

LEGISLATIVE COMMITTEE MINUTES

# **HB1258**

# Bill as Introduced

HB 1258 - AS AMENDED BY THE HOUSE

17Mar2022... 0851h

2022 SESSION

22-2162  
12/10

HOUSE BILL            **1258**

AN ACT                relative to the implementation of the department of energy.

SPONSORS:            Rep. Harrington, Straf. 3; Rep. Vose, Rock. 9

COMMITTEE:           Science, Technology and Energy

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ANALYSIS

This bill makes various changes to amend the powers and duties of the public utilities commission and the department of energy.

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                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT relative to the implementation of the department of energy.

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

1 1 Department of Energy; General Provisions. Amend RSA 12-P:3, II to read as follows:

2 II. The department of energy is authorized to work with the department of business and  
3 economic affairs, **the public utilities commission**, and the department of administrative services  
4 to coordinate the implementation of the establishment of the department, and to transfer  
5 appropriations and create the proper expenditure lines, if needed, for the establishment of their  
6 respective operations, including but not limited to the relocation of personnel, work stations, books,  
7 papers, personnel record files, and equipment, with the approval of the governor and council and of  
8 the director of personnel.

9 2 New Paragraph; Department of Energy; General Provisions. Amend RSA 12-P:3 by inserting  
10 after paragraph II the following new paragraph:

11 III. The department shall have the authority to petition for any proceeding before the public  
12 utilities commission and shall automatically be a party to all proceedings before the commission.  
13 Any person or party that initiates a proceeding before the public utilities commission by petition or  
14 otherwise shall provide a copy to the department at the time of filing. Any person or party filing  
15 confidential information in any proceeding in which the department may appear, or exchanging  
16 confidential information in discovery or otherwise, shall provide the department with such  
17 confidential information. In adjudicative proceedings as defined by RSA 541-A:1, I, the public  
18 utilities commission and the department shall be subject to RSA 541-A:36.

19 3 Department of Energy; Duties of the Commissioner. Amend RSA 12-P:5, IV to read as follows:

20 IV. Have the authority to adopt rules, pursuant to RSA 541-A, necessary to assure the  
21 continuance or granting of federal funds or other assistance intended to promote the administration  
22 of this chapter, not otherwise provided for by law, and to adopt all rules necessary to implement the  
23 specific statutes administered by the department or by any division or unit within the department,  
24 whether the rulemaking authority delegated by the legislature is granted to the commissioner, the  
25 department, or any administrative unit or subordinate official of the department. **Where the**  
26 **commissioner has adopted rules under this paragraph, the department shall not be subject**  
27 **to RSA 541-A:29 or RSA 541-A:29-a.**

28 4 Department of Energy; Duties of the Commissioner. Amend RSA 12-P:5, VII to read as  
29 follows:

30 VII. Ensure that the department provides all necessary support to the public utilities  
31 commission, the site evaluation committee, office of the consumer advocate, and any other entity

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1 that is administratively attached to the department~~[, provided that, other than for administrative~~  
2 ~~functions, department employees shall not communicate with the public utilities commission and its~~  
3 ~~staff in connection with any issue in a matter pending before the commission or the department,~~  
4 ~~except upon notice and opportunity for all parties to participate].~~

5 5 Regulatory Support; Reference Deleted. Amend RSA 12-P:9 to read as follows:

6 12-P:9 Division of Regulatory Support. There is established within the department the division  
7 of regulatory support, under the supervision of an unclassified director of the division of regulatory  
8 support. The division, through its officials, shall be responsible for all functions, duties, and  
9 responsibilities which may be assigned to it by the commissioner or laws enacted by the general  
10 court. ~~[The division shall automatically be a party to all proceedings before the public utilities~~  
11 ~~commission.]~~

12 6 Department of Energy; Transfer of Rules, Orders, Approvals. Amend RSA 12-P:14 to read as  
13 follows:

14 12-P:14 Transfer of Rules, Orders, Approvals. Existing rules, orders, and approvals of the  
15 public utilities commission which are associated with any functions, powers, and duties, transferred  
16 to the department of energy pursuant to RSA 12-P:11 or any other statutory provision, shall  
17 continue in effect *notwithstanding any provision of RSA 541-A:17, II to the contrary*, and be  
18 enforced by the commissioner of the department of energy *or the commission, as applicable*, until  
19 they *otherwise* expire or are repealed or amended in accordance with applicable law, *or for a*  
20 *period of 5 years, whichever occurs first. To the extent the department acts pursuant to*  
21 *existing rule, order, or approval, the department shall not be subject to RSA 541-A:29 or*  
22 *RSA 541-A:29-a.*

23 7 Energy Efficiency and Sustainable Energy Board. RSA 125-O:5-a, II is repealed and reenacted  
24 to read as follows:

25 II. The members of the board shall be as follows:

- 26 (a) The commissioner of the department of energy, or designee.  
27 (b) The consumer advocate, or designee.  
28 (c) The commissioner of the department of environmental services, or designee.  
29 (d) The commissioner of the department of business and economic affairs, or designee.  
30 (e) The president of the Business and Industry Association of New Hampshire, or  
31 designee.  
32 (f) The executive director of the New Hampshire Municipal Association, or designee.  
33 (g) The executive director of New Hampshire Legal Assistance, or designee.  
34 (h) The president of the Homebuilders and Remodelers Association of New Hampshire,  
35 or designee.  
36 (i) Two members of the house committee with jurisdiction over energy matters,  
37 appointed by the speaker of the house of representatives.

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1 (j) One member of the senate committee with jurisdiction over energy matters,  
2 appointed by the president of the senate.

3 (k) Three representatives from not-for-profit groups representing energy, environmental,  
4 consumer, or public health issues and knowledgeable in energy conservation policies and programs,  
5 appointed by the commissioner of the department of energy.

6 (l) The commissioner of the department of administrative services, or designee.

7 (m) The state fire marshal, or designee.

8 (n) The executive director of the New Hampshire housing finance authority, or designee.

9 8 Regional Greenhouse Gas Initiative; Carbon Dioxide Emissions Budget Trading Program.  
10 Amend the introductory paragraph of RSA 125-O:21, VI to read as follows:

11 VI. The department and the [~~commission~~] **department of energy** shall report on an annual  
12 basis to the air pollution advisory committee under RSA 125-J:11, and the legislative oversight  
13 ~~committee~~ to monitor the transformation of delivery of electric services under RSA 374-F:5, on the  
14 status of the implementation of RGGI in New Hampshire, with emphasis on the prices and  
15 availability of RGGI allowances to affected CO2 sources, consumer protection mechanisms, and the  
16 trends in electric rates for New Hampshire businesses and ratepayers. The report shall include but  
17 not be limited to:

18 9 Regional Greenhouse Gas Initiative; Carbon Dioxide Emissions Budget Trading Program.  
19 Amend the introductory paragraph of RSA 125-O:21, VIII to read as follows:

20 VIII. Any actions taken under this subdivision by the department, **the department of**  
21 **energy**, or the commission shall not constitute a waiver of sovereign immunity and shall not be  
22 deemed consent to suit outside of New Hampshire.

23 10 Regional Greenhouse Gas Initiative; Compliance. Amend RSA 125-O:22, IV to read as  
24 follows:

25 IV. No person shall operate an affected CO2 source without a temporary or operating permit  
26 issued by the department in accordance with this chapter and RSA 125-C. An affected CO2 source  
27 that is in operation upon the effective date of this subdivision, shall submit a complete application  
28 for a permit modification to the department no later than January 1, 2009. Applications for permits  
29 shall be upon such forms, and shall include such information as the commissioner **of the**  
30 **department of environmental services** requires under rules adopted pursuant to RSA 541-A. The  
31 commissioner **of the department of environmental services** shall act upon a permit application  
32 within a reasonable period of time.

33 11 Energy Efficiency Fund and Use of Proceeds. Amend the introductory paragraph of RSA 125-  
34 O:23, III to read as follows:

35 III. All remaining proceeds received by the state from the sale of allowances, excluding the  
36 amount used for department of energy and department of environmental services administration  
37 under paragraph I, shall be allocated by the [~~commission~~] **department of energy** as follows:

*and the legislative oversight committee*  
*and to the chair of house energy committee*  
*ENR*

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1           12 Energy Efficiency Fund and Use of Proceeds; Bidding Criteria. Amend the introductory  
2 paragraph of RSA 125-O:23, III(c) to read as follows:

3           (c) The remainder to all-fuels, comprehensive energy efficiency programs administered  
4 by qualified parties which may include electric distribution companies as selected through a  
5 competitive bid process. The funding shall be distributed among residential, commercial, and  
6 industrial customers based upon each customer class's electricity usage to the greatest extent  
7 practicable as determined by the ~~[commission]~~ **department of energy**. Bids shall be evaluated  
8 based on, but not limited to, the following criteria:

9           13 Energy Efficiency Fund and Use of Proceeds; Annual Report. Amend RSA 125-O:23, V(e) to  
10 read as follows:

11           (e) Other data as required by the ~~[commission]~~ **department of energy** in order to  
12 determine program effectiveness.

13           14 Regional Greenhouse Gas Initiative; Review of the New Hampshire RGGI Program. Amend  
14 RSA 125-O:27 to read as follows:

15           125-O:27 Review of the New Hampshire RGGI Program. At the time of each comprehensive  
16 review by the participating states, the ~~[commission]~~ **department of energy** and the department  
17 shall concurrently review New Hampshire specific elements of the RGGI program, and include the  
18 results of such review and any recommendations for revisions to the New Hampshire regional  
19 greenhouse gas initiative program under RSA 125-O:19-29, resulting from this review in the  
20 agencies' annual report under RSA 125-O:21, VI.

21           15 Reference Change. Amend RSA 362-F:4, V to read as follows:

22           V. For good cause, and after notice and hearing, the ~~[commission]~~ **department of energy**  
23 may accelerate or delay by up to one year, any given year's incremental increase in class I or II  
24 renewable portfolio standards requirement under RSA 362-F:3.

25           16 Final Orders Issued by the Public Utilities Commission. Amend RSA 363:17-b to read as  
26 follows:

27           363:17-b Final Orders. The commission shall issue a final order on all matters presented to it.  
28 Matters resolved by final order of the commission shall be exempt from RSA 541-A:29 and RSA 541-  
29 A:29-a, but shall be subject to federal and state time limitations applicable to specific matters. The  
30 transcript or minutes of oral deliberations shall not constitute a final order. A final order shall  
31 include, but not be limited to:

32           I. The identity of all parties;

33           II. ~~[The positions of each party on each issue;~~

34           ~~III.]~~ A decision on each issue including the reasoning behind the decision; and

35           ~~[IV.]~~ **III.** The concurrence or dissent of each commissioner participating in the decision.

36           17 Expenses of the Public Utilities Commission Against Certain Utilities; Assessment. Amend  
37 RSA 362-A:2, II-III to read as follows:

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1 II. To facilitate the revenue calculations required under this chapter, entities described in  
2 subparagraph I(d) or their registered telecommunications carrier affiliates shall file with the  
3 [~~commission~~] **department of energy** confidential annual reports of the retail telephone service  
4 revenue of such entities, and entities described in subparagraph I(e) shall file with the [~~commission~~]  
5 **department of energy** confidential annual reports of sales volume and revenues, by customer class,  
6 and separately identifying the total revenues received from the distribution customers of each  
7 electric or natural gas distribution utility or the members of each rural electric cooperative for which  
8 a certificate of deregulation is on file with the commission. All other utilities and other assessed  
9 entities shall file information in accordance with applicable [~~commission~~] **department of energy**  
10 rules.

11 III. Each entity described in subparagraph I(e) shall be assessed the sum of \$10,000 on an  
12 annual basis and shall pay such assessed sum to the department of energy. Each electric load  
13 aggregator, and each aggregator of natural gas customers shall be assessed the sum of \$2,000 on an  
14 annual basis and shall pay such assessed sum to the department of energy. Each  
15 telecommunications carrier voluntarily registered with the [~~commission~~] **department of energy**  
16 shall be assessed the sum of \$1,000 on an annual basis and shall pay such sum to the department of  
17 energy.

18 18 Expenses of the Public Utilities Commission Against Certain Utilities; Assessment. Amend  
19 RSA 362-A:2, VI to read as follows:

20 VI. A minimum amount shall be assessed to utilities and other assessed entities described in  
21 paragraph I having minimal revenues in such proportion as the [~~public utilities commission~~]  
22 **department of energy** shall determine to be fair and equitable, provided that the minimum amount  
23 assessed to any entity to which subparagraphs I(c) or (d) applies shall not be less than \$1,000.

24 19 Procedures for Termination of Certain Utility Services. Amend RSA 363-B:1, III to read as  
25 follows:

26 III. Notwithstanding the foregoing, a gas or electric public utility may terminate service to a  
27 residential customer without prior notice to the customer or the [~~commission~~] **department** when:

- 28 (a) There exists unauthorized or fraudulent use or procurement of utility service;  
29 (b) A condition dangerous to the health, safety, or utility service of others exists;  
30 (c) There is a clear and present danger to life, health, or physical property; or  
31 (d) The customer has clearly abandoned the premises.

32 The utility shall notify the [~~commission~~] **department** after it has terminated service for any of  
33 these reasons.

34 20 Conference Provided. Amend RSA 363-B:2 to read as follows:

35 363-B:2 Conference Provided.

