

Senate Bill No. 392—Senators Denis,
Spearman; and Woodhouse

CHAPTER.....

AN ACT relating to energy; revising provisions relating to payment of incentives to certain participants in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program; requiring the Public Utilities Commission of Nevada to adopt regulations establishing standards for the operation of community solar gardens; requiring a subscriber to a community solar garden to receive a credit on the subscriber's monthly utility bill for the subscriber's share of the electricity generated by the community solar garden; setting forth the contractual requirements for a subscription to a community solar garden; requiring a utility to purchase the unsubscribed electricity of a community solar garden; requiring the Commission to issue portfolio energy credits to a subscriber organization that installs a community solar garden; providing that such portfolio energy credits are the property of the subscriber organization; repealing provisions requiring an electric utility to create a Lower Income Solar Energy Pilot Program; 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. Existing law further establishes the amount of incentives that may be authorized for payment by the Public Utilities Commission of Nevada to each Program. (NRS 701B.005, 701B.010-701B.290, 701B.400-701B.650, 701B.700-701B.880) **Section 1** of this bill combines the amount of existing incentives available for payment to each Program into a single pool of money from which the Commission may authorize the payment of an incentive to a Program. **Section 1** further requires the Commission, for the period beginning on January 1, 2018, and ending on December 31, 2023, to authorize the payment of incentives in an amount of not more than \$1,000,000 per year for the installation of solar energy systems, community solar gardens and distributed generation systems at locations throughout the service territories of electric utilities in this State which benefit low-income and moderate-income customers. **Section 2** of this bill authorizes that such incentives be made available to a participant for the installed cost of a community solar garden.

Sections 4-15 of this bill enact provisions governing community solar gardens in this State. **Section 5** defines a community solar garden as a solar energy system that: (1) has a nameplate capacity of not more than 12 megawatts; (2) is owned or operated by a subscriber organization; and (3) generates electricity for subscribers of the community solar garden. **Section 11** requires the Commission to adopt regulations establishing standards for the operation of community solar gardens in this State. The regulations adopted pursuant to **section 11** must: (1) establish goals



for the generation of electricity by community solar gardens in this State; (2) establish eligibility requirements for subscriber organizations, including, without limitation, a requirement that a subscriber organization have at least 20 subscribers; (3) authorize any customer in any rate class to become a subscriber of a community solar garden; and (4) establish standards, charges, fees and processes for the interconnection of a community solar garden. **Sections 12 and 12.2** entitle a subscriber who participates in a community solar garden to a credit on the subscriber's monthly utility bill for the subscriber's share of the electricity generated by the community solar garden. If Assembly Bill No. 405 of this session is enacted and becomes effective, **sections 12 and 17** of this bill provide for a utility to apply a monetary credit on a subscriber's monthly utility bill that is less than the value of a full kilowatt-hour credit. The reduced credit will match the reduced credit which would be received by a customer-generator who receives a reduced credit for a kilowatt-hour pursuant to NRS 704.766 to 704.775, inclusive. If Assembly Bill No. 405 of this session is not enacted or does not become effective, **sections 12.2 and 17** of this bill require the utility to apply a full monetary credit on a subscriber's monthly utility bill. **Sections 12.4-12.8** of this bill set forth the requirements for the cover page, provisions and summary disclosure statement for a subscription to a community solar garden.

Section 13 requires a utility to purchase the unsubscribed electricity of a community solar garden located in the utility's service territory. **Section 14** requires the Commission to issue portfolio energy credits for community solar gardens and provides that: (1) such credits must be the property of the subscriber organization that owns or operates the community solar garden; and (2) the subscriber organization is authorized to assign such credits to the utility. **Section 15** exempts community solar gardens, subscriber organizations and subscribers from regulation as public utilities unless a community solar garden, subscriber organization or subscriber otherwise constitutes a public utility.

