State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1261/P6
MDK:kjf/jld/cjs:~~md~~

DOA:.....Dombrowski, BB0277 - Transfer Division of Energy to PSC

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

PUBLIC UTILITY REGULATION

Under current law, DOA must determine the amount of a monthly low-income assistance fee that electric utilities are required to charge customers. The fees are used to fund various low-income energy assistance programs. Some of the fees are also used to help fund the Wisconsin Works program, which provides work experience and benefits for low-income custodial parents. Current law imposes certain requirements on DOA's determination of the amount of the fee, including a requirement that the monthly fee may not exceed the lesser of $750 or 3 percent of the customer's total charges for the month. This bill changes the foregoing requirement so that the monthly fee may not exceed the lesser of $750 or the sum of the foregoing 3 percent and a percentage of the customer's total charges for the month that, as determined by DOA, is sufficient to generate the amounts used to help fund the Wisconsin Works program.

Current law also requires DOA to promulgate rules establishing the amount of the fee. For a fiscal year, the rules must establish the fee in the amount resulting from subtracting a specified sum from the amount needed for assisting low-income customers as determined under a formula under current law. One component of the specified sum is the amount of funding received by the state under federal programs that provide energy assistance to low-income customers. Under this bill, for fiscal

years 2009-10 and 2010-11, the amount of funding received under the federal programs that is attributable to federal economic stimulus funds must be deducted from the sum. The bill requires DOA to promulgate emergency rules for making the required deduction.

Under current law, DOA administers federally funded programs for providing weatherization and energy assistance to low-income households. Current law requires DOA to transfer in each fiscal year 15 percent of the federal funding for the energy assistance program to the weatherization program. This bill allows, but does not require, DOA to make the transfer. In addition, the bill requires DOA to deduct its administrative expenses for the program before making a transfer. Also, the bill eliminates a program revenue appropriation that is no longer required for DOA to administer the program.

Also under current law, DOA administers a program for making grants from the utility public benefits fund (UPBF) to provide assistance to low-income households for weatherization and other energy conservation services, payment of energy bills, and early identification or prevention of energy crises. In each fiscal year, DOA must ensure that the amount made in grants for weatherization and other energy conservation services is equal to 47 percent of the sum of the following: 1) the amounts received under the federally funded weatherization and energy-assistance programs mentioned above; 2) the amount spent by certain electric and natural gas utilities on assistance to low-income households; 3) the amount spent on all programs funded by the UPBF; and 4) the amount of monthly low-income assistance fees that certain municipal electric utilities and electric retail cooperatives are required to collect from their customers and members.

Instead of requiring DOA to ensure that 47 percent of the foregoing sum is spent in fiscal years 2009-10 to 2011-12 on grants for weatherization and other energy conservation services, this bill requires DOA to ensure that at least $75,000,000 is spent in a fiscal year on such grants. In addition, in fiscal years 2010-11 and 2011-12, DOA must increase the amount spent on such grants to reflect the cost-of-living increase that occurred during the previous fiscal year. Beginning in fiscal year 2012-13, DOA must ensure that 47 percent of the foregoing sum is spent on such grants, as is required under current law.

Also under current law, DOA has created a Division of Energy to administer federal and state programs for providing assistance to low-income households for weatherization, energy conservation, payment of energy bills, and other energy-related services. This bill transfers responsibility to administer the programs from DOA to the PSC effective January 1, 2010.

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

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

1 **SECTION 1.** 16.26 of the statutes is renumbered 196.3742 and amended to read:

196.3742 ~~**Weatherization**~~ **Federal weatherization assistance.** Notwithstanding s. 16.54 (2) (a), the ~~department~~ commission shall administer federal funds available to this state under the weatherization assistance for low-income persons program, as amended, 42 USC 6861 to 6873. The ~~department~~ commission shall administer the funds in accordance with 42 USC 6861 to 6873 and regulations adopted under 42 USC 6861 or 6873.

SECTION 2. 16.27 (title) of the statutes is renumbered 196.3744 (title) and amended to read:

196.3744 (title) ~~**Low-income**~~ **Federal low-income energy assistance.**

SECTION 3. 16.27 (1) of the statutes is renumbered 196.3744 (1), and 196.3744 (1) (e), as renumbered, is amended to read:

196.3744 **(1)** (e) "Low-income warm room program volunteer" means a person who is eligible for assistance under 42 USC 8621 to 8629, whose dwelling, in comparison to the dwellings of other persons eligible for assistance under 42 USC 8621 to 8629, has a high ratio of space to occupant, and who volunteers to take the training under sub. (2) (b) and to cooperate with the ~~department~~ commission in the installation and operation of low-income warm room program materials in his or her dwelling.

SECTION 4. 16.27 (2) of the statutes is renumbered 196.3744 (2) and amended to read:

196.3744 **(2)** ADMINISTRATION. (a) The ~~department~~ commission shall administer low-income energy assistance as provided in this section to assist an eligible household to meet the costs of home energy with low-income home energy assistance benefits authorized under 42 USC 8621 to 8629.

(b) The ~~department~~ commission shall administer a low-income warm room program to install low-income warm room program materials in the dwellings of low-income warm room program volunteers and to train the low-income warm room program volunteers and the members of each low-income warm room program volunteer's household in the operation of the low-income warm room program materials to achieve maximum health and heating efficiency.

SECTION 5. 16.27 (3) (intro.), (b), (c), (d) and (e) (intro.) of the statutes are renumbered 16.27 (3) (am) (intro.), 2., 3., 4. and 5. (intro.).

****NOTE: This is reconciled s. 16.27 (3) (intro.), (b), (c), (d) and (e) (intro.). This SECTION has been affected by drafts with the following LRB numbers: LRB-1261/P4 and LRB-1517/P2.

