



# State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

## **RESEARCH APPENDIX -** **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 02/02/2006 (Per: MDK)



☞ Appendix A ... Part 04 of 04

☞ The 2005 drafting file for LRB 05-4303/P4

has been transferred to the 2005 drafting file for

# LRB 05s0511

☞ The attached 2005 draft was incorporated into the new 2005 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2005 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

☞ This cover sheet was added to rear of the original 2005 drafting file. The drafting file was then returned, intact, to its folder and filed.



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-4303/P3

MDK:jd:jf

94

D-NOTE

Today

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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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) and 16.957 (5) (e) 2.; *to renumber* 16.957  
4 (3) (a); *to renumber and amend* 196.025 (1); *to consolidate, renumber and*  
5 *amend* 16.957 (5) (e) (intro.) and 1.; *to amend* 16.957 (1) (c), 16.957 (1) (o) 1m.,  
6 16.957 (1) (o) 2., 16.957 (1) (o) 3., 16.957 (2) (a) 2., 16.957 (2) (a) 4., 16.957 (2)  
7 (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  
8 (4) (a), 16.957 (4) (am), 16.957 (4) (b) (intro.), 16.957 (4) (c) (title), 16.957 (4) (c)  
9 1. (intro.), 16.957 (4) (c) 1. a., 16.957 (4) (c) 1. c., 16.957 (4) (c) 3., 16.957 (5) (a),  
10 16.957 (5) (am), 16.957 (5) (f), 16.957 (5) (g) 1. (intro.), 16.957 (5) (g) 1. a., 16.957  
11 (5) (g) 2., 20.505 (3) (s), 25.96, 76.28 (1) (d), 76.48 (1g) (d), 77.54 (44), 285.48 (4)  
12 (a) and 285.48 (4) (b); *to repeal and recreate* 16.957 (title), 16.957 (5) (b) and  
13 196.374; and *to create* 196.025 (1) (title), 196.025 (1) (b) to (d), 196.025 (1m)  
14 (title), 196.025 (2) (title), 196.025 (2m) (title), 196.025 (3) (title), 196.025 (4)  
15 (title) and 196.025 (5) (title) of the statutes; **relating to:** public utility and

1 cooperative association programs for energy efficiency, renewable resources,  
2 and low-income assistance and granting rule-making authority.

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***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a later version.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

3 SECTION 1. 16.957 (title) of the statutes is repealed and recreated to read:

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

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

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

9 SECTION 3. 16.957 (1) (d), (e) and (h) of the statutes are repealed.

10 SECTION 4. 16.957 (1) (o) 1m. of the statutes is amended to read:

11 16.957 (1) (o) 1m. The amount of the portion of the public benefits fee for fiscal  
12 year 1999-2000 that is specified in sub. s. 16.957 (4) (c) 1. ~~The amount specified in~~  
13 ~~this subdivision shall not be subject to the reduction under 1999 Wisconsin Act 9,~~  
14 ~~section 9101 (1zr) (a), 1999 stats.~~

15 SECTION 5. 16.957 (1) (o) 2. of the statutes is amended to read:

16 16.957 (1) (o) 2. The total amount expended by utilities under s. 196.374, 2003  
17 stats., related to low-income assistance.

18 SECTION 6. 16.957 (1) (o) 3. of the statutes is amended to read:

✓ or on behalf of

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

6           **SECTION 7.** 16.957 (1) (r) of the statutes is repealed.

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

8           16.957 (2) (a) 2. All moneys spent in a fiscal year for low-income programs  
9           established under s. 196.374, 2003 stats.

10          **SECTION 9.** 16.957 (2) (a) 4. of the statutes is amended to read:

11          16.957 (2) (a) 4. ~~Fifty percent of the~~ The moneys collected in public benefits  
12          low-income assistance fees under sub. (5) (a).

13          **SECTION 10.** 16.957 (2) (b) of the statutes is repealed.

14          **SECTION 11.** 16.957 (2) (c) 1. of the statutes is amended to read:

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

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

21          16.957 (2) (c) 2. Requirements and procedures for applications for grants  
22          awarded under programs established under par. (a) ~~or (b) 1.~~

23          **SECTION 13.** 16.957 (2) (c) 2m., 2n. and 4. of the statutes are repealed.

24          **SECTION 14.** 16.957 (2) (d) 1. of the statutes is amended to read:

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

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

4           **SECTION 16.** 16.957 (2) (d) 3. of the statutes is amended to read:

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

7           **SECTION 17.** 16.957 (2) (d) 4. a. of the statutes is amended to read:

8           16.957 (2) (d) 4. a. The expenses of the department, other state agencies, and  
9 grant recipients in administering or participating in the programs under ~~pars. par.~~  
10 (a) and (b).

11          **SECTION 18.** 16.957 (2) (d) 4. c. of the statutes is repealed.

12          **SECTION 19.** 16.957 (3) (a) of the statutes is renumbered 16.957 (3).

13          **SECTION 20.** 16.957 (3) (b) and (c) of the statutes are repealed.

14          **SECTION 21.** 16.957 (4) (a) of the statutes is amended to read:

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

23          **SECTION 22.** 16.957 (4) (am) of the statutes is amended to read:

24          16.957 (4) (am) *Electric bills.* An electric utility shall ~~include a public benefits~~  
25 show the low-income assistance fee in the fixed charges for electricity as a separate

1 line in a customer's bill, identified as the "state low-income assistance fee," and shall  
2 provide the customer with an annual statement that identifies the annual charges  
3 for ~~public benefits~~ low-income assistance fees and describes the programs for which  
4 fees are used.

