

**House Bill 3693**  
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No equivalent provision.

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SECTION \_\_. (a) Title 2, Agriculture Code, is amended by adding Chapter 22 to read as follows:

CHAPTER 22. AGRICULTURAL BIOMASS AND LANDFILL DIVERSION INCENTIVE PROGRAM

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

Sec. 22.002. DEFINITIONS. In this chapter:

(1) "Diverter":

(A) means:

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

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

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

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

(2) "Farmer" means the owner or operator of an

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agricultural facility that produces qualified agricultural biomass.

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

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

(5) "Qualified agricultural biomass" means:

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

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

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

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

(iv) agricultural livestock waste nutrients; and

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

(6) "Storm-generated biomass debris" means biomass-based residues that result from a natural weather event, including a hurricane, tornado, or flood, that would otherwise be disposed of in a landfill or burned in the open. The term includes:

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

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

(7) "Urban wood waste" means:

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

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

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

(1) promote economic development;

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

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

(4) divert waste from landfills.

(b) Subject to Section 22.005, a farmer, logger, or diverter is entitled to receive a grant in the amount of \$20

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for each bone-dry ton of qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris provided by the farmer, logger, or diverter in a form suitable for generating electric energy to a facility that:

(1) is located in this state;

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

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

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

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

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

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

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(d) The Public Utility Commission of Texas and the Texas Commission on Environmental Quality shall assist the department as necessary to enable the department to determine whether a facility meets the requirements of Subsection (b) for purposes of the eligibility of farmers, loggers, and diverters for grants under this chapter.

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

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

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

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

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operator seeks reimbursement.

(g) The department may contract with and provide for the compensation of private consultants, contractors, and other persons to assist the department in administering the agricultural biomass and landfill diversion incentive program.

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

- (1) legislative appropriations;
- (2) gifts, grants, donations, and matching funds received under Subsection (b); and
- (3) other money required by law to be deposited in the account.

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

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

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

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

Sec. 22.005. LIMITATION ON GRANT AMOUNT.(a)The total amount of grants awarded by

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operators of facilities under Section 22.003 and by the department under Section 22.006 during each state fiscal year may not exceed \$30 million.

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

Sec. 22.006. ELIGIBILITY OF OPERATORS OF ELECTRIC ENERGY GENERATION FACILITIES FOR GRANTS. (a) Except as provided by Subsection (b), an operator of a facility that uses biomass to generate electric energy is not eligible to receive a grant under this chapter or under any other state law for the generation of electric energy with qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris for which a farmer, logger, or diverter has received a grant under this chapter.

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

(c) To receive a grant from the department under Subsection (b), an operator of a facility must file an application with the department that verifies the amount of qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris

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that the facility processed into a form suitable for generating electric energy. The department shall make grants to eligible operators of facilities quarterly, subject to appropriations. The provisions of this chapter governing grants to farmers, loggers, and diverters, including the provisions governing the amount of a grant, apply to a grant from the department under Subsection (b) to the extent they can be made applicable.

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

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

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

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

(2) this chapter expires.



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No equivalent provision.

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.

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

Same as House version.

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;
- (2) is compatible with the light fixture; and
- (3) is the most cost-effective considering the factors described by subdivisions (1) and (2).

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

Sec. 51.9271. ENERGY-EFFICIENT LIGHT BULBS IN EDUCATIONAL AND HOUSING FACILITIES.

(a) In this section, "housing facility" has the meaning assigned by Section 53.02.

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

(1) is compatible with the light fixture;

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

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

Same as House version.

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

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

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

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

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

Same as House version.

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

SUBCHAPTER F. ENERGY AND EFFICIENCY STANDARDS FOR EQUIPMENT AND APPLIANCES

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

- (1) the federal energy conservation standards under Section 325, Energy Policy and Conservation Act (42 U.S.C. Section 6295), or a federal regulation adopted under that Act; or
- (2) the federal Energy Star standards designated by the United States Environmental Protection Agency and the United States Department of Energy.

Same as House version.