36 I. Any person who receives a notice of intent to terminate service pursuant to RSA 363-B:1  
37 and believes such proposed termination to be unjustified may request, prior to the date specified in



1 the termination notice, a conference with the utility company involved to review the basis for the  
 2 proposed termination. The conference with the utility company shall be conducted in person, by  
 3 writing or by telephone as the customer may elect. If the customer is dissatisfied with the outcome  
 4 of the conference he may, within 3 days after the conference if the conference is conducted in person,  
 5 or within 5 days after the conference if the conference is conducted by writing or by telephone,  
 6 request a conference with a staff member of the ~~[commission]~~ **department of energy** to review the  
 7 basis for the proposed termination. The conference with the ~~[commission]~~ **department** may be  
 8 conducted by writing or by telephone if the customer so elects.

9 II. In the event of a request for a conference with the public utility, the public utility shall  
 10 continue service to the customer for 3 days after the conference if the conference was conducted in  
 11 person, or for 5 days after the conference if the conference was conducted by writing or by telephone,  
 12 or to the date specified in the notice of termination, whichever comes later.

13 III. During the conference with the utility company, the utility company shall inform the  
 14 customer of his right to request a conference with a staff member of the ~~[commission]~~ **department**  
 15 **of energy**. If the conference with the utility company is conducted in person, the customer shall be  
 16 furnished a form for requesting a conference with a staff member of the ~~[commission]~~ **department**  
 17 during the conference. If the conference with the utility company is conducted by writing or by  
 18 telephone, the utility company shall mail the form to the customer by regular mail on the same day  
 19 as the conference. In the event of a request for a conference with a staff member of the ~~[commission]~~  
 20 **department**, the public utility shall continue service to the customer until such time as the staff  
 21 member or the ~~[commission]~~ **department** determines that termination is justified.

22 21 Investigations by the Department of Energy. Amend RSA 365:4 to read as follows:

23 365:4 Investigation. If the charges are not satisfied as provided in RSA 365:3, and it shall  
 24 appear to the department of energy that there are reasonable grounds therefor, it shall investigate  
 25 the same in such manner and by such means as it shall deem proper. After investigation, the  
 26 department of energy may bring proceedings on its own motion before the public utilities  
 27 commission, with respect to any complaint or violation of any provision of law, rule, terms and  
 28 conditions of its franchises or charter, or any order of the commission. ***If the party bringing the***  
 29 ***complaint is unsatisfied with the disposition of the complaint by the department of energy,***  
 30 ***then they may petition the public utilities commission to resolve the matter through an***  
 31 ***adjudicative proceeding.***

32 22 Rights in Public Waters and Lands; Licenses for New Poles. Amend RSA 371:17 to read as  
 33 follows:

34 371:17 Licenses for New Poles. Whenever it is necessary, in order to meet the reasonable  
 35 requirements of service to the public, that any public utility should construct a pipeline, cable, or  
 36 conduit, or a line of poles or towers and wires and fixtures thereon, over, under or across any of the  
 37 public waters of this state, or over, under or across any of the land owned by this state, ***modify a***

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1 *previously licensed installation, or license a previously constructed installation*, it shall  
2 [~~petition~~] *apply to* the department of energy for a license to construct and maintain the same. For  
3 the purposes of this section, "public waters" are defined to be all ponds of more than 10 acres,  
4 tidewater bodies, and such streams or portions thereof as the department of energy may prescribe.  
5 Every corporation and individual desiring to cross any public water or land for any purpose herein  
6 defined shall [~~petition~~] *apply to* the department of energy for a license in the same manner  
7 prescribed for a public utility. *The department of energy may condition any license issued*  
8 *under this paragraph in any manner necessary to assure that the license may be exercised*  
9 *without substantially affecting the public rights in public waters or state-owned lands.*  
10 *Using a non-adjudicative process, the department of energy may reject incomplete or*  
11 *improperly filed applications, and shall, also using non-adjudicative process, issue or deny*  
12 *the license within 90 days of receiving a complete application and all information*  
13 *subsequently requested of an applicant.*

14 23 Rights in Public Waters and Lands; Notice of License Issuance and Right to Appeal. RSA  
15 371:19 through RSA 371:23 are repealed and reenacted to read as follows:

16 371:19 Notice of License Issuance and of Right to Appeal. The department of energy shall  
17 publish notice of the license on its website and cause due notice of said issuance to be given to the  
18 attorney general as representative of the state, and to such owners of lands bordering the location of  
19 a state water crossing as the department of energy may designate. Said notice shall refer to the  
20 license and inform persons of the rights of appeal in RSA 371:20. The department of energy shall  
21 provide similar notice directly to applicants.

22 371:20 Rights of Appeal, Notice, and Order. Applicants and other persons directly affected by a  
23 decision of the department of energy to issue or deny a license may appeal a department decision to  
24 the public utilities commission within 30 days of the department's decision, and not thereafter.  
25 Whenever an appeal is timely filed, the commission shall hear all parties directly affected, except  
26 with respect to applicable safety standards and the applicability and validity of any department of  
27 energy rule. The commission may rescind the license or remand to the department of energy with  
28 instructions to issue, modify, or condition a license in any manner found necessary by the  
29 commission to assure that the license may be exercised without substantially affecting the public  
30 rights in public waters or state-owned lands. There shall be no right to appeal licenses issued for the  
31 exclusive purpose of furnishing facilities or utility services to the state or with regard to licenses  
32 issued to relocate facilities when the relocation is at the request of the state and the department of  
33 energy has limited the duration of the license to two years or less. Notwithstanding the foregoing,  
34 the attorney general and owners of lands bordering the location of a public water crossing may  
35 appeal for the sole purpose of determining damages and compensation pursuant to RSA 371:21. The  
36 commission shall publish notice of the appeal and any related hearing on its website, provide notice

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1 of a contested case as required under RSA 541-A, and may require such additional notice as it deems  
2 proper.

3 371:21 Damages and Compensation. Whenever an appeal is timely filed, the commission shall,  
4 upon request of an affected property owner, determine the compensation, if any, to be paid to the  
5 owner of land bordering the site of a public water crossing for any damages caused by the  
6 continuation and maintenance of any structures, facilities or equipment installed in connection with  
7 the crossing, subject to appeal as provided in RSA 371:10. The commission shall also determine the  
8 amount of compensation to be paid to the state for rights on public waters or public lands as  
9 provided in section 371:20.

10 371:22 Rulemaking Authority. The department of energy is authorized to adopt rules to  
11 implement this chapter, and shall initiate a formal rulemaking process no later than December 31,  
12 2023. Until the department adopts rules, applicants shall apply for a license by petitioning the  
13 department of energy in the same manner as under prior law. The time limits stated in this chapter  
14 shall apply notwithstanding RSA 541-A:29, and the department shall not be subject to RSA 541-  
15 A:29-a. The commission may utilize its rules governing adjudicative proceedings for hearings and is  
16 authorized to adopt rules regarding appeals and compensation to be paid under this chapter.

17 371:23 Compensation to State. Any compensation payable to the state on account of any such  
18 license shall be paid to the state treasurer and, if derived from licenses affecting state forests or  
19 forestry reservations, shall be added to the forest improvement fund; otherwise, it shall be a part of  
20 the general funds of the state.

21 24 Investigation of Other Utilities. Amend RSA 374:7 to read as follows:

22 374:7 Investigation of Other Utilities; Orders. The commission and the department of energy  
23 shall have power to investigate and ascertain, from time to time, the quality of gas supplied by  
24 public utilities and the methods employed by public utilities in manufacturing, transmitting or  
25 supplying gas or electricity for light, heat or power, or in transmitting telephone and telegraph  
26 messages, or supplying water, and, after notice and hearing thereon, *the commission* shall have  
27 power to order all reasonable and just improvements and extensions in service or methods.

28 25 Reference Change; Service Territories Served by Certain Telephone Utilities. Amend RSA  
29 374:22-g, II to read as follows:

30 II. In determining the public good, the [~~commission~~] *department of energy* shall consider  
31 the interests of competition with other factors including, but not limited to, fairness; economic  
32 efficiency; universal service; carrier of last resort obligations; the incumbent utility's opportunity to  
33 realize a reasonable return on its investment; and the recovery from competitive providers of  
34 expenses incurred by the incumbent utility to benefit competitive providers, taking into account the  
35 proportionate benefit or savings, if any, derived by the incumbent as a result of incurring such  
36 expenses.

37 26 Pole Attachments. Amend RSA 374:34-a, VIII to read as follows:

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1 VIII. The department of energy and the *public utilities commission* shall retain [its]  
2 *their* authority to regulate the safety, vegetation management, emergency response, and storm  
3 restoration requirements for poles, conduits, ducts, pipes, pole attachments, wires, cables, and  
4 related plant and equipment of public utilities and other private entities located within public rights-  
5 of-way and on, over, or under state lands and water bodies.

6 27 Restructuring Policy Principals; Open Access. Amend RSA 374-F:3, IV to read as follows:

7 IV. Open Access to Transmission and Distribution Facilities. Non-discriminatory open  
8 access to the electric system for wholesale and retail transactions should be promoted.  
9 [~~Comparability should be assured for generators competing with affiliates of groups supplying~~  
10 ~~transmission and distribution services. Companies providing transmission services should file at the~~  
11 ~~FERC or with the commission, or with the department of energy, as appropriate, comparable service~~  
12 ~~tariffs that provide open access for all competitors.] The commission and the department should  
13 monitor companies providing transmission or distribution services and take necessary measures to  
14 ensure that no supplier has an unfair advantage in offering and pricing such services.~~

15 28 Electric Utility Restructuring; Ratepayer Protection. Amend RSA 374-F:4-b, IV-V to read as  
16 follows:

17 IV. Unless the contract specifies a month-to-month variable rate, no competitive electric  
18 supplier shall charge a residential customer a variable rate, including during a contract term or  
19 following the expiration of a contract, without first providing written notification in a form approved  
20 by the [~~commission~~] *department of energy* of the nature of such variable rate 45 days prior to the  
21 commencement of the variable rate. The residential customer shall select the method of written  
22 notification at the time the contract is signed. Such customer shall have the option to change the  
23 method of notification at any time during the contract.

24 V. Competitive electric suppliers shall retain records of any of the notices required in this  
25 section for a period of not less than 2 years and shall make such records available to the  
26 [~~commission~~] *department of energy* upon its request.

27 29 Implementation of Retail Choice. Amend RSA 374-F:4, VIII(f) to read as follows:

28 (f) Beginning in 2000, [~~the commission and~~] the department shall submit a report to the  
29 legislative oversight committee to monitor the transformation of delivery of electric services by  
30 October 1 of each year. The report shall concern the results and effectiveness of the system benefits  
31 charge.

32 30 Electric Utility Restructuring; Participation in Regional Activities. Amend RSA 374-F:8 to  
33 read as follows:

34 374-F:8 Participation in Regional Activities. The department shall advocate for New Hampshire  
35 interests before the Federal Energy Regulatory Commission and other regional and federal bodies.  
36 The commission shall participate in the activities of the New England Conference of Public Utility  
37 Commissioners, and the National Association of Regulatory Utility Commissioners *as the New*

1 **Hampshire member agency**, and the department shall participate in the activities of the New  
 2 England States Committee on Electricity, or other similar organizations **as the New Hampshire**  
 3 **member agency**, and work with the New England Independent System Operator and NEPOOL to  
 4 advance the interests of New Hampshire with respect to wholesale electric issues, including policy  
 5 goals relating to fuel diversity, renewable energy, and energy efficiency, and to assure  
 6 nondiscriminatory open access to a safe, adequate, and reliable transmission system at just and  
 7 reasonable prices. **Employees of the commission and the department are not otherwise**  
 8 **prohibited from participating in the activities of the aforementioned organizations in**  
 9 **which the other agency has the lead role.** The department shall advocate against proposed  
 10 regional or federal rules or policies that are inconsistent with the policies, rules, or laws of New  
 11 Hampshire. In its participation in regional activities, the commission and the department shall  
 12 consider how other states' policies will impact New Hampshire rates and work to prevent or  
 13 minimize any rate impact the commission or department determines to be unjust or unreasonable.

14 31 Reference Change; Investigations of Energy Storage. Amend RSA 374-H:3 to read as follows:  
 15 374-H:3 [~~Commission~~] **Department of Energy** Investigation of Energy Storage.

16 I. The [~~commission~~] **department of energy** shall investigate ways to enable energy storage  
 17 projects to receive compensation for avoided transmission and distribution costs, including avoided  
 18 regional and local network service charges, while also participating in wholesale energy markets.  
 19 The [~~commission~~] **department** shall investigate how this might be done for both utility-owned and  
 20 non-utility-owned energy storage projects, as well as for both behind-the-meter storage and front-of-  
 21 the-meter storage.

22 II. The [~~commission's~~] **department's** investigative proceeding shall specifically consider the  
 23 following:

24 (a) How public policy can best establish accurate and efficient price signals for energy  
 25 storage projects that avoid actual transmission and distribution costs or reduce wholesale electricity  
 26 market prices.

27 (b) How to compensate energy storage projects that participate in wholesale electricity  
 28 markets for actual avoided transmission and distribution costs in a manner that provides net  
 29 savings to consumers.

30 (c) How best to encourage both utility and non-utility investments in energy storage  
 31 projects.

32 (d) The costs and benefits of a potential bring your own device program; how such a  
 33 program might be implemented; any statutory or regulatory changes that might be needed to create,  
 34 facilitate, and implement such a program; and whether such a program should include all  
 35 distributed energy resources or be limited to distributed energy storage projects.