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

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

Section 1. NRS 701B.005 is hereby amended to read as follows:

701B.005 1. For the purposes of carrying out the Solar Energy Systems Incentive Program created by NRS 701B.240, and subject to the limitations prescribed by ~~subsection 2.~~ **subsections 2 and 3**, the Public Utilities Commission of Nevada shall set incentive levels and schedules, with a goal of approving solar energy systems totaling at least 250,000 kilowatts of capacity in this State for the period beginning on July 1, 2010, and ending on December 31, 2021.

2. ~~The~~ **Subject to the limitations prescribed by subsection 3, the** Commission shall not authorize the payment of an incentive pursuant to ~~§~~



~~(a) The~~ *the Solar Energy Systems Incentive Program created by NRS 701B.240, the Wind Energy Systems Demonstration Program created by NRS 701B.580 or the Waterpower Energy Systems Demonstration Program created by NRS 701B.820* 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, *community solar gardens* and solar distributed generation systems to exceed ~~[\$255,270,000]~~ *\$295,270,000* for the period beginning on July 1, 2010, and ending on December 31, 2025.

~~(b) The Wind Energy Systems Demonstration Program created by NRS 701B.580 and the Waterpower Energy Systems Demonstration Program created by NRS 701B.820 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 \$40,000,000 for the period beginning on July 1, 2009, and ending on December 31, 2025. The Commission shall by regulation determine the allocation of incentives for each Program.~~

3. *For the period beginning on January 1, 2018, and ending on December 31, 2023, the Commission shall, from the money authorized for the payment of incentives pursuant to subsection 2, authorize the payment of incentives in an amount of not more than \$1,000,000 per year for the installation of solar energy systems, community solar gardens and distributed generation systems at locations throughout the service territories of the utilities in this State which benefit low- and moderate-income customers, including, without limitation, homeless shelters, low-income housing developments, Indian reservations, Indian colonies and public entities, other than municipalities, that serve significant populations of low-income and moderate-income residents.*

4. The Commission may, subject to the limitations prescribed by ~~subsection 2,~~ *subsections 2 and 3*, authorize the payment of performance-based incentives for the period ending on December 31, 2025.

~~4.~~ 5. 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, as applicable.

~~5.~~ 6. As used in this section:



(a) *“Community solar garden” has the meaning ascribed to it in section 5 of this act.*

(b) “Distributed generation system” has the meaning ascribed to it in NRS 701B.055.

~~(b)~~ (c) “Utility” means a public utility that supplies electricity in this State.

Sec. 2. 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. The incentives must be market-based incentives that:

(a) Do not exceed 50 percent of the installed cost of a solar energy system , *community solar garden* or distributed generation system, as determined by using the average installed cost of the solar energy systems , *community solar gardens* or distributed generation systems, as applicable, installed in the immediately preceding year;

(b) Are designed to maximize the number of customer categories participating in the Solar Program based on demographics and location, including, without limitation, categories for public entities, customers of lower socioeconomic status, nonprofit organizations and commercial, industrial and residential customers; and

(c) Provide for a sustainable Solar Program that maintains sufficient customer participation and that provides for the measured award of incentives to as many participants as possible on or before December 31, 2021.

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;

(f) Any other information that the Commission requires from the utility as part of the administration of the Solar Program; and

(g) 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.

Sec. 3. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 15, inclusive, of this act.

Sec. 4. *As used in sections 4 to 15, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 5 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 5. *“Community solar garden” means a facility or energy system that uses a solar photovoltaic device to generate electricity which:*

1. Has a nameplate capacity of not more than 12 megawatts; and

2. Is owned or operated by a subscriber organization.

Sec. 6. *“Subscriber” means a customer of a utility who subscribes to a community solar garden that is located in the service territory of the utility.*

Sec. 7. *“Subscriber organization” means an entity that owns or operates a community solar garden, which may include, without limitation, a public utility.*

Sec. 8. *“Subscription” means a contract between a subscriber organization and a subscriber setting forth the subscriber’s proportional interest in a community solar garden.*

Sec. 9. *“Unsubscribed electricity” means electricity, measured in kilowatt-hours, generated by a community solar garden that is not allocated to a subscriber.*

Sec. 10. *“Utility” means a public utility that supplies electricity in this State.*

Sec. 11. *1. The Commission shall adopt regulations establishing standards for the operation of community solar gardens. The regulations must:*

(a) Establish goals for the procurement of electricity from community solar gardens in this State, including, without limitation:

(1) A goal that, by 2023, community solar gardens in this State generate at least 200 megawatts of electric energy.



