

**SENATE SUBSTITUTE AMENDMENT ,
TO 2005 SENATE BILL 459**

1 **AN ACT** *to repeal* 16.957 (1) (d), (e) and (h), 16.957 (1) (r), 16.957 (2) (b), 16.957
2 (2) (c) 2m., 2n. and 4., 16.957 (2) (d) 2., 16.957 (2) (d) 4. c., 16.957 (3) (b) and (c),
3 16.957 (4) (c) 2., 16.957 (5) (c) and (d), 16.957 (5) (e) 2., 101.027 (1) (b), 196.378
4 (1) (bm), 196.378 (1) (e), 196.378 (1) (f), 196.378 (1) (n) and 196.378 (2) (b) 3.; **to**
5 **renumber** 16.957 (3) (a); **to renumber and amend** 196.025 (1), 196.378 (1) (a)
6 and 196.378 (3) (a); **to consolidate, renumber and amend** 16.957 (5) (e)
7 (intro.) and 1. and 101.027 (1) (intro.) and (a); **to amend** 16.957 (1) (c), 16.957
8 (1) (o) 1m., 16.957 (1) (o) 2., 16.957 (1) (o) 3., 16.957 (2) (a) 2., 16.957 (2) (a) 4.,
9 16.957 (2) (c) 1., 16.957 (2) (c) 2., 16.957 (2) (d) 1., 16.957 (2) (d) 3., 16.957 (2) (d)
10 4. a., 16.957 (4) (a), 16.957 (4) (am), 16.957 (4) (b) (intro.), 16.957 (4) (c) (title),
11 16.957 (4) (c) 1. (intro.), 16.957 (4) (c) 1. a., 16.957 (4) (c) 1. c., 16.957 (4) (c) 3.,
12 16.957 (5) (a), 16.957 (5) (am), 16.957 (5) (f), 16.957 (5) (g) 1. (intro.), 16.957 (5)
13 (g) 1. a., 16.957 (5) (g) 2., 20.505 (3) (s), 25.96, 76.28 (1) (d), 76.48 (1g) (d), 77.54

1 (44), 79.005 (4) (d), 101.027 (2), 101.027 (3) (a) 1., 101.027 (3) (a) 2., 101.027 (3)
2 (b) 1., 101.027 (3) (b) 2., 196.378 (1) (g), 196.378 (1) (i), 196.378 (2) (b) 1., 196.378
3 (2) (b) 4., 196.378 (2) (c), 196.378 (3) (b), 196.378 (5) (intro.), 285.48 (4) (a) and
4 285.48 (4) (b); **to repeal and recreate** 16.957 (title), 16.957 (1) (x), 16.957 (5)
5 (b), 196.374, 196.378 (1) (o), 196.378 (2) (a) and 196.378 (2) (e); and **to create**
6 16.75 (12), 16.855 (10s), 16.897, 16.953, 20.924 (1) (j), 196.025 (1) (title), 196.025
7 (1) (b) to (d), 196.025 (1m) (title), 196.025 (2) (title), 196.025 (2m) (title), 196.025
8 (3) (title), 196.025 (4) (title), 196.025 (5) (title), 196.378 (1) (ag), 196.378 (1) (fg),
9 196.378 (1) (fm), 196.378 (1) (fr), 196.378 (1) (p), 196.378 (2) (b) 1m., 196.378 (2)
10 (b) 5., 196.378 (2) (f), 196.378 (2) (g), 196.378 (3) (a) 2., 196.378 (3) (c) and
11 196.378 (4m) of the statutes; **relating to:** administration and funding of
12 programs for utility public benefits; renewable energy requirements for
13 utilities and retail electric cooperatives; energy efficiency requirements for
14 state construction; revising and reviewing the state energy conservation code;
15 state use of renewable energy resources; anaerobic digester research;
16 corn–burning furnace pilot program; granting rule–making authority; and
17 making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

18 **SECTION 1.** 16.75 (12) of the statutes is created to read:

19 16.75 (12) (a) In this subsection:

20 1. “Agency” means the department of administration, the department of
21 corrections, the department of health and family services, the department of public
22 instruction, the department of veterans affairs, and the Board of Regents of the
23 University of Wisconsin System.

1 2. “Agency facility” means any state–owned or leased facility that is occupied,
2 operated, or used by an agency.

3 3. “Renewable percentage” means the percentage of total annual electric
4 energy that is derived from renewable resources.

5 4. “Renewable resource” has the meaning given in s. 196.378 (1) (h) 1. or 2. and
6 includes a resource, as defined in s. 196.378 (1) (j), that derives electricity from
7 hydroelectric power.

8 5. “Total annual electric energy” means the total annual amount of electric
9 energy generated or purchased by the state for power, heating, or cooling purposes
10 for all agency facilities.

11 (b) The department shall establish goals for each agency that are designed to
12 accomplish the following goals:

13 1. That the renewable percentage for total annual electric energy by December
14 31, 2007, is at least 10 percent.

15 2. That the renewable percentage for total annual electric energy by December
16 31, 2011, is at least 20 percent.

17 (c) In determining whether the goals under par. (b) are accomplished, the
18 department shall do all the following:

19 1. Calculate total annual electric energy on the basis of an average of the total
20 annual electric energy during the 3 years prior to the specified dates.

21 2. For any individual agency facility, consider only electric energy that is
22 purchased from the electric provider that serves the agency facility under an
23 arrangement with a term of 10 years or more and electric energy derived from
24 renewable resources owned by the state and produced for use in the agency facility.

1 (d) Notwithstanding par. (b), an agency is not required to generate or purchase
2 electric energy derived from renewable resources if the generation or purchase is not
3 technically feasible or cost-effective.

4 (e) No later than March 1 of each year, the department shall submit a report
5 to the governor and chief clerk of each house of the legislature, for distribution to the
6 legislature under s. 13.172 (2), concerning the degree of attainment and, if
7 applicable, reasons for nonattainment by the state during the preceding year in
8 meeting the goals established by the department under par. (b).

9 **SECTION 2.** 16.855 (10s) of the statutes is created to read:

10 16.855 (10s) (a) The department shall, by rule, prescribe and annually review
11 and revise as necessary energy efficiency standards for equipment that is installed
12 as a component of a construction project and that relates to heating, ventilation, air
13 conditioning, water heating or cooling, lighting, refrigeration, or any other function
14 that consumes energy. The standards shall meet or exceed current applicable
15 guidelines of the federal environmental protection agency relating to energy
16 efficiency of the functions specified in this paragraph, guidelines that apply to the
17 federal energy management program under 42 USC 8251 et seq., and standards
18 established by the American society of heating, refrigerating and air-conditioning
19 engineers.

20 (b) The department shall ensure that the specifications for any equipment that
21 is designed for heating, ventilation, air conditioning, water heating or cooling,
22 lighting, refrigeration, or any other function that consumes energy under any
23 construction project contract administered by the department meet applicable
24 standards established under par. (a). If there is no standard under par. (a) applicable
25 to the type of equipment being purchased or if the equipment meeting that standard

1 is not reasonably available, the department shall ensure that energy consumption
2 within a building, structure, or facility and all equipment that is purchased under
3 each contract administered by the department maximizes energy efficiency to the
4 extent technically and economically feasible. The department shall not determine
5 that equipment that meets the applicable standard under par. (a) either is not
6 reasonably available on the basis of cost alone or is not cost-effective unless the
7 difference in the cost of the purchase and installation of the equipment that meets
8 the standard and the equipment that would otherwise be installed is greater than
9 the difference in the cost of operating the equipment that meets the standard and the
10 equipment that would otherwise be installed over the anticipated life of the
11 equipment.

12 **SECTION 3.** 16.897 of the statutes is created to read:

13 **16.897 Space and water heating systems.** In planning and designing space
14 or water heating systems for new or existing state facilities, the department shall
15 ensure that geothermal technologies are utilized to the greatest extent that is
16 cost-effective and technically feasible.

17 **SECTION 4.** 16.953 of the statutes is created to read:

18 **16.953 Energy cost reduction plans.** No later than July 1 of each
19 even-numbered year, each agency, as defined in s. 16.75 (12) (a) 1., shall submit a
20 plan to the department, the joint committee on finance, and the standing committee
21 of each house of the legislature having jurisdiction over energy, for reduction of the
22 cost of energy used by the agency. The plan shall include all system and equipment
23 upgrades or installations that are estimated to result in energy cost savings equal
24 to the cost of the upgrade or installation over the anticipated life of the system or

1 equipment. The plan shall also identify potential means of financing the upgrades
2 and installations other than reliance on appropriations of general purpose revenues.

3 **SECTION 5.** 16.957 (title) of the statutes is repealed and recreated to read:

4 **16.957 (title) Low-income assistance.**

5 **SECTION 6.** 16.957 (1) (c) of the statutes is amended to read:

6 16.957 (1) (c) “Commitment to community program” means a program by or on
7 behalf of a municipal utility or retail electric cooperative for low-income assistance
8 ~~or an energy conservation program by a municipal utility or retail electric~~
9 ~~cooperative.~~

10 **SECTION 7.** 16.957 (1) (d), (e) and (h) of the statutes are repealed.

