

Senate Energy and Natural Resources Committee

Griffin Roberge 271-3042

HB 351, relative to the system benefits charge.

Hearing Date: April 26, 2021.

Time Opened: 1:27 p.m.

Time Closed: 3:20 p.m.

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

Members of the Committee Absent: Senator Giuda.

Bill Analysis: This bill changes the procedure for increasing the system benefits charge assessed electric customers and clarifies its purposes.

Sponsors:

Rep. Harrington

Who supports the bill: Dan McGuire; Gregory Moore, Americans for Prosperity - New Hampshire; Marie Nardino; Representative Jeanine Notter, Hillsborough - District 21; Representative Doug Thomas, Rockingham - District 5; Representative Michael Vose, Rockingham - District 9; Peter Wotowiec.

Who opposes the bill: Representative Susan Almy, Grafton - District 13; Luis Aranzabal; Susan Arnold, Appalachian Mountain Club; Bill Baber, Dover, NH; Doreen Baker; Jon Ballentine; William Bardsley; Representative Christy Barlett, Merrimack - District 19; David Bates; Patricia Beffa-Negrini; Bruce Berk, Pittsfield, NH; Representative Peter Bixby, Strafford - District 17; Sandra Blanchard; Kathleen Bollerud; Sue Bracy; Nancy Brennan, Weare, NH; Ronald Briggs; Susan Bruce; Mary Burdett; Raymond Burke, NH Legal Assistance; Catherine Bushueff; Kathy Cahill; Barbara Callaway; Representative Tony Caplan, Merrimack - District 6; Lilian Carter; Joanne Casino; Laurie Chambers; Susan Chollet; Daniel Clapp; Denise Clark; Martha Clark; Ryan Clouthier; Representative John Cloutier, Sullivan - District 10; Ethan Cole; Beth Colle; Karen Contos; Barbara Cook; Catherine Corkery, NH Sierra Club; Patricia Cornell; Susan Covert; Dorothy Currier; Claudia Damon; Mark Dean, NH Electric Cooperative; Dick Devens; Karen Dewey; Corinne Dodge; Kathy Donohoe; Anne Dontonville, Enfield, NH; Roger Dontonville, Grafton - District 10; Dori Drachman, Peterborough, NH; Bryan Dwyer; Representative Donna Ellis, Strafford - District 8; Cheri Falk, Wilton, NH; Elizabeth Fenner-Lukaitis; Bryan Field, Peterborough, NH; Dana Fischer, Mitsubishi Electric Trane HVAC; Honorable Eileen Flockhart, Exeter, NH; Adam Foley; Suzanne Fournier; John Gage, Windham NH; Ann Garland; Tori Gerlt; Nancy Gillard; William Gillard; Representative Julie Gilman, Rockingham - District 18; Catherine Goldwater; Martha Goodnow; Laurie Gordon; Margaret Gordon; Representative Chuck Grassie, Strafford - District 11; Andy Gray; Nancy Greenwood; Anne Grossi, Bedford, NH; Kenneth Grossman; Kent Hackmann; Joan Hambley; Heidi Hamer; Doris Hampton; Kevin Hanlon; Robert Haring-Smith; Emily Hay; Robert Hayden, Standard Power; Representative Mary Heath, Hillsborough - District 14; Robin Helrich; Adelinda Higgs; Robert Hinkel; Anthony Holtz; Representative Timothy Horrigan, Strafford - District 6; Anne

