

SENATE BILL NO. 427—SENATOR TITUS

MARCH 19, 2007

JOINT SPONSORS: ASSEMBLYMEN PIERCE AND BOBZIEN

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes relating to energy, net metering and the portfolio standards. (BDR 58-677)

FISCAL NOTE: Effect on Local Government: No.
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; establishing certain incentive programs relating to renewable energy; revising various provisions relating to net metering and the portfolio standards; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under the Solar Energy Systems Demonstration Program Act, certain entities, such as schools and public agencies, which install solar energy systems are entitled to participate in a demonstration program and receive incentives for such participation. (Chapter 331, Statutes of Nevada 2003, p. 1868) The Solar Energy Systems Demonstration Program Act expires by limitation on June 30, 2010. (Chapter 2, Statutes of Nevada 2005, 22nd Special Session, p. 90)

Sections 2-49 and 55 of this bill replace the Solar Energy Systems Demonstration Program Act with a new chapter of NRS containing several renewable energy incentive programs which are broader in scope and which apply to certain solar energy systems, wind energy systems and waterpower energy systems.

Existing law authorizes a customer of an electric utility to use a net metering system on the customer's premises to generate electricity to offset part or all of the customer's requirements for electricity. The net metering system must use renewable energy as its primary source of energy to generate electricity, and the system is allowed to have a generating capacity of not more than 150 kilowatts. (NRS 704.766-704.775)

Section 50 of this bill allows a customer-generator to use a net metering system of not more than 1,000 kilowatts, which is equivalent to 1 megawatt. **Sections 51 and 52** of this bill revise various practices relating to the use of net metering systems, including the method for calculating the value of the electricity generated by certain net metering systems.



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Existing law requires certain providers of electric service to meet a portfolio standard that requires the providers to generate, acquire or save a certain amount of electricity each year from renewable energy systems and energy efficiency measures. The portfolio standard is raised by increments of 2 percent and 3 percent over the next 8 years until the portfolio standard reaches 20 percent for the year 2015 and for each year thereafter. (NRS 704.7801-704.7828)

Section 53 of this bill increases the portfolio standard to 22 percent for the years 2017 and 2018, and it increases the portfolio standard to 25 percent for the year 2019 and for each year thereafter. **Section 53** also increases the percentage of the portfolio standard that must be obtained each year from solar energy systems from 5 to 6 percent.

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

Section 1. Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 49, inclusive, of this act.

Sec. 2. *As used in sections 2 to 49, inclusive, unless the context otherwise requires, the words and terms defined in sections 3 to 25, inclusive, have the meanings ascribed to them in those sections.*

Sec. 3. *“Agricultural property” means any real property which is owned, leased or occupied by a person and which is employed for an agricultural use as defined in NRS 361A.030.*

Sec. 4. *“Applicant” means a person who is applying to participate in the Solar Program, Wind Program or Waterpower Program.*

Sec. 5. *“Category” means one of the categories of participation in the Solar Program, Wind Program and Waterpower Program as set forth in section 26 of this act.*

Sec. 6. *“Commission” means the Public Utilities Commission of Nevada.*

Sec. 7. *“Institution of higher education” means:*

1. A university, college or community college which is privately owned or which is part of the Nevada System of Higher Education; or

2. A postsecondary educational institution, as defined in NRS 394.099, or any other institution of higher education.

Sec. 8. *“Owned, leased or occupied” includes, without limitation, any real property, building or facilities which are owned, leased or occupied under a deed, lease, contract, license, permit, grant, patent or any other type of legal authorization.*

Sec. 9. *“Participant” means a person who has been selected by the Commission to participate in the Solar Program, Wind Program or Waterpower Program.*



1 **Sec. 10.** *“Person” includes, without limitation, a public*
2 *entity.*

3 **Sec. 11.** *“Program year” means the period of July 1 to June*
4 *30 of the following year.*

5 **Sec. 12.** 1. *“Public and other property” means any real*
6 *property, building or facilities which are owned, leased or*
7 *occupied by:*

8 (a) *A public entity;*

9 (b) *A nonprofit organization that is recognized as exempt from*
10 *taxation pursuant to 26 U.S.C. § 501(c)(3) of the Internal Revenue*
11 *Code, as amended; or*

12 (c) *A corporation for public benefit as defined in NRS 82.021.*

13 2. *The term includes, without limitation, any real property,*
14 *building or facilities which are owned, leased or occupied by:*

15 (a) *A church; or*

16 (b) *A benevolent, fraternal or charitable lodge, society or*
17 *association.*

18 3. *The term does not include school property.*

19 **Sec. 13.** *“Public entity” means a department, agency or*
20 *instrumentality of the State or any of its political subdivisions.*

21 **Sec. 14.** *“School property” means any real property, building*
22 *or facilities which are owned, leased or occupied by:*