11 **SECTION 8.** 16.957 (1) (o) 1m. of the statutes is amended to read:

12 16.957 (1) (o) 1m. The amount of the portion of the public benefits fee for fiscal
13 year 1999–2000 that is specified in sub. s. 16.957 (4) (c) 1. ~~The amount specified in~~
14 ~~this subdivision shall not be subject to the reduction under 1999 Wisconsin Act 9,~~
15 ~~section 9101 (1zr) (a), 1999 stats.~~

16 **SECTION 9.** 16.957 (1) (o) 2. of the statutes is amended to read:

17 16.957 (1) (o) 2. The total amount expended by utilities under s. 196.374, 2003
18 stats., related to low-income assistance.

19 **SECTION 10.** 16.957 (1) (o) 3. of the statutes is amended to read:

20 16.957 (1) (o) 3. Fifty percent of the amount of public benefits fees that
21 municipal utilities and retail electric cooperatives are were required to charge under
22 sub. s. 16.957 (5) (a), 1999 stats., in fiscal year 1999–2000. ~~The amount specified in~~
23 ~~this subdivision shall not be subject to the reduction under 1999 Wisconsin Act 9,~~
24 ~~section 9101 (1zv) (c).~~

25 **SECTION 11.** 16.957 (1) (r) of the statutes is repealed.

1 **SECTION 12.** 16.957 (1) (x) of the statutes is repealed and recreated to read:

2 16.957 **(1)** (x) “Wholesale supply percentage” means the percentage of the
3 electricity sold by a wholesale supplier that is purchased by a municipal utility or
4 retail electric cooperative.

5 **SECTION 13.** 16.957 (2) (a) 2. of the statutes is amended to read:

6 16.957 **(2)** (a) 2. All moneys spent in a fiscal year for low-income programs
7 established under s. 196.374, 2003 stats.

8 **SECTION 14.** 16.957 (2) (a) 4. of the statutes is amended to read:

9 16.957 **(2)** (a) 4. ~~Fifty percent of the~~ The moneys collected in ~~public benefits~~
10 low-income assistance fees under sub. (5) (a).

11 **SECTION 15.** 16.957 (2) (b) of the statutes is repealed.

12 **SECTION 16.** 16.957 (2) (c) 1. of the statutes is amended to read:

13 16.957 **(2)** (c) 1. Eligibility requirements for low-income assistance under
14 programs established under par. (a). The rules shall prohibit a person who receives
15 low-income assistance from a municipal utility or retail electric cooperative under
16 a program specified in sub. (5) ~~(d) 2. b. or 3. a.~~ (b) 1. from receiving low-income
17 assistance under programs established under par. (a).

18 **SECTION 17.** 16.957 (2) (c) 2. of the statutes is amended to read:

19 16.957 **(2)** (c) 2. Requirements and procedures for applications for grants
20 awarded under programs established under par. (a) ~~or (b) 1.~~

21 **SECTION 18.** 16.957 (2) (c) 2m., 2n. and 4. of the statutes are repealed.

22 **SECTION 19.** 16.957 (2) (d) 1. of the statutes is amended to read:

23 16.957 **(2)** (d) 1. For each fiscal year ~~after fiscal year 1998–99~~, determine the
24 low-income need target for that fiscal year.

25 **SECTION 20.** 16.957 (2) (d) 2. of the statutes is repealed.

1 **SECTION 21.** 16.957 (2) (d) 3. of the statutes is amended to read:

2 16.957 **(2)** (d) 3. Deposit all moneys received under sub. (4) (a) or (5) ~~(c) or (d)~~
3 (b) 2. in the utility public benefits fund.

4 **SECTION 22.** 16.957 (2) (d) 4. a. of the statutes is amended to read:

5 16.957 **(2)** (d) 4. a. The expenses of the department, other state agencies, and
6 grant recipients in administering or participating in the programs under ~~pars.~~ par.
7 (a) and ~~(b)~~.

8 **SECTION 23.** 16.957 (2) (d) 4. c. of the statutes is repealed.

9 **SECTION 24.** 16.957 (3) (a) of the statutes is renumbered 16.957 (3).

10 **SECTION 25.** 16.957 (3) (b) and (c) of the statutes are repealed.

11 **SECTION 26.** 16.957 (4) (a) of the statutes is amended to read:

12 16.957 **(4)** (a) *Requirement to charge ~~public benefits~~ low-income assistance fees.*
13 Each electric utility, except for a municipal utility, shall charge each customer a
14 ~~public benefits~~ low-income assistance fee in an amount established in rules
15 promulgated by the department under par. (b). An electric utility, except for a
16 municipal utility, shall collect and pay the fees to the department in accordance with
17 the rules promulgated under par. (b). The ~~public benefits~~ low-income assistance fees
18 collected by an electric utility shall be considered trust funds of the department and
19 not income of the electric utility.

20 **SECTION 27.** 16.957 (4) (am) of the statutes is amended to read:

21 16.957 **(4)** (am) *Electric bills.* An electric utility shall ~~include a public benefits~~
22 show the low-income assistance fee in the fixed charges for electricity as a separate
23 line in a customer's bill, identified as the "state low-income assistance fee," and shall
24 provide the customer with an annual statement that identifies the annual charges

1 for public benefits low-income assistance fees and describes the programs for which
2 fees are used.

3 **SECTION 28.** 16.957 (4) (b) (intro.) of the statutes is amended to read:

4 16.957 (4) (b) *Rules.* (intro.) In consultation with the council, the department
5 shall promulgate rules that establish the amount of a public benefits low-income
6 assistance fee under par. (a). Fees established in rules under this paragraph may
7 vary by class of customer, but shall be uniform within each class, and shall satisfy
8 each of the following:

9 **SECTION 29.** 16.957 (4) (c) (title) of the statutes is amended to read:

10 16.957 (4) (c) (title) *Amount of public benefits low-income assistance fees.*

11 **SECTION 30.** 16.957 (4) (c) 1. (intro.) of the statutes is amended to read:

12 16.957 (4) (c) 1. ‘Low-income funding from fee.’ (intro.) ~~In fiscal year~~
13 ~~1999–2000, a portion of the public benefits fee shall be an amount that, when added~~
14 ~~to 50% of the estimated public benefits fees charged by municipal utilities and retail~~
15 ~~electric cooperatives under sub. (5) (a) for that fiscal year, shall equal \$24,000,000.~~
16 In each fiscal year after fiscal year 1999–2000, a portion of the public benefits, the
17 low-income assistance fee shall be an amount that, when added to the sum of the
18 following shall equal the low-income need target for that fiscal year determined by
19 the department under sub. (2) (d) 1.:

20 **SECTION 31.** 16.957 (4) (c) 1. a. of the statutes is amended to read:

21 16.957 (4) (c) 1. a. ~~Fifty percent of the estimated public benefits~~ The estimated
22 low-income assistance fees charged by municipal utilities and retail electric
23 cooperatives under sub. (5) (a) for that fiscal year.

24 **SECTION 32.** 16.957 (4) (c) 1. c. of the statutes is amended to read:

1 16.957 (4) (c) 1. c. The total amount spent on programs or contributed to the
2 commission by utilities under s. 196.374 (3), 2003 stats., for that fiscal year for
3 low-income assistance.

4 **SECTION 33.** 16.957 (4) (c) 2. of the statutes is repealed.

5 **SECTION 34.** 16.957 (4) (c) 3. of the statutes is amended to read:

6 16.957 (4) (c) 3. 'Limitation on electric bill increases.' ~~For the period beginning~~
7 ~~on October 29, 1999, and ending on June 30, 2008, the~~ The total increase in a
8 customer's monthly electric bills bill that is based on the requirement to pay public
9 benefits low-income assistance fees, including any increase resulting from an
10 electric utility's compliance with this section, may not exceed 3% of the total of every
11 other charge for which the customer is billed for that period month or \$750 per
12 month, whichever is less. To reflect changes in the consumer price index for all urban
13 consumers, U.S. city average, as determined by the U.S. department of labor, the
14 commission shall make annual adjustments to the amount of \$750.

15 **SECTION 35.** 16.957 (5) (a) of the statutes is amended to read:

16 16.957 (5) (a) *Requirement to charge public benefits low-income assistance fees.*
17 Each retail electric cooperative and municipal utility shall charge a monthly public
18 benefits low-income assistance fee to each customer or member in an amount that
19 is sufficient for the retail electric cooperative or municipal utility to collect an annual
20 average of \$16 ~~\$8~~ per meter. A retail electric cooperative or municipal utility may
21 determine the amount that a particular class of customers or members is required
22 to pay under this paragraph and may charge different fees to different classes of
23 customers or members.

24 **SECTION 36.** 16.957 (5) (am) of the statutes is amended to read:

1 16.957 (5) (am) *Public-benefits Low-income assistance fee restriction.*
2 Notwithstanding par. (a), ~~for the period beginning on October 29, 1999, and ending~~
3 ~~on June 30, 2008,~~ the total increase in a customer's or member's monthly electric
4 bills bill that is based on the requirement to pay ~~public-benefits~~ low-income
5 assistance fees, including any increase resulting from a retail electric cooperative's
6 or municipal utility's compliance with this section, may not exceed 3% 1.5 percent of
7 the total of every other charge for which the member or customer is billed for that
8 period month or ~~\$750 per month~~ \$375, whichever is less. To reflect changes in the
9 consumer price index for all urban consumers, U.S. city average, as determined by
10 the U.S. department of labor, the commission shall make annual adjustments to the
11 amount of \$375.

12 **SECTION 37.** 16.957 (5) (b) of the statutes is repealed and recreated to read:

13 16.957 (5) (b) *Commitment to community programs.* 1. Except as provided in
14 subd. 2., in each fiscal year, each retail electric cooperative and municipal utility
15 shall spend on commitment to community programs an amount equal to the fees that
16 the cooperative or utility charges under par. (a) in that fiscal year.