Huberman; Joel Huberman; Richard Husband; Katherine Inman; Dennis Jakubowski; Susan Jamback; Carolyn Johnson; Sara Johnson; Carolyn Jones; Michael Joy; Robin Kaiser; Honorable David Karrick, Warner, NH; Jean Keene; Robert Keene; Eamon Kelley; Mary Kelley; Elizabeth Kelly; Lorraine Kelly; Kathryn Kerman; Barbara Jo Kingsley, Peterborough, NH; Kimberly Kirkland; Helmut Koch; Laurie Koch; Catherine Koning; Nick Krakoff, Conservation Law Foundation; Carol Kraus, Peterborough, NH; Donald Kreis, Office of the Consumer Advocate; Joy Kubit; Joseph Kwasnik, Concord, NH; Deborah Leavitt; Gabriel Leonard; Kathleen Letellier; Sheryl Liberman; Mary Lincoln; Suzanne Loder; James Lonano; Carmen Lorentz; Janet Lucas; Joe Magruder; Representative John Mann, Cheshire - District 2; Emily Manns; Edward Marquardt; Scott Maslansky; Kyle McAdam; Representative Rebecca McBeath, Rockingham - District 26; Representative Kat McGhee, Hillsborough - District 27; David McGraw; Dawn McGuire; David McKenzie; Brigid McNamee; Gerald Milliken; Nathan Mills; Madeleine Mineau, Clean Energy NH; Faith Minton; Karen Mitchell; Honorable Howard Moffett, Canterbury, NH; Donna Mombourquette; Howell Montgomery, Liberty Utilities; Janet Moore; Robin Mower; Megan Murray; Jennifer Newell; Faith Northrop; Dana Nute; Sam Osherson; Evan Oxenham; Sharon Parker; Chase Pennoyer; Ruth Perencevich; Representative Maria Perez, Hillsborough - District 23; Judith Pettingell; Rod Pimentel; Elizabeth-Anne Platt; Ann Podlipny; Erin Pospychala; Cora Quisumbing-King; Daniel Ramage, A+ Energy Services; Mary Raven; Donna Reardon; John Reardon; Barbara Reed; Annie Rettew; Susan Richman, Durham, NH; Laura Samoisette; Judith Saum; Joe Schapiro; Lois Scribner; Stephen Shadford; Kristen Shelley; Jennifer Smith; Representative Suzanne Smith, Grafton - District 8; Richard Spence; Louise Spencer; Kathy Spielman; Diane St. Germain, Bedford, NH; Philip Stephenson; Roger Stephenson; Representative Deb Stevens, Hillsborough - District 34; Caroline Storrs; Laura Telerski; Elaine Thomas; Julia Thompson; Katherine Thorndike; Sarah Thorne; Jeanne Torpey; Sherrie Trefry; Bruce Tucker; Naomi Tucker; Representative Suzanne Vali, Hillsborough - District 30; Jim Verschueren; Laura Vincent; Janet Ward; Patricia Waterman; Margaret Watkins; Jill Weber; Honorable Ken Wells, Andover, NH; Lee Wells; Representative Wendy Chase, Strafford - District 18; Rob Werner, League of Conservation Voters; Representative Joyce Weston, Grafton - District 8; Mary Wilke; Candace Williams; Maura Willing; Susan Wyatt; Jamie Young; Barbara Zaenglein; Eric Zaenglein; Julie Zimmer.

Who is neutral on the bill: Kat Bourque, Unitil; Donna Gamache & Kate Peters, Eversource Energy.

Summary of testimony presented in support:

Representative Michael Vose

Rockingham – District 9

- Representative Vose introduced HB 351 on behalf of the bill's prime sponsor, Representative Michael Harrington. Representative Harrington was in the Caribbean.
- The first part of HB 351 clarifies the purpose of the system benefits charge (SBC). The SBC is a nonbypassable and competitively neutral charge applied to the use of the distribution system to fund public benefits related to the provision of electricity. The bill amends RSA 374-F:3, VI to state that the SBC may fund programs for low-income customers and energy efficiency programs whose main purpose is to reduce the consumption of electricity and not some other form of energy. Representative Harrington found that over the years, the amount of money spent on thermal projects, such as home insulation, has become a larger portion of SBC spending. In the last quarter of 2019, thermal projects accounted for 9.5% of the total kilowatt-hour (KWh) savings while accounting for 52% of the SBC funds. Energy efficiency, the main purpose of which is to reduce electric consumption, accounted for 90.5% of the KWh savings while consuming 48% of the SBC funds. If electric customers pay the SBC to increase the electric grid's efficiency,

then SBC funds should be directed toward that purpose. This change seeks to spend SBC funds where NH gets the biggest reduction in electricity consumption.

- The second part of HB 351 changes the procedure for increasing the SBC. Currently, HB 374-F:3, VI requires legislative approval for any increase in the SBC. However, the statute has an exemption from this legislative approval requirement. The exemption applies to the energy efficiency portion of the SBC if the increase is authorized by a Public Utilities Commission (PUC) order to implement the three-year planning periods of the Energy Efficiency Resource Standard (EERS) established by PUC Order No. 25,932 dated August 2, 2016, ending in 2020 and 2023, or, if for purposes other than implementing the EERS, is authorized by the Joint Legislative Fiscal Committee. This exemption was inserted in statute via HB 317 (2018) and expanded upon in HB 4-FN-A-LOCAL (2019). HB 351 removes this exemption and requires any SBC increase to be approved by the NH General Court or the Joint Legislative Fiscal Committee.
- The price of electricity is determined by the PUC through a complex rate setting process that has many components. A vital component of that is defined as the rate per KWh, or the final price of electricity that a consumer will pay. The SBC is not part of that rate, but is an added charge used to pay for energy efficiency. Today, changes to the SBC are the result of the adoption of the EERS back in 2016. Since 2017, a subcommittee of the Energy Efficiency and Sustainable Energy Board (EESEB) has worked with stakeholders to come up with the EERS framework that will determine how much should be raised by the SBC to achieve energy efficiency goals. The settlement agreement on the 2021-2023 Triennial EERS Plan was then submitted to the PUC for its review and approval. The docket, DE 20-092, is ongoing. The pending 2021-2023 Triennial EERS Plan would increase the SBC, which raised \$62 million for energy efficiency programs in 2020, to raise \$280 million by 2023. Because the SBC is separate charge from electricity and is mandated by the NH General Court, many feel that changes by the SBC should be approved by the NH General Court. The NH General Court, accountable to the people of the state, has an obligation to exercise their constitutional authority to provide oversight of a legislatively mandated charge.
- Senator Watters said the SBC tried to assist low-income households as they seek to address their heating and electricity bills. In many cases, these households get their heating from electrical sources, so there is an interconnection between thermal projects and electricity. Senator Watters asked if SBC funds could be used for solar installation or heat pumps for low-income households.
 - Representative Vose said the SBC can fund a variety of things. Per RSA 374-F:3, VI, the SBC can provide benefits as approved by regulators that can include programs for low-income customers, energy efficiency programs, funding for the electric industry's share of PUC expenses pursuant to RSA 363-A, support research and development, and investments in commercialization strategies for new and beneficial technologies. The SBC could be used for the items Senator Watters referenced if those investments made the electric system more energy efficient.
- Senator Watters said electricity can be a cheaper option than other sources of energy for heating one's home. Efforts to help people shift to electric sources of heat may be a good idea. However, HB 351 amends RSA 374-F:3, VI to restrict funding for energy efficiency programs whose main purpose is to reduce the consumption of electricity and not some other form of energy.
 - Representative Vose said HB 351 aims to use the SBC and the energy efficiency programs it supports to reduce electric consumption. Adding new types of consumption would not be in conflict to reduce the electric consumption of existing products. For example, newer refrigerators are more efficient than older refrigerators. That new refrigerator may reduce electric consumption at one's house but adding a heat pump will increase electric consumption and will not create efficiency for the entire energy system.