SECTION 6. 16.27 (3) (am) (intro.), 2., 3., 4. and 5. (intro.) of the statutes, as affected by 2009 Wisconsin Act .... (this act), are renumbered 196.3744 (3) (am) (intro.), 2., 3., 4. and 5. (intro.) and amended to read:

196.3744 **(3)** (am) (intro.) Subject to s. 16.54 (2), the ~~department~~ commission shall do all of the following, within the limits of the availability of federal funds received under 42 USC 8621 to 8629:

2. By October 1 of every year from the appropriation under s. ~~20.505 (1) (mb)~~ 20.155 (3) (m), determine the total amount available for payment of heating assistance under sub. (6) and determine the benefit schedule.

3. From the appropriation under s. ~~20.505 (1) (mb)~~ 20.155 (3) (m), allocate $1,100,000 in each federal fiscal year for the ~~department's~~ commission's expenses in administering the funds to provide low-income energy assistance under this section.

4. From the appropriation under s. ~~20.505 (1)~~ 20.155 (3) (n), allocate $2,900,000 in each federal fiscal year for the expenses of a county department, another local

governmental agency, or a private nonprofit organization in administering under sub. (4) the funds to provide low-income energy assistance under this section.

5. (intro.) From the appropriation under s. ~~20.505 (1) (mb)~~ 20.155 (3) (m):

****NOTE: This is reconciled s. 16.27 (3) (e) 1. This SECTION has been affected by drafts with the following LRB numbers: LRB-1261/P4, LRB-1373/P1, and LRB-1517/P2.

SECTION 7. 16.27 (3) (am) 5. c., f. and g. of the statutes, as affected by 2009 Wisconsin Act .... (this act), are renumbered 196.3744 (3) (am) 5. c., f. and g., and 196.3744 (3) (am) 5. f. and g., as renumbered, are amended to read:

196.3744 **(3)** (am) 5. f. If federal funds received under 42 USC 8621 to 8629 in a federal fiscal year total less than 90% of the amount received in the previous federal fiscal year, submit a plan of expenditure ~~under s. 16.54 (2) (b)~~ of the funds to the joint committee on finance. The commission may not use the funds unless the committee approves the plan.

g. By October 1 of each year, allocate funds budgeted but not spent and any funds remaining from previous fiscal years to heating assistance under sub. (6) or to the weatherization assistance program under s. ~~16.26~~ 196.3742.

****NOTE: This is reconciled s. 16.27 (3) (bm). This SECTION has been affected by drafts with the following LRB numbers: LRB-1373/P1 and LRB-1517/P2.

SECTION 8. 16.27 (3) (bm) of the statutes, as affected by 2009 Wisconsin Act .... (this act), is renumbered 196.3744 (3) (bm) and amended to read:

196.3744 **(3)** (bm) Subject to s. 16.54 (2), the ~~department~~ commission may, after deducting the costs of administering the program under s. ~~16.26~~ 196.3742, and within the limits of the availability of federal funds received under 42 USC 8621 to 8629, allocate and transfer from the appropriation under s. ~~20.505 (1) (mb)~~ 20.155 (3) (m) to the appropriation under s. ~~20.505 (1) (kn)~~ 20.155 (3) (n), 15% of the moneys received under 42 USC 8621 to 8629 in each federal fiscal year under the priority of

maintaining funding for the geographical areas on July 20, 1985, and, if funding is reduced, prorating contracted levels of payment, for the program under s. ~~16.26~~ 196.3742.

****NOTE: This is reconciled s. 16.27 (3) (bm). This SECTION has been affected by drafts with the following LRB numbers: LRB-1261/P4, LRB-1373/P1, and LRB-1517/P2.

SECTION 9. 16.27 (3) (e) 1. of the statutes is renumbered 16.27 (3) (bm) and amended to read:

16.27 **(3)** (bm) ~~Allocate~~ Subject to s. 16.54 (2), the department may, after deducting the costs of administering the program under s. 16.26, and within the limits of the availability of federal funds received under 42 USC 8621 to 8629, allocate and transfer from the appropriation under s. 20.505 (1) (mb) to the appropriation under s. 20.505 (1) ~~(kn)~~ (n), 15% of the moneys received under 42 USC 8621 to 8629 in each federal fiscal year under the priority of maintaining funding for the geographical areas on July 20, 1985, and, if funding is reduced, prorating contracted levels of payment, for the ~~weatherization assistance~~ program ~~administered by the department~~ under s. 16.26.

SECTION 10. 16.27 (3) (e) 3., 6. and 7. of the statutes are renumbered 16.27 (3) (am) 5. c., f. and g., and 16.27 (3) (am) 5. c., as renumbered, is amended to read:

16.27 **(3)** (am) 5. c. Except as provided under subd. ~~6.~~ 5. f., allocate the balance of funds received under 42 USC 8621 to 8629 in a federal fiscal year, after making the allocations under ~~pars. (c) and (d) and subd. 1.~~ subds. 3. and 4. and par. (bm), for the payment of heating assistance or for the payment of crisis assistance under sub. (6).

****NOTE: This is reconciled s. 16.27 (3) (e) 3., 6., and 7. This SECTION has been affected by drafts with the following LRB numbers: LRB-1261/P4 and LRB-1517/P2.

SECTION 11. 16.27 (4) of the statutes is renumbered 196.3744 (4) and amended to read:

196.3744 **(4)** APPLICATION PROCEDURE. (a) A household may apply after September 30 and before May 16 of any year for heating assistance from the county department under s. 46.215 (1) (n) or 46.22 (1) (b) 4m. a. to e. or from another local governmental agency or a private nonprofit organization with which the ~~department~~ commission contracts to administer the heating assistance program, and shall have the opportunity to do so on a form prescribed by the ~~department~~ commission for that purpose.

