about funds being deposited, what statute is this fund

set up? RSA 45. Line 23-25, authorizes deduction of administrative costs? How much money? Answer – I don't know. Cali-Pitts – consistency – please correct me? Will we be claiming jurisdiction out to 20m miles? Answer – it is enumerated in federal statute and rules. RI is the other state in NE that has done this. Harrington – Does this give us seat at the table? Yes.

**Mark Sanborn** Asst. Commissioner DES – Whether or not you think offshore wind a great idea, still support this bill because it protects us. The only way you can claim consistency is if in state statute. Federal government could fund offshore wind whether we like it or not, this gives us bargaining power. We can apply for consistency with NAOA. Model is RI. We are in process of reviewing RFP's. Lewicki – do we have experience? Will we be slaughtering birds? Answer – there are experiences around the world. Parshall – Suppose we decide vertical axis generators have less impact? Answer – view job as to not advocate for any particular outcome, but to relay facts. Have terrific relationship with BOEM, etc. BOEM doesn't have authority to regulate. We are maintaining a positive collaborative relationship. Parshall – is ME or MA doing the same? Yes.

**Griffin Robarge**, Department of Energy – Department is in support. Tool in toolbox.

**Rep Vose** – informal show of hands for those in support of bill – New unanimous support. He asked if anybody had feelings about exec session – Cali-Pitts – always announced. McWilliams – same. Could we put it on docket for tomorrow? OK.

Blue sheet – 33 support, 1 opposition, on-line.







# House Remote Testify

## Science, Technology and Energy Committee Testify List for Bill SB268 on 2022-04-11

Support: 33 Oppose: 1 Neutral: 0 Total to Testify: 0

[Export to Excel](#)

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Cavanaugh, Senator Kevin	Manchester, NH kevin.cavanaugh@leg.state.nh.us	An Elected Official	Myself	Support	No	No	3/30/2022 8:18 AM
Perkins Kwoka, Senator Rebecca	Portsmouth, NH Rebecca.PerkinsKwoka@leg.state.nh.us	An Elected Official	Myself	Support	No	No	3/30/2022 3:06 PM
Marks, Nisa	Henniker, NH nisa.marks@gmail.com	A Member of the Public	New Hampshire Audubon	Support	No	No	4/2/2022 7:28 PM
Rosenwald, Cindy	Nashua, NH cindy.rosenwald@leg.state.nh.us	An Elected Official	SD 13	Support	No	No	4/8/2022 12:19 PM
Beffa-Negrini, Patricia	Nelson, NH pbeffa@me.com	A Member of the Public	Myself	Support	No	No	4/8/2022 8:33 PM
Field, Bryan	PETERBOROUGH, NH brysciguy@gmail.com	A Member of the Public	Myself	Support	No	No	4/9/2022 8:09 AM
Liebowitz, Susan	Plainfield, NH supawli@hotmail.com	A Member of the Public	Myself	Support	No	No	4/9/2022 9:43 AM
Jernstedt, Margaret	Hanover, NH Margaret.Jernstedt@comcast.net	A Member of the Public	Myself	Support	No	No	4/9/2022 2:42 PM
Saum, Judith	Rumney, NH judithsaum@gmail.co,	A Member of the Public	Myself	Support	No	No	4/10/2022 7:15 AM
Glass, Jonathan	Cornish, NH jglass1063@gmail.com	A Member of the Public	Myself	Support	No	No	4/10/2022 11:03 AM
Crandell-Glass, Jane	Cornish, NH bostonjane@me.com	A Member of the Public	Myself	Support	No	No	4/10/2022 11:11 AM
Torpey, Jeanne	Concord, NH jtorp51@comcast.net	A Member of the Public	Myself	Support	No	No	4/10/2022 12:50 PM
Keeler, Margaret	New London, NH peg5keeler@gmail.com	A Member of the Public	Myself	Support	No	No	4/10/2022 2:30 PM