5 **SECTION 23.** 16.957 (4) (b) (intro.) of the statutes is amended to read:

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

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

12 16.957 (4) (c) (title) *Amount of ~~public benefits~~ low-income assistance fees.*

13 **SECTION 25.** 16.957 (4) (c) 1. (intro.) of the statutes is amended to read:

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

22 **SECTION 26.** 16.957 (4) (c) 1. a. of the statutes is amended to read:

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

1           **SECTION 27.** 16.957 (4) (c) 1. c. of the statutes is amended to read:

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

5           **SECTION 28.** 16.957 (4) (c) 2. of the statutes is repealed.

6           **SECTION 29.** 16.957 (4) (c) 3. of the statutes is amended to read:

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

16           **SECTION 30.** 16.957 (5) (a) of the statutes is amended to read:

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

25           **SECTION 31.** 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 32.** 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 33. 16.957 (5) (c) and (d) of the statutes are repealed.

4 SECTION 34. 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 35. 16.957 (5) (e) 2. of the statutes is repealed.

17 SECTION 36. 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 37. 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 38.** 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).

*Transfer to air quality improvement fund*

*Util*

11 **SECTION 39.** 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 40.** 20.505 (3) (s) of the statutes is amended to read:

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

21 **SECTION 41.** 25.96 of the statutes is amended to read:

22 **25.96 Utility public benefits fund.** There is established a separate  
23 nonlapsible trust fund designated as the utility public benefits fund, consisting of  
24 deposits by the public service commission under s. 196.374 (3), public benefits

1 low-income assistance fees received under s. 16.957 (4) (a) and (5) ~~(c) and (d) and~~  
2 ~~contributions received under s. 16.957 (2) (c) 4. and (d) 2.~~ (b) 2.

3 **SECTION 42.** 76.28 (1) (d) of the statutes is amended to read:

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

1 public benefits low-income assistance fees collected by the retail electric cooperative  
2 under s. 16.957 (5) (a), ~~public benefits~~ low-income assistance fees received by the  
3 retail electric cooperative from a retail electric cooperative or municipal utility under  
4 a joint program established under s. 16.957 (5) (f). For a wholesale supplier, as  
5 defined in s. 16.957 (1) (w), “gross revenues” does not include any ~~public benefits~~  
6 low-income assistance fees that are received from a municipal utility, as defined in  
7 s. 16.957 (1) (q), or retail electric cooperative or under a joint program established  
8 under s. 16.957 (5) (f).

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

10 77.54 (44) The gross receipts from the collection of ~~public benefits~~ low-income  
11 assistance fees that are charged under s. 16.957 (4) (a) or (5) (a).

12 **SECTION 45.** 196.025 (1) (title) of the statutes is created to read:

13 196.025 (1) (title) STATE ENERGY POLICY.

14 **SECTION 46.** 196.025 (1) of the statutes is renumbered 196.025 (1) (a) and  
15 amended to read:

16 196.025 (1) (a) Consideration of energy priorities. ~~To~~ Except as provided in  
17 pars. (b) to (d), to the extent cost-effective, technically feasible and environmentally  
18 sound, the commission shall implement the priorities under s. 1.12 (4) in making all  
19 energy-related decisions and orders, including advance plan, rate setting and  
20 rule-making orders.

21 **SECTION 47.** 196.025 (1) (b) to (d) of the statutes are created to read:

22 196.025 (1) (b) Energy conservation and efficiency. In a proceeding regarding  
23 a request by an investor-owned electric public utility under s. 196.49, 196.491 (3),  
24 or 196.80 for authority to acquire, construct, install, or operate any plant, equipment,  
25 property, or facility, the commission is not required to evaluate energy conservation

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

15 **SECTION 43.** 76.48 (1g) (d) of the statutes is amended to read:

16 76.48 (1g) (d) “Gross revenues” means total operating revenues, except  
17 revenues for interdepartmental sales and for interdepartmental rents, less  
18 deductions from the sales and use tax under s. 77.61 (4) and, in respect to any electric  
19 cooperative that purchases more than 50% of the power it sells, less the actual cost  
20 of power purchased for resale by an electric cooperative, if the revenue from that  
21 purchased electric power is included in the seller’s gross revenues or if the electric  
22 cooperative purchased more than 50% of the power it sold in the year prior to  
23 January 1, 1988, from a seller located outside this state. For an electric cooperative,  
24 “gross revenues” does not include grants awarded to the electric cooperative under  
25 s. 16.958 (2) (b). For a retail electric cooperative, “gross revenues” does not include

1 ~~public benefits~~ low-income assistance fees collected by the retail electric cooperative  
2 under s. 16.957 (5) (a), ~~public benefits~~ low-income assistance fees received by the  
3 retail electric cooperative from a retail electric cooperative or municipal utility under  
4 a joint program established under s. 16.957 (5) (f). For a wholesale supplier, as  
5 defined in s. 16.957 (1) (w), “gross revenues” does not include any ~~public benefits~~  
6 low-income assistance fees that are received from a municipal utility, as defined in  
7 s. 16.957 (1) (q), or retail electric cooperative or under a joint program established  
8 under s. 16.957 (5) (f).

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

10 77.54 (44) The gross receipts from the collection of ~~public benefits~~ low-income  
11 assistance fees that are charged under s. 16.957 (4) (a) or (5) (a).

12 SECTION 45. 196.025 (1) (title) of the statutes is created to read:

13 196.025 (1) (title) STATE ENERGY POLICY.

14 SECTION 46. 196.025 (1) of the statutes is renumbered 196.025 (1) (a) and  
15 amended to read:

16 196.025 (1) (a) Consideration of energy priorities. ~~To~~ Except as provided in  
17 pars. (b) to (d), to the extent cost-effective, technically feasible and environmentally  
18 sound, the commission shall implement the priorities under s. 1.12 (4) in making all  
19 energy-related decisions and orders, including advance plan, rate setting and  
20 rule-making orders.

*Handwritten notes:*  
- "strategic energy assessment" with a checkmark, written above a line that points to the "advance plan" text.  
- "plain" circled in a circle with an arrow pointing to "including".  
- "plain" circled in a circle with an arrow pointing to "advance plan".