(2) A goal for the number of megawatts of electric energy in this State to be generated by community solar gardens in each year after 2023.

(b) Establish requirements for community solar gardens and subscriber organizations, which must:

(1) Require a community solar garden to have at least 20 subscribers;

(2) Prohibit a subscriber organization from allowing a subscriber to have a subscription that exceeds 40 percent of a proportional interest in a community solar garden owned or operated by the subscriber organization;

(3) Require a subscriber organization to make at least 40 percent of the total generating capacity of the community solar garden available in subscriptions to the community solar garden that are 25 kilowatts or less;

(4) Prohibit the location of one or more community solar gardens with a combined total nameplate capacity of more than 12 megawatts on a single parcel of land; and

(5) Require each community solar garden to be separately metered and interconnected, unless a utility grants a waiver to authorize joint metering or interconnection.

(c) Authorize a subscriber organization to enter into leases, sale-and-leaseback transactions, operating agreements and ownership arrangements with third parties.

(d) Require at least 10 percent of the total generating capacity of community solar gardens in this State be available for use by low-income residential customers of a utility or by persons providing services which benefit low-income customers, including, without limitation, homeless shelters, low-income housing developments, Indian reservations, Indian colonies and schools with a significant population of low-income pupils.

(e) Authorize any customer of a utility in any rate class of a utility to be a subscriber.

(f) Prohibit a utility from placing a subscriber into a different rate class because the subscriber has subscribed to a community solar garden.

(g) Provide for the transferability of subscriptions.

(h) Establish standards, charges, fees and processes for the interconnection of a community solar garden that allow the utility to recover reasonable interconnection costs for each community solar garden.

2. The regulations adopted by the Commission pursuant to subsection 1 must not impose different requirements for a



community solar garden that is not owned or operated by a utility than the requirements imposed for a community solar garden owned or operated by a utility.

3. On or before September 1 of each year, each subscriber organization shall submit a report to the Commission demonstrating its compliance with the regulations adopted pursuant to subparagraph (2) of paragraph (b) of subsection 1.

Sec. 12. *1. For a period of 25 years after a community solar garden owned or operated by a subscriber organization begins generating electricity, a subscriber is entitled to a kilowatt-hour credit on the subscriber's monthly utility bill for the proportional output of the community solar garden attributable to that subscriber for the preceding month. Except as otherwise required by the Commission, a utility may apply the credit to the subscriber's monthly utility bill as a reduction in metered use or a monetary credit to the total amount due for the bill. Any excess credit must be carried over to subsequent billing periods. Except as otherwise provided in subsection 2, any monetary credit applied on a subscriber's monthly utility bill pursuant to this subsection shall be not less than the value of the credit had it been applied as a kilowatt-hour credit on the subscriber's monthly utility bill.*

2. A utility shall apply a monetary credit on a subscriber's monthly utility bill that is less than the value of the credit had it been applied as a kilowatt-hour credit on the subscriber's monthly utility bill if a provision of NRS 704.766 to 704.775, inclusive, expressly requires a customer-generator to receive a reduced credit for each kilowatt-hour of excess electricity fed back to the utility by the customer-generator. The amount of the monetary credit on a subscriber's monthly utility bill must equal the amount of the reduced credit applicable to a customer-generator at the time that the community solar garden was allocated capacity pursuant to section 4 to 15, inclusive, of this act.

