SB 539-FN - AS INTRODUCED

2026 SESSION

26-2123
06/08

SENATE BILL ***539-FN***

AN ACT relative to eligible biomass technology in the renewable portfolio standards.

SPONSORS: Sen. McConkey, Dist 3; Sen. Innis, Dist 7; Sen. Avard, Dist 12; Sen. Pearl, Dist 17; Sen. Carson, Dist 14

COMMITTEE: Energy and Natural Resources

ANALYSIS

This bill restructures how biomass technologies are categorized and eligible for renewable portfolio standard compliance in the state by aligning all eligible biomass technologies to class III.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

26-2123
06/08

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty-Six

AN ACT relative to eligible biomass technology in the renewable portfolio standards.

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

1 Minimum Electric Renewable Portfolio Standards. Amend RSA 362-F:3 to read as follows:

362-F:3 Minimum Electric Renewable Portfolio Standards. For each year specified in the table below, each provider of electricity shall obtain and retire certificates sufficient in number and class type to meet or exceed the following percentages of total megawatt-hours of electricity supplied by the provider to its end-use customers that year, except to the extent that the provider makes payments to the renewable energy fund under RSA 362-F:10, II:

	2008	2009	2010	2011	2012	2013	2014	2015	2025 and thereafter
Class I	0.0%	0.5%	1%	2%	3%	3.8%	5%	6%	[~~15%~~] ***12%*** (*)
Class II	0.0%	0.0%	0.04%	0.08%	0.15%	0.2%	0.3%	0.3%	0.7%
Class III	3.5%	4.5%	5.5%	6.5%	1.4%	1.5%	3.0%	8.0%	[~~8.0%~~] ***9%***
Class IV	0.5%	1%	1%	1%	1%	1.3%	1.4%	1.5%	1.5%

*Class I increases an additional 0.9 percent per year from 2015 through 2025. A set percentage of the class I totals shall be satisfied annually by the acquisition of renewable energy certificates from qualifying renewable energy technologies producing useful thermal energy as defined in RSA 362-F:2, XV-a. The set percentage shall be 0.4 percent in 2014, 0.6 percent in 2015, 0.8 percent in 2016, and increased annually by 0.2 percent per year from 2017 through 2023, after which it shall remain unchanged. Class II shall increase to 0.5 percent beginning in 2018, 0.6 percent beginning in 2019, and 0.7 percent beginning in 2020, otherwise classes II-IV shall remain at the same percentages from 2015 through 2025 except as provided in RSA 362-F:4, V-VI.

2 Electric Renewable Energy Classes. Amend RSA 362-F:4, I(f) through (j) to read as follows:

[~~(f) Eligible biomass technologies.~~]

[~~(g)~~] ***(f)*** Solar thermal energy; if the solar thermal energy output is in the form of useful thermal energy only if the unit began operation after January 1, 2013.

[~~(h)~~] ***(g)*** Class II sources to the extent that they are not otherwise used to satisfy the minimum portfolio standards of other classes.

[~~(i)~~] ***(h)*** The incremental new production of electricity in any year from [~~an eligible biomass or~~] methane source or any hydroelectric generating facility licensed or exempted by Federal Energy Regulatory Commission (FERC), regardless of gross nameplate capacity, over its historical generation baseline, provided the department of energy certifies demonstrable completion of capital investments attributable to the efficiency improvements, additions of capacity, or increased renewable energy output that are sufficient to, were intended to, and can be demonstrated to

increase annual renewable electricity output. The determination of incremental production shall not be based on any operational changes at such facility but rather on capital investments in efficiency improvements or additions of capacity.

[~~(j)~~] ***(i)*** The production of electricity from a [~~class III or~~] IV source that has begun operation as a new facility by demonstrating that 80 percent of its resulting tax basis of the source's plant and equipment, but not its property and intangible assets, is derived from capital investment directly related to restoring generation or increasing capacity including department permitting requirements for new plants. Such production shall not qualify for class [~~III or~~] IV certificates. [~~Commencing July 1, 2013, a class III source eligible as a class I source under this subparagraph or subparagraph (i) may submit a notice to the department of energy electing to be a class III source instead of a class I source. Once such notice is given, the production from such a source shall qualify for class III certificates, provided the source meets the other requirements of a class III eligible biomass technology.~~]

3 Electric Renewable Energy Classes. Amend RSA 362-F:4, III to read as follows:

III. Class III (Existing Biomass/Methane) shall include the production of electricity from any of the following[~~, provided the source began operation prior to January 1, 2006 and except as provided in subparagraph (b)~~]:

(a) Eligible biomass technologies having a gross nameplate capacity of 25 MWs or less.

