

LEGISLATIVE COMMITTEE MINUTES

**HB211**

# Bill as Introduced

HB 211 - AS INTRODUCED

2023 SESSION

23-0221

10/08

HOUSE BILL            **211**

AN ACT                relative to a report by the department of energy on the effectiveness of the system benefits charge.

SPONSORS:            Rep. D. Thomas, Rock. 16; Rep. Vose, Rock. 5

COMMITTEE:          Science, Technology and Energy

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ANALYSIS

This bill removes the department of environmental services from a report on the effectiveness of the system benefits charge.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

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

AN ACT relative to a report by the department of energy on the effectiveness of the system benefits charge.

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

1           1 Electric Utilities; System Benefits Charge; Report. Amend RSA 374-F:4, VIII(f) to read as  
2 follows:

3                   (f) The [~~department of environmental services and the~~] department of energy shall  
4 submit a report to the house science, technology, and energy committee, and the senate energy and  
5 natural resources committee by October 1 of each year. The report shall concern the results and  
6 effectiveness of the system benefits charge.

7           2 Effective Date. This act shall take effect 60 days after its passage.

**HB 211 FISCAL NOTE**  
**AS AMENDED BY THE SENATE (AMENDMENTS #2023-2177s and #2023-2178s)**

AN ACT relative to a report by the department of energy on the effectiveness of the system benefits charge and relative to surface water setbacks for landfills and relative to water quality.

**FISCAL IMPACT:**     State                     County                     Local                     None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
<b>Appropriation</b>	\$150,000	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	\$0
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**METHODOLOGY:**

This bill removes the Department of Environmental Services from a report on the effectiveness of the system benefits charge. This bill also requires the Department to adopt rules relative to surface water setbacks for landfills and makes an appropriation to the Department. The bill also makes changes to the time line for certifications by the department of environmental services of activities that may result in a discharge into surface water bodies.

The Department of Environmental Services indicates the bill refines the process for applying for a state surface water quality certification, ensures the need for public participation in that process, clarifies the requirement for water conservation plans for large surface water withdrawals, and eliminates a prohibition related to nutrient permitting for wastewater treatment facilities. Each of these changes bring clarity to the certification process as authorized under the federal Clean Water Act section 401. These changes are both revenue and expenditure neutral. The refinements in this bill bring predictability to the process and flexibility in achieving Federal requirements. The certification program already exists at NHDES so no new costs will be required. There are no fees associated with the certification requirement. In addition, there are no new expenditures or revenue for county or local governments.

The bill also requires the Department to contract for an assessment of the perennial surface

water protection and setback requirements applicable to solid waste landfills, and makes a non-lapsing appropriation of \$150,000 from the general fund effective June 30, 2023. The Department assumes existing staff would coordinate preparation of the contract documents, oversee the contract, coordinate the public comment period, and conduct the required rulemaking. Additional staff time would be required; however, existing staff would be temporarily redirected from their regular work to address the requirements of this amendment. The Department estimates the final report would be submitted during the first half of FY2025.

Removal of the Department's participation in the report on the results and effectiveness of the system benefits charge will have no impact on the Department's operating budget.

**AGENCIES CONTACTED:**

Department of Environmental Services

HB 211 - AS AMENDED BY THE SENATE

06/09/2023 2177s

06/09/2023 2178s

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AMENDED ANALYSIS

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This bill also requires the department of environmental services to adopt rules relative to surface water setbacks for landfills and makes an appropriation to the department.

The bill also makes changes to the timeline for certifications by the department of environmental services of activities that may result in a discharge into surface water bodies.

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2 follows:

3           (f) The [~~department of environmental services and the~~] department of energy shall  
4 submit a report to the house science, technology, and energy committee, and the senate energy and  
5 natural resources committee by October 1 of each year. The report shall concern the results and  
6 effectiveness of the system benefits charge.

7       2 Statement of Purpose. The protection of perennial rivers, lakes, and coastal waters from  
8 contamination is in the public interest of the state of New Hampshire. The general court recognizes  
9 that the state's current statutes and rules provide for redundant protection of groundwater and  
10 surface water from releases or spills of leachate generated by disposal of waste in the state's  
11 landfills. As environmental protection technology advances, however, the general court intends that  
12 the department of environmental services reexamine its rules periodically to determine whether the  
13 protections already provided by the rules can be enhanced for newly sited facilities. The purpose of  
14 this act is to direct the department to reexamine its rules governing setbacks of newly sited landfills  
15 from surface water bodies to impose site-specific requirements sufficient to prevent groundwater  
16 contaminated by a spill or release of leachate from reaching such a water body before remedial  
17 action can be implemented, to provide the department with representative factors that it must  
18 consider in adopting new setback rules, and to require the department to take into account certain  
19 additional environmental protective measures proposed by an applicant for a landfill permit. The  
20 act also sets a timeframe for the department's adoption of new setback rules and requires that any  
21 newly-sited landfill permitted after the effective date comply with the new rules if they are timely  
22 adopted as provided in this act.

23       3 Findings. The general court finds that:

24           I. The current rules of the department of environmental services require a "thorough  
25 hydrogeological investigation" of any proposed landfill site so that "[t]he potential release of  
26 contaminants to surface waters can be prevented, attenuated or otherwise remediated." Env-Sw  
27 804.03(c)(3). The rules also contain multiple provisions for the design, construction, and operation of  
28 landfills that require redundant protections against groundwater and surface water contamination.



1 These provisions include a minimum 200-foot setback between the proposed landfill footprint and  
2 any perennial surface water body. Env-Sw 804.03(d).

3 II. The department of environmental services' rules have proven effective in preventing  
4 releases of contaminants from the state's lined landfills to groundwater and surface water, and the  
5 department's requirement of a network of release detection wells at landfill sites enables the  
6 department to be notified of even low levels of contaminants in groundwater so that contamination is  
7 detected and remediated before the contaminants can migrate to surface water or sensitive receptors  
8 like drinking water wells.

9 III. The 200-foot minimum setback between landfills and perennial surface water in the  
10 department's rules falls within one of 3 broad categories of methods used by other states to  
11 determine setbacks. The 3 categories are distance-based setbacks, site-specific setbacks, and  
12 distance-based setbacks that can be reduced by the landfill owner through implementation of design  
13 features that provide additional redundancy to the landfill's environmental protection systems.

14 IV. The general court finds that the most protective of these methods is the use of site-  
15 specific setbacks. This approach avoids the possible limitations of the current one-size-fits-all  
16 distance-based method, ensures that the setback is based on the conditions at the specific site, and  
17 concentrates protections on downgradient groundwater and surface water where it belongs.

18 V. The state should encourage permit applicants to propose design features providing  
19 further redundancy to the landfill's environmental protection systems and such features should be  
20 taken into account in the department's determination of a site-specific setback.

21 VI. This approach reflects the balance New Hampshire seeks to strike in its environmental  
22 regulation between ensuring that all reasonably practicable and economically sound measures are  
23 used to protect our environment while providing permit applicants with incentives to improve  
24 environmental protection beyond the rigorous baseline standards.

