

2005 Senate Bill 459

Date of enactment: **March 17, 2006**

Date of publication\*: **March 31, 2006**

# 2005 WISCONSIN ACT 141

AN ACT *to repeal* 16.957 (1) (d), (e) and (h), 16.957 (1) (r), 16.957 (2) (b), 16.957 (2) (c) 2m., 2n. and 4., 16.957 (2) (d) 2., 16.957 (2) (d) 4. c., 16.957 (3) (b) and (c), 16.957 (4) (c) 2., 16.957 (5) (c) and (d), 16.957 (5) (e) 2., 101.027 (1) (b), 196.378 (1) (bm), 196.378 (1) (e), 196.378 (1) (f), 196.378 (1) (n) and 196.378 (2) (b) 3.; *to renumber* 16.957 (3) (a); *to renumber and amend* 196.025 (1), 196.378 (1) (a) and 196.378 (3) (a); *to consolidate, renumber and amend* 16.957 (5) (e) (intro.) and 1. and 101.027 (1) (intro.) and (a); *to amend* 16.75 (1) (a) 1., 16.957 (1) (c), 16.957 (1) (o) 1m., 16.957 (1) (o) 2., 16.957 (1) (o) 3., 16.957 (2) (a) 2., 16.957 (2) (a) 4., 16.957 (2) (c) 1., 16.957 (2) (c) 2., 16.957 (2) (d) 1., 16.957 (2) (d) 3., 16.957 (2) (d) 4. a., 16.957 (4) (a), 16.957 (4) (am), 16.957 (4) (b) (intro.), 16.957 (4) (c) (title), 16.957 (4) (c) 1. (intro.), 16.957 (4) (c) 1. a., 16.957 (4) (c) 1. c., 16.957 (4) (c) 3., 16.957 (5) (a), 16.957 (5) (am), 16.957 (5) (f), 16.957 (5) (g) 1. (intro.), 16.957 (5) (g) 1. a., 16.957 (5) (g) 1. b., 16.957 (5) (g) 2., 20.505 (3) (s), 25.96, 76.28 (1) (d), 76.48 (1g) (d), 77.54 (44), 79.005 (4) (d), 101.027 (2), 101.027 (3) (a) 1., 101.027 (3) (a) 2., 101.027 (3) (b) 1., 101.027 (3) (b) 2., 196.378 (1) (g), 196.378 (1) (i), 196.378 (2) (b) 1., 196.378 (2) (c), 196.378 (3) (b), 196.378 (5) (intro.), 285.48 (4) (a) and 285.48 (4) (b); *to repeal and recreate* 16.957 (title), 16.957 (1) (x), 16.957 (5) (b), 196.374, 196.378 (1) (o), 196.378 (2) (a), 196.378 (2) (b) 4. and 196.378 (2) (e); and *to create* 16.75 (10e), 16.75 (12), 16.855 (10s), 16.897, 16.953, 20.924 (1) (j), 196.025 (1) (title), 196.025 (1) (ag), 196.025 (1) (b) to (d), 196.025 (1m) (title), 196.025 (2) (title), 196.025 (2m) (title), 196.025 (3) (title), 196.025 (4) (title), 196.025 (5) (title), 196.378 (1) (ag), 196.378 (1) (fg), 196.378 (1) (fm), 196.378 (1) (fr), 196.378 (1) (p), 196.378 (2) (b) 1m., 196.378 (2) (b) 5., 196.378 (2) (f), 196.378 (2) (g), 196.378 (3) (a) 2., 196.378 (3) (c), 196.378 (4m) and 196.378 (4r) of the statutes; **relating to:** administration and funding of programs for utility public benefits; renewable energy requirements for utilities and retail electric cooperatives; energy efficiency requirements for state construction and certain purchases; revising and reviewing the state energy conservation code; state use of renewable energy resources; anaerobic digester research; corn-burning furnace pilot program; granting rule-making authority; and making an appropriation.

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

**SECTION 1e.** 16.75 (1) (a) 1. of the statutes, as affected by 2005 Wisconsin Act 25, is amended to read:

16.75 (1) (a) 1. All orders awarded or contracts made by the department for all materials, supplies, equipment, and contractual services to be provided to any agency,

except as otherwise provided in par. (c) and subs. (2), (2g), (2m), (3m), (3t), (6), (7), (8), (9), (10e), and (10m) and ss. 16.73 (4) (a), 16.751, 16.754, 50.05 (7) (f), 153.05 (2m) (a), 287.15 (7), and 301.265, shall be awarded to the lowest responsible bidder, taking into consideration life cycle cost estimates under sub. (1m), when appropriate, the location of the agency, the quantities of the articles to

\* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

be supplied, their conformity with the specifications, and the purposes for which they are required and the date of delivery.

**SECTION 1m.** 16.75 (10e) of the statutes is created to read:

16.75 (10e) (a) In this subsection, “energy consuming equipment” means any equipment that is designed for heating, ventilation, air conditioning, water heating or cooling, lighting, refrigeration, or any other function, and that consumes energy.

