

REGULAR CALENDAR

March 22, 2023

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Finance to which was referred HB
576-FN-A-LOCAL,**

**AN ACT (New Title) relative to administration of a
commercial property assessed clean energy (C-PACE)
program in a clean energy efficiency and clean energy
district. Having considered the same, report the same
with the following amendment, and the
recommendation that the bill OUGHT TO PASS WITH
AMENDMENT.**

Rep. Joe Sweeney

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Finance
Bill Number:	HB 576-FN-A-LOCAL
Title:	(New Title) relative to administration of a commercial property assessed clean energy (C-PACE) program in a clean energy efficiency and clean energy district.
Date:	March 22, 2023
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2023-0692

STATEMENT OF INTENT

The bipartisan majority of the House Finance Committee amended HB 576-FN to protect our New Hampshire banks and lenders from any unintended consequences present in the first iteration of the legislation that passed the House earlier this year. New Hampshire currently has a municipal Property Assessed Clean Energy (PACE) program. It allows loans through a private investor for energy efficiency upgrades to be paid back through an assessment. A key component of the PACE program is lienholder consent. Currently, all lienholders have to consent to the project. If every lienholder provides consent, the assessment becomes a priority lien. However, if every lienholder does not provide consent, the lien is extinguished during a sheriff's sale or foreclosure. HB 576 establishes Commercial Property Assessed Clean Energy (C-PACE). It creates a priority lien for the additional assessment on C-PACE properties and requires the lien for the assessment to stay with the property until it's paid in full. The bill originally in our committee struck out the reference to the lienholder consent, and the amendment approved by the Finance Committee reinstates this language, requiring lienholder consent in order for the assessment to become a priority lien.

Vote 21-4.

Rep. Joe Sweeney
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Finance

HB 576-FN-A-LOCAL, (New Title) relative to administration of a commercial property assessed clean energy (C-PACE) program in a clean energy efficiency and clean energy district. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Joe Sweeney for Finance. The bipartisan majority of the House Finance Committee amended HB 576-FN to protect our New Hampshire banks and lenders from any unintended consequences present in the first iteration of the legislation that passed the House earlier this year. New Hampshire currently has a municipal Property Assessed Clean Energy (PACE) program. It allows loans through a private investor for energy efficiency upgrades to be paid back through an assessment. A key component of the PACE program is lienholder consent. Currently, all lienholders have to consent to the project. If every lienholder provides consent, the assessment becomes a priority lien. However, if every lienholder does not provide consent, the lien is extinguished during a sheriff's sale or foreclosure. HB 576 establishes Commercial Property Assessed Clean Energy (C-PACE). It creates a priority lien for the additional assessment on C-PACE properties and requires the lien for the assessment to stay with the property until it's paid in full. The bill originally in our committee struck out the reference to the lienholder consent, and the amendment approved by the Finance Committee reinstates this language, requiring lienholder consent in order for the assessment to become a priority lien.

Vote 21-4.

Amendment to HB 576-FN-A-LOCAL

1 Amend the bill by replacing section 2 with the following:

2
3 2 Energy Efficiency and Clean Energy Districts; Priority Lien and Collection. Amend RSA 53-
4 F:8 to read as follows:

5 53-F:8 Priority; Collection and Enforcement. Collection of special assessments under this
6 chapter shall be made by the tax collector or other official responsible for property tax or municipal
7 service charge collection. A municipality shall commit bills for amounts due on the special
8 assessments, including interest and any charges, to the tax collector with a warrant signed by the
9 appropriate municipal officials requiring the tax collector to collect them. Each year bills for
10 amounts due on the special assessments shall coincide with bills for property taxes or municipal
11 service charges. ~~[Each special assessment on the property of a participating property owner shall
12 create a lien on the property pursuant to RSA 80:19, except that the lien shall be junior to existing
13 liens of record at the time the bill for the assessment is mailed to the participating property owner.
14 Enforcement powers for nonpayment shall be those provided under RSA 80 relative to property tax
15 collection, including RSA 80:19; provided, however, a tax sale of the property shall not extinguish
16 prior liens of record. At the time of enforcement, only the past due balances of the special
17 assessment under this chapter, including all interest, charges, and penalties, shall be due for
18 payment. Notwithstanding any other provision of law, in the event of a transfer of property
19 ownership through foreclosure or a sheriff's sale by a senior mortgagee or lienholder which has
20 consented to the making of a loan by a private lender under the provisions of this chapter, the lien of
21 the municipality shall not be extinguished, and the net proceeds of the sale, if any, after payment of
22 all prior obligations to mortgagees and lienholders, costs and expenses of foreclosure or sheriff's sale,
23 shall be first applied to the payment of any past due balances of the loan and then any excess shall
24 be applied against the remaining balance of the loan. If a senior mortgagee or lienholder has not
25 given its consent to the loan, a foreclosure or sheriff's sale by the mortgagee or lienholder shall
26 extinguish all junior mortgages and liens.]~~ ***Each special assessment imposed under a clean
27 energy efficiency and clean energy district program pursuant to an assessment contract,
28 including any interest on the assessment and any penalty, shall, upon recording of the
29 assessment contract in the county in which the district area is located, constitute a lien
30 against the property on which the assessment is imposed until the assessment, including
31 any interest or penalty, is paid in full. The lien of the assessment contract shall run with
32 the property until the assessment is paid in full and a satisfaction or release for the same***

1 *has been recorded by the town, city, or district or its program administrator and shall have*
2 *the same lien priority and status as other property tax and special assessment liens as*
3 *provided in RSA 80. The town, city, or district, or any permitted assignee, shall have all*
4 *rights and remedies in the case of default or delinquency in the payment of an assessment*
5 *as it does with respect to delinquent property taxes and other delinquent special*
6 *assessments as set forth in RSA 80, except that all prior recorded mortgages or liens shall*
7 *retain priority over the lien of the assessment contract unless all such mortgagees or*
8 *lienholders of record have consented to the lien as provided for in RSA 53-F:5.*

HOUSE COMMITTEE ON FINANCE

EXECUTIVE SESSION on HB 576-FN-A-LOCAL

BILL TITLE: (New Title) relative to administration of a commercial property assessed clean energy (C-PACE) program in a clean energy efficiency and clean energy district.

DATE: March 20, 2023

LOB ROOM: 210-211

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. Sweeney Seconded by Rep. Ebel AM Vote: 25-0

Amendment # 2023-0692h

Moved by Rep. Sweeney Seconded by Rep. Ebel Vote: 21-4

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Joseph Pitre, Clerk

HOUSE COMMITTEE ON FINANCE

EXECUTIVE SESSION on HB 576-FN-A-LOCAL

BILL TITLE: (New Title) relative to administration of a commercial property assessed clean energy (C-PACE) program in a clean energy efficiency and clean energy district.

DATE:

LOB ROOM: 210-211

MOTION: (Please check one box)

[X] OTP [] ITL [] Retain (1st year) [] Adoption of Amendment # 06926 (if offered) 2023
Moved by Rep. Sweeney Secoded by Rep. Ebel Vote: 25-0 VV

MOTION: (Please check one box)

[X] OTP [X] OTP/A [] ITL [] Retain (1st year) [] Adoption of Amendment # (if offered)
Moved by Rep. Sweeney Secoded by Rep. Ebel Vote: 21-4

MOTION: (Please check one box)

[] OTP [] OTP/A [] ITL [] Retain (1st year) [] Adoption of Amendment # (if offered)
Moved by Rep. Secoded by Rep. Vote:

MOTION: (Please check one box)

[] OTP [] OTP/A [] ITL [] Retain (1st year) [] Adoption of Amendment # (if offered)
Moved by Rep. Secoded by Rep. Vote:

[] WITHOUT RECOMMENDATION

CONSENT CALENDAR: YES NO

Minority Report? Yes No If yes, author, Rep: Motion

Respectfully submitted: [Signature] Rep Joseph Pitre, Clerk



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/24/2023 2:48:27 PM
Roll Call Committee Registers
Report

2023 SESSION

Finance

FN-A-LOCAL

2023 ✓✓

Bill #: *HB 576* Motion: *OTP*

AM #: *0692 h* Exec Session Date: *20 MAR 23*

Members	YEAS	Nays	NV
Weyler, Kenneth L. Chairman	20		
Erf, Keith Vice Chairman	.	1	
McGuire, Dan	1		
Pitre, Joseph A. Clerk		2	
Emerick, Tracy	2	3	
Griffin, Gerald	3	4	
Mooney, Maureen C.	4		
Edwards, Jess C.	21	3	
Bean, Harry H.	5		
Hoell, J.R.		3	
Sweeney, Joe	6		
Cambrils, Jose E.		4	
Popovici-Muller, Daniel	7		
Wallner, Mary Jane	8		
Nordgren, Sharon L.	9		
Leishman, Peter R.	10		
Buco, Thomas L.	11		
Hatch, William A. <i>GRASSE</i>	12		
Huot, David O.	13		
Heath, Mary	14		
Murray, Kate R.	15		
Ebel, Karen E.	16		
Telerski, Laura D.	17		
Hakken-Phillips, Mary A.	18		
Stringham, Jerry M.	19		
TOTAL VOTE:	21	4	

HOUSE COMMITTEE ON Finance

DIVISION I WORK SESSION ON HB 576-FN-A-LOCAL

BILL TITLE: (New Title) relative to administration of a commercial property assessed clean energy (C-PACE) program in a clean energy efficiency and clean energy district.

DATE: March 3, 2023

ROOM: 212

Time Work Session Called to Order: <<Start Time>>

Time Adjourned: <<End Time>>

(please circle if present)

Committee Members: Leishman, D. McGuire, G. Griffin, Sweeney, Cambrils, Hatch, Huot and Ebel

Bill Sponsors:

Rep. Mangipudi
Rep. Preece

Rep. Darby
Sen. Watters

Rep. McWilliams
Sen. Altschiller

TESTIMONY

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

* Amendment # 2023-0692h

Rep. **Wallner** replaced Rep. **Hatch** for this Work Session.

Rep. **Sweeney** moved OTP/A, seconded by Rep. **Cambrils**. Motion adopted 9-0.

