

SENATE BILL NO. 188—COMMITTEE ON COMMERCE AND LABOR

MARCH 15, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes relating to energy.
(BDR 58-364)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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; reducing the amount of certain administrative charges to which the Public Utilities Commission of Nevada is entitled from money collected for the universal energy charge; increasing the amount of certain administrative expenses available for use by the Welfare Division of the Department of Human Resources for programs to assist eligible households in paying for natural gas and electricity; revising provisions governing the portfolio standard for renewable energy and energy from a qualified energy recovery process; allowing a provider of electric service to receive credits under the portfolio standard for certain energy efficiency measures; authorizing the Public Utilities Commission of Nevada to establish a temporary renewable energy development program for certain purposes; enacting provisions concerning the financial impact of certain long-term contracts required by the portfolio standard; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Under existing law, a specific percentage of the electricity sold by public
- 2 utilities and other providers of electric service must be generated or acquired from
- 3 certain types of renewable energy systems. This requirement is called the portfolio
- 4 standard for renewable energy and energy from a qualified energy recovery
- 5 process. (NRS 704.7801-704.7828) A provider may comply with the portfolio
- 6 standard by using its own renewable energy systems to generate electricity, by
- 7 entering into renewable energy contracts to purchase electricity from other parties



8 or by acquiring credits under the system of renewable energy credits established by
9 the Public Utilities Commission of Nevada. (NRS 704.7821)

10 This bill allows a provider to receive credits toward meeting the portfolio
11 standard if the provider pays part of the costs for certain energy efficiency measures
12 that save electricity. The provider may receive additional credits if the energy
13 efficiency measures save electricity during periods when the demand for electricity
14 is at its peak.

15 This bill also allows the Commission to adopt regulations establishing a
16 temporary renewable energy development program to assist with the completion of
17 new renewable energy projects which have contracts to supply electricity to
18 providers under the portfolio standard. If a temporary renewable energy
19 development program is established, this bill creates certain requirements and
20 procedures for closing the program.

21 Under existing law, a provider that is a public utility may be required to enter
22 into certain long-term contracts to comply with the portfolio standard.
23 (NRS 704.7821)

24 This bill requires the Commission to adopt regulations establishing methods to
25 classify the financial impact of such long-term contracts as additional imputed debt
26 of the provider.

27 Under existing law, each retail customer who purchases natural gas or
28 electricity for consumption in this State must pay a universal energy charge for the
29 natural gas or electricity. (NRS 702.160) Existing law entitles the Public Utilities
30 Commission of Nevada to collect an administrative charge of not more than 3
31 percent of the money collected for the universal energy charge. (NRS 702.170)

32 This bill decreases the amount of the administrative charge to which the
33 Commission is entitled from 3 percent to 2 percent.

34 Finally, under existing law, 75 percent of the money deposited into the Fund for
35 Energy Assistance and Conservation must be distributed to the Welfare Division of
36 the Department of Human Resources for programs to assist eligible households in
37 paying for natural gas and electricity. Existing law further authorizes the Welfare
38 Division to use not more than 3 percent of that money for its administrative
39 expenses in carrying out those programs. (NRS 702.260)

40 This bill increases the amount of those administrative expenses to not more
41 than 7 percent.

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

1 **Section 1.** For the purposes of NRS 704.7801 to 704.7828,
2 inclusive, as amended by the provisions of this act, the Legislature
3 hereby finds and declares that:

4 1. It is the policy of this State to encourage and accelerate the
5 development of new renewable energy projects and to create
6 successful markets for electricity generated by those projects using
7 the abundant and diverse renewable energy resources available in
8 Nevada;

9 2. In recent sessions, the Legislature has enacted legislation
10 establishing a portfolio standard for renewable energy and energy
11 from a qualified energy recovery process to promote the



1 development and use of renewable energy resources by providers of
2 electric service;

3 3. To carry out the policy of this State regarding renewable
4 energy resources, the Public Utilities Commission of Nevada has
5 adopted regulations establishing a temporary renewable energy
6 development program that is designed to assist with the completion
7 of new renewable energy projects;