(b) The department, any other designated purchasing agent under s. 16.71 (1), any agency making purchases under s. 16.74, and any authority may not purchase energy consuming equipment unless the specifications for the equipment meet the applicable standards for the equipment established under s. 16.855 (10s) (a). If there is no standard under s. 16.855 (10s) (a) applicable to the type of energy consuming equipment being purchased, or if the energy consuming equipment meeting that standard is not reasonably available, the department, purchasing agent, agency, or authority shall ensure that the energy consuming equipment that is purchased maximizes energy efficiency to the extent technically and economically feasible. The department, purchasing agent, agency, or authority shall not determine that energy consuming equipment that meets the applicable standard under s. 16.855 (10s) (a) either is not reasonably available on the basis of cost alone or is not cost-effective unless the difference in the cost of the purchase and installation of the equipment that meets the standard and the equipment that would otherwise be installed is greater than the difference in the cost of operating the equipment that meets the standard and the equipment that would otherwise be installed over the anticipated life of the equipment.

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

16.75 (12) (a) In this subsection:

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

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

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

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

5. “Total annual electric energy” means the total annual amount of electric energy generated or purchased

by the state for power, heating, or cooling purposes for all agency facilities.

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

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

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

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

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

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

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

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

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

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

(b) The department shall ensure that the specifications for any equipment that is designed for heating, ventilation, air conditioning, water heating or cooling, lighting, refrigeration, or any other function that consumes energy under any construction project contract adminis-

tered by the department meet applicable standards established under par. (a). If there is no standard under par. (a) applicable to the type of equipment being purchased or if the equipment meeting that standard is not reasonably available, the department shall ensure that energy consumption within a building, structure, or facility and all equipment that is purchased under each contract administered by the department maximizes energy efficiency to the extent technically and economically feasible. The department shall not determine that equipment that meets the applicable standard under par. (a) either is not reasonably available on the basis of cost alone or is not cost-effective unless the difference in the cost of the purchase and installation of the equipment that meets the standard and the equipment that would otherwise be installed is greater than the difference in the cost of operating the equipment that meets the standard and the equipment that would otherwise be installed over the anticipated life of the equipment.

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

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

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

**16.953 Energy cost reduction plans.** No later than July 1 of each even-numbered year, each agency, as defined in s. 16.75 (12) (a) 1., shall submit a plan to the department, the joint committee on finance, and the standing committee of each house of the legislature having jurisdiction over energy, for reduction of the cost of energy used by the agency. The plan shall include all system and equipment upgrades or installations that are estimated to result in energy cost savings equal to the cost of the upgrade or installation over the anticipated life of the system or equipment. The plan shall also identify potential means of financing the upgrades and installations other than reliance on appropriations of general purpose revenues. The department of administration shall consider in its plan the means of financing allowed under s. 16.858.

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

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

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

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

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

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

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

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

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

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

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

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

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

16.957 (1) (x) "Wholesale supply percentage" means the percentage of the electricity sold by a wholesale supplier that is purchased by a municipal utility or retail electric cooperative.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16.957 (4) (b) *Rules.* (intro.) In consultation with the council, the department shall promulgate rules that establish the amount of a public benefits low-income assistance fee under par. (a). Fees established in rules under this paragraph may vary by class of customer, but shall

be uniform within each class, and shall satisfy each of the following:

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

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

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

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

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

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

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

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

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

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

16.957 (4) (c) 3. 'Limitation on electric bill increases low-income assistance fees.' For the period beginning on October 29, 1999, and ending on June 30, 2008, the total increase in a customer's electric bills that is based on the requirement to pay public benefits fees, including any increase resulting from an electric utility's compliance with this section, In any month, the low-income assistance fee may not exceed 3% of the total of every other charge for which the customer is billed for that period month or \$750 per month, whichever is less.

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

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

under this paragraph and may charge different fees to different classes of customers or members.

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

16.957 (5) (am) *Public benefits Low-income assistance fee restriction.* Notwithstanding par. (a), for the period beginning on October 29, 1999, and ending on June 30, 2008, the total increase in a customer's or member's electric bills that is based on the requirement to pay public benefits fees, including any increase resulting from a retail electric cooperative's or municipal utility's compliance with this section, in any month, the low-income assistance fee may not exceed 3% 1.5 percent of the total of every other charge for which the member or customer is billed for that period month or \$750 per month \$375, whichever is less.

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

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

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

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

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

16.957 (5) (e) *Wholesale supplier credit.* If a wholesale supplier has established a commitment to community program for low-income assistance or an energy conservation program, a municipal utility or retail electric cooperative that is a customer or member of the wholesale supplier may ~~do any of the following:~~ 1. Include ~~include~~ an amount equal to the product of the municipal utility's or retail electric cooperative's wholesale supply percentage and the amount that the wholesale supplier has spent on ~~low-income assistance~~ the commitment to community program in a fiscal year in calculating the amount that the municipal utility or retail electric cooperative has spent on ~~low-income assistance~~ com-

mitment to community programs in that fiscal year under par. ~~(d) 2. b. or 3. a.~~ (b) 1.

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

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

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

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

16.957 (5) (g) 1. (intro.) For each fiscal year Annually, each municipal utility and retail electric cooperative that does not pay 100% of the public benefits fee spends the low-income assistance fees that it the utility or cooperative charges under par. (a) to the department under par. (c) shall file a report with the department on commitment to community programs under par. (b) 1. shall provide for an independent audit of its programs and submit a report to the department that describes each of the following:

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

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

**SECTION 44.** 16.957 (5) (g) 1. b. of the statutes is amended to read:

16.957 (5) (g) 1. b. A description of commitment to community programs established by the municipal utility or retail electric cooperative in the fiscal year.