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

Sec. 2165.008. ENERGY-EFFICIENT LIGHT BULBS IN STATE BUILDINGS. A state agency or institution of higher education in charge and control of a state building shall purchase for use in each type of light fixture in the building 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.

Same as House version.

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

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

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

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

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

(2) operates with a compressor; and

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

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

(e) The commission may impose an administrative fine on an entity that operates a vending machine subject to

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this section in an amount not to exceed \$250 a year for each machine found to be in violation of this section or rules adopted by the commission under this section.

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

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

CHAPTER 2264. REQUIRED PUBLICATION AND REPORTING BY GOVERNMENTAL ENTITIES

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

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

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

(b) Notwithstanding any other law, a governmental entity responsible for payments for electric, water, or natural gas utility services shall record in an electronic repository the governmental entity's metered amount of electricity, water, or natural gas consumed for which it is responsible to pay and the aggregate costs for those utility services. The governmental entity shall report the recorded information on a publicly accessible Internet

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

CHAPTER 2264. REQUIRED PUBLICATION AND REPORTING BY GOVERNMENTAL ENTITIES

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

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

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

(b) Notwithstanding any other law, a governmental entity responsible for payments for electric, water, or natural gas utility services shall record in an electronic repository the governmental entity's metered amount of electricity, water, or natural gas consumed for which it is responsible to pay and the aggregate costs for those utility services. The governmental entity shall report the recorded information on a publicly accessible Internet

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website with an interface designed for ease of navigation.

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

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

- (1) the installation of Energy Star-labeled ceiling fans in living areas and bedrooms;
- (2) the installation of Energy Star-labeled appliances;
- (3) the installation of Energy Star-labeled lighting in all interior units;
- (4) the installation of Energy Star-labeled ventilation equipment, including power-vented fans, range hoods, and bathroom fans;
- (5) the use of energy efficient alternative construction

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website with an interface designed for ease of navigation if available, or at another publicly accessible location.

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material, including structural insulated panel construction;

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

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

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

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

(2) any portion of the rehabilitation includes alterations that will replace items that are identified as required efficiency measures by the department.

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

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

(e) Subsections (a) and (b) do not apply to a single or multifamily dwelling that receives weatherization assistance money from the department or money

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provided under the first-time homebuyer program.

No equivalent provision.

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

(b-1) If the State Energy Conservation Office determines, based on written recommendations from the laboratory, that the energy efficiency provisions of the latest published editions of the International Residential Code or the International Energy Conservation Code for residential or commercial energy efficiency and air quality are equivalent to or more stringent than the provisions of editions adopted under Subsection (a) or (b), the office by rule may adopt and substitute in the

SECTION \_\_. Section 301.038, Health and Safety Code, is amended to read as follows:

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

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

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

(b-1) If the State Energy Conservation Office determines, based on written recommendations from the laboratory, that the energy efficiency provisions of the latest published editions of the International Residential Code or the International Energy Conservation Code for residential or commercial energy efficiency and air quality are equivalent to or more stringent than the provisions of editions adopted under Subsection (a) or (b), the office by rule may adopt and substitute in the



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energy code the equivalent or more stringent provisions for the provisions of the initial editions described by Subsection (a) or (b). If the State Energy Conservation Office adopts provisions of the latest published editions of the International Residential Code or the International Energy Conservation Code into the energy code, the office shall establish an effective date for the new provisions that is not earlier than nine months after the date of adoption. The laboratory shall submit recommendations concerning the latest published editions of the International Residential Code or the International Energy Conservation Code not later than six months after publication of new editions.

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

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

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

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

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energy code the equivalent or more stringent editions for of the initial editions described by Subsection (a) or (b). If the State Energy Conservation Office adopts the latest published editions of the International Residential Code or the International Energy Conservation Code into the energy code, the office shall establish an effective date for the new editions that is not earlier than nine months after the date of adoption. The laboratory shall submit recommendations concerning the latest published editions of the International Residential Code or the International Energy Conservation Code not later than six months after publication of new editions.

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

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

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

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

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

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

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

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

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

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

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

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

(c) Each political subdivision, institution of higher education, or state agency shall establish a goal to reduce

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the electric consumption by the entity [~~political subdivision~~] by five percent each state fiscal year for six [~~five~~] years, beginning September 1, 2007 [~~January 1, 2002~~].

