SENATE BILL NO. 123–SENATOR ATKINSON

FEBRUARY 18, 2013

JOINT SPONSOR: ASSEMBLYMAN BOBZIEN

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to energy. (BDR 58-106)

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

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

AN ACT relating to energy; revising provisions governing certain energy-related tax incentives; revising provisions relating to the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program; revising provisions governing the payment of incentives to participants in the Solar Program and the Wind Program; requiring the Public Utilities Commission of Nevada to adopt certain regulations; revising certain provisions relating to the portfolio standard for renewable energy; revising certain provisions relating to applications for the permitting of utility facilities; requiring the Commission to open an investigatory docket to study, examine and review the feasibility and advisability of establishing a feed-in tariff program for renewable energy systems in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program. (NRS 701B.010-701B.290, 701B.400-701B.650, 701B.700-701B.880) **Section 4** of this bill establishes the statewide capacity goals for all energy systems which receive incentives pursuant to these programs and

authorizes a utility to file with the Public Utilities Commission of Nevada the annual plan required for each of these programs as a single plan.

Section 8 of this bill revises provisions governing the incentives for participation in the Solar Program, requires the Commission to review the incentives and authorizes the Commission to adjust the incentives not more frequently than annually. **Section 8** also provides that the total amount of the incentive paid to a participant in the Solar Program with a solar energy system with a nameplate capacity of not more than 30 kilowatts must be paid upon proof that the participant has installed and energized the solar energy system, while the amount of the incentive paid to a participant with a solar energy system with a nameplate capacity of more than 30 kilowatts and not more than 500 kilowatts must be paid over time and be based on the performance of the solar energy system and the amount of electricity generated by the solar energy system. **Section 11** of this bill requires a participant in the Solar Program to participate in net metering.

Section 14 of this bill requires the Commission to adopt regulations relating to the Wind Program and to establish a system of incentives for participation in the Wind Program. **Section 14** further provides that the total amount of the incentive paid to a participant in the Wind Program with a nameplate capacity of not more than 500 kilowatts must be paid over time and be based on the performance and amount of electricity generated by the wind energy system. **Section 16** of this bill requires a participant in the Wind Program to participate in net metering.

Section 17 of this bill requires the Commission to provide a system of incentives for waterpower energy systems with a nameplate capacity of not more than 500 kilowatts. **Section 20** of this bill requires a participant in the Waterpower Program to participate in net metering.

Existing law provides that a provider of electric service shall be deemed to have generated or acquired 2.4 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a solar photovoltaic system installed on the premises of retail customers. (NRS 704.7822) **Section 23** of this bill provides the same calculation for solar photovoltaic systems installed on the premises of the provider if certain conditions are met.

Section 21 of this bill provides that certain information relating to a contract, lease or agreement between a utility and another person for the purchase of power shall be deemed to be proprietary and to constitute a trade secret and prohibits the disclosure of such information except under certain circumstances.

Existing law requires a person who wishes to obtain a permit for a utility facility to file certain applications with the Commission if a federal agency is required to conduct an environmental analysis of the proposed utility facility. (NRS 704.870) **Section 24** of this bill requires such a person to file a notice with the Commission not later than the date on which the person files an application with the appropriate federal agency for approval of the construction of the utility facility.

Sections 1-3 of this bill revise provisions governing certain energy-related tax incentives to remove the authority of a board of county commissioners to deny certain applications for partial abatements of taxes for facilities that generate electricity from geothermal energy.

Section 28 of this bill requires the Commission to open an investigatory docket to study the feasibility and advisability of establishing a feed-in tariff program for renewable energy systems and to submit a report of its findings from the investigatory docket 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 701A.340 is hereby amended to read as follows:

701A.340 1. "Renewable energy" means:

(a) Biomass;

(b) Fuel cells;

(c) ***Geothermal energy;***

(d) Solar energy;

~~[(d)]~~ ***(e)*** Waterpower; or

~~[(e)]~~ ***(f)*** Wind.

2. The term does not include coal, natural gas, oil, propane or any other fossil fuel ~~[, geothermal energy]~~ or nuclear energy.

