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SENATE BILL NO. 372—COMMITTEE ON COMMERCE AND LABOR

MARCH 16, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions concerning conservation of energy and use of renewable energy. (BDR 58-287)

FISCAL NOTE: Effect on Local Government: Yes.
 Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to energy; revising and clarifying provisions requiring certain providers of electric service to comply with a portfolio standard for renewable energy; authorizing the public utilities commission of Nevada to impose administrative fines against noncomplying providers under certain circumstances and to take other administrative actions to ensure compliance with the portfolio standard; requiring the governing bodies of certain counties and cities to adopt certain codes concerning energy efficiency; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 703.147 is hereby amended to read as follows:
2 703.147 1. The public utilities commission regulatory fund is hereby
3 created as a special revenue fund. ~~It shall~~ *Except as otherwise provided in*
4 *section 12 of this act, all* money collected by the commission pursuant to
5 law must be deposited in the state treasury for credit to the fund. Money
6 collected for the use of the consumer's advocate *of the bureau of*
7 *consumer protection in the office of the attorney general* must be
8 transferred pursuant to the provisions of subsection 8 of NRS 704.035.
9 2. Money in the fund which belongs to the commission may be used
10 only to defray the costs of:
11 (a) Maintaining staff and equipment to regulate adequately public
12 utilities and other persons subject to the jurisdiction of the commission.
13 (b) Participating in all rate cases involving those persons.
14 (c) Audits, inspections, investigations, publication of notices, reports
15 and retaining consultants connected with that regulation and participation.
16 (d) The salaries, travel expenses and subsistence allowances of the
17 members of the commission.



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1 3. All claims against the fund must be paid as other claims against the
2 state are paid.

3 4. The commission must furnish upon request a statement showing the
4 balance remaining in the fund as of the close of the preceding fiscal year.

5 **Sec. 2.** Chapter 704 of NRS is hereby amended by adding thereto the
6 provisions set forth as sections 3 to 12, inclusive, of this act.

7 **Sec. 3.** *As used in sections 3 to 12, inclusive, of this act, unless the*
8 *context otherwise requires, the words and terms defined in sections 4 to*
9 *9, inclusive, of this act have the meanings ascribed to them in those*
10 *sections.*

11 **Sec. 4.** *“Biomass” means any organic matter that is available on a*
12 *renewable basis, including, without limitation:*

13 1. *Agricultural crops and agricultural wastes and residues;*

14 2. *Wood and wood wastes and residues;*

15 3. *Animal wastes;*

16 4. *Municipal wastes; and*

17 5. *Aquatic plants.*

18 **Sec. 5.** *“Portfolio standard” means a portfolio standard for*
19 *renewable energy established by the commission pursuant to section 10*
20 *of this act.*

21 **Sec. 6.** 1. *“Provider of electric service” and “provider” mean any*
22 *person or entity that is in the business of selling electricity to retail*
23 *customers in this state, regardless of whether the person or entity is*
24 *otherwise subject to regulation by the commission.*

25 2. *The term does not include:*

26 (a) *This state or an agency or instrumentality of this state.*

27 (b) *A rural electric cooperative established pursuant to chapter 81 of*
28 *NRS.*

29 (c) *A general improvement district established pursuant to chapter*
30 *318 of NRS.*

31 (d) *A utility established pursuant to chapter 709 or 710 of NRS.*

32 (e) *A cooperative association, nonprofit corporation, nonprofit*
33 *association or provider of electric service which is declared to be a public*
34 *utility pursuant to NRS 704.673 and which provides service only to its*
35 *members.*

36 (f) *A landlord of a mobile home park or owner of a company town*
37 *who is subject to any of the provisions of NRS 704.905 to 704.960,*
38 *inclusive.*

39 **Sec. 7.** 1. *“Renewable energy” means:*

40 (a) *Biomass;*

41 (b) *Geothermal energy;*

42 (c) *Solar energy; and*

43 (d) *Wind.*

44 2. *The term does not include coal, natural gas, oil, propane or any*
45 *other fossil fuel, or nuclear energy.*