36 (e) Any statutory changes the general court should implement, including but not limited  
 37 to changes to or exceptions from RSA 374-F or RSA 374-G, to enable energy storage projects to

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1 receive appropriate compensation for actual avoided transmission and distribution costs while also  
2 participating in wholesale energy markets.

3 (f) Any other topic the [~~commission~~] *department* reasonably believes it should consider  
4 in order to diligently conduct the proceeding.

5 III. The [~~commission~~] *department* shall report its findings and recommendations to the  
6 standing committees of the house of representatives and senate with jurisdiction over energy and  
7 utility matters no later than 2 years after initiating the proceeding. The report shall identify ways  
8 any recommended statutory changes can minimize any potential conflict with the restructuring  
9 policy principles of RSA 374-F.

10 32 Reference Change; State Operating Budget. The commissioner of the department of  
11 administrative services shall change the title of organization code 1892 from adjudicative  
12 commissioners to the public utilities commission.

13 33 Repeals. The following are repealed:

14 I. RSA 12-P:12, relative to prohibited service.

15 II. RSA 371:17-a, relative to new attachments on existing utility poles.

16 III. RSA 371:17-b, relative to temporary licenses for existing crossings on existing poles.

17 IV. RSA 371:18, relative to exceptions to hearing requirements.

18 V. RSA 374-F:3, V(b), relative to transition service.

19 34 Effective Date. This act shall take effect 60 days after its passage.

HB 1258 - AS AMENDED BY THE SENATE

17Mar2022... 0851h  
05/05/2022 1824s

2022 SESSION

22-2162  
12/10

HOUSE BILL **1258**

AN ACT relative to the implementation of the department of energy and relative to the definition of "municipal host" for purposes of limited electrical energy producers.

SPONSORS: Rep. Harrington, Straf. 3; Rep. Vose, Rock. 9

COMMITTEE: Science, Technology and Energy

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AMENDED ANALYSIS

This bill makes various changes to amend the powers and duties of the public utilities commission and the department of energy. This bill also amends the definition of "political subdivision," as used in the definition of a "municipal host."

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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.

HB 1258 - AS AMENDED BY THE SENATE

17Mar2022... 0851h  
05/05/2022 1824s

22-2162  
12/10

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT                   relative to the implementation of the department of energy and relative to the definition of "municipal host" for purposes of limited electrical energy producers.

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

1           1 Department of Energy; General Provisions. Amend RSA 12-P:3, II to read as follows:

2           II. The department of energy is authorized to work with the department of business and  
3 economic affairs, ***the public utilities commission***, and the department of administrative services  
4 to coordinate the implementation of the establishment of the department, and to transfer  
5 appropriations and create the proper expenditure lines, if needed, for the establishment of their  
6 respective operations, including but not limited to the relocation of personnel, work stations, books,  
7 papers, personnel record files, and equipment, with the approval of the governor and council and of  
8 the director of personnel.

9           2 New Paragraph; Department of Energy; General Provisions. Amend RSA 12-P:3 by inserting  
10 after paragraph II the following new paragraph:

11           III. The department shall have the authority to petition for any proceeding before the public  
12 utilities commission and shall automatically be a party to all proceedings before the commission.  
13 Any person or party that initiates a proceeding before the public utilities commission by petition or  
14 otherwise shall provide a copy to the department at the time of filing. Any person or party filing  
15 confidential information in any proceeding in which the department may appear, or exchanging  
16 confidential information in discovery or otherwise, shall provide the department with such  
17 confidential information. In adjudicative proceedings as defined by RSA 541-A:1, I, the public  
18 utilities commission and the department shall be subject to RSA 541-A:36.

19           3 Department of Energy; Duties of the Commissioner. Amend RSA 12-P:5, IV to read as follows:

20           IV. Have the authority to adopt rules, pursuant to RSA 541-A, necessary to assure the  
21 continuance or granting of federal funds or other assistance intended to promote the administration  
22 of this chapter, not otherwise provided for by law, and to adopt all rules necessary to implement the  
23 specific statutes administered by the department or by any division or unit within the department,  
24 whether the rulemaking authority delegated by the legislature is granted to the commissioner, the  
25 department, or any administrative unit or subordinate official of the department. ***Where the***  
26 ***commissioner has adopted rules under this paragraph, the department shall not be subject***  
27 ***to RSA 541-A:29 or RSA 541-A:29-a.***

28           4 Department of Energy; Duties of the Commissioner. Amend RSA 12-P:5, VII to read as  
29 follows:



1 VII. Ensure that the department provides all necessary support to the public utilities  
 2 commission, the site evaluation committee, office of the consumer advocate, and any other entity  
 3 that is administratively attached to the department[~~provided that, other than for administrative~~  
 4 ~~functions, department employees shall not communicate with the public utilities commission and its~~  
 5 ~~staff in connection with any issue in a matter pending before the commission or the department,~~  
 6 ~~except upon notice and opportunity for all parties to participate].~~

7 5 Regulatory Support; Reference Deleted. Amend RSA 12-P:9 to read as follows:

8 12-P:9 Division of Regulatory Support. There is established within the department the division  
 9 of regulatory support, under the supervision of an unclassified director of the division of regulatory  
 10 support. The division, through its officials, shall be responsible for all functions, duties, and  
 11 responsibilities which may be assigned to it by the commissioner or laws enacted by the general  
 12 court. [~~The division shall automatically be a party to all proceedings before the public utilities~~  
 13 ~~commission.]~~

14 6 Department of Energy; Transfer of Rules, Orders, Approvals. Amend RSA 12-P:14 to read as  
 15 follows:

16 12-P:14 Transfer of Rules, Orders, Approvals. Existing rules, orders, and approvals of the  
 17 public utilities commission which are associated with any functions, powers, and duties, transferred  
 18 to the department of energy pursuant to RSA 12-P:11 or any other statutory provision, shall  
 19 continue in effect ***notwithstanding any provision of RSA 541-A:17, II to the contrary***, and be  
 20 enforced by the commissioner of the department of energy ***or the commission, as applicable***, until  
 21 they ***otherwise*** expire or are repealed or amended in accordance with applicable law, ***or for a***  
 22 ***period of 5 years, whichever occurs first. To the extent the department acts pursuant to an***  
 23 ***existing rule, order, or approval, the department shall not be subject to RSA 541-A:29 or***  
 24 ***RSA 541-A:29-a.***

25 7 Energy Efficiency and Sustainable Energy Board. RSA 125-O:5-a, II is repealed and reenacted  
 26 to read as follows:

27 II. The members of the board shall be as follows:

- 28 (a) The commissioner of the department of energy, or designee.
- 29 (b) The consumer advocate, or designee.
- 30 (c) The commissioner of the department of environmental services, or designee.
- 31 (d) The commissioner of the department of business and economic affairs, or designee.
- 32 (e) The president of the Business and Industry Association of New Hampshire, or  
 33 designee.
- 34 (f) The executive director of the New Hampshire Municipal Association, or designee.
- 35 (g) The executive director of New Hampshire Legal Assistance, or designee.
- 36 (h) The president of the Homebuilders and Remodelers Association of New Hampshire,  
 37 or designee.

1 (i) Two members of the house committee with jurisdiction over energy matters,  
2 appointed by the speaker of the house of representatives.

3 (j) One member of the senate committee with jurisdiction over energy matters,  
4 appointed by the president of the senate.

5 (k) Three representatives from not-for-profit groups representing energy, environmental,  
6 consumer, or public health issues and knowledgeable in energy conservation policies and programs,  
7 appointed by the commissioner of the department of energy.

8 (l) The commissioner of the department of administrative services, or designee.

9 (m) The state fire marshal, or designee.

10 (n) The executive director of the New Hampshire housing finance authority, or designee.

11 8 Regional Greenhouse Gas Initiative; Carbon Dioxide Emissions Budget Trading Program.  
12 Amend the introductory paragraph of RSA 125-O:21, VI to read as follows:

13 VI. The department and the ~~[commission]~~ **department of energy** shall report on an annual  
14 basis to the air pollution advisory committee under RSA 125-J:11 ~~[and the legislative oversight~~  
15 ~~committee]; **the chair of the house science, technology, and energy committee; and the chair**~~  
16 **of the senate energy and natural resource committee**, to monitor the transformation of delivery  
17 of electric services under RSA 374-F:5, on the status of the implementation of RGGI in New  
18 Hampshire, with emphasis on the prices and availability of RGGI allowances to affected CO2  
19 sources, consumer protection mechanisms, and the trends in electric rates for New Hampshire  
20 businesses and ratepayers. The report shall include but not be limited to:

21 9 Regional Greenhouse Gas Initiative; Carbon Dioxide Emissions Budget Trading Program.  
22 Amend the introductory paragraph of RSA 125-O:21, VIII to read as follows:

23 VIII. Any actions taken under this subdivision by the department, **the department of**  
24 **energy**, or the commission shall not constitute a waiver of sovereign immunity and shall not be  
25 deemed consent to suit outside of New Hampshire.

26 10 Regional Greenhouse Gas Initiative; Compliance. Amend RSA 125-O:22, IV to read as  
27 follows:

28 IV. No person shall operate an affected CO2 source without a temporary or operating permit  
29 issued by the department in accordance with this chapter and RSA 125-C. An affected CO2 source  
30 that is in operation upon the effective date of this subdivision, shall submit a complete application  
31 for a permit modification to the department no later than January 1, 2009. Applications for permits  
32 shall be upon such forms, and shall include such information as the commissioner **of the**  
33 **department of environmental services** requires under rules adopted pursuant to RSA 541-A. The  
34 commissioner **of the department of environmental services** shall act upon a permit application  
35 within a reasonable period of time.

36 11 Energy Efficiency Fund and Use of Proceeds. Amend the introductory paragraph of RSA 125-  
37 O:23, III to read as follows:

1 III. All remaining proceeds received by the state from the sale of allowances, excluding the  
 2 amount used for department of energy and department of environmental services administration  
 3 under paragraph I, shall be allocated by the ~~[commission]~~ **department of energy** as follows:

4 12 Energy Efficiency Fund and Use of Proceeds; Bidding Criteria. Amend the introductory  
 5 paragraph of RSA 125-O:23, III(c) to read as follows:

6 (c) The remainder to all-fuels, comprehensive energy efficiency programs administered  
 7 by qualified parties which may include electric distribution companies as selected through a  
 8 competitive bid process. The funding shall be distributed among residential, commercial, and  
 9 industrial customers based upon each customer class's electricity usage to the greatest extent  
 10 practicable as determined by the ~~[commission]~~ **department of energy**. Bids shall be evaluated  
 11 based on, but not limited to, the following criteria:

12 13 Energy Efficiency Fund and Use of Proceeds; Annual Report. Amend RSA 125-O:23, V(e) to  
 13 read as follows:

14 (e) Other data as required by the ~~[commission]~~ **department of energy** in order to  
 15 determine program effectiveness.

16 14 Regional Greenhouse Gas Initiative; Review of he New Hampshire RGGI Program. Amend  
 17 RSA 125-O:27 to read as follows:

18 125-O:27 Review of the New Hampshire RGGI Program. At the time of each comprehensive  
 19 review by the participating states, the ~~[commission]~~ **department of energy** and the department  
 20 shall concurrently review New Hampshire specific elements of the RGGI program, and include the  
 21 results of such review and any recommendations for revisions to the New Hampshire regional  
 22 greenhouse gas initiative program under RSA 125-O:19-29, resulting from this review in the  
 23 agencies' annual report under RSA 125-O:21, VI.

24 15 Reference Change. Amend RSA 362-F:4, V to read as follows:

25 V. For good cause, and after notice and hearing, the ~~[commission]~~ **department of energy**  
 26 may accelerate or delay by up to one year, any given year's incremental increase in class I or II  
 27 renewable portfolio standards requirement under RSA 362-F:3.

28 16 Final Orders Issued by the Public Utilities Commission. Amend RSA 363:17-b to read as  
 29 follows:

30 363:17-b Final Orders. The commission shall issue a final order on all matters presented to it.  
 31 Matters resolved by final order of the commission shall be exempt from RSA 541-A:29 and RSA 541-  
 32 A:29-a, but shall be subject to federal and state time limitations applicable to specific matters. The  
 33 transcript or minutes of oral deliberations shall not constitute a final order. A final order shall  
 34 include, but not be limited to:

35 I. The identity of all parties;

36 II. ~~[The positions of each party on each issue;~~

37 ~~III.]~~ A decision on each issue including the reasoning behind the decision; and

1           [IV.] *III.* The concurrence or dissent of each commissioner participating in the decision.

2           17 Expenses of the Public Utilities Commission Against Certain Utilities; Assessment. Amend  
3 RSA 362-A:2, II-III to read as follows:

4           II. To facilitate the revenue calculations required under this chapter, entities described in  
5 subparagraph I(d) or their registered telecommunications carrier affiliates shall file with the  
6 [~~commission~~] *department of energy* confidential annual reports of the retail telephone service  
7 revenue of such entities, and entities described in subparagraph I(e) shall file with the [~~commission~~]  
8 *department of energy* confidential annual reports of sales volume and revenues, by customer class,  
9 and separately identifying the total revenues received from the distribution customers of each  
10 electric or natural gas distribution utility or the members of each rural electric cooperative for which  
11 a certificate of deregulation is on file with the commission. All other utilities and other assessed  
12 entities shall file information in accordance with applicable [~~commission~~] *department of energy*  
13 rules.

