

Amendment No. 1146

Assembly Amendment to Senate Bill No. 437 Second Reprint (BDR 58-232)

Proposed by: Assembly Committee on Commerce and Labor**Amendment Box:** Replaces Amendment No. 1118**Resolves Conflicts with:** A.B. Nos. 7 and 103
Makes substantive changes**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

KCP



Date: 6/3/2007

S.B. No. 437—Revises provisions concerning economic and energy development.
(BDR 58-232)

SENATE BILL NO. 437—COMMITTEE ON COMMERCE AND LABOR

MARCH 22, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions concerning ~~generation and consumption of energy;~~ **economic and energy development.** (BDR 58-232)

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 **economic and energy** ~~replacing the Solar Energy Systems Demonstration Program Act with~~ **development; enacting** the Solar Energy Systems Incentive Program , ~~which provides incentives to certain participants and utilities for energy created from various solar energy systems; providing for~~ the Renewable Energy School Pilot Program ~~which encourages the development of and determines the feasibility for renewable energy systems on public school properties;~~ **and the Wind and Waterpower Energy Systems Demonstration Program Acts;** establishing a new program for evaluating the energy consumption of residential property; revising legislative findings concerning energy conservation and energy requirements; ~~allocating a portion of the unspent money in the Fund for Energy Assistance and Conservation for a program for improving energy conservation and energy efficiency in residential property;~~ requiring certain electric utilities to make quarterly rate adjustments; requiring the creation of various methods and programs to remove financial disincentives that may discourage energy conservation by various public utilities that purchase natural gas for resale; ~~making various changes relating to the definition of "net metering system"; making various changes relating to offers of net metering to customer generators; making various changes relating to calculations of net energy measurements concerning net metering systems; changing the definition of "energy efficiency measure," as regards certain persons or entities that sell electricity to retail customers; changing the amount of electricity required to be generated, acquired or saved from solar renewable energy systems, as regards certain persons or entities that sell electricity to retail customers; making various changes relating to the definition of "utility facility" as it relates to the construction of utility facilities and environmental conservation;~~ **revising various provisions governing utility resource planning and the portfolio**

standard for providers of electric service; requiring certain residential properties for sale to be evaluated based on energy consumption and requiring that certain evaluations be provided to purchasers of those properties; ~~enacting the Wind Energy Systems Demonstration Program Act, which provides incentives to certain participants and utilities for energy created from various wind energy systems; enacting the Waterpower Energy Systems Demonstration Program Act, which provides incentives to certain participants and utilities for energy created from various waterpower energy systems;~~ **revising various provisions governing partial abatements of certain taxes by the Commission on Economic Development;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Assembly Bill No. 7 of this session superseded by statute the holding of the Nevada Supreme Court in *Nevada Power Company v. Public Utilities Commission of Nevada*, 122 Nev. Adv. Op. 72 (2006), and established as the public policy of this State that in proceedings involving deferred energy accounting by a public utility, there is no presumption that the public utility's practices and transactions were reasonable or prudent and the public utility has the burden of proving reasonableness and prudence in such proceedings. (Chapter 163, Statutes of Nevada 2007) Section 1 of this bill provides that in amending NRS 704.110 and 704.187 to allow for quarterly rate adjustments and annual deferred energy accounting adjustment applications by certain electric utilities, this bill is not intended to repeal the provisions of Assembly Bill No. 7 either expressly or by implication.

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 ~~4-29~~ 1.5-29, 108 and 112 of this bill replace the Solar Energy Systems Demonstration Program Act with a new chapter of NRS which provides for the Solar Energy Systems Incentive Program. The Solar Energy Systems Incentive Program provides incentives to certain participants and utilities for energy created from various solar energy systems.

Section 30 of this bill provides for the Renewable Energy School Pilot Program. The goal of the Program is to encourage the development of and determine the feasibility for renewable energy systems on public school properties.

Sections 62-86 of this bill enact the Wind Energy Systems Demonstration Program Act. The Wind Energy Systems Demonstration Program Act provides incentives to certain participants and utilities for energy created from various wind energy systems. Under this bill, the Wind Energy Systems Demonstration Program Act expires by limitation on June 30, 2011.

Sections 87-106 of this bill enact the Waterpower Energy Systems Demonstration Program Act. The Waterpower Energy Systems Demonstration Program Act provides incentives to certain participants and utilities for energy created from various waterpower energy systems. Under this bill, the Waterpower Energy Systems Demonstration Program Act expires by limitation on June 30, 2011.

Existing law provides various requirements relating to the sale of residential property. (NRS 113.100-113.150, 645.230-645.321) **Sections 31 ~~4-23-25~~ and 50** of this bill: (1) establish a new program for evaluating the energy consumption of residential property; ~~(2) allocate a portion of the unspent money in the Fund for Energy Assistance and Conservation for a program of improving energy conservation and energy efficiency in residential property; and (3) and (2)~~ require certain residential properties for sale to be evaluated based on energy consumption and require that such evaluations and ratings be provided to purchasers of those properties.

Existing law contains legislative findings concerning energy conservation and energy requirements. (NRS 701.010) **Sections 32 and 38** of this bill accomplish two things. First,

they revise those findings in relation to public utilities. Second, they require the creation of various methods and programs which will remove financial disincentives that discourage energy conservation by various public utilities that purchase natural gas for resale.

Existing law allows for quarterly rate adjustments for a public utility which purchases natural gas for resale. (NRS 704.110) **Sections 36, 37, 39-43 and 51** of this bill require certain electric utilities to ~~also make such~~ **make** quarterly rate adjustments ~~and to file annual deferred energy accounting adjustment applications.~~

~~Existing law provides for requirements relating to electric utilities and net metering systems. (NRS 704.766-704.775) Existing law also provides for requirements relating to the construction of utility facilities and environmental conservation as cited in the Utility Environmental Protection Act. (NRS 704.820-704.900) Sections 44, 46 and 49 of this bill make various changes relating to the definition of "net metering system," offers of net metering to customer generators, calculations relating to net energy measurements as regards net metering systems, and the definition of "utility facility" as it relates to the construction of utility facilities and environmental conservation.~~

Existing law requires certain electric utilities to develop long-term resource plans. (NRS 704.741-704.751) Section 43.5 of this bill requires such utilities to include in their long-term resource plans an energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel.

Existing law requires certain persons or entities that sell electricity to retail customers to generate, acquire or save various amounts of electricity through renewable energy systems or efficiency measures. (NRS 704.7801-704.7828) **Sections 47 and 48** of this bill change the definition of "energy efficiency measure" and the amount of electricity required to be generated, acquired or saved from solar renewable energy systems.

Existing law authorizes the Commission on Economic Development to approve partial abatements of certain taxes imposed on new or expanded businesses, including businesses that use renewable energy or recycled material to generate electricity. (NRS 360.750, 361.0685, 361.0687, 374.357) Sections 51.3, 51.7 and 112.5 of this bill require a business that receives such a partial abatement to: (1) allow the Department of Taxation to conduct audits of the business to determine whether it is in compliance with the requirements for the partial abatement; and (2) consent to the disclosure of the audit reports to the Commission on Economic Development and to the public with certain limited exceptions.

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

Section 1. The Legislature hereby finds and declares that:

1. Assembly Bill No. 7 of this session was enacted into law as chapter 163, Statutes of Nevada 2007, and became effective upon passage and approval on May 29, 2007.

2. Assembly Bill No. 7 established as the public policy of this State that in proceedings involving deferred energy accounting where a public utility seeks to recover from its ratepayers costs recorded in its deferred accounts pursuant to NRS 704.185 or 704.187, it is just and reasonable to require a public utility to prove that the costs recorded in its deferred accounts were incurred prudently. Therefore, to ensure that ratepayers do not pay for costs incurred as a result of any practices or transactions that were undertaken, managed or performed imprudently, the public utility should have the burden of proving that its practices and transactions were reasonable and prudent.

3. In *Nevada Power Company v. Public Utilities Commission of Nevada*, 122 Nev. Adv. Op. 72 (2006), the Nevada Supreme Court held that, in the absence of a statute to the contrary, the controlling procedure in proceedings involving deferred energy accounting is the rebuttable presumption of prudence adopted by the Public Utilities Commission of Nevada in the 1986

rate case of *Re Nevada Power Company*, 74 Pub. Util. Rep. 4th 703 (Nev. Pub. Serv. Comm'n May 30, 1986).

4. Assembly Bill No. 7 was enacted to supersede the holding of the Nevada Supreme Court in *Nevada Power Company v. Public Utilities Commission of Nevada*, 122 Nev. Adv. Op. 72 (2006), to the extent that the Court determined that the rebuttable presumption of prudence is the controlling procedure in proceedings involving deferred energy accounting.

5. With regard to electric utilities that engage in deferred energy accounting, the provisions of this act amend NRS 704.110 and 704.187 to provide for quarterly rate adjustments and annual deferred energy accounting adjustment applications by such electric utilities. In amending NRS 704.110 and 704.187, the Legislature does not intend to repeal either expressly or by implication the provisions of Assembly Bill No. 7 which supersede the holding of the Nevada Supreme Court in *Nevada Power Company v. Public Utilities Commission of Nevada*, 122 Nev. Adv. Op. 72 (2006). Therefore, to effectuate the public policy of this State as enacted by Assembly Bill No. 7:

(a) For proceedings involving annual deferred energy accounting adjustment applications, the provisions of this act expressly provide that there is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application, and the electric utility has the burden of proving reasonableness and prudence in such proceedings.