Sec. 2. NRS 701A.360 is hereby amended to read as follows:

701A.360 1. A person who intends to locate a facility for the generation of process heat from solar renewable energy, a wholesale facility for the generation of electricity from renewable energy ~~[, a facility for the generation of electricity from geothermal resources]~~ or a facility for the transmission of electricity produced from renewable energy ~~[or geothermal resources]~~ in this State may apply to the Director for a partial abatement of the local sales and use taxes, the taxes imposed pursuant to chapter 361 of NRS, or both local sales and use taxes and taxes imposed pursuant to chapter 361 of NRS.

2. A facility that is owned, operated, leased or otherwise controlled by a governmental entity is not eligible for an abatement pursuant to NRS 701A.300 to 701A.390, inclusive.

3. As soon as practicable after the Director receives an application for a partial abatement, the Director shall forward a copy of the application to:

(a) The Chief of the Budget Division of the Department of Administration;

(b) The Department of Taxation;

(c) The board of county commissioners;

(d) The county assessor;

(e) The county treasurer; and

(f) The Office of Economic Development.

4. With the copy of the application forwarded to the county treasurer, the Director shall include a notice that the local jurisdiction may request a presentation regarding the facility. A request for a presentation must be made within 30 days after receipt of the application.

5. The Director shall hold a public hearing on the application. The hearing must not be held earlier than 30 days after all persons listed in subsection 3 have received a copy of the application.

Sec. 3. NRS 701A.365 is hereby amended to read as follows:

701A.365 1. ~~[Except as otherwise provided in subsection 2, the]~~ ***The*** Director, in consultation with the Office of Economic Development, shall approve an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, if the Director, in consultation with the Office of Economic Development, makes the following determinations:

(a) The applicant has executed an agreement with the Director which must:

(1) State that the facility will, after the date on which a certificate of eligibility for the abatement is issued pursuant to NRS 701A.370, continue in operation in this State for a period specified by the Director, which must be at least 10 years, and will continue to meet the eligibility requirements for the abatement; and

(2) Bind the successors in interest in the facility for the specified period.

(b) The facility 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 facility operates.

(c) No funding is or will be provided by any governmental entity in this State for the acquisition, design or construction of the facility or for the acquisition of any land therefor, except any private activity bonds as defined in 26 U.S.C. § 141.

(d) If the facility will be located in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the facility meets the following requirements:

(1) There will be 75 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Director for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least $10,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and

administrative employees, 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 employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Director by regulation pursuant to NRS 701A.390.

(e) If the facility will be located in a county whose population is less than 100,000 or a city whose population is less than 60,000, the facility meets the following requirements:

(1) There will be 50 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Director for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least $3,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, 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 employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Director by regulation pursuant to NRS 701A.390.

(f) The financial benefits that will result to this State from the employment by the facility of the residents of this State and from capital investments by the facility in this State will exceed the loss of tax revenue that will result from the abatement.

(g) The facility is consistent with the State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of NRS 231.053.

2. ~~[The Director shall not approve an application for a partial abatement of the taxes imposed pursuant to chapter 361 of NRS submitted pursuant to NRS 701A.360 by a facility for the generation of electricity from geothermal resources unless the application is approved pursuant to this subsection. The board of county commissioners of a county must approve or deny the application not later than 30 days after the board receives a copy of the application. The board of county commissioners must not condition the approval of the application on a requirement that the facility for the generation of electricity from geothermal resources agree to purchase, lease or otherwise acquire in its own name or on behalf of the county any infrastructure, equipment, facilities or other property in the county that is not directly related to or otherwise necessary for the construction and operation of the facility. If the board of county commissioners does not approve or deny the application within 30 days after the board receives the application, the application shall be deemed denied.~~

~~3.]~~ Notwithstanding the provisions of subsection 1, the Director, in consultation with the Office of Economic Development, may, if the Director, in consultation with the Office, determines that such action is necessary:

(a) Approve an application for a partial abatement for a facility that does not meet the requirements set forth in paragraph (d) or (e) of subsection 1; or

(b) Add additional requirements that a facility must meet to qualify for a partial abatement.

~~[4.]~~ ***3.*** The Director shall cooperate with the Office of Economic Development in carrying out the provisions of this section.