14           III. Each entity described in subparagraph I(e) shall be assessed the sum of \$10,000 on an  
15 annual basis and shall pay such assessed sum to the department of energy. Each electric load  
16 aggregator, and each aggregator of natural gas customers shall be assessed the sum of \$2,000 on an  
17 annual basis and shall pay such assessed sum to the department of energy. Each  
18 telecommunications carrier voluntarily registered with the [~~commission~~] *department of energy*  
19 shall be assessed the sum of \$1,000 on an annual basis and shall pay such sum to the department of  
20 energy.

21           18 Expenses of the Public Utilities Commission Against Certain Utilities; Assessment. Amend  
22 RSA 362-A:2, VI to read as follows:

23           VI. A minimum amount shall be assessed to utilities and other assessed entities described in  
24 paragraph I having minimal revenues in such proportion as the [~~public-utilities-commission~~]  
25 *department of energy* shall determine to be fair and equitable, provided that the minimum amount  
26 assessed to any entity to which subparagraphs I(c) or (d) applies shall not be less than \$1,000.

27           19 Procedures for Termination of Certain Utility Services. Amend RSA 363-B:1, III to read as  
28 follows:

29           III. Notwithstanding the foregoing, a gas or electric public utility may terminate service to a  
30 residential customer without prior notice to the customer or the [~~commission~~] *department* when:

- 31           (a) There exists unauthorized or fraudulent use or procurement of utility service;
- 32           (b) A condition dangerous to the health, safety, or utility service of others exists;
- 33           (c) There is a clear and present danger to life, health, or physical property; or
- 34           (d) The customer has clearly abandoned the premises.

35           The utility shall notify the [~~commission~~] *department* after it has terminated service for any of  
36 these reasons.

37           20 Conference Provided. Amend RSA 363-B:2 to read as follows:

1 363-B:2 Conference Provided.

2 I. Any person who receives a notice of intent to terminate service pursuant to RSA 363-B:1  
 3 and believes such proposed termination to be unjustified may request, prior to the date specified in  
 4 the termination notice, a conference with the utility company involved to review the basis for the  
 5 proposed termination. The conference with the utility company shall be conducted in person, by  
 6 writing or by telephone as the customer may elect. If the customer is dissatisfied with the outcome  
 7 of the conference he may, within 3 days after the conference if the conference is conducted in person,  
 8 or within 5 days after the conference if the conference is conducted by writing or by telephone,  
 9 request a conference with a staff member of the ~~[commission]~~ **department of energy** to review the  
 10 basis for the proposed termination. The conference with the ~~[commission]~~ **department** may be  
 11 conducted by writing or by telephone if the customer so elects.

12 II. In the event of a request for a conference with the public utility, the public utility shall  
 13 continue service to the customer for 3 days after the conference if the conference was conducted in  
 14 person, or for 5 days after the conference if the conference was conducted by writing or by telephone,  
 15 or to the date specified in the notice of termination, whichever comes later.

16 III. During the conference with the utility company, the utility company shall inform the  
 17 customer of his right to request a conference with a staff member of the ~~[commission]~~ **department**  
 18 **of energy**. If the conference with the utility company is conducted in person, the customer shall be  
 19 furnished a form for requesting a conference with a staff member of the ~~[commission]~~ **department**  
 20 during the conference. If the conference with the utility company is conducted by writing or by  
 21 telephone, the utility company shall mail the form to the customer by regular mail on the same day  
 22 as the conference. In the event of a request for a conference with a staff member of the ~~[commission]~~  
 23 **department**, the public utility shall continue service to the customer until such time as the staff  
 24 member or the ~~[commission]~~ **department** determines that termination is justified.

25 21 Investigations by the Department of Energy. Amend RSA 365:4 to read as follows:

26 365:4 Investigation. If the charges are not satisfied as provided in RSA 365:3, and it shall  
 27 appear to the department of energy that there are reasonable grounds therefor, it shall investigate  
 28 the same in such manner and by such means as it shall deem proper. After investigation, the  
 29 department of energy may bring proceedings on its own motion before the public utilities  
 30 commission, with respect to any complaint or violation of any provision of law, rule, terms and  
 31 conditions of its franchises or charter, or any order of the commission. ***If the party bringing the***  
 32 ***complaint is unsatisfied with the disposition of the complaint by the department of energy,***  
 33 ***then they may petition the public utilities commission to resolve the matter through an***  
 34 ***adjudicative proceeding.***

35 22 Rights in Public Waters and Lands; Licenses for New Poles. Amend RSA 371:17 to read as  
 36 follows:

1 371:17 Licenses for New Poles. Whenever it is necessary, in order to meet the reasonable  
 2 requirements of service to the public, that any public utility should construct a pipeline, cable, or  
 3 conduit, or a line of poles or towers and wires and fixtures thereon, over, under or across any of the  
 4 public waters of this state, or over, under or across any of the land owned by this state, *modify a*  
 5 *previously licensed installation, or license a previously constructed installation*, it shall  
 6 [~~petition~~] *apply to* the department of energy for a license to construct and maintain the same. For  
 7 the purposes of this section, "public waters" are defined to be all ponds of more than 10 acres,  
 8 tidewater bodies, and such streams or portions thereof as the department of energy may prescribe.  
 9 Every corporation and individual desiring to cross any public water or land for any purpose herein  
 10 defined shall [~~petition~~] *apply to* the department of energy for a license in the same manner  
 11 prescribed for a public utility. *The department of energy may condition any license issued*  
 12 *under this paragraph in any manner necessary to assure that the license may be exercised*  
 13 *without substantially affecting the public rights in public waters or state-owned lands.*  
 14 *Using a non-adjudicative process, the department of energy may reject incomplete or*  
 15 *improperly filed applications, and shall, also using non-adjudicative process, issue or deny*  
 16 *the license within 90 days of receiving a complete application and all information*  
 17 *subsequently requested of an applicant.*

18 23 Rights in Public Waters and Lands; Notice of License Issuance and Right to Appeal. RSA  
 19 371:19 through RSA 371:23 are repealed and reenacted to read as follows:

20 371:19 Notice of License Issuance and of Right to Appeal. The department of energy shall  
 21 publish notice of the license on its website and cause due notice of said issuance to be given to the  
 22 attorney general as representative of the state, and to such owners of lands bordering the location of  
 23 a state water crossing as the department of energy may designate. Said notice shall refer to the  
 24 license and inform persons of the rights of appeal in RSA 371:20. The department of energy shall  
 25 provide similar notice directly to applicants.

26 371:20 Rights of Appeal, Notice, and Order. Applicants and other persons directly affected by a  
 27 decision of the department of energy to issue or deny a license may appeal a department decision to  
 28 the public utilities commission within 30 days of the department's decision, and not thereafter.  
 29 Whenever an appeal is timely filed, the commission shall hear all parties directly affected, except  
 30 with respect to applicable safety standards and the applicability and validity of any department of  
 31 energy rule. The commission may rescind the license or remand to the department of energy with  
 32 instructions to issue, modify, or condition a license in any manner found necessary by the  
 33 commission to assure that the license may be exercised without substantially affecting the public  
 34 rights in public waters or state-owned lands. There shall be no right to appeal licenses issued for the  
 35 exclusive purpose of furnishing facilities or utility services to the state or with regard to licenses  
 36 issued to relocate facilities when the relocation is at the request of the state and the department of  
 37 energy has limited the duration of the license to two years or less. Notwithstanding the foregoing,

1 the attorney general and owners of lands bordering the location of a public water crossing may  
 2 appeal for the sole purpose of determining damages and compensation pursuant to RSA 371:21. The  
 3 commission shall publish notice of the appeal and any related hearing on its website, provide notice  
 4 of a contested case as required under RSA 541-A, and may require such additional notice as it deems  
 5 proper.

6 371:21 Damages and Compensation. Whenever an appeal is timely filed, the commission shall,  
 7 upon request of an affected property owner, determine the compensation, if any, to be paid to the  
 8 owner of land bordering the site of a public water crossing for any damages caused by the  
 9 continuation and maintenance of any structures, facilities or equipment installed in connection with  
 10 the crossing, subject to appeal as provided in RSA 371:10. The commission shall also determine the  
 11 amount of compensation to be paid to the state for rights on public waters or public lands as  
 12 provided in section 371:20.

13 371:22 Rulemaking Authority. The department of energy is authorized to adopt rules to  
 14 implement this chapter, and shall initiate a formal rulemaking process no later than December 31,  
 15 2023. Until the department adopts rules, applicants shall apply for a license by petitioning the  
 16 department of energy in the same manner as under prior law. The time limits stated in this chapter  
 17 shall apply notwithstanding RSA 541-A:29, and the department shall not be subject to RSA 541-  
 18 A:29-a. The commission may utilize its rules governing adjudicative proceedings for hearings and is  
 19 authorized to adopt rules regarding appeals and compensation to be paid under this chapter.

20 371:23 Compensation to State. Any compensation payable to the state on account of any such  
 21 license shall be paid to the state treasurer and, if derived from licenses affecting state forests or  
 22 forestry reservations, shall be added to the forest improvement fund; otherwise, it shall be a part of  
 23 the general funds of the state.

24 24 Investigation of Other Utilities. Amend RSA 374:7 to read as follows:

25 374:7 Investigation of Other Utilities; Orders. The commission and the department of energy  
 26 shall have power to investigate and ascertain, from time to time, the quality of gas supplied by  
 27 public utilities and the methods employed by public utilities in manufacturing, transmitting or  
 28 supplying gas or electricity for light, heat or power, or in transmitting telephone and telegraph  
 29 messages, or supplying water, and, after notice and hearing thereon, *the commission* shall have  
 30 power to order all reasonable and just improvements and extensions in service or methods.

31 25 Reference Change; Service Territories Served by Certain Telephone Utilities. Amend RSA  
 32 374:22-g, II to read as follows:

33 II. In determining the public good, the [~~commission~~] *department of energy* shall consider  
 34 the interests of competition with other factors including, but not limited to, fairness; economic  
 35 efficiency; universal service; carrier of last resort obligations; the incumbent utility's opportunity to  
 36 realize a reasonable return on its investment; and the recovery from competitive providers of  
 37 expenses incurred by the incumbent utility to benefit competitive providers, taking into account the

1 proportionate benefit or savings, if any, derived by the incumbent as a result of incurring such  
2 expenses.

3 26 Pole Attachments. Amend RSA 374:34-a, VIII to read as follows:

4 VIII. The department of energy and the *public utilities commission* shall retain [its]  
5 *their* authority to regulate the safety, vegetation management, emergency response, and storm  
6 restoration requirements for poles, conduits, ducts, pipes, pole attachments, wires, cables, and  
7 related plant and equipment of public utilities and other private entities located within public rights-  
8 of-way and on, over, or under state lands and water bodies.

9 27 Restructuring Policy Principals; Open Access. Amend RSA 374-F:3, IV to read as follows:

10 IV. Open Access to Transmission and Distribution Facilities. Non-discriminatory open  
11 access to the electric system for wholesale and retail transactions should be promoted.  
12 ~~[Comparability should be assured for generators competing with affiliates of groups supplying~~  
13 ~~transmission and distribution services. Companies providing transmission services should file at the~~  
14 ~~FERC or with the commission, or with the department of energy, as appropriate, comparable service~~  
15 ~~tariffs that provide open access for all competitors.]~~ The commission and the department should  
16 monitor companies providing transmission or distribution services and take necessary measures to  
17 ensure that no supplier has an unfair advantage in offering and pricing such services.

18 28 Electric Utility Restructuring; Ratepayer Protection. Amend RSA 374-F:4-b, IV-V to read as  
19 follows:

20 IV. Unless the contract specifies a month-to-month variable rate, no competitive electric  
21 supplier shall charge a residential customer a variable rate, including during a contract term or  
22 following the expiration of a contract, without first providing written notification in a form approved  
23 by the ~~[commission]~~ *department of energy* of the nature of such variable rate 45 days prior to the  
24 commencement of the variable rate. The residential customer shall select the method of written  
25 notification at the time the contract is signed. Such customer shall have the option to change the  
26 method of notification at any time during the contract.

27 V. Competitive electric suppliers shall retain records of any of the notices required in this  
28 section for a period of not less than 2 years and shall make such records available to the  
29 ~~[commission]~~ *department of energy* upon its request.

30 29 Implementation of Retail Choice. Amend RSA 374-F:4, VIII(f) to read as follows:

31 (f) Beginning in 2000, ~~[the commission and]~~ the department shall submit a report to the  
32 legislative oversight committee to monitor the transformation of delivery of electric services by  
33 October 1 of each year. The report shall concern the results and effectiveness of the system benefits  
34 charge.

35 30 Electric Utility Restructuring; Participation in Regional Activities. Amend RSA 374-F:8 to  
36 read as follows:



1 374-F:8 Participation in Regional Activities. The department shall advocate for New Hampshire  
 2 interests before the Federal Energy Regulatory Commission and other regional and federal bodies.  
 3 The commission shall participate in the activities of the New England Conference of Public Utility  
 4 Commissioners, and the National Association of Regulatory Utility Commissioners *as the New*  
 5 *Hampshire member agency*, and the department shall participate in the activities of the New  
 6 England States Committee on Electricity, or other similar organizations *as the New Hampshire*  
 7 *member agency*, and work with the New England Independent System Operator and NEPOOL to  
 8 advance the interests of New Hampshire with respect to wholesale electric issues, including policy  
 9 goals relating to fuel diversity, renewable energy, and energy efficiency, and to assure  
 10 nondiscriminatory open access to a safe, adequate, and reliable transmission system at just and  
 11 reasonable prices. *Employees of the commission and the department are not otherwise*  
 12 *prohibited from participating in the activities of the aforementioned organizations in*  
 13 *which the other agency has the lead role.* The department shall advocate against proposed  
 14 regional or federal rules or policies that are inconsistent with the policies, rules, or laws of New  
 15 Hampshire. In its participation in regional activities, the commission and the department shall  
 16 consider how other states' policies will impact New Hampshire rates and work to prevent or  
 17 minimize any rate impact the commission or department determines to be unjust or unreasonable.