(b) If by February 1 of any year the number of households applying under par. (a) substantially exceeds the number anticipated, the ~~department~~ commission may reduce the amounts of payments made under sub. (6) made after that date. The ~~department~~ commission may suspend the processing of additional applications received until the ~~department~~ commission adjusts benefit amounts payable.

SECTION 12. 16.27 (5) of the statutes is renumbered 196.3744 (5).

SECTION 13. 16.27 (6) of the statutes is renumbered 196.3744 (6) and amended to read:

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196.3744 **(6)** BENEFITS. Within the limits of federal funds allocated under sub. (3) and subject to the requirements of ~~sub.~~ subs. (4) (b) and ~~s. 16.54 (2) (b)~~ (6m), heating assistance shall be paid under this section according to a benefit schedule established by the ~~department~~ commission based on household income, family size and energy costs.

SECTION 14. 16.27 (7) of the statutes is renumbered 196.3744 (7).

SECTION 15. 16.27 (8) of the statutes is renumbered 196.3744 (8) and amended to read:

as affected by 2009 Wisconsin Act ..... (this act)

196.3744 **(8)** CRISIS ASSISTANCE PROGRAM. A household eligible for heating assistance under sub. (6) may also be eligible for a crisis assistance payment to meet a weather-related or fuel supply shortage crisis. The ~~department~~ commission shall define the circumstances constituting a crisis for which a payment may be made and shall establish the amount of payment to an eligible household or individual. The ~~department~~ commission may delegate a portion of its responsibility under this subsection to a county department under s. 46.215 or 46.22 or to another local governmental agency or a private nonprofit organization.

SECTION 16. 16.27 (9) of the statutes is renumbered 196.3744 (9) and amended to read:

196.3744 **(9)** NOTICE OF UTILITY DISCONNECTION REQUIRED. Any public utility~~, as defined in s. 196.01 (5),~~ or any fuel distributor furnishing heat, light or power to a residential customer shall provide written notice of intent to disconnect or discontinue service during the months of November to April and shall include information concerning any federal, state or local program that provides assistance for fuel or home heating bills. The ~~department~~ commission shall provide printed information at no cost upon request to any fuel distributor serving residential customers except public utilities. The information shall describe the nature and availability of any federal, state or local program that provides assistance for fuel or home heating bills.

SECTION 17. 16.54 (2) (b) of the statutes is renumbered 196.3744 (6m) and amended to read:

196.3744 **(6m)** JOINT FINANCE REVISIONS. Upon presentation of proposed revisions by the ~~department~~ commission to the joint committee on finance ~~of alternatives to the provisions under s. 16.27~~, the joint committee on finance may

revise the eligibility criteria under ~~s. 16.27~~ sub. (5) or benefit payments under ~~s. 16.27~~ sub. (6), and the ~~department~~ commission shall implement those revisions. Benefits or eligibility criteria so revised shall take into account and be consistent with the requirements of federal regulations promulgated under 42 USC 8621 to 8629. ~~If funds received under 42 USC 8621 to 8629 in a federal fiscal year total less than 90% of the amount received in the previous federal fiscal year, the department shall submit to the joint committee on finance a plan for expenditure of the funds. The department may not use the funds unless the committee approves the plan.~~

SECTION 18. 16.957 (title) of the statutes is renumbered 196.3746 (title) and amended to read:

196.3746 (title) ~~**Low-income**~~ **State low-income assistance.**

SECTION 19. 16.957 (1) (intro.) of the statutes is renumbered 196.3746 (1) (intro.).

SECTION 20. 16.957 (1) (bm) of the statutes is repealed.

SECTION 21. 16.957 (1) (c) to (n) of the statutes are renumbered 196.3746 (1) (c) to (n).

SECTION 22. 16.957 (1) (o) of the statutes is renumbered 196.3746 (1) (o), and 196.3746 (1) (o) 1., as renumbered, is amended to read:

196.3746 **(1)** (o) 1. The total amount received by the department of administration for low-income funding under 42 USC 6861 to 6873 and 42 USC 8621 to 8629 in fiscal year 1997-98.

SECTION 23. 16.957 (1) (p) and (q) of the statutes are renumbered 196.3746 (1) (p) and (q).

SECTION 24. 16.957 (1) (qm) of the statutes is repealed.

SECTION 25. 16.957 (1) (s) to (x) of the statutes are renumbered 196.3746 (1) (s) to (x).

SECTION 26. 16.957 (2) (intro.) of the statutes is renumbered 196.3746 (2) (intro.) and amended to read:

196.3746 **(2)** ~~DEPARTMENT~~ COMMISSION DUTIES. (intro.) In consultation with the council, the ~~department~~ commission shall do all of the following:

SECTION 27. 16.957 (2) (a) (intro.) of the statutes is renumbered 16.957 (2) (a) and amended to read:

16.957 **(2)** (a) *Low-income programs.* After holding a hearing, establish programs to be administered by the department for awarding grants from the appropriation under s. 20.505 (3) (r) to provide low-income assistance. In each fiscal year, the amount awarded under this paragraph shall be sufficient to ensure that ~~an amount equal to 47% of the sum of the following~~ not less than $75,000,000, or the amount determined under par. (d) 2m., is spent for weatherization and other energy conservation services~~:~~.

****NOTE: This is reconciled s. 16.957 (2) (a) (intro.). This SECTION has been affected by drafts with the following LRB numbers: LRB-1261/P4 and LRB-1517/P2.