Respectfully submitted,

Rep. Karen Ebel
Action Clerk, Division I



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/24/2023 2:49:20 PM
Roll Call Committee Registers
Report

2023 SESSION

Finance - Division I

Bill #: 576 Motion: OTPA AM #: _____ Exec Session Date: _____

Members	YEAS	Nays	NV
Leishman, Peter R. Chairman	✓		
McGuire, Dan Vice Chairman	✓		
Griffin, Gerald	✓		
Sweeney, Joe	✓		
Cambrils, Jose E.	✓		
Hatch, William A. / <u>Wallner</u>	✓		
Huot, David O.	✓		
Ebel, Karen E.	✓		
TOTAL VOTE:			

Weyler

✓

Vote 9-0

Amendment
2023-0692h
Unanimous

Sweeney moved
Cambrils seconded

Amendment to HB 576-FN-A-LOCAL

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2

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18 payment. Notwithstanding any other provision of law, in the event of a transfer of property
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20 consented to the making of a loan by a private lender under the provisions of this chapter, the lien of
21 the municipality shall not be extinguished, and the net proceeds of the sale, if any, after payment of
22 all prior obligations to mortgagees and lienholders, costs and expenses of foreclosure or sheriff's sale,
23 shall be first applied to the payment of any past due balances of the loan and then any excess shall
24 be applied against the remaining balance of the loan. If a senior mortgagee or lienholder has not
25 given its consent to the loan, a foreclosure or sheriff's sale by the mortgagee or lienholder shall
26 extinguish all junior mortgages and liens.]~~ *Each special assessment imposed under a clean
27 energy efficiency and clean energy district program pursuant to an assessment contract,
28 including any interest on the assessment and any penalty, shall, upon recording of the
29 assessment contract in the county in which the district area is located, constitute a lien
30 against the property on which the assessment is imposed until the assessment, including
31 any interest or penalty, is paid in full. The lien of the assessment contract shall run with
32 the property until the assessment is paid in full and a satisfaction or release for the same*

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2 *the same lien priority and status as other property tax and special assessment liens as*
3 *provided in RSA 80. The town, city, or district, or any permitted assignee, shall have all*
4 *rights and remedies in the case of default or delinquency in the payment of an assessment*
5 *as it does with respect to delinquent property taxes and other delinquent special*
6 *assessments as set forth in RSA 80, except that all prior recorded mortgages or liens shall*
7 *retain priority over the lien of the assessment contract unless all such mortgagees or*
8 *lienholders of record have consented to the lien as provided for in RSA 53-F:5.*

UNAPPROVED

HOUSE COMMITTEE ON Finance

DIVISION I WORK SESSION ON HB 576-FN-A-LOCAL

BILL TITLE: (New Title) relative to administration of a commercial property assessed clean energy (C-PACE) program in a clean energy efficiency and clean energy district.

DATE: February 21, 2023

ROOM: 212

Time Work Session Called to Order: 1:30 p.m.

Time Adjourned: <<End Time>>

(please circle if present)

Committee Members: Leishman, D. McGuire, G. Griffin, Sweeney, Cambrils, Hatch, Huot and Ebel

Bill Sponsors:

Rep. Mangipudi
Rep. Preece

Rep. Darby
Sen. Watters

Rep. McWilliams
Sen. Altschiller

TESTIMONY

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

*Suggested amendment to HB 576

*Mortgage Lender's Guide to C-PACE: Lender Consent

Ryan Hall, NH Bankers Association:

PACE - Residential properties can upgrade homes and apply for grants. C-PACE - commercial properties. No position, but concerned about lien holds RSA 53-F. F-8 was amended to remove lender consent. Potential impact on secondary market. FNMA won't buy mortgage with PACE liens. Amendment keeps assessment with property suggested language provided, page 2, lines 9-12 of bill.

Rep. D. McGuire: Loans made to commercial property owners to make renewable energy improvements. Can be private or federal funds. Municipalities can guarantee through tax assessment.

Amendment addresses residential and commercial loans.

Rep. Griffin: Mandate?

Rep. Sweeney: Consent should be art of a C-PACE program.

Katherine Heck, NH Municipal Association (NHMA)

Fiscal note prepared R-PACE and C-PACE. Enabling legislation Durham and Nashua. 2010 - energy efficiency district. Municipal bonds can be issued. Amended and now can only be doe through private funders. No fiscal impact to state. Bank senior lien holder. town lien holder. 38 states have this. Bankers Association and NHMA worked together on proposed amendment.

Rep. D. **McGuire**: Municipalities being added back in. How is this better than just a private party?

Without private/public partnership things wouldn't move ahead.

Ms. **Heck**: Successful in program in VA.

Respectfully submitted,

Rep. Karen Ebel
Acting Clerk, Division I

Suggested amendment to HB 576

Suggest that the last sentence of the bill (lines 9-12 on page 2) be changed to read as follows to ensure existing lienholders maintain the right to consent:

The town, city, or district, or any permitted assignee, shall have all rights and remedies in the case of default or delinquency in the payment of an assessment as it does with respect to delinquent property taxes and other delinquent special assessments as set forth in RSA 80, *except that all prior recorded mortgages or liens shall retain priority over the lien of the assessment contract unless all such mortgagees or lienholders of record have consented to the lien as provided for in RSA 53-F:5.*



Mortgage Lender's Guide to C-PACE: Lender Consent

Capital Providers

CleanFund

Counterpointe SRE

Inland Green Capital

PACE Loan Group

Petros PACE Finance

Twain Financial Partners

Law Firms

Bricker & Eckler

Chapman and Cutler

Hirschler

Norton Rose Fulbright

Stinson

Winston & Strawn

Accounting Firms

Novogradac & Company

FinTech Partner

T REX

What is C-PACE?

Commercial Property Assessed Clean Energy (C-PACE) is an alternative financing mechanism for property upgrades that improve energy efficiency, utilize renewable energy, conserve water and more. C-PACE makes it possible for owners of commercial, industrial, multifamily, and nonprofit properties to obtain low-cost, long-term, fixed-rate financing funded by private capital providers. Currently, 30+ states have enacted C-PACE legislation, enabling more than \$1 billion in private financing of 2,000+ projects.

How are C-PACE assessments repaid?

In most states, C-PACE is billed as a line item on the property tax bill and collected through the normal property tax collection process.

What items can be financed by C-PACE?

Depending on the jurisdiction, eligible upgrades include efficiency measures (HVAC< LEDs, windows, water, etc.), renewable energy (solar), resiliency measures (seismic, flood, storm strengthening) and, in most jurisdictions, qualified improvements related to new construction.

AS A MORTGAGE LENDER...

What do you need from me?

To document the C-PACE financing, most programs require mortgage holders to consent to the assessment because, like other property tax assessments, the claim for delinquent C-PACE payments is typically on par with normal property taxes. To date, over 200 national, regional and local lenders have consented to C-PACE financing. A list of those lenders is attached as Exhibit A. A sample lender consent / acknowledgement document executed by senior lenders is attached as Exhibit B.

Why do senior lenders consent to C-PACE financing?

1. **C-PACE Assessments Cannot be Accelerated.** While the full assessment amount is recorded on the property records, only the annual payment may be collected, even in a default situation. The past due portion that is senior to a mortgage lender's claim is typically, only 1-3 percent of the property value. For example, consider a \$1 million C-PACE financing on a property valued at \$5 million. The annual assessment for a 20-year term financing would be \$87,185. If the property owner did not pay the C-PACE assessment in year 1, the C-PACE funder can collect only the delinquent payments. The PACE funder's claim is limited to \$87,185 or 1.75 percent of property value. The remaining payments are due according to the original repayment schedule.
2. **C-PACE Financing Does Not Restrict a Senior Lender's Foreclosure Rights.** Unlike other debt, C-PACE does not require an inter-creditor agreement. Rather, in the event of a default on the senior lender's debt, the senior lender can foreclose on its mortgage interest in the property in the same manner as if it were the sole financing on the property. C-PACE does not affect any existing remedies under the loan documents. The C-PACE capital provider may not prevent, restrict, or otherwise impact the senior lender's foreclosure.

3. **Senior Lenders May Escrow the C-PACE Assessments.** Some senior lenders require property owners to escrow the annual C-PACE assessment obligation monthly in the same manner as property tax and insurance escrow requirements. The C-PACE escrow mitigates any risk associated with failure to pay the C-PACE assessment when due. In addition, a lender may request the C-PACE capital provider to capitalize an interest reserve to carry the payments through a construction period.
4. **C-PACE Funds Are Fully Available as of Date of Closing.** The C-PACE financing typically closes simultaneous with the senior lender, and all the C-PACE funds are deposited into an escrow account. Therefore, senior lenders have the comfort of knowing that all funds are available to be drawn as of the closing date.
5. **C-PACE Financing May Increase the Value of the Senior Lender's Collateral.** Most states require that an engineer establish the monetary savings expected to result from the C-PACE project. Therefore, a PACE project directly reduces a building's operating costs, increasing its net operating income and valuation.
6. **C-PACE Financing May Improve Debt Service Coverage.** C-PACE interest rates are typically lower than other forms of financing (e.g. mezzanine debt or preferred equity) and offer longer maturities, resulting in lower payments and a higher debt service coverage ratio.
7. **Relationships matter.** Nearly every C-PACE project involves a customer who wants to complete a project to upgrade their property. C-PACE funded projects make good business sense for the building owner, and therefore the building's mortgage lender, too.

Is C-PACE a loan?

No. C-PACE is a type of financing called assessment financing that has historically been used to fund voter-approved measures, including street upgrades, school bonds, public safety improvements, and various other public infrastructure upgrades. C-PACE allows individual property owners to use the same mechanism to voluntarily upgrade their individual property.

Is this debt or equity?

Neither. It's an assessment. Assessment payments are known in advance and recorded on real property records with a payment schedule. C-PACE is typically non-recourse and is designed for automatic transferability upon sale, with no additional due diligence or payoff required during a transfer of title. The assessment may also be prepaid.

How does C-PACE benefit the senior lender?

C-PACE financing improves infrastructure and can increase collateral value. Replacing aged equipment typically reduces a building's operating costs. A study by the University California at Berkeley and Lawrence Berkeley National Laboratory concludes that there is a connection between energy efficiency for commercial real estate buildings and the likelihood of defaults.

EXHIBIT A
REPRESENTATIVE CONSENTING BANKS AND OTHER LENDERS*

National Banks

- Bank of America
- Bank of New York Mellon (as trustee)
- BMO Harris Bank
- Citibank
- JP Morgan Chase
- TD Bank
- US Bank
- Wells Fargo

Regional Banks

- Amalgamated Bank
- Associated Bank
- Bank of Sullivan
- Bank of the West
- Banner Bank
- BBCN Bank
- Bremer Bank
- Bridge Bank
- CAB Associates
- California Bank and Trust
- Cheviot Savings Bank
- Citizens Bank
- City National Bank
- Enterprise Bank & Trust
- Farmers & Merchants Bank of Long Beach
- Fifth Third Bank
- First Bank of Boulder
- First Citizens Bank & Trust
- First Community Bank
- First Republic Bank
- First State Bank & Trust
- First Utah Bank
- FirstMerit Bank
- Five Star Bank
- Golden Pacific Bank
- Great Western Bank
- Guaranty Bank and Trust
- Heritage Bank of Commerce

- Liberty Bank
- Lincoln Savings Bank
- Key Bank
- Mechanics Bank
- Midwest Regional Bank
- M&T Bank
- NorthEast Community Bank
- Peoples United Bank
- People's National Bank
- Preferred Bank
- Prosperity Bank
- Salisbury Bank & Trust
- Savings Institute Bank & Trust
- Sterling Savings Bank
- Stock Yards Bank & Trust
- The Private Bank & Trust
- Umpqua Bank
- Union Bank of California
- Washington Trust
- Webster Bank
- West America Bank

International Banks

- Deutsche Bank
- Hanmi Bank
- Helaba Lendesbank Hessen-Thuringen
- HSH Nordbank
- Royal Bank of Canada (as LIHTC Syndicator)

Local Banks

- Academy Bank
- American River Bank
- Bank Mutual
- Bank of Ann Arbor
- Bank of Rhode Island
- Bank of Springfield
- Bankwell
- Berkshire Bank
- Chelsea Groton Bank
- Chelsea State Bank