17 2. No later than October 1, 2007, and no later than every 3rd year after that
18 date, each municipal utility or retail electric cooperative shall notify the department
19 whether the utility or cooperative has elected to contribute the fees that the utility
20 or cooperative charges under par. (a) to the programs established under sub. (2) (a)
21 in each fiscal year of the 3-year period for which the utility or cooperative has made
22 the election. If a municipal utility or retail electric cooperative elects to contribute
23 to the programs established under sub. (2) (a), the utility or cooperative shall pay the
24 low-income assistance fees that the utility or cooperative collects under par. (a) to

1 the department in each fiscal year of the 3-year period for which the utility or
2 cooperative has made the election.

3 **SECTION 38.** 16.957 (5) (c) and (d) of the statutes are repealed.

4 **SECTION 39.** 16.957 (5) (e) (intro.) and 1. of the statutes are consolidated,
5 renumbered 16.957 (5) (e) and amended to read:

6 16.957 (5) (e) *Wholesale supplier credit.* If a wholesale supplier has established
7 a commitment to community program for ~~low-income assistance or an energy~~
8 ~~conservation program~~, a municipal utility or retail electric cooperative that is a
9 customer or member of the wholesale supplier may ~~do any of the following:~~ 1. Include
10 include an amount equal to the product of the municipal utility's or retail electric
11 cooperative's wholesale supply percentage and the amount that the wholesale
12 supplier has spent on ~~low-income assistance~~ the commitment to community
13 program in a fiscal year in calculating the amount that the municipal utility or retail
14 electric cooperative has spent on ~~low-income assistance~~ commitment to community
15 programs in that fiscal year under par. (d) ~~2. b. or 3. a.~~ (b) 1.

16 **SECTION 40.** 16.957 (5) (e) 2. of the statutes is repealed.

17 **SECTION 41.** 16.957 (5) (f) of the statutes is amended to read:

18 16.957 (5) (f) *Joint programs.* Municipal utilities or retail electric cooperatives
19 may establish joint commitment to community programs, except that each municipal
20 utility or retail electric cooperative that participates in a joint program is required
21 to comply with the spending requirements under par. (d) (b) 1.

22 **SECTION 42.** 16.957 (5) (g) 1. (intro.) of the statutes is amended to read:

23 16.957 (5) (g) 1. (intro.) For each fiscal year, each municipal utility and retail
24 electric cooperative that ~~does not pay 100% of the public benefits fee~~ spends the
25 low-income assistance fees that it the utility or cooperative charges under par. (a)

1 ~~to the department under par. (c) shall file a report with the department on~~
2 ~~commitment to community programs under par. (b) 1. shall provide for an~~
3 ~~independent audit of its programs and submit a report to the department that~~
4 describes each of the following:

5 **SECTION 43.** 16.957 (5) (g) 1. a. of the statutes is amended to read:

6 16.957 (5) (g) 1. a. An accounting of ~~public benefits~~ low-income assistance fees
7 charged to customers or members under par. (a) in the fiscal year and expenditures
8 on commitment to community programs under par. ~~(d)~~ (b) 1., including any amounts
9 included in the municipal utility's or retail electric cooperative's calculations under
10 par. (e).

11 **SECTION 44.** 16.957 (5) (g) 2. of the statutes is amended to read:

12 16.957 (5) (g) 2. The department shall require that municipal utilities and
13 retail electric cooperatives file reports under subd. 1. electronically, in a format that
14 allows for tabulation, comparison, and other analysis of the reports. The department
15 shall maintain reports filed under subd. 1. for at least 6 years.

16 **SECTION 45.** 20.505 (3) (s) of the statutes is amended to read:

17 20.505 (3) (s) ~~Energy conservation and efficiency and renewable resource grants~~
18 Transfer to air quality improvement fund. From the utility public benefits fund, a
19 sum sufficient ~~for energy conservation and efficiency and renewable resource grants~~
20 ~~under s. 16.957 (2) (b) 1. and to make the transfer to the air quality improvement fund~~
21 under s. 16.958 (2) (a).

22 **SECTION 46.** 20.924 (1) (j) of the statutes is created to read:

23 20.924 (1) (j) Shall not enter into any lease or other contract that provides for
24 the construction of any building, structure, or facility, or portion thereof, for initial
25 occupancy by the state and that contains an option for the state to purchase the

1 building, structure, or facility unless the seller or lessor agrees that all equipment
2 to be installed as a component of the building, structure, or facility that relates to any
3 function that consumes energy meets applicable requirements for state building
4 projects under s. 16.855 (10s) (a).

5 **SECTION 47.** 25.96 of the statutes is amended to read:

6 **25.96 Utility public benefits fund.** There is established a separate
7 nonlapsible trust fund designated as the utility public benefits fund, consisting of
8 ~~deposits by the public service commission under s. 196.374 (3), public benefits~~
9 low-income assistance fees received under s. 16.957 (4) (a) and (5) (c) and (d) and
10 ~~contributions received under s. 16.957 (2) (c) 4. and (d) 2. (b) 2.~~

11 **SECTION 48.** 76.28 (1) (d) of the statutes is amended to read:

12 76.28 (1) (d) “Gross revenues” for a light, heat and power company other than
13 a qualified wholesale electric company or a transmission company means total
14 environmental control charges paid to the company under a financing order issued
15 under s. 196.027 (2) and total operating revenues as reported to the public service
16 commission except revenues for interdepartmental sales and for interdepartmental
17 rents as reported to the public service commission and deductions from the sales and
18 use tax under s. 77.61 (4), except that the company may subtract from revenues
19 either the actual cost of power purchased for resale, as reported to the public service
20 commission, by a light, heat and power company, except a municipal light, heat and
21 power company, that purchases under federal or state approved wholesale rates
22 more than 50% of its electric power from a person other than an affiliated interest,
23 as defined in s. 196.52 (1), if the revenue from that purchased electric power is
24 included in the seller’s gross revenues or the following percentages of the actual cost
25 of power purchased for resale, as reported to the public service commission, by a

1 light, heat and power company, except a municipal light, heat and power company
2 that purchases more than 90% of its power and that has less than \$50,000,000 of
3 gross revenues: 10% for the fee assessed on May 1, 1988, 30% for the fee assessed on
4 May 1, 1989, and 50% for the fee assessed on May 1, 1990, and thereafter. For a
5 qualified wholesale electric company, “gross revenues” means total business
6 revenues from those businesses included under par. (e) 1. to 4. For a transmission
7 company, “gross revenues” means total operating revenues as reported to the public
8 service commission, except revenues for transmission service that is provided to a
9 public utility that is subject to the license fee under sub. (2) (d), to a public utility, as
10 defined in s. 196.01 (5), or to a cooperative association organized under ch. 185 for
11 the purpose of providing electricity to its members only. For an electric utility, as
12 defined in s. 16.957 (1) (g), “gross revenues” does not include ~~public benefits~~
13 low-income assistance fees collected by the electric utility under s. 16.957 (4) (a) or
14 (5) (a). For a generator public utility, “gross revenues” does not include any grants
15 awarded to the generator public utility under s. 16.958 (2) (b). For a wholesale
16 supplier, as defined in s. 16.957 (1) (w), “gross revenues” does not include any ~~public~~
17 ~~benefits~~ low-income assistance fees that are received from a municipal utility or
18 retail electric cooperative or under a joint program established under s. 16.957 (5)
19 (f). For a municipal utility, “gross revenues” does not include ~~public benefits~~
20 low-income assistance fees received by the municipal utility from a municipal utility
21 or retail electric cooperative under a joint program established under s. 16.957 (5)
22 (f).

23 **SECTION 49.** 76.48 (1g) (d) of the statutes is amended to read:

24 76.48 (1g) (d) “Gross revenues” means total operating revenues, except
25 revenues for interdepartmental sales and for interdepartmental rents, less

1 deductions from the sales and use tax under s. 77.61 (4) and, in respect to any electric
2 cooperative that purchases more than 50% of the power it sells, less the actual cost
3 of power purchased for resale by an electric cooperative, if the revenue from that
4 purchased electric power is included in the seller's gross revenues or if the electric
5 cooperative purchased more than 50% of the power it sold in the year prior to
6 January 1, 1988, from a seller located outside this state. For an electric cooperative,
7 "gross revenues" does not include grants awarded to the electric cooperative under
8 s. 16.958 (2) (b). For a retail electric cooperative, "gross revenues" does not include
9 ~~public benefits~~ low-income assistance fees collected by the retail electric cooperative
10 under s. 16.957 (5) (a), ~~public benefits~~ low-income assistance fees received by the
11 retail electric cooperative from a retail electric cooperative or municipal utility under
12 a joint program established under s. 16.957 (5) (f). For a wholesale supplier, as
13 defined in s. 16.957 (1) (w), "gross revenues" does not include any ~~public benefits~~
14 low-income assistance fees that are received from a municipal utility, as defined in
15 s. 16.957 (1) (q), or retail electric cooperative or under a joint program established
16 under s. 16.957 (5) (f).

17 **SECTION 50.** 77.54 (44) of the statutes is amended to read:

18 77.54 (44) The gross receipts from the collection of ~~public benefits~~ low-income
19 assistance fees that are charged under s. 16.957 (4) (a) or (5) (a).