23 1. *A public school as defined in NRS 385.007;*

24 2. *A private school as defined in NRS 394.103; or*

25 3. *An institution of higher education.*

26 **Sec. 15.** *“Small business” means a business conducted for*
27 *profit which employs 500 or fewer full-time or part-time*
28 *employees.*

29 **Sec. 16.** *“Solar energy system” means a facility or energy*
30 *system that uses:*

31 1. *Photovoltaic cells and solar energy to generate electricity;*
32 *or*

33 2. *Solar thermal energy to generate heat and displace the use*
34 *of electricity.*

35 **Sec. 17.** *“Solar Program” means the Solar Energy Systems*
36 *Incentive Program created by section 29 of this act.*

37 **Sec. 18.** *“Subdivision property” means:*

38 1. *Any real property which is owned, leased or occupied by a*
39 *developer and which is being subdivided and developed for*
40 *residential housing, including, without limitation, any type of*
41 *residential common-interest community; and*

42 2. *Any building or facilities which are constructed on or*
43 *attached to that property and which are or will be owned, leased or*
44 *occupied by the developer or any other person.*



1 **Sec. 19.** *“Task Force” means the Task Force for Renewable*
2 *Energy and Energy Conservation created by NRS 701.350.*

3 **Sec. 20.** *“Utility” means a public utility that supplies*
4 *electricity in this State.*

5 **Sec. 21.** *“Waterpower” has the meaning ascribed to it in*
6 *subsection 3 of NRS 704.7811.*

7 **Sec. 22.** *“Waterpower energy system” means a facility or*
8 *energy system for the generation of electricity that uses*
9 *waterpower to generate electricity.*

10 **Sec. 23.** *“Waterpower Program” means the Waterpower*
11 *Energy Systems Incentive Program created by section 44 of this*
12 *act.*

13 **Sec. 24.** *“Wind energy system” means a facility or energy*
14 *system for the generation of electricity that uses wind energy to*
15 *generate electricity.*

16 **Sec. 25.** *“Wind Program” means the Wind Energy Systems*
17 *Incentive Program created by section 37 of this act.*

18 **Sec. 26.** *1. The Commission shall adopt regulations*
19 *necessary to carry out the provisions of this chapter, including,*
20 *without limitation, regulations that establish:*

21 *(a) The type of incentives available to participants in the Solar*
22 *Program, Wind Program and Waterpower Program and the level*
23 *or amount of those incentives;*

24 *(b) The requirements for a utility’s annual plan for carrying*
25 *out and administering each Program. A utility’s annual plan must*
26 *include, without limitation:*

27 *(1) A detailed plan for advertising each Program;*

28 *(2) A detailed budget and schedule for carrying out and*
29 *administering each Program; and*

30 *(3) A detailed account of administrative processes and*
31 *forms that will be used to carry out and administer each Program,*
32 *including a description of the application process and copies of all*
33 *applications and any other forms that are necessary to apply for*
34 *and participate in each Program;*

35 *(c) A detailed account of the procedures that will be used for*
36 *inspection and verification of a participant’s solar energy system,*
37 *wind energy system or waterpower energy system and compliance*
38 *with each Program;*

39 *(d) A detailed account of training and educational activities*
40 *that will be used to carry out and administer each Program; and*

41 *(e) Any other information required by the Commission.*

42 **2.** *In consultation with the Task Force, the Commission shall*
43 *adopt regulations that establish:*

44 *(a) The qualifications and requirements an applicant must*
45 *meet to be eligible to participate in each applicable category of:*



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- (1) *School property;*
- (2) *Public and other property;*
- (3) *Private residential property and small business property;*
- (4) *Subdivision property; and*
- (5) *Agricultural property.*

(b) *The form and content of the master application which a utility must submit to the Commission pursuant to sections 30, 38 and 45 of this act.*

Sec. 27. 1. *Each year on or before the date established by the Commission, a utility shall file with the Commission its annual plans for carrying out and administering the Solar Program, Wind Program and Waterpower Program, as applicable, within its service area for a program year.*

2. *The Commission shall:*

(a) *Review each annual plan filed by a utility for compliance with the requirements established by regulation; and*

(b) *Approve each annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate each Program.*

3. *A utility shall carry out and administer each Program within its service area in accordance with the utility's annual plan as approved by the Commission.*

4. *A utility may recover its reasonable and prudent costs, including, without limitation, incentives, that are associated with carrying out and administering each Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.*

Sec. 28. *The provisions of sections 28 to 35, inclusive, of this act apply to the Solar Energy Systems Incentive Program.*

Sec. 29. 1. *The Solar Energy Systems Incentive Program is hereby created.*

2. *The Solar Program must have four categories as follows:*

- (a) *School property;*
- (b) *Public and other property;*
- (c) *Private residential property and small business property;*
- and
- (d) *Subdivision property.*

3. *To be eligible to participate in the Solar Program, a person must:*

(a) *Meet the qualifications established by the Commission pursuant to section 26 of this act;*

(b) *Submit an application to a utility and be selected by the Commission for inclusion in the Solar Program pursuant to sections 30 and 31 of this act;*



(c) When installing the solar energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and

(d) If the person will be participating in the Solar Program in the category of school property or in the category of public and other property, provide for the public display of the solar energy system, including, without limitation, providing for public demonstrations of the solar energy system and for hands-on experience of the solar energy system by the public.

