

Amendment No. 566

Senate Amendment to Senate Bill No. 252 (BDR 58-775)

Proposed by: Senate Committee on Commerce, Labor and Energy**Amendment Box:** Replaces Amendment No. 523.**Amends:** Summary: No 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 underlining* is newly added transitory language.

MSN/TMC



Date: 4/22/2013

S.B. No. 252—Revises provisions relating to the portfolio standard for providers of electric service. (BDR 58-775)



SENATE BILL NO. 252—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

MARCH 15, 2013

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to the portfolio standard for providers of electric service. (BDR 58-775)

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 renewable energy; ~~revising provisions setting forth the amount of electricity which a provider of electric service must generate or acquire from renewable energy systems to comply with the portfolio standard; deleting provisions authorizing a provider of electric service to meet the portfolio standard with savings from the implementation of energy efficiency measures;~~ revising provisions which specify ~~those~~ the renewable energy systems which qualify as portfolio energy systems; ~~providing that the Public Utilities Commission of Nevada is required to authorize a provider of electric service;~~ revising provisions relating to the implementation of energy efficiency measures by a provider of electric service for the purpose of complying with the renewable portfolio standard; revising provisions relating to ~~carry~~ the carrying forward to ~~subsequent calendar years for the purpose of complying with the portfolio standard for those~~ subsequent calendar years ~~not more than 10 percent~~ of the excess kilowatt-hours of electricity that ~~the~~ a provider generates or acquires from portfolio energy systems; requiring the Public Utilities Commission of Nevada to open an investigatory docket to study, examine and review the process for the sale of portfolio energy credits; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill revises provisions relating to the portfolio standard for providers of electric service, which requires that each year each provider of electric service in this State must generate or acquire from renewable energy systems or save as a result of energy efficiency measures a certain percentage of the electricity sold by the provider to its retail customers in this State.

In 2005, the 22nd Special Session of the Legislature revised the portfolio standard to authorize a provider to meet a portion of the portfolio standard through savings achieved from energy efficiency measures. (Sections 26-29 of chapter 2, Statutes of Nevada 2005, 22nd Special Session, pp. 82-84) ~~(Sections 3, 8, 10 and 11)~~ Section 6 of this bill ~~revises~~ revises the

portfolio standard to ~~remove the provisions which authorize~~ limit the use of savings achieved from energy efficiency measures by a provider to satisfy the portfolio standard.

~~Under existing law, the percentage of electricity sold to retail customers in this State which must be generated, acquired or saved from portfolio energy systems increases each calendar year until calendar year 2025, during which not less than 25 percent of the total amount of electricity sold by each provider to its retail customers in this State must be generated, acquired or saved from portfolio energy systems. (NRS 704.7821) Section 6 revises the portfolio standard for calendar year 2014 and each calendar year thereafter so that for calendar year 2025 and each calendar year thereafter, a provider must generate or acquire from portfolio energy systems not less than 25 percent of the total amount of electricity sold by the provider to its retail customers in this State.~~

~~Existing law requires the Public Utilities Commission of Nevada to adopt regulations establishing methods to classify the financial impact of certain renewable energy contracts. The regulations must allow a provider to propose the addition of certain costs to such contracts as a compensating component in the capital structure of the provider. (NRS 704.7821) Section 6 requires the Commission, in considering such proposals, to consider the effect of such proposals on the economy and the environment of the State.~~

Section 4 of this bill revises the definition of “portfolio energy system” ~~and~~ or efficiency measure to provide that a renewable energy system or energy efficiency measure qualifies as a portfolio energy system if: (1) the renewable energy system was placed into operation before July 1, 1997, and a provider used electricity generated or acquired from the system to satisfy the portfolio standard before July 1, ~~1997; or~~ 2009; (2) the renewable energy system was placed into operation on or after July 1, 1997, ~~and~~ or (3) the energy efficiency measure was installed on or before December 31, 2019.

