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SENATE BILL NO. 351—SENATOR PICKARD

MARCH 24, 2021

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Referred to Committee on Growth and Infrastructure

**SUMMARY**—Imposes a charge on the wholesale sales of electricity generated from renewable energy. (BDR 58-555)

**FISCAL NOTE:** Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.  
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.

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AN ACT relating to renewable energy; imposing a charge on the sale of electricity generated from renewable energy and produced or delivered into this State for resale to the public; requiring the Department of Taxation, in cooperation with the Office of Energy and the Public Utilities Commission of Nevada, to develop a system for determining the amount of the charge and for the imposition and collection of the charge; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 This bill generally provides for the imposition of a charge on wholesale sales of  
2 electricity generated from renewable energy and produced or delivered in this State  
3 to public utilities, cities, counties or other entities for resale to the public. **Section 4**  
4 of this bill imposes the charge and requires the Department of Taxation, in  
5 cooperation with the Office of Energy and the Public Utilities Commission of  
6 Nevada, to adopt regulations providing for a system which must be used to  
7 determine the amount of the charge and which must provide for different charges  
8 based upon the total annual amount of electricity produced and sold by the person  
9 upon whom the charge is imposed. **Sections 1 and 2** of this bill require the Office  
10 of Energy and the Commission, respectively, to cooperate with the Department in  
11 the development of such a system. **Sections 5-18** of this bill provide for the  
12 administration of the charge imposed pursuant to **section 4**.

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

1       **Section 1.** Chapter 701 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3       *The Office of Energy shall cooperate with the Department of*  
4 *Taxation and the Public Utilities Commission of Nevada to*  
5 *develop the system for the determination of the amount and the*  
6 *imposition and collection of the charge imposed by section 4 of*  
7 *this act.*

8       **Sec. 2.** Chapter 703 of NRS is hereby amended by adding  
9 thereto a new section to read as follows:

10       *The Commission shall cooperate with the Department of*  
11 *Taxation and the Office of Energy to develop the system for the*  
12 *determination of the amount and the imposition and collection of*  
13 *the charge imposed by section 4 of this act.*

14       **Sec. 3.** Title 32 of NRS is hereby amended by adding thereto a  
15 new chapter to consist of the provisions set forth as sections 4 to 18,  
16 inclusive, of this act.

17       **Sec. 4. 1.** *In addition to any other tax, fee or other charge*  
18 *imposed for the production or sale of electricity, there is hereby*  
19 *imposed a charge on each person engaged in the production of*  
20 *electricity generated from renewable energy resources for delivery*  
21 *in this State to a public utility, city, county or other entity which is*  
22 *reselling the electricity to the public. The Department shall impose*  
23 *and collect the charge in the manner prescribed by this chapter.*

24       2. *To determine the amount of the charge imposed on any*  
25 *person pursuant to subsection 1, the Department shall, by*  
26 *regulation, develop a system which must provide for different rates*  
27 *of the charge based upon the total annual amount of electricity*  
28 *generated from renewable energy produced and sold by the person*  
29 *upon whom the charge is imposed. The Department shall consult*  
30 *with the Office of Energy and the Public Utilities Commission of*  
31 *Nevada in adopting regulations prescribing the system for the*  
32 *imposition and collection of the charge imposed by subsection 1.*

33       3. *The charge collected by the Department pursuant to*  
34 *subsection 1 must be deposited with the State Treasurer in*  
35 *accordance with the provisions of section 9 of this act.*

36       4. *As used in this section, the term "renewable energy" has*  
37 *the meaning ascribed to it in NRS 701.070.*

38       **Sec. 5.** *In addition to the regulations which the Department*  
39 *is required to adopt pursuant to subsection 2 of section 4 of this*  
40 *act, the Department shall adopt all necessary regulations to carry*  
41 *out the provisions of this chapter.*