Sec. 30. 1. If an applicant desires to participate in the Solar Program for a program year, the applicant must submit an application to a utility. If an applicant desires to participate in the category of school property or in the category of public and other property, the applicant may submit an application for multiple program years, not to exceed 5 years.

2. Each year on or before the date established by the Commission, a utility shall review each application submitted pursuant to subsection 1 to ensure that the applicant meets the qualifications and requirements to be eligible to participate in the Solar Program and submit to the Commission:

(a) The utility's recommendations as to which applications should be approved for participation in the Solar Program; and

(b) A master application containing all of the applications recommended by the utility.

3. At any time after submitting an application to a utility, an applicant may install or energize his solar energy system if the solar energy system meets all applicable building codes and all applicable requirements of the utility as approved by the Commission. An applicant who installs or energizes his solar energy system under such circumstances remains eligible to participate in the Solar Program, and the installation or energizing of the solar energy system does not alter the applicant's status on the list of participants or the prioritized waiting list pursuant to section 31 of this act.

Sec. 31. 1. Except as otherwise provided in subsection 3, the Commission may approve, for a program year, solar energy systems:

(a) Totalling 1,000 kilowatts of capacity for school property;

(b) Totalling 760 kilowatts of capacity for public and other property;

(c) Totalling 1,000 kilowatts of capacity for private residential property and small business property; and

(d) Totalling 1,000 kilowatts of capacity for subdivision property.



2. A participant in the category of subdivision property may not subscribe to more than 20 percent of the kilowatts of capacity allocated to that category pursuant to subsection 1. Any incentives paid for participation in the Solar Program must be paid to the buyer of a house in the subdivision rather than to the developer of the subdivision property.

3. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the Commission may, in any combination it deems appropriate:

(a) Allow a utility to submit additional applications from applicants who want to participate in that category; or

(b) Reallocate any of the unused capacity in that category to any of the other categories.

4. After reviewing the master application submitted by a utility pursuant to section 30 of this act to ensure that each applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, the Commission shall:

(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Solar Program and place those applicants on a list of participants; and

(b) Select applicants to be placed on a prioritized waiting list to become participants in the Solar Program if any capacity within a category becomes available.

5. Not later than 30 days after the date on which the Commission selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the Commission on behalf of the applicant shall provide written notice of the selection to the applicant.

6. After the Commission selects an applicant to be on the list of participants, the utility which submitted the application to the Commission on behalf of the applicant may approve the solar energy system proposed by the applicant. Immediately upon the utility's approval of the solar energy system, the applicant may install and energize the solar energy system.

Sec. 32. 1. Except as otherwise provided in this section, if the Commission determines that a participant has not complied with the requirements for participation in the Solar Program, the Commission shall, after notice and an opportunity for a hearing, withdraw the participant from the Solar Program.

2. The Commission may, without notice or an opportunity for a hearing, withdraw from the Solar Program:

(a) A participant in the category of private residential property and small business property or a participant in the category of subdivision property if the participant does not complete the installation of a solar energy system within 12 months after the



1 *date the participant receives written notice of his selection to*
2 *participate in the Solar Program.*

3 *(b) A participant in the category of school property or a*
4 *participant in the category of public and other property if the*
5 *participant does not complete the installation of a solar energy*
6 *system within 30 months after the date the participant receives*
7 *written notice of his selection to participate in the Solar Program.*

8 *3. A participant who is withdrawn from the Solar Program*
9 *pursuant to subsection 2 forfeits any incentives.*

10 **Sec. 33.** *In adopting regulations for the Solar Program, the*
11 *Commission shall adopt regulations establishing that an incentive*
12 *for participation in the Solar Program must include, without*
13 *limitation:*

14 *1. A rebate which must be not less than \$3 per watt; and*

15 *2. An additional \$1 rebate per watt if the participant is a*
16 *public entity which uses a solar energy system that includes*
17 *photovoltaic cells manufactured in this State.*

18 **Sec. 34.** *If a solar energy system used by a participant in the*
19 *Solar Program meets the requirements of NRS 704.766 to 704.775,*
20 *inclusive, the participant is entitled to participate in net metering*
21 *pursuant to the provisions of NRS 704.766 to 704.775, inclusive.*

