

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

HOUSE COMMITTEE SUBSTITUTE FOR

SENATE SUBSTITUTE NO. 2 FOR

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 745

101ST GENERAL ASSEMBLY

2022

3566H.06T

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## AN ACT

To repeal sections 44.032, 144.010, 144.011, 144.030, 386.266, 386.890, 393.1400, 393.1640, 393.1655, 393.1715, 442.404, and 610.021, RSMo, and to enact in lieu thereof sixteen new sections relating to public utilities, with a delayed effective date for a certain section.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 44.032, 144.010, 144.011, 144.030,  
2 386.266, 386.890, 393.1400, 393.1640, 393.1655, 393.1715,  
3 442.404, and 610.021, RSMo, are repealed and sixteen new  
4 sections enacted in lieu thereof, to be known as sections  
5 44.032, 144.010, 144.011, 144.030, 386.266, 386.885, 386.890,  
6 393.1072, 393.1275, 393.1400, 393.1640, 393.1655, 393.1656,  
7 393.1715, 442.404, and 610.021, to read as follows:

44.032. 1. **(1) As used in this section, the term**  
2 **"rural electric cooperative" means any rural electric**  
3 **cooperative organized or operating under the provisions of**  
4 **chapter 394, any corporation organized on a nonprofit or a**  
5 **cooperative basis as described in subsection 1 of section**  
6 **394.200, or any electrical corporation operating under a**  
7 **cooperative business plan as described in subsection 2 of**  
8 **section 393.110.**

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

9           (2) The general assembly recognizes the necessity for  
10 anticipating and making advance provisions to care for the  
11 unusual and extraordinary burdens imposed **by disasters or**  
12 **emergencies** on this state [and], its political subdivisions  
13 [by disasters or emergencies], **and rural electric**  
14 **cooperatives**. To meet such situations, it is the intention  
15 of the general assembly to confer emergency powers on the  
16 governor, acting through the director, and vesting the  
17 governor with adequate power and authority within the  
18 limitation of available funds in the Missouri disaster fund  
19 to meet any such emergency or disaster.

20           2. There is hereby established a fund to be known as  
21 the "Missouri Disaster Fund", to which the general assembly  
22 may appropriate funds and from which funds may be  
23 appropriated annually to the state emergency management  
24 agency. The funds appropriated shall be expended during a  
25 state emergency at the direction of the governor and upon  
26 the issuance of an emergency declaration which shall set  
27 forth the emergency and shall state that it requires the  
28 expenditure of public funds to furnish immediate aid and  
29 relief. The director of the state emergency management  
30 agency shall administer the fund.

31           3. Expenditures may be made upon direction of the  
32 governor for emergency management, as defined in section  
33 44.010, or to implement the state disaster plans.  
34 Expenditures may also be made to meet the matching  
35 requirements of state and federal agencies for any  
36 applicable assistance programs.

37           4. Assistance may be provided from the Missouri  
38 disaster fund to political subdivisions of this state  
39 [which] **and rural electric cooperatives that** have suffered  
40 from a disaster to such an extent as to impose a severe

41 financial burden exceeding the ordinary reserve capacity of  
42 the subdivision **or rural electric cooperative** affected.  
43 Applications for aid under this section shall be made to the  
44 state emergency management agency on such forms as may be  
45 prescribed and furnished by the agency, which forms shall  
46 require the furnishing of sufficient information to  
47 determine eligibility for aid and the extent of the  
48 financial burden incurred. The agency may call upon other  
49 agencies of the state in evaluating such applications. The  
50 director of the state emergency management agency shall  
51 review each application for aid under the provisions of this  
52 section and recommend its approval or disapproval, in whole  
53 or in part, to the governor. If approved, the governor  
54 shall determine and certify to the director of the state  
55 emergency management agency the amount of aid to be  
56 furnished. The director of the state emergency management  
57 agency shall thereupon issue **[his] the director's** voucher to  
58 the commissioner of administration, who shall issue **[his]**  
59 **the commissioner's** warrants therefor to the applicant.

60 5. When a disaster or emergency has been proclaimed by  
61 the governor or there is a national emergency, the director  
62 of the state emergency management agency, upon order of the  
63 governor, shall have authority to expend funds for the  
64 following:

65 (1) The purposes of sections 44.010 to 44.130 and the  
66 responsibilities of the governor and the state emergency  
67 management agency as outlined in sections 44.010 to 44.130;

68 (2) Employing, for the duration of the response and  
69 recovery to emergency, additional personnel and contracting  
70 or otherwise procuring necessary appliances, supplies,  
71 equipment, and transport;

72           (3) Performing services for and furnishing materials  
73 and supplies to state government agencies, counties, [and]  
74 municipalities, **and rural electric cooperatives** with respect  
75 to performance of any duties enjoined by law upon such  
76 agencies, counties, [and] municipalities, **and rural electric**  
77 **cooperatives** which they are unable to perform because of  
78 extreme natural or man-made phenomena, and receiving  
79 reimbursement in whole or in part from such agencies,  
80 counties, [and] municipalities, **and rural electric**  
81 **cooperatives** able to pay therefor under such terms and  
82 conditions as may be agreed upon by the director of the  
83 state emergency management agency and any such agency,  
84 county, [or] municipality, **or rural electric cooperative;**

85           (4) Performing services for and furnishing materials  
86 to any individual in connection with alleviating hardship  
87 and distress growing out of extreme natural or man-made  
88 phenomena, and receiving reimbursement in whole or in part  
89 from such individual under such terms as may be agreed upon  
90 by the director of the state emergency management agency and  
91 such individual;

92           (5) Providing services to counties and municipalities  
93 with respect to quelling riots and civil disturbances;

94           (6) Repairing and restoring public infrastructure;

95           (7) Furnishing transportation for supplies to  
96 alleviate suffering and distress;

97           (8) Furnishing medical services and supplies to  
98 prevent the spread of disease and epidemics;

99           (9) Quelling riots and civil disturbances;

100           (10) Training individuals or governmental agencies for  
101 the purpose of perfecting the performance of emergency  
102 assistance duties as defined in the state disaster plans;

103           (11) Procurement, storage, and transport of special  
104 emergency supplies or equipment determined by the director  
105 to be necessary to provide rapid response by state  
106 government to assist counties and municipalities in  
107 impending or actual emergencies;

108           (12) Clearing or removing from publicly or privately  
109 owned land or water, debris and wreckage which may threaten  
110 public health or safety;

111           (13) Reimbursement to any urban search and rescue task  
112 force for any reasonable and necessary expenditures incurred  
113 in the course of responding to any declared emergency under  
114 this section; and

115           (14) Such other measures as are customarily necessary  
116 to furnish adequate relief in cases of catastrophe or  
117 disaster.

118           6. The governor may receive such voluntary  
119 contributions as may be made from any source to aid in  
120 carrying out the purposes of this section and shall credit  
121 the same to the Missouri disaster fund.

122           7. All obligations and expenses incurred by the  
123 governor in the exercise of the powers and duties vested by  
124 the provisions of this section shall be paid by the state  
125 treasurer out of available funds in the Missouri disaster  
126 fund, and the commissioner of administration shall draw  
127 warrants upon the state treasurer for the payment of such  
128 sum, or so much thereof as may be required, upon receipt of  
129 proper vouchers provided by the director of the state  
130 emergency management agency.

131           8. The provisions of this section shall be liberally  
132 construed in order to accomplish the purposes of sections  
133 44.010 to 44.130 and to permit the governor to cope  
134 adequately with any emergency which may arise, and the

135 powers vested in the governor by this section shall be  
136 construed as being in addition to all other powers presently  
137 vested in the governor and not in derogation of any existing  
138 powers.

139 9. Such funds as may be made available by the  
140 government of the United States for the purpose of  
141 alleviating distress from disasters may be accepted by the  
142 state treasurer and shall be credited to the Missouri  
143 disaster fund, unless otherwise specifically provided in the  
144 act of Congress making such funds available.

145 10. The foregoing provisions of this section  
146 notwithstanding, any expenditure or proposed series of  
147 expenditures which total in excess of one thousand dollars  
148 per project shall be approved by the governor prior to the  
149 expenditure.

144.010. 1. The following words, terms, and phrases  
2 when used in sections 144.010 to 144.525 have the meanings  
3 ascribed to them in this section, except when the context  
4 indicates a different meaning:

5 (1) "Admission" includes seats and tables, reserved or  
6 otherwise, and other similar accommodations and charges made  
7 therefor and amount paid for admission, exclusive of any  
8 admission tax imposed by the federal government or by  
9 sections 144.010 to 144.525;

10 (2) "Business" includes any activity engaged in by any  
11 person, or caused to be engaged in by him, with the object  
12 of gain, benefit or advantage, either direct or indirect,  
13 and the classification of which business is of such  
14 character as to be subject to the terms of sections 144.010  
15 to 144.525. A person is "engaging in business" in this  
16 state for purposes of sections 144.010 to 144.525 if such  
17 person engages in business activities within this state or

18 maintains a place of business in this state under section  
19 144.605. The isolated or occasional sale of tangible  
20 personal property, service, substance, or thing, by a person  
21 not engaged in such business, does not constitute engaging  
22 in business within the meaning of sections 144.010 to  
23 144.525 unless the total amount of the gross receipts from  
24 such sales, exclusive of receipts from the sale of tangible  
25 personal property by persons which property is sold in the  
26 course of the partial or complete liquidation of a  
27 household, farm or nonbusiness enterprise, exceeds three  
28 thousand dollars in any calendar year. The provisions of  
29 this subdivision shall not be construed to make any sale of  
30 property which is exempt from sales tax or use tax on June  
31 1, 1977, subject to that tax thereafter;

32 (3) "Captive wildlife", includes but is not limited to  
33 exotic partridges, gray partridge, northern bobwhite quail,  
34 ring-necked pheasant, captive waterfowl, captive white-  
35 tailed deer, captive elk, and captive furbearers held under  
36 permit issued by the Missouri department of conservation for  
37 hunting purposes. The provisions of this subdivision shall  
38 not apply to sales tax on a harvested animal;

39 (4) "Gross receipts", except as provided in section  
40 144.012, means the total amount of the sale price of the  
41 sales at retail including any services other than charges  
42 incident to the extension of credit that are a part of such  
43 sales made by the businesses herein referred to, capable of  
44 being valued in money, whether received in money or  
45 otherwise; except that, the term gross receipts shall not  
46 include the sale price of property returned by customers  
47 when the full sale price thereof is refunded either in cash  
48 or by credit. In determining any tax due under sections  
49 144.010 to 144.525 on the gross receipts, charges incident

50 to the extension of credit shall be specifically exempted.  
51 For the purposes of sections 144.010 to 144.525 the total  
52 amount of the sale price above mentioned shall be deemed to  
53 be the amount received. It shall also include the lease or  
54 rental consideration where the right to continuous  
55 possession or use of any article of tangible personal  
56 property is granted under a lease or contract and such  
57 transfer of possession would be taxable if outright sale  
58 were made and, in such cases, the same shall be taxable as  
59 if outright sale were made and considered as a sale of such  
60 article, and the tax shall be computed and paid by the  
61 lessee upon the rentals paid. The term gross receipts shall  
62 not include usual and customary delivery charges that are  
63 stated separately from the sale price;

64 (5) "Instructional class", includes any class, lesson,  
65 or instruction intended or used for teaching;

66 (6) "Livestock", cattle, calves, sheep, swine, ratite  
67 birds, including but not limited to, ostrich and emu,  
68 aquatic products as described in section 277.024, llamas,  
69 alpaca, buffalo, bison, elk documented as obtained from a  
70 legal source and not from the wild, goats, horses, other  
71 equine, honey bees, or rabbits raised in confinement for  
72 human consumption;

73 (7) "Motor vehicle leasing company" shall be a company  
74 obtaining a permit from the director of revenue to operate  
75 as a motor vehicle leasing company. Not all persons renting  
76 or leasing trailers or motor vehicles need to obtain such a  
77 permit; however, no person failing to obtain such a permit  
78 may avail itself of the optional tax provisions of  
79 subsection 5 of section 144.070, as hereinafter provided;

80 (8) "Person" includes any individual, firm,  
81 copartnership, joint adventure, association, corporation,



82 municipal or private, and whether organized for profit or  
83 not, state, county, political subdivision, state department,  
84 commission, board, bureau or agency, except the state  
85 transportation department, estate, trust, business trust,  
86 receiver or trustee appointed by the state or federal court,  
87 syndicate, or any other group or combination acting as a  
88 unit, and the plural as well as the singular number;

89 (9) "Product which is intended to be sold ultimately  
90 for final use or consumption" means tangible personal  
91 property, or any service that is subject to state or local  
92 sales or use taxes, or any tax that is substantially  
93 equivalent thereto, in this state or any other state;

94 (10) "Purchaser" means a person who purchases tangible  
95 personal property or to whom are rendered services, receipts  
96 from which are taxable under sections 144.010 to 144.525;

97 (11) "Research or experimentation activities" are the  
98 development of an experimental or pilot model, plant  
99 process, formula, invention or similar property, and the  
100 improvement of existing property of such type. Research or  
101 experimentation activities do not include activities such as  
102 ordinary testing or inspection of materials or products for  
103 quality control, efficiency surveys, advertising promotions  
104 or research in connection with literary, historical or  
105 similar projects;

106 (12) "Sale" or "sales" includes installment and credit  
107 sales, and the exchange of properties as well as the sale  
108 thereof for money, every closed transaction constituting a  
109 sale, and means any transfer, exchange or barter,  
110 conditional or otherwise, in any manner or by any means  
111 whatsoever, of tangible personal property for valuable  
112 consideration and the rendering, furnishing or selling for a  
113 valuable consideration any of the substances, things and

114 services herein designated and defined as taxable under the  
115 terms of sections 144.010 to 144.525;

116 (13) "Sale at retail" means any transfer made by any  
117 person engaged in business as defined herein of the  
118 ownership of, or title to, tangible personal property to the  
119 purchaser, for use or consumption and not for resale in any  
120 form as tangible personal property, for a valuable  
121 consideration; except that, for the purposes of sections  
122 144.010 to 144.525 and the tax imposed thereby: (i)  
123 purchases of tangible personal property made by duly  
124 licensed physicians, dentists, optometrists and  
125 veterinarians and used in the practice of their professions  
126 shall be deemed to be purchases for use or consumption and  
127 not for resale; and (ii) the selling of computer printouts,  
128 computer output or microfilm or microfiche and computer-  
129 assisted photo compositions to a purchaser to enable the  
130 purchaser to obtain for his or her own use the desired  
131 information contained in such computer printouts, computer  
132 output on microfilm or microfiche and computer-assisted  
133 photo compositions shall be considered as the sale of a  
134 service and not as the sale of tangible personal property.  
135 Where necessary to conform to the context of sections  
136 144.010 to 144.525 and the tax imposed thereby, the term  
137 sale at retail shall be construed to embrace:

138 (a) Sales of admission tickets, cash admissions,  
139 charges and fees to or in places of amusement, entertainment  
140 and recreation, games and athletic events, except amounts  
141 paid for any instructional class;

142 (b) Sales of electricity, electrical current, water  
143 and gas, natural or artificial, to domestic, commercial or  
144 industrial consumers, **except as provided in subdivision (12)**  
145 **of subsection 1 of section 144.011;**

146 (c) Sales of local and long distance  
147 telecommunications service to telecommunications subscribers  
148 and to others through equipment of telecommunications  
149 subscribers for the transmission of messages and  
150 conversations, and the sale, rental or leasing of all  
151 equipment or services pertaining or incidental thereto;

152 (d) Sales of service for transmission of messages by  
153 telegraph companies;

154 (e) Sales or charges for all rooms, meals and drinks  
155 furnished at any hotel, motel, tavern, inn, restaurant,  
156 eating house, drugstore, dining car, tourist camp, tourist  
157 cabin, or other place in which rooms, meals or drinks are  
158 regularly served to the public;

159 (f) Sales of tickets by every person operating a  
160 railroad, sleeping car, dining car, express car, boat,  
161 airplane, and such buses and trucks as are licensed by the  
162 division of motor carrier and railroad safety of the  
163 department of economic development of Missouri, engaged in  
164 the transportation of persons for hire;

165 (14) "Seller" means a person selling or furnishing  
166 tangible personal property or rendering services, on the  
167 receipts from which a tax is imposed pursuant to section  
168 144.020;

169 (15) The noun "tax" means either the tax payable by  
170 the purchaser of a commodity or service subject to tax, or  
171 the aggregate amount of taxes due from the vendor of such  
172 commodities or services during the period for which he or  
173 she is required to report his or her collections, as the  
174 context may require; and

175 (16) "Telecommunications service", for the purpose of  
176 this chapter, the transmission of information by wire,  
177 radio, optical cable, coaxial cable, electronic impulses, or

178 other similar means. As used in this definition,  
179 "information" means knowledge or intelligence represented by  
180 any form of writing, signs, signals, pictures, sounds, or  
181 any other symbols. Telecommunications service does not  
182 include the following if such services are separately stated  
183 on the customer's bill or on records of the seller  
184 maintained in the ordinary course of business:

185 (a) Access to the internet, access to interactive  
186 computer services or electronic publishing services, except  
187 the amount paid for the telecommunications service used to  
188 provide such access;

189 (b) Answering services and one-way paging services;

190 (c) Private mobile radio services which are not two-  
191 way commercial mobile radio services such as wireless  
192 telephone, personal communications services or enhanced  
193 specialized mobile radio services as defined pursuant to  
194 federal law; or

195 (d) Cable or satellite television or music services.