- Circle Bank
- Citizens Business Bank
- Cornerstone Community Bank
- Dime Bank
- Exchange Bank
- Fairfield County Bank
- First Bank of Lake Forest
- First Community Bank
- First County Bank
- First Mountain Bank
- First National Bank of Boulder
- First Niagara Bank
- Flatirons Bank of Boulder
- Folsom Lake Bank
- Frandsen Bank
- Guaranty Bank and Trust
- Independent Bank
- Litchfield Bancorp
- Midwest Regional Bank
- Monson Savings Bank
- Newtown Savings Bank
- NUVO Bank
- Oritani Bank
- Pacific Alliance Bank
- Pacific Premier Bank
- People's Bank of Massachusetts
- Plumas Bank
- PyraMax Bank, MEDC
- Rockville Bank
- Santa Cruz County Bank
- Security Bank of Kansas City
- Simsbury Bank
- Sonoma Bank
- State Bank of Delano
- St. Louis Bank
- Summit State Bank
- Thomaston Savings Bank
- Torry Pines Bank
- Union Savings Bank

- United Bank and Trust
- Vectra Bank
- Westfield Bank
- Whittier Trust Company of Nevada

Government Entities

- Department of Economic and Community Development (CT)
- District of Columbia Housing Authority
- Greater Sacramento Development Corp.
- Milwaukee Economic Development Corporation
- NY State Teacher's Retirement System
- US Department of Agriculture
- US Small Business Administration (SBA)
- Wisconsin Housing and Econ. Dev Authority (WHEDA)

Insurance Companies

- Genworth Life Insurance Company
- Metropolitan Life Insurance (and as LIHTC Investor)
- Mutual of Omaha
- Northwest Mutual Insurance
- Pacific Life Insurance
- Protective Life Insurance
- Prudential Insurance
- Riversource Life Insurance Company
- Standard Life Insurance
- The Standard-

Stancorp Mortgage Investors

Specialized Lenders

- Access Point Financial
- Ally Capital
- American Agricultural Bank
- Ameriprise Financial
- Ameritas Investment Partners
- AVANA Capital, LLC
- Byzantine Diocese of Stamford
- Eagle Bank
- Farm Credit East
- Layne Foundation
- Mercedes Benz Financial Services
- National Iron Bank
- New Resource Bank
- Pacific Union 7th Day Adventists (Parker Mortgage & Investment Co.)
- Paradigm Capital Group
- ProAmerica
- Thrivent Financial

Private Lenders

- A2B2, LLC
- Business Lenders, LLC
- Cen-Cal Business Finance Group
- Chestnutz
- Connecticut Innovations
- Marion Haddad
- McCoy Ventures, LLC
- Michigan Business Connection, LLC
- Stonebriar Commercial Finance

Credit Unions

- America's Christian Credit Union
- Bellco Credit Union

- Charter Oaks Federal Credit Union
- Redwood Credit Union
- Royal Credit Union
- Westerly Community Credit Union
- Windsor Federal Savings

*Per pacenation.us (October 2018)

EXHIBIT B
Sample Lender Acknowledgement to PACE Special Assessments

Date: [_____] [____], 20[]

Property/Loan Information

Building Address: [_____]

Tax Key/Parcel ID#: [____]-[____]-[____] Mortgage Holder: [_____] NMLS #: [____]

Loan Number: [_____]

This Lender Acknowledgement to PACE Special Assessments (this "Acknowledgement") is given by the undersigned entity (the "Lender") with respect to the above referenced loan ("Loan") and the above referenced property ("Property").

RECITALS

- A. Lender is in receipt of written notice ("Notice") from [_____], as owner of the Property ("Property Owner"), that it intends to finance installation on the Property of certain energy efficiency and/or renewable energy improvements that will be permanently fixed to the Property by participating in a Property Assessed Clean Energy ("PACE") financing transaction through the PROGRAM ADMINISTRATOR, a clean energy development board and political subdivision of STATE.
- B. Lender understands that, as a result of an Assessment Contract (the "Assessment Contract") to be entered into between the PROGRAM ADMINISTRATOR and Property Owner, pursuant to STATE's legislation, (i) the Assessments (as defined in the Assessment Contract) will be levied on the Property and will be recorded as a lien on the Property for amounts then currently due under the Assessment Contract, (ii) the Assessments will be collected in annual installments, (iii) the annual installments will be collected on the Property's real property tax bill or through other arrangements made by the PROGRAM ADMINISTRATOR, and (iv) the Assessments are subject to the same penalties, remedies and lien priorities as ad valorem real property taxes. A form of the Assessment Contract is attached hereto as Exhibit A.
- C. The Property Owner has agreed in a manner acceptable to Lender to pay on a timely basis both the existing obligations secured by the Property (including the Loan) and the proposed Assessments. The estimated annual installments of the Assessments are attached hereto as Exhibit B. The Lender acknowledges that the annual installments shown on Exhibit B may not be final and are subject to change by up to 10.0% greater amounts.
- D. The Lender consents to the Property Owner's execution of the Assessment Contract and the imposition of the Assessments as a superior lien on the Property, including but not limited to the placement of the annual installments of the Assessments on the tax bills for the Property.

The undersigned hereby represents that it is authorized to execute this Acknowledgement on behalf of the Lender. The Lender hereby (i) confirms that it has received the Notice, (ii) acknowledges the levy of the Assessments pursuant to the Assessment Contract, (iii) agrees that the levy of the

Assessments will not constitute an event of default or trigger the exercise of any remedies under any Loan documents, and (iv) acknowledges and agrees that the Assessments are subject to the same penalties, remedies and lien priorities as ad valorem real property taxes, and, therefore, shall have preference over any deed of trust or similar encumbrance recorded against the Property. The Lender hereby acknowledges that the Property Owner and the PROGRAM ADMINISTRATOR will rely on the representations and acknowledgements of the Lender set forth in this Acknowledgement.

[NAME OF MORTGAGE HOLDER]

By: _____

Name: _____

Title: ___

HB 576-FN-A-LOCAL FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2023-0162h)

AN ACT relative to administration of a commercial property assessed clean energy (C-PACE) program in a clean energy efficiency and clean energy district.

FISCAL IMPACT: State County Local None

LOCAL:

Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill clarifies the use of a commercial property assessed clean energy (C-PACE) model in a clean energy efficiency and clean energy district under RSA 53-F. The bill also provides for senior lien status for clean energy efficiency and clean energy districts and for the lien of the assessment contract to run with the property until the assessment is paid in full.

The New Hampshire Municipal Association indicates, for a city, town, or village district that chooses to adopt the provisions of this chapter, it is unclear exactly how much this bill will impact local expenditures. The proposed Property-Assessed Clean Energy (PACE) financing would allow property owners to borrow money from a local government to pay for energy improvements. Under RSA 53:F, local governments may, but are not required to, establish such programs. Under current law, PACE financing can only be provided through private entities. This legislation expands the role of the municipality in the creation of energy efficiency and clean energy districts.

The amount borrowed for a project would be repaid via a special assessment on the property. Owners of private property (zoned for residential, commercial, industrial, or "other" uses, excluding residential property containing less than five units) may opt into an energy financing district after such a district has been created and may obtain funding for a broad array of energy efficiency upgrades and/or renewable energy investments that are permanently affixed on or off the property.

If the municipality votes to establish this district they would have an administrative role in the assessment of energy improvements and entering into loan agreements with qualified property owners. In the event of a foreclosure, the bill provides for senior lien status for clean energy efficiency and clean energy districts and for the lien of the assessment contract to run with the property until the assessment is paid in full.

AGENCIES CONTACTED:

New Hampshire Municipal Association

HB 576-FN-A-LOCAL - AS AMENDED BY THE HOUSE

14Feb2023... 0162h

2023 SESSION

23-0399

06/10

HOUSE BILL **576-FN-A-LOCAL**

AN ACT relative to administration of a commercial property assessed clean energy (C-PACE) program in a clean energy efficiency and clean energy district.

SPONSORS: Rep. Mangipudi, Hills. 11; Rep. Darby, Hills. 11; Rep. McWilliams, Merr. 30; Rep. Preece, Hills. 17; Sen. Watters, Dist 4; Sen. Altschiller, Dist 24

COMMITTEE: Science, Technology and Energy

AMENDED ANALYSIS

This bill clarifies the use of a commercial property assessed clean energy (C-PACE) model in a clean energy efficiency and clean energy district under RSA 53-F. The bill also provides for senior lien status for clean energy efficiency and clean energy districts and for the lien of the assessment contract to run with the property until the assessment is paid in full.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears ~~[in brackets and struckthrough]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to administration of a commercial property assessed clean energy (C-PACE) program in a clean energy efficiency and clean energy district.

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

1 1 New Paragraph; Authority; Energy Efficiency and Clean Energy Districts; C-PACE Programs.
2 Amend RSA 53-F:3 by inserting after paragraph VI the following new paragraph:

3 VII. Adoption of a clean energy efficiency and clean energy district shall include a
4 commercial property assessed clean energy (C-PACE) model implemented according to the most
5 recent U.S. Department of Energy (DOE) released best practice guidelines for PACE financing
6 programs.

7 2 Energy Efficiency and Clean Energy Districts; Priority Lien and Collection. Amend RSA 53-
8 F:8 to read as follows:

9 53-F:8 Priority; Collection and Enforcement. Collection of special assessments under this
10 chapter shall be made by the tax collector or other official responsible for property tax or municipal
11 service charge collection. A municipality shall commit bills for amounts due on the special
12 assessments, including interest and any charges, to the tax collector with a warrant signed by the
13 appropriate municipal officials requiring the tax collector to collect them. Each year bills for
14 amounts due on the special assessments shall coincide with bills for property taxes or municipal
15 service charges. ~~[Each special assessment on the property of a participating property owner shall
16 create a lien on the property pursuant to RSA 80:19, except that the lien shall be junior to existing
17 liens of record at the time the bill for the assessment is mailed to the participating property owner.
18 Enforcement powers for nonpayment shall be those provided under RSA 80 relative to property tax
19 collection, including RSA 80:19; provided, however, a tax sale of the property shall not extinguish
20 prior liens of record. At the time of enforcement, only the past due balances of the special
21 assessment under this chapter, including all interest, charges, and penalties, shall be due for
22 payment. Notwithstanding any other provision of law, in the event of a transfer of property
23 ownership through foreclosure or a sheriff's sale by a senior mortgagee or lienholder which has
24 consented to the making of a loan by a private lender under the provisions of this chapter, the lien of
25 the municipality shall not be extinguished, and the net proceeds of the sale, if any, after payment of
26 all prior obligations to mortgagees and lienholders, costs and expenses of foreclosure or sheriff's sale,
27 shall be first applied to the payment of any past due balances of the loan and then any excess shall
28 be applied against the remaining balance of the loan. If a senior mortgagee or lienholder has not
29 given its consent to the loan, a foreclosure or sheriff's sale by the mortgagee or lienholder shall
30 extinguish all junior mortgages and liens.]~~ *Each special assessment imposed under a clean*

1 *energy efficiency and clean energy district program pursuant to an assessment contract,*
2 *including any interest on the assessment and any penalty, shall, upon recording of the*
3 *assessment contract in the county in which the district area is located, constitute a lien*
4 *against the property on which the assessment is imposed until the assessment, including*
5 *any interest or penalty, is paid in full. The lien of the assessment contract shall run with*
6 *the property until the assessment is paid in full and a satisfaction or release for the same*
7 *has been recorded by the town, city, or district or its program administrator and shall have*
8 *the same lien priority and status as other property tax and special assessment liens as*
9 *provided in RSA 80. The town, city, or district, or any permitted assignee, shall have all*
10 *rights and remedies in the case of default or delinquency in the payment of an assessment*
11 *as it does with respect to delinquent property taxes and other delinquent special*
12 *assessments as set forth in RSA 80.*

13 3 Effective Date. This act shall take effect 60 days after its passage.