8 4. By enacting the provisions of this act relating to the portfolio
9 standard and new renewable energy projects, it is the intent of the
10 Legislature to facilitate the temporary renewable energy
11 development program and to support the efforts of the Public
12 Utilities Commission of Nevada to carry out the policy of this State
13 regarding renewable energy resources;

14 5. It is the policy of this State to promote the conservation of
15 energy through the use of energy efficiency measures in residences,
16 schools, public buildings and businesses, especially during periods
17 of peak load for providers of electric service;

18 6. By enacting the provisions of this act relating to energy
19 efficiency measures, it is the intent of the Legislature to incorporate
20 energy efficiency measures into the portfolio standard and to create
21 successful markets for energy efficiency measures so that those
22 measures will be used in residences, schools, public buildings and
23 businesses to reduce the demand for electricity, especially during
24 periods of peak load;

25 7. As set forth in NRS 704.001, it is the policy of this State to
26 balance the interests of customers and shareholders of public
27 utilities by providing public utilities with the opportunity to earn a
28 fair return on their investments while providing customers with just
29 and reasonable rates; and

30 8. By enacting the provisions of this act relating to the financial
31 impact of long-term contracts entered into by a provider of electric
32 service under the portfolio standard, it is the intent of the Legislature
33 to balance the interests of customers and providers arising under the
34 portfolio standard and to provide for the appropriate regulatory
35 treatment of the costs incurred by a provider to comply with the
36 portfolio standard.

37 **Sec. 1.3.** NRS 702.170 is hereby amended to read as follows:

38 702.170 1. The Commission shall adopt regulations to carry
39 out and enforce the provisions of NRS 702.160. Such regulations
40 may require public utilities, municipal utilities and retail customers
41 that are required to collect or remit money for the universal energy
42 charge to file reports and to provide the Commission with
43 information relating to compliance with the requirements of the
44 universal energy charge.



2. In carrying out the provisions of NRS 702.160, the Commission shall solicit advice from the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General, public utilities and municipal utilities and other knowledgeable persons.

3. The Commission may conduct audits and investigations of public utilities, municipal utilities and retail customers that are required to collect or remit money for the universal energy charge if the Commission determines that such audits and investigations are necessary to verify compliance with the requirements of the universal energy charge. In conducting such audits and investigations, the Commission may exercise any of the investigative powers granted to the Commission pursuant to chapter 703 of NRS, including, without limitation, the power to issue orders to compel the appearance of witnesses and the production of books, accounts, papers and records.

4. To carry out its powers and duties pursuant to this chapter, the Commission is entitled to an administrative charge of not more than ~~3~~ 2 percent of the money collected for the universal energy charge. After deduction of its administrative charge, the Commission shall deposit the remaining money collected for the universal energy charge in the State Treasury for credit to the Fund.

5. The Commission may bring an appropriate action in its own name for recovery of any money that a person fails to pay, collect or remit in violation of the requirements of the universal energy charge.

Sec. 1.7. NRS 702.260 is hereby amended to read as follows:

702.260 1. Seventy-five percent of the money in the Fund must be distributed to the Welfare Division for programs to assist eligible households in paying for natural gas and electricity. The Welfare Division may use not more than ~~3~~ 7 percent of the money distributed to it pursuant to this section for its administrative expenses.

2. Except as otherwise provided in NRS 702.150, after deduction for its administrative expenses, the Welfare Division may use the money distributed to it pursuant to this section only to:

(a) Assist eligible households in paying for natural gas and electricity.

(b) Carry out activities related to consumer outreach.

(c) Pay for program design.

(d) Pay for the annual evaluations conducted pursuant to NRS 702.280.

3. Except as otherwise provided in subsection 4, to be eligible to receive assistance from the Welfare Division pursuant to this section, a household must have a household income that is not more



1 than 150 percent of the federally designated level signifying
2 poverty, as determined by the Welfare Division.

3 4. The Welfare Division is authorized to render emergency
4 assistance to a household if an emergency related to the cost or
5 availability of natural gas or electricity threatens the health or safety
6 of one or more of the members of the household. Such emergency
7 assistance may be rendered upon the good faith belief that the
8 household is otherwise eligible to receive assistance pursuant to this
9 section.