196 2. For purposes of the taxes imposed under sections  
197 144.010 to 144.525, and any other provisions of law  
198 pertaining to sales or use taxes which incorporate the  
199 provisions of sections 144.010 to 144.525 by reference, the  
200 term manufactured homes shall have the same meaning given it  
201 in section 700.010.

202 3. Sections 144.010 to 144.525 may be known and quoted  
203 as the "Sales Tax Law".

144.011. 1. For purposes of this chapter, and the  
2 taxes imposed thereby, the definition of "retail sale" or  
3 "sale at retail" shall not be construed to include any of  
4 the following:

5 (1) The transfer by one corporation of substantially  
6 all of its tangible personal property to another corporation

7 pursuant to a merger or consolidation effected under the  
8 laws of the state of Missouri or any other jurisdiction;

9 (2) The transfer of tangible personal property  
10 incident to the liquidation or cessation of a taxpayer's  
11 trade or business, conducted in proprietorship, partnership  
12 or corporate form, except to the extent any transfer is made  
13 in the ordinary course of the taxpayer's trade or business;

14 (3) The transfer of tangible personal property to a  
15 corporation solely in exchange for its stock or securities;

16 (4) The transfer of tangible personal property to a  
17 corporation by a shareholder as a contribution to the  
18 capital of the transferee corporation;

19 (5) The transfer of tangible personal property to a  
20 partnership solely in exchange for a partnership interest  
21 therein;

22 (6) The transfer of tangible personal property by a  
23 partner as a contribution to the capital of the transferee  
24 partnership;

25 (7) The transfer of tangible personal property by a  
26 corporation to one or more of its shareholders as a  
27 dividend, return of capital, distribution in the partial or  
28 complete liquidation of the corporation or distribution in  
29 redemption of the shareholder's interest therein;

30 (8) The transfer of tangible personal property by a  
31 partnership to one or more of its partners as a current  
32 distribution, return of capital or distribution in the  
33 partial or complete liquidation of the partnership or of the  
34 partner's interest therein;

35 (9) The transfer of reusable containers used in  
36 connection with the sale of tangible personal property  
37 contained therein for which a deposit is required and  
38 refunded on return;

39           (10) The purchase by persons operating eating or food  
40 service establishments, of items of a nonreusable nature  
41 which are furnished to the customers of such establishments  
42 with or in conjunction with the retail sales of their food  
43 or beverage. Such items shall include, but not be limited  
44 to, wrapping or packaging materials and nonreusable paper,  
45 wood, plastic and aluminum articles such as containers,  
46 trays, napkins, dishes, silverware, cups, bags, boxes,  
47 straws, sticks and toothpicks;

48           (11) The purchase by persons operating hotels, motels  
49 or other transient accommodation establishments, of items of  
50 a nonreusable nature which are furnished to the guests in  
51 the guests' rooms of such establishments and such items are  
52 included in the charge made for such accommodations. Such  
53 items shall include, but not be limited to, soap, shampoo,  
54 tissue and other toiletries and food or confectionery items  
55 offered to the guests without charge;

56           **(12) The purchase by persons operating hotels, motels,**  
57 **or other transient accommodation establishments of**  
58 **electricity, electrical current, water, and gas, whether**  
59 **natural or artificial, which are used to heat, cool, or**  
60 **provide water or power to the guests' accommodations of such**  
61 **establishments, including sleeping rooms, meeting and**  
62 **banquet rooms, and any other customer space rented by**  
63 **guests, and which are included in the charge made for such**  
64 **accommodations. Any person required to remit sales tax on**  
65 **such purchases prior to August 28, 2022, shall be entitled**  
66 **to a refund on such taxes remitted;**

67           **(13)** The transfer of a manufactured home other than:

68           (a) A transfer which involves the delivery of the  
69 document known as the "Manufacturer's Statement of Origin"  
70 to a person other than a manufactured home dealer, as

71 defined in section 700.010, for purposes of allowing such  
72 person to obtain a title to the manufactured home from the  
73 department of revenue of this state or the appropriate  
74 agency or officer of any other state;

75 (b) A transfer which involves the delivery of a  
76 "Repossessed Title" to a resident of this state if the tax  
77 imposed by this chapter was not paid on the transfer of the  
78 manufactured home described in paragraph (a) of this  
79 subdivision;

80 (c) The first transfer which occurs after December 31,  
81 1985, if the tax imposed by this chapter was not paid on any  
82 transfer of the same manufactured home which occurred before  
83 December 31, 1985; or

84 [(13)] (14) Charges for initiation fees or dues to:

85 (a) Fraternal beneficiaries societies, or domestic  
86 fraternal societies, orders or associations operating under  
87 the lodge system a substantial part of the activities of  
88 which are devoted to religious, charitable, scientific,  
89 literary, educational or fraternal purposes;

90 (b) Posts or organizations of past or present members  
91 of the Armed Forces of the United States or an auxiliary  
92 unit or society of, or a trust or foundation for, any such  
93 post or organization substantially all of the members of  
94 which are past or present members of the Armed Forces of the  
95 United States or who are cadets, spouses, widows, or  
96 widowers of past or present members of the Armed Forces of  
97 the United States, no part of the net earnings of which  
98 inures to the benefit of any private shareholder or  
99 individual; or

100 (c) Nonprofit organizations exempt from taxation under  
101 Section 501(c)(7) of the Internal Revenue Code of 1986, as  
102 amended.

103           2. The assumption of liabilities of the transferor by  
104 the transferee incident to any of the transactions  
105 enumerated in the above subdivisions (1) to (8) of  
106 subsection 1 of this section shall not disqualify the  
107 transfer from the exclusion described in this section, where  
108 such liability assumption is related to the property  
109 transferred and where the assumption does not have as its  
110 principal purpose the avoidance of Missouri sales or use tax.

          144.030. 1. There is hereby specifically exempted  
2 from the provisions of sections 144.010 to 144.525 and from  
3 the computation of the tax levied, assessed or payable  
4 pursuant to sections 144.010 to 144.525 such retail sales as  
5 may be made in commerce between this state and any other  
6 state of the United States, or between this state and any  
7 foreign country, and any retail sale which the state of  
8 Missouri is prohibited from taxing pursuant to the  
9 Constitution or laws of the United States of America, and  
10 such retail sales of tangible personal property which the  
11 general assembly of the state of Missouri is prohibited from  
12 taxing or further taxing by the constitution of this state.

13           2. There are also specifically exempted from the  
14 provisions of the local sales tax law as defined in section  
15 32.085, section 238.235, and sections 144.010 to 144.525 and  
16 144.600 to 144.761 and from the computation of the tax  
17 levied, assessed or payable pursuant to the local sales tax  
18 law as defined in section 32.085, section 238.235, and  
19 sections 144.010 to 144.525 and 144.600 to 144.745:

20           (1) Motor fuel or special fuel subject to an excise  
21 tax of this state, unless all or part of such excise tax is  
22 refunded pursuant to section 142.824; or upon the sale at  
23 retail of fuel to be consumed in manufacturing or creating  
24 gas, power, steam, electrical current or in furnishing water



25 to be sold ultimately at retail; or feed for livestock or  
26 poultry; or grain to be converted into foodstuffs which are  
27 to be sold ultimately in processed form at retail; or seed,  
28 limestone or fertilizer which is to be used for seeding,  
29 liming or fertilizing crops which when harvested will be  
30 sold at retail or will be fed to livestock or poultry to be  
31 sold ultimately in processed form at retail; economic  
32 poisons registered pursuant to the provisions of the  
33 Missouri pesticide registration law, sections 281.220 to  
34 281.310, which are to be used in connection with the growth  
35 or production of crops, fruit trees or orchards applied  
36 before, during, or after planting, the crop of which when  
37 harvested will be sold at retail or will be converted into  
38 foodstuffs which are to be sold ultimately in processed form  
39 at retail;

40 (2) Materials, manufactured goods, machinery and parts  
41 which when used in manufacturing, processing, compounding,  
42 mining, producing or fabricating become a component part or  
43 ingredient of the new personal property resulting from such  
44 manufacturing, processing, compounding, mining, producing or  
45 fabricating and which new personal property is intended to  
46 be sold ultimately for final use or consumption; and  
47 materials, including without limitation, gases and  
48 manufactured goods, including without limitation slagging  
49 materials and firebrick, which are ultimately consumed in  
50 the manufacturing process by blending, reacting or  
51 interacting with or by becoming, in whole or in part,  
52 component parts or ingredients of steel products intended to  
53 be sold ultimately for final use or consumption;

54 (3) Materials, replacement parts and equipment  
55 purchased for use directly upon, and for the repair and  
56 maintenance or manufacture of, motor vehicles, watercraft,

57 railroad rolling stock or aircraft engaged as common  
58 carriers of persons or property;

59 (4) Replacement machinery, equipment, and parts and  
60 the materials and supplies solely required for the  
61 installation or construction of such replacement machinery,  
62 equipment, and parts, used directly in manufacturing,  
63 mining, fabricating or producing a product which is intended  
64 to be sold ultimately for final use or consumption; and  
65 machinery and equipment, and the materials and supplies  
66 required solely for the operation, installation or  
67 construction of such machinery and equipment, purchased and  
68 used to establish new, or to replace or expand existing,  
69 material recovery processing plants in this state. For the  
70 purposes of this subdivision, a "material recovery  
71 processing plant" means a facility that has as its primary  
72 purpose the recovery of materials into a usable product or a  
73 different form which is used in producing a new product and  
74 shall include a facility or equipment which are used  
75 exclusively for the collection of recovered materials for  
76 delivery to a material recovery processing plant but shall  
77 not include motor vehicles used on highways. For purposes  
78 of this section, the terms motor vehicle and highway shall  
79 have the same meaning pursuant to section 301.010. For the  
80 purposes of this subdivision, subdivision (5) of this  
81 subsection, and section 144.054, as well as the definition  
82 in subdivision (9) of subsection 1 of section 144.010, the  
83 term "product" includes telecommunications services and the  
84 term "manufacturing" shall include the production, or  
85 production and transmission, of telecommunications  
86 services. The preceding sentence does not make a  
87 substantive change in the law and is intended to clarify  
88 that the term "manufacturing" has included and continues to

89 include the production and transmission of  
90 "telecommunications services", as enacted in this  
91 subdivision and subdivision (5) of this subsection, as well  
92 as the definition in subdivision (9) of subsection 1 of  
93 section 144.010. The preceding two sentences reaffirm  
94 legislative intent consistent with the interpretation of  
95 this subdivision and subdivision (5) of this subsection in  
96 *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d  
97 763 (Mo. banc 2002) and *Southwestern Bell Tel. Co. v.*  
98 *Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), and  
99 accordingly abrogates the Missouri supreme court's  
100 interpretation of those exemptions in *IBM Corporation v.*  
101 *Director of Revenue*, 491 S.W.3d 535 (Mo. banc 2016) to the  
102 extent inconsistent with this section and *Southwestern Bell*  
103 *Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc  
104 2002) and *Southwestern Bell Tel. Co. v. Director of Revenue*,  
105 182 S.W.3d 226 (Mo. banc 2005). The construction and  
106 application of this subdivision as expressed by the Missouri  
107 supreme court in *DST Systems, Inc. v. Director of Revenue*,  
108 43 S.W.3d 799 (Mo. banc 2001); *Southwestern Bell Tel. Co. v.*  
109 *Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and  
110 *Southwestern Bell Tel. Co. v. Director of Revenue*, 182  
111 S.W.3d 226 (Mo. banc 2005), is hereby affirmed. Material  
112 recovery is not the reuse of materials within a  
113 manufacturing process or the use of a product previously  
114 recovered. The material recovery processing plant shall  
115 qualify under the provisions of this section regardless of  
116 ownership of the material being recovered;

117 (5) Machinery and equipment, and parts and the  
118 materials and supplies solely required for the installation  
119 or construction of such machinery and equipment, purchased  
120 and used to establish new or to expand existing

121 manufacturing, mining or fabricating plants in the state if  
122 such machinery and equipment is used directly in  
123 manufacturing, mining or fabricating a product which is  
124 intended to be sold ultimately for final use or  
125 consumption. The construction and application of this  
126 subdivision as expressed by the Missouri supreme court in  
127 *DST Systems, Inc. v. Director of Revenue*, 43 S.W.3d 799 (Mo.  
128 banc 2001); *Southwestern Bell Tel. Co. v. Director of*  
129 *Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and *Southwestern*  
130 *Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo.  
131 banc 2005), is hereby affirmed;

132 (6) Tangible personal property which is used  
133 exclusively in the manufacturing, processing, modification  
134 or assembling of products sold to the United States  
135 government or to any agency of the United States government;

136 (7) Animals or poultry used for breeding or feeding  
137 purposes, or captive wildlife;

138 (8) Newsprint, ink, computers, photosensitive paper  
139 and film, toner, printing plates and other machinery,  
140 equipment, replacement parts and supplies used in producing  
141 newspapers published for dissemination of news to the  
142 general public;

143 (9) The rentals of films, records or any type of sound  
144 or picture transcriptions for public commercial display;

145 (10) Pumping machinery and equipment used to propel  
146 products delivered by pipelines engaged as common carriers;

147 (11) Railroad rolling stock for use in transporting  
148 persons or property in interstate commerce and motor  
149 vehicles licensed for a gross weight of twenty-four thousand  
150 pounds or more or trailers used by common carriers, as  
151 defined in section 390.020, in the transportation of persons  
152 or property;

153           (12) Electrical energy used in the actual primary  
154 manufacture, processing, compounding, mining or producing of  
155 a product, or electrical energy used in the actual secondary  
156 processing or fabricating of the product, or a material  
157 recovery processing plant as defined in subdivision (4) of  
158 this subsection, in facilities owned or leased by the  
159 taxpayer, if the total cost of electrical energy so used  
160 exceeds ten percent of the total cost of production, either  
161 primary or secondary, exclusive of the cost of electrical  
162 energy so used or if the raw materials used in such  
163 processing contain at least twenty-five percent recovered  
164 materials as defined in section 260.200. There shall be a  
165 rebuttable presumption that the raw materials used in the  
166 primary manufacture of automobiles contain at least twenty-  
167 five percent recovered materials. For purposes of this  
168 subdivision, "processing" means any mode of treatment, act  
169 or series of acts performed upon materials to transform and  
170 reduce them to a different state or thing, including  
171 treatment necessary to maintain or preserve such processing  
172 by the producer at the production facility;

173           (13) Anodes which are used or consumed in  
174 manufacturing, processing, compounding, mining, producing or  
175 fabricating and which have a useful life of less than one  
176 year;

177           (14) Machinery, equipment, appliances and devices  
178 purchased or leased and used solely for the purpose of  
179 preventing, abating or monitoring air pollution, and  
180 materials and supplies solely required for the installation,  
181 construction or reconstruction of such machinery, equipment,  
182 appliances and devices;

183           (15) Machinery, equipment, appliances and devices  
184 purchased or leased and used solely for the purpose of

185 preventing, abating or monitoring water pollution, and  
186 materials and supplies solely required for the installation,  
187 construction or reconstruction of such machinery, equipment,  
188 appliances and devices;

189 (16) Tangible personal property purchased by a rural  
190 water district;

191 (17) All amounts paid or charged for admission or  
192 participation or other fees paid by or other charges to  
193 individuals in or for any place of amusement, entertainment  
194 or recreation, games or athletic events, including museums,  
195 fairs, zoos and planetariums, owned or operated by a  
196 municipality or other political subdivision where all the  
197 proceeds derived therefrom benefit the municipality or other  
198 political subdivision and do not inure to any private  
199 person, firm, or corporation, provided, however, that a  
200 municipality or other political subdivision may enter into  
201 revenue-sharing agreements with private persons, firms, or  
202 corporations providing goods or services, including  
203 management services, in or for the place of amusement,  
204 entertainment or recreation, games or athletic events, and  
205 provided further that nothing in this subdivision shall  
206 exempt from tax any amounts retained by any private person,  
207 firm, or corporation under such revenue-sharing agreement;

208 (18) All sales of insulin, and all sales, rentals,  
209 repairs, and parts of durable medical equipment, prosthetic  
210 devices, and orthopedic devices as defined on January 1,  
211 1980, by the federal Medicare program pursuant to Title  
212 XVIII of the Social Security Act of 1965, including the  
213 items specified in Section 1862(a)(12) of that act, and also  
214 specifically including hearing aids and hearing aid supplies  
215 and all sales of drugs which may be legally dispensed by a  
216 licensed pharmacist only upon a lawful prescription of a