**SECTION 45.** 16.957 (5) (g) 2. of the statutes is amended to read:

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

**SECTION 46.** 20.505 (3) (s) of the statutes is amended to read:

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

**SECTION 47.** 20.924 (1) (j) of the statutes is created to read:

20.924 (1) (j) Shall not enter into any lease or other contract that provides for the construction of any building, structure, or facility, or portion thereof, for initial occupancy by the state and that contains an option for the state to purchase the building, structure, or facility unless the seller or lessor agrees that all equipment to be installed as a component of the building, structure, or facility that relates to any function that consumes energy meets applicable requirements for state building projects under s. 16.855 (10s) (a).

**SECTION 48.** 25.96 of the statutes is amended to read:

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

**SECTION 49.** 76.28 (1) (d) of the statutes is amended to read:

76.28 (1) (d) “Gross revenues” for a light, heat and power company other than a qualified wholesale electric company or a transmission company means total environmental control charges paid to the company under a financing order issued under s. 196.027 (2) and total operating revenues as reported to the public service commission except revenues for interdepartmental sales and for interdepartmental rents as reported to the public service commission and deductions from the sales and use tax under s. 77.61 (4), except that the company may subtract from revenues either the actual cost of power purchased for resale, as reported to the public service commission, by a light, heat and power company, except a municipal light, heat and power company, that purchases under federal or state approved wholesale rates more than 50% of its electric power from a person other than an affiliated interest, as defined in s. 196.52 (1), if the revenue from that purchased electric power is included in the seller’s gross revenues or the following percentages of the actual cost of power purchased for resale, as reported to the public service commission, by a light, heat and power company, except a municipal light, heat and power company that purchases more than 90% of its power and that has less than \$50,000,000 of gross revenues: 10% for the fee assessed on May 1, 1988, 30% for the fee assessed on May 1, 1989, and 50% for the fee assessed on May 1, 1990, and thereafter. For a qualified wholesale electric company, “gross revenues” means total business revenues from those businesses included under par. (e) 1. to 4. For a transmission company, “gross revenues” means total operating revenues as reported to the public service commission, except revenues for transmission service that is provided to a public utility that is subject to the license fee under sub. (2) (d), to a public utility, as

defined in s. 196.01 (5), or to a cooperative association organized under ch. 185 for the purpose of providing electricity to its members only. For an electric utility, as defined in s. 16.957 (1) (g), “gross revenues” does not include ~~public benefits low-income assistance~~ fees collected by the electric utility under s. 16.957 (4) (a) or (5) (a). For a generator public utility, “gross revenues” does not include any grants awarded to the generator public utility under s. 16.958 (2) (b). For a wholesale supplier, as defined in s. 16.957 (1) (w), “gross revenues” does not include any ~~public benefits low-income assistance~~ fees that are received from a municipal utility or retail electric cooperative or under a joint program established under s. 16.957 (5) (f). For a municipal utility, “gross revenues” does not include ~~public benefits low-income assistance~~ fees received by the municipal utility from a municipal utility or retail electric cooperative under a joint program established under s. 16.957 (5) (f).

**SECTION 50.** 76.48 (1g) (d) of the statutes is amended to read:

76.48 (1g) (d) “Gross revenues” means total operating revenues, except revenues for interdepartmental sales and for interdepartmental rents, less deductions from the sales and use tax under s. 77.61 (4) and, in respect to any electric cooperative that purchases more than 50% of the power it sells, less the actual cost of power purchased for resale by an electric cooperative, if the revenue from that purchased electric power is included in the seller’s gross revenues or if the electric cooperative purchased more than 50% of the power it sold in the year prior to January 1, 1988, from a seller located outside this state. For an electric cooperative, “gross revenues” does not include grants awarded to the electric cooperative under s. 16.958 (2) (b). For a retail electric cooperative, “gross revenues” does not include ~~public benefits low-income assistance~~ fees collected by the retail electric cooperative under s. 16.957 (5) (a), ~~public benefits low-income assistance~~ fees received by the retail electric cooperative from a retail electric cooperative or municipal utility under a joint program established under s. 16.957 (5) (f). For a wholesale supplier, as defined in s. 16.957 (1) (w), “gross revenues” does not include any ~~public benefits low-income assistance~~ fees that are received from a municipal utility, as defined in s. 16.957 (1) (q), or retail electric cooperative or under a joint program established under s. 16.957 (5) (f).

**SECTION 51.** 77.54 (44) of the statutes is amended to read:

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

**SECTION 52.** 79.005 (4) (d) of the statutes is amended to read:

79.005 (4) (d) Replacing steam generating equipment at a combustion-based renewable facility, as defined in s. 196.378 (1) (g), that is located in this state,

to increase efficiency or capacity, if the facility remains a combustion-based renewable facility, as defined in s. 196.378 (1) (g), after replacing the equipment.

