

SENATE BILL NO. 392—SENATORS DENIS,  
SPEARMAN; AND WOODHOUSE

MARCH 20, 2017

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to energy.  
(BDR 58-663)

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 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; requiring a utility to submit a plan to the Commission for the purchase of 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:**

- 1 Existing law establishes the Solar Energy Systems Incentive Program, the Wind
- 2 Energy Systems Demonstration Program and the Waterpower Energy Systems
- 3 Demonstration Program. Existing law further establishes the amount of incentives



4 that may be authorized for payment by the Public Utilities Commission of Nevada  
5 to each Program. (NRS 701B.005, 701B.010-701B.290, 701B.400-701B.650,  
6 701B.700-701B.880) **Section 1** of this bill combines the amount of existing  
7 incentives available for payment to each Program into a single pool of money from  
8 which the Commission may authorize the payment of an incentive to a Program.  
9 **Section 1** further requires the Commission, for the period beginning on January 1,  
10 2018, and ending on December 31, 2023, to authorize the payment of incentives in  
11 an amount of not more than \$2,000,000 per year for the installation of solar energy  
12 systems, community solar gardens and distributed generation systems at locations  
13 throughout the service territories of electric utilities in this State which benefit low-  
14 income and moderate-income customers. **Section 2** of this bill requires that  
15 incentives available to a participant that is a public entity or nonprofit organization  
16 must not exceed 75 percent of the installed cost of the solar energy system,  
17 community solar garden or distributed generation system based on the average  
18 installed cost of a system, as applicable in the immediately preceding year.

19 **Sections 4-15** of this bill enact provisions governing community solar gardens  
20 in this State. **Section 5** defines a community solar garden as a solar energy system  
21 that: (1) has a nameplate capacity of not more than 20 megawatts; (2) is owned or  
22 operated by a subscriber organization; and (3) generates electricity for subscribers  
23 of the community solar garden. **Section 11** requires the Commission to adopt  
24 regulations establishing standards for the operation of community solar gardens in  
25 this State. The regulations adopted pursuant to **section 11** must: (1) establish goals  
26 for the generation of electricity by community solar gardens in this State; (2)  
27 establish eligibility requirements for subscriber organizations, including, without  
28 limitation, a requirement that a subscriber organization have at least 10 subscribers;  
29 (3) authorize any customer in any rate class to become a subscriber of a community  
30 solar garden; and (4) establish standards, charges, fees and processes for the  
31 interconnection of a community solar garden. **Section 12** entitles a subscriber who  
32 participates in a community solar garden to a credit on the subscriber's monthly  
33 utility bill for the subscriber's share of the electricity generated by the community  
34 solar garden. **Section 13** requires a utility to submit a plan to the Commission for  
35 the purchase of the unsubscribed electricity of a community solar garden located in  
36 the utility's service territory for a period of 25 years after the community solar  
37 garden begins generating electricity. **Section 14** requires the Commission to issue  
38 portfolio energy credits for community solar gardens and provides that: (1) such  
39 credits must be the property of the subscriber organization that owns or operates the  
40 community solar garden; and (2) the subscriber organization is authorized to assign  
41 such credits to the utility. **Section 15** exempts community solar gardens, subscriber  
42 organizations and subscribers from regulation as public utilities.

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

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

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



1 period beginning on July 1, 2010, and ending on December 31,  
2 2021.

3 2. ~~{The}~~ *Subject to the limitations prescribed by subsection 3,*  
4 *the* Commission shall not authorize the payment of an incentive  
5 pursuant to ~~f~~:

6 ~~—(a) The~~ *the* Solar Energy Systems Incentive Program *created*  
7 *by NRS 701B.240, the Wind Energy Systems Demonstration*  
8 *Program created by NRS 701B.580 or the Waterpower Energy*  
9 *Systems Demonstration Program created by NRS 701B.820* if the  
10 payment of the incentive would cause the total amount of incentives  
11 paid by all utilities in this State for the installation of solar energy  
12 systems, *community solar gardens* and solar distributed generation  
13 systems to exceed ~~{255,270,000}~~ *\$295,270,000* for the period  
14 beginning on July 1, 2010, and ending on December 31, 2025.

15 ~~{(b) The Wind Energy Systems Demonstration Program created~~  
16 ~~by NRS 701B.580 and the Waterpower Energy Systems~~  
17 ~~Demonstration Program created by NRS 701B.820 if the payment of~~  
18 ~~the incentive would cause the total amount of incentives paid by all~~  
19 ~~utilities in this State for the installation of wind energy systems and~~  
20 ~~waterpower energy systems to exceed \$40,000,000 for the period~~  
21 ~~beginning on July 1, 2009, and ending on December 31, 2025. The~~  
22 ~~Commission shall by regulation determine the allocation of~~  
23 ~~incentives for each Program.]~~

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

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

40 ~~{4.}~~ 5. A utility may file with the Commission one combined  
41 annual plan which meets the requirements set forth in NRS  
42 701B.230, 701B.610 and 701B.850. The Commission shall review  
43 and approve any plan submitted pursuant to this subsection in  
44 accordance with the requirements of NRS 701B.230, 701B.610 and  
45 701B.850, as applicable.



