

HB 263-FN - AS INTRODUCED

2023 SESSION

23-0274

10/08

HOUSE BILL

263-FN

AN ACT requiring notification to renewable energy customer-generators of issues related to renewable energy credits.

SPONSORS: Rep. McWilliams, Merr. 30; Rep. Raynolds, Rock. 39

COMMITTEE: Science, Technology and Energy

ANALYSIS

This bill requires the department of energy to provide an annual written notice to customer-generators whose production has been credited to providers of electricity, unless those customer-generators obtained certification to be issued class I or class II certificates.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT requiring notification to renewable energy customer-generators of issues related to renewable energy credits.

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

1 1 New Paragraph; Electric Renewable Portfolio Standard; Definitions. Amend RSA 362-F:2 by
2 inserting after paragraph III the following new paragraph:

3 IV-a. "Customer-generator" shall mean "eligible customer-generator" as defined in RSA 362-
4 A:1-a, II-b.

5 2 New Paragraph; Electric Renewable Portfolio Standard; Renewable Energy Certificates.
6 Amend RSA 362-F:6 by inserting after paragraph II-a the following new paragraph:

7 II-b.(a) Within 30 days of the effective date of this paragraph, and by August 31 of every
8 year thereafter, the department of energy shall provide an annual written notice to customer-
9 generators whose production has been credited to providers of electricity pursuant to paragraph II-a,
10 except for customer-generators who subsequently obtained certification to be issued class I or class II
11 certificates. This notice shall inform the customer-generators that their production has been
12 credited to providers of electricity, and will continue to be credited to providers of electricity unless
13 they obtain certification to be issued class I or class II certificates. This notice shall also inform
14 customer-generators of the options available to them and the consequences of their production being
15 credited to providers of electricity. Finally, this notice shall provide instructions on how customer-
16 generators may obtain certification to be issued class I or class II certificates.

17 (b) Beginning 30 days after the effective date of this paragraph, the department of
18 energy shall ensure that all persons who apply to interconnect a customer-sited source that will be
19 net metered pursuant to RSA 362-A:9 receive, prior to the time their customer-sited source is
20 interconnected, written notice that their production will be credited to providers of electricity unless
21 they obtain certification to be issued class I or class II certificates. This notice shall inform such
22 applicants of the options available to them and the consequences of their production being credited
23 to providers of electricity. This notice shall also provide instructions on how such applicants may
24 obtain certification to be issued class I or class II certificates.

25 (c) The department of energy shall prescribe the form of the notices required by
26 subparagraphs (a) and (b), both of which shall prominently include the following language in
27 substantially the following form:

28 This notice is to inform you that if you do not take affirmative action to have your system
29 certified to create renewable energy certificates (RECs), your generation will automatically be
30 credited to utilities and other retail sellers of electricity (electricity providers). These electricity

HB 263-FN - AS INTRODUCED
- Page 2 -

1 providers can then use your generation to help meet their renewable portfolio standard (RPS)
2 obligations. This means that the renewable energy you generate will not add any renewable energy
3 to the grid beyond the minimum amount that electricity providers must procure under state law.

4 You should know that your generation may reduce overall renewable energy generation unless
5 your system is certified to create RECs. This is a consequence of the fact that by generating your
6 own energy you reduce the total amount of energy electricity providers sell, which then reduces the
7 total amount of renewable energy that electricity providers are required to procure under the RPS.
8 If you do not certify your renewable energy production via REC certification all of your generation
9 will also be credited towards that reduced total. As a result, unless your system is certified to create
10 RECs, you will reduce the total amount of renewable energy that electricity providers are required to
11 add to the grid by more than the amount of renewable energy that your system will generate. In
12 other words, unless your system is certified to create RECs, you may cause a net reduction in overall
13 renewable energy generation.

14 If you have not certified your system to create RECs, any renewable energy that your net-
15 metered system generated since 2012 has automatically been credited to electricity providers. Thus,
16 renewable energy that you generated in the past may not have provided any increase in renewable
17 energy production and may have indirectly served to reduce overall renewable energy generation.

