

SENATE AMENDMENTS

2nd Printing

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H.B. No. 3693

A BILL TO BE ENTITLED

AN ACT

relating to energy demand, energy load, energy efficiency incentives, energy programs, and energy performance measures.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter Z, Chapter 44, Education Code, is amended by adding Section 44.902 to read as follows:

Sec. 44.902. GOAL TO REDUCE CONSUMPTION OF ELECTRIC ENERGY.

The board of trustees of a school district shall establish a goal to reduce the school district's annual electric consumption by five percent each state fiscal year for six years beginning September 1, 2007.

SECTION 2. Subchapter Z, Chapter 44, Education Code, is amended by adding Section 44.903 to read as follows:

Sec. 44.903. ENERGY-EFFICIENT LIGHT BULBS IN INSTRUCTIONAL FACILITIES. (a) In this section, "instructional facility" has the meaning assigned by Section 46.001.

(b) A school district shall purchase for use in each type of light fixture in an instructional facility the commercially available model of light bulb that:

(1) uses the fewest watts for the necessary luminous flux or light output; and

(2) is compatible with the light fixture.

SECTION 3. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9271 to read as follows:

1 Sec. 51.9271. ENERGY-EFFICIENT LIGHT BULBS IN EDUCATIONAL
2 AND HOUSING FACILITIES. (a) In this section, "housing facility"
3 has the meaning assigned by Section 53.02.

4 (b) An institution of higher education shall purchase for
5 use in each type of light fixture in an educational or housing
6 facility the commercially available model of light bulb that:

7 (1) is compatible with the light fixture;

8 (2) uses the fewest watts for the necessary luminous
9 flux or light output; and

10 (3) is the most cost-effective, considering the
11 factors described by Subdivisions (1) and (2).

12 SECTION 4. Section 2155.068(d), Government Code, is amended
13 to read as follows:

14 (d) As part of the standards and specifications program, the
15 commission shall:

16 (1) review contracts for opportunities to recycle
17 waste produced at state buildings;

18 (2) develop and update a list of equipment and
19 appliances that meet the energy efficiency standards provided by
20 Section 2158.301; and

21 (3) assist state agencies in selecting products under
22 Section 2158.301, as appropriate.

23 SECTION 5. Chapter 2158, Government Code, is amended by
24 adding Subchapter F to read as follows:

25 SUBCHAPTER F. ENERGY AND EFFICIENCY STANDARDS

26 FOR EQUIPMENT AND APPLIANCES

27 Sec. 2158.301. ENERGY CONSERVATION. If available and

1 cost-effective, a state agency shall purchase equipment and
2 appliances for state use that meet or exceed:

3 (1) the federal energy conservation standards under
4 Section 325, Energy Policy and Conservation Act (42 U.S.C. Section
5 6295), or a federal regulation adopted under that Act; or

6 (2) the federal Energy Star standards designated by
7 the United States Environmental Protection Agency and the United
8 States Department of Energy.

9 SECTION 6. Subchapter A, Chapter 2165, Government Code, is
10 amended by adding Section 2165.008 to read as follows:

11 Sec. 2165.008. ENERGY-EFFICIENT LIGHT BULBS IN STATE
12 BUILDINGS. A state agency or institution of higher education in
13 charge and control of a state building shall purchase for use in
14 each type of light fixture in the building the commercially
15 available model of light bulb that:

16 (1) uses the fewest watts for the necessary luminous
17 flux or light output; and

18 (2) is compatible with the light fixture.

19 SECTION 7. Subchapter B, Chapter 2165, Government Code, is
20 amended by adding Section 2165.058 to read as follows:

21 Sec. 2165.058. VENDING MACHINES; ENERGY-SAVING DEVICE
22 REQUIRED. (a) This section does not apply to a vending machine
23 that contains a perishable food product, as defined by Section
24 96.001, Civil Practice and Remedies Code.

25 (b) The commission shall require an entity that owns or
26 operates a vending machine located in a building owned or leased by
27 the state to activate and maintain any internal energy-saving or

1 energy-management device or option that is already part of the
2 machine or contained in the machine.

3 (c) The commission shall require the use of an external
4 energy-saving or energy-management device for each vending machine
5 that:

6 (1) is located in a building owned or leased by the
7 state;

8 (2) operates with a compressor; and

9 (3) does not have an activated and operational
10 internal energy-saving or energy-management device or option.

11 (d) An entity that owns or operates a vending machine
12 subject to this section is responsible for any expenses associated
13 with the acquisition, installation, or maintenance of an
14 energy-saving device required by this section.

15 (e) The commission may impose an administrative fine on an
16 entity that operates a vending machine subject to this section in an
17 amount not to exceed \$250 a year for each machine found to be in
18 violation of this section or rules adopted by the commission under
19 this section.

20 (f) The commission shall adopt rules relating to the
21 specifications for and regulation of energy-saving devices
22 required by this section.

23 SECTION 8. Subtitle F, Title 10, Government Code, is
24 amended by adding Chapter 2264 to read as follows:

25 CHAPTER 2264. REQUIRED PUBLICATION AND REPORTING

26 BY GOVERNMENTAL ENTITIES

27 Sec. 2264.001. RECORDING AND REPORTING OF ELECTRICITY,

1 WATER, AND NATURAL GAS CONSUMPTION. (a) In this section,
2 "governmental entity" means:

3 (1) a board, commission, or department of the state or
4 a political subdivision of the state, including a municipality, a
5 county, or any kind of district; or

6 (2) an institution of higher education as defined by
7 Section 61.003, Education Code.

8 (b) Notwithstanding any other law, a governmental entity
9 responsible for payments for electric, water, or natural gas
10 utility services shall record in an electronic repository the
11 governmental entity's metered amount of electricity, water, or
12 natural gas consumed for which it is responsible to pay and the
13 aggregate costs for those utility services. The governmental
14 entity shall report the recorded information on a publicly
15 accessible Internet website with an interface designed for ease of
16 navigation.

17 SECTION 9. Subchapter H, Chapter 2306, Government Code, is
18 amended by adding Section 2306.187 to read as follows:

19 Sec. 2306.187. ENERGY EFFICIENCY STANDARDS FOR CERTAIN
20 SINGLE AND MULTIFAMILY DWELLINGS. (a) A newly constructed single
21 or multifamily dwelling that is constructed with assistance awarded
22 by the department, including state or federal money, housing tax
23 credits, or multifamily bond financing, must include energy
24 conservation and efficiency measures specified by the department.
25 The department by rule shall establish a minimum level of energy
26 efficiency measures that must be included in a newly constructed
27 single or multifamily dwelling as a condition of eligibility to

1 receive assistance awarded by the department for housing
2 construction. The measures adopted by the department may include:

3 (1) the installation of Energy Star-labeled ceiling
4 fans in living areas and bedrooms;

5 (2) the installation of Energy Star-labeled
6 appliances;

7 (3) the installation of Energy Star-labeled lighting
8 in all interior units;

9 (4) the installation of Energy Star-labeled
10 ventilation equipment, including power-vented fans, range hoods,
11 and bathroom fans;

12 (5) the use of energy efficient alternative
13 construction material, including structural insulated panel
14 construction;

15 (6) the installation of central air conditioning or
16 heat pump equipment with a better Seasonal Energy Efficiency Rating
17 (SEER) than that required by the energy code adopted under Section
18 388.003, Health and Safety Code; and

19 (7) the installation of the air ducting system inside
20 the conditioned space.

21 (b) A single or multifamily dwelling must include energy
22 conservation and efficiency measures specified by the department
23 if:

24 (1) the dwelling is rehabilitated with assistance
25 awarded by the department, including state or federal money,
26 housing tax credits, or multifamily bond financing; and

27 (2) any portion of the rehabilitation includes

1 alterations that will replace items that are identified as required
2 efficiency measures by the department.

3 (c) The energy conservation and efficiency measures the
4 department requires under Subsection (b) may not be more stringent
5 than the measures the department requires under Subsection (a).

6 (d) The department shall review the measures required to
7 meet the energy efficiency standards at least annually to determine
8 if additional measures are desirable and to ensure that the most
9 recent energy efficiency technology is considered.

10 (e) Subsections (a) and (b) do not apply to a single or
11 multifamily dwelling that receives weatherization assistance money
12 from the department or money provided under the first-time
13 homebuyer program.

14 SECTION 10. Section 388.003, Health and Safety Code, is
15 amended by adding Subsections (b-1), (b-2), and (b-3) to read as
16 follows:

17 (b-1) If the State Energy Conservation Office determines,
18 based on written recommendations from the laboratory, that the
19 energy efficiency provisions of the latest published editions of
20 the International Residential Code or the International Energy
21 Conservation Code for residential or commercial energy efficiency
22 and air quality are equivalent to or more stringent than the
23 provisions of editions adopted under Subsection (a) or (b), the
24 office by rule may adopt and substitute in the energy code the
25 equivalent or more stringent provisions for the provisions of the
26 initial editions described by Subsection (a) or (b). If the State
27 Energy Conservation Office adopts provisions of the latest

1 published editions of the International Residential Code or the
2 International Energy Conservation Code into the energy code, the
3 office shall establish an effective date for the new provisions
4 that is not earlier than nine months after the date of adoption.
5 The laboratory shall submit recommendations concerning the latest
6 published editions of the International Residential Code or the
7 International Energy Conservation Code not later than six months
8 after publication of new editions.

9 (b-2) The State Energy Conservation Office by rule shall
10 establish a procedure for allowing an opportunity for persons who
11 have an interest in the adoption of energy efficiency codes under
12 Subsection (b-1) to comment on a code considered for adoption,
13 including:

- 14 (1) commercial and residential builders;
- 15 (2) architects;
- 16 (3) engineers;
- 17 (4) county and other local government authorities; and
- 18 (5) environmental groups.

19 (b-3) In developing written recommendations under
20 Subsection (b-1), the laboratory shall consider the comments
21 submitted under Subsection (b-2).

22 SECTION 11. Section 388.005, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 388.005. ENERGY EFFICIENCY PROGRAMS IN CERTAIN
25 GOVERNMENTAL ENTITIES [~~POLITICAL SUBDIVISIONS~~]. (a) In this
26 section:

- 27 (1) "Institution of higher education" includes an

1 institution of higher education as defined by Section 61.003,
2 Education Code, and a private institution of higher education that
3 receives funding from the state.

4 (2) "Political~~[, "political]~~ subdivision" means:

5 (A) ~~[(1)]~~ an affected county; or

6 (B) ~~[(2)]~~ any political subdivision in a
7 nonattainment area or in an affected county other than:

8 (i) ~~[(A)]~~ a school district; or

9 (ii) ~~[(B)]~~ a district as defined by Section
10 36.001 or 49.001, Water Code, that had a total annual electricity
11 expense of less than \$200,000 in the previous fiscal year of the
12 district.

13 (3) "State agency" means a department, commission,
14 board, office, council, or other agency in the executive branch of
15 state government that is created by the constitution or a statute of
16 this state and has authority not limited to a geographical portion
17 of the state.

18 (b) Each political subdivision, institution of higher
19 education, or state agency shall implement all energy efficiency
20 measures that meet the standards established for a contract for
21 energy conservation measures under Section 302.004(b), Local
22 Government Code, in order to reduce electricity consumption by the
23 existing facilities of the entity ~~[the political subdivision]~~.

24 (c) Each political subdivision, institution of higher
25 education, or state agency shall establish a goal to reduce the
26 electric consumption by the entity ~~[political subdivision]~~ by five
27 percent each state fiscal year for six ~~[five]~~ years, beginning

1 September 1, 2007 [~~January 1, 2002~~].

2 (d) A political subdivision, institution of higher
3 education, or state agency that does not attain the goals under
4 Subsection (c) must include in the report required by Subsection
5 (e) justification that the entity [~~political subdivision~~] has
6 already implemented all available measures.

7 (e) A political subdivision, institution of higher
8 education, or state agency annually shall report to the State
9 Energy Conservation Office, on forms provided by that office,
10 regarding the entity's [~~political subdivision's~~] efforts and
11 progress under this section. The State Energy Conservation Office
12 shall provide assistance and information to the entity [~~political~~
13 ~~subdivisions~~] to help the entity [~~the political subdivisions~~] meet
14 the goals set under this section.

15 (f) This section does not apply to a state agency or an
16 institution of higher education that the State Energy Conservation
17 Office determines that, before September 1, 2007, adopted a plan
18 for conserving energy under which the agency or institution
19 established a percentage goal for reducing the consumption of
20 electricity. The exemption provided by this section applies only
21 while the agency or institution has an energy conservation plan in
22 effect and only if the agency or institution submits reports on the
23 conservation plan each calendar quarter to the governor, the
24 Legislative Budget Board, and the State Energy Conservation Office.

25 SECTION 12. Section 388.008, Health and Safety Code, is
26 amended by amending Subsections (a) and (c) and adding Subsection
27 (d) to read as follows:

1 (a) The laboratory shall develop a standardized report
2 format to be used by providers of home energy ratings. The
3 laboratory may develop different report formats for rating newly
4 constructed residences from those for existing residences. The form
5 must be designed to give potential buyers information on a
6 structure's energy performance, including:

- 7 (1) insulation;
8 (2) types of windows;
9 (3) heating and cooling equipment;
10 (4) water heating equipment;
11 (5) additional energy conserving features, if any;
12 (6) results of performance measurements of building
13 tightness and forced air distribution; and
14 (7) an overall rating of probable energy efficiency
15 relative to the minimum requirements of the International Energy
16 Conservation Code or the energy efficiency chapter of the
17 International Residential Code, as appropriate.

18 (c) The laboratory may cooperate with an industry
19 organization or trade association to:

- 20 (1) develop guidelines for home energy ratings;
21 (2) provide training for individuals performing home
22 energy ratings and providers of home energy ratings; and
23 (3) provide a registry of completed ratings for newly
24 constructed residences and residential improvement projects for
25 the purpose of computing the energy savings and emissions
26 reductions benefits of the [The] home energy ratings program [~~shall~~
27 be implemented by September 1, 2002].

1 (d) The laboratory shall include information on the
2 benefits attained from this program in an annual report to the
3 commission.

4 SECTION 13. The heading to Section 74.3013, Property Code,
5 is amended to read as follows:

6 Sec. 74.3013. DELIVERY OF MONEY FOR RURAL SCHOLARSHIP,
7 ~~[AND]~~ ECONOMIC DEVELOPMENT, AND ENERGY EFFICIENCY ASSISTANCE.

8 SECTION 14. Sections 74.3013(a), (b), (e), (f), and (g),
9 Property Code, are amended to read as follows:

10 (a) Notwithstanding and in addition to any other provision
11 of this chapter or other law, a nonprofit cooperative corporation
12 may deliver reported money to a scholarship fund for rural
13 students, ~~[or]~~ to stimulate rural economic development, or to
14 provide energy efficiency assistance to members of electric
15 cooperatives, instead of delivering the money to the comptroller as
16 prescribed in Section 74.301.

17 (b) A nonprofit cooperative corporation may deliver the
18 money under this section only:

19 (1) to a scholarship fund established by one or more
20 nonprofit cooperative corporations in this state to enable students
21 from rural areas to attend college, technical school, or other
22 postsecondary educational institution; ~~[and]~~

23 (2) to an economic development fund for the
24 stimulation and improvement of business and commercial activity for
25 economic development in rural communities; and

26 (3) to an energy efficiency assistance fund to assist
27 members of an electric cooperative in reducing their energy

1 consumption and electricity bills.

2 (e) The comptroller shall prescribe forms and procedures
3 governing this section, including forms and procedures relating to:

- 4 (1) notice of presumed abandoned property;
5 (2) delivery of reported money to a scholarship, ~~[or]~~
6 economic development fund, or energy efficiency assistance fund;
7 (3) filing of a claim; and
8 (4) procedures to allow equitable opportunity for
9 participation by each nonprofit cooperative corporation in the
10 state.

11 (f) During a state fiscal year the total amount of money
12 that may be transferred by all nonprofit cooperative corporations
13 under this section may not exceed \$1 million. No more than 20
14 percent of each nonprofit cooperative's funds eligible for delivery
15 under this section shall be used for economic development. The
16 comptroller shall adopt procedures to record the total amount of
17 money transferred annually [~~to allow equitable opportunity for~~
18 ~~participation with preference given to corporations already~~
19 ~~providing similar scholarship opportunities in other states~~].

20 (g) Nonprofit cooperative corporations may combine
21 [~~economic development~~] funds from other sources with any [~~economic~~
22 ~~development~~] funds delivered under this section. In addition, such
23 cooperatives may engage in other business and commercial
24 activities, in their own behalf or through such subsidiaries and
25 affiliates as deemed necessary, in order to provide and promote
26 educational opportunities and to stimulate rural economic
27 development.

1 SECTION 15. Subchapter H, Chapter 151, Tax Code, is amended
2 by adding Section 151.333 to read as follows:

3 Sec. 151.333. ENERGY-EFFICIENT PRODUCTS. (a) In this
4 section, "energy-efficient product" means a product that has been
5 designated as an Energy Star qualified product under the Energy
6 Star program jointly operated by the United States Environmental
7 Protection Agency and the United States Department of Energy.

8 (b) This section applies only to the following
9 energy-efficient products:

10 (1) an air conditioner the sales price of which does
11 not exceed \$6,000;

12 (2) a clothes washer;

13 (3) a ceiling fan;

14 (4) a dehumidifier;

15 (5) a dishwasher;

16 (6) an incandescent or fluorescent lightbulb;

17 (7) a programmable thermostat; and

18 (8) a refrigerator the sales price of which does not
19 exceed \$2,000.

20 (c) The sale of an energy-efficient product to which this
21 section applies is exempted from the taxes imposed by this chapter
22 if the sale takes place during a period beginning at 12:01 a.m. on
23 the Saturday preceding the last Monday in May (Memorial Day) and
24 ending at 11:59 p.m. on the last Monday in May.

