

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 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:**

- 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,



\* S B 3 9 2 R 1 \*

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 \$1,000,000 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 authorizes that such  
15 incentives be made available to a participant for the installed cost of a community  
16 solar garden.

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

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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  
9 period beginning on July 1, 2010, and ending on December 31,  
10 2021.



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

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

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

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

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

39 ~~†4.†~~ 5. A utility may file with the Commission one combined  
40 annual plan which meets the requirements set forth in NRS  
41 701B.230, 701B.610 and 701B.850. The Commission shall review  
42 and approve any plan submitted pursuant to this subsection in  
43 accordance with the requirements of NRS 701B.230, 701B.610 and  
44 701B.850, as applicable.

45 ~~†5.†~~ 6. As used in this section:



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

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

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

7 **Sec. 2.** NRS 701B.200 is hereby amended to read as follows:

8 701B.200 The Commission shall adopt regulations necessary  
9 to carry out the provisions of NRS 701B.010 to 701B.290, inclusive,  
10 including, without limitation, regulations that:

11 1. Establish the type of incentives available to participants in  
12 the Solar Program and the level or amount of those incentives. The  
13 incentives must be market-based incentives that:

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

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

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

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

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

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

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

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

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



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

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

4 3. Authorize a utility to recover the reasonable costs incurred in  
5 carrying out and administering the installation of distributed  
6 generation systems.

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

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

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

17 *1. Has a nameplate capacity of not more than 15 megawatts;  
18 and*

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

28       ***(g) Provide for the transferability of subscriptions.***

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

33       ***2. The regulations adopted by the Commission pursuant to***  
34 ***subsection 1 must not impose different requirements for a***  
35 ***community solar garden that is not owned or operated by a utility***  
36 ***than the requirements imposed for a community solar garden***  
37 ***owned or operated by a utility.***

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

42       ***Sec. 12. 1. For a period of 25 years after a community***  
43 ***solar garden owned or operated by a subscriber organization***  
44 ***begins generating electricity, a subscriber is entitled to a kilowatt-***  
45 ***hour credit on the subscriber's monthly utility bill for the***



1 *proportional output of the community solar garden attributable to*  
2 *that subscriber for the preceding month. Except as otherwise*  
3 *required by the Commission, a utility may apply the credit to the*  
4 *subscriber's monthly utility bill as a reduction in metered use or a*  
5 *monetary credit to the total amount due for the bill. Any excess*  
6 *credit must be carried over to subsequent billing periods. Except*  
7 *as otherwise provided in subsection 2, any monetary credit applied*  
8 *on a subscriber's monthly utility bill pursuant to this subsection*  
9 *shall be not less than the value of the credit had it been applied as*  
10 *a kilowatt-hour credit on the subscriber's monthly utility bill.*

11 *2. Subject to the provisions of subsection 3, the Commission*  
12 *may appropriately increase or reduce the value of a kilowatt-hour*  
13 *credit earned by a subscriber to a community solar garden*  
14 *pursuant to subsection 1 if the Commission determines that a*  
15 *community solar garden:*

16 *(a) Relieves loading on the transmission or distribution system*  
17 *and reduces the long-term cost of transmission or distribution*  
18 *capacity; or*

19 *(b) Increases loading on the transmission or distribution*  
20 *system and imposes incremental increases on the long-term cost of*  
21 *transmission or distribution capacity.*

22 *3. The Commission shall ensure that any increase or*  
23 *reduction in the value of a kilowatt-hour credit does not duplicate*  
24 *a cost that has already been credited by or paid to a utility from a*  
25 *subscriber or subscriber organization.*

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

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

38 **Sec. 14.** *1. After a subscriber organization installs a*  
39 *community solar garden, the Commission shall issue portfolio*  
40 *energy credits for use within the system of portfolio energy credits*  
41 *adopted by the Commission pursuant to NRS 704.7821 and*  
42 *704.78213.*

43 *2. The Commission shall designate the portfolio energy*  
44 *credits issued pursuant to this section as portfolio energy credits*



1 *generated, acquired or saved from solar renewable energy systems*  
2 *for the purposes of the portfolio standard.*

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

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

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

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

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

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

25 2. Sections 1 and 2 of this act expire by limitation on  
26 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.

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