Hackmann, Kent	Andover, NH hackmann@uidaho.edu	A Member of the Public	Myself	Support	No	No	4/10/2022 3:27 PM
Fudge, Kim Marie	NORTH CONWAY, NH kimfudge20@gmail.com	A Member of the Public	Myself	Support	No	No	4/10/2022 3:45 PM
Hurley, Paula	Concord, NH graffymanor@comcast.net	A Member of the Public	Myself	Support	No	No	4/10/2022 3:54 PM
Moore, Susan	Franconia, NH susan.moore.franconia@gmail.com	A Member of the Public	Myself	Support	No	No	4/10/2022 4:02 PM
MacGregor, Leslie	Grantham, NH lsmacgregor@gmail.com	A Member of the Public	Myself	Support	No	No	4/10/2022 4:28 PM
Cahill-Yeaton, Miriam	Epsom, NH nmyeaton.mims@yahoo.com	A Member of the Public	Myself	Support	No	No	4/10/2022 5:16 PM
Keegan, jJohn	Boscawen, NH peoresnada@tds.net	A Member of the Public	Myself	Support	No	No	4/10/2022 6:00 PM
Moore, Ellen	Danville, NH elliemore@comcast.net	A Member of the Public	Myself	Support	No	No	4/10/2022 7:51 PM
Brennan, Nancy	Weare, NH burningnan14@gmail.com	A Member of the Public	Myself	Support	No	No	4/10/2022 8:10 PM
Richman, Susan	Durham, NH susan7richman@gmail.com	A Member of the Public	Myself	Support	No	No	4/10/2022 8:25 PM
kwasnik, joseph	concord, NH jkwasnik25@gmail.com	A Member of the Public	Myself	Support	No	No	4/10/2022 8:42 PM
Perencevich, Ruth	Concord, NH rperence@comcast.net	A Member of the Public	Myself	Support	No	No	4/10/2022 9:07 PM
Hershey, Jane	Rindge, NH janelhershey@gmail.com	A Member of the Public	Myself	Support	No	No	4/10/2022 9:29 PM
Thomas, Anne	Rindge, NH annethomasjazz@gmail.com	A Member of the Public	Myself	Support	No	No	4/10/2022 10:20 PM
Hayes, Randy	Canterbury, NH rcompostr@gmail.com	A Member of the Public	Myself	Support	No	No	4/10/2022 10:38 PM
Reed, Barbara	North Swanzey, NH BDRreed74@gmail.com	A Member of the Public	Myself	Support	No	No	4/10/2022 11:53 PM
Smith, Julie	Nashua, NH cantdog@comcast.net	A Member of the Public	Myself	Oppose	No	No	4/11/2022 5:17 AM
Ellermann, Maureen	Concord, NH ellermannf@aol.com	A Member of the Public	Myself	Support	No	No	4/11/2022 6:51 AM



Lucas, Janet	Campton, NH janluca1953@gmail.com	A Member of the Public	Myself	Support	No	No	4/11/2022 6:55 AM
Dewey, Karen	NEWPORT, NH pkdewey@comcast.net	A Member of the Public	Myself	Support	No	No	4/11/2022 7:10 AM
Baucom, Pam	Walpole, NH ptubridybaucom@gmail.com	A Member of the Public	Myself	Support	No	No	4/11/2022 7:47 AM

SB 268-FN - AS INTRODUCED

2022 SESSION

22-3012  
12/08

SENATE BILL

***268-FN***

AN ACT

relative to the approval of power purchase agreements for offshore wind energy resources from the Gulf of Maine.

SPONSORS:

Sen. Watters, Dist 4; Sen. Avar, Dist 12; Sen. Kahn, Dist 10; Sen. Rosenwald, Dist 13; Sen. Whitley, Dist 15; Sen. Soucy, Dist 18; Sen. Perkins Kwoka, Dist 21; Sen. Sherman, Dist 24; Sen. Cavanaugh, Dist 16; Sen. D'Allesandro, Dist 20; Sen. Prentiss, Dist 5; Rep. Somssich, Rock. 27; Rep. Wall, Straf. 6; Rep. Cushing, Rock. 21

COMMITTEE:

Energy and Natural Resources

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ANALYSIS

This bill directs the public utilities commission to ensure that certain requirements relative to impact and use studies are met prior to approving power purchase agreements for energy derived from the Gulf of Maine.

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 Two*

AN ACT relative to the approval of power purchase agreements for offshore wind energy resources from the Gulf of Maine.

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

1 1 New Paragraph; Power Purchase Agreements. Amend RSA 362-H:2 by inserting after  
2 paragraph V the following new paragraph:

3 VI. The public utilities commission shall ensure the provisions of RSA 485-I:5 and RSA 485-  
4 I:6, to the extent those provisions are completed, prior to approving power purchase agreements for  
5 offshore wind energy resources from the Gulf of Maine. The applicant shall fund the studies  
6 required in RSA 485-I:5 and RSA 485-I:6 and such expenses shall be a recoverable expense.

7 2 Coastal Fund. RSA 485-I:4, III is repealed and reenacted to read as follows:

8 III. All moneys collected by the state to mitigate impacts to wildlife, natural resources,  
9 ecosystems, and traditional or existing water-dependent uses, including but not limited to  
10 commercial and recreational fishing, including aquaculture, and transit lanes, shall be deposited in  
11 the fund established under paragraph I.

12 IV. There is hereby established an agency advisory board to advise the department of  
13 environmental services on the distribution moneys from the coastal fund. Members of the advisory  
14 board shall include:

- 15 (a) The commissioner of the department of environmental services, or designee;  
16 (b) The commissioner of the department of transportation, or designee;  
17 (c) The executive director of the fish and game department, or designee;  
18 (d) The commissioner of the department of energy, or designee;  
19 (e) The commissioner of the department of natural and cultural resources, or designee;  
20 (f) The director of New Hampshire homeland security and management, or designee;

21 and

- 22 (g) The commissioner of the department of business and economic affairs, or designee.