~~5.1~~ 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~~:

*(1) Seventy-five percent of the installed cost of a solar energy system, community solar garden or distributed generation system to a public entity or nonprofit organization, excluding the cost of labor, as determined by using the average installed cost of solar energy systems, community solar gardens or distributed generation systems, as applicable, in the immediately preceding year; or*

*(2) Fifty percent of the installed cost of a solar energy system, community solar garden or distributed generation system ~~to a person other than a public entity or nonprofit organization,~~ as determined by using the average installed cost of the solar energy systems, community solar gardens or distributed generation systems, as applicable, to such persons 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;



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

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

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

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

13 (g) Any other information required by the Commission.

14 3. Authorize a utility to recover the reasonable costs incurred in  
15 carrying out and administering the installation of distributed  
16 generation systems.

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

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

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

27 *1. Has a nameplate capacity of not more than 20 megawatts;  
28 and*

29 *2. Is owned or operated by a subscriber organization.*

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

33 **Sec. 7.** *“Subscriber organization” means an entity that owns  
34 or operates a community solar garden.*

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

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

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

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



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

4 (1) A goal that by 2023, community solar gardens in this  
5 State generate at least 5 percent of the amount of the peak demand  
6 for electric energy in this State, as calculated for the 2016  
7 calendar year.

8 (2) A goal for the percentage of the peak demand for  
9 electric energy in this State to be generated by community solar  
10 gardens in each year after 2023.

11 (b) Establish requirements for subscriber organizations, which  
12 must:

13 (1) Require a subscriber organization to have at least 10  
14 subscribers;

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

19 (3) Prohibit a subscriber organization from allowing  
20 subscriptions to a community solar garden that are more than 25  
21 kilowatts to account for more than 40 percent of the total  
22 generating capacity of the community solar garden.

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

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

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

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

38 (g) Provide for the transferability of subscriptions.

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

43 2. The regulations adopted by the Commission pursuant to  
44 subsection 1 must not impose different requirements for a  
45 community solar garden that is not owned or operated by a utility



1 *than the requirements imposed for a community solar garden*  
2 *owned or operated by a utility.*

3 **Sec. 12.** 1. *For a period of 25 years after a community*  
4 *solar garden owned or operated by a subscriber organization*  
5 *begins generating electricity, a subscriber is entitled to a credit on*  
6 *the subscriber's monthly utility bill for the proportional output of*  
7 *the community solar garden attributable to that subscriber for the*  
8 *preceding month. Except as otherwise required by the*  
9 *Commission, a utility may apply the credit to the subscriber's*  
10 *monthly utility bill as a reduction in metered use or a credit to the*  
11 *total amount due for the bill. Any excess credit must be carried*  
12 *over to subsequent billing periods.*

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

19 **Sec. 13.** 1. *A utility shall submit a plan to the Commission*  
20 *for the purchase of unsubscribed electricity generated by a*  
21 *community solar garden within the service area of the utility. A*  
22 *utility required to submit a plan to the Commission pursuant to*  
23 *NRS 704.741 must include the plan for the purchase of such*  
24 *unsubscribed energy in its plan submitted pursuant to that section.*  
25 *The plan must include, without limitation, a rate at which the*  
26 *utility will purchase unsubscribed electricity generated by a*  
27 *community solar garden within the service area of the utility and a*  
28 *requirement that the utility purchase such unsubscribed electricity*  
29 *for a period of 25 years after a community solar garden begins*  
30 *generating electricity.*

31 2. *The Commission shall, after a hearing, review and accept*  
32 *or modify a plan submitted pursuant to subsection 1. In*  
33 *considering whether to accept or modify the plan, the Commission*  
34 *shall consider the cost savings to the utility for the purchase of*  
35 *unsubscribed electricity pursuant to this section.*

36 **Sec. 14.** 1. *After a subscriber organization installs a*  
37 *community solar garden, the Commission shall issue portfolio*  
38 *energy credits for use within the system of portfolio energy credits*  
39 *adopted by the Commission pursuant to NRS 704.7821 and*  
40 *704.78213.*

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



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

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

15       **Sec. 16.** NRS 704.786 is hereby repealed.

16       **Sec. 17.** 1. This act becomes effective:

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

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

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

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**TEXT OF REPEALED SECTION**

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**704.786 Lower Income Solar Energy Pilot Program:  
Creation required by each electric utility in State.**

1. Each electric utility in this State shall create a Lower Income Solar Energy Pilot Program for the purpose of installing, before January 1, 2017, distributed generation systems with a cumulative capacity of at least 1 megawatt at locations throughout its service territory which benefit low-income customers, including, without limitation, homeless shelters, low-income housing developments and schools with significant populations of low-income pupils. Each electric utility shall submit the Program as part of its annual plan submitted pursuant to NRS 701B.230. The Commission shall approve the Program with such modifications and upon such terms and conditions as the Commission deems necessary or appropriate to enable the Program to meet the purposes set forth in this subsection.



2. The Office of Energy shall advise the Commission and each electric utility regarding grants and other sources of money available to defray the costs of the Program.

3. As used in this section, "distributed generation system" has the meaning ascribed to it in NRS 701B.055.