21 SECTION 47. 196.025 (1) (b) to (d) of the statutes are created to read:

22 196.025 (1) (b) Energy conservation and efficiency. In a proceeding regarding  
23 a request by an investor-owned electric public utility under s. 196.49, 196.491 (3),  
24 or 196.80 for authority to acquire, construct, install, or operate any plant, equipment,  
25 property, or facility, the commission is not required to evaluate energy conservation

1 and efficiency as an element of or alternative to the proposal if all of the following  
2 apply:

3 1. The commission has fulfilled all of its duties and responsibilities under s.  
4 196.374.

5 2. The utility has satisfied the requirements of s. 196.374 for that year, as  
6 specified in s. 196.374 (8).

7 (c) *Renewable resources*. 1. In this paragraph, “renewable resource” has the  
8 meaning given in s. 196.374 (1) (j).

9 2. In a proceeding regarding a request by an investor-owned electric public  
10 utility under s. 196.49, 196.491 (3), or 196.80 for authority to acquire, construct,  
11 install, or operate any plant, equipment, property, or facility, the commission is not  
12 required to consider renewable resources as an element of or alternative to the  
13 proposal if all of the following apply:

14 a. The commission has fulfilled all of its duties and responsibilities under s.  
15 196.378.

16 b. The utility is in compliance with the requirements of s. 196.378 (2) for that  
17 year.

18 (d) *Transmission facilities*. In a proceeding regarding a request by a public  
19 utility under s. 196.49 or 196.491 (3) to acquire, construct, install, or operate an  
20 electric transmission facility or associated equipment, the commission is not  
21 required to find that approval of the proposal would implement the policies under s.  
22 1.12 (4).

23 **SECTION 48.** 196.025 (1m) (title) of the statutes is created to read:

24 196.025 (1m) (title) TRANSMISSION CORRIDORS.

25 **SECTION 49.** 196.025 (2) (title) of the statutes is created to read:

1 196.025 (2) (title) ENVIRONMENTAL IMPACTS.

2 **SECTION 50.** 196.025 (2m) (title) of the statutes is created to read:

3 196.025 (2m) (title) COORDINATION WITH DEPARTMENT OF NATURAL RESOURCES.

4 **SECTION 51.** 196.025 (3) (title) of the statutes is created to read:

5 196.025 (3) (title) RELIABILITY REPORTS.

6 **SECTION 52.** 196.025 (4) (title) of the statutes is created to read:

7 196.025 (4) (title) SMALL-SCALE GENERATION INCENTIVES.

8 **SECTION 53.** 196.025 (5) (title) of the statutes is created to read:

9 196.025 (5) (title) MARKET POWER STUDY.

10 **SECTION 54.** 196.374 of the statutes is repealed and recreated to read:

11 **196.374 Energy efficiency and renewable resource programs. (1)**

12 DEFINITIONS. In this section:

13 (a) “Agricultural producer” means a person engaged in an agricultural activity,  
14 as defined in s. 101.10 (1) (a). *or on behalf of*

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

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

20 (d) “Energy efficiency program” means a program for reducing the usage or  
21 increasing the efficiency of the usage of energy by a customer or member of an energy  
22 utility, municipal utility, or retail electric cooperative.

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

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

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

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

8 (i) “Ordered program” means any of the following:

9 1. An energy efficiency or renewable resource program that an energy utility  
10 conducted under s. 196.374, 1997 stats., and continued to conduct under a  
11 commission order in effect on the effective date of this subdivision .... [revisor inserts  
12 date].

13 2. A shared savings program that an energy utility conducted prior to October  
14 29, 1999, and continued to conduct under a commission order in effect on the effective  
15 date of this subdivision .... [revisor inserts date].

16 3. An energy efficiency or renewable resource program that an energy utility  
17 conducted under a commission order issued on or after October 29, 1999, and before  
18 the effective date of this subdivision .... [revisor inserts date].

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

23 1. Solar energy.

24 2. Wind power.

25 3. Water power.

is in effect

- 1 4. Biomass.
- 2 5. Geothermal technology.
- 3 6. Tidal or wave action.
- 4 7. Fuel cell technology that does not use coal or petroleum products as fuel.

5 (k) “Renewable resource program” means a program for encouraging the  
6 development or use of customer applications of renewable resources, including  
7 educating customers or members about renewable resources, encouraging  
8 customers or members to use renewable resources, and encouraging the transfer of  
9 new or emerging technologies from research, development, and demonstration to  
10 commercial implementation.

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

12 (m) “Shared savings program” means a program under which ~~an~~ <sup>a person</sup> energy utility  
13 finances the installation of energy efficiency improvements or renewable resources  
14 systems in the facilities of a customer and recovers the cost of the installation from  
15 a portion of the cost savings realized by the customer as a result of the installation.

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

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

18 (2) ENERGY EFFICIENCY AND RENEWABLE RESOURCE PROGRAMS. (a) *Statewide*  
19 *programs.* 1. The energy utilities in this state shall collectively establish and fund  
20 statewide energy efficiency and renewable resource programs. The energy utilities  
21 shall contract, on the basis of competitive bids, with one or more persons to  
22 administer the programs. The utilities may not execute a contract under this  
23 subdivision unless the commission has approved the contract. ~~Except as provided~~

24 ~~in par. (b) and (3) (b) 2,~~ the commission shall require each energy utility to spend ~~1%~~

*the amount required under sub. (3)(b) 2.*

*[Handwritten scribbles]*

1 percent of its annual operating revenues to fund statewide energy efficiency and  
2 renewable resource programs.

