

D-NOTE

1999 BILL

~~1999~~
today by
4:00pm

Stays
3200/11

1 **AN ACT to repeal** 196.485 (3) (bm) and 196.795 (5) (pm) 1. (intro.); **to renumber**
2 196.025, 196.485 (1) (dm) l., 196.795 (5) (p) l., 2., 3. and 4., 196.795 (5) (pm) 1.
3 a., 196.795 (5) (pm) 1. b. and 196.795 (5) (pm) 1. c.; **to renumber and amend**
4 196.485 (1) (dm) 3., 196.795 (5) (pm) 2. and 196.795 (5) (pm) 3.; **to amend 76.28**
5 (1) (d), 76.28 (1) (e) (intro.), 76.28 (2) (c) (intro.), 76.28 (2) (d), 196.31 (1) (intro.),
6 196.485 (1) (dm) (intro.), 196.485 (2) (a) (intro.), 196.485 (4) (a) (intro.), 196.491
7 (3m) (b) 2., 196.494 (3), 196.494 (4), 196.52 (3) (a), 196.795 (1) (g) l., 196.795 (1)
8 (g) 2., 196.795 (5) (i) l., 196.795 (11) (b) and 200.01 (2); **to repeal and recreate**
9 196.374 and 196.485 (title); and **to create** 15.107 (17), 16.957, 16.969, 20.505
10 (1) (ge), 20.505 (1) (gs), 20.505 (10), 25.17 (1) (xm), 25.96, 76.28 (1) (e) 5., 76.28
11 (1) (j), 76.28 (2) (e), 196.025 (2), 196.025 (3), 196.025 (4), 196.025 (5), 196.192,
12 196.378, 196.485 (1) (am), 196.485 (1) (be), 196.485 (1) (bs), 196.485 (1) (dm) 2.,
13 196.485 (1) (do), 196.485 (1) (dq), 196.485 (1) (dr), 196.485 (1) (ds), 196.485 (1)
14 (dt), 196.485 (1) (dv), 196.485 (1) (em), 196.485 (1) (fe), 196.485 (1) (ge), 196.485

BILL

1 (1) (gm), 196.485 (1) (j), 196.485 (lm), 196.485 (2) (ar), 196.485 (2) (bx), 196.485
2 (2) (d), 196.485 (2) (e), 196.485 (3m), 196.485 (4) (am), 196.485 (5), 196.485 (6),
3 196.485 (6m), 196.485 (7), 196.485 (8), 196.487, 196.491 (3) (d) 3r., 196.491 (3)
4 (d) 3t., 196.491 (3) (gm), 196.491 (3g), 196.494 (5), 196.795 (1) (h) 3., 196.795 (1)
5 (p), 196.795 (6m) (title), 196.795 (6m) (a) (intro.), 196.795 (6m) (a) 1., 196.795
6 (6m) (a) 2., 196.795 (6m) (a) 4., 196.795 (6m) (b) (title), 196.795 (6m) (e), 196.795
7 (11) (c), 196.807 and 285.48 of the statutes; **relating to:** control of transmission
8 facilities by a transmission company and a Midwest independent system
9 operator, ownership of nonutility assets by a public utility holding company,
10 investments in transmission facilities, offers of employment to certain public
11 utility and nonaffiliate employees, fees and approvals for certain high-voltage
12 transmission lines, construction of certain electric transmission facilities,
13 environmental reviews by the public service commission, reports on reliability
14 status of electric utilities, state participation in a regional transmission need
15 and siting compact, incentives for development of certain generating facilities,
16 study of market power and retail electric competition, market-based
17 compensation, rates and contracts for electric customers, regulation of certain
18 nitrogen oxide emissions, establishing programs for low-income energy
19 assistance, improving energy conservation and efficiency markets and
20 encouraging the development and use of renewable resources, creating a
21 council on utility public benefits, establishing a utility public benefits fund,
22 requiring electric utilities and retail electric cooperatives to charge public
23 benefits fees to customers and members, imposing requirements on the use of
24 renewable resources by electric utilities and cooperatives, requiring the

BILL

1 exercise of rule-making authority, making appropriations and providing a
2 penalty.

Analysis by the Legislative Reference Bureau

This bill does each of the following: 1) establishes programs administered by the department of administration (DOA) for providing energy assistance to low-income households (low-income programs), for conservation and efficiency services (conservation programs) and for encouraging the development and use of renewable energy resources (renewables programs); 2) imposes certain requirements on the generation of electricity from renewable energy resources; 3) creates an exemption from the cap on investments of public utility holding companies in nonutility affiliate assets (asset cap); 4) changes requirements regarding the operation of the transmission system of the state; 5) imposes employment requirements with respect to the acquisition of certain energy business units; 6) changes the requirements for the approval of certain high-voltage transmission lines; and 7) imposes various other requirements, including changes to the duties of the public service commission (PSC), prohibitions on the authority of the department of natural resources (DNR) regarding nitrogen oxide emissions and requirements for an interstate compact on regional transmission need and siting.

Low-income, conservation and renewables programs

After consulting with a council on utility public benefits that is created under the bill, DOA is required to establish the low-income, conservation and renewables programs. DOA must hold a hearing before establishing the programs.

The bill requires the division of housing in DOA to contract with certain nonprofit or governmental entities for the administration of the low-income programs. DOA must also contract with a nonprofit corporation for the administration of the conservation and renewables programs.

The programs established by DOA are funded by a public benefits fee that DOA collects from nonmunicipal electric public utilities, which must charge the public benefits fees to their customers. Municipal electric public utilities and retail electric cooperatives (municipal utilities and cooperatives) are also required to charge a public benefits fee to their customers or members. Every three years, a municipal utility or cooperative may elect to contribute all or a specified portion of the public benefits fees to DOA for the programs established by DOA. A municipal utility or cooperative that does not elect to contribute all of the public benefits fees to DOA must spend specified portions of the fees on its own "commitment to community programs", which are defined as low-income assistance and conservation programs.

Each municipal utility and cooperative must charge a public benefits fee that is sufficient for the utility or cooperative to collect an annual average of \$17 per meter. However, for the period ending on June 30, 2008, the amount of any increase to an electric bill that is based on the public benefits fee charged by a municipal utility or cooperative may not exceed 3% of the total of every other charge billed during that period, or \$750 per month, whichever is less.

BILL

For nonmunicipal utilities, the bill directs DOA to determine the amount of the public benefits fee, which consists of a portion sufficient to fund the low-income programs and a portion sufficient to fund the conservation and renewables programs. The bill allows DOA to reduce the amount that must be collected for the conservation and renewables programs if DOA determines to reduce or discontinue such programs. The public benefits fee paid by a customer of a nonmunicipal utility is subject to the same limit that applies to a municipal utility or cooperative for the period ending on June 30, 2003.

The bill also requires certain electric utilities to make expenditures that are based on the percentage of annual operating revenues that the electric utilities are required to spend under current law on energy conservation programs. Under current law, the electric utilities are required to spend at least 0.5% of their annual operating revenues on such programs. This bill requires the PSC to determine the amount that an electric utility was required to spend on such programs in 1998. Under the bill, an electric utility must spend a decreasing portion of the amount determined by the PSC for 1998 on energy conservation programs and contribute an increasing portion of the amount to the PSC for deposit in a utility public benefits fund, which is used to fund the programs established by DOA under the bill.

Renewable energy resources

Under this bill, specified percentages of the electricity generated by a public utility or retail cooperative must be generated from renewable energy resources. The percentage is calculated on the basis of a public utility's or retail cooperative's total retail energy sales. The bill allows public utilities and retail cooperatives to purchase credits from other public utilities and retail cooperatives that generate electricity from renewable energy resources in excess of the percentages required under the bill.

The bill also includes other requirements, including requirements for calculating the percentages and reporting compliance with the percentages to DOA.

Asset cap

With certain exceptions, current law prohibits the investments of a public utility holding company system (system) in nonutility affiliate assets from exceeding a specified asset cap.

This bill creates a new exception from this prohibition if the public utility affiliates in a system satisfy certain requirements, including the following: 1) petitioning the PSC and the federal energy regulatory commission for approval to transfer operational control of their electric transmission facilities that are located in the midwest region of the United States to an independent system operator; and 2) filing a commitment with the PSC to transfer ownership of such transmission facilities and related land rights to a transmission company that satisfies specified requirements. If the public utility affiliates satisfy the requirements for the exception, then certain nonutility affiliate assets are not included in calculating whether the system exceeds the asset cap. The assets that are not included in the calculation include the assets of a nonutility affiliate that are used for the following: 1) producing or selling gas, oil, electricity or steam energy; 2) providing energy management, conservation or efficiency products or services; 3) providing energy customer services; 4) recovering or producing energy from waste materials; 5)

BILL

processing waste materials; 6) manufacturing or selling certain filtration or fluid pumping products; and 7) providing telecommunications services.

Transmission system operation

This bill allows transmission utilities to transfer ownership of their transmission facilities to a transmission company that satisfies certain requirements, including the requirements to apply for approval to begin operations no later than January 1, 2000. The bill requires the transmission utilities that make such a transfer to enter into contracts with the transmission company to provide operation and maintenance with respect to the transmission facilities for a period of at least three years. A transmission utility that is a public utility affiliate in a public utility holding company system must comply with these transfer requirements in order for the system to qualify for the exception from the asset cap that is described above.

The bill also provides that, after the transmission company begins operations, a transmission utility or cooperative that has transferred ownership of its transmission facilities to the transmission company no longer has a duty to provide transmission services. Instead, the transmission company has the exclusive duty to provide transmission service in a specified area of the state. The transmission company's duty terminates when a certain independent system operator begins operations. This independent system operator is a person that has received the conditional approval of the federal energy regulatory commission to provide transmission service in the midwest region of the United States.

Under the bill, after the independent system operator begins operations, it has the exclusive duty to provide transmission service in a specified area of the state and each public utility that provides transmission service in that area must transfer operational control over its transmission facilities to the independent system operator. In addition, as noted above, a public utility affiliate must make such a transfer to qualify for the exception to the asset cap exception described above.

The bill imposes other requirements on the organization, formation and operation of the transmission company. In addition, the bill exempts the property of the transmission company from the property tax.

Employment requirements for acquired energy units

The bill imposes certain employment requirements on a person who acquires an energy unit, which is defined as a business unit of a nonutility affiliate in a public utility holding company system or a public utility or cooperative association in which the business unit engages in certain energy-related activities. A person who acquires an energy unit must offer employment to the energy unit's nonsupervisory employees who are necessary for the operation and maintenance of the energy unit. If a nonutility affiliate acquires an energy unit in the same holding company system, the nonutility affiliate must offer employment to all of the energy unit's nonsupervisory employees. A person or nonutility affiliate that is subject to the bill's requirements must, during the 30-month period after the acquisition, offer employment at wage rates that are no less than the wage rates in effect immediately prior to the acquisition. In addition, during the same 30-month period, the terms

BILL

and conditions of employment, including fringe benefits, must be substantially similar to the terms and conditions in effect immediately prior to the acquisition.

Approval of high-voltage transmission lines

Under current law, with certain exceptions, a person may not construct a high-voltage transmission line, which is defined as a line that is designed for operation at 100 kilovolts or more, unless the PSC issues a certificate of public convenience and necessity (certificate) to the person. The PSC may not issue a certificate unless it makes certain specified findings regarding the high-voltage transmission line.

Under this bill, the PSC may not issue a certificate for a high-voltage transmission line that is proposed to increase transmission capacity into this state unless, in addition to the findings under current law, the PSC also makes specified findings regarding the use of existing rights-of-way and the routing and design of the line. In addition, the PSC may not issue a certificate for a high-voltage transmission line that is designed for operation at 345 kilovolts or more unless the PSC finds that certain benefits are reasonable in relation to the cost of the line.

The bill also imposes fees on persons who are issued certificates for high-voltage transmission lines that are designed for operation at 345 kilovolts or more. Such a person must pay an annual impact fee and a one-time environmental impact fee. The fees are based on the cost of the high-voltage transmission line. The fees must be paid to DOA, which is required to distribute the fees to counties, towns, cities and villages through which the high-voltage transmission line is routed.

Other requirements

The bill imposes the following duties on the PSC:

1. Requires the PSC to promulgate rules for carrying out the PSC's duties under current law regarding the consideration of environmental impact of certain actions.
2. Requires the PSC to promulgate rules requiring certain electric utilities and cooperative associations to submit reports on their electric reliability status.
3. Requires the PSC to study and report to the legislature on the establishment of a program for providing incentives for the development of certain high-efficiency, small-scale electric generating facilities.
4. Requires the PSC to contract for a study and submit a report to the legislature on the potential for horizontal market power of electric generators to frustrate the creation of effectively competitive retail electric markets.
5. Requires the PSC to approve certain market-based rates, individual contract options and market-based compensation for service interruptions for customers of certain electric public utilities.
6. Requires the PSC to order a public utility affiliate or the transmission company described above to make certain investments in its facilities if the PSC determines that the public utility affiliate or transmission company is not making investments that are sufficient to ensure reliable electric service.

The bill allows the governor, on behalf of the state, to enter into an interstate compact on the need for and siting of regional electric transmission facilities. A compact under the bill must include certain requirements, including a mechanism for resolving transmission conflicts between states.

BILL

The bill prohibits DNR from establishing certain reductions in nitrogen oxide emissions from electric generating facilities in specified counties.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the **state and local** 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.** 15.107 (17) of the statutes is created to read:

2 15.107 (17) **COUNCIL ON UTILITY PUBLIC BENEFITS.** There is created a council on
3 utility public benefits that is attached to the department of administration under s.
4 15.03. The council shall consist of the following members appointed for 3-year
5 terms:

6 (a) Two members appointed by the governor.

7 (b) Two members appointed by the senate majority leader.

8 (c) One member appointed by the senate minority leader.

9 (d) Two members appointed by the speaker of the assembly.

10 (e) One member appointed by the assembly minority leader.

11 (f) One member appointed by the secretary of natural resources.

12 (g) One member appointed by the secretary of administration.

13 (h) One-member appointed by the chairperson of the public service commission.

14 **SECTION 2.** 16.957 of the statutes is created to read:

15 **16.957 Utility public benefits. (1) DEFINITIONS.** In this section:

16 (bm) "Commission" means the public service commission.

17 (c) "Commitment to community program" means a program by a municipal
18 utility or retail electric cooperative for low-income assistance or an energy
19 conservation program by a municipal utility or retail electric cooperative.

BILL

1 (cm) "Council" means the council on utility public benefits created under s.
2 15.107 (17).

3 (d) "Customer application of renewable resources" means the generation of
4 electricity from renewable resources that takes place on the premises of a customer
5 of an electric provider.

6 (e) "Division of housing" means the division of housing in the department.

7 (f) "Electric provider" means an electric utility or retail electric cooperative.

8 (g) "Electric utility" means a public utility that owns or operates a retail electric
9 distribution system.

10 (h) "Energy conservation program" means a program for reducing the demand
11 for natural gas or electricity or improving the efficiency of its use during any period.

12 (i) "Fiscal year" has the meaning given in s. 655.001 (6).

13 (k) "Local unit of government" means the governing body of any county, city,
14 town, village or county utility district or the elected tribal governing body of a
15 federally recognized American Indian tribe or band.

16 (L) "Low-income assistance" means assistance to low-income households for
17 weatherization and other energy conservation services, payment of energy bills or
18 early identification or prevention of energy crises.

19 (m) "Low-income household" means any individual or group of individuals in
20 this state who are living together as one economic unit and for whom residential
21 electricity is customarily purchased in common or who make undesignated
22 payments for electricity in the form of rent, and whose household income is not more
23 than 150% of the poverty line as determined under 42 USC 9902 (2).

24 (n) "Low-income need" means the amount obtained by subtracting from the
25 total low-income energy bills in a fiscal year the product of 2.2% of the estimated

BILL

1 average annual income of low-income households in this state in that fiscal year
2 multiplied by the estimated number of low-income households in this state in that
3 fiscal year.

4 (o) "Low-income need percentage" means the percentage that results from
5 dividing the sum of the following by the amount of low-income need in fiscal year
6 1998-99:

7 1. The total amount received by the department for low-income funding under
8 42 USC 6861 to 6873 and 42 USC 8621 to 8629 in fiscal year 1997-98.

9 1m. The public benefits fees established for fiscal year 1999-2000 under sub.
10 (4) (c) 1.

11 2. The total amount expended by utilities under s. 196.374.

12 3. Fifty percent of the public benefits fees charged by municipal utilities and
13 retail electric cooperatives.

14 (p) "Low-income need target" means the product of the low-income need
15 percentage multiplied by low-income need in a fiscal year.

16 (q) "Municipal utility" means an electric utility that is owned wholly by a
17 municipality and that owns a retail distribution system.

18 (qm) "Public utility" has the meaning given in s. 196.01 (5).

19 (r) "Renewable resource" has the meaning given in s. 196.378 (1) (g).

20 (s) "Retail capacity" means the total amount of electricity that an electric
21 provider is capable of delivering to its retail customers and that is supplied by electric
22 generating facilities owned or operated by the electric provider or any other person.
23 "Retail capacity" does not include any electricity that is not used to satisfy the electric
24 provider's retail load obligations.

BILL

1 (t) "Retail electric cooperative" means a cooperative association that is
2 organized under ch. 185 for the purpose of providing electricity at retail to its
3 members only and that owns or operates a retail electric distribution system.

4 (u) "Total low-income energy bills" means the total estimated amount that all
5 low-income households are billed for residential electricity, natural gas and heating
6 fuel in a fiscal year.

7 (v) "Wholesale electric cooperative" means a cooperative association that is
8 organized under ch. 185 for the purpose of providing electricity at wholesale to its
9 members only.

10 (w) "Wholesale supply percentage" means the percentage of a municipal
11 utility's or retail electric cooperative's retail capacity in a fiscal year that is supplied
12 by a wholesale supplier.

13 (x) "Wholesale supplier" means a wholesale electric cooperative or a municipal
14 electric company, as defined in s. 66.073 (3) (d), that supplies electricity at wholesale
15 to a municipal utility or retail electric cooperative.

16 **(2) DEPARTMENT DUTIES.** In consultation with the council, the department shall
17 do all of the following:

18 (a) *Low-income programs.* After holding a hearing, establish programs to be
19 administered by the department of administration through the division of housing
20 for awarding grants from the appropriation under s. 20.505 (10) (r) to provide
21 low-income assistance. In each fiscal year, the amount awarded under this
22 paragraph in grants for weatherization and other energy conservation services shall
23 be sufficient to equal 47% of the sum of all moneys received from the federal
24 government under 42 USC 6861 to 6873 and 42 USC 8621 to 8629 in a fiscal year and
25 50% of the moneys collected in public benefits fees under sub. (5).

BILL

1 (b) *Energy conservation and efficiency and renewable resource programs.* 1.
2 Subject to subd. 2., after holding a hearing, establish programs for awarding grants
3 from the appropriation under s. 20.505 (10) (s) for each of the following:

4 a. Proposals for providing energy conservation or efficiency services. In
5 awarding grants under this subd. 1. a., the department shall give priority to
6 proposals directed at the sectors of energy conservation or efficiency markets that
7 are least competitive and at promoting environmental protection, electric system
8 reliability or rural economic development. In each fiscal year, 1.75% of the
9 appropriation under s. 20.505 (10) (s) shall be awarded in grants for research and
10 development proposals regarding the environmental impacts of the electric industry.

11 b. Proposals for encouraging the development or use of customer applications
12 of renewable resources, including educating customers about renewable resources
13 or encouraging uses of renewable resources by customers or encouraging research
14 technology transfers. In each fiscal year, the department shall ensure that 4.5% of
15 the appropriation under s. 20.505 (10) (s) is awarded in grants under this subd. 1. b.

16 2. For each fiscal year after fiscal year 2003-04, determine whether to continue,
17 discontinue or reduce any of the programs established under subd. 1. and determine
18 the total amount necessary to fund the programs that the department determines
19 to continue or reduce under this subdivision. The department shall notify the
20 commission if the department determines under this subdivision to reduce funding.

21 (c) *Rules.* Promulgate rules establishing all of the following:

22 1. Eligibility requirements for low-income assistance under programs
23 established under par. (a). The rules shall prohibit a person who receives
24 low-income assistance from a municipal utility or retail electric cooperative under

BILL

1 a program specified in sub. (5) (d) 2. b. or 3. a. from receiving low-income assistance
2 under programs established under par. (a).

3 2. Requirements and procedures for applications for grants awarded under
4 programs established under par. (a) or (b) 1.

5 2m. Criteria for the selection of proposals by the corporation specified in sub.
6 (3) (b).

7 2n. Criteria for making the determination under par. (b) 2. Rules promulgated
8 under this subdivision shall require the department to determine whether the need
9 for a program established under par. (b) 1. is satisfied by the private sector market
10 and, if so, whether the program should be discontinued or reduced.

11 4. Requirements for electric utilities to allow customers to include voluntary
12 contributions to assist in funding a commitment to community program or a program
13 established under par. (a) or (b) 1. with bill payments for electric service. The rules
14 may require an electric utility to provide a space on an electric bill in which a
15 customer may indicate the amount of a voluntary contribution and the customer's
16 preference regarding whether a contribution should be used for a program
17 established under par. (a) or (b) 1. a. orb. The rules shall establish requirements and
18 procedures for electric utilities to pay to the department any voluntary contributions
19 included with bill payments and to report to the department customer preferences
20 regarding use of the contributions. The department shall deposit all contributions
21 received under this paragraph in the utility public benefits fund.

22 5. A method for estimating total low-income energy bills, average annual
23 income of low-income households and the number of low-income households in a
24 fiscal year for the purpose of determining the amount of low-income need in the fiscal
25 year.

BILL

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

3 2. Encourage customers to make voluntary contributions to assist in funding
4 the programs established under pars. (a) and (b) 1. The department shall deposit all
5 contributions received under this paragraph in the utility public benefits fund.

6 3. Deposit all moneys received under sub. (4) (a) or (5) (c) or (d) in the utility
7 public benefits fund.

8 4. Conduct an annual independent audit and submit an annual report to the
9 legislature under s. 13.172 (2) that describes each of the following:

10 a. The expenses of the department, other state agencies and grant recipients
11 in administering or participating in the programs under pars. (a) and (b).

12 b. The effectiveness of the programs under par. (a) in providing assistance to
13 low-income individuals.

14 c. The effectiveness of the programs under par. (b) in reducing demand for
15 electricity and increasing the use of customer-owned renewable resources.

16 d. Any other issue identified by the governor, speaker of the assembly or
17 majority leader of the senate.

18 (3) **CONTRACTS.** (a) The division of housing shall, on the basis of competitive
19 bids, contract with community action agencies described in s. 46.30 (2) (a) 1.,
20 nonstock, nonprofit corporations organized under ch. 181 or local units of
21 government to provide services under the programs established under sub. (2) (a).

22 (b) The department shall, on the basis of competitive bids, contract with a
23 nonstock, nonprofit corporation organized under ch. 181 to administer the programs
24 established under sub. (2) (b) 1., including soliciting proposals, processing grant
25 applications, selecting, based on criteria specified in rules promulgated under sub.

BILL

1 (2) (c) 2m., proposals for the department to make awards and distributing grants to
2 recipients.

3 (c) In selecting proposals and awarding grants under sub. (2) (b), the
4 department or the nonprofit corporation specified in par. (b) may not discriminate
5 against an electric provider or its affiliate or a wholesale electric supplier or its
6 affiliate solely on the basis of its status as an electric provider, wholesale electric
7 supplier or affiliate.

8 (4) **ELECTRIC UTILITIES.** (a) *Requirement to charge public benefits fees.* Each
9 electric utility, except for a municipal utility, shall charge each customer a public
10 benefits fee in an amount established in rules promulgated by the department under
11 par. (b). An electric utility, except for a municipal utility, shall collect and pay the fees
12 to the department in accordance with the rules promulgated under par. (b).

13 (am) *Electric bills.* An electric utility shall include a public benefits fee in a
14 customer's bill and shall provide the customer with an annual statement that
15 identifies the annual charges for public benefits fees and describes the programs for
16 which fees are used.

17 (b) *Rules.* In consultation with the council, the department shall promulgate
18 rules that establish the amount of a public benefits fee under par. (a). Fees
19 established in rules under this paragraph may vary by class of customer, but shall
20 be uniform within each class, and shall satisfy each of the following:

21 1. The fees may not be based on the kilowatt-hour consumption of electricity
22 by customers.

23 2. No more than 70% of the total amount of fees charged by an electric provider
24 may be charged to residential customers and no more than 30% of the total may be
25 charged to nonresidential customers.

BILL

1 3. The fees shall allow an electric provider to recover the reasonable and
2 prudent expenses incurred by the electric provider in complying with this section.

3 (c) Amount of *public benefits* fees. A fee established in rules promulgated under
4 par. (b) shall satisfy each of the following:

5 1. 'Low-income funding.' In fiscal year 1999-2000, a portion of the public
6 benefits fee shall be an amount that, when added to 50% of the estimated public
7 benefits fees charged by municipal utilities and retail electric cooperatives under
8 sub. (5) (a) for that fiscal year, shall equal \$27,000,000. In each fiscal year after fiscal
9 year 1999-2000, a portion of the public benefits fee shall be an amount that, when
10 added to the sum of the following shall equal the low-income need target for that
11 fiscal year determined by the department under sub. (2) (d) 1.:

12 a. Fifty percent of the estimated public benefits fees charged by municipal
13 utilities and retail electric cooperatives under sub. (5) (a) for that fiscal year.

14 b. All moneys received under 42 USC 6861 to 6873 and 42 USC 8621 to 8629
15 for that fiscal year.

16 c. The total amount spent on programs or contributed to the commission by
17 utilities under s. 196.374 (3) for that fiscal year.

18 2. 'Energy conservation and efficiency and renewable resource funding.' For
19 fiscal year 1999-2000, a portion of the public benefits fee shall be in an amount that,
20 when added to 50% of the estimated public benefits fees charged by municipal
21 utilities and retail electric cooperatives under sub. (5) (a) for that fiscal year, shall
22 equal \$20,000,000. In each fiscal year after fiscal year 1999-2000, a portion of the
23 public benefits fee shall be the amount determined under this subdivision for fiscal
24 year 1999-2000, except that if the department determines to reduce or discontinue
25 a program under sub. (2) (b) 2., the department shall reduce the amount accordingly.

BILL

SECTION 2

1 3. 'Limitation on electric bill increases.' For the period beginning on the
2 effective date of this subdivision [revisor inserts date], and ending on June 30,
3 2008, the total increase in a customer's electric bills that is based on the requirement
4 to pay public benefits fees, including any increase resulting from an electric utility's
5 compliance with this section, may not exceed 3% of the total of every other charge for
6 which the customer is billed for that period or \$750 per month, whichever is less.

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

15 (am) ~~Public benefit restriction.~~ Notwithstanding par. (a), for the period
16 beginning on the effective date of this paragraph [revisor inserts date], and ending
17 on June 30, 2008, the total increase in a customer's or member's electric bills that is
18 based on the requirement to pay public benefits fees, including any increase
19 resulting from a retail electric cooperative's or municipal utility's compliance with
20 this section, may not exceed 3% of the total of every other charge for which the
21 member or customer is billed for that period or \$750 per month, whichever is less.

22 (b) *Election to contribute to department programs.* 1. No later than the first
23 day of the 12th month beginning after the effective date of this subdivision
24 [revisor inserts date], each municipal utility or retail electric cooperative shall notify

BILL

1 the department whether it has elected to contribute to the programs established
2 under sub. (2) (a) or (b) 1. for a 3-year period.

3 2. No later than every 3rd year after the date specified in subd. 1., each
4 municipal utility or retail electric cooperative shall notify the department whether
5 it has elected to contribute to the programs established under sub. (2) (a) or (b) 1. for
6 a 3-year period.

7 (c) *Full contribution.* If a municipal utility or retail electric cooperative elects
8 under par. (b) 1. or 2. to contribute to the programs established both under sub. (2)
9 (a) and under sub. (2) (b) 1., it shall pay 100% of the public benefits fees that it charges
10 under par. (a) to the department in each fiscal year of the 3-year period for which it
11 has made the election.

12 (d) *Partial contributions and commitment to community spending.* A
13 municipal utility or retail electric cooperative not specified in par. (c) shall do one of
14 the following: .

15 1. If the municipal utility or retail electric cooperative elects to contribute only
16 to the programs established under sub. (2) (a), the municipal utility or retail electric
17 cooperative shall, in each fiscal year of the 3-year period for which it elects to
18 contribute under par. (b) 1. or 2., do all of the following:

19 a, Pay no less than 50% of the public benefits fees that it charges under par.
20 (a) to the department.

21 b. Spend no less than 50% of the public benefits fees that it charges under par.
22 (a) on energy conservation programs.

23 2. If the municipal utility or retail electric cooperative elects to contribute only
24 to the programs established under sub. (2) (b) 1., the municipal utility or retail

BILL

1 electric cooperative shall, in each fiscal year of the 3-year period for which it elects
2 to contribute under par. (b) 1. or 2., do all of the following:

3 a. Pay 50% of the public benefits fees that it charges under par. (a) to the
4 department.

5 b. Spend no less than 50% of the public benefits fees that it charges under par.
6 (a) on programs for low-income assistance.

7 3. If the municipal utility or retail electric cooperative elects not to contribute
8 to any of the programs established under sub. (2) (a) or (b) 1., the municipal utility
9 or retail electric cooperative shall, in each fiscal year of the 3-year period for which
10 it elects not to contribute under par. (b) 1. or 2., do all of the following:

11 a. Spend no less than 50% of the public benefits fees that it charges under par.
12 (a) on programs for low-income assistance.

13 b. Spend no less than 50% of the public benefits fees that it charges under par.
14 (a) on energy conservation programs.

15 (e) *Wholesale supplier credit.* If a wholesale supplier has established a program
16 for low-income assistance or an energy conservation program, a municipal utility or
17 retail electric cooperative that is a customer of the wholesale supplier may do any of
18 the following:

19 **1. Include an amount equal to the product of the municipal utility's or retail**
20 **electric cooperative's wholesale supply percentage and the amount that the**
21 **wholesale supplier has spent on low-income assistance in a fiscal year in calculating**
22 **the amount that the municipal utility or retail electric cooperative has spent on**
23 **low-income assistance in that fiscal year under par. (d) 2. b. or 3. a.**

24 **2. Include an amount equal to the product of the municipal utility's or retail**
25 **electric cooperative's wholesale supply percentage and the amount that the**

BILL

1 wholesale supplier has spent on energy conservation programs or customer
2 applications of renewable resources in a fiscal year in calculating the amount that
3 the municipal utility or retail electric cooperative has spent on energy conservation
4 programs under par. (d) 1. b. or 3. b.

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

9 (g) *Reports.* 1. For each fiscal year, each municipal utility and retail electric
10 cooperative that does not pay 100% of the public benefits fee that it charges under
11 par. (a) to the department under par. (c) shall file a report with the department that
12 describes each of the following:

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

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

19 2. The department shall maintain reports filed under subd. 1. for at least 6
20 years.

21 **SECTION 3.** 16.969 of the statutes is created to read:

22 **16.969 Fees for certain high-voltage transmission lines. (1)** In this
23 section:

24 (a) "Commission" means the public service commission.

BILL

1 (b) "High-voltage transmission line" means a high-voltage transmission line,
2 as defined in s. 196.491 (1) (f), that is designed for operation at a nominal voltage of
3 345 kilovolts or more.

4 (2) The department shall promulgate rules that require a person who is issued
5 a certificate of public convenience and necessity by the commission under s. 196.491

6 (3) for a high-voltage transmission line to pay the department the following fees:

7 (a) An annual impact fee in an amount equal to 0.03% of the cost of the
8 high-voltage transmission line, as determined by the commission under s. 196.491

9 (3) (gm).

10 (b) A one-time environmental impact fee in amount equal to 5% of the cost of
11 the high-voltage transmission line, as determined by the commission under s.

12 196.491 (3) (gm).

13 (3) (a) The department shall distribute the fees that are paid by a person under
14 the rules promulgated under sub. (2) (a) to each town, village and city that is
15 identified by the commission under s. 196.491 (3) (gm) in proportion to the amount
16 of investment that is allocated by the commission under s. 196.491 (3) (gm) to each
17 such town, village and city.

18 (b) The fee that is paid by a person under the rules promulgated under sub. (2)

19 (b) shall be distributed as follows:

20 1. The department shall pay 50% of the fee to each county that is identified by
21 the commission under s. 196.491 (3) (gm) in proportion to the amount of investment
22 that is allocated by the commission under s. 196.491 (3) (gm) to each such county.

23 2. The department shall pay 50% of the fee to each town, village and city that
24 is identified by the commission under s. 196.491 (3) (gm) in proportion to the amount

BILL

1 of investment that is allocated by the commission under s. 196.491 (3) (gm) to each
2 such town, village and city.

3 (4) A county, town, village or city that receives a distribution under sub. (3) (b)
4 may use the distribution only for park, conservancy, wetland or other environmental
5 offset programs, except that the county, town, village or city may not use the
6 distribution for' any mitigation measure that is required in an order by the
7 commission under s. 196.491 (3) regarding the certificate of public convenience and
8 necessity specified in sub. (2) (intro.).

9 **SECTION 4.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
10 the following amounts for the purposes indicated:

11 **1999-00** **2000-01**

12 **20.505 Administration, department of**

13 (10) UTILITY PUBLIC BENEFITS

14 (q) General program operations SEG A - O - - O -

15 **SECTION 5.** 20.505 (1) (ge) of the statutes is created to read:

16 *20.505 (1) (ge) High-voltage transmission line annual impact fee distributions.*

17 All moneys received from the payment of fees under the rules promulgated under s.
18 16.969 (2) (a) for distributions to to towns, villages and cities under s. 16.969 (3) (a).

19 **SECTION 6.** 20.505 (1) (gs) of the statutes is created to read:

20 *20.505 (1) (gs) High-voltage transmission line environmental impact fee*
21 *distributions.* All moneys received from the payment of fees under the rules
22 promulgated under s. 16.969 (2) (b) for distributions to to counties, towns, villages
23 and cities under s. 16.969 (3) (b).

24 **SECTION 7.** 20.505 (10) of the statutes is created to read:

BILL

1 20.505 **(10)** UTILITY PUBLIC BENEFITS. (q) **General program operations.** From
2 the utility public benefits fund, the amounts in the schedule for general program
3 operations.

4 (r) **Low-income assistance grants.** From the utility public benefits fund, a sum
5 sufficient for low-income assistance grants under s. 16.957 (2) (a).

6 (s) **Energy conservation and efficiency and renewable resource grants.** From the
7 utility public benefits fund, a sum sufficient for energy conservation and efficiency
8 and renewable resource grants under s. 16.957 (2) (b) 1.

9 **SECTION 8.** 25.17 (1) (xm) of the statutes is created to read:

10 25.17 **(1)** (xm) Utility public benefits fund (s. 25.96);

11 **SECTION 9.** 25.96 of the statutes is created to read:

12 **25.96 Utility public benefits fund.** There is established a separate
13 nonlapsible trust fund designated as the utility public benefits fund, consisting of
14 deposits by the public service commission under s. 196.374 (3), public benefits fees
15 received under s. 16.957 (4) (a) and (5) (c) and (d) and contributions received under
16 s. 16.957 (2) (c) 4. and (d) 2.

17 **SECTION 10.** 76.28 (1) (d) of the statutes is amended to read:

18 76.28 **(1)** (d) "Gross revenues" for a light, heat and power company other than
19 a qualified wholesale electric company or a transmission company means total
20 operating revenues as reported to the public service commission except revenues for
21 interdepartmental sales and for interdepartmental rents as reported to the public
22 service commission and deductions from the sales and use tax under s. 77.61 (4),
23 except that the company may subtract from revenues either the actual cost of power
24 purchased for resale, as reported to the public service commission, by a light, heat
25 and power company, except a municipal light, heat and power company, that

BILL

1 purchases under federal or state approved wholesale rates more than 50% of its
2 electric power from a person other than an affiliated interest, as defined in s. 196.52
3 (1), if the revenue from that purchased electric power is included in the seller's gross
4 revenues or the following percentages of the actual cost of power purchased for
5 resale, as reported to the public service commission, by a light, heat and power
6 company, except a municipal light, heat and power company that purchases more
7 than 90% of its power and that has less than \$50,000,000 of gross revenues: 10% for
8 the fee assessed on May 1, 1988, 30% for the fee assessed on May 1, 1989, and 50%
9 for the fee assessed on May 1, 1990, and thereafter. For a qualified wholesale electric
10 company, "gross revenues" means total business revenues from those businesses
11 included under par. (e) 1. to 4. For a transmission company. "gross revenues" means
12 total operating revenues as reported to the public service commission, except
13 revenues for transmission service that is provided to a public utility that is subject
14 to the license fee under sub. (2) (d) or to a public utility. as defined in s. 196.01 (5).

15 **SECTION 11.** 76.28 (1) (e) (intro.) of the statutes is amended to read:

16 76.28 (1) (e) (intro.) "Light, heat and power companies" means any person,
17 association, company or corporation, including corporations described in s. 66.069 (2)
18 ~~and including~~, qualified wholesale electric companies and transmission companies
19 and except only business enterprises carried on exclusively either for the private use
20 of the person, association, company or corporation engaged in them, or for the private
21 use of a person, association, company or corporation owning a majority of all
22 outstanding capital stock or who control the operation of business enterprises and
23 except electric cooperatives taxed under s. 76.48 that engage in any of the following
24 businesses:

25 **SECTION 12.** 76.28 (1) (e) 5. of the statutes is created to read:

BILL

1 76.28 (1) (e) 5. Transmitting electric current for light, heat or power.

2 **SECTION 13.** 76.28 (1) (j) of the statutes is created to read:

3 76.28 (1) (j) "Transmission company" has the meaning given in s. 196.485 (1)
4 (ge).

5 **SECTION 14.** 76.28 (2) (c) (intro.) of the statutes is amended to read:

6 76.28 (2) (c) (intro.) ~~For~~ Except as provided under par. (e), for private light, heat
7 and power companies for 1986 and thereafter, an amount equal to the apportionment
8 factor multiplied by the sum of:

9 **SECTION 15.** 76.28 (2) (d) of the statutes is amended to read:

10 76.28 (2) (d) ~~For~~ Except as provided under par. (e), for municipal light, heat and
11 power companies, an amount equal to the gross revenues, except gross revenues from
12 operations within the municipality that operates the company, multiplied by the
13 rates under par. (b) or (c).

14 **SECTION 16.** 76.28 (2) (e) of the statutes is created to read:

15 76.28 (2) (e) For transmission companies, an amount equal to the gross
16 revenues multiplied by the rates under par. (c).

17 **SECTION 17.** 196.025 of the statutes is renumbered 196.025 (1).

18 **SECTION 18.** 196.025 (2) of the statutes is created to read:

19 196.025 (2) The commission shall promulgate rules establishing requirements
20 and procedures for the commission to carry out the duties under s. 1.11. Rules
21 promulgated under this subsection shall include requirements and procedures for
22 each of the following:

23 (a) Standards for determining the necessity of preparing an environmental
24 impact statement.

BILL

1 (b) Adequate opportunities for interested persons to be heard on environmental
2 impact statements, including adequate time for the preparation and submission of
3 comments.

4 (c) Deadlines that allow thorough review of environmental issues without
5 imposing unnecessary delays in addressing the need for additional electric
6 transmission capacity in this state.

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

8 196.025 (3) The commission shall promulgate rules establishing requirements
9 and procedures for electric utilities, as defined under s. 196.491 (1) (d), to file reports
10 with the commission, on a frequency that the commission determines is reasonably
11 necessary, on their current reliability status, including the status of operating and
12 planning reserves, available transmission capacity and outages of major operational
13 units and transmission lines. A report filed under the rules promulgated under this
14 subsection is subject to inspection and copying under s. 19.35 (1), except that the
15 commission may withhold the report from inspection and copying for a period of time
16 that the commission determines is reasonably necessary to prevent an adverse
17 impact on the supply or price of energy in this state.

18 **SECTION 20.** 196.025 (4) of the statutes is created to read:

19 196.025 (4) (a) In consultation with the department of administration and the
20 department of revenue, the commission shall study the establishment of a program
21 for providing incentives for the development of high-efficiency, small-scale electric
22 generating facilities in this state that do either of the following:

23 1. Provide benefits in the form of support for electric distribution or
24 transmission systems, power quality or environmental performance.

BILL

1 2. Employ technologies such as combined heat and power systems, fuel cells,
2 microturbines or photovoltaic systems that may be situated in, on or next to
3 buildings or other electric load centers.

4 (b) No later than January 1, 2001, the commission shall submit a report of its
5 findings and recommendations under par. (a) to the chief clerk of each house of the
6 legislature for distribution to the appropriate standing committees under s. 13.172
7 (3).

8 **SECTION 21.** 196.025 (5) of the statutes is created to read:

9 196.025 (5) (a) The commission shall contract with an expert consultant in
10 economics to conduct a study on the potential for horizontal market power, including
11 the horizontal market power of electric generators, to frustrate the creation of an
12 effectively competitive retail electricity market in this state and to make
13 recommendations on measures to eliminate such market power on a sustainable
14 basis. The study shall include each of the following:

15 1. An assessment of the effect of each recommendation on public utility workers
16 and shareholders and on rates for each class of public utility customers.

17 2. An evaluation of the impact of transmission constraints on the market power
18 of electric generators in local areas.

19 (b) No later than January 1, 2001, the commission shall submit a report of the
20 results of the study under par. (a) to the chief clerk of each house of the legislature
21 for distribution to the appropriate standing committees under s. 13.172 (3).

22 **SECTION 22.** 196.192 of the statutes is created to read:

23 **196.192 Market-based compensation, rates and contracts.** (1) In this
24 section, "electric public utility" means a public utility whose purpose is the
25 generation, transmission, delivery or furnishing of electric power.

BILL

1 (2) No later than March 1, 2000, each investor-owned electric public utility
2 shall do each of the following:

3 (a) File with the commission rates that result in customers receiving
4 market-based compensation for voluntary interruptions of firm load during peak
5 periods of electric use.

6 (b) File with the commission market-based pricing and individual contract
7 options that allow a retail customer, through service from its existing public utility,
8 to receive market benefits and subject itself to market risks for the customer's
9 purchases of capacity or energy.

10 (3) (a) The commission shall establish market-based rates that are consistent
11 with market-based pricing options and individual contract options specified in sub.

12 (2) (b), except that the commission may not establish a market-based rate unless the
13 commission determines that the rate is not likely to harm shareholders of the
14 investor-owned electric public utility or customers who are not subject to the rate.

15 (b) Nothing in s. 196.20, 196.21, 196.22, 196.37, 196.60 or 196.604 prohibits the
16 commission from approving a filing under sub. (2) or establishing market-based
17 rates under par. (a).

18 (4) Subject to the approval of the commission, an electric public utility that is
19 not an investor-owned electric public utility may implement market-based rates
20 established under sub. (3) (a) or implement market-based pricing or individual
21 contract options in filings under sub. (2) (b) that are approved by the commission.

22 **SECTION 23.** 196.31 (1) (intro.) of the statutes is amended to read:

23 196.31 **(1)** (intro.) In any proceeding before the commission, the commission
24 ~~may~~ shall compensate any participant in the proceeding who is not a public utility,

BILL

1 for some or all of the reasonable costs of participation in the proceeding if the
2 commission finds that:

3 **SECTION 24.** 196.374 of the statutes is repealed and recreated to read:

4 **196.374 Low-income assistance, energy efficiency and other**
5 **programs. (1)** In this section:

6 (a) "Department" means the department of administration.

7 (b) "Fund" means the utility public benefits fund.

8 (c) "Utility" means a class A gas or electric utility, as defined by the commission,
9 but does not include a municipal utility, as defined in s. 16.957 (1) (q), a municipal
10 electric company, as defined ins. 66.073 (3) (d), or a cooperative association organized
11 under ch. 185.

12 (2) The commission shall determine the amount that each utility spent in 1998
13 on programs for low-income assistance, including writing off uncollectibles and
14 arrearages, low-income weatherization, energy conservation and efficiency,
15 environmental research and development, and renewable resources.

16 (3) In 1999, 2000 and 2001, the commission shall require each utility to spend
17 a decreasing portion of the amount determined under sub. (2) on programs specified
18 in sub. (2) and contribute the remaining portion of the amount to the commission for
19 deposit in the fund. In each year after 2001, each utility shall contribute the entire
20 amount determined under sub. (2) to the commission for deposit in the fund. The
21 commission shall ensure in rate-making orders that a utility recovers from its
22 ratepayers the amounts spent on programs or contributed to the fund under this
23 subsection. The commission shall allow each utility the option of continuing to use,
24 until January 1, 2001, the moneys that it has recovered under s. 196.374 (3), 1997
25 stats., to administer the programs that it has funded under s. 196.374 (1), 1997 stats.

BILL

1 (4) If the department notifies the commission under s. 16.957 (2) (b) 2. that the
2 department has reduced funding for energy conservation and efficiency and
3 renewable resource programs, the commission shall reduce the amount that a utility
4 is required to spend on programs or contribute to the fund under sub. (3) by the
5 percentage by which the department has reduced the funding.

6 **SECTION 25.** 196.378 of the statutes is created to read:

7 **196.378 Renewable resources. (1) DEFINITIONS.** In this section:

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

14 (b) "Conventional resource" means a resource that derives energy from coal, oil,
15 nuclear power or natural gas, except for natural gas used in a fuel cell.

16 (bm) "Department" means the department of administration.

17 (c) "Electric provider" means an electric utility or retail electric cooperative.

18 (d) "Electric utility" means a public utility that sells electricity at retail. For
19 purposes of this paragraph, a public utility is not considered to sell electricity at
20 retail solely on the basis of its ownership or operation of a retail electric distribution
21 system.

22 (e) "Excludable renewable capacity" means the portion of an electric provider's
23 total renewable capacity that is supplied from renewable facilities that were placed
24 in service before January 1, 1998, and that, before January 1, 1998, derived

BILL

1 electricity from hydroelectric power, even if the output of the renewable facilities is
2 used to satisfy requirements under federal law.

3 (f) "Nonsystem renewable energy" means the amount of electricity that an
4 electric provider sells to its retail customers and that is supplied or allocated under
5 executed wholesale purchase contracts from renewable facilities that are not owned
6 or operated by the electric provider. "Nonsystem renewable energy" does not include
7 any electricity that is not used to satisfy the electric provider's retail load obligations.

8 (g) "Renewable resource" means any of the following:

9 1. A resource that derives electricity from any of the following:

10 a. A fuel cell that uses, as determined by the commission, a renewable fuel.

11 b. Tidal or wave action.

12 c. Solar thermal electric or photovoltaic energy.

13 d. Wind power.

14 e. Geothermal technology.

15 g. Biomass.

16 lm. A resource with a capacity of less than 60 megawatts that derives
17 electricity from hydroelectric power.

18 2. Any other resource, except a conventional resource, that the commission
19 designates as a renewable resource in rules promulgated under sub. (4).

20 (h) "Renewable facility" means an installed and operational electric generating
21 facility in which energy is derived from a renewable resource. "Renewable facility"
22 includes a facility the installation or operation of which is required under federal law,
23 but does not include a facility the installation or operation of which is required under
24 the laws of another state even if the installation or operation of the facility is also
25 required under federal law.

B I L L

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

3 (j) "Resource" means a source of electric power generation.

4 (k) "Retail electric cooperative" means a cooperative association organized
5 under ch. 185 that sells electricity at retail to its members only. For purposes of this
6 paragraph, a cooperative association is not considered to sell electricity at retail
7 solely on the basis of its ownership or operation of a retail electric distribution
8 system.

9 (n) "System renewable energy" means the amount of electricity that an electric
10 provider sells to its retail customers and that is supplied by renewable facilities
11 owned or operated by the electric provider,

12 (o) "Total renewable energy" means the sum of an electric provider's system and
13 nonsystem renewable energy.

14 **(2) RENEWABLE RESOURCE ENERGY.** (a) Each electric provider shall provide to its
15 retail electric customers total renewable energy in at least the following percentages
16 of its total retail energy sales, either directly or through renewable resource credits
17 from another electric provider:

- 18 1. By December 31, 2000, 0.5%.
- 19 2. By December 31, 2002, 0.85%.
- 20 3. By December 31, 2004, 1.2%.
- 21 4. By December 31, 2006, 1.55%.
- 22 5. By December 31, 2008, 1.9%.
- 23 6. By December 31, 2010, 2.2%.

24 (b) For purposes of determining compliance with par. (a):

BILL

SECTION 25

1 1. Total retail energy sales shall be calculated on the basis of an average of an
2 electric provider's retail energy sales in this state during the prior 3 years.

3 2. The amount of electricity supplied by a renewable facility in which biomass
4 and conventional fuels are fired together shall be equal to the product of the
5 maximum amount of electricity that the facility is capable of generating and the ratio
6 of the British thermal unit content of the biomass fuels to the British thermal unit
7 content of both the biomass and conventional resource fuels.

8 3. Any excludable renewable energy that exceeds 0.6% of an electric provider's
9 total retail energy sales shall be excluded from the electric provider's total renewable
10 energy.

11 (c) No later than April 15 annually, an electric provider shall submit a report
12 to the department that describes the electric provider's compliance with par. (a).
13 Reports under this paragraph may include certifications from wholesale suppliers
14 regarding the sources and amounts of energy supplied to an electric provider. The
15 department may specify the documentation that is required to be included with
16 reports submitted under this paragraph.

17 (d) The commission shall ensure in rate-making orders that an electric utility
18 recovers from ratepayers the cost of providing total renewable energy to its retail
19 customers in amounts that equal or exceed the percentages specified in par. (a).
20 Subject to any approval of the commission that is necessary, an electric utility may
21 recover costs under this paragraph by any of the following methods:

22 1. Allocating the costs equally to all customers on a kilowatt-hour basis.

23 2. Establishing alternative price structures, including price structures under
24 which customers pay a premium for renewable energy.

25 3. Any combination of the methods specified in subds. 1. and 2.

BILL

1 (e) 1. This subsection does not apply to any of the following:

2 a. An electric provider that provides more than 10% of its summer peak demand
3 in this state from renewable facilities.

4 b. An electric provider that provides more than 10% of its summer peak demand
5 from renewable resources.

6 2. For purposes of calculating the percentages under subd. 1., an electric
7 provider may include renewable facilities located in this or another state and
8 renewable facilities located on its or another electric provider's system.

9 3. Notwithstanding subd. 1., this subsection applies to an electric provider
10 unless the electric provider provides documentation to the commission that
11 establishes, to the satisfaction of the commission, that the electric provider satisfies
12 the requirements under subd. 1. a. or b.

13 (3) **RENEWABLE RESOURCE CREDITS.** (a) An electric provider that provides total
14 renewable energy to its retail electric customers in excess of the percentages
15 specified in sub. (2) (a) 1. to 6. may, in the applicable year, sell to any other electric
16 provider a renewable resource credit or a portion of a renewable resource credit at
17 any negotiated price. Alternatively, an electric provider may use a renewable
18 resource credit or portion of a renewable resource credit in a subsequent year to
19 establish compliance with sub. (2) (a). The commission shall promulgate rules that
20 establish requirements for calculating the amount of a renewable resource credit.

21 (b) The commission may promulgate rules that establish requirements and
22 procedures for a sale under par. (a).

23 (4) **RULES.** The commission may promulgate rules that designate a resource,
24 except for a conventional resource, as a renewable resource in addition to the
25 resources specified in sub. (1) (g) 1. and lm.

BILL

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

8 (a) The appropriateness of the forfeiture to the person's or wholesale supplier's
9 volume of business.

10 (b) The gravity of the violation.

11 (c) Whether a violation of sub. (2) is due to circumstances beyond the violator's
12 control.

13 **SECTION 26.** 196.485 (title) of the statutes is repealed and recreated to read:

14 196.485 (title) **Transmission system requirements.**

15 **SECTION 27.** 196.485 (1) (am) of the statutes is created to read:

16 196.485 (1) (am) "Contribute a transmission facility" means to divest a person's
17 interest in the transmission facility and to transfer ownership of the transmission
18 facility and associated deferred tax reserves to another person.

19 **SECTION 28.** 196.485 (1) (be) of the statutes is created to read:

20 196.485 (1) (be) "Director" means, with respect to a transmission company
21 organized as a corporation under ch. 180, a member of the board of directors of the
22 transmission company.

23 **SECTION 29.** 196.485 (1) (bs) of the statutes is created to read:

24 196.485 (1) (bs) "Electric utility" has the meaning given in s. 196.491 (1) (d).

25 **SECTION 30.** 196.485 (1) (dm) (intro.) of the statutes is amended to read:



BILL

1 196.485 (1) (dm) (intro.) "Independent transmission owner" means;

2 lm. Means a person that satisfies each of the following:

3 **SECTION 31.** 196.485 (1) (dm) 1. of the statutes is renumbered 196.485 (1) (dm)

4 lm. a.

5 **SECTION 32.** 196.485 (1) (dm) 2. of the statutes is created to read:

6 196.485 (1) (dm) 2. Does not include the transmission company

7 **SECTION 33.** 196.485 (1) (dm) 3. of the statutes is renumbered 196.485 (1) (dm)

8 lm. b. and amended to read:

9 196.485 (1) (dm) lm. b. The person is not an affiliated interest of a person
10 specified in subd. ~~1.~~ lm. a.

11 **SECTION 34.** 196.485 (1) (do) of the statutes is created to read:

12 196.485 (1) (do) "Land right" means any right in real property, including fee
13 simple ownership or a right-of-way or easement, that has been acquired for a
14 transmission facility that is located or intended to be located on the real property

15 **SECTION 35.** 196.485 (1) (dq) of the statutes is created to read:

16 196.485 (1) (dq) "Manager" means, with respect to a transmission company
17 organized as a limited liability company under ch. 183, a manager, as defined in s.
18 183.0102 (13), of the transmission company.

19 **SECTION 36.** 196.485 (1) (dr) of the statutes is created to read:

20 196.485 (1) (dr) "Merger enforcement policy" means the enforcement policy of
21 the federal department of justice and the federal trade commission regarding
22 horizontal acquisitions and mergers that are subject to 15 USC 1, 18 or 45.

23 **SECTION 37.** 196.485 (1) (ds) of the statutes is created to read:

24 196.485 (1) (ds) "Midwest independent system operator" means the
25 independent system operator the establishment of which the federal energy

BILL

1 regulatory commission has conditionally authorized in an order issued on September
2 16, 1998, or the successor to such independent system operator.

3 **SECTION 38.** 196.485 (1) (dt) of the statutes is created to read:

4 196.485 (1) (dt) "Nontransmission utility security holder" means a security
5 holder that is not a transmission utility security holder.

6 **SECTION 39.** 196.485 (1) (dv) of the statutes is created to read:

7 196.485 (1) (dv) "Organizational start-up date" means, with respect to a
8 transmission company that is organized as a limited liability company under ch. 183,
9 the date on which the articles of organization become effective under s. 183.0111 or,
10 with respect to a transmission company that is organized as a corporation under ch.
11 180, the date on which the articles of incorporation become effective under s.
12 180.0123.

13 **SECTION 40.** 196.485 (1) (em) of the statutes is created to read:

14 196.485 (1) (em) "Retail electric cooperative" means a cooperative that provides
15 retail electric service.

16 **SECTION 41.** 196.485 (1) (fe) of the statutes is created to read:

17 196.485 (1) (fe) "Security" means, with respect to a transmission company
18 organized as a corporation under ch. 180, a share, as defined ins. 180.0103 (15), and,
19 with respect to a transmission company organized as a limited liability company
20 under ch. 183, a limited liability company interest, as defined in s. 183.0102 (11).

21 **SECTION 42.** 196.485 (1) (ge) of the statutes is created to read:

22 196.485 (1) (ge) "Transmission company" means a corporation organized under
23 ch. 180 or a limited liability company organized under ch. 183 that has as its sole
24 purpose the planning, constructing, operating, maintaining and expanding of
25 transmission facilities that it owns to provide for an adequate and reliable

BILL

1 transmission system that meets the needs of all users that are dependent on the
2 transmission system and that supports effective competition in energy markets
3 without favoring any market participant.

4 **SECTION 43.** 196.485 (1) (gm) of the statutes is created to read:

5 196.485 (1) (gm) "Transmission dependent utility" means a public utility that
6 is dependent on the transmission system of another person for delivering electricity
7 to the public utility's customers.

8 **SECTION 44.** 196.485 (1) (j) of the statutes is created to read:

9 196.485 (1) (j) "Transmission utility shareholder" means a person that is a
10 shareholder of a transmission company organized as a corporation under ch. 180, is
11 an investor-owned transmission utility in the transmission area and has
12 contributed its transmission facilities to the transmission company.

13 **SECTION 45.** 196.485 (1m) of the statutes is created to read:

14 196.485 (1m) **DUTY TO PROVIDE TRANSMISSION SERVICE.** (a) The duty of any
15 electric utility that has contributed its transmission facilities to the transmission
16 company to finance, construct, maintain or operate a transmission facility shall
17 terminate on the date, as determined by the commission under sub. (2) (d), that the
18 transmission company is authorized to begin operations.

19 (b) After beginning operations, the transmission company shall have the
20 exclusive duty to provide transmission service in the transmission area. The duty
21 under this paragraph shall terminate on the date, as determined by the commission
22 under sub. (2) (d), that the Midwest independent system operator is authorized to
23 begin operations.

24 (c) After beginning operations, the Midwest independent system operator shall
25 have the exclusive duty to provide transmission service in the transmission area and

BILL

1 shall ensure that each transmission facility in the transmission area that is under
2 its operational control is planned, constructed, operated, maintained and controlled
3 as part of a single transmission system.

4 **SECTION 46.** 196.485 (2) (a) (intro.) of the statutes is amended to read:

5 196.485 (2) (a) (intro.) By June 30, 2000, if a transmission utility has not
6 transferred control over its transmission facilities to an independent system
7 operator that is approved by the applicable federal agency or divested, with approval
8 of the applicable federal agency and, for a public utility, the commission, its interest
9 in its transmission facilities to an independent transmission owner, the commission
10 shall, subject to ~~par. pars.~~ (am) and (ar), order the transmission utility to apply to the
11 applicable federal agency to do one of the following:

12 **SECTION 47.** 196.485 (2) (ar) of the statutes is created to read:

13 196.485 (2) (ar) The commission shall waive the requirement to issue an order
14 against a transmission utility under par. (a) if the transmission utility shows, to the
15 satisfaction of the commission, that the transmission utility has proposed to transfer
16 control of its transmission facilities to the Midwest independent system operator and
17 that the proposed transfer may have the effect of jeopardizing the tax-exempt status
18 of the transmission utility or its securities under the Internal Revenue Code. A
19 waiver under this paragraph shall be in effect until the commission determines that
20 the proposed transfer does not have the effect described in this paragraph.

21 **SECTION 48.** 196.485 (2) (bx) of the statutes is created to read:

22 196.485 (2) (bx) If the commission determines that the Midwest independent
23 system operator has failed to commence operations or has ceased operations, the
24 commission shall, by order, designate an independent system operator to fulfill the
25 duties of the Midwest independent system operator under this section. The

BILL

1 commission may not designate an independent system operator under this
2 paragraph unless the independent system operator is authorized under federal law
3 to operate in this state. In issuing an order under this paragraph, the commission
4 shall require that any transfer of transmission utilities to the designated
5 independent system operator satisfy the requirements of this section.

6 **SECTION 49.** 196.485 (2) (d) of the statutes is created to read:

7 196.485 (2) (d) The commission shall determine each of the following:

8 1. The date on which the transmission company is authorized to begin
9 operations.

10 2. Whether the Midwest independent system operator is authorized to begin
11 operations and the date on which such operations are authorized to begin.

12 **SECTION 50.** 196.485 (2) (e) of the statutes is created to read:

13 196.485 (2) (e) The commission shall determine the effective date of s. 196.807
14 as provided under s. 196.807 (5).

15 **SECTION 51.** 196.485 (3) (bm) of the statutes is repealed.

16 **SECTION 52.** 196.485 (3m) of the statutes is created to read:

17 196.485 (3m) TRANSMISSION COMPANY. (a) *Duties.* 1. The transmission company
18 shall do each of the following:

19 a. Apply for any approval under state or federal law that is necessary for the
20 transmission company to begin operations no later than November 1, 2000.

21 b. Subject to any approval required under state or federal law, contract with
22 each transmission utility that has transferred transmission facilities to the
23 transmission company for the transmission utility to provide reasonable and
24 cost-effective operation and maintenance services to the transmission company
25 during the 3-year period after the transmission company first begins operations.

BILL

1 The transmission company and a transmission utility may agree to an extension of
2 such 3-year period. The transmission company shall provide notice to the
3 commission of any extension that is agreed to under this subd. 1. b.

4 c. Assume the obligation of a transmission utility that has transferred
5 ownership of its transmission facilities to the transmission company under any
6 agreement by the transmission utility to provide transmission service over its
7 transmission facilities or under any credit received by the transmission utility for the
8 use of its transmission facilities, except that the transmission company may modify
9 such an agreement or credit to the extent allowed under the agreement or credit and
10 to the extent allowed under state or federal law.

11 d. Apply for membership in the Midwest independent system operator as part
12 of a single zone that includes the transmission area and, upon a determination by
13 the commission under sub. (2) (d) that the Midwest independent system operator is
14 authorized to begin operations, transfer operational control of the transmission
15 company's transmission facilities to the Midwest independent system operator.

16 e. Remain a member of the Midwest independent system operator, or any
17 independent system operator that has been approved under federal law to succeed
18 the Midwest independent operator, for at least the 6-year transition period that is
19 specified in the agreement conditionally approved by the federal energy regulatory
20 commission that establishes the Midwest independent system operator.

21 f. Except as provided in subd. 4., elect to be included in a single zone for the
22 purpose of any tariff proposed by the Midwest independent system operator.

23 2. The transmission company may not do any of the following:

24 a. Sell or transfer its assets to, or merge its assets with, another person, unless
25 the assets are sold, transferred or merged on an integrated basis and in a manner

BILL

1 that ensures that the transmission facilities in the transmission area are planned,
2 constructed, operated, maintained and controlled as a single transmission system.

3 b. Bypass the distribution facilities of an electric utility or provide service
4 directly to a retail customer.

5 c. Own electric generation facilities or sell, market or broker electric capacity
6 or energy in a relevant wholesale or retail market as established under the merger
7 enforcement policy, except that, if authorized or required by the federal energy
8 regulatory commission, the transmission company may procure or resell ancillary
9 services from 3rd parties, engage in redispatch activities that are necessary to relieve
10 transmission constraints or take other actions related to operating a control area.

11 3. Notwithstanding subd. 1. a., the transmission company may not begin
12 operations until it provides an opinion to the commission from a nationally
13 recognized investment banking firm that the transmission company is able to
14 finance, at a reasonable cost, its start-up costs, working capital and operating
15 expenses and the cost of any new facilities that are planned.

16 4. If the transmission costs of any transmission utility in the transmission area
17 are 10% or more below the average transmission costs of the transmission utilities
18 in the transmission area on the date, as determined by the commission, that the last
19 public utility affiliate files a commitment with the commission under sub. (5) (a) 2.,
20 the transmission company shall, after consulting with each public utility affiliate
21 that has filed a commitment under sub. (5) (a) 2., prepare a plan for phasing in a
22 combined single zone for the purpose of pricing network use by users of the
23 transmission system operated by the Midwest independent system operator and
24 shall seek plan approval by the federal energy regulatory commission and the
25 Midwest independent system operator. A plan under this subdivision shall phase in

BILL

1 an average-cost price for the combined single zone in equal increments over a 5-year
2 period, except that, under the plan, transmission service shall be provided to all
3 users of the transmission system on a single-zone basis during the phase-in period.

4 (b) *Powers.* The transmission company may do any of the following:

5 1. Subject to the approval of the commission under s. 196.491 (3), construct.
6 transmission facilities, including high-voltage transmission lines, as defined in s.
7 196.491 (1) (f), in the transmission area or in any other area of the state in which
8 transmission facilities that have been contributed to the transmission company are
9 located. This subdivision does not affect the right or duty of an electric utility that
10 is not located in the transmission area or that has not contributed its transmission
11 facilities to the transmission company to construct transmission facilities.

12 2. Subject to any approval required under federal law, purchase or acquire
13 transmission facilities in addition to the transmission facilities contributed under
14 sub. (5) (b).

15 (c) *Organization.* The articles of organization, as defined in s. 183.0102 (1), of
16 a transmission company that is organized as a limited liability company under ch.
17 183 or the bylaws of a transmission company that is organized as a corporation under
18 ch. 180 shall provide for each of the following:

19 1. That the transmission company has no less than 5 and no more than 14
20 managers or directors, except that the articles of incorporation or bylaws may allow
21 the requirements of this subdivision to be modified upon a unanimous vote of the
22 managers or directors during the 10-year period after the organizational start-up
23 date or upon a two-thirds vote of the board of directors after such 10-year period.

24 2. That at least 4 managers or directors of the transmission company have
25 staggered 4-year terms, are elected by a majority vote of the security holders and are

BILL

1 not employes or independent contractors of a person engaged in the production, sale,
2 marketing, transmission or distribution of electricity or natural gas or of an affiliate
3 of such a person.

4 3. That, during the lo-year period after the organizational start-up date, each
5 of the following is satisfied, subject to the limitation on the number of managers or
6 directors under subd. 1.:

7 a. Each nontransmission utility security holder that owns 10% or more of the
8 outstanding securities of the transmission company may appoint one manager or
9 director of the transmission company for a one-year term, except that the
10 requirements of this subd. 3. a. may be modified upon a unanimous vote of the
11 managers or directors.

12 b. Each group of nontransmission utility security holders that owns 10% or
13 more of the outstanding securities of the transmission company may appoint one
14 manager or director of the transmission company for a one-year term if the group
15 has entered into a written agreement regarding the appointment and the group files
16 the agreement with the secretary of the transmission company, except that the
17 requirements of this subd. 3. b. may be modified upon a unanimous vote of the
18 managers or directors.

19 c. Each person that receives at least 5% of the securities of the transmission
20 company under sub. (6). (a) or (b) may appoint one manager or director of the
21 transmission company for a one-year term if the person continues to hold at least a
22 5% equity interest in the transmission company during the one-year term.

23 d. Each transmission utility security holder may appoint one manager or
24 director of the transmission company for a one-year term.

—

BILL

1 4. That, during the 5–year period after the organizational start-up date, no
2 public utility affiliate that contributes transmission facility assets to the
3 transmission company under sub. (5) (b) and no affiliate of such a public utility
4 affiliate may increase its percentage share of the outstanding securities of the
5 transmission company prior to any initial issuance of securities by the transmission
6 company to any 3rd party other than a 3rd party exercising its right to purchase
7 securities under sub. (6) (b), except that this subdivision does not apply to securities
8 that are issued by the transmission company in exchange for transmission facilities
9 that are contributed in addition to the transmission facilities that are contributed
10 under sub. (5) (b) and except that the requirements of this subdivision may be
11 modified upon a unanimous vote of the managers or directors.

12 5. That, beginning 3 years after the organizational start-up date, any holder
13 of 10% or more of the securities of the transmission company may require the
14 transmission company to comply with any state or federal law that is necessary for
15 the security holder to sell or transfer its shares.

16 (d) *Commission jurisdiction.* The transmission company is subject to the
17 jurisdiction of the commission except to the extent that it is subject to the exclusive
18 jurisdiction of the federal energy regulatory commission.

19 **SECTION 53.** 196.485 (4) (a) (intro.) of the statutes is amended to read:

20 196.485 (4) (a) (intro.) ~~A. Except as provided in par. (am).~~ a transmission utility
21 may not transfer control over, or divest its interest in, its transmission facilities to
22 an independent system operator or independent transmission owner unless, to the
23 satisfaction of the commission, each of the following requirements is satisfied:

24 **SECTION 54.** 196.485 (4) (am) of the statutes is created to read:

B I L L

1 196.485 (4) (am) If the commission determines under sub. (2) (d) 2. that the
2 Midwest independent system operator is authorized to begin operations, each
3 transmission utility in the transmission area that is a public utility shall transfer
4 operational control over its transmission facilities to the Midwest independent
5 system operator and each such transmission utility that has not contributed its
6 transmission facilities to the transmission company shall elect to become part of a
7 single zone within the Midwest independent system operator.

8 **SECTION 55.** 196.485 (5) of the statutes is created to read:

9 196.485 (5) **PUBLIC UTILITY AFFILIATES.** (a) *Asset cap exception.* Section 196.795
10 (6m) (e) does not apply to the eligible assets of a nonutility affiliate in a holding
11 company system unless each public utility affiliate in the holding company system
12 does each of the following:

13 1. Petitions the commission and the federal energy regulatory commission to
14 approve the transfer of operational control of all the public utility affiliate's
15 transmission facilities in this state and in Iowa, Michigan, Minnesota and Illinois to
16 the Midwest independent system operator.

17 2. Files with the commission an unconditional, irrevocable and binding
18 commitment to contribute, no later than June 30, 2000, all of the transmission
19 facilities that the public utility affiliate owns or operates in this state on the effective
20 date of this subdivision [revisor inserts date], and land rights, to the transmission
21 company. A filing under this subdivision shall specify the date on which the public
22 utility affiliate will complete the contribution of transmission facilities.

23 3. Files with the commission an unconditional, irrevocable and binding
24 commitment to contribute, and to cause each entity into which it merges or
25 consolidates or to which it transfers substantially all of its assets to contribute, any

BILL

1 transmission facility in this state the ownership or control of which it acquires after
2 the effective date of this subdivision [revisor inserts date], and land rights, to the
3 transmission company.

4 4. Notifies the commission in writing that the public utility affiliate has become
5 a member of the Midwest independent system operator and has committed not to
6 withdraw its membership prior to the date on which the public utility affiliate
7 contributes transmission facilities to the transmission company under par. (b).

8 (b) *Contribution of transmission facilities.* 1. A public utility affiliate may not
9 contribute a transmission facility to the transmission company until the commission
10 has reviewed the terms and conditions of the transfer to determine whether the
11 transfer satisfies the requirements of this paragraph and has issued an order
12 approving or modifying the terms and conditions of the transfer. An order under this
13 subdivision that modifies the terms and conditions of a transfer may allow a public
14 utility affiliate to recover in retail rates any adverse tax consequences of the transfer
15 as a transition cost.

16 2. The transmission company and a public utility affiliate that files a
17 commitment to contribute transmission facilities under par. (a) 2. shall structure the
18 transfer of the transmission facilities in a manner that satisfies each of the following:

19 a. The structure of the transfer minimizes the material adverse tax
20 consequences to the public utility affiliate that result from the transfer and any other
21 material adverse tax consequence that does not result from combining transmission
22 facilities into a single zone under the control of the Midwest independent system
23 operator.

24 b. To the extent practicable, the structure of the transfer satisfies the
25 requirements of the Internal Revenue Service for a tax-free transfer.

BILL

1 3. The requirements under subd. 2. b. shall, if practicable, be satisfied by the
2 transmission company's issuance of a preferred class of securities that provides the
3 fixed-cost portion of the resulting capital structure of the transmission company.
4 The transmission company shall issue preferred securities under this subdivision on
5 a basis that does not dilute the voting rights of the initial security holders relative
6 to their initial contributions.

7 4. If the transfer of transmission assets under this paragraph results in a
8 capital structure of the transmission company in which the percentage of common
9 equity is materially higher than that of the public utility affiliates who made the
10 transfer, or if the cost of the fixed-cost portion of the capital structure of the
11 transmission company is materially higher than that of the public utility affiliates
12 who made the transfer, the public utility affiliates shall enter into a contract with the
13 transmission company under which the public utility affiliates agree to accept from
14 the transmission company a return on common equity based upon the equity rate of
15 return approved by the federal energy regulatory commission and upon an imputed
16 capital structure that assigns to a portion of the public utility affiliates' common
17 equity holdings an imputed debt return that is consistent with the requirements of
18 this subdivision. A contract under this subdivision shall specify that the public
19 utility affiliates shall be required to accept the return on common equity described
20 in this subdivision only until such time that the federal energy regulatory
21 commission determines that the actual capital structure and capital costs of the
22 transmission company are appropriate and consistent with industry practice for a
23 regulated public utility that provides electric transmission service in interstate
24 commerce.

BILL

1 5. If, at the time that a public utility affiliate files a commitment under par. (a)
2 2., the public utility affiliate has applied for or obtained a certificate of public
3 convenience and necessity under s. 196.491 (3) for the construction of transmission
4 facilities, the public utility affiliate shall do each of the following:

5 a. Proceed with diligence with respect to obtaining the certificate and, except
6 as provided in subd. 6., constructing the transmission facilities.

7 b. If the commission determines that the cost of the transmission facilities is
8 reasonable and prudent, transfer the transmission facilities to the transmission
9 company at net book value when construction is completed in exchange for additional
10 securities of the transmission company on a basis that is consistent with the
11 securities that were initially issued to the public utility affiliate.

12 6. If the construction of a transmission facility specified in subd. 5. a. is not
13 completed within 3 years after a certificate of public convenience and necessity is
14 issued for the transmission facility under s. 196.491 (3), the transmission company
15 may assume responsibility for completing construction of the transmission facility.
16 If the transmission company assumes responsibility for completing construction
17 under this subdivision, the transmission company shall carry out any obligation
18 under any contract entered into by the public utility with respect to the construction
19 until the contract is modified or rescinded by the transmission company to the extent
20 allowed under the contract.

21 7. Any transmission facilities that are contributed to the transmission
22 company shall be valued at net book value at the time of the transfer.

23 (bm) ***Lease of transmission facilities.*** If a public utility affiliate is not able to
24 transfer ownership of its transmission facilities to the transmission company due to
25 merger-related accounting requirements, the public utility affiliate shall transfer

BILL

1 the transmission facilities to the transmission company under a lease for the period
2 of time during which the accounting requirements are in effect and, after such
3 requirements are no longer in effect, contribute the transmission facilities to the
4 transmission company under par. (b). A public utility affiliate that transfers
5 transmission facilities under a lease under this paragraph does not qualify for the
6 asset cap exception under par. (a) unless, during the term of the lease, the public
7 utility affiliate does not receive any voting interest in the transmission company.

8 (c) *Contribution of land rights.* 1. A public utility affiliate that commits to
9 contributing land rights to the transmission company under par. (a) 2. shall do each
10 of the following:

11 a. Except as provided in subd. 2., if the land right is assigned to a transmission
12 account for rate-making purposes and is not jointly used for electric and gas
13 distribution facilities by the public utility affiliate, the public utility affiliate shall
14 convey or assign at book value all of its interest in the land right to the transmission
15 company, except that any conveyance or assignment under this subd. 1. a. shall be
16 subject to the rights of any joint user of the land right and to the right of the public
17 utility affiliate to nondiscriminatory access to the real estate that is subject to the
18 land right.

19 b. If the land right is jointly used, or is intended to be jointly used, for electric
20 and gas distribution facilities by the public utility affiliate, the public utility affiliate
21 shall enter into a contract with the transmission company that grants the
22 transmission company a right to place, maintain, modify or replace the transmission
23 company's transmission facilities on the real property that is subject to the land right
24 during the life of the transmission facilities and the life of any replacements of the
25 transmission facilities. A right granted in a contract under this subd. 1. b. shall be

BILL

1 paramount to the right of any other user of the land right, except that a right granted
2 in such a contract shall be on par with the right of the public utility affiliate to use
3 the land right for electric or gas facilities.

4 2. If a public utility affiliate is prohibited from making a conveyance or
5 assignment described in subd. 1. a., the public utility affiliate shall enter into a
6 contract with the transmission company that grants the transmission company
7 substantially the same rights as under such a conveyance or assignment. For
8 purposes of a contract under this subdivision, a land right shall be valued at book
9 value, not at market value.

10 3. The commission shall resolve any dispute over the contribution of a land
11 right under subd. 1. or 2., including a dispute over the valuation of such a land right,
12 unless a federal agency exercises jurisdiction over the dispute. During the pendency
13 of any dispute that is before the commission or a federal agency, the transmission
14 company shall be entitled to use the land right that is the subject to the dispute and
15 shall be required to pay any compensation that is in dispute into an escrow account.

16 **SECTION 56.** 196.485 (6) of the statutes is created to read:

17 196.485 (6) **ELECTRIC UTILITIES, TRANSMISSION DEPENDENT UTILITIES AND RETAIL**
18 **ELECTRIC COOPERATIVES.** No later than the first day of the 12th month beginning after
19 the first public utility affiliate files a commitment under sub. (5) (a) 2.:

20 (a) An electric utility may transfer all of its integrated transmission facilities
21 to the transmission company on the same terms and conditions as a contribution of
22 transmission facilities by a public utility affiliate under sub. (5) (b).

23 (b) A transmission-dependent utility or retail electric cooperative may
24 purchase equity interests in the transmission company at a price that is equivalent
25 to net book value and on terms and conditions that are comparable to those for public

BILL

1 utility affiliates that have contributed transmission facilities to the transmission
2 company. A purchaser under this paragraph shall contribute funds to the
3 transmission company that are no less than the value of its prorated shares based
4 on firm electric usage in this state in 1999.

5 **SECTION 57.** 196.485 (6m) of the statutes is created to read:

6 196.485 **(6m) DIVIDENDS, PROFITS AND GAINS.** The commission may not treat any
7 dividend received by a transmission utility from the transmission company or any
8 gain or profit of a transmission utility from the sale or other disposition of securities
9 issued by the transmission company as a credit against the retail revenue
10 requirements of the transmission utility.

11 **SECTION 58.** 196.485 (7) of the statutes is created to read:

12 196.485 (7) **ENFORCEMENT.** A wholesale or retail customer of a public utility
13 affiliate may petition the circuit court for Dane County for specific performance of
14 a commitment filed under sub. (5) (a) 2.

15 **SECTION 59.** 196.485 (8) of the statutes is created to read:

16 196.485 **(8) PENALTIES.** A public utility affiliate that fails to complete the
17 contribution of transmission facilities to the transmission company by the
18 completion date specified in the filing under sub. (5) (a) 2. shall forfeit \$25,000 for
19 each day that completion of the contribution is delayed if the transmission company
20 is legally able to accept the contribution.

21 **SECTION 60.** 196.487 of the statutes is created to read:

22 **196.487 Reliability of electric service. (1) DEFINITIONS.** In this section:

23 (a) "Public utility affiliate" has the meaning given in s. 196.795 (1) (L).

24 (b) "Transmission company" has the meaning given in s. 196.485 (1) (ge).

BILL

1 (2) COMMISSION ORDER. If the commission determines that a public utility
2 affiliate or the transmission company is not making investments in the facilities
3 under its control that are sufficient to ensure reliable electric service, the commission
4 shall order the public utility affiliate or transmission company to make adequate
5 investments in its facilities that are sufficient to ensure reliable electric service. An
6 order under this subsection shall require the public utility affiliate or transmission
7 company to provide security in an amount and form that, to the satisfaction of the
8 commission, is sufficient to ensure that the public utility affiliate or transmission
9 company expeditiously makes any investment that is ordered.

10 (3) COST RECOVERY. The commission shall allow a public utility affiliate that is
11 subject to an order under sub. (2) to recover in its retail electric rates the costs that
12 are prudently incurred in complying with the order.

13 **SECTION 61.** 196.491 (3) (d) 3r. of the statutes is created to read:

14 196.491 (3) (d) 3r. For a high-voltage transmission line that is proposed to
15 increase the transmission import capability into this state, existing rights-of-way
16 are used to the extent practicable and the routing and design of the high-voltage
17 transmission line minimizes environmental impacts in a manner that is consistent
18 with achieving reasonable electric rates.

19 **SECTION 62.** 196.491 (3) (d) 3t. of the statutes is created to read:

20 196.491 (3) (d) 3t. For a high-voltage transmission line that is designed for
21 operation at a nominal voltage of 345 kilovolts or more, the high-voltage
22 transmission line provides usage, service or increased regional reliability benefits to
23 the wholesale and retail customers in this state and the benefits of the high-voltage
24 transmission line are reasonable in relation to the cost of the high-voltage
25 transmission line.

BILL

1 **SECTION 63.** 196.491 (3) (gm) of the statutes is created to read:

2 196.491 (3) (gm) The commission may not approve an application under this
3 section for a certificate of public convenience and necessity for a high-voltage
4 transmission line that is designed for operation at a nominal voltage of 345 kilovolts
5 or more unless the approval includes the condition that the applicant shall pay the
6 fees specified in sub. (3g). In a proceeding on such an application under this section,
7 the commission shall determine the cost of the high-voltage transmission line,
8 identify the counties, towns, villages and cities through which the high-voltage
9 transmission line is routed and allocate the amount of investment associated with
10 the high-voltage transmission line to each such county, town, village and city.

11 **SECTION 64.** 196.491 (3g) of the statutes is created to read:

12 196.491 (3g) **FEEFORCERTAINHIGH-VOLTAGETRANSMISSIONLINES.** A person who
13 receives a certificate of public convenience and necessity for a high-voltage
14 transmission line that is designed for operation at a nominal voltage of 345 kilovolts
15 or more under sub. (3) shall pay the department of administration an annual impact
16 fee as specified in the rules promulgated by the department of administration under
17 s. 16.969 (2) (a) and shall pay the department of administration a one-time
18 environmental impact fee as specified in the rules promulgated by the department
19 of administration under s. 16.969 (2) (b).

20 **SECTION 65.** 196.491 (3m) (b) 2. of the statutes is amended to read:

21 196.491 (3m) (b) 2. The analytical process specified in subd. 1. b. shall, to the
22 extent practicable, be consistent with the analytical process described in the merger
23 enforcement policy of the federal department of justice and the federal trade
24 commission regarding horizontal acquisitions and mergers that are subject to 15
25 USC 1, 18 or 45, as defined in s. 196.485 (1) (dr).

BILL

1 **SECTION 66.** 196.494 (3) of the statutes is amended to read:

2 196.494 (3) ~~No later than December 31, 2004, the~~ The commission ~~may~~ shall,
3 under this subsection, issue an order requiring ~~an electric~~ a public utility to construct
4 or procure, on a competitive basis, the construction of transmission facilities
5 specified by the commission in its order if the commission determines ~~that, based on~~
6 ~~the results of the study under sub (2),~~ such construction is necessary to relieve a
7 constraint on a transmission system and the construction will materially benefit the
8 customers of the ~~electric~~ public utility or ~~other~~ electric utilities or of an independent
9 system operator, as defined in s. 196.485 (1) (d), or independent transmission owner,
10 as defined in s. 196.485 (1) (dm).

11 **SECTION 67.** 196.494 (4) of the statutes is amended to read:

12 196.494 (4) The commission shall allow ~~an electric~~ a public utility to recover
13 in its retail electric rates any costs that are prudently incurred by the public utility
14 in complying with an order under sub. (3).

15 **SECTION 68.** 196.494 (5) of the statutes is created to read:

16 196.494 (5) The governor may, on behalf of this state, enter into an interstate
17 compact that establishes a joint process for the states in the upper midwest region
18 of the United States to determine the need for and siting of regional electric
19 transmission facilities that may affect electric service in this state. The governor
20 may not enter into a compact under this subsection unless the compact includes
21 requirements and procedures for establishing each of the following:

22 (a) Compliance with each state's environmental and siting standards for
23 transmission facilities.

24 (b) A regional need determination for transmission facilities.

BILL

1 (c) A mechanism for resolving conflicts between the states regarding the siting
2 of transmission facilities.

3 **SECTION 69.** 196.52 (3) (a) of the statutes is amended to read:

4 196.52 (3) (a) In this subsection, "contract or arrangement" means a contract
5 or arrangement providing for the furnishing of management, supervisory,
6 construction, engineering, accounting, legal, financial or similar services and any
7 contract or arrangement for the purchase, sale, lease or exchange of any property,
8 right, or thing, or for the furnishing of any service, property, right, or thing, other
9 than management, supervisory, construction, engineering, accounting, legal,
10 financial or similar services, but "contract or arrangement" does not include a
11 contract or arrangement under which a transmission utility, as defined in s. 196.485
12 (1) (i), sells or transfers securities, as defined in s. 196.485 (1) (fe), that have been
13 issued by a transmission company, as defined in s. 196.485 (1) (ge). Except as
14 provided under par. (b), unless and until the commission gives its written approval,
15 any contract or arrangement is not valid or effective if the contract or arrangement
16 is made between a public utility and an affiliated interest after June 7, 1931. Every
17 public utility shall file with the commission a verified copy of any contract or
18 arrangement, a verified summary of any unwritten contract or arrangement, and
19 any contract or arrangement, written or unwritten, which was in effect on June 7,
20 1931. The commission shall approve a contract or arrangement made or entered into
21 after June 7, 1931, only if it shall clearly appear and be established upon
22 investigation that it is reasonable and consistent with the public interest. The
23 commission may not approve any contract or arrangement unless satisfactory proof
24 is submitted to the commission of the cost to the affiliated interest of rendering the
25 services or of furnishing the property or service to each public utility or of the cost

BILL

1 to the public utility of rendering the services or of furnishing the property or service
2 to each affiliated interest. No proofis satisfactory under this paragraph unless it
3 includes the original (or verified copies) of the relevant cost records and other
4 relevant accounts of the affiliated interest, or an abstract of the records and accounts
5 or a summary taken from the records and accounts if the commission deems the
6 abstract or summary adequate. The accounts shall be properly identified and duly
7 authenticated. The commission, where reasonable, may approve or disapprove a
8 contract or arrangement without submission of the cost records or accounts.

9 **SECTION 70.** 196.795 (1) (g) 1. of the statutes is amended to read:

10 196.795 (1) (g) 1. As a beneficial owner, to take, hold or acquire 5% or more of
11 the outstanding voting securities of a public utility, other than a transmission
12 company, with the unconditional power to vote those securities.

13 **SECTION 71.** 196.795 (1) (g) 2. of the statutes is amended to read:

14 196.795 (1) (g) 2. To exchange or convert 50% or more of the outstanding voting
15 securities of a public utility, other than a municipality or other political subdivision
16 or a transmission comnanv, for or into the voting securities of a company organized,
17 created, appointed or formed by or at the direction of the public utility or of a
18 subsidiary of such company.

19 **SECTION 72.** 196.795 (1) (h) 3. of the statutes is created to read:

20 196.795 (1) (h) 3. "Holding company" does not include a transmission company.

21 **SECTION 73.** 196.795 (1) (p) of the statutes is created to read:

22 196.795 (1) (p) "Transmission company" has the meaning given in s. 196.485
23 (1) (ge).

24 **SECTION 74.** 196.795 (5) (i) 1. of the statutes is amended to read:

BILL

1 196.795 (5) (i) 1. Shall consider the public utility affiliate as a wholly
2 independent corporation and shall innute a capital structure to the nublic utility
3 affiliate and establish a cost of capital for the nublic utility affiliate on a stand-alone
4 basis*,

5 **SECTION 75.** 196.795 (5) (p) 1., 2., 3. and 4. of the statutes are renumbered
6 196.795 (6m) (b) 1., 2., 3. and 4.

7 **SECTION 76.** 196.795 (5) (pm) 1. (intro.) of the statutes is repealed.

8 **SECTION 77.** 196.795 (5) (pm) 1. a. of the statutes is renumbered 196.795 (6m)
9 (a) 3.

10 **SECTION 78.** 196.795 (5) (pm) 1. b. of the statutes is renumbered 196.795 (6m)
11 (a) 5.

12 **SECTION 79.** 196.795 (5) (pm) 1. c. of the statutes is renumbered 196.795 (6m)
13 (a) 6.

14 **SECTION 80.** 196.795 (5) (pm) 2. of the statutes is renumbered 196.795 (6m) (c)
15 and amended to read:

16 196.795 (6m) (c) ***Wholesale merchant plants.*** The assets of a wholesale
17 merchant plant shall not be included in the sum of the assets of a public utility
18 affiliate under par. ~~(p)~~ (b) 1. a., b. or c. and shall not be included in a nonutility
19 affiliate's total assets under par. ~~(p)~~ (b) 2. a. if the requirements specified in s. 196.491
20 (3m) (a) 1. and 2. are satisfied or if the wholesale merchant plant qualifies for the
21 exemption under s. 196.491 (3m) (e).

22 **SECTION 81.** 196.795 (5) (pm) 3. of the statutes is renumbered 196.795 (6m) (d)
23 and amended to read:

24 196.795 **(6m)** (d) ***Foreign affiliates.*** The assets of a foreign affiliate shall be
25 included in the sum of the assets of a public utility affiliate under par. ~~(p)~~ (b) 1. a.,

BILL

1 b. or c. and shall not be included in a nonutility affiliate's total assets under par. ~~(p)~~

2 ~~(b)~~ 2. a.

3 **SECTION 82.** 196.795 (6m) (title) of the statutes is created to read:

4 196.795 (6m) (title) ASSET CAP.

5 **SECTION 83.** 196.795 (6m) (a) (intro.) of the statutes is created to read:

6 196.795 (6m) (a) *Definitions.* (intro.) In this subsection:

7 **SECTION 84.** 196.795 (6m) (a) 1. of the statutes is created to read:

8 196.795 (6m) (a) 1. "Contributor public utility affiliate" means a public utility
9 affiliate that has contributed its transmission facilities to the transmission company
10 under s. 196.485 (5) (b).

11 **SECTION 85.** 196.795 (6m) (a) 2. of the statutes is created to read:

12 196.795 (**6m**) (a) 2. "Eligible asset" means an asset of a nonutility affiliate that
13 is used for any of the following:

14 a. Producing, generating, transmitting, delivering, selling or furnishing gas,
15 oil, electricity or steam energy.

16 b. Providing an energy management, conservation or efficiency product or
17 service or a demand-side management product or service.

18 c. Providing an energy customer service, including metering or billing.

19 d. Recovering or producing energy from waste materials.

20 e. Processing waste materials.

21 f. Manufacturing, distributing or selling products for filtration, pumping water
22 or other fluids, processing or heating water, handling fluids or other related
23 activities.

24 g. Providing a telecommunications service, as defined in s. 196.01 (**9m**).

25 **SECTION 86.** 196.795 (6m) (a) 4. of the statutes is created to read:

—

—

1 196.795 (6m) (a) 4. "Generation assets" means assets that are classified as
2 electric generation assets on the books of account of a public utility, as determined
3 by the commission.

4 **SECTION 87.** 196.795 (6m) (b) (title) of the statutes is created to read:

5 196.795 **(6m)** (b) *In general.*

6 **SECTION 88.** 196.795 (6m) (e) of the statutes is created to read:

7 196.795 **(6m)** (e) *Contributor public utility affiliates.* 1. The eligible assets of
8 a nonutility affiliate in a holding company system that includes a contributor public
9 utility affiliate shall not be included in the sum of the assets of the public utility
10 affiliates under par. (b) 1. a., b. or c. and shall not be included in the nonutility
11 affiliate's total assets under par. (b) 2. a.

12 2. For purposes of subd. 1., all of the assets of a nonutility affiliate shall be
13 considered eligible assets if each of the following is satisfied:

14 a. The bylaws of the nonutility affiliate or a resolution adopted by its board of
15 directors specifies that the business of the nonutility affiliate is limited to activities
16 involving eligible assets.

17 b. Substantially all of the assets of the nonutility affiliate are eligible assets.

18 3. The net book value of transmission facility assets that a contributor public
19 utility affiliate has contributed to a transmission company under s. 196.485 (5) (b)
20 shall be included in the sum of the assets of the public utility affiliate under par. (b)
21 1. a., b. and c. In determining net book value under this subdivision, accumulated
22 depreciation shall be calculated as if the contributor public utility affiliate had not
23 contributed the assets.

24 4. The net book value of generation assets that a contributor public utility
25 affiliate has transferred to a person that is not affiliated with the public utility

BILL

1 affiliate pursuant to the order of the commission, a court or a federal regulatory
2 agency shall be included in the sum of the assets of the public utility affiliate under
3 par. (b) 1. a., b. and c. In determining net book value under this subdivision,
4 accumulated depreciation shall be calculated as if the contributor public utility
5 affiliate had not transferred the assets.

6 **SECTION 89.** 196.795 (11) (b) of the statutes is amended to read:

7 196.795 **(11)** (b) This section shall be deemed to legalize and confirm the
8 formation, prior to November 28, 1985, of any holding company, which is not itself
9 a public utility, and shall be deemed to legalize and confirm the operations and
10 issuances of securities of the holding company, except that nothing in this section
11 shall be deemed to prevent the commission from imposing reasonable terms,
12 limitations or conditions on any holding company which are consistent with the
13 requirements of sub. ~~(5) (pm)~~ (6m) (c) or (d) or which are consistent with and
14 necessary to satisfy the requirements of sub. (5) (b) to (o) and (q) to (s) or which relate
15 to future investments by the holding company unless the holding company owns,
16 operates, manages or controls a telecommunications utility and does not also own,
17 operate, manage or control a public utility which is not a telecommunications utility.

18 **SECTION 90.** 196.795 (11) (c) of the statutes is created to read:

19 196.795 **(11)** (c) The commission may not impose upon a holding company the
20 formation of which is considered to be legalized and confirmed under par. (b) any
21 term, limitation or condition under par. (b) that establishes the sum of the holding
22 company's nonutility affiliate assets at less than 25% of the sum of the holding
23 company's utility affiliate assets. For purposes of this paragraph, any term,
24 limitation or condition on nonutility affiliate assets shall not apply to the ownership,
25 operation, management or control of any eligible asset, as defined under sub. (6m)

BILL

1 (a) 2., or an asset that is used for manufacturing, distributing or selling swimming
2 pools or spas.

3 **SECTION 91.** 196.807 of the statutes is created to read:

4 **196.807 Energy affiliate and utility employes. (1) DEFINITIONS.** In this
5 section:

6 (a) "Acquire an energy unit" means to lease, purchase or otherwise acquire
7 ownership or control of the energy unit.

8 (b) "Affiliate or utility" means a nonutility affiliate, as defined in s. 196.795 (1)
9 (j), a holding company system, as defined in s. 196.795 (1) (i), or an electric utility,
10 as defined in s. 196.491 (1) (d).

11 (c) "Energy unit" means a unit that is engaged in activities related to the
12 production, generation, transmission or distribution of electricity, gas or steam or the
13 recovery of energy from waste materials.

14 (d) "Holding company system" has the meaning given in s. 196.795 (1) (i).

15 (e) "Unit" means a division, department or other operational business unit of
16 an affiliate or utility

17 (2) **OFFER OF EMPLOYMENT.** (a) Except as provided in par. (b), a person that
18 acquires an energy unit shall offer employment to the nonsupervisory employes who
19 are employed with the energy unit immediately prior to the acquisition and who are
20 necessary for the operation and maintenance of the energy unit.

21 (b) A nonutility affiliate that acquires an energy unit of a public utility affiliate
22 in the same holding company system shall offer employment to all of the
23 nonsupervisory employes who are employed with the energy unit immediately prior
24 to the acquisition.

BILL

1 (3) **EMPLOYMENT TERMS AND CONDITIONS.** (a) Except as provided in par. (b), the
2 employment that is offered under sub. (2) shall satisfy each of the following during
3 the 30-month period beginning immediately after the acquisition:

4 1. Wage rates shall be no less than the wage rates in effect immediately prior
5 to the acquisition.

6 2. Fringe benefits shall be substantially equivalent to the fringe benefits in
7 effect immediately prior to the acquisition.

8 3. Terms and conditions of employment, other than wage rates and fringe
9 benefits, shall be substantially equivalent to the terms and conditions in effect
10 immediately prior to the acquisition.

11 (b) A collective bargaining agreement may modify or waive a requirement
12 specified in par. (a).

13 (4) **COMMISSION APPROVAL.** No person may acquire an energy unit unless the
14 commission determines that the person has satisfied subs. (2) and (3).

15 (5) **APPLICABILITY.** This section does not apply until the expiration date of the
16 3-year period specified in s. 196.485 (3m) (a) 1. b., as determined by the commission,
17 or the expiration date of any extension of the 3-year period that is agreed to under
18 s. 196.485 (3m) (a) 1. b., as determined by the commission, whichever is later. The
19 commission shall publish a notice in the Wisconsin Administrative Register that
20 specifies the date that the commission determines is the effective date of this section.

21 **SECTION 92. 200.01 (2)** of the statutes is amended to read:

22 200.01 (2) "Public service corporation" means and embraces every corporation,
23 except municipalities and other political subdivisions, which is a public utility as
24 defined in s. 196.01, and every corporation which is a railroad as defined in s. 195.02,
25 but shall not include a public utility corporation receiving an annual gross revenue

BILL

1 of less than \$1,000 for the calendar year next preceding the issuance of any securities
2 by it. "Public service corporation" includes a holding company, as defined under s.
3 196.795 (1) (h), which is a public utility, as defined under s. 196.01 (5). "Public service
4 corporation" does not include a telecommunications utility, as defined in s. 196.01
5 (10). "Public service corporation" does not include any other holding company unless
6 the holding company was formed after November 28, 1985, and unless the
7 commission has determined, under s. 196.795 (7) (a), that each nonutility affiliate,
8 as defined under s. 196.795 (1) (j), does not and cannot reasonably be expected to do
9 at least one of the items specified in s. 196.795 (7) (a). "Public service corporation"
10 does not include a company, as defined in s. 196.795 (1) (f), which owns, operates,
11 manages or controls a telecommunications utility, as defined in s. 196.01 (10), unless
12 such company also owns, operates, manages or controls a public utility which is not
13 a telecommunications utility. "Public service corporation" does not include a
14 transmission company, as defined in s. 196.485 (1) (ge).

15 **SECTION 93.** 285.48 of the statutes is created to read:

16 **285.48 Nitrogen oxide emissions from certain electric generation**
17 **facilities. (1)** In establishing nitrogen oxide emission reductions for the control of
18 atmospheric ozone in another state pursuant to a call for a state implementation plan
19 issued prior to the effective date of this subsection . . . [revisor inserts date], the
20 department may not, in an implementation plan under s. 285.11 (6), by rule or
21 through the adoption of control strategies, regulate nitrogen oxide emissions from
22 electric generation facilities that are located in Ashland, Barron, Bayfield, Buffalo,
23 Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Iron, Jackson, La Crosse,
24 Monroe, Pepin, Pierce, Polk, Price, Rusk, Sawyer, St. Croix, Taylor, Trempealeau,
25 Vernon or Washburn county.

—

BILL

1 (2) The department may not, based solely on the prohibition under sub. (1),
2 require more stringent nitrogen oxide emission reductions for any electric utility, as
3 defined in s. 196.491 (1) (d), or large industrial core source in this state that is
4 identified by the federal environmental protection agency.

SECTION 94. Nonstatutory provisions.

5 (1) INITIAL APPOINTMENTS TO COUNCIL ON UTILITY PUBLIC BENEFITS.
6 Notwithstanding section 15.107 (17) (intro.) of the statutes, as created by this act,
7 the initial members of the council on utility public benefits shall be appointed for the
8 following terms:
9

10 (a) One of the members under section 15.107 (17) (a), (b) and (d) of the statutes,
11 as created by this act, for terms expiring on July 1, 2001.

12 (b) One of the members under section 15.107 (17) (a) of the statutes, as created
13 by this act, and the members under section 15.107 (17) (c), (e) and (f) of the statutes,
14 as created by this act, for terms expiring on July 1, 2002.

15 (c) One of the members under section 15.107 (17) (b) and (d) of the statutes, as
16 created by this act, and the members under section 15.107 (17) (g) and (h) of the
17 statutes, as created by this act, for terms expiring on July 1, 2003.

18 (2) PUBLIC SERVICE COMMISSION RULES.

19 (a) Using the procedure under section 227.24 of the statutes, the public service
20 commission shall promulgate the rules required under section 196.378 (3) (a) of the
21 statutes, as created by this act, for the period before the effective date of the
22 permanent rules promulgated under that section, but not to exceed the period
23 authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding
24 section 227.24 (1) and (3) of the statutes, the commission is not required to make a
25 finding of emergency.

BILL

1 (b) The public service commission shall submit in proposed form the rules
2 required under section 196.378 (3) (a) of the statutes, as created by this act, to the
3 legislative council staff under section 227.15 (1) of the statutes no later than the first
4 day of the 6th month beginning after the effective date of this paragraph.

5 (3) DEPARTMENT OF ADMINISTRATION RULES.

6 (a) Using the procedure under section 227.24 of the statutes, the department
7 of administration shall promulgate the rules required under section 16.957 (2) (c)
8 and (4) (b) of the statutes, as created by this act, for the period before the effective
9 date of the permanent rules promulgated under that section, but not to exceed the
10 period authorized under section 227.24 (1) (c) and (2) of the statutes.
11 Notwithstanding section 227.24 (1) and (3) of the statutes, the department is not
12 required to make a finding of emergency.

13 (b) The department of administration shall submit in proposed form the rules
14 required under section 16.957 (2) (c) and (4) (b) of the statutes, as created by this act,
15 to the legislative council staff under section 227.15 (1) of the statutes no later than
16 the first day of the 6th month beginning after the effective date of this paragraph.

17 **SECTION 95. Appropriation changes.**

18 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
19 to the public service commission under section 20.155 (1) (j) of the statutes, as
20 affected by the acts of 1999, the dollar amount is increased by \$125,000 for fiscal year
21 1999-00 and the dollar amount is increased by \$125,000 for fiscal year 2000-01 for
22 the purpose for which the appropriation is made.

23 **SECTION 96. Initial applicability.**

24 (1) The treatment of sections 16.969, 20.505 (1) (ge) and (gs) and 196.491 (3)
25 (gm) and (3g) of the statutes first applies to certificates of public convenience and

|

|

BILL

1 necessity that are approved by the public service commission on the effective date of
2 this subsection.

3 (2) The treatment of section 196.491 (3) (d) 3r. and 3t. of the statutes first
4 applies to applications for certificates of public convenience and necessity that are
5 filed with the public service commission on the effective date of this subsection.

6 (3) The treatment of sections 76.28 (1) (d), (e) (intro.) and 5. and (j) and (2) (c)
7 (intro.), (d) and (e) and 196.485 (1) (ge) of the statutes first applies to taxable years
8 beginning on January 1 of the year in which this subsection takes effect, except that
9 if this subsection takes effect after July 31 the treatment of sections 76.28 (1) (d), (e)
10 (intro.) and 5. and (j) and (2) (c) (intro.), (d) and (e) of the statutes first applies to
11 taxable years beginning on January 1 of the year following the year in which this
1 2 subsection takes effect.

13

(END)

—

|

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

LRB-3200/1dn

MDK:y:....

img

Representative Hoven:

This bill is based on the instructions dated June 2, 1999, that you provided. I had many questions about the intent regarding many of the instructions, which, due to time constraints, I was not able to resolve. Therefore, please review the bill very carefully and contact me if any of the provisions do not satisfy your intent.

If you have any questions, please give me a call.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: Mark.Kunkel@legis.state.wi.us

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

LRB-3200/1dn
MDK:kmg:kjf

June 9, 1999

Representative Hoven:

This bill is based on the instructions dated June 2, 1999, that you provided. I had many questions about the intent regarding many of the instructions, which, due to time constraints, I was not able to resolve. Therefore, please review the bill very carefully and contact me if any of the provisions do not satisfy your intent.

If you have any questions, please give me a call.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: Mark.Kunkel@legis.state.wi.us

**SUBMITTAL
FORM**

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 6/9/99

To: Representative Hoven

Relating to LRB drafting number: LRB-3200

Topic

Electric transmission system reliability

Subject(s)

Public Util. - electric

1. **JACKET** the draft for introduction

ON BEHALF OF GOV TOMMY G. THOMPSON *m. L. Kunkel*

in the Senate or the Assembly (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction

m. L. Kunkel

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Mark D. Kunkel, Legislative Attorney
Telephone: (608) 266-O 13 1

└──

┆

┆

NOTE: PLEASE RETURN THIS BILL DRAFT AND THIS TRANSMITTAL SHEET WITH YOUR FISCAL ESTIMATE FORMS

IF THERE IS A FISCAL EFFECT TO THE BILL, PLEASE SUBMIT THE FISCAL ESTIMATE WORKSHEET.

**TO: Kathy Landphier
Department of Natural Resources**

FROM: Deborah Uecker
Division of Executive Budget and Finance
101 East **Wilson Street**
Administration Building, 10th Floor
Madison, WI **53707**

**SUBJECT: Fiscal Estimate - LRB Number 3200/1
1999 Bill Number**

Please ~~provide the necessary information on fiscal estimate forms~~ and return two (2) copies to Deborah Uecker. no later than! 14-Jun-99

If you cannot comply with the above deadline for any reason, please call Deborah at 267-0371.

Provide local government costs.

_____ is responsible for local government costs.

Department of Administration
Department of Natural Resources
Public Service Commission
Department of Revenue

DATE DOA SENT TO AGENCY:

11-Jun-99

DATE DOA RECEIVED FROM AGENCY:

TO BE COMPLETED BY AGENCY:

Name and phone number of person who prepared the fiscal estimate.

(Name)

(Phone Number)

PLEASE SEND ORIGINAL COPIES OF THE FORMS THAT CAN BE REPRODUCED.

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
 99-3200/1
 Amendment No. if Applicable

FISCAL ESTIMATE
 DOA-2048 N(R10/94)

Subject
 Nitrogen oxide emission reduction restrictions

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation Increase Existing Revenues
- Decrease Existing Appropriation Decrease Existing Revenues
- Create New Appropriation

- Increase Costs - May be possible to Absorb Within Agency's Budget Yes No
- Decrease Costs

Local: No local government costs

- | | | |
|--|--|---|
| 1. <input type="checkbox"/> Increase Costs
<input type="checkbox"/> Permrssive <input type="checkbox"/> Mandatory | 13. <input type="checkbox"/> Increase Revenues
<input type="checkbox"/> Permrssive <input type="checkbox"/> Mandatory | 5. Types of Local Government Units Affected.
<input type="checkbox"/> Towns <input type="checkbox"/> Villages CI Cities
<input type="checkbox"/> Counties <input type="checkbox"/> WTCS Districts
<input type="checkbox"/> School Districts <input type="checkbox"/> Others _____ |
| 2. <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Permrssive <input type="checkbox"/> Mandatory | 4. <input type="checkbox"/> Decrease Revenues
<input type="checkbox"/> CI Permissive <input type="checkbox"/> Mandatory | |

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

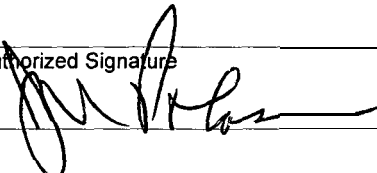
SUMMARY OF BILL -Section 93 of the Bill creates 285.48 of the statutes. This section prohibits the Department of Natural Resources from restricting nitrogen oxide emissions in 25 northwestern Wisconsin counties to meet nitrogen oxide emission reduction requirements for controlling ozone in another state. The section further prohibits the Department from requiring more stringent nitrogen oxide reductions on electric utilities in the remainder of the state or on sources defined by USEPA as large industrial core sources anywhere in the state.

FISCAL IMPACT- It is assumed that if this bill is adopted, the Department may need to regulate nitrogen oxide emissions from smaller industrial and institutional boilers and/or reduce such emissions from motor vehicles by requiring repairs on vehicles that are identified as having high nitrogen oxide emissions in the motor vehicle inspection and maintenance program in southeastern Wisconsin.

The inspection and maintenance program already tests vehicles for nitrogen oxide emissions. The costs for this testing are already part of the existing contract. While it is assumed that citizens that must repair their vehicles will incur a cost, it is assumed that most vehicles in state and local government fleets, being relatively new vehicles and being relatively well maintained, will not have a significant need for additional repair.

State and local governments do own some medium sized boilers. Most of these boilers have relatively few nitrogen oxide emissions. It is assumed that most of the medium boiler nitrogen oxide emission reductions, if required, would come from boilers owned by the private sector.

Long-Range Fiscal Implications

Agency	Prepared By	Phone No.	Authorized Signature	Phone No.	Date
D N	Noe Polasek	(608) 266-2794		(608) 266-2794	06/14/1999

FISCAL ESTIMATE WORKSHEET

1999 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. 99-3200/1	Amendment No.
--	---------------

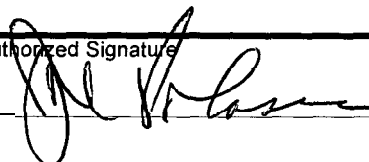
Subject
Nitrogen oxide emission reduction restrictions

I. One-Time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	\$0	\$0
(FTE Position Changes)	0.00	0.00
State Operations - Other Costs	\$0	\$0
Local Assistance	\$0	\$0
Aids to Individuals or Organizations	\$0	\$0
TOTAL State Costs by Category	\$0	\$0
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$0	\$0
FED	\$0	\$0
PRO/PRS	\$0	\$0
SEGISEG-S	\$0	\$0
III. State Revenues:	Increased Rev.	Decreased Rev.
<small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>		
GPR Taxes	\$0	\$0
GPR Earned	\$0	\$0
FED	\$0	\$0
PRO/PRS	\$0	\$0
SEGISEG-S	\$0	\$0
TOTAL State Revenues	\$0	\$0

NET ANNUALIZED IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	<u>\$0</u>	<u>\$0</u>
NET CHANGE IN REVENUES	<u>\$0</u>	<u>\$0</u>

Agency	Prepared By	Phone No.	Authorized Signature	Phone No.	Date
DNR	Joe Polasek	(608) 266-2794		(608) 266-2794	06/14/1999

NOTE: PLEASE RETURN THIS BILL DRAFT AND THIS TRANSMITTAL SHEET WITH YOUR FISCAL ESTIMATE FORMS

IF THERE IS A FISCAL EFFECT TO THE BILL, PLEASE SUBMIT THE FISCAL ESTIMATE WORKSHEET.

TO: Gordon Grant
Public Service Commission

FROM: Deborah Uecker
Division of Executive Budget and Finance
101 East Wilson Street
Administration Building, 10th Floor
Madison, WI 53707

SUBJECT: Fiscal Estimate - LRB Number 3200/1
1999 Bill Number

Rush to Mike Baman

Un-Introduced copy To Rep. Hoven 06-14-99

Please provide the necessary information on fiscal estimate forms and return two (2) copies to Deborah Uecker, no later than: 14-Jun-99

If you cannot comply with me above deadline for any reason, please call Deborah at 267-0371.

Provide local government costs.

_____ is responsible for local government costs.

Department of Administration
Department of Natural Resources
Public Service Commission
Department of Revenue

DATE DOA SENT TO AGENCY:

11-Jun-99

DATEDOARECEIVEDFROMAGENCY:

TO BE COMPLETED BY AGENCY:

Name and phone number of person who prepared the fiscal estimate.

GORDON GRANT
(Name)

7 9086
(Phone Number)

PLEASE SEND ORIGINAL COPIES OF THE FORMS THAT CAN BE REPRODUCED.

FISCAL ESTIMATE
DOA-2048 N(R10/96)

EI ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
LRB 3200/1
 Amendment No. if Applicable

Subject

Changes in Regulation of the Electric Industry

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
 2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 CI Counties Others ___
 School Districts WTCS Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

20.155(l)(g)

Assumptions Used in Arriving at Fiscal Estimate

This bill requires the Public Service Commission (PSC) to participate in and direct a number of changes in the electric utility industry. The PSC will initiate several proceedings to write the rules and determine the appropriate processes that are required in the provisions of this bill. The PSC conducts some 400-500 proceedings per year. The staffing resources necessary to conduct these new proceedings would be determined after an implementation plan is developed. However, it is not anticipated that any additional resources would be required.

One provision of this bill requires the PSC to hire an expert consultant in economics to study the potential for horizontal market power and other market related issues. The one-time cost to hire a consultant cannot be determined until after a request for proposal bid process is conducted. Upon conclusion of the bid process, the PSC would request the appropriate program revenue expenditure authority at a s. 13.10 quarterly meeting.

Another provision of the bill increases the PSC appropriation for intervenor compensation by \$125,000 per year from the current base of \$250,000 to a new base of \$375,000. These funds would provide sufficient resources for public interest groups to participate in the proceedings of the PSC, if they meet the requirements of the statutes and rules governing intervenor compensation.

Local Government Costs: It is anticipated that no local government costs would be incurred as a result of this bill.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

PSC/Gordon Grant 267-9086

Authorized Signature/Telephone No.

Ave M. Bie

Date

6/14/99

| .

|

|

مجلس

دین محمد

NOTE: PLEASE RETURN THIS BILL DRAFT AND THIS TRANSMITTAL SHEET WITH YOUR FISCAL ESTIMATE FORMS

IF THERE IS A FISCAL EFFECT TO THE BILL, PLEASE SUBMIT THE FISCAL ESTIMATE WORKSHEET.

TO: Paul McMahon

Department of Administration

FROM: Deborah Uecker
Division of Executive Budget and Finance
101 East Wilson Street
Administration Building, 10th Floor
Madison, WI 53707

SUBJECT: Fiscal Estimate - LRB Number 3200/1
1999 Bill Number

Please provide the necessary information on fiscal estimate forms and return two (2) copies to

Deborah Uecker, no later than: 14-Jun-99

If you cannot comply with the above deadline for any reason, please call Deborah at 267-0371.

Provide local government costs.

_____ is responsible for local government costs.

ALSO SENT TO:
Department of Administration
Department of Natural Resources
Public Service Commission
Department of Revenue

DATE DOA SENT TO AGENCY:

11-Jun-99

DATE DOA RECEIVED FROM AGENCY:

TO BE COMPLETED BY AGENCY:

Name and phone number of person who prepared the fiscal estimate.


Ryan Gell / Paul McMahon
(Name)

6-6497 - 6-1357
(Phone Number)

PLEASE SEND ORIGINAL COPIES OF THE FORMS THAT CAN BE REPRODUCED.

[Redacted]

[Redacted]

FISCAL ESTIMATE FORM		1999 Session	
<input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> UPDATED		LRB # 3200/1	
<input type="checkbox"/> CORRECTED <input type="checkbox"/> SUPPLEMENTAL		INTRODUCTION #	
		Admin. Rule #	
Subject control of transmission facilities by a transmission company; creating a utility public benefits fund; requiring electric utilities and retail co-ops to charge public benefit fees; etc.			
Fiscal Effect State: <input type="checkbox"/> No State Fiscal Effect Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.		<input checked="" type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Decrease Costs	
<input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Create New Appropriation			
Local: <input type="checkbox"/> No local government costs			
1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> CI Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		
Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S		Affected Ch. 20 Appropriations 20.505(1)(ge); (1)(gs); (10)(q); (10)(r); (10)(s)	
Assumptions Used in Arriving at Fiscal Estimate: Based on DOA's limited experience in administering the \$17 million public benefits pilot, increased staffing will be required. Estimates below are minimal. This bill will create a "utility public benefit fund," which is a segregated fund created in DOA. Also, a newly created 11 member Council on Utility Public Benefits will be attached to DOA. The bill directs DOA to operate low income and renewable energy programs from the new fund. Revenues from the bill could be as high as \$137 million. DOA currently administers \$40 million in federal LIHEAP and Weatherization funds. This bill identifies \$27 million in new revenue for low income programs, and potentially another \$26 million through formulas to these existing programs, for a total of \$53 million in new funding. DOA is also currently administering a \$17 million public benefits pilot project with 2.00 FTE. The pilot focuses on demand-side management and renewable issues. This bill would add \$20 million in new revenue, and potentially \$64 million through a formula in the bill, for a total of \$84 million in new funding for energy conservation and renewables. This represents a 425% increase in the level of funding. In total, DOA estimates \$137 million in new SEG revenue from the bill. The bill identifies \$27 million for low income funding, and \$20 million for energy conservation and efficiency and renewable resource funding, The other \$90 million will be formula driven based on further PSC analysis of utilities expenditure experience. In order to administer \$137 million in new funding, DOA will incur contracted costs, plus limited internal staffing. The estimate is provided on the following page.			
Long-Range Fiscal Implications: Revenues will increase over time			
Prepared By: Phone # Agency Name Ryan Gill (266-6497) Division of Administrative Services, Department of Administration		Authorized Signature Telephone No.  Charles E. McDowell, Division Administrator 267-3836	Date June 15, 1999

Fiscal Estimate for LRB 3200/1 (continued)

Impact on the department is:

2.00 senior contract managers (Energy)	\$118,500 salary/fringe	
1 .00 senior accountant	60,200 salary/fringe	
1 .00 community specialist (Housing)	52,300 salary/fringe	
4.00 SEG FTE	<u>\$231,000</u> SEG	
Contracted cost*	<u>\$60,000</u>	G
Total annual general op. costs:	<u>\$831,000</u>	G

For FY00, the estimated costs are for 2.00 FTE (\$118,500) and \$100,000 in contract authority, a total of \$218,500 SEG. For FY01, the full annual cost is estimated.

*DOA estimates that contractual services will be required to conduct an independent audit, encourage voluntary contributions, study incentives for distributed generation, and evaluate annual reports on utility electrical generation using renewable resources. The above estimate is based on 8,000 total contract hours averaging \$75/hour.

Technical Note to the drafter regarding **LRB-3200/ 1**

1. Under page 13, line 22: The department is required to contract with "a" non-stock, nonprofit corporation for:

- all energy conservation or efficiency services; and
- development or use of customer applications of renewable resources

This provision is very narrowly drawn and perhaps intentionally so. It would not seem unreasonable, however, to provide for the possibility that more than a single non-stock, non-profit corporation might effectively compete to provide such services. It would also seem reasonable to entertain the possibility that a for-profit entity might also provide for effective provision of such services. The question is whether there is intended to be only one nonprofit entity to provide all contracted services statewide.

2. On page 14, lines 23-25: are the percentages correctly constructed? If the first number is reduced to **69%**, the second number does not increase (remains at **30%**), thus the total (100%) does not compute.
3. Based on the fiscal estimate provided by **the** department, the following changes are needed (or equivalent changes by the drafter):
 - The appropriation schedule on page 2 1, line 14, should be increased to show \$218.500 in 1999-00 and \$83 1,000 in 2000-01.
 - In Section 95, a paragraph should be added that authorizes FTE under **s.20.505(10)(q)** at 2.00 SEG FTE in 1999-00 and 4.00 FTE in 2000-01.

Prepared by: Paul **McMahon** (266-1359)
Department of Administration
June 14, 1999

FISCAL ESTIMATE FORM

1999 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB# 320011
INTRODUCTION #
Admin. Rule #

Subject
 Creation of an Electric Transmission Company

<p>Fiscal Effect</p> <p>State: <input type="checkbox"/> No State Fiscal Effect Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation</p> <p><input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation</p>	<p><input checked="" type="checkbox"/> Increase Costs - May be Possible to Absorb Within Agency's Budget <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Decrease Costs</p>
---	---

<p>Local: <input type="checkbox"/> No Local Government Costs</p> <p>1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> <p>2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p>	<p>3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> <p>4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p>	<p>5. Types of Local Governmental Units Affected:</p> <p><input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _ _ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts</p>
--	---	---

<p>Fund Sources Affected</p> <p><input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p>	<p>Affected Ch. 20 Appropriations</p>
--	--

Assumptions Used in Arriving at Fiscal Estimate:

Electric utilities are subject to a tax of 3.19% on their gross revenues allocated to Wisconsin and are exempt from local property taxes. The bill anticipates creation of a new type of electric utility, called a transmission company, which would operate and/or own the electric transmission system. A transmission company would be subject to the gross revenues tax, however nearly all of its revenues would be exempt from the tax. Only revenues for transmission services to electric cooperatives and out-of-state utilities might be taxable under the bill.

Generation, transmission and distribution of electricity are all typically provided by the same public utility, which charges a single price for the bundled services. Since transmission services are not purchased, information does not exist on charges for transmission so there is no factual basis for estimating prospective gross revenues of a transmission company, nor the exemptions from gross revenues for transmission services provided to public utilities.

So long as the gross revenues of utility companies are not affected by the bill, state tax collections will not be affected.

The fiscal estimate assumes that, under the bill, electric customers would continue to purchase a bundled service, including transmission services, from traditional public utilities. However, if customers in the future purchase each of the bundled services separately, taxable gross revenues of a transmission company under the bill would be higher, but revenues of utility companies would be lower.

The fiscal effects of the other provisions of the bill are dealt with in the fiscal estimates of other agencies.

Long-Range Fiscal Implications:

<p>Agency/Prepared by: (Name & Phone No.)</p> <p>Wisconsin Department of Revenue Daniel P. Huegel, (606) 266-5705</p>	<p>Authorized Signature/Telephone No.</p> <p>Yeang-Eng Braun (608) 266-2700</p> <p><i>Yeang Eng Braun</i></p>	<p>Date</p> <p>6/14/99</p>
---	---	-----------------------------------

FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect

1999 Session

ORIGINAL UPDATED

LRB # 320011

Admin. Rule #

CORRECTED SUPPLEMENTAL

INTRODUCTION #

Subject Creation of an Electric Transmission Company

I. One-Time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringe (FTE Position Changes)	(FTE)	(- FTE)
State Operations-Other Costs		
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	6	\$
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR		\$ -
FED		-
PRO/PRS		
SEGISSEG-S		-
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$
GPR Earned		
FED		
PRO/PRS		
SEGISSEG-S		
TOTAL State Revenues	\$	\$

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS	\$ _____	\$ _____
NET CHANGE IN REVENUES	\$ see text of fiscal note	\$ _____

Agency/Prepared by: (Name & Phone No.) Wisconsin Department of Revenue Daniel P. Huegel, (608) 266-5705	Authorized Signature/Telephone No. Yeang-Eng Braun (608) 266-2700 <i>Yeang Eng Braun</i>	Date <i>6/14/99</i>
---	---	------------------------

•

|

Patch II

99-3200df_pt3of4



hoven



kunkemd



MONDAY
9:00 am
Ed: no change!

O-NOTE

1999 BILL

~~scribble~~

- 3200/2

RM NOT
RUN

1 **AN ACT** to repeal 196.485 (3) (bm) and 196.795 (5) (pm) 1. (intro.); to renumber
2 196.025, 196.485 (1) (dm) l., 196.795 (5) (p) l., 2., 3. and 4., 196.795 (5) (pm) 1.
3 a., 196.795 (5) (pm) 1. b. and 196.795 (5) (pm) 1. c.; to renumber and amend
4 196.485 (1) (dm) 3., 196.795 (5) (pm) 2. and 196.795 (5) (pm) 3.; to amend 76.28
5 (1) (d), 76.28 (1) (e) (intro.), 76.28 (2) (c)(intro.), 76.28 (2) (d), 196.31 (1) (intro.),
6 196.485 (1) (dm) (intro.), 196.485 (2) (a) (intro.), 196.485 (4) (a) (intro.), 196.491
7 (3m) (b) 2., 196.494 (3), 196.494 (4), 196.52 (3) (a), 196.795 (1) (g) l., 196.795 (1)
8 (g) 2., 196.795 (5) (i) l., 196.795 (11) (b) and 200.01 (2); to repeal and recreate
9 196.374 and 196.485 (title); and to create 15.107 (17), 16.957, 16.969, 20.505
10 (1) (ge), 20.505 (1) (gs); 20.505 (10), 25.17 (1) (xm), 25.96, 76.28 (1) (e) 5., 76.28
11 (1) (j), 76.28 (2) (e), 196.025 (2), 196.025 (3), 196.025 (4), 196.025 (5), 196.192,
12 196.378, 196.485 (1) (am), 196.485 (1) (be), 196.485 (1) (bs), 196.485 (1) (dm) 2.,
13 196.485 (1) (do), 196.485 (1) (dq), 196.485 (1) (dr), 196.485 (1) (ds), 196.485 (1)
14 (dt), 196.485 (1) (dv), 196.485 (1) (em), 196.485 (1) (fe), 196.485 (1) (ge), 196.485

BILL

1 (1) (gm), 196.485 (1) (j), 196.485 (1m), 196.485 (2) (ar), 196.485 (2) (bx), 196.485
2 (2) (d), 196.485 (3m), 196.485 (4) (am), 196.485 (5), 196.485 (6), 196.485 (6m),
3 196.485 (7), 196.485 (8), 196.487, 196.491 (3) (d) 3r., 196.491 (3) (d) 3t., 196.491
4 (3) (gm), 196.491 (3g), 196.494 (5), 196.795 (1) (h) 3., 196.795 (1) (p), 196.795
5 (6m) (title), 196.795 (6m) (a) (intro.), 196.795 (6m) (a) 1., 196.795 (6m) (a) 2.,
6 196.795 (6m) (a) 4., 196.795 (6m) (b) (title), 196.795 (6m) (e), 196.795 (11) (c),
7 196.807 and 285.48 of the statutes; **relating to:** control and ownership of
8 transmission facilities by a transmission company and a Midwest independent
9 system operator, ownership of nonutility assets by a public utility holding
10 company, investments in transmission facilities, offers of employment to
11 certain public utility and nonaffiliate employees, fees and approvals for certain
12 high-voltage transmission lines, construction of certain electric transmission
13 facilities, environmental reviews by the public service commission, reports on
14 reliability status of electric utilities, state participation in a regional
15 transmission need and siting compact, incentives for development of certain
16 generating facilities, study of market power and retail electric competition,
17 market-based compensation, rates and contracts for electric customers,
18 regulation of certain nitrogen oxide emissions, establishing programs for
19 low-income energy assistance, improving energy conservation and efficiency
20 markets and encouraging the development and use of renewable resources,
21 creating a council on utility public benefits, establishing a utility public benefits
22 fund, requiring electric utilities and retail electric cooperatives to charge public
23 benefits fees to customers and members, imposing requirements on the use of
24 renewable resources by electric utilities and cooperatives, requiring the

BILL

1 exercise of rule-making authority, making appropriations and providing a
2 penalty.

Analysis by the Legislative Reference Bureau

This bill does each of the following: 1) establishes programs administered by the department of administration (DOA) for providing energy assistance to low-income households (low-income programs), for conservation and efficiency services (conservation programs) and for encouraging the development and use of renewable energy resources (renewables . programs); 2) imposes certain requirements on the generation of electricity from renewable energy resources; 3) creates an exemption from the cap on investments of public utility holding companies in nonutility affiliate assets (asset cap); 4) changes requirements regarding the operation of the transmission system of the state; 5) imposes employment requirements with respect to the acquisition of certain energy business units; 6) changes the requirements for the approval of certain high-voltage transmission lines; and 7) imposes various other requirements, including changes to the duties of the public service commission (PSC), prohibitions on the authority of the department of natural resources (DNR) regarding nitrogen oxide emissions and requirements for an interstate compact on regional transmission need and siting.

Low-income, conservation and renewables programs

After consulting with a council on utility public benefits that is created under the bill, DOA is required to establish the low-income, conservation and renewables programs. DOA must hold a hearing before establishing the programs.

The bill requires the division of housing in DOA to contract with certain nonprofit or governmental entities for the administration of the low-income programs. DOA must also contract with a nonprofit corporation for the administration of the conservation and renewables programs.

The programs established by DOA are funded by a public benefits fee that DOA collects from nonmunicipal electric public utilities, which must charge the public benefits fees to their customers. Municipal electric public utilities and retail electric cooperatives (municipal utilities and cooperatives) are also required to charge a public benefits fee to their customers or members. Every three years, a municipal utility or cooperative may elect to contribute all or a specified portion of the public benefits fees to DOA for the programs established by DOA. A municipal utility or cooperative that does not elect to contribute all of the public benefits fees to DOA must spend specified portions of the fees on its own "commitment to community programs", which are defined as low-income assistance and conservation programs.

Each municipal utility and cooperative must charge a public benefits fee that is sufficient for the utility or cooperative to collect an annual average of \$17 per meter. However, for the period ending on June 30, 2008, the amount of any increase to an electric bill that is based on the public benefits fee charged by a municipal utility or cooperative may not exceed 3% of the total of every other charge billed during that period, or \$750 per month, whichever is less.

BILL

For nonmunicipal utilities, the bill directs DOA to determine the amount of the public benefits fee, which consists of a portion sufficient to fund the low-income programs and a portion sufficient to fund the conservation and renewables programs. The bill allows DOA to reduce the amount that must be collected for the conservation and renewables programs if DOA determines to reduce or discontinue such programs. The public benefits fee paid by a customer of a nonmunicipal utility is subject to the same limit that applies to a municipal utility or cooperative for the period ending on June 30, 2008.

The bill also requires certain electric utilities to make expenditures that are based on the percentage of annual operating revenues that the electric utilities are required to spend under current law on energy conservation programs. Under current law, the electric utilities are required to spend at least 0.5% of their annual operating revenues on such programs. This bill requires the PSC to determine the amount that an electric utility was required to spend on such programs in 1998. Under the bill, an electric utility must spend a decreasing portion of the amount determined by the PSC for 1998 on energy conservation programs and contribute an increasing portion of the amount to the PSC for deposit in a utility public benefits fund, which is used to fund the programs established by DOA under the bill.

Renewable energy resources

Under this bill, specified percentages of the electricity generated by a public utility or retail cooperative must be generated from renewable energy resources. The percentage is calculated on the basis of a public utility's or retail cooperative's total retail energy sales. The bill allows public utilities and retail cooperatives to purchase credits from other public utilities and retail cooperatives that generate electricity from renewable energy resources in excess of the percentages required under the bill.

The bill also includes other requirements, including requirements for calculating the percentages and reporting compliance with the percentages to DOA.

Asset cap

With certain exceptions, current law prohibits the investments of a public utility holding company system (system) in nonutility affiliate assets from exceeding a specified asset cap.

This bill creates a new exception from this prohibition if the public utility affiliates in a system satisfy certain requirements, including the following: 1) petitioning the PSC and the federal energy regulatory commission for approval to transfer operational control of their electric transmission facilities that are located in the midwest region of the United States to an independent system operator; and 2) filing a commitment with the PSC to transfer ownership of such transmission facilities and related land rights to a transmission company that satisfies specified requirements. If the public utility affiliates satisfy the requirements for the exception, then certain nonutility affiliate assets are not included in calculating whether the system exceeds the asset cap. The assets that are not included in the calculation include the assets of a nonutility affiliate that are used for the following: 1) producing or selling gas, oil, electricity or steam energy; 2) providing energy management, conservation or efficiency products or services; 3) providing energy customer services; 4) recovering or producing energy from waste materials; 5)

BILL

processing waste materials; 6) manufacturing or selling certain filtration or fluid pumping products; and 7) providing telecommunications services,

Transmission system operation

This bill allows transmission utilities to transfer ownership of their transmission facilities to a transmission company that satisfies certain requirements, including the requirements to apply for approval to begin operations no later than January 1, 2000. The bill requires the transmission utilities that make such a transfer to enter into contracts with the transmission company to provide operation and maintenance with respect to the transmission facilities for a period of at least three years. A transmission utility that is a public utility affiliate in a public utility holding company system must comply with these transfer requirements in order for the system to qualify for the exception from the asset cap that is described above.

The bill also provides that, after the transmission company begins operations, a transmission utility or cooperative that has transferred ownership of its transmission facilities to the transmission company no longer has a duty to provide transmission services. Instead, the transmission company has the exclusive duty to provide transmission service in a specified area of the state. The transmission company's duty terminates when a certain independent system operator begins operations. This independent system operator is a person that has received the conditional approval of the federal energy regulatory commission to provide transmission service in the midwest region of the United States.

Under the bill, after the independent system operator begins operations, it has the exclusive duty to provide transmission service in a specified area of the state and each public utility that provides transmission service in that area must transfer operational control over its transmission facilities to the independent system operator. In addition, as noted above, a public utility affiliate must make such a transfer to qualify for the exception to the asset cap exception described above.

The bill imposes other requirements on the organization, formation and operation of the transmission company. In addition, the bill exempts the property of the transmission company from the property tax.

Employment requirements for acquired energy units

The bill imposes certain employment requirements on a person who acquires an energy unit, which is defined as a business unit of a nonutility affiliate in a public utility holding company system or a public utility or cooperative association in which the business unit engages in certain energy-related activities. A person who acquires an energy unit must offer employment to the energy unit's nonsupervisory employees who are necessary for the operation and maintenance of the energy unit. If a nonutility affiliate acquires an energy unit in the same holding company system, the nonutility affiliate must offer employment to all of the energy unit's nonsupervisory employees. A person or nonutility affiliate that is subject to the bill's requirements must, during the 30-month period after the acquisition, offer employment at wage rates that are no less than the wage rates in effect immediately prior to the acquisition. In addition, during the same 30-month period, the terms

BILL

and conditions of employment, including fringe benefits, must be substantially similar to the terms and conditions in effect immediately prior to the acquisition.

Approval of high-voltage transmission lines

Under current law, with certain exceptions, a person may not construct a high-voltage transmission line, which is defined as a line that is designed for operation at 100 kilovolts or more, unless the PSC issues a certificate of public convenience and necessity (certificate) to the person. The PSC may not issue a certificate unless it makes certain specified findings regarding the high-voltage transmission line.

Under this bill, the PSC may not issue a certificate for a high-voltage transmission line that is proposed to increase transmission capacity into this state unless, in addition to the findings under current law, the PSC also makes specified findings regarding the use of existing rights-of-way and the routing and design of the line. In addition, the PSC may not issue a certificate for a high-voltage transmission line that is designed for operation at 345 kilovolts or more unless the PSC finds that certain benefits are reasonable in relation to the cost of the line.

The bill also imposes fees on persons who are issued certificates for high-voltage transmission lines that are designed for operation at 345 kilovolts or more. Such a person must pay an annual impact fee and a one-time environmental impact fee. The fees are based on the cost of the high-voltage transmission line. The fees must be paid to DOA, which is required to distribute the fees to counties, towns, cities and villages through which the high-voltage transmission line is routed.

Other requirements

The bill imposes the following duties on the PSC:

1. Requires the PSC to promulgate rules for carrying out the PSC's duties under current law regarding the consideration of environmental impact of certain actions.
2. Requires the PSC to promulgate rules requiring certain electric utilities and cooperative associations to submit reports on their electric reliability status.
3. Requires the PSC to study and report to the legislature on the establishment of a program for providing incentives for the development of certain high-efficiency, small-scale electric generating facilities.
4. Requires the PSC to contract for a study and submit a report to the legislature on the potential for horizontal market power of electric generators to frustrate the creation of effectively competitive retail electric markets.
5. Requires the PSC to approve certain market-based rates, individual contract options and market-based compensation for service interruptions for customers of certain electric public utilities.
6. Requires the PSC to order a public utility affiliate or the transmission company described above to make certain investments in its facilities if the PSC determines that the public utility affiliate or transmission company is not making investments that are sufficient to ensure reliable electric service.

The bill allows the governor, on behalf of the state, to enter into an interstate compact on the need for and siting of regional electric transmission facilities. A compact under the bill must include certain requirements, including a mechanism for resolving transmission conflicts between states.

BILL

The bill prohibits DNR from establishing certain reductions in nitrogen oxide emissions from electric generating facilities in specified counties.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the state *and local* 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.** 15.107 (17) of the statutes is created to read:

2 15.107 (17) **COUNCIL ON UTILITY PUBLIC BENEFITS.** There is created a council on
3 utility public benefits that is attached to the department of administration under s.
4 15.03. The council shall consist of the following members appointed for 3-year
5 terms:

6 (a) Two members appointed by the governor.

7 (b) Two members appointed by the senate majority leader.

8 (c) One member appointed by the senate minority leader.

9 (d) Two members appointed by the speaker of the assembly.

10 (e) One member appointed by the assembly minority leader.

11 (f) One member appointed by the secretary of natural resources.

12 (g) One member appointed by the secretary of administration.

13 (h) One member appointed by the chairperson of the public service commission.

14 **SECTION 2.** 16.957 of the statutes is created to read:

15 **16.957 Utility public benefits. (1) DEFINITIONS.** In this section:

16 (bm) "Commission" means the public service commission.

17 (c) "Commitment to community program" means a program by a municipal
18 utility or retail electric cooperative for low-income assistance or an energy
19 conservation program by a municipal utility or retail electric cooperative.

BILL

1 (cm) "Council" means the council on utility public benefits created under s.
2 15.107 (17).

3 (d) "Customer application of renewable resources" means the generation of
4 electricity from renewable resources that takes place on the premises of a customer
5 of an electric provider.

6 (e) "Division of housing" means the division of housing in the department.

7 (f) "Electric provider" means an electric utility or retail electric cooperative.

8 (g) "Electric utility" means a public utility that owns or operates a retail electric
9 distribution system.

10 (h) "Energy conservation program" means a program for reducing the demand
11 for natural gas or electricity or improving the efficiency of its use during any period.

12 (i) "Fiscal year" has the meaning given in s. 655.001 (6).

13 (k) "Local unit of government" means the governing body of any county, city,
14 town, village or county utility district or the elected tribal governing body of a
15 federally recognized American Indian tribe or band.

16 (L) "Low-income assistance" means assistance to low-income households for
17 weatherization and other energy conservation services, payment of energy bills or
18 early identification or prevention of energy crises.

19 (m) "Low-income household" means any individual or group of individuals in
20 this state who are living together as one economic unit and for whom residential
21 electricity is customarily purchased in common or who make undesignated
22 payments for electricity in the form of rent, and whose household income is not more
23 than 150% of the poverty line as determined under 42 USC 9902 (2).

24 (n) "Low-income need" means the amount obtained by subtracting from the
25 total low-income energy bills in a fiscal year the product of 2.2% of the estimated

BILL

1 average annual income of low-income households in this state in that fiscal year
2 multiplied by the estimated number of low-income households in this state in that
3 fiscal year.

4 (o) "Low-income need percentage" means the percentage that results from
5 dividing the sum of the following by the amount of low-income need in fiscal year
6 1998-99:

7 1. The total amount received by the department for low-income funding under
8 42 USC 6861 to 6873 and 42 USC 8621 to 8629 in fiscal year 1997-98.

9 lm. The public benefits fees established for fiscal year 1999-2000 under sub.
10 (4) (c) 1.

11 2. The total amount expended by utilities under s. 196.374.

12 3. Fifty percent of the public benefits fees established for fiscal year 1999-2000
13 that are charged by municipal utilities and retail electric cooperatives.

14 (p) "Low-income need target" means the product of the low-income need
15 percentage multiplied by low-income need in a fiscal year.

16 (q) "Municipal utility" means an electric utility that is owned wholly by a
17 municipality and that owns a retail distribution system.

18 (qm) "Public utility" has the meaning given in s. 196.01 (5).

19 (r) "Renewable resource" has the meaning given in s. 196.378 (1) (g).

20 (s) "Retail capacity" means the total amount of electricity that an electric
21 provider is capable of delivering to its retail customers and that is supplied by electric
22 generating facilities owned or operated by the electric provider or any other person.
23 "Retail capacity" does not include any electricity that is not used to satisfy the electric
24 provider's retail load obligations.

BILL

1 (t) "Retail electric cooperative" means a cooperative association that is
2 organized under ch. 185 for the purpose of providing electricity at retail to its
3 members only and that owns or operates a retail electric distribution system.

4 (u) "Total low-income energy bills" means the total estimated amount that all
5 low-income households are billed for residential electricity, natural gas and heating
6 fuel in a fiscal year.

7 (v) "Wholesale electric cooperative" means a cooperative association that is
8 organized under ch. 185 for the purpose of providing electricity at wholesale to its
9 members only.

10 (w) "Wholesale supply percentage" means the percentage of a municipal
11 utility's or retail electric cooperative's retail capacity in a fiscal year that is supplied
12 by a wholesale supplier.

13 (x) "Wholesale supplier" means a wholesale electric cooperative or a municipal
14 electric company, as defined in s. 66.073 (3) (d), that supplies electricity at wholesale
15 to a municipal utility or retail electric cooperative.

16 (2) **DEPARTMENT DUTIES.** In consultation with the council, the department shall
17 do all of the following:

18 (a) *Low-income programs.* After holding a hearing, establish programs to be
19 administered by the department of administration through the division of housing
20 for awarding grants from the appropriation under s. 20.505 (10) (r) to provide
21 low-income assistance. In each fiscal year, the amount awarded under this
22 paragraph in grants for weatherization and other energy conservation services shall
23 be sufficient to equal 47% of the sum of the following:

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

BILL

1 2. All moneys spent in a fiscal year for low-income programs established under
2 s. 196.374.

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

5 4. Fifty percent of the moneys collected in public benefits fees under sub. (5).

6 (b) *Energy conservation and efficiency and renewable resource programs. 1.*
7 Subject to subd. 2., after holding a hearing, establish programs for awarding grants
8 from the appropriation under s. 20.505 (10) (s) for each of the following:

9 a. Proposals for providing energy conservation or efficiency services. In
10 awarding grants under this subd. 1. a., the department shall give priority to
11 proposals directed at the sectors of energy conservation or efficiency markets that
12 are least competitive and at promoting environmental protection, electric system
13 reliability or rural economic development. In each fiscal year, 1.75% of the
14 appropriation under s. 20.505 (10) (s) shall be awarded in grants for research and
15 development proposals regarding the environmental impacts of the electric industry.

16 b. Proposals for encouraging the development or use of customer applications
17 of renewable resources, including educating customers about renewable resources
18 or encouraging uses of renewable resources by customers or encouraging research
19 technology transfers. In each fiscal year, the department shall ensure that 4.5% of
20 the appropriation under s. 20.505 (10) (s) is awarded in grants under this subd. 1. b.

21 2. For each fiscal year after fiscal year 2003-04, determine whether to continue,
22 discontinue or reduce any of the programs established under subd. 1. and determine
23 the total amount necessary to fund the programs that the department determines
24 to continue or reduce under this subdivision. The department shall notify the
25 commission if the department determines under this subdivision to reduce funding.

BILL

1 (c) *Rules.* Promulgate rules establishing all of the following:

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

7 2. Requirements and procedures for applications for grants awarded under
8 programs established under par. (a) or (b) 1.

9 2m. Criteria for the selection of proposals by the corporation specified in sub.
10 (3) (b).

11 2n. Criteria for making the determination under par. (b) 2. Rules promulgated
12 under this subdivision shall require the department to determine whether the need
13 for a program established under par. (b) 1. is satisfied by the private sector market
14 and, if so, whether the program should be discontinued or reduced.

15 4. Requirements for electric utilities to allow customers to include voluntary
16 contributions to assist in funding a commitment to community program or a program
17 established under par. (a) or (b) 1. with bill payments for electric service. The rules
18 may require an electric utility to provide a space on an electric bill in which a
19 customer may indicate the amount of a voluntary contribution and the customer's
20 preference regarding whether a contribution should be used for a program
21 established under par. (a) or (b) 1. a. orb. The rules shall establish requirements and
22 procedures for electric utilities to pay to the department any voluntary contributions
23 included with bill payments and to report to the department customer preferences
24 regarding use of the contributions. The department shall deposit all contributions
25 received under this paragraph in the utility public benefits fund.

BILL

1 5. A method for estimating total low-income energy bills, average annual
2 income of low-income households and the number of low-income households in a
3 fiscal year for the purpose of determining the amount of low-income need in the fiscal
4 year.

5 (d) **Other duties.** 1. For each fiscal year after fiscal year 1998-99, determine
6 the low-income need target for that fiscal year.

7 2. Encourage customers to make voluntary contributions to assist in funding
8 the programs established under pars. (a) and (b) 1. The department shall deposit all
9 contributions received under this paragraph in the utility public benefits fund.

10 3. Deposit all moneys received under sub. (4) (a) or (5) (c) or (d) in the utility
11 public benefits fund.

12 4. Conduct an annual independent audit and submit an annual report to the
13 legislature under s. 13.172 (2) that describes each of the following:

14 a. The expenses of the department, other state agencies and grant recipients
15 in administering or participating in the programs under pars. (a) and (b).

16 b. The effectiveness of the programs under par. (a) in providing assistance to
17 low-income individuals.

18 c. The effectiveness of the programs under par. (b) in reducing demand for
19 electricity and increasing the use of customer-owned renewable resources.

20 d. Any other issue identified by the governor, speaker of the assembly or
21 majority leader of the senate.

22 (3) **CONTRACTS.** (a) The division of housing shall, on the basis of competitive
23 bids, contract with community action agencies described in s. 46.30 (2) (a) 1.,
24 nonstock, nonprofit corporations organized under ch. 181 or local units of
25 government to provide services under the programs established under sub. (2) (a).

BILL

1 (b) The department shall, on the basis of competitive bids, contract with a
2 nonstock, nonprofit corporation organized under ch. 181 to administer the programs
3 established under sub. (2) (b) 1., including soliciting proposals, processing grant
4 applications, selecting, based on criteria specified in rules promulgated under sub.
5 (2) (c) 2m., proposals for the department to make awards and distributing grants to
6 recipients.

7 (c) In selecting proposals and awarding grants under sub. (2) (b), the
8 department or the nonprofit corporation specified in par. (b) may not discriminate
9 against an electric provider or its affiliate or a wholesale electric supplier or its
10 affiliate solely on the basis of its status as an electric provider, wholesale electric
11 supplier or affiliate.

12 (4) **ELECTRIC UTILITIES.** (a) *Requirement to charge public benefits fees.* Each
13 electric utility, except for a municipal utility, shall charge each customer a public
14 benefits fee in an amount established in rules promulgated by the department under
15 par. (b). An electric utility, except for a municipal utility, shall collect and pay the fees
16 to the department in accordance with the rules promulgated under par. (b).

17 (am) *Electric bills.* An electric utility shall include a public benefits fee in a
18 customer's bill and shall provide the customer with an annual statement that
19 identifies the annual charges for public benefits fees and describes the programs for
20 which fees are used.

21 (b) *Rules.* In consultation with the council, the department shall promulgate
22 rules that establish the amount of a public benefits fee under par. (a). Fees
23 established in rules under this paragraph may vary by class of customer, but shall
24 be uniform within each class, and shall satisfy each of the following:

BILL

1 1. The fees may not be based on the kilowatt-hour consumption of electricity
2 by customers.

3 2. No more than 70% of the total amount of fees charged by an electric provider
4 may be charged to residential customers and no more than 30% of the total may be
5 charged to nonresidential customers.

6 3. The fees shall allow an electric provider to recover the reasonable and
7 prudent expenses incurred by the electric provider in complying with this section.

8 (c) *Amount of public benefits fees.* A fee established in rules promulgated under
9 par. (b) shall satisfy each of the following:

10 1. 'Low-income funding.' In fiscal year 1999-2000, a portion of the public
11 benefits fee shall be an amount that, when added to 50% of the estimated public
12 benefits fees charged by municipal utilities and retail electric cooperatives under
13 sub. (5) (a) for that fiscal year, shall equal \$27,000,000. In each fiscal year after fiscal
14 year 1999-2000, a portion of the public benefits fee shall be an amount that, when
15 added to the sum of the following shall equal the low-income need target for that
16 fiscal year determined by the department under sub. (2) (d) 1.:

17 a. Fifty percent of the estimated public benefits fees charged by municipal
18 utilities and retail electric cooperatives under sub. (5) (a) for that fiscal year.

19 b. All moneys received under 42 USC 6861 to 6873 and 42 USC 8621 to 8629
20 for that fiscal year.

21 c. The total amount spent on programs or contributed to the commission by
22 utilities under s. 196.374 (3) for that fiscal year.

23 2. 'Energy conservation and efficiency and renewable resource funding.' For
24 fiscal year 1999-2000, a portion of the public benefits fee shall be in an amount that,
25 when added to 50% of the estimated public benefits fees charged by municipal

BILL

SECTION 2

1 utilities and retail electric cooperatives under sub. (5) (a) for that fiscal year, shall
2 equal \$20,000,000. In each fiscal year after fiscal year 1999-2000, a portion of the
3 public benefits fee shall be the amount determined under this subdivision for fiscal
4 year 1999-2000, except that if the department determines to reduce or discontinue
5 a program under sub. (2) (b) 2., the department shall reduce the amount accordingly.

6 3. 'Limitation on electric bill increases.' For the period beginning on the
7 effective date of this subdivision [revisor inserts date], and ending on June 30,
8 2008, the total increase in a customer's electric bills that is based on the requirement
9 to pay public benefits fees, including any increase resulting from an electric utility's
10 compliance with this section, may not exceed 3% of the total of every other charge for
11 which the customer is billed for that period or \$750 per month, whichever is less.

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

20 (am) *Public benefits fee restriction.* Notwithstanding par. (a), for the period
21 beginning on the effective date of this paragraph [revisor inserts date], and ending
22 on June 30, 2008, the total increase in a customer's or member's electric bills that is
23 based on the requirement to pay public benefits fees, including any increase
24 resulting from a retail electric cooperative's or municipal utility's compliance with

BILL

1 this section, may not exceed 3% of the total of every other charge for which the
2 member or customer is billed for that period or \$750 per month, whichever is less.

3 (b) *Election to contribute to department programs.* 1. No later than the first
4 day of the 12th month beginning after the effective date of this subdivision
5 [revisor inserts date], e&h municipal utility or retail electric cooperative shall notify
6 the department whether it has elected to contribute to the programs established
7 under sub. (2) (a) or (b) 1. for a 3-year period.

8 2. No later than every 3rd year after the date specified in subd. 1., each
9 municipal utility or retail electric cooperative shall notify the department whether
10 it has elected to contribute to the programs established under sub. (2) (a) or (b) 1. for
11 a 3-year period.

12 (c) *Full contribution.* If a municipal utility or retail electric cooperative elects
13 under par. (b) 1. or 2. to contribute to the programs established both under sub. (2)
14 (a) and under sub. (2) (b) 1., it shall pay 100% of the public benefits fees that it charges
15 under par. (a) to the department in each fiscal year of the 3-year period for which it
16 has made the election.

17 (d) *Partial contributions and commitment to community spending.* A
18 municipal utility or retail electric cooperative not specified in par. (c) shall do one of
19 the following:

20 1. If the municipal utility or retail electric cooperative elects to contribute only
21 to the programs established under sub. (2) (a), the municipal utility or retail electric
22 cooperative shall, in each fiscal year of the 3-year period for which it elects to
23 contribute under par. (b) 1. or 2., do all of the following:

24 a. Pay no less than 50% of the public benefits fees that it charges under par.
25 (a) to the department.

BILL

1 b. Spend no less than 50% of the public benefits fees that it charges under par.
2 (a) on energy conservation programs.

3 2. If the municipal utility or retail electric cooperative elects to contribute only
4 to the programs established under sub. (2) (b) 1., the municipal utility or retail
5 electric cooperative shall, in each fiscal year of the 3-year period for which it elects
6 to contribute under par. (b) 1. or 2., do all of the following:

7 a. Pay 50% of the public benefits fees that it charges under par. (a) to the
8 department.

9 b. Spend no less than 50% of the public benefits fees that it charges under par.
10 (a) on programs for low-income assistance.

11 3. If the municipal utility or retail electric cooperative elects not to contribute
12 to any of the programs established under sub. (2) (a) or (b) 1., the municipal utility
13 or retail electric cooperative shall, in each fiscal year of the 3-year period for which
14 it elects not to contribute under par. (b) 1. or 2., do all of the following:

15 a. Spend no less than 50% of the public benefits fees that it charges under par.
16 (a) on programs for low-income assistance.

17 b. Spend no less than 50% of the public benefits fees that it charges under par.
18 (a) on energy conservation programs.

19 (e) *Wholesale supplier credit.* If a wholesale supplier has established a program
20 for low-income assistance or an energy conservation program, a municipal utility or
21 retail electric cooperative that is a customer of the wholesale supplier may do any of
22 the following:

23 1. Include an amount equal to the product of the municipal utility's or retail
24 electric cooperative's wholesale supply percentage and the amount that the
25 wholesale supplier has spent on low-income assistance in a fiscal year in calculating

BILL

1 the amount that the municipal utility or retail electric cooperative has spent on
2 low-income assistance in that fiscal year under par. (d) 2. b. or 3. a.

3 2. Include an amount equal to the product of the municipal utility's or retail
4 electric cooperative's wholesale supply percentage and the amount that the
5 wholesale supplier has spent on energy conservation programs or customer
6 applications of renewable resources in a fiscal year in calculating the amount that
7 the municipal utility or retail electric cooperative has spent on energy conservation
8 programs under par. (d) 1. b. or 3. b.

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

13 (g) *Reports.* 1. For each fiscal year, each municipal utility and retail electric
14 cooperative that does not pay 100% of the public benefits fee that it charges under
15 par. (a) to the department under par. (c) shall file a report with the department that
16 describes each of the following:

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

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

23 2. The department shall maintain reports filed under subd. 1. for at least 6
24 years.

25 **SECTION 3.** 16.969 of the statutes is created to read:

BILL

1 **16.969 Fees for certain high-voltage transmission lines. (1)** In this
2 section:

3 (a) "Commission" means the public service commission.

4 (b) "High-voltage transmission line" means a high-voltage transmission line,
5 as defined in s. 196.491 (1) (f), that is designed for operation at a nominal voltage of
6 345 kilovolts or more.

7 (2) The department shall promulgate rules that require a person who is issued
8 a certificate of public convenience and necessity by the commission under s. 196.491

9 (3) for a high-voltage transmission line to pay the department the following fees:

10 (a) An annual impact fee in an amount equal to 0.03% of the cost of the
11 high-voltage transmission line, as determined by the commission under s. 196.491
12 (3) (gm).

13 (b) A one-time environmental impact fee in amount equal to 5% of the cost of
14 the high-voltage transmission line, as determined by the commission under s.
15 196.491 (3) (gm).

16 (3) (a) The department shall distribute the fees that are paid by a person under
17 the rules promulgated under sub. (2) (a) to each town, village and city that is
18 identified by the commission under s. 196.491 (3) (gm) in proportion to the amount
19 of investment that is allocated by the commission under s. 196.491 (3) (gm) to each
20 such town, village and city.

21 (b) The fee that is paid by a person under the rules promulgated under sub. (2)
22 (b) shall be distributed as follows:

23 1. The department shall pay 50% of the fee to each county that is identified by
24 the commission under s. 196.491 (3) (gm) in proportion to the amount of investment
25 that is allocated by the commission under s. 196.491 (3) (gm) to each such county.

BILL

1 2. The department shall pay 50% of the fee to each town, village and city that
2 is identified by the commission under s. 196.491 (3) (gm) in proportion to the amount
3 of investment that is allocated by the commission under s. 196.491 (3) (gm) to each
4 such town, village and city.

5 (4) A county, town, village or city that receives a distribution under sub. (3) (b)
6 may use the distribution only for park, conservancy, wetland or other environmental
7 offset programs.

8 **SECTION 4.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
9 the following amounts for the purposes indicated:

	1999-00	2000-01
--	----------------	----------------

10
11 **20.505 Administration, department of**

12 (10) **UTILITY PUBLIC BENEFITS**

13 (q) General program operations	SEG A	-O-	-O-
--	----------	-----	-----

14 **SECTION 5.** 20.505 (1) (ge) of the statutes is created to read:

15 *20.505 (1) (ge) High-voltage transmission line annual impact fee distributions.*

16 All moneys received from the payment of fees under the rules promulgated under s.
17 16.969 (2) (a) for distributions to to towns, villages and cities under s. 16.969 (3) (a).

18 **SECTION 6.** 20.505 (1) (gs) of the statutes is created to read:

19 *20.505 (1) (gs) High-voltage transmission line environmental impact fee*
20 *distributions.* All moneys received from the payment of fees under the rules
21 promulgated under s. 16.969 (2) (b) for distributions to to counties, towns, villages
22 and cities under s. 16.969 (3) (b).

23 **SECTION 7.** 20.505 (10) of the statutes is created to read:

BILL

1 20.505 **(10) UTILITY PUBLIC BENEFITS.** (q) *General program operations.* From
2 the utility public benefits fund, the amounts in the schedule for general program
3 operations.

4 (r) *Low-income assistance grants.* From the utility public benefits fund, a sum
5 sufficient for low-income assistance grants under s. 16.957 (2) (a).

6 (s) *Energy conservation and efficiency and renewable resource grants.* From the
7 utility public benefits fund, a sum sufficient for energy conservation and efficiency
8 and renewable resource grants under s. 16.957 (2) (b) 1.

9 **SECTION 8.** 25.17 (1) (xm) of the statutes is created to read:

10 25.17 **(1)** (xm) Utility public benefits fund (s. 25.96);

11 **SECTION 9.** 25.96 of the statutes is created to read:

12 **25.96 Utility public benefits fund.** There is established a separate
13 nonlapsible trust fund designated as the utility public benefits fund, consisting of
14 deposits by the public service commission under s. 196.374 (3), public benefits fees
15 received under s. 16.957 (4) (a) and (5) (c) and (d) and contributions received under
16 s. 16.957 (2) (c) 4. and (d) 2.

17 **SECTION 10.** 76.28 (1) (d) of the statutes is amended to read:

18 76.28 **(1)** (d) "Gross revenues" for a light, heat and power company other than
19 a qualified wholesale electric company or a transmission company means total
20 operating revenues as reported to the public service commission except revenues for
21 interdepartmental sales and for interdepartmental rents as reported to the public
22 service commission and deductions from the sales and use tax under s. 77.61 (4),
23 except that the company may subtract from revenues either the actual cost of power
24 purchased for resale, as reported to the public service commission, by a light, heat
25 and power company, except a municipal light, heat and power company, that

BILL

1 purchases under federal or state approved wholesale rates more than 50% of its
2 electric power from a person other than an affiliated interest, as defined in s. 196.52
3 (1), if the revenue from that purchased electric power is included in the seller's gross
4 revenues or the following percentages of the actual cost of power purchased for
5 resale, as reported to the public service commission, by a light, heat and power
6 company, except a municipal light, heat and power company that purchases more
7 than 90% of its power and that has less than \$50,000,000 of gross revenues: 10% for
8 the fee assessed on May 1, 1988, 30% for the fee assessed on May 1, 1989, and 50%
9 for the fee assessed on May 1, 1990, and thereafter. For a qualified wholesale electric
10 company, "gross revenues" means total business revenues from those businesses
11 included under par. (e) 1. to 4. For a transmission company, "gross revenues" means
12 total operating revenues as reported to the public service commission, except
13 revenues for transmission service that is provided to a public utility that is subject
14 to the license fee under sub. (2) (d) or to a public utility as defined in s. 196.01 (5).

15 SECTION 11. 76.28 (1) (e) (intro.) of the statutes is amended to read:

16 76.28 (1) (e) (intro.) "Light, heat and power companies" means any person,
17 association, company or corporation, including corporations described ins. 66.069 (2)
18 ~~and including~~, qualified wholesale electric companies and transmission companies
19 and except only business enterprises carried on exclusively either for the private use
20 of the person, association, company or corporation engaged in them, or for the private
21 use of a person, association, company or corporation owning a majority of all
22 outstanding capital stock or who control the operation of business enterprises and
23 except electric cooperatives taxed under s. 76.48 that engage in any of the following
24 businesses:

25 SECTION 12. 76.28 (1) (e) 5. of the statutes is created to read:

BILL

1 76.28 (1) (e) 5. Transmitting electric current for light, heat or power.

2 **SECTION 13.** 76.28 (1) (j) of the statutes is created to read:

3 76.28 (1) (j) "Transmission company" has the meaning given in s. 196.485 (1)
4 (ge).

5 **SECTION 14.** 76.28 (2) (c) (intro.) of the statutes is amended to read:

6 76.28 (2) (c) (intro.) ~~For~~ Except as provided under par. (e), for private light, heat
7 and power companies for 1986 and thereafter, an amount equal to the apportionment
8 factor multiplied by the sum of:

9 **SECTION 15.** 76.28 (2) (d) of the statutes is amended to read:

10 76.28 (2) (d) ~~For~~ Except as provided under par. (e), for municipal light, heat and
11 power companies, an amount equal to the gross revenues, except gross revenues from
12 operations within the municipality that operates the company, multiplied by the
13 rates under par. (b) or (c).

14 **SECTION 16.** 76.28 (2) (e) of the statutes is created to read:

15 76.28 (2) (e) For transmission companies, an amount equal to the gross
16 revenues multiplied by the rates under par. (c).

17 **SECTION 17.** 196.025 of the statutes is renumbered 196.025 (1).

18 **SECTION 18.** 196.025 (2) of the statutes is created to read:

19 196.025 (2) The commission shall promulgate rules establishing requirements
20 and procedures for the commission to carry out the duties under s. 1.11. Rules
21 promulgated under this subsection shall include requirements and procedures for
22 each of the following:

23 (a) Standards for determining the necessity of preparing an environmental
24 impact statement.

BILL

1 (b) Adequate opportunities for interested persons to be heard on environmental
2 impact statements, including adequate time for the preparation and submission of
3 comments.

4 (c) Deadlines that allow thorough review of environmental issues without
5 imposing unnecessary delays in addressing the need for additional electric
6 transmission capacity in this state.

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

8 196.025 (3) The commission shall promulgate rules establishing requirements
9 and procedures for electric utilities, as defined under s. 196.491 (1) (d), to file reports
10 with the commission, on a frequency that the commission determines is reasonably
11 necessary, on their current reliability status, including the status of operating and
12 planning reserves, available transmission capacity and outages of major operational
13 units and transmission lines. A report filed under the rules promulgated under this
14 subsection is subject to inspection and copying under s. 19.35 (1), except that the
15 commission may withhold the report from inspection and copying for a period of time
16 that the commission determines is reasonably necessary to prevent an adverse
17 impact on the supply or price of energy in this state.

18 **SECTION 20.** 196.025 (4) of the statutes is created to read:

19 196.025 (4) (a) In consultation with the department of administration and the
20 department of revenue, the commission shall study the establishment of a program
21 for providing incentives for the development of high-efficiency, small-scale electric
22 generating facilities in this state that do either of the following:

23 1. Provide benefits in the form of support for electric distribution or
24 transmission systems, power quality or environmental performance.

BILL

1 2. Employ technologies such as combined heat and power systems, fuel cells,
2 microturbines or photovoltaic systems that may be situated in, on or next to
3 buildings or other electric load centers.

4 (b) No later than January 1, 2001, the commission shall submit a report of its
5 findings and recommendations under par. (a) to the chief clerk of each house of the
6 legislature for distribution to the appropriate standing committees under s. 13.172
7 (3).

8 **SECTION 21.** 196.025 (5) of the statutes is created to read:

9 196.025 (5) (a) The commission shall contract with an expert consultant in
10 economics to conduct a study on the potential for horizontal market power, including
11 the horizontal market power of electric generators, to frustrate the creation of an
12 effectively competitive retail electricity market in this state and to make
13 recommendations on measures to eliminate such market power on a sustainable
14 basis. The study shall include each of the following:

15 1. An assessment of the effect of each recommendation on public utility workers
16 and shareholders and on rates for each class of public utility customers.

17 2. An evaluation of the impact of transmission constraints on the market power
18 of electric generators in local areas.

19 (b) No later than January 1, 2001, the commission shall submit a report of the
20 results of the study under par. (a) to the chief clerk of each house of the legislature
21 for distribution to the appropriate standing committees under s. 13.172 (3).

22 **SECTION 22.** 196.192 of the statutes is created to read:

23 **196.192 Market-based compensation, rates and contracts. (1)** In this
24 section, "electric public utility" means a public utility whose purpose is the
25 generation, transmission, delivery or furnishing of electric power.

BILL

1 (2) No later than March 1, 2000, each investor-owned electric public utility
2 shall do each of the following:

3 (a) File with the commission rates that result in customers receiving
4 market-based compensation for voluntary interruptions of firm load during peak
5 periods of electric use.

6 (b) File with the commission market-based pricing options and options for
7 individual contracts that allow a retail customer, through service from its existing
8 public utility, to receive market benefits and subject itself to market risks for the
9 customer's purchases of capacity or energy.

10 (3) (a) The commission shall establish market-based rates that are consistent
11 with the options specified in sub. (2) (b), except that the commission may not
12 establish a market-based rate unless the commission determines that the rate is not
13 likely to harm shareholders of the investor-owned electric public utility or customers
14 who are not subject to the rate.

15 (b) Nothing in s. 196.20, 196.21, 196.22, 196.37, 196.60 or 196.604 prohibits the
16 commission from approving a filing under sub. (2) or establishing market-based
17 rates under par. (a).

18 (4) Subject to the approval of the commission, an electric public utility that is
19 not an investor-owned electric public utility may implement market-based rates
20 established under sub. (3) (a) or implement the options in filings under sub. (2) (b)
21 that are approved by the commission.

22 **SECTION 23.** 196.31 (1) (intro.) of the statutes is amended to read:

23 196.31 (1) (intro.) In any proceeding before the commission, the commission
24 may shall compensate any participant in the proceeding who is not a public utility,

1 for some or all of the reasonable costs of participation in the proceeding if the
2 commission finds that:

3 **SECTION 24.** 196.374 of the statutes is repealed and recreated to read:

4 **196.374 Low-income assistance, energy efficiency and other**
5 **programs. (1)** In this section:

6 (a) "Department" means the department of administration.

7 (b) "Fund" means the utility public benefits fund.

8 (c) "Utility" means a class A gas or electric utility, as defined by the commission,
9 but does not include a municipal utility, as defined in s. 16.957 (1) (q), a municipal
10 electric company, as defined in s. 66.073 (3) (d), or a cooperative association organized
11 under ch. 185.

12 (2) The commission shall determine the amount that each utility spent in 1998
13 on programs for low-income assistance, including writing off uncollectibles and
14 arrearages, low-income weatherization, energy conservation and efficiency,
15 environmental research and development, and renewable resources.

16 (3) In 1999, 2000 and 2001, the commission shall require each utility to spend
17 a decreasing portion of the amount determined under sub. (2) on programs specified
18 in sub. (2) and contribute the remaining portion of the amount to the commission for
19 deposit in the fund. In each year after 2001, each utility shall contribute the entire
20 amount determined under sub. (2) to the commission for deposit in the fund. The
21 commission shall ensure in rate-making orders that a utility recovers from its
22 ratepayers the amounts spent on programs or contributed to the fund under this
23 subsection. The commission shall allow each utility the option of continuing to use,
24 until January 1, 2001, the moneys that it has recovered under s. 196.374 (3), 1997
25 stats., to administer the programs that it has funded under s. 196.374 (l), 1997 stats.

BILL

1 (4) If the department notifies the commission under s. 16.957 (2) (b) 2. that the
2 department has reduced funding for energy conservation and efficiency and
3 renewable resource programs, the commission shall reduce the amount that a utility
4 is required to spend on programs or contribute to the fund under sub. (3) by the
5 percentage by which the department. has reduced the funding.

6 **SECTION 25.** 196.378 of the statutes is created to read:

7 **196.378 Renewable resources. (1) DEFINITIONS.** In this section:

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

14 (b) "Conventional resource" means a resource that derives energy from coal, oil,
15 nuclear power or natural gas, except for natural gas used in a fuel cell.

16 (bm) "Department" means the department of administration.

17 (c) "Electric provider" means an electric utility or retail electric cooperative.

18 (d) "Electric utility" means a public utility that sells electricity at retail. For
19 purposes of this paragraph, a public utility is not considered to sell electricity at
20 retail solely on the basis of its ownership or operation of a retail electric distribution
21 system.

22 (e) "Excludable renewable capacity" means the portion of an electric provider's
23 total renewable capacity that is supplied from renewable facilities that were placed
24 in service before January 1, 1998, and that, before January 1, 1998, derived

1 electricity from hydroelectric power, even if the output of the renewable facilities is
2 used to satisfy requirements under federal law.

3 (f) "Nonsystem renewable energy" means the amount of electricity that an
4 electric provider sells to its retail customers and that is supplied or allocated under
5 executed wholesale purchase contracts from renewable facilities that are not owned
6 or operated by the electric provider. "Nonsystem renewable energy" does not include
7 any electricity that is not used to satisfy the electric provider's retail load obligations.

8 (g) "Renewable resource" means any of the following:

9 1. A resource that derives electricity from any of the following:

10 a. A fuel cell that uses, as determined by the commission, a renewable fuel.

11 b. Tidal or wave action.

12 c. Solar thermal electric or photovoltaic energy.

13 d. Wind power.

14 e. Geothermal technology.

15 g. Biomass.

16 1m. A resource with a capacity of less than 60 megawatts that derives
17 electricity from hydroelectric power.

18 2. Any other resource, except a conventional resource, that the commission
19 designates as a renewable resource in rules promulgated under sub. (4).

20 (h) "Renewable facility" means an installed and operational electric generating
21 facility in which energy is derived from a renewable resource. "Renewable facility"
22 includes a facility the installation or operation of which is required under federal law,
23 but does not include a facility the installation or operation of which is required under
24 the laws of another state even if the installation or operation of the facility is also
25 required under federal law.

BILL

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

3 (j) "Resource" means a source of electric power generation.

4 (k) "Retail electric cooperative" means a cooperative association organized
5 under ch. 185 that sells electricity at retail to its members only. For purposes of this
6 paragraph, a cooperative association is not considered to sell electricity at retail
7 solely on the basis of its ownership or operation of a retail electric distribution
8 system.

9 (n) "System renewable energy" means the amount of electricity that an electric
10 provider sells to its retail customers and that is supplied by renewable facilities
11 owned or operated by the electric provider.

12 (o) "Total renewable energy" means the sum of an electric provider's system and
13 nonsystem renewable energy.

14 (2) **RENEWABLE RESOURCE ENERGY.** (a) Each electric provider shall provide to its
15 retail electric customers total renewable energy in at least the following percentages
16 of its total retail energy sales, either directly or through renewable resource credits
17 from another electric provider:

18 1. By December 31, 2000, 0.5%.

19 2. By December 31, 2002, 0.85%.

20 3. By December 31, 2004, 1.2%.

21 4. By December 31, 2006, 1.55%.

22 5. By December 31, 2008, 1.9%.

23 6. By December 31, 2010, 2.2%.

24 (b) For purposes of determining compliance with par. (a):

1 1. Total retail energy sales shall be calculated on the basis of an average of an
2 electric provider's retail energy sales in this state during the prior 3 years.

3 2. The amount of electricity supplied by a renewable facility in which biomass
4 and conventional fuels are fired together shall be equal to the product of the
5 maximum amount of electricity that the facility is capable of generating and the ratio
6 of the British thermal unit content of the biomass fuels to the British thermal unit
7 content of both the biomass and conventional resource fuels.

8 3. Any excludable renewable energy that exceeds 0.6% of an electric provider's
9 total retail energy sales shall be excluded from the electric provider's total renewable
10 energy.

11 (c) No later than April 15 annually, an electric provider shall submit a report
12 to the department that describes the electric provider's compliance with par. (a).
13 Reports under this paragraph may include certifications from wholesale suppliers
14 regarding the sources and amounts of energy supplied to an electric provider. The
15 department may specify the documentation that is required to be included with
16 reports submitted under this paragraph.

17 (d) The commission shall ensure in rate-making orders that an electric utility
18 recovers from ratepayers the cost of providing total renewable energy to its retail
19 customers in amounts that equal or exceed the percentages specified in par. (a).
20 Subject to any approval of the commission that is necessary, an electric utility may
21 recover costs under this paragraph by any of the following methods:

22 1. Allocating the costs equally to all customers on a kilowatt-hour basis.
23 2. Establishing alternative price structures, including price structures under
24 which customers pay a premium for renewable energy.

25 3. Any combination of the methods specified in subds. 1. and 2.

BILL

1 (e) 1. This subsection does not apply to any of the following:

2 a. An electric provider that provides more than 10% of its summer peak demand
3 in this state from renewable facilities.

4 b. An electric provider that provides more than 10% of its summer peak demand
5 from renewable resources.

6 2. For purposes of calculating the percentages under subd. 1., an electric
7 provider may include renewable facilities located in this or another state and
8 renewable facilities located on its or another electric provider's system.

9 3. Notwithstanding subd. 1., this subsection applies to an electric provider
10 unless the electric provider provides documentation to the commission that
11 establishes, to the satisfaction of the commission, that the electric provider satisfies
12 the requirements under subd. 1. a. or b.

13 **(3) RENEWABLE RESOURCE CREDITS.** (a) An electric provider that provides total
14 renewable energy to its retail electric customers in excess of the percentages
15 specified in sub. (2) (a) 1. to 6. may, in the applicable year, sell to any other electric
16 provider a renewable resource credit or a portion of a renewable resource credit at
17 any negotiated price. Alternatively, an electric provider may use a renewable
18 resource credit or portion of a renewable resource credit in a subsequent year to
19 establish compliance with sub. (2) (a). The commission shall promulgate rules that
20 establish requirements for calculating the amount of a renewable resource credit.

21 (b) The commission may promulgate rules that establish requirements and
22 procedures for a sale under par. (a).

23 **(4) RULES.** The commission may promulgate rules that designate a resource,
24 except for a conventional resource, as a renewable resource in addition to the
25 resources specified in sub. (1) (g) 1. and lm.

BILL

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

8 (a) The appropriateness of the forfeiture to the person's or wholesale supplier's
9 volume of business.

10 (b) The gravity of the violation.

11 (c) Whether a violation of sub. (2) is due to circumstances beyond the violator's
12 control.

13 **SECTION 26.** 196.485 (title) of the statutes is repealed and recreated to read:

14 196.485 (title) **Transmission system requirements.**

15 **SECTION 27.** 196.485 (1) (am) of the statutes is created to read:

16 196,485 (1) (am) "Contribute a transmission facility" means to divest a person's
17 interest in the transmission facility and to transfer ownership of the transmission
18 facility and associated deferred tax reserves to another person.

19 **SECTION 28.** 196.485 (1) (be) of the statutes is created to read:

20 196.485 (1) (be) "Director" means, with respect to a transmission company
21 organized as a corporation under ch. 180, a member of the board of directors of the
22 transmission company.

23 **SECTION 29.** 196.485 (1) (bs) of the statutes is created to read:

24 196.485 (1) (bs) "Electric utility" has the meaning given in s. 196.491 (1) (d).

25 **SECTION 30.** 196.485 (1) (dm) (intro.) of the statutes is amended to read:

BILL

'1 196.485 (1) (dm) (intro.) "Independent transmission owner" ~~means:~~

2 lm. Means a person that satisfies each of the following:

3 **SECTION 31.** 196.485 (1) (dm) 1. of the statutes is renumbered 196.485 (1) (dm)

4 lm. a.

5 **SECTION 32.** 196.485 (1) (dm) 2. of the statutes is created to read:

6 196.485 (1) (dm) 2. Does not include the transmission company

7 **SECTION 33.** 196.485 (1) (dm) 3. of the statutes is renumbered 196.485 (1) (dm)

8 lm. b. and amended to read:

9 196.485 (1) (dm) lm. b. The person is not an affiliated interest of a person
10 specified in subd. ~~1.~~ lm. a.

11 **SECTION 34.** 196.485 (1) (do) of the statutes is created to read:

12 196.485 (1) (do) "Land right" means any right in real property, including fee
13 simple ownership or a right-of-way or easement, that has been acquired for a
14 transmission facility that is located or intended to be located on the real property

15 **SECTION 35.** 196.485 (1) (dq) of the statutes is created to read:

16 196.485 (1) (dq) "Manager" means, with respect to a transmission company
17 organized as a limited liability company under ch. 183, a manager, as defined in s.
18 183.0102 (13), of the transmission company.

19 **SECTION 36.** 196.485 (1) (dr) of the statutes is created to read:

20 196.485 (1) (dr) "Merger enforcement policy" means the enforcement policy of
21 the federal department of justice and the federal trade commission regarding
22 horizontal acquisitions and mergers that are subject to 15 USC 1, 18 or 45.

23 **SECTION 37.** 196.485 (1) (ds) of the statutes is created to read:

24 196.485 (1) (ds) "Midwest independent system operator" means the
25 independent system operator the establishment of which the federal energy

BILL

1 regulatory commission has conditionally authorized in an order issued on September
2 16, 1998, or the successor to such independent system operator.

3 **SECTION 38.** 196.485 (1) (dt) of the statutes is created to read:

4 196.485 (1) (dt) "Nontransmission utility security holder" means a security
5 holder that is not a transmission utility security holder.

6 **SECTION 39.** 196.485 (1) (dv) of the statutes is created to read:

7 196.485 (1) (dv) "Organizational start-up date" means, with respect to a
8 transmission company that is organized as a limited liability company under ch. 183,
9 the date on which the articles of organization become effective under s. 183.0111 or,
10 with respect to a transmission company that is organized as a corporation under ch.
11 180, the date on which the articles of incorporation become effective under s.
12 **180.0123.**

13 **SECTION 40.** 196.485 (1) (em) of the statutes is created to read:

14 196.485 (1) (em) "Retail electric cooperative" means a cooperative that provides
15 retail electric service to its members.

16 **SECTION 41.** 196.485 (1) (fe) of the statutes is created to read:

17 196.485 (1) (fe) "Security" means, with respect to a transmission company
18 organized as a corporation under ch. 180, a share, as defined in s. 180.0103 (15), and,
19 with respect to a transmission company organized as a limited liability company
20 under ch. 183, a limited liability company interest, as defined in s. 183.0102 (11).

21 **SECTION 42.** 196.485 (1) (ge) of the statutes is created to read:

22 196.485 (1) (ge) "Transmission company" means a corporation organized under
23 ch. 180 or a limited liability company organized under ch. 183 that has as its sole
24 purpose the planning, constructing, operating, maintaining and expanding of
25 transmission facilities that it owns to provide for an adequate and reliable

BILL

1 transmission system that meets the needs of all users that are dependent on the
2 transmission system and that supports effective competition in energy markets
3 without favoring any market participant.

4 **SECTION 43.** 196.485 (1) (gm) of the statutes is created to read:

5 196.485 (1) (gm) "Transmission dependent utility" means a public utility that
6 is dependent on the transmission system of another person for delivering electricity
7 to the public utility's customers.

8 **SECTION 44.** 196.485 (1) (j) of the statutes is created to read:

9 196.485 (1) (j) "Transmission utility shareholder" means a person that is a
10 shareholder of a transmission company organized as a corporation under ch. 180, is
11 an investor-owned transmission utility in the transmission area and has
12 contributed its transmission facilities to the transmission company.

13 **SECTION 45.** 196.485 (lm) of the statutes is created to read:

14 196.485 **(lm)** DUTY TO PROVIDE TRANSMISSION SERVICE. (a) The duty of any
15 electric utility that has contributed its transmission facilities to the transmission
16 company to finance, construct, maintain or operate a transmission facility shall
17 terminate on the date, as determined by the commission under sub. (2) (d), that the
18 transmission company begins operations.

19 (b) After beginning operations, the transmission company shall have the
20 exclusive duty to provide transmission service in the transmission area. The duty
21 under this paragraph shall terminate on the date, as determined by the commission
22 under sub. (2) (d), that the Midwest independent system operator begins operations.

23 (c) After beginning operations, the Midwest independent system operator shall
24 have the exclusive duty to provide transmission service in the transmission area and
25 shall ensure that each transmission facility in the transmission area that is under

BILL

1 its operational control is planned, constructed, operated, maintained and controlled
2 as part of a single transmission system.

3 **SECTION 46.** 196.485 (2) (a) (intro.) of the statutes is amended to read:

4 196.485 (2) (a) (intro.) By June 30, 2000, if a transmission utility has not
5 transferred control over its transmission facilities to an independent system
6 operator that is approved by the applicable federal agency or divested, with approval
7 of the applicable federal agency and, for a public utility, the commission, its interest
8 in its transmission facilities to an independent transmission owner, the commission
9 shall, subject to ~~par.~~ par. (am) and (ar), order the transmission utility to apply to the
10 applicable federal agency to do one of the following:

11 **SECTION 47,** 196.485 (2) (ar) of the statutes is created to read:

12 196.485 (2) (ar) The commission shall waive the requirement to issue an order
13 against a transmission utility under par. (a) if the transmission utility shows, to the
14 satisfaction of the commission, that the transmission utility has proposed to transfer
15 control of its transmission facilities to the Midwest independent system operator and
16 that the proposed transfer may have the effect of jeopardizing the tax-exempt status
17 of the transmission utility or its securities under the Internal Revenue Code. A
18 waiver under this paragraph shall be in effect until the commission determines that
19 the proposed transfer does not have the effect described in this paragraph.

20 **SECTION 48.** 196.485 (2) (bx) of the statutes is created to read:

21 196.485 (2) (bx) If the commission determines that the Midwest independent
22 system operator has failed to commence operations or has ceased operations, the
23 commission shall, by order, designate an independent system operator to fulfill the
24 duties of the Midwest independent system operator under this section. The
25 commission may not designate an independent system operator under this

BILL

1 paragraph unless the independent system operator is authorized under federal law
2 to operate in this state. In issuing an order under this paragraph, the commission
3 shall require that any transfer of transmission utilities to the designated
4 independent system operator satisfy the requirements of this section.

5 **SECTION 49.** 196.485 (2) (d) of the statutes is created to read:

6 196.485 (2) (d) The commission shall determine each of the following:

7 1. The date on which the transmission company begins operations.

8 2. Whether the Midwest independent system operator has begun operations
9 and the date on which such operations have begun.

10 **SECTION 50.** 196.485 (3) (bm) of the statutes is repealed.

11 **SECTION 51.** 196.485 (3m) of the statutes is created to read:

12 196.485 (3m) **TRANSMISSION COMPANY.** (a) **Duties.** 1. The transmission company
13 shall do each of the following:

14 a. Apply for any approval under state or federal law that is necessary for the
15 transmission company to begin operations no later than November 1, 2000.

16 b. Subject to any approval required under state or federal law, contract with
17 each transmission utility that has transferred transmission facilities to the
18 transmission company for the transmission utility to provide reasonable and
19 cost-effective operation and maintenance services to the transmission company
20 during the 3-year period after the transmission company first begins operations.
21 The transmission company and a transmission utility may agree to an extension of
22 such 3-year period. The transmission company shall provide notice to the
23 commission of any extension that is agreed to under this subd. 1. b.

24 c. Assume the obligations of a transmission utility that has transferred
25 ownership of its transmission facilities to the transmission company under any

BILL

SECTION 51

1 agreement by the transmission utility to provide transmission service over its
2 transmission facilities or under any credit received by the transmission utility for the
3 use of its transmission facilities, except that the transmission company may modify
4 such an agreement or credit to the extent allowed under the agreement or credit and
5 to the extent allowed under state or federal law.

6 d. Apply for membership in the Midwest independent system operator as a
7 single zone for pricing purposes that includes the transmission area and, upon a
8 determination by the commission under sub. (2) (d) that the Midwest independent
9 system operator has begun operations, transfer operational control of the
10 transmission company's transmission facilities to the Midwest independent system
11 operator.

12 e. Remain a member of the Midwest independent system operator, or any
13 independent system operator that has been approved under federal law to succeed
14 the Midwest independent system operator, for at least the 6-year transition period
15 that is specified in the agreement conditionally approved by the federal energy
16 regulatory commission that establishes the Midwest independent system operator.

17 f. Except as provided in subd. 4., elect to be included in a single zone for the
18 purpose of any tariff administered by the Midwest independent system operator.

19 2. The transmission company may not do any of the following:

20 a. Sell or transfer its assets to, or merge its assets with, another person, unless
21 the assets are sold, transferred or merged on an integrated basis and in a manner
22 that ensures that the transmission facilities in the transmission area are planned,
23 constructed, operated, maintained and controlled as a single transmission system.

24 b. Bypass the distribution facilities of an electric utility or provide electric
25 service directly to a retail customer.

BILL

1 c. Own electric generation facilities or sell, market or broker electric capacity
2 or energy in a relevant wholesale or retail market as determined by the commission,
3 except that, if authorized or required by the federal energy regulatory commission,
4 the transmission company may procure or resell ancillary services obtained from 3rd
5 parties, engage in redispatch activities that are necessary to relieve transmission
6 constraints or take other actions related to operating a control area.

7 3. Notwithstanding subd. 1. a., the transmission company may not begin
8 operations until it provides an opinion to the commission from a nationally
9 recognized investment banking firm that the transmission company is able to
10 finance, at a reasonable cost, its start-up costs, working capital and operating
11 expenses and the cost of any new facilities that are planned.

12 4. If the transmission charges or rates of any transmission utility in the
13 transmission area are 10% or more below the average transmission charges or rates
14 of the transmission utilities in the transmission area on the date, as determined by
15 the commission, that the last public utility affiliate files a commitment with the
16 commission under sub. (5) (a) 2., the transmission company shall, after consulting
17 with each public utility affiliate that has filed a commitment under sub. (5) (a) 2.,
18 prepare a plan for phasing in a combined single zone rate for the purpose of pricing
19 network use by users of the transmission system operated by the Midwest
20 independent system operator and shall seek plan approval by the federal energy
21 regulatory commission and the Midwest independent system operator. A plan under
22 this subdivision shall phase in an average-cost price for the combined single zone in
23 equal increments over a 5-year period, except that, under the plan, transmission
24 service shall be provided to all users of the transmission system on a single-zone
25 basis during the phase-in period.

1 (b) *Powers.* The transmission company may do any of the following:

2 1. Subject to the approval of the commission under s. 196.491 (3), construct and
3 own transmission facilities, including high-voltage transmission lines, as defined in
4 s. 196.491 (1) (f), in the transmission area or in any other area of the state in which
5 transmission facilities that have been contributed to the transmission company are
6 located. This subdivision does not affect the right or duty of an electric utility that
7 is not located in the transmission area or that has not contributed its transmission
8 facilities to the transmission company to construct or own transmission facilities.

9 2. Subject to any approval required under federal law, purchase or acquire
10 transmission facilities in addition to the transmission facilities contributed under
11 sub. (5) (b).

12 (c) *Organization.* The articles of organization, as defined in s. 183.0102 (1), of
13 a transmission company that is organized as a limited liability company under ch.
14 183 or the bylaws of a transmission company that is organized as a corporation under
15 ch. 180 shall provide for each of the following:

16 1. That the transmission company has no less than 5 and no more than 14
17 managers or directors, except that the articles of incorporation or bylaws may allow
18 the requirements of this subdivision to be modified upon a unanimous vote of the
19 managers or directors during the 10-year period after the organizational start-up
20 date or upon a two-thirds vote of the board of directors after such 10-year period.

21 2. That at least 4 managers or directors of the transmission company have
22 staggered 4-year terms, are elected by a majority vote of the security holders and are
23 not employees or independent contractors of a person engaged in the production, sale,
24 marketing, transmission or distribution of electricity or natural gas or of an affiliate
25 of such a person.

BILL

1 3. That, during the 10-year period after the organizational start-up date, each
2 of the following is satisfied, subject to the limitation on the number of managers or
3 directors under subd. 1.:

4 a. Each nontransmission utility security holder that owns 10% or more of the
5 outstanding voting securities of the transmission company may appoint one
6 manager or director of the transmission company for a one-year term, except that
7 the requirements of this subd. 3. a. may be modified upon a unanimous vote of the
8 managers or directors.

9 b. Each group of nontransmission utility security holders that, as a group, owns
10 10% or more of the outstanding voting securities of the transmission company may
11 appoint one manager or director of the transmission company for a one-year term
12 if the group has entered into a written agreement regarding the appointment and the
13 group files the agreement with the secretary of the transmission company, except
14 that the requirements of this subd. 3. b. may be modified upon a unanimous vote of
15 the managers or directors.

16 c. Each person that receives at least 5% of the voting securities of the
17 transmission company under sub. (6) (a) or (b) may appoint one manager or director
18 of the transmission company for a one-year term if the person continues to hold at
19 least a 5% equity interest in the transmission company during the one-year term.

20 d. Each transmission utility security holder may appoint one manager or
21 director of the transmission company for a one-year term.

22 4. That, during the 5-year period after the organizational start-up date, no
23 public utility affiliate that contributes transmission facility assets to the
24 transmission company under sub. (5) (b) and no affiliate of such a public utility
25 affiliate may increase its percentage share of the outstanding securities of the

BILL

1 transmission company prior to any initial issuance of securities by the transmission
2 company to any 3rd party other than a 3rd party exercising its right to purchase
3 securities under sub. (6) (b), except that this subdivision does not apply to securities
4 that are issued by the transmission company in exchange for transmission facilities
5 that are contributed in addition to the transmission facilities that are contributed
6 under sub. (5) (b) and except that the requirements of this subdivision may be
7 modified upon a unanimous vote of the managers or directors.

8 5. That, beginning 3 years after the organizational start-up date, any holder
9 of 10% or more of the securities of the transmission company may require the
10 transmission company to comply with any state or federal law that is necessary for
11 the security holder to sell or transfer its shares.

12 (d) *Commission jurisdiction.* The transmission company is subject to the
13 jurisdiction of the commission except to the extent that it is subject to the exclusive
14 jurisdiction of the federal energy regulatory commission.

15 **SECTION 52.** 196.485 (4) (a) (intro.) of the statutes is amended to read:

16 196.485 (4) (a) (intro.) A Except as provided in par. (am). a transmission utility
17 may not transfer control over, or divest its interest in, its transmission facilities to
18 an independent system operator or independent transmission owner unless, to the
19 satisfaction of the commission, each of the following requirements is satisfied:

20 **SECTION 53.** 196.485 (4) (am) of the statutes is created to read:

21 196.485 (4) (am) When the Midwest independent system operator has begun
22 operations, each transmission utility in the transmission area that is a public utility
23 shall transfer operational control over its transmission facilities to the Midwest
24 independent system operator and each such transmission utility that has not
25 contributed its transmission facilities to the transmission company shall elect to

BILL

1 become part of a single zone for pricing purposes within the Midwest independent
2 system operator.

3 **SECTION 54.** 196.485 (5) of the statutes is created to read:

4 196.485 (5) **PUBLIC UTILITY AFFILIATES.** (a) *Asset cap exception.* Section 196.795
5 (6m) (e) does not apply to the eligible assets of a nonutility affiliate in a holding
6 company system unless each public utility affiliate in the holding company system
7 does each of the following:

8 1. Petitions the commission and the federal energy regulatory commission to
9 approve the transfer of operational control of all the public utility affiliate's
10 transmission facilities in this state and in Iowa, Michigan, Minnesota and Illinois to
11 the Midwest independent system operator.

12 2. Files with the commission an unconditional, irrevocable and binding
13 commitment to contribute, no later than June 30, 2000, all of the transmission
14 facilities that the public utility, affiliate owns or operates in this state on the effective
15 date of this subdivision [revisor inserts date], and land rights, to the transmission
16 company. A filing under this subdivision shall specify the date on which the public
17 utility affiliate will complete the contribution of transmission facilities.

18 3. Files with the commission an unconditional, irrevocable and binding
19 commitment to contribute, and to cause each entity into which it merges or
20 consolidates or to which it transfers substantially all of its assets to contribute, any
21 transmission facility in this state the ownership or control of which it acquires after
22 the effective date of this subdivision [revisor inserts date], and land rights, to the
23 transmission company.

24 4. Notifies the commission in writing that the public utility affiliate has become
25 a member of the Midwest independent system operator and has committed not to

BILL

1 withdraw its membership prior to the date on which the public utility affiliate
2 contributes transmission facilities to the transmission company under par. (b).

3 (b) *Contribution of transmission facilities.* 1. A public utility affiliate may not
4 contribute a transmission facility to the transmission company until the commission
5 has reviewed the terms and conditions of the transfer to determine whether the
6 transfer satisfies the requirements of this subsection and has issued an order
7 approving or modifying the terms and conditions of the transfer. An order under this
8 subdivision that modifies the terms and conditions of a transfer may allow a public
9 utility affiliate to recover in retail rates any adverse tax consequences of the transfer
10 as a transition cost.

11 2. The transmission company and a public utility affiliate that files a
12 commitment to contribute transmission facilities under par. (a) 2. shall structure the
13 transfer of the transmission facilities in a manner that satisfies each of the following:

14 a. The structure of the transfer avoids or minimizes the material adverse tax
15 consequences to the public utility affiliate that result from the transfer.

16 b. To the extent practicable, the structure of the transfer satisfies the
17 requirements of the Internal Revenue Service for a tax-free transfer.

18 3. The requirements under subd. 2. b. shall, if practicable, be satisfied by the
19 transmission company's issuance of a preferred class of securities that provides the
20 fixed-cost portion of the resulting capital structure of the transmission company.
21 The transmission company shall issue preferred securities under this subdivision on
22 a basis that does not dilute the voting rights of the initial security holders relative
23 to the value of their initial contributions.

24 4. If the transfer of transmission assets under this paragraph results in a
25 capital structure of the transmission company in which the percentage of common

BILL

1 equity is materially higher than that of the public utility affiliates who made the
2 transfer, or if the cost of the fixed-cost portion of the capital structure of the
3 transmission company is materially higher than that of the public utility affiliates
4 who made the transfer, the public utility affiliates shall enter into a contract with the
5 transmission company under which the public utility affiliates agree to accept from
6 the transmission company a return on common equity based upon the equity rate of
7 return approved by the federal energy regulatory commission and upon an imputed
8 capital structure that assigns to a portion of the public utility affiliates' common
9 equity holdings an imputed debt return that is consistent with the requirements of
10 this subdivision. A contract under this subdivision shall specify that the public
11 utility affiliates shall be required to accept the return on common equity described
12 in this subdivision only until such time that the federal energy regulatory
13 commission determines that the actual capital structure and capital costs of the
14 transmission company are appropriate and consistent with industry practice for a
15 regulated public utility that provides electric transmission service in interstate
16 commerce.

17 5. If, at the time that a public utility affiliate files a commitment under par. (a)
18 2., the public utility affiliate has applied for or obtained a certificate of public
19 convenience and necessity under s. 196.491 (3) for the construction of transmission
20 facilities, the public utility affiliate shall do each of the following:

21 a. Proceed with diligence with respect to obtaining the certificate and, except
22 as provided in subd. 6., constructing the transmission facilities.

23 b. If the commission determines that the cost of the transmission facilities is
24 reasonable and prudent, transfer the transmission facilities to the transmission
25 company at net bookvalue when construction is completed in exchange for additional

BILL

1 securities of the transmission company on a basis that is consistent with the
2 securities that were initially issued to the public utility affiliate.

3 6. If the construction of a transmission facility specified in subd. 5. a. is not
4 completed within 3 years after a certificate of public convenience and necessity is
5 issued for the transmission facility under s. 196.491 (3), the transmission company
6 may assume responsibility for completing construction of the transmission facility.
7 If the transmission company assumes responsibility for completing construction
8 under this subdivision, the transmission company shall carry out any obligation
9 under any contract entered into by the public utility with respect to the construction
10 until the contract is modified or rescinded by the transmission company to the extent
11 allowed under the contract.

12 7. Any transmission facilities that are contributed to the transmission
13 company shall be valued at net book value at the time of the transfer.

14 (bm) *Lease of transmission facilities.* If a public utility affiliate is not able to
15 transfer ownership of its transmission facilities to the transmission company due to
16 merger-related accounting requirements, the public utility affiliate shall transfer
17 the transmission facilities to the transmission company under a lease for the period
18 of time during which the accounting requirements are in effect and, after such
19 requirements are no longer in effect, contribute the transmission facilities to the
20 transmission company under par. (b). A public utility affiliate that transfers
21 transmission facilities under a lease under this paragraph does not qualify for the
22 asset cap exception under par. (a) unless, during the term of the lease, the public
23 utility affiliate does not receive any voting interest in the transmission company.

BILL

1 (c) *Contribution of land rights.* 1. A public utility affiliate that commits to
2 contributing land rights to the transmission company under par. (a) 2. shall do each
3 of the following:

4 a. Except as provided in subd. 2., if the land right is assigned to a transmission
5 account for rate-making purposes and is not jointly used for electric and gas
6 distribution facilities by the public utility affiliate, the public utility affiliate shall
7 convey or assign at book value all of its interest in the land right to the transmission
8 company, except that any conveyance or assignment under this subd. 1. a. shall be
9 subject to the rights of any joint user of the land right and to the right of the public
10 utility affiliate to nondiscriminatory access to the real estate that is subject to the
11 land right.

12 b. If the land right is jointly used, or is intended to be jointly used, for electric
13 and gas distribution facilities by the public utility affiliate, the public utility affiliate
14 shall enter into a contract with the transmission company that grants the
15 transmission company a right to place, maintain, modify or replace the transmission
16 company's transmission facilities on the real property that is subject to the land right
17 during the life of the transmission facilities and the life of any replacements of the
18 transmission facilities. A right granted in a contract under this subd. 1. b. shall be
19 paramount to the right of any other user of the land right, except that a right granted
20 in such a contract shall be on par with the right of the public utility affiliate to use
21 the land right for electric or gas distribution facilities.

22 2. If a public utility affiliate is prohibited from making a conveyance or
23 assignment described in subd. 1. a., the public utility affiliate shall enter into a
24 contract with the transmission company that grants the transmission company
25 substantially the same rights as under such a conveyance or assignment. For

BILL

1 purposes of a contract under this subdivision, a land right shall be valued at book
2 value, not at market value.

3 3. The commission shall resolve any dispute over the contribution of a land
4 right under subd. 1. or 2., including a dispute over the valuation of such a land right,
5 unless a federal agency exercises jurisdiction over the dispute. During the pendency
6 of any dispute that is before the commission or a federal agency, the transmission
7 company shall be entitled to use the land right that is the subject to the dispute and
8 shall be required to pay any compensation that is in dispute into an escrow account.

9 **SECTION 55.** 196.485 (6) of the statutes is created to read:

10 196.485 (6) **ELECTRIC UTILITIES, TRANSMISSION DEPENDENT UTILITIES AND RETAIL**
11 **ELECTRIC COOPERATIVES.** No later than the first day of the 12th month beginning after
12 the first public utility affiliate files a commitment under sub. (5) (a) 2.:

13 (a) An electric utility may transfer all of its integrated transmission facilities
14 to the transmission company on the same terms and conditions as a contribution of
15 transmission facilities by a public utility affiliate under sub. (5) (b).

16 (b) A transmission-dependent utility or retail electric cooperative may
17 purchase equity interests in the transmission company at a price that is equivalent
18 to net bookvalue and on terms and conditions that are comparable to those for public
19 utility affiliates that have contributed transmission facilities to the transmission
20 company. A purchaser under this paragraph may contribute funds to the
21 transmission company that are no more than the value of its prorated shares based
22 on firm electric usage in this state in 1999.

23 **SECTION 56.** 196.485 (6m) of the statutes is created to read:

24 196.485 (6m) **DIVIDENDS, PROFITS AND GAINS.** The commission may not treat any
25 dividend received by a transmission utility from the transmission company or any

BILL

1 gain or profit of a transmission utility from the sale or other disposition of securities
2 issued by the transmission company as a credit against the retail revenue
3 requirements of the transmission utility.

4 **SECTION 57.** 196.485 (7) of the statutes is created to read:

5 196.485 (7) **ENFORCEMENT.** A wholesale or retail customer of a public utility
6 affiliate may petition the circuit court for Dane County for specific performance of
7 a commitment filed under sub. (5) (a) 2. or 3.

8 **SECTION 58.** 196.485 (8) of the statutes is created to read:

9 196.485 **(8) PENALTIES.** A public utility affiliate that fails to complete the
10 contribution of transmission facilities to the transmission company by the
11 completion date specified in the filing under sub. (5) (a) 2. shall forfeit \$25,000 for
12 each day that completion of the contribution is delayed if the transmission company
13 is legally able to accept the contribution.

14 **SECTION 59.** 196.487 of the statutes is created to read:

15 **196.487 Reliability of electric service. (1) DEFINITIONS.** In this section:

16 (a) "Public utility affiliate" has the meaning given in s. 196.795 (1) (L).

17 (b) "Transmission company" has the meaning given in s. 196.485 (1) (ge).

18 (2) **COMMISSION ORDER.** If the commission determines that a public utility
19 affiliate or the transmission company is not making investments in the facilities
20 under its control that are sufficient to ensure reliable electric service, the commission
21 shall order the public utility affiliate or transmission company to make adequate
22 investments in its facilities that are sufficient to ensure reliable electric service. An
23 order under this subsection shall require the public utility affiliate or transmission
24 company to provide security in an amount and form that, to the satisfaction of the

BILL

1 commission, is sufficient to ensure that the public utility affiliate or transmission
2 company expeditiously makes any investment that is ordered.

3 **(3) COST RECOVERY.** The commission shall allow a public utility affiliate that is
4 subject to an order under sub. (2) to recover in its retail electric rates the costs that
5 are prudently incurred in complying with the order.

6 **SECTION 60.** 196.491 (3) (d) 3r. of the statutes is created to read:

7 196.491 (3) (d) 3r. For a high-voltage transmission line that is proposed to
8 increase the transmission import capability into this state, existing rights-of-way
9 are used to the extent practicable and the routing and design of the high-voltage
10 transmission line minimizes environmental impacts in a manner that is consistent
11 with achieving reasonable electric rates.

12 **SECTION 61.** 196.491 (3) (d) 3t. of the statutes is created to read:

13 196.491 (3) (d) 3t. For a high-voltage transmission line that is designed for
14 operation at a nominal voltage of 345 kilovolts or more, the high-voltage
15 transmission line provides usage, service or increased regional reliability benefits to
16 the wholesale and retail customers in this state and the benefits of the high-voltage
17 transmission line are reasonable in relation to the cost of the high-voltage
18 transmission line.

19 **SECTION 62.** 196.491 (3) (gm) of the statutes is created to read:

20 196.491 (3) (gm) The commission may not approve an application under this
21 section for a certificate of public convenience and necessity for a high-voltage
22 transmission line that is designed for operation at a nominal voltage of 345 kilovolts
23 or more unless the approval includes the condition that the applicant shall pay the
24 fees specified in sub. (3g) (a). In a proceeding on such an application under this
25 section, the commission shall determine the cost of the high-voltage transmission

BILL

1 line, identify the counties, towns, villages and cities through which the high-voltage
2 transmission line is routed and allocate the amount of investment associated with
3 the high-voltage transmission line to each such county, town, village and city.

4 **SECTION 63.** 196.491 (3g) of the statutes is created to read:

5 **196.491 (3g) FEESFORCERTAINHIGH-VOLTAGETRANSMISSIONLINES.** (a) A person
6 who receives a certificate of public convenience and necessity for a high-voltage
7 transmission line that is designed for operation at a nominal voltage of 345 kilovolts
8 or more under sub. (3) shall pay the department of administration an annual impact
9 fee as specified in the rules promulgated by the department of administration under
10 s. 16.969 (2) (a) and shall pay the department of administration a one-time
11 environmental impact fee as specified in the rules promulgated by the department
12 of administration under s. 16.969 (2) (b).

13 (b) A person that pays a fee under par. (a) may not use the payment to offset
14 any other mitigation measure that is required in an order by the commission under
15 sub. (3) regarding the certificate of public convenience and necessity specified in par.
16 (a).

17 **SECTION 64.** 196.491 (3m) (b) 2. of the statutes is amended to read:

18 196.491 (3m) (b) 2. The analytical process specified in subd. 1. b. shall, to the
19 extent practicable, be consistent with the analytical process described in the merger
20 enforcement policy ~~of the federal department of justice and the federal trade~~
21 ~~commission regarding horizontal acquisitions and mergers that are subject to 15~~
22 ~~USC 1, 18 or 45, as defined in s. 196.485 (1) (dr).~~

23 **SECTION 65.** 196.494 (3) of the statutes is amended to read:

24 196.494 (3) ~~No later than Dec 31, 2004, the~~ The commission ~~may~~ shall,
25 under this subsection, issue an order requiring ~~an electric~~ a public utility to construct

BILL

1 or procure, on a competitive basis, the construction of transmission facilities
2 specified by the commission in its order if the commission determines that, ~~based on~~
3 ~~the results of the study under sub. (2),~~ such construction is necessary to relieve a
4 constraint on a transmission system and the construction will materially benefit the
5 customers of the ~~electric~~ public utility or ~~other~~ electric utilities or of an independent
6 system operator, as defined in s. 196.485 (1) (d), or independent transmission owner,
7 as defined in s. 196.485 (1) (dm).

8 **SECTION 66.** 196.494 (4) of the statutes is amended to read:

9 196.494 (4) The commission shall allow ~~an electric~~ a public utility to recover
10 in its retail electric rates any costs that are prudently incurred by the public utility
11 in complying with an order under sub. (3).

12 **SECTION 67.** 196.494 (5) of the statutes is created to read:

13 196.494 (5) The governor may, on behalf of this state, enter into an interstate
14 compact that establishes a joint process for the states in the upper midwest region
15 of the United States to determine the need for and siting of regional electric
16 transmission facilities that may affect electric service in this state. The governor
17 may not enter into a compact under this subsection unless the compact includes
18 requirements and procedures for establishing each of the following:

19 (a) Compliance with each state's environmental and siting standards for
20 transmission facilities.

21 (b) A regional need determination for transmission facilities.

22 (c) A mechanism for resolving conflicts between the states regarding the siting
23 of transmission facilities,

24 **SECTION 68.** 196.52 (3) (a) of the statutes is amended to read:

BILL

1 196.52 (3) (a) In this subsection, “contract or arrangement” means a contract
2 or arrangement providing for the furnishing of management, supervisory,
3 construction, engineering, accounting, legal, financial or similar services and any
4 contract or arrangement for the purchase, sale, lease or exchange of any property,
5 right, or thing, or for the furnishing of any service, property, right, or thing, other
6 than management, supervisory, construction, engineering, accounting, legal,
7 financial or similar services, but “contract or arrangement” does not include a
8 contract or arrangement under which a transmission utility, as defined in s. 196.485
9 (1) (i). sells or transfers securities, as defined in s. 196.485 (1) (fe), that have been
10 issued by a transmission company, as defined in s. 196.485 (1) (ge). Except as
11 provided under par. (b), unless and until the commission gives its written approval,
12 any contract or arrangement is not valid or effective if the contract or arrangement
13 is made between a public utility and an affiliated interest after June 7, 1931. Every
14 public utility shall file with the commission a verified copy of any contract or
15 arrangement, a verified summary of any unwritten contract or arrangement, and
16 any contract or arrangement, written or unwritten, which was in effect on June 7,
17 1931. The commission shall approve a contract or arrangement made or entered into
18 after June 7, 1931, only if it shall clearly appear and be established upon
19 investigation that it is reasonable and consistent with the public interest. The
20 commission may not approve any contract or arrangement unless satisfactory proof
21 is submitted to the commission of the cost to the affiliated interest of rendering the
22 services or of furnishing the property or service to each public utility or of the cost
23 to the public utility of rendering the services or of furnishing the property or service
24 to each affiliated interest. No proof is satisfactory under this paragraph unless it
25 includes the original (or verified copies) of the relevant cost records and other

BILL

1 relevant accounts of the affiliated interest, or an abstract of the records and accounts
2 or a summary taken from the records and accounts if the commission deems the
3 abstract or summary adequate. The accounts shall be properly identified and duly
4 authenticated. The commission, where reasonable, may approve or disapprove a
5 contract or arrangement without submission of the cost records or accounts.

6 **SECTION 69.** 196.795 (1) (g) 1. of the statutes is amended to read:

7 196.795 (1) (g) 1. As a beneficial owner, to take, hold or acquire 5% or more of
8 the outstanding voting securities of a public utility, other than a transmission
9 comnanv, with the unconditional power to vote those securities.

10 **SECTION 70.** 196.795 (1) (g) 2. of the statutes is amended to read:

11 196.795 (1) (g) 2. To exchange or convert 50% or more of the outstanding voting
12 securities of a public utility, other than a municipality or other political subdivision
13 or a transmission comnanv, for or into the voting securities of a company organized,
14 created, appointed or formed by or at the direction of the public utility or of a
15 subsidiary of such company.

16 **SECTION 71.** 196.795 (1) (h) 3. of the statutes is created to read:

17 196.795 (1) (h) 3. "Holding company" does not include a transmission company.

18 **SECTION 72.** 196.795 (1) (p) of the statutes is created to read:

19 196.795 (1) (p) "Transmission company" has the meaning given in s. 196.485
20 (1) (ge).

21 **SECTION 73.** 196.795 (5) (i) 1. of the statutes is amended to read:

22 196.795 (5) (i) 1. Shall consider the public utility affiliate as a wholly
23 independent corporation and shall imnute a canital structure to the public utility
24 affiliate and establish a cost of canital for the public utility affiliate on a stand-alone
25 basis*,

BILL

1 **SECTION 74.** 196.795 (5) (p) 1., 2., 3. and 4. of the statutes are renumbered
2 196.795 (6m) (b) 1., 2., 3. and 4.

3 **SECTION 75.** 196.795 (5) (pm) 1. (intro.) of the statutes is repealed.

4 **SECTION 76.** 196.795 (5) (pm) 1. a. of the statutes is renumbered 196.795 (6m)
5 (a) 3.

6 **SECTION 77.** 196.795 (5) (pm) 1. b. of the statutes is renumbered 196.795 (6m)
7 (a) 5.

8 **SECTION 78.** 196.795 (5) (pm) 1. c. of the statutes is renumbered 196.795 (6m)
9 (a) 6.

10 **SECTION 79.** 196.795 (5) (pm) 2. of the statutes is renumbered 196.795 (6m) (c)
11 and amended to read:

12 196.795 (6m) (c) Wholesale merchant plants. The assets of a wholesale
13 merchant plant shall not be included in the sum of the assets of a public utility
14 affiliate under par. ~~(p)~~ (b) 1. a., b. or c. and shall not be included in a nonutility
15 affiliate's total assets under par. ~~(p)~~ (b) 2. a. if the requirements specified in s. 196.491
16 (3m) (a) 1. and 2. are satisfied or if the wholesale merchant plant qualifies for the
17 exemption under s. 196.491 (3m) (e).

18 **SECTION 80.** 196.795 (5) (pm) 3. of the statutes is renumbered 196.795 (6m) (d)
19 and amended to read:

20 196.795 (6m) (d) Foreign affiliates. The assets of a foreign affiliate shall be
21 included in the sum of the assets of a public utility affiliate under par. ~~(p)~~ (b) 1. a.,
22 b. or c. and shall not be included in a nonutility affiliate's total assets under par. ~~(p)~~
23 (b) 2. a.

24 **SECTION 81.** 196.795 (6m) (title) of the statutes is created to read:

25 196.795 (6m) (title) **ASSET CAP.**

BILL

1 **SECTION 82.** 196.795 (6m) (a) (intro.) of the statutes is created to read:

2 196.795 (6m) (a) *Definitions.* (intro.) In this subsection:

3 **SECTION 83.** 196.795 (6m) (a) 1. of the statutes is created to read:

4 196.795 (6m) (a) 1. “Contributor public utility affiliate” means a public utility
5 affiliate that has contributed its transmission facilities to the transmission company
6 under s. 196.485 (5) (b).

7 **SECTION 84.** 196.795 (6m) (a) 2. of the statutes is created to read:

8 196.795 (6m) (a) 2. “Eligible asset” means an asset of a nonutility affiliate that
9 is used for any of the following:

10 a. Producing, generating, transmitting, delivering, selling or furnishing gas,
11 oil, electricity or steam energy.

12 b. Providing an energy management, conservation or efficiency product or
13 service or a demand-side management product or service.

14 c. Providing an energy customer service, including metering or billing.

15 d. Recovering or producing energy from waste materials.

16 e. Processing waste materials.

17 f. Manufacturing, distributing or selling products for filtration, pumping water
18 or other fluids, processing or heating water, handling fluids or other related
19 activities,

20 g. Providing a telecommunications service, as defined in s. 196.01 (9m).

21 **SECTION 85.** 196.795 (6m) (a) 4. of the statutes is created to read:

22 196.795 (6m) (a) 4. “Generation assets” means assets that are classified as
23 electric generation assets on the books of account of a public utility, as determined
24 by the commission.

25 **SECTION 86.** 196.795 (6m) (b) (title) of the statutes is created to read:

BILL

1 196.795 (6m) (b) In *general*.

2 **SECTION 87.** 196.795 (6m) (e) of the statutes is created to read:

3 196.795 (6m) **(e) Contributorpublic utility affiliates.** 1. The eligible assets of
4 a nonutility affiliate in a holding company system that includes a contributor public
5 utility affiliate shall not be included in the sum of the assets of the public utility
6 affiliates under par. (b) 1. a., b. or c. and shall not be included in the nonutility
7 affiliate's total assets under par. (b) 2. a.

8 2. For purposes of subd. 1., all of the assets of a nonutility affiliate shall be
9 considered eligible assets if each of the following is satisfied:

10 a. The bylaws of the nonutility affiliate or a resolution adopted by its board of
11 directors specifies that the business of the nonutility affiliate is limited to activities
12 involving eligible assets.

13 b. Substantially all of the assets of the nonutility affiliate are eligible assets.

14 3. The net book value of transmission facility assets that a contributor public
15 utility affiliate has contributed to a transmission company under s. 196.485 (5) (b)
16 shall be included in the sum of the assets of the public utility affiliate under par. (b)
17 1. a., b. and c. In determining net book value under this subdivision, accumulated
18 depreciation shall be calculated as if the contributor public utility affiliate had not
19 contributed the assets.

20 4. The net book value of generation assets that a contributor public utility
21 affiliate has transferred to a person that is not affiliated with the public utility
22 affiliate pursuant to the order of the commission, a court or a federal regulatory
23 agency shall be included in the sum of the assets of the public utility affiliate under
24 par. (b) 1. a., b. and c. In determining net book value under this subdivision,

BILL**SECTION 87**

1 accumulated depreciation shall be calculated as if the contributor public utility
2 affiliate had not transferred the assets.

3 **SECTION 88.** 196.795 (11) (b) of the statutes is amended to read:

4 196.795 **(11)** (b) This section shall be deemed to legalize and confirm the
5 formation, prior to November 28, 1985, of any holding company, which is not itself
6 a public utility, and shall be deemed to legalize and confirm the operations and
7 issuances of securities of the holding company, except that nothing in this section
8 shall be deemed to prevent the commission from imposing reasonable terms,
9 limitations or conditions on any holding company which are consistent with the
10 requirements of sub. ~~(5) (pm)~~ (6m) (c) or (d) or which are consistent with and
11 necessary to satisfy the requirements of sub. (5) (b) to (o) and (q) to (s) or which relate
12 to future investments by the holding company unless the holding company owns,
13 operates, manages or controls a telecommunications utility and does not also own,
14 operate, manage or control a public utility which is not a telecommunications utility.

15 **SECTION 89.** 196.795 (11) (c) of the statutes is created to read:

16 196.795 **(11)** (c) The commission may not impose upon a holding company the
17 formation of which is considered to be legalized and confirmed under par. (b) any
18 term, limitation or condition under par. (b) that establishes the sum of the holding
19 company's nonutility affiliate assets at less than 25% of the sum of the holding
20 company's utility affiliate assets. For purposes of this paragraph, any term,
21 limitation or condition on nonutility affiliate assets shall not apply to the ownership,
22 operation, management or control of any eligible asset, as defined under sub. (6m)
23 (a) 2., or an asset that is used for manufacturing, distributing or selling swimming
24 pools or spas.

25 **SECTION 90.** 196.807 of the statutes is created to read:

B I L L

1 **196.807 Energy affiliate and utility employes. (1) DEFINITIONS.** In this
2 section:

3 (a) "Affiliate or utility" means a nonutility affiliate, a holding company system
4 or an electric utility, as defined in s. 196.491 (1) (d).

5 (b) "Energy unit" means a unit that is engaged in activities related to the
6 production, generation, transmission or distribution of electricity, gas or steam or the
7 recovery of energy from waste materials.

8 (c) "Holding company system" has the meaning given in s. 196.795 (1) (i).

9 (d) "Nonutility affiliate" has the meaning given in s. 196.795 (1) (j).

10 (e) "Public utility affiliate" has the meaning given in s. 196.795 (1) (L).

11 (f) "Sell an energy unit" means to sell, offer by lease, or otherwise transfer
12 ownership or control of the energy unit.

13 (g) "Unit" means a division, department or other operational business unit of
14 an affiliate or utility.

15 **(2) OFFER OF EMPLOYMENT.** (a) Except as provided in par. (b), a person may not
16 sell an energy unit unless the terms of the transfer require the person to which the
17 energy unit is transferred to offer employment to the nonsupervisory employes who
18 are employed with the energy unit immediately prior to the transfer and who are
19 necessary for the operation and maintenance of the energy unit.

20 (b) A public utility affiliate may not sell an energy unit to a nonutility affiliate
21 in the same holding company system unless the terms of the transfer require the
22 nonutility affiliate to offer employment to all of the nonsupervisory employes who are
23 employed with the energy unit immediately prior to the transfer.

BILL

1 (3) **EMPLOYMENT TERMS AND CONDITIONS.** (a) Except as provided in par.(b), the
2 employment that is offered under sub. (2) shall satisfy each of the following during
3 the 30-month period beginning immediately after the transfer:

4 1. Wage rates shall be no less than the wage rates in effect immediately prior
5 to the transfer.

6 2. Fringe benefits shall be substantially equivalent to the fringe benefits in
7 effect immediately prior to the transfer.

8 3. Terms and conditions of employment, other than wage rates and fringe
9 benefits, shall be substantially equivalent to the terms and conditions in effect
10 immediately prior to the transfer.

11 (b) A collective bargaining agreement may modify or waive a requirement
12 specified in par. (a).

13 (4) **COMMISSION APPROVAL.** Except for a cooperative association, as defined in
14 s. 196.491 (1) (bm), no person may sell an energy unit unless the commission
15 determines that the person has satisfied subs. (2) and (3).

16 **SECTION 91.** 200.01 (2) of the statutes is amended to read:

17 200.01 (2) "Public service corporation" means and embraces every corporation,
18 except municipalities and other political subdivisions, which is a public utility as
19 defined in s. 196.01, and every corporation which is a railroad as defined in s. 195.02,
20 but shall not include a public utility corporation receiving an annual gross revenue
21 of less than \$1,000 for the calendar year next preceding the issuance of any securities
22 by it. "Public service corporation" includes a holding company, as defined under s.
23 196.795 (1) (h), which is a public utility, as defined under s. 196.01 (5). "Public service
24 corporation" does not include a telecommunications utility, as defined in s. 196.01
25 (10). "Public service corporation" does not include any other holding company unless

BILL

1 the holding company was formed after November 28, 1985, and unless the
2 commission has determined, under s. 196.795 (7) (a), that each nonutility affiliate,
3 as defined under s. 196.795 (1) (j), does not and cannot reasonably be expected to do
4 at least one of the items specified in s. 196.795 (7) (a). "Public service corporation"
5 does not include a company, as defined in s. 196.795 (1) (f), which owns, operates,
6 manages or controls a telecommunications utility, as defined in s. 196.01 (10), unless
7 such company also owns, operates, manages or controls a public utility which is not
8 a telecommunications utility. "Public service corporation" does not include a
9 transmission company, as defined in s. 196.485 (1) (ge).

10 **SECTION 92.** 285.48 of the statutes is created to read:

11 **285.48 Nitrogen oxide emissions from certain electric generation**
12 **facilities. (1)** In establishing nitrogen oxide emission reductions for the control of
13 atmospheric ozone in another state pursuant to a call for a state implementation plan
14 issued prior to the effective date of this subsection [revisor inserts date], the
15 department may not, in an implementation plan under s. 285.11 (6), by rule or
16 through the adoption of control strategies, regulate nitrogen oxide emissions from
17 electric generation facilities that are located in Ashland, Barron, Bayfield, Buffalo,
18 Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Iron, Jackson, La Crosse,
19 Monroe, Pepin, Pierce, Polk, Price, Rusk, Sawyer, St. Croix, Taylor, Trempealeau,
20 Vernon or Washburn county.

21 (2) The department may not, based solely on the prohibition under sub. (1),
22 require more stringent nitrogen oxide emission reductions for any electric utility, as
23 defined in s. 196.491 (1) (d), or large industrial core source in this state that is
24 identified by the federal environmental protection agency.

25 **SECTION 93. Nonstatutory provisions.**

1 (1) INITIAL APPOINTMENTS TO COUNCIL ON UTILITY PUBLIC BENEFITS.

2 Notwithstanding section 15.107 (17) (intro.) of the statutes, as created by this act,
3 the initial members of the council on utility public benefits shall be appointed for the
4 following terms:

5 (a) One of the members under section 15.107 (17) (a), (b) and (d) of the statutes,
6 as created by this act, for terms expiring on July 1, 2001.

7 (b) One of the members under section 15.107 (17) (a) of the statutes, as created
8 by this act, and the members under section 15.107 (17) (c), (e) and (f) of the statutes,
9 as created by this act, for terms expiring on July 1, 2002.

10 (c) One of the members under section 15.107 (17) (b) and (d) of the statutes, as
11 created by this act, and the members under section 15.107 (17) (g) and (h) of the
12 statutes, as created by this act, for terms expiring on July 1, 2003.

13 (2) PUBLIC SERVICE COMMISSIONRULES.

14 (a) Using the procedure under section 227.24 of the statutes, the public service
15 commission shall promulgate the rules required under section 196.378 (3) (a) of the
16 statutes, as created by this act, for the period before the effective date of the
17 permanent rules promulgated under that section, but not to exceed the period
18 authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding
19 section 227.24 (1) and (3) of the statutes, the commission is not required to make a
20 finding of emergency.

21 (b) The public service commission shall submit in proposed form the rules
22 required under section 196.378 (3) (a) of the statutes, as created by this act, to the
23 legislative council staff under section 227.15 (1) of the statutes no later than the first
24 day of the 6th month beginning after the effective date of this paragraph.

25 (3) DEPARTMENTOFADMINISTRATIONRULES.

BILL

1 (a) Using the procedure under section 227.24 of the statutes, the department
2 of administration shall promulgate the rules required under section 16.957 (2) (c)
3 and (4) (b) of the statutes, as created by this act, for the period before the effective
4 date of the permanent rules promulgated under that section, but not to exceed the
5 period authorized under section 227.24 (1) (c) and (2) of the statutes.
6 Notwithstanding section 227.24 (1) and (3) of the statutes, the department is not
7 required to make a finding of emergency.

8 (b) The department of administration shall submit in proposed form the rules
9 required under section 16.957 (2) (c) and (4) (b) of the statutes, as created by this act,
10 to the legislative council staff under section 227.15 (1) of the statutes no later than
11 the first day of the 6th month beginning after the effective date of this paragraph.

SECTION 94. Appropriation changes.

12
13 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
14 to the public service commission under section 20.155 (1) (j) of the statutes, as
15 affected by the acts of 1999, the dollar amount is increased by \$250,000 for fiscal year
16 1999-00 and the dollar amount is increased by \$250,000 for fiscal year 2000-01 for
17 the purpose for which the appropriation is made.

SECTION 95. Initial applicability.

18
19 (1) The treatment of sections 16.969, 20.505 (1) (ge) and (gs) and 196.491 (3)
20 (gm) and (3g) of the statutes first applies to certificates of public convenience and
21 necessity that are approved by the public service commission on the effective date of
22 this subsection.

23 (2) The treatment of section 196.491 (3) (d) 3r. and 3t. of the statutes first
24 applies to applications for certificates of public convenience and necessity that are
25 filed with the public service commission on the effective date of this subsection.

BILL

1 (3) The treatment of sections 76.28 (1) (d), (e) (intro.) and 5. and (j) and (2) (c)
2 (intro.), (d) and (e) and 196.485 (1) (ge) of the statutes first applies to taxable years
3 beginning on January 1 of the year in which this subsection takes effect, except that
4 if this subsection takes effect after July 31 the treatment of sections 76.28 (1) (d), (e)
5 (intro.) and 5. and (j) and (2) (c) (intro.), (d) and (e) of the statutes first applies to
6 taxable years beginning on January 1 of the year following the year in which this
7 subsection takes effect.

8

(END)

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

LRB-3200/2dn

MDK:/:...
MDK

Representative Hoven:

This version is identical to LRB-3150/2.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: Mark.Kunkel@legis.state.wi.us

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

LRB-3200/2dn
MDK:kmg:km

June 12, 1999

Representative Hoven:

This version is identical to LRB-3150/2.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: Mark.Kunkel@legis.state.wi.us

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 5/24/99

To: Representative Hoven

Relating to LRB drafting number: LRB-2600

Topic

Create corporate tax credit for investments in child care

Subject(s)

Tax Credits - miscellaneous

1. **JACKET** the draft for introduction _____



in the **Senate** _____ or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is **required** because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Joseph T. Kreye, Legislative Attorney
Telephone: (608) 266-2263

NOTE: PLEASE RETURN THIS BILL DRAFT AND THIS TRANSMITTAL SHEET WITH YOUR FISCAL ESTIMATE FORMS

IF THERE IS A FISCAL EFFECT TO THE BILL. PLEASE SUBMIT THE FISCAL ESTIMATE WORKSHEET.

To: **Gordon Grant**
Public Service Commission

PROM: **Deborah Uecker**
Division of ~~Executive~~ Budget and Finance
101 East ~~Wilson~~ street
~~Administration Building, 10th Floor~~
Madison, WI 53707

SUBJECT: **Fiscal Estimate- LRB Number 3200/2**
1999 Bill Number

Handwritten notes:
old version
copy to Rep. Hoven 06-15-99
un-introduced

Please provide the necessary information on fiscal estimate forms and return two (2) copies to Deborah Uecker, no later than: 15-Jun-99

If you cannot comply with the above deadline for any reason, please call Deborah at 267-0371.

Provide local government costs.

_____ is responsible for local government costs.

Department of Administration
Department of Natural Resources
Public Service Commission
Department of Revenue

DATE MIA SENT TO AGENCY:

15-Jun-99

DATE OOA RECEIVED FROM AGENCY:

TO BE COMPLETED BY AGENCY:

Name and phone number of person who prepared the fiscal estimate.

Handwritten signature: Gordon Grant

(Name)
Handwritten number: 7-9086

(Phone Number)

PLEASE SEND ORIGINAL COPIES OF THE FORMS THAT CAN BE REPRODUCED.

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

FISCAL ESTIMATE
DOA-2048 N(R10/96)

Subject

Changes in Regulation of the Electric Industry

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- increase Existing Appropriation Increase Existing Revenues
- Decrease Existing Appropriation Decrease Existing Revenues
- Create New Appropriation

Decrease Costs

Local: No local government costs

- 1. Increase Costs
 - Permissive Mandatory
- 2. Decrease Costs
 - Permissive Mandatory

- 3. Increase Revenues
 - Permissive Mandatory
- 4. Decrease Revenues
 - Permissive Mandatory

5. Types of Local Governmental Units Affected:

- Towns Villages Cities
- Counties Others _____
- School Districts WTCS Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

20.155(l)(g)

Assumptions Used in Arriving at Fiscal Estimate

This bill requires the Public Service Commission (PSC) to participate in and direct a number of changes in the electric utility industry. The PSC will initiate several proceedings to write the rules and determine the appropriate processes that are required in the provisions of this bill. The PSC conducts some 400-500 proceedings per year. The staffing resources necessary to conduct these new proceedings would be determined after an implementation plan is developed. However, it is not anticipated that any additional resources would be required.

One provision of this bill requires the PSC to hire an expert consultant in economics to study the potential for horizontal market power and other market related issues. The one-time cost to hire a consultant cannot be determined until after a request for proposal bid process is conducted. Upon conclusion of the bid process, the PSC would request the appropriate program revenue expenditure authority at a s. 13.10 quarterly meeting.

Another provision of the bill increases the PSC appropriation for intervenor compensation by \$250,000 per year from the current base of \$250,000 to a new base of \$500,000. These funds would provide sufficient resources for public interest groups to participate in the proceedings of the PSC, if they meet the requirements of the statutes and rules governing intervenor compensation.

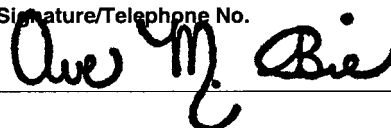
Local Government Costs: It is anticipated that no local government costs would be incurred as a result of this bill.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

PSC/Gordon Grant 267-9086

Authorized Signature/Telephone No.



Date

6/15/99

FISCAL ESTIMATE WORKSHEET

1999 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/96)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
LRB 3200/2

Amendment No.

Subject

Changes in Regulation of the Electric Industry

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:		Annualized Fiscal impact on State funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$	\$ -
(FTE Position Changes)		(FTE)	(- FTE)
State Operations - Other Costs			-
Local Assistance			-
Aids to Individuals or Organizations		250,000	-
TOTAL State Costs by Category		\$ 250,000	\$ -
B. State Costs by Source of Funds			
GPR		\$	\$ -
FED			-
PRO/PRS		250,000	-
SEG/SEG-S			-
State Revenues	Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS		250,000	-
SEG/SEG-S			-
TOTAL State Revenues		\$ 250,000	\$ -

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS \$ 250,000 _____

NET CHANGE IN REVENUES \$ 250,000 _____ \$ _____

Agency/Prepared by: (Name & Phone No.)

PSC/Gordon Grant 267-9086

Authorized Signature/Telephone No.

Andrew M. Bie

Date

6/15/99

ORIGINAL

UPDATED

LRB # 3200/2

INTRODUCTION #

CORRECTED

SUPPLEMENTAL

Admin. Rule #

Subject control of transmission facilities by a transmission company; creating a utility public benefits fund; requiring electric utilities and retail co-ops to charge public benefit fees; etc.

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

Increase Existing Appropriation

Increase Existing Revenues

Decrease Existing Appropriation

Decrease Existing Revenues

Create New Appropriation

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive • I Mandatory

3. Increase Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:

Towns Villages Cities

2. Decrease Costs
 Permissive CI Mandatory

4. Decrease Revenues
 Permissive Mandatory

Counties Others _____

School Districts WTCS Districts

Fund Sources Affected

GPR FED PRO PRS ISEG SEG-S

Affected Ch. 20 Appropriations

20.505(1)(ge); (1)(gs); (10)(q); (10)(r); (10)(s)

Assumptions Used in Arriving at Fiscal Estimate:

Based on DOA's limited experience in administering the \$17 million public benefits pilot, increased staffing will be required. Estimates below are minimal.

This bill will create a "utility public benefit fund," which is a segregated fund created in DOA. Also, a newly created 11 member Council on Utility Public Benefits will be attached to DOA. The bill directs DOA to operate low income and renewable energy programs from the new fund. Revenues from the bill could be as high as \$137 million.

DOA currently administers \$40 million in federal LIHEAP and Weatherization funds. This bill identifies \$27 million in new revenue for low income programs, and potentially another \$26 million through formulas to these existing programs, for a total of \$53 million in new funding. DOA is also currently administering a \$17 million public benefits pilot project with 2.00 FTE. The pilot focuses on demand-side management and renewable issues. This bill would add \$20 million in new revenue, and potentially \$64 million through a formula in the bill, for a total of \$84 million in new funding for energy conservation and renewables. This represents a 425% increase in the level of funding.

In total, DOA estimates \$137 million in new SEG revenue from the bill. The bill identifies \$27 million for low income funding, and \$20 million for energy conservation and efficiency and renewable resource funding. The other \$90 million will be formula driven based on further PSC analysis of utilities expenditure experience.

In order to administer \$137 million in new funding, DOA will incur contracted costs, plus limited internal staffing. The estimate is provided on the following page.

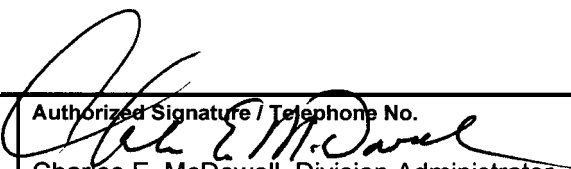
Long-Range Fiscal Implications:

Revenues will increase over time

Prepared By: I Phone # I Agency Name

Ryan Gill (266-6497) Division of Administrative Services, Department of Administration

Authorized Signature / Telephone No.


Charles E. McDowell, Division Administrator
267-3836

Date

June 15, 1999

Fiscal Estimate for LRB 3200/2 (continued)

Impact on the department is:

2.00 senior contract managers (Energy)	\$118,500 salary/fringe
1 .00 senior accountant	60,200 salary/fringe
1 .00 community specialist (Housing)	<u>52,300 salary/fringe</u>
4.00 SEG FTE	\$231,000 SEG
Contracted cost*	<u>\$600,000</u> SEG
Total annual general op. costs:	<u>\$831,000</u> SEG

For FY00, the estimated costs are for 2.00 FTE (\$118,500) and \$100,000 in contract authority, a total of \$218,500 SEG. For FY01, the full annual cost is estimated.

DOA estimates that contractual services will be required to conduct an independent audit, encourage voluntary contributions, study incentives for distributed generation, and evaluate annual reports on utility electrical generation using renewable resources. The above estimate is based on 8,000 total contract hours averaging **\$75/hour**.

Technical Note to the drafter regarding **LRB-3200/2**

1. Under page 13, line 22: The department is required to contract with "a" non-stock, nonprofit corporation for:
 - all energy conservation or efficiency services; and
 - development or use of customer applications of renewable resources

This provision is very narrowly drawn and perhaps intentionally so. It would not seem unreasonable, however, to provide for the possibility that more than a single non-stock, non-profit corporation might effectively compete to provide such services. It would also seem reasonable to entertain the possibility that a for-profit entity might also provide for effective provision of such services. The question is whether there is intended to be only one nonprofit entity to provide all contracted services statewide.

2. On page 14, lines 23-25: are the percentages correctly constructed? If the first number is reduced to **69%**, the second number does not increase (remains at **30%**), thus the total (100%) does not compute.
3. Based on the fiscal estimate provided by the department, the following changes are needed (or equivalent changes by the drafter):
 - The appropriation schedule on page 2 1, line 14, should be increased to show \$218,500 in 1999-00 and \$831,000 in 2000-01.
 - In Section 95, a paragraph should be added that authorizes **FTE** under **s.20.505(10)(q)** at 2.00 SEG FTE in 1999-00 and 4.00 FTE in 2000-01.

Prepared by: Paul **McMahon** (266-1359)
Department of Administration
June 14, 1999

FISCAL ESTIMATE FORM

1999 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB # LRB 320012

INTRODUCTION #

Admin. Rule #

Subject

Creation of an Electric Transmission Company

Fiscal Effect

State: No State Fiscal Effect
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

- Increase Costs - May be Possible to Absorb Within Agency's Budget Yes No

 Decrease Costs

Local: No Local Government Costs

1. Increase Costs
 Permissive Mandatory
 2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate:

Electric utilities are subject to a tax of 3.19% on their gross revenues allocated to Wisconsin and are exempt from local property taxes. The bill anticipates creation of a new type of electric utility, called a transmission company, which would operate and/or own the electric transmission system. A transmission company would be subject to the gross revenues tax, however nearly all of its revenues would be exempt from the tax. Only revenues for transmission services to electric cooperatives and out-of-state utilities might be taxable under the bill.

Generation, transmission and distribution of electricity are all typically provided by the same public utility, which charges a single price for the bundled services. Since transmission services are not purchased, information does not exist on charges for transmission so there is no factual basis for estimating prospective gross revenues of a transmission company, nor the exemptions from gross revenues for transmission services provided to public utilities.

So long as the gross revenues of utility companies are not affected by the bill, state tax collections will not be affected.

The fiscal estimate assumes that, under the bill, electric customers would continue to purchase a bundled service, including transmission services, from traditional public utilities. However, if customers in the future purchase each of the bundled services separately, taxable gross revenues of a transmission company under the bill would be higher, but revenues of utility companies would be lower.

The fiscal effects of the other provisions of the bill are dealt with in the fiscal estimates of other agencies.

Long-Range Fiscal Implications:

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Wisconsin Department of Revenue Daniel P. Huegel, (606) 266-5705	Yeang-Eng Braun <i>Yeang Eng Braun</i> (606) 266-2700	6/15/99

FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect

1999 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB # LRB 320012

Admin. Rule #

INTRODUCTION #

Subject

Creation of an Electric Transmission Company

I. One-Time Costs or Revenue impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringe (FTE Position Changes)	,	\$ -
State Operations-Other Costs	(FTE)	(- FTE)
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category		\$ -
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR		\$ -
FED		
PRO/PRS		
SEGISEG-S		-
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned		
FED		
PRO/PRS		
SEGISEG-S		
TOTAL State Revenues	\$	\$

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ _____	\$ _____
NET CHANGE IN REVENUES	\$ see text of fiscal note	\$ _____

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Wisconsin Department of Revenue Sandra K. Ramsden, (608) 266-8838	Yeang-Eng Braun (608) 266-2700 <i>Yeang Eng Braun</i>	6/15/99

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

FISCAL ESTIMATE
DOA-2048 N(R10/94)

Subject

Nitrogen oxide emission reduction restrictions

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- increase Existing Appropriation Increase Existing Revenues
- Decrease Existing Appropriation Decrease Existing Revenues
- Create New Appropriation

- Increase Costs - May be possible to Absorb Within Agency's Budget Yes No
- Decrease Costs

Local: No local government costs

- 1. Increase Costs
 CI Permissive Mandatory
- 2. Decrease Costs
 CI Permissive Mandatory

- 3. Increase Revenues
 Permissive Mandatory
- 4. c 1 Decrease Revenues
 Permissive Mandatory

5. Types of Local Government Units Affected:
- Towns Villages Cities
 - Counties WTCS Districts
 - School Districts Others _____

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

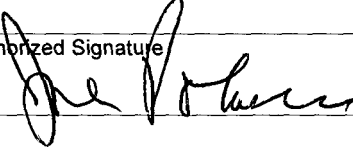
SUMMARY OF BILL This bill includes a section which prohibits the Department of Natural Resources from restricting nitrogen oxide emissions in 25 northwestern Wisconsin counties to meet nitrogen oxide emission reduction requirements for controlling ozone in another state. The section further prohibits the Department from requiring more stringent nitrogen oxide reductions on electric utilities in the remainder of the state or on sources defined by USEPA as large industrial core sources anywhere in the state.

FISCAL IMPACT- It is assumed that if this bill is adopted, the Department may need to regulate nitrogen oxide emissions from smaller industrial and institutional boilers and/or reduce such emissions from motor vehicles by requiring repairs on vehicles that are identified as having high nitrogen oxide emissions in the motor vehicle inspection and maintenance program in southeastern Wisconsin.

The inspection and maintenance program already tests vehicles for nitrogen oxide emissions. The costs for this testing are already part of the existing contract. While it is assumed that citizens that must repair their vehicles will incur a cost, it is assumed that most vehicles in state and local government fleets, being relatively new vehicles and being relatively well maintained, will not have a significant need for additional repair.

State and local governments do own some medium sized boilers. Most of these boilers have relatively few nitrogen oxide emissions. It is assumed that most of the medium boiler nitrogen oxide emission reductions, if required, would come from boilers owned by the private sector.

Long-Range Fiscal Implications

Agency	Prepared By	Phone No.	Authorized Signature	Phone No.	Date
DNR	Joe Polasek	(608) 266-2794		(608) 266-2794	06/14/1999

FISCAL ESTIMATE WORKSHEET

1999 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047(R 10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. 99-3200/2	Amendment No.
--	---------------

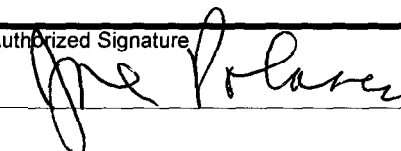
Subject
Nitrogen oxide emission reduction restrictions

I. One-Time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringes		
(FTE Position Changes)		
State Operations - Other Costs		
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	\$0	\$0
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR		
FED		
PROIPRS		
SEGISEG-S		
III. State Revenues:	Increased Rev.	Decreased Rev.
<small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>		
GPR Taxes		
GPR Earned		
FED		
PRO/PRS		
SEGISEG-S		
TOTAL State Revenues	\$0	\$0

NET ANNUALIZED IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	<u>\$0</u>	<u>\$0</u>
NET CHANGE IN REVENUES	<u>\$0</u>	<u>\$0</u>

Agency	Prepared By	Phone No.	Authorized Signature	Phone No.	Date
DNR	Joe Polasek	(608) 266-2794		(608) 266-2794	06/14/1999