~~[5.]~~ ***4.*** The Director shall submit to the Office of Economic Development an annual report, at such a time and containing such information as the Office may require, regarding the partial abatements granted pursuant to this section.

Sec. 4. Chapter 701B of NRS is hereby amended by adding thereto a new section to read as follows:

1. For the purposes of carrying out the Solar Energy Systems Incentive Program created by NRS 701B.240, the Wind Energy Systems Demonstration Program created by NRS 701B.580 and the Waterpower Energy Systems Demonstration Program created by NRS 701B.820, the Public Utilities Commission of Nevada may approve solar energy systems, wind energy systems and waterpower energy systems totaling not more than 150 megawatts

of capacity for all systems in this State for the period beginning on July 1, 2009, and ending on December 31, 2021. The Commission shall by regulation prescribe the capacity goals for each program.

2. The Commission shall not authorize the payment of an incentive pursuant to:

(a) The Solar Energy Systems Incentive Program if the payment of the incentive would cause the total amount of incentives paid by all utilities in this State for the installation of solar energy systems and distributed generation systems to exceed $255,000,000 for the period beginning on July 1, 2009, and ending on December 31, 2021.

(b) The Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program if the payment of the incentive would cause the total amount of incentives paid by all utilities in this State for the installation of wind energy systems and waterpower energy systems to exceed $60,000,000 for the period beginning on July 1, 2009, and ending on December 31, 2021. The Commission shall by regulation determine the total amount of incentives for each program.

3. A utility may file with the Commission one combined annual plan which meets the requirements set forth in NRS 701B.230, 701B.610 and 701B.850. The Commission shall review and approve any plan submitted pursuant to this subsection in accordance with the requirements of NRS 701B.230, 701B.610 and 701B.850.

4. As used in this section:

(a) "Distributed generation system" has the meaning ascribed to it in NRS 701B.055.

(b) "Utility" means a public utility that supplies electricity in this State.

Sec. 5. NRS 701B.040 is hereby amended to read as follows:

701B.040 "Category" means one of the categories of participation in the Solar Program as set forth in ~~[NRS 701B.240.]~~ ***regulations adopted by the Commission.***

Sec. 6. NRS 701B.200 is hereby amended to read as follows:

701B.200 The Commission shall adopt regulations necessary to carry out the provisions of NRS 701B.010 to 701B.290, inclusive, including, without limitation, regulations that:

1. Establish the type of incentives available to participants in the Solar Program and the level or amount of those incentives, ~~[except that the level or amount of an incentive available in a particular program year must not be based upon whether the incentive is for unused capacity reallocated from a past program year pursuant to paragraph (b) of subsection 2 of NRS 701B.260. The regulations must provide that the level or amount of the~~

~~incentives must decline over time as the cost of solar energy systems and distributed generation systems decline.]~~ ***and prescribe the period, which may be the same period covered by a utility's annual plan for carrying out and administering the Solar Program, for a utility to account for those incentives.***

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

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

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

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Solar 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 Solar Program;

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

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

(f) Any other information required by the Commission.

3. Authorize a utility to recover the reasonable costs incurred in carrying out and administering the installation of distributed generation systems ***.*** ~~[pursuant to paragraph (b) of subsection 1 of NRS 701B.260.]~~

Sec. 7. NRS 701B.210 is hereby amended to read as follows:

701B.210 The Commission shall adopt regulations that establish:

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

~~(a) School property;~~

~~(b) Public and other property; and~~

~~(c) Private residential property and small business property; and]~~ ***the Solar Program.***

2. The form and content of the master application.

3. The period for accepting applications, which must include a period during which a utility must accept additional applications if a previously approved applicant fails to install and energize a solar energy system within the time allowed by NRS 701B.255.