**SECTION 53.** 101.027 (1) (intro.) and (a) of the statutes are consolidated, renumbered 101.027 (1) and amended to read:

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

**SECTION 54.** 101.027 (1) (b) of the statutes is repealed.

**SECTION 55.** 101.027 (2) of the statutes is amended to read:

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

**SECTION 56.** 101.027 (3) (a) 1. of the statutes is amended to read:

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

**SECTION 57.** 101.027 (3) (a) 2. of the statutes is amended to read:

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

**SECTION 58.** 101.027 (3) (b) 1. of the statutes is amended to read:

101.027 (3) (b) 1. If the department begins a review under sub. (2) because a revision of ~~standard 90.1—1989 the International Energy Conservation Code~~ is published, the department shall complete its review of the

energy conservation code, as defined in sub. (1), and submit to the legislature proposed rules changing the energy conservation code, as defined in sub. (1), no later than 18 months after the date on which the revision of ~~standard 90.1—1989 the International Energy Conservation Code~~ is published.

**SECTION 59.** 101.027 (3) (b) 2. of the statutes is amended to read:

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

**SECTION 60.** 196.025 (1) (title) of the statutes is created to read:

196.025 (1) (title) STATE ENERGY POLICY.

**SECTION 61.** 196.025 (1) of the statutes is renumbered 196.025 (1) (ar) and amended to read:

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

**SECTION 61m.** 196.025 (1) (ag) of the statutes is created to read:

196.025 (1) (ag) *Definitions.* In this subsection:

1. “Renewable resource” has the meaning given in s. 196.374 (1) (j).

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

**SECTION 62.** 196.025 (1) (b) to (d) of the statutes are created to read:

196.025 (1) (b) *Energy conservation and efficiency.*

1. In a proceeding in which an investor-owned electric public utility is a party, the commission shall not order or otherwise impose energy conservation or efficiency requirements on the investor-owned electric public utility if the commission has fulfilled all of its duties under s. 196.374 and the investor-owned electric public utility has satisfied the requirements of s. 196.374 for the year prior to commencement of the proceeding, as specified in s. 196.374 (8).

2. In a proceeding in which a wholesale supplier is a party, the commission shall not order or otherwise impose energy conservation or efficiency requirements on the wholesale supplier if the commission has fulfilled all of its duties under s. 196.374 and the wholesale supplier’s members are in the aggregate substantially in compliance with s. 196.374 (7).

(c) *Renewable resources.* 1. In a proceeding in which an investor–owned electric public utility is a party, the commission shall not order or otherwise impose any renewable resource requirements on the investor–owned electric public utility if the commission has fulfilled all of its duties under s. 196.378 and the commission has informed the utility under s. 196.378 (2) (c) that, with respect to the most recent report submitted under s. 196.378 (2) (c), the utility is in compliance with the requirements of s. 196.378 (2) (a) 2.

2. In a proceeding in which a wholesale supplier is a party, the commission shall not order or otherwise impose any renewable resource requirements on the wholesale supplier if the commission has fulfilled all of its duties under s. 196.378 and the wholesale supplier’s members are in the aggregate substantially in compliance with s. 196.378 (2).

(d) *Transmission facilities.* In a proceeding regarding a request by a public utility or wholesale supplier to acquire, construct, install, or operate an electric transmission facility or associated equipment, the commission shall not order or otherwise impose requirements on the public utility or wholesale supplier.

**SECTION 63.** 196.025 (1m) (title) of the statutes is created to read:

196.025 (1m) (title) TRANSMISSION CORRIDORS.

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

196.025 (2) (title) ENVIRONMENTAL IMPACTS.

**SECTION 65.** 196.025 (2m) (title) of the statutes is created to read:

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

**SECTION 66.** 196.025 (3) (title) of the statutes is created to read:

196.025 (3) (title) RELIABILITY REPORTS.

**SECTION 67.** 196.025 (4) (title) of the statutes is created to read:

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

**SECTION 68.** 196.025 (5) (title) of the statutes is created to read:

196.025 (5) (title) MARKET POWER STUDY.

**SECTION 69.** 196.374 of the statutes is repealed and recreated to read:

**196.374 Energy efficiency and renewable resource programs.** (1) **DEFINITIONS.** In this section:

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

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

(c) “Customer application of renewable resources” means the generation of energy from renewable resources that takes place on the premises of a customer

of an energy utility or municipal utility or a member of a retail electric cooperative.

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

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

(em) “Large energy customer” means a customer of an energy utility that owns or operates a facility in the energy utility’s service area that has an energy demand of at least 1,000 kilowatts of electricity per month or of at least 10,000 decatherms of natural gas per month and that, in a month, is billed at least \$60,000 for electric service, natural gas service, or both, for all of the facilities of the customer within the energy utility’s service territory.

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

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

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

(i) “Ordered program” means an energy efficiency or renewable resource program that an energy utility commenced on or after January 1, 2001, under a commission order issued on or after January 1, 2001, and in effect before the effective date of this paragraph .... [revisor inserts date].

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

1. Solar energy.
2. Wind power.
3. Water power.
4. Biomass.
5. Geothermal technology.
6. Tidal or wave action.
7. Fuel cell technology that uses, as determined by

the commission, a renewable fuel.

(k) “Renewable resource program” means a program for encouraging the development or use of customer applications of renewable resources, including educating customers or members about renewable resources, encouraging customers or members to use renewable resources, and encouraging the transfer of new or emerg-

ing technologies from research, development, and demonstration to commercial implementation.