**HB 576-FN-A-LOCAL- FISCAL NOTE
AS INTRODUCED**

AN ACT establishing an energy conservation program and an energy conservation project fund and establishing the state PACE reserve fund.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Energy Conservation Project Fund and PACE Reserve Fund			

LOCAL:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

The Legislative Budget Assistant Office is still awaiting information from the Department of Energy. The Department was originally contacted on December 12, 2022.

METHODOLOGY:

This bill establishes a state energy conservation loan program and an energy conservation project fund. This bill also establishes the state PACE reserve fund.

The State Treasury indicates this bill would increase state revenues and expenditures by an indeterminable amount. The bill establishes a state energy conservation loan program, an energy conservation project fund, and the state PACE reserve fund. The Treasurer is authorized to make loans or enter into other financing arrangements directly with eligible borrowers for eligible projects or, in the case of eligible projects under the municipal PACE program, fund loans made by municipalities to property owners. Such loans would be funded from energy project bonds issued by the Treasurer or from amounts held in the Energy Conservation Project Fund. Loan repayments would be pledged to the repayment of the related energy project bonds. The Treasurer would be granted a statutory first priority lien in all or a portion of the System Benefit Charge ("SBC") as set forth in financing orders from the New Hampshire Public Utilities

Commission. The bill establishes the energy conservation project fund in the State Treasury. All energy project bond proceeds, together with any other moneys made available to the Fund to make loans, would be credited to the loan accounts within the Fund. The purpose of the loan accounts within the fund would be to make loans to finance eligible projects. Amounts transferred to the Treasurer that are not needed to pay debt service on energy project bonds or direct costs and expenses of the Treasurer associated with the issuance of energy bonds would be held in the reserve account within the Fund or in a reserve fund created under the financing document as a reserve securing the energy project bonds. Any amounts in excess of the required reserve would be transferred to the Public Utilities Commission.

The bill permits the Treasurer, upon approval of the State Treasurer and Commission, to issue energy project bonds on behalf of the Fund. Energy project bonds issued would be issued as revenue bonds and shall be recourse only to the related loan repayments by eligible borrowers and other moneys available in the reserve account within the Fund or held under related financing documents. Energy project bonds would not be general obligations of the state of New Hampshire. A financing order would specify that all or a portion of the amounts collected pursuant to the mandatory charges should be allocated first to the energy project bonds, and should be paid over to the Treasurer upon receipt, and second to other projects financed. Financing orders would not constitute a debt or liability of the state of New Hampshire or of any political subdivision, but would be payable solely from the funds provided. The bill also allows the State Treasurer to be reimbursed from the loan accounts within the Fund for all reasonable and necessary expenses such as bond issuance costs, administration, management, and operation of the funds.

The bill would expand the Municipal PACE Program by adding the newly established energy conservation loan program. To the extent that cities or towns receive funds, they would enter into a loan agreement with the property owner that is approved by the State Treasurer, and would pledge such loan agreement and all amounts received. In the event of a payment default by a property owner, the city or town would enforce its rights under any betterments or other security granted under the applicable loan agreement. All amounts realized of any such enforcement would be transferred to the State Treasurer.

The bill also establishes a reserve fund under the Municipal PACE Program for the purpose of paying past due balances of an assessment in the event there is a foreclosure upon a property subject to an assessment and the proceeds from the foreclosure are insufficient to pay such balances. The reserve fund would be funded by participating property owners at a level sufficient to provide for the payment of past due balances in the event of a foreclosure upon a participating property. The contributions of each participating property owner to the reserve

fund would be included in the special assessment. The Commissioner of the Department of Revenue Administration is required to determine the appropriate contribution to the reserve fund. The fund would be capitalized to cover expected foreclosures and fund administration costs. Interest earned would remain in the fund. The administrator of the reserve fund would invest and reinvest the moneys in the fund in accordance with the standard of care established by the prudent investor rule. The reserve fund is to be administered by a special purpose entity and their costs of administering the reserve fund would be considered costs of operating.

In addition, the bill establishes a State PACE Reserve Fund in the State Treasury for the purpose of reducing the risk faced by an investor making an agreement with a municipality to finance a clean energy district. The Treasurer may invest moneys in the fund as provided by law, with interest received on such investments being credited to the PACE reserve fund. The State Treasurer would submit an annual report to the general court containing an accounting of the PACE reserve fund. The obligation of the fund would be to fund 90% of a remaining past due balance, upon presentation of a claim and application acceptable to the Treasurer and the Administrator, provided that the total amount of all such funding from the fund would not exceed the lesser of \$1,000,000; the moneys deposited in the fund; or 5% of the total of all assessments in the districts that participate in the loss reserve fund administered by the entity.

The State Treasury indicates the bill would increase the expenditures and revenues of the Treasury by an indeterminable amount. The Treasury does not have the infrastructure or staff needed to administer a Loan Program as the one described in this legislation. At a minimum, the Treasury would require a credit underwriter to perform risk and credit analyses of potential borrowers, a legal counsel to perform legal work, and an accountant or administrator to coordinate the program. The Treasury also notes that any revenue bonds issued under this program would likely be issued as taxable bonds.

The Department of Revenue Administration (DRA) indicates the bill establishes a reserve fund to pay past due balances of an assessment issued for the participation in energy conservation and efficiency improvement or clean energy improvements under RSA 53-F, when such property is under foreclosure. This reserve fund shall be funded by property owners participating in the energy efficiency and clean energy districts and made through the special assessment applicable to the property. The DRA assumes the assessments are to be included in the property tax bills of the applicable property. A special purpose entity established and authorized by the State Treasurer shall be appointed to administer the reserve fund with the contribution amount being determined periodically by the Commissioner. In addition, the fund shall be capitalized in accordance with standards and procedures approved by the Commissioner. Because the energy project bonds shall not be general obligations of the State and exempted from New Hampshire

taxation, including the income from transfers of these bonds, the DRA expects the fiscal impact of the tax exemption to be revenue neutral. The Commissioner of the DRA is required to calculate the contribution amount and provide advance information to interested property owners via municipalities. The DRA expects that such calculations would require, at the very least, the gathering of information on the loans made to the property owners, the amount and value of assessments that are past due, and any expectations of new assessments that may become delinquent. The DRA assumes it could administer the provisions of this bill without additional administrative costs that could not be absorbed in the DRA operating budget.

The New Hampshire Municipal Association states proposed Property-Assessed Clean Energy (PACE) financing would allow property owners to borrow money from a local government to pay for energy improvements. Under current law, PACE financing can only be provided through private entities. This bill expands the role of the municipality in the creation of energy efficiency and clean energy districts. The amount borrowed would be repaid via a special assessment on the property. Owners of appropriately zoned private property may opt into an energy financing district after such a district has been created and may obtain funding for a broad array of energy efficiency upgrades or renewable energy investments. If a municipality votes to establish this district it will have an administrative role in the assessment of energy improvement, entering into loan agreements with qualified property owners, be required to participate in a reserve fund, calculate and disclose the amount the property owners are required to pay into the reserve fund, and in the event of foreclosure direct a disbursement of funds for the past due assessment. In the event of a foreclosure, it is possible that the municipality may not be able to recover 100% of the due balance. The Association indicates there would be an indeterminable increase in local expenditures.

It is assumed that any fiscal impact would occur after FY 2023.

AGENCIES CONTACTED:

State Treasury, Departments of Energy and Revenue Administration and New Hampshire Municipal Association

Rep. McWilliams, Merr. 30
Rep. Mangipudi, Hills. 11
January 27, 2023
2023-0162h
10/05

Amendment to HB 576-FN-A-LOCAL

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

2

3 AN ACT relative to administration of a commercial property assessed clean energy (C-PACE)
4 program in a clean energy efficiency and clean energy district.
5

6 Amend the bill by replacing all after the enacting clause with the following:

7

8 1 New Paragraph; Authority; Energy Efficiency and Clean Energy Districts; C-PACE Programs.
9 Amend RSA 53-F:3 by inserting after paragraph VI the following new paragraph:

10 VII. Adoption of a clean energy efficiency and clean energy district shall include a
11 commercial property assessed clean energy (C-PACE) model implemented according to the most
12 recent U.S. Department of Energy (DOE) released best practice guidelines for PACE financing
13 programs.

14 2 Energy Efficiency and Clean Energy Districts; Priority Lien and Collection. Amend RSA 53-
15 F:8 to read as follows:

16 53-F:8 Priority; Collection and Enforcement. Collection of special assessments under this
17 chapter shall be made by the tax collector or other official responsible for property tax or municipal
18 service charge collection. A municipality shall commit bills for amounts due on the special
19 assessments, including interest and any charges, to the tax collector with a warrant signed by the
20 appropriate municipal officials requiring the tax collector to collect them. Each year bills for
21 amounts due on the special assessments shall coincide with bills for property taxes or municipal
22 service charges. ~~[Each special assessment on the property of a participating property owner shall
23 create a lien on the property pursuant to RSA 80:10, except that the lien shall be junior to existing
24 liens of record at the time the bill for the assessment is mailed to the participating property owner.
25 Enforcement powers for nonpayment shall be those provided under RSA 80 relative to property tax
26 collection, including RSA 80:10; provided, however, a tax sale of the property shall not extinguish
27 prior liens of record. At the time of enforcement, only the past due balances of the special
28 assessment under this chapter, including all interest, charges, and penalties, shall be due for
29 payment. Notwithstanding any other provision of law, in the event of a transfer of property
30 ownership through foreclosure or a sheriff's sale by a senior mortgagee or lienholder which has
31 consented to the making of a loan by a private lender under the provisions of this chapter, the lien of
32 the municipality shall not be extinguished, and the net proceeds of the sale, if any, after payment of~~

Amendment to HB 576-FN-A-LOCAL

- Page 2 -

1 ~~all prior obligations to mortgagees and lienholders, costs and expenses of foreclosure or sheriff's sale,~~
2 ~~shall be first applied to the payment of any past due balances of the loan and then any excess shall~~
3 ~~be applied against the remaining balance of the loan. If a senior mortgagee or lienholder has not~~
4 ~~given its consent to the loan, a foreclosure or sheriff's sale by the mortgagee or lienholder shall~~
5 ~~extinguish all junior mortgages and liens.]~~ *Each special assessment imposed under a clean*
6 *energy efficiency and clean energy district program pursuant to an assessment contract,*
7 *including any interest on the assessment and any penalty, shall, upon recording of the*
8 *assessment contract in the county in which the district area is located, constitute a lien*
9 *against the property on which the assessment is imposed until the assessment, including*
10 *any interest or penalty, is paid in full. The lien of the assessment contract shall run with*
11 *the property until the assessment is paid in full and a satisfaction or release for the same*
12 *has been recorded by the town, city, or district or its program administrator and shall have*
13 *the same lien priority and status as other property tax and special assessment liens as*
14 *provided in RSA 80. The town, city, or district, or any permitted assignee, shall have all*
15 *rights and remedies in the case of default or delinquency in the payment of an assessment*
16 *as it does with respect to delinquent property taxes and other delinquent special*
17 *assessments as set forth in RSA 80.*

18 3 Effective Date. This act shall take effect 60 days after its passage.