20 **SECTION 51.** 79.005 (4) (d) of the statutes is amended to read:

21 79.005 (4) (d) Replacing steam generating equipment at a combustion-based
22 renewable facility, as defined in s. 196.378 (1) (g), that is located in this state, to
23 increase efficiency or capacity, if the facility remains a combustion-based renewable
24 facility, as defined in s. 196.378 (1) (g), after replacing the equipment.

1 **SECTION 52.** 101.027 (1) (intro.) and (a) of the statutes are consolidated,
2 renumbered 101.027 (1) and amended to read:

3 101.027 (1) In this section: (a) ~~“Energy.~~ “energy conservation code” means the
4 energy conservation code promulgated by the department that sets design
5 requirements for construction and equipment for the purpose of energy conservation
6 in public buildings and places of employment.

7 **SECTION 53.** 101.027 (1) (b) of the statutes is repealed.

8 **SECTION 54.** 101.027 (2) of the statutes is amended to read:

9 101.027 (2) The department shall review the energy conservation code and
10 shall promulgate rules that change the requirements of the energy conservation code
11 to improve energy conservation. No rule may be promulgated that has not taken into
12 account the cost of the energy conservation code requirement, as changed by the rule,
13 in relationship to the benefits derived from that requirement, including the
14 reasonably foreseeable economic and environmental benefits to the state from any
15 reduction in the use of imported fossil fuel. The proposed rules changing the energy
16 conservation code shall be submitted to the legislature in the manner provided under
17 s. 227.19. In conducting a review under this subsection, the department shall
18 consider incorporating, into the energy conservation code, design requirements from
19 the most current national energy efficiency design standards, including ~~standard~~
20 90.1 – 1989 the International Energy Conservation Code or an energy efficiency code
21 other than ~~standard 90.1 – 1989~~ the International Energy Conservation Code if that
22 energy efficiency code is used to prescribe design requirements for the purpose of
23 conserving energy in buildings and is generally accepted and used by engineers and
24 the construction industry.

25 **SECTION 55.** 101.027 (3) (a) 1. of the statutes is amended to read:

1 101.027 (3) (a) 1. A revision of standard ~~90.1 – 1989~~ the International Energy
2 Conservation Code is published.

3 **SECTION 56.** 101.027 (3) (a) 2. of the statutes is amended to read:

4 101.027 (3) (a) 2. ~~Five~~ Three years have passed from the date on which the
5 department last submitted to the legislature proposed rules changing the energy
6 conservation code.

7 **SECTION 57.** 101.027 (3) (b) 1. of the statutes is amended to read:

8 101.027 (3) (b) 1. If the department begins a review under sub. (2) because a
9 revision of standard ~~90.1 – 1989~~ the International Energy Conservation Code is
10 published, the department shall complete its review of the energy conservation code,
11 as defined in sub. (1). and submit to the legislature proposed rules changing the
12 energy conservation code, as defined in sub. (1). no later than 18 months after the
13 date on which the revision of standard ~~90.1 – 1989~~ the International Energy
14 Conservation Code is published.

15 **SECTION 58.** 101.027 (3) (b) 2. of the statutes is amended to read:

16 101.027 (3) (b) 2. If the department begins a review under sub. (2) because ~~5~~
17 3 years have passed from the date on which the department last submitted to the
18 legislature proposed rules changing the energy conservation code, the department
19 shall complete its review of the energy conservation code and submit to the
20 legislature proposed rules changing the energy conservation code no later than 9
21 months after the last day of the ~~5-year~~ 3-year period.

22 **SECTION 59.** 196.025 (1) (title) of the statutes is created to read:

23 196.025 (1) (title) STATE ENERGY POLICY.

24 **SECTION 60.** 196.025 (1) of the statutes is renumbered 196.025 (1) (a) and
25 amended to read:

1 196.025 (1) (a) *Consideration of energy priorities.* ~~To~~ Except as provided in
2 pars. (b) to (d), to the extent cost-effective, technically feasible and environmentally
3 sound, the commission shall implement the priorities under s. 1.12 (4) in making all
4 energy-related decisions and orders, including ~~advance plan~~ strategic energy
5 assessment, rate setting and rule-making orders.

6 **SECTION 61.** 196.025 (1) (b) to (d) of the statutes are created to read:

7 196.025 (1) (b) *Energy conservation and efficiency.* In a proceeding regarding
8 a request by an investor-owned electric public utility or wholesale supplier, as
9 defined in s. 16.957 (1) (w), under s. 196.49, 196.491 (3), or 196.80 for authority to
10 acquire, construct, install, or operate any plant, equipment, property, or facility, the
11 commission is not required to evaluate energy conservation and efficiency as an
12 element of or alternative to the proposal if the commission has fulfilled all of its
13 duties and responsibilities under s. 196.374 and one of the following applies:

14 1. If the applicant is an investor-owned electric public utility, the applicant has
15 satisfied the requirements of s. 196.374 for that year, as specified in s. 196.374 (8).

16 2. If the applicant is a wholesale supplier, as defined in s. 16.957 (1) (w), the
17 commission determines that the applicant's members are in the aggregate
18 substantially in compliance with s. 196.374 (7).

19 (c) *Renewable resources.* 1. In this paragraph:

20 a. "Renewable resource" has the meaning given in s. 196.374 (1) (j).

21 b. "Wholesale supplier" has the meaning given in s. 16.957 (1) (w).

22 2. In a proceeding regarding a request by an investor-owned electric public
23 utility or wholesale supplier under s. 196.49, 196.491 (3), or 196.80 for authority to
24 acquire, construct, install, or operate any plant, equipment, property, or facility, the
25 commission is not required to consider renewable resources as an element of or

1 alternative to the proposal if the commission has fulfilled all of its duties and
2 responsibilities under s. 196.378 and one of the following applies:

3 a. If the applicant is an investor–owned electric public utility, the applicant is
4 in compliance with the requirements of s. 196.378 (2) for that year.

5 b. If the applicant is a wholesale supplier, the commission determines that the
6 applicant’s members are in the aggregate substantially in compliance with s. 196.378
7 (2).

8 (d) *Transmission facilities.* In a proceeding regarding a request by a public
9 utility under s. 196.49, 196.491 (3), or 196.80, to acquire, construct, install, or operate
10 an electric transmission facility or associated equipment, the commission is not
11 required to find that approval of the proposal would implement the policies under s.
12 1.12 (4).

13 **SECTION 62.** 196.025 (1m) (title) of the statutes is created to read:

14 196.025 (1m) (title) TRANSMISSION CORRIDORS.

15 **SECTION 63.** 196.025 (2) (title) of the statutes is created to read:

16 196.025 (2) (title) ENVIRONMENTAL IMPACTS.

17 **SECTION 64.** 196.025 (2m) (title) of the statutes is created to read:

18 196.025 (2m) (title) COORDINATION WITH DEPARTMENT OF NATURAL RESOURCES.

19 **SECTION 65.** 196.025 (3) (title) of the statutes is created to read:

20 196.025 (3) (title) RELIABILITY REPORTS.

21 **SECTION 66.** 196.025 (4) (title) of the statutes is created to read:

22 196.025 (4) (title) SMALL–SCALE GENERATION INCENTIVES.

23 **SECTION 67.** 196.025 (5) (title) of the statutes is created to read:

24 196.025 (5) (title) MARKET POWER STUDY.

25 **SECTION 68.** 196.374 of the statutes is repealed and recreated to read:

1 **196.374 Energy efficiency and renewable resource programs. (1)**

2 DEFINITIONS. In this section:

3 (a) “Agricultural producer” means a person engaged in an agricultural activity,
4 as defined in s. 101.10 (1) (a).

5 (b) “Commitment to community program” means an energy efficiency or load
6 management program by or on behalf of a municipal utility or retail electric
7 cooperative.

8 (c) “Customer application of renewable resources” means the generation of
9 electricity from renewable resources that takes place on the premises of a customer
10 of an energy utility or municipal utility or a member of a retail electric cooperative.

11 (d) “Energy efficiency program” means a program for reducing the usage or
12 increasing the efficiency of the usage of energy by a customer or member of an energy
13 utility, municipal utility, or retail electric cooperative. “Energy efficiency program”
14 does not include load management.

15 (e) “Energy utility” means an investor–owned electric or natural gas public
16 utility.

17 (f) “Load management program” means a program to allow an energy utility,
18 municipal utility, wholesale electric cooperative, as defined in s. 16.957 (1) (v), retail
19 electric cooperative, or municipal electric company, as defined in s. 66.0825 (3) (d),
20 to control or manage daily or seasonal customer demand associated with equipment
21 or devices used by customers or members.

22 (g) “Local unit of government” has the meaning given in s. 23.24 (4) (a) 1.

23 (h) “Municipal utility” has the meaning given in s. 16.957 (1) (q).

24 (i) “Ordered program” means an energy efficiency or renewable resource
25 program that an energy utility conducted under a commission order issued on or

1 after October 29, 1999, and is in effect before the effective date of this paragraph ...
2 [revisor inserts date].

3 (j) “Renewable resource” means a resource that derives energy from any source
4 other than coal, petroleum products, nuclear power or, except as used in a fuel cell,
5 natural gas. “Renewable resource” includes resources deriving energy from any of
6 the following:

7 1. Solar energy.

8 2. Wind power.

9 3. Water power.

10 4. Biomass.

11 5. Geothermal technology.

12 6. Tidal or wave action.

13 7. Fuel cell technology that does not use coal or petroleum products as fuel.