22 **Sec. 35.** *1. Except as otherwise provided in this section,*
23 *after a participant installs a solar energy system included in the*
24 *Solar Program, the Commission shall issue portfolio energy*
25 *credits for use within the system of portfolio energy credits*
26 *adopted by the Commission pursuant to NRS 704.7821 equal to*
27 *2.4 times the actual or estimated kilowatt-hour production or*
28 *savings from the solar energy system.*

29 *2. The Commission shall designate the portfolio energy*
30 *credits issued pursuant to this section as portfolio energy credits*
31 *generated, acquired or saved from solar renewable energy systems*
32 *for the purposes of the portfolio standard.*

33 *3. The Commission shall establish a method of allocating the*
34 *portfolio energy credits between the participant and the utility*
35 *based on the following:*

36 *(a) If the solar energy system uses solar thermal energy to*
37 *generate heat and displace the use of electricity, the participant is*
38 *entitled to all of the portfolio energy credits.*

39 *(b) If the solar energy system uses photovoltaic cells and solar*
40 *energy to generate electricity:*

41 *(1) The participant is entitled to a percentage of the*
42 *portfolio energy credits in proportion to the percentage of*
43 *the electricity generated by the solar energy system which the*
44 *participant uses on its property; and*



(2) *The utility is entitled to a percentage of the portfolio energy credits in proportion to the percentage of the electricity generated by the solar energy system which is fed back to the utility.*

4. *The participant may transfer its portfolio energy credits to a utility or any other person for use in this State if the participant complies with the regulations adopted by the Commission to complete such a transfer.*

5. *The participant may transfer its portfolio energy credits to a utility or any other person for use in another jurisdiction if the participant complies with the laws of the other jurisdiction to complete such a transfer. If the participant makes such a transfer, the participant may not use the portfolio energy credits from that transfer within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821.*

Sec. 36. *The provisions of sections 36 to 42, inclusive, of this act apply to the Wind Energy Systems Incentive Program.*

Sec. 37. 1. *The Wind Energy Systems Incentive Program is hereby created.*

2. *The Wind Program must have four categories as follows:*

(a) *School property;*

(b) *Public and other property;*

(c) *Private residential property and small business property; and*

(d) *Agricultural property.*

3. *To be eligible to participate in the Wind Program, a person must:*

(a) *Meet the qualifications established by the Commission pursuant to section 26 of this act;*

(b) *Submit an application to a utility and be selected by the Commission for inclusion in the Wind Program pursuant to sections 38 and 39 of this act;*

(c) *When installing the wind energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and*

(d) *If the person will be participating in the Wind Program in the category of school property or in the category of public and other property, provide for the public display of the wind energy system, including, without limitation, providing for public demonstrations of the wind energy system and for hands-on experience of the wind energy system by the public.*

Sec. 38. 1. *If an applicant desires to participate in the Wind Program for a program year, the applicant must submit an application to a utility. If an applicant desires to participate in the*



1 *category of school property or in the category of public and other*
2 *property, the applicant may submit an application for multiple*
3 *program years, not to exceed 5 years.*

4 *2. Each year on or before the date established by the*
5 *Commission, a utility shall review each application submitted*
6 *pursuant to subsection 1 to ensure that the applicant meets the*
7 *qualifications and requirements to be eligible to participate in the*
8 *Wind Program and submit to the Commission:*

9 *(a) The utility's recommendations as to which applications*
10 *should be approved for participation in the Wind Program; and*

11 *(b) A master application containing all of the applications*
12 *recommended by the utility.*

13 *3. At any time after submitting an application to a utility, an*
14 *applicant may install or energize his wind energy system if the*
15 *wind energy system meets all applicable building codes and all*
16 *applicable requirements of the utility as approved by the*
17 *Commission. An applicant who installs or energizes his wind*
18 *energy system under such circumstances remains eligible to*
19 *participate in the Wind Program, and the installation or*
20 *energizing of the wind energy system does not alter the applicant's*
21 *status on the list of participants or the prioritized waiting list*
22 *pursuant to section 39 of this act.*

23 **Sec. 39.** *1. Except as otherwise provided in subsection 2,*
24 *the Commission may approve, for a program year, wind energy*
25 *systems:*

26 *(a) Totaling 760 kilowatts of capacity for school property;*

27 *(b) Totaling 500 kilowatts of capacity for public and other*
28 *property;*

29 *(c) Totaling 500 kilowatts of capacity for private residential*
30 *property and small business property; and*

31 *(d) Totaling 760 kilowatts of capacity for agricultural property.*

32 *2. If the capacity allocated to any category for a program year*
33 *is not fully subscribed by participants in that category, the*
34 *Commission shall reallocate any of the unused capacity in that*
35 *category to a participant in the category of agricultural property.*
36 *If the capacity allocated to any category is still not fully subscribed*
37 *after such reallocation, the Commission may, in any combination*
38 *it deems appropriate:*