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

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

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

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Energy Conservation Office.

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

(a) The laboratory shall develop a standardized report format to be used by providers of home energy ratings.

The laboratory may develop different report formats for rating newly constructed residences from those for existing residences. The form must be designed to give potential buyers information on a structure's energy performance, including:

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

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

- (1) develop guidelines for home energy ratings;
- (2) provide training for individuals performing home energy ratings and providers of home energy ratings; and

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(3) provide a registry of completed ratings for newly constructed residences and residential improvement projects for the purpose of computing the energy savings and emissions reductions benefits of the [The] home energy ratings program [shall be implemented by September 1, 2002].

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

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

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

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

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

(b) A nonprofit cooperative corporation may deliver the

Same as House version.

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

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

(b) A nonprofit cooperative corporation may deliver the

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money under this section only:

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

~~and~~

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

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

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

(1) notice of presumed abandoned property;

(2) delivery of reported money to a scholarship, ~~or~~ economic development fund, or energy efficiency assistance fund;

(3) filing of a claim; and

(4) procedures to allow equitable opportunity for participation by each nonprofit cooperative corporation in the state.

(f) During a state fiscal year the total amount of money that may be transferred by all nonprofit cooperative corporations under this section may not exceed **\$1 million**. No more than 20 percent of each nonprofit cooperative's funds eligible for delivery under this section shall be used for economic development. The comptroller shall adopt procedures to record the total

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money under this section only:

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

~~and~~

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

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

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

(1) notice of presumed abandoned property;

(2) delivery of reported money to a scholarship, ~~or~~ economic development fund, or energy efficiency assistance fund;

(3) filing of a claim; and

(4) procedures to allow equitable opportunity for participation by each nonprofit cooperative corporation in the state.

(f) During a state fiscal year the total amount of money that may be transferred by all nonprofit cooperative corporations under this section may not exceed **\$2** ~~[\$1]~~ million. No more than 20 percent of each nonprofit cooperative's funds eligible for delivery under this section shall be used for economic development. The comptroller shall adopt procedures to record the total

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amount of money transferred annually [~~to allow equitable opportunity for participation with preference given to corporations already providing similar scholarship opportunities in other states~~].

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

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

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

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

- (1) an air conditioner the sales price of which does not exceed \$6,000;
- (2) a clothes washer;
- (3) a ceiling fan;
- (4) a dehumidifier;

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amount of money transferred annually [~~to allow equitable opportunity for participation with preference given to corporations already providing similar scholarship opportunities in other states~~].

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

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- (5) a dishwasher;
  - (6) an incandescent or fluorescent lightbulb;
  - (7) a programmable thermostat; and
  - (8) a refrigerator the sales price of which does not exceed \$2,000.
- (c) The sale of an energy-efficient product to which this section applies is exempted from the taxes imposed by this chapter if the sale takes place during a period beginning at 12:01 a.m. on the Saturday preceding the last Monday in May (Memorial Day) and ending at 11:59 p.m. on the last Monday in May.

No equivalent provision.

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

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

- (1) the cumulative total of all severance tax credits authorized by this section may not exceed \$1,000 for any marginal well;
- (2) the enhanced efficiency equipment installed in a qualifying marginal well must have been purchased and installed not earlier than September 1, 2005, or later than September 1, 2013 [~~2009~~];
- (3) the taxpayer must file an application with the comptroller for the credit and must demonstrate to the

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comptroller that the enhanced efficiency equipment has been purchased and installed in the marginal well within the period prescribed by Subdivision (2);

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

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

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

Sec. 313.008. REPORT ON COMPLIANCE WITH ENERGY-RELATED AGREEMENTS. (a) Before the beginning of each regular session of the legislature, the comptroller shall submit to the lieutenant governor, the speaker of the house of representatives, and each member of the legislature a report on each agreement entered into under this chapter involving energy-related projects, including wind generation, ethanol production, liquefied natural gas terminals, low sulfur diesel production, refinery cogeneration, and nuclear energy production. The report must state for each agreement:

(1) the number of qualifying jobs each recipient of a

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

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

(1) the number of qualifying jobs each recipient of a

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limitation on appraised value committed to create;  
(2) the number of qualifying jobs each recipient created;  
(3) the median wage of the new jobs each recipient created;  
(4) the amount of the qualified investment each recipient committed to expend or allocate per project;  
(5) the amount of the qualified investment each recipient expended or allocated per project;  
(6) the market value of the qualified property of each recipient;  
(7) the limitation on appraised value for the qualified property of each recipient;  
(8) the dollar amount of the ad valorem taxes that would have been imposed on the market value of the qualified property;  
(9) the dollar amount of the ad valorem taxes imposed on the qualified property;  
(10) the number of new jobs created by each recipient in each sector of the North American Industry Classification System (NAICS); and  
(11) of the number of new jobs each recipient created, the number of positions created that provide health benefits for employees.  
(b) The report may not include information that is made confidential by law.  
(c) The comptroller may require a recipient to submit, on a form provided by the comptroller, information required to complete the report.

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limitation on appraised value committed to create;  
(2) the number of qualifying jobs each recipient created;  
(3) the median wage of the new jobs each recipient created;  
(4) the amount of the qualified investment each recipient committed to expend or allocate per project;  
(5) the amount of the qualified investment each recipient expended or allocated per project;  
(6) the market value of the qualified property of each recipient as established by the local appraiser;  
(7) the limitation on appraised value for the qualified property of each recipient;  
(8) the dollar amount of the ad valorem taxes that would have been imposed on the market value of the qualified property;  
(9) the dollar amount of the ad valorem taxes imposed on the qualified property;  
(10) the number of new jobs created by each recipient in each sector of the North American Industry Classification System (NAICS); and  
(11) of the number of new jobs each recipient created, the number of positions created that provide health benefits for employees.  
(b) The report may not include information that is made confidential by law.  
(c) The comptroller may require a recipient to submit, on a form provided by the comptroller, information required to complete the report.

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

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

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

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

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

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

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SECTION 18. Same as House version.

SECTION 19. Same as House version.

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

(i) **Subject to the restrictions in Subsection (h)**, it is the intent of the legislature that net metering and advanced meter **information** networks be deployed as rapidly as possible to allow customers to better manage energy use and control costs, and to facilitate demand response initiatives.

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

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

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

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

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

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

(3) each electric utility will provide, through market-based standard offer programs or limited, targeted, market-transformation programs, incentives sufficient for

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SECTION 21. Same as House version.

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

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

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

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

(3) each electric utility will provide, through market-based standard offer programs or limited, targeted, market-transformation programs, incentives sufficient for

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retail electric providers and competitive energy service providers to acquire additional cost-effective energy efficiency for residential and commercial customers equivalent to at least:

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

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

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

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

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

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retail electric providers and competitive energy service providers to acquire additional cost-effective energy efficiency for residential and commercial customers equivalent to at least:

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

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

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

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

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

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

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

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

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

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

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

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

(4) ensuring that the costs associated with programs provided under this section are borne by the customer

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

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

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

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

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

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

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

(4) ensuring that the costs associated with programs provided under this section are borne by the customer

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classes that receive the services under the programs; and  
(5) ensuring the program rules encourage the value of the incentives to be passed on to the end-use customer.

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

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

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

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

(3) recommends whether:

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

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

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classes that receive the services under the programs; and  
(5) ensuring the program rules encourage the value of the incentives to be passed on to the end-use customer.

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

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

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

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

(3) recommends whether:

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

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

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(C) utilities should fund education programs to be conducted by the commission regarding the provision of energy efficiency service from the competitive market;  
(4) provides estimates of achievable savings specific to each utility service area and each customer class;  
(5) quantifies the costs and rate impacts associated with meeting energy efficiency goals;  
(6) determines whether an increase in the goal to 30 percent of the growth in demand for each utility is achievable by December 31, 2010, and whether an increase in the goal to 50 percent of the growth in demand for electricity is achievable by December 31, 2015, by each utility in the service area served through the energy efficiency programs described by this section;  
(7) recommends policies designed to promote energy efficiency in the areas of the state that are not served by the utilities which administer programs under this section; and  
(8) identifies potential barriers to the increased participation by retail electric providers in the delivery of energy efficiency services to ERCOT customers, and to the increased potential for energy efficiency in ERCOT or in this state generally, including any recommended regulatory or statutory changes to eliminate such barriers or facilitate greater efficiency.  
(b-3) Beginning not later than January 1, 2008, the commission, in consultation with the State Energy Conservation Office, annually for a period of five years shall compute and report to ERCOT the projected energy savings and demand impacts for each entity in the

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(C) utilities should fund education programs to be conducted by the commission regarding the provision of energy efficiency service from the competitive market;  
(4) provides estimates of achievable savings specific to each utility service area and each customer class;  
(5) quantifies the costs and rate impacts associated with meeting energy efficiency goals;  
(6) determines whether an increase in the goal to 30 percent of the growth in demand for each utility is achievable by December 31, 2010, and whether an increase in the goal to 50 percent of the growth in demand for electricity is achievable by December 31, 2015, by each utility in the service area served through the energy efficiency programs described by this section;  
(7) recommends policies designed to promote energy efficiency in the areas of the state that are not served by the utilities which administer programs under this section; and  
(8) identifies potential barriers to the increased participation by retail electric providers in the delivery of energy efficiency services to ERCOT customers, and to the increased potential for energy efficiency in ERCOT or in this state generally, including any recommended regulatory or statutory changes to eliminate such barriers or facilitate greater efficiency.  
(b-3) Beginning not later than January 1, 2008, the commission, in consultation with the State Energy Conservation Office, annually for a period of five years shall compute and report to ERCOT the projected energy savings and demand impacts for each entity in the

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ERCOT region that administers standard offer programs, market transformation programs, combined heating and power technology, demand response programs, solar incentive programs, **building codes**, appliance efficiency standards, energy efficiency programs in public buildings, and any other relevant programs that are reasonably anticipated to reduce electricity energy or peak demand or that serve as substitutes for electric supply.

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

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

- (1) energy-smart schools;
- (2) appliance retirement and recycling;
- (3) air conditioning system tune-ups; ~~[and]~~
- (4) the use of trees or other landscaping for energy efficiency;
- (5) customer energy management and demand response

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ERCOT region that administers standard offer programs, market transformation programs, combined heating and power technology, demand response programs, solar incentive programs, appliance efficiency standards, energy efficiency programs in public buildings, and any other relevant programs that are reasonably anticipated to reduce electricity energy or peak demand or that serve as substitutes for electric supply.

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

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

- (1) energy-smart schools;
- (2) appliance retirement and recycling;
- (3) air conditioning system tune-ups; ~~[and]~~
- (4) the use of trees or other landscaping for energy efficiency;
- (5) customer energy management and demand response

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programs;

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

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

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

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

(10) net-zero energy new home programs;

(11) solar thermal or solar electric programs; and

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

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

(1) the amount the commission approved for energy efficiency programs in the utility's most recent full rate

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programs;

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

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

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

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

(10) net-zero energy new home programs;

(11) solar thermal or solar electric programs; and

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

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

(1) the amount the commission approved for energy efficiency programs in the utility's most recent full rate

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proceeding; or

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

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

(g) The commission may provide for a good cause exemption to a utility's liability for an administrative

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proceeding; or

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

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

(g) The commission may provide for a good cause exemption to a utility's liability for an administrative

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penalty or other sanction if the utility fails to meet a goal for energy efficiency under this section and the utility's failure to meet the goal is caused by one or more factors outside of the utility's control, including:

- (1) insufficient demand by retail electric providers and competitive energy service providers for program incentive funds made available by the utility through its programs;
- (2) changes in building energy codes; and
- (3) changes in government-imposed appliance or equipment efficiency standards.