14 (k) “Renewable resource program” means a program for encouraging the
15 development or use of customer applications of renewable resources, including
16 educating customers or members about renewable resources, encouraging
17 customers or members to use renewable resources, and encouraging the transfer of
18 new or emerging technologies from research, development, and demonstration to
19 commercial implementation.

20 (L) “Retail electric cooperative” has the meaning given in s. 16.957 (1) (t).

21 (m) “Shared savings program” means a program under which a person finances
22 the installation of energy efficiency improvements or renewable resources systems
23 in the facilities of a customer and recovers the cost of the installation from a portion
24 of the cost savings realized by the customer as a result of the installation.

25 (n) “Wholesale supplier” has the meaning given in s. 16.957 (1) (w).

1 (o) “Wholesale supply percentage” has the meaning given in s. 16.957 (1) (x).

2 **(2)** ENERGY EFFICIENCY AND RENEWABLE RESOURCE PROGRAMS. (a) *Statewide*
3 *programs.* 1. The energy utilities in this state shall collectively establish and fund
4 statewide energy efficiency and renewable resource programs. The energy utilities
5 shall contract, on the basis of competitive bids, with one or more persons to
6 administer the programs. The utilities may not execute a contract under this
7 subdivision unless the commission has approved the contract. The commission shall
8 require each energy utility to spend the amount required under sub. (3) (b) 2. to fund
9 statewide energy efficiency and renewable resource programs.

10 2. The purpose of the programs under this paragraph shall be to help achieve
11 environmentally sound and adequate energy supplies at reasonable cost, consistent
12 with the commission’s responsibilities under s. 196.025 (1) (a) and the utilities’
13 obligations under this chapter. The programs shall include, at a minimum, all of the
14 following:

15 a. Components to address the energy needs of residential, commercial,
16 agricultural, institutional, and industrial energy users and local units of
17 government.

18 b. Components to reduce the energy costs incurred by local units of government
19 and agricultural producers, by increasing the efficiency of energy use by local units
20 of government and agricultural producers. The commission shall ensure that not
21 less than 10 percent of the moneys utilities are required to spend under subd. 1. or
22 sub. (3) (b) 2. is spent annually on programs under this subdivision except that, if the
23 commission determines that the full amount cannot be spent on cost-effective
24 programs for local units of government and agricultural producers, the commission

1 shall ensure that any surplus funds be spent on programs to serve commercial,
2 institutional, and industrial customers.

3 c. Initiatives and market strategies that address the needs of individuals or
4 businesses facing the most significant barriers to creation of or participation in
5 markets for energy efficient products that the individual or business manufactures
6 or sells or energy efficiency services that the individual or business provides.

7 3. The commission may not require an energy utility to administer or fund any
8 energy efficiency or renewable resource program that is in addition to the programs
9 required under subd. 1. and any ordered program of the utility. This subdivision does
10 not limit the authority of the commission to enforce an energy utility's obligations
11 under s. 196.378.

12 (b) *Utility-administered programs.* 1. An energy utility may, with commission
13 approval, administer or fund one or more energy efficiency programs that is limited
14 to large commercial, industrial, institutional, or agricultural customers in its service
15 territory. An energy utility shall pay for a program under this subdivision with a
16 portion of the amount required under sub. (3) (b) 2., as approved by the commission.
17 The commission may not order an energy utility to administer or fund a program
18 under this subdivision.

19 2. An energy utility may, with commission approval, administer or fund an
20 energy efficiency or renewable resource program that is in addition to the programs
21 required under par. (a) or authorized under subd. 1. The commission may not order
22 an energy utility to administer or fund a program under this subdivision.

23 3. An energy utility that administers or funds a program under subd. 1. or 2.
24 or an ordered program may request, and the commission may approve, to modify or
25 discontinue, in whole or in part, the ordered program. An energy utility shall request

1 the modification or discontinuation of a program under subd. 1. or 2. or an ordered
2 program as part of a proceeding under sub. (3) (b) 1.

3 **(3) COMMISSION DUTIES.** (a) *In general.* The commission shall have oversight
4 of programs under sub. (2). The commission shall maximize coordination of program
5 delivery, including coordination between programs under subs. (2) (a) 1. and (b) 1.
6 and 2. and (7), ordered programs, low-income weatherization programs under s.
7 16.957, renewable resource programs under s. 196.378, and other energy efficiency
8 or renewable resource programs. The commission shall cooperate with the
9 department of natural resources to ensure coordination of energy efficiency and
10 renewable resource programs with air quality programs and to maximize and
11 document the air quality improvement benefits that can be realized from energy
12 efficiency and renewable resource programs.

13 (b) *Programs and funding.* 1. At least every 4 years, after notice and
14 opportunity to be heard, the commission shall, by order, evaluate the energy
15 efficiency and renewable resource programs under sub. (2) (a) 1. and (b) 1. and 2. and
16 ordered programs and set or revise goals, priorities, and measurable targets for the
17 programs. The commission shall give priority to programs that moderate the growth
18 in electric and natural gas demand and usage, facilitate markets and assist market
19 providers to achieve higher levels of energy efficiency, promote energy reliability and
20 adequacy, avoid adverse environmental impacts from the use of energy, and promote
21 rural economic development.

22 2. The commission shall require each energy utility to spend 1.2 percent of its
23 annual operating revenues to fund the utility's programs under sub. (2) (b) 1., the
24 utility's ordered programs, and the utility's share of the statewide energy efficiency
25 and renewable resource programs under sub. (2) (a) 1. Subject to approval under

1 subd. 3., the commission may require each energy utility to spend a larger percentage
2 of its annual operating revenues to fund these programs. The commission may make
3 such a requirement based on the commission's consideration of all of the following:

4 a. Studies of potential energy–efficiency improvements that could be made in
5 this state, including at least one study completed within the preceding 2 years that
6 provides a prospective 5–year and 10–year estimate of such potential that is
7 cost–effective.

8 b. The potential short–term and long–term impacts on electric and natural gas
9 rates and alternative means to mitigate such impacts.

10 c. The impact on the continuation and effectiveness of existing energy efficiency
11 and renewable resource programs, and the ability of such programs to capture
12 time–limited and cost–effective energy–efficiency opportunities.

13 d. The impact on the reliability and adequacy of systems for the generation and
14 transmission of electricity and the transmission of natural gas.

15 e. Societal impacts.

16 f. The potential for displacing or delaying construction of electric generating
17 plants and transmission lines.

18 g. Economic impacts that are likely to accrue from reducing state and private
19 expenditures on coal, natural gas, fuel oil, and other fossil fuel imports.

20 h. Any other relevant factors.

21 3. The commission shall submit to the joint committee on finance any proposal
22 to require each energy utility to spend a larger percentage of its annual operating
23 revenues than the percentage specified in subd. 2. (intro.) to fund the programs
24 specified in subd. 2. (intro.). If the cochairpersons of the committee do not notify the
25 commission within 10 working days after the commission submits such a proposal

1 that the committee has scheduled a meeting to review the proposal, the commission
2 may require each energy utility to spend the percentage specified in the proposal.
3 If, within 10 working days after the commission submits a proposal, the
4 cochairpersons of the committee notify the commission that the committee has
5 scheduled a meeting to review the proposal, but, within 90 days of providing the
6 notice, the committee does not object to the proposal, the commission may require
7 each energy utility to spend the percentage specified in the proposal. If, within 90
8 days after providing the notice, the committee objects to the proposal, the
9 commission may not require each energy utility to spend the percentage specified in
10 the proposal.

11 (c) *Reviews and approvals.* The commission shall do all of the following:

12 1. Review and approve contracts under sub. (2) (a) 1. between the energy
13 utilities and program administrators.

14 2. Review requests under sub. (2) (b). The commission may condition its
15 approval of a request under sub. (2) (b) as necessary to protect the public interest.
16 The commission shall approve a request under sub. (2) (b) 1. or 2. if the commission
17 determines that a proposed energy efficiency or renewable resource program is in the
18 public interest and satisfies all of the following:

19 a. The program has specific savings targets and performance goals approved
20 by the commission.

21 b. The program is subject to independent evaluation by the commission.

22 c. Services under the program are provided through 3rd-party market
23 providers on a nondiscriminatory basis.

24 (d) *Audits.* Annually, the commission shall contract with one or more
25 independent auditors to prepare a financial and performance audit of the programs

1 specified in par. (b) 1. The purpose of the performance audit shall be to evaluate the
2 programs and measure the performance of the programs against the goals and
3 targets set by the commission under par. (b) 1.

4 (e) *Reports.* Annually, the commission shall prepare and post on the
5 commission's Internet site a report and submit a summary of not more than 2 pages
6 to the legislature under s. 13.172 (2). The reports shall describe each of the following:

7 1. The expenses of the commission, utilities, and program administrators
8 contracted under sub. (2) (a) 1. in administering or participating in the programs
9 under sub. (2) (a) 1.

10 2. The effectiveness of the programs specified in par. (b) 1. and sub. (7) in
11 reducing demand for electricity and increasing the use of renewable resources owned
12 by customers or members.

13 3. The results of audits under par. (d).

14 4. Any other information required by the commission.

15 (f) *Rules.* The commission shall promulgate rules to establish all of the
16 following:

17 1. Procedures for energy utilities to collectively contract with program
18 administrators for administration of statewide programs under sub. (2) (a) 1. and to
19 receive contributions from municipal utilities and retail electric cooperatives under
20 sub. (7) (b) 2.