Existing law provides that, for the purpose of satisfying the portfolio standard, a provider shall be deemed to have generated or acquired 2.4 kilowatt-hours of electricity from certain solar photovoltaic systems for each 1 kilowatt-hour actually generated or acquired. (NRS 704.7822) **Section 9** of this bill revises the applicability of this provision to systems that were placed into operation before July 1, ~~2013. Section 7 enacts a similar multiplier for electricity generated or acquired from certain solar energy systems by certain new providers of electric services that are subject to the portfolio standard.~~ 2014.

Existing law requires the **Public Utilities Commission of Nevada** to authorize a provider to carry forward into future years any excess kilowatt-hours of electricity the provider generates or acquires from portfolio energy systems if the provider exceeds the portfolio standard for any calendar year. (NRS 704.7828) **Section 11** ~~requires the Commission to authorize~~ of this bill authorizes a provider that carries forward excess kilowatt-hours of electricity in an amount that is more than 10 percent but less than 25 percent of the amount necessary to satisfy the provider’s portfolio standard for the subsequent calendar year to ~~carry forward not more than 10 percent of~~ sell the excess kilowatt-hours of electricity the provider generates or acquires from portfolio energy systems. **Section 11** requires a provider to make reasonable efforts to sell any credits which are in excess of 25 percent of the amount of portfolio energy credits necessary to comply with its portfolio standard for the subsequent calendar year.

Section 14 of this bill requires the Commission to open an investigatory docket to study, examine and review the process for the sale of portfolio energy credits and to submit a written report on the results of the investigatory docket and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the 78th Session of the Nevada Legislature.

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

Section 1. ~~NRS 701B.290 is hereby amended to read as follows:~~
~~701B.290 1. After a participant installs a solar energy system included in~~
~~the Solar Program, the Commission shall issue portfolio energy credits for use~~

1 within the system of portfolio energy credits adopted by the Commission pursuant
2 to NRS 704.7821 and 704.78213.

3 ~~2. The Commission shall designate the portfolio energy credits issued~~
4 ~~pursuant to this section as portfolio energy credits generated [.] or acquired [or~~
5 ~~saved] from solar renewable energy systems for the purposes of the portfolio~~
6 ~~standard.~~

7 ~~3. All portfolio energy credits issued for a solar energy system installed~~
8 ~~pursuant to the Solar Program must be assigned to and become the property of the~~
9 ~~utility administering the Program.] (Deleted by amendment.)~~

10 Sec. 2. ~~NRS 704.7801 is hereby amended to read as follows:~~

11 ~~704.7801 As used in NRS 704.7801 to 704.7828, inclusive, unless the context~~
12 ~~otherwise requires, the words and terms defined in NRS [704.7802] 704.7803 to~~
13 ~~704.7819, inclusive, have the meanings ascribed to them in those sections.]~~
14 ~~(Deleted by amendment.)~~

15 Sec. 3. ~~NRS 704.7803 is hereby amended to read as follows:~~

16 ~~704.7803 "Portfolio energy credit" means any credit which a provider has~~
17 ~~earned from a portfolio energy system [or efficiency measure] and which the~~
18 ~~provider is entitled to use to comply with its portfolio standard, as determined by~~
19 ~~the Commission.] (Deleted by amendment.)~~

20 Sec. 4. NRS 704.7804 is hereby amended to read as follows:

21 704.7804 "Portfolio energy system ~~for~~ or efficiency measure" means :

22 1. Any ~~for~~ renewable energy system ~~for~~ or

23 ~~2. Any energy efficiency measure.] :~~

24 ~~for~~ (a) Placed into operation before July 1, 1997, if a provider of electric
25 service used electricity generated or acquired from the renewable energy system
26 to satisfy its portfolio standard before July 1, ~~1997~~ 2009; or

27 ~~for~~ (b) Placed into operation on or after July 1, 1997 ~~for~~ ; or

28 2. Any energy efficiency measure installed on or before December 31, 2019.