25 4 New Paragraph; Rulemaking; Perennial Surface Water Setback. Amend RSA 149-M:7 by  
26 inserting after paragraph III the following new paragraph:

27 III-a. Criteria for determining the site-specific setback of a landfill footprint from perennial  
28 surface water bodies to prevent, attenuate, or otherwise remediate the potential release of  
29 contaminants to each such surface water body from the landfill footprint. Any rules adopted by the  
30 department under this paragraph shall, in addition to any other factors the department deems  
31 necessary for the rules to provide adequate protection of perennial surface water, take into account  
32 the following with respect to the subsurface conditions between the proposed landfill footprint and  
33 the surface water body:

34 (a) The soil stratigraphy and permeability;

35 (b) The volume, gradients, and travel time of groundwater supplying the surface water  
36 body, including the means by which to measure or model representative travel time;

1 (c) Bedrock lithology and structure, including the nature, degree and continuity of  
2 fracturing; and

3 (d) Hydraulic conductivity and such processes as advection, dispersion, and diffusion in  
4 groundwater.

5 5 New Paragraph; Site-Specific Setback to Perennial Surface Water. Amend RSA 149-M:9 by  
6 inserting after paragraph XIV the following new paragraph:

7 XV.(a) In formulating a site-specific setback to perennial surface water under rules adopted  
8 pursuant to RSA 149-M:7, III-a, the department shall take into account any measures proposed in  
9 the application for a permit that would provide greater or more redundant protection of perennial  
10 surface water than the department would otherwise require under its rules. Such measures may  
11 include, without limitation:

12 (1) Installation of a tertiary soil or geomembrane liner system below the secondary  
13 liner system, providing a third layer of protection between waste materials and groundwater.

14 (2) Installation of a second monitoring zone beneath the secondary liner system  
15 providing redundant verification of the effectiveness of the liner systems.

16 (3) Conversion of the primary and/or secondary liner systems from the minimum  
17 single-liner design to an enhanced composite liner design in accordance with the department's  
18 landfill design rules.

19 (4) Improvements to the engineered low permeability subgrade such as increases in  
20 thickness and reductions in permeability of the soil zones beneath the liner systems.

21 (5) Increasing the thickness of the liner by at least 20 mil for geomembrane liners  
22 and at least one foot for soil liners.

23 (6) Increasing the vertical separation distance of the secondary liner from  
24 groundwater to greater than the minimum set by the department's rules.

25 (7) Installation of groundwater monitoring well networks that are capable of being  
26 utilized as groundwater extraction points or that provide points for sampling, groundwater  
27 characterization, or groundwater extraction in excess of what the department requires under its  
28 rules.

29 (8) Implementation of enhanced environmental monitoring programs, including  
30 increasing the frequency of sampling and analytical testing, incorporation of real-time monitoring  
31 systems, and use of automated collection with telemetry.

32 (b) The department shall include as a condition to any permit the implementation of a  
33 measure proposed in the application for the permit upon which the department relied in formulating  
34 the site-specific setback required by RSA 149-M:7, III-a.

35 6 Department of Environmental Services; Solid Waste Landfill Setback Requirements  
36 Assessment and Recommendations.

1 I. The department of environmental services shall contract with one or more qualified  
2 consulting firms or individuals to perform an assessment of the current perennial surface water  
3 protection and setback requirements that are applicable to the permitting of newly sited solid waste  
4 landfills in order to meet the requirements of sections 3 and 4 of this act. Within 30 days of the  
5 effective date of this act, the department shall post on its website a draft request for proposals from  
6 such consulting firms and individuals to conduct the assessment. The department shall accept  
7 public comment on the draft request for proposals for 30 days after such posting. The department  
8 shall issue the final request for proposals by October 1, 2023, with a submission deadline for  
9 proposals no later than 45 days after such issuance. The scope of the proposals shall include the  
10 following:

11 (a). An assessment of the environmental, safety, and technical aspects of perennial  
12 surface water setback requirements and related protections in current state law and administrative  
13 rules that are applicable to the permitting of newly-sited solid waste landfills;

14 (b) Recommendations for using the criteria enumerated in section 3 of this act to  
15 establish site-specific setbacks;

16 (c) Recommendations for any other factors the consultant determines to be necessary to  
17 provide adequate protection of perennial surface water in section 3 of this act. For each such  
18 recommendation, the consultant shall identify each state that has adopted the recommended factor  
19 and describe how such state has applied the recommended factor, including a summary of the  
20 outcome of each permit application to which the state has applied the recommended factor; and

21 (d) Recommendations on a methodology for consideration of the measures set forth in  
22 section 4 of this act, and any similar additional recommended measures to provide greater or more  
23 redundant protection of perennial surface water in formulating a site-specific setback that differs  
24 from what the department would otherwise require under its rules.

25 II. The selected contractor shall complete the assessment and submit a final report to the  
26 department within 150 days after contract approval. The department shall make the report  
27 available on its website and shall review and consider the report's recommendations when drafting  
28 the rules required under section 3 of this act.

29 7 Department of Environmental Services; Target for Completion of Rulemaking; Applicability.

30 I. If the rules required by sections 3 and 4 of this act are adopted by the department of  
31 environmental services within 24 months of this act's effective date:

32 (a) Any newly-sited landfill in the state that receives a standard permit, as defined by  
33 the department's rules, shall meet the newly adopted setback rules; and

34 (b) The department may not issue any such standard permit without imposing a site-  
35 specific setback on the landfill's design and construction in accordance with the newly adopted  
36 setback rules. Any standard permit application pending before the department on, or filed with the  
37 department after, the effective date of this act shall be fully processed in accordance with RSA 149-

HB 211 - AS AMENDED BY THE SENATE

- Page 5 -

1 M:9, VIII and a decision on the application timely provided to the applicant, provided, however, that  
2 any approval of such an application shall be held in abeyance until the department adopts rules in  
3 accordance with sections 3 and 4 of this act or 24 months elapses after the effective date of this act,  
4 whichever occurs first.

5 II. Upon the department's adoption of the rules in accordance with sections 3 and 4 of this  
6 act within 24 months of the effective date, the applicant whose approval has been held in abeyance  
7 under this section shall submit a modification of its application proposing and substantiating with  
8 all requisite information contemplated by the newly adopted setback rules a site-specific setback for  
9 the proposed facility, and the department shall within 120 days of submission of the modification  
10 approve, deny, or modify the proposed site-specific setback and if the department approves or  
11 modifies the proposed setback it shall approve the standard permit conditioned on implementation of  
12 that setback.

13 III. If the department does not adopt rules in accordance with sections 3 and 4 of this act  
14 within 24 months of the effective date of this act, the department shall apply its current rules  
15 applicable to surface water protection in determining the required setback to any application for  
16 such a standard permit that is being held in abeyance when such 24-month period expires and  
17 approve it if it complies with the current rules.

18 8 Appropriation; Department of Environmental Services. The sum of \$150,000 for the fiscal  
19 year ending June 30, 2023 is hereby appropriated to the department of environmental services to  
20 fund a contract for assessment of the requirements for solid waste landfill setbacks from perennial  
21 surface water as provided in this act. Such appropriation shall be nonlapsing. The governor is  
22 authorized to draw a warrant for said sum out of any money in the treasury not otherwise  
23 appropriated.