21 2. Procedures and criteria for commission review and approval of contracts for
22 administration of statewide programs under sub. (2) (a) 1., including criteria for the
23 selection of program administrators under sub. (2) (a) 1.

1 3. Procedures and criteria for commission review and approval of
2 utility-administered programs under sub. (2) (b) 1. and 2. and requests under sub.
3 (2) (b) 3.

4 4. Minimum requirements for energy efficiency and renewable resource
5 programs under sub. (2) (a) 1. and (b) 1. and 2.

6 **(4) DISCRIMINATION PROHIBITED; COMPETITION.** (a) In implementing programs
7 under sub. (2) (a) 1. or (b) 1. or 2., including the awarding of grants or contracts, an
8 energy utility or utility affiliate, a person who contracts with the utilities under sub.
9 (2) (a) 1., or a person who subcontracts with such a person:

10 1. May not discriminate against an energy utility or its affiliate or a wholesale
11 supplier or its affiliate solely on the basis of its status as an energy utility or its
12 affiliate or wholesale supplier or its affiliate.

13 2. Shall provide services to utility customers on a nondiscriminatory basis and
14 subject to a customer's choice.

15 (b) An energy utility that provides financing under an energy efficiency
16 program under sub. (2) (b) 1. or 2. for installation, by a customer, of energy efficiency
17 or renewable resource processes, equipment, or appliances, or an affiliate of such a
18 utility, may not sell to or install for the customer those processes, equipment,
19 appliances, or related materials. The customer shall acquire the installation of the
20 processes, equipment, appliances, or related materials from an independent
21 contractor of the customer's choice.

22 **(5) COST RECOVERY; EQUITABLE DISTRIBUTION.** (a) The commission shall ensure
23 in rate-making orders that an energy utility recovers from its ratepayers the
24 amounts the energy utility is required to spend under sub. (3) (b) 2. The commission

1 shall promulgate rules that establish the maximum amount that an individual
2 ratepayer may be required to pay for the recovery of such amounts.

3 (b) The commission may prescribe the accounting treatment of energy utility
4 expenditures required under this section, including the use of any escrow
5 accounting.

6 (c) The commission shall ensure that the cost of energy efficiency and
7 renewable resource programs is equitably divided among customer classes so that
8 similarly situated ratepayers contribute equivalent amounts for the programs.

9 (d) The commission shall ensure that customers throughout the state have an
10 equivalent opportunity to receive the benefits of the programs under sub. (2) (a) 1.
11 and (b) 1. The commission shall ensure that statewide programs are designed to
12 ensure that retail customers in areas not served by programs under sub. (2) (b) 1.
13 receive equivalent opportunities as those in areas served by programs under sub. (2)
14 (b) 1.

15 **(6) ANNUAL STATEMENTS.** An energy utility shall provide customers with an
16 annual statement that describes the programs under sub. (2) (a) 1. and (b) 1. and 2.,
17 and ordered programs, administered or funded by the energy utility and presents
18 cost and benefit information for those programs.

19 **(7) MUNICIPAL UTILITIES AND RETAIL ELECTRIC COOPERATIVES.** (a) *Requirement to*
20 *charge fees.* 1. Each retail electric cooperative and municipal utility shall charge a
21 monthly fee to each customer or member in an amount that is sufficient for the retail
22 electric cooperative or municipal utility to collect an annual average of \$8 per meter.
23 A retail electric cooperative or municipal utility may determine the amount that a
24 particular class of customers or members is required to pay under this subdivision
25 and may charge different fees to different classes of customers or members.

1 2. Notwithstanding subd. 1., the total increase in a customer's or member's
2 monthly electric bill that is based on the requirement to pay fees under subd. 1.,
3 including any increase resulting from a retail electric cooperative's or municipal
4 utility's compliance with this section, may not exceed 1.5 percent of the total of every
5 other charge for which the member or customer is billed for that period or \$375 per
6 month, whichever is less. To reflect changes in the consumer price index for all urban
7 consumers, U.S. city average, as determined by the U.S. department of labor, the
8 commission shall make annual adjustments to the amount of \$375.

9 (b) *Commitment to community programs.* 1. Except as provided in subd. 2.,
10 each retail electric cooperative and municipal utility shall spend the fees that it
11 charges under par. (a) on commitment to community programs. A commitment to
12 community program shall meet the program requirements under sub. (2) (a) 2. and
13 comply with the rules promulgated under sub. (3) (f) 4.

14 2. No later than October 1, 2007, and no later than every 3rd year after that
15 date, each municipal utility or retail electric cooperative shall notify the commission
16 whether it has elected to contribute the fees that it charges under par. (a) to statewide
17 programs established under sub. (2) (a) 1. in each fiscal year of the 3-year period for
18 which it has made the election. If a municipal utility or retail electric cooperative
19 elects to contribute to the statewide programs established under sub. (2) (a) 1., the
20 utility or cooperative shall contribute the fees that it collects under par. (a) to the
21 payment of contracts under sub. (2) (a) 1. for administration of the statewide
22 programs, as specified in the rules under sub. (3) (f) 1., in each year of the 3-year
23 period for which the utility or cooperative has made the election.

24 (c) *Wholesale supplier credit.* If a wholesale supplier has established an energy
25 efficiency or load management program, a municipal utility or retail electric

1 cooperative that is a customer or member of the wholesale supplier may include an
2 amount equal to the product of the municipal utility's or retail electric cooperative's
3 wholesale supply percentage and the amount that the wholesale supplier has spent
4 on energy efficiency or load management programs in a fiscal year in calculating the
5 amount that the municipal utility or retail electric cooperative has spent on
6 commitment to community programs under par. (b).

7 (d) *Joint programs.* Municipal utilities or retail electric cooperatives may
8 establish joint commitment to community programs, except that each municipal
9 utility or retail electric cooperative that participates in a joint program shall comply
10 with the spending requirements under par. (b).

11 (e) *Reports.* 1. For each fiscal year, each municipal utility and retail electric
12 cooperative that spends the fee that it charges under par. (a) for commitment to
13 community programs under par. (b) shall provide for an independent audit of its
14 programs and submit a report to the commission that describes all of the following:

15 a. An accounting of fees charged to customers or members under par. (a) in the
16 fiscal year and expenditures on commitment to community programs under par. (b),
17 including any amounts included in the municipal utility's or retail electric
18 cooperative's calculations under par. (c).

19 b. A description of commitment to community programs established by the
20 municipal utility or retail electric cooperative in the fiscal year.

21 c. The effectiveness of the commitment to community programs in reducing
22 demand for electricity by customers or members.

23 d. The results of audits under this subdivision.

24 e. Any other information required by the commission.

1 2. The commission shall require that municipal utilities and retail electric
2 cooperatives file reports under subd. 1. electronically, in a format that allows for
3 tabulation, comparison, and other analysis of the reports.

4 3. The commission shall maintain reports filed under subd. 1. for at least 6
5 years.

6 **(8) COMPLIANCE.** An energy utility that spends the full amount required under
7 sub. (3) (b) 2. in any year is considered to have satisfied its requirements under this
8 section for that year.

9 **SECTION 69.** 196.378 (1) (a) of the statutes is renumbered 196.378 (1) (ar)
10 amended to read:

11 196.378 **(1)** (ar) “Biomass” means a resource that derives energy from wood or
12 plant material or residue, biological waste, crops grown for use as a resource or
13 landfill gases. “Biomass” does not include garbage, as defined in s. 289.01 (9), or
14 nonvegetation-based industrial, commercial or household waste, except that
15 “biomass” includes refuse-derived fuel used for a renewable facility that was in
16 service ~~in this state~~ before January 1, 1998.

17 **SECTION 70.** 196.378 (1) (ag) of the statutes is created to read:

18 196.378 **(1)** (ag) “Baseline renewable percentage” means the average of an
19 energy provider’s renewable energy percentage for 2001, 2002, and 2003.

20 **SECTION 71.** 196.378 (1) (bm) of the statutes is repealed.

21 **SECTION 72.** 196.378 (1) (e) of the statutes is repealed.

22 **SECTION 73.** 196.378 (1) (f) of the statutes is repealed.

23 **SECTION 74.** 196.378 (1) (fg) of the statutes is created to read:

24 196.378 **(1)** (fg) “Renewable energy” means electricity derived from a
25 renewable resource.

1 **SECTION 75.** 196.378 (1) (fm) of the statutes is created to read:

2 196.378 (1) (fm) “Renewable energy percentage” means, with respect to an
3 electric provider for a particular year, the percentage that results from dividing the
4 sum of the following by the total amount of electricity that the electric provider sold
5 to retail customers or members for that year:

6 1. The electric provider’s total renewable energy for that year.

7 2. The renewable resource credits created or purchased by the electric provider,
8 if any, that the electric provider elects to use in that year.

9 **SECTION 76.** 196.378 (1) (fr) of the statutes is created to read:

10 196.378 (1) (fr) “Renewable energy supplier” means a person from whom an
11 electric provider purchases renewable energy at wholesale.

12 **SECTION 77.** 196.378 (1) (g) of the statutes is amended to read:

13 196.378 (1) (g) “Renewable facility” means an installed and operational electric
14 generating facility ~~in which electricity is derived from a renewable resource.~~
15 ~~“Renewable facility” includes a facility the installation or operation of which is~~
16 ~~required under federal law, but does not include a facility the installation or~~
17 ~~operation of which is required under the laws of another state even if the installation~~
18 ~~or operation of the facility is also required under federal law, located in or outside this~~
19 ~~state, that generates renewable energy.~~

20 **SECTION 78.** 196.378 (1) (i) of the statutes is amended to read:

21 196.378 (1) (i) “Renewable resource credit” means a credit calculated in
22 accordance with rules promulgated under sub. (3) (a) 1. and 2.

