

March 2, 2006
No. 9A

STATE OF NEW HAMPSHIRE

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Legislative

SENATE CALENDAR ADDENDUM

REPORT AND AMENDMENT

**THE SENATE WILL MEET IN SESSION ON
THURSDAY, MARCH 9, 2006 AT 10:00 A.M.**

REPORT

ENERGY AND ECONOMIC DEVELOPMENT

SB 314-FN-L, establishing minimum renewable standards for energy portfolios.

Ought to pass with amendment, Vote 4-1

Senator Odell for the committee.

AMENDMENT

Energy and Economic Development

March 1, 2006

2006-1248s

06/09

Amendment to SB 314-FN-LOCAL

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

1 Statement of Purpose. The general court finds that:

I. Increased use of renewable energy technologies and continued use of existing renewable energy technologies that decrease nitrogen oxide and particulate matter emission rates can reduce air pollution in the state and air pollution transported across state lines, and thereby improve air quality and help advance long-term climate change strategies.

II. Renewable energy technologies provide fuel diversity to the state and New England generation supply and have the potential to lower and stabilize future energy costs by reducing the region's dependence on imported fossil fuels such as natural gas and oil.

III. It is in the public interest to stimulate investment in new, lower emission, renewable energy technologies and investments in improving air emission quality from existing renewable energy technologies.

IV. It is in the public interest to support incentives to reduce New Hampshire's consumption of fossil fuels consistent with regional, national, and international policy on promoting renewable energy and which also have the potential of reducing the long-term cost of energy.

2 New Subparagraph; Application of Receipts; Compliance Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (242) the following new subparagraph:

(243) Moneys deposited in the compliance fund established under RSA 374-G:6.

3 Default Service. Amend RSA 374-F:3, V(c) to read as follows:

(c) Default service should be designed to provide a safety net and to assure universal access and system integrity. Default service should be procured through the competitive market and may be administered by independent third parties. ***The default service so procured shall include any renewable energy certificates the utility is obliged to purchase pursuant to RSA 374-G, with the cost of such certificates or alternative compliance payments recovered through the default service charge.*** The allocation of the costs of administering default service should be borne by the customers of default service in a manner approved by the commission. If the commission determines it to be in the public interest, the commission may implement measures to discourage misuse, or long-term use, of default service. Revenues, if any, generated from such measures should be used to defray stranded costs.

4 New Chapter; Electric Provider Renewable Energy Requirement. Amend RSA by inserting after chapter 374-F the following new chapter:

CHAPTER 374-G

ELECTRIC PROVIDER RENEWABLE ENERGY REQUIREMENT

374-G:1 Definitions. In this chapter:

I. "Certificate" means the electronic record produced by the New England Power Pool Generation Information System (GIS) its designee or successor, identifying each mega-watt hour generated by a renew-

able energy resource or any successor mechanism that represents each megawatt-hour generated by a renewable energy resource, or such alternative documentation evidencing the same if the GIS is no longer maintained and no successor mechanism has been established.

II. “Commission” means the public utilities commission.

III. “Compliance year” means a calendar year beginning January 1 and ending December 31, for which a provider of electricity must demonstrate that it has met the requirements of this chapter.

IV. “Eligible biomass technologies” means biomass technologies using as their primary fuel source non-construction and demolition debris derived material such as brush, stumps, lumber ends and trimmings, wood pallets, bark, wood chips, shavings, sawdust, and slash; and energy crops, biogas, or biodiesel; provided that the generation unit has a quarterly average nitrogen oxide (NO_x) emission rate of less than or equal to 0.075 pounds/million British thermal units (lbs/Mmbtu), and a quarterly average particulate emission rate of less than or equal to 0.02 lbs/Mmbtu. The term “primary fuel source” means at least 90 percent of the total energy input into the generating unit, on an Mmbtu basis.

V. “End-use customer” means any person or entity in New Hampshire that purchases electrical energy at retail.

VI. “Historical generation baseline” means the average annual electrical production from the eligible renewable energy resources, stated in megawatt-hours (MWhrs), for the 3 calendar years 1995 through 1997, or for the first 36 months after the commercial operation date if that date is after December 31, 1994 (the “baseline period”); provided however, that the historical generation baseline shall be measured regardless of whether or not the average annual electrical production during the baseline period meets the eligible requirements of this paragraph.