217 practitioner licensed to administer those items, including  
218 samples and materials used to manufacture samples which may  
219 be dispensed by a practitioner authorized to dispense such  
220 samples and all sales or rental of medical oxygen, home  
221 respiratory equipment and accessories including parts, and  
222 hospital beds and accessories and ambulatory aids including  
223 parts, and all sales or rental of manual and powered  
224 wheelchairs including parts, and stairway lifts, Braille  
225 writers, electronic Braille equipment and, if purchased or  
226 rented by or on behalf of a person with one or more physical  
227 or mental disabilities to enable them to function more  
228 independently, all sales or rental of scooters including  
229 parts, and reading machines, electronic print enlargers and  
230 magnifiers, electronic alternative and augmentative  
231 communication devices, and items used solely to modify motor  
232 vehicles to permit the use of such motor vehicles by  
233 individuals with disabilities or sales of over-the-counter  
234 or nonprescription drugs to individuals with disabilities,  
235 and drugs required by the Food and Drug Administration to  
236 meet the over-the-counter drug product labeling requirements  
237 in 21 CFR 201.66, or its successor, as prescribed by a  
238 health care practitioner licensed to prescribe;

239 (19) All sales made by or to religious and charitable  
240 organizations and institutions in their religious,  
241 charitable or educational functions and activities and all  
242 sales made by or to all elementary and secondary schools  
243 operated at public expense in their educational functions  
244 and activities;

245 (20) All sales of aircraft to common carriers for  
246 storage or for use in interstate commerce and all sales made  
247 by or to not-for-profit civic, social, service or fraternal  
248 organizations, including fraternal organizations which have

249 been declared tax-exempt organizations pursuant to Section  
250 501(c) (8) or (10) of the 1986 Internal Revenue Code, as  
251 amended, in their civic or charitable functions and  
252 activities and all sales made to eleemosynary and penal  
253 institutions and industries of the state, and all sales made  
254 to any private not-for-profit institution of higher  
255 education not otherwise excluded pursuant to subdivision  
256 (19) of this subsection or any institution of higher  
257 education supported by public funds, and all sales made to a  
258 state relief agency in the exercise of relief functions and  
259 activities;

260 (21) All ticket sales made by benevolent, scientific  
261 and educational associations which are formed to foster,  
262 encourage, and promote progress and improvement in the  
263 science of agriculture and in the raising and breeding of  
264 animals, and by nonprofit summer theater organizations if  
265 such organizations are exempt from federal tax pursuant to  
266 the provisions of the Internal Revenue Code and all  
267 admission charges and entry fees to the Missouri state fair  
268 or any fair conducted by a county agricultural and  
269 mechanical society organized and operated pursuant to  
270 sections 262.290 to 262.530;

271 (22) All sales made to any private not-for-profit  
272 elementary or secondary school, all sales of feed additives,  
273 medications or vaccines administered to livestock or poultry  
274 in the production of food or fiber, all sales of pesticides  
275 used in the production of crops, livestock or poultry for  
276 food or fiber, all sales of bedding used in the production  
277 of livestock or poultry for food or fiber, all sales of  
278 propane or natural gas, electricity or diesel fuel used  
279 exclusively for drying agricultural crops, natural gas used  
280 in the primary manufacture or processing of fuel ethanol as



281 defined in section 142.028, natural gas, propane, and  
282 electricity used by an eligible new generation cooperative  
283 or an eligible new generation processing entity as defined  
284 in section 348.432, and all sales of farm machinery and  
285 equipment, other than airplanes, motor vehicles and  
286 trailers, and any freight charges on any exempt item. As  
287 used in this subdivision, the term "feed additives" means  
288 tangible personal property which, when mixed with feed for  
289 livestock or poultry, is to be used in the feeding of  
290 livestock or poultry. As used in this subdivision, the term  
291 "pesticides" includes adjuvants such as crop oils,  
292 surfactants, wetting agents and other assorted pesticide  
293 carriers used to improve or enhance the effect of a  
294 pesticide and the foam used to mark the application of  
295 pesticides and herbicides for the production of crops,  
296 livestock or poultry. As used in this subdivision, the term  
297 "farm machinery and equipment" means new or used farm  
298 tractors and such other new or used farm machinery and  
299 equipment and repair or replacement parts thereon and any  
300 accessories for and upgrades to such farm machinery and  
301 equipment, rotary mowers used exclusively for agricultural  
302 purposes, and supplies and lubricants used exclusively,  
303 solely, and directly for producing crops, raising and  
304 feeding livestock, fish, poultry, pheasants, chukar, quail,  
305 or for producing milk for ultimate sale at retail, including  
306 field drain tile, and one-half of each purchaser's purchase  
307 of diesel fuel therefor which is:

- 308 (a) Used exclusively for agricultural purposes;  
309 (b) Used on land owned or leased for the purpose of  
310 producing farm products; and  
311 (c) Used directly in producing farm products to be  
312 sold ultimately in processed form or otherwise at retail or

313 in producing farm products to be fed to livestock or poultry  
314 to be sold ultimately in processed form at retail;

315 (23) Except as otherwise provided in section 144.032,  
316 all sales of metered water service, electricity, electrical  
317 current, natural, artificial or propane gas, wood, coal or  
318 home heating oil for domestic use and in any city not within  
319 a county, all sales of metered or unmetered water service  
320 for domestic use:

321 (a) "Domestic use" means that portion of metered water  
322 service, electricity, electrical current, natural,  
323 artificial or propane gas, wood, coal or home heating oil,  
324 and in any city not within a county, metered or unmetered  
325 water service, which an individual occupant of a residential  
326 premises uses for nonbusiness, noncommercial or  
327 nonindustrial purposes. Utility service through a single or  
328 master meter for residential apartments or condominiums,  
329 including service for common areas and facilities and vacant  
330 units, shall be deemed to be for domestic use. Each seller  
331 shall establish and maintain a system whereby individual  
332 purchases are determined as exempt or nonexempt;

333 (b) Regulated utility sellers shall determine whether  
334 individual purchases are exempt or nonexempt based upon the  
335 seller's utility service rate classifications as contained  
336 in tariffs on file with and approved by the Missouri public  
337 service commission. Sales and purchases made pursuant to  
338 the rate classification "residential" and sales to and  
339 purchases made by or on behalf of the occupants of  
340 residential apartments or condominiums through a single or  
341 master meter, including service for common areas and  
342 facilities and vacant units, shall be considered as sales  
343 made for domestic use and such sales shall be exempt from  
344 sales tax. Sellers shall charge sales tax upon the entire

345 amount of purchases classified as nondomestic use. The  
346 seller's utility service rate classification and the  
347 provision of service thereunder shall be conclusive as to  
348 whether or not the utility must charge sales tax;

349 (c) Each person making domestic use purchases of  
350 services or property and who uses any portion of the  
351 services or property so purchased for a nondomestic use  
352 shall, by the fifteenth day of the fourth month following  
353 the year of purchase, and without assessment, notice or  
354 demand, file a return and pay sales tax on that portion of  
355 nondomestic purchases. Each person making nondomestic  
356 purchases of services or property and who uses any portion  
357 of the services or property so purchased for domestic use,  
358 and each person making domestic purchases on behalf of  
359 occupants of residential apartments or condominiums through  
360 a single or master meter, including service for common areas  
361 and facilities and vacant units, under a nonresidential  
362 utility service rate classification may, between the first  
363 day of the first month and the fifteenth day of the fourth  
364 month following the year of purchase, apply for credit or  
365 refund to the director of revenue and the director shall  
366 give credit or make refund for taxes paid on the domestic  
367 use portion of the purchase. The person making such  
368 purchases on behalf of occupants of residential apartments  
369 or condominiums shall have standing to apply to the director  
370 of revenue for such credit or refund;

371 (24) All sales of handicraft items made by the seller  
372 or the seller's spouse if the seller or the seller's spouse  
373 is at least sixty-five years of age, and if the total gross  
374 proceeds from such sales do not constitute a majority of the  
375 annual gross income of the seller;

376           (25) Excise taxes, collected on sales at retail,  
377 imposed by Sections 4041, 4071, 4081, 4091, 4161, 4181,  
378 4251, 4261 and 4271 of Title 26, United States Code. The  
379 director of revenue shall promulgate rules pursuant to  
380 chapter 536 to eliminate all state and local sales taxes on  
381 such excise taxes;

382           (26) Sales of fuel consumed or used in the operation  
383 of ships, barges, or waterborne vessels which are used  
384 primarily in or for the transportation of property or cargo,  
385 or the conveyance of persons for hire, on navigable rivers  
386 bordering on or located in part in this state, if such fuel  
387 is delivered by the seller to the purchaser's barge, ship,  
388 or waterborne vessel while it is afloat upon such river;

389           (27) All sales made to an interstate compact agency  
390 created pursuant to sections 70.370 to 70.441 or sections  
391 238.010 to 238.100 in the exercise of the functions and  
392 activities of such agency as provided pursuant to the  
393 compact;

394           (28) Computers, computer software and computer  
395 security systems purchased for use by architectural or  
396 engineering firms headquartered in this state. For the  
397 purposes of this subdivision, "headquartered in this state"  
398 means the office for the administrative management of at  
399 least four integrated facilities operated by the taxpayer is  
400 located in the state of Missouri;

401           (29) All livestock sales when either the seller is  
402 engaged in the growing, producing or feeding of such  
403 livestock, or the seller is engaged in the business of  
404 buying and selling, bartering or leasing of such livestock;

405           (30) All sales of barges which are to be used  
406 primarily in the transportation of property or cargo on  
407 interstate waterways;

408           (31) Electrical energy or gas, whether natural,  
409 artificial or propane, water, or other utilities which are  
410 ultimately consumed in connection with the manufacturing of  
411 cellular glass products or in any material recovery  
412 processing plant as defined in subdivision (4) of this  
413 subsection;

414           (32) Notwithstanding other provisions of law to the  
415 contrary, all sales of pesticides or herbicides used in the  
416 production of crops, aquaculture, livestock or poultry;

417           (33) Tangible personal property and utilities  
418 purchased for use or consumption directly or exclusively in  
419 the research and development of agricultural/biotechnology  
420 and plant genomics products and prescription pharmaceuticals  
421 consumed by humans or animals;

422           (34) All sales of grain bins for storage of grain for  
423 resale;

424           (35) All sales of feed which are developed for and  
425 used in the feeding of pets owned by a commercial breeder  
426 when such sales are made to a commercial breeder, as defined  
427 in section 273.325, and licensed pursuant to sections  
428 273.325 to 273.357;

429           (36) All purchases by a contractor on behalf of an  
430 entity located in another state, provided that the entity is  
431 authorized to issue a certificate of exemption for purchases  
432 to a contractor under the provisions of that state's laws.  
433 For purposes of this subdivision, the term "certificate of  
434 exemption" shall mean any document evidencing that the  
435 entity is exempt from sales and use taxes on purchases  
436 pursuant to the laws of the state in which the entity is  
437 located. Any contractor making purchases on behalf of such  
438 entity shall maintain a copy of the entity's exemption  
439 certificate as evidence of the exemption. If the exemption

440 certificate issued by the exempt entity to the contractor is  
441 later determined by the director of revenue to be invalid  
442 for any reason and the contractor has accepted the  
443 certificate in good faith, neither the contractor or the  
444 exempt entity shall be liable for the payment of any taxes,  
445 interest and penalty due as the result of use of the invalid  
446 exemption certificate. Materials shall be exempt from all  
447 state and local sales and use taxes when purchased by a  
448 contractor for the purpose of fabricating tangible personal  
449 property which is used in fulfilling a contract for the  
450 purpose of constructing, repairing or remodeling facilities  
451 for the following:

452 (a) An exempt entity located in this state, if the  
453 entity is one of those entities able to issue project  
454 exemption certificates in accordance with the provisions of  
455 section 144.062; or

456 (b) An exempt entity located outside the state if the  
457 exempt entity is authorized to issue an exemption  
458 certificate to contractors in accordance with the provisions  
459 of that state's law and the applicable provisions of this  
460 section;

461 (37) All sales or other transfers of tangible personal  
462 property to a lessor who leases the property under a lease  
463 of one year or longer executed or in effect at the time of  
464 the sale or other transfer to an interstate compact agency  
465 created pursuant to sections 70.370 to 70.441 or sections  
466 238.010 to 238.100;

467 (38) Sales of tickets to any collegiate athletic  
468 championship event that is held in a facility owned or  
469 operated by a governmental authority or commission, a quasi-  
470 governmental agency, a state university or college or by the  
471 state or any political subdivision thereof, including a

472 municipality, and that is played on a neutral site and may  
473 reasonably be played at a site located outside the state of  
474 Missouri. For purposes of this subdivision, "neutral site"  
475 means any site that is not located on the campus of a  
476 conference member institution participating in the event;

477 (39) All purchases by a sports complex authority  
478 created under section 64.920, and all sales of utilities by  
479 such authority at the authority's cost that are consumed in  
480 connection with the operation of a sports complex leased to  
481 a professional sports team;

482 (40) All materials, replacement parts, and equipment  
483 purchased for use directly upon, and for the modification,  
484 replacement, repair, and maintenance of aircraft, aircraft  
485 power plants, and aircraft accessories;

486 (41) Sales of sporting clays, wobble, skeet, and trap  
487 targets to any shooting range or similar places of business  
488 for use in the normal course of business and money received  
489 by a shooting range or similar places of business from  
490 patrons and held by a shooting range or similar place of  
491 business for redistribution to patrons at the conclusion of  
492 a shooting event;

493 (42) All sales of motor fuel, as defined in section  
494 142.800, used in any watercraft, as defined in section  
495 306.010;

496 (43) Any new or used aircraft sold or delivered in  
497 this state to a person who is not a resident of this state  
498 or a corporation that is not incorporated in this state, and  
499 such aircraft is not to be based in this state and shall not  
500 remain in this state more than ten business days subsequent  
501 to the last to occur of:

502 (a) The transfer of title to the aircraft to a person  
503 who is not a resident of this state or a corporation that is  
504 not incorporated in this state; or

505 (b) The date of the return to service of the aircraft  
506 in accordance with 14 CFR 91.407 for any maintenance,  
507 preventive maintenance, rebuilding, alterations, repairs, or  
508 installations that are completed contemporaneously with the  
509 transfer of title to the aircraft to a person who is not a  
510 resident of this state or a corporation that is not  
511 incorporated in this state;

512 (44) Motor vehicles registered in excess of fifty-four  
513 thousand pounds, and the trailers pulled by such motor  
514 vehicles, that are actually used in the normal course of  
515 business to haul property on the public highways of the  
516 state, and that are capable of hauling loads commensurate  
517 with the motor vehicle's registered weight; and the  
518 materials, replacement parts, and equipment purchased for  
519 use directly upon, and for the repair and maintenance or  
520 manufacture of such vehicles. For purposes of this  
521 subdivision, "motor vehicle" and "public highway" shall have  
522 the meaning as ascribed in section 390.020;

523 (45) All internet access or the use of internet access  
524 regardless of whether the tax is imposed on a provider of  
525 internet access or a buyer of internet access. For purposes  
526 of this subdivision, the following terms shall mean:

527 (a) "Direct costs", costs incurred by a governmental  
528 authority solely because of an internet service provider's  
529 use of the public right-of-way. The term shall not include  
530 costs that the governmental authority would have incurred if  
531 the internet service provider did not make such use of the  
532 public right-of-way. Direct costs shall be determined in a



533 manner consistent with generally accepted accounting  
534 principles;

535 (b) "Internet", computer and telecommunications  
536 facilities, including equipment and operating software, that  
537 comprises the interconnected worldwide network that employ  
538 the transmission control protocol or internet protocol, or  
539 any predecessor or successor protocols to that protocol, to  
540 communicate information of all kinds by wire or radio;

541 (c) "Internet access", a service that enables users to  
542 connect to the internet to access content, information, or  
543 other services without regard to whether the service is  
544 referred to as telecommunications, communications,  
545 transmission, or similar services, and without regard to  
546 whether a provider of the service is subject to regulation  
547 by the Federal Communications Commission as a common carrier  
548 under 47 U.S.C. Section 201, et seq. For purposes of this  
549 subdivision, internet access also includes: the purchase,  
550 use, or sale of communications services, including  
551 telecommunications services as defined in section 144.010,  
552 to the extent the communications services are purchased,  
553 used, or sold to provide the service described in this  
554 subdivision or to otherwise enable users to access content,  
555 information, or other services offered over the internet;  
556 services that are incidental to the provision of a service  
557 described in this subdivision, when furnished to users as  
558 part of such service, including a home page, electronic  
559 mail, and instant messaging, including voice-capable and  
560 video-capable electronic mail and instant messaging, video  
561 clips, and personal electronic storage capacity; a home page  
562 electronic mail and instant messaging, including voice-  
563 capable and video-capable electronic mail and instant  
564 messaging, video clips, and personal electronic storage

565 capacity that are provided independently or that are not  
566 packed with internet access. As used in this subdivision,  
567 internet access does not include voice, audio, and video  
568 programming or other products and services, except services  
569 described in this paragraph or this subdivision, that use  
570 internet protocol or any successor protocol and for which  
571 there is a charge, regardless of whether the charge is  
572 separately stated or aggregated with the charge for services  
573 described in this paragraph or this subdivision;

574 (d) "Tax", any charge imposed by the state or a  
575 political subdivision of the state for the purpose of  
576 generating revenues for governmental purposes and that is  
577 not a fee imposed for a specific privilege, service, or  
578 benefit conferred, except as described as otherwise under  
579 this subdivision, or any obligation imposed on a seller to  
580 collect and to remit to the state or a political subdivision  
581 of the state any gross retail tax, sales tax, or use tax  
582 imposed on a buyer by such a governmental entity. The term  
583 tax shall not include any franchise fee or similar fee  
584 imposed or authorized under section 67.1830 or 67.2689;  
585 Section 622 or 653 of the Communications Act of 1934, 47  
586 U.S.C. Section 542 and 47 U.S.C. Section 573; or any other  
587 fee related to obligations of telecommunications carriers  
588 under the Communications Act of 1934, 47 U.S.C. Section 151,  
589 et seq., except to the extent that:

590 a. The fee is not imposed for the purpose of  
591 recovering direct costs incurred by the franchising or other  
592 governmental authority from providing the specific  
593 privilege, service, or benefit conferred to the payer of the  
594 fee; or

595 b. The fee is imposed for the use of a public right-of-  
596 way based on a percentage of the service revenue, and the

597 fee exceeds the incremental direct costs incurred by the  
598 governmental authority associated with the provision of that  
599 right-of-way to the provider of internet access service.