23 **SECTION 79.** 196.378 (1) (n) of the statutes is repealed.

24 **SECTION 80.** 196.378 (1) (o) of the statutes is repealed and recreated to read:

1 196.378 (1) (o) “Total renewable energy” means the total amount of renewable
2 energy that the electric provider sold to its customers or members in a year. “Total
3 renewable energy” does not include any energy that is used to comply with the
4 renewable energy requirements of another state. “Total renewable energy” includes
5 all of the following:

6 1. Renewable energy supplied by a renewable facility owned or operated by an
7 affiliated interest or wholesale supplier of an electric provider and allocated to the
8 electric provider under an agreement between the electric provider and the affiliated
9 interest or wholesale supplier.

10 2. Renewable energy purchased by an affiliated interest or wholesale supplier
11 of an electric provider from a renewable facility that is not owned or operated by the
12 affiliated interest or wholesale supplier, which renewable energy is allocated to the
13 electric provider under an agreement between the electric provider and the affiliated
14 interest or wholesale supplier.

15 **SECTION 81.** 196.378 (1) (p) of the statutes is created to read:

16 196.378 (1) (p) “Wholesale supplier” has the meaning given in s. 16.957 (1) (w).

17 **SECTION 82.** 196.378 (2) (a) of the statutes is repealed and recreated to read:

18 196.378 (2) (a) 1. No later than June 1, 2016, the commission shall prepare a
19 report stating whether, by December 31, 2015, the state has met a goal of 10 percent
20 of all electric energy consumed in the state being renewable energy. If the goal has
21 not been achieved, the report shall indicate why the goal was not achieved and how
22 it may be achieved, and the commission shall prepare similar reports biennially
23 thereafter until the goal is achieved. The commission shall submit reports under this
24 subdivision to the governor and chief clerk of each house of the legislature for
25 distribution to the legislature under s. 13.172 (2).

1 2. Except as provided in pars. (e), (f), and (g):

2 a. For the years 2006, 2007, 2008, and 2009, each electric provider may not
3 decrease its renewable energy percentage below the electric provider's baseline
4 renewable percentage.

5 b. For the year 2010, each electric provider shall increase its renewable energy
6 percentage so that it is at least 2 percentage points above the electric provider's
7 baseline renewable percentage.

8 c. For the years 2011, 2012, 2013, and 2014, each electric provider may not
9 decrease its renewable energy percentage below the electric provider's renewable
10 energy percentage required under subd. 2. b.

11 d. For the year 2015, each electric provider shall increase its renewable energy
12 percentage so that it is at least 6 percentage points above the electric provider's
13 baseline renewable percentage.

14 e. For each year after 2015, each electric provider may not decrease its
15 renewable energy percentage below the electric provider's renewable energy
16 percentage required under subd. 2. d.

17 **SECTION 83.** 196.378 (2) (b) 1. of the statutes is amended to read:

18 196.378 (2) (b) 1. ~~Total retail electric sales~~ The total amount of electricity that
19 an electric provider sold to retail customers or members in a year shall be calculated
20 on the basis of an average of ~~an~~ the electric provider's retail electric sales in this state
21 during the prior 3 years.

22 **SECTION 84.** 196.378 (2) (b) 1m. of the statutes is created to read:

23 196.378 (2) (b) 1m. The amount of electricity provided by hydroelectric power
24 that an electric provider may count toward satisfying the requirements of par. (a) 2.
25 shall be the average of the amounts of hydroelectric power generated by facilities

1 owned or operated by the electric provider that the electric provider reported to the
2 department of administration under s. 196.378 (2) (c), 2003 stats., for 2001, 2002, and
3 2003, adjusted to reflect the permanent removal from service of any of those
4 facilities, plus all electricity provided by hydroelectric power that the electric
5 provider purchased in the reporting year.

6 **SECTION 85.** 196.378 (2) (b) 3. of the statutes is repealed.

7 **SECTION 86.** 196.378 (2) (b) 4. of the statutes is amended to read:

8 196.378 (2) (b) 4. The members of a ~~municipal electric company, as defined in~~
9 ~~s. 66.0825 (3) (d),~~ wholesale supplier may aggregate and allocate renewable energy
10 among themselves and such a member may sell credits or portions of a credit
11 allocated to the member.

12 **SECTION 87.** 196.378 (2) (b) 5. of the statutes is created to read:

13 196.378 (2) (b) 5. An electric provider that purchases renewable energy from
14 a renewable energy supplier may use an allocated share of the renewable energy sold
15 by the renewable energy supplier to comply with a requirement under par. (a) 2. or
16 to create a credit under sub. (3) (a), provided that the cost of the renewable energy
17 is included in the price the electric provider paid the renewable energy supplier.

18 **SECTION 88.** 196.378 (2) (c) of the statutes is amended to read:

19 196.378 (2) (c) No later than April 15 annually, or another annual date specified
20 by the commission by rule, an electric provider shall submit a report to the
21 department commission that identifies the electric provider's renewable energy
22 percentage for the previous year and describes the electric provider's compliance
23 with par. (a) 2. and the electric provider's implementation plans for future
24 compliance. Reports under this paragraph may include certifications from
25 wholesale suppliers persons who sell renewable energy to the electric provider at

1 wholesale regarding the sources and amounts of renewable energy supplied to an the
2 electric provider. The department commission may specify the documentation that
3 is required to be included with reports submitted under this paragraph. The
4 commission may require that electric providers submit the reports in a proceeding.
5 initiated by the commission under this section relating to the implementation of s.
6 1.12, or in a proceeding for preparing a strategic energy assessment under s. 196.491
7 (2). No later than 90 days after the commission's receipt of an electric provider's
8 report, the commission shall inform the electric provider whether the electric
9 provider is in compliance with par. (a) 2.

10 **SECTION 89.** 196.378 (2) (e) of the statutes is repealed and recreated to read:

11 196.378 (2) (e) An electric provider, or a wholesale supplier for its members,
12 may request that the commission grant a delay for complying with a deadline
13 specified in par. (a) 2. The commission shall grant a delay if the commission
14 determines that the applicant has demonstrated good faith efforts to comply with the
15 deadline and that any of the following applies:

16 1. Notwithstanding reasonable efforts to protect against undesirable impacts
17 on the reliability of an electric provider's system, compliance with the deadline will
18 have an undesirable impact on the reliability of the applicant's system.

19 2. Notwithstanding reasonable efforts to protect against unreasonable
20 increases in rates of the applicant's ratepayers or members, compliance with the
21 deadline will result in unreasonable increases in rates of the applicant's ratepayers
22 or members, including increases that are due to the discontinuation of federal
23 renewable energy tax credits or other federal policies intended to reduce the
24 acquisition costs of renewable energy.

1 3. Notwithstanding reasonable efforts to obtain required approvals, the
2 applicant cannot comply with the deadline because the applicant or a supplier has
3 experienced or will experience delays in receiving required siting or permitting
4 approvals for renewable energy projects.

5 4. Notwithstanding reasonable efforts to secure transmission service, the
6 applicant cannot comply with the deadline because the applicant faces transmission
7 constraints that interfere with the economic and reliable delivery of renewable
8 energy to the applicant's system.

9 **SECTION 90.** 196.378 (2) (f) of the statutes is created to read:

10 196.378 (2) (f) A wholesale electric cooperative for its members or a municipal
11 electric company for its members may delay compliance with a deadline specified in
12 par. (a) 2. for any reason specified in par. (e) 1. to 4. A wholesale electric cooperative
13 or a municipal electric company that delays compliance with a deadline specified in
14 par. (a) 2. shall inform the commission of the delay and the reason for the delay, and
15 shall submit information to the commission demonstrating that, notwithstanding
16 good faith efforts by the wholesale electric cooperative or municipal electric company
17 and its members, the members cannot meet the deadline for the stated reason.

18 **SECTION 91.** 196.378 (2) (g) of the statutes is created to read:

19 196.378 (2) (g) 1. In this paragraph, “energy consumer advocacy group” means
20 a group or organization that advocates on behalf of its members' interests regarding
21 the cost, availability, and reliability of energy or regarding utility regulation.

22 2. An energy consumer advocacy group may request that the commission grant
23 to an electric provider that serves one or more members of the group a delay for
24 complying with a deadline specified in par. (a) 2. The commission shall grant a delay

1 if the commission determines that the utility has demonstrated good faith efforts to
2 comply with the deadline and that any of the conditions in par. (e) 1. to 4. apply.

3 **SECTION 92.** 196.378 (3) (a) of the statutes is renumbered 196.378 (3) (a) 1. and
4 amended to read:

5 196.378 (3) (a) 1. ~~An~~ Subject to subd. 2., an electric provider that provides total
6 renewable energy to its retail electric customers or members in excess of the
7 percentages specified in sub. (2) (a) 1. ~~to 6.~~ 2. may, in the applicable year, create a
8 renewable resource credit and sell to any other electric provider ~~a~~ the renewable
9 resource credit or a portion of ~~a~~ the renewable resource credit at any negotiated
10 price. ~~Alternatively, an~~ An electric provider that creates or purchases a renewable
11 resource credit or portion may use ~~a renewable resource~~ the credit or portion of a
12 ~~renewable resource credit~~ in a subsequent year, as provided under par. (c). to
13 establish compliance with sub. (2) (a) 2. The commission shall promulgate rules that
14 establish requirements for the creation and use of a renewable resource credit
15 created on or after January 1, 2004, including calculating the amount of a renewable
16 resource credit, and for the tracking of renewable resource credits by a regional
17 renewable resource credit tracking system. The rules shall specify the manner for
18 aggregating or allocating credits under this subdivision or sub. (2) (b) 4. or 5.