18 31 Reference Change; Investigations of Energy Storage. Amend RSA 374-H:3 to read as follows:

19 374-H:3 [~~Commission~~] *Department of Energy* Investigation of Energy Storage.

20 I. The [~~commission~~] *department of energy* shall investigate ways to enable energy storage  
 21 projects to receive compensation for avoided transmission and distribution costs, including avoided  
 22 regional and local network service charges, while also participating in wholesale energy markets.  
 23 The [~~commission~~] *department* shall investigate how this might be done for both utility-owned and  
 24 non-utility-owned energy storage projects, as well as for both behind-the-meter storage and front-of-  
 25 the-meter storage.

26 II. The [~~commission's~~] *department's* investigative proceeding shall specifically consider the  
 27 following:

28 (a) How public policy can best establish accurate and efficient price signals for energy  
 29 storage projects that avoid actual transmission and distribution costs or reduce wholesale electricity  
 30 market prices.

31 (b) How to compensate energy storage projects that participate in wholesale electricity  
 32 markets for actual avoided transmission and distribution costs in a manner that provides net  
 33 savings to consumers.

34 (c) How best to encourage both utility and non-utility investments in energy storage  
 35 projects.

36 (d) The costs and benefits of a potential bring your own device program; how such a  
 37 program might be implemented; any statutory or regulatory changes that might be needed to create,

1 facilitate, and implement such a program; and whether such a program should include all  
2 distributed energy resources or be limited to distributed energy storage projects.

3 (e) Any statutory changes the general court should implement, including but not limited  
4 to changes to or exceptions from RSA 374-F or RSA 374-G, to enable energy storage projects to  
5 receive appropriate compensation for actual avoided transmission and distribution costs while also  
6 participating in wholesale energy markets.

7 (f) Any other topic the [~~commission~~] *department* reasonably believes it should consider  
8 in order to diligently conduct the proceeding.

9 III. The [~~commission~~] *department* shall report its findings and recommendations to the  
10 standing committees of the house of representatives and senate with jurisdiction over energy and  
11 utility matters no later than 2 years after initiating the proceeding. The report shall identify ways  
12 any recommended statutory changes can minimize any potential conflict with the restructuring  
13 policy principles of RSA 374-F.

14 32 Reference Change; State Operating Budget. The commissioner of the department of  
15 administrative services shall change the title of organization code 1892 from adjudicative  
16 commissioners to the public utilities commission.

17 33 Limited Electrical Energy Producers Act; Definitions. Amend RSA 362-A:1-a, II-c to read as  
18 follows:

19 II-c. "Municipal host" means a customer generator with a total peak generating capacity of  
20 greater than one megawatt and less than 5 megawatts used to offset the electricity requirements of a  
21 group consisting exclusively of one or more customers who are political subdivisions, provided that  
22 all customers are located within the same utility franchise service territory. A municipal host shall  
23 be located in the same municipality as all group members if the facility began operation after  
24 January 1, 2021. A municipal host may be owned by either a public or private entity. For this  
25 definition, "political subdivision" means *the state of New Hampshire or* any city, town, county,  
26 school district, chartered public school, village district, school administrative unit, or any district or  
27 entity created for a special purpose administered or funded by any of the above-named governmental  
28 units.

29 34 Repeals. The following are repealed:

30 I. RSA 12-P:12, relative to prohibited service.

31 II. RSA 371:17-a, relative to new attachments on existing utility poles.

32 III. RSA 371:17-b, relative to temporary licenses for existing crossings on existing poles.

33 IV. RSA 371:18, relative to exceptions to hearing requirements.

34 V. RSA 374-F:3, V(b), relative to transition service.

35 35 Effective Date. This act shall take effect 60 days after its passage.

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HB 1258 - FINAL VERSION

17Mar2022... 0851h  
05/05/2022 1824s  
26May2022... 2126EBA

2022 SESSION

22-2162  
12/10

HOUSE BILL            **1258**

AN ACT                relative to the implementation of the department of energy and relative to the definition of "municipal host" for purposes of limited electrical energy producers.

SPONSORS:            Rep. Harrington, Straf. 3; Rep. Vose, Rock. 9

COMMITTEE:          Science, Technology and Energy

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AMENDED ANALYSIS

This bill makes various changes to amend the powers and duties of the public utilities commission and the department of energy. This bill also amends the definition of "political subdivision," as used in the definition of a "municipal host."

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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.

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17Mar2022... 0851h  
05/05/2022 1824s  
26May2022... 2126EBA

22-2162  
12/10

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT relative to the implementation of the department of energy and relative to the definition of "municipal host" for purposes of limited electrical energy producers.

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

1 245:1 Department of Energy; General Provisions. Amend RSA 12-P:3, II to read as follows:

2 II. The department of energy is authorized to work with the department of business and  
3 economic affairs, *the public utilities commission*, and the department of administrative services  
4 to coordinate the implementation of the establishment of the department, and to transfer  
5 appropriations and create the proper expenditure lines, if needed, for the establishment of their  
6 respective operations, including but not limited to the relocation of personnel, work stations, books,  
7 papers, personnel record files, and equipment, with the approval of the governor and council and of  
8 the director of personnel.

9 245:2 New Paragraph; Department of Energy; General Provisions. Amend RSA 12-P:3 by  
10 inserting after paragraph II the following new paragraph:

11 III. The department shall have the authority to petition for any proceeding before the public  
12 utilities commission and shall automatically be a party to all proceedings before the commission.  
13 Any person or party that initiates a proceeding before the public utilities commission by petition or  
14 otherwise shall provide a copy to the department at the time of filing. Any person or party filing  
15 confidential information in any proceeding in which the department may appear, or exchanging  
16 confidential information in discovery or otherwise, shall provide the department with such  
17 confidential information. In adjudicative proceedings as defined by RSA 541-A:1, I, the public  
18 utilities commission and the department shall be subject to RSA 541-A:36.

19 245:3 Department of Energy; Duties of the Commissioner. Amend RSA 12-P:5, IV to read as  
20 follows:

21 IV. Have the authority to adopt rules, pursuant to RSA 541-A, necessary to assure the  
22 continuance or granting of federal funds or other assistance intended to promote the administration  
23 of this chapter, not otherwise provided for by law, and to adopt all rules necessary to implement the  
24 specific statutes administered by the department or by any division or unit within the department,  
25 whether the rulemaking authority delegated by the legislature is granted to the commissioner, the  
26 department, or any administrative unit or subordinate official of the department. *Where the*  
27 *commissioner has adopted rules under this paragraph, the department shall not be subject*  
28 *to RSA 541-A:29 or RSA 541-A:29-a.*

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1       245:4 Department of Energy; Duties of the Commissioner. Amend RSA 12-P:5, VII to read as  
2 follows:

3           VII. Ensure that the department provides all necessary support to the public utilities  
4 commission, the site evaluation committee, office of the consumer advocate, and any other entity  
5 that is administratively attached to the department~~[, provided that, other than for administrative  
6 functions, department employees shall not communicate with the public utilities commission and its  
7 staff in connection with any issue in a matter pending before the commission or the department,  
8 except upon notice and opportunity for all parties to participate].~~

9       245:5 Regulatory Support; Reference Deleted. Amend RSA 12-P:9 to read as follows:

10       12-P:9 Division of Regulatory Support. There is established within the department the division  
11 of regulatory support, under the supervision of an unclassified director of the division of regulatory  
12 support. The division, through its officials, shall be responsible for all functions, duties, and  
13 responsibilities which may be assigned to it by the commissioner or laws enacted by the general  
14 court. ~~[The division shall automatically be a party to all proceedings before the public utilities  
15 commission.]~~

16       245:6 Department of Energy; Transfer of Rules, Orders, Approvals. Amend RSA 12-P:14 to read  
17 as follows:

18       12-P:14 Transfer of Rules, Orders, Approvals. Existing rules, orders, and approvals of the  
19 public utilities commission which are associated with any functions, powers, and duties, transferred  
20 to the department of energy pursuant to RSA 12-P:11 or any other statutory provision, shall  
21 continue in effect ***notwithstanding any provision of RSA 541-A:17, II to the contrary***, and be  
22 enforced by the commissioner of the department of energy ***or the commission, as applicable***, until  
23 they ***otherwise*** expire or are repealed or amended in accordance with applicable law, ***or for a***  
24 ***period of 5 years, whichever occurs first. To the extent the department acts pursuant to an***  
25 ***existing rule, order, or approval, the department shall not be subject to RSA 541-A:29 or***  
26 ***RSA 541-A:29-a.***

27       245:7 Energy Efficiency and Sustainable Energy Board. RSA 125-O:5-a, II is repealed and  
28 reenacted to read as follows:

29           II. The members of the board shall be as follows:

- 30           (a) The commissioner of the department of energy, or designee.  
31           (b) The consumer advocate, or designee.  
32           (c) The commissioner of the department of environmental services, or designee.  
33           (d) The commissioner of the department of business and economic affairs, or designee.  
34           (e) The president of the Business and Industry Association of New Hampshire, or  
35           designee.  
36           (f) The executive director of the New Hampshire Municipal Association, or designee.  
37           (g) The executive director of New Hampshire Legal Assistance, or designee.

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1           (h) The president of the Homebuilders and Remodelers Association of New Hampshire,  
2 or designee.

3           (i) Two members of the house committee with jurisdiction over energy matters,  
4 appointed by the speaker of the house of representatives.

5           (j) One member of the senate committee with jurisdiction over energy matters,  
6 appointed by the president of the senate.

7           (k) Three representatives from not-for-profit groups representing energy, environmental,  
8 consumer, or public health issues and knowledgeable in energy conservation policies and programs,  
9 appointed by the commissioner of the department of energy.

10           (l) The commissioner of the department of administrative services, or designee.

11           (m) The state fire marshal, or designee.

12           (n) The executive director of the New Hampshire housing finance authority, or designee.

13           245:8 Regional Greenhouse Gas Initiative; Carbon Dioxide Emissions Budget Trading Program.  
14 Amend the introductory paragraph of RSA 125-O:21, VI to read as follows:

15           VI. The department of environmental services and the department of energy shall report on  
16 an annual basis to the air pollution advisory committee under RSA 125-J:11, the *chair of the* house  
17 science, technology, and energy committee, and the *chair of the* senate energy and natural  
18 resources committee on the status of the implementation of RGGI in New Hampshire, with emphasis  
19 on the prices and availability of RGGI allowances to affected CO2 sources, consumer protection  
20 mechanisms, and the trends in electric rates for New Hampshire businesses and ratepayers. The  
21 report shall include but not be limited to:

22           245:9 Regional Greenhouse Gas Initiative; Carbon Dioxide Emissions Budget Trading Program.  
23 Amend the introductory paragraph of RSA 125-O:21, VIII to read as follows:

24           VIII. Any actions taken under this subdivision by the department, *the department of*  
25 *energy*, or the commission shall not constitute a waiver of sovereign immunity and shall not be  
26 deemed consent to suit outside of New Hampshire.

27           245:10 Regional Greenhouse Gas Initiative; Compliance. Amend RSA 125-O:22, IV to read as  
28 follows:

29           IV. No person shall operate an affected CO2 source without a temporary or operating permit  
30 issued by the department in accordance with this chapter and RSA 125-C. An affected CO2 source  
31 that is in operation upon the effective date of this subdivision, shall submit a complete application  
32 for a permit modification to the department no later than January 1, 2009. Applications for permits  
33 shall be upon such forms, and shall include such information as the commissioner *of the*  
34 *department of environmental services* requires under rules adopted pursuant to RSA 541-A. The  
35 commissioner *of the department of environmental services* shall act upon a permit application  
36 within a reasonable period of time.

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1       245:11 Energy Efficiency Fund and Use of Proceeds. Amend the introductory paragraph of RSA  
2 125-O:23, III to read as follows:

3           III. All remaining proceeds received by the state from the sale of allowances, excluding the  
4 amount used for department of energy and department of environmental services administration  
5 under paragraph I, shall be allocated by the [~~commission~~] *department of energy* as follows:

6       245:12 Energy Efficiency Fund and Use of Proceeds; Bidding Criteria. Amend the introductory  
7 paragraph of RSA 125-O:23, III(c) to read as follows:

8           (c) The remainder to all-fuels, comprehensive energy efficiency programs administered  
9 by qualified parties which may include electric distribution companies as selected through a  
10 competitive bid process. The funding shall be distributed among residential, commercial, and  
11 industrial customers based upon each customer class's electricity usage to the greatest extent  
12 practicable as determined by the [~~commission~~] *department of energy*. Bids shall be evaluated  
13 based on, but not limited to, the following criteria:

14       245:13 Energy Efficiency Fund and Use of Proceeds; Annual Report. Amend RSA 125-O:23, V(e)  
15 to read as follows:

16           (e) Other data as required by the [~~commission~~] *department of energy* in order to  
17 determine program effectiveness.

18       245:14 Regional Greenhouse Gas Initiative; Review of the New Hampshire RGGI Program.  
19 Amend RSA 125-O:27 to read as follows:

20       125-O:27 Review of the New Hampshire RGGI Program. At the time of each comprehensive  
21 review by the participating states, the [~~commission~~] *department of energy* and the department  
22 shall concurrently review New Hampshire specific elements of the RGGI program, and include the  
23 results of such review and any recommendations for revisions to the New Hampshire regional  
24 greenhouse gas initiative program under RSA 125-O:19-29, resulting from this review in the  
25 agencies' annual report under RSA 125-O:21, VI.