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SECTION 28. 16.957 (2) (a) of the statutes, as affected by 2009 Wisconsin Act .... (this act), is renumbered 196.3746 (2) (a) and amended to read:

196.3746 **(2)** (a) *Low-income programs.* After holding a hearing, establish programs to be administered by the ~~department~~ commission for awarding grants from the appropriation under s. ~~20.505~~ 20.155 (3) (r) to provide low-income assistance. In each fiscal year, the amount awarded under this paragraph shall be sufficient to ensure that not less than $75,000,000, or the amount determined under par. (d) 2m., is spent for weatherization and other energy conservation services.

****NOTE: This is reconciled s. 16.957 (2) (a). This SECTION has been affected by drafts with the following LRB numbers: LRB-1261/P4 and LRB-1517/P2.

1 **SECTION 29.** 16.957 (2) (a) 1. to 4. of the statutes are repealed.

2 **SECTION 30.** 16.957 (2) (c) of the statutes is renumbered 196.3746 (2) (c).

3 **SECTION 31.** 16.957 (2) (d) of the statutes is renumbered 196.3746 (2) (d), and
4 196.3746 (2) (d) 4. a. and d., as renumbered, are amended to read:

5 196.3746 **(2)** (d) 4. a. The expenses of the ~~department~~ commission, other state
6 agencies, and grant recipients in administering or participating in the programs
7 under par. (a).

8 d. Any other issue identified by the ~~department~~ commission, council, governor,
9 speaker of the assembly or majority leader of the senate.

10 **SECTION 32.** 16.957 (2) (d) 2m. of the statutes is created to read:

11 16.957 **(2)** (d) 2m. In fiscal years 2010-11 and 2011-12, increase the amount
12 required to be spent on weatherization and other energy conservation services under
13 par. (a) to reflect the increase in the cost of living, as determined by the department,
14 that occurred during the previous fiscal year.

15 **SECTION 33.** 16.957 (2) (d) 2m. of the statutes, as created by 2009 Wisconsin Act
16 .... (this act), is renumbered 196.3746 (2) (d) 2m. and amended to read:

17 196.3746 **(2)** (d) 2m. In fiscal years 2010-11 and 2011-12, increase the amount
18 required to be spent on weatherization and other energy conservation services under
19 par. (a) to reflect the increase in the cost of living, as determined by the ~~department~~,
20 commission that occurred during the previous fiscal year.

21 **SECTION 34.** 16.957 (3) of the statutes is renumbered 196.3746 (3) and amended
22 to read:

196.3746 **(3)** CONTRACTS. The ~~department~~ commission shall, on the basis of competitive bids, contract with community action agencies described in s. 49.265 (2) (a) 1., nonstock, nonprofit corporations organized under ch. 181, or local units of government to provide services under the programs established under sub. (2) (a).

SECTION 35. 16.957 (4) (a), (am) and (b) of the statutes are renumbered 196.3746 (4) (a), (am) and (b), and 196.3746 (4) (a) and (b) (intro.), as renumbered, are amended to read:

196.3746 **(4)** (a) *Requirement to charge low-income assistance fees.* Each electric utility, except for a municipal utility, shall charge each customer a low-income assistance fee in an amount established in rules promulgated by the ~~department~~ commission under par. (b). An electric utility, except for a municipal utility, shall collect and pay the fees to the ~~department~~ commission in accordance with the rules promulgated under par. (b). The low-income assistance fees collected by an electric utility shall be considered trust funds of the ~~department~~ commission and not income of the electric utility.

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

SECTION 36. 16.957 (4) (c) (intro.) of the statutes is renumbered 196.3746 (4) (c) (intro.).

SECTION 37. 16.957 (4) (c) 1. of the statutes is renumbered 196.3746 (4) (c) 1. and 196.3746 (4) (c) 1. (intro.), as renumbered, is amended to read:

1 196.3746 **(4)** (c) 1. 'Low-income funding from fee.' In each fiscal year, the
2 low-income assistance fee shall be an amount that, when added to the sum of the
3 following shall equal the low-income need target for that fiscal year determined by
4 the ~~department~~ commission under sub. (2) (d) 1.:

5 **SECTION 38.** 16.957 (4) (c) 3. (intro.) of the statutes, as affected by 2009
6 Wisconsin Act .... (this act), is renumbered 196.3746 (4) (c) 3. (intro.).

****NOTE: This is reconciled s. 16.957 (4) (c) 3. (intro.). This SECTION has been affected by drafts with the following LRB numbers: LRB-0951/P3 and LRB-1261/P4.

7 **SECTION 39.** 16.957 (4) (c) 3. of the statutes is renumbered 16.957 (4) (c) 3.
8 (intro.) and amended to read:

9 16.957 **(4)** (c) 3. 'Limitation on low-income assistance fees.' (intro.) In any
10 month, the low-income assistance fee may not exceed ~~3% of the total of every other~~
11 ~~charge for which the customer is billed for that month or~~ $750 or the sum of the
12 following, whichever is less~~.~~:

****NOTE: This is reconciled s. 16.957 (4) (c) 3. This SECTION has been affected by drafts with the following LRB numbers: LRB-0951/P3 and LRB-1261/P4.

13 **SECTION 40.** 16.957 (4) (c) 3. a. of the statutes is created to read:

14 16.957 **(4)** (c) 3. a. Three percent of the total of every other charge for which the
15 customer is billed for that month.

16 **SECTION 41.** 16.957 (4) (c) 3. a. of the statutes, as created by 2009 Wisconsin
17 Act .... (this act), is renumbered 196.3746 (4) (c) 3. a.

18 **SECTION 42.** 16.957 (4) (c) 3. b. of the statutes is created to read:

19 16.957 **(4)** (c) 3. b. As determined by the department, the percentage of the total
20 of every other charge for which the customer is billed for that month that is sufficient
21 to generate, over the course of the fiscal year within which the month falls, the
22 amount shown in the schedule under s. 20.437 (2) (s) for that fiscal year.