19 **SECTION 93.** 196.378 (3) (a) 2. of the statutes is created to read:

20 196.378 (3) (a) 2. The commission shall promulgate rules for calculating the
21 amount of a renewable resource credit that is created from a renewable facility
22 placed into service before January 1, 2004. The rules shall provide that the amount
23 of a renewable resource credit created on or after January 1, 2004, from such a
24 renewable facility, except a renewable facility owned by a retail customer of an

1 electric provider, is limited to the incremental increase in output from the renewable
2 facility that is due to capacity improvements made on or after January 1, 2004.

3 **SECTION 94.** 196.378 (3) (b) of the statutes is amended to read:

4 196.378 (3) (b) The commission may promulgate rules that establish
5 requirements and procedures for a sale under par. (a) 1.

6 **SECTION 95.** 196.378 (3) (c) of the statutes is created to read:

7 196.378 (3) (c) A renewable resource credit created under s. 196.378 (3) (a),
8 2003 stats., may not be used after December 31, 2011. A renewable resource credit
9 created under par. (a) 1. or 2., as affected by 2005 Wisconsin Act ... (this act), may
10 not be used after the 4th year after the year in which the credit is created, except the
11 commission may promulgate rules specifying a different period of time if the
12 commission determines that such period is necessary for consistency with any
13 regional renewable resource credit trading program that applies in this state.

14 **SECTION 96.** 196.378 (4m) of the statutes is created to read:

15 196.378 (4m) ADDITIONAL RENEWABLE RESOURCES REQUIREMENTS. The
16 commission may not impose on an electric provider any requirement that increases
17 the electric provider's renewable energy percentage beyond that required under sub.
18 (2) (a) 2. If an electric provider is in compliance with the requirements of sub. (2) (a)
19 2., the commission may not require the electric provider to undertake, administer,
20 or fund any other renewable energy program. This subsection does not limit the
21 authority of the commission to enforce an electric provider's obligations under s.
22 196.374.

23 **SECTION 97.** 196.378 (5) (intro.) of the statutes is amended to read:

24 196.378 (5) PENALTY. (intro.) Any person who violates sub. (2) or any ~~wholesale~~
25 renewable energy supplier who provides an electric provider with a false or

1 misleading certification regarding the sources or amounts of renewable energy
2 supplied at wholesale to the electric provider shall forfeit not less than \$5,000 nor
3 more than \$500,000. Forfeitures under this subsection shall be enforced by action
4 on behalf of the state by the attorney general. A court imposing a forfeiture under
5 this subsection shall consider all of the following in determining the amount of the
6 forfeiture:

7 **SECTION 98.** 285.48 (4) (a) of the statutes is amended to read:

8 285.48 (4) (a) The use of renewable energy, including renewable energy that
9 is provided by electric providers for the purpose of complying with the requirements
10 of s. 196.378 (2) (a) 2., or renewable energy that is used under programs ~~specified in~~
11 ~~s. 196.374 (2) (d) that are funded by expenditures~~ under s. 196.374 (3).

12 **SECTION 99.** 285.48 (4) (b) of the statutes is amended to read:

13 285.48 (4) (b) The implementation of low-income weatherization and energy
14 conservation measures, including programs established under s. 16.957 (2) (a) or (b)
15 or programs ~~specified in s. 196.374 (2) (a) or (b) that are funded by expenditures~~
16 under s. 196.374 (3).

17 **SECTION 100. Nonstatutory provisions.**

18 (1) INITIAL CONTRACTS. To promote administrative efficiency and build on
19 existing, successful programs, the public service commission shall direct energy
20 utilities, as defined in section 196.374 (1) (e) of the statutes, as affected by this act,
21 to negotiate initial contracts under section 196.374 (2) (a) 1. of the statutes, as
22 affected by this act, with the holders of current contracts under section 16.957 (3) (b),
23 2003 stats., to the extent that the programs administered by those contract holders
24 are functioning effectively and accomplishing most or all of the goals set for them.

1 (2) CORN-BURNING FURNACE PILOT PROGRAM. The department of administration
2 shall conduct a pilot program under section 16.957 (2) (b) 1. b. of the statutes during
3 the winter heating season between November 1, 2006, and March 1, 2007, to
4 determine the feasibility and cost-effectiveness of the use of residential space
5 heating equipment in this state that is fueled by biomass, as defined in section
6 196.378 (1) (a) of the statutes, from corn plants. The department of administration
7 shall report to the legislature the results of the pilot program in the report required
8 under section 16.957 (2) (d) 4. of the statutes.

9 (3) REVIEW OF ENERGY CONSERVATION CODE. Notwithstanding section 101.027
10 (3) (a) and (b) of the statutes, the department of commerce shall begin a review of the
11 energy conservation code, as defined in section 101.027 (1) (a) of the statutes, on the
12 effective date of this subsection and shall complete that review and submit proposed
13 rules changing the energy conservation code as provided in section 101.027 (2) of the
14 statutes to the legislative council staff under section 227.15 (1) of the statutes by no
15 later than the first day of the 18th month beginning after the effective date of this
16 subsection. Notwithstanding section 101.027 (2) of the statutes, in conducting the
17 review under this subsection, the department of commerce, to the extent practicable,
18 shall consider incorporating into the energy conservation code design requirements
19 from the most current national energy efficiency design standards for new buildings,
20 except low-rise residential buildings, published by the American society of heating,
21 refrigerating, and air-conditioning engineers.

22 (4) ANAEROBIC DIGESTOR RESEARCH. The department of agriculture, trade and
23 consumer protection shall include, as part of its 2007–09 biennial budget request
24 that it submits to the department of administration under section 16.42 of the
25 statutes, a proposal to provide additional funding for the research and development

1 of anaerobic digestors at farms participating in the discovery farms program under
2 the Wisconsin agricultural stewardship initiative.

3 (5) PUBLIC SERVICE COMMISSION PROHIBITIONS.

4 (a) In this subsection:

5 1. “Commission” means the public service commission.

6 2. “Energy efficiency program” has the meaning given in section 196.374 (1) (d),
7 as affected by this act.

8 3. “Public utility” has the meaning given in section 196.01 (5) of the statutes.

9 4. “Renewable resource program” has the meaning given in section 196.374 (1)
10 (k), as affected by this act.

11 5. “Total renewable energy” has the meaning given in section 196.378 (1) (o) of
12 the statutes.

13 (b) Beginning on the effective date of this paragraph and ending on June 30,
14 2007, the commission may not order an investor–owned natural gas or electric public
15 utility to administer or fund any energy efficiency or renewable resource program
16 that is in addition to the requirements of section 196.374 of the statutes.

17 (c) Paragraph (b) does not affect the authority of the commission to enforce the
18 requirements of section 16.957 or 196.374 of the statutes.

19 (6) COST RECOVERY FROM RATEPAYERS.

20 (a) *Rules.* The public service commission shall submit in proposed form the
21 rules required under section 196.374 (5) (a) of the statutes, as created by this act, to
22 the legislative council staff under section 227.15 (1) of the statutes no later than the
23 first day of the 7th month beginning after the effective date of this paragraph.

24 (b) *Maximum payment.* Notwithstanding section 196.374 (5) (a) of the statutes,
25 as created by this act, during the period beginning on the effective date of this

1 paragraph and ending on the effective date of the rules specified in paragraph (a),
2 the maximum monthly amount that an individual ratepayer may be required to pay
3 for the recovery of amounts spent under section 196.374 (3), 2003 stats., or under
4 section 196.374 (3) (b) 2. of the statutes, as created by this act, is the monthly average,
5 for the 12 months preceding the effective date of this paragraph, of the amounts that
6 the ratepayer is required to contribute for the recovery of amounts spent under
7 section 196.374 (3), 2003 stats.

8 **SECTION 101. Initial applicability.**

9 (1) ENERGY EFFICIENCY STANDARDS. The treatment of sections 16.855 (10s) and
10 20.924 (1) (j) of the statutes first applies with respect to projects for which design
11 work begins on the effective date of this subsection.

12 **SECTION 102. Effective dates.** This act takes effect on July 1, 2007, except
13 as follows:

14 (1) The treatment of sections 16.75 (12), 16.897, 16.953, 79.005 (4) (d), 101.027
15 (1) (intro.), (a), and (b), (2), and (3) (a) 1. and 2. and (b) 1. and 2., 196.378 (1) (a), (ag),
16 (bm), (e), (f), (fg), (fm), (fr), (g), (i), (n), (o), and (p), (2) (a), (b) 1., 1m., 3., 4., and 5., (c),
17 (e), (f), and (g), (3) (b), and (c), (4m), and (5) (intro.) of the statutes, the creation of
18 section 196.378 (3) (a) 2. of the statutes, and the renumbering and amendment of
19 section 196.378 (3) (a) of the statutes and section 100 (2), (4), (5), and (6) of this act
20 take effect on the day after publication.

21 (END)