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

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

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

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

- (1) municipally owned utilities will administer energy savings incentive programs;
- (2) customers of a municipally owned utility will have a choice of and access to energy efficiency alternatives that allow customers to reduce energy consumption, peak demand, or energy costs; and

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penalty or other sanction if the utility fails to meet a goal for energy efficiency under this section and the utility's failure to meet the goal is caused by one or more factors outside of the utility's control, including:

- (1) insufficient demand by retail electric providers and competitive energy service providers for program incentive funds made available by the utility through its programs;
- (2) changes in building energy codes; and
- (3) changes in government-imposed appliance or equipment efficiency standards.

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

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

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

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

- (1) municipally owned utilities will administer energy savings incentive programs;
- (2) customers of a municipally owned utility will have a choice of and access to energy efficiency alternatives that allow customers to reduce energy consumption, peak demand, or energy costs; and

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

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

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

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

Sec. 39.9052. ENERGY EFFICIENCY FOR ELECTRIC COOPERATIVES. (a) An electric cooperative shall consider adopting and implementing energy efficiency programs that reduce the cooperative's annual growth in demand in a manner consistent with standards established in the state for other utilities.

(b) Not later than September 1, 2009, an electric cooperative that had retail sales of more than 500,000

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

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

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

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

Sec. 39.9052. ENERGY EFFICIENCY FOR ELECTRIC COOPERATIVES. (a) An electric cooperative shall consider adopting and implementing energy efficiency programs that reduce the cooperative's annual growth in demand in a manner consistent with standards established in the state for other utilities.

(b) Not later than September 1, 2009, an electric cooperative that had retail sales of more than 500,000

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megawatt hours in 2005 must report to the State Energy Conservation Office, in a form and manner determined by the electric cooperative in consultation with the office, information regarding the combined effects of the energy efficiency activities of the electric cooperative.

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

- (1) a demonstration project for installation of solar electric systems for new residential subdivisions;
- (2) a demonstration project for installation of solar electric systems for new or established affordable housing for persons with low incomes; and
- (3) a demonstration project for installation of solar electric systems for not more than three small businesses.

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

- (1) generates electricity using solar resources;
- (2) has a generating capacity of not more than 1,000 kilowatts; and
- (3) is installed with a warranty against breakdown or undue degradation for a period of at least five years.

(c) A demonstration project grant program established under this section must provide for full or partial payment of the cost of equipment and installation for the solar electric systems. The commission shall establish for each grant program a competitive bidding process for grant applicants. The commission shall consider the value of funding demonstration projects in different parts

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megawatt hours in 2005 must report to the State Energy Conservation Office, in a form and manner determined by the electric cooperative in consultation with the office, information regarding the combined effects of the energy efficiency activities of the electric cooperative.

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of this state, after considering the demographic and geographic diversity of this state.

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

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

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

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

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

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

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

(g) The commission shall issue a report to the governor, lieutenant governor, and speaker of the house of representatives not later than December 1 of each even-numbered year summarizing the status of the grant programs established under Subsection (a). The report

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must include the amount of money granted to each demonstration project and an evaluation of whether the projects demonstrate the economic and ecologic viability of solar electric system installations.

(h) This section expires December 31, 2010.

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

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

- (1) an explanation describing combined heating and power technology and its use; and
- (2) an explanation of how combined heating and power technology can be implemented in this state to meet energy efficiency goals.

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

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

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

- (1) an explanation describing combined heating and power technology and its use; and
- (2) an explanation of how combined heating and power technology can be implemented in this state to meet energy efficiency goals.

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

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

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

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

and

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

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

(c) For independent school districts in areas in which customer choice has been introduced, the district must sell the school buildings' surplus electricity produced to the retail electric provider that serves the school district's load at a value agreed to between the district and the provider that serves the district's load. The agreed value may be based on the clearing price of energy at the time of day that the electricity is made available to the grid. The independent organization identified in Section

SECTION 24. Same as House version.

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39.151 shall develop procedures so that the amount of electricity purchased from a district under this section is accounted for in settling the total load served by the provider that serves the district's load. A district requesting net metering services for purposes of this section must have metering devices capable of providing measurements consistent with the independent organization's settlement requirements.