Representative Jeanine Notter
Hillsborough – District 21

- Supports HB 351 and Representative Vose's testimony.

Gregory Moore
NH State Director, Americans for Prosperity – New Hampshire

- HB 351 ensures transparency. The bill ensures that SBC dollars collected by NH's ratepayers are expended on programs that will reduce electricity consumption. NH's ratepayers who pay the SBC should see the direct benefit of the SBC costs placed on their electric bills.
- HB 351 ensures accountability. NH does not abdicate its legislative responsibilities. HB 351 ensures that legislators oversee any SBC increase and are accountable to the voters.
- Responding to Mr. Kreis's testimony regarding the constitutionality of HB 351, there have been many instances where state agencies must seek legislative approval for specific actions, such as getting approval

from the Joint Legislative Committee on Administrative Rules for any new administrative rules or the Joint Legislative Fiscal Committee on state agency/department fiscal items.

- Mr. Moore contended that it would be appropriate to retain the NH General Court or Joint Legislative Fiscal Committee approval for any increase in the SBC. The NH General Court could approve an increase to the SBC through a resolution rather than through legislation. The Joint Legislative Fiscal Committee could meet out of session and be more flexible to address an SBC increase.

Representative Doug Thomas
Merrimack – District 5

- Representative Thomas and the Office of Strategic Initiatives (OSI) appointee voted against the 2021-2023 Triennial EERS Plan on the EESEB. The plan will raise the SBC exponentially.
- The public has very little knowledge of EESEB activities and does not know what is going on. Representative Thomas has a fiduciary responsibility to his constituents. The Town of Londonderry has many elderly residents on fixed incomes. Electric bills have not decreased. Increasing electric costs will impact those on fixed incomes. Exercising legislative oversight, even on a very small part on one's electric bill, is an important role for the NH General Court to play.
- HB 351 may not be a perfect solution, but it sends a message that electric costs must be brought under control.
- Senator Avar referenced Mr. Hayden's testimony where it was stated that the SBC is assessed at .0743 cents per KWh. He asked Representative Thomas what the SBC would be under the 2021-2023 Triennial EERS Plan.
 - Representative Thomas said the SBC would cost ratepayers \$280 million over the course of the 2021-2023 Triennial EERS Plan. Increasing the SBC during the COVID-19 pandemic is not a good decision. While the SBC may be a very minor cost of one's electric bill, those costs add up. Those additional costs hurt low-income households.
- Senator Avar asked if HB 351's language was in HB 2-FN-A-LOCAL (2021) as amended by the House.
 - Representative Thomas said he has not looked at HB 2-FN-A-LOCAL as amended by the House in depth.
 - Senator Watters said HB 2-FN-A-LOCAL as amended by the House includes HB 351's language that eliminates the exemption for the EERS to get legislative approval, but it does not include HB 351's language that limits SBC funding to programs that solely reduce electricity consumption.