46 **Sec. 8.** *“Renewable energy system” means:*

47 1. *A facility or energy system that:*

48 (a) *Uses renewable energy to generate electricity; and*



1 (b) Transmits or distributes the electricity that it generates from
2 renewable energy via:
3 (1) A power line which is dedicated to the transmission or
4 distribution of electricity generated from renewable energy and which is
5 connected to a facility or system owned, operated or controlled by a
6 provider of electric service; or
7 (2) A power line which is shared with not more than one facility or
8 energy system generating electricity from nonrenewable energy and
9 which is connected to a facility or system owned, operated or controlled
10 by a provider of electric service.
11 2. A solar thermal energy system that reduces the consumption of
12 electricity.
13 **Sec. 9.** 1. "Retail customer" means a customer who purchases
14 electricity at retail.
15 2. The term includes, without limitation:
16 (a) This state, a political subdivision of this state or an agency or
17 instrumentality of this state or political subdivision of this state when it
18 purchases electricity at retail; and
19 (b) A landlord of a mobile home park or owner of a company town
20 who is subject to any of the provisions of NRS 704.905 to 704.960,
21 inclusive.
22 **Sec. 10.** 1. For each provider of electric service, the commission
23 shall establish a portfolio standard for renewable energy. The portfolio
24 standard must require each provider to generate or acquire electricity
25 from renewable energy systems in an amount that is:
26 (a) For calendar years 2003 and 2004, not less than 5 percent of the
27 total amount of electricity sold by the provider to its retail customers in
28 this state during that calendar year.
29 (b) For calendar years 2005 and 2006, not less than 7 percent of the
30 total amount of electricity sold by the provider to its retail customers in
31 this state during that calendar year.
32 (c) For calendar years 2007 and 2008, not less than 9 percent of the
33 total amount of electricity sold by the provider to its retail customers in
34 this state during that calendar year.
35 (d) For calendar years 2009 and 2010, not less than 11 percent of the
36 total amount of electricity sold by the provider to its retail customers in
37 this state during that calendar year.
38 (e) For calendar years 2011 and 2012, not less than 13 percent of the
39 total amount of electricity sold by the provider to its retail customers in
40 this state during that calendar year.
41 (f) For calendar year 2013 and for each calendar year thereafter, not
42 less than 15 percent of the total amount of electricity sold by the provider
43 to its retail customers in this state during that calendar year.
44 2. In addition to the requirements set forth in subsection 1, the
45 portfolio standard for each provider must require that:
46 (a) Of the total amount of electricity that the provider is required to
47 generate or acquire from renewable energy systems during each calendar
48 year, not less than 5 percent of that amount must be generated or
49 acquired from solar renewable energy systems.



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1 (b) If the provider acquires electricity from a renewable energy system
2 pursuant to a renewable energy contract with another party:

3 (1) The term of the renewable energy contract must be not less than
4 10 years, unless the other party agrees to a renewable energy contract
5 with a shorter term; and

6 (2) The terms and conditions of the renewable energy contract must
7 be just and reasonable, as determined by the commission. If the provider
8 is a public utility and the commission approves the terms and conditions
9 of the renewable energy contract between the provider and the other
10 party, the renewable energy contract and its terms and conditions shall
11 be deemed to be a prudent investment and the provider may recover all
12 just and reasonable costs associated with the renewable energy contract.

13 3. If, for the benefit of one or more of its retail customers in this
14 state, the provider has subsidized, in whole or in part, the acquisition or
15 installation of a solar thermal energy system which qualifies as a
16 renewable energy system and which reduces the consumption of
17 electricity, the total reduction in the consumption of electricity during
18 each calendar year that results from the solar thermal energy system
19 shall be deemed to be electricity that the provider generated or acquired
20 from a renewable energy system for the purposes of complying with its
21 portfolio standard.

22 4. The commission may adopt regulations that establish a system of
23 renewable energy credits that may be used by a provider to comply with
24 its portfolio standard.

25 5. Except as otherwise provided in subsection 6, each provider shall
26 comply with its portfolio standard during each calendar year.

27 6. If, for any calendar year, a provider is unable to comply with its
28 portfolio standard through the generation of electricity from its own
29 renewable energy systems or, if applicable, through the use of renewable
30 energy credits, the provider shall take actions to acquire electricity
31 pursuant to one or more renewable energy contracts. If the commission
32 determines that, for a calendar year, there is not or will not be a
33 sufficient supply of electricity made available to the provider pursuant to
34 renewable energy contracts with just and reasonable terms and
35 conditions, the commission shall exempt the provider, for that calendar
36 year, from the remaining requirements of its portfolio standard or from
37 any appropriate portion thereof, as determined by the commission.

38 7. The commission shall adopt regulations for the determination of
39 just and reasonable terms and conditions for the renewable energy
40 contracts that a provider of electric service must enter into to comply with
41 its portfolio standard.

42 8. As used in this section:

43 (a) “Renewable energy contract” means a contract to acquire
44 electricity from one or more renewable energy systems owned, operated
45 or controlled by other parties.

46 (b) “Terms and conditions” includes, without limitation, the price that
47 a provider of electric service must pay to acquire electricity pursuant to a
48 renewable energy contract.