24 9 Enforcement of Classification. Amend RSA 485-A:12, III to read as follows:

25 III. No activity, including construction and operation of facilities, that requires certification  
26 under section 401 of the Clean Water Act and that may result in a discharge, as that term is applied  
27 under section 401 of the Clean Water Act, to surface waters of the state may commence unless the  
28 department certifies that any such discharge complies with the state surface water quality  
29 standards applicable to the classification for the receiving surface water body. The department shall  
30 provide its response to a request for certification to the federal agency or authority responsible for  
31 issuing the license, permit, or registration that requires the certification under section 401 of the  
32 Clean Water Act. *Unless certification is waived by the department, the* certification shall  
33 include any conditions on, modifications to, or monitoring of the proposed activity necessary to  
34 provide assurance that the proposed discharge complies with applicable surface water quality  
35 standards. The department may enforce compliance with any such conditions, modifications, or  
36 monitoring requirements as provided in RSA 485-A:22.

1       10 New Paragraph; Enforcement of Classification; Request for Certification. Amend RSA 485-  
2 A:12 by inserting after paragraph III the following new paragraph:

3           III-a. In processing a request for certification under paragraph III:

4           (a) Within 50 days of receipt of the request for certification, the department shall either  
5 notify the person who submitted the request that the request is complete or request any additional  
6 information required to complete its evaluation of the request. Any request for additional  
7 information shall specify that the person requesting certification submit such information as soon as  
8 practicable and shall notify the person that if all of the requested information is not received within  
9 120 days of the request, the department shall deny the request. Upon written request of the  
10 applicant prior to the end of such 120-day period, the department shall grant a 30-day extension.  
11 Upon written request of the applicant prior to the end of such 30-day period, the department shall  
12 grant a subsequent 30-day extension.

13           (b) Within a reasonable time after receipt of the request, or of the response to a timely  
14 request for additional information made by the department pursuant to subparagraph (a), the  
15 department shall, in accordance with rules adopted under RSA 485-A:6, VI-a, provide a reasonable  
16 opportunity for public comment, not to exceed 30 days, on proposals to grant, waive, or deny a  
17 request for certification and may hold a public hearing on such proposals.

18           (c) Notwithstanding subparagraphs (a) and (b), within the period of time specified under  
19 section 401 of the Clean Water Act, the department shall:

20                   (1) Provide its response to grant the request for certification;

21                   (2) Provide its response to waive the request for certification; or

22                   (3) Provide its response to deny the request for certification and issue written  
23 findings in support of the denial.

24           (d) The time limits prescribed by this paragraph shall supersede any time limits  
25 provided in any other provision of law.

26           (e) If the department fails to act on a request for certification within the applicable time  
27 frame established in subparagraphs (a), (b) or (c), the certification shall be considered waived and  
28 the person who made the request may ask the department to provide written notice acknowledging  
29 that certification was waived by default.

30       11 Enforcement of Classification. Amend RSA 485-A:12, IV to read as follows:

31           IV. No activity that involves surface water withdrawal [~~or diversion of surface water~~] that  
32 *exceeds 20,000 gallons per day averaged over a 7-day period or more than 600,000 gallons*  
33 *over a 30-day period and* requires registration under RSA 488:3, that does not otherwise require  
34 the certification required under paragraph III, and *which did not exceed such withdrawal rates*  
35 *before* [~~was not in active operation as of~~] the effective date of this paragraph, may commence unless  
36 the department certifies that the surface water withdrawal [~~or diversion of surface water~~] complies  
37 with state surface water quality standards applicable to the classification for the surface water body.

1 The certification shall include any conditions on, modifications to, or monitoring of the proposed  
2 activity necessary to provide reasonable assurance that the proposed activity complies with  
3 applicable surface water quality standards. The department may enforce compliance with any such  
4 conditions, modifications, or monitoring requirements as provided in RSA 485-A:22.

5 12 New Paragraph; Enforcement of Classification. Amend RSA 485-A:12 by inserting after  
6 paragraph IV the following new paragraph:

7 IV-a. In processing an application for permits under RSA 485-A:12, IV:

8 (a) Within 50 days of receipt of the request for certification, the department shall either  
9 notify the person who submitted the request for certification that the request is complete or request  
10 any additional information required to complete its evaluation of the request. Any request for  
11 additional information shall specify that the person requesting certification submit such information  
12 as soon as practicable and shall notify the person that if all of the requested information is not  
13 received within 120 days of the request, the department shall deny the request. Upon written  
14 request of the applicant prior to the end of such 120-day period, the department shall grant a 30-day  
15 extension. Upon written request of the applicant prior to the end of such 30-day period, the  
16 department shall grant a subsequent 30-day extension.

17 (b) Within a reasonable time after receipt of the request, or of the response to a timely  
18 request for additional information made by the department pursuant to subparagraph (a), the  
19 department shall, in accordance with rules adopted under RSA 485-A:6, VI-a, provide a reasonable  
20 opportunity for public comment, not to exceed 30 days, on proposals to grant, waive, or deny a  
21 request for certification and may hold a public hearing on such proposals.

22 (c) Within 90 days after receipt of a request for certification, or of the response to a  
23 timely request for additional information made by the department pursuant to subparagraph (a), the  
24 department shall:

25 (1) Approve the request in whole or in part and issue a certification; or

26 (2) Deny the request and issue written findings in support of the denial; or

27 (3) Extend the time for rendering a decision on the request for good cause and with  
28 the written agreement of the person who made the request for certification.

29 (d) The time limits prescribed by this paragraph shall supersede any time limits  
30 provided in any other provision of law.

31 (e) If the department fails to act on a request for certification within the applicable time  
32 frame established in subparagraphs (a), (b) or (c), the certification shall be considered waived and  
33 the person who made the request may ask the department to provide written notice acknowledging  
34 that certification was waived by default.

35 13 Rulemaking; Water Withdrawals. Amend RSA 485-A:6, VI-a to read as follows:

1 VI-a. Procedures and criteria for requesting, reviewing, and ~~[granting]~~ *acting on requests*  
2 *for certification* ~~[certifications]~~ under RSA 485-A:12, III and IV, *including public notice and*  
3 *public hearing requirements of the department's proposed action on certification requests.*

4 14 Rules for Water Conservation. Amend RSA 485:61, II to read as follows:

5 II. The water conservation rules in paragraph I of this section shall apply to all new permit  
6 applicants and applications for water withdrawals subject to the provisions of RSA 485:3, RSA  
7 485:48, RSA 485-C:21, *RSA 485-A:12, IV*, and section 401 of the Clean Water Act.