10 5. Before July 1, 2002, if a household is eligible to receive
11 assistance pursuant to this section, the Welfare Division shall
12 determine the amount of assistance that the household will receive
13 by using the existing formulas set forth in the state plan for low-
14 income home energy assistance.

15 6. On or after July 1, 2002, if a household is eligible to receive
16 assistance pursuant to this section, the Welfare Division:

17 (a) Shall, to the extent practicable, determine the amount of
18 assistance that the household will receive by determining the
19 amount of assistance that is sufficient to reduce the percentage of
20 the household's income that is spent on natural gas and electricity to
21 the median percentage of household income spent on natural gas
22 and electricity statewide.

23 (b) May adjust the amount of assistance that the household will
24 receive based upon such factors as:

25 (1) The income of the household;

26 (2) The size of the household;

27 (3) The type of energy that the household uses; and

28 (4) Any other factor which, in the determination of the
29 Welfare Division, may make the household particularly vulnerable
30 to increases in the cost of natural gas or electricity.

31 7. The Welfare Division shall adopt regulations to carry out
32 and enforce the provisions of this section and NRS 702.250.

33 8. In carrying out the provisions of this section, the Welfare
34 Division shall:

35 (a) Solicit advice from the Housing Division and from other
36 knowledgeable persons;

37 (b) Identify and implement appropriate delivery systems to
38 distribute money from the Fund and to provide other assistance
39 pursuant to this section;

40 (c) Coordinate with other federal, state and local agencies that
41 provide energy assistance or conservation services to low-income
42 persons and, to the extent allowed by federal law and to the extent
43 practicable, use the same simplified application forms as those other
44 agencies;



(d) Establish a process for evaluating the programs conducted pursuant to this section;

(e) Develop a process for making changes to such programs; and

(f) Engage in annual planning and evaluation processes with the Housing Division as required by NRS 702.280.

Sec. 2. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 8, inclusive, of this act.

Sec. 3. 1. *“Energy efficiency measure” means any measure designed, intended or used to improve energy efficiency if:*

(a) The measure is installed on or after January 1, 2005, at the service location of a retail customer of a provider of electric service in this State;

(b) The measure reduces the consumption of energy by the retail customer; and

(c) The costs of the acquisition or installation of the measure are directly reimbursed, in whole or in part, by the provider of electric service.

2. *The term does not include:*

(a) Any demand response measure or load limiting measure that shifts the consumption of energy by a retail customer from one period to another period.

(b) Any solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity, natural gas or propane.

Sec. 4. *“Portfolio energy credit” means any credit which a provider has earned from a portfolio energy system or efficiency measure and which the provider is entitled to use to comply with its portfolio standard, as determined by the Commission.*

Sec. 5. *“Portfolio energy system or efficiency measure” means:*

1. *Any renewable energy system; or*

2. *Any energy efficiency measure.*

Sec. 6. *“Utility provider” means a provider of electric service that is a public utility.*

Sec. 7. 1. *Except as otherwise provided in this section or by specific statute, a provider is entitled to one portfolio energy credit for each kilowatt-hour of electricity that the provider generates, acquires or saves from a portfolio energy system or efficiency measure.*

2. *The Commission may adopt regulations that give a provider more than one portfolio energy credit for each kilowatt-hour of electricity saved by the provider during its peak load period from energy efficiency measures.*



1 **Sec. 8. 1. The Commission may adopt regulations to**
2 **establish a temporary renewable energy development program that**
3 **is designed to assist with the completion of new renewable energy**
4 **projects.**

5 **2. The Commission may require a utility provider to**
6 **participate in a temporary renewable energy development**
7 **program.**

8 **3. If the Commission adopts regulations establishing a**
9 **temporary renewable energy development program, the program**
10 **may include, without limitation:**

11 **(a) The establishment of a private trust administered by an**
12 **independent trustee; and**

13 **(b) The payment of money from the private trust to carry out**
14 **the terms and conditions of renewable energy contracts approved**
15 **by the Commission between a utility provider and one or more new**
16 **renewable energy projects.**

17 **4. If a utility provider is participating in a temporary**
18 **renewable energy development program, the utility provider may**
19 **apply to the Commission for authority to close the program to new**
20 **renewable energy projects if the utility provider has achieved an**
21 **investment grade credit rating as determined by either Moody's**
22 **Investors Service, Inc., or Standard and Poor's Rating Services**
23 **and has maintained that credit rating for 24 consecutive months.**

