



ENGROSSED 2005 SENATE BILL 459

February 22, 2006 - Printed by direction of ASSEMBLY CHIEF CLERK.

1 **AN ACT** *to repeal* 16.957 (1) (d), (e) and (h), 16.957 (1) (r), 16.957 (2) (b), 16.957
2 (2) (c) 2m., 2n. and 4., 16.957 (2) (d) 2., 16.957 (2) (d) 4. c., 16.957 (3) (b) and (c),
3 16.957 (4) (c) 2., 16.957 (5) (c) and (d), 16.957 (5) (e) 2., 101.027 (1) (b), 196.378
4 (1) (bm), 196.378 (1) (e), 196.378 (1) (f), 196.378 (1) (n) and 196.378 (2) (b) 3.; **to**
5 **renumber** 16.957 (3) (a); **to renumber and amend** 196.025 (1), 196.378 (1) (a)
6 and 196.378 (3) (a); **to consolidate, renumber and amend** 16.957 (5) (e)
7 (intro.) and 1. and 101.027 (1) (intro.) and (a); **to amend** 16.75 (1) (a) 1., 16.957
8 (1) (c), 16.957 (1) (o) 1m., 16.957 (1) (o) 2., 16.957 (1) (o) 3., 16.957 (2) (a) 2.,
9 16.957 (2) (a) 4., 16.957 (2) (c) 1., 16.957 (2) (c) 2., 16.957 (2) (d) 1., 16.957 (2) (d)
10 3., 16.957 (2) (d) 4. a., 16.957 (4) (a), 16.957 (4) (am), 16.957 (4) (b) (intro.), 16.957
11 (4) (c) (title), 16.957 (4) (c) 1. (intro.), 16.957 (4) (c) 1. a., 16.957 (4) (c) 1. c., 16.957
12 (4) (c) 3., 16.957 (5) (a), 16.957 (5) (am), 16.957 (5) (f), 16.957 (5) (g) 1. (intro.),
13 16.957 (5) (g) 1. a., 16.957 (5) (g) 1. b., 16.957 (5) (g) 2., 20.505 (3) (s), 25.96, 76.28
14 (1) (d), 76.48 (1g) (d), 77.54 (44), 79.005 (4) (d), 101.027 (2), 101.027 (3) (a) 1.,

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1 101.027 (3) (a) 2., 101.027 (3) (b) 1., 101.027 (3) (b) 2., 196.378 (1) (g), 196.378
2 (1) (i), 196.378 (2) (b) 1., 196.378 (2) (c), 196.378 (3) (b), 196.378 (5) (intro.),
3 285.48 (4) (a) and 285.48 (4) (b); **to repeal and recreate** 16.957 (title), 16.957
4 (1) (x), 16.957 (5) (b), 196.374, 196.378 (1) (o), 196.378 (2) (a), 196.378 (2) (b) 4.
5 and 196.378 (2) (e); and **to create** 16.75 (10e), 16.75 (12), 16.855 (10s), 16.897,
6 16.953, 20.924 (1) (j), 196.025 (1) (title), 196.025 (1) (ag), 196.025 (1) (b) to (d),
7 196.025 (1m) (title), 196.025 (2) (title), 196.025 (2m) (title), 196.025 (3) (title),
8 196.025 (4) (title), 196.025 (5) (title), 196.378 (1) (ag), 196.378 (1) (fg), 196.378
9 (1) (fm), 196.378 (1) (fr), 196.378 (1) (p), 196.378 (2) (b) 1m., 196.378 (2) (b) 5.,
10 196.378 (2) (f), 196.378 (2) (g), 196.378 (3) (a) 2., 196.378 (3) (c), 196.378 (4m)
11 and 196.378 (4r) of the statutes; **relating to:** administration and funding of
12 programs for utility public benefits; renewable energy requirements for
13 utilities and retail electric cooperatives; energy efficiency requirements for
14 state construction and certain purchases; revising and reviewing the state
15 energy conservation code; state use of renewable energy resources; anaerobic
16 digester research; corn-burning furnace pilot program; granting rule-making
17 authority; and making an appropriation.

Analysis by the Legislative Reference Bureau***Engrossment information:***

The text of Engrossed 2005 Senate Bill 459, as passed by the senate on February 21, 2006, consists of the following documents adopted in the senate on February 21, 2006: the bill as affected by Senate Substitute Amendment 1 (as affected by Senate Amendment 1 thereto). The text also includes the February 21,

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2006, chief clerk's correction to Senate Amendment 1 to Senate Substitute Amendment 1.

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

1 **SECTION 1e.** 16.75 (1) (a) 1. of the statutes, as affected by 2005 Wisconsin Act
2 25, is amended to read:

3 16.75 (1) (a) 1. All orders awarded or contracts made by the department for all
4 materials, supplies, equipment, and contractual services to be provided to any
5 agency, except as otherwise provided in par. (c) and subs. (2), (2g), (2m), (3m), (3t),
6 (6), (7), (8), (9), (10e), and (10m) and ss. 16.73 (4) (a), 16.751, 16.754, 50.05 (7) (f),
7 153.05 (2m) (a), 287.15 (7), and 301.265, shall be awarded to the lowest responsible
8 bidder, taking into consideration life cycle cost estimates under sub. (1m), when
9 appropriate, the location of the agency, the quantities of the articles to be supplied,
10 their conformity with the specifications, and the purposes for which they are
11 required and the date of delivery.

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

13 16.75 (10e) (a) In this subsection, "energy consuming equipment" means any
14 equipment that is designed for heating, ventilation, air conditioning, water heating
15 or cooling, lighting, refrigeration, or any other function, and that consumes energy.

16 (b) The department, any other designated purchasing agent under s. 16.71 (1),
17 any agency making purchases under s. 16.74, and any authority may not purchase
18 energy consuming equipment unless the specifications for the equipment meet the
19 applicable standards for the equipment established under s. 16.855 (10s) (a). If there
20 is no standard under s. 16.855 (10s) (a) applicable to the type of energy consuming
21 equipment being purchased, or if the energy consuming equipment meeting that

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1 standard is not reasonably available, the department, purchasing agent, agency, or
2 authority shall ensure that the energy consuming equipment that is purchased
3 maximizes energy efficiency to the extent technically and economically feasible. The
4 department, purchasing agent, agency, or authority shall not determine that energy
5 consuming equipment that meets the applicable standard under s. 16.855 (10s) (a)
6 either is not reasonably available on the basis of cost alone or is not cost-effective
7 unless the difference in the cost of the purchase and installation of the equipment
8 that meets the standard and the equipment that would otherwise be installed is
9 greater than the difference in the cost of operating the equipment that meets the
10 standard and the equipment that would otherwise be installed over the anticipated
11 life of the equipment.

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

13 16.75 (12) (a) In this subsection:

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

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

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

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

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1 5. "Total annual electric energy" means the total annual amount of electric
2 energy generated or purchased by the state for power, heating, or cooling purposes
3 for all agency facilities.

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

6 1. That the renewable percentage for total annual electric energy by December
7 31, 2007, is at least 10 percent.

8 2. That the renewable percentage for total annual electric energy by December
9 31, 2011, is at least 20 percent.

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

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

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

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

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

ENGROSSED SENATE BILL 459**SECTION 2**

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

2 16.855 (10s) (a) The department shall, by rule, prescribe and annually review
3 and revise as necessary energy efficiency standards for equipment that is installed
4 as a component of a construction project and that relates to heating, ventilation, air
5 conditioning, water heating or cooling, lighting, refrigeration, or any other function
6 that consumes energy. The standards shall meet or exceed current applicable
7 guidelines of the federal environmental protection agency relating to energy
8 efficiency of the functions specified in this paragraph, guidelines that apply to the
9 federal energy management program under 42 USC 8251 et seq., and standards
10 established by the American society of heating, refrigerating and air-conditioning
11 engineers.

12 (b) The department shall ensure that the specifications for any equipment that
13 is designed for heating, ventilation, air conditioning, water heating or cooling,
14 lighting, refrigeration, or any other function that consumes energy under any
15 construction project contract administered by the department meet applicable
16 standards established under par. (a). If there is no standard under par. (a) applicable
17 to the type of equipment being purchased or if the equipment meeting that standard
18 is not reasonably available, the department shall ensure that energy consumption
19 within a building, structure, or facility and all equipment that is purchased under
20 each contract administered by the department maximizes energy efficiency to the
21 extent technically and economically feasible. The department shall not determine
22 that equipment that meets the applicable standard under par. (a) either is not
23 reasonably available on the basis of cost alone or is not cost-effective unless the
24 difference in the cost of the purchase and installation of the equipment that meets
25 the standard and the equipment that would otherwise be installed is greater than

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1 the difference in the cost of operating the equipment that meets the standard and the
2 equipment that would otherwise be installed over the anticipated life of the
3 equipment.

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

5 **16.897 Space and water heating systems.** In planning and designing space
6 or water heating systems for new or existing state facilities, the department shall
7 ensure that geothermal technologies are utilized to the greatest extent that is
8 cost-effective and technically feasible.

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

10 **16.953 Energy cost reduction plans.** No later than July 1 of each
11 even-numbered year, each agency, as defined in s. 16.75 (12) (a) 1., shall submit a
12 plan to the department, the joint committee on finance, and the standing committee
13 of each house of the legislature having jurisdiction over energy, for reduction of the
14 cost of energy used by the agency. The plan shall include all system and equipment
15 upgrades or installations that are estimated to result in energy cost savings equal
16 to the cost of the upgrade or installation over the anticipated life of the system or
17 equipment. The plan shall also identify potential means of financing the upgrades
18 and installations other than reliance on appropriations of general purpose revenues.
19 The department of administration shall consider in its plan the means of financing
20 allowed under s. 16.858.

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

22 **16.957 (title) Low-income assistance.**

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

24 16.957 (1) (c) "Commitment to community program" means a program by or on
25 behalf of a municipal utility or retail electric cooperative for low-income assistance

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1 ~~or an energy conservation program by a municipal utility or retail electric~~
2 ~~cooperative.~~

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

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

5 16.957 (1) (o) 1m. The amount of the portion of the public benefits fee for fiscal
6 year 1999-2000 that is specified in sub. s. 16.957 (4) (c) 1. ~~The amount specified in~~
7 ~~this subdivision shall not be subject to the reduction under 1999 Wisconsin Act 9,~~
8 ~~section 9101 (1zr) (a), 1999 stats.~~

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

10 16.957 (1) (o) 2. The total amount expended by utilities under s. 196.374, 2003
11 stats., related to low-income assistance.

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

13 16.957 (1) (o) 3. Fifty percent of the amount of public benefits fees that
14 municipal utilities and retail electric cooperatives are were required to charge under
15 sub. s. 16.957 (5) (a), 1999 stats., in fiscal year 1999-2000. ~~The amount specified in~~
16 ~~this subdivision shall not be subject to the reduction under 1999 Wisconsin Act 9,~~
17 ~~section 9101 (1zv) (c).~~

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

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

20 16.957 (1) (x) "Wholesale supply percentage" means the percentage of the
21 electricity sold by a wholesale supplier that is purchased by a municipal utility or
22 retail electric cooperative.

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

24 16.957 (2) (a) 2. All moneys spent in a fiscal year for low-income programs
25 established under s. 196.374, 2003 stats.

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

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

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

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

6 16.957 (2) (c) 1. Eligibility requirements for low-income assistance under
7 programs established under par. (a). The rules shall prohibit a person who receives
8 low-income assistance from a municipal utility or retail electric cooperative under
9 a program specified in sub. (5) ~~(d) 2. b. or 3. a.~~ (b) 1. from receiving low-income
10 assistance under programs established under par. (a).

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

12 16.957 (2) (c) 2. Requirements and procedures for applications for grants
13 awarded under programs established under par. (a) ~~or (b) 1.~~

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

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

16 16.957 (2) (d) 1. For each fiscal year ~~after fiscal year 1998-99~~, determine the
17 low-income need target for that fiscal year.

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

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

20 16.957 (2) (d) 3. Deposit all moneys received under sub. (4) (a) or (5) ~~(c) or (d)~~
21 (b) 2. in the utility public benefits fund.

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

23 16.957 (2) (d) 4. a. The expenses of the department, other state agencies, and
24 grant recipients in administering or participating in the programs under ~~pars.~~ par.
25 (a) ~~and (b).~~

ENGROSSED SENATE BILL 459**SECTION 23**

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

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

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

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

5 16.957 (4) (a) *Requirement to charge ~~public benefits~~ low-income assistance fees.*

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

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

14 16.957 (4) (am) *Electric bills.* An electric utility shall ~~include a public benefits~~
15 show the low-income assistance fee in the fixed charges for electricity as a separate
16 line in a customer's bill, identified as the "state low-income assistance fee," and shall
17 provide the customer with an annual statement that identifies the annual charges
18 for ~~public benefits~~ low-income assistance fees and describes the programs for which
19 fees are used.

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

21 16.957 (4) (b) *Rules.* (intro.) In consultation with the council, the department
22 shall promulgate rules that establish the amount of a ~~public benefits~~ low-income
23 assistance fee under par. (a). Fees established in rules under this paragraph may
24 vary by class of customer, but shall be uniform within each class, and shall satisfy
25 each of the following:

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

2 16.957 (4) (c) (title) *Amount of public benefits low-income assistance fees.*

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

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

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

13 16.957 (4) (c) 1. a. ~~Fifty percent of the estimated public benefits~~ The estimated
14 low-income assistance fees charged by municipal utilities and retail electric
15 cooperatives under sub. (5) (a) for that fiscal year.

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

17 16.957 (4) (c) 1. c. The total amount spent on programs ~~or contributed to the~~
18 ~~commission by utilities under s. 196.374 (3), 2003 stats., for that fiscal year for~~
19 ~~low-income assistance.~~

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

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

22 16.957 (4) (c) 3. ‘Limitation on electric bill increases low-income assistance
23 fees.’ ~~For the period beginning on October 29, 1999, and ending on June 30, 2008,~~
24 ~~the total increase in a customer’s electric bills that is based on the requirement to pay~~
25 ~~public benefits fees, including any increase resulting from an electric utility’s~~

ENGROSSED SENATE BILL 459**SECTION 34**

1 ~~compliance with this section, In any month, the low-income assistance fee may not~~
2 ~~exceed 3% of the total of every other charge for which the customer is billed for that~~
3 ~~period month or \$750 per month, whichever is less.~~

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

5 16.957 (5) (a) *Requirement to charge ~~public benefits~~ low-income assistance fees.*

6 Each retail electric cooperative and municipal utility shall charge a monthly ~~public~~
7 ~~benefits~~ low-income assistance fee to each customer or member in an amount that
8 is sufficient for the retail electric cooperative or municipal utility to collect an annual
9 average of \$16 ~~\$8~~ per meter. A retail electric cooperative or municipal utility may
10 determine the amount that a particular class of customers or members is required
11 to pay under this paragraph and may charge different fees to different classes of
12 customers or members.

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

14 16.957 (5) (am) *~~Public benefits~~ Low-income assistance fee restriction.*

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

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

23 16.957 (5) (b) *Commitment to community programs.* 1. Except as provided in
24 subd. 2., each retail electric cooperative and municipal utility shall spend on

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1 commitment to community programs the fees that the cooperative or utility charges
2 under par. (a).

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

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

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

16 16.957 (5) (e) *Wholesale supplier credit.* If a wholesale supplier has established
17 a commitment to community program for ~~low-income assistance or an energy~~
18 ~~conservation program~~, a municipal utility or retail electric cooperative that is a
19 customer or member of the wholesale supplier may ~~do any of the following:~~ 1. ~~Include~~
20 include an amount equal to the product of the municipal utility's or retail electric
21 cooperative's wholesale supply percentage and the amount that the wholesale
22 supplier has spent on ~~low-income assistance~~ the commitment to community
23 program in a ~~fiscal~~ year in calculating the amount that the municipal utility or retail
24 electric cooperative has spent on ~~low-income assistance~~ commitment to community
25 programs in that ~~fiscal~~ year under par. (d) 2. b. or 3. a. (b) 1.

ENGROSSED SENATE BILL 459**SECTION 40**

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

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

3 16.957 (5) (f) *Joint programs.* Municipal utilities or retail electric cooperatives
4 may establish joint commitment to community programs, except that each municipal
5 utility or retail electric cooperative that participates in a joint program is required
6 to comply with the spending requirements under par. (d) (b) 1.

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

8 16.957 (5) (g) 1. (intro.) ~~For each fiscal year~~ Annually, each municipal utility
9 and retail electric cooperative that does not pay 100% of the public benefits fee
10 spends the low-income assistance fees that it the utility or cooperative charges
11 under par. (a) to the department under par. (c) shall file a report with the department
12 on commitment to community programs under par. (b) 1. shall provide for an
13 independent audit of its programs and submit a report to the department that
14 describes each of the following:

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

16 16.957 (5) (g) 1. a. An accounting of ~~public benefits~~ low-income assistance fees
17 charged to customers or members under par. (a) in the ~~fiscal~~ year and expenditures
18 on commitment to community programs under par. (d) (b) 1., including any amounts
19 included in the municipal utility's or retail electric cooperative's calculations under
20 par. (e).

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

22 16.957 (5) (g) 1. b. A description of commitment to community programs
23 established by the municipal utility or retail electric cooperative in the ~~fiscal~~ year.

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

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

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

6 20.505 (3) (s) ~~Energy conservation and efficiency and renewable resource grants~~
7 ~~Transfer to air quality improvement fund.~~ From the utility public benefits fund, a
8 sum sufficient for ~~energy conservation and efficiency and renewable resource grants~~
9 ~~under s. 16.957 (2) (b) 1.~~ and to make the transfer to the air quality improvement fund
10 under s. 16.958 (2) (a).

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

12 20.924 (1) (j) Shall not enter into any lease or other contract that provides for
13 the construction of any building, structure, or facility, or portion thereof, for initial
14 occupancy by the state and that contains an option for the state to purchase the
15 building, structure, or facility unless the seller or lessor agrees that all equipment
16 to be installed as a component of the building, structure, or facility that relates to any
17 function that consumes energy meets applicable requirements for state building
18 projects under s. 16.855 (10s) (a).

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

20 **25.96 Utility public benefits fund.** There is established a separate
21 nonlapsible trust fund designated as the utility public benefits fund, consisting of
22 ~~deposits by the public service commission under s. 196.374 (3), public benefits~~
23 low-income assistance fees received under s. 16.957 (4) (a) and (5) (e) ~~and (d) and~~
24 ~~contributions received under s. 16.957 (2) (e) 4. and (d) 2.~~ (b) 2.

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

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1 76.28 (1) (d) “Gross revenues” for a light, heat and power company other than
2 a qualified wholesale electric company or a transmission company means total
3 environmental control charges paid to the company under a financing order issued
4 under s. 196.027 (2) and total operating revenues as reported to the public service
5 commission except revenues for interdepartmental sales and for interdepartmental
6 rents as reported to the public service commission and deductions from the sales and
7 use tax under s. 77.61 (4), except that the company may subtract from revenues
8 either the actual cost of power purchased for resale, as reported to the public service
9 commission, by a light, heat and power company, except a municipal light, heat and
10 power company, that purchases under federal or state approved wholesale rates
11 more than 50% of its electric power from a person other than an affiliated interest,
12 as defined in s. 196.52 (1), if the revenue from that purchased electric power is
13 included in the seller’s gross revenues or the following percentages of the actual cost
14 of power purchased for resale, as reported to the public service commission, by a
15 light, heat and power company, except a municipal light, heat and power company
16 that purchases more than 90% of its power and that has less than \$50,000,000 of
17 gross revenues: 10% for the fee assessed on May 1, 1988, 30% for the fee assessed on
18 May 1, 1989, and 50% for the fee assessed on May 1, 1990, and thereafter. For a
19 qualified wholesale electric company, “gross revenues” means total business
20 revenues from those businesses included under par. (e) 1. to 4. For a transmission
21 company, “gross revenues” means total operating revenues as reported to the public
22 service commission, except revenues for transmission service that is provided to a
23 public utility that is subject to the license fee under sub. (2) (d), to a public utility, as
24 defined in s. 196.01 (5), or to a cooperative association organized under ch. 185 for
25 the purpose of providing electricity to its members only. For an electric utility, as

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1 defined in s. 16.957 (1) (g), “gross revenues” does not include ~~public benefits~~
2 low-income assistance fees collected by the electric utility under s. 16.957 (4) (a) or
3 (5) (a). For a generator public utility, “gross revenues” does not include any grants
4 awarded to the generator public utility under s. 16.958 (2) (b). For a wholesale
5 supplier, as defined in s. 16.957 (1) (w), “gross revenues” does not include any ~~public~~
6 ~~benefits~~ low-income assistance fees that are received from a municipal utility or
7 retail electric cooperative or under a joint program established under s. 16.957 (5)
8 (f). For a municipal utility, “gross revenues” does not include ~~public benefits~~
9 low-income assistance fees received by the municipal utility from a municipal utility
10 or retail electric cooperative under a joint program established under s. 16.957 (5)
11 (f).

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

13 76.48 (1g) (d) “Gross revenues” means total operating revenues, except
14 revenues for interdepartmental sales and for interdepartmental rents, less
15 deductions from the sales and use tax under s. 77.61 (4) and, in respect to any electric
16 cooperative that purchases more than 50% of the power it sells, less the actual cost
17 of power purchased for resale by an electric cooperative, if the revenue from that
18 purchased electric power is included in the seller’s gross revenues or if the electric
19 cooperative purchased more than 50% of the power it sold in the year prior to
20 January 1, 1988, from a seller located outside this state. For an electric cooperative,
21 “gross revenues” does not include grants awarded to the electric cooperative under
22 s. 16.958 (2) (b). For a retail electric cooperative, “gross revenues” does not include
23 ~~public benefits~~ low-income assistance fees collected by the retail electric cooperative
24 under s. 16.957 (5) (a), ~~public benefits~~ low-income assistance fees received by the
25 retail electric cooperative from a retail electric cooperative or municipal utility under

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

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

7 77.54 (44) The gross receipts from the collection of public benefits low-income
8 assistance fees that are charged under s. 16.957 (4) (a) or (5) (a).

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

10 79.005 (4) (d) Replacing steam generating equipment at a combustion-based
11 renewable facility, as defined in s. 196.378 (1) (g), that is located in this state, to
12 increase efficiency or capacity, if the facility remains a combustion-based renewable
13 facility, as defined in s. 196.378 (1) (g), after replacing the equipment.

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

16 101.027 (1) In this section: (a) ~~“Energy, “energy conservation code”~~ means the
17 energy conservation code promulgated by the department that sets design
18 requirements for construction and equipment for the purpose of energy conservation
19 in public buildings and places of employment.

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

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

22 101.027 (2) The department shall review the energy conservation code and
23 shall promulgate rules that change the requirements of the energy conservation code
24 to improve energy conservation. No rule may be promulgated that has not taken into
25 account the cost of the energy conservation code requirement, as changed by the rule,

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1 in relationship to the benefits derived from that requirement, including the
2 reasonably foreseeable economic and environmental benefits to the state from any
3 reduction in the use of imported fossil fuel. The proposed rules changing the energy
4 conservation code shall be submitted to the legislature in the manner provided under
5 s. 227.19. In conducting a review under this subsection, the department shall
6 consider incorporating, into the energy conservation code, design requirements from
7 the most current national energy efficiency design standards, including ~~standard~~
8 ~~90.1 - 1989~~ the International Energy Conservation Code or an energy efficiency code
9 other than ~~standard 90.1 - 1989~~ the International Energy Conservation Code if that
10 energy efficiency code is used to prescribe design requirements for the purpose of
11 conserving energy in buildings and is generally accepted and used by engineers and
12 the construction industry.

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

14 101.027 (3) (a) 1. A revision of ~~standard 90.1 - 1989~~ the International Energy
15 Conservation Code is published.

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

17 101.027 (3) (a) 2. ~~Five~~ Three years have passed from the date on which the
18 department last submitted to the legislature proposed rules changing the energy
19 conservation code.

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

21 101.027 (3) (b) 1. If the department begins a review under sub. (2) because a
22 revision of ~~standard 90.1 - 1989~~ the International Energy Conservation Code is
23 published, the department shall complete its review of the energy conservation code,
24 as defined in sub. (1), and submit to the legislature proposed rules changing the
25 energy conservation code, as defined in sub. (1), no later than 18 months after the

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1 date on which the revision of standard ~~90.1 - 1989~~ the International Energy
2 Conservation Code is published.

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

4 101.027 (3) (b) 2. If the department begins a review under sub. (2) because 5
5 3 years have passed from the date on which the department last submitted to the
6 legislature proposed rules changing the energy conservation code, the department
7 shall complete its review of the energy conservation code and submit to the
8 legislature proposed rules changing the energy conservation code no later than 9
9 months after the last day of the ~~5-year~~ 3-year period.

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

11 196.025 (1) (title) STATE ENERGY POLICY.

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

14 196.025 (1) (ar) Consideration of energy priorities. ~~To~~ Except as provided in
15 pars. (b) to (d), to the extent cost-effective, technically feasible and environmentally
16 sound, the commission shall implement the priorities under s. 1.12 (4) in making all
17 energy-related decisions and orders, including advance plan strategic energy
18 assessment, rate setting and rule-making orders.

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

20 196.025 (1) (ag) *Definitions.* In this subsection:

21 1. "Renewable resource" has the meaning given in s. 196.374 (1) (j).

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

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

24 196.025 (1) (b) *Energy conservation and efficiency.* 1. In a proceeding in which
25 an investor-owned electric public utility is a party, the commission shall not order

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1 or otherwise impose energy conservation or efficiency requirements on the
2 investor-owned electric public utility if the commission has fulfilled all of its duties
3 under s. 196.374 and the investor-owned electric public utility has satisfied the
4 requirements of s. 196.374 for the year prior to commencement of the proceeding, as
5 specified in s. 196.374 (8).

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

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

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

23 (d) *Transmission facilities.* In a proceeding regarding a request by a public
24 utility or wholesale supplier to acquire, construct, install, or operate an electric

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1 transmission facility or associated equipment, the commission shall not order or
2 otherwise impose requirements on the public utility or wholesale supplier.

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

4 196.025 (1m) (title) TRANSMISSION CORRIDORS.

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

6 196.025 (2) (title) ENVIRONMENTAL IMPACTS.

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

8 196.025 (2m) (title) COORDINATION WITH DEPARTMENT OF NATURAL RESOURCES.

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

10 196.025 (3) (title) RELIABILITY REPORTS.

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

12 196.025 (4) (title) SMALL-SCALE GENERATION INCENTIVES.

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

14 196.025 (5) (title) MARKET POWER STUDY.

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

16 **196.374 Energy efficiency and renewable resource programs. (1)**

17 DEFINITIONS. In this section:

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

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

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

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

5 (e) "Energy utility" means an investor-owned electric or natural gas public
6 utility.

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

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

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

19 (h) "Municipal utility" has the meaning given in s. 16.957 (1) (q).

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

24 (j) "Renewable resource" means a resource that derives energy from any source
25 other than coal, petroleum products, nuclear power or, except as used in a fuel cell,

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1 natural gas. “Renewable resource” includes resources deriving energy from any of
2 the following:

3 1. Solar energy.

4 2. Wind power.

5 3. Water power.

6 4. Biomass.

7 5. Geothermal technology.

8 6. Tidal or wave action.

9 7. Fuel cell technology that uses, as determined by the commission, a renewable
10 fuel.

11 (k) “Renewable resource program” means a program for encouraging the
12 development or use of customer applications of renewable resources, including
13 educating customers or members about renewable resources, encouraging
14 customers or members to use renewable resources, and encouraging the transfer of
15 new or emerging technologies from research, development, and demonstration to
16 commercial implementation.

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

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

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

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

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1 require each energy utility to spend the amount required under sub. (3) (b) 2. to fund
2 statewide energy efficiency and renewable resource programs.

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

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

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

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

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

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

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

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

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

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

11 **(3) COMMISSION DUTIES.** (a) *In general.* The commission shall have oversight
12 of programs under sub. (2). The commission shall maximize coordination of program
13 delivery, including coordination between programs under subs. (2) (a) 1., (b) 1. and
14 2., and (c) and (7), ordered programs, low-income weatherization programs under s.
15 16.957, renewable resource programs under s. 196.378, and other energy efficiency
16 or renewable resource programs. The commission shall cooperate with the
17 department of natural resources to ensure coordination of energy efficiency and
18 renewable resource programs with air quality programs and to maximize and
19 document the air quality improvement benefits that can be realized from energy
20 efficiency and renewable resource programs.

21 (b) *Programs and funding.* 1. At least every 4 years, after notice and
22 opportunity to be heard, the commission shall, by order, evaluate the energy
23 efficiency and renewable resource programs under sub. (2) (a) 1., (b) 1. and 2., and
24 (c) and ordered programs and set or revise goals, priorities, and measurable targets
25 for the programs. The commission shall give priority to programs that moderate the

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1 growth in electric and natural gas demand and usage, facilitate markets and assist
2 market providers to achieve higher levels of energy efficiency, promote energy
3 reliability and adequacy, avoid adverse environmental impacts from the use of
4 energy, and promote rural economic development.

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

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

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

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

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

23 e. Societal impacts.

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

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

3 h. Any other relevant factors.

4 3. The commission shall submit to the joint committee on finance any proposal
5 to require each energy utility to spend a larger percentage of its annual operating
6 revenues than the percentage specified in subd. 2. (intro.) to fund the programs
7 specified in subd. 2. (intro.). If the cochairpersons of the committee do not notify the
8 commission within 10 working days after the commission submits such a proposal
9 that the committee has scheduled a meeting to review the proposal, the commission
10 may require each energy utility to spend the percentage specified in the proposal.
11 If, within 10 working days after the commission submits a proposal, the
12 cochairpersons of the committee notify the commission that the committee has
13 scheduled a meeting to review the proposal, but, within 90 days of providing the
14 notice, the committee does not object to the proposal, the commission may require
15 each energy utility to spend the percentage specified in the proposal. If, within 90
16 days after providing the notice, the committee objects to the proposal, the
17 commission may not require each energy utility to spend the percentage specified in
18 the proposal.

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

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

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

24 The commission shall approve a request under sub. (2) (b) 1. or 2. if the commission

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1 determines that a proposed energy efficiency or renewable resource program is in the
2 public interest and satisfies all of the following:

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

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

6 (d) *Audits.* Annually, the commission shall contract with one or more
7 independent auditors to prepare a financial and performance audit of the programs
8 specified in par. (b) 1. The purpose of the performance audit shall be to evaluate the
9 programs and measure the performance of the programs against the goals and
10 targets set by the commission under par. (b) 1. The person or persons with whom the
11 energy utilities contract for program administration under sub. (2) (a) 1. shall pay
12 the costs of the audits from the amounts paid under the contracts under sub. (2) (a)
13 1.

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

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

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

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

24 4. Any other information required by the commission.

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

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

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

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

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

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

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

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

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

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

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

17 2. A customer of an energy utility that the commission has not determined is
18 a large energy customer under 2005 Wisconsin Act ... (this act), section 102 (8) (b),
19 may petition the commission for a determination that the customer is a large energy
20 customer. The commission shall determine that a petitioner is a large energy
21 customer if the petitioner satisfies the definition of large energy customer for any
22 month in the 12 months preceding the date of the petition. If the commission makes
23 such a determination, the commission shall also determine the amount that the
24 energy utility may collect from the customer each month for recovery of the amounts
25 under par. (a). The commission shall determine an amount that ensures that the

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1 amount collected from the customer is similar to the amounts collected from other
2 customers that have a similar level of energy costs as the customer. Except as
3 provided in sub. (2) (c) and par. (bm) 2., each month, the energy utility shall collect
4 from the customer, for recovery of amounts under par. (a), the amount determined
5 by the commission under this subdivision.

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

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

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

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

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

4 (d) *Equitable contributions*. Subject to pars. (b) and (bm) 2., the commission
5 shall ensure that the cost of energy efficiency and renewable resource programs is
6 equitably divided among customer classes so that similarly situated ratepayers
7 contribute equivalent amounts for the programs.

8 **(5m) BENEFIT AND GRANT OPPORTUNITIES.** (a) The commission shall ensure that,
9 on an annual basis, each customer class of an energy utility has the opportunity to
10 receive grants and benefits under energy efficiency programs in an amount equal to
11 the amount that is recovered from the customer class under sub. (5) (a). Biennially,
12 the commission shall submit a report to the governor, and the chief clerk of each
13 house of the legislature for distribution to the legislature under s. 13.172 (2), that
14 summarizes the total amount recovered from each customer class and the total
15 amount of grants made to, and benefits received by, each customer class.

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

22 **(6) ANNUAL STATEMENTS.** Annually, the commission shall prepare a statement
23 that describes the programs under sub. (2) (a) 1., (b) 1. and 2., and (c), and ordered
24 programs, administered or funded by the energy utility and presents cost and benefit

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1 information for those programs. An energy utility shall provide each of its customers
2 with a copy of the statement.

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

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

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

18 2. No later than October 1, 2007, and no later than every 3rd year after that
19 date, each municipal utility or retail electric cooperative shall notify the commission
20 whether it has elected to contribute the fees that it charges under par. (a) to statewide
21 programs established under sub. (2) (a) 1. in each year of the 3-year period for which
22 it has made the election. If a municipal utility or retail electric cooperative elects to
23 contribute to the statewide programs established under sub. (2) (a) 1., the utility or
24 cooperative shall contribute the fees that it collects under par. (a) to the payment of
25 contracts under sub. (2) (a) 1. for administration of the statewide programs, as

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1 specified in the rules under sub. (3) (f) 1., in each year of the 3-year period for which
2 the utility or cooperative has made the election.

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

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

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

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

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

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

3 d. The results of audits under this subdivision.

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

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

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

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

14 196.378 (1) (ar) "Biomass" means a resource that derives energy from wood or
15 plant material or residue, biological waste, crops grown for use as a resource or
16 landfill gases. "Biomass" does not include garbage, as defined in s. 289.01 (9), or
17 nonvegetation-based industrial, commercial or household waste, except that
18 "biomass" includes refuse-derived fuel used for a renewable facility that was in
19 service ~~in this state~~ before January 1, 1998.

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

21 196.378 (1) (ag) "Baseline renewable percentage" means the average of an
22 energy provider's renewable energy percentage for 2001, 2002, and 2003.

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

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

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

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

2 196.378 (1) (fg) “Renewable energy” means electricity derived from a
3 renewable resource.

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

5 196.378 (1) (fm) “Renewable energy percentage” means, with respect to an
6 electric provider for a particular year, the percentage that results from dividing the
7 sum of the following by the total amount of electricity that the electric provider sold
8 to retail customers or members in that year:

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

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

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

13 196.378 (1) (fr) “Renewable energy supplier” means a person from whom an
14 electric provider purchases renewable energy at wholesale.

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

16 196.378 (1) (g) “Renewable facility” means an installed and operational electric
17 generating facility ~~in which electricity is derived from a renewable resource.~~
18 “Renewable facility” ~~includes a facility the installation or operation of which is~~
19 ~~required under federal law, but does not include a facility the installation or~~
20 ~~operation of which is required under the laws of another state even if the installation~~
21 ~~or operation of the facility is also required under federal law, located in or outside this~~
22 state, that generates renewable energy.

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

24 196.378 (1) (i) “Renewable resource credit” means a credit calculated in
25 accordance with rules promulgated under sub. (3) (a) 1. and 2.

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

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

3 196.378 (1) (o) “Total renewable energy” means the total amount of renewable
4 energy that the electric provider sold to its customers or members in a year. “Total
5 renewable energy” does not include any energy that is used to comply with the
6 renewable energy requirements of another state. “Total renewable energy” includes
7 all of the following:

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

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

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

18 196.378 (1) (p) “Wholesale supplier” has the meaning given in s. 16.957 (1) (w).

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

20 196.378 (2) (a) 1. No later than June 1, 2016, the commission shall prepare a
21 report stating whether, by December 31, 2015, the state has met a goal of 10 percent
22 of all electric energy consumed in the state being renewable energy. If the goal has
23 not been achieved, the report shall indicate why the goal was not achieved and how
24 it may be achieved, and the commission shall prepare similar reports biennially
25 thereafter until the goal is achieved. The commission shall submit reports under this

ENGROSSED SENATE BILL 459**SECTION 83**

1 subdivision to the governor and chief clerk of each house of the legislature for
2 distribution to the legislature under s. 13.172 (2).

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

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

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

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

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

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

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

20 196.378 (2) (b) 1. ~~Total retail electric sales~~ The total amount of electricity that
21 an electric provider sold to retail customers or members in a year shall be calculated
22 on the basis of an average of ~~an~~ the electric provider's retail electric sales in this state
23 during the prior 3 years.

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

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

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

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

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

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

16 196.378 (2) (b) 4. A wholesale supplier may sell credits that it creates and may
17 aggregate and allocate the credits that it creates among its members or customers.
18 A member or customer may sell credits or portions of a credit allocated to the member
19 or customer by the wholesale supplier.

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

21 196.378 (2) (b) 5. An electric provider that purchases renewable energy from
22 a renewable energy supplier may use an allocated share of the renewable energy sold
23 by the renewable energy supplier to comply with a requirement under par. (a) 2. or
24 to create a credit under sub. (3) (a), provided that the cost of the renewable energy
25 is included in the price the electric provider paid the renewable energy supplier.

ENGROSSED SENATE BILL 459**SECTION 89**

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

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

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

18 196.378 **(2)** (e) An electric provider, or a wholesale supplier for its members,
19 may request that the commission grant a delay for complying with a deadline
20 specified in par. (a) 2. The commission shall hold a hearing on the request and, if
21 requested by the electric provider or wholesale supplier, treat the matter as a
22 contested case. The commission shall grant a delay if the commission determines
23 that the applicant has demonstrated good faith efforts to comply with the deadline
24 and that any of the following applies:

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

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

10 3. Notwithstanding reasonable efforts to obtain required approvals, the
11 applicant cannot comply with the deadline because the applicant or a supplier has
12 experienced or will experience delays in receiving required siting or permitting
13 approvals for renewable energy projects.

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

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

19 196.378 (2) (f) A wholesale electric cooperative for its members or a municipal
20 electric company for its members may delay compliance with a deadline specified in
21 par. (a) 2. for any reason specified in par. (e) 1. to 4. A wholesale electric cooperative
22 or a municipal electric company that delays compliance with a deadline specified in
23 par. (a) 2. shall inform the commission of the delay and the reason for the delay, and
24 shall submit information to the commission demonstrating that, notwithstanding

ENGROSSED SENATE BILL 459**SECTION 91**

1 good faith efforts by the wholesale electric cooperative or municipal electric company
2 and its members, the members cannot meet the deadline for the stated reason.

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

4 196.378 (2) (g) 1. In this paragraph, “energy consumer advocacy group” means
5 a group or organization that advocates on behalf of its members’ interests regarding
6 the cost, availability, and reliability of energy or regarding utility regulation.

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

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

16 196.378 (3) (a) 1. ~~An~~ Subject to subd. 2., an electric provider that provides total
17 renewable energy to its retail electric customers or members in excess of the
18 percentages specified in sub. (2) (a) 1. ~~to 6.~~ 2. may, in the applicable year, create a
19 renewable resource credit and sell to any other electric provider ~~a~~ the renewable
20 resource credit or a portion of ~~a~~ the renewable resource credit at any negotiated
21 price. ~~Alternatively, an~~ An electric provider that creates or purchases a renewable
22 resource credit or portion may use ~~a renewable resource~~ the credit or portion of a
23 ~~renewable resource credit~~ in a subsequent year, as provided under par. (c), to
24 establish compliance with sub. (2) (a) 2. The commission shall promulgate rules that
25 establish requirements for the creation and use of a renewable resource credit

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1 created on or after January 1, 2004, including calculating the amount of a renewable
2 resource credit, and for the tracking of renewable resource credits by a regional
3 renewable resource credit tracking system. The rules shall specify the manner for
4 aggregating or allocating credits under this subdivision or sub. (2) (b) 4. or 5.

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

6 196.378 (3) (a) 2. The commission shall promulgate rules for calculating the
7 amount of a renewable resource credit that is created from a renewable facility
8 placed into service before January 1, 2004. The rules shall provide that the amount
9 of a renewable resource credit created on or after January 1, 2004, from such a
10 renewable facility, except a renewable facility owned by a retail customer of an
11 electric provider, is limited to the incremental increase in output from the renewable
12 facility that is due to capacity improvements made on or after January 1, 2004.

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

14 196.378 (3) (b) The commission may promulgate rules that establish
15 requirements and procedures for a sale under par. (a) 1.

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

17 196.378 (3) (c) A renewable resource credit created under s. 196.378 (3) (a),
18 2003 stats., may not be used after December 31, 2011. A renewable resource credit
19 created under par. (a) 1. or 2., as affected by 2005 Wisconsin Act ... (this act), may
20 not be used after the 4th year after the year in which the credit is created, except the
21 commission may promulgate rules specifying a different period of time if the
22 commission determines that such period is necessary for consistency with any
23 regional renewable resource credit trading program that applies in this state.

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

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1 196.378 (4m) ADDITIONAL RENEWABLE RESOURCES REQUIREMENTS. (a) The
2 commission may not impose on an electric provider any requirement that increases
3 the electric provider's renewable energy percentage beyond that required under sub.
4 (2) (a) 2. If an electric provider is in compliance with the requirements of sub. (2) (a)
5 2., the commission may not require the electric provider to undertake, administer,
6 or fund any other renewable energy program. This paragraph does not limit the
7 authority of the commission to enforce an electric provider's obligations under s.
8 196.374.

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

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

14 196.378 (4r) REPORTS. No later than July 1 of each even-numbered year, the
15 commission shall submit a report to the governor and chief clerk of each house of the
16 legislature for distribution to the legislature under s. 13.172 (2) that evaluates the
17 impact of the requirements of this section on the rates and revenue requirements of
18 electric providers and compares that impact with the impact that would have
19 occurred if renewable energy practices of electric providers were subject to market
20 forces in the absence of the requirements of this section.

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

22 196.378 (5) PENALTY. (intro.) Any person who violates sub. (2) or any ~~wholesale~~
23 renewable energy supplier who provides an electric provider with a false or
24 misleading certification regarding the sources or amounts of renewable energy
25 supplied at wholesale to the electric provider shall forfeit not less than \$5,000 nor

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1 more than \$500,000. Forfeitures under this subsection shall be enforced by action
2 on behalf of the state by the attorney general. A court imposing a forfeiture under
3 this subsection shall consider all of the following in determining the amount of the
4 forfeiture:

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

6 285.48 (4) (a) The use of renewable energy, including renewable energy that
7 is provided by electric providers for the purpose of complying with the requirements
8 of s. 196.378 (2) (a) 2., or renewable energy that is used under programs ~~specified in~~
9 ~~s. 196.374 (2) (d) that are funded by expenditures~~ under s. 196.374 (3).

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

11 285.48 (4) (b) The implementation of low-income weatherization and energy
12 conservation measures, including programs established under s. 16.957 (2) (a) or (b)
13 or programs ~~specified in s. 196.374 (2) (a) or (b) that are funded by expenditures~~
14 under s. 196.374 (3).

15 **SECTION 102. Nonstatutory provisions.**

16 (1) INITIAL CONTRACTS. To promote administrative efficiency and build on
17 existing, successful programs, the public service commission shall direct energy
18 utilities, as defined in section 196.374 (1) (e) of the statutes, as affected by this act,
19 to negotiate initial contracts under section 196.374 (2) (a) 1. of the statutes, as
20 affected by this act, with the holders of current contracts under section 16.957 (3) (b),
21 2003 stats., to the extent that the programs administered by those contract holders
22 are functioning effectively and accomplishing most or all of the goals set for them.

23 (2) CORN-BURNING FURNACE PILOT PROGRAM. The department of administration
24 shall conduct a pilot program under section 16.957 (2) (b) 1. b. of the statutes during
25 the winter heating season between November 1, 2006, and March 1, 2007, to

ENGROSSED SENATE BILL 459**SECTION 102**

1 determine the feasibility and cost-effectiveness of the use of residential space
2 heating equipment in this state that is fueled by biomass, as defined in section
3 196.378 (1) (a) of the statutes, from corn plants. The department of administration
4 shall report to the legislature the results of the pilot program in the report required
5 under section 16.957 (2) (d) 4. of the statutes.

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

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

25 (5) PUBLIC SERVICE COMMISSION PROHIBITIONS.

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1 (a) In this subsection:

2 1. "Commission" means the public service commission.

3 2. "Energy efficiency program" has the meaning given in section 196.374 (1) (d),
4 as affected by this act.

5 3. "Public utility" has the meaning given in section 196.01 (5) of the statutes.

6 4. "Renewable resource program" has the meaning given in section 196.374 (1)
7 (k), as affected by this act.

8 5. "Total renewable energy" has the meaning given in section 196.378 (1) (o) of
9 the statutes.

10 (b) Beginning on the effective date of this paragraph and ending on June 30,
11 2007, the commission may not order an investor-owned natural gas or electric public
12 utility to administer or fund any energy efficiency or renewable resource program
13 that is in addition to the requirements of section 196.374 of the statutes.

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

16 (7) REPORT.

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

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

24 (8) LARGE ENERGY CUSTOMERS.

25 (a) In this subsection:

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1 1. “Commission” means the public service commission.

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

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

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

8 (b) No later than July 1, 2007, the commission shall determine the customers
9 of energy utilities that, for any month during the 12 months preceding the date of the
10 commission’s determination, satisfy the definition of large energy customer.

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

16 **SECTION 103. Initial applicability.**

17 (1) ENERGY EFFICIENCY STANDARDS. The treatment of sections 16.855 (10s) and
18 20.924 (1) (j) of the statutes first applies with respect to projects for which design
19 work begins on the effective date of this subsection.

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

22 (1) The treatment of sections 16.75 (12), 16.897, 16.953, 79.005 (4) (d), 101.027
23 (1) (intro.), (a), and (b), (2), and (3) (a) 1. and 2. and (b) 1. and 2., 196.378 (1) (a), (ag),
24 (bm), (e), (f), (fg), (fm), (fr), (g), (i), (n), (o), and (p), (2) (a), (b) 1., 1m., 3., 4., and 5., (c),
25 (e), (f), and (g), (3) (b), and (c), (4m), (4r), and (5) (intro.) of the statutes, the creation

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SECTION 104

1 of section 196.378 (3) (a) 2. of the statutes, and the renumbering and amendment of
2 section 196.378 (3) (a) of the statutes and SECTION 102 (2), (4), (5), (7), and (8) of this
3 act take effect on the day after publication.

4 (END)