3. A subscriber organization shall, on a monthly basis and at other reasonable times determined by the utility in the service territory in which the community solar garden owned or operated by the subscriber organization is located, provide to the utility information necessary to determine the proportional share of each subscription.

4. As used in this section, "customer-generator" has the meaning ascribed to it in NRS 704.768.

Sec. 12.2. *1. For a period of 25 years after a community solar garden owned or operated by a subscriber organization begins generating electricity, a subscriber is entitled to a kilowatt-*



hour credit on the subscriber's monthly utility bill for the proportional output of the community solar garden attributable to that subscriber for the preceding month. Except as otherwise required by the Commission, a utility may apply the credit to the subscriber's monthly utility bill as a reduction in metered use or a monetary credit to the total amount due for the bill. Any excess credit must be carried over to subsequent billing periods. Any monetary credit applied on a subscriber's monthly utility bill pursuant to this subsection shall be not less than the value of the credit had it been applied as a kilowatt-hour credit on the subscriber's monthly utility bill.

2. A subscriber organization shall, on a monthly basis and at other reasonable times determined by the utility in the service territory in which the community solar garden owned or operated by the subscriber organization is located, provide to the utility information necessary to determine the proportional share of each subscription.

Sec. 12.3. *A subscription to a community solar garden must be in writing and comply with the requirements of sections 12.4, 12.6 and 12.8 of this act.*

Sec. 12.4. *A subscription to a community solar garden must include a cover page that provides the following information in writing in at least 10-point font:*

- 1. The amount due at the signing of the subscription.*
- 2. An estimated timeline for the month in which the subscriber will begin receiving kilowatt-hour credits on the subscriber's monthly utility bill.*
- 3. The estimated amount of any monthly payments due under the subscription for the first year of operation of the community solar garden and any known increases in monthly payments for the term of the subscription.*
- 4. The length of the term of the subscription.*
- 5. A description of any guarantees relating to the performance of the community solar garden.*
- 6. The rate of any payment increases.*
- 7. The estimated production of the community solar garden attributable to the subscription in the first year of operation.*
- 8. A description of the terms for renewal or any other options available at the end of the term of the subscription.*

Sec. 12.6. *A subscription to a community solar garden must include, without limitation, the following information in writing in at least 10-point font:*



1. *The name, mailing address and telephone number of the subscriber organization.*
2. *An estimated timeline for the month in which the subscriber will begin receiving kilowatt-hour credits on the subscriber's monthly utility bill.*
3. *The length of the term of the subscription.*
4. *A general description of the community solar garden to which the subscription is applied.*
5. *The amounts, if any, of the:*
 - (a) *Monthly payments due under the subscription; and*
 - (b) *Total payments due under the subscription, excluding taxes.*
6. *A description of any other one-time or recurring charges, including, without limitation, a description of the circumstances that trigger any late fees.*
7. *A description of any obligation the subscriber organization has regarding the installation, repair or removal of the community solar garden.*
8. *A description of any guarantees relating to the performance of the community solar garden.*
9. *A description of any:*
 - (a) *Taxes due at the commencement of the subscription; and*
 - (b) *Estimation of taxes known to be applicable during the term of the subscription, subject to any change in the state or local tax rate or tax structure.*
10. *A disclosure notifying the subscriber of the transferability of the obligations under the subscription to a subsequent subscriber.*
11. *The identification of any state or federal tax incentives that are included in calculating the amount of the monthly payments due under the lease.*
12. *A description of the ownership of any tax credits, tax rebates, tax incentives or portfolio energy credits in connection with the community solar garden.*
13. *Any terms for renewal of the subscription.*
14. *A description of all options available to the subscriber in the event of a change of the subscriber's location or residence:*
 - (a) *Within the same service territory; or*
 - (b) *To another service territory.*
15. *An estimate of the amount of electricity that could be generated by the community solar garden attributable to the subscription in the first year of operation.*