Summary of testimony presented in opposition:

Don Maurice Kreis – provided written testimony
Consumer Advocate, Office of the Consumer Advocate (OCA)

- The OCA represents the interest of residential utility customers before the PUC pursuant to RSA 363:28. The OCA does not represent the interests of commercial and industrial customers.
- The OCA shares the objectives of HB 351's supporters in clarifying what the NH General Court expects from the SBC. There has been a dearth of legislation on what is and what is not appropriate for ratepayer funded energy efficiency. The NH General Court should offer additional guidance than what currently exists.
- The NH General Court could decide for itself what rates consumers should pay for their utility service, but the NH General Court established the PUC for that purpose and created specific instructions and guidance in state statute for the PUC to follow in its rate setting process. However, HB 351 is inconsistent with that approach as it requires the NH General Court to bless an action made by an administrative agency that the NH General Court created. Requiring this type of approval raises constitutional issues that will need to be resolved in appropriate forums if HB 351 becomes law.
- HB 351 should be re-referred. HB 549 (2021) has been retained by the House Science, Technology, and Energy Committee and deals with the same issues as HB 351. The committee, interested stakeholders, and the public should have continued discussions on HB 549 to establish reasonable standards for what ratepayer funded energy efficiency should be.
- Senator Watters asked if the OCA had any comments on the portion of HB 351 that requires SBC funds to only be used for energy efficiency programs whose main purpose is to reduce the consumption of electricity and not some other form of energy.
 - Mr. Kreis said restricting the SBC to only reduce electric consumption would have an unfortunate result of leaving a large amount of cost-effective energy efficiency on the table. However, there is a

certain logic to restricting the SBC to reducing electric consumption. The OCA could see both sides of the argument but does not see the need for the type of restriction as spelled out in HB 351.

- Senator Watters referred to his questions of Representative Vose and wondered if it may be possible to insert language in HB 351 that would encourage investment in energy provided by renewable sources.
 - Mr. Kreis said such language would be possible and permissible. It would be a slightly different policy imperative to encourage the use of electricity for heating purposes rather than using fossil fuels for heating purposes. However, there are good public policy reasons to do so.
- Senator Avard referenced Mr. Kreis' testimony in that HB 351 may be unconstitutional. He asked Mr. Kreis to elaborate on that point.
 - Mr. Kreis said HB 351's framework amounts to a de facto "legislative veto" scheme of the sort placed out of bounds, as a matter of federal constitutional law, in the US Supreme Court case *INS v. Chadha* (1983). While *Chadha* was decided under the US Constitution, the frame of government established under the NH Constitution is identical in all material respects and there is no reason to suppose the NH Supreme Court would reject the *Chadha* precedent. In other words, the NH General Court can exercise its powers all by itself or it can create executive branch agencies like the PUC and delegate authority to those agencies. What the NH General Court cannot do is create an agency, tell the agency to make decisions, and then declare that the decision does not stick unless those who like it come back to the NH General Court to get it ratified.

Representative John Mann

Cheshire – District 2

- The only way to reduce electric consumption in heating a house is to insulate it. Insulating a house reduces one's electric costs in the summer and winter months. It is a strange thing that HB 351 requires the SBC to fund energy efficiency programs whose sole purpose is to reduce electricity consumption.
- Once you insulate a house and make it energy efficient, the house remains that way for years. A steady energy efficiency program generates a savings stream – once a set of houses is insulated and efficient, money is not sent to fossil fuel companies to pay for fuel. Those savings would remain in-state. Those savings build up each year as more houses get energy efficient.
- Reducing energy efficiency measures impacts our local economy. HB 351 has a lot of negative impacts.

Representative Kat McGhee – provided written testimony

Hillsborough – District 27

- HB 351 is a dangerous and ill-considered restructuring of the SBC process.
- The SBC was placed in state statute to provide systemwide benefits. It is a regulatory requirement that energy efficiency programs like NH Saves provide a benefit to all ratepayers. These programs are proven to generate savings in excess of what is spent. Energy efficiency programs results in a permanent reduction in fuel demand, helps the state improve its carbon footprint, and lower its energy outlay.
- HB 351 requires any SBC increase to be approved by either passage of legislation by the NH General Court or authorization of the Joint Legislative Fiscal Committee. HB 351 inserts the NH General Court into the SBC process that it delegated to the PUC. The EERS included input from a variety of stakeholders and electric utilities over a length of time. The NH General Court does not have the time or resources to engage in a rate setting process for the SBC. Inserting the NH General Court into this process would make rate setting political.
- The EERS would generate up to \$1.3 billion in economic stimulus as NH recovers from the COVID-19 pandemic. HB 351 will cause delays in the rollout of the EERS and put a halt to NH Saves funding, which currently has wait lists. The 2021-2023 Triennial EERS Plan, agreed to in a settlement agreement in December 2020 and overdue for rollout since January 2021 due to PUC inaction, can be approved if HB 351 is defeated because its language muddies the waters of the PUC process.
- Senator Watters asked if there was any testimony before the House Science, Technology, and Energy Committee about what would occur if the Joint Legislative Fiscal Committee approved an increase to the SBC, but the NH General Court defeated legislation to approve an increase to the SBC. Senator Watters said there would obviously be a conflict if one body approved an SBC increase and another body killed an SBC increase.
 - Representative McGhee did not recall any discussion on that issue. The fact that both bodies are inserted in HB 351 does not provide clarity. The NH General Court would likely need to introduce legislation to increase the SBC.
- Senator Avard referenced Representative McGhee's statement that implementing in the EERS would lead to a \$1.3 billion stimulus. He asked how HB 351 is holding up the rollout of the EERS.