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

(e) A municipally owned utility or electric cooperative shall consider and complete the determinations regarding net metering service as provided by the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Section 2601 et seq., as amended by the federal Energy Policy Act of 2005 (Pub. L. No. 109-58)) after proceedings conducted in accordance with that law. A municipally owned utility or electric cooperative shall report the determinations made under this subsection to the State Energy Conservation Office and include in that report information regarding metering electricity

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generated by solar panels on public school building rooftops.

No equivalent provision.

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SECTION 25. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.915 to read as follows:  
Sec. 39.915. CONSIDERATION AND APPROVAL OF CERTAIN TRANSACTIONS. (a) To protect retail customers in this state, and to ensure the continuation of cost-effective measures and delivery systems notwithstanding any other provision of this title, an electric utility or transmission and distribution utility must report to and obtain approval of the commission before closing any transaction in which:  
(1) the electric utility or transmission and distribution utility will be merged or consolidated with another electric utility or transmission and distribution utility;  
(2) at least 50 percent of the stock of the electric utility or transmission and distribution utility will be transferred or sold; or  
(3) a controlling interest or operational control of the electric utility or transmission and distribution utility will be transferred.  
(b) The commission shall approve a transaction under Subsection (a) if the commission finds that the transaction is in the public interest. In making its determination, the commission shall consider whether the transaction will adversely affect the reliability of service, availability of service, or cost of service of the electric utility or transmission and distribution utility.

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The commission shall make the determination concerning a transaction under this subsection not later than the 180th day after the date the commission receives the relevant report. If the commission has not made a determination before the 181st day after that date, the transaction is considered approved.

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

(d) If an electric utility or transmission and distribution utility or a person seeking to acquire or merge with an electric utility or transmission and distribution utility files with the commission a stipulation, representation, or commitment in advance of or as part of a filing under this section or under Section 14.101, the commission may enforce the stipulation, representation, or commitment to the extent that the stipulation, representation, or commitment is consistent with the standards provided by this section and Section 14.101. The commission may reasonably interpret and enforce conditions adopted under this section.

No equivalent provision.

SECTION \_\_. (a) Subchapter Z, Chapter 39, Utilities

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Code, is amended by adding Section 39.916 to read as follows:

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

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

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

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

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

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

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

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

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the submission and processing of a customer's application for interconnection shall be consistent with rules adopted by the commission regarding interconnection.

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

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

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

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provided by this section, Section 39.107 applies to metering under this section.

(g) A renewable energy credit that is earned by a distributed renewable generation owner through the interconnection of a renewable electric system is the sole property of the distributed renewable generation owner unless the distributed renewable generation owner engages in a transaction to sell or trade the credit under Section 39.904. The commission by rule shall address the ownership of renewable energy credits associated with power sold to an electric utility.

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

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

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

(i) For a distributed renewable generation owner in an area in which customer choice has been introduced, the distributed renewable generation owner must sell the owner's surplus electricity produced to the retail electric provider that serves the distributed renewable generation owner's load at a value agreed to between the distributed renewable generation owner and the provider that serves the owner's load. The agreed value may be based on the clearing price of energy at the time of day that the electricity is made available to the grid, may be a credit applied to an account during a billing period that may be

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carried over to subsequent billing periods until the credit has been redeemed, or may be as otherwise provided by a mutually agreed commercial arrangement. The independent organization identified in Section 39.151 shall develop procedures so that, by January 1, 2009, the amount of electricity purchased from a distributed renewable generation owner under this section is accounted for in settling the total load served by the provider that serves that owner's load. A distributed renewable generation owner requesting net metering services for purposes of this section must have metering devices capable of providing measurements consistent with the independent organization's settlement requirements.

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

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

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

(1) set all terms of access, conditions, and rates applicable to services provided by the municipally owned utility, subject to Sections 40.054 and 40.056, including nondiscriminatory and comparable rates for distribution but excluding wholesale transmission rates, terms of access, and conditions for wholesale transmission service set by the commission under this subtitle, provided that the rates for distribution access

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established by the municipal governing body shall be comparable to the distribution access rates that apply to the municipally owned utility and the municipally owned utility's affiliates;

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

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

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

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

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

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

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- (8) determine whether a base rate reduction is appropriate for the municipally owned utility;
- (9) determine any other utility matters that the municipal governing body or body vested with power to manage and operate the municipally owned utility believes should be included; ~~and~~
- (10) make any other decisions affecting the municipally owned utility's participation in customer choice that are not inconsistent with this chapter; and
- (11) determine the extent to which the municipally owned utility offers energy efficiency programs and how the programs are administered by the utility, except as provided by Section 39.9051(e).