25 SECTION 16. Subchapter A, Chapter 313, Tax Code, is amended
26 by adding Section 313.008 to read as follows:

27 Sec. 313.008. REPORT ON COMPLIANCE WITH ENERGY-RELATED

1 AGREEMENTS. (a) Before the beginning of each regular session of
2 the legislature, the comptroller shall submit to the lieutenant
3 governor, the speaker of the house of representatives, and each
4 member of the legislature a report on each agreement entered into
5 under this chapter involving energy-related projects, including
6 wind generation, ethanol production, liquefied natural gas
7 terminals, low sulfur diesel production, refinery cogeneration,
8 and nuclear energy production. The report must state for each
9 agreement:

10 (1) the number of qualifying jobs each recipient of a
11 limitation on appraised value committed to create;

12 (2) the number of qualifying jobs each recipient
13 created;

14 (3) the median wage of the new jobs each recipient
15 created;

16 (4) the amount of the qualified investment each
17 recipient committed to expend or allocate per project;

18 (5) the amount of the qualified investment each
19 recipient expended or allocated per project;

20 (6) the market value of the qualified property of each
21 recipient;

22 (7) the limitation on appraised value for the
23 qualified property of each recipient;

24 (8) the dollar amount of the ad valorem taxes that
25 would have been imposed on the market value of the qualified
26 property;

27 (9) the dollar amount of the ad valorem taxes imposed

1 on the qualified property;

2 (10) the number of new jobs created by each recipient
3 in each sector of the North American Industry Classification System
4 (NAICS); and

5 (11) of the number of new jobs each recipient created,
6 the number of positions created that provide health benefits for
7 employees.

8 (b) The report may not include information that is made
9 confidential by law.

10 (c) The comptroller may require a recipient to submit, on a
11 form provided by the comptroller, information required to complete
12 the report.

13 SECTION 17. Section 31.004, Utilities Code, is amended by
14 adding Subsection (c) to read as follows:

15 (c) The commission shall provide information to school
16 districts regarding how a school district may finance the
17 installation of solar electric generation panels for school
18 district buildings.

19 SECTION 18. Section 39.002, Utilities Code, is amended to
20 read as follows:

21 Sec. 39.002. APPLICABILITY. This chapter, other than
22 Sections 39.155, 39.157(e), 39.203, 39.903, ~~and~~ 39.904, 39.9051,
23 39.9052, and 39.914(e), does not apply to a municipally owned
24 utility or an electric cooperative. Sections 39.157(e), 39.203,
25 and 39.904, however, apply only to a municipally owned utility or an
26 electric cooperative that is offering customer choice. If there is
27 a conflict between the specific provisions of this chapter and any

1 other provisions of this title, except for Chapters 40 and 41, the
2 provisions of this chapter control.

3 SECTION 19. Section 39.107, Utilities Code, is amended by
4 adding Subsection (i) to read as follows:

5 (i) It is the intent of the legislature that net metering
6 and advanced meter data networks be deployed as rapidly as possible
7 to allow customers to better manage energy use and control costs,
8 and to facilitate demand response initiatives.

9 SECTION 20. Subchapter Z, Chapter 39, Utilities Code, is
10 amended by adding Section 39.9025 to read as follows:

11 Sec. 39.9025. HOME ELECTRIC ENERGY REPORTS. The commission
12 may encourage retail electric providers to deliver individualized
13 home electric energy reports to educate consumers about electric
14 energy use and energy efficiency to assist consumers to use energy
15 more efficiently.

16 SECTION 21. Section 39.905, Utilities Code, is amended by
17 amending Subsections (a), (b), (d), (e), and (f), and adding
18 Subsections (b-1), (b-2), (b-3), (b-4), and (g) to read as follows:

19 (a) It is the goal of the legislature that:

20 (1) electric utilities will administer energy
21 efficiency [~~savings~~] incentive programs in a market-neutral,
22 nondiscriminatory manner but will not offer underlying competitive
23 services;

24 (2) all customers, in all customer classes, will have
25 a choice of and access to energy efficiency alternatives and other
26 choices from the market that allow each customer to reduce energy
27 consumption, peak demand, or energy costs; [~~and~~]

1 (3) each electric utility will provide, through
2 market-based standard offer programs or limited, targeted,
3 market-transformation programs, incentives sufficient for retail
4 electric providers and competitive energy service providers to
5 acquire additional cost-effective energy efficiency for
6 residential and commercial customers equivalent to at least:

7 (A) 10 percent of the electric utility's annual
8 growth in demand of residential and commercial customers by
9 December 31, 2007;

10 (B) 15 percent of the electric utility's annual
11 growth in demand of residential and commercial customers by
12 December 31, 2008, provided that the electric utility's program
13 expenditures for 2008 funding may not be greater than 75 percent
14 above the utility's program budget for 2007 for residential and
15 commercial customers, as included in the April 1, 2006, filing; and

16 (C) 20 percent of the electric utility's annual
17 growth in demand of residential and commercial customers by
18 December 31, 2009, provided that the electric utility's program
19 expenditures for 2009 funding may not be greater than 150 percent
20 above the utility's program budget for 2007 for residential and
21 commercial customers, as included in the April 1, 2006, filing;

22 (4) each electric utility in the ERCOT region shall
23 use its best efforts to encourage and facilitate the involvement of
24 the region's retail electric providers in the delivery of
25 efficiency programs and demand response programs under this
26 section;

27 (5) retail electric providers in the ERCOT region, and

1 electric utilities outside of the ERCOT region, shall provide
2 customers with energy efficiency educational materials; and

3 (6) ERCOT shall incorporate into its long-range demand
4 forecast the energy and demand savings projected in the annual
5 report under Subsection (b-3).

6 (b) The commission shall provide oversight and adopt rules
7 and procedures[~~, as necessary,~~] to ensure that the utilities can
8 achieve the goal of this section, including:

9 (1) establishing an energy efficiency cost recovery
10 factor for ensuring timely and reasonable cost recovery for utility
11 expenditures made to satisfy the goal of this section;

12 (2) establishing an incentive under Section 36.204 to
13 reward utilities administering programs under this section that
14 exceed the minimum goals established by this section;

15 (3) providing a utility that is unable to establish an
16 energy efficiency cost recovery factor in a timely manner due to a
17 rate freeze with a mechanism to enable the utility to:

18 (A) defer the costs of complying with this
19 section; and

20 (B) recover the deferred costs through an energy
21 efficiency cost recovery factor on the expiration of the rate
22 freeze period;

23 (4) ensuring that the costs associated with programs
24 provided under this section are borne by the customer classes that
25 receive the services under the programs; and

26 (5) ensuring the program rules encourage the value of
27 the incentives to be passed on to the end-use customer.

1 (b-1) The energy efficiency cost recovery factor under
2 Subsection (b)(1) may not result in an over-recovery of costs but
3 may be adjusted each year to change rates to enable utilities to
4 match revenues against energy efficiency costs and any incentives
5 to which they are granted. The factor shall be adjusted to reflect
6 any over-collection or under-collection of energy efficiency cost
7 recovery revenues in previous years.

8 (b-2) The commission shall conduct a study, to be funded by
9 electric utilities, regarding cost-effective energy efficiency in
10 this state. Not later than January 15, 2009, the commission shall
11 submit to the legislature a report regarding the commission's
12 findings that:

13 (1) considers the technical, economic, and achievable
14 potential, and natural occurrence of energy efficiency in this
15 state in terms of kilowatts and kilowatt hours for each element;

16 (2) determines the amount of savings that is
17 achievable through utility programs in compliance with commission
18 rules;

19 (3) recommends whether:

20 (A) utility funding of energy efficiency in areas
21 of the state with competitive retail electric service should
22 continue;

23 (B) energy efficiency in areas with competitive
24 retail electric service is best provided by the competitive market;
25 and

26 (C) utilities should fund education programs to
27 be conducted by the commission regarding the provision of energy

1 efficiency service from the competitive market;

2 (4) provides estimates of achievable savings specific
3 to each utility service area and each customer class;

4 (5) quantifies the costs and rate impacts associated
5 with meeting energy efficiency goals;

6 (6) determines whether an increase in the goal to 30
7 percent of the growth in demand for each utility is achievable by
8 December 31, 2010, and whether an increase in the goal to 50 percent
9 of the growth in demand for electricity is achievable by December
10 31, 2015, by each utility in the service area served through the
11 energy efficiency programs described by this section;

12 (7) recommends policies designed to promote energy
13 efficiency in the areas of the state that are not served by the
14 utilities which administer programs under this section; and

15 (8) identifies potential barriers to the increased
16 participation by retail electric providers in the delivery of
17 energy efficiency services to ERCOT customers, and to the increased
18 potential for energy efficiency in ERCOT or in this state
19 generally, including any recommended regulatory or statutory
20 changes to eliminate such barriers or facilitate greater
21 efficiency.

22 (b-3) Beginning not later than January 1, 2008, the
23 commission, in consultation with the State Energy Conservation
24 Office, annually for a period of five years shall compute and report
25 to ERCOT the projected energy savings and demand impacts for each
26 entity in the ERCOT region that administers standard offer
27 programs, market transformation programs, combined heating and

1 power technology, demand response programs, solar incentive
2 programs, building codes, appliance efficiency standards, energy
3 efficiency programs in public buildings, and any other relevant
4 programs that are reasonably anticipated to reduce electricity
5 energy or peak demand or that serve as substitutes for electric
6 supply.

7 (b-4) The commission and ERCOT shall develop a method to
8 account for the projected efficiency impacts under Subsection (b-3)
9 in ERCOT's annual forecasts of future capacity, demand, and
10 reserves.

11 (d) The commission shall establish a procedure for
12 reviewing and evaluating market-transformation program options
13 described by this subsection and other options. In evaluating
14 program options, the commission may consider the ability of a
15 program option to reduce costs to customers through reduced demand,
16 energy savings, and relief of congestion. Utilities ~~[adopt the~~
17 ~~following market-transformation program options that the~~
18 ~~utilities]~~ may choose to implement any program option approved by
19 the commission after its evaluation in order to satisfy the goal in
20 Subsection (a), including ~~[(a)(3)]~~:

- 21 (1) energy-smart schools;
- 22 (2) appliance retirement and recycling;
- 23 (3) air conditioning system tune-ups; ~~and~~
- 24 (4) the use of trees or other landscaping for energy
25 efficiency;
- 26 (5) customer energy management and demand response
27 programs;

1 (6) high performance residential and commercial
2 buildings that will achieve the levels of energy efficiency
3 sufficient to qualify those buildings for federal tax incentives;

4 (7) programs for customers who rent or lease their
5 residence or commercial space;

6 (8) programs providing energy monitoring equipment to
7 customers that enable a customer to better understand the amount,
8 price, and time of the customer's energy use;

9 (9) energy audit programs for owners and other
10 residents of single-family or multifamily residences and for small
11 commercial customers;

12 (10) net-zero energy new home programs;

13 (11) solar thermal or solar electric programs; and

14 (12) programs for using windows and other glazing
15 systems, glass doors, and skylights in residential and commercial
16 buildings that reduce solar gain by at least 30 percent from the
17 level established for the federal Energy Star windows program.

18 (e) An electric utility may use money approved by the
19 commission for energy efficiency programs to perform necessary
20 energy efficiency research and development to foster continuous
21 improvement and innovation in the application of energy efficiency
22 technology and energy efficiency program design and
23 implementation. Money the utility uses under this subsection may
24 not exceed 10 percent of the greater of:

25 (1) the amount the commission approved for energy
26 efficiency programs in the utility's most recent full rate
27 proceeding; or

1 (2) the commission-approved expenditures by the
2 utility for energy efficiency in the previous year.

3 (f) Unless funding is provided under Section 39.903,
4 [~~beginning January 1, 2006,~~] each unbundled transmission and
5 distribution utility shall include in its energy efficiency plan a
6 targeted low-income energy efficiency program as described by
7 Section 39.903(f)(2), and the savings achieved by the program shall
8 count toward the transmission and distribution utility's energy
9 efficiency goal. The commission shall determine the appropriate
10 level of funding to be allocated to both targeted and standard offer
11 low-income energy efficiency programs in each unbundled
12 transmission and distribution utility service area. The total
13 expenditures for both targeted and standard offer low-income energy
14 efficiency programs will be based on the amount spent by the
15 transmission and distribution utility on the commission's
16 hard-to-reach program in calendar year 2003. This level of funding
17 for low-income energy efficiency programs shall be provided from
18 money approved by the commission for the transmission and
19 distribution utility's energy efficiency programs. The state
20 agency that administers the federal weatherization assistance
21 program shall provide reports as required by the commission to
22 provide the most current information available on energy and peak
23 demand savings achieved in each transmission and distribution
24 utility service area.

25 (g) The commission may provide for a good cause exemption to
26 a utility's liability for an administrative penalty or other
27 sanction if the utility fails to meet a goal for energy efficiency

1 under this section and the utility's failure to meet the goal is
2 caused by one or more factors outside of the utility's control,
3 including:

4 (1) insufficient demand by retail electric providers
5 and competitive energy service providers for program incentive
6 funds made available by the utility through its programs;

7 (2) changes in building energy codes; and

8 (3) changes in government-imposed appliance or
9 equipment efficiency standards.

10 SECTION 22. Subchapter Z, Chapter 39, Utilities Code, is
11 amended by adding Sections 39.9051, 39.9052, 39.9053, 39.911,
12 39.912, and 39.913 to read as follows:

13 Sec. 39.9051. ENERGY EFFICIENCY FOR MUNICIPALLY OWNED
14 UTILITIES. (a) In this section, "municipally owned utility" has
15 the meaning assigned by Section 11.003.

16 (b) This section applies only to a municipally owned utility
17 that had retail sales of more than 500,000 megawatt hours in 2005.

18 (c) It is the goal of the legislature that:

19 (1) municipally owned utilities will administer
20 energy savings incentive programs;

21 (2) customers of a municipally owned utility will have
22 a choice of and access to energy efficiency alternatives that allow
23 customers to reduce energy consumption, peak demand, or energy
24 costs; and

25 (3) each municipally owned utility will provide
26 incentives sufficient for municipally owned utilities to acquire
27 additional cost-effective energy efficiency.

1 (d) The governing body of a municipally owned utility shall
2 provide oversight and adopt rules and procedures, as necessary, to
3 ensure that the utility can achieve the goal of this section.

4 (e) If a municipally owned utility adopts customer choice by
5 decision of the governing body under Chapter 40, the commission
6 shall provide oversight and adopt rules and procedures, as
7 necessary, to ensure that the municipally owned utility can achieve
8 the goal in this section in a market-neutral, nondiscriminatory
9 manner. The commission shall, to the extent possible, include
10 existing energy efficiency programs already adopted by the
11 municipally owned utility.

12 (f) Not later than September 1, 2009, a municipally owned
13 utility must report to the State Energy Conservation Office, in a
14 form and manner determined by the utility in consultation with the
15 office, information regarding the combined effects of the energy
16 efficiency activities of the utility.

17 Sec. 39.9052. ENERGY EFFICIENCY FOR ELECTRIC COOPERATIVES.

18 (a) An electric cooperative shall consider adopting and
19 implementing energy efficiency programs that reduce the
20 cooperative's annual growth in demand in a manner consistent with
21 standards established in the state for other utilities.

22 (b) Not later than September 1, 2009, an electric
23 cooperative that had retail sales of more than 500,000 megawatt
24 hours in 2005 must report to the State Energy Conservation Office,
25 in a form and manner determined by the electric cooperative in
26 consultation with the office, information regarding the combined
27 effects of the energy efficiency activities of the electric

1 cooperative.

2 Sec. 39.9053. ENERGY EFFICIENCY DEMONSTRATION PROJECTS FOR
3 SOLAR ELECTRIC SYSTEM; GRANT PROGRAM. (a) The commission by rule
4 shall establish grant programs for:

5 (1) a demonstration project for installation of solar
6 electric systems for new residential subdivisions;

7 (2) a demonstration project for installation of solar
8 electric systems for new or established affordable housing for
9 persons with low incomes; and

10 (3) a demonstration project for installation of solar
11 electric systems for not more than three small businesses.

12 (b) To qualify for a grant under this section, the solar
13 electric system must be a device that:

14 (1) generates electricity using solar resources;

15 (2) has a generating capacity of not more than 1,000
16 kilowatts; and

17 (3) is installed with a warranty against breakdown or
18 undue degradation for a period of at least five years.

19 (c) A demonstration project grant program established under
20 this section must provide for full or partial payment of the cost of
21 equipment and installation for the solar electric systems. The
22 commission shall establish for each grant program a competitive
23 bidding process for grant applicants. The commission shall
24 consider the value of funding demonstration projects in different
25 parts of this state, after considering the demographic and
26 geographic diversity of this state.

27 (d) To qualify for a grant under Subsection (a)(1) the

1 applicant:

2 (1) must be a person whose primary business activity
3 is the building of residential housing developments; and

4 (2) must have installed or must be contractually
5 obligated to install qualifying solar electric systems in each
6 residence constructed in a residential subdivision.

7 (e) To qualify for a grant under Subsection (a)(2) the
8 applicant must have installed or be contractually obligated to
9 install a qualifying solar electric system for residential real
10 property:

11 (1) appraised in accordance with Section 23.21, Tax
12 Code, as affordable housing property; or

13 (2) subject to a contractual obligation that the
14 property will be appraised in accordance with Section 23.21, Tax
15 Code, as affordable housing property within a reasonable time after
16 the grant is received.

17 (f) To qualify for a grant under Subsection (a)(3), the
18 applicant must be a small business or owner of a small business that
19 meets qualifications adopted by the commission after consideration
20 of federal Small Business Administration standards for
21 qualification for loans from that administration.

22 (g) The commission shall issue a report to the governor,
23 lieutenant governor, and speaker of the house of representatives
24 not later than December 1 of each even-numbered year summarizing
25 the status of the grant programs established under Subsection (a).
26 The report must include the amount of money granted to each
27 demonstration project and an evaluation of whether the projects

1 demonstrate the economic and ecologic viability of solar electric
2 system installations.

3 (h) This section expires December 31, 2010.

4 Sec. 39.911. ALTERNATIVE FUNDING FOR ENERGY EFFICIENCY AND
5 RENEWABLE ENERGY SYSTEMS. The State Energy Conservation Office, in
6 coordination with the governor, the Department of Agriculture, the
7 Texas Commission on Environmental Quality, the Texas Education
8 Agency, the commission, and other appropriate state agencies, shall
9 solicit gifts, grants, and other financial resources available to
10 fund energy efficiency improvements and renewable energy systems
11 for public and private facilities in this state.

12 Sec. 39.912. REPORT ON COMBINED HEATING AND POWER
13 TECHNOLOGY. The commission shall study the installation and use of
14 combined heating and power technology in this state, and shall
15 submit a report regarding the commission's findings to the 81st
16 Legislature. The report shall include:

17 (1) an explanation describing combined heating and
18 power technology and its use; and

19 (2) an explanation of how combined heating and power
20 technology can be implemented in this state to meet energy
21 efficiency goals.

22 Sec. 39.913. COMBINING CERTAIN REPORTS. The commission may
23 combine the reports required under Sections 39.905(b-2) and 39.912.

24 SECTION 23. Subchapter Z, Chapter 39, Utilities Code, is
25 amended by adding Section 39.914 to read as follows:

26 Sec. 39.914. CREDIT FOR SURPLUS SOLAR GENERATION BY PUBLIC
27 SCHOOLS. (a) An electric utility or retail electric provider

1 shall provide for net metering and contract with an independent
2 school district so that:

3 (1) surplus electricity produced by a school
4 building's solar electric generation panels is made available for
5 sale to the electric transmission grid and distribution system; and

6 (2) the net value of that surplus electricity is
7 credited to the district.

8 (b) For areas of this state in which customer choice has not
9 been introduced, the commission by rule shall require that credits
10 for electricity produced by a school building's solar electric
11 generation panels reflect the value of the electricity that is made
12 available for sale to the electric utility in accordance with
13 federal regulations.

14 (c) For independent school districts in areas in which
15 customer choice has been introduced, the district must sell the
16 school buildings' surplus electricity produced to the retail
17 electric provider that serves the school district's load at a value
18 agreed to between the district and the provider that serves the
19 district's load. The agreed value may be based on the clearing
20 price of energy at the time of day that the electricity is made
21 available to the grid. The independent organization identified in
22 Section 39.151 shall develop procedures so that the amount of
23 electricity purchased from a district under this section is
24 accounted for in settling the total load served by the provider that
25 serves the district's load. A district requesting net metering
26 services for purposes of this section must have metering devices
27 capable of providing measurements consistent with the independent

1 organization's settlement requirements.

2 (d) A transmission and distribution utility shall make
3 available to an independent school district for purposes of this
4 section metering required for services provided under this section,
5 including separate meters that measure the load and generator
6 output or a single meter capable of measuring separately in-flow
7 and out-flow at the point of common coupling meter point. The
8 district must pay the differential cost of the metering unless the
9 meters are provided at no additional cost. Except as provided by
10 this section, Section 39.107 applies to metering under this
11 section.

12 (e) A municipally owned utility or electric cooperative
13 shall consider and complete the determinations regarding net
14 metering service as provided by the federal Public Utility
15 Regulatory Policies Act of 1978 (16 U.S.C. Section 2601 et seq., as
16 amended by the federal Energy Policy Act of 2005 (Pub. L. No.
17 109-58)) after proceedings conducted in accordance with that law.
18 A municipally owned utility or electric cooperative shall report
19 the determinations made under this subsection to the State Energy
20 Conservation Office and include in that report information
21 regarding metering electricity generated by solar panels on public
22 school building rooftops.

23 SECTION 24. Section 40.055(a), Utilities Code, is amended
24 to read as follows:

25 (a) The municipal governing body or a body vested with the
26 power to manage and operate a municipally owned utility has
27 exclusive jurisdiction to:

1 (1) set all terms of access, conditions, and rates
2 applicable to services provided by the municipally owned utility,
3 subject to Sections 40.054 and 40.056, including nondiscriminatory
4 and comparable rates for distribution but excluding wholesale
5 transmission rates, terms of access, and conditions for wholesale
6 transmission service set by the commission under this subtitle,
7 provided that the rates for distribution access established by the
8 municipal governing body shall be comparable to the distribution
9 access rates that apply to the municipally owned utility and the
10 municipally owned utility's affiliates;

11 (2) determine whether to unbundle any energy-related
12 activities and, if the municipally owned utility chooses to
13 unbundle, whether to do so structurally or functionally;

14 (3) reasonably determine the amount of the municipally
15 owned utility's stranded investment;

16 (4) establish nondiscriminatory transition charges
17 reasonably designed to recover the stranded investment over an
18 appropriate period of time, provided that recovery of retail
19 stranded costs shall be from all existing or future retail
20 customers, including the facilities, premises, and loads of those
21 retail customers, within the utility's geographical certificated
22 service area as it existed on May 1, 1999;

23 (5) determine the extent to which the municipally
24 owned utility will provide various customer services at the
25 distribution level, including other services that the municipally
26 owned utility is legally authorized to provide, or will accept the
27 services from other providers;

1 (6) manage and operate the municipality's electric
2 utility systems, including exercise of control over resource
3 acquisition and any related expansion programs;

4 (7) establish and enforce service quality and
5 reliability standards and consumer safeguards designed to protect
6 retail electric customers, including safeguards that will
7 accomplish the objectives of Sections 39.101(a) and (b), consistent
8 with this chapter;

9 (8) determine whether a base rate reduction is
10 appropriate for the municipally owned utility;

11 (9) determine any other utility matters that the
12 municipal governing body or body vested with power to manage and
13 operate the municipally owned utility believes should be included;
14 [~~and~~]

15 (10) make any other decisions affecting the
16 municipally owned utility's participation in customer choice that
17 are not inconsistent with this chapter; and

18 (11) determine the extent to which the municipally
19 owned utility offers energy efficiency programs and how the
20 programs are administered by the utility, except as provided by
21 Section 39.9051(e).

22 SECTION 25. Section 41.055, Utilities Code, is amended to
23 read as follows:

24 Sec. 41.055. JURISDICTION OF BOARD OF DIRECTORS. A board of
25 directors has exclusive jurisdiction to:

26 (1) set all terms of access, conditions, and rates
27 applicable to services provided by the electric cooperative, except

1 as provided by Sections 41.054 and 41.056, including
2 nondiscriminatory and comparable rates for distribution but
3 excluding wholesale transmission rates, terms of access, and
4 conditions for wholesale transmission service set by the commission
5 under Subchapter A, Chapter 35, provided that the rates for
6 distribution established by the electric cooperative shall be
7 comparable to the distribution rates that apply to the electric
8 cooperative and its subsidiaries;

9 (2) determine whether to unbundle any energy-related
10 activities and, if the board of directors chooses to unbundle,
11 whether to do so structurally or functionally;

12 (3) reasonably determine the amount of the electric
13 cooperative's stranded investment;

14 (4) establish nondiscriminatory transition charges
15 reasonably designed to recover the stranded investment over an
16 appropriate period of time;

17 (5) determine the extent to which the electric
18 cooperative will provide various customer services, including
19 nonelectric services, or accept the services from other providers;

20 (6) manage and operate the electric cooperative's
21 utility systems, including exercise of control over resource
22 acquisition and any related expansion programs;

23 (7) establish and enforce service quality standards,
24 reliability standards, and consumer safeguards designed to protect
25 retail electric customers;

26 (8) determine whether a base rate reduction is
27 appropriate for the electric cooperative;

1 (9) determine any other utility matters that the board
2 of directors believes should be included;

3 (10) sell electric energy and capacity at wholesale,
4 regardless of whether the electric cooperative participates in
5 customer choice;

6 (11) determine the extent to which the electric
7 cooperative offers energy efficiency programs and how the programs
8 are administered by the electric cooperative; and

9 (12) [~~(11)~~] make any other decisions affecting the
10 electric cooperative's method of conducting business that are not
11 inconsistent with the provisions of this chapter.

12 SECTION 26. The State Energy Conservation Office shall
13 adopt rules implementing a procedure for stakeholder participation
14 as required under Section 388.003(b-2), Health and Safety Code, as
15 added by this Act, as soon as practicable after the effective date
16 of this Act.

17 SECTION 27. (a) The energy conservation standards for
18 equipment and appliances under Section 2158.301, Government Code,
19 as added by this Act, apply to a purchase by a state agency on or
20 after the effective date of this Act.

21 (b) The Texas Building and Procurement Commission shall
22 develop a list of equipment and appliances under Section 2155.068,
23 Government Code, as amended by this Act, as soon as practicable
24 after the effective date of this Act.

25 SECTION 28. Section 2165.058(c), Government Code, as added
26 by this Act, applies only to an entity that contracts with the Texas
27 Building and Procurement Commission or another state agency to

1 install or operate a vending machine on or after the effective date
2 of this Act.

3 SECTION 29. (a) The Public Utility Commission of Texas may
4 apply to a demonstration project grant program established under
5 Section 39.9053, Utilities Code, as added by this Act, any money
6 appropriated to the commission that may be used for that purpose.

7 (b) The Public Utility Commission of Texas may solicit and
8 accept gifts, grants, and other donations from any source to carry
9 out the demonstration project grant program established under
10 Section 39.9053, Utilities Code, as added by this Act.

11 (c) Contingent on the passage and becoming law of S.B. No.
12 482, Acts of the 80th Legislature, Regular Session, 2007, or
13 similar legislation that enacts a provision that establishes a fee
14 on a retail electric provider related to the number of customers the
15 provider gains in a given period, notwithstanding any law
16 dedicating that fee revenue for a particular purpose, that fee
17 revenue may be appropriated for use by the Public Utility
18 Commission of Texas for a demonstration project grant program under
19 Section 39.9053, Utilities Code, as added by this Act.

20 (d) This section expires December 31, 2010.

21 SECTION 30. The change in law made by this Act does not
22 affect taxes imposed before the effective date of this Act, and the
23 law in effect before the effective date of this Act is continued in
24 effect for purposes of the liability for and collection of those
25 taxes.

26 SECTION 31. This Act takes effect September 1, 2007.

ADOPTED

MAY 23 2007

Leta Spaw
Secretary of the Senate

By: Straus/Fraser

H.B. No. 3693

Substitute the following for H.B. No. 3693:

By: From

C.S. H.B. No. 3693

A BILL TO BE ENTITLED

1 AN ACT

2 relating to energy demand, energy load, energy efficiency
3 incentives, energy programs, and energy performance measures.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter Z, Chapter 44, Education Code, is
6 amended by adding Section 44.902 to read as follows:

7 Sec. 44.902. GOAL TO REDUCE CONSUMPTION OF ELECTRIC
8 ENERGY. The board of trustees of a school district shall
9 establish a goal to reduce the school district's annual electric
10 consumption by five percent each state fiscal year for six years
11 beginning September 1, 2007.

12 SECTION 2. Subchapter Z, Chapter 44, Education Code, is
13 amended by adding Section 44.903 to read as follows:

14 Sec. 44.903. ENERGY-EFFICIENT LIGHT BULBS IN INSTRUCTIONAL
15 FACILITIES. (a) In this section, "instructional facility" has
16 the meaning assigned by Section 46.001.

17 (b) A school district shall purchase for use in each type
18 of light fixture in an instructional facility the commercially
19 available model of light bulb that:

1 (1) uses the fewest watts for the necessary luminous
2 flux or light output;

3 (2) is compatible with the light fixture; and

4 (3) is the most cost-effective considering the
5 factors described by subdivisions (1) and (2).

6 SECTION 3. Subchapter Z, Chapter 51, Education Code, is
7 amended by adding Section 51.9271 to read as follows:

8 Sec. 51.9271. ENERGY-EFFICIENT LIGHT BULBS IN EDUCATIONAL
9 AND HOUSING FACILITIES. (a) In this section, "housing
10 facility" has the meaning assigned by Section 53.02.

11 (b) An institution of higher education shall purchase for
12 use in each type of light fixture in an educational or housing
13 facility the commercially available model of light bulb that:

14 (1) is compatible with the light fixture;

15 (2) uses the fewest watts for the necessary luminous
16 flux or light output; and

17 (3) is the most cost-effective, considering the
18 factors described by Subdivisions (1) and (2).

19 SECTION 4. Section 2155.068(d), Government Code, is
20 amended to read as follows:

21 (d) As part of the standards and specifications program,
22 the commission shall:

23 (1) review contracts for opportunities to recycle
24 waste produced at state buildings;

1 (2) develop and update a list of equipment and
2 appliances that meet the energy efficiency standards provided by
3 Section 2158.301; and

4 (3) assist state agencies in selecting products under
5 Section 2158.301, as appropriate.

6 SECTION 5. Chapter 2158, Government Code, is amended by
7 adding Subchapter F to read as follows:

8 SUBCHAPTER F. ENERGY AND EFFICIENCY STANDARDS

9 FOR EQUIPMENT AND APPLIANCES

10 Sec. 2158.301. ENERGY CONSERVATION. If available and
11 cost-effective, a state agency shall purchase equipment and
12 appliances for state use that meet or exceed:

13 (1) the federal energy conservation standards under
14 Section 325, Energy Policy and Conservation Act (42 U.S.C.
15 Section 6295), or a federal regulation adopted under that Act;
16 or

17 (2) the federal Energy Star standards designated by
18 the United States Environmental Protection Agency and the United
19 States Department of Energy.

20 SECTION 6. Subchapter A, Chapter 2165, Government Code, is
21 amended by adding Section 2165.008 to read as follows:

22 Sec. 2165.008. ENERGY-EFFICIENT LIGHT BULBS IN STATE
23 BUILDINGS. A state agency or institution of higher education in
24 charge and control of a state building shall purchase for use in

1 each type of light fixture in the building the commercially
2 available model of light bulb that:

3 (1) uses the fewest watts for the necessary luminous
4 flux or light output; and

5 (2) is compatible with the light fixture.

6 SECTION 7. Subchapter B, Chapter 2165, Government Code, is
7 amended by adding Section 2165.058 to read as follows:

8 Sec. 2165.058. VENDING MACHINES; ENERGY-SAVING DEVICE
9 REQUIRED. (a) This section does not apply to a vending machine
10 that contains a perishable food product, as defined by Section
11 96.001, Civil Practice and Remedies Code.

12 (b) The commission shall require an entity that owns or
13 operates a vending machine located in a building owned or leased
14 by the state to activate and maintain any internal energy-saving
15 or energy-management device or option that is already part of
16 the machine or contained in the machine.

17 (c) The commission shall require the use of an external
18 energy-saving or energy-management device for each vending
19 machine that:

20 (1) is located in a building owned or leased by the
21 state;

22 (2) operates with a compressor; and

23 (3) does not have an activated and operational
24 internal energy-saving or energy-management device or option.

1 (d) An entity that owns or operates a vending machine
2 subject to this section is responsible for any expenses
3 associated with the acquisition, installation, or maintenance of
4 an energy-saving device required by this section.

5 (e) The commission may impose an administrative fine on an
6 entity that operates a vending machine subject to this section
7 in an amount not to exceed \$250 a year for each machine found to
8 be in violation of this section or rules adopted by the
9 commission under this section.

10 (f) The commission shall adopt rules relating to the
11 specifications for and regulation of energy-saving devices
12 required by this section.

13 SECTION 8. Subtitle F, Title 10, Government Code, is
14 amended by adding Chapter 2264 to read as follows:

15 CHAPTER 2264. REQUIRED PUBLICATION AND REPORTING

16 BY GOVERNMENTAL ENTITIES

17 Sec. 2264.001. RECORDING AND REPORTING OF ELECTRICITY,
18 WATER, AND NATURAL GAS CONSUMPTION. (a) In this section,
19 "governmental entity" means:

20 (1) a board, commission, or department of the state
21 or a political subdivision of the state, including a
22 municipality, a county, or any kind of district; or

23 (2) an institution of higher education as defined by
24 Section 61.003, Education Code.

1 (b) Notwithstanding any other law, a governmental entity
2 responsible for payments for electric, water, or natural gas
3 utility services shall record in an electronic repository the
4 governmental entity's metered amount of electricity, water, or
5 natural gas consumed for which it is responsible to pay and the
6 aggregate costs for those utility services. The governmental
7 entity shall report the recorded information on a publicly
8 accessible Internet website with an interface designed for ease
9 of navigation.

10 SECTION 9. Subchapter H, Chapter 2306, Government Code, is
11 amended by adding Section 2306.187 to read as follows:

12 Sec. 2306.187. ENERGY EFFICIENCY STANDARDS FOR CERTAIN
13 SINGLE AND MULTIFAMILY DWELLINGS. (a) A newly constructed
14 single or multifamily dwelling that is constructed with
15 assistance awarded by the department, including state or federal
16 money, housing tax credits, or multifamily bond financing, must
17 include energy conservation and efficiency measures specified by
18 the department. The department by rule shall establish a
19 minimum level of energy efficiency measures that must be
20 included in a newly constructed single or multifamily dwelling
21 as a condition of eligibility to receive assistance awarded by
22 the department for housing construction. The measures adopted
23 by the department may include:

24 (1) the installation of Energy Star-labeled ceiling

1 fans in living areas and bedrooms;
2 (2) the installation of Energy Star-labeled
3 appliances;
4 (3) the installation of Energy Star-labeled lighting
5 in all interior units;
6 (4) the installation of Energy Star-labeled
7 ventilation equipment, including power-vented fans, range hoods,
8 and bathroom fans;
9 (5) the use of energy efficient alternative
10 construction material, including structural insulated panel
11 construction;
12 (6) the installation of central air conditioning or
13 heat pump equipment with a better Seasonal Energy Efficiency
14 Rating (SEER) than that required by the energy code adopted
15 under Section 388.003, Health and Safety Code; and
16 (7) the installation of the air ducting system
17 inside the conditioned space.
18 (b) A single or multifamily dwelling must include energy
19 conservation and efficiency measures specified by the department
20 if:
21 (1) the dwelling is rehabilitated with assistance
22 awarded by the department, including state or federal money,
23 housing tax credits, or multifamily bond financing; and
24 (2) any portion of the rehabilitation includes

1 alterations that will replace items that are identified as
2 required efficiency measures by the department.

3 (c) The energy conservation and efficiency measures the
4 department requires under Subsection (b) may not be more
5 stringent than the measures the department requires under
6 Subsection (a).

7 (d) The department shall review the measures required to
8 meet the energy efficiency standards at least annually to
9 determine if additional measures are desirable and to ensure
10 that the most recent energy efficiency technology is considered.

11 (e) Subsections (a) and (b) do not apply to a single or
12 multifamily dwelling that receives weatherization assistance
13 money from the department or money provided under the first-time
14 homebuyer program.

15 SECTION 10. Section 388.003, Health and Safety Code, is
16 amended by adding Subsections (b-1), (b-2), and (b-3) to read as
17 follows:

18 (b-1) If the State Energy Conservation Office determines,
19 based on written recommendations from the laboratory, that the
20 energy efficiency provisions of the latest published editions of
21 the International Residential Code or the International Energy
22 Conservation Code for residential or commercial energy
23 efficiency and air quality are equivalent to or more stringent
24 than the provisions of editions adopted under Subsection (a) or

1 (b), the office by rule may adopt and substitute in the energy
2 code the equivalent or more stringent editions for of the
3 initial editions described by Subsection (a) or (b). If the
4 State Energy Conservation Office adopts the latest published
5 editions of the International Residential Code or the
6 International Energy Conservation Code into the energy code, the
7 office shall establish an effective date for the new editions
8 that is not earlier than nine months after the date of adoption.
9 The laboratory shall submit recommendations concerning the
10 latest published editions of the International Residential Code
11 or the International Energy Conservation Code not later than six
12 months after publication of new editions.

13 (b-2) The State Energy Conservation Office by rule shall
14 establish a procedure for allowing an opportunity for persons
15 who have an interest in the adoption of energy efficiency codes
16 under Subsection (b-1) to comment on a code considered for
17 adoption, including:

18 (1) commercial and residential builders;

19 (2) architects;

20 (3) engineers;

21 (4) county and other local government authorities;

22 and

23 (5) environmental groups.

24 (b-3) In developing written recommendations under

1 Subsection (b-1), the laboratory shall consider the comments
2 submitted under Subsection (b-2).

3 SECTION 11. Section 388.005, Health and Safety Code, is
4 amended to read as follows:

5 Sec. 388.005. ENERGY EFFICIENCY PROGRAMS IN CERTAIN
6 GOVERNMENTAL ENTITIES [~~POLITICAL SUBDIVISIONS~~]. (a) In this
7 section:

8 (1) "Institution of higher education" includes an
9 institution of higher education as defined by Section 61.003,
10 Education Code, and a private institution of higher education
11 that receives funding from the state.

12 (2) "Political [~~political~~] subdivision" means:

13 (A) [~~1~~] an affected county; or

14 (B) [~~2~~] any political subdivision in a
15 nonattainment area or in an affected county other than:

16 (i) [~~A~~] a school district; or

17 (ii) [~~B~~] a district as defined by Section
18 36.001 or 49.001, Water Code, that had a total annual
19 electricity expense of less than \$200,000 in the previous fiscal
20 year of the district.

21 (3) "State agency" means a department, commission,
22 board, office, council, or other agency in the executive branch
23 of state government that is created by the constitution or a
24 statute of this state and has authority not limited to a

1 geographical portion of the state.

2 (b) Each political subdivision, institution of higher
3 education, or state agency shall implement all energy efficiency
4 measures that meet the standards established for a contract for
5 energy conservation measures under Section 302.004(b), Local
6 Government Code, in order to reduce electricity consumption by
7 the existing facilities of the entity [~~the political~~
8 ~~subdivision~~].

9 (c) Each political subdivision, institution of higher
10 education, or state agency shall establish a goal to reduce the
11 electric consumption by the entity [~~political subdivision~~] by
12 five percent each state fiscal year for six [~~five~~] years,
13 beginning September 1, 2007 [~~January 1, 2002~~].

14 (d) A political subdivision, institution of higher
15 education, or state agency that does not attain the goals under
16 Subsection (c) must include in the report required by Subsection
17 (e) justification that the entity [~~political subdivision~~] has
18 already implemented all available measures.

19 (e) A political subdivision, institution of higher
20 education, or state agency annually shall report to the State
21 Energy Conservation Office, on forms provided by that office,
22 regarding the entity's [~~political subdivision's~~] efforts and
23 progress under this section. The State Energy Conservation
24 Office shall provide assistance and information to the entity

1 ~~[political subdivisions]~~ to help the entity ~~[the political~~
2 ~~subdivisions]~~ meet the goals set under this section.

3 (f) This section does not apply to a state agency or an
4 institution of higher education that the State Energy
5 Conservation Office determines that, before September 1, 2007,
6 adopted a plan for conserving energy under which the agency or
7 institution established a percentage goal for reducing the
8 consumption of electricity. The exemption provided by this
9 section applies only while the agency or institution has an
10 energy conservation plan in effect and only if the agency or
11 institution submits reports on the conservation plan each
12 calendar quarter to the governor, the Legislative Budget Board,
13 and the State Energy Conservation Office.

14 SECTION 12. Section 388.008, Health and Safety Code, is
15 amended by amending Subsections (a) and (c) and adding
16 Subsection (d) to read as follows:

17 (a) The laboratory shall develop a standardized report
18 format to be used by providers of home energy ratings. The
19 laboratory may develop different report formats for rating newly
20 constructed residences from those for existing residences. The
21 form must be designed to give potential buyers information on a
22 structure's energy performance, including:

- 23 (1) insulation;
24 (2) types of windows;

- 1 (3) heating and cooling equipment;
- 2 (4) water heating equipment;
- 3 (5) additional energy conserving features, if any;
- 4 (6) results of performance measurements of building
- 5 tightness and forced air distribution; and
- 6 (7) an overall rating of probable energy efficiency
- 7 relative to the minimum requirements of the International Energy
- 8 Conservation Code or the energy efficiency chapter of the
- 9 International Residential Code, as appropriate.

10 (c) The laboratory may cooperate with an industry

11 organization or trade association to:

- 12 (1) develop guidelines for home energy ratings;
- 13 (2) provide training for individuals performing home
- 14 energy ratings and providers of home energy ratings; and
- 15 (3) provide a registry of completed ratings for newly
- 16 constructed residences and residential improvement projects for
- 17 the purpose of computing the energy savings and emissions
- 18 reductions benefits of the [The] home energy ratings program
- 19 [shall be implemented by September 1, 2002].

20 (d) The laboratory shall include information on the

21 benefits attained from this program in an annual report to the

22 commission.

23 SECTION 13. The heading to Section 74.3013, Property Code,

24 is amended to read as follows:

1 Sec. 74.3013. DELIVERY OF MONEY FOR RURAL SCHOLARSHIP,
2 ~~[AND]~~ ECONOMIC DEVELOPMENT, AND ENERGY EFFICIENCY ASSISTANCE.

3 SECTION 14. Sections 74.3013(a), (b), (e), (f), and (g),
4 Property Code, are amended to read as follows:

5 (a) Notwithstanding and in addition to any other provision
6 of this chapter or other law, a nonprofit cooperative
7 corporation may deliver reported money to a scholarship fund for
8 rural students, ~~[or]~~ to stimulate rural economic development, or
9 to provide energy efficiency assistance to members of electric
10 cooperatives, instead of delivering the money to the comptroller
11 as prescribed in Section 74.301.

12 (b) A nonprofit cooperative corporation may deliver the
13 money under this section only:

14 (1) to a scholarship fund established by one or more
15 nonprofit cooperative corporations in this state to enable
16 students from rural areas to attend college, technical school,
17 or other postsecondary educational institution; ~~[and]~~

18 (2) to an economic development fund for the
19 stimulation and improvement of business and commercial activity
20 for economic development in rural communities; and

21 (3) to an energy efficiency assistance fund to assist
22 members of an electric cooperative in reducing their energy
23 consumption and electricity bills.

24 (e) The comptroller shall prescribe forms and procedures

1 governing this section, including forms and procedures relating
2 to:

- 3 (1) notice of presumed abandoned property;
- 4 (2) delivery of reported money to a scholarship, ~~[or]~~
5 economic development fund, or energy efficiency assistance fund;
- 6 (3) filing of a claim; and
- 7 (4) procedures to allow equitable opportunity for
8 participation by each nonprofit cooperative corporation in the
9 state.

10 (f) During a state fiscal year the total amount of money
11 that may be transferred by all nonprofit cooperative
12 corporations under this section may not exceed \$2 ~~[\$1]~~ million.
13 No more than 20 percent of each nonprofit cooperative's funds
14 eligible for delivery under this section shall be used for
15 economic development. The comptroller shall adopt procedures to
16 record the total amount of money transferred annually ~~[to allow~~
17 ~~equitable opportunity for participation with preference given to~~
18 ~~corporations already providing similar scholarship opportunities~~
19 ~~in other states]~~.

20 (g) Nonprofit cooperative corporations may combine
21 ~~[economic development]~~ funds from other sources with any
22 ~~[economic development]~~ funds delivered under this section. In
23 addition, such cooperatives may engage in other business and
24 commercial activities, in their own behalf or through such

1 subsidiaries and affiliates as deemed necessary, in order to
2 provide and promote educational opportunities and to stimulate
3 rural economic development.

4 SECTION 15. Subchapter H, Chapter 151, Tax Code, is
5 amended by adding Section 151.333 to read as follows:

6 Sec. 151.333. ENERGY-EFFICIENT PRODUCTS. (a) In this
7 section, "energy-efficient product" means a product that has
8 been designated as an Energy Star qualified product under the
9 Energy Star program jointly operated by the United States
10 Environmental Protection Agency and the United States Department
11 of Energy.

12 (b) This section applies only to the following energy-
13 efficient products:

14 (1) an air conditioner the sales price of which does
15 not exceed \$6,000;

16 (2) a clothes washer;

17 (3) a ceiling fan;

18 (4) a dehumidifier;

19 (5) a dishwasher;

20 (6) an incandescent or fluorescent lightbulb;

21 (7) a programmable thermostat; and

22 (8) a refrigerator the sales price of which does not
23 exceed \$2,000.

24 (c) The sale of an energy-efficient product to which this

1 section applies is exempted from the taxes imposed by this
2 chapter if the sale takes place during a period beginning at
3 12:01 a.m. on the Saturday preceding the last Monday in May
4 (Memorial Day) and ending at 11:59 p.m. on the last Monday in
5 May.

6 SECTION 16. Subsection (b), Section 202.061, Tax Code, is
7 amended to read as follows:

8 (b) The taxpayer responsible for the payment of severance
9 taxes on the production from a marginal well in this state on
10 which enhanced efficiency equipment is installed and used is
11 entitled to a credit in an amount equal to 10 percent of the
12 cost of the equipment, provided that:

13 (1) the cumulative total of all severance tax credits
14 authorized by this section may not exceed \$1,000 for any
15 marginal well;

16 (2) the enhanced efficiency equipment installed in a
17 qualifying marginal well must have been purchased and installed
18 not earlier than September 1, 2005, or later than September 1,
19 2013 [~~2009~~];

20 (3) the taxpayer must file an application with the
21 comptroller for the credit and must demonstrate to the
22 comptroller that the enhanced efficiency equipment has been
23 purchased and installed in the marginal well within the period
24 prescribed by Subdivision (2);

1 (4) the number of applications the comptroller may
2 approve each state fiscal year may not exceed a number equal to
3 one percent of the producing marginal wells in this state on
4 September 1 of that state fiscal year, as determined by the
5 comptroller; and

6 (5) the manufacturer of the enhanced efficiency equipment
7 must obtain an evaluation of the product under Subsection (a).

8 SECTION 17. Subchapter A, Chapter 313, Tax Code, is
9 amended by adding Section 313.008 to read as follows:

10 Sec. 313.008. REPORT ON COMPLIANCE WITH ENERGY-RELATED
11 AGREEMENTS. (a) Before the beginning of each regular session
12 of the legislature, the comptroller shall submit to the
13 lieutenant governor, the speaker of the house of
14 representatives, and each member of the legislature a report
15 assessing the progress of each agreement entered into under this
16 chapter utilizing data certified by agreement recipients, on
17 each agreement entered into under this chapter involving energy-
18 related projects, including wind generation, ethanol production,
19 liquefied natural gas terminals, low sulfur diesel production,
20 refinery cogeneration, and nuclear energy production. The
21 report must state for each agreement:

22 (1) the number of qualifying jobs each recipient of a
23 limitation on appraised value committed to create;

24 (2) the number of qualifying jobs each recipient

1 created;
2 (3) the median wage of the new jobs each recipient
3 created;
4 (4) the amount of the qualified investment each
5 recipient committed to expend or allocate per project;
6 (5) the amount of the qualified investment each
7 recipient expended or allocated per project;
8 (6) the market value of the qualified property of
9 each recipient as established by the local appraiser;
10 (7) the limitation on appraised value for the
11 qualified property of each recipient;
12 (8) the dollar amount of the ad valorem taxes that
13 would have been imposed on the market value of the qualified
14 property;
15 (9) the dollar amount of the ad valorem taxes imposed
16 on the qualified property;
17 (10) the number of new jobs created by each recipient
18 in each sector of the North American Industry Classification
19 System (NAICS); and
20 (11) of the number of new jobs each recipient
21 created, the number of positions created that provide health
22 benefits for employees.
23 (b) The report may not include information that is made
24 confidential by law.

1 (c) The comptroller may require a recipient to submit, on
2 a form provided by the comptroller, information required to
3 complete the report.

4 SECTION 18. Section 31.004, Utilities Code, is amended by
5 adding Subsection (c) to read as follows:

6 (c) The commission shall provide information to school
7 districts regarding how a school district may finance the
8 installation of solar electric generation panels for school
9 district buildings.

10 SECTION 19. Section 39.002, Utilities Code, is amended to
11 read as follows:

12 Sec. 39.002. APPLICABILITY. This chapter, other than
13 Sections 39.155, 39.157(e), 39.203, 39.903, [~~and~~] 39.904,
14 39.9051, 39.9052, and 39.914(e), does not apply to a municipally
15 owned utility or an electric cooperative. Sections 39.157(e),
16 39.203, and 39.904, however, apply only to a municipally owned
17 utility or an electric cooperative that is offering customer
18 choice. If there is a conflict between the specific provisions
19 of this chapter and any other provisions of this title, except
20 for Chapters 40 and 41, the provisions of this chapter control.

21 SECTION 20. Section 39.107, Utilities Code, is amended by
22 adding Subsection (i) to read as follows:

23 (i) Subject to the restrictions in Subsection (h), it is
24 the intent of the legislature that net metering and advanced

1 meter information networks be deployed as rapidly as possible to
2 allow customers to better manage energy use and control costs,
3 and to facilitate demand response initiatives.

4 SECTION 21. Subchapter Z, Chapter 39, Utilities Code, is
5 amended by adding Section 39.9025 to read as follows:

6 Sec. 39.9025. HOME ELECTRIC ENERGY REPORTS. The
7 commission may encourage retail electric providers to deliver
8 individualized home electric energy reports to educate consumers
9 about electric energy use and energy efficiency to assist
10 consumers to use energy more efficiently.

11 SECTION 22. Section 39.905, Utilities Code, is amended by
12 amending Subsections (a), (b), (d), (e), and (f), and adding
13 Subsections (b-1), (b-2), (b-3), (b-4), and (g) to read as
14 follows:

15 (a) It is the goal of the legislature that:

16 (1) electric utilities will administer energy
17 efficiency [~~savings~~] incentive programs in a market-neutral,
18 nondiscriminatory manner but will not offer underlying
19 competitive services;

20 (2) all customers, in all customer classes, will have
21 a choice of and access to energy efficiency alternatives and
22 other choices from the market that allow each customer to reduce
23 energy consumption, peak demand, or energy costs; [~~and~~]

24 (3) each electric utility will provide, through

1 market-based standard offer programs or limited, targeted,
2 market-transformation programs, incentives sufficient for retail
3 electric providers and competitive energy service providers to
4 acquire additional cost-effective energy efficiency for
5 residential and commercial customers equivalent to at least:

6 (A) 10 percent of the electric utility's annual
7 growth in demand of residential and commercial customers by
8 December 31, 2007;

9 (B) 15 percent of the electric utility's annual
10 growth in demand of residential and commercial customers by
11 December 31, 2008, provided that the electric utility's program
12 expenditures for 2008 funding may not be greater than 75 percent
13 above the utility's program budget for 2007 for residential and
14 commercial customers, as included in the April 1, 2006, filing;
15 and

16 (C) 20 percent of the electric utility's annual
17 growth in demand of residential and commercial customers by
18 December 31, 2009, provided that the electric utility's program
19 expenditures for 2009 funding may not be greater than 150
20 percent above the utility's program budget for 2007 for
21 residential and commercial customers, as included in the April
22 1, 2006, filing;

23 (4) each electric utility in the ERCOT region shall
24 use its best efforts to encourage and facilitate the involvement

1 of the region's retail electric providers in the delivery of
2 efficiency programs and demand response programs under this
3 section;

4 (5) retail electric providers in the ERCOT region,
5 and electric utilities outside of the ERCOT region, shall
6 provide customers with energy efficiency educational materials;
7 and

8 (6) notwithstanding Subsection (a)(3), electric
9 utilities shall continue to make available, at 2007 funding and
10 participation levels, any load management standard offer
11 programs developed for industrial customers and implemented
12 prior to May 1, 2007.

13 (b) The commission shall provide oversight and adopt rules
14 and procedures [~~as necessary,~~] to ensure that the utilities can
15 achieve the goal of this section, including:

16 (1) establishing an energy efficiency cost recovery
17 factor for ensuring timely and reasonable cost recovery for
18 utility expenditures made to satisfy the goal of this section;

19 (2) establishing an incentive under Section 36.204 to
20 reward utilities administering programs under this section that
21 exceed the minimum goals established by this section;

22 (3) providing a utility that is unable to establish
23 an energy efficiency cost recovery factor in a timely manner due
24 to a rate freeze with a mechanism to enable the utility to:

1 (A) defer the costs of complying with this
2 section; and

3 (B) recover the deferred costs through an energy
4 efficiency cost recovery factor on the expiration of the rate
5 freeze period;

6 (4) ensuring that the costs associated with programs
7 provided under this section are borne by the customer classes
8 that receive the services under the programs; and

9 (5) ensuring the program rules encourage the value of
10 the incentives to be passed on to the end-use customer.