24 **5. The Commission may grant an application to close a**
25 **temporary renewable energy development program only after**
26 **finding that the creditworthiness of the utility provider is**
27 **sufficiently restored so that closure of the program to new**
28 **renewable energy projects is in the public interest.**

29 **6. An order issued by the Commission closing a temporary**
30 **renewable energy development program to new renewable energy**
31 **projects is not effective as to any new renewable energy project**
32 **which has previously been accepted into the program and which is**
33 **receiving money from a private trust established under the**
34 **program until the earlier of:**

35 **(a) The expiration or termination of the original renewable**
36 **energy contract approved by the Commission between the utility**
37 **provider and the new renewable energy project; or**

38 **(b) The original financing, including debt, equity, or both debt**
39 **and equity, as applicable, entered into by the new renewable**
40 **energy project upon completion of construction of the project has**
41 **been fully satisfied pursuant to its original terms.**

42 **7. As used in this section, "new renewable energy project"**
43 **means a project to construct a renewable energy system if:**



1 (a) *The project is associated with one or more renewable*
2 *energy contracts approved by the Commission pursuant to NRS*
3 *704.7821; and*

4 (b) *Construction on the project commenced on or after July 1,*
5 *2001.*

6 **Sec. 9.** NRS 704.775 is hereby amended to read as follows:

7 704.775 1. The billing period for net metering may be either
8 a monthly period or, with the written consent of the customer-
9 generator, an annual period.

10 2. The net energy measurement must be calculated in the
11 following manner:

12 (a) The utility shall measure the net electricity produced or
13 consumed during the billing period, in accordance with normal
14 metering practices.

15 (b) If the electricity supplied by the utility exceeds the electricity
16 generated by the customer-generator which is fed back to the utility
17 during the billing period, the customer-generator must be billed for
18 the net electricity supplied by the utility.

19 (c) If the electricity generated by the customer-generator which
20 is fed back to the utility exceeds the electricity supplied by the
21 utility during the billing period:

22 (1) Neither the utility nor the customer-generator is entitled
23 to compensation for electricity provided to the other during the
24 billing period; and

25 (2) The excess electricity which is fed back to the utility shall
26 be deemed to be electricity that the utility generated or acquired
27 from a renewable energy system for the purposes of complying with
28 its portfolio standard pursuant to NRS 704.7801 to 704.7828,
29 inclusive ~~[]~~, *and sections 3 to 8, inclusive, of this act.*

30 **Sec. 10.** NRS 704.7801 is hereby amended to read as follows:

31 704.7801 As used in NRS 704.7801 to 704.7828, inclusive,
32 *and sections 3 to 8, inclusive, of this act*, unless the context
33 otherwise requires, the words and terms defined in NRS 704.7805 to
34 704.7818, inclusive, *and sections 3 to 6, inclusive, of this act* have
35 the meanings ascribed to them in those sections.

36 **Sec. 11.** NRS 704.7805 is hereby amended to read as follows:

37 704.7805 "Portfolio standard" means ~~[a portfolio standard for~~
38 ~~renewable energy and energy from a qualified energy recovery~~
39 ~~process]~~ *the amount of electricity that a provider must generate,*
40 *acquire or save from portfolio energy systems or efficiency*
41 *measures, as* established by the Commission pursuant to
42 NRS 704.7821.

43 **Sec. 12.** NRS 704.7821 is hereby amended to read as follows:

44 704.7821 1. For each provider of electric service, the
45 Commission shall establish a portfolio standard . ~~[for renewable~~



~~energy and energy from a qualified energy recovery process.~~ The portfolio standard must require each provider to generate , ~~or~~ acquire *or save* electricity from ~~renewable~~ *portfolio* energy systems *or efficiency measures* in an amount that is:

(a) For calendar years ~~{2003 and 2004,}~~ *2005 and 2006*, not less than ~~{5}~~ *6* percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(b) For calendar years ~~{2005 and 2006,}~~ *2007 and 2008*, not less than ~~{7}~~ *9* percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(c) For calendar years ~~{2007 and 2008,}~~ *2009 and 2010*, not less than ~~{9}~~ *12* percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(d) For calendar years ~~{2009 and 2010,}~~ *2011 and 2012*, not less than ~~{11}~~ *15* percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(e) For calendar years ~~{2011 and 2012,}~~ *2013 and 2014*, not less than ~~{13}~~ *18* percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(f) For calendar year ~~{2013}~~ *2015* and for each calendar year thereafter, not less than ~~{15}~~ *20* percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

2. In addition to the requirements set forth in subsection 1, the portfolio standard for each provider must require that:

(a) Of the total amount of electricity that the provider is required to generate , ~~or~~ acquire *or save* from ~~renewable~~ *portfolio* energy systems *or efficiency measures* during each calendar year, not less than 5 percent of that amount must be generated or acquired from solar renewable energy systems.

(b) *Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures. If the provider intends to use energy efficiency measures to comply with its portfolio standard during any calendar year, of the total amount of electricity saved from energy efficiency measures for which the provider seeks to obtain portfolio energy credits pursuant to this paragraph, at least 50 percent of that amount must be saved from energy efficiency*



1 *measures installed at service locations of residential customers of*
2 *the provider, unless a different percentage is approved by the*
3 *Commission.*

4 (c) If the provider acquires *or saves* electricity from a
5 ~~[renewable]~~ *portfolio* energy system *or efficiency measure* pursuant
6 to a renewable energy contract *or energy efficiency contract* with
7 another party:

8 (1) The term of the ~~[renewable-energy]~~ contract must be not
9 less than 10 years, unless the other party agrees to a ~~[renewable~~
10 ~~energy]~~ contract with a shorter term; and

11 (2) The terms and conditions of the ~~[renewable-energy]~~
12 contract must be just and reasonable, as determined by the
13 Commission. If the provider is a ~~[public]~~ utility *provider* and the
14 Commission approves the terms and conditions of the ~~[renewable~~
15 ~~energy]~~ contract between the *utility* provider and the other party, the
16 ~~[renewable-energy]~~ contract and its terms and conditions shall be
17 deemed to be a prudent investment and the *utility* provider may
18 recover all just and reasonable costs associated with the ~~[renewable~~
19 ~~energy]~~ contract.

20 3. If, for the benefit of one or more of its retail customers in
21 this State, the provider has ~~[subsidized,]~~ *directly reimbursed*, in
22 whole or in part, the *costs of the* acquisition or installation of a solar
23 energy system which qualifies as a renewable energy system and
24 which reduces the consumption of electricity, the total reduction in
25 the consumption of electricity during each calendar year that results
26 from the solar energy system shall be deemed to be electricity that
27 the provider generated or acquired from a renewable energy system
28 for the purposes of complying with its portfolio standard.

29 4. The Commission shall adopt regulations that establish a
30 system of ~~[renewable]~~ *portfolio* energy credits that may be used by a
31 provider to comply with its portfolio standard.

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

34 6. If, for any calendar year, a provider is unable to comply with
35 its portfolio standard through the generation of electricity from its
36 own renewable energy systems or, if applicable, through the use of
37 ~~[renewable]~~ *portfolio* energy credits, the provider shall take actions
38 to acquire *or save* electricity pursuant to one or more renewable
39 energy *contracts or energy efficiency* contracts. If the Commission
40 determines that, for a calendar year, there is not or will not be a
41 sufficient supply of electricity *or a sufficient amount of energy*
42 *savings* made available to the provider pursuant to renewable energy
43 contracts *and energy efficiency contracts* with just and reasonable
44 terms and conditions, the Commission shall exempt the provider, for
45 that calendar year, from the remaining requirements of its portfolio



1 standard or from any appropriate portion thereof, as determined by
2 the Commission.

3 7. The Commission shall adopt regulations *that establish:*

4 (a) *Standards* for the determination of just and reasonable terms
5 and conditions for the renewable energy contracts *and energy*
6 *efficiency contracts* that a provider ~~[of electric service]~~ must enter
7 into to comply with its portfolio standard.