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

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

10 b. Components to reduce the energy costs incurred by local units of government  
11 and agricultural producers, by increasing the efficiency of energy use by local units  
12 of government and agricultural producers. The commission shall ensure that not  
13 less than \$25,000,000 from the moneys utilities are required to spend under subd.  
14 1. or sub. (3) (b) 2. is spent annually on programs under this subdivision except that,  
15 if the commission determines that the full amount cannot be spent on cost-effective  
16 programs for local units of government and agricultural producers, the commission  
17 shall ensure that any surplus funds be spent on programs to serve *commercial and*  
18 industrial customers. *institutional*

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

23 3. The commission may not require an energy utility to administer or fund any  
24 energy efficiency or renewable resource program that is in addition to the programs  
25 required under subd. 1. and any ordered program of the utility. This subdivision does

1 not limit the authority of the commission to enforce an energy utility's obligations  
2 under s. 196.378.

3 (b) *Utility-administered programs.* 1. An energy utility may, with commission  
4 approval, administer or fund one or more energy efficiency programs that is limited  
5 to large commercial, industrial, institutional, or agricultural customers in its service  
6 territory. An energy utility shall pay for a program under this subdivision with a  
7 portion of the amount required under ~~par. (a) 1.~~ or sub. (3) (b) 2., as approved by the

8 commission. ~~An energy utility may request, and the commission may approve, to  
9 modify or discontinue, in whole or in part, a program the energy utility administers  
10 or funds under this subdivision. An energy utility shall request approval to  
11 establish, modify, or discontinue a program under this subdivision as part of a  
12 proceeding under sub. (3) (b) 1.~~ The commission may not order an energy utility to

13 administer or fund a program under this subdivision.

14 2. ~~The commission may, by order and only at the request of an energy utility,  
15 authorize the energy utility to administer or fund an energy efficiency or renewable  
16 resource program that is in addition to the programs required under par. (a) or  
17 authorized under subd. 1.~~ <sup>approval</sup> An energy utility may request, and the commission may

18 approve, to modify or discontinue, in whole or in part, a program the energy utility  
19 administers or funds under this subdivision. An energy utility shall request  
20 approval to establish, modify, or discontinue a program under this subdivision as  
21 part of a proceeding under sub. (3) (b) 1. <sup>ADMINISTRATORS</sup>

22 3. An energy utility that ~~conducts~~ <sup>administers</sup> or funds an ordered program may request,  
23 and the commission may approve, to modify or discontinue, in whole or in part, the  
24 ordered program. An energy utility shall request the modification or discontinuation  
25 of an ordered program as part of a proceeding under sub. (3) (b) 1. <sup>a program under subd. 1. or 2. or</sup>

An energy utility may, with

a program under  
Subd. 1. or 2. or

renewable resource programs under s. 196.378,

(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. and (b) 1. and 2. and (7), ordered programs, low-income weatherization programs under s. 16.957, and other energy efficiency or 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. and (b) 1. and 2. 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 by <sup>facilitate</sup> facilitating markets and <sup>assist</sup> assisting market providers to achieve higher levels of energy efficiency, <sup>promote</sup> promoting energy reliability and adequacy, <sup>avoid</sup> avoiding adverse environmental impacts from the use of energy, and <sup>promote</sup> promoting rural economic development.

2. Subject to approval under subd. 3., the commission may require each energy utility to spend more than 1.5 percent of its annual operating revenues to fund statewide energy efficiency and renewable resource programs. The commission may make such a requirement based on the commission's consideration of <sup>all</sup> 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.

INSERT  
19-15

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

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

6 e. Societal impacts.

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

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

11 h. Any other relevant factors.

12 3. The commission shall submit to the joint committee on finance any proposal  
13 to require each energy utility <sup>to</sup> spend ~~more than 1.5 percent~~ <sup>a larger percentage</sup> of its annual operating  
14 revenues ~~to fund statewide energy efficiency and renewable resource~~ <sup>the</sup> programs. If  
15 the cochairpersons of the committee do not notify the commission within 10 working  
16 days after the commission submits such a proposal that the committee has scheduled  
17 a meeting to review the proposal, the commission may require each energy utility to  
18 spend the percentage specified in the proposal. If, within 10 working days after the  
19 commission submits a proposal, the cochairpersons of the committee notify the  
20 commission that the committee has scheduled a meeting to review the proposal, the  
21 commission may require each energy utility to spend <sup>INSERT 20-21</sup> ~~more than 1.5 percent~~ of its  
22 annual operating revenues to fund statewide energy efficiency and renewable  
23 resource programs only upon the approval of the committee.

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

than the percentage specified in subd. 2. (intro.) ✓

Specified in subd. 2. (intro.) ✓

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

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

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

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

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

13          (d) *Audits.* Annually, the commission shall contract with one or more  
14 independent auditors to prepare a financial and performance audit of the programs  
15 specified in par. (b) 1. The purpose of the performance audit shall be to evaluate the  
16 programs and measure the performance of the programs against the goals and  
17 targets set by the commission under par. (b) 1.

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

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

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

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

5           4. Any other information required by the commission.

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

8           1. Procedures for energy utilities to collectively contract with program  
9 administrators for administration of statewide programs under sub. (2) (a) 1. ✓

10           2. Procedures and criteria for commission review and approval of contracts for  
11 administration of statewide programs under sub. (2) (a) 1., including criteria for the  
12 selection of program administrators under sub. (2) (a) 1. INSEPT  
22-9

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

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

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

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

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

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

10           (5) COST RECOVERY; EQUITABLE DISTRIBUTION. (a) The commission shall ensure  
11 in rate-making orders that an energy utility recovers from its ratepayers the  
12 amounts the energy utility is required to spend under sub. ~~(2) (a) 1.~~ <sup>or</sup> (3) (b) 2., except  
13 that the commission shall ensure that the total increase in a ratepayer's monthly  
14 electric bill that is based on such required spending does not exceed 3 percent of the  
15 total of every other charge for which the ratepayer is billed for that month or \$750,  
16 whichever is less. To reflect changes in the consumer price index for all urban  
17 consumers, U.S. city average, as determined by the U.S. department of labor, the  
18 commission shall make annual adjustments to the amount of \$750.