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- 1 **Sec. 11.** 1. Each provider of electric service shall submit to the
2 commission an annual report that provides information relating to the
3 actions taken by the provider to comply with its portfolio standard.
4 2. Each provider shall submit the annual report to the commission
5 after the end of each calendar year and within the time prescribed by the
6 commission. The report must be submitted in a format approved by the
7 commission.
8 3. The commission may adopt regulations that require providers to
9 submit to the commission additional reports during each calendar year.
10 4. Each annual report and each additional report must include clear
11 and concise information that sets forth:
12 (a) The amount of electricity which the provider generated or
13 acquired from renewable energy systems during the reporting period
14 and, if applicable, the amount of renewable energy credits that the
15 provider acquired, sold or traded during the reporting period to comply
16 with its portfolio standard;
17 (b) The capacity of each renewable energy system owned, operated or
18 controlled by the provider, the total amount of electricity generated by
19 each such system during the reporting period and the percentage of that
20 total amount which was generated directly from renewable energy;
21 (c) Whether, during the reporting period, the provider began
22 construction on, acquired or placed into operation any renewable energy
23 system and, if so, the date of any such event; and
24 (d) Any other information that the commission by regulation may
25 deem relevant.
26 **Sec. 12.** 1. The commission shall adopt regulations to carry out
27 and enforce the provisions of sections 3 to 12, inclusive, of this act. The
28 regulations adopted by the commission may include any enforcement
29 mechanisms which are necessary and reasonable to ensure that each
30 provider of electric service complies with its portfolio standard. Such
31 enforcement mechanisms may include, without limitation, the imposition
32 of administrative fines.
33 2. If a provider does not comply with its portfolio standard for any
34 calendar year and the commission has not exempted the provider from
35 the requirements of its portfolio standard pursuant to section 10 of this
36 act, the commission may impose an administrative fine against the
37 provider or take other administrative action against the provider, or do
38 both.
39 3. The commission may impose an administrative fine against a
40 provider based upon:
41 (a) Each kilowatt-hour of electricity that the provider does not
42 generate or acquire from a renewable energy system or a solar renewable
43 energy system during a calendar year in violation of its portfolio
44 standard; or
45 (b) Any other reasonable formula adopted by the commission.
46 4. In the aggregate, the administrative fines imposed against a
47 provider for all violations of its portfolio standard for a single calendar
48 year must not exceed the amount which is necessary and reasonable to



1 *ensure that the provider complies with its portfolio standard, as*
2 *determined by the commission.*

3 *5. If the commission imposes an administrative fine against a*
4 *provider that is a public utility:*

- 5 *(a) The administrative fine is not a cost of service of the provider;*
6 *(b) The provider shall not include any portion of the administrative*
7 *fine in any application for a rate adjustment or rate increase; and*
8 *(c) The commission shall not allow the provider to recover any portion*
9 *of the administrative fine from its retail customers.*

10 *6. All administrative fines imposed and collected pursuant to this*
11 *section must be deposited in the state general fund.*

12 **Sec. 13.** NRS 704.743 is hereby amended to read as follows:

13 704.743 1. A utility which supplies electricity in this state may apply
14 to the commission for authority to charge, as part of a program of optional
15 pricing, a higher rate for electricity that is ~~derived~~ *generated* from
16 renewable energy. ~~resources~~

17 2. The program ~~must~~ *may* provide the customers of the utility with
18 the option of paying a higher rate for electricity to support the increased
19 use by the utility of renewable energy ~~resources~~ in the ~~production~~
20 *generation* of electricity.

21 3. As used in this section ~~“renewable energy resources” means~~
22 ~~resources from which electricity is produced, but which are not consumed~~
23 ~~or combusted and are~~ :

24 *(a) “Biomass” has the meaning ascribed to it in section 4 of this act.*
25 *(b) “Renewable energy” means a source of energy that occurs*
26 *naturally or is regenerated* ~~+~~ *naturally*, including, without limitation:

- 27 ~~+(a)+~~ (1) Wind;
28 ~~+(b)+~~ (2) Solar energy; ~~and~~
29 ~~+(c)+~~ (3) Geothermal energy ~~+~~ ; and
30 (4) Biomass.

31 *The term does not include coal, natural gas, oil, propane or any other*
32 *fossil fuel, or nuclear energy.*

33 **Sec. 14.** Chapter 278 of NRS is hereby amended by adding thereto a
34 new section to read as follows:

35 *In each county whose population is 100,000 or more:*

36 *1. If the governing body of the county or any city in the county has*
37 *adopted a building code, each such governing body shall, as part of its*
38 *building code, adopt construction codes and energy codes that regulate:*

- 39 *(a) The design of energy efficient residential, commercial and*
40 *industrial structures; and*
41 *(b) The installation of energy efficient mechanical, lighting and power*
42 *systems in such structures.*

43 *2. If the governing body of the county or any city in the county has*
44 *not adopted a building code, each such governing body shall:*