8 (b) *Methods to classify the financial impact of each long-term*
9 *renewable energy contract and energy efficiency contract as an*
10 *additional imputed debt of a utility provider. The regulations must*
11 *allow the utility provider to propose an amount to be added to the*
12 *cost of the contract, at the time the contract is approved by the*
13 *Commission, equal to a compensating component in the capital*
14 *structure of the utility provider. In evaluating any proposal made*
15 *by a utility provider pursuant to this paragraph, the Commission*
16 *shall consider the effect that the proposal will have on the rates*
17 *paid by the retail customers of the utility provider.*

18 8. As used in this section:

19 (a) *“Energy efficiency contract” means a contract to attain*
20 *energy savings from one or more energy efficiency measures*
21 *owned, operated or controlled by other parties.*

22 (b) *“Renewable energy contract” means a contract to acquire*
23 *electricity from one or more renewable energy systems owned,*
24 *operated or controlled by other parties.*

25 ~~[(b)]~~ (c) *“Terms and conditions” includes, without limitation,*
26 *the price that a provider ~~[of electric service]~~ must pay to acquire*
27 *electricity pursuant to a renewable energy contract ~~[]~~ or to attain*
28 *energy savings pursuant to an energy efficiency contract.*

29 **Sec. 13.** NRS 704.7825 is hereby amended to read as follows:

30 704.7825 1. Each provider of electric service shall submit to
31 the Commission an annual report that provides information relating
32 to the actions taken by the provider to comply with its portfolio
33 standard.

34 2. Each provider shall submit the annual report to the
35 Commission after the end of each calendar year and within the time
36 prescribed by the Commission. The report must be submitted in a
37 format approved by the Commission.

38 3. The Commission may adopt regulations that require
39 providers to submit to the Commission additional reports during
40 each calendar year.

41 4. Each annual report and each additional report must include
42 clear and concise information that sets forth:

43 (a) The amount of electricity which the provider generated , ~~[or]~~
44 acquired *or saved* from ~~[renewable]~~ *portfolio* energy systems *or*
45 *efficiency measures* during the reporting period and, if applicable,



1 the amount of ~~renewable~~ *portfolio* energy credits that the provider
2 acquired, sold or traded during the reporting period to comply with
3 its portfolio standard;

4 (b) The capacity of each renewable energy system owned,
5 operated or controlled by the provider, the total amount of electricity
6 generated by each such system during the reporting period and the
7 percentage of that total amount which was generated directly from
8 renewable energy;

9 (c) Whether, during the reporting period, the provider began
10 construction on, acquired or placed into operation any renewable
11 energy system and, if so, the date of any such event; ~~and~~

12 (d) *Whether, during the reporting period, the provider*
13 *participated in the acquisition or installation of any energy*
14 *efficiency measures and, if so, the date of any such event; or*

15 (e) Any other information that the Commission by regulation
16 may deem relevant.

17 *5. Based on the reports submitted by providers pursuant to*
18 *this section, the Commission shall compile information that sets*
19 *forth whether any provider has used energy efficiency measures to*
20 *comply with its portfolio standard and, if so, the type of energy*
21 *efficiency measures used and the amount of energy savings*
22 *attributable to each such energy efficiency measure. The*
23 *Commission shall report such information to:*

24 (a) *The Legislature, not later than the first day of each regular*
25 *session; and*

26 (b) *The Legislative Commission, if requested by the Chairman*
27 *of the Commission.*

28 **Sec. 14.** NRS 704.7828 is hereby amended to read as follows:

29 704.7828 1. The Commission shall adopt regulations to carry
30 out and enforce the provisions of NRS 704.7801 to 704.7828,
31 inclusive ~~4~~ , *and sections 3 to 8, inclusive, of this act.* The
32 regulations adopted by the Commission may include any
33 enforcement mechanisms which are necessary and reasonable to
34 ensure that each provider of electric service complies with its
35 portfolio standard. Such enforcement mechanisms may include,
36 without limitation, the imposition of administrative fines.

37 2. If a provider does not comply with its portfolio standard for
38 any calendar year and the Commission has not exempted the
39 provider from the requirements of its portfolio standard pursuant to
40 NRS 704.7821, the Commission may impose an administrative fine
41 against the provider or take other administrative action against the
42 provider, or do both.