(b) For all other proceedings involving deferred energy accounting, the provisions of this act do not repeal the provisions of Assembly Bill No. 7 either expressly or by implication and those proceedings remain subject to the provisions of Assembly Bill No. 7, notwithstanding the provisions of this act amending NRS 704.110 and 704.187.

~~Section 1.1~~ Sec. 1.5. Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 30, inclusive, of this act.

Sec. 2. *The provisions of sections 2 to 29, inclusive, of this act apply to the Solar Energy Systems Incentive Program.*

Sec. 3. *As used in sections 2 to 29, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 19, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Applicant" means a person who is applying to participate in the Solar Program.*

Sec. 5. *"Category" means one of the categories of participation in the Solar Program as set forth in section 23 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~~ Task Force to participate in the Solar Program.*

Sec. 10. *"Person" includes, without limitation, a public entity.*

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

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

5 (a) *A public entity;*

6 (b) *A nonprofit organization that is recognized as exempt from taxation*
7 *pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. §*
8 *501(c)(3), as amended; or*

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

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

12 (a) *A church; or*

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

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

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

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

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

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

21 3. *An institution of higher education.*

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

24 Sec. 16. *“Solar energy system” means a facility or energy system that uses*
25 *photovoltaic cells and solar energy to generate electricity.*

26 Sec. 17. *“Solar Program” means the Solar Energy Systems Incentive*
27 *Program created by section 23 of this act.*

28 Sec. 18. *“Task Force” means the Task Force for Renewable Energy and*
29 *Energy Conservation created by NRS 701.350.*

30 Sec. 19. *“Utility” means a public utility that supplies electricity in this*
31 *State.*

32 Sec. 20. *The Commission shall adopt regulations necessary to carry out the*
33 *provisions of sections 2 to 29, inclusive, of this [chapter] act, including, without*
34 *limitation, regulations that establish:*

35 1. *The type of incentives available to participants in the Solar Program and*
36 *the level or amount of those incentives;*

37 2. *The requirements for a utility’s annual plan for carrying out and*
38 *administering the Solar Program. A utility’s annual plan must include, without*
39 *limitation:*

40 (a) *A detailed plan for advertising the Solar Program;*

41 (b) *A detailed budget and schedule for carrying out and administering the*
42 *Solar Program;*

43 (c) *A detailed account of administrative processes and forms that will be used*
44 *to carry out and administer the Solar Program, including, without limitation, a*
45 *description of the application process and copies of all applications and any other*
46 *forms that are necessary to apply for and participate in the Solar Program;*

47 (d) *A detailed account of the procedures that will be used for inspection and*
48 *verification of a participant’s solar energy system and compliance with the Solar*
49 *Program;*

50 (e) *A detailed account of training and educational activities that will be used*
51 *to carry out and administer the Solar Program; and*

52 (f) *Any other information required by the Commission.*

1 **Sec. 21.** ~~In consultation with the Task Force, the~~ The Commission shall
2 adopt regulations that establish:

3 1. The qualifications and requirements an applicant must meet to be
4 eligible to participate in each applicable category of:

5 (a) School property;

6 (b) Public and other property; and

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

8 2. The form and content of the master application which a utility must
9 submit to the ~~Commission~~ Task Force pursuant to section 24 of this act.

10 **Sec. 22.** 1. Each year on or before the date established by the
11 Commission, a utility shall file with the Commission its annual plan for carrying
12 out and administering the Solar Program within its service area for a program
13 year.

14 2. The Commission shall:

15 (a) Review each annual plan filed by a utility for compliance with the
16 requirements established by regulation of the Commission; and

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

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

23 4. A utility may recover its reasonable and prudent costs, including, without
24 limitation, customer incentives, that are associated with carrying out and
25 administering the Solar Program within its service area by seeking recovery of
26 those costs in an appropriate proceeding before the Commission pursuant to NRS
27 704.110.

28 **Sec. 23.** 1. The Solar Energy Systems Incentive Program is hereby
29 created.

30 2. The Solar Program must have three categories as follows:

31 (a) School property;

32 (b) Public and other property; and

33 (c) Private residential property and small business property.

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

35 (a) Meet the qualifications established by the Commission pursuant to
36 section 21 of this act;

37 (b) Submit an application to a utility and be selected by the ~~Commission~~
38 Task Force for inclusion in the Solar Program pursuant to sections 24 and 25 of
39 this act;

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

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

48 **Sec. 24.** 1. If an applicant desires to participate in the Solar Program for
49 a program year, the applicant must submit an application to a utility. If an
50 applicant desires to participate in the category of school property or public and
51 other property, the applicant may submit an application for multiple program
52 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~~ Task Force:

(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 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 25 of this act.

Sec. 25. 1. Except as otherwise provided in ~~subsection 2~~ this section, the Commission may approve, for a program year, solar energy systems:

(a) Totalling ~~1,000~~ 2,000 kilowatts of capacity for school property;

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

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

2. 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 to the Task Force 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,

but in no case may the sum of the allocated total capacities of all the categories be greater than ~~2,760~~ 3,760 kilowatts, which is the sum of the approvable total capacities of all the categories as described in subsection 1.

3. To promote the installation of solar energy systems on as many school properties as possible, the Commission may not approve for use in the Solar Program a solar energy system having a generating capacity of more than 50 kilowatts if the solar energy system is or will be installed on school property on or after July 1, 2007, unless the Commission determines that approval of a solar energy system with a greater generating capacity is more practicable for a particular school property.

4. After reviewing the master application submitted by a utility pursuant to section 24 of this act ~~to ensure~~ and ensuring that each applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, the ~~Commission~~ Task Force 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.

~~4.5.~~ 5. Not later than 30 days after the date on which the ~~Commission~~ Task Force selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the ~~Commission~~ Task

Force on behalf of the applicant shall provide written notice of the selection to the applicant.

~~5.~~ 6. After the ~~Commission~~ Task Force selects an applicant to be on the list of participants, the utility which submitted the application to the ~~Commission~~ Task Force on behalf of the applicant may approve the solar energy system proposed by the applicant. Except as otherwise provided in subsection 3 of section 24 of this act, immediately upon the utility's approval of the solar energy system, the applicant may install and energize the solar energy system.

Sec. 26. 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, if the participant does not complete the installation of a solar energy system within 12 months after the date the participant receives written notice of his selection to participate in the Solar Program.

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

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

Sec. 27. In adopting regulations for the Solar Program, the Commission shall adopt regulations establishing an incentive for participation in the Solar Program.

Sec. 28. If a solar energy system used by a participant in the Solar Program meets the requirements of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 29. 1. After a participant installs a solar energy system included in the Solar Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821.

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

3. All portfolio energy credits issued for a solar energy system installed pursuant to the Solar Program must be assigned to and become the property of the utility administering the Program.

Sec. 30. 1. The Renewable Energy School Pilot Program is hereby created. The goal of the Program is to encourage the development of and determine the feasibility for the integration of renewable energy systems on school properties.

2. The Commission shall adopt regulations for the Program. Such regulations shall include, but not be limited to:

(a) A time frame for implementation of the Program;

(b) The allowed renewable energy systems and combinations of such renewable energy systems on school property;

1 (c) *The amount of capacity that may be installed at each school property that*
2 *participates in the Program;*

3 (d) *A process by which a school district may apply for participation in the*
4 *Program;*

5 (e) *Requirements for participation by a school district;*

6 (f) *The type of transactions allowed between a renewable energy system*
7 *generator, a school district and a utility;*

8 (g) *Incentives which may be provided to a school district or school property*
9 *to encourage participation; and*

10 (h) *Such other parameters as determined by the Commission and are*
11 *consistent with the development of renewable energy systems at school properties.*

12 3. *The Program shall be limited to 10 school properties. Not more than 6*
13 *school properties from any one school district may participate in the Program.*

14 4. *The Commission shall adopt the regulations necessary to implement the*
15 *Program not later than March 1, 2008.*

16 5. *The Commission shall prepare a report detailing the results of the*
17 *Program and shall submit the report to the Legislature by December 1, 2008.*

18 6. *As used in this section:*

19 (a) *“Commission” means the Public Utilities Commission of Nevada.*

20 (b) *“Owned, leased or occupied” includes, without limitation, any real*
21 *property, building or facilities which are owned, leased or occupied under a deed,*
22 *lease, contract, license, permit, grant, patent or any other type of legal*
23 *authorization.*

24 (c) *“Renewable energy system” has the meaning ascribed to it in NRS*
25 *704.7815.*

26 (d) *“School district” has the meaning ascribed to it in NRS 395.0075.*

27 (e) *“School property” means any real property, building or facilities which*
28 *are owned, leased or occupied by a public school as defined in NRS 385.007.*

29 (f) *“Utility” has the meaning ascribed to it in section 19 of this act.*

30 **Sec. 31.** Chapter 701 of NRS is hereby amended by adding thereto a new
31 section to read as follows:

32 1. *The Director shall adopt regulations establishing a program for*
33 *evaluating the energy consumption of residential property in this State.*

34 2. *The regulations must include, without limitation:*

35 (a) *Standards for evaluating the energy consumption of residential property;*
36 *and*

37 (b) *Provisions prescribing a form to be used pursuant to section 50 of this*
38 *act, including, without limitation, provisions that require a portion of the form to*
39 *provide information on ~~the program~~ programs of improving energy*
40 *conservation and energy efficiency in residential property ~~created pursuant to~~*
41 *~~section 33 of this act.~~*

42 3. *As used in this section:*

43 (a) *“Dwelling unit” means any building, structure or portion thereof which*
44 *is occupied as, or designed or intended for occupancy as, a residence by one*
45 *person who maintains a household or by two or more persons who maintain a*
46 *common household.*

47 (b) *“Residential property” means any land in this State to which is affixed*
48 *not less than one or more than four dwelling units.*

49 **Sec. 32.** NRS 701.010 is hereby amended to read as follows:

50 701.010 1. The Legislature finds that:

51 (a) Energy is essential to the economy of the State and to the health, safety and
52 welfare of the people of the State.