VII. “Provider of electricity” means a provider of electricity to any end-use customer located in this state, including, without limitation, the local distribution company providing default service or similar service under state law, including RSA 374-F, but shall not include:

(a) A person who provides his or her own electricity from on-site generation which supplies electricity exclusively from renewable energy resources, qualifying small power production facilities, and qualifying cogeneration facilities as defined in RSA 362-A:1-a; or

(b) The provision of the internal electrical needs of any electrical generating station from its generation or from affiliate generation.

VIII. “Renewable energy resources” means new renewable energy resources – class I, incremental renewable energy resources – class I, or existing renewable energy resources – class II. An electrical generating facility selling its electrical output at long-term rates established before January 1, 2006 by orders of the commission under RSA 362-A:4 shall not be a renewable energy resource – class II, until the date on which it ceases to sell its electrical output at those original long-term rates.

IX. “Renewable energy resources – new-class IA” means the production of electricity from any of the following, provided the resource has a commercial operation date after January 1, 2006:

(a) Solar photovoltaic or solar thermal electric energy;

(b) Wind energy;

(c) Geothermal energy;

(d) Fuel cells utilizing renewable fuels;

(e) Ocean thermal, wave, or tidal energy;

(f) Biologically derived methane gas from anaerobic digestion of organic materials from such sources as yard waste, food waste, animal waste, sewage sludge, and septage, and landfill waste; and

(g) Eligible biomass technologies having a gross nameplate capacity of 50 megawatts (MW) or less, including any biomass unit whose primary fuel source was coal prior to January 1, 2006.

X. “Renewable energy resource – new-class IB” means the production of electricity from solar photovoltaic or solar thermal energy and an operation date after January 1, 2006.

XI. “Renewable energy resource – new incremental (class IC)” means the incremental output in any compliance year over the historical generation baseline, provided that such existing renewable energy resource (class II) was certified by the commission to have demonstrably completed capital investments after

January 1, 2006 attributable to the efficiency improvements or additions of capacity that are sufficient to, were intended to, and can be demonstrated to increase annual electricity output. The determination of incremental production shall not be based on any operational changes at such facility not directly associated with the efficiency improvements or additions of capacity.

XII. “Renewable energy resources - existing (class IIA)” means the production of electricity from any of the following, provided the resource has a commercial operation date for electrical generation before January 1, 2006:

- (a) Biologically derived methane gas from anaerobic digestion of organic materials from such things as yard waste, food waste, animal waste, sewage sludge and septage, and landfill waste;
- (b) Eligible biomass technologies having a gross nameplate capacity of 25 MWs or less; and
- (c) Municipal solid waste combustion technologies subject to RSA 125-M.

XIII. “Renewable energy resources – existing (class IIB)” means the production of electricity from hydroelectric energy that has a gross nameplate capacity of 5 MWs or less and are constricted in their operation by fish ladders or other similar fish facilities.

374-G:2 Minimum Renewable Standards for Energy Portfolios.

I. Providers of electricity in this state shall obtain renewable energy certificates from renewable energy resources to meet the minimum renewable standards for its energy portfolio established by this section.

II. For the period of January 1 through December 31, 2007, during that calendar year and in each subsequent calendar year through December 31, 2013 and as provided in RSA 374-G:4 of this chapter, a provider of electricity shall obtain renewable energy certificates from the various classes of renewable energy resources, defined in RSA 374-G:1, representing the following percentages of its total kilowatt-hours of electricity supplied to its end-use customers unless modified by the provisions in paragraph IV:

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>Thereafter</u>
Class IA +/-or C	0.5%	1%	1%	1%	2%	3%	4%	4%
Class IB	0.01%	0.02%	0.04%	0.08%	0.15%	0.20%	0.30%	0.3%
Class IIA	3%	4%	5%	6%	6%	6%	6%	6%
Class IIB	1%	1.5%	1.5%	1.5%	1.5%	1.5%	1.5%	1.5%

III. On or about January 1, 2010, the commission shall open a docket to conduct a review of the requirements in paragraph II and make recommendations for any changes to the legislature to be effective after July 1, 2011. In the docket the commission may also determine the adequacy or potential adequacy of renewable energy resources to meet the percentage requirements of paragraphs II and III of this section. If the commission determines an inadequacy or potential inadequacy of supplies for the required percentages, the commission shall recommend to the general court a revised schedule of required percentages to achieve the purposes of this chapter.