39 *(a) Allow a utility to submit additional applications from*
40 *applicants who want to participate in that category; or*

41 *(b) Reallocate any of the unused capacity in that category to*
42 *any of the other categories.*

43 *3. After reviewing the master application submitted by a*
44 *utility pursuant to section 38 of this act to ensure that each*



1 *applicant meets the qualifications and requirements to be eligible*
2 *to participate in the Wind Program, the Commission shall:*

3 *(a) Within the limits of the capacity allocated to each category,*
4 *select applicants to be participants in the Wind Program and place*
5 *those applicants on a list of participants; and*

6 *(b) Select applicants to be placed on a prioritized waiting list to*
7 *become participants in the Wind Program if any capacity within a*
8 *category becomes available.*

9 *4. Not later than 30 days after the date on which the*
10 *Commission selects an applicant to be on the list of participants or*
11 *the prioritized waiting list, the utility which submitted the*
12 *application to the Commission on behalf of the applicant shall*
13 *provide written notice of the selection to the applicant.*

14 *5. After the Commission selects an applicant to be on the list*
15 *of participants, the utility which submitted the application to the*
16 *Commission on behalf of the applicant may approve the wind*
17 *energy system proposed by the applicant. Immediately upon the*
18 *utility's approval of the wind energy system, the applicant may*
19 *install and energize the wind energy system.*

20 **Sec. 40.** *1. Except as otherwise provided in this section, if*
21 *the Commission determines that a participant has not complied*
22 *with the requirements for participation in the Wind Program, the*
23 *Commission shall, after notice and an opportunity for a hearing,*
24 *withdraw the participant from the Wind Program.*

25 *2. The Commission may, without notice or an opportunity for*
26 *a hearing, withdraw from the Wind Program:*

27 *(a) A participant in the category of private residential property*
28 *and small business property or a participant in the category of*
29 *agricultural property if the participant does not complete the*
30 *installation of a wind energy system within 12 months after the*
31 *date the participant receives written notice of his selection to*
32 *participate in the Wind Program.*

33 *(b) A participant in the category of school property or a*
34 *participant in the category of public and other property if the*
35 *participant does not complete the installation of a wind energy*
36 *system within 30 months after the date the participant receives*
37 *written notice of his selection to participate in the Wind Program.*

38 *3. A participant who is withdrawn from the Wind Program*
39 *pursuant to subsection 2 forfeits any incentives.*

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

44 **Sec. 42.** *1. Except as otherwise provided in this section,*
45 *after a participant installs a wind energy system included in the*



1 *Wind Program, the Commission shall issue portfolio energy*
2 *credits for use within the system of portfolio energy credits*
3 *adopted by the Commission pursuant to NRS 704.7821 equal to*
4 *the actual or estimated kilowatt-hour production from the wind*
5 *energy system.*

6 2. *The Commission shall establish a method of allocating the*
7 *portfolio energy credits between the participant and the utility*
8 *based on the following:*

9 (a) *The participant is entitled to a percentage of the portfolio*
10 *energy credits in proportion to the percentage of the electricity*
11 *generated by the wind energy system which the participant uses on*
12 *its property; and*

13 (b) *The utility is entitled to a percentage of the portfolio energy*
14 *credits in proportion to the percentage of the electricity generated*
15 *by the wind energy system which is fed back to the utility.*

16 3. *The participant may transfer its portfolio energy credits to*
17 *a utility or any other person for use in this State if the participant*
18 *complies with the regulations adopted by the Commission to*
19 *complete such a transfer.*

20 4. *The participant may transfer its portfolio energy credits to*
21 *a utility or any other person for use in another jurisdiction if the*
22 *participant complies with the laws of the other jurisdiction to*
23 *complete such a transfer. If the participant makes such a transfer,*
24 *the participant may not use the portfolio energy credits from that*
25 *transfer within the system of portfolio energy credits adopted by*
26 *the Commission pursuant to NRS 704.7821.*

27 **Sec. 43.** *The provisions of sections 43 to 49, inclusive, of this*
28 *act apply to the Waterpower Energy Systems Incentive Program.*

29 **Sec. 44.** 1. *The Waterpower Energy Systems Incentive*
30 *Program is hereby created.*

31 2. *The Waterpower Program applies only to agricultural*
32 *property.*

33 3. *To be eligible to participate in the Waterpower Program, a*
34 *person must:*

35 (a) *Meet the qualifications established by the Commission*
36 *pursuant to section 26 of this act; and*

37 (b) *Submit an application to a utility and be selected by the*
38 *Commission for inclusion in the Waterpower Program pursuant to*
39 *sections 45 and 46 of this act.*

40 4. *A participant in the Waterpower Program must comply*
41 *with all applicable provisions of section 23(b) of the Federal*
42 *Power Act, as amended, 16 U.S.C. § 817.*

43 **Sec. 45.** 1. *If an applicant desires to participate in the*
44 *Waterpower Program for a program year, the applicant must*
45 *submit an application to a utility.*



2. Each year on or before the date established by the Commission, a utility shall review each application submitted pursuant to subsection 1 to ensure that the applicant meets the qualifications and requirements to be eligible to participate in the Waterpower Program and submit to the Commission:

(a) The utility's recommendations as to which applications should be approved for participation in the Waterpower Program; and

(b) A master application containing all of the applications recommended by the utility.