(b) The State has a responsibility to encourage the maintenance of a reliable and economical supply of energy at a level which is consistent with the protection of environmental quality.

(c) The State has a responsibility to encourage the utilization of a wide range of measures which reduce wasteful uses of energy resources.

(d) *The State and the public have an interest in encouraging public utilities to promote and take actions toward energy conservation.*

(e) Planning for energy conservation and future energy requirements should include consideration of state, regional and local plans for land use, urban expansion, transportation systems, environmental protection and economic development.

~~(f)~~ (f) Government and private enterprise need to accelerate research and development of sources of renewable energy and to improve technology related to the research and development of existing sources of energy.

~~(g)~~ (g) While government and private enterprise are seeking to accelerate research and development of sources of renewable energy, they must also prepare for and respond to the advent of competition within the electrical energy industry and are, therefore, encouraged to maximize the use of indigenous energy resources to the extent competitively and economically feasible.

~~(h)~~ (h) Prevention of delays and interruptions in providing energy, protecting environmental values and conserving energy require expanded authority and capability within State Government.

2. It is the policy of this State to encourage participation with all levels of government and private enterprise in cooperative state, regional and national programs to assure adequate supplies of energy resources and markets for such energy resources.

3. It is the policy of this State to assign the responsibility for managing and conserving energy and its sources to agencies whose other programs are similar, to avoid duplication of effort in developing policies and programs for energy.

Sec. 33. ~~[Chapter 702 of NRS is hereby amended by adding thereto a new section to read as follows:]~~

~~1. At the beginning of a fiscal year, 50 percent of the money in the Fund which was allocated to the Division of Welfare and Supportive Services during the preceding fiscal year pursuant to NRS 702.260 and which remains unspent and unencumbered must be distributed to the Housing Division for a program of improving energy conservation and energy efficiency in residential property. The Housing Division may use not more than 6 percent of the money distributed pursuant to this section for its administrative expenses.~~

~~2. Except as otherwise provided in NRS 702.150, after deduction for its administrative expenses, the Housing Division may use the money distributed pursuant to this section only to provide a qualified purchaser of residential property which has received a deficient evaluation on the energy consumption of the residential property pursuant to the program established in section 31 of this act with a grant to pay for improvements designed to increase the energy conservation and energy efficiency of the residential property or to assist an eligible household in acquiring such improvements.~~

~~3. To be eligible to receive assistance from the Housing Division pursuant to this section:~~

~~(a) The purchaser of the residential property must have a household income that is not more than 80 percent of the median gross family income for the county in which the property is located, based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for that county; and~~

~~(b) The residential property must not meet the standards for energy consumption established pursuant to section 31 of this act.~~

~~4. The Housing Division shall adopt regulations to carry out and enforce the provisions of this section.~~

~~5. In carrying out the provisions of this section, the Housing Division shall:~~

~~(a) Solicit advice from the Division of Welfare and Supportive Services and from other knowledgeable persons;~~

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

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

~~(d) Encourage other persons to provide resources and services, including, to the extent practicable, schools and programs that provide training in the building trades and apprenticeship programs;~~

~~(e) Establish a process for evaluating the program conducted pursuant to this section;~~

~~(f) Develop a process for making changes to the program; and~~

~~(g) Engage in annual planning and evaluation processes with the Division of Welfare and Supportive Services as required by NRS 702.280.] (Deleted by amendment.)~~

Sec. 34. ~~[NRS 702.250 is hereby amended to read as follows:~~

~~702.250 1. There is hereby created as a special revenue fund in the State Treasury the Fund for Energy Assistance and Conservation. The Division of Welfare and Supportive Services shall administer the Fund.~~

~~2. In addition to the money that must be credited to the Fund from the universal energy charge, all money received from private or public sources to carry out the purposes of this chapter must be deposited in the State Treasury for credit to the Fund.~~

~~3. The Division shall, to the extent practicable, ensure that the money in the Fund is administered in a manner which is coordinated with all other sources of money that are available for energy assistance and conservation, including, without limitation, money contributed from private sources, money obtained from the Federal Government and money obtained from any agency or instrumentality of this State or political subdivision of this State.~~

~~4. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.~~

~~5. After deduction of any refunds paid from the Fund pursuant to NRS 702.160, the money in the Fund must be distributed pursuant to NRS 702.260 and 702.270 [.] and section 33 of this act.] (Deleted by amendment.)~~

Sec. 35. ~~[NRS 702.280 is hereby amended to read as follows:~~

~~702.280 1. The Division of Welfare and Supportive Services and the Housing Division jointly shall establish an annual plan to coordinate their activities and programs pursuant to this chapter. In preparing the annual plan, the Divisions shall solicit advice from knowledgeable persons. The annual plan must include, without limitation, a description of:~~

~~(a) The resources and services being used by each program and the efforts that will be undertaken to increase or improve those resources and services;~~

~~(b) The efforts that will be undertaken to improve administrative efficiency;~~

~~(c) The efforts that will be undertaken to coordinate with other federal, state and local agencies, nonprofit organizations and any private business or trade~~

~~organizations that provide energy assistance or conservation services to low-income persons;~~

~~(d) The measures concerning program design that will be undertaken to improve program effectiveness; and~~

~~(e) The efforts that will be taken to address issues identified during the most recently completed annual evaluation conducted pursuant to subsection 2.~~

~~2. The Division of Welfare and Supportive Services and the Housing Division jointly shall:~~

~~(a) Conduct an annual evaluation of the programs that each Division carries out pursuant to NRS 702.260 and 702.270 [;] and section 33 of this act;~~

~~(b) Solicit advice from the Commission as part of the annual evaluation; and~~

~~(c) Prepare a report concerning the annual evaluation and submit the report to the Governor, the Legislative Commission and the Interim Finance Committee.~~

~~3. The report prepared pursuant to subsection 2 must include, without limitation:~~

~~(a) A description of the objectives of each program;~~

~~(b) An analysis of the effectiveness and efficiency of each program in meeting the objectives of the program;~~

~~(c) The amount of money distributed from the Fund for each program and a detailed description of the use of that money for each program;~~

~~(d) An analysis of the coordination between the Divisions concerning each program; and~~

~~(e) Any changes planned for each program.] (Deleted by amendment.)~~

Sec. 36. NRS 703.130 is hereby amended to read as follows:

703.130 1. The Commission shall appoint a Deputy Commissioner who shall serve in the unclassified service of the State.

2. The Commission shall appoint a Secretary who shall perform such administrative and other duties as are prescribed by the Commission. The Commission shall also appoint an Assistant Secretary.

3. The Commission may employ such other clerks, experts or engineers as may be necessary.

4. Except as otherwise provided in subsection 5, the Commission:

(a) May appoint one or more hearing officers for a period specified by the Commission to conduct proceedings or hearings that may be conducted by the Commission pursuant to NRS 702.160 and 702.170 and chapters 704, 704A, 704B, 705, 708 and 711 of NRS.

(b) Shall prescribe by regulation the procedure for appealing a decision of a hearing officer to the Commission.

5. The Commission shall not appoint a hearing officer to conduct proceedings or hearings:

(a) In any matter pending before the Commission pursuant to NRS 704.7561 to 704.7595, inclusive; or

(b) In any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which an electric utility has filed a general rate application or an **annual deferred energy accounting adjustment** application . ~~{to clear its deferred accounts.}~~

6. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 37. NRS 703.320 is hereby amended to read as follows:

703.320 Except as otherwise provided in ~~{subsection 8}~~ **subsections 8 and 9** of NRS 704.110:

1. In any matter pending before the Commission, if a hearing is required by a specific statute or is otherwise required by the Commission, the Commission shall

1 give notice of the pendency of the matter to all persons entitled to notice of the
2 hearing. The Commission shall by regulation specify:

- 3 (a) The manner of giving notice in each type of proceeding; and
- 4 (b) The persons entitled to notice in each type of proceeding.

5 2. The Commission shall not dispense with a hearing:

6 (a) In any matter pending before the Commission pursuant to NRS 704.7561 to
7 704.7595, inclusive; or

8 (b) Except as otherwise provided in *paragraph (f) of subsection ~~1~~ 1* of NRS
9 704.100, in any matter pending before the Commission pursuant to NRS 704.061 to
10 704.110, inclusive, in which an electric utility has filed a general rate application or an
11 ~~application to clear its deferred accounts.~~ *annual deferred energy accounting*
12 *adjustment application pursuant to NRS 704.187.*

13 3. In any other matter pending before the Commission, the Commission may
14 dispense with a hearing and act upon the matter pending unless, within 10 days
15 after the date of the notice of pendency, a person entitled to notice of the hearing
16 files with the Commission a request that the hearing be held. If such a request for a
17 hearing is filed, the Commission shall give at least 10 days' notice of the hearing.