26       245:15 Reference Change. Amend RSA 362-F:4, V to read as follows:

27           V. For good cause, and after notice and hearing, the [~~commission~~] *department of energy*  
28 may accelerate or delay by up to one year, any given year's incremental increase in class I or II  
29 renewable portfolio standards requirement under RSA 362-F:3.

30       245:16 Final Orders Issued by the Public Utilities Commission. Amend RSA 363:17-b to read as  
31 follows:

32       363:17-b Final Orders. The commission shall issue a final order on all matters presented to it.  
33 Matters resolved by final order of the commission shall be exempt from RSA 541-A:29 and RSA 541-  
34 A:29-a, but shall be subject to federal and state time limitations applicable to specific matters. The  
35 transcript or minutes of oral deliberations shall not constitute a final order. A final order shall  
36 include, but not be limited to:

37           I. The identity of all parties;

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- 1           II. ~~[The positions of each party on each issue;~~  
2           ~~III.]~~ A decision on each issue including the reasoning behind the decision; and  
3           ~~[IV.]~~ **III.** The concurrence or dissent of each commissioner participating in the decision.

4           245:17 Expenses of the Public Utilities Commission Against Certain Utilities; Assessment.  
5 Amend RSA 363-A:2, II-III to read as follows:

6           II. To facilitate the revenue calculations required under this chapter, entities described in  
7 subparagraph I(d) or their registered telecommunications carrier affiliates shall file with the  
8 ~~[commission]~~ **department of energy** confidential annual reports of the retail telephone service  
9 revenue of such entities, and entities described in subparagraph I(e) shall file with the ~~[commission]~~  
10 **department of energy** confidential annual reports of sales volume and revenues, by customer class,  
11 and separately identifying the total revenues received from the distribution customers of each  
12 electric or natural gas distribution utility or the members of each rural electric cooperative for which  
13 a certificate of deregulation is on file with the commission. All other utilities and other assessed  
14 entities shall file information in accordance with applicable ~~[commission]~~ **department of energy**  
15 rules.

16           III. Each entity described in subparagraph I(e) shall be assessed the sum of \$10,000 on an  
17 annual basis and shall pay such assessed sum to the department of energy. Each electric load  
18 aggregator, and each aggregator of natural gas customers shall be assessed the sum of \$2,000 on an  
19 annual basis and shall pay such assessed sum to the department of energy. Each  
20 telecommunications carrier voluntarily registered with the ~~[commission]~~ **department of energy**  
21 shall be assessed the sum of \$1,000 on an annual basis and shall pay such sum to the department of  
22 energy.

23           245:18 Expenses of the Public Utilities Commission Against Certain Utilities; Assessment.  
24 Amend RSA 363-A:2, VI to read as follows:

25           VI. A minimum amount shall be assessed to utilities and other assessed entities described in  
26 paragraph I having minimal revenues in such proportion as the ~~[public utilities commission]~~  
27 **department of energy** shall determine to be fair and equitable, provided that the minimum amount  
28 assessed to any entity to which subparagraphs I(c) or (d) applies shall not be less than \$1,000.

29           245:19 Procedures for Termination of Certain Utility Services. Amend RSA 363-B:1, III to read  
30 as follows:

31           III. Notwithstanding the foregoing, a gas or electric public utility may terminate service to a  
32 residential customer without prior notice to the customer or the ~~[commission]~~ **department** when:

- 33           (a) There exists unauthorized or fraudulent use or procurement of utility service;  
34           (b) A condition dangerous to the health, safety, or utility service of others exists;  
35           (c) There is a clear and present danger to life, health, or physical property; or  
36           (d) The customer has clearly abandoned the premises.



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1       The utility shall notify the [~~commission~~] *department* after it has terminated service for any of  
2 these reasons.

3       245:20 Conference Provided. Amend RSA 363-B:2 to read as follows:

4       363-B:2 Conference Provided.

5       I. Any person who receives a notice of intent to terminate service pursuant to RSA 363-B:1  
6 and believes such proposed termination to be unjustified may request, prior to the date specified in  
7 the termination notice, a conference with the utility company involved to review the basis for the  
8 proposed termination. The conference with the utility company shall be conducted in person, by  
9 writing or by telephone as the customer may elect. If the customer is dissatisfied with the outcome  
10 of the conference he may, within 3 days after the conference if the conference is conducted in person,  
11 or within 5 days after the conference if the conference is conducted by writing or by telephone,  
12 request a conference with a staff member of the [~~commission~~] *department of energy* to review the  
13 basis for the proposed termination. The conference with the [~~commission~~] *department* may be  
14 conducted by writing or by telephone if the customer so elects.

15       II. In the event of a request for a conference with the public utility, the public utility shall  
16 continue service to the customer for 3 days after the conference if the conference was conducted in  
17 person, or for 5 days after the conference if the conference was conducted by writing or by telephone,  
18 or to the date specified in the notice of termination, whichever comes later.

19       III. During the conference with the utility company, the utility company shall inform the  
20 customer of his right to request a conference with a staff member of the [~~commission~~] *department*  
21 *of energy*. If the conference with the utility company is conducted in person, the customer shall be  
22 furnished a form for requesting a conference with a staff member of the [~~commission~~] *department*  
23 during the conference. If the conference with the utility company is conducted by writing or by  
24 telephone, the utility company shall mail the form to the customer by regular mail on the same day  
25 as the conference. In the event of a request for a conference with a staff member of the [~~commission~~]  
26 *department*, the public utility shall continue service to the customer until such time as the staff  
27 member or the [~~commission~~] *department* determines that termination is justified.

28       245:21 Investigations by the Department of Energy. Amend RSA 365:4 to read as follows:

29       365:4 Investigation. If the charges are not satisfied as provided in RSA 365:3, and it shall  
30 appear to the department of energy that there are reasonable grounds therefor, it shall investigate  
31 the same in such manner and by such means as it shall deem proper. After investigation, the  
32 department of energy may bring proceedings on its own motion before the public utilities  
33 commission, with respect to any complaint or violation of any provision of law, rule, terms and  
34 conditions of its franchises or charter, or any order of the commission. *If the party bringing the*  
35 *complaint is unsatisfied with the disposition of the complaint by the department of energy,*  
36 *then they may petition the public utilities commission to resolve the matter through an*  
37 *adjudicative proceeding.*

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1       245:22 Rights in Public Waters and Lands; Licenses for New Poles. Amend RSA 371:17 to read  
2 as follows:

3       371:17 Licenses for New Poles. Whenever it is necessary, in order to meet the reasonable  
4 requirements of service to the public, that any public utility should construct a pipeline, cable, or  
5 conduit, or a line of poles or towers and wires and fixtures thereon, over, under or across any of the  
6 public waters of this state, or over, under or across any of the land owned by this state, ***modify a***  
7 ***previously licensed installation, or license a previously constructed installation,*** it shall  
8 ~~petition~~ ***apply to*** the department of energy for a license to construct and maintain the same. For  
9 the purposes of this section, "public waters" are defined to be all ponds of more than 10 acres,  
10 tidewater bodies, and such streams or portions thereof as the department of energy may prescribe.  
11 Every corporation and individual desiring to cross any public water or land for any purpose herein  
12 defined shall ~~petition~~ ***apply to*** the department of energy for a license in the same manner  
13 prescribed for a public utility. ***The department of energy may condition any license issued***  
14 ***under this paragraph in any manner necessary to assure that the license may be exercised***  
15 ***without substantially affecting the public rights in public waters or state-owned lands.***  
16 ***Using a non-adjudicative process, the department of energy may reject incomplete or***  
17 ***improperly filed applications, and shall, also using non-adjudicative process, issue or deny***  
18 ***the license within 90 days of receiving a complete application and all information***  
19 ***subsequently requested of an applicant.***

20       245:23 Rights in Public Waters and Lands; Notice of License Issuance and Right to Appeal.  
21 RSA 371:19 through RSA 371:23 are repealed and reenacted to read as follows:

22       371:19 Notice of License Issuance and of Right to Appeal. The department of energy shall  
23 publish notice of the license on its website and cause due notice of said issuance to be given to the  
24 attorney general as representative of the state, and to such owners of lands bordering the location of  
25 a state water crossing as the department of energy may designate. Said notice shall refer to the  
26 license and inform persons of the rights of appeal in RSA 371:20. The department of energy shall  
27 provide similar notice directly to applicants.

28       371:20 Rights of Appeal, Notice, and Order. Applicants and other persons directly affected by a  
29 decision of the department of energy to issue or deny a license may appeal a department decision to  
30 the public utilities commission within 30 days of the department's decision, and not thereafter.  
31 Whenever an appeal is timely filed, the commission shall hear all parties directly affected, except  
32 with respect to applicable safety standards and the applicability and validity of any department of  
33 energy rule. The commission may rescind the license or remand to the department of energy with  
34 instructions to issue, modify, or condition a license in any manner found necessary by the  
35 commission to assure that the license may be exercised without substantially affecting the public  
36 rights in public waters or state-owned lands. There shall be no right to appeal licenses issued for the  
37 exclusive purpose of furnishing facilities or utility services to the state or with regard to licenses

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1 issued to relocate facilities when the relocation is at the request of the state and the department of  
2 energy has limited the duration of the license to two years or less. Notwithstanding the foregoing,  
3 the attorney general and owners of lands bordering the location of a public water crossing may  
4 appeal for the sole purpose of determining damages and compensation pursuant to RSA 371:21. The  
5 commission shall publish notice of the appeal and any related hearing on its website, provide notice  
6 of a contested case as required under RSA 541-A, and may require such additional notice as it deems  
7 proper.

8       371:21 Damages and Compensation. Whenever an appeal is timely filed, the commission shall,  
9 upon request of an affected property owner, determine the compensation, if any, to be paid to the  
10 owner of land bordering the site of a public water crossing for any damages caused by the  
11 continuation and maintenance of any structures, facilities or equipment installed in connection with  
12 the crossing, subject to appeal as provided in RSA 371:10. The commission shall also determine the  
13 amount of compensation to be paid to the state for rights on public waters or public lands as  
14 provided in section 371:20.

15       371:22 Rulemaking Authority. The department of energy is authorized to adopt rules to  
16 implement this chapter, and shall initiate a formal rulemaking process no later than December 31,  
17 2023. Until the department adopts rules, applicants shall apply for a license by petitioning the  
18 department of energy in the same manner as under prior law. The time limits stated in this chapter  
19 shall apply notwithstanding RSA 541-A:29, and the department shall not be subject to RSA 541-  
20 A:29-a. The commission may utilize its rules governing adjudicative proceedings for hearings and is  
21 authorized to adopt rules regarding appeals and compensation to be paid under this chapter.

22       371:23 Compensation to State. Any compensation payable to the state on account of any such  
23 license shall be paid to the state treasurer and, if derived from licenses affecting state forests or  
24 forestry reservations, shall be added to the forest improvement fund; otherwise, it shall be a part of  
25 the general funds of the state.

26       245:24 Investigation of Other Utilities. Amend RSA 374:7 to read as follows:

27       374:7 Investigation of Other Utilities; Orders. The commission and the department of energy  
28 shall have power to investigate and ascertain, from time to time, the quality of gas supplied by  
29 public utilities and the methods employed by public utilities in manufacturing, transmitting or  
30 supplying gas or electricity for light, heat or power, or in transmitting telephone and telegraph  
31 messages, or supplying water, and, after notice and hearing thereon, *the commission* shall have  
32 power to order all reasonable and just improvements and extensions in service or methods.

33       245:25 Reference Change; Service Territories Served by Certain Telephone Utilities. Amend  
34 RSA 374:22-g, II to read as follows:

35       II. In determining the public good, the ~~[commission]~~ *department of energy* shall consider  
36 the interests of competition with other factors including, but not limited to, fairness; economic  
37 efficiency; universal service; carrier of last resort obligations; the incumbent utility's opportunity to

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1 realize a reasonable return on its investment; and the recovery from competitive providers of  
2 expenses incurred by the incumbent utility to benefit competitive providers, taking into account the  
3 proportionate benefit or savings, if any, derived by the incumbent as a result of incurring such  
4 expenses.

5 245:26 Pole Attachments. Amend RSA 374:34-a, VIII to read as follows:

6 VIII. The department of energy *and the public utilities commission* shall retain [its]  
7 *their* authority to regulate the safety, vegetation management, emergency response, and storm  
8 restoration requirements for poles, conduits, ducts, pipes, pole attachments, wires, cables, and  
9 related plant and equipment of public utilities and other private entities located within public rights-  
10 of-way and on, over, or under state lands and water bodies.

11 245:27 Restructuring Policy Principals; Open Access. Amend RSA 374-F:3, IV to read as  
12 follows:

13 IV. Open Access to Transmission and Distribution Facilities. Non-discriminatory open  
14 access to the electric system for wholesale and retail transactions should be promoted.  
15 ~~[Comparability should be assured for generators competing with affiliates of groups supplying~~  
16 ~~transmission and distribution services. Companies providing transmission services should file at the~~  
17 ~~FERC or with the commission, or with the department of energy, as appropriate, comparable service~~  
18 ~~tariffs that provide open access for all competitors.]~~ The commission and the department should  
19 monitor companies providing transmission or distribution services and take necessary measures to  
20 ensure that no supplier has an unfair advantage in offering and pricing such services.