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

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

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

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

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

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

b. Components to reduce the energy costs incurred by local units of government and agricultural producers, by increasing the efficiency of energy use by local units of government and agricultural producers. The commission shall ensure that not less than 10 percent of the monies utilities are required to spend under subd. 1. or sub. (3) (b) 2. is spent annually on programs under this subdivision except that, if the commission determines that the full amount cannot be spent on cost-effective programs for local units of government and agricultural producers, the commission shall ensure that any surplus funds be spent on programs to serve commercial, institutional, and industrial customers. A local unit of government that receives assistance under this subd. 2. b. shall apply all costs savings realized from the assistance to reducing the property tax levy.

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

d. Initiatives for research and development regarding the environmental and economic impacts of energy use in this state.

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

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

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

3. An energy utility that administers or funds a program under subd. 1. or 2. or an ordered program may request, and the commission may approve, to modify or discontinue, in whole or in part, the ordered program. An energy utility may request the establishment, modification, or discontinuation of a program under subd. 1. or 2. at any time and shall request the modification or discontinuation of an ordered program as part of a proceeding under sub. (3) (b) 1.

(c) *Large energy customer programs*. A customer of an energy utility may, with commission approval, administer and fund its own energy efficiency programs if the customer satisfies the definition of a large energy customer for any month in the 12 months preceding the date of the customer's request for approval. A customer may request commission approval at any time. A customer that funds a program under this paragraph may deduct the amount of the funding from the amount the energy utility may collect from the customer under sub. (5) (b). If the customer deducts the amount of the funding from the amount the energy utility may collect from the customer under sub. (5) (b), the energy utility shall credit the amount of the funding against the amount the energy utility is required to spend under sub. (3) (b) 2.

(3) COMMISSION DUTIES. (a) *In general*. The commission shall have oversight of programs under sub. (2). The commission shall maximize coordination of program delivery, including coordination between programs under subs. (2) (a) 1., (b) 1. and 2., and (c) and (7), ordered programs, low-income weatherization programs under s. 16.957, renewable resource programs under s. 196.378, and other energy efficiency or renew-

able resource programs. The commission shall cooperate with the department of natural resources to ensure coordination of energy efficiency and renewable resource programs with air quality programs and to maximize and document the air quality improvement benefits that can be realized from energy efficiency and renewable resource programs.

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

2. The commission shall require each energy utility to spend 1.2 percent of its annual operating revenues to fund the utility's programs under sub. (2) (b) 1., the utility's ordered programs, and the utility's share of the statewide energy efficiency and renewable resource programs under sub. (2) (a) 1. Subject to approval under subd. 3., the commission may require each energy utility to spend a larger percentage of its annual operating revenues to fund these programs. The commission may make such a requirement based on the commission's consideration of all of the following:

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

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

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

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

e. Societal impacts.

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

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

h. Any other relevant factors.

3. The commission shall submit to the joint committee on finance any proposal to require each energy utility

to spend a larger percentage of its annual operating revenues than the percentage specified in subd. 2. (intro.) to fund the programs specified in subd. 2. (intro.). If the cochairpersons of the committee do not notify the commission within 10 working days after the commission submits such a proposal that the committee has scheduled a meeting to review the proposal, the commission may require each energy utility to spend the percentage specified in the proposal. If, within 10 working days after the commission submits a proposal, the cochairpersons of the committee notify the commission that the committee has scheduled a meeting to review the proposal, but, within 90 days of providing the notice, the committee does not object to the proposal, the commission may require each energy utility to spend the percentage specified in the proposal. If, within 90 days after providing the notice, the committee objects to the proposal, the commission may not require each energy utility to spend the percentage specified in the proposal.

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

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

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

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

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

(d) *Audits.* Annually, the commission shall contract with one or more independent auditors to prepare a financial and performance audit of the programs specified in par. (b) 1. The purpose of the performance audit shall be to evaluate the programs and measure the performance of the programs against the goals and targets set by the commission under par. (b) 1. The person or persons with whom the energy utilities contract for program administration under sub. (2) (a) 1. shall pay the costs of the audits from the amounts paid under the contracts under sub. (2) (a) 1.

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

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

2. The effectiveness of the programs specified in par. (b) 1. and sub. (7) in reducing demand for electricity and

increasing the use of renewable resources owned by customers or members.

3. The results of audits under par. (d).
4. Any other information required by the commission.

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

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

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

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

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

(4) **DISCRIMINATION PROHIBITED; COMPETITION.** (a) In implementing programs under sub. (2) (a) 1., including the awarding of grants or contracts, a person who contracts with the utilities under sub. (2) (a) 1., or a person who subcontracts with such a person:

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

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

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

(5) **COST RECOVERY.** (a) *Rate-making orders.* The commission shall ensure in rate-making orders that an energy utility recovers from its ratepayers the amounts the energy utility spends for programs under sub. (2) (a) 1.

(b) *Large energy customers.* 1. Except as provided in sub. (2) (c) and par. (bm) 2., if the commission has determined that a customer of an energy utility is a large energy customer under 2005 Wisconsin Act .... (this act), section 102 (8) (b), then, each month, the energy utility shall collect from the customer, for recovery of amounts

under par. (a), the amount determined by the commission under 2005 Wisconsin Act .... (this act), section 102 (8) (c).