(b) ***Eligible biomass technologies having a gross nameplate capacity of 75 MWs operating as of January 1, 2026 in Coos County established as a distressed place-based economy pursuant to RSA 162-U.***

(c) Methane gas. Effective for electricity production commencing January 1, 2017, methane gas shall not qualify for class III if the production is from a source or sources which began operation prior to January 1, 2006 and which source exceeds, or sources exceed, a total gross nameplate capacity of 10 MWs in the aggregate located at any single landfill site. All phases, stages, cells, lifts, expansions, and other landfill areas shall be combined in determining the single landfill site gross nameplate capacity. Only class III and potential class III eligible sources at any single landfill site shall be included in determining whether the 10 MW aggregate limitation has been exceeded.

4 Electric Renewable Energy Classes. Amend RSA 362-F:4, VI to read as follows:

VI. After notice and hearing, the department of energy may modify the class [~~III and~~] IV renewable portfolio standards requirements under RSA 362-F:3 for calendar years beginning January 1, 2012 such that the requirements are equal to an amount between 85 percent and 95 percent of the reasonably expected potential annual output of available eligible sources after taking into account demand from similar programs in other states.

5 Renewable Energy Fund. Amend RSA 362-F:10, II(c) to read as follows:

(c) Class III-[~~$31.50~~] ***$45***.

6 Effective Date. This act shall take effect upon its passage.

LBA
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11/15/25

SB 539-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to eligible biomass technology in the renewable portfolio standards.

FISCAL IMPACT:

Estimated State Impact				
	FY 2026	**FY 2027**	**FY 2028**	**FY 2029**
Revenue	$0	Indeterminable (range not provided by the agency)	Indeterminable (range not provided by the agency)	Indeterminable (range not provided by the agency)
Revenue Fund(s)	Renewable Energy Fund			
Expenditures*	$0	Indeterminable ($374,000) to $374,000	Indeterminable ($374,000) to $374,000	Indeterminable ($374,000) to $374,000
Funding Source(s)	General Fund and Various Agency Funds			
Appropriations*	$0	$0	$0	$0
Funding Source(s)	None			

***Expenditure = Cost of bill** ***Appropriation = Authorized funding to cover cost of bill**

Estimated Political Subdivision Impact				
	FY 2026	**FY 2027**	**FY 2028**	**FY 2029**
County Revenue	$0	$0	$0	$0
County Expenditures	$0	Indeterminable	Indeterminable	Indeterminable
Local Revenue	$0	$0	$0	$0
Local Expenditures	$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill consolidates all eligible biomass technologies into Class III of the Renewable Portfolio Standard (RPS), increases the Class III obligation from 8 percent to 9 percent, and reduces the Class I obligation from 15 percent to 12 percent beginning in 2025. The bill also removes current operational date restrictions for certain biomass facilities and adds a new eligibility provision for a 75 MW facility operating in Coos County.

The Department of Energy states this bill will result in an indeterminable impact on state revenues to the Renewable Energy Fund (REF) and an indeterminable impact on state electricity expenditures. There is no anticipated fiscal impact on county or local revenues or expenditures as it relates to the REF.

The Department of Energy states this bill will result in an indeterminable impact on state revenues to the Renewable Energy Fund (REF) and an indeterminable impact on state electricity expenditures. The Department states this bill alters REC purchase obligations for Class I and Class III, which may affect REC market supply, demand, and pricing. REF revenues are generated entirely from alternative compliance payments (ACPs) when providers cannot acquire sufficient RECs. If the reclassification of biomass resources results in more RECs being used for New Hampshire compliance, ACP payments would decrease and REF revenue would fall; if fewer RECs are used, ACP payments would rise and REF revenue would increase. Because REC availability and pricing are determined by regional markets with limited transparency, the direction and magnitude of this impact cannot be determined.

Additionally, the Department notes it is not possible to estimate the bill's effect on state electricity costs. The state purchases approximately 77,000 MWh annually, and the cost of RPS compliance is embedded in energy rates. A change of $0.005 per kWh in either direction would change state electricity expenditures by approximately $387,000 per year. The Department cannot estimate whether the bill would increase or decrease REC-related components of electric rates.

The Department does not have access to electricity consumption data for counties or municipalities and therefore cannot estimate the bill's effect on those entities' energy costs.

AGENCIES CONTACTED:

Department of Energy