3. At any time after submitting an application to a utility, an applicant may install or energize his waterpower energy system if the waterpower energy system meets all applicable building codes and all applicable requirements of the utility as approved by the Commission. An applicant who installs or energizes his waterpower energy system under such circumstances remains eligible to participate in the Waterpower Program, and the installation or energizing of the waterpower energy system does not alter the applicant's status on the list of participants or the prioritized waiting list pursuant to section 46 of this act.

Sec. 46. 1. Except as otherwise provided in subsection 2, the Commission may approve, for a program year, waterpower energy systems totaling 300 kilowatts of capacity for agricultural property.

2. After reviewing the master application submitted by a utility pursuant to section 45 of this act to ensure that each applicant meets the qualifications and requirements to be eligible to participate in the Waterpower Program, the Commission shall:

(a) Within the limits of the capacity allocated, select applicants to be participants in the Waterpower Program and place those applicants on a list of participants; and

(b) Select applicants to be placed on a prioritized waiting list to become participants in the Waterpower Program if any capacity becomes available.

3. Not later than 30 days after the date on which the Commission selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the Commission on behalf of the applicant shall provide written notice of the selection to the applicant.

4. After the Commission selects an applicant to be on the list of participants, the utility which submitted the application to the Commission on behalf of the applicant may approve the waterpower energy system proposed by the applicant. Immediately upon the utility's approval of the waterpower energy system, the applicant may install and energize the waterpower energy system.



1 **Sec. 47. 1.** *Except as otherwise provided in this section, if*
2 *the Commission determines that a participant has not complied*
3 *with the requirements for participation in the Waterpower*
4 *Program, the Commission shall, after notice and an opportunity*
5 *for a hearing, withdraw the participant from the Waterpower*
6 *Program.*

7 2. *The Commission may, without notice or an opportunity for*
8 *a hearing, withdraw from the Waterpower Program a participant*
9 *who does not complete the installation of a waterpower energy*
10 *system within 12 months after the date the participant receives*
11 *written notice of his selection to participate in the Waterpower*
12 *Program.*

13 3. *A participant who is withdrawn from the Waterpower*
14 *Program pursuant to subsection 2 forfeits any incentives.*

15 **Sec. 48. 1.** *If a waterpower energy system used by a*
16 *participant in the Waterpower Program meets the requirements of*
17 *NRS 704.766 to 704.775, inclusive, the participant is entitled to*
18 *participate in net metering pursuant to the provisions of NRS*
19 *704.766 to 704.775, inclusive.*

20 2. *A waterpower energy system used by a participant in the*
21 *Waterpower Program is not required to be located on the*
22 *participant's property in order to participate in net metering*
23 *pursuant to the provisions of NRS 704.766 to 704.775, inclusive, if*
24 *the waterpower energy system is located on property owned or*
25 *controlled by the Federal Government or a public entity and the*
26 *participant leases or is otherwise authorized to use the property for*
27 *the waterpower energy system.*

28 **Sec. 49. 1.** *Except as otherwise provided in this section,*
29 *after a participant installs a waterpower energy system included in*
30 *the Waterpower Program, the Commission shall issue portfolio*
31 *energy credits for use within the system of portfolio energy credits*
32 *adopted by the Commission pursuant to NRS 704.7821 equal to*
33 *the actual or estimated kilowatt-hour production from the*
34 *waterpower energy system.*

35 2. *The Commission shall establish a method of allocating the*
36 *portfolio energy credits between the participant and the utility*
37 *based on the following:*

38 (a) *The participant is entitled to a percentage of the portfolio*
39 *energy credits in proportion to the percentage of the electricity*
40 *generated by the waterpower energy system which the participant*
41 *uses on its property; and*

42 (b) *The utility is entitled to a percentage of the portfolio energy*
43 *credits in proportion to the percentage of the electricity generated*
44 *by the waterpower energy system which is fed back to the utility.*



3. *The participant may transfer its portfolio energy credits to a utility or any other person for use in this State if the participant complies with the regulations adopted by the Commission to complete such a transfer.*

4. *The participant may transfer its portfolio energy credits to a utility or any other person for use in another jurisdiction if the participant complies with the laws of the other jurisdiction to complete such a transfer. If the participant makes such a transfer, the participant may not use the portfolio energy credits from that transfer within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821.*