18 4. As used in this section, "electric utility" has the meaning ascribed to it in
19 NRS 704.187.

20 **Sec. 38.** Chapter 704 of NRS is hereby amended by adding thereto a new
21 section to read as follows:

22 *1. The Commission shall adopt regulations to establish methods and*
23 *programs for a public utility which purchases natural gas for resale that remove*
24 *financial disincentives which discourage the public utility from supporting*
25 *energy conservation, including, without limitation:*

26 *(a) Procedures for a public utility which purchases natural gas for resale to*
27 *have a mechanism established during a general rate application filed pursuant to*
28 *NRS 704.110 to ensure that the costs of the public utility for providing service are*
29 *recovered without regard to the difference in the quantity of natural gas actually*
30 *sold by the public utility by taking into account the adjusted and annualized*
31 *quantity of natural gas sold during a test year and the growth in the number of*
32 *customers of the public utility;*

33 *(b) Procedures for a public utility which purchases natural gas for resale to*
34 *apply to the Commission for approval of an activity relating to increasing energy*
35 *efficiency or energy conservation; and*

36 *(c) Procedures for a public utility which purchases natural gas for resale to*
37 *apply to the Commission for the recovery of costs associated with an activity*
38 *approved by the Commission pursuant to paragraph (b).*

39 *2. The regulations adopted pursuant to subsection 1 must ensure that the*
40 *methods and programs consider the recovery of costs, stabilization of revenue*
41 *and any reduction of risk for the public utility which purchases natural gas for*
42 *resale.*

43 **Sec. 39.** NRS 704.062 is hereby amended to read as follows:

44 704.062 "Application to make changes in any schedule" and "application"
45 include, without limitation:

- 46 1. A general rate application;
- 47 2. An application to recover the increased cost of purchased fuel, purchased
48 power, or natural gas purchased for resale; and
- 49 3. An *annual deferred energy accounting adjustment* application . ~~to clear~~
50 ~~deferred accounts.~~

51 **Sec. 40.** NRS 704.069 is hereby amended to read as follows:

52 704.069 1. Except as otherwise provided in ~~subsection 8~~ *subsections 8*
53 *and 9* of NRS 704.110, the Commission shall conduct a consumer session to solicit

1 comments from the public in any matter pending before the Commission pursuant
2 to NRS 704.061 to 704.110, inclusive, in which:

3 (a) A public utility has filed a general rate application, an application to
4 recover the increased cost of purchased fuel, purchased power, or natural gas
5 purchased for resale ~~for an application to clear its deferred accounts -~~, *an annual*
6 *deferred energy accounting adjustment application pursuant to NRS 704.187 or*
7 *an annual rate adjustment application*; and

8 (b) The changes proposed in the application will result in an increase in annual
9 gross operating revenue, as certified by the applicant, in an amount that will exceed
10 \$50,000 or 10 percent of the applicant's annual gross operating revenue, whichever
11 is less.

12 2. In addition to the case-specific consumer sessions required by subsection 1,
13 the Commission shall, during each calendar year, conduct at least one general
14 consumer session in the county with the largest population in this State and at least
15 one general consumer session in the county with the second largest population in
16 this State. At each general consumer session, the Commission shall solicit
17 comments from the public on issues concerning public utilities. Not later than 60
18 days after each general consumer session, the Commission shall submit the record
19 from the general consumer session to the Legislative Commission.

20 **Sec. 41.** NRS 704.100 is hereby amended to read as follows:

21 704.100 1. Except as otherwise provided in NRS 704.075 and 704.68904 to
22 704.68984, inclusive, or as may otherwise be provided by the Commission pursuant
23 to NRS 704.095 or 704.097 or pursuant to the regulations adopted by the
24 Commission in accordance with subsection 4 of NRS 704.040:

25 ~~1.1~~ (a) A public utility shall not make changes in any schedule, unless the
26 public utility:

27 ~~1.1.1~~ (1) Files with the Commission an application to make the proposed
28 changes and the Commission approves the proposed changes pursuant to NRS
29 704.110; or

30 ~~1.1.2~~ (2) Files the proposed changes with the Commission using a letter of
31 advice in accordance with the provisions of ~~subsection 5-~~
32 ~~2.1~~ *paragraph (f).*

33 (b) A public utility shall adjust its rates on a quarterly basis between annual
34 rate adjustment applications pursuant to subsection 8 of NRS 704.110 based on
35 changes in the public utility's recorded costs of natural gas purchased for resale.

36 ~~1.1.3~~ (c) *An electric utility shall, between annual deferred energy accounting*
37 *adjustment applications filed pursuant to NRS 704.187, adjust its rates on a*
38 *quarterly basis pursuant to subsection 9 of NRS 704.110.*

39 (d) A public utility shall post copies of all proposed schedules and all new or
40 amended schedules in the same offices and in substantially the same form, manner
41 and places as required by NRS 704.070 for the posting of copies of schedules that
42 are currently in force.

43 ~~1.1.4~~ (e) A public utility may not set forth as justification for a rate increase any
44 items of expense or rate base that previously have been considered and disallowed
45 by the Commission, unless those items are clearly identified in the application and
46 new facts or considerations of policy for each item are advanced in the application
47 to justify a reversal of the prior decision of the Commission.

48 ~~1.1.5~~ (f) Except as otherwise provided in ~~subsection 6.1~~ *paragraph (g)*, if the
49 proposed change in any schedule does not change any rate or will result in an
50 increase in annual gross operating revenue, as certified by the public utility, in an
51 amount that does not exceed \$2,500:

52 ~~1.1.6~~ (1) The public utility may file the proposed change with the Commission
53 using a letter of advice in lieu of filing an application; and

~~(b)~~ (2) The Commission shall determine whether it should dispense with a hearing regarding the proposed change.

~~(6)~~ (g) If the applicant is a public utility furnishing telephone service and the proposed change in any schedule will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that does not exceed \$50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less, the Commission shall determine whether it should dispense with a hearing regarding the proposed change.

~~(7)~~ (h) In making the determination pursuant to ~~subsection 5 or 6,~~ paragraph (f) or (g), the Commission shall first consider all timely written protests, any presentation that the Regulatory Operations Staff of the Commission may desire to present, the application of the public utility and any other matters deemed relevant by the Commission.

2. *As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.*

Sec. 42. NRS 704.110 is hereby amended to read as follows:

704.110 Except as otherwise provided in NRS 704.075 and 704.68904 to 704.68984, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097 or pursuant to the regulations adopted by the Commission in accordance with subsection 4 of NRS 704.040:

1. If a public utility files with the Commission an application to make changes in any schedule, including, without limitation, changes that will result in a discontinuance, modification or restriction of service, the Commission shall investigate the propriety of the proposed changes to determine whether to approve or disapprove the proposed changes. If an electric utility files such an application and the application is a general rate application or an *annual deferred energy accounting adjustment* application, ~~{to clear its deferred accounts,}~~ the Consumer's Advocate shall be deemed a party of record.

2. Except as otherwise provided in subsections 3 and ~~(13)~~ 12, if a public utility files with the Commission an application to make changes in any schedule, the Commission shall issue a written order approving or disapproving, in whole or in part, the proposed changes:

(a) For a public utility that is a PAR carrier, not later than 180 days after the date on which the application is filed; and

(b) For all other public utilities, not later than 210 days after the date on which the application is filed.

3. If a public utility files with the Commission a general rate application, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. Except as otherwise provided in subsection 4, in determining whether to approve or disapprove any increased rates, the Commission shall consider evidence in support of the increased rates based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the Commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but the public utility shall not place into effect any increased rates until the changes have been experienced and certified by the public utility to the Commission and the Commission has approved the increased rates. The Commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service

1 during the recorded test period or the period for certification as set forth in the
 2 application. Adjustments to revenues, operating expenses and costs of securities
 3 must be calculated on an annual basis. Within 90 days after the date on which the
 4 certification required by this subsection is filed with the Commission, or within the
 5 period set forth in subsection 2, whichever time is longer, the Commission shall
 6 make such order in reference to the increased rates as is required by this chapter.
 7 An electric utility shall file a general rate application pursuant to this subsection at
 8 least once every ~~24~~ ~~36~~ months based on the following schedule:

9 (a) An electric utility that primarily serves less densely populated counties
 10 shall file a general rate application on or before October 3, 2005, ~~December 3,~~
 11 ~~2007,~~ and at least once every ~~24~~ ~~36~~ months thereafter.

12 (b) An electric utility that primarily serves densely populated counties shall file
 13 a general rate application on or before November 15, 2006, ~~December 3, 2008,~~
 14 and at least once every ~~24~~ ~~36~~ months thereafter.