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

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

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

7 (6) ANNUAL STATEMENTS. An energy utility shall provide customers with an  
8 annual statement that describes the programs under sub. (2) (a) 1. and (b) 1. and 2.  
9 administered or funded by the energy utility and presents cost and benefit  
10 information for those programs.

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

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

✓ 5 and ordered programs

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

6           2. No later than October 1, 2007, and no later than every 3rd year after that  
7 date, each municipal utility or retail electric cooperative shall notify the commission  
8 whether it has elected to contribute the fees that it charges under par. (a) to statewide  
9 programs established under sub. (2) (a) 1. in each fiscal year of the 3-year period for  
10 which it has made the election. INSERT 25-10 ✓

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

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

23           (e) *Reports.* 1. For each fiscal year, each municipal utility and retail electric  
24 cooperative that spends the fee that it charges under par. (a) for commitment to

1 community programs under par. (b) shall provide for an independent audit of its  
2 programs and submit a report to the commission that describes all of the following:

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

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

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

11 d. The results of audits under this subdivision.

12 e. Any other information required by the commission.

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

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

18 (8) COMPLIANCE. An energy utility that spends the full amount required under  
19 sub. (2) (a) 1. or (3) (b) 2. in any year is considered to have satisfied its requirements  
20 under this section for that year.

21 SECTION 55. 285.48 (4) (a) of the statutes is amended to read:

22 285.48 (4) (a) The use of renewable energy, including renewable energy that  
23 is provided by electric providers for the purpose of complying with the requirements  
24 of s. 196.378 (2) (a), or renewable energy that is used under programs specified in s.  
25 196.374 (2) (d) that are funded by expenditures under s. 196.374 (3).



2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-4303/P4ins  
MDK:.....

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**INSERT 16-23:**

An energy utility shall pay for a portion of the programs under this subdivision with a portion of the amount required under sub. (3) (b) 2.

**INSERT 18-17:**

The commission may not order an energy utility to administer or fund a program under this subdivision.

**INSERT 19-15:**

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.

**INSERT 20-21:**

a larger percentage of its annual operating revenues to fund these programs

**INSERT 22-9:**

and to receive contributions from municipal electric utilities and retail electric cooperatives under sub. (7) (b) 2.

**INSERT 25-10:**

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.

1 (3) (f) 1., in each year of the <sup>3</sup>three-year period for which the utility or cooperative  
2 has made the election.

3 **INSERT 27-13:**

4 (2) CORN-BURNING FURNACE PILOT PROGRAM. The department of administration  
5 shall conduct a pilot program under section 16.957 (2) (b) 1. b. of the statutes during  
6 the winter heating season between November 1, 2006, and March 1, 2007, to  
7 determine the feasibility and cost-effectiveness of the use of residential space  
8 heating equipment in this state that is fueled by biomass, as defined in section  
9 196.378(1) (a) of the statutes, from corn plants. The department of administration  
10 shall report to the legislature the results of the pilot program in the report required  
11 under section 16.957 (2) (d) 4. of the statutes.

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

14 (1) Section 57 (2) of this act takes effect on the day after publication.

↑↑  
a.r.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-4303/P4dn

MDK:A:...

*JKD*

Sen. Cowles:

Please review the changes I made to the language suggested for the last sentence of proposed s. 196.374 (2) (a) 1. ✓

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: [mark.kunkel@legis.state.wi.us](mailto:mark.kunkel@legis.state.wi.us)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4303/P4dn  
MDK:jld:rs

February 2, 2006

Sen. Cowles:

Please review the changes I made to the language suggested for the last sentence of proposed s. 196.374 (2) (a) 1.

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: [mark.kunkel@legis.state.wi.us](mailto:mark.kunkel@legis.state.wi.us)

## PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

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) and 16.957 (5) (e) 2.; **to renumber** 16.957  
4           (3) (a); **to renumber and amend** 196.025 (1); **to consolidate, renumber and**  
5           **amend** 16.957 (5) (e) (intro.) and 1.; **to amend** 16.957 (1) (c), 16.957 (1) (o) 1m.,  
6           16.957 (1) (o) 2., 16.957 (1) (o) 3., 16.957 (2) (a) 2., 16.957 (2) (a) 4., 16.957 (2)  
7           (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  
8           (4) (a), 16.957 (4) (am), 16.957 (4) (b) (intro.), 16.957 (4) (c) (title), 16.957 (4) (c)  
9           1. (intro.), 16.957 (4) (c) 1. a., 16.957 (4) (c) 1. c., 16.957 (4) (c) 3., 16.957 (5) (a),  
10          16.957 (5) (am), 16.957 (5) (f), 16.957 (5) (g) 1. (intro.), 16.957 (5) (g) 1. a., 16.957  
11          (5) (g) 2., 20.505 (3) (s), 25.96, 76.28 (1) (d), 76.48 (1g) (d), 77.54 (44), 285.48 (4)  
12          (a) and 285.48 (4) (b); **to repeal and recreate** 16.957 (title), 16.957 (5) (b) and  
13          196.374; and **to create** 196.025 (1) (title), 196.025 (1) (b) to (d), 196.025 (1m)  
14          (title), 196.025 (2) (title), 196.025 (2m) (title), 196.025 (3) (title), 196.025 (4)  
15          (title) and 196.025 (5) (title) of the statutes; **relating to:** public utility and

1 cooperative association programs for energy efficiency, renewable resources,  
2 and low-income assistance and granting rule-making authority.

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***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a later version.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

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

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

5 **SECTION 2.** 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 3.** 16.957 (1) (d), (e) and (h) of the statutes are repealed.

11 **SECTION 4.** 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 5.** 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 6.** 16.957 (1) (o) 3. of the statutes is amended to read:

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

6           **SECTION 7.** 16.957 (1) (r) of the statutes is repealed.

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

8           16.957 (2) (a) 2. All moneys spent in a fiscal year for low-income programs  
9           established under s. 196.374, 2003 stats.