21 245:28 Electric Utility Restructuring; Ratepayer Protection. Amend RSA 374-F:4-b, IV-V to  
22 read as follows:

23 IV. Unless the contract specifies a month-to-month variable rate, no competitive electric  
24 supplier shall charge a residential customer a variable rate, including during a contract term or  
25 following the expiration of a contract, without first providing written notification in a form approved  
26 by the ~~[commission]~~ *department of energy* of the nature of such variable rate 45 days prior to the  
27 commencement of the variable rate. The residential customer shall select the method of written  
28 notification at the time the contract is signed. Such customer shall have the option to change the  
29 method of notification at any time during the contract.

30 V. Competitive electric suppliers shall retain records of any of the notices required in this  
31 section for a period of not less than 2 years and shall make such records available to the  
32 ~~[commission]~~ *department of energy* upon its request.

33 245:29 Implementation of Retail Choice. Amend RSA 374-F:4, VIII(f) to read as follows:

34 (f) Beginning in 2000, ~~[the commission and]~~ the department shall submit a report to the  
35 legislative oversight committee to monitor the transformation of delivery of electric services by  
36 October 1 of each year. The report shall concern the results and effectiveness of the system benefits  
37 charge.

CHAPTER 245  
HB 1258 - FINAL VERSION  
- Page 10 -

1       245:30 Electric Utility Restructuring; Participation in Regional Activities. Amend RSA 374-F:8  
2 to read as follows:

3       374-F:8 Participation in Regional Activities. The department shall advocate for New Hampshire  
4 interests before the Federal Energy Regulatory Commission and other regional and federal bodies.  
5 The commission shall participate in the activities of the New England Conference of Public Utility  
6 Commissioners, and the National Association of Regulatory Utility Commissioners *as the New*  
7 *Hampshire member agency*, and the department shall participate in the activities of the New  
8 England States Committee on Electricity, or other similar organizations *as the New Hampshire*  
9 *member agency*, and work with the New England Independent System Operator and NEPOOL to  
10 advance the interests of New Hampshire with respect to wholesale electric issues, including policy  
11 goals relating to fuel diversity, renewable energy, and energy efficiency, and to assure  
12 nondiscriminatory open access to a safe, adequate, and reliable transmission system at just and  
13 reasonable prices. *Employees of the commission and the department are not otherwise*  
14 *prohibited from participating in the activities of the aforementioned organizations in*  
15 *which the other agency has the lead role.* The department shall advocate against proposed  
16 regional or federal rules or policies that are inconsistent with the policies, rules, or laws of New  
17 Hampshire. In its participation in regional activities, the commission and the department shall  
18 consider how other states' policies will impact New Hampshire rates and work to prevent or  
19 minimize any rate impact the commission or department determines to be unjust or unreasonable.

20       245:31 Reference Change; Investigations of Energy Storage. Amend RSA 374-H:3 to read as  
21 follows:

22       374-H:3 [~~Commission~~] *Department of Energy* Investigation of Energy Storage.

23       I. The [~~commission~~] *department of energy* shall investigate ways to enable energy storage  
24 projects to receive compensation for avoided transmission and distribution costs, including avoided  
25 regional and local network service charges, while also participating in wholesale energy markets.  
26 The [~~commission~~] *department* shall investigate how this might be done for both utility-owned and  
27 non-utility-owned energy storage projects, as well as for both behind-the-meter storage and front-of-  
28 the-meter storage.

29       II. The [~~commission's~~] *department's* investigative proceeding shall specifically consider the  
30 following:

31               (a) How public policy can best establish accurate and efficient price signals for energy  
32 storage projects that avoid actual transmission and distribution costs or reduce wholesale electricity  
33 market prices.

34               (b) How to compensate energy storage projects that participate in wholesale electricity  
35 markets for actual avoided transmission and distribution costs in a manner that provides net  
36 savings to consumers.

CHAPTER 245  
HB 1258 - FINAL VERSION  
- Page 11 -

1 (c) How best to encourage both utility and non-utility investments in energy storage  
2 projects.

3 (d) The costs and benefits of a potential bring your own device program; how such a  
4 program might be implemented; any statutory or regulatory changes that might be needed to create,  
5 facilitate, and implement such a program; and whether such a program should include all  
6 distributed energy resources or be limited to distributed energy storage projects.

7 (e) Any statutory changes the general court should implement, including but not limited  
8 to changes to or exceptions from RSA 374-F or RSA 374-G, to enable energy storage projects to  
9 receive appropriate compensation for actual avoided transmission and distribution costs while also  
10 participating in wholesale energy markets.

11 (f) Any other topic the ~~[commission]~~ **department** reasonably believes it should consider  
12 in order to diligently conduct the proceeding.

13 III. The ~~[commission]~~ **department** shall report its findings and recommendations to the  
14 standing committees of the house of representatives and senate with jurisdiction over energy and  
15 utility matters no later than 2 years after initiating the proceeding. The report shall identify ways  
16 any recommended statutory changes can minimize any potential conflict with the restructuring  
17 policy principles of RSA 374-F.

18 245:32 Reference Change; State Operating Budget. The commissioner of the department of  
19 administrative services shall change the title of organization code 1892 from adjudicative  
20 commissioners to the public utilities commission.

21 245:33 Limited Electrical Energy Producers Act; Definitions. Amend RSA 362-A:1-a, II-c to read  
22 as follows:

23 II-c. "Municipal host" means a customer generator with a total peak generating capacity of  
24 greater than one megawatt and less than 5 megawatts used to offset the electricity requirements of a  
25 group consisting exclusively of one or more customers who are political subdivisions, provided that  
26 all customers are located within the same utility franchise service territory. A municipal host shall  
27 be located in the same municipality as all group members if the facility began operation after  
28 January 1, 2021. A municipal host may be owned by either a public or private entity. For this  
29 definition, "political subdivision" means *the state of New Hampshire* or any city, town, county,  
30 school district, chartered public school, village district, school administrative unit, or any district or  
31 entity created for a special purpose administered or funded by any of the above-named governmental  
32 units.

33 245:34 Repeals. The following are repealed:

34 I. RSA 12-P:12, relative to prohibited service.

35 II. RSA 371:17-a, relative to new attachments on existing utility poles.

36 III. RSA 371:17-b, relative to temporary licenses for existing crossings on existing poles.

37 IV. RSA 371:18, relative to exceptions to hearing requirements.

**CHAPTER 245**  
**HB 1258 - FINAL VERSION**  
**- Page 12 -**

- 1           V. RSA 374-F:3, V(b), relative to transition service.
- 2           245:35 Nullification; Duplicity from HB 1270 (2022, 137). Section 29 of this act shall not take
- 3 effect.

245:36 Effective Date. This act shall take effect 60 days after its passage.

Approved: June 21, 2022  
Effective Date: August 20, 2022

# Amendments



Sen. Perkins Kwoka, Dist 21  
April 26, 2022  
2022-1787s  
12/10

Amendment to HB 1258

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to the implementation of the department of energy and relative to the  
4 definition of "municipal host" for purposes of limited electrical energy producers.  
5

6 Amend the bill by replacing all after section 32 with the following:

7

8 33 Limited Electrical Energy Producers Act; Definitions. Amend RSA 362-A:1-a, II-c to read as  
9 follows:

10 II-c. "Municipal host" means a customer generator with a total peak generating capacity of  
11 greater than one megawatt and less than 5 megawatts used to offset the electricity requirements of a  
12 group consisting exclusively of one or more customers who are political subdivisions, provided that  
13 all customers are located within the same utility franchise service territory. A municipal host shall  
14 be located in the same municipality as all group members if the facility began operation after  
15 January 1, 2021. A municipal host may be owned by either a public or private entity. For this  
16 definition, "political subdivision" means *the state of New Hampshire or* any city, town, county,  
17 school district, chartered public school, village district, school administrative unit, ~~housing~~ *State*  
18 ~~authority, or quasi-public entity, the Pease development authority,~~ or any district or entity  
19 created for a special purpose administered or funded by any of the above-named governmental units.

20 34 Repeals. The following are repealed:

21 I. RSA 12-P:12, relative to prohibited service.

22 II. RSA 371:17-a, relative to new attachments on existing utility poles.

23 III. RSA 371:17-b, relative to temporary licenses for existing crossings on existing poles.

24 IV. RSA 371:18, relative to exceptions to hearing requirements.

25 V. RSA 374-F:3, V(b), relative to transition service.

26 35 Effective Date. This act shall take effect 60 days after its passage.

2022-1787s

AMENDED ANALYSIS

This bill makes various changes to amend the powers and duties of the public utilities commission and the department of energy. This bill also amends the definition of "political subdivision," as used in the definition of a "municipal host."

UNAPPROVED

Amendment to HB 1258

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to the implementation of the department of energy and relative to the  
4 definition of "municipal host" for purposes of limited electrical energy producers.  
5

6 Amend the bill by replacing section 6 with the following:

7

8 6 Department of Energy; Transfer of Rules, Orders, Approvals. Amend RSA 12-P:14 to read as  
9 follows:

10 12-P:14 Transfer of Rules, Orders, Approvals. Existing rules, orders, and approvals of the  
11 public utilities commission which are associated with any functions, powers, and duties, transferred  
12 to the department of energy pursuant to RSA 12-P:11 or any other statutory provision, shall  
13 continue in effect ***notwithstanding any provision of RSA 541-A:17, II to the contrary***, and be  
14 enforced by the commissioner of the department of energy ***or the commission, as applicable***, until  
15 they ***otherwise*** expire or are repealed or amended in accordance with applicable law, ***or for a***  
16 ***period of 5 years, whichever occurs first. To the extent the department acts pursuant to an***  
17 ***existing rule, order, or approval, the department shall not be subject to RSA 541-A:29 or***  
18 ***RSA 541-A:29-a.***

19

20 Amend the bill by replacing section 8 with the following:

21

22 8 Regional Greenhouse Gas Initiative; Carbon Dioxide Emissions Budget Trading Program.  
23 Amend the introductory paragraph of RSA 125-O:21, VI to read as follows:

24 VI. The department and the ~~[commission]~~ ***department of energy*** shall report on an annual  
25 basis to the air pollution advisory committee under RSA 125-J:11 ~~[and the legislative oversight~~  
26 ~~committee];~~ ***the chair of the house science, technology, and energy committee; and the chair***  
27 ***of the senate energy and natural resource committee***, to monitor the transformation of delivery  
28 of electric services under RSA 374-F:5, on the status of the implementation of RGGI in New  
29 Hampshire, with emphasis on the prices and availability of RGGI allowances to affected CO2  
30 sources, consumer protection mechanisms, and the trends in electric rates for New Hampshire  
31 businesses and ratepayers. The report shall include but not be limited to:

32

Amendment to HB 1258

- Page 2 -

1 Amend the bill by replacing all after section 32 with the following:

2

3 33 Limited Electrical Energy Producers Act; Definitions. Amend RSA 362-A:1-a, II-c to read as  
4 follows:

5 II-c. "Municipal host" means a customer generator with a total peak generating capacity of  
6 greater than one megawatt and less than 5 megawatts used to offset the electricity requirements of a  
7 group consisting exclusively of one or more customers who are political subdivisions, provided that  
8 all customers are located within the same utility franchise service territory. A municipal host shall  
9 be located in the same municipality as all group members if the facility began operation after  
10 January 1, 2021. A municipal host may be owned by either a public or private entity. For this  
11 definition, "political subdivision" means *the state of New Hampshire* or any city, town, county,  
12 school district, chartered public school, village district, school administrative unit, or any district or  
13 entity created for a special purpose administered or funded by any of the above-named governmental  
14 units.

15 34 Repeals. The following are repealed:

16 I. RSA 12-P:12, relative to prohibited service.

17 II. RSA 371:17-a, relative to new attachments on existing utility poles.

18 III. RSA 371:17-b, relative to temporary licenses for existing crossings on existing poles.

19 IV. RSA 371:18, relative to exceptions to hearing requirements.

20 V. RSA 374-F:3, V(b), relative to transition service.

21 35 Effective Date. This act shall take effect 60 days after its passage.

**Amendment to HB 1258**

**- Page 3 -**

2022-1824s

**AMENDED ANALYSIS**

This bill makes various changes to amend the powers and duties of the public utilities commission and the department of energy. This bill also amends the definition of "political subdivision," as used in the definition of a "municipal host."

# Committee Minutes

**SENATE CALENDAR NOTICE**  
**Energy and Natural Resources**

Sen Kevin Avard, Chair  
Sen Bob Giuda, Vice Chair  
Sen James Gray, Member  
Sen David Watters, Member  
Sen Rebecca Perkins Kwoka, Member

Date: April 20, 2022

**HEARINGS**

Monday	04/25/2022	
(Day)	(Date)	
Energy and Natural Resources	State House 103	9:00 a.m.
(Name of Committee)	(Place)	(Time)
9:00 a.m.	<b>HB 1258</b>	relative to the implementation of the department of energy.
9:10 a.m.	<b>HB 1270</b>	repealing the legislative oversight committee to monitor the transformation of delivery of electric services.
9:20 a.m.	<b>HB 1285</b>	relative to the multi-use energy data platform.
9:30 a.m.	<b>HB 1331</b>	relative to power line maintenance and construction.
9:40 a.m.	<b>HB 1148</b>	relative to prohibiting government entities subordinate to the state from restricting the types of fuel sources that may be used for energy.