29 Sec. 5. ~~NRS 704.7805 is hereby amended to read as follows:~~

30 ~~704.7805 "Portfolio standard" means the amount of electricity that a provider~~
31 ~~must generate [.] or acquire [or save] from portfolio energy systems, [or efficiency~~
32 ~~measures,] as established by the Commission pursuant to NRS 704.7821 and~~
33 ~~704.78213.] (Deleted by amendment.)~~

34 Sec. 6. NRS 704.7821 is hereby amended to read as follows:

35 704.7821 1. For each provider of electric service, the Commission shall
36 establish a portfolio standard. The portfolio standard must require each provider to
37 generate ~~for~~ or acquire or save electricity from portfolio energy systems or
38 efficiency measures in an amount that is:

39 (a) For calendar years 2005 and 2006, not less than 6 percent of the total
40 amount of electricity sold by the provider to its retail customers in this State during
41 that calendar year.

42 (b) For calendar years 2007 and 2008, not less than 9 percent of the total
43 amount of electricity sold by the provider to its retail customers in this State during
44 that calendar year.

45 (c) For calendar years 2009 and 2010, not less than 12 percent of the total
46 amount of electricity sold by the provider to its retail customers in this State during
47 that calendar year.

48 (d) For calendar years 2011 and 2012, not less than 15 percent of the total
49 amount of electricity sold by the provider to its retail customers in this State during
50 that calendar year.

51 (e) For calendar ~~years~~ years ~~from~~ 2013 ~~for~~ and 2014, not less than 18 percent of the
52 total amount of electricity sold by the provider to its retail customers in this State
53 during that calendar year.

(f) ~~For calendar year 2014, not less than 21 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.~~

~~(g)~~ For calendar years 2015 through 2019, inclusive, ~~and 2016,~~ not less than 20 ~~124~~ percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

~~(g)~~ ~~(h)~~ For calendar years 2020 through 2024, inclusive, ~~2017 and 2018,~~ not less than 22 ~~126~~ percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

~~(h)~~ ~~(i)~~ ~~For calendar years 2019 and 2020, not less than 30 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.~~

~~(i)~~ ~~For calendar years 2021 through 2024, inclusive, not less than 32 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.~~

~~(h)~~ For calendar year 2025 and for each calendar year thereafter, not less than 25 ~~135~~ 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, ~~not~~ acquire or save from portfolio energy systems or efficiency measures during each calendar year, not less than:

(1) For calendar years 2009 through 2015, inclusive, 5 percent of that amount must be generated or acquired from ~~portfolio energy systems which are~~ solar renewable energy systems.

(2) For calendar year 2016 and for each calendar year thereafter, 6 percent of that amount must be generated or acquired from ~~portfolio energy systems which are~~ 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~~:

(1) During calendar years 2013 and 2014, not more than 25 percent of that amount may be based on energy efficiency measures;

(2) During each calendar year ~~11~~ 2015 to 2019, inclusive, not more than ~~125~~ 20 percent of that amount may be based on energy efficiency measures ~~11~~;

(3) During each calendar year 2020 to 2024, inclusive, not more than 10 percent of that amount may be based on energy efficiency measures; and

(4) For calendar year 2025 and each calendar year thereafter, no portion 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 contract must be for the net amount of energy that is delivered to the provider; and~~

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

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

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

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

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

30 7. The Commission shall adopt regulations that establish:

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

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

43 8. Except as otherwise provided in NRS 704.78213, the provisions of this
44 section do not apply to a provider of new electric resources as defined in NRS
45 704B.130.