**Amendment to HB 576-FN-A-LOCAL
- Page 3 -**

2023-0162h

AMENDED ANALYSIS

This bill clarifies the use of a commercial property assessed clean energy (C-PACE) model in a clean energy efficiency and clean energy district under RSA 53-F. The bill also provides for senior lien status for clean energy efficiency and clean energy districts and for the lien of the assessment contract to run with the property until the assessment is paid in full.

HB 576-FN-A-LOCAL - AS INTRODUCED

2023 SESSION

23-0399

06/10

HOUSE BILL

576-FN-A-LOCAL

AN ACT

establishing an energy conservation program and an energy conservation project fund and establishing the state PACE reserve fund.

SPONSORS:

Rep. Mangipudi, Hills. 11; Rep. Darby, Hills. 11; Rep. McWilliams, Merr. 30; Rep. Preece, Hills. 17; Sen. Watters, Dist 4; Sen. Altschiller, Dist 24

COMMITTEE:

Science, Technology and Energy

ANALYSIS

This bill establishes a state energy conservation loan program and an energy conservation project fund. This bill also establishes the state PACE reserve fund.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struckthrough.]~~

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

1 VIII. "Municipal PACE program" means a program implemented and administered by a
2 municipality pursuant to RSA 53-F.

3 IX. "SBC" means the mandatory system benefits charge imposed pursuant to RSA 374-F:4.

4 X. "Special purpose entity" means any partnership, limited partnership, association,
5 corporation, limited liability corporation, or other entity established and authorized by the state
6 treasurer to issue energy project bonds, subject to approval by the state treasurer.

7 4-I:3 Loans and Financing Agreements. The state treasurer shall make loans to or enter into
8 other financing arrangements directly with eligible borrowers for eligible projects or, in the case of
9 eligible projects under the municipal PACE program, shall fund loans made by municipalities to
10 property owners in accordance with such program. Such loans shall be funded from energy project
11 bonds issued by the state treasurer in accordance with this chapter or from amounts held in the
12 fund. The state treasurer shall pledge loan repayments received directly from eligible borrowers, or
13 from cities and towns on behalf of real property owners pursuant to the municipal PACE program to
14 the repayment of the related energy project bonds issued by the state treasurer or by a special
15 purpose entity, as applicable. As further security for any such bonds or debt obligations, the
16 commission shall issue one or more financing orders, granting the state treasurer a statutory first
17 priority lien in all or a portion of the SBC as set forth in such financing order. Each loan shall be
18 made pursuant to a loan agreement between the state treasurer and the eligible borrower. In the
19 case of the municipal PACE program, the state treasurer may accept loan agreements entered into
20 by the applicable municipality and the property owner. All loan agreements, including those entered
21 into under the municipal PACE program, shall specify the security for such loan, and the repayment
22 and other terms of such loan.

23 4-I:4 Energy Conservation Project Fund. There is established in the state treasury, the energy
24 conservation project fund. All energy project bond proceeds, together with any other moneys
25 lawfully made available to the fund in order to make loans, shall be credited to the loan accounts
26 within the fund. The purpose of the loan accounts within the fund shall be to make loans to finance
27 eligible projects.

28 4-I:5 Financing Terms. Pursuant to the financing order, the state treasurer shall be granted a
29 first priority lien on all or a portion of the SBC to provide additional security for any energy project
30 bonds issued. Amounts transferred to the state treasurer pursuant to such financing order that are
31 not needed to pay debt service on energy project bonds or direct costs and expenses of the state
32 treasurer associated with the issuance of such energy bonds, shall be held in the reserve account
33 within the fund or in a reserve fund created under the financing documents, in either case, as a
34 reserve securing the energy project bonds, in accordance with the provisions of the financing
35 documents governing the energy project bonds. Any amounts in excess of such required reserve
36 shall be transferred by the state treasurer to the commission in accordance with the provisions of the
37 financing documents governing the energy project bonds. The state treasurer shall hold the reserve

HB 576-FN-A-LOCAL - AS INTRODUCED
- Page 3 -

1 account within the fund in a separate account, segregated from all other financing entity funds. The
2 state of New Hampshire shall not:

3 I. Alter the provisions of RSA 374-F:4 which imposes the SBC in a manner that limits or
4 otherwise adversely affects the amount of SBC pledged to secure any energy project bond in
5 accordance with a financing order; or

6 II. Limit or alter the financing order and all rights thereunder until the energy project
7 bonds, together with the interest thereon, are fully met and discharged.

8 4-I:6 Tax Exemption. The exercise of the powers granted by this chapter shall be in all respects
9 for the benefit of the people of the state of New Hampshire by increasing the energy efficiency of
10 buildings in the state of New Hampshire. As the exercise of such powers shall constitute the
11 performance of essential government functions, the state treasurer shall not be required to pay any
12 taxes or assessments upon the property acquired or used by the state treasurer pursuant to the
13 provisions of this chapter or upon the income therefrom. The energy project bonds issued pursuant
14 to the provisions of this chapter, their transfer and the income therefrom, including any profit made
15 on the sale thereof, shall at all times be exempt from taxation within the state of New Hampshire.

16 4-I:7 Issuance of Energy Project Bonds. Upon the written approval of the state treasurer and
17 the commission, the state treasurer may issue energy project bonds on behalf of the fund. Proceeds
18 of energy project bonds shall be used for the purposes authorized by this chapter. Any such energy
19 project bonds shall be issued as revenue bonds and shall be recourse only to the related loan
20 repayments by eligible borrowers and other moneys available in the reserve account within the fund
21 or held under the related financing documents. The energy project bonds shall not be general
22 obligations of the state of New Hampshire.

23 4-I:8 Reimbursement of Administrative Costs. The state treasurer shall be reimbursed from the
24 loan account within the fund for all reasonable and necessary direct costs and expenses incurred in
25 any fiscal year associated with its bond issuance, administration, management, and operation of the
26 funds, including reasonable staff time and out-of-pocket expenses and the reasonable and approved
27 administrative costs incurred by any qualified organizations which the state treasurer may contract
28 for services. The state treasurer may establish a minimum reserve to be maintained by the fund for
29 the purpose of ensuring the satisfaction of the state treasurer's and its agents' administrative costs.

30 4-I:9 Contracts for Administration. The state treasurer may enter into contracts with one or
31 more qualified organizations to manage some or all of the administrative aspects of managing the
32 loan program on behalf of the state treasurer, and on behalf of municipalities participating in the
33 municipal PACE program. Contracts executed pursuant to this section shall address, but shall not
34 be limited to, proposed rules and guidelines for the funds; providing technical assistance to potential
35 eligible borrowers and to municipalities in implementing and managing their municipal PACE
36 programs; reviewing and evaluating loan applications; providing findings and recommendations to

1 the financing entity as to which loans should be approved and awarded; and serving such loans once
2 they are awarded and funded.

3 2 New Section: Priority Lien. Amend RSA 374-F by inserting after section 4-b the following new
4 section:

5 374-F:4-c Priority Lien.

6 I. Notwithstanding the foregoing, upon receiving notice from the state treasurer that energy
7 project bonds are to be issued in accordance with RSA 4-I the commission shall issue in a timely
8 manner one or more financing orders, granting a first priority lien on the mandatory charge
9 established by RSA 374-F:4, VIII, and all or a portion of the amounts collected pursuant thereto, as
10 set forth in such financing order to secure such energy project bonds. Upon the effective date of a
11 financing order, there shall exist a first priority lien on all mandatory charges imposed by this
12 section then existing or thereafter arising pursuant to the terms of the financing order. This lien
13 shall arise by operation of this paragraph automatically without any action on the part of the
14 commission, the financing entity, or any other person. This lien shall secure all obligations then
15 existing or subsequently arising to the holders of such energy project bonds, the trustee or
16 representative for such holders, and any other entity specified in the financing order. The persons
17 for whose benefit this lien is established shall upon the occurrence of any defaults specified in the
18 financing order, have all the rights and remedies of a secured party upon default pursuant to RSA
19 382-A, the uniform commercial code, and shall be entitled to foreclose or otherwise enforce this
20 statutory lien in the mandatory charges. This lien shall attach to such mandatory charges
21 regardless of who shall own, or shall subsequently be determined to own, the mandatory charges,
22 including any electric distribution companies and municipal aggregators, any affiliate thereof, the
23 financing entity, or any other person. This lien shall be valid, perfected, and enforceable against all
24 third parties upon the effectiveness of the financing order without any further public notice;
25 provided, however, that any person may, but, shall not be required to, file a financing statement. A
26 perfected statutory lien in the mandatory charges shall be a continuously perfected lien in all
27 revenues and proceeds arising with respect thereto, whether or not the revenues or proceeds have
28 accrued.

29 II. The commission may issue financing orders in accordance with this section to facilitate
30 the financing or refinancing of eligible energy projects, as defined in RSA 4-I:3. A financing order
31 shall specify that all or a portion of the amounts collected pursuant to the mandatory charges set
32 forth in paragraph I, shall be allocated first to the energy project bonds, and shall be paid over to the
33 state treasurer upon receipt and second to other projects financed in accordance with this section.
34 Financing orders issued pursuant to the provisions of this section shall not constitute a debt or
35 liability of the state of New Hampshire or of any political subdivision thereof, and shall not
36 constitute a pledge of the full faith and credit of the state of New Hampshire or any of its political

HB 576-FN-A-LOCAL - AS INTRODUCED
- Page 5 -

1 subdivisions, but, shall be payable solely from the funds provided therefor pursuant to the provisions
2 of RSA 4-I and this section.

3 3 New Paragraph: Municipal PACE Program. Amend RSA 53-F:3 by inserting after paragraph
4 VI the following new paragraph:

5 VII In furtherance of the provisions of this section, participate in the energy conservation
6 loan program established pursuant to RSA 4-I for the purposes of obtaining funds to make loans in
7 accordance with this section. To the extent that the city or town receives funds pursuant to such
8 program, it shall enter into a loan agreement with the property owner that has been approved by
9 state treasurer, and will pledge such loan agreement and all amounts received pursuant thereto to
10 the state treasurer. In the event of a payment default by the property owner, the city or town shall
11 enforce its rights under any betterments or other security granted under the applicable loan
12 agreement. All amounts realized by the city or town as a result of such enforcement, or otherwise
13 realized under the betterments or other security granted under the applicable loan agreement or as
14 a result of this section shall be immediately transferred to the state treasurer.

15 4 New Sections; Property-assessed Clean Energy; Reserve Fund. Amend RSA 53-F by inserting
16 after section 8 the following new sections:

17 53-F:9 Reserve Fund Established.