8 15 Standards for Classification of Surface Waters of the State. Amend RSA 485-A:8, II to read  
9 as follows:

10 II. Class B waters shall be of the second highest quality and shall have no objectionable  
11 physical characteristics and shall contain not more than either a geometric mean based on at least 3  
12 samples obtained over a 60-day period of 126 Escherichia coli per 100 milliliters, or greater than 406  
13 Escherichia coli per 100 milliliters in any one sample; and for designated beach areas shall contain  
14 not more than a geometric mean based on at least 3 samples obtained over a 60-day period of 47  
15 Escherichia coli per 100 milliliters, or 88 Escherichia coli per 100 milliliters in any one sample;  
16 unless naturally occurring. There shall be no disposal of sewage or waste into said waters except  
17 those which have received adequate treatment to prevent the lowering of the biological, physical,  
18 chemical or bacteriological characteristics below those given above, nor shall such disposal of sewage  
19 or waste be inimical to aquatic life or to the maintenance of aquatic life in said receiving waters.  
20 The pH range for said waters shall be 6.5 to 8.0 except when due to natural causes. The  
21 commissioner shall adopt rules, under RSA 541-A, relative to dissolved oxygen water quality  
22 standards in a manner consistent with Environmental Protection Agency guidance on dissolved  
23 oxygen water criteria published pursuant to section 304(a) of the Clean Water Act, and other  
24 relevant scientific information. Any stream temperature increase associated with the discharge of  
25 treated sewage, waste or cooling water, water diversions, or releases shall not be such as to  
26 appreciably interfere with the uses assigned to this class. The waters of this classification shall be  
27 considered as being acceptable for fishing, swimming and other recreational purposes and, after  
28 adequate treatment, for use as water supplies. Where it is demonstrated to the satisfaction of the  
29 department that the class B criteria cannot reasonably be met in certain surface waters at all times  
30 as a result of combined sewer overflow events, temporary partial use areas shall be established by  
31 rules adopted under RSA 485-A:6, XI-c, which meet, as a minimum, the standards specified in  
32 paragraph III. ~~[The commissioner shall not calculate nutrient discharge limits for aquatic life and~~  
33 ~~human health criteria based on 7Q10 flow or such other flow criteria more restrictive than 7Q10.]~~

34 16 Effective Date.

35 I. Section 8 of this act shall take effect June 30, 2023.

36 II. Section 1 of this act shall take effect 60 days after its passage.

37 III. The remainder of this act shall take effect upon its passage.

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The bill also requires the Department to contract for an assessment of the perennial surface water protection and setback requirements applicable to solid waste landfills, and makes a non-lapsing appropriation of \$150,000 from the general fund effective June 30, 2023. The Department assumes existing staff would coordinate preparation of the contract documents,



oversee the contract, coordinate the public comment period, and conduct the required rulemaking. Additional staff time would be required; however, existing staff would be temporarily redirected from their regular work to address the requirements of this amendment. The Department estimates the final report would be submitted during the first half of FY2025.

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**AGENCIES CONTACTED:**

Department of Environmental Services

HB 211 - VERSION ADOPTED BY BOTH BODIES

29Jun2023... 2215CofC

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10/08

STATE OF NEW HAMPSHIRE

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

AN ACT                    relative to a report by the department of energy on the effectiveness of the system benefits charge.

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

1            1 Electric Utilities; System Benefits Charge; Report. Amend RSA 374-F:4, VIII(f) to read as  
2 follows:

3                    (f) The [~~department of environmental services and the~~] department of energy shall  
4 submit a report to the house science, technology, and energy committee, and the senate energy and  
5 natural resources committee by October 1 of each year. The report shall concern the results and  
6 effectiveness of the system benefits charge.

7            2 Effective Date. This act shall take effect 60 days after its passage.

CHAPTER 181  
HB 211 - FINAL VERSION

29Jun2023... 2215CofC

2023 SESSION

23-0221  
10/08

HOUSE BILL            **211**

AN ACT                relative to a report by the department of energy on the effectiveness of the system benefits charge.

SPONSORS:            Rep. D. Thomas, Rock. 16; Rep. Vose, Rock. 5

COMMITTEE:          Science, Technology and Energy

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ANALYSIS

This bill removes the department of environmental services from a report on the effectiveness of the system benefits charge.

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

CHAPTER 181  
HB 211 - FINAL VERSION

29Jun2023... 2215CofC

23-0221  
10/08

STATE OF NEW HAMPSHIRE

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

AN ACT relative to a report by the department of energy on the effectiveness of the system benefits charge.

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

1 181:1 Electric Utilities; System Benefits Charge; Report. Amend RSA 374-F:4, VIII(f) to read as  
2 follows:

3 (f) The [~~department of environmental services and the~~] department of energy shall  
4 submit a report to the house science, technology, and energy committee, and the senate energy and  
5 natural resources committee by October 1 of each year. The report shall concern the results and  
6 effectiveness of the system benefits charge.

181:2 Effective Date. This act shall take effect 60 days after its passage.

Approved: August 04, 2023  
Effective Date: October 03, 2023

# Amendments

Floor Amendment to HB 211

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

2

3 AN ACT relative to a report by the department of energy on the effectiveness of the system  
4 benefits charge, and relative to water quality.  
5

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

7

8 2 Enforcement of Classification. Amend RSA 485-A:12, III to read as follows:

9 III. No activity, including construction and operation of facilities, that requires certification  
10 under section 401 of the Clean Water Act and that may result in a discharge, as that term is applied  
11 under section 401 of the Clean Water Act, to surface waters of the state may commence unless the  
12 department certifies that any such discharge complies with the state surface water quality  
13 standards applicable to the classification for the receiving surface water body. The department shall  
14 provide its response to a request for certification to the federal agency or authority responsible for  
15 issuing the license, permit, or registration that requires the certification under section 401 of the  
16 Clean Water Act. ***Unless certification is waived by the department, the*** certification shall  
17 include any conditions on, modifications to, or monitoring of the proposed activity necessary to  
18 provide assurance that the proposed discharge complies with applicable surface water quality  
19 standards. The department may enforce compliance with any such conditions, modifications, or  
20 monitoring requirements as provided in RSA 485-A:22.

21 3 New Paragraph; Enforcement of Classification; Request for Certification. Amend RSA 485-  
22 A:12 by inserting after paragraph III the following new paragraph:

23 III-a. In processing a request for certification under paragraph III:

24 (a) Within 50 days of receipt of the request for certification, the department shall either  
25 notify the person who submitted the request that the request is complete or request any additional  
26 information required to complete its evaluation of the request. Any request for additional  
27 information shall specify that the person requesting certification submit such information as soon as  
28 practicable and shall notify the person that if all of the requested information is not received within  
29 120 days of the request, the department shall deny the request. Upon written request of the  
30 applicant prior to the end of such 120-day period, the department shall grant a 30-day extension.  
31 Upon written request of the applicant prior to the end of such 30-day period, the department shall  
32 grant a subsequent 30-day extension.

1 (b) Within a reasonable time after receipt of the request, or of the response to a timely  
2 request for additional information made by the department pursuant to subparagraph (a), the  
3 department shall, in accordance with rules adopted under RSA 485-A:6, VI-a, provide a reasonable  
4 opportunity for public comment, not to exceed 30 days, on proposals to grant, waive, or deny a  
5 request for certification and may hold a public hearing on such proposals.