600 Nothing in this subdivision shall be interpreted as an  
601 exemption from taxes due on goods or services that were  
602 subject to tax on January 1, 2016;

603 **(46) All purchases by a company of solar photovoltaic**  
604 **energy systems, components used to construct a solar**  
605 **photovoltaic energy system, and all purchases of materials**  
606 **and supplies used directly to construct or make improvements**  
607 **to such systems, provided that such systems:**

608 **(a) Are sold or leased to an end user; or**

609 **(b) Are used to produce, collect and transmit**  
610 **electricity for resale or retail.**

611 3. Any ruling, agreement, or contract, whether written  
612 or oral, express or implied, between a person and this  
613 state's executive branch, or any other state agency or  
614 department, stating, agreeing, or ruling that such person is  
615 not required to collect sales and use tax in this state  
616 despite the presence of a warehouse, distribution center, or  
617 fulfillment center in this state that is owned or operated  
618 by the person or an affiliated person shall be null and void  
619 unless it is specifically approved by a majority vote of  
620 each of the houses of the general assembly. For purposes of  
621 this subsection, an "affiliated person" means any person  
622 that is a member of the same controlled group of  
623 corporations as defined in Section 1563(a) of the Internal  
624 Revenue Code of 1986, as amended, as the vendor or any other  
625 entity that, notwithstanding its form of organization, bears  
626 the same ownership relationship to the vendor as a  
627 corporation that is a member of the same controlled group of

628 corporations as defined in Section 1563(a) of the Internal  
629 Revenue Code, as amended.

386.266. 1. Subject to the requirements of this  
2 section, any electrical corporation may make an application  
3 to the commission to approve rate schedules authorizing an  
4 interim energy charge, or periodic rate adjustments outside  
5 of general rate proceedings to reflect increases and  
6 decreases in its prudently incurred fuel and purchased-power  
7 costs, including transportation. The commission may, in  
8 accordance with existing law, include in such rate schedules  
9 features designed to provide the electrical corporation with  
10 incentives to improve the efficiency and cost-effectiveness  
11 of its fuel and purchased-power procurement activities.

12 2. Subject to the requirements of this section, any  
13 electrical, gas, or water corporation may make an  
14 application to the commission to approve rate schedules  
15 authorizing periodic rate adjustments outside of general  
16 rate proceedings to reflect increases and decreases in its  
17 prudently incurred costs, whether capital or expense, to  
18 comply with any federal, state, or local environmental law,  
19 regulation, or rule. Any rate adjustment made under such  
20 rate schedules shall not exceed an annual amount equal to  
21 two and one-half percent of the electrical, gas, or water  
22 corporation's Missouri gross jurisdictional revenues,  
23 excluding gross receipts tax, sales tax and other similar  
24 pass-through taxes not included in tariffed rates, for  
25 regulated services as established in the utility's most  
26 recent general rate case or complaint proceeding. In  
27 addition to the rate adjustment, the electrical, gas, or  
28 water corporation shall be permitted to collect any  
29 applicable gross receipts tax, sales tax, or other similar  
30 pass-through taxes, and such taxes shall not be counted

31 against the two and one-half percent rate adjustment cap.  
32 Any costs not recovered as a result of the annual two and  
33 one-half percent limitation on rate adjustments may be  
34 deferred, at a carrying cost each month equal to the  
35 utilities net of tax cost of capital, for recovery in a  
36 subsequent year or in the corporation's next general rate  
37 case or complaint proceeding.

38 3. Subject to the requirements of this section, any  
39 gas or electrical corporation may make an application to the  
40 commission to approve rate schedules authorizing periodic  
41 rate adjustments outside of general rate proceedings to  
42 adjust rates of customers in eligible customer classes to  
43 account for the impact on utility revenues of increases or  
44 decreases in residential and commercial customer usage due  
45 to variations in either weather, conservation, or both. [No

46 electrical corporation shall make an application to the  
47 commission under this subsection if such corporation has  
48 provided notice to the commission under subsection 5 of  
49 section 393.1400.] For purposes of this section: for  
50 electrical corporations, "eligible customer classes" means  
51 the residential class and classes that are not demand  
52 metered; and for gas corporations, "eligible customer  
53 classes" means the residential class and the smallest  
54 general service class. As used in this subsection,  
55 "revenues" means the revenues recovered through base rates,  
56 and does not include revenues collected through a rate  
57 adjustment mechanism authorized by this section or any other  
58 provisions of law. This subsection shall apply to  
59 electrical corporations beginning January 1, 2019, and shall  
60 expire for electrical corporations on January 1, 2029. **An**  
61 **electrical corporation may make a one-time application to**  
62 **the commission under this subsection if such corporation has**

63 provided notice to the commission under subsection 5 of  
64 section 393.1400, provided the corporation shall not  
65 concurrently utilize electric rate adjustments under this  
66 subsection and the deferrals set forth in subsection 5 of  
67 section 393.1400.

68 4. Subject to the requirements of this section, a  
69 water corporation with more than eight thousand Missouri  
70 retail customers may make an application to the commission  
71 to approve rate schedules authorizing periodic rate  
72 adjustments outside of general rate proceedings to ensure  
73 revenues billed by such water corporation for regulated  
74 services equal the revenue requirement for regulated  
75 services as established in the water corporation's most  
76 recent general rate proceeding or complaint proceeding,  
77 excluding any other commission-approved surcharges and gross  
78 receipts tax, sales tax, and other similar pass-through  
79 taxes not included in tariffed rates, due to any revenue  
80 variation resulting from increases or decreases in  
81 residential, commercial, public authority, and sale for  
82 resale usage.

83 5. The commission shall have the power to approve,  
84 modify, or reject adjustment mechanisms submitted under  
85 subsections 1 to 4 of this section only after providing the  
86 opportunity for a full hearing in a general rate proceeding,  
87 including a general rate proceeding initiated by complaint.  
88 The commission may approve such rate schedules after  
89 considering all relevant factors which may affect the costs  
90 or overall rates and charges of the corporation, provided  
91 that it finds that the adjustment mechanism set forth in the  
92 schedules:

93 (1) Is reasonably designed to provide the utility with  
94 a sufficient opportunity to earn a fair return on equity;

95           (2) Includes provisions for an annual true-up which  
96 shall accurately and appropriately remedy any over- or under-  
97 collections, including interest at the utility's short-term  
98 borrowing rate, through subsequent rate adjustments or  
99 refunds;

100           (3) In the case of an adjustment mechanism submitted  
101 under subsections 1 and 2 of this section, includes  
102 provisions requiring that the utility file a general rate  
103 case with the effective date of new rates to be no later  
104 than four years after the effective date of the commission  
105 order implementing the adjustment mechanism. However, with  
106 respect to each mechanism, the four-year period shall not  
107 include any periods in which the utility is prohibited from  
108 collecting any charges under the adjustment mechanism, or  
109 any period for which charges collected under the adjustment  
110 mechanism must be fully refunded. In the event a court  
111 determines that the adjustment mechanism is unlawful and all  
112 moneys collected thereunder are fully refunded, the utility  
113 shall be relieved of any obligation under that adjustment  
114 mechanism to file a rate case;

115           (4) In the case of an adjustment mechanism submitted  
116 under subsection 1 or 2 of this section, includes provisions  
117 for prudence reviews of the costs subject to the adjustment  
118 mechanism no less frequently than at eighteen-month  
119 intervals, and shall require refund of any imprudently  
120 incurred costs plus interest at the utility's short-term  
121 borrowing rate.

122           6. Once such an adjustment mechanism is approved by  
123 the commission under this section, it shall remain in effect  
124 until such time as the commission authorizes the  
125 modification, extension, or discontinuance of the mechanism  
126 in a general rate case or complaint proceeding.

127           7. Any amounts charged under any adjustment mechanism  
128 approved by the commission under this section shall be  
129 separately disclosed on each customer bill.

130           8. The commission may take into account any change in  
131 business risk to the corporation resulting from  
132 implementation of the adjustment mechanism in setting the  
133 corporation's allowed return in any rate proceeding, in  
134 addition to any other changes in business risk experienced  
135 by the corporation.

136           9. In the event the commission lawfully approves an  
137 incentive- or performance-based plan, such plan shall be  
138 binding on the commission for the entire term of the plan.  
139 This subsection shall not be construed to authorize or  
140 prohibit any incentive- or performance-based plan.

141           10. Prior to August 28, 2005, for subsections 1 to 3  
142 of this section, and upon August 28, 2018, for subsection 4  
143 of this section, the commission shall have the authority to  
144 promulgate rules under the provisions of chapter 536 as it  
145 deems necessary, to govern the structure, content and  
146 operation of such rate adjustments, and the procedure for  
147 the submission, frequency, examination, hearing and approval  
148 of such rate adjustments. Any electrical, gas, or water  
149 corporation may apply for any adjustment mechanism under  
150 this section whether or not the commission has promulgated  
151 any such rules.

152           11. Nothing contained in this section shall be  
153 construed as affecting any existing adjustment mechanism,  
154 rate schedule, tariff, incentive plan, or other ratemaking  
155 mechanism currently approved and in effect.

156           12. Each of the provisions of this section is  
157 severable. In the event any provision or subsection of this



158 section is deemed unlawful, all remaining provisions shall  
159 remain in effect.

160       13. The provisions of subsections 1 to 3 of this  
161 section shall take effect on January 1, 2006, and the  
162 commission shall have previously promulgated rules to  
163 implement the application process for any rate adjustment  
164 mechanism under subsections 1 to 3 of this section prior to  
165 the commission issuing an order for any such rate adjustment.

166       14. The public service commission shall appoint a task  
167 force, consisting of all interested parties, to study and  
168 make recommendations on the cost recovery and implementation  
169 of conservation and weatherization programs for electrical  
170 and gas corporations.

171       15. (1) Each public utility operating under a  
172 mechanism proposed and approved under subsection 3 of this  
173 section shall quarterly file a surveillance monitoring,  
174 consisting of five parts. Each part, except the rate-base  
175 quantifications report, shall contain information for the  
176 last twelve-month period and the last quarter data for total  
177 company electric operations and Missouri jurisdictional  
178 operations. Rate-base quantifications shall contain only  
179 information for the ending date of the period being reported.

180       (2) Part one of the surveillance monitoring report  
181 shall be the rate-base quantifications report. The  
182 quantification of rate-base items in part one shall be  
183 consistent with the methods or procedures used in the most  
184 recent rate proceeding unless otherwise specified. The  
185 report shall consist of specific rate-base quantifications  
186 of:

- 187       (a) Plant in service;  
188       (b) Reserve for depreciation;  
189       (c) Materials and supplies;

- 190 (d) Cash working capital;
- 191 (e) Fuel inventory, if applicable;
- 192 (f) Prepayments;
- 193 (g) Other regulatory assets;
- 194 (h) Customer advances;
- 195 (i) Customer deposits;
- 196 (j) Accumulated deferred income taxes;
- 197 (k) Any other item included in the electrical
- 198 corporation's rate base in its most recent rate proceeding;
- 199 (l) Net operating income from part three; and
- 200 (m) Calculation of the overall return on rate base.
- 201 (3) Part two of the surveillance monitoring report
- 202 shall be the capitalization quantifications report, which
- 203 shall consist of specific capitalization quantifications of:
- 204 (a) Common stock equity (net);
- 205 (b) Preferred stock, par or stated value outstanding;
- 206 (c) Long-term debt, including current maturities;
- 207 (d) Short-term debt; and
- 208 (e) Weighted cost of capital, including component
- 209 costs.
- 210 (4) Part three of the surveillance monitoring report
- 211 shall be the income statement, which shall consist of an
- 212 income statement containing specific quantification of:
- 213 (a) Operating revenues to include sales to industrial,
- 214 commercial, and residential customers, sales for resale, and
- 215 other components of total operating revenues;
- 216 (b) Operating and maintenance expenses for fuel
- 217 expense, production expenses, purchased power energy and
- 218 capacity, if applicable;
- 219 (c) Transmission expenses;
- 220 (d) Distribution expenses;
- 221 (e) Customer accounts expenses;

- 222 (f) Customer service and information expenses;  
223 (g) Sales expenses;  
224 (h) Administrative and general expenses;  
225 (i) Depreciation, amortization, and decommissioning  
226 expense;  
227 (j) Taxes other than income taxes;  
228 (k) Income taxes; and  
229 (l) Quantification of heating degree and cooling  
230 degree days, actual and normal.

231 (5) Part four of the surveillance monitoring report  
232 shall be the jurisdictional allocation factor report, which  
233 shall consist of a listing of jurisdictional allocation  
234 factors for the rate base, capitalization quantification  
235 reports, and income statement.

236 (6) Part five of the surveillance monitoring report  
237 shall be the financial data notes, which shall consist of  
238 notes to financial data including, but not limited to:

- 239 (a) Out of period adjustments;  
240 (b) Specific quantification of material variances  
241 between actual and budget financial performance;  
242 (c) Material variances between current twelve-month  
243 period and prior twelve-month period revenue;  
244 (d) Expense level of items ordered by the commission  
245 to be tracked under the order establishing the rate  
246 adjustment mechanism;  
247 (e) Budgeted capital projects; and  
248 (f) Events that materially affect debt or equity  
249 surveillance components.

250 (7) This subsection shall expire on January 1, 2029.

**386.885. 1. There is hereby established the "Task  
2 Force on Distributed Energy Resources and Net Metering",  
3 which shall be composed of the following members:**

4           (1) Two members of the senate, with one appointed by  
5 the president pro tempore of the senate and one appointed by  
6 the minority floor leader of the senate;

7           (2) Two members of the house of representatives, with  
8 one appointed by the speaker of the house of representatives  
9 and one appointed by the minority floor leader of the house  
10 of representatives;

11           (3) The director of the division of energy, or his or  
12 her designee, to serve as a member and to provide technical  
13 assistance to the task force;

14           (4) The chair of the public service commission, or his  
15 or her designee, to serve as a member and to provide  
16 technical assistance;

17           (5) The director of the office of public counsel, or  
18 his or her designee, to serve as a member and to provide  
19 technical assistance;

20           (6) A representative from each of the three segments  
21 of the retail electric energy industry appointed by the  
22 president pro tempore of the senate from the respective  
23 nominees submitted by the statewide associations of the  
24 investor-owned electric utilities, rural electric  
25 cooperatives, and municipally-owned electric utilities;

26           (7) One representative of the retail distributed  
27 energy resources industry appointed by the chair of the  
28 public service commission;

29           (8) One representative from an organization that  
30 advocates for policy supporting renewable energy development  
31 appointed by the chair of the public service commission; and

32           (9) One representative from an organization that  
33 advocates for the interests of low-income utility customers  
34 appointed by the chair of the public service commission.

35           2. The task force shall conduct public hearings and  
36 research, and shall compile a report for delivery to the  
37 general assembly by no later than December 31, 2023. Such  
38 report shall include information on the following:

39           (1) A distributed energy resources study, which shall  
40 include a value of solar study along with the practical and  
41 economic benefits, challenges, and drawbacks of increased  
42 distributed energy generation in the state;

43           (2) Potential legislation regarding community solar as  
44 operated by non-utility entities and the fair and equitable  
45 setting of rates between distributed generation and non-  
46 distributed generation consumers; and

47           (3) Potential legislation, including but not limited  
48 to changes to the Net Metering and Easy Connection Act, if  
49 any, that would promote the overall public interest.