10          **SECTION 9.** 16.957 (2) (a) 4. of the statutes is amended to read:

11          16.957 (2) (a) 4. ~~Fifty percent of the~~ The moneys collected in ~~public benefits~~  
12          low-income assistance fees under sub. (5) (a).

13          **SECTION 10.** 16.957 (2) (b) of the statutes is repealed.

14          **SECTION 11.** 16.957 (2) (c) 1. of the statutes is amended to read:

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

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

21          16.957 (2) (c) 2. Requirements and procedures for applications for grants  
22          awarded under programs established under par. (a) ~~or (b) 1.~~

23          **SECTION 13.** 16.957 (2) (c) 2m., 2n. and 4. of the statutes are repealed.

24          **SECTION 14.** 16.957 (2) (d) 1. of the statutes is amended to read:

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

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

4           **SECTION 16.** 16.957 (2) (d) 3. of the statutes is amended to read:

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

7           **SECTION 17.** 16.957 (2) (d) 4. a. of the statutes is amended to read:

8           16.957 (2) (d) 4. a. The expenses of the department, other state agencies, and  
9 grant recipients in administering or participating in the programs under ~~pars. par.~~  
10 (a) and (b).

11          **SECTION 18.** 16.957 (2) (d) 4. c. of the statutes is repealed.

12          **SECTION 19.** 16.957 (3) (a) of the statutes is renumbered 16.957 (3).

13          **SECTION 20.** 16.957 (3) (b) and (c) of the statutes are repealed.

14          **SECTION 21.** 16.957 (4) (a) of the statutes is amended to read:

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

23          **SECTION 22.** 16.957 (4) (am) of the statutes is amended to read:

24          16.957 (4) (am) *Electric bills.* An electric utility shall ~~include a public benefits~~  
25 show the low-income assistance fee in the fixed charges for electricity as a separate

1 line in a customer's bill, identified as the "state low-income assistance fee," and shall  
2 provide the customer with an annual statement that identifies the annual charges  
3 for ~~public benefits~~ low-income assistance fees and describes the programs for which  
4 fees are used.

5 **SECTION 23.** 16.957 (4) (b) (intro.) of the statutes is amended to read:

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

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

12 16.957 (4) (c) (title) *Amount of ~~public benefits~~ low-income assistance fees.*

13 **SECTION 25.** 16.957 (4) (c) 1. (intro.) of the statutes is amended to read:

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

22 **SECTION 26.** 16.957 (4) (c) 1. a. of the statutes is amended to read:

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

1           **SECTION 27.** 16.957 (4) (c) 1. c. of the statutes is amended to read:

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

5           **SECTION 28.** 16.957 (4) (c) 2. of the statutes is repealed.

6           **SECTION 29.** 16.957 (4) (c) 3. of the statutes is amended to read:

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

16           **SECTION 30.** 16.957 (5) (a) of the statutes is amended to read:

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

25           **SECTION 31.** 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 32.** 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 33.** 16.957 (5) (c) and (d) of the statutes are repealed.

4 **SECTION 34.** 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 35.** 16.957 (5) (e) 2. of the statutes is repealed.

17 **SECTION 36.** 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 37.** 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 38.** 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 39.** 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 40.** 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 41.** 25.96 of the statutes is amended to read:

23 **25.96 Utility public benefits fund.** There is established a separate  
24 nonlapsible trust fund designated as the utility public benefits fund, consisting of  
25 ~~deposits by the public service commission under s. 196.374 (3), public benefits~~

1 low-income assistance fees received under s. 16.957 (4) (a) and (5) ~~(e) and (d) and~~  
2 ~~contributions received under s. 16.957 (2) (c) 4. and (d) 2.~~ (b) 2.

3 **SECTION 42.** 76.28 (1) (d) of the statutes is amended to read:

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

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

15 **SECTION 43.** 76.48 (1g) (d) of the statutes is amended to read:

16 76.48 (1g) (d) “Gross revenues” means total operating revenues, except  
17 revenues for interdepartmental sales and for interdepartmental rents, less  
18 deductions from the sales and use tax under s. 77.61 (4) and, in respect to any electric  
19 cooperative that purchases more than 50% of the power it sells, less the actual cost  
20 of power purchased for resale by an electric cooperative, if the revenue from that  
21 purchased electric power is included in the seller’s gross revenues or if the electric  
22 cooperative purchased more than 50% of the power it sold in the year prior to  
23 January 1, 1988, from a seller located outside this state. For an electric cooperative,  
24 “gross revenues” does not include grants awarded to the electric cooperative under  
25 s. 16.958 (2) (b). For a retail electric cooperative, “gross revenues” does not include

1 ~~public benefits~~ low-income assistance fees collected by the retail electric cooperative  
2 under s. 16.957 (5) (a), ~~public benefits~~ low-income assistance fees received by the  
3 retail electric cooperative from a retail electric cooperative or municipal utility under  
4 a joint program established under s. 16.957 (5) (f). For a wholesale supplier, as  
5 defined in s. 16.957 (1) (w), “gross revenues” does not include any ~~public benefits~~  
6 low-income assistance fees that are received from a municipal utility, as defined in  
7 s. 16.957 (1) (q), or retail electric cooperative or under a joint program established  
8 under s. 16.957 (5) (f).

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

10 77.54 (44) The gross receipts from the collection of ~~public benefits~~ low-income  
11 assistance fees that are charged under s. 16.957 (4) (a) or (5) (a).

12 **SECTION 45.** 196.025 (1) (title) of the statutes is created to read:

13 196.025 (1) (title) STATE ENERGY POLICY.