16. *The granting to the subscriber of the right to rescind the subscription for a period ending not less than 3 business days after the subscription is signed.*

17. *A signature block that is signed and dated by the subscriber and the subscriber organization.*

Sec. 12.8. 1. *The subscription to a community solar garden must include a written disclosure that is not more than three pages in length and is in at least 10-point font.*

2. *The disclosure described in subsection 1 must be separate from the cover page and subscription described in sections 12.4 and 12.6 of this act.*

3. *The disclosure described in subsection 1 must include, without limitation:*

(a) *The name, mailing address, telephone number and electronic mail address of the subscriber organization;*

(b) *The length of the term of the subscription;*

(c) *The amount due at the signing of the subscription;*

(d) *The estimated amount of the monthly payments due under the subscription;*

(e) *The estimated amount of the total payments due under the subscription;*

(f) *A description of any one-time or recurring fees, including, without limitation, a description of the circumstances that trigger:*

(1) *Any late fees; and*

(2) *Any cancellation fees;*

(g) *The total number of payments to be made under the subscription;*

(h) *The due date of any payment and the manner in which the subscriber will receive an invoice for such payments;*

(i) *The rate of any payment increases and the date on which the first increase in the rate may occur, if applicable;*

(j) *Assumptions concerning the design of the community solar garden, including, without limitation:*

(1) *The size of the community solar garden;*

(2) *The estimated amount of production for the community solar garden in the first year of operation;*

(3) *The estimated annual degradation to the community solar garden; and*

(4) *As specified by the subscription at the time of installation of the community solar garden, whether or not an electric utility must credit a subscriber for any excess energy that is generated by the community solar garden attributable to the subscription;*



(k) A disclosure notifying the subscriber if maintenance and repairs of the community solar garden are included in the subscription;

(l) A disclosure describing the transferability of the subscription;

(m) A description of any guarantees relating to the performance of the community solar garden;

(n) A description of the basis for any estimates of savings that were provided to the subscriber, if applicable; and

(o) A disclosure concerning the retention of any portfolio energy credits, if applicable.

Sec. 13. *A utility shall purchase unsubscribed electricity generated by a community solar garden within the service area of the utility. Compensation for unsubscribed energy must be provided to the subscriber organization at the rate offered for short-term purchases from qualifying facilities set forth in regulations adopted pursuant to NRS 704.210.*

Sec. 14. *1. After a subscriber organization installs a community solar garden, 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 and 704.78213.*

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. Notwithstanding any other provision of law, portfolio energy credits issued for a community solar garden installed pursuant to the regulations adopted pursuant to section 11 of this act must be considered the property of the subscriber organization. The subscriber organization may assign such portfolio energy credits to the utility for the service territory of the community solar garden generating the portfolio energy credits.

Sec. 15. *Notwithstanding any other provision of law, a community solar garden, subscriber organization or subscriber is not a public utility and is not subject to regulation as a public utility by the Commission, other than regulation under sections 4 to 15, inclusive, of this act, unless the community solar garden, subscriber organization or subscriber constitutes a public utility and is subject to regulation by the Commission under the provisions of this chapter other than sections 4 to 15, inclusive, of this act.*

Sec. 16. NRS 704.786 is hereby repealed.



Sec. 17. 1. This section and sections 1 to 11, inclusive, and 12.3 to 16, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations or performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

(b) On July 1, 2017, for all other purposes.

2. If, and only if, Assembly Bill No. 405 of this session is enacted and becomes effective, section 12 of this act becomes effective:

(a) Upon passage and approval for the purpose of adopting any regulations or performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

(b) On July 1, 2017, for all other purposes.

3. If, and only if, Assembly Bill No. 405 of this session is not enacted or does not become effective, section 12.2 of this act becomes effective:

(a) Upon passage and approval for the purpose of adopting any regulations or performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

(b) On July 1, 2017, for all other purposes.

4. Sections 1 and 2 of this act expire by limitation on December 31, 2025.