50           3. The task force shall meet within thirty days after  
51 its creation and shall organize by selecting a chairperson  
52 and vice chairperson, one of whom shall be a member of the  
53 senate and the other a member of the house of  
54 representatives. Thereafter, the task force may meet as  
55 often as necessary in order to accomplish the tasks assigned  
56 to it. A majority of the task force shall constitute a  
57 quorum, and a majority vote of such quorum shall be required  
58 for any action.

59           4. The staff of house research and senate research  
60 shall provide necessary clerical, research, fiscal, and  
61 legal services to the task force, as the task force may  
62 request.

63           5. The division of energy shall oversee the  
64 distributed energy resources study to be selected and  
65 conducted by an independent and objective expert with input  
66 from the members of the task force. The cost of such study

67 shall be paid for through funds available from federal and  
68 state grants applied for by the division of energy. The  
69 division of energy shall establish procedures for the  
70 submission and non-public disclosure of confidential and  
71 proprietary information.

72 6. The members of the task force shall serve without  
73 compensation, but may be reimbursed for any actual and  
74 necessary expenses incurred in the performance of the task  
75 force's official duties.

76 7. This section shall expire on December 31, 2023, or  
77 at the conclusion of the task force's work, whichever is  
78 sooner.

386.890. 1. This section shall be known and may be  
2 cited as the "Net Metering and Easy Connection Act".

3 2. As used in this section, the following terms shall  
4 mean:

5 (1) "Avoided fuel cost", the current average cost of  
6 fuel for the entity generating electricity, as defined by  
7 the governing body with jurisdiction over any municipal  
8 electric utility, rural electric cooperative as provided in  
9 chapter 394, or electrical corporation as provided in this  
10 chapter;

11 (2) "Commission", the public service commission of the  
12 state of Missouri;

13 (3) "Customer-generator", the owner or operator of a  
14 qualified electric energy generation unit which:

15 (a) Is powered by a renewable energy resource;

16 (b) Has an electrical generating system with a  
17 capacity of not more than one hundred kilowatts;

18 (c) Is located on a premises owned, operated, leased,  
19 or otherwise controlled by the customer-generator;

20 (d) Is interconnected and operates in parallel phase  
21 and synchronization with a retail electric supplier and has  
22 been approved by said retail electric supplier;

23 (e) Is intended primarily to offset part or all of the  
24 customer-generator's own electrical energy requirements;

25 (f) Meets all applicable safety, performance,  
26 interconnection, and reliability standards established by  
27 the National Electrical Code, the National Electrical Safety  
28 Code, the Institute of Electrical and Electronics Engineers,  
29 Underwriters Laboratories, the Federal Energy Regulatory  
30 Commission, and any local governing authorities; and

31 (g) Contains a mechanism that automatically disables  
32 the unit and interrupts the flow of electricity back onto  
33 the supplier's electricity lines in the event that service  
34 to the customer-generator is interrupted;

35 (4) "Department", the department of [economic  
36 development] **natural resources**;

37 (5) "Net metering", using metering equipment  
38 sufficient to measure the difference between the electrical  
39 energy supplied to a customer-generator by a retail electric  
40 supplier and the electrical energy supplied by the customer-  
41 generator to the retail electric supplier over the  
42 applicable billing period;

43 (6) "Renewable energy resources", electrical energy  
44 produced from wind, solar thermal sources, hydroelectric  
45 sources, photovoltaic cells and panels, fuel cells using  
46 hydrogen produced by one of the above-named electrical  
47 energy sources, and other sources of energy that become  
48 available after August 28, 2007, and are certified as  
49 renewable by the department;

50 (7) "Retail electric supplier" or "supplier", any  
51 [municipal] **municipally owned electric utility operating**

52 **under chapter 91**, electrical corporation regulated **by the**  
53 **commission** under this chapter, or rural electric cooperative  
54 **operating** under chapter 394 that provides retail electric  
55 service in this state. **An electrical corporation that**  
56 **operates under a cooperative business plan as described in**  
57 **subsection 2 of section 393.110 shall be deemed to be a**  
58 **rural electric cooperative for purposes of this section.**

59 3. A retail electric supplier shall:

60 (1) Make net metering available to customer-generators  
61 on a first-come, first-served basis until the total rated  
62 generating capacity of net metering systems equals five  
63 percent of the [utility's] **retail electric supplier's** single-  
64 hour peak load during the previous year, after which the  
65 commission for [a public utility] **an electrical corporation**  
66 or the **respective** governing body [for] of other [electric  
67 utilities] **retail electric suppliers** may increase the total  
68 rated generating capacity of net metering systems to an  
69 amount above five percent. However, in a given calendar  
70 year, no retail electric supplier shall be required to  
71 approve any application for interconnection if the total  
72 rated generating capacity of all applications for  
73 interconnection already approved to date by said supplier in  
74 said calendar year equals or exceeds one percent of said  
75 supplier's single-hour peak load for the previous calendar  
76 year;

77 (2) Offer to the customer-generator a tariff or  
78 contract that is identical in electrical energy rates, rate  
79 structure, and monthly charges to the contract or tariff  
80 that the customer would be assigned if the customer were not  
81 an eligible customer-generator but shall not charge the  
82 customer-generator any additional standby, capacity,  
83 interconnection, or other fee or charge that would not



84 otherwise be charged if the customer were not an eligible  
85 customer-generator; and

86 (3) Disclose annually the availability of the net  
87 metering program to each of its customers with the method  
88 and manner of disclosure being at the discretion of the  
89 supplier.

90 4. A customer-generator's facility shall be equipped  
91 with sufficient metering equipment that can measure the net  
92 amount of electrical energy produced or consumed by the  
93 customer-generator. If the customer-generator's existing  
94 meter equipment does not meet these requirements or if it is  
95 necessary for the **retail** electric supplier to install  
96 additional distribution equipment to accommodate the  
97 customer-generator's facility, the customer-generator shall  
98 reimburse the retail electric supplier for the costs to  
99 purchase and install the necessary additional equipment. At  
100 the request of the customer-generator, such costs may be  
101 initially paid for by the retail electric supplier, and any  
102 amount up to the total costs and a reasonable interest  
103 charge may be recovered from the customer-generator over the  
104 course of up to twelve billing cycles. Any subsequent meter  
105 testing, maintenance or meter equipment change necessitated  
106 by the customer-generator shall be paid for by the customer-  
107 generator.

108 5. Consistent with the provisions in this section, the  
109 net electrical energy measurement shall be calculated in the  
110 following manner:

111 (1) For a customer-generator, a retail electric  
112 supplier shall measure the net electrical energy produced or  
113 consumed during the billing period in accordance with normal  
114 metering practices for customers in the same rate class,  
115 either by employing a single, bidirectional meter that

116 measures the amount of electrical energy produced and  
117 consumed, or by employing multiple meters that separately  
118 measure the customer-generator's consumption and production  
119 of electricity;

120 (2) If the electricity supplied by the supplier  
121 exceeds the electricity generated by the customer-generator  
122 during a billing period, the customer-generator shall be  
123 billed for the net electricity supplied by the supplier in  
124 accordance with normal practices for customers in the same  
125 rate class;

126 (3) If the electricity generated by the customer-  
127 generator exceeds the electricity supplied by the supplier  
128 during a billing period, the customer-generator shall be  
129 billed for the appropriate customer charges for that billing  
130 period in accordance with subsection 3 of this section and  
131 shall be credited an amount at least equal to the avoided  
132 fuel cost of the excess kilowatt-hours generated during the  
133 billing period, with this credit applied to the following  
134 billing period;

135 (4) Any credits granted by this subsection shall  
136 expire without any compensation at the earlier of either  
137 twelve months after their issuance or when the customer-  
138 generator disconnects service or terminates the net metering  
139 relationship with the supplier;

140 (5) For any rural electric cooperative under chapter  
141 394, or **[municipal] any municipally owned** utility, upon  
142 agreement of the wholesale generator supplying electric  
143 energy to the retail electric supplier, at the option of the  
144 retail electric supplier, the credit to the customer-  
145 generator may be provided by the wholesale generator.

146 6. (1) Each qualified electric energy generation unit  
147 used by a customer-generator shall meet all applicable

148 safety, performance, interconnection, and reliability  
149 standards established by any local code authorities, the  
150 National Electrical Code, the National Electrical Safety  
151 Code, the Institute of Electrical and Electronics Engineers,  
152 and Underwriters Laboratories for distributed generation.  
153 No supplier shall impose any fee, charge, or other  
154 requirement not specifically authorized by this section or  
155 the rules promulgated under subsection 9 of this section  
156 unless the fee, charge, or other requirement would apply to  
157 similarly situated customers who are not customer-  
158 generators, except that a retail electric supplier may  
159 require that a customer-generator's system contain a switch,  
160 circuit breaker, fuse, or other easily accessible device or  
161 feature located in immediate proximity to the customer-  
162 generator's metering equipment that would allow a utility  
163 worker the ability to manually and instantly disconnect the  
164 unit from the utility's electric distribution system.

165 (2) For systems of ten kilowatts or less, a customer-  
166 generator whose system meets the standards and rules under  
167 subdivision (1) of this subsection shall not be required to  
168 install additional controls, perform or pay for additional  
169 tests or distribution equipment, or purchase additional  
170 liability insurance beyond what is required under  
171 subdivision (1) of this subsection and subsection 4 of this  
172 section.

173 (3) For customer-generator systems of greater than ten  
174 kilowatts, the commission for [public utilities] **electrical**  
175 **corporations** and the **respective** governing body for other  
176 [utilities] **retail electric suppliers** shall, by rule or  
177 equivalent formal action by each respective governing body:

178 (a) Set forth safety, performance, and reliability  
179 standards and requirements; and

180 (b) Establish the qualifications for exemption from a  
181 requirement to install additional controls, perform or pay  
182 for additional tests or distribution equipment, or purchase  
183 additional liability insurance.

184 7. (1) Applications by a customer-generator for  
185 interconnection of a qualified electric energy generation  
186 unit meeting the requirements of subdivision (3) of  
187 subsection 2 of this section to the distribution system  
188 shall be accompanied by the plan for the customer-  
189 generator's electrical generating system, including but not  
190 limited to a wiring diagram and specifications for the  
191 generating unit, and shall be reviewed and responded to by  
192 the retail electric supplier within thirty days of receipt  
193 for systems ten kilowatts or less and within ninety days of  
194 receipt for all other systems. Prior to the interconnection  
195 of the qualified generation unit to the supplier's system,  
196 the customer-generator will furnish the retail electric  
197 supplier a certification from a qualified professional  
198 electrician or engineer that the installation meets the  
199 requirements of subdivision (1) of subsection 6 of this  
200 section. If the application for interconnection is approved  
201 by the retail electric supplier and the customer-generator  
202 does not complete the interconnection within one year after  
203 receipt of notice of the approval, the approval shall expire  
204 and the customer-generator shall be responsible for filing a  
205 new application.

206 (2) Upon the change in ownership of a qualified  
207 electric energy generation unit, the new customer-generator  
208 shall be responsible for filing a new application under  
209 subdivision (1) of this subsection.

210 8. Each [commission-regulated supplier] **electrical**  
211 **corporation** shall submit an annual net metering report to

212 the commission, and all other [nonregulated] **retail electric**  
213 suppliers shall submit the same report to their respective  
214 governing body and make said report available to a consumer  
215 of the supplier upon request, including the following  
216 information for the previous calendar year:

- 217 (1) The total number of customer-generator facilities;  
218 (2) The total estimated generating capacity of its net-  
219 metered customer-generators; and  
220 (3) The total estimated net kilowatt-hours received  
221 from customer-generators.

222 9. The commission shall, within nine months of January  
223 1, 2008, promulgate initial rules necessary for the  
224 administration of this section for [public utilities]  
225 **electrical corporations**, which shall include regulations  
226 ensuring that simple contracts will be used for  
227 interconnection and net metering. For systems of ten  
228 kilowatts or less, the application process shall use an all-  
229 in-one document that includes a simple interconnection  
230 request, simple procedures, and a brief set of terms and  
231 conditions. Any rule or portion of a rule, as that term is  
232 defined in section 536.010, that is created under the  
233 authority delegated in this section shall become effective  
234 only if it complies with and is subject to all of the  
235 provisions of chapter 536 and, if applicable, section  
236 536.028. This section and chapter 536 are nonseverable and  
237 if any of the powers vested with the general assembly under  
238 chapter 536 to review, to delay the effective date, or to  
239 disapprove and annul a rule are subsequently held  
240 unconstitutional, then the grant of rulemaking authority and  
241 any rule proposed or adopted after August 28, 2007, shall be  
242 invalid and void.

243           10. The governing body of a rural electric cooperative  
244 or municipal utility shall, within nine months of January 1,  
245 2008, adopt policies establishing a simple contract to be  
246 used for interconnection and net metering. For systems of  
247 ten kilowatts or less, the application process shall use an  
248 all-in-one document that includes a simple interconnection  
249 request, simple procedures, and a brief set of terms and  
250 conditions.

251           11. For any cause of action relating to any damages to  
252 property or person caused by the **qualified electric energy**  
253 generation unit of a customer-generator or the  
254 interconnection thereof, the retail electric supplier shall  
255 have no liability absent clear and convincing evidence of  
256 fault on the part of the supplier.

257           12. The estimated generating capacity of all net  
258 metering systems operating under the provisions of this  
259 section shall count towards the respective retail electric  
260 supplier's accomplishment of any renewable energy portfolio  
261 target or mandate adopted by the Missouri general assembly.

262           13. The sale of qualified electric **energy** generation  
263 units to any customer-generator shall be subject to the  
264 provisions of sections **407.010 to 407.145 and sections**  
265 **407.700 to 407.720**. The attorney general shall have the  
266 authority to promulgate in accordance with the provisions of  
267 chapter 536 rules regarding mandatory disclosures of  
268 information by sellers of qualified electric **energy**  
269 generation units. Any interested person who believes that  
270 the seller of any **qualified electric energy** generation unit  
271 is misrepresenting the safety or performance standards of  
272 any such systems, or who believes that any electric **energy**  
273 generation unit poses a danger to any property or person,  
274 may report the same to the attorney general, who shall be

275 authorized to investigate such claims and take any necessary  
276 and appropriate actions.

277 14. Any costs incurred under this act by a retail  
278 electric supplier shall be recoverable in that utility's  
279 rate structure.

280 15. No consumer shall connect or operate [an] a  
281 **qualified** electric **energy** generation unit in parallel phase  
282 and synchronization with any retail electric supplier  
283 without written approval by said supplier that all of the  
284 requirements under subdivision (1) of subsection 7 of this  
285 section have been met. For a consumer who violates this  
286 provision, a supplier may immediately and without notice  
287 disconnect the electric facilities of said consumer and  
288 terminate said consumer's electric service.

289 16. The manufacturer of any **qualified** electric **energy**  
290 generation unit used by a customer-generator may be held  
291 liable for any damages to property or person caused by a  
292 defect in the **qualified** electric **energy** generation unit of a  
293 customer-generator.

294 17. The seller, installer, or manufacturer of any  
295 **qualified** electric **energy** generation unit who knowingly  
296 misrepresents the safety aspects of [an] a **qualified**  
297 electric generation unit may be held liable for any damages  
298 to property or person caused by the **qualified** electric  
299 **energy** generation unit of a customer-generator.

393.1072. 1. **There is hereby established the "Task  
2 Force on Fair, Nondiscriminatory Local Taxation Concerning  
3 Solar Energy Systems", which shall be composed of the  
4 following members:**

5 (1) **Three members of the house of representatives,  
6 with not more than two members from the same political party**

7 and each member to be appointed by the speaker of the house  
8 of representatives;

9 (2) Three members of the senate, with not more than  
10 two members from the same political party and each member to  
11 be appointed by the president pro tempore of the senate;

12 (3) Two currently elected county assessors from  
13 Missouri county governments, with one to be appointed by the  
14 speaker of the house of representatives and one to be  
15 appointed by the president pro tempore of the senate;

16 (4) Two representatives from the Missouri state tax  
17 commission to be appointed by the commissioners of the  
18 Missouri state tax commission;

19 (5) Two representatives from a state-wide agricultural  
20 organization, with one to be appointed by the speaker of the  
21 house of representatives and one to be appointed by the  
22 president pro tempore of the senate;

23 (6) Two representatives from the private sector with  
24 experience in utility-scale solar energy development and  
25 operation, with one to be appointed by the speaker of the  
26 house of representatives and one to be appointed by the  
27 president pro tempore of the senate; and

28 (7) One member from an organization that advocates for  
29 policy supporting solar energy appointed by the chair of the  
30 public service commission.

31 2. The task force shall conduct public hearings and  
32 research and compile a report for delivery to the general  
33 assembly before December 31, 2022. Such report shall  
34 include information on the following:

35 (1) The economic benefits and drawbacks of solar  
36 energy systems to local communities and the state;

37 (2) The fair, uniform, and standardized assessment and  
38 taxation of solar energy systems and their connected



39 equipment owned by a retail or wholesale provider of  
40 electricity at the county level in all counties;

41 (3) Compliance with existing federal and state  
42 programs and regulations; and

43 (4) Potential legislation that will provide a uniform  
44 assessment and taxation methodology for solar energy systems  
45 and their connected equipment owned by a retail or wholesale  
46 provider of electricity that will be used in every county of  
47 Missouri.