46 9. As used in this section:

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

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

(c) ~~for~~ “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. 7. ~~NRS 704.78213 is hereby amended to read as follows:~~

~~704.78213 1. If the Commission issues an order approving an application that is filed pursuant to NRS 704B.310 or a request that is filed pursuant to NRS 704B.225 regarding a provider of new electric resources and an eligible customer, the Commission must establish in the order a portfolio standard applicable to the electricity sold by the provider of new electric resources to the eligible customer in accordance with the order. The portfolio standard must require the provider of new electric resources to generate [.] or acquire [or save] electricity from portfolio energy systems [or efficiency measures] in the amounts described in the portfolio standard set forth in NRS 704.7821 which is effective on the date on which the order approving the application or request is approved.~~

~~2. [Of the total amount of electricity that a provider of new electric resources 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.~~

~~3.] If, for the benefit of one or more eligible customers, the eligible customer of a provider of new electric resources has paid for or directly reimbursed, in whole or in part, the costs of the acquisition or installation of a solar energy system which qualifies as a [renewable] portfolio energy system and which reduces the consumption of electricity [., the:]~~

~~(a) 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 of new electric resources generated or acquired from a [renewable] portfolio energy system for the purposes of complying with its portfolio standard [.]~~

~~4.] ; and~~

~~(b) For the purpose of complying with its portfolio standard, the new provider of electric service shall be deemed to have generated or acquired 2.4 kilowatt hours of electricity from the solar energy system for each 1.0 kilowatt hour of actual electricity generated or acquired if:~~

~~(1) The system is installed on the premises of a retail customer; and~~

~~(2) On an annual basis, at least 50 percent of the electricity generated by the system is utilized by the retail customer on that premises.~~

~~3. As used in this section:~~

~~(a) “Eligible customer” has the meaning ascribed to it in NRS 704B.080.~~

~~(b) “Provider of new electric resources” has the meaning ascribed to it in NRS 704B.130.] (Deleted by amendment.)~~

Sec. 8. NRS 704.78215 is hereby amended to read as follows:

704.78215 1. Except as otherwise provided in this section or by specific statute, a provider is entitled to one portfolio energy credit for each kilowatt-hour of electricity that the provider generates ~~or~~ for acquires or saves from a portfolio energy system or efficiency measure.

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

3. For portfolio energy systems placed into operation on or after July 1, 2015, the amount of electricity generated or acquired from a portfolio energy system does not include the amount of any electricity used by the portfolio energy system for its basic operations that reduce the amount of renewable energy delivered to the transmission grid for distribution and sale to customers of the provider.

1 **Sec. 9.** NRS 704.7822 is hereby amended to read as follows:

2 704.7822 For the purpose of complying with a portfolio standard established
3 pursuant to NRS 704.7821 or 704.78213, a provider shall be deemed to have
4 generated or acquired 2.4 kilowatt-hours of electricity from a renewable energy
5 system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a
6 solar photovoltaic system, if:

7 1. The system is installed on the premises of a retail customer; ~~and~~

8 2. *The system was placed into operation before July 1, 2014; and*

9 3. On an annual basis, at least 50 percent of the electricity generated by the
10 system is utilized by the retail customer on that premises.

11 **Sec. 10.** ~~NRS 704.7825 is hereby amended to read as follows:~~

12 ~~704.7825 1. Each provider of electric service shall submit to the~~
13 ~~Commission an annual report that provides information relating to the actions taken~~
14 ~~by the provider to comply with its portfolio standard.~~

15 ~~2. Each provider shall submit the annual report to the Commission after the~~
16 ~~end of each calendar year and within the time prescribed by the Commission. The~~
17 ~~report must be submitted in a format approved by the Commission.~~

18 ~~3. The Commission may adopt regulations that require providers to submit to~~
19 ~~the Commission additional reports during each calendar year.~~

20 ~~4. Each annual report and each additional report must include clear and~~
21 ~~concise information that sets forth:~~

22 ~~(a) The amount of electricity which the provider generated [.] or acquired [or~~
23 ~~saved] from portfolio energy systems [or efficiency measures] during the reporting~~
24 ~~period and, if applicable, the amount of portfolio energy credits that the provider~~
25 ~~acquired, sold or traded during the reporting period to comply with its portfolio~~
26 ~~standard;~~