6 (c) Notwithstanding subparagraphs (a) and (b), within the period of time specified under  
7 section 401 of the Clean Water Act, the department shall:

8 (1) Provide its response to grant the request for certification;

9 (2) Provide its response to waive the request for certification; or

10 (3) Provide its response to deny the request for certification and issue written  
11 findings in support of the denial.

12 (d) The time limits prescribed by this paragraph shall supersede any time limits  
13 provided in any other provision of law.

14 (e) If the department fails to act on a request for certification within the applicable time  
15 frame established in subparagraphs (a), (b) or (c), the certification shall be considered waived and  
16 the person who made the request may ask the department to provide written notice acknowledging  
17 that certification was waived by default.

18 4 Enforcement of Classification. Amend RSA 485-A:12, IV to read as follows:

19 IV. No activity that involves surface water withdrawal [~~or diversion of surface water~~] that  
20 ***exceeds 20,000 gallons per day averaged over a 7-day period or more than 600,000 gallons***  
21 ***over a 30-day period and*** requires registration under RSA 488:3, that does not otherwise require  
22 the certification required under paragraph III, and ***which did not exceed such withdrawal rates***  
23 ***before*** [~~was not in active operation as of~~] the effective date of this paragraph, may commence unless  
24 the department certifies that the surface water withdrawal [~~or diversion of surface water~~] complies  
25 with state surface water quality standards applicable to the classification for the surface water body.  
26 The certification shall include any conditions on, modifications to, or monitoring of the proposed  
27 activity necessary to provide reasonable assurance that the proposed activity complies with  
28 applicable surface water quality standards. The department may enforce compliance with any such  
29 conditions, modifications, or monitoring requirements as provided in RSA 485-A:22.

30 5 New Paragraph; Enforcement of Classification. Amend RSA 485-A:12 by inserting after  
31 paragraph IV the following new paragraph:

32 IV-a. In processing an application for permits under RSA 485-A:12, IV:

33 (a) Within 50 days of receipt of the request for certification, the department shall either  
34 notify the person who submitted the request for certification that the request is complete or request  
35 any additional information required to complete its evaluation of the request. Any request for  
36 additional information shall specify that the person requesting certification submit such information  
37 as soon as practicable and shall notify the person that if all of the requested information is not



Floor Amendment to HB 211

- Page 3 -

1 received within 120 days of the request, the department shall deny the request. Upon written  
2 request of the applicant prior to the end of such 120-day period, the department shall grant a 30-day  
3 extension. Upon written request of the applicant prior to the end of such 30-day period, the  
4 department shall grant a subsequent 30-day extension.

5 (b) Within a reasonable time after receipt of the request, or of the response to a timely  
6 request for additional information made by the department pursuant to subparagraph (a), the  
7 department shall, in accordance with rules adopted under RSA 485-A:6, VI-a, provide a reasonable  
8 opportunity for public comment, not to exceed 30 days, on proposals to grant, waive, or deny a  
9 request for certification and may hold a public hearing on such proposals.

10 (c) Within 90 days after receipt of a request for certification, or of the response to a  
11 timely request for additional information made by the department pursuant to subparagraph (a), the  
12 department shall:

13 (1) Approve the request in whole or in part and issue a certification; or

14 (2) Deny the request and issue written findings in support of the denial; or

15 (3) Extend the time for rendering a decision on the request for good cause and with  
16 the written agreement of the person who made the request for certification.

17 (d) The time limits prescribed by this paragraph shall supersede any time limits  
18 provided in any other provision of law.

19 (e) If the department fails to act on a request for certification within the applicable time  
20 frame established in subparagraphs (a), (b) or (c), the certification shall be considered waived and  
21 the person who made the request may ask the department to provide written notice acknowledging  
22 that certification was waived by default.

23 6 Rulemaking; Water Withdrawals. Amend RSA 485-A:6, VI-a to read as follows:

24 VI-a. Procedures and criteria for requesting, reviewing, and ~~[granting]~~ ***acting on requests***  
25 ***for certification*** ~~[certifications]~~ under RSA 485-A:12, III and IV, ***including public notice and***  
26 ***public hearing requirements of the department's proposed action on certification requests.***

27 7 Rules for Water Conservation. Amend RSA 485:61, II to read as follows:

28 II. The water conservation rules in paragraph I of this section shall apply to all new permit  
29 applicants and applications for water withdrawals subject to the provisions of RSA 485:3, RSA  
30 485:48, RSA 485-C:21, ***RSA 485-A:12, IV***, and section 401 of the Clean Water Act.

31 8 Standards for Classification of Surface Waters of the State. Amend RSA 485-A:8, II to read as  
32 follows:

33 II. Class B waters shall be of the second highest quality and shall have no objectionable  
34 physical characteristics and shall contain not more than either a geometric mean based on at least 3  
35 samples obtained over a 60-day period of 126 Escherichia coli per 100 milliliters, or greater than 406  
36 Escherichia coli per 100 milliliters in any one sample; and for designated beach areas shall contain  
37 not more than a geometric mean based on at least 3 samples obtained over a 60-day period of 47

Floor Amendment to HB 211

- Page 4 -

1 Escherichia coli per 100 milliliters, or 88 Escherichia coli per 100 milliliters in any one sample;  
2 unless naturally occurring. There shall be no disposal of sewage or waste into said waters except  
3 those which have received adequate treatment to prevent the lowering of the biological, physical,  
4 chemical or bacteriological characteristics below those given above, nor shall such disposal of sewage  
5 or waste be inimical to aquatic life or to the maintenance of aquatic life in said receiving waters.  
6 The pH range for said waters shall be 6.5 to 8.0 except when due to natural causes. The  
7 commissioner shall adopt rules, under RSA 541-A, relative to dissolved oxygen water quality  
8 standards in a manner consistent with Environmental Protection Agency guidance on dissolved  
9 oxygen water criteria published pursuant to section 304(a) of the Clean Water Act, and other  
10 relevant scientific information. Any stream temperature increase associated with the discharge of  
11 treated sewage, waste or cooling water, water diversions, or releases shall not be such as to  
12 appreciably interfere with the uses assigned to this class. The waters of this classification shall be  
13 considered as being acceptable for fishing, swimming and other recreational purposes and, after  
14 adequate treatment, for use as water supplies. Where it is demonstrated to the satisfaction of the  
15 department that the class B criteria cannot reasonably be met in certain surface waters at all times  
16 as a result of combined sewer overflow events, temporary partial use areas shall be established by  
17 rules adopted under RSA 485-A:6, XI-c, which meet, as a minimum, the standards specified in  
18 paragraph III. ~~[The commissioner shall not calculate nutrient discharge limits for aquatic life and~~  
19 ~~human health criteria based on 7Q10 flow or such other flow criteria more restrictive than 7Q10.]~~

20 9 Effective Date.

21 I. Section 1 of this act shall effect 60 days after its passage.

22 II. The remainder of this act shall take effect upon its passage.

**Floor Amendment to HB 211**  
**- Page 5 -**

2023-2177s

**AMENDED ANALYSIS**

This bill removes the department of environmental services from a report on the effectiveness of the system benefits charge. The bill also makes changes to the timeline for certifications by the department of environmental services of activities that may result in a discharge into surface water bodies.

Sen. Avard, Dist 12  
June 8, 2023  
2023-2178s  
08/08

Floor Amendment to HB 211

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

2

3 AN ACT relative to a report by the department of energy on the effectiveness of the system  
4 benefits charge and relative to surface water setbacks for landfills.  
5

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

7

8 2 Statement of Purpose. The protection of perennial rivers, lakes, and coastal waters from  
9 contamination is in the public interest of the state of New Hampshire. The general court recognizes  
10 that the state's current statutes and rules provide for redundant protection of groundwater and  
11 surface water from releases or spills of leachate generated by disposal of waste in the state's  
12 landfills. As environmental protection technology advances, however, the general court intends that  
13 the department of environmental services reexamine its rules periodically to determine whether the  
14 protections already provided by the rules can be enhanced for newly sited facilities. The purpose of  
15 this act is to direct the department to reexamine its rules governing setbacks of newly sited landfills  
16 from surface water bodies to impose site-specific requirements sufficient to prevent groundwater  
17 contaminated by a spill or release of leachate from reaching such a water body before remedial  
18 action can be implemented, to provide the department with representative factors that it must  
19 consider in adopting new setback rules, and to require the department to take into account certain  
20 additional environmental protective measures proposed by an applicant for a landfill permit. The  
21 act also sets a timeframe for the department's adoption of new setback rules and requires that any  
22 newly-sited landfill permitted after the effective date comply with the new rules if they are timely  
23 adopted as provided in this act.

24 3 Findings. The general court finds that:

25 I. The current rules of the department of environmental services require a "thorough  
26 hydrogeological investigation" of any proposed landfill site so that "[t]he potential release of  
27 contaminants to surface waters can be prevented, attenuated or otherwise remediated." Env-Sw  
28 804.03(c)(3). The rules also contain multiple provisions for the design, construction, and operation of  
29 landfills that require redundant protections against groundwater and surface water contamination.  
30 These provisions include a minimum 200-foot setback between the proposed landfill footprint and  
31 any perennial surface water body. Env-Sw 804.03(d).

Floor Amendment to HB 211

- Page 2 -

1 II. The department of environmental services' rules have proven effective in preventing  
2 releases of contaminants from the state's lined landfills to groundwater and surface water, and the  
3 department's requirement of a network of release detection wells at landfill sites enables the  
4 department to be notified of even low levels of contaminants in groundwater so that contamination is  
5 detected and remediated before the contaminants can migrate to surface water or sensitive receptors  
6 like drinking water wells.

7 III. The 200-foot minimum setback between landfills and perennial surface water in the  
8 department's rules falls within one of 3 broad categories of methods used by other states to  
9 determine setbacks. The 3 categories are distance-based setbacks, site-specific setbacks, and  
10 distance-based setbacks that can be reduced by the landfill owner through implementation of design  
11 features that provide additional redundancy to the landfill's environmental protection systems.

12 IV. The general court finds that the most protective of these methods is the use of site-  
13 specific setbacks. This approach avoids the possible limitations of the current one-size-fits-all  
14 distance-based method, ensures that the setback is based on the conditions at the specific site, and  
15 concentrates protections on downgradient groundwater and surface water where it belongs.

16 V. The state should encourage permit applicants to propose design features providing  
17 further redundancy to the landfill's environmental protection systems and such features should be  
18 taken into account in the department's determination of a site-specific setback.

19 VI. This approach reflects the balance New Hampshire seeks to strike in its environmental  
20 regulation between ensuring that all reasonably practicable and economically sound measures are  
21 used to protect our environment while providing permit applicants with incentives to improve  
22 environmental protection beyond the rigorous baseline standards.

23 4 New Paragraph; Rulemaking; Perennial Surface Water Setback. Amend RSA 149-M:7 by  
24 inserting after paragraph III the following new paragraph:

25 III-a. Criteria for determining the site-specific setback of a landfill footprint from perennial  
26 surface water bodies to prevent, attenuate, or otherwise remediate the potential release of  
27 contaminants to each such surface water body from the landfill footprint. Any rules adopted by the  
28 department under this paragraph shall, in addition to any other factors the department deems  
29 necessary for the rules to provide adequate protection of perennial surface water, take into account  
30 the following with respect to the subsurface conditions between the proposed landfill footprint and  
31 the surface water body:

32 (a) The soil stratigraphy and permeability;

33 (b) The volume, gradients, and travel time of groundwater supplying the surface water  
34 body, including the means by which to measure or model representative travel time;

35 (c) Bedrock lithology and structure, including the nature, degree and continuity of  
36 fracturing; and

1 (d) Hydraulic conductivity and such processes as advection, dispersion, and diffusion in  
2 groundwater.

3 5 New Paragraph; Site-Specific Setback to Perennial Surface Water. Amend RSA 149-M:9 by  
4 inserting after paragraph XIV the following new paragraph:

5 XV.(a) In formulating a site-specific setback to perennial surface water under rules adopted  
6 pursuant to RSA 149-M:7, III-a, the department shall take into account any measures proposed in  
7 the application for a permit that would provide greater or more redundant protection of perennial  
8 surface water than the department would otherwise require under its rules. Such measures may  
9 include, without limitation:

10 (1) Installation of a tertiary soil or geomembrane liner system below the secondary  
11 liner system, providing a third layer of protection between waste materials and groundwater.

12 (2) Installation of a second monitoring zone beneath the secondary liner system  
13 providing redundant verification of the effectiveness of the liner systems.

14 (3) Conversion of the primary and/or secondary liner systems from the minimum  
15 single-liner design to an enhanced composite liner design in accordance with the department's  
16 landfill design rules.

17 (4) Improvements to the engineered low permeability subgrade such as increases in  
18 thickness and reductions in permeability of the soil zones beneath the liner systems.

19 (5) Increasing the thickness of the liner by at least 20 mil for geomembrane liners  
20 and at least one foot for soil liners.

21 (6) Increasing the vertical separation distance of the secondary liner from  
22 groundwater to greater than the minimum set by the department's rules.

23 (7) Installation of groundwater monitoring well networks that are capable of being  
24 utilized as groundwater extraction points or that provide points for sampling, groundwater  
25 characterization, or groundwater extraction in excess of what the department requires under its  
26 rules.

27 (8) Implementation of enhanced environmental monitoring programs, including  
28 increasing the frequency of sampling and analytical testing, incorporation of real-time monitoring  
29 systems, and use of automated collection with telemetry.

30 (b) The department shall include as a condition to any permit the implementation of a  
31 measure proposed in the application for the permit upon which the department relied in formulating  
32 the site-specific setback required by RSA 149-M:7, III-a.

33 6 Department of Environmental Services; Solid Waste Landfill Setback Requirements  
34 Assessment and Recommendations.

35 I. The department of environmental services shall contract with one or more qualified  
36 consulting firms or individuals to perform an assessment of the current perennial surface water  
37 protection and setback requirements that are applicable to the permitting of newly sited solid waste

1 landfills in order to meet the requirements of sections 3 and 4 of this act. Within 30 days of the  
2 effective date of this act, the department shall post on its website a draft request for proposals from  
3 such consulting firms and individuals to conduct the assessment. The department shall accept  
4 public comment on the draft request for proposals for 30 days after such posting. The department  
5 shall issue the final request for proposals by October 1, 2023, with a submission deadline for  
6 proposals no later than 45 days after such issuance. The scope of the proposals shall include the  
7 following:

8 (a) An assessment of the environmental, safety, and technical aspects of perennial  
9 surface water setback requirements and related protections in current state law and administrative  
10 rules that are applicable to the permitting of newly-sited solid waste landfills;

11 (b) Recommendations for using the criteria enumerated in section 3 of this act to  
12 establish site-specific setbacks;

13 (c) Recommendations for any other factors the consultant determines to be necessary to  
14 provide adequate protection of perennial surface water in section 3 of this act. For each such  
15 recommendation, the consultant shall identify each state that has adopted the recommended factor  
16 and describe how such state has applied the recommended factor, including a summary of the  
17 outcome of each permit application to which the state has applied the recommended factor; and

18 (d) Recommendations on a methodology for consideration of the measures set forth in  
19 section 4 of this act, and any similar additional recommended measures to provide greater or more  
20 redundant protection of perennial surface water in formulating a site-specific setback that differs  
21 from what the department would otherwise require under its rules.

22 II. The selected contractor shall complete the assessment and submit a final report to the  
23 department within 150 days after contract approval. The department shall make the report  
24 available on its website and shall review and consider the report's recommendations when drafting  
25 the rules required under section 3 of this act.

26 7 Department of Environmental Services; Target for Completion of Rulemaking; Applicability.

27 I. If the rules required by sections 3 and 4 of this act are adopted by the department of  
28 environmental services within 24 months of this act's effective date:

29 (a) Any newly-sited landfill in the state that receives a standard permit, as defined by  
30 the department's rules, shall meet the newly adopted setback rules; and

31 (b) The department may not issue any such standard permit without imposing a site-  
32 specific setback on the landfill's design and construction in accordance with the newly adopted  
33 setback rules. Any standard permit application pending before the department on, or filed with the  
34 department after, the effective date of this act shall be fully processed in accordance with RSA 149-  
35 M:9, VIII and a decision on the application timely provided to the applicant, provided, however, that  
36 any approval of such an application shall be held in abeyance until the department adopts rules in

**Floor Amendment to HB 211**

**- Page 5 -**

1 accordance with sections 3 and 4 of this act or 24 months elapses after the effective date of this act,  
2 whichever occurs first.

3 II. Upon the department's adoption of the rules in accordance with sections 3 and 4 of this  
4 act within 24 months of the effective date, the applicant whose approval has been held in abeyance  
5 under this section shall submit a modification of its application proposing and substantiating with  
6 all requisite information contemplated by the newly adopted setback rules a site-specific setback for  
7 the proposed facility, and the department shall within 120 days of submission of the modification  
8 approve, deny, or modify the proposed site-specific setback and if the department approves or  
9 modifies the proposed setback it shall approve the standard permit conditioned on implementation of  
10 that setback.

11 III. If the department does not adopt rules in accordance with sections 3 and 4 of this act  
12 within 24 months of the effective date of this act, the department shall apply its current rules  
13 applicable to surface water protection in determining the required setback to any application for  
14 such a standard permit that is being held in abeyance when such 24-month period expires and  
15 approve it if it complies with the current rules.

16 8 Appropriation; Department of Environmental Services. The sum of \$150,000 for the fiscal  
17 year ending June 30, 2023 is hereby appropriated to the department of environmental services to  
18 fund a contract for assessment of the requirements for solid waste landfill setbacks from perennial  
19 surface water as provided in this act. Such appropriation shall be nonlapsing. The governor is  
20 authorized to draw a warrant for said sum out of any money in the treasury not otherwise  
21 appropriated.

22 9 Effective Date.

23 I. Section 8 of this act shall take effect June 30, 2023.

24 II. Section 1 of this act shall take effect 60 days after its passage.

25 III. The remainder of this act shall take effect upon its passage.



2023-2178s

**AMENDED ANALYSIS**

This bill removes the department of environmental services from a report on the effectiveness of the system benefits charge.

This bill also requires the department of environmental services to adopt rules relative to surface water setbacks for landfills and makes an appropriation to the department.

# Committee Minutes

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

Sen Kevin Avard, Chair  
Sen Howard Pearl, Vice Chair  
Sen Regina Birdsell, Member  
Sen David Watters, Member  
Sen Debra Altschiller, Member

Date: May 16, 2023

**HEARINGS**

Tuesday	05/23/2023	
(Day)	(Date)	
Energy and Natural Resources	State House 103	9:00 a.m.
(Name of Committee)	(Place)	(Time)
9:00 a.m.	<b>HB 253</b>	establishing a committee to study extended producer responsibility.
9:15 a.m.	<b>HB 251</b>	relative to the cost of compliance with disclosure of electric renewable portfolio standards.
9:30 a.m.	<b>HB 211</b>	relative to a report by the department of energy on the effectiveness of the system benefits charge.
9:45 a.m.	<b>HB 221</b>	relative to the acquisition of agricultural land development rights.

**EXECUTIVE SESSION MAY FOLLOW**

**Sponsors:**

**HB 253**

Rep. Parshall

Rep. Caplan

Rep. Dutzy

Rep. Ebel

**HB 251**

Rep. D. Thomas

Rep. Vose

Rep. Notter

Rep. Dunn

Rep. Lewicke

Rep. Harley

Sen. Carson

**HB 211**

Rep. D. Thomas

Rep. Vose

**HB 221**

Rep. Bixby

Rep. Caplan

Rep. Aron

Nikolas Liamos 271-7875

Kevin A. Avard  
Chairman

# Senate Energy and Natural Resources Committee

*Nikolas Liamos 271-7875*

**HB 211**, relative to a report by the department of energy on the effectiveness of the system benefits charge.

**Hearing Date:** May 23, 2023

**Time Opened:** 9:30 a.m.

**Time Closed:** 9:38 a.m.

**Members of the Committee Present:** Senators Avard, Pearl, Birdsell, Watters and Altschiller

**Members of the Committee Absent :** None

**Bill Analysis:** This bill removes the department of environmental services from a report on the effectiveness of the system benefits charge.

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**Sponsors:**

Rep. D. Thomas

Rep. Vose

---

**Who supports the bill:** Josh Elliott.

**Who opposes the bill:** None.

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

**Summary of testimony presented:**

**Senator David Watters**

**District 4**

- Senator David Watters introduced House Bill 211.

**Josh Elliott**

**Director of the Division of Policy and Programs, New Hampshire Department of Energy**

- Josh Elliott stated that for HB 211, he is testifying on behalf of the Department of Energy (DOE) and the Department of Environmental Services (DES).
- Dir. Elliott stated that this bill removes the Department of Environmental Services from the requirement to submit to both the House Science, Technology, and Energy Committee and the Senate Energy and Natural Resources Committee an annual report on systems benefits charge (SBC) report.
- Dir. Elliott stated that this bill is a technical cleanup.

- Dir. Elliott added that the DOE and DES have no role in creating the report or doing the report or providing information for the report.

NPL

Date Hearing Report completed: May 26, 2023

# Speakers



# Voting Sheets



# Senate Energy and Natural Resources Committee

## EXECUTIVE SESSION RECORD

2023-2024 Session

Bill # HB 211

Hearing date: 5/23/23

Executive Session date: 5/23/23

Motion of: OTP Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Pearl, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Birdsell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Altschiller	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: Consent Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Pearl, Vice Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Birdsell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Altschiller	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Pearl, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Birdsell	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Altschiller	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Senator Watters

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

\_\_\_\_\_

# Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE  
FOR THE CONSENT CALENDAR

Thursday, May 25, 2023

THE COMMITTEE ON Energy and Natural Resources

to which was referred **HB 211**

AN ACT

relative to a report by the department of energy on  
the effectiveness of the system benefits charge.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 5-0

Senator David Watters  
For the Committee

House Bill 211 states that only the department of energy shall submit a report to the house science, technology, and energy committee and the senate energy and natural resources committee. This report shall concern the results and effectiveness of the system benefits charge and shall be submitted by October 1<sup>st</sup> of each year. The bill will remove the department of environmental services' obligation to collaborate with the department of energy on this report.

Nikolas Liamos 271-7875

FOR THE CONSENT CALENDAR

**ENERGY AND NATURAL RESOURCES**

HB 211, relative to a report by the department of energy on the effectiveness of the system benefits charge.

Ought to Pass, Vote 5-0.

Senator David Watters for the committee.

House Bill 211 states that only the department of energy shall submit a report to the house science, technology, and energy committee and the senate energy and natural resources committee. This report shall concern the results and effectiveness of the system benefits charge and shall be submitted by October 1<sup>st</sup> of each year. The bill will remove the department of environmental services' obligation to collaborate with the department of energy on this report.

## General Court of New Hampshire - Bill Status System

**Docket of HB211**

Docket Abbreviations

**Bill Title:** relative to a report by the department of energy on the effectiveness of the system benefits charge.

*Official Docket of HB211.:*

<b>Date</b>	<b>Body</b>	<b>Description</b>
1/3/2023	H	<b>Introduced</b> 01/04/2023 and referred to Science, Technology and Energy
1/18/2023	H	==CANCELLED== Public Hearing: 01/23/2023 04:00 pm LOB 302-304
1/25/2023	H	Public Hearing: 02/03/2023 11:00 am LOB 302-304
1/18/2023	H	Executive Session: 01/24/2023 04:00 pm LOB 302-304
2/1/2023	H	Executive Session: 02/06/2023 01:30 pm LOB 302-304
2/8/2023	H	Committee Report: Ought to Pass 02/03/23 ( <b>Vote 20-0; CC</b> ) <b>HC 11 P. 10</b>
2/14/2023	H	<b>Ought to Pass: MA VV 02/14/2023 HJ 5</b>
3/7/2023	S	Introduced 02/22/2023 and Referred to Energy and Natural Resources; <b>SJ 9</b>
5/16/2023	S	<b>Hearing: 05/23/2023, Room 103, SH, 09:30 am; SC 23</b>
5/31/2023	S	Committee Report: Ought to Pass, 06/08/2023; Vote 5-0; CC; <b>SC 25</b>
6/8/2023	S	Sen. Avard Moved to Remove HB 211 from the Consent Calendar; 06/07/2023; <b>SJ 18</b>
6/8/2023	S	Sen. Avard Floor Amendment <b>#2023-2177s</b> , AA, VV; 06/08/2023; <b>SJ 18</b>
6/8/2023	S	Sen. Avard Floor Amendment <b>#2023-2178s</b> , AA, VV; 06/08/2023; <b>SJ 18</b>
6/8/2023	S	<b>Ought to Pass with Amendments 2023-2177s and 2023-2178s</b> , MA, VV; OT3rdg; 06/08/2023; <b>SJ 18</b>
6/8/2023	S	Without Objection, the Clerk is authorized to make technical and administrative corrections which are necessary to reflect the intent of the Senate, MA; 06/08/2023; <b>SJ 18</b>
6/12/2023	H	House Non-Concurs with Senate Amendment 2023-2177s and 2023-2178s and Requests CofC (Reps. Vose, D. Thomas, Aron, Bixby): MA VV 06/08/2023 <b>HJ 15 P. 74</b>
6/15/2023	S	Sen. Avard Accedes to House Request for Committee of Conference, MA, VV; 06/15/2023; <b>SJ 19</b>
6/15/2023	S	President Appoints: Senators Avard, Birdsell, Watters; 06/15/2023; <b>SJ 19</b>
6/20/2023	H	Conference Committee Meeting: 06/20/2023 11:00 am LOB 202-204
6/21/2023	S	Conference Committee Report Filed, <b>#2023-2215c</b> ; 06/29/2023
6/29/2023	S	Conference Committee Report <b>#2023-2215c</b> , Adopted, VV; 06/29/2023; <b>SJ 20</b>
6/29/2023	H	Conference Committee Report 2023-2215c: Adopted, VV 06/29/2023 <b>HJ 17 P. 6</b>
7/18/2023	S	Enrolled Adopted, VV, (In recess 06/29/2023); <b>SJ 20</b>
7/19/2023	H	Enrolled (in recess of) 06/29/2023 <b>HJ 17 P. 18</b>
8/9/2023	H	Signed by Governor Sununu 08/04/2023; Chapter 181; eff: 10/03/2023 <b>HJ 17</b>

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NH House

NH Senate

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# Other Referrals

June 20, 2023  
2023-2215-CofC  
10/05

1 Committee of Conference Report on HB 211, relative to a report by the department of energy on the  
2 effectiveness of the system benefits charge.

3

4 Recommendation:

5 That the House recede from its position of nonconcurrence with the Senate amendment, and

6 That the Senate recede from its position in adopting its amendment to the bill, and

7 That the Senate and House each pass the bill as passed by the House.

The signatures below attest to the authenticity of this Report on HB 211, relative to a report by the department of energy on the effectiveness of the system benefits charge.

Conferees on the Part of the Senate

Conferees on the Part of the House

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Sen. Avard, Dist. 12

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Rep. Vose, Rock. 5

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Sen. Birdsell, Dist. 19

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Rep. D. Thomas, Rock. 16

---

Sen. Watters, Dist. 4

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Rep. Aron, Sull. 4

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Rep. Bixby, Straf. 13



**Senate Inventory Checklist for Archives**

Bill Number: HB 211

Senate Committee: ENR

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

Final docket found on Bill Status

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

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

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

Hearing Report

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

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

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

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

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

Executive Session Sheet

Committee Report

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

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

- amendment # 2177      \_\_\_ - amendment # \_\_\_

- amendment # 2178      \_\_\_ - amendment # \_\_\_

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

Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference): 2215 COFC

\_\_\_ Enrolled Bill Amendment(s)

\_\_\_ Governor's Veto Message

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

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

final version

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

[Signature]  
Committee Aide

8/2/23  
Date

Senate Clerk's Office AK