48 3. The task force shall meet within thirty days after  
49 its creation and shall organize by selecting a chair and  
50 vice chair, one of whom shall be a member of the senate and  
51 the other a member of the house of representatives.  
52 Thereafter, the task force may meet as often as necessary in  
53 order to accomplish the tasks assigned to it. Meetings may  
54 be held by telephone or video conference at the discretion  
55 of the chair. The chair shall designate a person to keep  
56 the records of the task force. A majority of the task force  
57 shall constitute a quorum, and a majority vote of such  
58 quorum shall be required for any action.

59 4. The staff of house research and senate research  
60 shall provide necessary clerical, research, fiscal, and  
61 legal services to the task force as the task force may  
62 request.

63 5. The members of the task force shall serve without  
64 compensation, but any actual and necessary expenses incurred  
65 by the task force, its members, and any staff assigned to  
66 the task force shall be reimbursed.

67 6. This section shall expire on December 31, 2022.

393.1275. 1. The provisions of section 386.020  
2 defining words, phrases, and terms shall apply to and

3 determine the meaning of all such words, phrases, or terms  
4 as used in this section.

5       2. Electrical corporations, gas corporations, sewer  
6 corporations, and water corporations shall defer to a  
7 regulatory asset or liability account any difference in  
8 state or local property tax expenses actually incurred, and  
9 those on which the revenue requirement used to set rates in  
10 the corporation's most recently completed general rate  
11 proceeding was based. The regulatory asset or liability  
12 account balances shall be included in the revenue  
13 requirement used to set rates through an amortization over a  
14 reasonable period of time in such corporation's subsequent  
15 general rate proceedings. The commission shall also adjust  
16 the rate base used to establish the revenue requirement of  
17 such corporation to reflect the unamortized regulatory asset  
18 or liability account balances in such general rate  
19 proceedings. Such expenditures deferred under the  
20 provisions of this section are subject to commission  
21 prudence review in the next general rate proceeding after  
22 deferral.

393.1400. 1. For purposes of this section, the  
2 following terms shall mean:

- 3       (1) "Commission", the public service commission;
- 4       (2) "Electrical corporation", the same as defined in  
5 section 386.020, but shall not include an electrical  
6 corporation as described in subsection 2 of section 393.110;
- 7       (3) "Qualifying electric plant", all rate-base  
8 additions, except rate-base additions for new coal-fired  
9 generating units, new nuclear generating units, new natural  
10 gas units, or rate-base additions that increase revenues by  
11 allowing service to new customer premises;

12 (4) "Rate-base cutoff date", the date rate-base  
13 additions are accounted for in a general rate proceeding.  
14 In the absence of a commission order that specifies the rate-  
15 base cutoff date, such date as reflected in any jointly  
16 proposed procedural schedule submitted by the parties in the  
17 applicable general rate proceeding, or as otherwise agreed  
18 to by such parties, shall be used;

19 (5) "Weighted average cost of capital", the return on  
20 rate base used to determine the revenue requirement in the  
21 electrical corporation's most recently completed general  
22 rate proceeding; provided, that in the absence of a  
23 commission determination of the return on rate base within  
24 the three-year period prior to August 28, [2018] 2022, the  
25 weighted average cost of capital shall be determined using  
26 the electrical corporation's actual capital structure as of  
27 December 31, [2017] 2021, excluding short-term debt, the  
28 electrical corporation's actual cost of long-term debt and  
29 preferred stock as of December 31, [2017] 2021, and a cost  
30 of common equity of nine and one-half percent.

31 2. (1) Notwithstanding any other provision of this  
32 chapter to the contrary, electrical corporations shall defer  
33 to a regulatory asset eighty-five percent of all  
34 depreciation expense and return associated with all  
35 qualifying electric plant recorded to plant-in-service on  
36 the utility's books commencing on or after August 28, 2018,  
37 if the electrical corporation has made the election provided  
38 for by subsection 5 of this section by that date, or on the  
39 date such election is made if the election is made after  
40 August 28, 2018. In each general rate proceeding concluded  
41 after August 28, 2018, the balance of the regulatory asset  
42 as of the rate-base cutoff date shall, **subject only to the**  
43 **cap provided for in section 393.1655 or section 393.1656, as**

44 **applicable**, be included in the electrical corporation's rate  
45 base without any offset, reduction, or adjustment based upon  
46 consideration of any other factor, other than as provided  
47 for in subdivision (2) of this subsection, with the  
48 regulatory asset balance arising from deferrals associated  
49 with qualifying electric plant placed in service after the  
50 rate-base cutoff date to be included in rate base in the  
51 next general rate proceeding. The expiration of this  
52 section shall not affect the continued inclusion in rate  
53 base and amortization of regulatory asset balances that  
54 arose under this section prior to such expiration.

55 (2) The regulatory asset balances arising under this  
56 section shall be adjusted to reflect any prudence  
57 disallowances ordered by the commission. The provisions of  
58 this section shall not be construed to affect existing law  
59 respecting the burdens of production and persuasion in  
60 general rate proceedings for rate-base additions.

61 (3) Parts of regulatory asset balances created under  
62 this section that are not yet being recovered through rates  
63 shall include carrying costs at the electrical corporation's  
64 weighted average cost of capital, plus applicable federal,  
65 state, and local income or excise taxes. Regulatory asset  
66 balances arising under this section and included in rate  
67 base shall be recovered in rates through a twenty-year  
68 amortization beginning on the date new rates reflecting such  
69 amortization take effect.

70 3. (1) Depreciation expense deferred under this  
71 section shall account for all qualifying electric plant  
72 placed into service less retirements of plant replaced by  
73 such qualifying electric plant.

74 (2) Return deferred under this section shall be  
75 determined using the weighted average cost of capital

76 applied to the change in plant-related rate base caused by  
77 the qualifying electric plant, plus applicable federal,  
78 state, and local income or excise taxes. In determining the  
79 return deferred, the electrical corporation shall account  
80 for changes in all plant-related accumulated deferred income  
81 taxes and changes in accumulated depreciation, excluding  
82 retirements.

83 4. Beginning February 28, 2019, and by each February  
84 twenty-eighth thereafter while the electrical corporation is  
85 allowed to make the deferrals provided for by subsection 2  
86 of this section, electrical corporations that defer  
87 depreciation expense and return authorized under this  
88 section shall submit to the commission a five-year capital  
89 investment plan setting forth the general categories of  
90 capital expenditures the electrical corporation will pursue  
91 in furtherance of replacing, modernizing, and securing its  
92 infrastructure. The plan shall also include a specific  
93 capital investment plan for the first year of the five-year  
94 plan consistent with the level of specificity used for  
95 annual capital budgeting purposes. **For each project in the**  
96 **specific capital investment plan on which construction**  
97 **commences on or after January first of the year in which the**  
98 **plan is submitted, and where the cost of the project is**  
99 **estimated to exceed twenty million dollars, the electrical**  
100 **corporation shall identify all costs and benefits that can**  
101 **be quantitatively evaluated and shall further identify how**  
102 **those costs and benefits are quantified. For any cost or**  
103 **benefit with respect to such a project that the electrical**  
104 **corporation believes cannot be quantitatively evaluated, the**  
105 **electrical corporation shall state the reasons the cost or**  
106 **benefit cannot be quantitatively evaluated, and how the**  
107 **electrical corporation addresses such costs and benefits**

108 **when reviewing and deciding to pursue such a project. No**  
109 **such project shall be based solely on costs and benefits**  
110 **that the electrical corporation believes cannot be**  
111 **quantitatively evaluated. Any quantification for such a**  
112 **project that does not produce quantified benefits exceeding**  
113 **the costs shall be accompanied by additional justification**  
114 **in support of the project.** For each of the first five years  
115 that an electrical corporation is allowed to make the  
116 deferrals provided for by subsection 2 of this section, the  
117 purchase and installation of smart meters shall constitute  
118 no more than six percent of the electrical corporation's  
119 total capital expenditures during any given year under the  
120 corporation's specific capital investment plan. At least  
121 twenty-five percent of the cost of each year's capital  
122 investment plan shall be comprised of grid modernization  
123 projects, including but not limited to:

124 (1) Increased use of digital information and controls  
125 technology to improve reliability, security, and efficiency  
126 of the electric grid;

127 (2) Dynamic optimization of grid operations and  
128 resources, with full cybersecurity;

129 (3) Deployment and integration of distributed  
130 resources and generation, including renewable resources;

131 (4) Development and incorporation of demand response,  
132 demand-side resources, and energy-efficiency resources;

133 (5) Deployment of smart technologies (real-time,  
134 automated, interactive technologies that optimize the  
135 physical operation of appliances and consumer devices) for  
136 metering, communications, concerning grid operations and  
137 status, and distribution automation;

138 (6) Integration of smart appliances and devices;

139           (7) Deployment and integration of advanced electricity  
140 storage and peak-shaving technologies, including plug-in  
141 electric and hybrid electric vehicles, and thermal storage  
142 air conditioning;

143           (8) Provision of timely information and control  
144 options to consumer;

145           (9) Development of standards for communication and  
146 interoperability of appliances and equipment connected to  
147 the electric grid, including the infrastructure serving the  
148 grid; and

149           (10) Identification and lowering of unreasonable or  
150 unnecessary barriers to adoption of smart grid technologies,  
151 practices, and services.

152 Project specific information need not be included for the  
153 five-year period covered by the plan. Within thirty days of  
154 the filing of any capital investment plan or annual update  
155 to an existing plan, the electrical corporation shall host a  
156 public stakeholder meeting to answer questions and receive  
157 feedback about the plan. After feedback is received, the  
158 electrical corporation shall file a notice with the  
159 commission of any modifications to the capital investment  
160 plan it has accepted. Changes to the plan, its  
161 implementation, or the level of investments made shall not  
162 constitute evidence of imprudence of the investments made  
163 under such plan. The submission of a capital investment  
164 plan under this section shall not affect in any way the  
165 commission's authority with respect to the grant or denial  
166 of a certificate of convenience and necessity under section  
167 393.170. By February twenty-eighth following each year in  
168 which the electrical corporation submits a capital  
169 investment plan, the electrical corporation shall submit a

170 report to the commission detailing actual capital  
171 investments made the previous year, **the quantitatively**  
172 **evaluated benefits and costs generated by each of those**  
173 **investments that exceeded twenty million dollars, and any**  
174 **efficiencies achieved as a result of those investments.**

175 5. This section shall only apply to any electrical  
176 corporation that has filed a notice with the commission of  
177 the electrical corporation's election to make the deferrals  
178 for which this section provides. [No electrical corporation  
179 shall file a notice with the commission under this  
180 subsection if such corporation has made an application under  
181 subsection 3 of section 386.266, and such application has  
182 been approved.] **An electrical corporation may provide notice**  
183 **to the commission one time under this subsection if such**  
184 **corporation has applied to the commission under subsection 2**  
185 **of section 386.266, provided the corporation shall not**  
186 **concurrently utilize deferrals under this subsection and the**  
187 **electric rate adjustments set forth in subsection 3 of**  
188 **section 386.266.** An electrical corporation's election shall  
189 allow it to make the deferrals provided for by subsection 2  
190 [of this section until December 31, 2023 , unless the  
191 electrical corporation requests and the commission approves  
192 the continuation of such deferrals beyond that date and  
193 approves continuation of the discounts authorized by section  
194 393.1640 beyond that date as hereinafter provided. An  
195 electrical corporation that wishes to continue to make the  
196 deferrals provided for by subsection 2 of this section from  
197 January 1, 2024 , through December 31, 2028 , shall obtain  
198 the commission's approval to do so, shall be subject to the  
199 compound annual growth rate limitations set forth under  
200 section 393.1655 , and shall also obtain the commission's  
201 approval to continue to provide the discounts authorized by



202 section 393.1640 in a commission order issued on or before  
203 December 31, 2023 . The commission shall have the authority  
204 to grant or deny such approval based upon the commission's  
205 evaluation of the costs and benefits of such continuation to  
206 electrical corporations and consumers, but shall not be  
207 authorized to condition such approval or otherwise modify  
208 the deferrals authorized by subsection 2 of this section, or  
209 the discounts authorized by section 393.1640. In deciding  
210 whether to extend the program for an additional five years,  
211 the commission shall develop an objective analytical  
212 framework to determine whether there is a continuing need.  
213 The commission shall make a finding about whether there is a  
214 continuing need after hearing. Failure to obtain such  
215 commission approval shall not affect deferrals made through  
216 December 31, 2023 , or the regulatory and ratemaking  
217 treatment of the regulatory assets arising from such  
218 deferrals as provided for by this section] **of this section**  
219 **until December 31, 2028. Notwithstanding the immediately**  
220 **preceding sentence, an electrical corporation may seek**  
221 **permission to continue to make the deferrals provided for by**  
222 **subsection 2 of this section for an additional five years**  
223 **beyond December 31, 2028, by filing an application with the**  
224 **commission seeking such permission by December 31, 2026,**  
225 **which application shall be ruled upon by the commission**  
226 **within one hundred eighty days after its filing. In**  
227 **deciding whether to grant such permission to continue the**  
228 **commission shall have the authority, consistent with its**  
229 **statutory authority outside this section, to consider such**  
230 **factors as in its judgment it deems necessary and may**  
231 **condition the permission on factors that are relevant to the**  
232 **deferrals authorized by subsection 2 of this section. The**  
233 **commission shall make the determination of whether to grant**

234 such permission to continue after a hearing. An electrical  
235 corporation making deferrals provided for by subsection 2 of  
236 this section on and after January 1, 2024, shall be subject  
237 to the revenue requirement impact cap set forth under  
238 section 393.1656. Failure to obtain such commission  
239 permission to continue shall not affect deferrals made  
240 through the date for which permission has been granted, or  
241 the regulatory and ratemaking treatment of the regulatory  
242 assets arising from such deferrals as provided for by this  
243 section.

244 6. The commission may take into account any change in  
245 business risk to the corporation resulting from  
246 implementation of the deferrals in setting the corporation's  
247 allowed return in any rate proceeding, in addition to any  
248 other changes in business risk experienced by the  
249 corporation.

250 7. This section shall expire on December 31, [2028]  
251 2033, except that the amortization of the regulatory asset  
252 balances arising under this section shall continue to be  
253 reflected in the electrical corporation's rates and  
254 remaining regulatory asset balances shall be included in the  
255 electrical corporation's rate base consistent with the  
256 ratemaking treatment and amortization previously approved by  
257 the commission pursuant to this section.

393.1640. 1. Subject to the limitations provided for  
2 in subsection 2 of this section, and upon proper application  
3 by an eligible customer prior to public announcement of a  
4 growth project, a new or existing account meeting the  
5 [following] criteria in this subsection shall [be  
6 considered] qualify for [qualification for] one of the  
7 [discount] discounts set forth in subdivision (1) or (2) of  
8 this subsection [if]:

9 (1) [The customer adds incremental load, net of any  
10 offsetting load reductions due to the termination of other  
11 accounts of the customer or an affiliate of the customer  
12 within twelve months prior to the commencement of service to  
13 the new load, with average monthly demand that is reasonably  
14 projected to be at least three hundred kilowatts with a load  
15 factor of at least fifty-five percent within two years after  
16 the date the application is submitted;

17 (2) The customer receives local, regional, or state  
18 economic development incentives in conjunction with the  
19 incremental load; and

20 (3) The customer meets the criteria set forth in the  
21 electrical corporation's economic development rider tariff  
22 sheet, as approved by the commission, that are not  
23 inconsistent with the provisions of this subsection.] **When**  
24 **the new load is reasonably projected to be at least three**  
25 **hundred kilowatts but not more than ten megawatts and have a**  
26 **load factor of at least forty-five percent, the discount**  
27 **shall equal thirty-five percent and shall apply for five**  
28 **years, provided that if it is expected as of the date the**  
29 **discount is to commence that a thirty-five percent discount**  
30 **would produce revenues from the applicant's total bill that**  
31 **would not exceed the electrical corporation's variable cost**  
32 **to serve the applicant's account or accounts that are to**  
33 **receive the discount, the discount shall be determined so**  
34 **that the percentage discount, rounded to the nearest one**  
35 **percent, is expected, as of the date the discount percentage**  
36 **is determined, to provide revenues equal to one hundred**  
37 **twenty percent of the electrical corporation's variable cost**  
38 **to serve the applicant's account or accounts that are to**  
39 **receive the discount;**

40           (2) When the new load is reasonably projected to be  
41 more than ten megawatts and have a load factor of at least  
42 fifty-five percent, the discount percentage, rounded to the  
43 nearest one percent, shall be determined such that the  
44 applicant's total bill is expected, as of the date the  
45 discount percentage is determined, to provide revenues equal  
46 to one hundred twenty percent of the electrical  
47 corporation's variable cost to serve the applicant's account  
48 or accounts that are to receive the discount. Such discount  
49 shall apply for ten years.