15 4. In addition to submitting the statement required pursuant to subsection 3, a
 16 public utility which purchases natural gas for resale ~~for an electric utility~~ may
 17 submit with its general rate application a statement showing the effects, on an
 18 annualized basis, of all expected changes in circumstances. If such a statement is
 19 filed, it must include all increases and decreases in revenue and expenses which
 20 may occur within 210 days after the date on which its general rate application is
 21 filed with the Commission if such expected changes in circumstances are
 22 reasonably known and are measurable with reasonable accuracy. If a public utility
 23 submits such a statement, the public utility has the burden of proving that the
 24 expected changes in circumstances set forth in the statement are reasonably known
 25 and are measurable with reasonable accuracy. If the Commission determines that
 26 the public utility has met its burden of proof:

27 (a) The Commission shall consider the statement submitted pursuant to this
 28 subsection and evidence relevant to the statement in addition to the statement
 29 required pursuant to subsection 3 as evidence in establishing just and reasonable
 30 rates for the public utility; and

31 (b) The public utility is not required to file with the Commission the
 32 certification that would otherwise be required pursuant to subsection 3.

33 5. If a public utility files with the Commission an application to make changes
 34 in any schedule and the Commission does not issue a final written order regarding
 35 the proposed changes within the time required by this section, the proposed changes
 36 shall be deemed to be approved by the Commission.

37 6. If a public utility files with the Commission a general rate application, the
 38 public utility shall not file with the Commission another general rate application
 39 until all pending general rate applications filed by that public utility have been
 40 decided by the Commission unless, after application and hearing, the Commission
 41 determines that a substantial financial emergency would exist if the public utility is
 42 not permitted to file another general rate application sooner. The provisions of this
 43 subsection do not prohibit the public utility from filing with the Commission, while
 44 a general rate application is pending, an application to recover the increased cost of
 45 purchased fuel, purchased power, or natural gas purchased for resale pursuant to
 46 subsection 7, *a quarterly rate adjustment pursuant to subsection 8 or 9, any*
 47 *information relating to deferred accounting requirements pursuant to NRS*
 48 *704.185 or an annual deferred energy accounting adjustment application* ~~to clear~~
 49 ~~its deferred accounts pursuant to subsection 9,~~ *pursuant to NRS 704.187*, if the
 50 public utility is otherwise authorized *to so file* by those provisions. ~~to file such an~~
 51 ~~application.~~

7. A public utility may file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale once every 30 days. The provisions of this subsection do not apply to:

(a) An electric utility ~~fusing deferred accounting pursuant to NRS 704.187;~~ *which is required to adjust its rates on a quarterly basis pursuant to subsection 9;* or

(b) A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8.

8. A public utility which purchases natural gas for resale must request approval from the Commission to adjust its rates on a quarterly basis between annual rate adjustment applications based on changes in the public utility's recorded costs of natural gas purchased for resale. If the Commission approves such a request:

(a) The public utility shall file written notice with the Commission before the public utility makes a quarterly rate adjustment between annual rate adjustment applications. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) The public utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The public utility shall begin providing such written notice to its customers not later than 30 days after the date on which the public utility files its written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the public utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; and

(IV) Any other information required by the Commission.

(c) The public utility shall file an annual rate adjustment application with the Commission. The annual rate adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual rate adjustment application must include a review of each quarterly rate adjustment and a review of the transactions and recorded costs of natural gas included in each quarterly rate adjustment and the annual rate adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application, and the public utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the public utility to recover any recorded costs of natural gas which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the public utility, and the Commission shall order the public utility to adjust its rates if the Commission determines that any recorded costs of natural gas included in any

quarterly rate adjustment or the annual rate adjustment application were not reasonable or prudent.

9. ~~{Except as otherwise provided in subsection 10 and subsection 5 of NRS 704.100, if an electric utility using deferred accounting pursuant to NRS 704.187 files an application to clear its deferred accounts and to change one or more of its rates based upon changes in the costs for purchased fuel or purchased power, the Commission, after a public hearing and by an appropriate order:~~

~~—(a) Shall allow the electric utility to clear its deferred accounts by refunding any credit balance or recovering any debit balance over a period not to exceed 3 years, as determined by the Commission.~~

~~—(b) Shall not allow the electric utility to recover any debit balance, or portion thereof, in an amount that would result in a rate of return during the period of recovery that exceeds the rate of return authorized by the Commission in the most recently completed rate proceeding for the electric utility.~~

~~—10. Before allowing an electric utility to clear its deferred accounts pursuant to subsection 9, the Commission shall determine whether the costs for purchased fuel and purchased power that the electric utility recorded in its deferred accounts are recoverable and whether the revenues that the electric utility collected from customers in this State for purchased fuel and purchased power are properly recorded and credited in its deferred accounts. The Commission shall not allow the electric utility to recover any costs for purchased fuel and purchased power that were the result of any practice or transaction that was undertaken, managed or performed imprudently by the electric utility. There is no presumption that any practice or transaction was undertaken, managed or performed prudently by an electric utility applying to the Commission to clear its deferred accounts or to recover costs for purchased fuel and purchased power, and the electric utility has the burden of proving that the practices and transactions of the electric utility were reasonable and prudent.~~

~~—11.} An electric utility shall adjust its rates on a quarterly basis based on changes in the public utility's recorded costs of purchased fuel or purchased power in the following manner:~~

(a) An electric utility shall file written notice with the Commission on or before August 15, 2007, and every quarter thereafter of the quarterly rate adjustment to be made by the electric utility for the following quarter. The first quarterly rate adjustment by the electric utility will take effect on October 1, 2007, and each subsequent quarterly rate adjustment will take effect every quarter thereafter. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) Each electric utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The electric utility shall begin providing such written notice to its customers not later than 30 days after the date on which the electric utility files a written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the electric utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; and

(IV) Any other information required by the Commission.

(c) An electric utility shall file an annual deferred energy accounting adjustment application pursuant to NRS 704.187 with the Commission. The annual deferred energy accounting adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual deferred energy accounting adjustment application must include a review of each quarterly rate adjustment and a review of the transactions and recorded costs of purchased fuel and purchased power included in each quarterly rate adjustment and the annual deferred energy accounting adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application, and the electric utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the electric utility to recover any recorded costs of purchased fuel and purchased power which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the electric utility, and the Commission shall order the electric utility to adjust its rates if the Commission determines that any recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application were not reasonable or prudent.

10. If an electric utility files an annual deferred energy accounting adjustment application ~~to clear its deferred accounts~~ pursuant to subsection 9 and NRS 704.187 while a general rate application is pending, the electric utility shall:

(a) Submit with its annual deferred energy accounting adjustment application ~~to clear its deferred accounts~~ information relating to the cost of service and rate design; and

(b) Supplement its general rate application with the same information, if such information was not submitted with the general rate application.

~~H2-11.~~ 11. A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the Commission for acquisition or construction pursuant to NRS 704.751 and the regulations adopted pursuant thereto shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing such a facility.

~~H3-12.~~ 12. A PAR carrier may, in accordance with this section and NRS 704.100, file with the Commission a request to approve or change any schedule to provide volume or duration discounts to rates for telecommunication service for an offering made to all or any class of business customers. The Commission may conduct a hearing relating to the request, which must occur within 45 days after the date the request is filed with the Commission. The request and schedule shall be deemed approved if the request and schedule are not disapproved by the Commission within 60 days after the date the Commission receives the request.

~~H4-13.~~ 13. As used in this section:

(a) "Electric utility" has the meaning ascribed to it in NRS 704.187.

(b) "Electric utility that primarily serves densely populated counties" ~~has the meaning ascribed to it in NRS 704.187.~~ means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is

1 *400,000 or more than it does from customers located in counties whose*
 2 *population is less than 400,000.*

3 (c) "Electric utility that primarily serves less densely populated counties" ~~has~~
 4 ~~the meaning ascribed to it in NRS 704.187.]~~ *means an electric utility that, with*
 5 *regard to the provision of electric service, derives more of its annual gross*
 6 *operating revenue in this State from customers located in counties whose*
 7 *population is less than 400,000 than it does from customers located in counties*
 8 *whose population is 400,000 or more.*

9 (d) "PAR carrier" has the meaning ascribed to it in NRS 704.68942.

10 **Sec. 43.** NRS 704.187 is hereby amended to read as follows:

11 704.187 1. ~~{Except as otherwise provided in section 36 of chapter 16,~~
 12 ~~Statutes of Nevada 2001, beginning on March 1, 2001, an}~~ *An* electric utility that
 13 purchases fuel or power shall use deferred accounting by recording upon its books
 14 and records in deferred accounts all increases and decreases in costs for purchased
 15 fuel and purchased power that are prudently incurred by the electric utility.

16 2. An electric utility using deferred accounting shall include in its annual
 17 report to the Commission a statement showing, for the period of recovery, the
 18 allocated rate of return for each of its operating departments in this State using
 19 deferred accounting. If, during the period of recovery, the rate of return for any
 20 operating department using deferred accounting is greater than the rate of return
 21 authorized by the Commission in the most recently completed rate proceeding for
 22 the electric utility, the Commission shall order the electric utility that recovered
 23 costs for purchased fuel or purchased power through its rates during the reported
 24 period to transfer to the next energy adjustment period that portion of the amount
 25 recovered by the electric utility that exceeds the authorized rate of return.