27 ~~(b) The capacity of each renewable energy system owned, operated or~~
28 ~~controlled by the provider, the total amount of electricity generated by each such~~
29 ~~system during the reporting period and the percentage of that total amount which~~
30 ~~was generated directly from renewable energy;~~

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

34 ~~(d) [Whether, during the reporting period, the provider participated in the~~
35 ~~acquisition or installation of any energy efficiency measures and, if so, the date of~~
36 ~~any such event; and~~

37 ~~(e) Any other information that the Commission by regulation may deem~~
38 ~~relevant.~~

39 ~~5. [Based on the reports submitted by providers pursuant to this section, the~~
40 ~~Commission shall compile information that sets forth whether any provider has~~
41 ~~used energy efficiency measures to comply with its portfolio standard and, if so, the~~
42 ~~type of energy efficiency measures used and the amount of energy savings~~
43 ~~attributable to each such energy efficiency measure.] The Commission shall~~
44 ~~compile the information contained in the reports submitted by providers pursuant~~
45 ~~to this section and shall report such information to:~~

46 ~~(a) The Legislature, not later than the first day of each regular session; and~~

47 ~~(b) The Legislative Commission, if requested by the Chair of the Commission.]~~

48 **(Deleted by amendment.)**

49 **Sec. 11.** NRS 704.7828 is hereby amended to read as follows:

50 704.7828 1. The Commission shall adopt regulations to carry out and
51 enforce the provisions of NRS 704.7801 to 704.7828, inclusive. The regulations
52 adopted by the Commission may include any enforcement mechanisms which are
53 necessary and reasonable to ensure that each provider of electric service complies

1 with its portfolio standard. Such enforcement mechanisms may include, without
2 limitation, the imposition of administrative fines.

3 2. If a provider exceeds the portfolio standard for any calendar year ~~it~~ it:

4 (a) The Commission shall authorize the provider to carry forward to
5 subsequent calendar years for the purpose of complying with the portfolio standard
6 for those subsequent calendar years ~~any~~ ~~not more than 10 percent of the~~ excess
7 kilowatt-hours of electricity that the provider generates ~~it~~ ~~for~~ acquires ~~or~~ saves from
8 portfolio energy systems ~~or efficiency measures~~ it;

9 (b) By more than 10 percent but less than 25 percent of the amount of
10 portfolio energy credits necessary to comply with its portfolio standard for the
11 subsequent calendar year, the provider may sell any portfolio energy credits
12 which are in excess of 10 percent of the amount of portfolio energy credits
13 necessary to comply with its portfolio standard for the subsequent calendar year;
14 and

15 (c) By 25 percent or more of the amount of portfolio energy credits necessary
16 to comply with its portfolio standard for the subsequent calendar year, the
17 provider shall use reasonable efforts to sell any portfolio energy credits which are
18 in excess of 25 percent of the amount of portfolio energy credits necessary to
19 comply with its portfolio standard for the subsequent calendar year.

20 Any money received by a provider from the sale of portfolio energy credits
21 pursuant to paragraphs (b) and (c) must be credited against the provider's costs
22 for purchased fuel and purchased power pursuant to NRS 704.187 in the same
23 calendar year in which the money is received, less any verified administrative
24 costs incurred by the provider to make the sale, including any costs incurred to
25 qualify the portfolio energy credits for potential sale regardless of whether such
26 sales are made.

27 3. If a provider does not comply with its portfolio standard for any calendar
28 year and the Commission has not exempted the provider from the requirements of
29 its portfolio standard pursuant to NRS 704.7821 or 704.78213, the Commission:

30 (a) Shall require the provider to carry forward to subsequent calendar years the
31 amount of the deficiency in kilowatt-hours of electricity that the provider does not
32 generate ~~it~~ ~~for~~ acquire or save from portfolio energy systems or efficiency measures
33 during a calendar year in violation of its portfolio standard; and

34 (b) May impose an administrative fine against the provider or take other
35 administrative action against the provider, or do both.