- Representative McGhee said there were a couple bills in the House focusing on the EERS. The PUC likely saw these bills and realized that their passage would impact the EERS's rollout. Additionally, some state legislators sent a letter to the PUC opposing any SBC increase as NH's economy recovered from the COVID-19 pandemic. A consultant was brought into EERS discussions and that consultant determined that increasing the SBC would lead to a \$1.3 billion stimulus.

Huck Montgomery

Director of Government Affairs, Liberty Utilities

- The EERS is a collaborative effort undertaken by a large variety of stakeholders. All energy efficiency programs through the NH Saves program, of which Liberty Utilities and other utilities are the administrators, must be cost-effective. A lot of work went into EERS planning process that got the 2021-2023 Triennial EERS Plan together. That plan is currently pending before the PUC for approval.
- Currently, RSA 374-F:3, VI provides that all future SBC increases must go to the NH General Court for approval. However, the statute has an exemption for the 2021-2023 Triennial EERS Plan so that it is not subject to the need for legislative approval.
- The EERS framework is the result of 18 months of work on behalf of a wide variety of stakeholders that would save \$200 million for NH's economy. The 2021-2023 Triennial EERS Plan was created under the expectation that it would be approved by the PUC and all future SBC increases would go before the NH General Court. HB 351 is unfair to those customers who are requesting energy efficiency services. If HB 351 was signed into law and the NH General Court voted against an SBC increase, customers would lose access to cost effective measures to reduce their electricity usage.
- Senator Avaré referenced Representative Vose's statement that an SBC increase would lead to more than \$200 million in energy costs. However, Mr. Montgomery's testimony said it would result in \$200 million in savings. He asked Mr. Montgomery to elaborate on his testimony.
 - Mr. Montgomery said that state statute requires each dollar spent in energy efficiency programs to create a net savings. People should look holistically at the value of the investment in energy efficiency. When one makes a stock investment, that individual looks at future appreciation and not just the upfront costs to purchase that stock. The PUC uses a Granite State Test to test the effectiveness of these energy efficiency programs and found that there will be \$200 million in savings.
- Senator Avaré asked where the committee could find information on these savings.
 - Mr. Montgomery said he can request the information from staff at Liberty Utilities. These figures are also publicly available on the PUC's docket DE 20-092 regarding the 2021-2023 triennial EERS Plan.
- Senator Watters expressed his concern about HB 351's restriction of energy efficiency programs to reduce electricity consumption. He noted that RSA 374-F:3, VI permits the use of an SBC to fund public benefits related to the provision of energy. Such benefits may include programs for low-income customers, energy efficiency programs, etc. This language is quite broad, but HB 351's is more limiting. There could be programs to help people, such as programs in battery storage or community solar, that could be energy efficient to avoid peak demand. He asked if Mr. Montgomery saw any conflicts in HB 351 as NH moved toward greater electrification in dealing with various needs, such as home heating.
 - Mr. Montgomery said additional stipulations on what the SBC funds may not really matter as current state statute requires any future SBC increases, excluding those increases under the triennial 2021-2023 Triennial EERS Plan, must receive legislative approval. Each non-electric program funded in part by the SBC must be shown to be cost effective through the Granite State Test, that each dollar spent must generate a net savings for all energy customers.

Raymond Burke – provided written testimony

Benefits Project Co-Director, NH Legal Assistance

- HB 351 could negatively impact low-income households who are currently waiting for energy efficiency installations that will reduce their energy costs during a pandemic and make energy more affordable in the future.
 - The 2021-2023 Triennial EERS Plan is currently pending before the PUC. HB 351 could create additional and uncertainty. NH is already four months into 2021. Electric and natural gas utilities filed a letter to the PUC about the impacts of further delays, which include strains on an already inadequate workforce to complete low-income energy efficiency measures because of the uncertainty.
 - Additional uncertainty would further harm the low-income program and result in serving fewer low-income households.