1 **SECTION 43.** 16.957 (4) (c) 3. b. of the statutes, as created by 2009 Wisconsin
2 Act .... (this act), is renumbered 196.3746 (4) (c) 3. b. and amended to read:
3 196.3746 **(4)** (c) 3. b. As determined by the ~~department~~ commission, the
4 percentage of the total of every other charge for which the customer is billed for that
5 month that is sufficient to generate, over the course of the fiscal year within which
6 the month falls, the amount shown in the schedule under s. 20.437 (2) (s) for that
7 fiscal year.
8 **SECTION 44.** 16.957 (5) of the statutes is renumbered 196.3746 (5), and
9 196.3746 (5) (b) 2. and (g) 1. (intro.) and 2., as renumbered, are amended to read:
10 196.3746 **(5)** (b) 2. No later than October 1, 2007, and no later than every 3rd
11 year after that date, each municipal utility or retail electric cooperative shall notify
12 the ~~department~~ commission whether the utility or cooperative has elected to
13 contribute the fees that the utility or cooperative charges under par. (a) to the
14 programs established under sub. (2) (a) in each year of the 3-year period for which
15 the utility or cooperative has made the election. If a municipal utility or retail
16 electric cooperative elects to contribute to the programs established under sub. (2)
17 (a), the utility or cooperative shall pay the low-income assistance fees that the utility
18 or cooperative collects under par. (a) to the ~~department~~ commission in each year of
19 the 3-year period for which the utility or cooperative has made the election.
20 (g) *Reports.* 1. (intro.) Annually, each municipal utility and retail electric
21 cooperative that spends the low-income assistance fees that the utility or
22 cooperative charges under par. (a) on commitment to community programs under
23 par. (b) 1. shall provide for an independent audit of its programs and submit a report
24 to the ~~department~~ commission that describes each of the following:

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

SECTION 45. 20.155 (3) (title) of the statutes is amended to read:

20.155 **(3)** (title) ~~AFFILIATED GRANT~~ OTHER PROGRAMS.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 46. 20.155 (3) (m) of the statutes is created to read:

20.155 **(3)** (m) *Federal aid.* All moneys received from the federal government not otherwise appropriated under this section, as authorized by the governor under s. 16.54, to carry out the purposes for which received.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 47. 20.155 (3) (q) (title) of the statutes is amended to read:

20.155 **(3)** (q) (title) ~~*General*~~ *Wireless 911 program operations and grants.*

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 48. 20.505 (1) (kn) of the statutes is repealed.

****NOTE: This is reconciled s. 20.505 (1) (kn). This SECTION has been affected by drafts with the following LRB numbers: LRB-1261/P4 and LRB-1373/P1.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 49. 20.505 (1) (n) of the statutes is renumbered 20.155 (3) (n) and amended to read:

20.155 **(3)** (n) *Federal aid; local assistance.* All moneys received from the federal government for local assistance related to s. ~~16.27~~ 196.3744, as authorized by the governor under s. 16.54, for the purposes of providing local assistance.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

1 **SECTION 50.** 20.505 (3) (title) of the statutes is amended to read:

2 20.505 **(3)** (title) ~~UTILITY PUBLIC BENEFITS AND AIR~~ AIR QUALITY IMPROVEMENT.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

3 **SECTION 51.** 20.505 (3) (q) of the statutes is renumbered 20.155 (3) (qm) and

4 amended to read:

5 20.155 **(3)** (qm) *General program operations; ~~utility public benefits~~ low-income*

6 *assistance*. From the utility public benefits fund, the amounts in the schedule for

7 general program operations under s. ~~16.957~~ 196.3746.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

8 **SECTION 52.** 20.505 (3) (r) of the statutes is renumbered 20.155 (3) (r) and

9 amended to read:

10 20.155 **(3)** (r) *Low-income assistance grants.* From the utility public benefits

11 fund, a sum sufficient for low-income assistance grants under s. ~~16.957~~ 196.3746 (2)

12 (a).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

13 **SECTION 53.** 25.96 of the statutes is amended to read:

14 **25.96 Utility public benefits fund.** There is established a separate

15 nonlapsible trust fund designated as the utility public benefits fund, consisting of

16 low-income assistance fees received under s. ~~16.957~~ 196.3746 (4) (a) and (5) (b) 2. and

17 all moneys received under s. 196.374 (3) (b) 4.

18 **SECTION 54.** 46.215 (1) (n) of the statutes is amended to read:

19 46.215 **(1)** (n) To collect and transmit information to the ~~department of~~

20 ~~administration~~ public service commission so that a federal energy assistance

21 payment may be made to an eligible household; to collect and transmit information

to the ~~department of administration~~ public service commission so that weatherization services may be made available to an eligible household; to receive applications from individuals seeking low-income energy assistance under s. ~~16.27~~ 196.3744 (4) or weatherization services under s. ~~16.26~~ 196.3742; to provide information on the income eligibility for weatherization of a recipient of low-income energy assistance to an entity with which the ~~department of administration~~ public service commission contracts for provision of weatherization under s. ~~16.26~~ 196.3742; and to receive a request, determine a correct payment amount, if any, and provide payment, if any, for emergency assistance under s. ~~16.27~~ 196.3744 (8).

SECTION 55. 46.22 (1) (b) 4m. c. of the statutes is amended to read:

46.22 **(1)** (b) 4m. c. To receive applications from individuals seeking low-income energy assistance under s. ~~16.27~~ 196.3744 (4) or weatherization services under s. ~~16.26~~ 196.3742.