Sec. 8. NRS 701B.220 is hereby amended to read as follows:

701B.220 ***1.*** In adopting regulations for the Solar Program, the Commission shall adopt regulations establishing an incentive for participation in the Solar Program. ***The regulations must:***

(a) Provide that the total amount of the incentive paid to a participant for a solar energy system with a nameplate capacity of not more than 30 kilowatts must be paid upon proof that the participant has installed and energized the solar energy system;

(b) Provide that the amount of the incentive paid to a participant for a solar energy system with a nameplate capacity of more than 30 kilowatts but not more than 500 kilowatts must be paid over time and be based on the performance of the solar energy system and the amount of electricity generated by the solar energy system;

(c) Provide for a contract to be entered into between a participant and a utility, which must include, without limitation, provisions specifying:

(1) The amount of the incentive the participant will receive from the utility; and

(2) For a participant with a solar energy system with a nameplate capacity of more than 30 kilowatts but not more than 500 kilowatts:

(I) The period in which the participant will receive an incentive from the utility, which must not exceed 5 years;

(II) That the payments of an incentive to the participant must be made quarterly; and

(III) That a utility must not be required to make an incentive payment after December 31, 2021;

(d) Establish reporting requirements for each utility that participates in the Solar Program, which must include, without limitation, periodic reports of the average cost of the systems, the cost to the utility of carrying out the Solar Program and the effect of the Solar Program on the rates paid by customers of the utility; and

(e) Provide for a decline over time in the amount of the incentives for participation in the Solar Program as the cost of installing solar energy systems decreases.

2. The Commission shall review the incentives for participation in the Solar Program and may adjust the amount of the incentives not more frequently than annually.

Sec. 9. NRS 701B.240 is hereby amended to read as follows:

701B.240 1. The Solar Energy Systems Incentive Program is hereby created.

2. The ~~[Solar Program must have three]~~ ***Commission shall establish*** categories ~~[as follows:~~

~~(a) School property;~~

~~(b) Public and other property; and~~

~~(c) Private residential property and small business property.]~~ ***for participation in the Solar Program, which must, at a minimum, distinguish between participants with a solar energy system with:***

(a) A nameplate capacity of not more than 30 kilowatts; and

(b) A nameplate capacity of more than 30 kilowatts but not more than 500 kilowatts.

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

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.210;

(b) Submit an application to a utility and be selected by the ~~[Commission]~~ ***utility*** for inclusion in the Solar Program pursuant to NRS 701B.250 and 701B.255; ***and***

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

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

Sec. 10. NRS 701B.255 is hereby amended to read as follows:

701B.255 1. After reviewing an application submitted pursuant to NRS 701B.250 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, a utility may select the applicant for participation in the Solar Program.

2. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

3. After the utility selects an applicant to participate in the Solar Program, the utility may approve the solar energy system proposed by the applicant. Upon the utility's approval of the solar energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the solar energy system is eligible; and

(b) The applicant may install and energize the solar energy system.

4. Upon the completion of the installation and energizing of the solar energy system, the participant must submit to the utility an incentive claim form and any supporting information, including,

without limitation, a verification of the cost of the project and a calculation of the expected system output.

5. Upon receipt of the incentive claim form and verification that the solar energy system is properly connected, the utility shall issue an incentive payment to the participant.

6. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Solar Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Solar Program or does not complete the installation of the solar energy system within 12 months after the date on which the applicant is selected for participation in the Solar Program. ~~[An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of the solar energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of the solar energy system.]~~

Sec. 11. NRS 701B.280 is hereby amended to read as follows:

701B.280 ~~[If]~~ ***To be eligible for an incentive through the Solar Program,*** a solar energy system ~~[used by a participant in the Solar Program meets]~~ ***must meet*** the requirements ~~[of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate]~~ ***for participation*** in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 12. NRS 701B.440 is hereby amended to read as follows:

701B.440 "Category" means one of the categories of participation in the Wind Demonstration Program ~~[as set forth in]~~ ***established by the Commission pursuant to subsection 2 of*** NRS 701B.580.

Sec. 13. NRS 701B.580 is hereby amended to read as follows:

701B.580 1. The Wind Energy Systems Demonstration Program is hereby created.