1     **Sec. 6.** *The provisions of chapter 360 of NRS relating to the*  
2 *payment, collection, administration and enforcement of taxes,*  
3 *including, without limitation, any provisions relating to the*  
4 *imposition of penalties and interest, shall be deemed to apply to*  
5 *the payment, collection, administration and enforcement of the*  
6 *charge imposed by section 4 of this act to the extent that those*  
7 *provisions do not conflict with the provisions of this chapter.*

8     **Sec. 7.** *1. Each person responsible for maintaining the*  
9 *records of a person engaged in the production of electricity*  
10 *generated from renewable energy resource shall:*

11     *(a) Keep such records as may be necessary to determine the*  
12 *amount of the liability of the person pursuant to the provisions of*  
13 *section 4 of this act;*

14     *(b) Preserve those records for 4 years or until any litigation or*  
15 *prosecution pursuant to this chapter is finally determined,*  
16 *whichever is longer; and*

17     *(c) Make the records available for inspection by the*  
18 *Department upon demand at reasonable times during regular*  
19 *business hours.*

20     **2.** *Any person who violates the provisions of subsection 1 is*  
21 *guilty of a misdemeanor.*

22     **Sec. 8.** *To verify the accuracy of any return filed by a person*  
23 *liable for the charge imposed by section 4 of this act or, if no*  
24 *return is filed, to determine the amount required to be paid, the*  
25 *Department, or any person authorized in writing by the*  
26 *Department, may examine the books, papers and records of any*  
27 *person who may be liable for the charge imposed by section 4 of*  
28 *this act.*

29     **Sec. 9.** *The State Treasurer shall deposit any money the State*  
30 *Treasurer receives from the Department pursuant to section 4 of*  
31 *this act for credit to the State General Fund.*

32     **Sec. 10.** *If the Department determines that any of the charge*  
33 *imposed by section 4 of this act or any penalty or interest has been*  
34 *paid more than once or has been erroneously or illegally collected*  
35 *or computed, the Department shall set forth that fact in the*  
36 *records of the Department and certify to the State Board of*  
37 *Examiners the amount collected in excess of the amount legally*  
38 *due and the person from whom it was collected or by whom it was*  
39 *paid. If approved by the State Board of Examiners, the excess*  
40 *amount collected or paid must, after being credited against any*  
41 *amount then due from the person in accordance with NRS*  
42 *360.236, be refunded to the person or his or her successors in*  
43 *interest.*

44     **Sec. 11.** *1. Except as otherwise provided in NRS 360.235*  
45 *and 360.395:*



1 (a) *No refund of any of the charge imposed by section 4 of this*  
2 *act may be allowed unless a claim for refund is filed with the*  
3 *Department within 3 years after the last day of the month*  
4 *following the month for which the overpayment was made.*

5 (b) *No credit may be allowed after the expiration of the period*  
6 *specified for filing claims for refund unless a claim for credit is*  
7 *filed with the Department within that period.*

8 2. *Each claim must be in writing and must state the specific*  
9 *grounds upon which the claim is founded.*

10 3. *The failure to file a claim within the time prescribed in*  
11 *subsection 1 constitutes a waiver of any demand against the State*  
12 *on account of any overpayment.*

13 **Sec. 12.** 1. *Except as otherwise provided in subsection 2,*  
14 *NRS 360.320 or any other specific statute, interest must be paid*  
15 *upon any overpayment of the charge imposed by section 4 of this*  
16 *act at the rate set forth in, and in accordance with the provisions*  
17 *of, NRS 360.2937.*

18 2. *If the Department determines that any overpayment has*  
19 *been made intentionally or by reason of carelessness, the*  
20 *Department shall not allow any interest on the overpayment.*

21 **Sec. 13.** 1. *Within 30 days after rejecting a claim for refund*  
22 *or credit in whole or in part, the Department shall serve written*  
23 *notice of its action on the claimant in the manner prescribed for*  
24 *service of a notice of deficiency determination. Within 30 days*  
25 *after the date of service of the notice, a claimant who is aggrieved*  
26 *by the action of the Department may file an appeal with the*  
27 *Nevada Tax Commission.*