36 4. ~~It~~ Except as otherwise provided in subsection 5, the Commission may
37 impose an administrative fine against a provider based upon:

38 (a) Each kilowatt-hour of electricity that the provider does not generate ~~it~~ ~~for~~
39 acquire or save from portfolio energy systems or efficiency measures during a
40 calendar year in violation of its portfolio standard; or

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

42 5. If a provider sells any portfolio energy credits pursuant to paragraph (b)
43 or (c) of subsection 2 in any calendar year in which the Commission determines
44 that the provider did not comply with its portfolio standard, the Commission shall
45 not make any adjustment to the provider's expenses or revenues and shall not
46 impose on the provider any administrative fine authorized by this section for that
47 calendar year if:

48 (a) In the calendar year immediately preceding the calendar year in which
49 the portfolio energy credits were sold, the amount of portfolio energy credits held
50 by the provider and attributable to electricity generated, acquired or saved from
51 portfolio energy systems or efficiency measures by the provider exceeded the
52 amount of portfolio energy credits necessary to comply with the provider's
53 portfolio standard by more than 10 percent;

(b) The price received for any portfolio energy credits sold by the provider was not lower than the most recent value of portfolio energy credits, net of any energy value if the price was for bundled energy and credits, as determined by reference to the last long-term renewable purchased power agreements approved by the Commission in the most recent proceeding that included such agreements; and

(c) The provider would have complied with the portfolio standard in the relevant year even after the sale of portfolio energy credits based on the load forecast of the provider at the time of the sale.

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

~~6. 7.~~ If the Commission imposes an administrative fine against a utility provider:

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

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

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

~~7. 8.~~ All administrative fines imposed and collected pursuant to this section must be deposited in the State General Fund.

~~Sec. 12. [NRS 704.7802 is hereby repealed.] (Deleted by amendment.)~~

~~Sec. 13. [Section 1 of this act expires by limitation on December 31, 2021.] (Deleted by amendment.)~~

Sec. 14. 1. As soon as practicable after October 1, 2013, the Public Utilities Commission of Nevada shall open an investigatory docket to study, examine and review the process for the sale of portfolio energy credits, as defined in NRS 704.7803, to determine whether the process can be improved to:

(a) Better enable providers of electric service, as defined in NRS 704.7808, to engage in the sale of portfolio energy credits; and

(b) Provide the greatest economic benefit to customers of providers of electric service in this State.

2. The following parties may participate in the investigatory docket:

(a) Each provider of electric service operating in this State;

(b) The Regulatory Operations Staff of the Commission;

(c) The Consumer's Advocate and the Bureau of Consumer Protection in the Office of the Attorney General; and

(d) Any other interested parties.

3. The Commission shall, on or before January 31, 2015, submit a written report on the results of the investigatory docket and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the 78th Session of the Nevada Legislature.

~~†~~

~~TEXT OF REPEALED SECTION~~

~~704.7802 "Energy efficiency measure" defined.~~

~~1. "Energy efficiency measure" means any measure designed, intended or used to improve energy efficiency.~~

~~— (a) If:~~

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

~~— (2) The measure reduces the consumption of energy by one or more retail customers; and~~

~~— (3) The costs of the acquisition, installation or implementation of the measure are directly reimbursed, in whole or in part, by the provider of electric service, or by a customer of a provider of new electric resources pursuant to chapter 704B of NRS; or~~

~~— (b) Which is a geothermal energy system for the provision of heated water to one or more customers and which reduces the consumption of electricity or any fossil fuel, regardless of when constructed.~~

~~2. The term does not include any demand response measure or load limiting measure that shifts the consumption of energy by a retail customer from one period to another period.]~~