Sec. 50. NRS 704.771 is hereby amended to read as follows:

704.771 "Net metering system" means a facility or energy system for the generation of electricity that:

1. Uses renewable energy as its primary source of energy to generate electricity;

2. Has a generating capacity of not more than ~~{150}~~ 1,000 kilowatts;

3. ~~{Is}~~ *Except as otherwise provide in section 48 of this act, is* located on the customer-generator's premises;

4. Operates in parallel with the utility's transmission and distribution facilities; and

5. Is intended primarily to offset part or all of the customer-generator's requirements for electricity.

Sec. 51. NRS 704.773 is hereby amended to read as follows:

704.773 1. A utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area ~~{until}~~, *except that a utility may deny a request from a customer-generator to engage in net metering if the cumulative capacity of all {such} net metering systems operating within the utility's service area is equal to or greater than 1 percent of the utility's peak capacity.*

2. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than ~~{30}~~ 500 kilowatts, the utility:

(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) Shall not charge a customer-generator any fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.



3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than ~~{30}~~ 500 kilowatts, the utility may:

(a) Require the customer-generator to install at its own cost an energy meter that is capable of measuring generation output and customer load.

(b) Charge the customer-generator any applicable fee or charge charged to other customers of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.

Sec. 52. NRS 704.775 is hereby amended to read as follows:

704.775 1. The billing period for net metering must be a monthly period.

2. If a customer-generator's net metering system has a capacity of not more than ~~{30}~~ 500 kilowatts, the net energy measurement must be calculated in the following manner:

(a) The utility shall ~~{measure,}~~ :

(1) Measure, in kilowatt-hours, the ~~{net-electricity-produced or-consumed}~~ amount of electricity supplied by the utility to the customer-generator during the billing period ~~{, in accordance with normal metering practices.}~~ and calculate its value using the tariff that would be applicable if the customer-generator did not use a net metering system; and

(2) Measure, in kilowatt-hours, the amount of electricity generated by the customer-generator which is fed back to the utility during the billing period and calculate its value at a rate that is consistent with the rate used to calculate the value of the electricity supplied by the utility. If the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the value of the electricity generated by the customer-generator must be calculated at the same price per kilowatt-hour which the utility would charge the customer-generator for each kilowatt-hour of usage by the customer-generator during that same time-of-use period.

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

(c) If the *value of the* electricity generated by the customer-generator which is fed back to the utility exceeds the *value of the* electricity supplied by the utility during the billing period:

(1) Neither the utility nor the customer-generator is entitled to compensation for *the value of the* electricity provided to the other during the billing period.



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(2) The *value of the* excess electricity which is fed back to the utility during the billing period is carried forward to the next billing period as an addition to the ~~[kilowatt-hours]~~ *value of the electricity* generated by the customer-generator ~~[in]~~ *during* that *next* billing period ~~[. If the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods.]~~

~~— (3) Excess]~~ *or as a subtraction from the value of the electricity supplied by the utility during that next billing period, whichever is more appropriate.*

(3) *The value of the excess* electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any *portion of the value of the* excess electricity that remains if:

(I) The net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities;

(II) The customer-generator ceases to be a customer of the utility at the premises served by the net metering system; or

(III) The customer-generator transfers the net metering system to another person.

(4) The excess electricity , *measured in kilowatt-hours*, which is fed back to the utility shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.

3. If a customer-generator's net metering system has a capacity of more than ~~[30]~~ *500* kilowatts, the net energy measurement must be calculated in the following manner:

(a) The utility shall:

(1) Measure, in kilowatt-hours, the amount of electricity supplied by the utility to the customer-generator during the billing period and calculate its value using the tariff that would be applicable if the customer-generator did not use a net metering system; and

(2) Measure, in kilowatt-hours, the amount of electricity generated by the customer-generator which is fed back to the utility during the billing period and calculate its value at a rate that is consistent with the rate used to calculate the value of the electricity supplied by the utility.



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

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

(1) Neither the utility nor the customer-generator is entitled to compensation for the value of the electricity provided to the other during the billing period.

(2) The value of the excess electricity:

(I) Must not be shown as a credit on the customer-generator's bill for that billing period but must be reflected as a credit that is carried forward to offset the value of the electricity supplied by the utility during a subsequent billing period. At the discretion of the utility, the credit may be in a dollar amount or in kilowatt-hours. If the credit is reflected as excess electricity and the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods. Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if the net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities, the customer-generator ceases to be a customer of the utility at the premises served by the net metering system or the customer-generator transfers the net metering system to another person.

(II) Does not reduce any other fee or charge imposed by the utility.

(3) The excess electricity , *measured in kilowatt-hours*, which is fed back to the utility shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.