2. A customer of an energy utility that the commission has not determined is a large energy customer under 2005 Wisconsin Act .... (this act), section 102 (8) (b), may petition the commission for a determination that the customer is a large energy customer. The commission shall determine that a petitioner is a large energy customer if the petitioner satisfies the definition of large energy customer for any month in the 12 months preceding the date of the petition. If the commission makes such a determination, the commission shall also determine the amount that the energy utility may collect from the customer each month for recovery of the amounts under par. (a). The commission shall determine an amount that ensures that the amount collected from the customer is similar to the amounts collected from other customers that have a similar level of energy costs as the customer. Except as provided in sub. (2) (c) and par. (bm) 2., each month, the energy utility shall collect from the customer, for recovery of amounts under par. (a), the amount determined by the commission under this subdivision.

(bm) *Allocation proposal.* 1. The commission shall commence a proceeding for for creating a proposal for allocating within different classes of customers an equitable distribution of the recovery of the amounts under par. (a) by all energy utilities. The purpose of the allocation is to ensure that customers of an energy utility within a particular class are treated equitably with respect to customers of other energy utilities within the same class. No later than December 31, 2008, the commission shall submit the proposal to the governor and chief clerk of each house of the legislature for distribution to the appropriate standing committees of the legislature under s. 13.172 (3).

2. If, by July 1, 2009, legislation based on the proposal under subd. 1. has not been enacted, the commission shall, beginning on July 1, 2009, annually increase the amount that an energy utility may recover from a large energy customer each month under par. (b) only by a percentage that is the lesser of the following:

- a. The percentage increase in the energy utility's operating revenues during the preceding year.

- b. The percentage increase in the consumer price index for all urban consumers, U.S. city average, as determined by the U.S. department of labor, during the preceding year.

(c) *Accounting.* The commission may prescribe the accounting treatment of energy utility expenditures required under this section, including the use of any escrow accounting.

(d) *Equitable contributions.* Subject to pars. (b) and (bm) 2., the commission shall ensure that the cost of energy efficiency and renewable resource programs is equitably divided among customer classes so that simi-

larly situated ratepayers contribute equivalent amounts for the programs.

(5m) **BENEFIT AND GRANT OPPORTUNITIES.** (a) The commission shall ensure that, on an annual basis, each customer class of an energy utility has the opportunity to receive grants and benefits under energy efficiency programs in an amount equal to the amount that is recovered from the customer class under sub. (5) (a). Biennially, the commission shall submit a report to the governor, and the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2), that summarizes the total amount recovered from each customer class and the total amount of grants made to, and benefits received by, each customer class.

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

(6) **ANNUAL STATEMENTS.** Annually, the commission shall prepare a statement that describes the programs under sub. (2) (a) 1., (b) 1. and 2., and (c), and ordered programs, administered or funded by the energy utility and presents cost and benefit information for those programs. An energy utility shall provide each of its customers with a copy of the statement.

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

2. Notwithstanding subd. 1., in any month, the monthly fee under subd. 1. may not exceed 1.5 percent of the total of every other charge for which the member or customer is billed for that month or \$375 per month, whichever is less.

(b) *Commitment to community programs.* 1. Except as provided in subd. 2., each retail electric cooperative and municipal utility shall spend the fees that it charges under par. (a) on commitment to community programs. The purpose of the programs under this paragraph shall be to help achieve environmentally sound and adequate energy supplies at reasonable cost.

2. No later than October 1, 2007, and no later than every 3rd year after that date, each municipal utility or retail electric cooperative shall notify the commission whether it has elected to contribute the fees that it charges

under par. (a) to statewide programs established under sub. (2) (a) 1. in each year of the 3-year period for which it has made the election. If a municipal utility or retail electric cooperative elects to contribute to the statewide programs established under sub. (2) (a) 1., the utility or cooperative shall contribute the fees that it collects under par. (a) to the payment of contracts under sub. (2) (a) 1. for administration of the statewide programs, as specified in the rules under sub. (3) (f) 1., in each year of the 3-year period for which the utility or cooperative has made the election.

(c) *Wholesale supplier credit.* If a wholesale supplier has established an energy efficiency or load management program, a municipal utility or retail electric cooperative that is a customer or member of the wholesale supplier may include an amount equal to the product of the municipal utility's or retail electric cooperative's wholesale supply percentage and the amount that the wholesale supplier has spent on energy efficiency or load management programs in a year in calculating the amount that the municipal utility or retail electric cooperative has spent on commitment to community programs under par. (b).

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

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

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

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

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

d. The results of audits under this subdivision.