11 (b-1) The energy efficiency cost recovery factor under
12 Subsection (b)(1) may not result in an over-recovery of costs
13 but may be adjusted each year to change rates to enable
14 utilities to match revenues against energy efficiency costs and
15 any incentives to which they are granted. The factor shall be
16 adjusted to reflect any over-collection or under-collection of
17 energy efficiency cost recovery revenues in previous years.

18 (b-2) The commission shall conduct a study, to be funded
19 by electric utilities, regarding cost-effective energy
20 efficiency in this state. Not later than January 15, 2009, the
21 commission shall submit to the legislature a report regarding
22 the commission's findings that:

23 (1) considers the technical, economic, and achievable
24 potential, and natural occurrence of energy efficiency in this

1 state in terms of kilowatts and kilowatt hours for each element;
2 (2) determines the amount of savings that is
3 achievable through utility programs in compliance with
4 commission rules;
5 (3) recommends whether:
6 (A) utility funding of energy efficiency in
7 areas of the state with competitive retail electric service
8 should continue;
9 (B) energy efficiency in areas with competitive
10 retail electric service is best provided by the competitive
11 market; and
12 (C) utilities should fund education programs to
13 be conducted by the commission regarding the provision of energy
14 efficiency service from the competitive market;
15 (4) provides estimates of achievable savings specific
16 to each utility service area and each customer class;
17 (5) quantifies the costs and rate impacts associated
18 with meeting energy efficiency goals;
19 (6) determines whether an increase in the goal to 30
20 percent of the growth in demand for each utility is achievable
21 by December 31, 2010, and whether an increase in the goal to 50
22 percent of the growth in demand for electricity is achievable by
23 December 31, 2015, by each utility in the service area served
24 through the energy efficiency programs described by this

1 section;

2 (7) recommends policies designed to promote energy
3 efficiency in the areas of the state that are not served by the
4 utilities which administer programs under this section; and

5 (8) identifies potential barriers to the increased
6 participation by retail electric providers in the delivery of
7 energy efficiency services to ERCOT customers, and to the
8 increased potential for energy efficiency in ERCOT or in this
9 state generally, including any recommended regulatory or
10 statutory changes to eliminate such barriers or facilitate
11 greater efficiency.

12 (b-3) Beginning not later than January 1, 2008, the
13 commission, in consultation with the State Energy Conservation
14 Office, annually for a period of five years shall compute and
15 report to ERCOT the projected energy savings and demand impacts
16 for each entity in the ERCOT region that administers standard
17 offer programs, market transformation programs, combined heating
18 and power technology, demand response programs, solar incentive
19 programs, appliance efficiency standards, energy efficiency
20 programs in public buildings, and any other relevant programs
21 that are reasonably anticipated to reduce electricity energy or
22 peak demand or that serve as substitutes for electric supply.

23 (b-4) The commission and ERCOT shall develop a method to
24 account for the projected efficiency impacts under Subsection

1 (b-3) in ERCOT's annual forecasts of future capacity, demand,
2 and reserves.

3 (d) The commission shall establish a procedure for
4 reviewing and evaluating market-transformation program options
5 described by this subsection and other options. In evaluating
6 program options, the commission may consider the ability of a
7 program option to reduce costs to customers through reduced
8 demand, energy savings, and relief of congestion. Utilities
9 ~~[adopt the following market-transformation program options that~~
10 ~~the utilities]~~ may choose to implement any program option
11 approved by the commission after its evaluation in order to
12 satisfy the goal in Subsection (a), including ~~(a)(3)~~:

13 (1) energy-smart schools;

14 (2) appliance retirement and recycling;

15 (3) air conditioning system tune-ups; ~~and]~~

16 (4) the use of trees or other landscaping for energy
17 efficiency;

18 (5) customer energy management and demand response
19 programs;

20 (6) high performance residential and commercial
21 buildings that will achieve the levels of energy efficiency
22 sufficient to qualify those buildings for federal tax
23 incentives;

24 (7) programs for customers who rent or lease their

1 residence or commercial space;

2 (8) programs providing energy monitoring equipment to
3 customers that enable a customer to better understand the
4 amount, price, and time of the customer's energy use;

5 (9) energy audit programs for owners and other
6 residents of single-family or multifamily residences and for
7 small commercial customers;

8 (10) net-zero energy new home programs;

9 (11) solar thermal or solar electric programs; and

10 (12) programs for using windows and other glazing
11 systems, glass doors, and skylights in residential and
12 commercial buildings that reduce solar gain by at least 30
13 percent from the level established for the federal Energy Star
14 windows program.

15 (e) An electric utility may use money approved by the
16 commission for energy efficiency programs to perform necessary
17 energy efficiency research and development to foster continuous
18 improvement and innovation in the application of energy
19 efficiency technology and energy efficiency program design and
20 implementation. Money the utility uses under this subsection
21 may not exceed 10 percent of the greater of:

22 (1) the amount the commission approved for energy
23 efficiency programs in the utility's most recent full rate
24 proceeding; or

1 (2) the commission-approved expenditures by the
2 utility for energy efficiency in the previous year.

3 (f) Unless funding is provided under Section 39.903,
4 [~~beginning January 1, 2006,~~] each unbundled transmission and
5 distribution utility shall include in its energy efficiency plan
6 a targeted low-income energy efficiency program as described by
7 Section 39.903(f)(2), and the savings achieved by the program
8 shall count toward the transmission and distribution utility's
9 energy efficiency goal. The commission shall determine the
10 appropriate level of funding to be allocated to both targeted
11 and standard offer low-income energy efficiency programs in each
12 unbundled transmission and distribution utility service area.
13 The total expenditures for both targeted and standard offer low-
14 income energy efficiency programs will be based on the amount
15 spent by the transmission and distribution utility on the
16 commission's hard-to-reach program in calendar year 2003. This
17 level of funding for low-income energy efficiency programs shall
18 be provided from money approved by the commission for the
19 transmission and distribution utility's energy efficiency
20 programs. The state agency that administers the federal
21 weatherization assistance program shall provide reports as
22 required by the commission to provide the most current
23 information available on energy and peak demand savings achieved
24 in each transmission and distribution utility service area.

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1 (g) The commission may provide for a good cause exemption
2 to a utility's liability for an administrative penalty or other
3 sanction if the utility fails to meet a goal for energy
4 efficiency under this section and the utility's failure to meet
5 the goal is caused by one or more factors outside of the
6 utility's control, including:

7 (1) insufficient demand by retail electric providers
8 and competitive energy service providers for program incentive
9 funds made available by the utility through its programs;

10 (2) changes in building energy codes; and

11 (3) changes in government-imposed appliance or
12 equipment efficiency standards.

13 SECTION 23. Subchapter Z, Chapter 39, Utilities Code, is
14 amended by adding Sections 39.9051, 39.9052, 39.911, 39.912, and
15 39.913 to read as follows:

16 Sec. 39.9051. ENERGY EFFICIENCY FOR MUNICIPALLY OWNED
17 UTILITIES. (a) In this section, "municipally owned utility"
18 has the meaning assigned by Section 11.003.

19 (b) This section applies only to a municipally owned
20 utility that had retail sales of more than 500,000 megawatt
21 hours in 2005.

22 (c) It is the goal of the legislature that:

23 (1) municipally owned utilities will administer
24 energy savings incentive programs;

1 (2) customers of a municipally owned utility will
2 have a choice of and access to energy efficiency alternatives
3 that allow customers to reduce energy consumption, peak demand,
4 or energy costs; and

5 (3) each municipally owned utility will provide
6 incentives sufficient for municipally owned utilities to acquire
7 additional cost-effective energy efficiency.

8 (d) The governing body of a municipally owned utility
9 shall provide oversight and adopt rules and procedures, as
10 necessary, to ensure that the utility can achieve the goal of
11 this section.

12 (e) If a municipally owned utility adopts customer choice
13 by decision of the governing body under Chapter 40, the
14 commission shall provide oversight and adopt rules and
15 procedures, as necessary, to ensure that the municipally owned
16 utility can achieve the goal in this section in a market-
17 neutral, nondiscriminatory manner. The commission shall, to the
18 extent possible, include existing energy efficiency programs
19 already adopted by the municipally owned utility.

20 (f) Not later than September 1, 2009, a municipally owned
21 utility must report to the State Energy Conservation Office, in
22 a form and manner determined by the utility in consultation with
23 the office, information regarding the combined effects of the
24 energy efficiency activities of the utility.

1 Sec. 39.9052. ENERGY EFFICIENCY FOR ELECTRIC COOPERATIVES.

2 (a) An electric cooperative shall consider adopting and
3 implementing energy efficiency programs that reduce the
4 cooperative's annual growth in demand in a manner consistent
5 with standards established in the state for other utilities.

6 (b) Not later than September 1, 2009, an electric
7 cooperative that had retail sales of more than 500,000 megawatt
8 hours in 2005 must report to the State Energy Conservation
9 Office, in a form and manner determined by the electric
10 cooperative in consultation with the office, information
11 regarding the combined effects of the energy efficiency
12 activities of the electric cooperative.

13 Sec. 39.911. ALTERNATIVE FUNDING FOR ENERGY EFFICIENCY AND
14 RENEWABLE ENERGY SYSTEMS. (a) The State Energy Conservation
15 Office, in coordination with the governor, the Department of
16 Agriculture, the Texas Commission on Environmental Quality, the
17 Texas Education Agency, the commission, and other appropriate
18 state agencies, shall solicit gifts, grants, and other financial
19 resources available to fund energy efficiency improvements and
20 renewable energy systems for public and private facilities in
21 this state.

22 (b) The State Energy Conservation Office, in coordination
23 with the Texas Commission on Environmental Quality, and other
24 appropriate state agencies, shall adopt rules and develop

1 procedures to require that a developer of renewable energy that
2 is comprised primarily of a wind turbine power generation
3 facility located on an upland site make a determination that the
4 facility will contribute to meeting the renewable energy goals
5 set forth in Section 39.904(a) and that the location or
6 operation of the facility will not present an unacceptable risk
7 to the natural resources of this state. The Public Utility
8 Commission may not register a company under Section 39.351
9 unless the company has made both determinations, and the
10 determinations have been certified as accurate by the State
11 Energy Conservation Office, and filed with the commission. The
12 determination procedures developed by the office under this
13 section shall be based on and be similar to the procedures in 47
14 CFR Subpart 1, Chapter 1, Sections 1.1301-1.1319.

15 Sec. 39.912. REPORT ON COMBINED HEATING AND POWER
16 TECHNOLOGY. The commission shall study the installation and use
17 of combined heating and power technology in this state, and
18 shall submit a report regarding the commission's findings to the
19 81st Legislature. The report shall include:

20 (1) an explanation describing combined heating and
21 power technology and its use; and

22 (2) an explanation of how combined heating and power
23 technology can be implemented in this state to meet energy
24 efficiency goals.

1 Sec. 39.913. COMBINING CERTAIN REPORTS. The commission
2 may combine the reports required under Sections 39.905(b-2) and
3 39.912.

4 SECTION 24. Subchapter Z, Chapter 39, Utilities Code, is
5 amended by adding Section 39.914 to read as follows:

6 Sec. 39.914. CREDIT FOR SURPLUS SOLAR GENERATION BY PUBLIC
7 SCHOOLS. (a) An electric utility or retail electric provider
8 shall provide for net metering and contract with an independent
9 school district so that:

10 (1) surplus electricity produced by a school
11 building's solar electric generation panels is made available
12 for sale to the electric transmission grid and distribution
13 system; and

14 (2) the net value of that surplus electricity is
15 credited to the district.

16 (b) For areas of this state in which customer choice has
17 not been introduced, the commission by rule shall require that
18 credits for electricity produced by a school building's solar
19 electric generation panels reflect the value of the electricity
20 that is made available for sale to the electric utility in
21 accordance with federal regulations.

22 (c) For independent school districts in areas in which
23 customer choice has been introduced, the district must sell the
24 school buildings' surplus electricity produced to the retail

1 electric provider that serves the school district's load at a
2 value agreed to between the district and the provider that
3 serves the district's load. The agreed value may be based on
4 the clearing price of energy at the time of day that the
5 electricity is made available to the grid. The independent
6 organization identified in Section 39.151 shall develop
7 procedures so that the amount of electricity purchased from a
8 district under this section is accounted for in settling the
9 total load served by the provider that serves the district's
10 load. A district requesting net metering services for purposes
11 of this section must have metering devices capable of providing
12 measurements consistent with the independent organization's
13 settlement requirements.

14 (d) A transmission and distribution utility shall make
15 available to an independent school district for purposes of this
16 section metering required for services provided under this
17 section, including separate meters that measure the load and
18 generator output or a single meter capable of measuring
19 separately in-flow and out-flow at the point of common coupling
20 meter point. The district must pay the differential cost of the
21 metering unless the meters are provided at no additional cost.
22 Except as provided by this section, Section 39.107 applies to
23 metering under this section.

24 (e) A municipally owned utility or electric cooperative

1 shall consider and complete the determinations regarding net
2 metering service as provided by the federal Public Utility
3 Regulatory Policies Act of 1978 (16 U.S.C. Section 2601 et seq.,
4 as amended by the federal Energy Policy Act of 2005 (Pub. L. No.
5 109-58)) after proceedings conducted in accordance with that
6 law. A municipally owned utility or electric cooperative shall
7 report the determinations made under this subsection to the
8 State Energy Conservation Office and include in that report
9 information regarding metering electricity generated by solar
10 panels on public school building rooftops.

11 SECTION 25. Subchapter Z, Chapter 39, Utilities Code, is
12 amended by adding Section 39.915 to read as follows:

13 Sec. 39.915. CONSIDERATION AND APPROVAL OF CERTAIN
14 TRANSACTIONS. (a) To protect retail customers in this state,
15 notwithstanding any other provision of this title, an electric
16 utility or transmission and distribution utility must report to
17 and obtain approval of the commission before closing any
18 transaction in which:

19 (1) the electric utility or transmission and
20 distribution utility will be merged or consolidated with another
21 electric utility or transmission and distribution utility;

22 (2) at least 50 percent of the stock of the electric
23 utility or transmission and distribution utility will be
24 transferred or sold; or

1 (3) a controlling interest or operational control of
2 the electric utility or transmission and distribution utility
3 will be transferred.

4 (b) The commission shall approve a transaction under
5 Subsection (a) if the commission finds that the transaction is
6 in the public interest. In making its determination, the
7 commission shall consider whether the transaction will adversely
8 affect the reliability of service, availability of service, or
9 cost of service of the electric utility or transmission and
10 distribution utility. The commission shall make the
11 determination concerning a transaction under this subsection not
12 later than the 180th day after the date the commission receives
13 the relevant report. If the commission has not made a
14 determination before the 181st day after that date, the
15 transaction is considered approved.

16 (c) Subsections (a) and (b) do not apply to a transaction
17 described by Subsection (a) for which a definitive agreement was
18 executed before April 1, 2007, if an electric utility or
19 transmission and distribution utility or a person seeking to
20 acquire or merge with an electric utility or transmission and
21 distribution utility made a filing for review of the transaction
22 under Section 14.101 before May 1, 2007, and the resulting
23 proceeding was not withdrawn.

24 (d) If an electric utility or transmission and

1 distribution utility or a person seeking to acquire or merge
2 with an electric utility or transmission and distribution
3 utility files with the commission a stipulation, representation,
4 or commitment in advance of or as part of a filing under this
5 section or under Section 14.101, the commission may enforce the
6 stipulation, representation, or commitment to the extent that
7 the stipulation, representation, or commitment is consistent
8 with the standards provided by this section and Section 14.101.
9 The commission may reasonably interpret and enforce conditions
10 adopted under this section.

11 SECTION 26. Section 40.055(a), Utilities Code, is amended
12 to read as follows:

13 (a) The municipal governing body or a body vested with the
14 power to manage and operate a municipally owned utility has
15 exclusive jurisdiction to:

16 (1) set all terms of access, conditions, and rates
17 applicable to services provided by the municipally owned
18 utility, subject to Sections 40.054 and 40.056, including
19 nondiscriminatory and comparable rates for distribution but
20 excluding wholesale transmission rates, terms of access, and
21 conditions for wholesale transmission service set by the
22 commission under this subtitle, provided that the rates for
23 distribution access established by the municipal governing body
24 shall be comparable to the distribution access rates that apply

1 to the municipally owned utility and the municipally owned
2 utility's affiliates;

3 (2) determine whether to unbundle any energy-related
4 activities and, if the municipally owned utility chooses to
5 unbundle, whether to do so structurally or functionally;

6 (3) reasonably determine the amount of the
7 municipally owned utility's stranded investment;

8 (4) establish nondiscriminatory transition charges
9 reasonably designed to recover the stranded investment over an
10 appropriate period of time, provided that recovery of retail
11 stranded costs shall be from all existing or future retail
12 customers, including the facilities, premises, and loads of
13 those retail customers, within the utility's geographical
14 certificated service area as it existed on May 1, 1999;

15 (5) determine the extent to which the municipally
16 owned utility will provide various customer services at the
17 distribution level, including other services that the
18 municipally owned utility is legally authorized to provide, or
19 will accept the services from other providers;

20 (6) manage and operate the municipality's electric
21 utility systems, including exercise of control over resource
22 acquisition and any related expansion programs;

23 (7) establish and enforce service quality and
24 reliability standards and consumer safeguards designed to

1 protect retail electric customers, including safeguards that
2 will accomplish the objectives of Sections 39.101(a) and (b),
3 consistent with this chapter;

4 (8) determine whether a base rate reduction is
5 appropriate for the municipally owned utility;

6 (9) determine any other utility matters that the
7 municipal governing body or body vested with power to manage and
8 operate the municipally owned utility believes should be
9 included; ~~and~~

10 (10) make any other decisions affecting the
11 municipally owned utility's participation in customer choice
12 that are not inconsistent with this chapter; and

13 (11) determine the extent to which the municipally
14 owned utility offers energy efficiency programs and how the
15 programs are administered by the utility, except as provided by
16 Section 39.9051(e).

17 SECTION 27. Section 41.055, Utilities Code, is amended to
18 read as follows:

19 Sec. 41.055. JURISDICTION OF BOARD OF DIRECTORS. A board
20 of directors has exclusive jurisdiction to:

21 (1) set all terms of access, conditions, and rates
22 applicable to services provided by the electric cooperative,
23 except as provided by Sections 41.054 and 41.056, including
24 nondiscriminatory and comparable rates for distribution but

1 excluding wholesale transmission rates, terms of access, and
2 conditions for wholesale transmission service set by the
3 commission under Subchapter A, Chapter 35, provided that the
4 rates for distribution established by the electric cooperative
5 shall be comparable to the distribution rates that apply to the
6 electric cooperative and its subsidiaries;

7 (2) determine whether to unbundle any energy-related
8 activities and, if the board of directors chooses to unbundle,
9 whether to do so structurally or functionally;

10 (3) reasonably determine the amount of the electric
11 cooperative's stranded investment;

12 (4) establish nondiscriminatory transition charges
13 reasonably designed to recover the stranded investment over an
14 appropriate period of time;

15 (5) determine the extent to which the electric
16 cooperative will provide various customer services, including
17 nonelectric services, or accept the services from other
18 providers;

19 (6) manage and operate the electric cooperative's
20 utility systems, including exercise of control over resource
21 acquisition and any related expansion programs;

22 (7) establish and enforce service quality standards,
23 reliability standards, and consumer safeguards designed to
24 protect retail electric customers;

1 (8) determine whether a base rate reduction is
2 appropriate for the electric cooperative;

3 (9) determine any other utility matters that the
4 board of directors believes should be included;

5 (10) sell electric energy and capacity at wholesale,
6 regardless of whether the electric cooperative participates in
7 customer choice;

8 (11) determine the extent to which the electric
9 cooperative offers energy efficiency programs and how the
10 programs are administered by the electric cooperative; and

11 (12) [~~11~~] make any other decisions affecting the
12 electric cooperative's method of conducting business that are
13 not inconsistent with the provisions of this chapter.

14 SECTION 28. The State Energy Conservation Office shall
15 adopt rules implementing a procedure for stakeholder
16 participation as required under Section 388.003(b-2), Health and
17 Safety Code, as added by this Act, as soon as practicable after
18 the effective date of this Act.

19 SECTION 29. (a) The energy conservation standards for
20 equipment and appliances under Section 2158.301, Government
21 Code, as added by this Act, apply to a purchase by a state
22 agency on or after the effective date of this Act.

23 (b) The Texas Building and Procurement Commission shall
24 develop a list of equipment and appliances under Section

1 2155.068, Government Code, as amended by this Act, as soon as
2 practicable after the effective date of this Act.

3 SECTION 30. Section 2165.058(c), Government Code, as added
4 by this Act, applies only to an entity that contracts with the
5 Texas Building and Procurement Commission or another state
6 agency to install or operate a vending machine on or after the
7 effective date of this Act.

8 SECTION 31. The change in law made by this Act does not
9 affect taxes imposed before the effective date of this Act, and
10 the law in effect before the effective date of this Act is
11 continued in effect for purposes of the liability for and
12 collection of those taxes.

13 SECTION 32. This Act takes effect September 1, 2007.

ADOPTED

MAY 23 2007

FLOOR AMENDMENT NO. 1

BY: Atay Spaid
Secretary of the Senate

Relian

1 Amend C.S.H.B. 3693 (Senate committee printing) as follows:

2 1) On page 11, line 65 through page 12, line 11, strike
3 added Subsection (b).

4 2) On page 13, lines 11-12, between "state," and
5 "notwithstanding" insert "and to ensure the continuation of
6 cost-effective energy efficiency measures and delivery systems".

ADOPTED

FLOOR AMENDMENT NO. 2

MAY 23 2007 BY:

1 Amend C.S.H.B. No. 3693 (Senate Committee printing) by
2 inserting the following appropriately numbered SECTION to read
3 as follows and renumbering subsequent SECTIONS accordingly:

4 SECTION __. (a) Section 104.301, Utilities Code, is
5 amended to read as follows:

6 Sec. 104.301. INTERIM ADJUSTMENT FOR ELIGIBLE
7 INFRASTRUCTURE INVESTMENTS [~~CHANGES IN INVESTMENT~~]. (a) The
8 purpose of this subchapter is to provide for the prompt
9 replacement of aging portions of the gas delivery system, and to
10 address energy demand, energy load, energy efficiency
11 incentives, energy programs, and energy performance measures.

12 (b) In this section, "eligible infrastructure investment"
13 means the difference between the value of the invested capital
14 of a gas utility for the preceding calendar year and the value
15 of the invested capital for the calendar year preceding that
16 calendar year. The value of the invested capital is equal to
17 the original cost of the investment at the time the investment
18 was first dedicated to public use minus the accumulated
19 depreciation related to that investment. The term does not
20 include:

21 (1) changes in invested capital resulting from
22 allocations of invested capital to the utility from an affiliate
23 or an operating division of the utility not subject to this
24 title other than allocations of net investment in computer
25 equipment, software, communications, and metering; or

26 (2) classifications of investment that were not
27 included in the utility's invested capital in the utility's most
28 recent ratemaking proceeding.

1 (c) A gas utility that has filed a rate case under
2 Subchapter C within the preceding two years may file with each
3 ~~[the]~~ regulatory authority an application for a tariff or rate
4 schedule that provides for an interim adjustment in the
5 utility's monthly customer charge or initial block rate to
6 recover the cost of an eligible infrastructure investment
7 ~~[changes in the investment in service for gas utility services]~~.
8 The adjustment, if granted, shall be allocated among the gas
9 utility's classes of customers in the same manner as the cost of
10 service was allocated among classes of customers in the
11 utility's latest effective rates for the area in which the
12 tariff or rate schedule is implemented.

13 (d) The gas utility shall file the application for the
14 tariff, ~~[or]~~ rate schedule, or interim ~~[the annual]~~ adjustment
15 ~~[under Subsection (e),]~~ with each ~~[the]~~ regulatory authority for
16 the area in which the tariff or rate schedule will be
17 implemented at least 60 days before the proposed implementation
18 date of the tariff, rate schedule, or interim ~~[annual]~~
19 adjustment. The gas utility shall provide notice of the
20 application for the tariff, rate schedule, or interim ~~[annual]~~
21 adjustment to affected customers by bill insert or direct mail
22 not later than the 45th day after the date the utility files the
23 application for the tariff, rate schedule, or interim ~~[annual]~~
24 adjustment with the regulatory authorities ~~[authority]~~.

25 (e) During the 60-day period, the regulatory authorities
26 ~~[authority]~~ may act to suspend the implementation of the tariff,
27 rate schedule, or interim ~~[annual]~~ adjustment for up to 45 days.
28 The regulatory authority may approve, approve in part, or deny
29 the application for the tariff, rate schedule, or interim
30 adjustment filed by the gas utility with the regulatory

1 authority. An approval, approval in part, or denial of a
2 tariff, rate schedule, or interim adjustment by a municipality
3 in its capacity as a regulatory authority may be appealed by the
4 gas utility to the railroad commission as provided by Section
5 102.001(b). In deciding to approve, approve in part, or deny an
6 application, the commission shall consider comments submitted by
7 a regulatory authority. After the issuance of a final order or
8 decision by the [a] regulatory authorities [authority] in a rate
9 case that is filed after the implementation of a tariff or rate
10 schedule under this section, any change in investment that has
11 been included in an interim adjustment in accordance with the
12 tariff or rate schedule under this section shall no longer be
13 subject to subsequent review for reasonableness or prudence.
14 Until the issuance of a final order or decision by a regulatory
15 authority in a rate case that is filed after the implementation
16 of a tariff or rate schedule under this section, all amounts
17 collected under the tariff or rate schedule before the filing of
18 the rate case are subject to refund. The gas utility shall
19 maintain complete records in accordance with commission rules
20 sufficient to identify the specific items and amounts included
21 in the interim adjustment and to support the inclusion of those
22 items and amounts in the interim adjustment.

23 ~~(f) [(b) The amount the gas utility shall adjust the~~
24 ~~utility's rates upward or downward under the tariff or rate~~
25 ~~schedule each calendar year is based on the difference between~~
26 ~~the value of the invested capital for the preceding calendar~~
27 ~~year and the value of the invested capital for the calendar year~~
28 ~~preceding that calendar year. The value of the invested capital~~
29 ~~is equal to the original cost of the investment at the time the~~
30 ~~investment was first dedicated to public use minus the~~

1 ~~accumulated depreciation related to that investment.~~

2 [~~(e)~~] The interim adjustment shall be recalculated on an
3 annual basis [~~in accordance with the requirements of Subsection~~
4 ~~(b)~~]. The gas utility may file a request with a a [~~the~~]
5 regulatory authority to suspend the operation of the tariff or
6 rate schedule for any year. The request must be in writing and
7 state the reasons why the suspension is justified. The
8 regulatory authority may grant the suspension on a showing by
9 the utility of reasonable justification.

10 (g) [~~(d)~~] A gas utility may only adjust the utility's
11 rates under the tariff or rate schedule for the return on
12 investment, depreciation expense, ad valorem taxes, revenue
13 related taxes, and incremental federal income taxes related to
14 the eligible infrastructure investment [~~difference in the value~~
15 ~~of the invested capital~~] as determined under Subsection (b).
16 The return on investment, depreciation, and incremental federal
17 income tax factors used in the computation must be the same as
18 the factors reflected in the final order issued by or settlement
19 agreement approved by the regulatory authorities [~~authority~~]
20 establishing the gas utility's latest effective rates for the
21 area in which the tariff or rate schedule is implemented.

22 (h) [~~(e)~~] A gas utility that implements a tariff or rate
23 schedule under this section shall file with the regulatory
24 authorities [~~authority~~] an annual report describing the elements
25 of each eligible infrastructure investment [~~projects~~] completed
26 and placed in service during the preceding calendar year and the
27 investments retired or abandoned during the preceding calendar
28 year. The annual report shall also state the cost, need, and
29 customers benefited by each eligible infrastructure [~~the change~~
30 ~~in~~] investment.

1 (i) [~~(f)~~] In addition to the report required under
2 Subsection (h) [~~(e)~~], the gas utility shall file with the
3 regulatory authorities [~~authority~~] an annual earnings monitoring
4 report in a form established by the railroad commission and
5 demonstrating the utility's earnings during the preceding
6 calendar year.

7 (j) [~~(g)~~] If the gas utility is earning a return on
8 invested capital, as demonstrated by the report filed under
9 Subsection (i) [~~(f)~~], of more than 75 basis points above the
10 return established in the latest effective rates approved by a
11 regulatory authority for the area in which the tariff or rate
12 schedule is implemented under this section, the gas utility
13 shall file a statement with that report stating the reasons why
14 the rates are not unreasonable or in violation of law.

15 (k) [~~(h)~~] If a gas utility that implements a tariff or
16 rate schedule under this section does not file a rate case under
17 Subchapter C before the fifth anniversary of the date on which
18 the tariff or rate schedule takes effect, the gas utility shall
19 file a rate case under that subchapter not later than the 180th
20 day after that anniversary in relation to any rates subject to
21 the tariff or rate schedule.

22 (l) [~~(i)~~] This section does not limit the power of [~~a~~]
23 regulatory authorities otherwise provided by this code
24 [~~authority under Section 104.151~~].

25 (m) [~~(j)~~] A gas utility implementing a tariff or rate
26 schedule under this section shall reimburse the railroad
27 commission the utility's proportionate share of the railroad
28 commission's costs related to the administration of the interim
29 rate adjustment mechanism provided by this section.

30 (n) A gas utility implementing a tariff or rate schedule

1 under this section shall reimburse a municipality or coalition
2 of municipalities for the municipality's or coalition's
3 reasonable costs of consultants, accountants, auditors,
4 attorneys, and engineers engaged to review the interim rate
5 adjustment. The amount that a utility is obligated to reimburse
6 a municipality or a coalition of municipalities under this
7 subsection may not exceed an amount equal to two percent of the
8 expected annual increase in revenue that the utility will derive
9 from the interim rate adjustment in the area subject to the
10 original jurisdiction of the municipality or, with respect to a
11 coalition of municipalities, the area subject to the original
12 jurisdiction of the municipalities participating in the
13 coalition.

14 (o) The exclusion of a portion of the gas utility's
15 invested capital under Subsection (b) does not preclude the
16 utility from requesting that amount in its invested capital in a
17 general rate case brought under Subchapter C.

18 (b) This section applies only to an application for a
19 tariff or rate schedule in relation to which a regulatory
20 authority has not issued a final order on the effective date of
21 this section. An application in relation to which a regulatory
22 authority has issued a final order before the effective date of
23 this section is governed by the law in effect on the date the
24 final order is issued, and that law is continued in effect for
25 that purpose.

ADOPTED

FLOOR AMENDMENT NO. 3

MAY 23 2007

Astley Spaw
Secretary of the Senate

BY:

[Signature]

1 Amend C.S.H.B. 3693 by adding the following appropriately
2 numbered SECTION to the bill and renumbering subsequent SECTIONS
3 of the bill appropriately:

4 SECTION __. Section 301.038, Health and Safety Code, is
5 amended to read as follows:

6 Sec. 301.038. PROVISION [~~COST~~] OF SERVICES; COSTS. (a) A
7 cooperative association may provide services from a system to
8 eligible institutions and may determine the amount to be charged
9 for providing the services.

10 (b) Notwithstanding Sections 301.032 and 301.037, a
11 cooperative association may provide from a system central
12 heating and cooling services, including steam and heated and
13 chilled water supply, to persons other than eligible
14 institutions and may determine the amount to be charged for
15 providing the services.

ADOPTED

FLOOR AMENDMENT NO. 4

MAY 23 2007

BY:

Jackson
Atty. Gen.
Secretary of the Senate

1 Amend H.B. No. 3693 by adding the following SECTION,
2 appropriately numbered, and renumbering the subsequent SECTIONS
3 of the bill accordingly:

4 SECTION _____ (a) Title 2, Agriculture Code, is amended by
5 adding Chapter 22 to read as follows:

6 CHAPTER 22. AGRICULTURAL BIOMASS AND LANDFILL DIVERSION

7 INCENTIVE PROGRAM

8 Sec. 22.001. POLICY AND PURPOSE. It is the policy of this
9 state and the purpose of this chapter to reduce air pollution,
10 improve air quality, protect public health, help this state
11 diversify its energy supply, improve energy efficiency, and
12 divert waste from landfills through new price-support incentives
13 to encourage the construction of facilities to generate electric
14 energy with certain types of agricultural residues, forest wood
15 waste, urban wood waste, storm-generated biomass debris, and
16 energy-dedicated crops.

17 Sec. 22.002. DEFINITIONS. In this chapter:

18 (1) "Diverter":

19 (A) means:

20 (i) a person or facility that qualifies for
21 an exemption under Section 361.111 or 363.006, Health and Safety
22 Code;

23 (ii) a handler of nonhazardous industrial
24 waste that is registered or permitted under Chapter 361, Health
25 and Safety Code; or

26 (iii) a facility that separates recyclable
27 materials from a municipal solid waste stream and that is
28 registered or permitted under Chapter 363, Health and Safety
29 Code, as a municipal solid waste management facility; and

1 (B) does not include a facility that uses
2 biomass to generate electric energy.

3 (2) "Farmer" means the owner or operator of an
4 agricultural facility that produces qualified agricultural
5 biomass.

6 (3) "Forest wood waste" includes residual tops and
7 limbs of trees, unused cull trees, thinnings, and wood or debris
8 from noncommercial tree species, slash, or brush.

9 (4) "Logger" means a harvester of forest wood waste,
10 regardless of whether the harvesting occurs as a part of the
11 harvesting of merchantable timber.

12 (5) "Qualified agricultural biomass" means:

13 (A) agricultural residues that are of a type
14 that historically have been disposed of in a landfill, relocated
15 from their point of origin and stored in a manner not intended
16 to enhance or restore the soil, burned in open fields in the
17 area from which they are derived, or burned in fields and
18 orchards that continue to be used for the production of
19 agricultural goods, and includes:

20 (i) field or seed crop residues, including
21 straw from rice or wheat;

22 (ii) fruit or nut crop residues, including
23 orchard or vineyard prunings and removals;

24 (iii) forest wood products or urban wood
25 products; and

26 (iv) agricultural livestock waste
27 nutrients; and

28 (B) a crop grown and used specifically for its
29 energy generation value, including a crop consisting of a fast-
30 growing tree species.

31 (6) "Storm-generated biomass debris" means biomass-

1 based residues that result from a natural weather event,
2 including a hurricane, tornado, or flood, that would otherwise
3 be disposed of in a landfill or burned in the open. The term
4 includes:

5 (A) trees, brush, and other vegetative matter
6 that have been damaged or felled by severe weather but that
7 would not otherwise qualify as forest wood waste; and

8 (B) clean solid wood waste that has been damaged
9 by severe weather but that would not otherwise qualify as urban
10 wood waste.

11 (7) "Urban wood waste" means:

12 (A) solid wood waste material, other than
13 pressure-treated, chemically treated, or painted wood waste,
14 that is free of rubber, plastic, glass, nails, or other
15 inorganic material; and

16 (B) landscape or right-of-way trimmings.

17 Sec. 22.003. GRANT PROGRAM. (a) The department shall
18 develop and administer an agricultural biomass and landfill
19 diversion incentive program to make grants to farmers, loggers,
20 and diverters who provide qualified agricultural biomass, forest
21 wood waste, urban wood waste, or storm-generated biomass debris
22 to facilities that use biomass to generate electric energy in
23 order to provide an incentive for the construction of facilities
24 for that purpose and to:

25 (1) promote economic development;

26 (2) encourage the use of renewable sources in the
27 generation of electric energy;

28 (3) reduce air pollution caused by burning
29 agricultural biomass, forest wood waste, urban wood waste, or
30 storm-generated biomass debris in open fields; and

31 (4) divert waste from landfills.