18 I. There is established a reserve fund for paying the past due balances of an assessment
19 under this chapter in the event that there is a foreclosure upon the property subject to the
20 assessment and the proceeds resulting from the foreclosure are, after all superior liens have been
21 satisfied, insufficient to pay such balances. Each municipality that establishes a district under this
22 chapter shall participate in the reserve fund.

23 II. The reserve fund shall be funded by participating property owners at a level sufficient to
24 provide for the payment of past due balances in the event of a foreclosure upon a participating
25 property and the costs of administering the reserve fund and shall only be used to provide for such
26 payment and administration.

27 III. The contribution of each participating property owner to the reserve fund shall be
28 included in the special assessment applicable to the property. From time to time, the commissioner
29 of the department of revenue administration shall determine the appropriate contribution to the
30 fund.

31 IV. The reserve fund shall be capitalized in accordance with standards and procedures
32 approved by the commissioner of the department of revenue administration to cover expected
33 foreclosures and fund administration costs based on good lending practice experience. Interest
34 earned shall remain in the fund. The administrator of the reserve fund shall invest and reinvest the
35 moneys in the fund and hold, purchase, sell, assign, transfer, and dispose of the investments in
36 accordance with the standard of care established by the prudent investor rule under RSA 564-B:9.

HB 576-FN-A-LOCAL - AS INTRODUCED

- Page 6 -

1 The administrator shall apply the same investment objectives and policies adopted by the New
2 Hampshire retirement system, where appropriate, to the investment of moneys in the fund.

3 V. The municipality shall disclose in advance to each interested property owner the amount
4 of that property owner's required payment into the reserve fund. Once disclosed, the amount of the
5 reserve fund payment shall not change over the life of the assessment.

6 VI. A special purpose entity appointed under RSA 4-I:2, X shall administer the reserve fund.

7 (a) The entity's costs of administering the reserve fund shall be considered costs of
8 operating the districts under RSA 53-F:3.

9 (b) In the event of foreclosure on a property that is subject to a special assessment and is
10 in a district that participates in the reserve fund administered by the entity, the entity's obligation
11 shall be to disburse, at the direction of the municipality, moneys from the reserve fund to apply to
12 the past due balances of the assessment. In no event shall other moneys received or held by the
13 entity be available to meet this obligation or the payment of balances on an assessment.

14 (c) The entity shall keep an accurate account of all activities, receipts and expenditures
15 under this paragraph. An independent audit of the reserve fund shall be conducted annually. The
16 cost of such an audit shall be considered a cost of administering the reserve fund. Where feasible,
17 the entity shall cause this audit to be conducted in conjunction with other independent audits of its
18 accounts, receipts, and expenditures.

19 53-F:10 State PACE Reserve Fund.

20 I. There is hereby established the state PACE reserve fund in the state treasury for the
21 purpose of reducing the risk faced by an investor making an agreement with a municipality to
22 finance a clean energy district.

23 II. The treasurer may invest moneys in the fund as provided by law, with interest received
24 on such investment credited to the fund. The moneys in this fund shall be nonlapsing. The
25 treasurer shall submit an annual report to the general court containing an accounting of receipts,
26 disbursements, and earnings of the fund.

27 III. Moneys deposited to the state PACE reserve fund and any interest on moneys in that
28 fund shall be used for the sole purpose of paying claims as described in paragraphs IV and V. In no
29 event shall any moneys received or held by the state of New Hampshire, other than moneys
30 deposited into the state PACE reserve fund or interest on moneys in that fund, be available to meet
31 this obligation or the payment of a remaining past due balance or any other obligation under this
32 chapter.

33 IV. In this section, "remaining past due balance" means that amount, if any, of a past due
34 balance on an assessment under this chapter that exists:

35 (a) Immediately following foreclosure on a property in a district that participates in the
36 loss reserve fund administered by the entity described in RSA 53-F:9.

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- Page 7 -

1 (b) After the application, to the past due balances of the assessment on that property, of
2 the proceeds available from the foreclosure, net of superior liens, and of the assets of that loss
3 reserve fund.

4 V. The obligation of the state PACE reserve fund shall be to fund 90 percent of a remaining
5 past due balance, upon presentation of a claim and application acceptable to the treasurer and the
6 administrator, provided that the total amount of all such funding from the state PACE reserve fund
7 shall not exceed the lesser of:

8 (a) \$1,000,000;

9 (b) The funds available under paragraph III.

10 (c) Five percent of the total of all assessments under this chapter in the districts that
11 participate in the loss reserve fund administered by the entity
12 described in RSA 53-F:9, VI.

13 5 New Subparagraph; Application of Receipts. Amend RSA 6:12, I(b) by inserting after
14 subparagraph (387) the following new subparagraph:

15 (387) Moneys received in the state PACE reserve fund established in RSA 53-F:10.

16 6 Effective Date. This act shall take effect 60 days after its passage.

**HB 576-FN-A-LOCAL- FISCAL NOTE
AS INTRODUCED**

AN ACT establishing an energy conservation program and an energy conservation project fund and establishing the state PACE reserve fund.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Energy Conservation Project Fund and PACE Reserve Fund			

LOCAL:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

The Legislative Budget Assistant Office is still awaiting information from the Department of Energy. The Department was originally contacted on December 12, 2022.

METHODOLOGY:

This bill establishes a state energy conservation loan program and an energy conservation project fund. This bill also establishes the state PACE reserve fund.

The State Treasury indicates this bill would increase state revenues and expenditures by an indeterminable amount. The bill establishes a state energy conservation loan program, an energy conservation project fund, and the state PACE reserve fund. The Treasurer is authorized to make loans or enter into other financing arrangements directly with eligible borrowers for eligible projects or, in the case of eligible projects under the municipal PACE program, fund loans made by municipalities to property owners. Such loans would be funded from energy project bonds issued by the Treasurer or from amounts held in the Energy Conservation Project Fund. Loan repayments would be pledged to the repayment of the related energy project bonds. The Treasurer would be granted a statutory first priority lien in all or a portion of the System Benefit Charge (“SBC”) as set forth in financing orders from the New Hampshire Public Utilities

Commission. The bill establishes the energy conservation project fund in the State Treasury. All energy project bond proceeds, together with any other moneys made available to the Fund to make loans, would be credited to the loan accounts within the Fund. The purpose of the loan accounts within the fund would be to make loans to finance eligible projects. Amounts transferred to the Treasurer that are not needed to pay debt service on energy project bonds or direct costs and expenses of the Treasurer associated with the issuance of energy bonds would be held in the reserve account within the Fund or in a reserve fund created under the financing document as a reserve securing the energy project bonds. Any amounts in excess of the required reserve would be transferred to the Public Utilities Commission.

The bill permits the Treasurer, upon approval of the State Treasurer and Commission, to issue energy project bonds on behalf of the Fund. Energy project bonds issued would be issued as revenue bonds and shall be recourse only to the related loan repayments by eligible borrowers and other moneys available in the reserve account within the Fund or held under related financing documents. Energy project bonds would not be general obligations of the state of New Hampshire. A financing order would specify that all or a portion of the amounts collected pursuant to the mandatory charges should be allocated first to the energy project bonds, and should be paid over to the Treasurer upon receipt, and second to other projects financed. Financing orders would not constitute a debt or liability of the state of New Hampshire or of any political subdivision, but would be payable solely from the funds provided. The bill also allows the State Treasurer to be reimbursed from the loan accounts within the Fund for all reasonable and necessary expenses such as bond issuance costs, administration, management, and operation of the funds.

The bill would expand the Municipal PACE Program by adding the newly established energy conservation loan program. To the extent that cities or towns receive funds, they would enter into a loan agreement with the property owner that is approved by the State Treasurer, and would pledge such loan agreement and all amounts received. In the event of a payment default by a property owner, the city or town would enforce its rights under any betterments or other security granted under the applicable loan agreement. All amounts realized of any such enforcement would be transferred to the State Treasurer.

The bill also establishes a reserve fund under the Municipal PACE Program for the purpose of paying past due balances of an assessment in the event there is a foreclosure upon a property subject to an assessment and the proceeds from the foreclosure are insufficient to pay such balances. The reserve fund would be funded by participating property owners at a level sufficient to provide for the payment of past due balances in the event of a foreclosure upon a participating property. The contributions of each participating property owner to the reserve

fund would be included in the special assessment. The Commissioner of the Department of Revenue Administration is required to determine the appropriate contribution to the reserve fund. The fund would be capitalized to cover expected foreclosures and fund administration costs. Interest earned would remain in the fund. The administrator of the reserve fund would invest and reinvest the moneys in the fund in accordance with the standard of care established by the prudent investor rule. The reserve fund is to be administered by a special purpose entity and their costs of administering the reserve fund would be considered costs of operating.

In addition, the bill establishes a State PACE Reserve Fund in the State Treasury for the purpose of reducing the risk faced by an investor making an agreement with a municipality to finance a clean energy district. The Treasurer may invest moneys in the fund as provided by law, with interest received on such investments being credited to the PACE reserve fund. The State Treasurer would submit an annual report to the general court containing an accounting of the PACE reserve fund. The obligation of the fund would be to fund 90% of a remaining past due balance, upon presentation of a claim and application acceptable to the Treasurer and the Administrator, provided that the total amount of all such funding from the fund would not exceed the lesser of \$1,000,000; the moneys deposited in the fund; or 5% of the total of all assessments in the districts that participate in the loss reserve fund administered by the entity.

The State Treasury indicates the bill would increase the expenditures and revenues of the Treasury by an indeterminable amount. The Treasury does not have the infrastructure or staff needed to administer a Loan Program as the one described in this legislation. At a minimum, the Treasury would require a credit underwriter to perform risk and credit analyses of potential borrowers, a legal counsel to perform legal work, and an accountant or administrator to coordinate the program. The Treasury also notes that any revenue bonds issued under this program would likely be issued as taxable bonds.

The Department of Revenue Administration (DRA) indicates the bill establishes a reserve fund to pay past due balances of an assessment issued for the participation in energy conservation and efficiency improvement or clean energy improvements under RSA 53-F, when such property is under foreclosure. This reserve fund shall be funded by property owners participating in the energy efficiency and clean energy districts and made through the special assessment applicable to the property. The DRA assumes the assessments are to be included in the property tax bills of the applicable property. A special purpose entity established and authorized by the State Treasurer shall be appointed to administer the reserve fund with the contribution amount being determined periodically by the Commissioner. In addition, the fund shall be capitalized in accordance with standards and procedures approved by the Commissioner. Because the energy project bonds shall not be general obligations of the State and exempted from New Hampshire

taxation, including the income from transfers of these bonds, the DRA expects the fiscal impact of the tax exemption to be revenue neutral. The Commissioner of the DRA is required to calculate the contribution amount and provide advance information to interested property owners via municipalities. The DRA expects that such calculations would require, at the very least, the gathering of information on the loans made to the property owners, the amount and value of assessments that are past due, and any expectations of new assessments that may become delinquent. The DRA assumes it could administer the provisions of this bill without additional administrative costs that could not be absorbed in the DRA operating budget.