28 2. *If the Department fails to serve notice of its action on a*  
29 *claim for refund or credit within 6 months after the claim is filed,*  
30 *the claimant may consider the claim to be disallowed and file an*  
31 *appeal with the Nevada Tax Commission within 30 days after the*  
32 *last day of the 6-month period.*

33 3. *The final decision of the Nevada Tax Commission on an*  
34 *appeal is a final decision for the purposes of judicial review*  
35 *pursuant to chapter 233B of NRS.*

36 **Sec. 14.** 1. *A proceeding for judicial review of a decision of*  
37 *the Nevada Tax Commission may not be commenced or*  
38 *maintained by an assignee of the claimant or by any other person*  
39 *other than the person who paid the amount at issue in the claim.*

40 2. *The failure of a claimant to file a timely petition for*  
41 *judicial review constitutes a waiver of any demand against the*  
42 *State on account of any overpayment.*

43 **Sec. 15.** 1. *If judgment is rendered for the claimant in a*  
44 *proceeding for judicial review, any amount found by the court to*  
45 *have been erroneously or illegally collected must first be credited*



1 *to any charge due from the claimant. The balance of the amount*  
2 *must be refunded to the claimant.*

3 2. *In any such judgment, interest must be allowed at the rate*  
4 *of 3 percent per annum upon any amount found to have been*  
5 *erroneously or illegally collected from the date of payment of the*  
6 *amount to the date of allowance of credit on account of the*  
7 *judgment, or to a date preceding the date of the refund warrant by*  
8 *not more than 30 days. The date must be determined by the*  
9 *Department.*

10 **Sec. 16.** 1. *No injunction, writ of mandate or other legal or*  
11 *equitable process may issue in any suit, action or proceeding in*  
12 *any court against this State or against any officer of the State to*  
13 *prevent or enjoin the collection of the charge imposed by section 4*  
14 *of this act or any charge, penalty or interest required to be*  
15 *collected.*

16 2. *No suit or proceeding, including, without limitation, a*  
17 *proceeding for judicial review, may be maintained in any court for*  
18 *the recovery of any amount alleged to have been erroneously or*  
19 *illegally determined or collected unless a claim for refund or credit*  
20 *has been filed within the time prescribed in section 11 of this act.*

21 **Sec. 17.** 1. *A person shall not, with intent to defraud the*  
22 *State or evade payment of the charge imposed by section 4 of this*  
23 *act or any part of the charge:*

24 (a) *Make, cause to be made or permit to be made any false or*  
25 *fraudulent return or declaration or false statement in any return*  
26 *or declaration.*

27 (b) *Make, cause to be made or permit to be made any false*  
28 *entry in books, records or accounts.*

29 (c) *Keep, cause to be kept or permit to be kept more than one*  
30 *set of books, records or accounts.*

31 2. *Any person who violates the provisions of subsection 1 is*  
32 *guilty of a gross misdemeanor.*

33 **Sec. 18.** *The remedies of the State provided for in this*  
34 *chapter are cumulative, and no action taken by the Department or*  
35 *the Attorney General constitutes an election by the State to pursue*  
36 *any remedy to the exclusion of any other remedy for which*  
37 *provision is made in those sections.*

38 **Sec. 19.** *Notwithstanding the provisions of NRS 218D.430 and*  
39 *218D.435, a committee, other than the Assembly Standing*  
40 *Committee on Ways and Means and the Senate Standing Committee*  
41 *on Finance, may vote on this act before the expiration of the period*  
42 *prescribed for the return of a fiscal note in NRS 218D.475. This*  
43 *section applies retroactively from and after March 22, 2021.*

44 **Sec. 20.** 1. *This section and section 19 of this act become*  
45 *effective upon passage and approval.*



- 1        2. Sections 1 to 18, inclusive, of this act become effective:  
2        (a) Upon passage and approval for the purpose of adopting  
3 regulations and performing other preparatory administrative tasks;  
4 and  
5        (b) On January 1, 2022, for all other purposes.