14 **SECTION 46.** 196.025 (1) of the statutes is renumbered 196.025 (1) (a) and  
15 amended to read:

16 196.025 (1) (a) Consideration of energy priorities. ~~To~~ Except as provided in  
17 pars. (b) to (d), to the extent cost-effective, technically feasible and environmentally  
18 sound, the commission shall implement the priorities under s. 1.12 (4) in making all  
19 energy-related decisions and orders, including ~~advance plan~~ strategic energy  
20 assessment, rate setting and rule-making orders.

21 **SECTION 47.** 196.025 (1) (b) to (d) of the statutes are created to read:

22 196.025 (1) (b) Energy conservation and efficiency. In a proceeding regarding  
23 a request by an investor-owned electric public utility under s. 196.49, 196.491 (3),  
24 or 196.80 for authority to acquire, construct, install, or operate any plant, equipment,  
25 property, or facility, the commission is not required to evaluate energy conservation

1 and efficiency as an element of or alternative to the proposal if all of the following  
2 apply:

3 1. The commission has fulfilled all of its duties and responsibilities under s.  
4 196.374.

5 2. The utility has satisfied the requirements of s. 196.374 for that year, as  
6 specified in s. 196.374 (8).

7 (c) *Renewable resources.* 1. In this paragraph, “renewable resource” has the  
8 meaning given in s. 196.374 (1) (j).

9 2. In a proceeding regarding a request by an investor-owned electric public  
10 utility under s. 196.49, 196.491 (3), or 196.80 for authority to acquire, construct,  
11 install, or operate any plant, equipment, property, or facility, the commission is not  
12 required to consider renewable resources as an element of or alternative to the  
13 proposal if all of the following apply:

14 a. The commission has fulfilled all of its duties and responsibilities under s.  
15 196.378.

16 b. The utility is in compliance with the requirements of s. 196.378 (2) for that  
17 year.

18 (d) *Transmission facilities.* In a proceeding regarding a request by a public  
19 utility under s. 196.49, 196.491 (3), or 196.80, to acquire, construct, install, or operate  
20 an electric transmission facility or associated equipment, the commission is not  
21 required to find that approval of the proposal would implement the policies under s.  
22 1.12 (4).

23 **SECTION 48.** 196.025 (1m) (title) of the statutes is created to read:

24 196.025 (1m) (title) TRANSMISSION CORRIDORS.

25 **SECTION 49.** 196.025 (2) (title) of the statutes is created to read:

1 196.025 (2) (title) ENVIRONMENTAL IMPACTS.

2 **SECTION 50.** 196.025 (2m) (title) of the statutes is created to read:

3 196.025 (2m) (title) COORDINATION WITH DEPARTMENT OF NATURAL RESOURCES.

4 **SECTION 51.** 196.025 (3) (title) of the statutes is created to read:

5 196.025 (3) (title) RELIABILITY REPORTS.

6 **SECTION 52.** 196.025 (4) (title) of the statutes is created to read:

7 196.025 (4) (title) SMALL-SCALE GENERATION INCENTIVES.

8 **SECTION 53.** 196.025 (5) (title) of the statutes is created to read:

9 196.025 (5) (title) MARKET POWER STUDY.

10 **SECTION 54.** 196.374 of the statutes is repealed and recreated to read:

11 **196.374 Energy efficiency and renewable resource programs. (1)**

12 DEFINITIONS. In this section:

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

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

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

21 (d) “Energy efficiency program” means a program for reducing the usage or  
22 increasing the efficiency of the usage of energy by a customer or member of an energy  
23 utility, municipal utility, or retail electric cooperative.

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

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

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

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

8 (i) “Ordered program” means any of the following:

9 1. An energy efficiency or renewable resource program that an energy utility  
10 conducted under s. 196.374, 1997 stats., and continued to conduct under a  
11 commission order in effect on the effective date of this subdivision .... [revisor inserts  
12 date].

13 2. A shared savings program that an energy utility conducted prior to October  
14 29, 1999, and continued to conduct under a commission order in effect on the effective  
15 date of this subdivision .... [revisor inserts date].

16 3. An energy efficiency or renewable resource program that an energy utility  
17 conducted under a commission order issued on or after October 29, 1999, and is in  
18 effect before the effective date of this subdivision .... [revisor inserts date].

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

23 1. Solar energy.

24 2. Wind power.

25 3. Water power.

- 1 4. Biomass.
- 2 5. Geothermal technology.
- 3 6. Tidal or wave action.
- 4 7. Fuel cell technology that does not use coal or petroleum products as fuel.

5 (k) “Renewable resource program” means a program for encouraging the  
6 development or use of customer applications of renewable resources, including  
7 educating customers or members about renewable resources, encouraging  
8 customers or members to use renewable resources, and encouraging the transfer of  
9 new or emerging technologies from research, development, and demonstration to  
10 commercial implementation.

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

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

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

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

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

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

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

9           b. Components to reduce the energy costs incurred by local units of government  
10 and agricultural producers, by increasing the efficiency of energy use by local units  
11 of government and agricultural producers. The commission shall ensure that not  
12 less than \$25,000,000 from the moneys utilities are required to spend under subd.  
13 1. or sub. (3) (b) 2. is spent annually on programs under this subdivision except that,  
14 if the commission determines that the full amount cannot be spent on cost-effective  
15 programs for local units of government and agricultural producers, the commission  
16 shall ensure that any surplus funds be spent on programs to serve commercial,  
17 institutional, and industrial customers.

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

22           3. The commission may not require an energy utility to administer or fund any  
23 energy efficiency or renewable resource program that is in addition to the programs  
24 required under subd. 1. and any ordered program of the utility. This subdivision does

1 not limit the authority of the commission to enforce an energy utility's obligations  
2 under s. 196.378.

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

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

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

19 (3) COMMISSION DUTIES. (a) *In general.* The commission shall have oversight  
20 of programs under sub. (2). The commission shall maximize coordination of program  
21 delivery, including coordination between programs under subs. (2) (a) 1. and (b) 1.  
22 and 2. and (7), ordered programs, low-income weatherization programs under s.  
23 16.957, renewable resource programs under s. 196.378, and other energy efficiency  
24 or renewable resource programs.