26 3. Except as otherwise provided in this section, an electric utility using
 27 deferred accounting shall file an annual *deferred energy accounting adjustment*
 28 application ~~{to clear its deferred accounts based on the following schedule:~~

29 ~~—(a) An electric utility that primarily serves less densely populated counties~~
 30 ~~shall file an annual application to clear its deferred accounts on December 1, 2005,~~
 31 ~~and in December] on or before March 1, 2008, and on or before March 1~~ of each
 32 year thereafter. ~~{on a date specified by the Commission.~~

33 ~~—(b) An electric utility that primarily serves densely populated counties shall file~~
 34 ~~an annual application to clear its deferred accounts on January 17, 2006, and in~~
 35 ~~January of each year thereafter on a date specified by the Commission.]~~

36 4. ~~{An electric utility using deferred accounting may file a semiannual~~
 37 ~~application to clear its deferred accounts if the net change in revenues necessary to~~
 38 ~~clear its deferred accounts for the reported period is more than 5 percent of the total~~
 39 ~~revenues generated by the electric utility during that period from its rates for~~
 40 ~~purchased fuel and purchased power most recently authorized by the Commission.~~

41 ~~—5.]~~ As used in this section:

42 (a) ~~{“Application to clear its deferred accounts”}~~ *“Annual deferred energy*
 43 *accounting adjustment application”* means an application filed by an electric
 44 utility pursuant to this section and subsection 9 of NRS 704.110.

45 (b) "Costs for purchased fuel and purchased power" means all costs which are
 46 prudently incurred by an electric utility and which are required to purchase fuel, to
 47 purchase capacity and to purchase energy. The term does not include any costs that
 48 the Commission determines are not recoverable pursuant to subsection ~~{10}~~ 9 of
 49 NRS 704.110.

50 (c) "Electric utility" means any public utility or successor in interest that:

51 (1) Is in the business of providing electric service to customers;

52 (2) Holds a certificate of public convenience and necessity issued or
 53 transferred pursuant to this chapter; and

(3) In the most recently completed calendar year or in any other calendar year within the 7 calendar years immediately preceding the most recently completed calendar year, had a gross operating revenue of \$250,000,000 or more in this State.

☞ The term does not include a cooperative association, nonprofit corporation, nonprofit association or provider of electric service which is declared to be a public utility pursuant to NRS 704.673 and which provides service only to its members.

~~“(d) “Electric utility that primarily serves densely populated counties” means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is 400,000 or more than it does from customers located in counties whose population is less than 400,000.~~

~~“(e) “Electric utility that primarily serves less densely populated counties” means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is less than 400,000 than it does from customers located in counties whose population is 400,000 or more.”]~~

Sec. 43.5. NRS 704.741 is hereby amended to read as follows:

704.741 1. A utility which supplies electricity in this state shall, on or before July 1 of every third year, in the manner specified by the Commission, submit a plan to increase its supply of electricity or decrease the demands made on its system by its customers to the Commission.

2. The Commission shall, by regulation, prescribe the contents of such a plan including, but not limited to, the methods or formulas which are used by the utility to:

- (a) Forecast the future demands; and
- (b) Determine the best combination of sources of supply to meet the demands or the best method to reduce them.

3. The Commission shall require the utility to include in its plan an energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel. The energy efficiency program must include, without limitation, the use of new solar thermal energy sources.

Sec. 44. ~~NRS 704.771 is hereby amended to read as follows:~~

~~704.771 1. “Net metering system” means a facility or energy system for the generation of electricity that:~~

~~[1.] (a) Uses renewable energy as its primary source of energy to generate electricity;~~

~~[2.] (b) Has a generating capacity of not more than [150 kilowatt;~~

~~3.] 1 megawatt;~~

~~(c) Is located on the customer-generator’s premises;~~

~~[4.] (d) Operates in parallel with the utility’s transmission and distribution facilities; and~~

~~[5.] (e) Is intended primarily to offset part or all of the customer-generator’s requirements for electricity.~~

~~2. The term does not include a facility or energy system for the generation of electricity which has a generating capacity that exceeds the greater of:~~

~~(a) The limit on the demand that the class of customer of the customer-generator may place on the system of the utility; or~~

~~(b) One hundred fifty percent of the peak demand of the customer.] (Deleted by amendment.)~~

Sec. 45. ~~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 the cumulative~~

capacity of all such net metering systems is equal to 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] 100 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] 100 kilowatts, the utility may:~~

~~(a) Require the customer-generator to install at its own cost [an]:~~

~~(1) An energy meter that is capable of measuring generation output and customer load []; and~~

~~(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.~~

~~(b) [Charge] Except as otherwise provided in paragraph (c), 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.~~

~~(c) Not charge the customer-generator any standby charge.~~

~~At the time of installation or upgrade of any portion of a net metering system, the utility must require or allow a customer-generator governed by this subsection to pay the entire cost of the installation or upgrade of the portion of the net metering system.~~

~~4. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:~~

~~(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:~~

~~(1) Metering equipment;~~

~~(2) Net energy measurement and billing; and~~

~~(3) Interconnection;~~

~~based on the allowable size of the net metering system.~~

~~(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.~~

~~(c) A timeline for processing applications and contracts for net metering applicants.~~

~~(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive.~~ **(Deleted by amendment.)**

Sec. 46. [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 kilowatts, the] The net energy measurement must be calculated in the following manner:~~

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

~~(b) If the electricity supplied by the utility exceeds 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 electricity supplied by the utility.~~

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

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

~~(2) 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 generated by the customer-generator in that 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 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:~~

~~(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 **value of the** excess electricity [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 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.~~

~~_____ (H) Does not reduce any other fee or charge imposed by the utility.~~

~~_____ (3) The excess electricity which is fed back to the utility] must not be used to reduce any other fee or charge imposed by the utility.~~

~~_____ 3. If the cost of purchasing and installing a net metering system was paid for~~

~~_____ (a) In whole or in part by a utility, the electricity generated by the net metering system 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.~~

~~_____ (b) Entirely by a customer generator, the Commission shall issue to the customer generator portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the electricity generated by the net metering system.~~

~~_____ 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.] (Deleted by amendment.)~~

Sec. 47. NRS 704.7802 is hereby amended to read as follows:

704.7802 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] 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 or any fossil fuel.]~~

Sec. 48. 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, 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.

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 ~~15~~ 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 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 measures installed at service locations of residential customers of the provider, unless a different percentage is approved by the Commission.

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

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

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

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

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

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

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

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. 49. ~~[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 [150 kilowatts,] 1 megawatt, 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:~~

~~(a) Are designed to operate at 200 kilovolts or more;~~

~~(b) Are not required by local ordinance to be placed underground; and~~

~~(c) Are constructed outside any incorporated city;
3. Gas transmission lines, storage plants, compressor stations and their associated facilities when constructed outside;
(a) Any incorporated city; and
(b) Any county whose population is 100,000 or more.
4. Water storage, transmission and treatment facilities, other than facilities for the storage, transmission or treatment of water from mining operations;
5. Sewer transmission and treatment facilities.] (Deleted by amendment.)~~

Sec. 50. Chapter 113 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 3, the seller shall have the energy consumption of the residential property evaluated pursuant to the program established in section 31 of this act.

2. Except as otherwise provided in subsection 4, before closing a transaction for the conveyance of residential property, the seller shall serve the purchaser with the completed evaluation required pursuant to subsection 1, if any, on a form to be provided by the Director of the Office of Energy, as prescribed in regulations adopted pursuant to section 31 of this act.

3. Subsection 1 does not apply to a sale or intended sale of residential property:

(a) By foreclosure pursuant to chapter 107 of NRS.

(b) Between any co-owners of the property, spouses or persons related within the third degree of consanguinity.

(c) By a person who takes temporary possession or control of or title to the property solely to facilitate the sale of the property on behalf of a person who relocates to another county, state or country before title to the property is transferred to a purchaser.

(d) If the seller and purchaser agree to waive the requirements of subsection 1.

4. If an evaluation of a residential property was completed not more than 5 years before the seller and purchaser entered into the agreement to purchase the residential property, the seller may serve the purchaser with that evaluation.

Sec. 51. NRS 228.360 is hereby amended to read as follows:

228.360 The Consumer's Advocate:

1. Shall intervene in and represent the public interest in:

(a) All proceedings conducted pursuant to NRS 704.7561 to 704.7595, inclusive; and

(b) All proceedings conducted pursuant to NRS 704.061 to 704.110, inclusive, in which an electric utility has filed a general rate application or an *annual deferred energy accounting adjustment* application. ~~[to clear its deferred accounts.]~~

2. May, with respect to all public utilities except railroads and cooperative utilities, and except as otherwise provided in NRS 228.380:

(a) Conduct or contract for studies, surveys, research or expert testimony relating to matters affecting the public interest or the interests of utility customers.

(b) Examine any books, accounts, minutes, records or other papers or property of any public utility subject to the regulatory authority of the Public Utilities Commission of Nevada in the same manner and to the same extent as authorized by law for members of the Public Utilities Commission of Nevada and its staff.

(c) Except as otherwise provided in subsection 1, petition for, request, initiate, appear or intervene in any proceeding concerning rates, charges, tariffs, modifications of service or any related matter before the Public Utilities Commission of Nevada or any court, regulatory body, board, commission or agency having jurisdiction over any matter which the Consumer's Advocate may bring

before or has brought before the Public Utilities Commission of Nevada or in which the public interest or the interests of any particular class of utility customers are involved. The Consumer's Advocate may represent the public interest or the interests of any particular class of utility customers in any such proceeding, and he is a real party in interest in the proceeding.

3. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 51.3. Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the Commission on Economic Development approves an application by a business for a partial abatement pursuant to NRS 360.750, the agreement with the Commission must provide that the business:

(a) Agrees to allow the Department to conduct audits of the business to determine whether the business is in compliance with the requirements for the partial abatement; and

(b) Consents to the disclosure of the audit reports in the manner set forth in this section.

2. If the Department conducts an audit of the business to determine whether the business is in compliance with the requirements for the partial abatement, the Department shall, upon request, provide the audit report to the Commission on Economic Development.

3. Until the business has exhausted all appeals to the Department and the Nevada Tax Commission relating to the audit, the information contained in the audit report provided to the Commission on Economic Development:

(a) Is confidential proprietary information of the business;

(b) Is not a public record; and

(c) Must not be disclosed to any person who is not an officer or employee of the Commission on Economic Development unless the business consents to the disclosure.

4. After the business has exhausted all appeals to the Department and the Nevada Tax Commission relating to the audit:

(a) The audit report provided to the Commission on Economic Development is a public record; and

(b) Upon request by any person, the Executive Director of the Commission on Economic Development shall disclose the audit report to the person who made the request, except for any information in the audit report that is protected from disclosure pursuant to subsection 5.

5. Before the Executive Director of the Commission on Economic Development discloses the audit report to the public, the business may submit a request to the Executive Director to protect from disclosure any information in the audit report which, under generally accepted business practices, would be considered a trade secret or other confidential proprietary information of the business. After consulting with the business, the Executive Director shall determine whether to protect the information from disclosure. The decision of the Executive Director is final and is not subject to judicial review. If the Executive Director determines to protect the information from disclosure, the protected information:

(a) Is confidential proprietary information of the business;

(b) Is not a public record;

(c) Must be redacted by the Executive Director from any audit report that is disclosed to the public; and

(d) Must not be disclosed to any person who is not an officer or employee of the Commission on Economic Development unless the business consents to the disclosure.

Sec. 51.7. NRS 360.750 is hereby amended to read as follows:

360.750 1. A person who intends to locate or expand a business in this State may apply to the Commission on Economic Development for a partial abatement of one or more of the taxes imposed on the new or expanded business pursuant to chapter 361, 363B or 374 of NRS.

2. The Commission on Economic Development shall approve an application for a partial abatement if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which ~~[states]~~ must:

(1) Comply with the requirements of section 51.3 of this act;

(2) State that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 5, continue in operation in this State for a period specified by the Commission, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection ~~[The agreement must bind]~~ ; and

(3) Bind the successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least two of the following requirements:

(1) The business will have 75 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$1,000,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.

(e) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000, the business meets at least two of the following requirements:

(1) The business will have 15 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$250,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.

(f) If the business is an existing business, the business meets at least two of the following requirements:

(1) The business will increase the number of employees on its payroll by 10 percent more than it employed in the immediately preceding fiscal year or by six employees, whichever is greater.

(2) The business will expand by making a capital investment in this State in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the immediately preceding fiscal year. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:

(I) County assessor of the county in which the business will expand, if the business is locally assessed; or

(II) Department, if the business is centrally assessed.

(3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its new employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.

(g) In lieu of meeting the requirements of paragraph (d), (e) or (f), if the business furthers the development and refinement of intellectual property, a patent or a copyright into a commercial product, the business meets at least two of the following requirements:

(1) The business will have 10 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$500,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet with minimum requirements established by the Commission by regulation pursuant to subsection 9.

3. Notwithstanding the provisions of subsection 2, the Commission on Economic Development:

(a) Shall not consider an application for a partial abatement unless the Commission has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) May, if the Commission determines that such action is necessary:

(1) Approve an application for a partial abatement by a business that does not meet the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2;

(2) Make the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2 more stringent; or

(3) Add additional requirements that a business must meet to qualify for a partial abatement.

4. If a person submits an application to the Commission on Economic Development pursuant to subsection 1, the Commission shall provide notice to the governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the person intends to locate or expand a business. The notice required pursuant to this subsection must set forth the date, time and location of the hearing at which the Commission will consider the application.

5. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer.

6. An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Commission on Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

7. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the requirements set forth in subsection 2; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,

the business shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

8. A county treasurer:

(a) Shall deposit any money that he receives pursuant to subsection 7 in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

9. The Commission on Economic Development:

(a) Shall adopt regulations relating to:

(1) The minimum level of benefits that a business must provide to its employees if the business is going to use benefits paid to employees as a basis to qualify for a partial abatement; and

(2) The notice that must be provided pursuant to subsection 4.

(b) May adopt such other regulations as the Commission on Economic Development determines to be necessary to carry out the provisions of this section ~~and~~ and section 51.3 of this act.

10. The Nevada Tax Commission:

(a) Shall adopt regulations regarding:

(1) The capital investment that a new business must make to meet the requirement set forth in paragraph (d), (e) or (g) of subsection 2; and

(2) Any security that a business is required to post to qualify for a partial abatement pursuant to this section.

(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section. ~~and~~ and section 51.3 of this act.

11. An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 52. (Deleted by amendment.)

Sec. 53. (Deleted by amendment.)

Sec. 54. (Deleted by amendment.)

Sec. 55. (Deleted by amendment.)

Sec. 56. (Deleted by amendment.)

Sec. 57. (Deleted by amendment.)

Sec. 58. (Deleted by amendment.)

Sec. 59. (Deleted by amendment.)

Sec. 60. (Deleted by amendment.)

Sec. 61. (Deleted by amendment.)

Sec. 62. Sections 62 to 86, inclusive, of this act may be cited as the Wind Energy Systems Demonstration Program Act.

Sec. 63. As used in sections 62 to 86, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 64 to 78, inclusive, of this act have the meaning ascribed to them in those sections.

Sec. 64. "Agricultural property" means any real property employed for an agricultural use as defined in NRS 361A.030.

Sec. 65. "Applicant" means a person who is applying to participate in the Wind Demonstration Program.

Sec. 66. "Category" means one of the categories of participation in the Wind Demonstration Program as set forth in section 79 of this act.

Sec. 67. "Commission" means the Public Utilities Commission of Nevada.

Sec. 68. ~~["Committee" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.]~~ **(Deleted by amendment.)**

Sec. 69. "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. 70. "Participant" means a person who has been selected by the ~~Committee~~ **Task Force** pursuant to section 83 of this act to participate in the Wind Demonstration Program.

Sec. 71. "Person" includes, without limitation, a governmental entity.

Sec. 72. "Program year" means the period of July 1 to June 30 of the following year.

Sec. 73. "Public property" means any real property, building or facilities owned, leased or occupied by:

1. A department, agency or instrumentality of the State or any of its political subdivisions which is used for the transaction of public or quasi-public business; or

2. A nonprofit organization that is recognized as exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), as amended, or a corporation for public benefit as defined in NRS 82.021.

Sec. 74. "School property" means any real property, building or facilities owned, leased or occupied by:

1. A public school as defined in NRS 385.007;

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

3. An institution of higher education.

Sec. 75. "Small business" means a business conducted for profit which employs 500 or fewer full-time or part-time employees.

Sec. 75.5. "Task Force" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.

Sec. 76. "Utility" means a public utility that supplies electricity in this State.

Sec. 77. "Wind Demonstration Program" or "Program" means the Wind Energy Systems Demonstration Program created by section 79 of this act.

Sec. 78. "Wind energy system" means a facility or energy system for the generation of electricity that uses wind energy to generate electricity.

Sec. 79. 1. The Wind Energy Systems Demonstration Program is hereby created.

2. The Program must have four categories as follows:

(a) School property;

(b) Other public property;

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

(d) Agricultural property.

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

(a) Meet the qualifications established by the Commission pursuant to section 80 of this act;

(b) Submit an application to a utility and be selected by the ~~Committee~~ **Task Force** for inclusion in the Program pursuant to sections 82 and 83 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 Program in the category of school property or other public 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. 80. The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in the Program in each particular category of:

(a) School property;

(b) Other public property;

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

(d) Agricultural property.

2. The type of incentives available to participants in the Program and the level or amount of those incentives.

3. The requirements for a utility's annual plan for carrying out and administering the Program. A utility's annual plan must include, without limitation:

- (a) A detailed plan for advertising the Program;
- (b) A detailed budget and schedule for carrying out and administering the Program;
- (c) A detailed account of administrative processes and forms that will be used to carry out and administer the Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Program;
- (d) A detailed account of the procedures that will be used for inspection and verification of a participant's wind energy system and compliance with the Program;
- (e) A detailed account of training and educational activities that will be used to carry out and administer the Program; and
- (f) Any other information required by the Commission.

Sec. 81. 1. Each utility shall carry out and administer the Wind Demonstration Program within its service area in accordance with its annual plan as approved by the Commission pursuant to section 82 of this act.

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

Sec. 82. 1. On or before February 1, 2008, and on or before February 1 of each year thereafter, each utility shall file with the Commission its annual plan for carrying out and administering the Wind Demonstration Program within its service area for the following program year.

2. On or before July 1, 2008, and on or before July 1 of each year thereafter, the Commission shall:

- (a) Review the annual plan filed by each utility for compliance with the requirements established by regulation; and
- (b) Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.

3. On or before November 1, 2008, and on or before November 1 of each year thereafter, each utility shall submit to the ~~{Committee}~~ **Task Force** the utility's recommendations as to which applications received by the utility should be approved for participation in the Program. The ~~{Committee}~~ **Task Force** shall review the applications to ensure that each applicant meets the qualifications and requirements to be eligible to participate in the Program.