- HB 351 would have a negative impact on the long-term implementation of the low-income energy efficiency program by creating uncertainty in the planning process.
 - HB 351 does not make clear what happens if the Joint Legislative Fiscal Committee authorizes an SBC increase while legislation is pending before the NH General Court, and the full NH General Court rejects the increase at a later date. This could delay the implementation of the statewide energy efficiency plan.
 - Years-long waiting lists already exist across the state for low-income families seeking cost-effective energy efficiency improvements to their homes. Currently, there are roughly 8,000 households on the waiting list for energy efficiency improvements. Additional delay and uncertainty will only make the waiting lists longer.
- NH's low-income energy efficiency program has been recognized nationally as an exemplary program and is critical to reduce energy costs for all NH ratepayers. Low-income families often pay a higher percentage of their household income on energy costs than do higher income families, meaning they have less money to spend on other basic needs.
 - Energy efficiency programs not only promote more affordable utility service in the long run, but also lead to safer and more comfortable homes and to improvements in health outcomes. HB 351 would deprioritize "fuel-neutral" savings, which would have an adverse impact on NH's nationally recognized low-income program.
- Senator Avard referenced Mr. Burke's testimony about 8,000 currently waiting for energy efficiency improvements. Senator Avard asked what those households are specifically waiting for.
 - Mr. Burke said the households are income eligible for weatherization improvements. These households could be served with energy efficiency measures, but there is not enough funding or an adequate workforce to address the growing demand. When households come off the waiting list, a household's utility, in consultation with the local Community Action Program (CAP), will conduct an audit of that household to determine what energy efficiency measures are possible. During this audit, a team will determine what measures are truly cost effective for the household and NH's ratepayers. Based on that audit, full weatherization services may be provided or more energy efficient appliances may be installed.
- Senator Avard asked if the low-income energy efficiency program was open to renters.
 - Mr. Burke said the low-income energy efficiency program was open to renters.
- Senator Avard summarized that an audit team will go into one's home and determine what may be the most cost-effective energy efficiency measures for that home and for NH's ratepayers.
 - Mr. Burke said Senator Avard was correct. There are rules around the level of rebates offered for different types of energy efficiency measures based on an audit's outcome.

Susan Richman
Durham, NH

- NH Saves is a popular program that makes a significant difference.
- Only wealthier households can invest in solar panels and battery storage. Weatherization and non-electric energy efficiency measures are most cost effective for low-income households.
- There are large externalities for using fossil fuels, such as increased health care costs. These externalized costs need to be considered. Energy efficiency can diminish carbon emissions by 40%.
- PUC Commissioners serve six-year terms. Stakeholders involved in PUC discussions are knowledgeable about their industry. Placing the authority to increase the SBC in the hands of the NH General Court politicizes the SBC and creates uncertainty for businesses involved in energy efficiency programs.
- Over the past few years, the NH General Court has voted down legislation to decrease carbon emissions and increase fossil fuel dependence. The 2021-2023 Triennial EERS Plan has been stalled at the PUC for four months. One must ask whose interests are vested in protecting out of state fossil fuel industries.

Ethan Cole
Owner, Earthshare Construction, LLC

- Earthshare Construction, LLC is a small contracting company in Lebanon, NH that has been involved in a lot of weatherization projects. The company has five employees.
- Earthshare Construction, LLC has been involved with NH Saves for five years. NH Saves has been a great program to work with that benefits residents, businesses, the economy, and NH's future. The demand for NH Saves has been very strong and grown in recent years.
- Low-income households are more heavily impacted by energy costs. NH Saves makes low-income households more efficient and healthier to live in.

- Paying for energy from fossil fuels goes out-of-state. Weatherization projects retain those dollars in state to benefit a household and all NH ratepayers through cost-effective energy efficiency.

Daniel Ramage

Owner, A+ Energy Services

- Requiring energy efficiency programs to only fund efforts to reduce electricity consumption would be problematic due to a lesser number of households using electricity for heat and more efficient appliances being available.
- NH's energy efficiency programs have come a long way, but NH still lags compared to its neighboring states.
- HB 351 is causing unease amongst local contractors who saw the 2021-2023 Triennial EERS Plan as a means to grow their businesses to meet the growing demand. Due to the PUC delay in approving the 2021-2023 Triennial EERS Plan, projects are on hold and employees and equipment purchases are on standby.
- Senator Avard asked if Mr. Ramage was testifying in opposition to HB 351.
 - Mr. Ramage said he was opposed to HB 351.

Emily Manns

Chair, Peterborough Energy Committee

- Energy efficiency programs are important for communities to lower their energy costs for resiliency and environmental benefits. HB 351 stands in the way of a clean energy future and making progress on clean energy goals.