43 3. The Commission may impose an administrative fine against
44 a provider based upon:



(a) Each kilowatt-hour of electricity that the provider does not generate, ~~for~~ acquire *or save* from ~~[a renewable energy system or a solar renewable energy system]~~ *portfolio energy systems or efficiency measures* during a calendar year in violation of its portfolio standard; or

(b) Any other reasonable formula adopted by the Commission.

4. In the aggregate, the administrative fines imposed against a provider for all violations of its portfolio standard for a single calendar year must not exceed the amount which is necessary and reasonable to ensure that the provider complies with its portfolio standard, as determined by the Commission.

5. If the Commission imposes an administrative fine against a *utility* provider : ~~[that is a public utility:]~~

(a) The administrative fine is not a cost of service of the *utility* provider;

(b) The *utility* provider shall not include any portion of the administrative fine in any application for a rate adjustment or rate increase; and

(c) The Commission shall not allow the *utility* provider to recover any portion of the administrative fine from its retail customers.

6. All administrative fines imposed and collected pursuant to this section must be deposited in the ~~[State General Fund.]~~ *Trust Fund for Renewable Energy and Energy Conservation.*

Sec. 15. NRS 704B.320 is hereby amended to read as follows:

704B.320 1. For eligible customers whose loads are in the service territory of an electric utility that primarily serves densely populated counties, the aggregate amount of energy that all such eligible customers purchase from providers of new electric resources before July 1, 2003, must not exceed 50 percent of the difference between the existing supply of energy generated in this State that is available to the electric utility and the existing demand for energy in this State that is consumed by the customers of the electric utility, as determined by the Commission.

2. An eligible customer that is a nongovernmental commercial or industrial end-use customer whose load is in the service territory of an electric utility that primarily serves densely populated counties shall not purchase energy, capacity or ancillary services from a provider of new electric resources unless, as part of the proposed transaction, the eligible customer agrees to:

(a) Contract with the provider to purchase:

(1) An additional amount of energy which is equal to 10 percent of the total amount of energy that the eligible customer is purchasing for its own use under the proposed transaction and which



1 is purchased at the same price, terms and conditions as the energy
2 purchased by the eligible customer for its own use; and

3 (2) The capacity and ancillary services associated with the
4 additional amount of energy at the same price, terms and conditions
5 as the capacity and ancillary services purchased by the eligible
6 customer for its own use; and

7 (b) Offers to assign the rights to the contract to the electric
8 utility for use by the remaining customers of the electric utility.

9 3. If an eligible customer is subject to the provisions of
10 subsection 2, the eligible customer shall include with its application
11 filed pursuant to NRS 704B.310 all information concerning
12 the contract offered to the electric utility that is necessary for the
13 Commission to determine whether it is in the best interest of the
14 remaining customers of the electric utility for the electric utility to
15 accept the rights to the contract. Such information must include,
16 without limitation, the amount of the energy and capacity to be
17 purchased under the contract, the price of the energy, capacity and
18 ancillary services and the duration of the contract.

19 4. Notwithstanding any specific statute to the contrary,
20 information concerning the price of the energy, capacity and
21 ancillary services and any other terms or conditions of the contract
22 that the Commission determines are commercially sensitive:

23 (a) Must not be disclosed by the Commission except to the
24 Regulatory Operations Staff of the Commission, the Consumer's
25 Advocate and his staff and the electric utility for the purposes of
26 carrying out the provisions of this section; and

27 (b) Shall be deemed to be confidential for all other purposes,
28 and the Commission shall take such actions as are necessary to
29 protect the confidentiality of such information.

30 5. If the Commission determines that the contract:

31 (a) Is not in the best interest of the remaining customers of
32 the electric utility, the electric utility shall not accept the rights to
33 the contract, and the eligible customer is entitled to all rights to the
34 contract.

35 (b) Is in the best interest of the remaining customers of the
36 electric utility, the electric utility shall accept the rights to the
37 contract and the eligible customer shall assign all rights to
38 the contract to the electric utility. A contract that is assigned to the
39 electric utility pursuant to this paragraph shall be deemed to be an
40 approved part of the resource plan of the electric utility and a
41 prudent investment, and the electric utility may recover all costs for
42 the energy, capacity and ancillary services acquired pursuant to the
43 contract. To the extent practicable, the Commission shall take
44 actions to ensure that the electric utility uses the energy, capacity
45 and ancillary services acquired pursuant to each such contract only



1 for the benefit of the remaining customers of the electric utility that
2 are not eligible customers, with a preference for the remaining
3 customers of the electric utility that are residential customers with
4 small loads.