50 For the purposes of this section, the variable cost to serve  
51 new load for purposes of establishing a discount under this  
52 section shall be determined using (a) the energy and  
53 capacity market prices that underlie the net base energy  
54 costs reflected in the revenue requirement from the  
55 electrical corporation's most recent general rate  
56 proceeding; (b) any operations and maintenance expenses that  
57 vary with respect to the total number of customers or load  
58 served by the electrical corporation, excluding operations  
59 and maintenance expenses associated with generating  
60 electricity; and (c) any other incremental costs to serve  
61 the customer.

62 To obtain one of the discounts set forth in subdivision (1)  
63 or (2) of this subsection, the customer's load shall be  
64 incremental, net of any offsetting load reductions due to  
65 the termination of other accounts of the customer or an  
66 affiliate of the customer within twelve months prior to the  
67 commencement of service to the new load, the customer shall  
68 receive an economic development incentive from the local,  
69 regional, state, or federal government, or from an agency or

70 program of any such government, in conjunction with the  
71 incremental load, and the customer shall meet the criteria  
72 set forth in the electrical corporation's economic  
73 development rider tariff sheet, as approved by the  
74 commission, that are not inconsistent with the provisions of  
75 this subsection.

76 Unless otherwise provided for by the electrical  
77 corporation's tariff, the applicable discount shall be a  
78 percentage applied to all base-rate components of the bill.  
79 [The percentage shall be fixed for each year of service  
80 under the discount for a period of up to five years.  
81 Subject to the remaining provisions of this subsection, the  
82 average of the annual discount percentages shall equal forty  
83 percent and shall not be less than thirty percent nor more  
84 than fifty percent in any year.] The discount shall be  
85 applied to such incremental load from the date when the  
86 meter has been permanently set until the date that such  
87 incremental load no longer meets the criteria required to  
88 qualify for the discount, as determined under the provisions  
89 of subsection 2 of this section. An eligible customer shall  
90 also receive a ten percent discount of all base-rate  
91 components of the bill applied to such incremental load for  
92 an additional one year [after] period beyond the [initial]  
93 period during which the applicable discount [period ends]  
94 under subdivision (1) or (2) of this subsection applies if  
95 the electrical corporation determines that the customer is  
96 taking service from an under-utilized circuit. [In no event  
97 shall a customer receive a discount under this subsection  
98 after December 31, 2028.] The electrical corporation may  
99 include in its tariff additional or alternative terms and  
100 conditions to a customer's utilization of the discount,

101 subject to approval of such terms and conditions by the  
102 commission. The customer, on forms supplied by the  
103 electrical corporation, shall apply for the **applicable**  
104 discount provided for by this subsection at least ninety  
105 days prior to the date the customer requests that the  
106 incremental demand receive **one of** the discounts provided for  
107 by this subsection **and shall enter into a written agreement**  
108 **with the electrical corporation reflecting the discount**  
109 **percentages and other pertinent details.** If the incremental  
110 demand is not separately metered, the electrical  
111 corporation's determination of the incremental demand shall  
112 control. **The electrical corporation shall verify the**  
113 **customer's incremental demand annually to determine**  
114 **continued qualification for the applicable discount.**  
115 Notwithstanding the foregoing provisions of this subsection,  
116 the cents-per-kilowatt-hour realization resulting from  
117 application of any [such] discounted [rate] **rates** as  
118 calculated shall be higher than the electrical corporation's  
119 variable cost to serve such [accounts in aggregate]  
120 **incremental demand** and the **applicable** discounted rate also  
121 shall make a positive contribution to fixed costs associated  
122 with [such] service **to such incremental demand.** If in a  
123 subsequent general rate proceeding the commission determines  
124 that application of [such] a discounted rate is not adequate  
125 to cover the electrical corporation's variable cost to serve  
126 [such] **the accounts in question** and provide a positive  
127 contribution to fixed costs then the commission shall  
128 increase the rate **for those accounts** prospectively to the  
129 extent necessary to do so.

130 2. In each general rate proceeding concluded after  
131 August 28, [2018] **2022**, the [reduced level of] **difference in**  
132 revenues [arising from] **generated by applying** the

133 [application of] discounted rates provided for by  
134 [subsection 1 of] **this section and the revenues that would**  
135 **have been generated without such discounts shall not be**  
136 **imputed into the electrical corporation's revenue**  
137 **requirement. Instead, such revenue requirement shall be set**  
138 **using the revenues generated by such discounted rates and**  
139 **the impact of the discounts provided for by** this section  
140 shall be allocated to all the electrical corporation's  
141 customer classes, including the classes with customers that  
142 qualify for discounts under this section[. **This increase**  
143 **shall be implemented]** through the application of a uniform  
144 percentage adjustment to the revenue requirement  
145 responsibility of all customer classes. To qualify for the  
146 discounted rates provided for in this section, [if  
147 **incremental load is separately metered,**] customers shall  
148 meet the applicable criteria within twenty-four months  
149 [**after the date the meter is permanently set]** **of initially**  
150 **receiving discounts** based on metering data for calendar  
151 months thirteen through twenty-four and annually  
152 thereafter. If such data indicates that the customer did  
153 not meet [the criteria] **both of the three hundred kilowatt**  
154 **and forty-five percent load factor requirements** for any  
155 applicable twelve-month period, it shall thereafter no  
156 longer qualify for [the] a discounted rate. **For customers**  
157 **receiving service under subdivision (2) of subsection 1 of**  
158 **this section, if after the fourth year, the demand has not**  
159 **exceeded ten thousand kilowatts during any twelve-month**  
160 **period, the customer's qualification shall revert to**  
161 **subdivision (1) of subsection 1 of this section.** The  
162 provisions of this section do not supersede or limit the  
163 ability of an electrical corporation to continue to utilize  
164 economic development or retention tariffs previously

165 approved by the commission that are in effect on August 28,  
166 [2018] 2022. If, however, a customer is receiving any  
167 economic development or retention-related discounts as of  
168 the date it would otherwise qualify for a discount provided  
169 for by this section, the customer shall agree to relinquish  
170 the prior discount concurrently with the date it begins to  
171 receive a discount under this section; otherwise, the  
172 customer shall not be eligible to receive any discount under  
173 this section. Customer demand existing at the time the  
174 customer begins to receive discounted rates under this  
175 section shall not constitute incremental demand. The  
176 discounted rates provided for by this section apply only to  
177 base-rate components, with the charges or credits arising  
178 from any rate adjustment mechanism authorized by law to be  
179 applied to customers qualifying for discounted rates under  
180 this section in the same manner as such rate adjustments  
181 would apply in the absence of this section.

182 3. For purposes of this section, "electrical  
183 corporation" shall mean the same as defined in section  
184 386.020, but shall not include an electrical corporation as  
185 described in subsection 2 of section 393.110.

186 4. [This section shall expire on December 31, 2028 ,  
187 provided, that unless the electrical corporation has timely  
188 obtained the order provided for by subsection 5 of section  
189 393.1400, the electrical corporation's customers shall ,  
190 after December 31, 2023 , no longer receive the discounts  
191 provided under this section.] **An electrical corporation's  
192 authority to offer the discounts provided for by this  
193 section shall terminate on the date that such electrical  
194 corporation's authority to make the deferrals required by  
195 subsection 2 of section 393.1400 expires.**



393.1655. 1. This section applies to an electrical corporation that has elected to exercise any option under section 393.1400 and that has more than two hundred thousand Missouri retail customers in 2018, and shall continue to apply to such electrical corporation until December 31, 2023[, if the commission has not issued an order approving continuation of the deferrals authorized by subsection 2 of section 393.1400, and continuation of the discounts authorized by section 393.1640 as authorized by subsection 5 of section 393.1400 with respect to the electrical corporation, or until December 31, 2028, if the commission has issued such an order with respect to the electrical corporation].

2. Notwithstanding any other provision of law and except as otherwise provided for by this section, an electrical corporation's base rates shall be held constant for a period starting on the date new base rates were established in the electrical corporation's last general rate proceeding concluded prior to the date the electrical corporation gave notice under subsection 5 of section 393.1400 and ending on the third anniversary of that date, unless a force majeure event as determined by the commission occurs. Whether a force majeure event has occurred shall be subject to commission review and approval in a general rate proceeding, and shall not preclude the commission from reviewing the prudence of any revenue reductions or costs incurred during any proceeding to set rates. This subsection shall not affect the electrical corporation's ability to adjust its nonbase rates during the three-year period provided for in this subsection as authorized by its commission-approved rate adjustment mechanisms arising under

32 section 386.266, 393.1030, or 393.1075, or as authorized by  
33 any other rate adjustment mechanism authorized by law.

34 3. This subsection shall apply to electrical  
35 corporations that have a general rate proceeding pending  
36 before the commission as of the later of February 1, 2018,  
37 or August 28, 2018. If the difference between (a) the  
38 electrical corporation's average overall rate at any point  
39 in time while this section applies to the electrical  
40 corporation, and (b) the electrical corporation's average  
41 overall rate as of the date new base rates are set in the  
42 electrical corporation's most recent general rate proceeding  
43 concluded prior to the date the electrical corporation gave  
44 notice under section 393.1400, reflects a compound annual  
45 growth rate of more than three percent, the electrical  
46 corporation shall not recover any amount in excess of such  
47 three percent as a performance penalty.

48 4. This section shall apply to electrical corporations  
49 that do not have a general rate proceeding pending before  
50 the commission as of the later of February 1, 2018, or  
51 August 28, 2018. If the difference between (a) the  
52 electrical corporation's average overall rate at any point  
53 in time while this section applies to the electrical  
54 corporation, and (b) the average of (i) the electrical  
55 corporation's average overall rate as of the date new base  
56 rates are set in the electrical corporation's most recent  
57 general rate proceeding concluded prior to the date the  
58 electrical corporation gave notice under section 393.1400,  
59 and (ii) the electrical corporation's average overall rate  
60 set under section 393.137, reflects a compound annual growth  
61 rate of more than two and eighty-five hundredths percent,  
62 the electrical corporation shall not recover any amount in

63 excess of such two and eighty-five hundredths percent as a  
64 performance penalty.

65         5. If a change in any rates charged under a rate  
66 adjustment mechanism approved by the commission under  
67 sections 386.266 and 393.1030 would cause an electrical  
68 corporation's average overall rate to exceed the compound  
69 annual growth rate limitation set forth in subsection 3 or 4  
70 of this section, the electrical corporation shall reduce the  
71 rates charged under that rate adjustment mechanism in an  
72 amount sufficient to ensure that the compound annual growth  
73 rate limitation set forth in subsection 3 or 4 of this  
74 section is not exceeded due to the application of the rate  
75 charged under such mechanism and the performance penalties  
76 under such subsections are not triggered. Sums not  
77 recovered under any such mechanism because of any reduction  
78 in rates under such a mechanism pursuant to this subsection  
79 shall be deferred to and included in the regulatory asset  
80 arising under section 393.1400 or, if applicable, under the  
81 regulatory and ratemaking treatment ordered by the  
82 commission under section 393.1400, and recovered through an  
83 amortization in base rates in the same manner as deferrals  
84 under that section or order are recovered in base rates.

85         6. If the difference between (a) the electrical  
86 corporation's class average overall rate at any point in  
87 time while this section applies to the electrical  
88 corporation, and (b) the electrical corporation's class  
89 average overall rate as of the date rates are set in the  
90 electrical corporation's most recent general rate proceeding  
91 concluded prior to the date the electrical corporation gave  
92 notice under subsection 5 of section 393.1400, reflects a  
93 compound annual growth rate of more than two percent for the  
94 large power service rate class, the class average overall

95 rate shall increase by an amount so that the increase shall  
96 equal a compound annual growth rate of two percent over such  
97 period for such large power service rate class, with the  
98 reduced revenues arising from limiting the large power  
99 service class average overall rate increase to two percent  
100 to be allocated to all the electrical corporation's other  
101 customer classes through the application of a uniform  
102 percentage adjustment to the revenue requirement  
103 responsibility of all the other customer classes.

104 7. For purposes of this section, the following terms  
105 shall mean:

106 (1) "Average base rate", a rate calculated by dividing  
107 the total retail revenue requirement for all the electrical  
108 corporation's rate classes by the total sales volumes stated  
109 in kilowatt-hours for all such rate classes used to set  
110 rates in the applicable general rate proceeding, exclusive  
111 of gross receipts tax, sales tax, and other similar pass-  
112 through taxes;

113 (2) "Average overall rate", a rate equal to the sum of  
114 the average base rate and the average rider rate;

115 (3) "Average rider rate", a rate calculated by  
116 dividing the total of the sums to be recovered from all  
117 customer classes under the electrical corporation's rate  
118 adjustment mechanisms in place other than a rate adjustment  
119 mechanism under section 393.1075 by the total sales volumes  
120 stated in kilowatt-hours for all of the electrical  
121 corporation's rate classes used to set rates under such rate  
122 adjustment mechanisms, exclusive of gross receipts tax,  
123 sales tax, and other similar pass-through taxes;

124 (4) "Class average base rate", a rate calculated by  
125 dividing the retail revenue requirement from the applicable  
126 general rate proceeding that is allocated to the electrical

127 corporation's large power service rate class in that general  
128 rate proceeding, by the total sales volumes stated in  
129 kilowatt-hours for that class used to set rates in that  
130 general rate proceeding, exclusive of gross receipts tax,  
131 sales tax, and other similar pass-through taxes;

132 (5) "Class average overall rate", a rate equal to the  
133 sum of the class average base rate and the class average  
134 rider rate;

135 (6) "Class average rider rate", a rate calculated by  
136 dividing the total of the sums allocated for recovery from  
137 the large power service rate class under the electrical  
138 corporation's rate adjustment mechanisms in place other than  
139 a rate adjustment mechanism under section 393.1075 by the  
140 total sales volumes stated in kilowatt-hours for that class  
141 used to set rates under such rate adjustment mechanisms,  
142 exclusive of gross receipts tax, sales tax, and other  
143 similar pass-through taxes;

144 (7) "Force majeure event", an event or circumstance  
145 that occurs as a result of a weather event, an act of God,  
146 war, terrorism, or other event which threatens the financial  
147 integrity of the electrical corporation that causes a  
148 reduction in revenues, an increase in the cost of providing  
149 electrical service, or some combination thereof, and the  
150 event has an associated fiscal impact on the electrical  
151 corporation's operations equal to three percent or greater  
152 of the total revenue requirement established in the  
153 electrical corporation's last general rate proceeding after  
154 taking into account the financial impact specified in  
155 section 393.137. Any force majeure event shall be subject  
156 to commission review and approval, and shall not preclude  
157 the commission from reviewing the prudence of any revenue

158 reductions or costs incurred during any proceeding to set  
159 rates;

160 (8) "Large power service rate class", the rate class  
161 of each corporation that requires the highest minimum  
162 monthly billing demand of all of the electrical  
163 corporation's rate classes in order to qualify as a member  
164 of such rate class, and that applies to qualifying customers  
165 only if they utilize the electrical corporation's  
166 distribution system.

**393.1656. 1. This section applies beginning January  
2 1, 2024, to an electrical corporation that has elected to  
3 exercise any option under section 393.1400 and shall  
4 continue to apply to such electrical corporation until such  
5 electrical corporation's permission to make the deferrals  
6 authorized by subsection 2 of section 393.1400 expires.**

**7 2. That part of the electrical corporation's retail  
8 revenue requirement used to set the electrical corporation's  
9 base rates in each of the electrical corporation's general  
10 rate proceedings that are concluded on or after August 31,  
11 2023, that consists of revenue requirement arising from  
12 inclusion in rate base of the section 393.1400 regulatory  
13 asset balance shall not exceed the revenue requirement  
14 impact cap. If inclusion in rate base of the full balance  
15 of the subject section 393.1400 regulatory asset would cause  
16 the electrical corporation to exceed the revenue requirement  
17 impact cap, that part of the balance necessary to prevent  
18 inclusion of the full balance from causing an exceedance of  
19 the revenue requirement impact cap shall not be included in  
20 rate base and the section 393.1400 regulatory asset balance  
21 shall be reduced accordingly as a penalty.**

**22 3. For purposes of this section, the following terms  
23 shall mean:**

- 24           (1) "Commission", the public service commission;
- 25           (2) "Electrical corporation", the same as defined in  
26 section 386.020, but shall not include an electrical  
27 corporation as described in subsection 2 of section 393.110;
- 28           (3) "Rate-base cutoff date", the date rate-base  
29 additions are accounted for in a general rate proceeding.  
30 In the absence of a commission order that specifies the rate-  
31 base cutoff date, such date as reflected in any jointly  
32 proposed procedural schedule submitted by the parties in the  
33 applicable general rate proceeding, or as otherwise agreed  
34 to by such parties, shall be used;
- 35           (4) "Revenue requirement impact cap", the product of  
36 (i) one-twelfth of two and one-half percent, multiplied by  
37 (ii) the number of months that have elapsed from the  
38 effective date of new base rates in the electrical  
39 corporation's most recently completed general rate  
40 proceeding to the effective date of new base rates in the  
41 general rate proceeding in which the cap is being applied,  
42 with that product to be multiplied by the retail revenue  
43 requirement used to set base rates in the electrical  
44 corporation's most recently completed general rate  
45 proceeding concluded prior to the general rate proceeding in  
46 which the cap is being applied;
- 47           (5) "Subject section 393.1400 regulatory asset",  
48 deferrals under section 393.1400 from the rate-base cutoff  
49 date in the electrical corporation's prior general rate  
50 proceeding to the rate-base cutoff date in the current  
51 general rate proceeding in which the cap reflected in  
52 subsection 2 of this section is being applied.