2. The ~~[Program must have four]~~ ***Commission shall establish*** categories ~~[as follows:~~

~~(a) School property;~~

~~(b) Other public property;~~

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

~~(d) Agricultural property.]~~ ***for participation in the Program.***

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

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.590; ***and***

(b) 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~~

~~(c) 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. 14. NRS 701B.590 is hereby amended to read as follows:

701B.590 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 capacity goals for the Program, which must be designed to meet the ~~[goal of]~~ ***goals established by*** the Legislature ~~[of the installation of not less than 5 megawatts of wind energy systems in this State by 2012 and the goals for each category of the Program.]~~ ***in section 4 of this act.***

2. A system of incentives that are based on rebates that decline as the ~~[capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings.~~

~~3.]~~ ***cost of installing wind energy systems declines. The system of incentives must provide:***

(a) Incentives for wind energy systems with a nameplate capacity of not more than 500 kilowatts;

(b) That the amount of the incentive for a participant must be paid over time and be based on the performance of the wind energy system and the amount of electricity generated by the wind energy system; and

(c) For a contract to be entered into between a participant and a utility, which must include, without limitation, provisions specifying:

(1) The amount of the incentive the participant will receive from the utility;

(2) That the payments of an incentive to the participant must be made quarterly;

(3) The period in which the participant will receive an incentive from the utility, which must not exceed 5 years; and

(4) That a utility is not required to make an incentive payment after December 31, 2021.

3. Reporting requirements for each utility that participates in the Program, which must include, without limitation, periodic reports of the average cost of the wind energy systems, the cost to

the utility of carrying out the Program and the effect of the Program on the rates paid by customers of the utility.

4. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

5. The period for accepting applications, which must include a period during which a utility must accept additional applications if a previously approved applicant fails to install and energize a wind energy system within the time allowed by NRS 701B.615.

Sec. 15. NRS 701B.615 is hereby amended to read as follows:

701B.615 1. An applicant who wishes to participate in the Wind Demonstration Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility may select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the wind energy system proposed by the applicant. Upon the utility's approval of the wind energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the wind energy system is eligible; and

(b) The applicant may install and energize the wind energy system.

5. Upon the completion of the installation and energizing of the wind energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

6. Upon receipt of the incentive claim form and verification that the wind energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Wind Demonstration Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the installation of the wind energy system within 12 months after the date on which the applicant is selected for participation in the Program. ~~[An applicant who forfeits eligibility for the incentive for which the applicant was originally~~

~~determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of the wind energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of the wind energy system.]~~

Sec. 16. NRS 701B.650 is hereby amended to read as follows:

701B.650 ~~[If]~~ ***To be eligible for an incentive through the Wind Demonstration Program,*** a wind energy system ~~[used by a participant in the Wind Demonstration Program meets]~~ ***must meet*** the requirements ~~[of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate]~~ ***for participation*** in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 17. NRS 701B.840 is hereby amended to read as follows:

701B.840 The Commission shall adopt regulations that establish:

1. The capacity goals for the Program, which must be designed to meet the ~~[goal]~~ ***goals*** of the Legislature ~~[of the installation of not less than 5 megawatts of waterpower energy systems in this State by 2016 and the goals for each category of the Program. The regulations]~~ ***set forth in section 4 of this act and which*** must provide that not less than 1 megawatt of capacity ~~[must]~~ be set aside for the installation of waterpower energy systems with a nameplate capacity of 100 kilowatts or less.

2. A system of incentives for waterpower energy systems with a nameplate capacity of not more than 500 kilowatts.

3. A system of incentives that are based on rebates that decline as the capacity goals for the Program ~~[and the goals for each category of the Program]~~ are met. The rebates must be based on predicted energy savings.

~~[3.]~~ ***4.*** The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

5. The period for accepting applications, which must include a period during which a utility must accept additional applications if a previously approved applicant fails to install and energize a waterpower energy system within the time allowed by NRS 701B.865.

Sec. 18. NRS 701B.850 is hereby amended to read as follows:

701B.850 1. ~~[On]~~ ***Each year on*** or before ~~[February 21, 2008, and on or before February 1 of each subsequent year,]~~ ***a date established by the Commission,*** each utility shall file with the Commission ~~[for approval an]~~ ***the utility's*** annual plan for ~~[the administration and delivery of]~~ ***carrying out and administering*** the Waterpower Demonstration Program ***in its service area*** for the ~~[program year beginning July 1, 2008, and each subsequent year~~

~~thereafter.]~~ ***immediately following 12-month period prescribed by the Commission.***

2. ~~[On or before July 1, 2008, and on or before each July 1 of each subsequent year, the]~~ ***The*** Commission shall ~~[review]~~ ***:***

(a) Review the annual plan for compliance with the requirements ~~[set forth]~~ ***established*** by regulation of the Commission ~~[.]~~ ***; 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.