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

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

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

**SECTION 70.** 196.378 (1) (a) of the statutes is renumbered 196.378 (1) (ar) amended to read:

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

**SECTION 71.** 196.378 (1) (ag) of the statutes is created to read:

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

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

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

**SECTION 74.** 196.378 (1) (f) of the statutes is repealed.

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

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

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

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

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

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

**SECTION 77.** 196.378 (1) (fr) of the statutes is created to read:

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

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

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

**SECTION 79.** 196.378 (1) (i) of the statutes is amended to read:

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

**SECTION 80.** 196.378 (1) (n) of the statutes is repealed.

**SECTION 81.** 196.378 (1) (o) of the statutes is repealed and recreated to read:

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

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

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

**SECTION 82.** 196.378 (1) (p) of the statutes is created to read:

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

**SECTION 83.** 196.378 (2) (a) of the statutes is repealed and recreated to read:

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

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

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

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

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

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

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

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

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

**SECTION 85.** 196.378 (2) (b) 1m. of the statutes is created to read:

196.378 (2) (b) 1m. The amount of electricity derived from hydroelectric renewable resources that an electric provider may count toward satisfying the requirements of par. (a) 2. shall be all electricity provided by hydroelectric power that the electric provider purchased in the reporting year plus all of the following:

a. The average of the amounts of hydroelectric power generated by facilities owned or operated by the electric provider for 2001, 2002, and 2003, adjusted to reflect the permanent removal from service of any of those facilities and adjusted to reflect any capacity increases from improvements made to those facilities on or after January 1, 2004.

b. The amount of hydroelectric power generated in the reporting year by facilities owned or operated by the electric provider that are initially placed in service on or after January 1, 2004.

**SECTION 86.** 196.378 (2) (b) 3. of the statutes is repealed.

**SECTION 87m.** 196.378 (2) (b) 4. of the statutes is repealed and recreated to read:

196.378 (2) (b) 4. A wholesale supplier may sell credits that it creates and may aggregate and allocate the credits that it creates among its members or customers. A member or customer may sell credits or portions of a credit allocated to the member or customer by the wholesale supplier.

**SECTION 88.** 196.378 (2) (b) 5. of the statutes is created to read:

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

in the price the electric provider paid the renewable energy supplier.

**SECTION 89.** 196.378 (2) (c) of the statutes is amended to read:

196.378 (2) (c) No later than April 15 annually, or another annual date specified by the commission by rule, an electric provider shall submit a report to the ~~department~~ commission that identifies the electric provider's renewable energy percentage for the previous year and describes the electric provider's compliance with par. (a) 2. and the electric provider's implementation plans for future compliance. Reports under this paragraph may include certifications from ~~wholesale suppliers~~ renewable energy suppliers regarding the sources and amounts of renewable energy supplied to an the electric provider. The ~~department~~ commission may specify the documentation that is required to be included with reports submitted under this paragraph. The commission may require that electric providers submit the reports in a proceeding, initiated by the commission under this section relating to the implementation of s. 1.12, or in a proceeding for preparing a strategic energy assessment under s. 196.491 (2). No later than 90 days after the commission's receipt of an electric provider's report, the commission shall inform the electric provider whether the electric provider is in compliance with par. (a) 2.

**SECTION 90.** 196.378 (2) (e) of the statutes is repealed and recreated to read:

196.378 (2) (e) An electric provider, or a wholesale supplier for its members, may request that the commission grant a delay for complying with a deadline specified in par. (a) 2. The commission shall hold a hearing on the request and, if requested by the electric provider or wholesale supplier, treat the matter as a contested case. The commission shall grant a delay if the commission determines that the applicant has demonstrated good faith efforts to comply with the deadline and that any of the following applies:

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

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

3. Notwithstanding reasonable efforts to obtain required approvals, the applicant cannot comply with the deadline because the applicant or a supplier has experienced or will experience delays in receiving required sit-

ing or permitting approvals for renewable energy projects.

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

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

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

**SECTION 92.** 196.378 (2) (g) of the statutes is created to read:

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

2. An energy consumer advocacy group may request that the commission grant to an electric provider that serves one or more members of the group a delay for complying with a deadline specified in par. (a) 2. The commission shall hold a hearing on the request and, if requested by the energy consumer advocacy group, treat the matter as a contested case. The commission shall grant a delay if the commission determines that the utility has demonstrated good faith efforts to comply with the deadline and that any of the conditions in par. (e) 1. to 4. apply.

**SECTION 93.** 196.378 (3) (a) of the statutes is renumbered 196.378 (3) (a) 1. and amended to read:

196.378 (3) (a) 1. ~~An~~ Subject to subd. 2., an electric provider that provides total renewable energy to its retail electric customers or members in excess of the percentages specified in sub. (2) (a) ~~1. to 6. 2.~~ may, in the applicable year, create a renewable resource credit and sell to any other electric provider ~~a~~ the renewable resource credit or a portion of ~~a~~ the renewable resource credit at any negotiated price. ~~Alternatively, an~~ An electric provider that creates or purchases a renewable resource credit or portion may use ~~a renewable resource~~ the credit or portion ~~of a renewable resource credit~~ in a subsequent year, as provided under par. (c), to establish compliance with sub. (2) (a) 2. The commission shall promulgate rules that establish requirements for the creation and use of a renewable resource credit created on or after January 1,

2004, including calculating the amount of a renewable resource credit, and for the tracking of renewable resource credits by a regional renewable resource credit tracking system. The rules shall specify the manner for aggregating or allocating credits under this subdivision or sub. (2) (b) 4. or 5.

**SECTION 94.** 196.378 (3) (a) 2. of the statutes is created to read:

196.378 (3) (a) 2. The commission shall promulgate rules for calculating the amount of a renewable resource credit that is created from a renewable facility placed into service before January 1, 2004. The rules shall provide that the amount of a renewable resource credit created on or after January 1, 2004, from such a renewable facility, except a renewable facility owned by a retail customer of an electric provider, is limited to the incremental increase in output from the renewable facility that is due to capacity improvements made on or after January 1, 2004.