SECTION 56. 46.22 (1) (b) 4m. d. of the statutes is amended to read:

46.22 **(1)** (b) 4m. d. To provide information on the income eligibility for weatherization of a recipient of low-income energy assistance to an entity with which the ~~department of administration~~ public service commission contracts for provision of weatherization under s. ~~16.26~~ 196.3742.

SECTION 57. 46.22 (1) (b) 4m. e. of the statutes is amended to read:

46.22 **(1)** (b) 4m. e. To receive a request, determine a correct payment amount, if any, and provide payment, if any, for emergency assistance under s. ~~16.27~~ 196.3744 (8).

SECTION 58. 76.28 (1) (d) of the statutes is amended to read:

76.28 **(1)** (d) "Gross revenues" for a light, heat and power company other than a qualified wholesale electric company or a transmission company means total

environmental control charges paid to the company under a financing order issued under s. 196.027 (2) and total operating revenues as reported to the public service commission except revenues for interdepartmental sales and for interdepartmental rents as reported to the public service commission and deductions from the sales and use tax under s. 77.61 (4), except that the company may subtract from revenues either the actual cost of power purchased for resale, as reported to the public service commission, by a light, heat and power company, except a municipal light, heat and power company, that purchases under federal or state approved wholesale rates more than 50% of its electric power from a person other than an affiliated interest, as defined in s. 196.52 (1), if the revenue from that purchased electric power is included in the seller's gross revenues or the following percentages of the actual cost of power purchased for resale, as reported to the public service commission, by a light, heat and power company, except a municipal light, heat and power company that purchases more than 90% of its power and that has less than $50,000,000 of gross revenues: 10% for the fee assessed on May 1, 1988, 30% for the fee assessed on May 1, 1989, and 50% for the fee assessed on May 1, 1990, and thereafter. For a qualified wholesale electric company, "gross revenues" means total business revenues from those businesses included under par. (e) 1. to 4. For a transmission company, "gross revenues" means total operating revenues as reported to the public service commission, except revenues for transmission service that is provided to a public utility that is subject to the license fee under sub. (2) (d), to a public utility, as defined in s. 196.01 (5), or to a cooperative association organized under ch. 185 for the purpose of providing electricity to its members only. For an electric utility, as defined in s. ~~16.957~~ 196.3746 (1) (g), "gross revenues" does not include low-income assistance fees collected by the electric utility under s. ~~16.957~~ 196.3746 (4) (a) or (5)

(a). For a generator public utility, "gross revenues" does not include any grants awarded to the generator public utility under s. 16.958 (2) (b). For a wholesale supplier, as defined in s. ~~16.957~~ 196.3746 (1) (w), "gross revenues" does not include any low-income assistance fees that are received from a municipal utility or retail electric cooperative or under a joint program established under s. ~~16.957~~ 196.3746 (5) (f). For a municipal utility, "gross revenues" does not include low-income assistance fees received by the municipal utility from a municipal utility or retail electric cooperative under a joint program established under s. ~~16.957~~ 196.3746 (5) (f).

SECTION 59. 76.28 (1) (eg) of the statutes is amended to read:

76.28 **(1)** (eg) "Municipal utility" has the meaning given in s. ~~16.957~~ 196.3746 (1) (q).

SECTION 60. 76.28 (1) (gr) of the statutes is amended to read:

76.28 **(1)** (gr) "Retail electric cooperative" has the meaning given in s. ~~16.957~~ 196.3746 (1) (t).

SECTION 61. 76.48 (1g) (d) of the statutes is amended to read:

76.48 **(1g)** (d) "Gross revenues" means total operating revenues, except revenues for interdepartmental sales and for interdepartmental rents, less deductions from the sales and use tax under s. 77.61 (4) and, in respect to any electric cooperative that purchases more than 50% of the power it sells, less the actual cost of power purchased for resale by an electric cooperative, if the revenue from that purchased electric power is included in the seller's gross revenues or if the electric cooperative purchased more than 50% of the power it sold in the year prior to January 1, 1988, from a seller located outside this state. For an electric cooperative, "gross revenues" does not include grants awarded to the electric cooperative under

s. 16.958 (2) (b). For a retail electric cooperative, "gross revenues" does not include low-income assistance fees collected by the retail electric cooperative under s. ~~16.957~~ 196.3746 (5) (a), low-income assistance fees received by the retail electric cooperative from a retail electric cooperative or municipal utility under a joint program established under s. ~~16.957~~ 196.3746 (5) (f). For a wholesale supplier, as defined in s. ~~16.957~~ 196.3746 (1) (w), "gross revenues" does not include any low-income assistance fees that are received from a municipal utility, as defined in s. ~~16.957~~ 196.3746 (1) (q), or retail electric cooperative or under a joint program established under s. ~~16.957~~ 196.3746 (5) (f).

SECTION 62. 76.48 (1g) (dm) of the statutes is amended to read:

76.48 **(1g)** (dm) "Municipal utility" has the meaning given in s. ~~16.957~~ 196.3746 (1) (q).

SECTION 63. 76.48 (1g) (fm) of the statutes is amended to read:

76.48 **(1g)** (fm) "Retail electric cooperative" has the meaning given in s. ~~16.957~~ 196.3746 (1) (t).

SECTION 64. 77.54 (44) of the statutes is amended to read:

77.54 **(44)** The gross receipts from the collection of low-income assistance fees that are charged under s. ~~16.957~~ 196.3746 (4) (a) or (5) (a).

SECTION 65. 134.80 of the statutes is amended to read:

134.80 Home heating fuel dealers. Any dealer selling fuel of any kind for the purpose of heating a private residence shall notify each private residential customer whose account is subject to disconnection of the existence of the fuel assistance programs provided by the ~~department of administration~~ commission under s. ~~16.27~~ 196.3746.