IV. If a provider of electricity represents to an end-use customer that the provider of electricity is selling to the retail customer energy that includes renewable energy resources, such representation shall include a statement of the minimum renewable standard for the provider of electricity established in paragraph II. The minimum renewable energy percentages set forth in RSA 374-G:2, II shall be met for each electrical energy product offered to end-use customers, in a manner that ensures that the amount of renewable energy to end-use customers voluntarily purchasing renewable energy is not counted toward meeting such percentages.

V. Wholesale and retail electric suppliers under supply contracts executed by providers of electricity as of the effective date of this chapter shall be exempt from the requirements of paragraphs II-IV, provided however, that no exemption shall extend beyond 36 months after the effective date of this chapter. Under no condition during this transition period shall a minimum renewal standard obligation be shifted to another customer or customer class in order to compensate for a delay in implementation of the minimum renewal standard to another customer or customer class due to this exemption.

374-G:3 Renewable Energy Certificates.

I. The renewable energy program established in this chapter shall utilize the regional generation information system (GIS) of energy certificates administered by the Independent System Operator-New

England, Inc. (ISO-New England) and the New England Power Pool (NEPOOL) or their successors. If the regional GIS certificate tracking system administered by the ISO-New England is no longer operational or accessible, the commission shall develop an alternative certificate program, after public notice and hearing, designed to be as comparable to the GIS certificate tracking system as possible.

II. The commission shall designate in a timely manner New Hampshire eligible renewable resources to the ISO-New England.

III. Certificates obtained for purposes of complying with this chapter shall come from renewable energy resources within the ISO-New England region unless an external unit contract for delivery of the energy to the ISO-New England control area is executed and such contract includes associated transmission rights for delivery of the generation unit's electrical energy over the ties from an adjacent control area to the ISO-New England control area.

374-G:4 Sale or Exchange of Certificates. A certificate may be sold or otherwise exchanged by the renewable energy resource to which it was initially issued or by any other person or entity that acquires the certificate; however, the certificate may only be used once for compliance with the requirements of this chapter and may not be used for compliance with this chapter if used for compliance with any requirements of another jurisdiction. Except as otherwise provided in paragraphs II and III, certificates shall be used by providers of electricity for compliance with the requirements of RSA 374-G:2 in the calendar year in which the generation represented by the certificate was produced. Compliance with each year's RSA 374-G:2 requirement shall be determined with certificates issued in the certificate trading periods associated with the calendar year of compliance.

II. A provider of electricity may use certificates associated with renewable energy resource production during one calendar year for compliance with the requirements of this chapter in either of the 2 subsequent calendar years, provided such certificates:

- (a) Have not been used for compliance in another jurisdiction and are used only once;
- (b) Were in excess of those needed for compliance with this chapter in the year in which they were generated;
- (c) Have not otherwise been, nor will be, sold, retired, claimed, or represented as part of electrical energy output or sale, or used to satisfy obligations in jurisdictions other than New Hampshire, demonstrated by retiring banked certificates in the compliance year in which they were generated; and
- (d) Used by a provider of electricity do not exceed 30 percent of the provider's obligations under this chapter for the calendar year in which such certificates are used.

III. In addition to certificates produced in calendar year 2007, a provider of electricity may use renewable energy resources class I or class II certificates associated with generation during calendar year 2006 and those associated with generation during the first calendar quarter of 2008 for compliance with its calendar year 2007 obligations under RSA 374-G:2, provided:

- (a) Renewable energy resources class I certificates are used for calendar 2007 class I obligations and renewable energy resources class II certificates are used for calendar year 2007 class II obligations; and
- (b) No more than 30 percent of the 2007 calendar year obligation under RSA 374-G:2 of this chapter is met with such certificates.

374-G:5 Information Collection. Within 180 days of the end of each calendar year, each provider of electricity shall submit a report to the commission, in a form approved by the commission, documenting its compliance with the requirements of this chapter. The commission may investigate compliance and collect any information necessary to verify and audit the information provided to the commission by providers of electricity.