**EXECUTIVE SESSION MAY FOLLOW**

**Sponsors:**

**HB 1258**

Rep. Harrington

Rep. Vose

**HB 1270**

Rep. Thomas

Rep. Merner

Rep. Notter

Rep. Harley

Rep. Lang

Sen. Carson

**HB 1285**

Rep. McGhee

Rep. Oxenham

**HB 1331**

Rep. Baroody

Rep. Osborne

**HB 1148**

Rep. Plett

Daley Frenette 271-3042

Kevin A. Avard  
Chairman

**Senate Energy and Natural Resources Committee**  
*Daley Frenette 271-3042*

HB 1258, relative to the implementation of the department of energy.

**Hearing Date:** April 25, 2022

**Members of the Committee Present:** Senators Avard, Giuda, Gray, Watters and Perkins Kwoka

**Members of the Committee Absent :** None

**Bill Analysis:** This bill makes various changes to amend the powers and duties of the public utilities commission and the department of energy.

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**Sponsors:**

Rep. Harrington

Rep. Vose

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**Who supports the bill:** Josh Elliot, NHDOE, Representative Vose, Rockingham-District 9, Representative Thomas, Rockingham-District 5, Representative Plett, Hillsborough-District 6.

**Who opposes the bill:** None.

**Who is neutral on the bill:** None.

**Summary of testimony presented:**

Representative Vose, Rockingham-District 9

- This bill aims to fix issues that were left unanswered in the wake of the passage of HB 2 last year which created the Department of Energy. The Department and the PUC requested this legislation.
- The House had two full subcommittee work sessions that scrutinized this bill. They worked with the stakeholders and all parties were satisfied. The bill passed the House Committee and the full House unanimously.
- On page 2 line 12, this section transfers the rules, orders, approvals to the Department of Energy. The PUC had a vast set of rules to govern the entities that it was responsible for. Oversight of many of these entities gets transferred to the Department. The Department is going to need to create rules that the PUC had previously. There may be a way to transfer these rules, but there were a few details that needed to be clarified. It provides a period of no longer than 5 years to do the necessary work in creating or transferring these rules.



- Senator Watters asked why they decided on 5 years. Representative Vose stated that the Department will most likely not need the whole 5 years. This is meant to establish a time frame. It does not replace the process established in RSA 541: A for developing rules. This does not mean that the process can be dragged out for 5 years. It means that all of the transfers and creation of rules must be done within that 5-year period.
- Senator Watters asked if they considered an escape hatch in case the Department needs more time. Representative Vose stated that the Department testified in the House that they would be able to get this done in 3 years, so the extra 2 years is the escape hatch.
- Senator Giuda stated asked if the word “to” should be after the word “pursuant” on page 2 line 20. Representative Vose stated that is correct.
- It is likely that even if this bill passes, we may need to fix other issues that may arise in the future.
- Senator Watters asked if there should be an appeals process on page 7 where the bill addresses the public waters. Representative Vose stated that the House committee did discuss the rights and public waters and lands issue, and the Department said that the Commission still retains some authority over the governance of these matters and the Department takes over other aspects of the governance. If there is a dispute, it will go to the Commission. It may already be mentioned in the bill. Senator Avard pointed out that it is already in the bill on lines 23-24.
- Senator Gray asked if the 5 year-period is meant to halve the 10-year period that is established for when rules expire. Representative Vose stated that the 5-year limit falls well under the 10-year period. The Department testified in the House that some of the rules are currently up for review or will be soon. Part of that process will happen during the process of transferring and creating new rules.
- Senator Perkins Kwoka asked an underlying principle is that utilities and telecommunications carriers will now be under the purview of the Department instead of the PUC, not including adjudicative functions. On page 3, the Regional Green House Gas Initiative seems to be under the purview of DES with a review conducted by the Department of Energy on Page 4. Representative Vose stated that DES does oversee the program and the Department of Energy will be involved, however the oversight of that program will stay with DES. DES and the Regional Green House Gas Initiative are found on page 3 lines 30-31. This bill allows the PUC to be a purely adjudicative body while the Department can implement policy in a non-adjudicative way as necessary.

Josh Elliot, NHDOE

- The Department is in favor of the bill

- Section 1 of the bill adds clarifying language at the request of the PUC to allow them flexibility in the actual implementation of the Department and of the adjudicative PUC.
- Section 2 gives the Department the authority to petition before any proceeding and automatically become a party. This language mirrors the same rights that the Office of the Consumer Advocate has in their statutes.
- Section 3 gives the Department's staff the same exemptions to opening an adjudicative process as they had when they were part of the PUC.
- Sections 4 and 5 are small repeals because those powers are now included in section 2.
- Section 6, the Department will address the rules that meet the 10-year expiration as they come up. The Department does not believe they will need the full 5 years. It is just an escape hatch if something unforeseen happens.
- Section 7 adds the Commissioner of the DOE or designee to the EESE Board.
- Sections 8-13 deal with the Renewable Green House Gas Initiative. The Commission currently oversees the duties related to this and the bill transfers those duties to the DOE.
- Section 15 is a reference change. The Department will have the authority to accelerate or delay by 1 year any incremental increases in classes 1 and 2 of the RPS.
- Section 16 was requested by the PUC to allow them the option of issuing shorter notices.
- Sections 17-18 deal with the collection of utility assessments which is a function of the Department.
- Sections 19-20 deal with medical disconnects.
- Section 21 allows for any of the complaints that are brought to the Department can be appealed to the PUC.
- Sections 22-23 discusses cost crossing licenses.
- Section 24 clarifies that the PUC has authority over improvements to gas extensions.
- Section 25 clarifies that the Department has authority regarding telephone service.
- Section 26 adds that the PUC still has some authority over poles and attachments.
- Section 27 removes language regarding restructuring that is no longer applicable.
- Section 28 clarifies that the Department deals with competitive suppliers.
- Section 29 deals with the systems benefits charge report and clarifies that is the Departments responsibility.
- Section 30 clarifies that staff from either the Department or Commission may participate in trade groups or interest groups.
- Section 31 allows energy storage to be dealt with by the Department.
- Section 32 is a reference change in the state budget.

- Section 33 repeals duplicate references as well as outdated references.

DF

Date Hearing Report completed: April 25, 2022

# Speakers

# Senate Energy & Natural Resources Committee

## SIGN-IN SHEET

Date: 4/25/2022      Time: 9:00 a.m.

HB 1258      AN ACT relative to the implementation of the department of energy.

**Name/Representing (please print neatly)**

✓ Josh Elliott NH DOE	Support <input checked="" type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	✓
✓ Rep. Michael Yose	Support <input checked="" type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	✓
✓ Rep Doug Thomas	Support <input checked="" type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	✓
	Support <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
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	Support <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
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	Support <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	



# Voting Sheets

# Senate Energy & Natural Resources Committee

## EXECUTIVE SESSION RECORD

2021-2022 Session

Bill # 1258

Hearing Date: 4/25/22

Executive Session Date: 4/26/22

Motion of: OTP Vote: \_\_\_\_\_

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: Amendment 1787s Vote: \_\_\_\_\_

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: Committee Amendment Vote: \_\_\_\_\_

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: OTPA Vote: \_\_\_\_\_

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: PK

*Committee  
w/ Sen. Giuda* 5-0

Notes: \_\_\_\_\_



# Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE  
FOR THE CONSENT CALENDAR

Tuesday, April 26, 2022

THE COMMITTEE ON Energy and Natural Resources

to which was referred **HB 1258**

AN ACT relative to the implementation of the department of energy.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 1824s

Senator Rebecca Perkins Kwoka  
For the Committee

HB 1258 aims to fix issues that were left unanswered in the wake of the passage of HB 2 last year which created the Department of Energy. The Department and the Public Utilities Commission requested this legislation. The bill transfers several of the duties of Public Utilities Commission to the Department of Energy, in keeping with the guiding principle that the Department should be an administrative, policy-making body and the Commission an adjudicative body. The bill also gives the Department a period of 5 years to create new rules around needed elements.

Daley Frenette 271-3042

FOR THE CONSENT CALENDAR

**ENERGY AND NATURAL RESOURCES**

**HB 1258**, relative to the implementation of the department of energy.

Ought to Pass with Amendment, Vote 5-0.

Senator Rebecca Perkins Kwoka for the committee.

HB 1258 aims to fix issues that were left unanswered in the wake of the passage of HB 2 last year which created the Department of Energy. The Department and the Public Utilities Commission requested this legislation. The bill transfers several of the duties of Public Utilities Commission to the Department of Energy, in keeping with the guiding principle that the Department should be an administrative, policy-making body and the Commission an adjudicative body. The bill also gives the Department a period of 5 years to create new rules around needed elements.

## General Court of New Hampshire - Bill Status System

**Docket of HB1258**

Docket Abbreviations

**Bill Title:** (New Title) relative to the implementation of the department of energy and relative to the definition of "municipal host" for purposes of limited electrical energy producers.

**Official Docket of HB1258.:**

<b>Date</b>	<b>Body</b>	<b>Description</b>
11/19/2021	H	<b>Introduced</b> 01/05/2022 and referred to Science, Technology and Energy
1/19/2022	H	Public Hearing: 01/25/2022 03:30 pm LOB 306-308
2/3/2022	H	Subcommittee Work Session: 02/14/2022 10:00 am LOB306-308
2/19/2022	H	Subcommittee Work Session: 02/22/2022 10:00 am LOB 306-308
3/1/2022	H	Executive Session: 03/01/2022 10:00 a.m. LOB306-308
3/7/2022	H	Committee Report: Ought to Pass with Amendment <b>#2022-0851h (Vote 22-0; RC)</b>
3/17/2022	H	Amendment <b>#2022-0851h: AA VV 03/17/2022 HJ 8</b>
3/17/2022	H	<b>Ought to Pass with Amendment</b> 2022-0851h: MA VV 03/17/2022 <b>HJ 8</b>
3/22/2022	S	Introduced 03/17/2022 and Referred to Energy and Natural Resources; <b>SJ 6</b>
4/20/2022	S	<b>Hearing:</b> 04/25/2022, Room 103, SH, 09:00 am; <b>SC 17</b>
4/26/2022	S	Committee Report: Ought to Pass with Amendment <b>#2022-1824s</b> , 05/05/2022; Vote 5-0; CC; <b>SC 18</b>
5/5/2022	S	Committee Amendment <b>#2022-1824s</b> , AA, VV; 05/05/2022; <b>SJ 11</b>
5/5/2022	S	<b>Ought to Pass with Amendment</b> 2022-1824s, MA, VV; OT3rdg; 05/05/2022; <b>SJ 11</b>
5/13/2022	H	House Concurs with Senate Amendment (Rep. Vose): MA VV 05/12/2022 <b>HJ 13</b>
6/17/2022	H	Enrolled Bill Amendment <b>#2022-2126e</b> : AA VV (in recess of) 05/26/2022 <b>HJ 14</b>
6/17/2022	S	Enrolled Bill Amendment <b>#2022-2126e</b> Adopted, VV, (In recess of 05/26/2022); <b>SJ 13</b>
6/20/2022	S	Enrolled Adopted, VV, (In recess 05/26/2022); <b>SJ 13</b>
6/20/2022	H	Enrolled (in recess of) 05/26/2022 <b>HJ 14</b>
6/23/2022	H	Signed by Governor Sununu 06/21/2022; Chapter 245; eff. 08/20/2022 <b>HJ 14</b>

NH House

NH Senate

# Other Referrals

**Senate Inventory Checklist for Archives**

Bill Number: HB 1258

Senate Committee: Energy

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

**Bill Hearing Documents: {Legislative Aides}**

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

**Committee Action Documents: {Legislative Aides}**

All amendments considered in committee (including those not adopted):

- amendment # 18245       - amendment # 17875

- amendment # ~~18245~~       - amendment # \_\_\_\_\_

Executive Session Sheet

Committee Report

**Floor Action Documents: {Clerk's Office}**

All floor amendments considered by the body during session (only if they are offered to the senate):

\_\_\_\_\_ - amendment # \_\_\_\_\_      \_\_\_\_\_ - amendment # \_\_\_\_\_

\_\_\_\_\_ - amendment # \_\_\_\_\_      \_\_\_\_\_ - amendment # \_\_\_\_\_

**Post Floor Action: (if applicable) {Clerk's Office}**

Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

Enrolled Bill Amendment(s) 2126 EBA

Governor's Veto Message

**All available versions of the bill: {Clerk's Office}**

as amended by the senate      \_\_\_\_\_ as amended by the house

final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

\_\_\_\_\_  
Committee Aide

\_\_\_\_\_  
Date

Senate Clerk's Office AK

June 15, 2022  
2022-2126-EBA  
07/05

Enrolled Bill Amendment to HB 1258

The Committee on Enrolled Bills to which was referred HB 1258

AN ACT                   relative to the implementation of the department of energy and relative to the definition of "municipal host" for purposes of limited electrical energy producers.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

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Explanation to Enrolled Bill Amendment to HB 1258

This enrolled bill amendment makes technical corrections to the bill to integrate changes to the law made by HB 1270 (2022, 137).

Enrolled Bill Amendment to HB 1258

Amend RSA 125-O:21, VI as inserted by section 8 of the bill by replacing lines 1-5 with the following:

VI. The department of environmental services and the department of energy shall report on an annual basis to the air pollution advisory committee under RSA 125-J:11, the *chair of the* house science, technology, and energy committee, and the *chair of the* senate energy and natural resources committee on the status of the implementation of RGGI in New

Amend the bill by inserting after section 34 the following and renumbering the original section 35 to read as 36:

35 Nullification; Duplicity from HB 1270 (2022, 137). Section 29 of this act shall not take effect.