1 (b) Subject to Section 22.005, a farmer, logger, or
2 diverter is entitled to receive a grant in the amount of \$20 for
3 each bone-dry ton of qualified agricultural biomass, forest wood
4 waste, urban wood waste, or storm-generated biomass debris
5 provided by the farmer, logger, or diverter in a form suitable
6 for generating electric energy to a facility that:

7 (1) is located in this state;

8 (2) was placed in service after August 31, 2009;

9 (3) generates electric energy sold to a third party
10 by using qualified agricultural biomass, forest wood waste,
11 urban wood waste, or storm-generated biomass debris;

12 (4) uses the best available emissions control
13 technology, considering the technical practicability and
14 economic reasonableness of reducing or eliminating the air
15 contaminant emissions resulting from the facility;

16 (5) maintains its emissions control equipment in good
17 working order; and

18 (6) is in compliance with its operating permit issued
19 by the Texas Commission on Environmental Quality under Chapter
20 382, Health and Safety Code.

21 (c) The commissioner by rule may authorize a grant to be
22 made for providing each bone-dry ton of a type or source of
23 qualified agricultural biomass, forest wood waste, urban wood
24 waste, or storm-generated biomass debris in an amount that is
25 greater than the amount provided by Subsection (b) if the
26 commissioner determines that a grant in a greater amount is
27 necessary to provide an adequate incentive to use that type or
28 source of qualified agricultural biomass, forest wood waste,
29 urban wood waste, or storm-generated biomass debris to generate
30 electric energy.

31 (d) The Public Utility Commission of Texas and the Texas

1 Commission on Environmental Quality shall assist the department
2 as necessary to enable the department to determine whether a
3 facility meets the requirements of Subsection (b) for purposes
4 of the eligibility of farmers, loggers, and diverters for grants
5 under this chapter.

6 (e) To receive a grant under this chapter, a farmer,
7 logger, or diverter must deliver qualified agricultural biomass,
8 forest wood waste, urban wood waste, or storm-generated biomass
9 debris to a facility described by Subsection (b). The operator
10 of each facility described by that subsection shall:

11 (1) verify and document the amount of qualified
12 agricultural biomass, forest wood waste, urban wood waste, or
13 storm-generated biomass debris delivered to the facility for the
14 generation of electric energy; and

15 (2) make a grant on behalf of the department in the
16 appropriate amount to each farmer, logger, or diverter who
17 delivers qualified agricultural biomass, forest wood waste,
18 urban wood waste, or storm-generated biomass debris to the
19 facility.

20 (f) The department quarterly shall reimburse each operator
21 of a facility described by Subsection (b) for grants under this
22 chapter made by the operator during the preceding quarter to
23 eligible farmers, loggers, and diverters. To receive
24 reimbursement for one or more grants, an operator of a facility
25 described by that subsection must file an application with the
26 department that verifies the amount of the grants made by the
27 operator during the preceding quarter for which the operator
28 seeks reimbursement.

29 (g) The department may contract with and provide for the
30 compensation of private consultants, contractors, and other
31 persons to assist the department in administering the

1 agricultural biomass and landfill diversion incentive program.

2 Sec. 22.004. AGRICULTURAL BIOMASS AND LANDFILL DIVERSION
3 INCENTIVE PROGRAM ACCOUNT. (a) The agricultural biomass and
4 landfill diversion incentive program account is an account in
5 the general revenue fund. The account is composed of:

6 (1) legislative appropriations;

7 (2) gifts, grants, donations, and matching funds
8 received under Subsection (b); and

9 (3) other money required by law to be deposited in
10 the account.

11 (b) The department may solicit and accept gifts in kind,
12 donations, and grants of money from the federal government,
13 local governments, private corporations, or other persons to be
14 used for the purposes of this chapter.

15 (c) Money in the account may be appropriated only to the
16 department for the purpose of implementing and maintaining the
17 agricultural biomass and landfill diversion incentive program.

18 (d) Income from money in the account shall be credited to
19 the account.

20 (e) The account is exempt from the application of Section
21 403.095, Government Code.

22 Sec. 22.005. LIMITATION ON GRANT AMOUNT. (a) The total
23 amount of grants awarded by operators of facilities under
24 Section 22.003 and by the department under Section 22.006 during
25 each state fiscal year may not exceed \$30 million.

26 (b) During each state fiscal year, the department may not
27 pay to an operator of a facility as reimbursements under Section
28 22.003 or grants under Section 22.006 an amount that exceeds \$6
29 million.

30 Sec. 22.006. ELIGIBILITY OF OPERATORS OF ELECTRIC ENERGY
31 GENERATION FACILITIES FOR GRANTS. (a) Except as provided by

1 Subsection (b), an operator of a facility that uses biomass to
2 generate electric energy is not eligible to receive a grant
3 under this chapter or under any other state law for the
4 generation of electric energy with qualified agricultural
5 biomass, forest wood waste, urban wood waste, or storm-generated
6 biomass debris for which a farmer, logger, or diverter has
7 received a grant under this chapter.

8 (b) An operator of a facility that uses biomass to
9 generate electric energy may receive a grant from the department
10 under this chapter for generating electric energy with qualified
11 agricultural biomass, forest wood waste, urban wood waste, or
12 storm-generated biomass debris that arrives at the facility in a
13 form unsuitable for generating electric energy and that the
14 facility processes into a form suitable for generating electric
15 energy.

16 (c) To receive a grant from the department under
17 Subsection (b), an operator of a facility must file an
18 application with the department that verifies the amount of
19 qualified agricultural biomass, forest wood waste, urban wood
20 waste, or storm-generated biomass debris that the facility
21 processed into a form suitable for generating electric energy.
22 The department shall make grants to eligible operators of
23 facilities quarterly, subject to appropriations. The provisions
24 of this chapter governing grants to farmers, loggers, and
25 diverters, including the provisions governing the amount of a
26 grant, apply to a grant from the department under Subsection (b)
27 to the extent they can be made applicable.

28 Sec. 22.007. RULES. The commissioner, in consultation
29 with the Public Utility Commission of Texas and the Texas
30 Commission on Environmental Quality, shall adopt rules to
31 implement this chapter.

1 Sec. 22.008. AVAILABILITY OF FUNDS. Notwithstanding any
2 other provision of this chapter, the department is not required
3 to administer this chapter or adopt rules under this chapter,
4 and the operator of a facility described by Section 22.003(b) is
5 not required to make a grant on behalf of the department, until
6 funds are appropriated for those purposes.

7 Sec. 22.009. EXPIRATION OF PROGRAM AND CHAPTER. The
8 agricultural biomass and landfill diversion incentive program
9 terminates on August 31, 2019. On September 1, 2019:

10 (1) any unobligated funds remaining in the
11 agricultural biomass and landfill diversion incentive program
12 account shall be transferred to the undedicated portion of the
13 general revenue fund; and

14 (2) this chapter expires.

15 SECTION 2. This Act takes effect September 1, 2007.

16 * * *

ADOPTED

MAY 23 2007

FLOOR AMENDMENT NO. 5

Lately Spaw
Secretary of the Senate BY:

Lucio

1 Amend C.S.H.B. No. 3693 (senate committee printing) by adding
2 the following appropriately numbered SECTION to the bill and
3 renumbering the subsequent SECTIONS of the bill accordingly:

4 SECTION __. (a) Subchapter Z, Chapter 39, Utilities Code,
5 is amended by adding Section 39.916 to read as follows:

6 Sec. 39.916. INTERCONNECTION OF DISTRIBUTED RENEWABLE
7 GENERATION. (a) In this section:

8 (1) "Distributed renewable generation" means electric
9 generation with a capacity of not more than 2,000 kilowatts
10 provided by a renewable energy technology, as defined by Section
11 39.904, that is installed on a retail electric customer's side of
12 the meter.

13 (2) "Distributed renewable generation owner" means
14 the owner of distributed renewable generation.

15 (3) "Interconnection" means the right of a distributed
16 renewable generation owner to physically connect distributed
17 renewable generation to an electricity distribution system, and the
18 technical requirements, rules, or processes for the connection.

19 (b) A transmission and distribution utility or electric
20 utility shall allow interconnection if:

21 (1) the distributed renewable generation to be
22 interconnected has a five-year warranty against breakdown or undue
23 degradation; and

24 (2) the rated capacity of the distributed renewable
25 generation does not exceed the transmission and distribution
26 utility's or the electric utility's service entrance capacity.

27 (c) A customer may request interconnection by filing an
28 application for interconnection with the transmission and
29 distribution utility or electric utility. Procedures of a

1 transmission and distribution utility or electric utility for the
2 submission and processing of a customer's application for
3 interconnection shall be consistent with rules adopted by the
4 commission regarding interconnection.

5 (d) The commission by rule shall establish safety,
6 technical, and performance standards for distributed renewable
7 generation that may be interconnected. In adopting the rules, the
8 commission shall consider standards published by the Underwriters
9 Laboratories, the National Electric Code, the National Electric
10 Safety Code, and the Institute of Electrical and Electronics
11 Engineers.

12 (e) A transmission and distribution utility, electric
13 utility, or retail electric provider may not require a distributed
14 renewable generation owner whose distributed renewable generation
15 meets the standards established by rule under Subsection (d) to
16 purchase an amount, type, or classification of liability insurance
17 the distributed renewable generation owner would not have in the
18 absence of the distributed renewable generation.

19 (f) A transmission and distribution utility or electric
20 utility shall make available to a distributed renewable generation
21 owner for purposes of this section metering required for services
22 provided under this section, including separate meters that measure
23 the load and generator output or a single meter capable of measuring
24 in-flow and out-flow at the point of common coupling meter point.
25 The distributed renewable generation owner must pay the
26 differential cost of the metering unless the meters are provided at
27 no additional cost. Except as provided by this section, Section
28 39.107 applies to metering under this section.

29 (g) A renewable energy credit that is earned by a
30 distributed renewable generation owner through the interconnection
31 of a renewable electric system is the sole property of the

1 distributed renewable generation owner unless the distributed
2 renewable generation owner engages in a transaction to sell or
3 trade the credit under Section 39.904. The commission by rule shall
4 address the ownership of renewable energy credits associated with
5 power sold to an electric utility.

6 (h) An electric utility or a retail electric provider may
7 contract with a distributed renewable generation owner so that:

8 (1) surplus electricity produced by distributed
9 renewable generation is made available for sale to the transmission
10 grid and distribution system; and

11 (2) the net value of that surplus electricity is
12 credited to the distributed renewable generation owner.

13 (i) For a distributed renewable generation owner in an area
14 in which customer choice has been introduced, the distributed
15 renewable generation owner must sell the owner's surplus
16 electricity produced to the retail electric provider that serves
17 the distributed renewable generation owner's load at a value agreed
18 to between the distributed renewable generation owner and the
19 provider that serves the owner's load. The agreed value may be
20 based on the clearing price of energy at the time of day that the
21 electricity is made available to the grid, may be a credit applied
22 to an account during a billing period that may be carried over to
23 subsequent billing periods until the credit has been redeemed, or
24 may be as otherwise provided by a mutually agreed commercial
25 arrangement. The independent organization identified in Section
26 39.151 shall develop procedures so that, by January 1, 2009, the
27 amount of electricity purchased from a distributed renewable
28 generation owner under this section is accounted for in settling
29 the total load served by the provider that serves that owner's load.
30 A distributed renewable generation owner requesting net metering
31 services for purposes of this section must have metering devices

1 capable of providing measurements consistent with the independent
2 organization's settlement requirements.

3 (b) This section takes effect January 1, 2009.

ADOPTED

FLOOR AMENDMENT NO. 6

MAY 23 2007

Atty. Gen.
Secretary of the Senate

BY: *Robert J. ...*

- 1 Amend C.S.H.B. 3693 on page 2 line 68 after the word
- 2 "navigation" by adding:
- 3 "if available, or at another publicly accessible location"

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 18, 2007

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3693 by Straus (Relating to energy demand, energy load, energy efficiency incentives, energy programs, and energy performance measures.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3693, Committee Report 2nd House, Substituted: a negative impact of (\$6,005,000) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$2,958,000)
2009	(\$3,047,000)
2010	(\$3,141,000)
2011	(\$3,229,000)
2012	(\$3,320,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND</i> 1	Probable Revenue Gain/(Loss) from <i>Cities</i>	Probable Revenue Gain/(Loss) from <i>Counties/SPDs</i>	Probable Revenue Gain/(Loss) from <i>Transit Authorities</i>
2008	(\$2,958,000)	(\$289,000)	(\$337,000)	(\$99,000)
2009	(\$3,047,000)	(\$451,000)	(\$358,000)	(\$155,000)
2010	(\$3,141,000)	(\$469,000)	(\$360,000)	(\$161,000)
2011	(\$3,229,000)	(\$486,000)	(\$363,000)	(\$167,000)
2012	(\$3,320,000)	(\$503,000)	(\$365,000)	(\$173,000)

Fiscal Analysis

The bill would amend the Education Code to require school districts to establish a goal to reduce their annual electric consumption by 5 percent each fiscal year for six years. The bill would amend the Education Code and the Government Code to require school districts, institutions of higher education, and state agencies to purchase the commercially available model of light bulbs that use the fewest watts for the necessary flux or light output and is compatible with the light fixture. In addition, the Texas Building and Procurement Commission (TBPC) would be required to develop and update a list of equipment and appliances that meet certain energy efficiency standards.

The bill would amend statute relating to required publication and reporting by governmental entities of electricity, water, and natural gas consumption. The governmental entities would have to track the use of electricity, water, or natural gas and report the information on a publicly accessible Internet website.

The bill would amend the Government Code to create energy efficiency standards for the construction or rehabilitation of certain single and multifamily dwellings that is performed with assistance from the Texas Department of Housing and Community Affairs, including state or federal money, housing tax credits, or multifamily bond financing.

The bill would amend the Health and Safety Code to allow the State Energy Conservation Office (SECO), based on written recommendations from the Energy Systems Laboratory at the Texas Engineering Experiment Station, by rule, to adopt or substitute more stringent provisions of the International Residential Code or International Energy Conservation Code as they existed on May 1, 2001. If new provisions were adopted, SECO would have to establish an effective date for the new provisions no earlier than nine months after the date of adoption. The bill would include institutions of higher education and state agencies in energy efficiency programs, relating to Texas building energy performance standards. The Energy Systems Laboratory at the Texas Engineering Experiment Station would also develop different report formats for rating newly constructed residences from those of existing residences in regard to home energy ratings.

The bill would amend the Property Code, relating to the delivery of money by nonprofit cooperative corporations for rural scholarship, economic development, and energy efficiency assistance to add "energy efficiency assistance" among the permissible uses for unclaimed property and to increase the cap on unclaimed property diverted for these purposes that would normally be escheated to the state from \$1 million to \$2 million.

The bill would amend the Tax Code to exempt certain energy-efficient products from sales tax during a period beginning on the Saturday preceding the last Monday in May and ending on the last Monday in May. The bill would also amend the Tax Code relating to the tax credit for enhanced efficiency equipment installed on marginal oil wells by adding four more years to the qualifying period by advancing the expiration date of the tax credit from September 1, 2009 to September 1, 2013.

The bill would require the Comptroller of Public Accounts to provide a compliance report, in relation to the Texas Economic Development Act, to the Lieutenant Governor, the Speaker of the House of Representatives, and the other members of the Legislature at the beginning of each regular session.

The bill would amend various sections of the Utilities Code, relating to energy demand, energy load, energy efficiency incentives, energy programs and energy performance measures, relating to the restructuring of the electric utility industry. The bill would require the Public Utilities Commission (PUC) to conduct several studies, including a study and recommendations regarding the potential for energy efficiency and a report on the installation of combined heat and power technology. The bill would provide prospective PUC oversight of mergers involving or the sale of 50 percent or more of the shares of a transmission and distribution utility or electric utility and would require notice of such transactions prior to closing the transaction. The bill would require PUC to provide information to school districts regarding how they may finance installation of solar panels for school district buildings and allow for a "Credit for Surplus Solar Generation by Public Schools."

The bill would take effect September 1, 2007.

Methodology

The provisions of the bill relating to school districts establishing a goal for a five percent reduction in energy consumption is estimated to not be a significant fiscal impact. The provisions of the bill relating to the purchase of energy-efficient light bulbs by school districts, higher education institutions, and state agencies is estimated to not be a significant fiscal impact. However, several universities indicate that if the provisions of the bill were mandated, they would incur a significant impact. Depending upon the amount of reduction of energy usage the state would realize an indeterminate amount of savings.

The provision relating to the State Energy Conservation Office adopting or substituting more stringent energy provisions and the Energy Systems Laboratory developing different report formats for rating newly constructed residences is assumed to have no significant fiscal impact to the agencies.

The bill would increase the cap from \$1 million to \$2 million on the amount that could be transferred to rural scholarship, economic development, and energy efficiency assistance programs. According to the Comptroller of Public Accounts, by changing this cap, all nonprofit cooperative corporations could increase money going to these programs and no longer remit these unclaimed funds to the Comptroller for deposit to the General Revenue Fund. The payment of claims on these properties would shift from the Comptroller to the nonprofit cooperative corporations or the administrator of the funds. The Comptroller estimates that the resulting loss to the General Revenue fund would be \$700,000 in each fiscal year.

Under current law, Section 74.602 of the Property Code allows for unclaimed capital credits delivered to the state by electric cooperative corporations to be used by the county in which the cooperative members reside, for economic development programs defined under Section 381.004 of the Local Government Code. The bill would reduce the amount of unclaimed property, including capital credits, remitted to the state from electric cooperatives and thus reduce the amount available to counties for economic development programs under Section 381.004 of the Local Government Code. The Comptroller reports that all of the additional capital credits diverted to scholarship funds, to stimulate rural economic development, or to provide energy efficiency assistance to members of electric cooperatives would no longer be available to counties as it currently is. The Comptroller estimates that the resulting loss to counties fund would be \$300,000 in each fiscal year.

The Comptroller reports that the extension of the expiration date relating to the tax credit for certain equipment purchased and installed on marginal wells would have no significant fiscal impact, as the tax credit is well-specific and capped at \$1,000.

The estimate, relating to the sales tax exemption for certain energy-efficient products, provided by the Comptroller is based on gathered data from the U.S. Department of Energy on the sale of the specified energy efficient products. For the purpose of this analysis, the Comptroller adjusted sales data to reflect sales made in Texas for personal use and for the appropriate price range and time period, and multiplied the data by the state sales tax rate. The estimates were adjusted for the effective date and extrapolated through fiscal 2012. The Comptroller proportionally estimated the fiscal impacts on units of local government.