Sec. 19. NRS 701B.865 is hereby amended to read as follows:

701B.865 1. An applicant who wishes to participate in the Waterpower Demonstration Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility may select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the waterpower energy system proposed by the applicant. Upon the utility's approval of the waterpower energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the waterpower energy system is eligible; and

(b) The applicant may construct the waterpower energy system.

5. Upon the completion of the construction of a waterpower energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

6. Upon receipt of the incentive claim form and verification that the waterpower energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Waterpower Demonstration Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the construction of the waterpower energy system within 12 months after the date on which the applicant is selected for participation in the Program. ~~[An applicant who forfeits eligibility for the incentive for which the applicant was~~

~~originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the construction of the waterpower energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the construction of the waterpower energy system.]~~

Sec. 20. NRS 701B.880 is hereby amended to read as follows:

701B.880 ~~[If]~~ ***To be eligible for an incentive through the Waterpower Demonstration Program,*** the waterpower energy system ~~[used by a participant in the Waterpower Demonstration Program meets]~~ ***must meet*** the requirements ~~[of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate]~~ ***for participation*** in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 21. NRS 703.190 is hereby amended to read as follows:

703.190 1. Except as otherwise provided in this section, all biennial reports, records, proceedings, papers and files of the Commission must be open at all reasonable times to the public.

2. The Commission shall, upon receipt of a request from a public utility, alternative seller, provider of discretionary natural gas service or provider of new electric resources, prohibit the disclosure of any applicable information in the possession of the Commission or an affected governmental entity concerning the public utility, alternative seller, provider of discretionary natural gas service or provider of new electric resources, if the Commission determines that the information would otherwise be entitled to protection as a trade secret or confidential commercial information pursuant to NRS 49.325 or 600A.070 or Rule 26(c)(7) of the Nevada Rules of Civil Procedure. Upon making such a determination, the Commission shall establish the period during which the information must not be disclosed and a procedure for protecting the information during and after that period.

3. Any information in the possession of the Commission or an affected governmental entity concerning a contract, lease or agreement between a public utility and another person for the purchase of power:

(a) Shall be deemed to be proprietary and to constitute a trade secret; and

(b) Must not be disclosed except pursuant to an agreement between the public utility and the other party to the contract, lease or agreement or as ordered by a court of competent jurisdiction.

Sec. 22. NRS 703.196 is hereby amended to read as follows:

703.196 1. ~~[Any]~~ ***Except as otherwise provided in subsection 3 of NRS 703.190, any*** books, accounts, records, minutes, papers and property of any public utility, alternative seller,

provider of discretionary natural gas service or provider of new electric resources that are subject to examination pursuant to NRS 703.190 or 703.195 and are made available to the Commission, any officer or employee of the Commission, an affected governmental entity, any officer or employee of an affected governmental entity, the Bureau of Consumer Protection in the Office of the Attorney General or any other person under the condition that the disclosure of such information to the public be withheld or otherwise limited, must not be disclosed to the public unless the Commission first determines that the disclosure is justified.

2. The Commission shall take such actions as are necessary to protect the confidentiality of such information, including, without limitation:

(a) Granting such protective orders as it deems necessary; and

(b) Holding closed hearings to receive or examine such information.

3. If the Commission closes a hearing to receive or examine such information, it shall:

(a) Restrict access to the records and transcripts of such hearings without the prior approval of the Commission or an order of a court of competent jurisdiction authorizing access to the records or transcripts; and

(b) Prohibit any participant at such a hearing from disclosing such information without the prior authorization of the Commission.

4. A representative of the Regulatory Operations Staff of the Commission and the Bureau of Consumer Protection:

(a) May attend any closed hearing held pursuant to this section; and

(b) Have access to any records or other information determined to be confidential pursuant to this section.