SECTION 66. 196.025 (1) (ag) 2. of the statutes is amended to read:

196.025 **(1)** (ag) 2. "Wholesale supplier" has the meaning given in s. ~~16.957~~ 196.3746 (1) (w).

SECTION 67. 196.374 (1) (f) of the statutes is amended to read:

196.374 **(1)** (f) "Load management program" means a program to allow an energy utility, municipal utility, wholesale electric cooperative, as defined in s. ~~16.957~~ 196.3746 (1) (v), retail electric cooperative, or municipal electric company, as defined in s. 66.0825 (3) (d), to control or manage daily or seasonal customer demand associated with equipment or devices used by customers or members.

SECTION 68. 196.374 (1) (h) of the statutes is amended to read:

196.374 **(1)** (h) "Municipal utility" has the meaning given in s. ~~16.957~~ 196.3746 (1) (q).

SECTION 69. 196.374 (1) (L) of the statutes is amended to read:

196.374 **(1)** (L) "Retail electric cooperative" has the meaning given in s. ~~16.957~~ 196.3746 (1) (t).

SECTION 70. 196.374 (1) (n) of the statutes is amended to read:

196.374 **(1)** (n) "Wholesale supplier" has the meaning given in s. ~~16.957~~ 196.3746 (1) (w).

SECTION 71. 196.374 (1) (o) of the statutes is amended to read:

196.374 **(1)** (o) "Wholesale supply percentage" has the meaning given in s. ~~16.957~~ 196.3746 (1) (x).

SECTION 72. 196.374 (3) (a) of the statutes is amended to read:

196.374 **(3)** (a) *In general.* The commission shall have oversight of programs under sub. (2). The commission shall maximize coordination of program delivery, including coordination between programs under subs. (2) (a) 1., (b) 1. and 2., and (c) and (7), ordered programs, low-income weatherization programs under s. ~~16.957~~

1 196.3746, renewable resource programs under s. 196.378, and other energy
2 efficiency or renewable resource programs. The commission shall cooperate with the
3 department of natural resources to ensure coordination of energy efficiency and
4 renewable resource programs with air quality programs and to maximize and
5 document the air quality improvement benefits that can be realized from energy
6 efficiency and renewable resource programs.

7 **SECTION 73.** 196.3746 (2) (a) of the statutes, as affected by 2009 Wisconsin Act
8 .... (this act), is repealed and recreated to read:

9 196.3746 **(2)** (a) *Low-income programs.* After holding a hearing, establish
10 programs to be administered by the commission for awarding grants from the
11 appropriation under s. 20.155 (3) (r) to provide low-income assistance. In each fiscal
12 year, the amount awarded under this paragraph shall be sufficient to ensure that an
13 amount equal to 47% of the sum of the following is spent for weatherization and other
14 energy conservation services:

15 1. All moneys received from the federal government under 42 USC 6861 to 6873
16 and 42 USC 8621 to 8629 in a fiscal year.

17 2. All moneys spent in a fiscal year for low-income programs established under
18 s. 196.374, 2003 stats.

19 3. All moneys spent in a fiscal year on programs established under this
20 paragraph.

21 4. The moneys collected in low-income assistance fees under sub. (5) (a).

22 **SECTION 74.** 196.3746 (2) (d) 2m. of the statutes, as affected by 2009 Wisconsin
23 Act .... (this act), is repealed.

24 **SECTION 75.** 196.378 (1) (p) of the statutes is amended to read:

196.378 **(1)** (p) "Wholesale supplier" has the meaning given in s. ~~16.957~~ 196.3746 (1) (w).

SECTION 76. 285.48 (4) (b) of the statutes is amended to read:

285.48 **(4)** (b) The implementation of low-income weatherization and energy conservation measures, including programs established under s. ~~16.957~~ 196.3746 (2) (a) ~~or (b)~~ or programs under s. 196.374.

SECTION 77. 977.01 (2) of the statutes is amended to read:

977.01 **(2)** "Public assistance" means relief provided by counties under s. 59.53 (21), Wisconsin works under ss. 49.141 to 49.161, medical assistance under subch. IV of ch. 49, low-income energy assistance under s. ~~16.27~~ 196.3744, weatherization assistance under s. ~~16.26~~ 196.3742, and the food stamp program under 7 USC 2011 to 2029.

SECTION 9101. Nonstatutory provisions; Administration.

(1) PUBLIC SERVICE COMMISSION TRANSFERS.

(a) *Definitions.* In this subsection:

1. "Commission" means the public service commission.

2. "Department" means the department of administration.

3. "Division" means the division of energy of the department of administration.

4. "Secretary" means the secretary of administration.

(b) *Assets and liabilities.* On the effective date of this paragraph, the assets and liabilities of the department that are primarily related to the division, as determined by the secretary, shall become the assets and liabilities of the commission.

(c) *Positions and employees.* On the effective date of this paragraph, all positions, except for the administrator of the division, and all incumbent employees holding those positions in the department performing duties that are primarily

INSERT 23-23

1 related to the division, as determined by the secretary, are transferred to the
2 commission.

3 (d) *Employee status.* Employees transferred under paragraph (c) have all the
4 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
5 statutes in the commission that they enjoyed in the department immediately before
6 the transfer. Notwithstanding section 230.28 (4) of the statutes, no employee so
7 transferred who has attained permanent status in class is required to serve a
8 probationary period.

9 (e) *Tangible personal property.* On the effective date of this paragraph, all
10 tangible personal property, including records, of the department that is primarily
11 related to the division, as determined by the secretary, is transferred to the
12 commission.