The New Hampshire Municipal Association states proposed Property-Assessed Clean Energy (PACE) financing would allow property owners to borrow money from a local government to pay for energy improvements. Under current law, PACE financing can only be provided through private entities. This bill expands the role of the municipality in the creation of energy efficiency and clean energy districts. The amount borrowed would be repaid via a special assessment on the property. Owners of appropriately zoned private property may opt into an energy financing district after such a district has been created and may obtain funding for a broad array of energy efficiency upgrades or renewable energy investments. If a municipality votes to establish this district it will have an administrative role in the assessment of energy improvement, entering into loan agreements with qualified property owners, be required to participate in a reserve fund, calculate and disclose the amount the property owners are required to pay into the reserve fund, and in the event of foreclosure direct a disbursement of funds for the past due assessment. In the event of a foreclosure, it is possible that the municipality may not be able to recover 100% of the due balance. The Association indicates there would be an indeterminable increase in local expenditures.

It is assumed that any fiscal impact would occur after FY 2023.

AGENCIES CONTACTED:

State Treasury, Departments of Energy and Revenue Administration and New Hampshire Municipal Association

REGULAR CALENDAR

January 31, 2023

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Science, Technology and Energy to
which was referred HB 576-FN-A-LOCAL,**

AN ACT establishing an energy conservation program

and an energy conservation project fund and

establishing the state PACE reserve fund. Having

considered the same, report the same with the following

amendment, and the recommendation that the bill

OUGHT TO PASS WITH AMENDMENT.

Rep. Rebecca McWilliams

FOR THE COMMITTEE

Original: House Clerk

Cc: Committee Bill File

COMMITTEE REPORT

Committee:	Science, Technology and Energy
Bill Number:	HB 576-FN-A-LOCAL
Title:	establishing an energy conservation program and an energy conservation project fund and establishing the state PACE reserve fund.
Date:	January 31, 2023
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2023-0162h

STATEMENT OF INTENT

Commercial property assessed clean energy (C-PACE) is a financing tool for building projects targeting energy efficiency and performance. This bill is C-PACE enabling legislation to allow investors and private equity lenders to make loans for commercial clean energy and energy efficiency construction projects in NH to access tools such as up a 60% Federal tax credit. Examples of projects that qualify for this type of funding are the conversion of an existing mill building into mixed use units with a rooftop solar array, or construction of a new 5+ unit housing development with a 40% energy use reduction beyond code. This bill uses no state money and opens up Federal tax incentives for Granite State property owners and developers to retrofit or build new energy efficient buildings. C-PACE uses borrowed capital to pay for the up front costs associated with energy efficiency or renewable energy improvements. Unlike other project financing, the borrowed capital is repaid over time via a tax assessment that runs with the property. The security provided by the tax assessment results in longer term financing and transferability of the repayment obligations to the next property owner. In turn, C-PACE strengthens the business case for investment in longer pay back and deeper building retro fits beyond what is possible with traditional financing. C-PACE must be authorized by state legislation in order for Granite Staters to benefit from this type of project funding. More than 30 states have adopted C-PACE enabling legislation because of the opportunities for investment in local businesses, energy and cost savings, and job creation.

Vote 14-5.

Rep. Rebecca McWilliams
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Science, Technology and Energy

HB 576-FN-A-LOCAL, establishing an energy conservation program and an energy conservation project fund and establishing the state PACE reserve fund. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Rebecca McWilliams for Science, Technology and Energy. Commercial property assessed clean energy (C-PACE) is a financing tool for building projects targeting energy efficiency and performance. This bill is C-PACE enabling legislation to allow investors and private equity lenders to make loans for commercial clean energy and energy efficiency construction projects in NH to access tools such as up a 60% Federal tax credit. Examples of projects that qualify for this type of funding are the conversion of an existing mill building into mixed use units with a rooftop solar array, or construction of a new 5+ unit housing development with a 40% energy use reduction beyond code. This bill uses no state money and opens up Federal tax incentives for Granite State property owners and developers to retrofit or build new energy efficient buildings. C-PACE uses borrowed capital to pay for the up front costs associated with energy efficiency or renewable energy improvements. Unlike other project financing, the borrowed capital is repaid over time via a tax assessment that runs with the property. The security provided by the tax assessment results in longer term financing and transferability of the repayment obligations to the next property owner. In turn, C-PACE strengthens the business case for investment in longer pay back and deeper building retro fits beyond what is possible with traditional financing. C-PACE must be authorized by state legislation in order for Granite Staters to benefit from this type of project funding. More than 30 states have adopted C-PACE enabling legislation because of the opportunities for investment in local businesses, energy and cost savings, and job creation. **Vote 14-5.**

Original: House Clerk

Cc: Committee Bill File

HOUSE COMMITTEE ON SCIENCE, TECHNOLOGY AND ENERGY

PUBLIC HEARING ON HB 576-FN-A-LOCAL

BILL TITLE: establishing an energy conservation program and an energy conservation project fund and establishing the state PACE reserve fund.

DATE: January 24, 2023

LOB ROOM: 302-304 **Time Public Hearing Called to Order:** 1:04 pm

Time Adjourned: 1:55 pm

Committee Members: Reps. Vose, D. Thomas, Bernardy, Notter, Harrington, Merner, Lewicke, Berezhny, Ploszaj, Summers, McGhee, McWilliams, Chretien, Parshall, Caplan, Muns, C, Noel, W. Thomas, Cormen and Reynolds

Bill Sponsors:

Rep. Mangipudi
Rep. Preece

Rep. Darby
Sen. Watters

Rep. McWilliams
Sen. Altschiller

TESTIMONY

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

*Rep Mangipudi - Annual Property Assessment Clean Energy. CPACE state authorized, locally administered.

- Finances energy efficiency; "lower rates"
- 20 year loads attached to property - conservation, EE, gas lines, water lines, renewables, resilience
- Resident property assessed clean energy - started but abandoned in Nashua
- No personal benefit in the bill
- Lien on SBC funds - clean new section: RSA:53F
- Funding not state, not bank, private equity entities, federal funds
Repaid with tax assessments or rent on property (in property tax)

*Senator Altschiller

- ROI of this program is reducing carbon footprint
- Redefined CPACE, funding from private equity capital.

*Rep McWilliams

- Energy and infrastructure opportunities = gas line extension, water extension

* Michael Licata - Eversource

- Can be a good incentive
- Concern about SBC as a financial backstop - how would it work? Appropriate?

*Griffin Roberge - NH Energy Dept

- Oppose because SBC being used as a lien source

Respectfully Submitted,

Rep JD Bernardy, Clerk

House Remote Testify

Science, Technology and Energy Committee Testify List for Bill HB576 on 2023-01-24

Support: 35 Oppose: 1 Neutral: 0 Total to Testify: 0

[Export to Excel](#)

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Smith, Julie	Nashua, NH cantdog@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/18/2023 4:59 PM
Hill, Bonnie	South Sutton, NH hillbonnie@aol.com	A Member of the Public	Myself	Support	No	No	1/20/2023 2:30 PM
Beffa-Negrini, Patricia	Nelson, NH pbeffa@me.com	A Member of the Public	Myself	Support	No	No	1/20/2023 2:47 PM
Opal, Susan	Richmond, NH SusanOpalWyatt@gmail.com	A Member of the Public	Myself	Support	No	No	1/21/2023 9:00 AM
Watters, Senator David	Dover, NH david.watters@leg.state.nh.us	An Elected Official	Myself	Support	No	No	1/21/2023 11:32 AM
Damon, Claudia	Concord, NH cordsdamon@gmail.com	A Member of the Public	Myself	Support	No	No	1/22/2023 5:29 PM
Taylor, Gale	Concord, NH galeforcefacilitators@gmail.com	A Member of the Public	Myself	Support	No	No	1/22/2023 6:36 PM
Casino, Joanne	Concord, NH joannecasino@comcast.net	A Member of the Public	Myself	Support	No	No	1/22/2023 7:44 PM
berk, bruce	Pittsfield, NH bruce.berk.nh@gmail.com	A Member of the Public	Myself	Support	No	No	1/22/2023 8:04 PM
Coon, Kate	Peterborough, NH kate2coon@gmail.com	A Member of the Public	Myself	Support	No	No	1/22/2023 8:13 PM
Liebowitz, Susan	Plainfield, NH supawali@hotmail.com	A Member of the Public	Myself	Support	No	No	1/22/2023 8:35 PM
Reed, Barbara	North Swanzey, NH BDReed74@gmail.com	A Member of the Public	Myself	Support	No	No	1/23/2023 6:43 AM
Jernstedt, Margaret	Hanover, NH Margaret.Jernstedt@comcast.jet	A Member of the Public	Myself	Support	No	No	1/23/2023 7:51 AM

Garland, Ann	Lebanon, NH annhgarland@gmail.com	A Member of the Public	Myself	Support	No	No	1/23/2023 9:46 AM
Hurley, Jack	Claremont, NH jrhurjd@aol.com	A Member of the Public	Myself	Support	No	No	1/23/2023 11:08 AM
Cote, Lois	Manchester, NH, NH lcote06@outlook.com	A Member of the Public	Myself	Support	No	No	1/23/2023 11:49 AM
Liberman, Sheryl	Merrimack, NH sam154@comcast.net	A Member of the Public	Myself	Support	No	No	1/23/2023 11:56 AM
Sweet, Elizabeth	Rye, NH lisacsweet@comcast.net	A Member of the Public	Myself	Support	No	No	1/23/2023 12:52 PM
Meuse, David	Portsmouth, NH David.Meuse@leg.state.nh.us	An Elected Official	Rockingham 37	Support	No	No	1/23/2023 2:32 PM
Moore, Susan	Franconia, NH susan.moore.franconia@gmail.com	A Member of the Public	Myself	Support	No	No	1/23/2023 5:03 PM
Phillips, Betsey	Bethlehem, NH bphil36@gmail.com	A Member of the Public	Myself	Support	No	No	1/23/2023 5:14 PM
FRIEDRICH, ED	Loudon, NH erfriedrich@yahoo.com	A Member of the Public	Myself	Support	No	No	1/23/2023 7:50 PM
Richman, Susan	Durham, NH susan7richman@gmail.com	A Member of the Public	Myself	Support	No	No	1/23/2023 7:52 PM
Hennessey, Martha	Hanover, NH Msh4wt@gmail.com	A Member of the Public	Myself	Support	No	No	1/23/2023 9:12 PM
Allen, Mary Grace	Dover, NH marygracekatherine@gmail.com	A Member of the Public	Myself	Support	No	No	1/23/2023 10:37 PM
Manion, Alicia	Somersworth, NH aliciamanion@gmail.com	A Member of the Public	Myself	Support	No	No	1/23/2023 10:38 PM
Smith, Hayden	Hanover, NH hasmith1520@gmail.com	A Member of the Public	Myself	Support	No	No	1/23/2023 11:41 PM
Steel, Sandy	PLAINFIELD, NH selizabethsteel@gmail.com	A Member of the Public	Myself	Support	No	No	1/24/2023 8:44 AM
Tuthill, John	Acworth, NH johng.tuthill@gmail.com	A Member of the Public	Myself	Support	No	No	1/24/2023 9:37 AM
O'Donnell, Alex	Weare, NH arodonnell22@gmail.com	A Member of the Public	Myself	Support	No	No	1/24/2023 10:18 AM
Russman, Rick	Kingston, NH richardrussman@gmail.com	An Elected Official	Myself	Support	No	No	1/24/2023 11:29 AM

Altschiller, Senator Debra	SD24, NH kevin.condict@leg.state.nh.us	An Elected Official	SD24	Support	No	No	1/24/2023 12:04 PM
Gallager, Eric	Concord, NH Eric.Gallager@leg.state.nh.us	An Elected Official	Myself (Merrimack County District 20, i.e. Concord Ward 6)	Support	No	No	1/24/2023 12:40 PM
Corkery, Catherine	Concord, NH catherine.corkery@sierraclub.org	A Lobbyist	NH Sierra Club	Support	No	No	1/24/2023 1:25 PM
Koch, Laurie	Concord, NH kochlj@aol.com	A Member of the Public	Myself	Support	No	No	1/24/2023 1:47 PM
Koch, Helmut	Concord, NH helmut.koch.2001@gmail.com	A Member of the Public	Myself	Support	No	No	1/24/2023 3:50 PM

Senator Debra Altschiller
District 24
January 24, 2023

To: House Committee on Science Energy and Technology. Testimony in
Testimony in Support of HB 576-FN-A-LOCAL

What is C-PACE?