5 6. The provisions of this section do not exempt the electric
6 utility, in whole or in part, from the requirements imposed on the
7 electric utility pursuant to NRS 704.7801 to 704.7828, inclusive,
8 *and sections 3 to 8, inclusive, of this act* to comply with its
9 portfolio standard . ~~[for renewable energy and energy from a~~
10 ~~qualified energy recovery process.]~~ The Commission shall not take
11 any actions pursuant to this section that conflict with or diminish
12 those requirements.

13 **Sec. 16.** Section 19 of the Solar Energy Systems
14 Demonstration Program Act, being chapter 331, Statutes of Nevada
15 2003, as amended by chapter 478, Statutes of Nevada 2003, at page
16 3034, is hereby amended to read as follows:

17 Sec. 19. 1. After the participant installs the solar
18 energy system included in the Demonstration Program, the
19 Public Utilities Commission of Nevada shall issue to the
20 participant ~~[renewable]~~ *portfolio* energy credits for use within
21 the system of ~~[renewable]~~ *portfolio* energy credits adopted
22 by the Commission pursuant to NRS 704.7821 equal to 2.4
23 times the actual or estimated kilowatt-hour production of the
24 solar energy system.

25 2. The Commission shall designate the ~~[renewable]~~
26 *portfolio* energy credits issued to the participant pursuant to
27 subsection 1 as ~~[renewable]~~ *portfolio* energy credits
28 generated or acquired from solar renewable energy systems.
29 The participant may transfer the ~~[renewable]~~ *portfolio* energy
30 credits to a utility if the participant complies with the
31 regulations adopted by the Commission to complete such a
32 transfer.

33 3. The Commission shall adopt regulations to provide
34 for the requirements and the procedures that a participant
35 must follow to transfer ~~[renewable]~~ *portfolio* energy credits
36 from the participant to a utility.

37 **Sec. 17.** Section 20 of the Solar Energy Systems
38 Demonstration Program Act, being chapter 331, Statutes of Nevada
39 2003, at page 1870, is hereby amended to read as follows:

40 Sec. 20. 1. If the solar energy system used by a
41 participant in the Demonstration Program meets the
42 requirements of NRS 704.766 to 704.775, inclusive, the
43 participant is entitled to participate in net metering pursuant
44 to the provisions of NRS 704.766 to 704.775, inclusive.



2. If the utility which provides service to the participant offers an optional pricing plan that allows the utility to charge a customer varying rates per kilowatt-hour of electricity depending on the time of day that the customer uses the electricity, the participant is also entitled to participate in net metering under that optional pricing plan.

3. A participant who participates in net metering must be billed on a monthly basis by the utility.

4. Notwithstanding the provisions of paragraph (c) of subsection 2 of NRS 704.775, the utility shall credit the participant for the excess energy generated by the participant which is fed back to the utility that exceeds the electricity supplied by the utility to the participant during any billing period. This credit must be applied toward the electricity consumed by the participant in the 11 billing periods immediately following the billing period in which the credit accrues. Any credit that accrues to the participant during a billing period that is not applied toward the electricity consumed by the participant during the 11 billing periods immediately following must expire without compensation to the participant. The electricity represented by the expired credit shall be deemed to be electricity that the utility generated or acquired from a *solar* renewable energy system to comply with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive ~~§~~, and *sections 3 to 8, inclusive, of this act.*

5. If the participant participates in net metering under an optional pricing plan pursuant to the provisions of subsection 2, any credit accrued by the participant pursuant to subsection 3 during a billing period must, until exhausted, be applied first toward the electricity consumed by the participant during peak period consumption, second toward the electricity consumed by the participant during mid-peak period consumption and finally toward the electricity consumed by the participant during off-peak period consumption.

Sec. 18. 1. This act becomes effective upon passage and approval.

2. Sections 16 and 17 of this act expire by limitation on June 30, 2007.