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

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

- (1) set all terms of access, conditions, and rates applicable to services provided by the electric cooperative, except as provided by Sections 41.054 and 41.056, including nondiscriminatory and comparable rates for distribution but excluding wholesale transmission rates, terms of access, and conditions for wholesale transmission service set by the commission under Subchapter A, Chapter 35, provided that the rates for distribution established by the electric cooperative shall be comparable to the distribution rates that apply to

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SECTION 27. Same as House version.

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the electric cooperative and its subsidiaries;

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

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

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

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

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

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

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

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

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

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

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

No equivalent provision.

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SECTION \_\_. (a) Section 104.301, Utilities Code, is amended to read as follows:  
Sec. 104.301. INTERIM ADJUSTMENT FOR ELIGIBLE INFRASTRUCTURE INVESTMENTS [CHANGES IN INVESTMENT]. (a) The purpose of this subchapter is to address energy demand, energy load, energy efficiency incentives, energy programs, and energy performance measures.  
(b) In this section, "eligible infrastructure investment" means the difference between the value of the invested capital of a gas utility for the preceding calendar year and the value of the invested capital for the calendar year preceding that calendar year. The value of the invested capital is equal to the original cost of the investment at the time the investment was first dedicated to public use minus the accumulated depreciation related to that investment. The term does not include:  
(1) changes in invested capital resulting from allocations of invested capital to the utility from an affiliate or an operating division of the utility not subject to this title other than allocations of net investment in computer equipment, software, communications, and metering; or  
(2) classifications of investment that were not included in the utility's invested capital in the utility's most recent ratemaking proceeding.

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

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

(e) During the 60-day period, the regulatory authorities [authority] may act to suspend the implementation of the tariff, rate schedule, or interim [annual] adjustment for up to 45 days. The regulatory authority may approve,

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

(f) [(b) The amount the gas utility shall adjust the utility's rates upward or downward under the tariff or rate schedule each calendar year is based on the difference

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between the value of the invested capital for the preceding calendar year and the value of the invested capital for the calendar year preceding that calendar year. The value of the invested capital is equal to the original cost of the investment at the time the investment was first dedicated to public use minus the accumulated depreciation related to that investment.

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

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

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

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

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

(k) [(h)] If a gas utility that implements a tariff or rate schedule under this section does not file a rate case under Subchapter C before the fifth anniversary of the date on which the tariff or rate schedule takes effect, the gas utility shall file a rate case under that subchapter not later



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than the 180th day after that anniversary in relation to any rates subject to the tariff or rate schedule.

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

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

(n) A gas utility implementing a tariff or rate schedule under this section shall reimburse a municipality or coalition of municipalities for the municipality's or coalition's reasonable costs of consultants, accountants, auditors, attorneys, and engineers engaged to review the interim rate adjustment. The amount that a utility is obligated to reimburse a municipality or a coalition of municipalities under this subsection may not exceed an amount equal to two percent of the expected annual increase in revenue that the utility will derive from the interim rate adjustment in the area subject to the original jurisdiction of the municipality or, with respect to a coalition of municipalities, the area subject to the original jurisdiction of the municipalities participating in the coalition.

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

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

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

SECTION 28. Same as House version.

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

SECTION 29. Same as House version.

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

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SECTION 28. Section 2165.058(c), Government Code, as added by this Act, applies only to an entity that contracts with the Texas Building and Procurement Commission or another state agency to install or operate a vending machine on or after the effective date of this Act.

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

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

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

(d) This section expires December 31, 2010.

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SECTION 30. Same as House version.

No equivalent provision.

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

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

SENATE VERSION

SECTION 31. Same as House version.

SECTION 32. Same as House version.

CONFERENCE