5. The Commission shall consider in an open meeting whether the information reviewed or examined in a closed hearing may be disclosed without revealing the confidential subject matter of the information. To the extent the Commission determines the information may be disclosed, the information must become a part of the records available to the public. Information which the Commission determines may not be disclosed must be kept under seal.

Sec. 23. NRS 704.7822 is hereby amended to read as follows:

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

1. The system is installed on the premises of a retail customer ~~[;]~~ ***or provider;*** and

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

Sec. 24. NRS 704.870 is hereby amended to read as follows:

704.870 1. Except as otherwise provided in subsection 2, a person who wishes to obtain a permit for a utility facility must file with the Commission an application, in such form as the Commission prescribes, containing:

(a) A description of the location and of the utility facility to be built thereon;

(b) A summary of any studies which have been made of the environmental impact of the facility; and

(c) A description of any reasonable alternate location or locations for the proposed facility, a description of the comparative merits or detriments of each location submitted, and a statement of the reasons why the primary proposed location is best suited for the facility.

➥ A copy or copies of the studies referred to in paragraph (b) must be filed with the Commission and be available for public inspection.

2. If a person wishes to obtain a permit for a utility facility and a federal agency is required to conduct an environmental analysis of the proposed utility facility, the person must:

(a) Not later than the date on which the person files with the appropriate federal agency an application for approval for the construction of the utility facility, file with the Commission and each other permitting entity ~~[an application,]~~ ***a notice*** in such a form as the Commission or other permitting entity prescribes ***;*** ~~[, containing:~~

~~(1) A general description of the proposed utility facility; and~~

~~(2) A summary of any studies which the applicant anticipates will be made of the environmental impact of the facility;]~~ and

(b) Not later than 30 days after the issuance by the appropriate federal agency of ~~[a]~~ ***the*** final environmental assessment or ***final*** environmental impact statement relating to the construction of the utility facility:

(1) File with the Commission an ~~[amended]~~ application that complies with the provisions of subsection 1; and

(2) File with each other permitting entity an ~~[amended]~~ application for a permit, license or other approval for the construction of the utility facility.

3. A copy of each application ~~[and amended application]~~ filed with the Commission must be filed with the Administrator of the

Division of Environmental Protection of the State Department of Conservation and Natural Resources.

4. Each application ~~[and amended application]~~ filed with the Commission must be accompanied by:

(a) Proof of service of a copy of the application ~~[or amended application]~~ on the clerk of each local government in the area in which any portion of the facility is to be located, both as primarily and as alternatively proposed; and

(b) Proof that public notice thereof was given to persons residing in the municipalities entitled to receive notice pursuant to paragraph (a) by the publication of a summary of the application ~~[or amended application]~~ in newspapers published and distributed in the area in which the utility facility is proposed to be located.

5. Not later than 5 business days after the Commission receives an application ~~[or amended application]~~ pursuant to this section, the Commission shall issue a notice concerning the ~~[application or amended]~~ application. Any person who wishes to become a party to a permit proceeding pursuant to NRS 704.885 must file with the Commission the appropriate document required by NRS 704.885 within the time frame set forth in the notice issued by the Commission pursuant to this subsection.

Sec. 25. NRS 704.8905 is hereby amended to read as follows:

704.8905 1. Except as otherwise required to comply with federal law:

(a) Not later than 150 days after a person has filed an application regarding a utility facility pursuant to subsection 1 of NRS 704.870:

(1) The Commission shall grant or deny approval of that application; and

(2) Each other permitting entity shall, if an application for a permit, license or other approval for the construction of the utility facility was filed with the other permitting entity on or before the date on which the applicant filed the application pursuant to subsection 1 of NRS 704.870, grant or deny the application filed with the other permitting entity.

(b) Not later than 120 days after a person has filed an ~~[amended]~~ application regarding a utility facility pursuant to subsection 2 of NRS 704.870:

(1) The Commission shall grant or deny approval of the ~~[amended]~~ application; and

(2) Each other permitting entity shall, if an application for a permit, license or other approval for the construction of the utility facility was filed with the other permitting entity on or before the date on which the applicant filed with the appropriate federal agency an application for approval for the construction of the utility facility,

grant or deny the ~~[amended]~~ application filed with the other permitting entity.