- 45 *(a) By ordinance, adopt the codes described in subsection 1; and*
46 *(b) Provide for the enforcement of such codes by the officers or*
47 *employees of the county or city or by the officers or employees of another*
48 *local government pursuant to an interlocal agreement.*

49 *3. The codes described in subsection 1 must:*



- 1 (a) *Be adopted and become effective not later than January 1, 2002;*
2 *and*
3 (b) *Be applied to each new residential, commercial and industrial*
4 *structure on which construction begins on or after the date on which the*
5 *codes become effective.*
6 **Sec. 15.** NRS 278.010 is hereby amended to read as follows:
7 278.010 As used in NRS 278.010 to 278.630, inclusive, *and section 14*
8 *of this act*, unless the context otherwise requires, the words and terms
9 defined in NRS 278.0105 to 278.0195, inclusive, have the meanings
10 ascribed to them in those sections.
11 **Sec. 16.** NRS 704.989 is hereby repealed.
12 **Sec. 17.** Not later than 180 days after the effective date of this act, the
13 public utilities commission of Nevada shall adopt the regulations required
14 by section 10 of this act.
15 **Sec. 18.** This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

704.989 Renewable energy resources: Portfolio standards; report; exceptions.

1. The commission shall establish portfolio standards for domestic energy that set forth the minimum percentage of the total amount of electricity sold by an electric utility to its retail customers in this state during each calendar year that must be derived from renewable energy resources. The portfolio standards must:

(a) On January 1, 2001, be set at two-tenths of 1 percent of the total amount of electricity sold by the electric utility to its retail customers in this state during the immediately preceding calendar year.

(b) On January 1 of each successive odd-numbered year, be increased by two-tenths of 1 percent of the total amount of electricity sold by the electric utility to its retail customers in this state during the immediately preceding calendar year until the portfolio standards reach a total of 1 percent of the total amount of electricity sold by the electric utility to its retail customers in this state during the immediately preceding calendar year.

(c) Be derived from not less than 50 percent renewable energy resources.

(d) Be derived from not less than 50 percent solar renewable energy systems.

(e) Be based on renewable energy credits, if applicable.

2. Each electric utility shall comply with the portfolio standards established by the commission pursuant to this section. At the end of each calendar year, each electric utility shall submit a report, in a format approved by the commission, of the quantity of renewable energy and credits, if applicable, that the electric utility generated, purchased, sold and traded to meet the portfolio standards.



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3. In establishing the portfolio standards pursuant to this section, the commission may establish a system of credits pursuant to which an electric utility may comply with the provisions of this section. A system of credits must provide that:

(a) Credits are issued for renewable energy resources for each kilowatt hour of energy which it produces; and

(b) Holders of credits may trade or sell the credits to other parties.

4. For the purposes of this section, if, on January 1, 1997, at least 9 percent of the total amount of electricity sold by an electric utility to its retail customers in this state during the immediately preceding calendar year was derived from renewable energy resources, the electric utility shall be deemed to be in compliance until January 1, 2005, with the portfolio standards established by the commission pursuant to this section. Between January 1, 2005, and December 31, 2009, such an electric utility shall have one-half of 1 percent of the total amount of electricity sold to its retail customers in this state, increased in annual increments of one-tenth of 1 percent during each calendar year of that period, derived from solar energy resources for full compliance with the portfolio standards established by the commission pursuant to this section.

5. In addition to the report required by subsection 2, each electric utility shall submit a report, in a format approved by the commission, that provides information relating to the compliance by the electric utility with the requirements of this section. Such reports must be made at least annually, unless the commission by regulation determines that such reports must be made more frequently than annually, and must include clear and concise information that sets forth:

(a) If the electric utility installed a renewable energy system during the period for which the report is being made, the date of installation;

(b) The capacity of renewable energy systems of the electric utility;

(c) The amount of production of energy from the renewable energy systems;

(d) The portion of the production of energy that is directly derived from renewable energy resources;

(e) The quantity of energy from renewable energy systems that is transmitted or distributed, or both, to retail customers in this state by the electric utility; and

(f) Such other information that the commission by regulation may deem relevant.

6. The provisions of this section do not apply to:

(a) Rural electric cooperatives established pursuant to chapter 81 of NRS;

(b) General improvement districts established pursuant to chapter 318 of NRS; or

(c) Utilities established pursuant to chapter 709 or 710 of NRS.

7. As used in this section:

(a) “Electric utility” has the meaning ascribed to it in section 19 of this act.

(b) “Renewable energy resources” means wind, solar, geothermal and biomass energy resources that are naturally regenerated.



(c) “Renewable energy system” means an energy system that utilizes renewable energy resources to produce electricity or solar thermal energy systems that reduce the consumption of electricity that was installed and commenced operations after July 1, 1997.