4. A bill for electrical service is due at the time established pursuant to the terms of the contract between the utility and the customer-generator.



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Sec. 53. NRS 704.7821 is hereby amended to read as follows:

704.7821 1. For each provider of electric service, the Commission shall establish a portfolio standard. The portfolio standard must require each provider to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is:

(a) For calendar years 2005 and 2006, not less than 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 2007 and 2008, not less than 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 2009 and 2010, not less than 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 2011 and 2012, not less than 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 2013 and 2014, not less than 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 2015 and for each calendar year thereafter.}~~ *years 2015 and 2016*, not less than 20 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(g) For calendar years 2017 and 2018, not less than 22 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(h) For calendar year 2019 and for each calendar year thereafter, not less than 25 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, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not less than ~~{5}~~ **6** 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



1 amount of electricity saved from energy efficiency measures for
2 which the provider seeks to obtain portfolio energy credits pursuant
3 to this paragraph, at least 50 percent of that amount must be saved
4 from energy efficiency measures installed at service locations of
5 residential customers of the provider, unless a different percentage
6 is approved by the Commission.

7 (c) If the provider acquires or saves electricity from a portfolio
8 energy system or efficiency measure pursuant to a renewable energy
9 contract or energy efficiency contract with another party:

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

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

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

28 4. The Commission shall adopt regulations that establish a
29 system of portfolio energy credits that may be used by a provider to
30 comply with its portfolio standard.

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

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



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7. The Commission shall adopt regulations that establish:

(a) Standards for the determination of just and reasonable terms and conditions for the renewable energy contracts and energy efficiency contracts that a provider must enter into to comply with its portfolio standard.

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

8. As used in this section:

(a) "Energy efficiency contract" means a contract to attain energy savings from one or more energy efficiency measures owned, operated or controlled by other parties.

(b) "Renewable energy contract" means a contract to acquire electricity from one or more renewable energy systems owned, operated or controlled by other parties.

(c) "Terms and conditions" includes, without limitation, the price that a provider must pay to acquire electricity pursuant to a renewable energy contract or to attain energy savings pursuant to an energy efficiency contract.

Sec. 54. NRS 704.860 is hereby amended to read as follows:

704.860 "Utility facility" means:

1. Electric generating plants and their associated facilities, except:

(a) Electric generating plants and their associated facilities that are or will be located entirely within the boundaries of a county whose population is 100,000 or more; or

(b) Electric generating plants and their associated facilities which use or will use renewable energy, as defined in NRS 704.7811, as their primary source of energy to generate electricity and which have or will have a generating capacity of not more than ~~1,500~~ **1,000** kilowatts, including, without limitation, a net metering system, as defined in NRS 704.771.

➔ As used in this subsection, "associated facilities" includes, without limitation, any facilities for the storage, transmission or treatment of water, including, without limitation, facilities to supply water or for the treatment or disposal of wastewater, which support or service an electric generating plant.

2. Electric transmission lines and transmission substations that:



- 1 (a) Are designed to operate at 200 kilovolts or more;
- 2 (b) Are not required by local ordinance to be placed
- 3 underground; and
- 4 (c) Are constructed outside any incorporated city.
- 5 3. Gas transmission lines, storage plants, compressor stations
- 6 and their associated facilities when constructed outside:
- 7 (a) Any incorporated city; and
- 8 (b) Any county whose population is 100,000 or more.
- 9 4. Water storage, transmission and treatment facilities, other
- 10 than facilities for the storage, transmission or treatment of water
- 11 from mining operations.
- 12 5. Sewer transmission and treatment facilities.

13 **Sec. 55.** Section 24 of the Solar Energy Systems
14 Demonstration Program Act, being chapter 331, Statutes of Nevada
15 2003, as amended by chapter 2, Statutes of Nevada 2005, 22nd
16 Special Session, at page 90, is hereby amended to read as follows:

17 Sec. 24. The provisions of sections 4 to 21, inclusive, of
18 this act expire by limitation on June 30, ~~2010~~ 2007.

19 **Sec. 56.** With regard to solar energy systems, it is the intent of
20 the Legislature to substitute the provisions of this act in a continuing
21 way for the provisions of the Solar Energy Systems Demonstration
22 Program Act, being chapter 331, Statutes of Nevada 2003, as last
23 amended by chapter 2, Statutes of Nevada 2005, 22nd Special
24 Session, except that if there is a conflict between the provisions of
25 this act and the provisions of the Solar Energy Systems
26 Demonstration Program Act, the provisions of this act control.

27 **Sec. 57.** This act becomes effective:

- 28 1. Upon passage and approval for the purpose of adopting
- 29 regulations and performing any other preparatory administrative
- 30 tasks that are necessary to carry out the provisions of this act; and
- 31 2. On June 30, 2007, for all other purposes.