374-G:6 Alternative Compliance.

I. There is hereby established a compliance fund. This nonlapsing revolving special fund shall be continually appropriated to be expended by the commission in accordance with this section. The state treasurer shall invest the moneys deposited therein as provided by law. Interest received on investments made by the state treasurer shall also be credited to the fund. All payments to be made under this section shall be deposited in the fund. The moneys paid into the fund under paragraph II of this section shall be used and administered by the commission for the following purposes: supporting thermal and electrical renewable energy initiatives, energy efficiency, and demand-side management including programs that reduce demand

for both electricity and non-renewable fuels used in heat production and transportation, with the exception of funds collected relative to compliance with class IB. The moneys paid into the fund relative to compliance with class IB production of electricity from solar photovoltaic or solar thermal energy shall be used by and administered by the commission for supporting solar energy resources.

II. An electricity provider shall discharge any annual class IA or IC, or both, shortfall in its portfolio requirements by making a payment into the fund of \$50 per megawatt-hour of renewable energy obligation in 2007 dollars, adjusted annually by the annual change in the United States Bureau of Labor Statistics Consumer Price Index, which may be made instead of standard means of compliance with the statute. The revised rate per megawatt-hour shall be published by the commission by January 31 of each year.

III. An electricity provider shall discharge any annual class IB shortfall in its portfolio requirements by making a payment into the fund of \$200 per megawatt-hour of renewable energy obligation in 2007 dollars, adjusted annually by the annual change in the United States Bureau of Labor Statistics Consumer Price Index, which may be made instead of standard means of compliance with this chapter. The commission by January 31 of each year shall publish the revised rate per megawatt-hour.

IV. An electricity provider shall discharge any annual class II shortfall in its portfolio requirements by making a payment into the fund of \$25 per megawatt-hour of renewable energy obligation in 2007 dollars, adjusted annually by the annual change in the United States Bureau of Labor Statistics Consumer Price Index, which may be made instead of standard means of compliance with this statute. The commission by January 31 of each year shall publish the revised rate per megawatt-hour.

374-G:7 Application.

I. The commission shall certify generation facilities as either renewable energy resources class I or class II by issuing a determination within 45 days of receipt of an application. The application shall contain the following:

- (a) Name and address of applicant;
- (b) Facility location and NEPOOL GIS identification number;
- (c) Description of the facility, including fuel type, gross generation capacity, commercial operation date, and, in the case of a biomass renewable energy resource, NOx and particulate matter emission rates and a description of pollution control equipment or practices proposed for compliance with applicable NOx and particulate matter emission rates; and
- (d) Such other information as the applicant may provide to assist in the determination of the generating facility as a renewable energy resource.

II. Biomass facilities otherwise meeting the requirements of a renewable energy resource shall be certified by the commission subject to compliance with the applicable NOx and particulate matter emission standards. Each such renewable energy resource shall file with the commission within 45 days of the end of each calendar quarter an affidavit attesting to the renewable energy resources average NOx emission rate in lbs/Mmbtu for such quarter and the particulate matter emission rate test results, in lbs/Mmbtu produced in accordance with RSA 374-G:8. Upon receipt of verification of emissions from the department of environmental services, the commission shall notify the GIS of such renewable energy resource's eligibility for certificates and trading as a renewable energy resource in New Hampshire.

374-G:8 Verification of Emissions. Any source seeking to qualify as an eligible biomass technology shall verify emissions in accordance with the following methods:

I. For nitrogen oxide emissions, the source shall install and operate continuous emissions monitors which meet department of environmental services' standards as codified in rules.

II. For particulate matter emissions, the source shall conduct stack tests in accordance with the New Hampshire department of environmental services' approved methods. Such tests shall be conducted annually for a period of 3 years. Upon completion of 3 annual tests which demonstrate compliance with the particulate matter emission rate specified in RSA 374-G:1, IV, the source may request, subject to New Hampshire department of environmental services' approval, to revise the particulate matter stack testing frequency to once every 3 years.

374-G:9 Rulemaking. The commission shall adopt rules as necessary, pursuant to RSA 541-A, to implement this program.

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