18 You should know that, according to the federal government, you cannot claim to use the
19 renewable energy that you generate if electricity providers are using it for RPS compliance. This
20 remains true even if you consume some or all of the physical electricity that you generate yourself.
21 This rule is meant to prevent renewable energy double-counting, which could occur if a person
22 claimed to generate and use the same unit of renewable energy that is credited to an electricity
23 provider. Therefore, you may lose the right to claim that you are using renewable energy unless you
24 both: (1) have your system certified to create RECs; and (2) you retain the RECs that you create. If
25 you do not create and retain RECs, the Federal Trade Commission (FTC) may take regulatory action
26 against you for false advertising if you market your home or business as running on the renewable
27 energy that you generate. Failure to comply with any resulting FTC orders may subject you or your
28 business to civil penalties of up to \$10,000 for every day the violation continues.

29 Having your system certified to create RECs, and retaining those RECs will ensure that the
30 renewable energy you generate will be additional to minimum RPS requirements, and ensure that
31 you can legally claim to use your own renewable energy. Having your system certified to create
32 RECs will also allow you to sell RECs for additional income. However, you should know that you
33 will lose the right to claim that you are using renewable energy if you sell your RECs. Electricity
34 providers may use any RECs that you sell for RPS compliance, which means that the renewable
35 energy you generate will not be additional to minimum RPS requirements. You can find instructions
36 on how to have your system certified to create RECs below.

HB 263-FN - AS INTRODUCED

- Page 3 -

1 (d) The department of energy may fulfill its obligation to provide customer-generators
2 with the written notice required by subparagraph (a), and ensure that applicants seeking to
3 interconnect customer-sited sources that will be net metered under RSA 362-A:9 receive the notice
4 required by subparagraph (b), by requiring distribution companies to provide such written notices to
5 customer-generators and applicants in their service territory and by requiring installers of
6 renewable energy systems that are eligible for net metering to provide such written notice to their
7 customers.

8 3 Effective Date. This act shall take effect 60 days after its passage.

HB 263-FN- FISCAL NOTE
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FISCAL IMPACT: ☒ State ☐ County ☐ Local ☐ None

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

METHODOLOGY:

This bill requires the Department of Energy to provide an annual written notice to customer-generators whose production has been credited to providers of electricity, unless those customer-generators obtained certification to be issued class I or class II certificates.

The Department of Energy indicates this notice requirement can be met by the Department issuing this annual written notice by mail, or the Department can require electric distribution companies to do it, along with requiring installers to provide the same notice to their customers.

The Department provided the following information:

- There are roughly 14,000 customer-generators in New Hampshire that could be eligible to produce Class I or Class II renewable energy certificates (RECs). Due to inconsistencies in how the data is kept, the Department can not provide an exact figure for how many of these customer generators are not producing Class I or Class II RECs.
- Based on an analysis of the data performed earlier this year, and making several assumptions, the Department indicates roughly 40% of residential customer generators are not registered to produce Class II RECs.
- The Department does not have a good proxy to determine what percentage of industrial or commercial customer generators do not produce RECs, although given that these systems tend to be larger than residential systems and installed as part of a business decision, and that registration for the RPS is a condition of the state's voluntary

commercial solar rebate program, it is likely that the ratio of systems that are not registered to produce Class II RECs is likely less than 40%.

- The Department does not have the data to estimate the number of Class I RECs eligible facilities that are not registered to generate RECs, although given that the credit for Class I is 0.0058 percent, the figure is small.

In addition, getting this list of specific people who are interconnected and not REC registered will not be an easy undertaking and cannot be guaranteed. There is no shared form of identification, such as a unique identification number between the data available to the Department and the data held by the utility. Matching up these lists and ensuring the accuracy of the list will be a substantial undertaking by both the Department and the electric distribution utilities and would result in an indeterminable increase in expenditures. Based on estimates from the USPS mass mailings, the annual cost to send these notices would be at least \$15,000.

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

AGENCIES CONTACTED:

Department of Energy