4. Except as otherwise provided in section 83 of this act, the ~~{Committee}~~ **Task Force** may approve, from among the applications recommended by each utility, wind energy systems totaling:

- (a) For the program year beginning July 1, 2008:
 - (1) 500 kilowatts of capacity for school property;
 - (2) 500 kilowatts of capacity for other public property;
 - (3) 700 kilowatts of capacity for private residential property and small business property; and
 - (4) 700 kilowatts of capacity for agricultural property.
- (b) For the program year beginning July 1, 2009:
 - (1) An additional 250 kilowatts of capacity for school property;
 - (2) An additional 250 kilowatts of capacity for other public property;

(3) An additional 350 kilowatts of capacity for private residential property and small business property; and

(4) An additional 350 kilowatts of capacity for agricultural property.

(c) For the program year beginning July 1, 2010:

(1) An additional 250 kilowatts of capacity for school property;

(2) An additional 250 kilowatts of capacity for other public property;

(3) An additional 350 kilowatts of capacity for private residential property and small business property; and

(4) An additional 350 kilowatts of capacity for agricultural property.

Sec. 83. 1. Based on the applications submitted by each utility for a program year, the ~~{Committee}~~ **Task Force** shall:

(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Wind Demonstration 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 Program if any capacity within a category becomes available.

2. Not later than 30 days after the date on which the ~~{Committee}~~ **Task Force** selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the ~~{Committee}~~ **Task Force** on behalf of the applicant shall provide written notice of the selection to the applicant.

3. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the ~~{Committee}~~ **Task Force** 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. At any time after submitting an application to participate in the Program to a utility, an applicant may energize his wind energy system if the wind energy system meets all applicable building codes and all applicable requirements of the utility as approved by the Commission. An applicant who energizes his wind energy system under such circumstances remains eligible to participate in the Program, and the energizing of the wind energy system does not alter the applicant's status on the list of participants or the prioritized waiting list.

Sec. 84. 1. Except as otherwise provided in this section, if the ~~{Committee}~~ **Task Force** determines that a participant has not complied with the requirements for participation in the Wind Demonstration Program, the ~~{Committee}~~ **Task Force** shall, after notice and an opportunity for a hearing, withdraw the participant from the Program.

2. The ~~{Committee}~~ **Task Force** may, without notice or an opportunity for a hearing, withdraw from the Program:

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

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

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

Sec. 85. 1. After a participant installs a wind energy system included in the Wind Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the actual or estimated kilowatt-hour production of the wind energy system.

2. All portfolio energy credits issued for a wind energy system installed pursuant to the Wind Demonstration Program must be assigned to and become the property of the utility administering the Program.

Sec. 86. If a wind energy system used by a participant in the Wind Demonstration Program meets the requirements of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 87. Sections 87 to 106, inclusive, of this act may be cited as the Waterpower Energy Systems Demonstration Program Act.

Sec. 88. As used in sections 87 to 106, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 89 to 98, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 89. "Applicant" means a person who is applying to participate in the Waterpower Demonstration Program.

Sec. 90. "Commission" means the Public Utilities Commission of Nevada.

Sec. 91. ~~["Committee" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.]~~ (Deleted by amendment.)

Sec. 92. "Participant" means a person who has been selected by the Commission to participate in the Waterpower Demonstration Program.

Sec. 93. "Person" includes, without limitation, a public entity.

Sec. 94. "Program year" means the period of July 1 to June 30 of the following year.

Sec. 94.5. "Task Force" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.

Sec. 95. "Utility" means a public utility that supplies electricity in this State.

Sec. 96. "Waterpower" has the meaning ascribed to it in subsection 3 of NRS 704.7811.

Sec. 97. "Waterpower energy system" means a facility or energy system for the generation of electricity that uses waterpower to generate electricity.

Sec. 98. "Waterpower Demonstration Program" or "Program" means the Waterpower Energy Systems Demonstration Program created by section 99 of this act.

Sec. 99. 1. The Waterpower Energy Systems Demonstration Program is hereby created.

2. The Waterpower Demonstration Program is created for agricultural uses.

3. To be eligible to participate in the Waterpower Demonstration Program, a person must meet the qualifications established pursuant to subsection 4 and apply to and be selected by the ~~Committee~~ Task Force for inclusion in the Waterpower Demonstration Program.

4. The Commission shall adopt regulations providing for the qualifications an applicant must meet to qualify to participate in the Waterpower Demonstration Program.

Sec. 100. The ~~Committee~~ Task Force is responsible for the administration and delivery of the Waterpower Demonstration Program as approved by the Commission.

Sec. 101. The Commission shall adopt regulations that establish:

1. The level, amount and type of incentives available for participants in the Waterpower Demonstration Program.

2. The requirements for an annual plan for the administration and delivery of the Waterpower Demonstration Program. The requirements for an annual plan must include, without limitation:

- (a) An advertising plan;
- (b) A detailed budget;
- (c) A schedule;
- (d) Administrative processes, including, without limitation, a copy of the application and process for accepting applications;
- (e) An inspection and verification process;
- (f) Proposed training and educational activities; and
- (g) Any other information required by the Commission.

Sec. 102. 1. On or before February 21, 2008, and on or before February 1 of each subsequent year, each utility shall file with the Commission for approval an annual plan for the administration and delivery of the Waterpower Demonstration Program for the program year beginning July 1, 2008, and each subsequent year thereafter.

2. On or before July 1, 2008, and on or before each July 1 of each subsequent year, the Commission shall review the annual plan for compliance with the requirements set forth by regulation of the Commission.

3. On or before November 1, 2008, and on or before November 1 of each subsequent year, each utility shall submit to the ~~{Committee}~~ **Task Force** a recommendation of which applications received should be accepted into the program. The ~~{Committee}~~ **Task Force** shall review the applications to ensure that the applicant meets the requirements adopted pursuant to subsection 4 of section 99 of this act.

4. The ~~{Committee}~~ **Task Force** may approve, from among the applications recommended by each utility, waterpower energy systems totaling:

- (a) For the program year beginning July 1, 2008, 200 kilowatts of capacity;
- (b) For the program year beginning July 1, 2009, an additional 100 kilowatts of capacity; and
- (c) For the program year beginning July 1, 2010, an additional 100 kilowatts of capacity.

Sec. 103. Each utility may recover its reasonable and prudent costs, including, without limitation, **customer** incentives, that are associated with carrying out and administering the Waterpower Demonstration Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 104. 1. After a participant installs a waterpower energy system included in the Waterpower Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the actual or estimated kilowatt-hour production of the waterpower energy system of the participant.

2. All portfolio energy credits issued for a waterpower energy system installed pursuant to the Waterpower Demonstration Program are assigned to and become the property of the utility administering the Program.

Sec. 105. If the waterpower energy system used by a participant in the Waterpower Demonstration Program meets the requirements of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 106. If the Commission determines that a participant did not comply with the requirements for participation in the Waterpower Demonstration Program, the Commission shall, after notice and an opportunity for a hearing, withdraw the

participant from the Waterpower Demonstration Program. Notice or a hearing is not required for dropping an applicant from the Program who fails to meet any completion time frames specified for the Program.

Sec. 107. (Deleted by amendment.)

Sec. 108. Section 24 of the Solar Energy Systems Demonstration Program Act, being chapter 331, Statutes of Nevada 2003, as amended by chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 90, is hereby amended to read as follows:

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

Sec. 109. (Deleted by amendment.)

Sec. 110. (Deleted by amendment.)

Sec. 111. (Deleted by amendment.)

Sec. 112. With regard to solar energy systems, it is the intent of the Legislature to substitute the provisions of this section, sections 1 to 29, inclusive, 44 to 49, inclusive, and 108 of this act in a continuing way for the provisions of the Solar Energy Systems Demonstration Program Act, being chapter 331, Statutes of Nevada 2003, as last amended by chapter 2, Statutes of Nevada 2005, 22nd Special Session, except that if there is a conflict between the provisions of this section, sections 1 to 29, inclusive, 44 to 49, inclusive, and 108 of this act, and the provisions of the Solar Energy Systems Demonstration Program Act, the provisions of this section, sections 1 to 29, inclusive, 44 to 49, inclusive, and 108 of this act control.

Sec. 112.5. The provisions of sections 51.3 and 51.7 of this act do not apply to any abatement for which an agreement was executed before July 1, 2007, between the Commission on Economic Development and the business to which the abatement was granted.

Sec. 113. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and

(b) For all other purposes besides those described in paragraph (a):

(1) For this section and sections **1**, 30, 32, 36 to 46, inclusive, 49, 51 to 61, inclusive, 107, 109, 110 and 111 of this act, upon passage and approval.

(2) For sections ~~11~~ **1.5** to 29, inclusive, **43.5**, 47, **51.3**, **51.7**, 108, ~~and~~ **112 and 112.5** of this act, on July 1, 2007.

(3) For sections 62 to 106, inclusive, of this act, on October 1, 2007.

(4) For sections 31, 33, 34 ~~and~~ **and** 35 ~~and 48~~ of this act, on January 1, 2009.

(5) **For section 48 of this act, on January 1, 2010.**

(6) **For section 50 of this act, on January 1, 2011.**

2. Sections 62 to 106, inclusive, of this act expire by limitation on June 30, 2011.