The Public Utilities Commission reports that the required rule-making and reports would not have a significant fiscal impact on the Agency.

Local Government Impact

The fiscal impact to local government from the sales tax holiday is illustrated in the above tables.

Source Agencies: 473 Public Utility Commission of Texas, 304 Comptroller of Public Accounts, 303 Building and Procurement Commission, 529 Health and Human Services Commission, 582 Commission on Environmental Quality, 696 Department of Criminal Justice, 701 Central Education Agency, 710 Texas A&M University System Administrative and General Offices, 712 Texas Engineering Experiment Station, 717 Texas Southern University, 720 The University of Texas System Administration, 783 University of Houston System Administration, 808 Historical Commission, 809 Preservation Board

LBB Staff: JOB, TGI, JRO, JM, CT, SD, EB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 16, 2007

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3693 by Straus (Relating to energy demand, energy load, energy efficiency incentives, energy programs, and energy performance measures.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3693, As Engrossed: a negative impact of (\$9,005,000) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$6,658,000)
2009	(\$2,347,000)
2010	(\$2,441,000)
2011	(\$2,529,000)
2012	(\$2,620,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable Revenue Gain/(Loss) from <i>Cities</i>	Probable Revenue Gain/(Loss) from <i>Counties/SPDs</i>
2008	(\$4,400,000)	(\$2,258,000)	(\$289,000)	(\$37,000)
2009	\$0	(\$2,347,000)	(\$451,000)	(\$58,000)
2010	\$0	(\$2,441,000)	(\$469,000)	(\$60,000)
2011	\$0	(\$2,529,000)	(\$486,000)	(\$63,000)
2012	\$0	(\$2,620,000)	(\$503,000)	(\$65,000)

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Transit Authorities</i>
2008	(\$99,000)
2009	(\$155,000)
2010	(\$161,000)
2011	(\$167,000)
2012	(\$173,000)

Fiscal Analysis

The bill would amend the Education Code to require school districts to establish a goal to reduce their

annual electric consumption by 5 percent each fiscal year for six years. The bill would amend the Education Code and the Government Code to require school districts, institutions of higher education, and state agencies to purchase the commercially available model of light bulbs that use the fewest watts for the necessary flux or light output and is compatible with the light fixture. In addition, the Texas Building and Procurement Commission (TBPC) would be required to develop and update a list of equipment and appliances that meet certain energy efficiency standards.

The bill would amend statute relating to required publication and reporting by governmental entities of electricity, water, and natural gas consumption. The governmental entities would have to track the use of electricity, water, or natural gas and report the information on a publicly accessible Internet website.

The bill would amend the Government Code to create energy efficiency standards for the construction or rehabilitation of certain single and multifamily dwellings that is performed with assistance from the Texas Department of Housing and Community Affairs, including state or federal money, housing tax credits, or multifamily bond financing.

The bill would amend the Health and Safety Code to allow the State Energy Conservation Office (SECO), based on written recommendations from the Energy Systems Laboratory at the Texas Engineering Experiment Station, by rule, to adopt or substitute more stringent provisions of the International Residential Code or International Energy Conservation Code as they existed on May 1, 2001. If new provisions were adopted, SECO would have to establish an effective date for the new provisions no earlier than nine months after the date of adoption. The bill would include institutions of higher education and state agencies in energy efficiency programs, relating to Texas building energy performance standards. The Energy Systems Laboratory at the Texas Engineering Experiment Station would also develop different report formats for rating newly constructed residences from those of existing residences in regard to home energy ratings.

The bill would amend the Property Code, relating to the delivery of money by nonprofit cooperative corporations for rural scholarship, economic development, and energy efficiency assistance to add "energy efficiency assistance" among the permissible uses for unclaimed property.

The bill would amend the Tax Code to exempt certain energy-efficient products from sales tax during a period beginning on the Saturday preceding the last Monday in May and ending on the last Monday in May.

The bill would require the Comptroller of Public Accounts to provide a compliance report, in relation to the Texas Economic Development Act, to the Lieutenant Governor, the Speaker of the House of Representatives, and the other members of the Legislature at the beginning of each regular session.

The bill would amend various sections of the Utilities Code, relating to energy demand, energy load, energy efficiency incentives, energy programs and energy performance measures, relating to the restructuring of the electric utility industry. The bill would require the Public Utilities Commission (PUC) to conduct several studies, including a study and recommendations regarding the potential for energy efficiency and a report on the installation of combined heat and power technology. The bill would require PUC to provide information to school districts regarding how they may finance installation of solar panels for school district buildings and allow for a "Credit for Surplus Solar Generation by Public Schools." The bill would require the PUC to establish a grant program for a demonstration project for installation of solar electric systems.

The bill would take effect September 1, 2007.

Methodology

The provisions of the bill relating to school districts establishing a goal for a five percent reduction in energy consumption is estimated to not be a significant fiscal impact. The provisions of the bill relating to the purchase of energy-efficient light bulbs by school districts, higher education institutions, and state agencies is estimated to not be a significant fiscal impact. However, several universities indicate that if the provisions of the bill were mandated, they would incur a significant

impact. Depending upon the amount of reduction of energy usage the state would realize an indeterminate amount of savings.

The provision relating to the State Energy Conservation Office adopting or substituting more stringent energy provisions and the Energy Systems Laboratory developing different report formats for rating newly constructed residences is assumed to have no significant fiscal impact to the agencies.

The provision relating to the Public Utility Commission's Energy Efficiency Demonstration Project would cost approximately \$4.4 million. The Commission estimates the cost would be at least \$4 million for solar projects and another \$400,000 for program administration expenses. However, the Commission reports that the number of new residential subdivisions and affordable housing for persons with low incomes cannot be quantified; therefore, the costs associated with those Energy Efficiency Demonstration Projects cannot be estimated. The Commission reports that the required three reports in 2008 would be funded by electric utilities, grants, gifts or donations, appropriations from Senate Bill 482 penalties, or met by existing resources.

The estimate, relating to the sales tax exemption for certain energy-efficient products, provided by the Comptroller is based on gathered data from the U.S. Department of Energy on the sale of the specified energy efficient products. For the purpose of this analysis, the Comptroller adjusted sales data to reflect sales made in Texas for personal use and for the appropriate price range and time period, and multiplied the data by the state sales tax rate. The estimates were adjusted for the effective date and extrapolated through fiscal 2012. The Comptroller proportionally estimated the fiscal impacts on units of local government.

Local Government Impact

The fiscal impact to local government from the sales tax holiday is illustrated in the above tables.

Source Agencies: 304 Comptroller of Public Accounts, 303 Building and Procurement Commission, 473 Public Utility Commission of Texas, 529 Health and Human Services Commission, 582 Commission on Environmental Quality, 696 Department of Criminal Justice, 701 Central Education Agency, 710 Texas A&M University System Administrative and General Offices, 712 Texas Engineering Experiment Station, 717 Texas Southern University, 720 The University of Texas System Administration, 783 University of Houston System Administration, 808 Historical Commission, 809 Preservation Board

LBB Staff: JOB, JRO, JM, TGI, CT, SD, EB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 23, 2007

TO: Honorable Phil King, Chair, House Committee on Regulated Industries

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3693** by Straus (Relating to energy demand, energy load, energy efficiency incentives, energy programs, and energy performance measures.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3693, Committee Report 1st House, Substituted: a negative impact of (\$12,844,000) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$7,852,000)
2009	(\$4,992,000)
2010	(\$5,140,000)
2011	(\$5,278,000)
2012	(\$5,421,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from GENERAL REVENUE FUND 1	Probable Revenue Gain/(Loss) from Cities	Probable Revenue Gain/(Loss) from Counties/SPDs	Probable Revenue Gain/(Loss) from Transit Authorities
2008	(\$7,852,000)	(\$682,000)	(\$88,000)	(\$234,000)
2009	(\$4,992,000)	(\$709,000)	(\$91,000)	(\$243,000)
2010	(\$5,140,000)	(\$737,000)	(\$95,000)	(\$253,000)
2011	(\$5,278,000)	(\$764,000)	(\$99,000)	(\$262,000)
2012	(\$5,421,000)	(\$791,000)	(\$102,000)	(\$271,000)

Fiscal Analysis

The bill would amend the Education Code to require school districts, institutions of higher education, and state agencies to establish a goal to reduce their annual electric consumption by 5 percent each fiscal year for six years and purchase the commercially available model of light bulbs that use the fewest watts for the necessary flux or light output and is compatible with the light fixture. In addition, the Texas Building and Procurement Commission (TBPC) would be required to develop and update a list of equipment and appliances that meet certain energy efficiency standards.

The bill would amend statute relating to required publication and reporting by governmental entities of

electricity, water, and natural gas consumption. The governmental entities would have to track the use of electricity, water, or natural gas and report the information on a publicly accessible Internet website.

The bill would amend the Health and Safety Code to allow the State Energy Conservation Office (SECO), based on written recommendations from the Energy Systems Laboratory at the Texas Engineering Experiment Station, by rule, to adopt or substitute more stringent provisions of the International Residential Code or International Energy Conservation Code as they existed on May 1, 2001. If new provisions were adopted, SECO would have to establish an effective date for the new provisions no earlier than nine months after the date of adoption. The Energy Systems Laboratory at the Texas Engineering Experiment Station would also develop different report formats for rating newly constructed residences from those of existing residences in regard to home energy ratings.

The bill would also amend the Utilities Code and provide for the Public Utility Commission to develop and implement a program for delivery of individualized home electric energy reports to educate consumers about electric energy use and to assist consumers to use energy more efficiently. In addition, the agency would provide a report on estimates of achievable savings specific to each utility service area and each customer class and quantify the costs and rate impacts associated with meeting energy efficiency goals. The report would also include recommended policies designed to promote energy efficiency in areas of the state not served by utilities under this section and identify potential barriers to increased participation by retail electric providers in delivery of energy efficiency services to ERCOT customers and recommended regulatory or statutory changes to eliminate such barriers or to facilitate greater efficiency.

The bill would amend the Property Code, relating to the delivery of money by nonprofit cooperative corporations for rural scholarship, economic development, and energy efficiency assistance. The amendment would remove the \$1 million cap on unclaimed property diverted for these purposes that would normally be escheated to the state.

The bill would add Section 151.333 to the Tax Code to exempt energy-efficient products from sales tax for a 24-hour period on April 16 of each year.

Methodology

The provisions of the bill relating to school districts, state agencies, and institutions of higher education establishing a goal for a five percent reduction in energy consumption is estimated to not be a significant fiscal impact. Several universities indicate that if the provisions of the bill were mandated, they would incur a significant impact. Depending upon the amount of reduction of energy usage the state would realize an indeterminate amount of savings.

The provision relating to the State Energy Conservation Office adopting or substituting more stringent energy provisions and the Energy Systems Laboratory developing different report formats for rating newly constructed residences is assumed to have no significant fiscal impact to the agencies.

The provision relating to the Public Utility Commission providing reports on estimates of achievable energy savings would require the agency to contract with a vendor at a one-time cost of \$3,000,000 in General Revenue for the first year (Fiscal Year 2008)

According to the Comptroller of Public Accounts, the provision lifting the \$1 million cap on unclaimed property allowed to be transferred to rural scholarship, economic development, and energy efficiency assistance programs would result in a loss of \$1,300,000 in General Revenue in each fiscal year. The removal of the cap would allow all nonprofit cooperative corporations to increase money going to these programs and no longer require the remittance of the unclaimed funds to the Comptroller for deposit to the General Revenue Fund.

The estimate, relating to the sales tax exemption for certain energy-efficient products, provided by the Comptroller is based on gathered data from the U.S. Department of Energy on the sale of the specified energy efficient products. For the purpose of this analysis, the Comptroller adjusted sales data to reflect sales made in Texas for personal use and for the appropriate price range and time period, and

multiplied the data by the state sales tax rate. The estimates were adjusted for the effective date and extrapolated through fiscal 2012. The Comptroller proportionally estimated the fiscal impacts on units of local government.

Local Government Impact

The fiscal impact to local government from the sales tax holiday is illustrated in the above tables.

Source Agencies: 303 Building and Procurement Commission, 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas, 529 Health and Human Services Commission, 582 Commission on Environmental Quality, 696 Department of Criminal Justice, 701 Central Education Agency, 710 Texas A&M University System Administrative and General Offices, 712 Texas Engineering Experiment Station, 717 Texas Southern University, 720 The University of Texas System Administration, 783 University of Houston System Administration, 808 Historical Commission, 809 Preservation Board

LBB Staff: JOB, JRO, JM, TGI, CT, SD, EB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 27, 2007

TO: Honorable Phil King, Chair, House Committee on Regulated Industries

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3693 by Straus (Relating to energy demand, energy load, energy efficiency incentives, energy programs, and energy performance measures.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3693, As Introduced: a negative impact of (\$13,406,000) through the biennium ending August 31, 2009.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$6,367,000)
2009	(\$7,039,000)
2010	(\$7,322,000)
2011	(\$7,585,000)
2012	(\$7,858,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND</i> 1	Probable Revenue Gain/(Loss) from <i>Cities</i>	Probable Revenue Gain/(Loss) from <i>Transit Authorities</i>	Probable Revenue Gain/(Loss) from <i>Counties</i>
2008	(\$6,367,000)	(\$867,000)	(\$297,000)	(\$112,000)
2009	(\$7,039,000)	(\$1,352,000)	(\$464,000)	(\$174,000)
2010	(\$7,322,000)	(\$1,406,000)	(\$482,000)	(\$181,000)
2011	(\$7,585,000)	(\$1,456,000)	(\$500,000)	(\$188,000)
2012	(\$7,858,000)	(\$1,509,000)	(\$518,000)	(\$195,000)

Fiscal Analysis

The bill would amend the Education Code to stipulate that any new public school built would be designed for and constructed with solar electric generation panels on the rooftops of the school and allow school districts to add solar electric generation panels to the rooftops of any existing school, allow the school districts to sell any surplus electricity, and allow the school districts to keep the net proceeds from the sale of surplus electricity.

The bill would amend the Government Code to require any state agency or institution of higher education that occupies a building or facility located in an air quality non-attainment area or affected county to include in its long-range energy and water management plan, a goal to reduce energy consumption in its buildings and facilities located in those areas by 5 percent per year for five years beginning January 1, 2008. The agency or institution would issue a report to the State Energy Conservation Office (SECO), detailing its progress in reaching the goal in each year in which the goal

applied.

The bill would amend the Government Code to prohibit the use of incandescent light bulbs when replacing an existing light bulb in a state building or on the state grounds. The bill would add a new chapter to the Health and Safety Code, relating to Appliance Efficiency Standards. The Comptroller, in consultation with SECO (CPA/SECO), would have to adopt minimum efficiency standards for these appliances no later than September 1, 2008, and by rule, adopt test procedures for determining a product's energy efficiency, based on methods approved by the U.S. Department of Energy.

In addition, CPA/SECO would adopt rules governing the certification and labeling of products, and the testing of products with authority to impose an assessment and public disclosure of those products found not to be in compliance. A manufacturer would have to test products and certify the results to the Comptroller that a product was in compliance with standards. Manufacturers would have to label products as to their compliance with standards according to Comptroller rules. CPA/SECO would investigate complaints of violations and report the results to the Attorney General. The Comptroller would issue warnings to persons violating standards and subsequent violations would be subject to a civil penalty.

The bill would amend the Tax Code and create a sales tax exemption for certain energy-efficient products sold during the current sales tax holiday for clothing and footwear, during a period beginning on the last Saturday preceding the last Monday in May, or during a period around July 4. Air conditioners with a sales price not exceeding \$6,000 and clothes washers, ceiling fans, dehumidifiers, dishwashers, incandescent or fluorescent lightbulbs, programmable thermostats, and refrigerators with a sales price not exceeding \$2,000 would be exempt if they were designated as Energy Star qualified products by the U.S. Department of Energy and purchased for noncommercial home or personal use. The bill would amend various sections of the Utilities Code to require the Comptroller and PUC to develop a program whereby a customer could receive a refund of not more than 3 percent of the taxes the customer paid for electric services taxable under Chapter 151 of the Tax Code if the customer engaged in energy efficiency measures that reduced electric energy consumption, increased the efficiency of electric energy production, or reduced peak demand.

In addition, the bill would, among other things, require PUC, no later than October 1, 2007, to implement an emergency energy efficiency and load management program to ensure that adequate reserve margins were maintained through December 31, 2011; and to require municipally owned utilities and electric cooperatives to administer energy savings incentive programs to all customers.

Methodology

The provisions of the bill relating to state agencies and institutions of higher education setting a goal for a five percent reduction in energy consumption is estimated to not be a significant fiscal impact. Several universities indicate that if this provision of the bill was mandated, they would incur a significant impact.

Depending upon the amount of reduction of energy usage by state agencies following appliance energy standards, the state would realize an indeterminate amount of savings. The Comptroller's Office indicates that there would be significant administrative costs from this provision, but the total likely costs cannot be fully estimated at this time.

The estimate, relating to the sales tax exemption for certain energy-efficient products, provided by the Comptroller of Public Accounts is based on gathered data from the U.S. Department of Energy on the sale of the specified energy efficient products. For the purpose of this analysis, the Comptroller adjusted sales data to reflect sales made in Texas for personal use and for the appropriate price range and time period, and multiplied the data by the state sales tax rate. The estimates were adjusted for the effective date of October 1, 2007 and extrapolated through fiscal 2012. The Comptroller proportionally estimated the fiscal impacts on units of local government.

Local Government Impact

TEA estimates that between 70 and 100 new campuses are opened each year. If 70 campuses a year

opened and it cost an average of \$100,000 per campus to include supplemental solar panels, statewide the costs could reach \$7 million annually.

The fiscal impact to local government from the sales tax holiday is illustrated in the above tables.

Source Agencies: 303 Building and Procurement Commission, 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas, 582 Commission on Environmental Quality, 701 Central Education Agency, 710 Texas A&M University System Administrative and General Offices, 712 Texas Engineering Experiment Station, 720 The University of Texas System Administration, 808 Historical Commission, 809 Preservation Board

LBB Staff: JOB, JRO, JM, TGI, CT, SD, EB