**SECTION 95.** 196.378 (3) (b) of the statutes is amended to read:

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

**SECTION 96.** 196.378 (3) (c) of the statutes is created to read:

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

**SECTION 97.** 196.378 (4m) of the statutes is created to read:

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

(b) An electric utility may, with commission approval, administer or fund a program that increases the electric utility's renewable energy percentage beyond that required under sub. (2) (a) 2. The commission may not order an electric utility to administer or fund a program under this paragraph.

**SECTION 98.** 196.378 (4r) of the statutes is created to read:

196.378 (4r) REPORTS. No later than July 1 of each even-numbered year, the commission shall submit a report to the governor and chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2) that evaluates the impact of the requirements of this section on the rates and revenue requirements of electric providers and compares that impact with the impact that would have occurred if renewable energy practices of electric providers were subject to market forces in the absence of the requirements of this section.

**SECTION 99.** 196.378 (5) (intro.) of the statutes is amended to read:

196.378 (5) PENALTY. (intro.) Any person who violates sub. (2) or any ~~wholesale~~ renewable energy supplier who provides an electric provider with a false or misleading certification regarding the sources or amounts of renewable energy supplied at wholesale to the electric provider shall forfeit not less than \$5,000 nor more than \$500,000. Forfeitures under this subsection shall be enforced by action on behalf of the state by the attorney general. A court imposing a forfeiture under this subsection shall consider all of the following in determining the amount of the forfeiture:

**SECTION 100.** 285.48 (4) (a) of the statutes is amended to read:

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

**SECTION 101.** 285.48 (4) (b) of the statutes is amended to read:

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

**SECTION 102. Nonstatutory provisions.**

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

(2) CORN-BURNING FURNACE PILOT PROGRAM. The department of administration shall conduct a pilot program under section 16.957 (2) (b) 1. b. of the statutes during the winter heating season between November 1, 2006, and March 1, 2007, to determine the feasibility and cost-effectiveness of the use of residential space heating

equipment in this state that is fueled by biomass, as defined in section 196.378 (1) (a) of the statutes, from corn plants. The department of administration shall report to the legislature the results of the pilot program in the report required under section 16.957 (2) (d) 4. of the statutes.

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

(4) ANAEROBIC DIGESTOR RESEARCH. The department of agriculture, trade and consumer protection shall include, as part of its 2007–09 biennial budget request that it submits to the department of administration under section 16.42 of the statutes, a proposal to provide additional funding for the research and development of anaerobic digestors at farms participating in the discovery farms program under the Wisconsin agricultural stewardship initiative.

(5) PUBLIC SERVICE COMMISSION PROHIBITIONS.

(a) In this subsection:

1. “Commission” means the public service commission.
2. “Energy efficiency program” has the meaning given in section 196.374 (1) (d), as affected by this act.
3. “Public utility” has the meaning given in section 196.01 (5) of the statutes.
4. “Renewable resource program” has the meaning given in section 196.374 (1) (k), as affected by this act.
5. “Total renewable energy” has the meaning given in section 196.378 (1) (o) of the statutes.

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

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

(7) REPORT.

(a) In this subsection, "energy utility" has the meaning given in section 196.374 (1) (e) of the statutes, as created by this act.

(b) No later than July 1, 2008, the public service commission shall submit a report to the governor and chief clerk of each house of the legislature for distribution to the legislature under section 13.172 (2) of the statutes that consists of the commission's recommendations on whether any component of an energy utility's revenue requirements should be itemized on ratepayer bills.

(8) LARGE ENERGY CUSTOMERS.

(a) In this subsection:

1. "Commission" means the public service commission.

2. "Energy utility" has the meaning given in section 196.374 (1) (e) of the statutes, as created by this act.

3. "Large energy customer" has the meaning given in section 196.374 (1) (em) of the statutes, as created by this act.

4. "Ordered program" has the meaning given under section 196.374 (1) (i) of the statutes, as created by this act.

(b) No later than July 1, 2007, the commission shall determine the customers of energy utilities that, for any month during the 12 months preceding the date of the

commission's determination, satisfy the definition of large energy customer.

(c) For each customer of an energy utility that the commission determines is a large energy customer under paragraph (b), the commission shall, no later than July 1, 2007, determine the monthly average that the customer paid the energy utility in 2005 for recovery under s. 196.374 (3), 2003 stats., and for recovery of the costs of ordered programs.

**SECTION 103. Initial applicability.**

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

**SECTION 104. Effective dates.** This act takes effect on July 1, 2007, except as follows:

(1) The treatment of sections 16.75 (12), 16.897, 16.953, 79.005 (4) (d), 101.027 (1) (intro.), (a), and (b), (2), and (3) (a) 1. and 2. and (b) 1. and 2., 196.378 (1) (a), (ag), (bm), (e), (f), (fg), (fm), (fr), (g), (i), (n), (o), and (p), (2) (a), (b) 1., 1m., 3., 4., and 5., (c), (e), (f), and (g), (3) (b), and (c), (4m), (4r), and (5) (intro.) of the statutes, the creation of section 196.378 (3) (a) 2. of the statutes, and the renumbering and amendment of section 196.378 (3) (a) of the statutes and SECTION 102 (2), (4), (5), (7), and (8) of this act take effect on the day after publication.