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

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

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

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

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

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

3           e. Societal impacts.

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

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

8           h. Any other relevant factors.

9           3. The commission shall submit to the joint committee on finance any proposal  
10 to require each energy utility to spend a larger percentage of its annual operating  
11 revenues than the percentage specified in subd. 2. (intro.) to fund the programs  
12 specified in subd. 2. (intro.). If the cochairpersons of the committee do not notify the  
13 commission within 10 working days after the commission submits such a proposal  
14 that the committee has scheduled a meeting to review the proposal, the commission  
15 may require each energy utility to spend the percentage specified in the proposal.  
16 If, within 10 working days after the commission submits a proposal, the  
17 cochairpersons of the committee notify the commission that the committee has  
18 scheduled a meeting to review the proposal, the commission may require each energy  
19 utility to spend a larger percentage of its annual operating revenues to fund these  
20 programs only upon the approval of the committee.

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

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

24           2. Review requests under sub. (2) (b). The commission may condition its  
25 approval of a request under sub. (2) (b) as necessary to protect the public interest.

1 The commission shall approve a request under sub. (2) (b) 1. or 2. if the commission  
2 determines that a proposed energy efficiency or renewable resource program is in the  
3 public interest and satisfies all of the following:

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

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

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

9 (d) *Audits.* Annually, the commission shall contract with one or more  
10 independent auditors to prepare a financial and performance audit of the programs  
11 specified in par. (b) 1. The purpose of the performance audit shall be to evaluate the  
12 programs and measure the performance of the programs against the goals and  
13 targets set by the commission under par. (b) 1.

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

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

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

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

24 4. Any other information required by the commission.

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

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

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

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

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

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

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

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

24 (b) An energy utility that provides financing under an energy efficiency  
25 program under sub. (2) (b) 1. or 2. for installation, by a customer, of energy efficiency

1 or renewable resource processes, equipment, or appliances, or an affiliate of such a  
2 utility, may not sell to or install for the customer those processes, equipment,  
3 appliances, or related materials. The customer shall acquire the installation of the  
4 processes, equipment, appliances, or related materials from an independent  
5 contractor of the customer's choice.

6 (5) COST RECOVERY; EQUITABLE DISTRIBUTION. (a) The commission shall ensure  
7 in rate-making orders that an energy utility recovers from its ratepayers the  
8 amounts the energy utility is required to spend under sub. (3) (b) 2., except that the  
9 commission shall ensure that the total increase in a rate payer's monthly electric bill  
10 that is based on such required spending does not exceed 3 percent of the total of every  
11 other charge for which the ratepayer is billed for that month or \$750, whichever is  
12 less. To reflect changes in the consumer price index for all urban consumers, U.S.  
13 city average, as determined by the U.S. department of labor, the commission shall  
14 make annual adjustments to the amount of \$750.

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

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

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

1 receive equivalent opportunities as those in areas served by programs under sub. (2)

2 (b) 1.

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

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

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

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

1 community program shall meet the program requirements under sub. (2) (a) 2. and  
2 comply with the rules promulgated under sub. (3) (f) 4.

3 2. No later than October 1, 2007, and no later than every 3rd year after that  
4 date, each municipal utility or retail electric cooperative shall notify the commission  
5 whether it has elected to contribute the fees that it charges under par. (a) to statewide  
6 programs established under sub. (2) (a) 1. in each fiscal year of the 3-year period for  
7 which it has made the election. If a municipal utility or retail electric cooperative  
8 elects to contribute to the statewide programs established under sub. (2) (a) 1., the  
9 utility or cooperative shall contribute the fees that it collects under par. (a) to the  
10 payment of contracts under sub. (2) (a) 1. for administration of the statewide  
11 programs, as specified in the rules under sub. (3) (f) 1., in each year of the 3-year  
12 period for which the utility or cooperative has made the election.

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

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

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

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

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

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

13 d. The results of audits under this subdivision.

14 e. Any other information required by the commission.

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

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

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

23 **SECTION 55.** 285.48 (4) (a) of the statutes is amended to read:

24 285.48 (4) (a) The use of renewable energy, including renewable energy that  
25 is provided by electric providers for the purpose of complying with the requirements

1 of s. 196.378 (2) (a), or renewable energy that is used under programs ~~specified in s.~~  
2 ~~196.374 (2) (d) that are funded by expenditures~~ under s. 196.374 (3).

3 **SECTION 56.** 285.48 (4) (b) of the statutes is amended to read:

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

8 **SECTION 57. Nonstatutory provisions.**

9 (1) INITIAL CONTRACTS. To promote administrative efficiency and build on  
10 existing, successful programs, the public service commission shall direct energy  
11 utilities, as defined in section 196.374 (1) (e) of the statutes, as affected by this act,  
12 to negotiate initial contracts under section 196.374 (2) (a) 1. of the statutes, as  
13 affected by this act, with the holders of current contracts under section 16.957 (3) (b),  
14 2003 stats., to the extent that the programs administered by those contract holders  
15 are functioning effectively and accomplishing most or all of the goals set for them.

16 (2) CORN-BURNING FURNACE PILOT PROGRAM. The department of administration  
17 shall conduct a pilot program under section 16.957 (2) (b) 1. b. of the statutes during  
18 the winter heating season between November 1, 2006, and March 1, 2007, to  
19 determine the feasibility and cost-effectiveness of the use of residential space  
20 heating equipment in this state that is fueled by biomass, as defined in section  
21 196.378 (1) (a) of the statutes, from corn plants. The department of administration  
22 shall report to the legislature the results of the pilot program in the report required  
23 under section 16.957 (2) (d) 4. of the statutes.

24 **SECTION 58. Effective dates.** This act takes effect on July 1, 2007, except as  
25 follows:

1 (1) Section 57 (2) of this act takes effect on the day after publication.

2 (END)