2. The Commission or other permitting entity shall make its determination upon the record and may grant or deny the application as filed, or grant the application upon such terms, conditions or modifications of the construction, operation or maintenance of the utility facility as the Commission or other permitting entity deems appropriate.

3. The Commission shall serve a copy of its order and any opinion issued with it upon each party to the proceeding before the Commission.

Sec. 26. NRS 701B.060, 701B.100, 701B.110, 701B.120, 701B.130, 701B.140 and 701B.260 are hereby repealed.

Sec. 27. The Public Utilities Commission of Nevada shall adopt regulations to carry out the amendatory provisions of this act on or before July 1, 2014. The regulations must:

1. Provide for the transition to the performance-based incentive required by NRS 701B.220, as amended by section 8 of this act, NRS 701B.590, as amended by section 14 of this act, and NRS 701B.840, as amended by section 17 of this act, for the applicable participants in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program.

2. Require that the capacity allocated for a participant in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program or the Waterpower Energy Systems Incentive Program who fails to install and energize the energy system within 12 months after the date on which the applicant is selected for participation in the respective program must be made available to applicants who apply for participation in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program or the Waterpower Energy Systems Demonstration Program on or after January 1, 2015.

Sec. 28. 1. As soon as practicable after the effective date of this section, the Public Utilities Commission of Nevada shall, to the extent money is available for this purpose, open an investigatory docket to study, examine and review the feasibility and advisability of establishing a feed-in tariff program for renewable energy in this State.

2. The investigatory docket must include, without limitation:

(a) An evaluation of existing feed-in tariff programs in other jurisdictions and whether such programs or components of such programs would be appropriate models for a feed-in tariff program in this State;

(b) An evaluation of different mechanisms for establishing prices for the purchase and sale of electricity pursuant to a feed-in tariff program;

(c) Consideration of issues relating to the integration of a feed-in tariff program with existing programs for renewable energy in this State, including, without limitation, the renewable energy programs established pursuant to chapter 701B of NRS;

(d) Consideration of the role of a feed-in tariff program in helping providers of electric service meet the portfolio standard established pursuant to NRS 704.7821; and

(e) Consideration of the short-term and long-term costs and savings associated with a feed-in tariff program for retail customers of providers of electric service in this State.

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

(a) Each provider of electric service;

(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 party.

4. On or before October 1, 2014, the Commission shall submit a written report of its findings and recommendations from the investigatory docket to the Director of the Legislative Counsel Bureau for transmittal to the 78th Session of the Nevada Legislature.

5. If the Commission's report contains any recommendations for the establishment of a feed-in tariff program for renewable energy systems in this State, the report must include, without limitation, recommendations regarding:

(a) The legislation that would be necessary to establish the feed-in tariff program; and

(b) The procedures and mechanisms that would be necessary to implement the feed-in tariff program.

6. As used in this section, "provider of electric service" has the meaning ascribed to it in NRS 704.7808.

Sec. 29. 1. This section and sections 1, 2, 3, 10, 15, 19, 21, 22, 24, 25, 27 and 28 of the act become effective upon passage and approval.

2. Sections 4 to 9**,** inclusive, 11 to 14, inclusive, 16, 17, 18, 20 and 23 of this act become effective upon passage and approval for the purpose of adopting regulations, and on January 1, 2015, for all other purposes.

3. Section 26 of this act becomes effective on January 1, 2015.

4. Sections 1, 2 and 3 of this act expire by limitation on June 30, 2049.

5. Sections 4 to 20, inclusive, of this act expire by limitation on December 31, 2021.

LEADLINES OF REPEALED SECTIONS

701B.060 "Institution of higher education" defined. [Effective through December 31, 2021.]

701B.100 "Program year" defined. [Effective through December 31, 2021.]

701B.110 "Public and other property" defined. [Effective through December 31, 2021.]

701B.120 "Public entity" defined. [Effective through December 31, 2021.]

701B.130 "School property" defined. [Effective through December 31, 2021.]

701B.140 "Small business" defined. [Effective through December 31, 2021.]

701B.260 Capacity allocated to each category; reallocation of capacity; limitations on incentives.

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