23 V. The department of environmental services may collect a reasonable administrative  
24 charge, not to exceed 10 percent, on moneys in the fund appropriated to the department to ensure  
25 their proper oversight and administration.

26 3 New Sections; Coastal Zone Management. Amend RSA 485-I by inserting after section 4 the  
27 following new sections:

28 485-I:5 Geographic Location Description

29 I. The coastal program shall develop and seek approval from the National Oceanic and  
30 Atmospheric Administration (NOAA) for a geographic location description (GLD), as described in 15

1 C.F.R. 930.53, for certain activities in federal waters, including but not limited to the development of  
2 offshore wind energy in the Gulf of Maine, deemed to have reasonably foreseeable effects on New  
3 Hampshire's coastal resources and/or uses.

4 II. The coastal program shall conduct an effects analysis as described in 15 C.F.R. 923.84(d),  
5 to identify:

6 (a) The affected uses, such as:

7 (1) Commercial and recreational fishing and associated infrastructure, boating,  
8 tourism, shipping, and energy facilities, and

9 (2) Affected resources, such as fish, marine mammals, reptiles, birds, habitats, and  
10 landmarks.

11 (b) Where and in what densities the resources and uses are found.

12 (c) How the state has a specific interest in the resources or uses.

13 (d) Where the proposed activity overlaps with the resources and uses.

14 (e) Impacts to the resources or uses from the proposed activity.

15 (f) A reasonable showing of a causal connection to the proposed activity, including how  
16 the impacts from the activity results in reasonably foreseeable effects on the state's coastal resources  
17 or uses.

18 (g) Why any required mitigation may be inadequate.

19 (h) Empirical data and information that supports the effects analysis and can be shown  
20 to be reliable, visualizes the affected areas, resources and use with maps, and shows values, trends,  
21 and vulnerabilities.

22 III. The coastal program and fish and game department shall collaborate as necessary with  
23 New Hampshire Sea Grant, and other stakeholders, to develop a GLD, and to identify the partners,  
24 including New Hampshire's commercial and recreational fishing community, and resources needed  
25 to develop the GLD.

26 485-I:6 Additional Studies or Mitigation.

27 I. For the purposes of this section, "mitigation" means actions or impact fees relative to  
28 coastal resources or uses, including wildlife, natural resources, ecosystems, and traditional or  
29 existing water- dependent uses, including but not limited to, commercial and recreational fishing,  
30 including aquaculture, and transit lanes that cannot be avoided or minimized.

31 II. The coastal program in coordination with the fish and game department and other  
32 relevant state agencies shall determine, in consultation with the impacted communities, whether  
33 additional studies and/or mitigation are required under proposals for offshore wind development in  
34 the Gulf of Maine. Any required studies or mitigation shall be included in agreements with  
35 developers of offshore wind energy in the Gulf of Maine and the power purchase agreements for Gulf  
36 of Maine renewable energy resources.

37 4 Effective Date. This act shall take effect 60 days after its passage.

**SB 268-FN- FISCAL NOTE  
 AS INTRODUCED**

**AN ACT** relative to the approval of power purchase agreements for offshore wind energy resources from the Gulf of Maine.

**FISCAL IMPACT:**  State  County  Local  None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0	\$0
<b>Funding Source:</b>	<input type="checkbox"/> General Fund (RSA 485-1:4)	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other - Coastal

**METHODOLOGY:**

This bill directs the public utilities commission to ensure that certain requirements relative to impact and use studies are met prior to approving power purchase agreements for energy derived from the Gulf of Maine.

The Department of Energy indicates the fiscal impact of this bill depends on whether there are purchase power agreements (PPAs) to procure power from an offshore wind development, how many, and the number of utilities requesting approval of PPAs. If no PPAs are executed, then there is no cost. If a PPA is entered into, then all of the costs associated would be covered by revenue from the utility. The utility would then be allowed to recover those expenses through the rates they charge utility customers, including the state, county, and local governments. The impact on electric rates as a result of the bill is indeterminable.

The Department of Environmental Services indicates the purpose of this bill is to provide a mechanism to collect and distribute funds generated through mitigation requirements related to the development of offshore wind energy. The future development of offshore wind energy in the Gulf of Maine may have unforeseen impacts on ocean users, such as the commercial fishing industry. The federal permits that allow for the energy development may require mitigation of those impacts. This bill would have those dollars deposited in the Coastal Fund. At this time, the best estimate of when offshore wind development would actually occur is a minimum of 5 years from now. As such, it is not possible at this moment to determine the scope, locations, and potential impacts of those facilities. It is also unknown today the number of ocean users who



could be impacted. Because of these unknowns, both revenue and expenditure predictions are indeterminable. Further, the likely timing of those revenues and expenditures is beyond 2025. The bill only refers to the state; counties and localities are not included nor are they likely to be impacted ocean users or wind energy developers.

It is assumed that any fiscal impact would occur after FY 2022.

**AGENCIES CONTACTED:**

Departments of Energy and Environmental Services