Commercial Property Assessed Clean Energy (C-PACE) is a state policy-enabled financing mechanism that allows building owners and developers to access the capital they need to:

- make energy-related deferred maintenance upgrades in their existing buildings,
- support new construction costs, and
- make renewable energy accessible

This enabling policy opens a door for communities to transform their energy consumption making homes and businesses more efficient and resilient by securing green energy financing solutions that help Commercial Real Estate Developers and Owners reduce their carbon emissions and Weighted Average Cost of Capital (WACC) through a state legislated public-private partnership known as Commercial Property Assessed Clean Energy (C-PACE).

C-PACE is a low-cost, non-recourse, long dated, self-amortizing product. Enabling legislation has been passed in 32 states and the District of Columbia, as of now 22 of those states and the District of Columbia have active C-PACE programs. Over \$2 billion in C-PACE financing has been provided to over 2400 commercial buildings. The majority of completed projects fell in the \$75,000 - \$750,000 size range, though smaller or larger projects are not uncommon.

A couple of the advantages to the C-PACE structure are that they provide strong security for investors because the financing is repaid on the property tax bill. This allows lenders the ability to offer better interest rates and longer repayment terms than are otherwise available. Additionally, assessments are linked to the property and automatically transfer to a new owner upon the sale of the property.

As the Senator from District 24 I represent the Seacoast that has been experiencing increased flooding from what were once considered historic weather events but now it seems that history repeats itself with frequency. One of the ways HB 576 could be used on the Seacoast, would be in identifying and mitigating short and long-term physical climate risks associated with extreme weather events consistently and cost-effectively at sites across their portfolio. Private equity capital could propel the project of creating a centralized checklist to identify strategies and improvements when an extreme weather event occurs and further, properly utilizing the checklist and partnering with a qualified consultant results in a consistent, cost-effective process that helps protect occupants and assets from short to long-term climate risks.

I urge the committee to recommend HB 576 ought to pass.

Thank you.

Residential Property Assessed Clean Energy

Description:

Residential Property Assessed Clean Energy (R-PACE), like Commercial PACE, is a financing mechanism implemented by local governments that allows residential property owners to finance energy efficiency and renewable energy improvements. The repayment of qualified energy improvements is done via a voluntary property tax assessment collected by local governments, just as other public infrastructure investments are financed. The financing for PACE projects may be provided by municipal bonds or third party capital secured by the property assessment payments. Homeowners repay the loans via a line item on their property tax bill and repayment responsibility transfers to the next owner if the home is sold. States may need to pass authorizing legislation for local governments to issue such bonds by creating “taxing districts”. Similarly, states may pass legislation allowing for multiple districts issuing bonds to combine their participating tax base in one super-district to drive down the costs of bond issuance and increase access to secondary bond markets.



Source: [PACENation](http://PACENation.org) (Map includes CPACE and RPACE programs)

Discussion of the Policy:

From 2008-2010, thirty-five states passed legislation authorizing R-PACE financing. In 2009, the Whitehouse issued principles for [model R-PACE programs](#). But, R-PACE hit a major roadblock in 2010 when the Federal Housing Finance Agency (FHFA) which oversees the activities of the nation’s two largest lenders, Fannie Mae and Freddie Mac, directed the lenders not to underwrite PACE mortgages due to the fact that the improvement loan would take seniority over a mortgage held by a lienholder. In 2012, FHFA [opened a rulemaking](#) on the issue, but [withdrew](#) the proposed rule a year later. In December of 2014, the Agency issued a [statement](#) reiterating its position and to “make clear to homeowners, lenders, other financial institutions, state officials, and the public that Fannie Mae and Freddie Mac’s policies prohibit the purchase of a mortgage where the property has a first-lien PACE loan attached to it.”

In August 2015, however, Ed Golding, the new head of Federal Housing Administration (FHA), a separate entity that provides mortgage insurance for FHA approved lenders, announced that under forthcoming guidance, properties with subordinated PACE loans could be purchased and refinanced with FHA insured mortgages. The Administration also issued draft guidance addressing methods for subordinating PACE liens:

- **Lien Position:** Only PACE liens that preserve payment priority for first lien mortgages through subordination;
- **PACE payment, structure, and term:** PACE financing must be a fixed-rate, fully amortizing loan;
- **Eligible Properties:** PACE assessments must be attached to single family properties, as defined by FHA, which are 1- to 4-unit dwellings, including detached, semi-detached and townhome properties;
- **Equity Requirement:** PACE liens that preserve payment priority for first lien mortgages will be eligible for financing that does not exceed FHA's maximum combined loan-to-value (CLTV) ratio;
- **Record Keeping:** PACE liens must be formally recorded and be identifiable to a mortgage lender through a title search;
- **Additional Consumer Protections:** PACE programs must comply with applicable federal and state consumer laws and should include disclosures to and training for homeowners participating in the program.

The FHFA and FHA are in ongoing discussions to address concerns about the priority status of PACE loans. And, while FHFA's main concern with R-PACE is the seniority status of the lien, a growing body of evidence suggests that energy efficiency leads to lower mortgage default rates. Research published by the University of North Carolina Center for Community Capital found in a study of 71,000 homes that owners of ENERGY STAR rated homes were 32% less likely to default on their mortgage than built to code homes.

Example State & Municipal Programs:

One solution, for states and cities that have been able to work through the guidance from FHFA lies in the creation of a fund to address possible default risk to the mortgage holder. Two programs that have been particularly successful in this regard are California First and the City of Miami's Clean Energy Green Corridor.

- **State of California, California First:**

<https://californiafirst.org/>

The California Treasurer's Office set aside a \$10M loan loss reserve fund intended to repay mortgage lenders in the event of default and a third party, Renewable Funding, is the PACE administrator for most of the state. FHFA responded that this was insufficient to address their first lien concerns with PACE loans and that they would continue to not support the purchase or refinance of mortgages with PACE loans in the first lien position.

- **City of Miami, Florida, Clean Energy Green Corridor:**

https://ygrene.us/fl/green_corridor

The City of Miami passed a \$230M bond in September, 2013 which is intended to address the PACE senior lien concern.

Key Components:

- Ensure legislation follows the draft principles of the FHFA (above) - most importantly, establishing the seniority of the mortgage over the PACE lien.
- State legislative authority must be in place allowing local governments to establish energy financing districts.
- The mortgage holder must agree to the program before assessments can be placed on the property.

More Information:

- **Renewable Funding:**
https://renewfund.com/pace_residential_overview
- **GreenTech Media, *After Conflicts With Mortgage Lenders, California Restarts Residential PACE:***
<http://www.greentechmedia.com/articles/read/after-fixing-a-conflict-with-mortgage-lenders-california-expands-pace>
- **UNC Center for Community Capital & Institute for Market Transformation, *Home Energy Efficiency and Mortgage Risks:***
<http://planning.unc.edu/homeenergy>
- **PACENow industry publications (a wealth of information here):**
<http://www.pacenation.us/publications>
- **DOE Database of State Incentives for Renewables & Efficiency (DSIRE), PACE Map:**
www.dsireusa.org/documents/summarymaps/PACE_Financing_Map.pdf

Gale Taylor

Energy Conservation is even more important than reducing the price of energy, so let's do something about it!

ED FRIEDRICH

...

Eric Gallager

I support HB576, an act establishing an energy conservation program and an energy conservation project fund and establishing the state PACE reserve fund.

HOUSE COMMITTEE ON SCIENCE, TECHNOLOGY AND ENERGY

EXECUTIVE SESSION on HB 576-FN-A-LOCAL

BILL TITLE: establishing an energy conservation program and an energy conservation project fund and establishing the state PACE reserve fund.

DATE: January 30, 2023

LOB ROOM: 302-304

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. McWilliams Seconded by Rep. Muns, C AM Vote: 14-5

Amendment # 2023-0162h

Moved by Rep. McWilliams Seconded by Rep. Muns, C Vote: 14-5

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep JD Bernardy, Clerk



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/5/2023 1:46:04 PM
Roll Call Committee Registers
Report

2023 SESSION

Science, Technology and Energy

Bill #: HB576-FN-A-Local Motion: OTPA AM #: 0162h Exec Session Date: 30 January 2023

Members	YEAS	Nays	NV
Vose, Michael Chairman			
Thomas, Douglas W. Vice Chairman			
Notter, Jeanine M.			
Harrington, Michael D.			
Merner, Troy E.			
Lewicke, John			
Berezhny, Lex			
Bernardy, JD Clerk			
Ploszaj, Tom			
McGhee, Kat <i>Nutting-Wong, Alison</i>			
McWilliams, Rebecca J.			
Chretien, Jacqueline H. <i>Tack, Marty</i>			
Parshall, Lucius			
Caplan, Tony			
Muns, Chris			
Noël, Henry W.			
Thomas, Wendy E.N.			
Cormen, Thomas H			
Raynolds, Ned <i>Spier, Carry</i>			
TOTAL VOTE:	14	5	

James Summers

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STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/5/2023 1:46:04 PM
Roll Call Committee Registers
Report

2023 SESSION

Science, Technology and Energy

Bill #: HB576-FN-A Local Motion: OTPA AM #: 0162h Exec Session Date: 30 January 2023

Members	YEAS	Nays	NV
Vose, Michael Chairman	1		
Thomas, Douglas W. Vice Chairman	1		
Notter, Jeanine M.		1	
Harrington, Michael D.		1	
Merner, Troy E.		1	
Lewicke, John			1
Berezhny, Lex		1	
Bernardy, JD Clerk	1		
Ploszaj, Tom	1		
McGhee, Kat <i>Nutting-Wong, Alison</i>	1		
McWilliams, Rebecca J.	1		
Chretien, Jacqueline H. <i>Tack, Marty</i>	1		
Parshall, Lucius	1		
Caplan, Tony	1		
Muns, Chris	1		
Noël, Henry W.	1		
Thomas, Wendy E.N.	1		
Cormen, Thomas H	1		
Raynolds, Ned <i>Spier, Carry</i>	1		
TOTAL VOTE:	14	5	

James Summers

1