13 (f) *Contracts.* All contracts entered into by the department in effect on the
14 effective date of this paragraph that are primarily related to the division, as
15 determined by the secretary, remain in effect and are transferred to the commission.
16 The commission shall carry out any obligations under those contracts unless
17 modified or rescinded by the commission to the extent allowed under the contract.

18 (g) *Rules and orders.* All rules promulgated by the department in effect on the
19 effective date of this paragraph that are primarily related to the division remain in
20 effect until their specified expiration dates or until amended or repealed by the
21 commission. All orders issued by the department in effect on the effective date of this
22 paragraph that are primarily related to the division remain in effect until their
23 specified expiration dates or until modified or rescinded by the commission.

24 (h) *Pending matters.* Any matter pending with the department on the effective
25 date of this paragraph that is primarily related to the division, as determined by the

1 secretary, is transferred to the commission. All materials submitted to or actions
2 taken by the department with respect to the pending matters are considered as
3 having been submitted to or taken by the commission.

4 (2) LOW-INCOME ASSISTANCE FEE.

5 (a) *Definitions.* In this subsection:

6 1. "Federal economic stimulus funds" means federal moneys received by the
7 state, pursuant to federal legislation enacted during the 111th Congress for the
8 purpose of reviving the economy of the United States.

9 2. "Low-income assistance fee" means the fee that an electric utility, as defined
10 in section 16.957 (1) (g) of the statutes is required to charge customers under section
11 16.957 (4) (a) of the statutes.

12 3. "Stimulus portion" means the portion of moneys received under 42 USC 6861
13 to 6873 and 42 USC 8621 to 8629 in a fiscal year that is attributable to, as determined
14 by the secretary of administration, the federal economic stimulus funds received in
15 that fiscal year.

16 (b) *Fee calculation.* Notwithstanding section 16.957 (4) (c) 1. of the statutes,
17 in determining the amount of the low-income assistance fee for fiscal years 2009-10
18 and 2010-11, the stimulus portion received in the fiscal year shall be deducted from
19 the sum of the amounts specified in section 16.957 (4) (c) 1. a. to c. of the statutes for
20 that fiscal year.

21 (c) *Emergency rules.* Using the procedure under section 227.24 of the statutes,
22 the department of administration shall, no later than December 31, 2009,
23 promulgate rules establishing the amount of the low-income assistance fee for fiscal
24 years 2009-10 and 2010-11. Notwithstanding section 227.24 (1) (c) and (2) of the
25 statutes, these emergency rules may remain in effect until the effective date of any

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permanent rules promulgated by the department to implement the requirements of paragraph (b). Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this paragraph as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph.

SECTION 9401. Effective dates; Administration.

(1) PUBLIC SERVICE COMMISSION TRANSFERS. The treatment of sections 16.26, 16.27 (title), (1), (2), (3) (am) (intro.), 2., 3., 4., and 5. (intro.), c., f., and g., and (bm), (4), (5), (6), (7), (8), and (9), 16.54 (2) (b), 16.957 (title), (1) (intro.), (bm), (c) to (n), (o), (p), (q), (qm), and (s) to (x), (2) (intro.), (a), (c), and (d), (3), (4) (a), (am), (b), and (c) (intro.) and 1., and (5), 20.155 (3) (title), (m), and (q) (title), 20.505 (1) (n) and (3) (title), (q), and (r), 25.96, 46.215 (1) (n), 46.22 (1) (b) 4m. c., d., and e., 76.28 (1) (d), (eg), and (gr), 76.48 (1g) (d), (dm), and (fm), 77.54 (44), 134.80, 196.025 (1) (ag) 2., 196.374 (1) (f), (h), (L), (n), and (o) and (3) (a), 196.378 (1) (p), 285.48 (4) (b), and 977.01 (2) of the statutes, the renumbering of section 16.957 (4) (c) 3. (intro.) a. of the statutes, and the renumbering and amendment of 16.957 (2) (d) 2m. and (4) (c) 3. b. of the statutes and SECTION 9101 (1) of this act take effect on January 1, 2010.

(by SECTION *)

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and

(2) LOW-INCOME ENERGY ASSISTANCE. The repeal and recreation of section 196.3746 (2) (a) of the statutes and the repeal of section 196.3746 (2) (d) 2m. of the statutes take effect on June 30, 2012.

(END)

INSERT 26-18

sections 16.27 (5) and

section

and LRB-1261/P6

INSERT 7-15:

****NOTE: This is reconciled s. 16.27 (5). This SECTION has been affected by drafts with the following LRB numbers: LRB-0967/1.

INSERT 23-23:

the secretary shall transfer any number of positions in the department, except for the administrator of the division, and shall transfer the incumbent employees holding those positions, to the commission for the performance of duties under sections 196.3742, 196.3744, and 196.3746 of the statutes, as affected by this act.

INSERT 26-18:

and LRB-1261/P6

****NOTE: This is reconciled SECTION 9401 (1). This SECTION has been affected by drafts with the following LRB numbers: LRB-0967/1.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1261/P7dn
MDK:...:...
cjs

Cindy Dombrowski:

This draft reconciles LRB-1261/P6 and LRB-0967/1. The reconciliation relates to he treatment of s. 16.27 (5) (c) and (e) in LRB-0967/1. Both of these drafts should continue to appear in the compiled bill.

Also, as you requested, I changed the language regarding the transfer of positions and employees from DOA to the PSC.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1261/P7dn
MDK:cjs:ph

February 5, 2009

Cindy Dombrowski:

This draft reconciles LRB-1261/P6 and LRB-0967/1. The reconciliation relates to he treatment of s. 16.27 (5) (c) and (e) in LRB-0967/1. Both of these drafts should continue to appear in the compiled bill.

Also, as you requested, I changed the language regarding the transfer of positions and employees from DOA to the PSC.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov