

D-NOTE

1999 BILL

By Friday  
6/4  
if possible

3150/PI

PM NOT  
RUN

1 **AN ACT to amend** 196.374 (1) and 196.374 (2); and **to create** 15.07 (1) (a) 7., 15.07  
 2 (1) (d), 15.792, 20.157, 25.17 (1) (xm), 25.96, 196.374 (1g) (a), (b) and (c), 196.374  
 3 (4), 196.378 and 196.96 of the statutes; **relating to:** establishing programs for  
 4 low-income energy assistance, improving energy conservation and efficiency  
 5 markets and encouraging the development and use of renewable resources,  
 6 creating a utility public benefits <sup>council on</sup> ~~board~~, establishing a utility public benefits  
 7 fund, requiring electric utilities and retail electric cooperatives to charge <sup>public benefits</sup> ~~access~~  
 8 fees to customers and members, imposing requirements on the use of renewable  
 9 resources by electric utilities and cooperatives, requiring the exercise of  
 rule-making authority <sup>stat</sup> ~~by the appropriate authority~~ and providing a penalty.

10

**Analysis by the Legislative Reference Bureau**

This bill creates a utility public benefits board (board), which is required to establish programs for providing energy assistance to low-income households and conservation and efficiency services and for encouraging the development and use of renewable energy resources. The bill also imposes certain requirements on the generation of electricity from renewable energy resources by public utilities and retail cooperative associations.

INSERT A ✓

**BILL*****Utility public benefits board***

The board, which is attached to the department of administration (DOA), is required to establish programs for each of the following: 1) assisting low-income households with weatherization and energy conservation services and payment of energy bills (low-income assistance programs); 2) providing energy conservation and efficiency services to eligible recipients (conservation programs); and 3) encouraging the development and use of renewable energy resources (renewables programs). The board must hold a hearing before establishing the programs. Interested persons, including members of the public, may intervene in a hearing and, under certain circumstances, receive compensation from the board for the reasonable costs of intervention.

The bill requires the division of housing in DOA to contract with certain nonprofit or governmental entities for the administration of the low-income assistance programs. The board must contract with a nonprofit corporation for the administration of the conservation and renewables programs. Under the low-income assistance programs, in each fiscal year, no less than the difference between \$50,000,000 and the amount of funding received by the state under certain federal low-income assistance and weatherization programs (federal programs) must be used for purposes other than paying energy bills. The bill also specifies the amounts that must be used for certain purposes under the conservation and renewables programs.

The programs established by the board are funded by an access fee that the board collects from nonmunicipal electric public utilities, which must charge the access fees to their customers. Municipal electric public utilities and retail electric cooperatives (municipal utilities and cooperatives) are also required to charge an access 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 access fees to the board for the programs established by the board. A municipal utility or cooperative that does not elect to contribute all of the access fees to the board must spend specified portions of the access fees on its own "commitment to community programs", which are defined as low-income assistance programs, energy conservation programs and programs for promoting the welfare of communities that include the municipal utility's or cooperative's customers or members.

Each municipal utility and cooperative must charge an access fee that is sufficient for the utility or cooperative to collect an annual average of \$13.16 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 access fee charged by a municipal utility or cooperative may not exceed 3% of the total of every other charge billed during that period.

For nonmunicipal utilities, the bill directs the board to determine the amount of the access fee, which consists of a portion sufficient to fund the low income programs and a portion sufficient to fund the other programs. In fiscal year 1999-2000, the portion for low-income programs must be in an amount that is sufficient for the board to collect the amount that results from subtracting the sum of the following from \$105,000,000: 1) the amount received by the state under the

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federal programs; and 2) 50% of the access fees charged by municipal utilities and cooperatives. For fiscal years after 1999–2000, the low-income portion is determined by subtracting this sum from an amount of low-income need that is based on the amount of need for fiscal year 1998–99. The portion of the access fee for the other programs must be sufficient for the board to collect from nonmunicipal utilities the difference between 20% of the access fees charged by municipal utilities and cooperatives and the following amounts: for fiscal year 1999–2000, \$28,000,000; for fiscal year 2000–01, \$56,000,000; for fiscal year 2001–02, \$84,000,000; and for fiscal year 2002–03, \$112,000,000. After fiscal year 2002–03, the board may reduce the amount that must be collected for this portion if the board discontinues or reduces any of the conservation or renewables programs. The total access fee paid by a customer of a nonmunicipal utility is subject to the same 3% limit that applies to a municipal utility or cooperative.

The bill also requires certain electric utilities to spend a specified percentage of annual operating revenues on energy conservation programs. Under current law, the electric utilities are required to spend at least 0.5% of their annual operating revenues on energy conservation programs. The bill requires instead that the electric utilities spend the following percentages of annual operating revenues on energy conservation programs: in fiscal year 1999–00, 0.375%; in fiscal year 2000–01, 0.25%; and in fiscal year 2001–02, 0.125% .

The bill imposes other requirements on the board's programs and the commitment to community programs, including the following:

1. The bill requires public utilities to allow electric customers to make contributions to the board's programs or the commitment to community programs.
2. For purposes of determining whether a municipal utility or cooperative has spent a required amount on a commitment to community programs, the bill allows a municipal utility or cooperative to receive credit for spending by its wholesale electric supplier on the supplier's own commitment to community programs.
3. The bill imposes certain reporting requirements on municipal utilities and cooperatives that spend access fees on commitment to community programs.

***Renewable energy resources***

Under this bill, a certain percentage 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 "state peak load share", which is defined as the amount of electricity that the public utility or retail cooperative delivered to its customers or members at that time during the summer of 1996 that the maximum amount of electricity was delivered to all customers and members of all public utilities and retail cooperatives. The following percentages of a public utility's or retail cooperative's state peak load share must be generated from renewable resources: by December 31, 2000, 1%; by December 31, 2002, 1.5%; by December 31, 2004, 2%; by December 31, 2006, 2.5%; by December 31, 2008, 3%; and by December 31, 2010, 4%.

The bill allows a municipal public utility or retail cooperative to receive a credit for the amount of electricity generated from renewable resources by a wholesale supplier. In addition, the bill allows public utilities and retail cooperatives to

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purchase credits from other public utilities and retail cooperatives that generate electricity from renewable resources in excess of the required percentages of system peak load share. The bill also includes requirements for calculating capacity that is supplied from renewable resources.

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

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

1 **SECTION 1.** 15.07 (1) (a) 7. of the statutes is created to read:

2 15.07 (1) (a) 7. Members of the utility public benefits board appointed under  
3 s. 15.792 (1) (b) shall be appointed as provided in s. 15.792 (1) (b) without senate  
4 confirmation.

5 **SECTION 2.** 15.07 (1) (d) of the statutes is created to read:

6 15.07 (1) (d) Except as provided in s. 15.792 (1) (b) 5. or 8., no member appointed  
7 to the utility public benefits board may be an employe of a utility, as defined in s.  
8 196.374 (1).

9 **SECTION 3.** 15.792 of the statutes is created to read:

10 **15.792 Same; attached board. (1) UTILITY PUBLIC BENEFITS BOARD.** (a) In this  
11 subsection:

- 12 1. "Electric utility" has the meaning given in s. 196.96 (1) (g).
- 13 2. "Low-income household" has the meaning given in s. 196.96 (1) (m).
- 14 3. "Municipal utility" has the meaning given in s. 196.96 (1) (q).
- 15 4. "Renewable resource" has the meaning given in s. 196.378 (1) (g).
- 16 5. "Retail electric cooperative" has the meaning given in s. 196.96 (1) (t).
- 17 6. "Small business" has the meaning given in s. 16.75 (4) (c).
- 18 7. "Small business representative" means a director, manager, member, officer,  
19 owner or partner of a small business.

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1 (b) There is created a utility public benefits board that is attached to the  
2 department of administration under s. 15.03. The board shall consist of the following  
3 members appointed for 3-year terms:

4 1. One member appointed by the governor who is a member of a low-income  
5 household or a group or organization that represents low-income households.

6 2. One member appointed by the president of the senate who is a residential  
7 electric utility customer or who represents a residential electric utility customer  
8 advocacy group.

9 3. One member appointed by the governor who is a small business  
10 representative or who represents a small business advocacy group.

11 4. One member appointed by the president of the senate who represents an  
12 environmental or renewable resource advocacy group.

13 5. One member appointed by the president of the senate who represents one  
14 of the following:

15 a. A municipal utility or retail electric cooperative or municipal utility or retail  
16 electric cooperative advocacy group, if one-third or more of the municipal utilities  
17 and retail electric cooperatives doing business in this state notify the board under  
18 s. 196.96 (5) (b) 2. that they have elected to contribute to any of the programs  
19 established under s. 196.96 (2) (a) or (b) 1.

20 b. An electric utility or electric utility advocacy group, if fewer than one-third  
21 of the municipal utilities and retail electric cooperatives doing business in this state  
22 notify the board under s. 196.96 (5) (b) 2. that they have elected to contribute to any  
23 of the programs established under s. 196.96 (2) (a) or (b) 1.

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1           6. One member appointed by the speaker of the assembly who is a member of  
2 a low-income household or a group or organization that represents low-income  
3 households.

4           7. One member appointed by the speaker of the assembly who represents an  
5 environmental or renewable resource advocacy group.

6           8. One member appointed by the speaker of the assembly who represents an  
7 electric utility or electric utility advocacy group.

8           9. One member appointed by the chairperson of the public service commission  
9 to represent the public service commission.

10          10. One member appointed by the secretary of natural resources to represent  
11 the department of natural resources.

12          11. One member appointed by the administrator of the division of housing in  
13 the department of administration to represent the division of housing.

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

				1999-00	2000-01
<del>20.157 Utility public benefits board Department of Administration</del>					
(k)	LOW-INCOME ASSISTANCE, ENERGY CONSERVATION AND EFFICIENCY AND RENEWABLE RESOURCES				
(q)	General program operations	SEG	A	-0-	-0-
(t)	Compensation of intervenors	SEG	A	500,000	500,000

22           **SECTION 5.** 20.157 of the statutes is created to read:

23           **20.157 Utility public benefits board.** There is appropriated to the utility  
24 public benefits board for the following programs:

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1 (1) ~~LOW-INCOME ASSISTANCE, ENERGY CONSERVATION AND EFFICIENCY AND~~  
2 ~~RENEWABLE RESOURCES. (q) General program operations. From the utility public~~  
3 ~~benefits fund, the amounts in schedule for general program operations.~~

4 (r) ~~Low-income assistance grants. From the utility public benefits fund, a sum~~  
5 ~~sufficient for low-income assistance grants under s. 196.96 (2) (a).~~

6 (s) ~~Energy conservation and efficiency and renewable resource grants. From the~~  
7 ~~utility benefits fund, a sum sufficient for energy conservation and efficiency and~~  
8 ~~renewable resource grants under s. 196.96 (2) (b) 1.~~

9 (t) ~~Compensation of intervenors. From the utility public benefits fund, the~~  
10 ~~amounts in the schedule for compensating persons who intervene in hearings under~~  
11 ~~the rules promulgated under s. 196.96 (2) (c) 3.~~

12 **SECTION 6.** 25.17 (1) (xm) of the statutes is created to read:

13 25.17 (1) (xm) Utility public benefits fund (s. 25.96);

14 **SECTION 7.** 25.96 of the statutes is created to read:

15 **25.96 Utility public benefits fund.** There is established a separate  
16 nonlapsible trust fund designated as the utility public benefits fund, consisting of the  
17 ~~trust~~ <sup>public benefits</sup> fees received under s. ~~196.96~~ <sup>16.957</sup> (4) (a) and (5) (c) and (d) and contributions  
18 received under s. ~~196.96~~ <sup>16.957</sup> (2) (c) 4. and (d) 2.

INSERT 7-16

19 **SECTION 8.** 196.374 (1) of the statutes is amended to read:

20 196.374 (1) In this section "utility" means a class A gas or electric utility, as  
21 defined by the commission, but does not include a municipal electric company, as  
22 defined in s. 66.073 (3) (d), a municipal utility, as defined in s. 196.96 (1) (q), or a  
23 cooperative association organized under ch. 185.

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1 (1g) Every utility shall spend annually at least 0.5% each of the following  
2 percentages of its total annual operating revenues in each of the following fiscal  
3 years on programs designed to promote and accomplish energy conservation.:

4 (1r) The commission may require a utility to spend annually for the purpose  
5 of promoting and accomplishing energy conservation, an amount which is more or  
6 less than 0.5% the percentage of its annual operating revenues specified in sub. (1g)  
7 if, after notice and hearing, the commission finds that the expenditure of such  
8 amount is in the public interest.

9 SECTION 9. 196.374 (1g) (a), (b) and (c) of the statutes are created to read:

10 196.374 (1g) (a) In fiscal year 1999-2000, 0.375%.

11 (b) In fiscal year 2000-01, 0.25%.

12 (c) In fiscal year 2001-02, 0.125%.

13 SECTION 10. 196.374 (2) of the statutes is amended to read:

14 196.374 (2) The commission may prescribe all or part of any program to be  
15 funded under sub. (1) (1g). The commission may require that a utility establish a  
16 program funded under sub. (1) (1g) which is applicable only to a group of consumers  
17 specified by the commission because the group has special energy conservation  
18 needs. Such a group may include, but is not limited to, low-income utility  
19 consumers, under guidelines established by the commission.

20 SECTION 11. 196.374 (4) of the statutes is created to read:

21 196.374 (4) This section does not apply after June 30, 2002.

22 SECTION 12. 196.378 of the statutes is created to read:

23 **196.378 Renewable resources. (1) DEFINITIONS.** In this section:

24 (a) "Biomass" means a resource that derives energy from wood or plant  
25 material or residue, biological waste, crops grown for use as a resource or landfill

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INSERT 9-4 ✓

1 gases. "Biomass" does not include garbage, as defined in s. 289.01 (9), or industrial,  
2 commercial or household waste.

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

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

6 (d) "Electric utility" means a public utility that ~~generates, transmits, delivers~~  
7 ~~or furnishes electricity, but does not include a municipal electric company, as defined~~  
8 ~~in s. 66.073 (3) (d)~~ INSERT 9-6 ✓

9 (e) "Excludable renewable capacity" means the portion of an electric provider's  
10 total renewable capacity that is supplied from renewable facilities that were placed  
11 in service before January 1, 1998, and that, before January 1, 1998, derived  
12 electricity from hydroelectric power or biomass. (energy)

13 (f) "Nonsystem renewable ~~capacity~~" means the amount of electricity, as  
14 ~~calculated in accordance with rules promulgated by the commission under sub. (4)~~  
15 ~~or~~ that an electric provider is ~~capable of delivering~~ <sup>sells</sup> to its retail customers and that  
16 is supplied under executed wholesale purchase contracts <sup>from</sup> by renewable facilities that  
17 are not owned or operated by the electric provider. "Nonsystem renewable ~~capacity~~" <sup>energy</sup>  
18 does not include any electricity that is not used to satisfy the electric provider's retail  
19 load obligations. INSERT 9-19 ✓

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

- 21 1. A resource that derives electricity from any of the following:
  - 22 a. A fuel cell that uses, as determined by the commission, a renewable fuel.
  - 23 b. Tidal or wave action.
  - 24 c. Solar thermal electric or photovoltaic energy.
  - 25 d. Wind power.

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INSERT 10-3 ✓

INSERT ✓  
10-7

1 e. Geothermal technology.

2 ~~f. Hydroelectric power.~~

3 g. Biomass.

4 2. Any other resource, except a conventional resource, that the commission

5 designates as a renewable resource in rules promulgated under sub. (4) ~~and~~.

6 (h) "Renewable facility" means an installed and operational electric generating  
7 facility in which energy is derived from a renewable resource, ~~but does not include~~  
8 ~~a facility the installation or operation of which is required under the laws of another~~  
9 ~~state.~~

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

INSERT 10-14 ✓

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

13 (k) "Retail electric cooperative" means a cooperative association organized  
14 under ch. 185 ~~for the purpose of providing electricity at retail to its members only.~~

15 (L) "State peak load" means the maximum amount of electricity that was  
16 delivered to all customers or members of all electric providers in this state at any one  
17 time during the period from May 1, 1996, to September 15, 1996.

18 (m) "State peak load share" means the amount of electricity that was delivered  
19 to all customers or members of an electric provider by the electric provider at the time  
20 that the state peak load was delivered to all customers or members of all electric  
21 providers in this state.

22 (n) "System renewable ~~energy~~" means the amount of electricity that an  
23 electric provider is ~~capable of delivering~~ <sup>energy</sup> ~~to its retail customers~~ <sup>sells</sup> and that is supplied  
24 by renewable facilities owned or operated by the electric provider. ~~"System"~~

**BILL**

1 renewable capacity" does not include any electricity that is not used to satisfy the  
2 electric provider's retail load obligations

3 (o) "Total renewable ~~capacity~~ <sup>energy</sup> means the sum of an electric provider's system  
4 and nonsystem renewable ~~capacity~~ <sup>energy</sup>

INSERT 11-5

5 (2) RENEWABLE RESOURCE <sup>ENERGY</sup> ~~CAPACITY~~. (a) The sum of an electric provider's total  
6 renewable capacity, as calculated under par. (b), and the amount of any renewable  
7 resource credit purchased by the electric provider under sub. (3) (a) shall be at least  
8 the following percentages of the electric provider's state peak load share:

- 9 1. By December 31, 2000, ~~1.0%~~ 0.5%
- 10 2. By December 31, 2002, ~~1.0%~~ 0.85%
- 11 3. By December 31, 2004, ~~1.0%~~ 1.2%
- 12 4. By December 31, 2006, ~~1.0%~~ 1.55%
- 13 5. By December 31, 2008, ~~1.0%~~ 1.9%
- 14 6. By December 31, 2010, ~~1.0%~~ 2.2%

INSERT  
11-14

15 (b) An electric provider's total renewable capacity shall be calculated in  
16 accordance with each of the following:

17 1. The amount of electricity supplied by a renewable facility is equal to the  
18 maximum amount of electricity that the facility is capable of generating as measured  
19 by the manufacturer's rating or periodic testing of the facility.

20 2. Notwithstanding subd. 1, the amount of electricity supplied by a renewable  
21 facility in which biomass and conventional fuels are fired together ~~is~~ <sup>shall be</sup> equal to the  
22 product of the ~~amount~~ <sup>amount</sup> specified in subd. 1 and the ratio of the British thermal unit  
23 content of the biomass fuels to the British thermal unit content of both the biomass  
24 and conventional resource fuels.

INSERT 11-22

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*total retail energy sales*

*0.6%*

*energy*

1 3. Any ~~excludable~~ renewable ~~capacity~~ *energy* that exceeds ~~that~~ *excluded* of an electric provider's

2 ~~state peak load share~~ shall be ~~deducted~~ *removed* from the electric provider's total renewable

3 ~~capacity~~ *energy* INSERT 12-3

4 (3) RENEWABLE RESOURCE CREDITS. (a) An electric provider that ~~has a total~~ *in the applicable year*

5 ~~renewable capacity that is more than the percentage of the electric provider's state~~

6 ~~peak load share specified in sub. (2) (a) 1. to 6. for the applicable year~~ INSERT 12-5 may sell to any

7 other electric provider ~~a renewable resource credit or a portion of a renewable~~ INSERT 12-8

8 resource credit. ~~The~~ *the* commission shall promulgate rules that establish requirements

9 for calculating the amount of a renewable resource credit. The rules shall provide

10 that a renewable resource credit is equal to the amount by which an electric

11 provider's total renewable capacity, as calculated under sub. (2) (b), exceeds the

12 percentage of the electric provider's state peak load share specified in sub. (2) (a) 1.

13 to 6.

14 (b) The commission may promulgate rules that establish requirements and

15 procedures for a sale under par. (a).

16 (4) RULES. ~~for~~ *and Im.* The commission may promulgate rules that designate a

17 resource, except for a conventional resource, as a renewable resource in addition to

18 the resources specified in sub. (1) (g) 1. *and Im.*

19 ~~(b) The commission shall promulgate rules that specify the method for~~

20 ~~calculating the amount of an electric provider's nonsystem renewable capacity.~~

21 (c) The commission shall promulgate rules that establish a statewide bidding

22 system for arranging transactions for purchases of nonsystem renewable capacity.

23 The commission may not require an electric provider to participate in the system

24 established under rules promulgated under this paragraph.

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\$5,000

INSERT  
13-1

not

1

(5) PENALTY. Any person who violates sub. (2) shall forfeit ~~no~~ less than

2

~~\$10,000~~ nor more than \$500,000. Forfeitures under this subsection shall be enforced

3

by action on behalf of the state by the attorney general. A court imposing a forfeiture

4

under this subsection shall consider all of the following in determining the amount

5

of the forfeiture:

person's or wholesale supplier's

6

(a) The appropriateness of the forfeiture to the volume of business of the electric

7

provider.

INSERT 13-8

8

(b) The gravity of the violation.

9

~~(6) RECOMMENDATION TO LEGISLATURE. The commission may not recommend the~~

10

~~repeal of this section to the legislature unless the commission finds, after a hearing,~~

11

~~any of the following:~~

WFO: SORT draft to  
out order  
WFO: make to  
SECTION 14 after  
creation of  
s. 15.107(1)

12

~~(a) That the market for renewable resources is competitive with the market for~~

13

~~conventional resources.~~

14

~~(b) That the repeal of this section is in the public interest.~~

15

SECTION 13. ~~156.96~~ of the statutes is created to read:

16.957

16

~~156.96~~ Utility public benefits. (1) DEFINITIONS. In this section:

17

(a) "Board" means the utility public benefits board created in s. 15.792 (1) (b).

18

(b) "Community assistance program" means a program to provide assistance

19

to, or to promote the welfare of, a community that includes the customers or members

20

of a municipal utility or retail electric cooperative.

21

(c) "Commitment to community program" means a program by a municipal

22

utility or retail electric cooperative for low-income assistance or ~~community~~

23

~~assistance~~ <sup>an</sup> energy conservation or load management program by a municipal utility

24

or retail electric cooperative.

INSERT 13-24

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13-20

**BILL**

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

4 (e) "Division of housing" means the division of housing in the department ~~of~~  
5 ~~administration.~~

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

7 (g) "Electric utility" ~~has the meaning given in s. 196.378 (1)(d).~~ INSERT 14-7

8 (h) "~~Energy conservation program~~" means a program for reducing the demand  
9 for electricity INSERT 14-9 during any period.

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

11 (j) "Load management program" means a program that allows an electric  
12 provider or its wholesale supplier to control electric usage by customers and reduce  
13 demand for electricity. INSERT 14-13 ✓

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

17 (L) "Low-income assistance" means assistance to low-income households for  
18 weatherization and other energy conservation services ~~or~~ payment of energy bills. INSERT  
19 14-18 ✓

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

25 (n) "Low-income need" means the amount obtained by subtracting from the  
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 ~~\$105,000,000 by the amount of low-income need in fiscal year 1998-99~~

INSERT 15-5 ✓

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

8 (q) "Municipal utility" means an electric utility that is owned or operated  
9 wholly by a municipality.

INSERT 15-9 ✓

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

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

that is

INSERT 15-17 ✓

16

(t) "Retail electric cooperative" means a cooperative association organized  
17 under ch. 185 for the purpose of providing electricity at retail to its members only.

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

that is

21 (v) "Wholesale electric cooperative" means a cooperative association organized  
22 under ch. 185 for the purpose of providing electricity at wholesale to its members  
23 only.

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

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

INSEPT 16-7 ✓

7 (2) ~~DEPT~~ DUTIES. The ~~board~~ <sup>DEPARTMENT</sup> shall do all of the following:

8 (a) *Low-income programs.* After holding a hearing, establish programs to be  
9 administered by the department of administration through the division of housing  
10 for awarding grants from the appropriation under s. ~~20.505(10)(r)~~ <sup>20.505(10)(r) ✓</sup> to provide  
11 low-income assistance. In each fiscal year, no less than the amount obtained by  
12 subtracting from \$50,000,000 the sum of all moneys received under 42 USC 6861 to  
13 6873 in a fiscal year shall be awarded under this paragraph in grants for  
14 weatherization and other energy conservation services.

15 (b) *Energy conservation and efficiency and renewable resource programs.* 1.

16 Subject to subd. 2., after holding a hearing, establish programs for awarding grants  
17 from the appropriation under s. ~~20.505(10)(s)~~ <sup>20.505(10)(s) ✓</sup> for each of the following:

18 a. Proposals for providing energy conservation or efficiency services. In  
19 awarding grants under this ~~subd.~~ <sup>subd. 1. a.</sup> the ~~board~~ <sup>department</sup> shall give priority to proposals  
20 directed at the sectors of energy conservation or efficiency markets that are least  
21 competitive and at promoting environmental protection, electric system reliability  
22 or rural economic development. In each fiscal year, 1.75% of the appropriation under  
23 s. ~~20.505(10)(s)~~ <sup>20.505(10)(s) ✓</sup> shall be awarded in grants for research and development proposals  
24 regarding the environmental impacts of the electric industry.

**BILL**

1 b. Proposals for encouraging the development or use of customer applications  
 2 of renewable resources, including educating customers about renewable resources  
 3 or encouraging uses of renewable resources by customers or encouraging research  
 4 technology transfers. In each fiscal year, the ~~board~~ <sup>department</sup> shall ensure that 4.5% of the  
 5 appropriation under s. ~~20.157 (1)~~ <sup>20.505(10)(s)</sup> shall be awarded in grants under this

6 ~~subd. 1.~~ <sup>subd. 1.b.</sup> <sup>is</sup> <sup>fiscal year</sup> <sup>2003-04</sup>

7 2. For each fiscal year after ~~2002-03~~ determine whether to continue,  
 8 discontinue or reduce any of the programs established under subd. 1. and determine  
 9 the total amount necessary to fund the programs that the ~~board~~ <sup>department</sup> determines to  
 10 continue or reduce under this subdivision. <sup>An amount determined under this</sup>  
 11 paragraph may not exceed \$112,000,000. <sup>2</sup> <sup>INSERT 17-11 ✓</sup>

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

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

18 2. Requirements and procedures for applications for grants awarded under  
 19 programs established under par. (a) or (b) 1. ✓ ✓

20 2m. Criteria for the selection of proposals by the corporation specified in sub.

21 (3) (b). ✓

22 3. Requirements and procedures that allow an interested person, including a  
 23 member of the public, to intervene in a hearing under par. (a) or (b) 1. (intro.) and  
 24 allow the board to award compensation from the appropriation under s. 20.157 (1)

INSERT 17-21 ✓

**BILL**

1 (t) to a person that is not an electric provider for some or all of the reasonable costs  
2 of intervening in a hearing if the board finds any of the following:

3 a. That the intervention is necessary to provide an adequate presentation of a  
4 significant position in which the person has a substantial interest and that an  
5 adequate presentation would not be possible without compensation.

6 b. That the intervention has provided a significant contribution to the  
7 establishment of a program and has caused a significant financial hardship to the  
8 person.

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

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

24 (d) *Other duties.* 1. For each fiscal year after <sup>fiscal year</sup> 1998-99, determine the  
25 low-income need target for that fiscal year.

**BILL**

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

4           3. Deposit all moneys received under sub. (4) (a) or (5) (c) or (d) in the utility  
5 public benefits fund. INSERT 19-5 ✓

6 ~~(2m) STRATEGIC ENERGY ASSESSMENT CONSISTENCY. The board may award grants~~  
7 ~~under sub. (2) (b) 1. only for proposals that are consistent with strategic energy~~  
8 ~~assessments prepared by the commission under s. 196.491 (2).~~

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

13           (b) The ~~board~~ <sup>department</sup> shall, on the basis of competitive bids, contract with a nonstock,  
14 nonprofit corporation organized under ch. 181 to administer the programs  
15 established under sub. (2) (b) 1., including soliciting proposals, processing grant  
16 applications, selecting, based on criteria specified in rules promulgated under sub.  
17 (2) (c) 2m., proposals for the ~~board~~ <sup>department</sup> to make awards and distributing grants to  
18 recipients. INSERT 19-19 ✓

19           (4) ELECTRIC UTILITIES. (a) Requirement to charge ~~access~~ <sup>public benefits</sup> fees. Each electric  
20 utility, except for a municipal utility, shall charge each customer ~~access~~ <sup>a public benefits</sup> fee in an  
21 amount established in rules promulgated by the ~~board~~ <sup>department</sup> under par. (b). An electric  
22 utility, except for a municipal utility, shall collect and pay the fees to the ~~board~~ <sup>department</sup> in  
23 accordance with the rules promulgated under par. (b). INSERT 19-20 ✓

24           (b) Rules. ~~The board~~ <sup>department</sup> shall promulgate rules that establish the amount of an  
25 ~~access~~ <sup>a public benefits</sup> fee that an electric utility shall charge a customer under par. (a) and INSERT 19-21 ✓

INSERT 19-23 ✓

INSERT 19-25 ✓

**BILL**

1 requirements and procedures for an electric utility to collect and pay the fees to the  
 2 board. Rules promulgated under this paragraph may allow an electric utility to  
 3 charge different fees to different classes of customers, but no class of customers may  
 4 be required to pay, in the aggregate, a disproportionate amount in comparison to any  
 5 other class of customers. The rules shall prohibit an electric utility from itemizing  
 6 an access fee on a customer's bill unless all other nonfuel costs are also itemized on  
 7 the bill.

INSERT 20-11

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

10 1. 'Low-income funding.' In fiscal year 1999-2000, a portion of the fee shall *public benefits*  
 11 be an amount that is sufficient for the board to receive in access fees the amount  
 12 obtained by subtracting from \$105,000,000 the sum of all moneys received under 42  
 13 USC 6861 to 6873 and 42 USC 8621 to 8629 for that fiscal year and, as estimated by  
 14 the board, and 50% of the access fees charged by municipal utilities and retail electric  
 15 cooperatives under sub. (5) (a) for that fiscal year. In each fiscal year after fiscal year  
 16 1999-2000, the portion of the fee specified in this subdivision shall be an amount that  
 17 is sufficient for the board to receive from all electric utilities the amount obtained by  
 18 subtracting from the amount of the low-income need target determined by the board  
 19 for that fiscal year under sub. (2) (d) 1. the sum of all moneys received under 42 USC  
 20 6861 to 6873 and 42 USC 8621 to 8629 for that fiscal year and 50% of the access fees  
 21 charged by municipal utilities and retail electric cooperatives under sub. (5) (a) for  
 22 that fiscal year.

23 2. 'Energy conservation and efficiency and renewable resource funding.' For  
 24 fiscal year 1999-2000, a portion of the ~~access~~ *public benefits* fee shall be in an amount that is  
 25 ~~sufficient for the board to receive in access fees the amount obtained by subtracting~~

INSERT 20-24

**BILL**

1 from \$28,000,000 20% of the access fees charged by municipal utilities and retail  
 2 electric cooperatives under sub. (5) (a) for that fiscal year. For fiscal year 2000-01,  
 3 a portion of the access fee shall be in an amount that is sufficient for the board to  
 4 receive in access fees the amount obtained by subtracting from \$56,000,000 20% of  
 5 the access fees charged by municipal utilities and retail electric cooperatives under  
 6 sub. (5) (a) for that fiscal year. For fiscal year 2001-02, a portion of the access fee shall  
 7 be in an amount that is sufficient for the board to receive in access fees the amount  
 8 obtained by subtracting from \$84,000,000 20% of the access fees charged by  
 9 municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal  
 10 year. For fiscal year 2002-03, a portion of the access fee shall be in an amount that  
 11 is sufficient for the board to receive in access fees the amount obtained by subtracting  
 12 from \$112,000,000 20% of the access fees charged by municipal utilities and retail  
 13 electric cooperatives under sub. (5) (a) for that fiscal year. For each fiscal year after  
 14 2002-03, if the board determines under sub. (2) (b) 2. to discontinue or reduce a  
 15 program established under sub. (2) (b) 1., the portion of the fee specified in this  
 16 subdivision shall be an amount that is sufficient for the board to receive from all  
 17 electric utilities the amount obtained by subtracting from the amount of funding  
 18 determined by the board under sub. (2) (b) 2. 20% of the access fees charged by  
 19 municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal  
 20 year.

21 3. 'Electric bill increases.' For the period beginning on the effective date of this  
 22 subdivision .... [revisor inserts date], and ending on June 30, 2008, the total increase  
 23 in a customer's electric bills that is based on the requirement to pay <sup>public benefits</sup> ~~access fees~~ may  
 24 not exceed 3% of the total of every other charge for which the customer is billed for  
 25 that period.

INSEAT 21-23

**BILL**

*public benefits*

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(5) MUNICIPAL UTILITIES AND RETAIL ELECTRIC COOPERATIVES. (a) *Requirement to*  
*charge access fees.* Each retail electric cooperative and municipal utility shall charge  
a monthly ~~access~~ fee to each customer or member in amount that is sufficient for the  
retail electric cooperative or municipal utility to collect an annual average of ~~\$2.00~~ *\$17*  
per meter. A retail electric cooperative or municipal utility may determine the  
amount that a particular class of customers or members is required to pay under this  
paragraph and may charge different fees to different classes of customers or  
members.

*Public benefits*

(am) ~~Access~~ *fee restriction.* Notwithstanding par. (a), for the period beginning  
on the effective date of this paragraph .... [revisor inserts date], and ending on June  
30, 2008, the total increase in a customer's or member's electric bills that is based  
on the requirement to pay ~~access~~ *public benefits* fees may not exceed 3% of the total of every other  
charge for which the member or customer is billed for that period.

*IN SEAT 22-13*

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

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

(c) *Full contribution.* If a municipal utility or retail electric cooperative elects  
under par. (b) 1. or 2. to contribute to the programs established both under sub. (2)  
(a) and under sub. (2) (b) 1., it shall pay, ~~except as provided in par. (d),~~ 100% of the

**BILL**

1 ~~access~~ <sup>public benefits</sup> fees that it charges under par. (a) to the ~~board~~ <sup>department</sup> in each fiscal year of the 3-year  
2 period for which it has made the election.

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

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

10 a. ~~Except as provided in par. (dm)~~ <sup>public benefits</sup> pay no less than 50% of the ~~access~~ fees that  
11 it charges under par. (a) to the ~~board~~ <sup>department</sup>.

12 b. Spend no less than ~~20%~~ <sup>50%</sup> of the ~~access~~ <sup>public benefits</sup> fees that it charges under par. (a) on  
13 energy conservation programs. (No more than 10% of the amount that a municipal  
14 utility or retail electric cooperative spends on energy conservation programs under  
15 this subd. 1. b. may be spent on load management programs.)

16 c. Spend any remaining amounts on community assistance or load  
17 management programs.

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

22 a. ~~Except as provided in par. (dm)~~ <sup>public benefits</sup> pay ~~20%~~ <sup>50%</sup> of the ~~access~~ fees that it charges  
23 under par. (a) to the ~~board~~ <sup>department</sup>.

24 b. Spend no less than 50% of the ~~access~~ <sup>public benefits</sup> fees that it charges under par. (a) on  
25 programs for low-income assistance.

**BILL**

1 ~~c. Spend any remaining amounts on community assistance or load~~  
2 ~~management programs.~~

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

7 a. Spend no less than 50% of the ~~access~~<sup>public benefits</sup> fees that it charges under par. (a) on  
8 programs for low-income assistance.

9 b. Spend no less than ~~20%~~<sup>50%</sup> of the ~~access~~<sup>public benefits</sup> fees that it charges under par. (a) on  
10 energy conservation programs. No more than 10% of the amount that a municipal

11 utility or retail electric cooperative spends on energy conservation programs under  
12 this subd. 3. b. may be spent on load management programs.

13 ~~c. Spend any remaining amounts on community assistance or load~~  
14 ~~management programs.~~

15 ~~(dm) Wholesale supplier compensation. A municipal utility or retail electric~~  
16 ~~cooperative may use no more than 10% of the access fee that it charges under par.~~  
17 ~~(a) to compensate a wholesale supplier for the difference between the market price~~  
18 ~~of electricity that the wholesale supplier generates from renewable resources, as~~  
19 ~~defined in s. 196.378 (1) (g), constructed after December 31, 1997, and the market~~  
20 ~~price of electricity generated from conventional resources, as defined in s. 196.378~~  
21 ~~(1) (b). A municipal utility or retail electric cooperative may deduct from the access~~  
22 ~~fees that it is required to pay to the board under par. (c) or (d) 1. a. or 2. a. the amount~~  
23 ~~that it uses to compensate a wholesale supplier under this paragraph.~~

24 (e) Wholesale supplier credit. If a wholesale supplier has established a program  
25 for low-income assistance, ~~community assistance~~ or an energy conservation ~~or load~~

**BILL**

1 ~~management~~ program, a municipal utility or retail electric cooperative that is a  
2 customer of the wholesale supplier may do any of the following:

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

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

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

18 (g) *Reports.* 1. For each fiscal year, each municipal utility and retail electric  
19 cooperative that does not pay 100% of the ~~gross~~ <sup>public benefits</sup> fee that it charges under par. (a) to  
20 the ~~board~~ <sup>department</sup> under par. (c) shall file a report with the ~~secretary~~ <sup>department</sup> of state that describes  
21 each of the following:

22 a. An accounting of ~~access~~ <sup>public benefits</sup> fees charged to customers or members under par. (a)  
23 in the fiscal year and expenditures on commitment to community programs under  
24 par. (d), including any amounts included in the municipal utility's or retail electric  
25 cooperative's calculations under par. (c).

**BILL**

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

3 2. The ~~secretary of state~~ <sup>department</sup> shall maintain reports filed under subd. 1. for at least  
4 6 years.

**SECTION 14. Nonstatutory provisions.**

5  
6 (1) INITIAL APPOINTMENTS TO <sup>COUNCIL ON</sup> UTILITY PUBLIC BENEFITS ~~AND~~. Notwithstanding  
7 section ~~15.107 (1)(b)~~ <sup>15.107 (17)</sup> (intro.) of the statutes, as created by this act <sup>2/3</sup>

8 ~~Not~~ <sup>Not</sup> The ~~following~~ <sup>council on</sup> initial members of the utility public benefits ~~board~~ shall be  
9 appointed by the first day of the 3rd month beginning after the effective date of this  
10 ~~paragraph~~ <sup>2</sup> for the following terms: ~~INSERT 26-104~~

11 1. The members specified in section 15.792 (1) (b) 3., 4. and 9. of the statutes,  
12 as created by this act, for terms expiring on July 1, 2000.

13 2. The members specified in section 15.792 (1) (b) 1., 2., 8. and 10. of the  
14 statutes, as created by this act, for terms expiring on July 1, 2001.

15 3. The members specified in section 15.792 (1) (b) 6., 7. and 11. of the statutes,  
16 as created by this act, for terms expiring on July 1, 2002.

17 (b) The public utilities benefit board shall include a member appointed by the  
18 president of the senate without senate confirmation who represents one of the  
19 following:

20 1. A municipal utility or retail electric cooperative or municipal utility or retail  
21 electric cooperative advocacy group, if one-third or more of the municipal utilities  
22 and retail electric cooperatives doing business in this state notify the board under  
23 section 196.96 (5) (b) 1. of the statutes, as created by this act, that they have elected  
24 to contribute to any of the programs established under section 196.96 (2) (a) or (b)  
25 1. of the statutes, as created by this act.

**BILL**

1           2. An electric utility or electric utility advocacy group, if fewer than one-third  
 2 of the municipal utilities and retail electric cooperatives doing business in this state  
 3 notify the board under section 196.96 (5) (b) 1. of the statutes, as created by this act,  
 4 that they have elected to contribute to any of the programs established under section  
 5 196.96 (2) (a) or (b) 1. of the statutes, as created by this act. Notwithstanding section  
 6 15.07 (1) (d) of the statutes, as created by this act, the member appointed under this  
 7 subdivision may be an employe of a utility, as defined in section 196.374 (1) of the  
 8 statutes.

9           (c) The member of the utility public benefits board appointed under paragraph  
 10 (b) shall serve on the board for a term that expires when a member is appointed under  
 11 ~~section 15.792 (1) (b) of the statutes, as created by this act.~~

(2) PUBLIC SERVICE COMMISSION RULES.

12  
 13           (a) Using the procedure under section 227.24 of the statutes, the public service  
 14 commission shall promulgate the rules required under section 196.378 (3) (a) <sup>and (4)</sup>  
 15 ~~and (c)~~ of the statutes, as created by this act, for the period before the effective date  
 16 of the permanent rules promulgated under that section, but not to exceed the period  
 17 authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding  
 18 section 227.24 (1) and (3) of the statutes, the commission is not required to make a  
 19 finding of emergency.

20           (b) The public service commission shall submit in proposed form the rules  
 21 required under section 196.378 (3) (a) <sup>and (4)</sup> ~~(b) and (c)~~ of the statutes, as created  
 22 by this act, to the legislative council staff under section 227.15 (1) of the statutes no  
 23 later than the first day of the 6th month beginning after the effective date of this  
 24 paragraph.

(3) ~~UTILITY PUBLIC BENEFITS BOARD~~ RULES.

DEPARTMENT OF ADMINISTRATION

**BILL**

*department of administration*

1 (a) Using the procedure under section 227.24 of the statutes, the utility public  
 2 ~~benefits board~~ shall promulgate the rules required under section ~~227.24~~ <sup>16.957</sup> (2) (c) and  
 3 (4) (b) of the statutes, as created by this act, for the period before the effective date  
 4 of the permanent rules promulgated under that section, but not to exceed the period  
 5 authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding  
 6 section 227.24 (1) and (3) of the statutes, the ~~board~~ <sup>department</sup> is not required to make a finding  
 7 of emergency.

8 (b) The ~~utility public benefits board~~ shall submit in proposed form the rules  
 9 required under section ~~227.24~~ <sup>16.957</sup> (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.

(END)

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3150/Plins  
MDK:.....

1

INSERT A: ✓

This is a preliminary draft. An analysis will be prepared for a subsequent version of this draft.

2

INSERT 4-1:

3

SECTION 1. 15.107 (17) of the statutes is created to read:

4

15.107 (17) COUNCIL ON UTILITY PUBLIC BENEFITS. There is created a council on utility public benefits that is attached to the department of administration under s.

5

15.03. The council shall consist of the following <sup>17</sup> members ~~having~~ <sup>5</sup> 3-year terms:

6

7

(a) Two members appointed by the governor ~~without senate confirmation~~ *appointed for*

8

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

9

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

10

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

11

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

12

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

13

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

14

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

15

SECTION 2. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert

16

the following amounts for the purposes indicated:

17

1999-00      2000-01

18

20.505 Administration, department of

19

(10) UTILITY PUBLIC BENEFITS

20

(q) General program operations      SEG      A      -0-      -0-

1	(r) Low-income assistance grants	SEG	A 5	-0-	-0-
2	(s) Energy conservation and effi-				
3	ciency and renewable resource				
4	grants	SEG	A 5	-0-	-0-

5 SECTION 3. 20.505 (10) of the statutes is created to read:

6 20.505 (10) UTILITY PUBLIC BENEFITS. (q) *General program operations.* From  
7 the utility public benefits fund, the amounts in the schedule for general program  
8 operations.

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

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

14 **INSERT 7-16:**

15 deposits by the public service commission under s. 196.374 (3),

16 **INSERT 7-18:**

17 SECTION 4. 196.374 of the statutes is repealed and recreated to read:

18 **196.374 Low-income assistance, energy efficiency and other**  
19 **programs.** (1) In this section:

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

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

22 (c) "Utility" means a class A gas or electric utility, as defined by the commission,  
23 but does not include a municipal utility, as defined in s. 16.957 (1) (q), or a cooperative  
24 association organized under ch. 185.

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

5 (3) In ~~the years 1999, 2000 and 2001~~ 1999, 2000 and 2001, the commission shall require each  
 6 utility to spend a decreasing portion of the amount determined under sub. (2) on  
 7 programs specified in sub. (2) and contribute an increasing portion of the amount to  
 8 the commission for deposit in the fund. In each ~~year~~ year after 2001, each utility  
 9 shall contribute the entire amount determined under sub. (2) to the commission for  
 10 deposit in the fund. The commission shall ensure in rate-making orders that a  
 11 utility recovers from its ratepayers the amounts spent on programs or contributed  
 12 to the fund under this subsection.

\*\*\*\*NOTE: The instructions require the PSC to equitably allocate the amount determined under sub. (2) among the utilities. I'm not sure what this requirement means. On what basis should the allocation be made? If the utilities must be required to spend the same amount on programs and contributions to the fund in 1999, 2000 and 2001, why not use the language in sub. (3) above?

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

18 **INSERT 9-4:**

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

20 **INSERT 9-6:**

21 owns or operates a retail electric distribution system and sells electricity at retail.

;)   
\*\*\*\*NOTE: Under this above definition, a public utility must both: 1) own or operate a distribution system and 2) sell electricity at retail. I think this language is clearer than the suggested language. Is it okay?

1

**INSERT 9-19:** ✓

\*\*\*\*NOTE: The suggested language refers to electricity that is supplied or allocated by a wholesale supplier under executed wholesale purchase contracts. I'm not sure what is meant by electricity that is allocated, so this language is not included. What is your intent regarding allocations under executed wholesale purchase contracts?

2

**INSERT 10-3:** ✓

3

1m. A resource with a capacity of less than 30 megawatts that derives electricity from hydroelectric power.

5

**INSERT 10-7:** ✓

6

“Renewable facility” includes a facility the installation or operation of which is required under federal law, but does not include a facility the installation or operation of which is required under the laws of another state even if the installation or operation of the facility is also required under federal law.

10

**INSERT 10-14:** ✓

11

that owns or operates a retail electric distribution system and sells electricity at retail.

12

(CS)   
\*\*\*\*NOTE: See the note under the definition of “electric utility”.

13

**INSERT 11-5:** ✓

14

Each electric provider shall provide to its retail electric customers total renewable energy in at least the following percentages of its total retail energy sales, either directly or through renewable resource credits from another electric provider:

15

16

17

**INSERT 11-14:** ✓

18

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

19

1. Total retail energy sales shall be calculated on the basis of a 3-year rolling average of an electric provider’s retail energy sales in this state.

20

\*\*\*\*NOTE: The draft must clarify what is intended by a "3-year rolling average". Without such clarification, I don't know what the above requirement means.

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**INSERT 11-22:** ✓

maximum amount of electricity that the facility is capable of generating

**INSERT 12-3:** ✓

(c) No later than April 15, <sup>✓</sup> an electric provider shall submit <sup>annually</sup> ~~an~~ report <sup>a</sup> to the department that describes the electric provider's compliance with par. (a). Reports under this paragraph may include certifications from wholesale suppliers regarding the sources and amounts of energy supplied to an electric provider. The department may specify the documentation that is required to be included with reports submitted under this paragraph, except that the department may not require additional documentation with respect to a wholesale supplier certification.

\*\*\*\*NOTE: Why are the reports submitted to DOA? The PSC has other duties regarding renewable resource credits. Why not submit the reports to the PSC?

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

1. Allocating the costs equally to all customers on a kilowatt-hour basis.
2. Establishing alternative price structures, including price structures under which customers pay a premium for renewable energy.
3. Any combination of the methods specified in subs. 1. and 2.

\*\*\*\*NOTE: I assume that recovery of costs will only be allowed through rate-making. Is this correct? Also, the suggested language requires PSC approval of a cost recovery method only "if necessary". If cost recovery takes place in rate-making, won't PSC approval always be necessary? In addition, the suggested language refers to "green pricing programs". I didn't use this term because I don't think that its meaning is clear. Finally, note that the above language refers to "electric utilities", rather than "electric

providers”, because the PSC has no jurisdiction over cost recovery by electric cooperatives. Is this okay, or do you intend to subject cooperatives to PSC jurisdiction?

1

**INSERT 12-5:** ✓

2

provides total renewable energy to its retail electric customers in excess of the percentages

3

4

**INSERT 12-8:** ✓

5

at any negotiated price. Alternatively, an electric provider may use a renewable resource credit or portion of a renewable resource credit in a subsequent year to establish compliance with sub. (2) (a).

6

7

8

**INSERT 13-1:** ✓

9

or any wholesale supplier who provides an electric provider with a false or misleading certification regarding the sources or amounts of energy supplied to the electric provider

10

11

12

**INSERT 13-8:** ✓

13

(c) Whether a violation of sub. (2) is due to circumstances ~~and~~ beyond the violator’s control.

14

\*\*\*\*NOTE: I am reluctant to use the term “force majeure” because it does not appear in the statutes. Does the above language otherwise satisfy your intent?

15

**INSERT 13-20:** ✓

16

(bm) “Commission” means the public service commission.

17

**INSERT 13-24:** ✓

18

(cm) “Council” means the council on utility public benefits created under s. 15.107 (17). ✓

19

20

**INSERT 14-7:** ✓

21

means a public utility that owns or operates a retail electric distribution system

22

**INSERT 14-9:** ✓

1 or improving the efficiency of its use

2 **INSERT 14-13:** ✓

\*\*\*\*NOTE: Although the suggested language deletes the above definition, this version retains the definition of "load management program" because the term is used in the definition of "commitment to community program". Is this okay?

3 **INSERT 14-18:** ✓

4 or ~~or~~ early identification or prevention of energy crises

5 **INSERT 15-5:** ✓

6 the sum of each of the following by the amount of low-income need in fiscal year  
7 1998-99:

8 1. The total amount received by the department for <sup>✓</sup> low-income funding.

\*\*\*\*NOTE: Subdivision 1. must be clarified. What is the source of the "low-income funding"?

9 2. The total amount spent on programs or contributed to the commission by  
10 utilities under s. 196.374 (3). ✓

11 3. ~~50%~~ <sup>Fifty percent</sup> of the public benefits fees charged by municipal utilities and retail  
12 electric cooperatives.

\*\*\*\*NOTE: In addition to the clarification of subd. 1., this entire definition should be clarified. I don't know whether the low-income need percentage should be allowed to change each year or, as under a prior version of this draft, remain constant.

13 **INSERT 15-9:** ✓

\*\*\*\*NOTE: The definition of "electric utility" includes the requirement regarding ownership/operation of a retail electric distribution system. Therefore, this requirement does not need to be repeated in the above definition.

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

15 **INSERT 15-17:** ✓

16 and that owns or operates a retail electric distribution system

17 **INSERT 16-7:** ✓

18 In consultation with the council,

19 **INSERT 16-14:**

\*\*\*\*NOTE: The council has only an advisory role. Therefore, this draft requires the department, rather than the council, to hold a hearing. Also, note that the requirement to consult with the council under proposed s. 16.957 (2) (intro.) applies to each paragraph in sub. (2). Therefore, there is no need to repeat this requirement in each paragraph.

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**INSERT 17-11:** ✓

The department shall notify the ~~public service~~ commission if the department determines under this subdivision to reduce funding. ✓

**INSERT 17-21:** ✓

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

**INSERT 19-5:** ✓

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

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

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

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

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

**INSERT 19-19:** ✓

(c) In selecting proposals and awarding contracts under sub. (2) (b), the department or the nonprofit corporation specified in par. (b) may not discriminate

1 against an affiliate of an electric provider or wholesale electric supplier solely on the  
2 basis of its affiliation with the electric provider or wholesale electric supplier.

\*\*\*\*NOTE: I think the prohibition regarding discrimination includes disqualifying  
or penalizing. Also, I think it's necessary to specify the grounds on which discrimination  
may not occur. Otherwise, isn't the prohibition overbroad?

3  
4 or a retail electric cooperative

**INSERT 19-20:** ✓

5  
6 or a retail electric cooperative

**INSERT 19-22:** ✓

7  
8 (am) *Electric bill surcharge.* An electric utility may include a public benefits  
9 fee as a surcharge on a customer's bill if the electric utility also provides the customer  
10 with an annual statement that identifies the annual charges for public benefits fees  
11 and describes the programs for which fees are used.

**INSERT 19-23:** ✓

\*\*\*\*NOTE: Should the statement identify the charges to all customers, or just the  
particular customer who receives the statement?

12  
13 In consultation with the council, the department

**INSERT 19-24:** ✓

14  
15 Fees established in rules under this paragraph may vary by class of customer, but  
16 shall be uniform within each class, and shall satisfy each of the following:

**INSERT 19-25:** ✓

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

19 2. No more than 70% of the total amount of fees may be charged to residential  
20 customers and no more than 30% of the total may be charged to nonresidential  
21 customers.



*fiscal year*

1 1999-2000, except that if the department determines to reduce or discontinue a  
2 program under sub. (2) (b) 2., the department shall reduce the amount accordingly

\*\*\*\*NOTE: The instructions refer to fiscal year 1999-2000 and each fiscal year after  
2002-03, but I'm not sure what you intend for fiscal years 2000-01 and 2001-02. Is the  
above language okay?

3 **INSERT 21-23:** ✓

4 including any increase resulting from an electric utility's compliance with this  
5 section,

\*\*\*\*NOTE: The suggested language refers to increases resulting from an electric  
utility's administration of programs. However, electric utilities do not administer  
programs under this bill. Is the above language okay?

6 **INSERT 22-13:** ✓

\*\*\*\*NOTE: Should par. (am) have the language regarding increases resulting from  
compliance with this section, as in sub. (4) (c) 3.?

7 **INSERT 26-10:**

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

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

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

\*\*\*\*NOTE: Under s. 15.09 (1) (a), stats., the default rule is that council memberships  
expire on July 1. Is this okay, or do you have a reason for the May 1 expiration dates in  
the instructions?

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

LRB-3150/P1dn

MDK.....



Senator Chvala:

Please review this preliminary draft, which is based on language suggested by the Customers First! Coalition (CFC), very carefully to make sure that it achieves your intent. For purposes of drafting, I have divided the CFC request into 3 parts: 1) public benefits (this draft); 2) asset cap changes (LRB-3151); and 3) CFC white paper, including transmission facility impact fee and environmental impact fee (LRB-3152). When they are finalized, the 3 parts may be combined into one bill or budget amendment.

With respect to this draft, note that the utility public benefits provisions are included in ch. 16, stats., rather than in ch. 196, stats.

In addition, note that the draft contains embedded notes that raise questions that must be resolved before the draft is finalized. If you have any questions about these notes, please give me a call.

Finally, it may be advisable to allow the PSC to review this draft to determine whether any changes to ch. 196, stats., are necessary to conform to the requirements of the draft.

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-3150/P1dn  
MDK:kmg:mrc

June 3, 1999

Senator Chvala:

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



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-3150/P1  
MDK:kmg:mrc

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Please deliver to Mark Kuntel immediately

→ CFC mark-up  
6/5/99

From: Lee Cullen  
25 0101  
929 B471

1 AN ACT to ~~repeal~~ and recreate 196.374; and to create 15.107 (17), 16.957,  
2 20.505 (10), 25.17 (1) (xm), 25.96 and 196.378 of the statutes; relating to:  
3 establishing programs for low-income energy assistance, improving energy  
4 conservation and efficiency markets and encouraging the development and use  
5 of renewable resources, creating a council on utility public benefits,  
6 establishing a utility public benefits fund, requiring electric utilities and retail  
7 electric cooperatives to charge public benefits fees to customers and members,  
8 imposing requirements on the use of renewable resources by electric utilities  
9 and cooperatives, requiring the exercise of rule-making authority, making  
10 appropriations and providing a penalty.

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be prepared for a subsequent version of this draft.

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 ~~or load management~~ program by a municipal utility or retail electric  
20 cooperative.

no p.3

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 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 (j) ~~"Load management program" means a program that allows an electric~~  
14 ~~provider or its wholesale supplier to control electric usage by customers and reduce~~  
15 ~~demand for electricity.~~

....NOTE. Although the suggested language deletes the above definition, this  
version retains the definition of "load management program" because the term is used in  
the definition of "commitment to community program". Is this okay?

*Deleted*

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

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

22 (m) "Low-income household" means any individual or group of individuals in  
23 this state who are living together as one economic unit and for whom residential

1 electricity is customarily purchased in common or who make undesignated  
2 payments for electricity in the form of rent, and whose household income is not more  
3 than 150% of the poverty line as determined under 42 USC 9902 (2).

4 (n) "Low-income need" means the amount obtained by subtracting from the  
5 total low-income energy bills in a fiscal year the product of 2.2% of the estimated  
6 average annual income of low-income households in this state in that fiscal year  
7 multiplied by the estimated number of low-income households in this state in that  
8 fiscal year.

9 (o) "Low-income need percentage" means the percentage that results from  
10 dividing the sum of each of the following by the amount of low-income need in fiscal  
11 year 1998-99:

12 1. The total amount received by the department for low-income funding.

....NOTE: Subdivision 1. must be clarified. What is the source of the "low-income  
funding"?

13 2. The total amount spent on programs or contributed to the commission by  
14 utilities under s. 196.374 (3).

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

*see revised  
language provided  
by CRC*

....NOTE: In addition to the clarification of subd. 1., this entire definition should be  
clarified. I don't know whether the low-income need percentage should be allowed to  
change each year or, as under a prior version of this draft, remain constant.

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

19 (q) "Municipal utility" means an electric utility that is owned ~~or operated~~  
20 wholly by a municipality *and that owns a retail distribution system.*

....NOTE: The definition of "electric utility" includes the requirement regarding  
ownership/operation of a retail electric distribution system. Therefore, this requirement  
does not need to be repeated in the above definition. *NO - OWNS and operates*

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

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

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

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

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

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

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

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

23 (2) DEPARTMENT DUTIES. In consultation with the council, the department shall  
24 do all of the following:

1 (a) *Low-income programs.* After holding a hearing, establish programs to be  
 2 administered by the department of administration through the division of housing  
 3 for awarding grants from the appropriation under s. 20.505 (10) (r) to provide  
 4 low-income assistance. In each fiscal year, no less than the amount obtained by  
 5 subtracting from \$50,000,000 the sum of all moneys received under 42 USC 6861 to  
 6 6873 in a fiscal year shall be awarded under this paragraph in grants for  
 7 weatherization and other energy conservation services.

\*\*\*\*NOTE: The council has only an advisory role. Therefore, this draft requires the  
 department, rather than the council, to hold a hearing. Also, note that the requirement  
 to consult with the council under proposed s. 16.957 (2) (intro.) applies to each paragraph  
 in sub. (2). Therefore, there is no need to repeat this requirement in each paragraph

OK

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

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

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

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

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

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

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

14          2m. Criteria for the selection of proposals by the corporation specified in sub.  
15          (3) (b).

16          2n. Criteria for making the determination under par. (b) 2. Rules promulgated  
17          under this subdivision shall require the department to determine whether the need  
18          for a program established under par. (b) 1. is satisfied by the private sector market  
19          and, if so, whether the program should be discontinued or reduced.

20          4. Requirements for electric utilities to allow customers to include voluntary  
21          contributions to assist in funding a commitment to community program or a program  
22          established under par. (a) or (b) 1. with bill payments for electric service. The rules  
23          may require an electric utility to provide a space on an electric bill in which a  
24          customer may indicate the amount of a voluntary contribution and the customer's  
25          preference regarding whether a contribution should be used for a program

1 established under par. (a) or (b) 1. a. or b. The rules shall establish requirements and  
2 procedures for electric utilities to pay to the department any voluntary contributions  
3 included with bill payments and to report to the department customer preferences  
4 regarding use of the contributions. The department shall deposit all contributions  
5 received under this paragraph in the utility public benefits fund.

6 5. A method for estimating total low-income energy bills, average annual  
7 income of low-income households and the number of low-income households in a  
8 fiscal year for the purpose of determining the amount of low-income need in the fiscal  
9 year.

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

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

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

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

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

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

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

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

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

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

13 (c) In selecting proposals and awarding contracts under sub. (2) (b), the  
14 department or the nonprofit corporation specified in par. (b) may not discriminate  
15 against ~~an affiliate~~ <sup>or its affiliate</sup> of an electric provider or wholesale electric supplier <sup>or its affiliate</sup> solely on the  
16 basis of its ~~affiliation with the~~ <sup>status as an</sup> electric provider ~~or~~ <sup>or affiliate</sup> wholesale electric supplier.

OK NOTE: I think the prohibition regarding discrimination includes disqualifying  
or penalizing. Also, I think it's necessary to specify the grounds on which discrimination  
may not occur. Otherwise, isn't the prohibition overbroad?

OK - except non discrimination against electric provider/wholesale  
electric provider also prohibited  
17 (4) ELECTRIC UTILITIES. (a) Requirement to charge public benefits fees. Each  
18 electric utility, except for a municipal utility or a retail electric cooperative, shall  
19 charge each customer a public benefits fee in an amount established in rules  
20 promulgated by the department under par. (b). An electric utility ~~or a retail electric~~  
21 ~~cooperative~~, except for a municipal utility or a retail electric cooperative, shall collect  
22 and pay the fees to the department in accordance with the rules promulgated under  
23 par. (b).

1 (am) ~~Electric bill surcharge~~. An electric utility ~~may~~ <sup>shall</sup> include a public benefits  
 2 fee ~~as a surcharge on a customer's bill if the electric utility~~ <sup>IN</sup> also provides <sup>and shall</sup> the customer  
 3 with an annual statement that identifies the annual charges for public benefits fees  
 4 and describes the programs for which fees are used.

....NOTE: Should the statement identify the charges to all customers, or just the  
 particular customer who receives the statement? <sup>NO</sup> ~~yes - the class of customers~~

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

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

11 2. No more than 70% of the total amount of fees may be charged to residential  
 12 customers and no more than 30% of the total may be charged to nonresidential  
 13 customers.

....NOTE: Subdivision 2. should be revised to specify <sup>yes</sup> how the 70%/30% is calculated.  
 Does the requirement apply to each electric provider? Or is it an aggregate requirement? ~~NO~~

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

....NOTE: The suggested language referred to expenses resulting from <sup>OK</sup>  
 administering programs. However, public utilities do not administer programs under the  
 bill.

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

18 1. 'Low-income funding.' In fiscal year 1999-2000, a portion of the public  
 19 benefits fee shall be an amount that, when added to 50% of the estimated public  
 20 benefits fees charged by municipal utilities and retail electric cooperatives under  
 21 sub. (5)(a) for that fiscal year, shall equal \$27,000,000. In each fiscal year after fiscal

1 year 1999-2000, a portion of the public benefits shall be an amount that, when added  
2 to the sum of the following shall equal the low-income need target for that fiscal year  
3 determined by the department under sub. (2) (d) 1.:

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

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

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

\*\*\*\*NOTE: Is subd. 1. okay, or should it refer only to amounts contributed to the  
PSC for deposit in the fund?

10 2. 'Energy conservation and efficiency and renewable resource funding.' For  
11 fiscal year 1999-2000, a portion of the public benefits fee shall be in an amount that,  
12 when added to 50% of the estimated public benefits fees charged by municipal  
13 utilities and retail electric cooperatives under sub. (5) (a) for that fiscal year, shall  
14 equal \$20,000,000. In each fiscal year after fiscal year 1999-2000, a portion of the  
15 public benefits shall be the amount determined under this subdivision for fiscal year  
16 1999-2000, except that if the department determines to reduce or discontinue a  
17 program under sub. (2) (b) 2., the department shall reduce the amount accordingly.

\*\*\*\*NOTE: The instructions refer to fiscal year 1999-2000 and each fiscal year after  
fiscal year 2002-03, but I'm not sure what you intend for fiscal years 2000-01 and  
2001-02. Is the above language okay?

*LIMITATION ON*

18 3. 'Electric bill increases.' For the period beginning on the effective date of this  
19 subdivision .... [revisor inserts date], and ending on June 30, 2008, the total increase  
20 in a customer's electric bills that is based on the requirement to pay public benefits  
21 fees, including any increase resulting from an electric utility's compliance with this

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

....NOTE: The suggested language refers to increases resulting from an electric utility's administration of programs. However, electric utilities do not administer programs under this bill. *Is the above language okay?*

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

11 (am) *Public benefits fee restriction.* Notwithstanding par. (a), for the period  
12 beginning on the effective date of this paragraph .... [revisor inserts date], and ending  
13 on June 30, 2008, the total increase in a customer's or member's electric bills that is  
14 based on the requirement to pay public benefits fees *X* may not exceed 3% of the total  
15 of every other charge for which the member or customer is billed for that period *or*

....NOTE: Should par. (am) have the language regarding increases resulting from *\$ 750 per month, whichever is less* compliance with this section, as in sub. (4)(c) 3? *yes*

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

21 2. No later than every 3rd year after the date specified in subd. 1., each  
22 municipal utility or retail electric cooperative shall notify the department whether

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 SECTION 3. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
18 the following amounts for the purposes indicated:

		1999-00	2000-01
20	<b>20.505 Administration, department of</b>		
21	(10) UTILITY PUBLIC BENEFITS		
22	(q) General program operations	SEG A	-0- -0-

23 SECTION 4. 20.505 (10) of the statutes is created to read:

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 5.** 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 6.** 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 7.** 196.374 of the statutes is repealed and recreated to read:

18           **196.374 Low-income assistance, energy efficiency and other**  
19 **programs.** (1) In this section:

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

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

22           (c) "Utility" means a class A gas or electric utility, as defined by the commission,  
23 *a municipal electric company, as defined in s. 66.073(3)(2),*  
but does not include a municipal utility, as defined in s. 16.957 (1) (q), or a cooperative  
24 association organized under ch. 185.

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

5 (3) In 1999, 2000 and 2001, the commission shall require each utility to spend  
6 a decreasing portion of the amount determined under sub. (2) on programs specified  
7 in sub. (2) and contribute an increasing portion of the amount to the commission for  
8 deposit in the fund. *must equal the amt specified*  
9 amount determined under sub. (2) to the commission for deposit in the fund. The  
10 commission shall ensure in rate-making orders that a utility recovers from its

11 ratepayers the amounts spent on programs or contributed to the fund under this

12 subsection. *The commission shall allow each utility the option of continuing to use in 2000  
the money it is currently receiving to administer its existing energy  
conservation and efficiency programs. Nothing in this section is intended to prohibit  
a utility from implementing the activities described in this subsection, provided that it is complying with its duties under 196.379 and 196.378(4).*

.....NOTE: The instructions require the PSC to equitably allocate the amount  
determined under sub. (2) among the utilities. I'm not sure what this requirement means.

On what basis should the allocation be made? If the utilities must be required to spend  
the same amount on programs and contributions to the fund in 1999, 2000 and 2001, why  
not use the language in sub. (3) above? *OK - but need to add back last 6 lines of p.25*

13 (4) If the department notifies the commission under s. 16.957 (2)(b) 2. that the

14 department has reduced funding for energy conservation and efficiency and  
15 renewable resource programs, the commission shall reduce the amount that a utility  
16 is required to spend on programs or contribute to the fund under sub. (3) by the  
17 percentage by which the department has reduced the funding.

18 SECTION 8. 196.378 of the statutes is created to read:

19 196.378 Renewable resources. (1) DEFINITIONS. In this section:

20 (a) "Biomass" means a resource that derives energy from wood or plant  
21 material or residue, biological waste, crops grown for use as a resource or landfill

SECTION 8

See 42, p. 26 → Non-vegetation-land

1 gases. "Biomass" does not include garbage, as defined in s. 289.01 (9), or industrial,  
2 commercial or household waste, *except that biomass does include refuse-derived*  
3 *fuel used for a renewable facility within this state effective 11/1/98*  
(b) "Conventional resource" means a resource that derives energy from coal, oil,  
4 nuclear power or natural gas, except for natural gas used in a fuel cell.

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

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

7 (d) "Electric utility" means a public utility that ~~owns or operates~~ a retail electric

8 ~~distribution system and sells electricity at retail~~ *provided that a public utility*  
*is not considered to sell electricity at retail solely by owning or operating a retail electric*

....NOTE: Under this above definition, a public utility must both: 1) own or operate *distribution*  
a distribution system; and 2) sell electricity at retail. I think this language is clearer than *system*  
the suggested language. Is it okay? - *NO - need suggested language, p. 26*

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

12 electricity from hydroelectric power or biomass, *even if the output of such facilities*  
*is used to satisfy the requirements of federal law.*

13 (f) "Nonsystem renewable energy" means the amount of electricity that an *6/2, p. 27*  
14 electric provider sells to its retail customers and that is supplied under executed  
15 wholesale purchase contracts from renewable facilities that are not owned or  
16 operated by the electric provider. "Nonsystem renewable energy" does not include  
17 any electricity that is not used to satisfy the electric provider's retail load obligations.

....NOTE: The suggested language refers to electricity that is supplied *or allocated*  
by a wholesale supplier under executed wholesale purchase contracts. I'm not sure what  
is meant by electricity that is allocated, so this language is not included. What is your  
intent regarding allocations under executed wholesale purchase contracts?

18 (g) "Renewable resource" means any of the following: *needed to allow allocation of the renewable portion of*  
*system energy*

- 19 1. A resource that derives electricity from any of the following:  
20 a. A fuel cell that uses, as determined by the commission, a renewable fuel.  
21 b. Tidal or wave action.

1 c. Solar thermal electric or photovoltaic energy.

2 d. Wind power.

3 e. Geothermal technology.

4 g. Biomass.

5 1m. A resource with a capacity of less than ~~80~~ megawatts that derives  
6 electricity from hydroelectric power.

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

9 (h) "Renewable facility" means an installed and operational electric generating  
10 facility in which energy is derived from a renewable resource. "Renewable facility"  
11 includes a facility the installation or operation of which is required under federal law,  
12 but does not include a facility the installation or operation of which is required under  
13 the laws of another state even if the installation or operation of the facility is also  
14 required under federal law.

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

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

18 (k) "Retail electric cooperative" means a cooperative association organized  
19 under ch. 185 that ~~owns or operates a retail electric distribution system and sells~~  
20 electricity at retail. *to its members only, provided that... retail electric distribution system*

...NOTE: See the NOTE under the definition of "electric utility".

21 (n) "System renewable energy" means the amount of electricity that an electric  
22 provider sells to its retail customers and that is supplied by renewable facilities  
23 owned or operated by the electric provider.

~~65~~ 6/2, p.27

~~SEE response to note - language is needed~~ 6/2, p.28

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

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

- 7 1. By December 31, 2000, 0.5%.
- 8 2. By December 31, 2002, 0.85%.
- 9 3. By December 31, 2004, 1.2%.
- 10 4. By December 31, 2006, 1.55%.
- 11 5. By December 31, 2008, 1.9%.
- 12 6. By December 31, 2010, 2.2%.

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

14 1. Total retail energy sales shall be calculated on the basis of a 3-year rolling  
15 average of an electric provider's retail energy sales in this state.

....NOTE: The draft must clarify what is intended by a "3-year rolling average". *OK*  
Without such clarification, I don't know what the above requirement means. *= average of*  
*3 years prior to year of*  
*calculation*

16 2. The amount of electricity supplied by a renewable facility in which biomass  
17 and conventional fuels are fired together shall be equal to the product of the  
18 maximum amount of electricity that the facility is capable of generating and the ratio  
19 of the British thermal unit content of the biomass fuels to the British thermal unit  
20 content of both the biomass and conventional resource fuels.

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

*O-NOTE*  
*redundant*

*insert 10% renewable system capacity exemption ->*  
*6/2, p. 29, lines 6-16*

1 (c) No later than April 15 annually, an electric provider shall submit a report  
 2 to the department that describes the electric provider's compliance with par. (a).  
 3 Reports under this paragraph may include certifications from wholesale suppliers  
 4 regarding the sources and amounts of energy supplied to an electric provider. The  
 5 department may specify the documentation that is required to be included with  
 6 reports submitted under this paragraph, ~~except that the department may not~~ *← NOT OUR INTENT*  
 7 ~~require additional documentation with respect to a wholesale supplier certification.~~

....NOTE: Why are the reports submitted to DOA? The PSC has other duties *CONSENT*  
 regarding renewable resource credits. Why not submit the reports to the PSC? *Subject to PSC jurisdiction*

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

- 13 1. Allocating the costs equally to all customers on a kilowatt-hour basis.
- 14 2. Establishing alternative price structures, including price structures under  
 15 which customers pay a premium for renewable energy.
- 16 3. Any combination of the methods specified in subds. 1. and 2.

*Yes - for renewable utilities* *NOT necessary*  
 ....NOTE: I assume that recovery of costs will only be allowed through rate-making.  
 Is this correct? Also, the suggested language requires PSC approval of a cost recovery  
 method only "if necessary". If cost recovery takes place in rate-making, won't PSC  
 approval always be necessary? In addition, the suggested language refers to "green  
 pricing programs". I didn't use this term because I don't think that its meaning is clear.  
 Finally, note that the above language refers to "electric utilities", rather than "electric  
 providers", because the PSC has no jurisdiction over cost recovery by electric  
 cooperatives. Is this okay, or do you intend to subject cooperatives to PSC jurisdiction? *NO* *OK*

17 (3) RENEWABLE RESOURCE CREDITS. (a) An electric provider that provides total  
 18 renewable energy to its retail electric customers in excess of the percentages  
 19 specified in sub. (2) (a) 1. to 6. may, in the applicable year, sell to any other electric  
 20 provider a renewable resource credit or a portion of a renewable resource credit at

1 any negotiated price. Alternatively, an electric provider may use a renewable  
 2 resource credit or portion of a renewable resource credit in a subsequent year to  
 3 establish compliance with sub. (2) (a). The commission shall promulgate rules that  
 4 establish requirements for calculating the amount of a renewable resource credit.

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

7 (4) RULES. The commission may promulgate rules that designate a resource,  
 8 except for a conventional resource, as a renewable resource in addition to the  
 9 resources specified in sub. (1) (g) 1. and 1m.

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

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

19 (b) The gravity of the violation.

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

...NOTE: I am reluctant to use the term "force majeure" because it does not appear  
 in the statutes. Does the above language otherwise satisfy your intent? *js*

22 **SECTION 9. 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.

\*\*\*\*NOTE: Under 15.09(1)(a), stats., the default rule is that council memberships  
expire on July 1. Is this okay, or do you have a reason for the May 1 expiration dates in  
the instructions?

13 (2) PUBLIC SERVICE COMMISSION RULES.

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

1 legislative council staff under section 227.15 (1) of the statutes no later than the first  
2 day of the 6th month beginning after the effective date of this paragraph.

3 (3) DEPARTMENT OF ADMINISTRATION RULES.

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

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

15

(END)

P2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RM NOT RUN

ASAP - Tues.  
[RUSH]

PA do not submit

Gen. Cat.

1 **AN ACT to repeal and recreate** 196.374; and **to create** 15.107 (17), 16.957,  
 2 20.505 (10), 25.17 (1) (xm), 25.96 and 196.378 of the statutes; **relating to:**  
 3 establishing programs for low-income energy assistance, improving energy  
 4 conservation and efficiency markets and encouraging the development and use  
 5 of renewable resources, creating a council on utility public benefits,  
 6 establishing a utility public benefits fund, requiring electric utilities and retail  
 7 electric cooperatives to charge public benefits fees to customers and members,  
 8 imposing requirements on the use of renewable resources by electric utilities  
 9 and cooperatives, requiring the exercise of rule-making authority, making  
 10 appropriations and providing a penalty.

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

This is a preliminary draft. An analysis will be prepared for a subsequent version of this draft.

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

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

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 or ~~load management~~ program by a municipal utility or retail electric  
20 cooperative.

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 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 (j) "Load management program" means a program that allows an electric  
14 provider or its wholesale supplier to control electric usage by customers and reduce  
15 demand for electricity.

\*\*\*\*NOTE: Although the suggested language deletes the above definition, this version retains the definition of "load management program" because the term is used in the definition of "commitment to community program". Is this okay?

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

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

22 (m) "Low-income household" means any individual or group of individuals in  
23 this state who are living together as one economic unit and for whom residential

1 electricity is customarily purchased in common or who make undesignated  
2 payments for electricity in the form of rent, and whose household income is not more  
3 than 150% of the poverty line as determined under 42 USC 9902 (2).

4 (n) "Low-income need" means the amount obtained by subtracting from the  
5 total low-income energy bills in a fiscal year the product of 2.2% of the estimated  
6 average annual income of low-income households in this state in that fiscal year  
7 multiplied by the estimated number of low-income households in this state in that  
8 fiscal year.

9 (o) "Low-income need percentage" means the percentage that results from  
10 dividing the sum of ~~the~~ the following by the amount of low-income need in fiscal  
11 year 1998-99:

INSERT 4-12 ✓

12 1. The total amount received by the department for low-income funding

\*\*\*\*NOTE: Subdivision 1 must be clarified. What is the source of the "low-income funding"?

INSERT 4-13 ✓

expended

13 2. The total amount spent on programs or contributed to the commission by  
14 utilities under s. 196.374 ~~the~~.

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

\*\*\*\*NOTE: In addition to the clarification of subd. 1., this entire definition should be clarified. I don't know whether the low-income need percentage should be allowed to change each year or, as under a prior version of this draft, remain constant.

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

19 (q) "Municipal utility" means an electric utility that is owned ~~wholly~~  
20 wholly by a municipality.

\*\*\*\*NOTE: The definition of "electric utility" includes the requirement regarding ownership/operation of a retail electric distribution system. Therefore, this requirement does not need to be repeated in the above definition.

INSERT 4-20 ✓

1 (qm) “Public utility” has the meaning given in s. 196.01 (5).

2 (r) “Renewable resource” has the meaning given in s. 196.378 (1) (g).

3 (s) “Retail capacity” means the total amount of electricity that an electric  
4 provider is capable of delivering to its retail customers and that is supplied by electric  
5 generating facilities owned or operated by the electric provider or any other person.  
6 “Retail capacity” does not include any electricity that is not used to satisfy the electric  
7 provider’s retail load obligations.

8 (t) “Retail electric cooperative” means a cooperative association that is  
9 organized under ch. 185 for the purpose of providing electricity at retail to its  
10 members only and that owns or operates a retail electric distribution system.

11 (u) “Total low-income energy bills” means the total estimated amount that all  
12 low-income households are billed for residential electricity, natural gas and heating  
13 fuel in a fiscal year.

14 (v) “Wholesale electric cooperative” means a cooperative association that is  
15 organized under ch. 185 for the purpose of providing electricity at wholesale to its  
16 members only.

17 (w) “Wholesale supply percentage” means the percentage of a municipal  
18 utility’s or retail electric cooperative’s retail capacity in a fiscal year that is supplied  
19 by a wholesale supplier.

20 (x) “Wholesale supplier” means a wholesale electric cooperative or a municipal  
21 electric company, as defined in s. 66.073 (3) (d), that supplies electricity at wholesale  
22 to a municipal utility or retail electric cooperative.

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

1 (a) *Low-income programs.* After holding a hearing, establish programs to be  
2 administered by the department of administration through the division of housing  
3 for awarding grants from the appropriation under s. 20.505 (10) (r) to provide  
4 low-income assistance. In each fiscal year, ~~no less than~~ the amount ~~obtained by~~  
5 ~~subtracting from \$50,000,000 the sum of all moneys received under 42 USC 6861 to~~  
6 ~~6873 in a fiscal year~~ shall be awarded under this paragraph in grants for  
7 weatherization and other energy conservation services. (INSERT 6-7)

NOTE: The council has only an advisory role. Therefore, this draft requires the department, rather than the council, to hold a hearing. Also, note that the requirement to consult with the council under proposed s. 16.957 (2) (intro.) applies to each paragraph in sub. (2). Therefore, there is no need to repeat this requirement in each paragraph.

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

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

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

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

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

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

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

14          2m. Criteria for the selection of proposals by the corporation specified in sub.  
15          (3) (b).

16          2n. Criteria for making the determination under par. (b) 2. Rules promulgated  
17          under this subdivision shall require the department to determine whether the need  
18          for a program established under par. (b) 1. is satisfied by the private sector market  
19          and, if so, whether the program should be discontinued or reduced.

20          4. Requirements for electric utilities to allow customers to include voluntary  
21          contributions to assist in funding a commitment to community program or a program  
22          established under par. (a) or (b) 1. with bill payments for electric service. The rules  
23          may require an electric utility to provide a space on an electric bill in which a  
24          customer may indicate the amount of a voluntary contribution and the customer's  
25          preference regarding whether a contribution should be used for a program

1 established under par. (a) or (b) 1. a. or b. The rules shall establish requirements and  
2 procedures for electric utilities to pay to the department any voluntary contributions  
3 included with bill payments and to report to the department customer preferences  
4 regarding use of the contributions. The department shall deposit all contributions  
5 received under this paragraph in the utility public benefits fund.

6 5. A method for estimating total low-income energy bills, average annual  
7 income of low-income households and the number of low-income households in a  
8 fiscal year for the purpose of determining the amount of low-income need in the fiscal  
9 year.

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

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

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

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

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

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

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

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

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

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

13 (c) In selecting proposals and awarding ~~contracts~~ <sup>grants</sup> under sub. (2) (b), the  
14 department or the nonprofit corporation specified in par. (b) may not discriminate  
15 against an ~~affiliate of an electric provider or wholesale electric supplier solely on the~~  
16 ~~basis of its affiliation with the electric provider or wholesale electric supplier.~~

\*\*\*NOTE: I think the prohibition regarding discrimination includes disqualifying  
or penalizing. Also, I think it's necessary to specify the grounds on which discrimination  
may not occur. Otherwise, isn't the prohibition overbroad?

INSEPT  
9-16

17 (4) ELECTRIC UTILITIES. (a) *Requirement to charge public benefits fees.* Each  
18 electric utility, except for a municipal utility ~~or a retail electric cooperative~~, shall  
19 charge each customer a public benefits fee in an amount established in rules  
20 promulgated by the department under par. (b). An electric utility ~~or a retail electric~~  
21 ~~cooperative~~, except for a municipal utility ~~or a retail electric cooperative~~, shall collect  
22 and pay the fees to the department in accordance with the rules promulgated under  
23 par. (b).

SECTION 2

1

(am) *Electric bill* <sup>s</sup> ~~shall~~ <sup>may</sup> include a public benefits fee ~~to be included~~ <sup>and shall</sup> on a customer's bill ~~if the electric utility also provides~~ the customer with an annual statement that identifies the annual charges for public benefits fees and describes the programs for which fees are used.

\*\*\*NOTE: Should the statement identify the charges to all customers, or just the particular customer who receives the statement?

5

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

9

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

10

11

2. No more than 70% of the total amount of fees <sup>charged by an electric provider</sup> may be charged to residential customers and no more than 30% of the total may be charged to nonresidential customers.

13

\*\*\*NOTE: Subdivision 2. should be revised to specify how the 70%/30% is calculated. Does the requirement apply to each electric provider? Or is it an aggregate requirement?

14

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

15

\*\*\*NOTE: The suggested language referred to expenses resulting from administering programs. However, public utilities do not administer programs under the bill.

16

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

17

18

1. 'Low-income funding.' In fiscal year 1999-2000, a portion of the public benefits fee shall be an amount that, when added to 50% of the estimated public benefits fees charged by municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal year, shall equal \$27,000,000. In each fiscal year after fiscal

19

20

21

*✓ fees*

1 year 1999–2000, a portion of the public benefits shall be an amount that, when added  
2 to the sum of the following shall equal the low-income need target for that fiscal year  
3 determined by the department under sub. (2) (d) 1.:

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

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

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

*\*\*\*NOTE: Is subd. 1. c okay, or should it refer only to amounts contributed to the PSC for deposit in the fund?*

10 2. 'Energy conservation and efficiency and renewable resource funding.' For  
11 fiscal year 1999–2000, a portion of the public benefits fee shall be in an amount that,  
12 when added to 50% of the estimated public benefits fees charged by municipal  
13 utilities and retail electric cooperatives under sub. (5) (a) for that fiscal year, shall  
14 equal \$20,000,000. In each fiscal year after fiscal year 1999–2000, a portion of the  
15 public benefits shall be the amount determined under this subdivision for fiscal year  
16 1999–2000, except that if the department determines to reduce or discontinue a  
17 program under sub. (2) (b) 2., the department shall reduce the amount accordingly.

*✓ fees*

*Limitation on*

*\*\*\*NOTE: The instructions refer to fiscal year 1999–2000 and each fiscal year after fiscal year 2002–03, but I'm not sure what you intend for fiscal years 2000–01 and 2001–02. Is the above language okay?*

18 3. 'Electric bill increases.' For the period beginning on the effective date of this  
19 subdivision .... [revisor inserts date], and ending on June 30, 2008, the total increase  
20 in a customer's electric bills that is based on the requirement to pay public benefits  
21 fees, including any increase resulting from an electric utility's compliance with this

1 section, may not exceed 3% of the total of every other charge for which the customer  
2 is billed for that period.

INSERT 12-2

\*\*\*NOTE: The suggested language refers to increases resulting from an electric utility's administration of programs. However electric utilities do not administer programs under this bill. Is the above language okay?

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

11 (am) *Public benefits fee restriction.* Notwithstanding par. (a), for the period  
12 beginning on the effective date of this paragraph .... [revisor inserts date], and ending  
13 on June 30, 2008, the total increase in a customer's or member's electric bills that is  
14 based on the requirement to pay public benefits fees may not exceed 3% of the total  
15 of every other charge for which the member or customer is billed for that period.

INSERT 12-14

\*\*\*NOTE: Should par. (am) have the language regarding increases resulting from compliance with this section, as in sub. (4) (c) 3.?

INSERT 12-15

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

21 2. No later than every 3rd year after the date specified in subd. 1., each  
22 municipal utility or retail electric cooperative shall notify the department whether

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 1999-00      2000-01

20 **20.505 Administration, department of**

21 (10) UTILITY PUBLIC BENEFITS

22 (q) General program operations      SEG      A      -0-      -0-

23 **SECTION 4.** 20.505 (10) of the statutes is created to read:

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 5.** 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 6.** 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 7.** 196.374 of the statutes is repealed and recreated to read:

18          **196.374 Low-income assistance, energy efficiency and other**  
19 **programs.** (1) In this section:

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

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

22          (c) "Utility" means a class A gas or electric utility, as defined by the commission,  
23 but does not include a municipal utility, as defined in s. 16.957 (1) (q), or a cooperative  
24 association organized under ch. 185.

INSERT  
16-23

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

5           (3) In 1999, 2000 and 2001, the commission shall require each utility to spend  
 6 a decreasing portion of the amount determined under sub. (2) on programs specified  
 7 in sub. (2) <sup>and</sup> contribute <sup>the remaining</sup> ~~an increasing~~ portion of the amount to the commission for  
 8 deposit in the fund. In each year after 2001, each utility shall contribute the entire  
 9 amount determined under sub. (2) to the commission for deposit in the fund. The  
 10 commission shall ensure in rate-making orders that a utility recovers from its  
 11 ratepayers the amounts spent on programs or contributed to the fund under this  
 12 subsection. INSERT 17-12 ✓

~~\*\*\*NOTE: The instructions require the PSC to equitably allocate the amount determined under sub. (2) among the utilities. I'm not sure what this requirement means. On what basis should the allocation be made? If the utilities must be required to spend the same amount on programs and contributions to the fund in 1999, 2000 and 2001, why not use the language in sub. (3) above?~~

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

18           **SECTION 8.** 196.378 of the statutes is created to read:

19           **196.378 Renewable resources.** (1) **DEFINITIONS.** In this section:

20           (a) "Biomass" means a resource that derives energy from wood or plant  
 21 material or residue, biological waste, crops grown for use as a resource or landfill

SECTION 8

*nonvegetation-based*

1

gases. "Biomass" does not include garbage, as defined in s. 289.01 (9), or industrial, commercial or household waste. *INSERT 18-3* ✓

3

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

5

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

6

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

7

(d) "Electric utility" means a public utility that ~~owns or operates a retail electric distribution system and~~ sells electricity at retail. *INSERT 18-5* ✓

8

\*\*\*\*NOTE: Under this above definition, a public utility must both: 1) own or operate a distribution system; and 2) sell electricity at retail. I think this language is clearer than the suggested language. Is it okay?

9

(e) "Excludable renewable capacity" means the portion of an electric provider's total renewable capacity that is supplied from renewable facilities that were placed in service before January 1, 1998, and that, before January 1, 1998, derived electricity from hydroelectric power ~~or biomass~~. *INSERT 18-12* ✓

13

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

14

\*\*\*\*NOTE: The suggested language refers to electricity that is supplied *or allocated* by a wholesale supplier under executed wholesale purchase contracts. I'm not sure what is meant by electricity that is allocated, so this language is not included. What is your intent regarding allocations under executed wholesale purchase contracts?

18

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

19

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

20

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

21

b. Tidal or wave action.

1 c. Solar thermal electric or photovoltaic energy.

2 d. Wind power.

3 e. Geothermal technology.

4 g. Biomass.

5 1m. A resource with a capacity of less than ~~10~~<sup>60</sup> megawatts that derives  
6 electricity from hydroelectric power.

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

9 (h) "Renewable facility" means an installed and operational electric generating  
10 facility in which energy is derived from a renewable resource. "Renewable facility"  
11 includes a facility the installation or operation of which is required under federal law,  
12 but does not include a facility the installation or operation of which is required under  
13 the laws of another state even if the installation or operation of the facility is also  
14 required under federal law.

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

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

18 (k) "Retail electric cooperative" means a cooperative association organized  
19 under ch. 185 that ~~owns or operates a retail electric distribution system and sells~~  
20 electricity at retail. INSERT 19-20 ✓

\*\*\*NOTE: See the NOTE under the definition of "electric utility"

21 (n) "System renewable energy" means the amount of electricity that an electric  
22 provider sells to its retail customers and that is supplied by renewable facilities  
23 owned or operated by the electric provider.

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

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

7 1. By December 31, 2000, 0.5%.

8 2. By December 31, 2002, 0.85%.

9 3. By December 31, 2004, 1.2%.

10 4. By December 31, 2006, 1.55%.

11 5. By December 31, 2008, 1.9%.

12 6. By December 31, 2010, 2.2%.

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

14 1. Total retail energy sales shall be calculated on the basis of a ~~3-year~~ rolling

15 <sup>an</sup> average of an electric provider's retail energy sales in this state. INSERT 20-15

~~\*\*\*\*NOTE: The draft must clarify what is intended by a "3-year rolling average".  
Without such clarification, I don't know what the above requirement means.~~

16 2. The amount of electricity supplied by a renewable facility in which biomass  
17 and conventional fuels are fired together shall be equal to the product of the  
18 maximum amount of electricity that the facility is capable of generating and the ratio  
19 of the British thermal unit content of the biomass fuels to the British thermal unit  
20 content of both the biomass and conventional resource fuels.

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

1 (c) No later than April 15 annually, an electric provider shall submit a report  
 2 to the department that describes the electric provider's compliance with par. (a).  
 3 Reports under this paragraph may include certifications from wholesale suppliers  
 4 regarding the sources and amounts of energy supplied to an electric provider. The  
 5 department may specify the documentation that is required to be included with  
 6 reports submitted under this paragraph, ~~except that the department may not~~  
 7 ~~require additional documentation with respect to a wholesale supplier certification.~~

~~\*\*\*\*NOTE: Why are the reports submitted to DOA? The PSC has other duties regarding renewable resource credits. Why not submit the reports to the PSC?~~

8 (d) The commission shall ensure in rate-making orders that an electric utility  
 9 recovers from ratepayers the cost of providing total renewable energy to its retail  
 10 customers in amounts that equal or exceed the percentages specified in par. (a).  
 11 Subject to ~~the~~ <sup>any</sup> approval of the commission, <sup>that is necessary</sup> an electric utility may recover costs under  
 12 this paragraph by any of the following methods:

- 13 1. Allocating the costs equally to all customers on a kilowatt-hour basis.
- 14 2. Establishing alternative price structures, including price structures under  
 15 which customers pay a premium for renewable energy.
- 16 3. Any combination of the methods specified in subds. 1. and 2.

~~\*\*\*\*NOTE: I assume that recovery of costs will only be allowed through rate-making. Is this correct? Also, the suggested language requires PSC approval of a cost recovery method only "if necessary". If cost recovery takes place in rate-making, won't PSC approval always be necessary? In addition, the suggested language refers to "green pricing programs". I didn't use this term because I don't think that its meaning is clear. Finally, note that the above language refers to "electric utilities", rather than "electric providers" because the PSC has no jurisdiction over cost recovery by electric cooperatives. Is this okay, or do you intend to subject cooperatives to PSC jurisdiction?~~

17 <sup>1</sup> (3) RENEWABLE RESOURCE CREDITS. (a) An electric provider that provides total  
 18 renewable energy to its retail electric customers in excess of the percentages  
 19 specified in sub. (2) (a) 1. to 6. may, in the applicable year, sell to any other electric  
 20 provider a renewable resource credit or a portion of a renewable resource credit at

INSERT 21-16 ✓

1 any negotiated price. Alternatively, an electric provider may use a renewable  
2 resource credit or portion of a renewable resource credit in a subsequent year to  
3 establish compliance with sub. (2) (a). The commission shall promulgate rules that  
4 establish requirements for calculating the amount of a renewable resource credit.

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

7 (4) RULES. The commission may promulgate rules that designate a resource,  
8 except for a conventional resource, as a renewable resource in addition to the  
9 resources specified in sub. (1) (g) 1. and 1m.

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

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

19 (b) The gravity of the violation.

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

\*\*\*NOTE: I am reluctant to use the term "force majeure" because it does not appear  
in the statutes. Does the above language otherwise satisfy your intent?

22 **SECTION 9. 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.

~~\*\*\*NOTE: Under s. 15.09 (1) (a), stats., the default rule is that council memberships  
expire on July 1. Is this okay, or do you have a reason for the May 1 expiration dates in  
the instructions?~~

13          (2) PUBLIC SERVICE COMMISSION RULES.

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

1 legislative council staff under section 227.15 (1) of the statutes no later than the first  
2 day of the 6th month beginning after the effective date of this paragraph.

3 (3) DEPARTMENT OF ADMINISTRATION RULES.

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

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

15 (END)

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INSERT 4-12: ✓

under 42 USC 6861 to 6873 and 42 USC 8621 to 8629 in fiscal year 1997-98

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

INSERT 4-20: ✓

and that owns a retail distribution system

INSERT 9-16: ✓

electric provider or its affiliate or a wholesale electric supplier or its affiliate solely  
on the basis of its status as an electric provider, wholesale electric supplier or affiliate

INSERT 12-2: ✓

or \$750 per month, whichever is less

INSERT 12-14: ✓

, including any increase resulting from a retail electric cooperative's or municipal  
utility's compliance with this section,

INSERT 12-15: ✓

or \$750 per month, whichever is less

INSERT 16-23: ✓

a municipal electric company, as defined in s. 66.073 (3) (d),

INSERT 17-12: ✓

The commission shall allow each utility the option of continuing to use, until January  
1, 2001, the ~~money~~ <sup>moneys</sup> it has recovered under s. 196.374 (3), 1997 stats., to administer  
the programs <sup>that</sup> it has funded under s. 196.374 (1), 1997 stats.  
<sup>that</sup>

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**INSERT 18-2:** ✓

, except that "biomass" includes refuse-derived fuel used for a renewable facility that was in service in this state before January 1, 1998

**INSERT 18-8:** ✓

For purposes of this paragraph, a public utility is not considered to sell electricity at retail solely on the basis of its ownership or operation of a retail electric distribution system.

**INSERT 18-12:** ✓

, even if the output of the renewable facilities is used to satisfy requirements under federal law

**INSERT 19-20:** ✓

to its members only. For purposes of this paragraph, a cooperative association is not considered to sell electricity at retail solely on the basis of its ownership or operation of a retail electric distribution system.

**INSERT 20-15:** ✓

during the prior 3 years

**INSERT 21-16:**

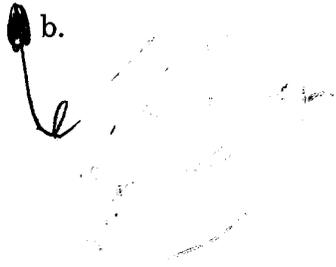
(e) 1. This subsection does not apply to any of the following:

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

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

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

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



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shall be sufficient to equal 47% of the sum of all ~~moneys~~ <sup>moneys</sup> received from the federal  
government under 42 USC 6861 to 6873 and 42 USC 8621 to 8629 in a fiscal year and  
50% of the ~~moneys~~ <sup>moneys</sup> collected in public benefits fees under sub. (5) ✓

- 3150

**Kunkel, Mark**

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**From:** Burnett, Douglas  
**Sent:** Friday, June 04, 1999 3:56 PM  
**To:** 'awilliams@foleylaw.com'; 'cullen@cwpb.com'; 'pawlisch@cwpb.com'  
**Cc:** Kunkel, Mark  
**Subject:** Energy Draft

I just received the first preliminary draft, which is the first of 3 expected drafts on the energy deal, which after review will be combined into a single draft. The preliminary drafts should not be widely circulated, but kept within the coalition. The copies have been sent to the Cullen firm. The Cullen firm will be responsible for distributing the preliminary drafts for review to other firms. Sandy Williams is authorized to discuss the drafts with Mark Kunkel, however changes to the drafts need to be agreed upon by both the Cullen and Foley firms.

If this doesn't work for ground rules or if there is a more efficient way to handle the drafts, let me know.