Madeleine Mineau – provided written testimony

Executive Director, Clean Energy NH

- NH's energy efficiency programs directly benefit all NH customers. There is a rigorous cost-benefit analysis for every dollar invested in the program. These programs are a direct investment in the local economy to improve local households and businesses.
- Requiring legislative approval of the SBC would very severely affect the timing and continuity of energy efficiency programs. The 2021-2023 Triennial EERS Plan, which the PUC should have ruled on in December 2020, is still pending. If HB 351 is signed into law before the PUC issues an order, uncertainty will continue over the 2021-2023 Triennial EERS Plan as legislative approval will be required every year. Throughout the public comment process, businesses and contractors stressed the importance of program predictability and a long-term planning horizon. HB 351 would disrupt that.
- If legislative approval for SBC increases is required, the NH General Court will need to consider a wealth of technical information. The 2021-2023 Triennial EERS Plan submitted to the PUC included 1,000 pages of information, excluding testimony from the interested parties. There was roughly 28 hours of public hearings on that plan and the associated SBC. It is simply not realistic to expect the NH General Court to put in the time to review all that information. The NH General Court does not have access to utility analysts and industry experts to help guide them on their decision making.
- Reiterating Ms. Peters' testimony, most energy efficiency programs already focus on electricity savings. Weatherization programs are extremely beneficial to low-income customers and other customers. Funding is needed for those programs unless the NH General Court considered another source of funding.
- Senator Watters said Governor Sununu called for increased attention to low-income households for energy savings. Senator Watters referenced his SB 205 (2019), which was later rolled in HB 4-FN-A-LOCAL (2019). That legislation required 20% of SBC funds to be expended on low-income energy efficiency programs. He asked if Governor Sununu has clearly supported energy efficiency efforts to help low-income households.
 - Ms. Mineau said Governor Sununu has made it a talking point that energy efficiency and renewable energy programs should directly benefit low-income customers.
- Senator Watters said HB 351 may be moot. There is to be a new appointee to the PUC. If the PUC did not like the 2021-2023 Triennial EERS Plan, they could do what they want to. Even without HB 351, PUC commissioners will do what they are going to do.
 - Ms. Mineau said she was uncertain why the PUC has not acted on the 2021-2023 Triennial EERS Plan. Some feel the delay is due to the PUC being short one commissioner. However, pending legislation like HB 351 may also be a reason why the PUC is not acting. The PUC has not given any reasons for its delay. There is no reason that the PUC is not issuing an order. If a third commissioner is appointed, that commissioner needs to review the entire docket record. If HB 351 was signed into law before the PUC acted and the PUC moved forward with a more modest SBC increase, that increase would still need legislative approval. This would cause further delay.

- Senator Avar referenced Mr. Moore’s testimony that HB 351 ensures transparency and accountability. He asked Ms. Mineau for her thoughts on that testimony.
 - Ms. Mineau serves as the EESEB chair. While Representative Vose said the EESEB set the SBC, that is not the case. The EESEB followed direction given to it by the NH General Court and the PUC to conduct a stakeholder driven process. All EESEB meetings were publicly noticed and open to the public. Minutes were taken at each meeting. There were multiple rounds of public comment during the planning process. This process took a year where meetings were held twice a month. An EESEB subcommittee reported to the full EESEB on 2021-2023 Triennial EERS Plan developments. Votes were taken by the EESEB subcommittee and the full EESEB. The EESEB advised program administrators on what the EESEB would like to see in their plan. The program administrators submitted their plan to the PUC for a full docket process. All PUC dockets are open to the public. Anyone who wished to take part in the process was entirely welcome to participate.
- Senator Avar asked what the SBC amounts to on an average electric bill.
 - Ms. Mineau explained that an average residential electric bill has the following components: a fixed customer charge, transmission costs, distribution costs, energy costs, and an SBC. The SBC funds the energy efficiency programs. There can also be other costs on an electric bill like stranded costs. The SBC is very small compared to other costs. While all utilities have different charges, a typical residential customer pays roughly \$1.00-2.00 a month for the SBC. The SBC funds energy efficiency programs and bill assistance programs for low-income customers.
- Senator Avar asked if HB 351’s language is in HB 2-FN-A-LOCAL (2021).
 - Ms. Mineau said it was her understanding the language was in HB 2-FN-A-LOCAL as introduced, but she was not sure if the language was in HB 2-FN-A-LOCAL as amended by the House.
- Senator Avar said that if HB 351 was in HB 2-FN-A-LOCAL as amended by the House, then HB 351 was not needed.
 - Ms. Mineau agreed with Senator Avar.

Nick Krakoff – provided written testimony

Staff Attorney, Conservation Law Foundation – New Hampshire

- Energy efficiency generates significant economic benefits for NH. Since 2002, energy efficiency measures have resulted in cumulative customer savings in excess of \$3.4 billion. The State of NH has saved \$45 million from energy efficiency over the past 11 years. The 2021-2023 Triennial EERS Plan would result in \$1.3 billion in cost savings over the lifetime of the measures and support over 4,600 full-time jobs.
- HB 351 would result in significantly reduced benefits for NH residents and ratepayers. Requiring legislative approval is unrealistic and unworkable. The NH General Court delegates decisions regarding the EERS and the SBC to the PUC to make these decisions. The NH General Court does not have the time or resources to review the many issues under the EERS plan.
- HB 351’s provision requiring authorization from the Joint Legislative Fiscal Committee is likely unconstitutional. A 1981 opinion of the NH Supreme Court ruled “the supreme legislative authority is vested in the house of representatives and the senate” and “small groups in either house cannot fairly be said to represent the ‘legislative will.’” Therefore, statutory schemes delegating lawmaking authority to smaller legislative bodies are unconstitutional.

Joseph Kwasnik – provided written testimony

Concord, NH

- The SBC was created during NH’s 1996 electric restructuring for all energy efficiency programs regardless of fuel type used within residential, commercial, or industrial locations. The decision not to solely restrict the use of the SBC to measures to reduce electricity consumption in the state was justified and would benefit all energy consumers.
- Requiring legislative approval for SBC increases is inconsistent with long-standing statute and the PUC’s current function to set rates and, by extension, the SBC. The PUC is better positioned to evaluate the needs for SBC increases than the NH General Court in a timely, effective, and efficient manner.
- NH ranks last when compared to other New England states on energy efficiency spending and is less competitive with them.

Gerald F. Milliken, Jr. – provided written testimony

Tri-County Community Action Program

- The current SBC allows for anyone to take advantage of the numerous programs that it was designed to offer. The program benefits outweigh the SBC and any applicable copay in total energy savings each year.

- The NH Electrical Assisted programs like the low-income weatherization (HEA) and non-low-income weatherization program (HPwES) have been designed by the PUC to look for electrical savings, but not to stop there. Being fuel blind is a stronger, more inclusive conversation and whole home approach.
- HB 351 threatens the all-inclusivity energy saving of the current programs and could jeopardize the total energy savings a ratepayer gets for their money. Requiring legislative approval will cause program delays that impact customers and the local workforce.

Robert Hayden

President, Standard Power

- HB 351 stands in contrast to the collaboration done on HB 315 (2021). HB 315 as amended by the House was the result of extensive discussions amongst stakeholders to arrive at a bill that all agreed with. HB 351 was voted on quickly and had no extensive discussions with stakeholders.
- In response to Senator Avard's question of Ms. Mineau on how much the SBC costs an average residential ratepayer, the SBC is assessed at .0743 cents per KWh.

Neutral Information Presented:

Kate Peters – provided written testimony

Energy Efficiency Manager, Eversource Energy

- Ms. Peters addressed HB 351's requirement for legislative approval to any SBC increase. Eversource Energy wants to ensure they fully understand the SBC process and the potential for delays and complications in that process. Having a better understanding of that process during the energy efficiency program planning process is more beneficial than seeking legislative approval and potentially having Eversource Energy readjust its planning. This understanding will be more beneficial to Eversource Energy's customers and the contractors they work with.
- Ms. Peters addressed HB 351's requirement that the SBC only fund energy efficiency programs that reduce electricity consumption. There are two programs that use the SBC for non-electric savings: the low-income weatherization program and the non-low-income weatherization program. These programs account for 25% of the energy savings Eversource Energy achieves and roughly 25% of Eversource Energy's budget. RSA 374-F:3, VI currently requires that at least 20% of the SBC go toward the low-income weatherization program.
- Ms. Peters noted Mr. Cole's testimony from the perspective of local contractors. Eversource Energy is seeing a growing demand for these energy efficiency programs from its customers. The best way to reduce energy costs for low-income households is to reduce their heating fuel, regardless of whether that heating fuel is electricity or home heating oil. This helps customers get off fuel assistance so that they may use their income to pay for other needs. These programs have been operating since 2002 with a lot of support from customers, municipalities, businesses, legislators, and PUC commissioners.
- Senator Avard referenced Ms. Peters' testimony that energy efficiency programs help customers get off fuel assistance. He asked if Eversource Energy had any data to demonstrate that.
 - Mr. Peters said she could look. There is a federal fuel assistance program that is utilized by NH's Eversource Energy customers. Eversource Energy coordinates with federal weatherization programs as it runs its own programs. Eversource Energy seeks to reduce fuel usage, which reduces the need for those customers to utilize fuel assistance. As Mr. Burke noted, there are many households that are eligible for these programs. Eversource Energy has customers waiting for energy efficiency measures that cannot be served, so those customers continue to use fuel assistance programs.
- Senator Avard noted that Eversource Energy indicated it was neutral on HB 351, but Ms. Peters' testimony appeared to indicate that HB 351 would leave Eversource Energy's energy efficiency programs in limbo.
 - Ms. Peters said Eversource Energy wants to get as much clarity from the NH General Court as to what its policy priorities are and how Eversource Energy can implement them. These energy efficiency programs are important to Eversource Energy and its customers. Reducing confusion is needed to ensure the best outcome for customers.
- Senator Avard asked if HB 351 helps Eversource Energy achieve its energy efficiency goals.
 - Ms. Peters said she had questions about the clarity of HB 351. For example, HB 351 requires energy efficiency programs to reduce electricity usage. However, Eversource Energy currently operates that way. If 25% of energy efficiency funds are going to non-electric programs, then that means 75% are going to electric reduction programs. Eversource Energy is unsure if it needs to change its programs to meet HB 351's requirements.

- Senator Watters said it seemed the PUC would be unwilling to move forward on the 2021-2023 Triennial EERS Plan knowing that HB 351 was under consideration. If HB 351 was signed into law, then that means the 2021-2023 Triennial EERS Plan would be further delayed until 2022 when legislation could be introduced to increase the SBC. HB 351 would effectively prevent the startup of the EERS for 2021.
 - Ms. Peters said Eversource Energy is currently operating on its 2020 funding levels at the PUC's direction while the PUC continues its review. Eversource Energy is running its programs. The confusion is about when and whether the PUC will rule on the EERS proposal and whether that proposal will then need to get legislative approval.

GJR

Date Hearing Report completed: April 26, 2021.