393.1715. 1. An electrical corporation may petition  
2 the commission for a determination of the ratemaking  
3 principles and treatment, as proposed by the electrical

4 corporation, that will apply to the reflection in base rates  
5 of the electrical corporation's capital and noncapital costs  
6 associated with the proposed retirement of one or more of  
7 the electrical corporation's generating facilities. Without  
8 limiting the foregoing, such principles and treatment may  
9 also establish the retirement date and useful life  
10 parameters used to set depreciation rates for such  
11 facilities. Except as provided for in subsection 4 of this  
12 section, the ratemaking principles and treatment approved by  
13 the commission under this section for such facilities shall  
14 apply to the determination of the revenue requirement in  
15 each of the electrical corporation's post-determination  
16 general rate proceedings until such time as such facility is  
17 fully depreciated on the electrical corporation's books.

18 2. If the commission fails to issue a determination  
19 within two hundred fifteen days that a petition for  
20 determination of ratemaking principles and treatment is  
21 filed, the ratemaking principles and treatment proposed by  
22 the petitioning electrical corporation shall be deemed to  
23 have been approved by the commission.

24 3. Subject to the provisions of subsection 4 of this  
25 section, ratemaking principles and treatment approved by the  
26 commission, or deemed to have been approved under subsection  
27 2 of this section, shall be binding for ratemaking purposes.

28 4. (1) An electrical corporation with ratemaking  
29 principles and treatment approved by the commission, or  
30 deemed to have been approved under subsection 2 of this  
31 section, shall monitor the major factors and circumstances  
32 relating to the facility to which such principles and  
33 treatment apply. Such factors and circumstances include,  
34 but are not limited to:

35 (a) Terrorist activity or an act of God;



36 (b) A significant change in federal or state tax laws;

37 (c) A significant change in federal utility laws or  
38 regulations or a significant change in generally accepted  
39 accounting principles;

40 (d) An unexpected, extended outage or shutdown of a  
41 major generating unit, other than any major generating unit  
42 shut down due to an extended outage at the time of the  
43 approval of the ratemaking principles and treatment;

44 (e) A significant change in the cost or reliability of  
45 power generation technologies;

46 (f) A significant change in fuel prices and wholesale  
47 electric market conditions;

48 (g) A significant change in the cost or effectiveness  
49 of emission control technologies;

50 (h) A significant change in the price of emission  
51 allowances;

52 (i) A significant change in the electrical  
53 corporation's load forecast;

54 (j) A significant change in capital market conditions;

55 (k) A significant change in the scope or effective  
56 dates of environmental regulations; or

57 (l) A significant change in federal or state  
58 environmental laws.

59 (2) If the electrical corporation determines that one  
60 or more major factor or circumstance has changed in a manner  
61 that warrants a change in the approved ratemaking principles  
62 and treatment, then it shall file a notice in the docket in  
63 which the approved ratemaking principles and treatment were  
64 established within forty-five days of any such  
65 determination. In its notification, the electrical  
66 corporation shall:

67 (a) Explain and specify the changes it contends are  
68 appropriate to the ratemaking principles and treatment and  
69 the reasons for the proposed changes;

70 (b) Provide a description of the alternatives that it  
71 evaluated and the process that it went through in developing  
72 its proposed changes; and

73 (c) Provide detailed workpapers that support the  
74 evaluation and the process whereby proposed changes were  
75 developed.

76 (3) If a party has concerns regarding the proposed  
77 changes, that party shall file a notice of its concerns  
78 within thirty days of the electrical corporation's filing.  
79 If the parties agree on a resolution of the concerns, the  
80 agreement shall be submitted to the commission for  
81 approval. If the parties do not reach agreement on changes  
82 to the ratemaking principles and treatment within ninety  
83 days of the date the electrical corporation filed its  
84 notice, whether the previously approved ratemaking and  
85 treatment will be changed shall be determined by the  
86 commission. If a party to the docket in which the approved  
87 ratemaking principles and treatment were approved believes  
88 that one or more major factor or circumstance has changed in  
89 a manner that warrants a change in the approved ratemaking  
90 principles and treatment and if the electrical corporation  
91 does not agree the principles and treatment should be  
92 changed, such party shall file a notice in the docket in  
93 which the approved ratemaking principles and treatment were  
94 established within forty-five days of any such  
95 determination. In its notification, such party shall:

96 (a) Explain and specify the changes it contends are  
97 appropriate to the ratemaking principles and treatment and  
98 the reasons for the proposed changes;

99           (b) Provide a description of the alternatives that it  
100 evaluated and the process that it went through in developing  
101 its proposed changes; and

102           (c) Provide detailed workpapers that support the  
103 evaluation and the process whereby proposed changes were  
104 developed.

105           (4) If a party, including the electrical corporation,  
106 has concerns regarding the proposed changes, that party  
107 shall file a notice of its concerns within thirty days of  
108 the other party's filing. If the parties do not reach  
109 agreement on changes to the ratemaking principles and  
110 treatment within ninety days of the date the notice was  
111 filed, whether the previously approved ratemaking and  
112 treatment will be changed shall be determined by the  
113 commission.

114           5. A determination of ratemaking principles and  
115 treatment under this section does not preclude an electrical  
116 corporation from also petitioning the commission under  
117 either or both of sections 393.1700 and 393.1705, provided  
118 that any costs to which such ratemaking principles and  
119 treatment would have applied in the electrical corporation's  
120 general rate proceedings which become funded by securitized  
121 utility tariff bond proceeds from a securitized utility  
122 tariff bond issued under section 393.1700 shall not  
123 thereafter be reflected in the electrical corporation's base  
124 rates.

125           6. If determined by the commission to be just,  
126 reasonable, and necessary for the provision of safe and  
127 adequate service, the electrical corporation **[may]** **shall** be  
128 permitted to retain coal-fired generating assets in rate  
129 base and recover **prudently incurred** costs associated with  
130 operating the coal-fired assets **[that remain in service to**

131 provide greater certainty that generating capacity will be  
132 available to provide essential service to customers,  
133 including during extreme weather events, and the commission  
134 shall not disallow any portion of such cost recovery on the  
135 basis that such coal-fired generating assets operate],  
136 **including** at a low capacity factor, or **that** are offline and  
137 providing capacity only[, during normal operating  
138 conditions] **in order to remain in service to customers for**  
139 **reliability during events such as extreme weather.**

140         7. The commission may promulgate rules necessary to  
141 implement the provisions of sections 393.1700 to 393.1715.  
142 Any rule or portion of a rule, as that term is defined in  
143 section 536.010, that is created under the authority  
144 delegated in this section shall become effective only if it  
145 complies with and is subject to all of the provisions of  
146 chapter 536 and, if applicable, section 536.028. This  
147 section and chapter 536 are nonseverable and if any of the  
148 powers vested with the general assembly pursuant to chapter  
149 536 to review, to delay the effective date, or to disapprove  
150 and annul a rule are subsequently held unconstitutional,  
151 then the grant of rulemaking authority and any rule proposed  
152 or adopted after August 28, 2021, shall be invalid and void.

442.404. 1. As used in this section, the following  
2 terms shall mean:

3         (1) "Homeowners' association", a nonprofit corporation  
4 or unincorporated association of homeowners created under a  
5 declaration to own and operate portions of a planned  
6 community or other residential subdivision that has the  
7 power under the declaration to assess association members to  
8 pay the costs and expenses incurred in the performance of  
9 the association's obligations under the declaration or  
10 tenants-in-common with respect to the ownership of common

11 ground or amenities of a planned community or other  
12 residential subdivision. This term shall not include a  
13 condominium unit owners' association as defined and provided  
14 for in subdivision (3) of section 448.1-103 or a residential  
15 cooperative;

16 (2) "Political signs", any fixed, ground-mounted  
17 display in support of or in opposition to a person seeking  
18 elected office or a ballot measure excluding any materials  
19 that may be attached;

20 (3) **"Solar panel or solar collector", a device used to**  
21 **collect and convert solar energy into electricity or thermal**  
22 **energy, including but not limited to photovoltaic cells or**  
23 **panels, or solar thermal systems.**

24 2. (1) No deed restrictions, covenants, or similar  
25 binding agreements running with the land shall prohibit or  
26 have the effect of prohibiting the display of political  
27 signs.

28 [3.] (2) A homeowners' association has the authority  
29 to adopt reasonable rules, subject to any applicable  
30 statutes or ordinances, regarding the time, size, place,  
31 number, and manner of display of political signs.

32 [4.] (3) A homeowners' association may remove a  
33 political sign without liability if such sign is placed  
34 within the common ground, threatens the public health or  
35 safety, violates an applicable statute or ordinance, is  
36 accompanied by sound or music, or if any other materials are  
37 attached to the political sign. Subject to the foregoing, a  
38 homeowners' association shall not remove a political sign  
39 from the property of a homeowner or impose any fine or  
40 penalty upon the homeowner unless it has given such  
41 homeowner three days after providing written notice to the

42 homeowner, which notice shall specifically identify the rule  
43 and the nature of the violation.

44 **3. (1) No deed restrictions, covenants, or similar**  
45 **binding agreements running with the land shall limit or**  
46 **prohibit, or have the effect of limiting or prohibiting, the**  
47 **installation of solar panels or solar collectors on the**  
48 **rooftop of any property or structure.**

49 **(2) A homeowners' association may adopt reasonable**  
50 **rules, subject to any applicable statutes or ordinances,**  
51 **regarding the placement of solar panels or solar collectors**  
52 **to the extent that those rules do not prevent the**  
53 **installation of the device, impair the functioning of the**  
54 **device, restrict the use of the device, or adversely affect**  
55 **the cost or efficiency of the device.**

56 **(3) The provisions of this subsection shall apply only**  
57 **with regard to rooftops that are owned, controlled, and**  
58 **maintained by the owner of the individual property or**  
59 **structure.**

610.021. Except to the extent disclosure is otherwise  
2 required by law, a public governmental body is authorized to  
3 close meetings, records and votes, to the extent they relate  
4 to the following:

5 (1) Legal actions, causes of action or litigation  
6 involving a public governmental body and any confidential or  
7 privileged communications between a public governmental body  
8 or its representatives and its attorneys. However, any  
9 minutes, vote or settlement agreement relating to legal  
10 actions, causes of action or litigation involving a public  
11 governmental body or any agent or entity representing its  
12 interests or acting on its behalf or with its authority,  
13 including any insurance company acting on behalf of a public  
14 government body as its insured, shall be made public upon

15 final disposition of the matter voted upon or upon the  
16 signing by the parties of the settlement agreement, unless,  
17 prior to final disposition, the settlement agreement is  
18 ordered closed by a court after a written finding that the  
19 adverse impact to a plaintiff or plaintiffs to the action  
20 clearly outweighs the public policy considerations of  
21 section 610.011, however, the amount of any moneys paid by,  
22 or on behalf of, the public governmental body shall be  
23 disclosed; provided, however, in matters involving the  
24 exercise of the power of eminent domain, the vote shall be  
25 announced or become public immediately following the action  
26 on the motion to authorize institution of such a legal  
27 action. Legal work product shall be considered a closed  
28 record;

29 (2) Leasing, purchase or sale of real estate by a  
30 public governmental body where public knowledge of the  
31 transaction might adversely affect the legal consideration  
32 therefor. However, any minutes, vote or public record  
33 approving a contract relating to the leasing, purchase or  
34 sale of real estate by a public governmental body shall be  
35 made public upon execution of the lease, purchase or sale of  
36 the real estate;

37 (3) Hiring, firing, disciplining or promoting of  
38 particular employees by a public governmental body when  
39 personal information about the employee is discussed or  
40 recorded. However, any vote on a final decision, when taken  
41 by a public governmental body, to hire, fire, promote or  
42 discipline an employee of a public governmental body shall  
43 be made available with a record of how each member voted to  
44 the public within seventy-two hours of the close of the  
45 meeting where such action occurs; provided, however, that  
46 any employee so affected shall be entitled to prompt notice

47 of such decision during the seventy-two-hour period before  
48 such decision is made available to the public. As used in  
49 this subdivision, the term "personal information" means  
50 information relating to the performance or merit of  
51 individual employees;

52 (4) The state militia or national guard or any part  
53 thereof;

54 (5) Nonjudicial mental or physical health proceedings  
55 involving identifiable persons, including medical,  
56 psychiatric, psychological, or alcoholism or drug dependency  
57 diagnosis or treatment;

58 (6) Scholastic probation, expulsion, or graduation of  
59 identifiable individuals, including records of individual  
60 test or examination scores; however, personally identifiable  
61 student records maintained by public educational  
62 institutions shall be open for inspection by the parents,  
63 guardian or other custodian of students under the age of  
64 eighteen years and by the parents, guardian or other  
65 custodian and the student if the student is over the age of  
66 eighteen years;

67 (7) Testing and examination materials, before the test  
68 or examination is given or, if it is to be given again,  
69 before so given again;

70 (8) Welfare cases of identifiable individuals;

71 (9) Preparation, including any discussions or work  
72 product, on behalf of a public governmental body or its  
73 representatives for negotiations with employee groups;

74 (10) Software codes for electronic data processing and  
75 documentation thereof;

76 (11) Specifications for competitive bidding, until  
77 either the specifications are officially approved by the



78 public governmental body or the specifications are published  
79 for bid;

80 (12) Sealed bids and related documents, until the bids  
81 are opened; and sealed proposals and related documents or  
82 any documents related to a negotiated contract until a  
83 contract is executed, or all proposals are rejected;

84 (13) Individually identifiable personnel records,  
85 performance ratings or records pertaining to employees or  
86 applicants for employment, except that this exemption shall  
87 not apply to the names, positions, salaries and lengths of  
88 service of officers and employees of public agencies once  
89 they are employed as such, and the names of private sources  
90 donating or contributing money to the salary of a chancellor  
91 or president at all public colleges and universities in the  
92 state of Missouri and the amount of money contributed by the  
93 source;

94 (14) Records which are protected from disclosure by  
95 law;

96 (15) Meetings and public records relating to  
97 scientific and technological innovations in which the owner  
98 has a proprietary interest;

99 (16) Records relating to municipal hotlines  
100 established for the reporting of abuse and wrongdoing;

101 (17) Confidential or privileged communications between  
102 a public governmental body and its auditor, including all  
103 auditor work product; however, all final audit reports  
104 issued by the auditor are to be considered open records  
105 pursuant to this chapter;

106 (18) Operational guidelines, policies and specific  
107 response plans developed, adopted, or maintained by any  
108 public agency responsible for law enforcement, public  
109 safety, first response, or public health for use in

110 responding to or preventing any critical incident which is  
111 or appears to be terrorist in nature and which has the  
112 potential to endanger individual or public safety or health.

113 Financial records related to the procurement of or  
114 expenditures relating to operational guidelines, policies or  
115 plans purchased with public funds shall be open. When  
116 seeking to close information pursuant to this exception, the  
117 public governmental body shall affirmatively state in  
118 writing that disclosure would impair the public governmental  
119 body's ability to protect the security or safety of persons  
120 or real property, and shall in the same writing state that  
121 the public interest in nondisclosure outweighs the public  
122 interest in disclosure of the records;

123 (19) Existing or proposed security systems and  
124 structural plans of real property owned or leased by a  
125 public governmental body, and information that is  
126 voluntarily submitted by a nonpublic entity owning or  
127 operating an infrastructure to any public governmental body  
128 for use by that body to devise plans for protection of that  
129 infrastructure, the public disclosure of which would  
130 threaten public safety:

131 (a) Records related to the procurement of or  
132 expenditures relating to security systems purchased with  
133 public funds shall be open;

134 (b) When seeking to close information pursuant to this  
135 exception, the public governmental body shall affirmatively  
136 state in writing that disclosure would impair the public  
137 governmental body's ability to protect the security or  
138 safety of persons or real property, and shall in the same  
139 writing state that the public interest in nondisclosure  
140 outweighs the public interest in disclosure of the records;

141 (c) Records that are voluntarily submitted by a  
142 nonpublic entity shall be reviewed by the receiving agency  
143 within ninety days of submission to determine if retention  
144 of the document is necessary in furtherance of a state  
145 security interest. If retention is not necessary, the  
146 documents shall be returned to the nonpublic governmental  
147 body or destroyed;

148 (20) The portion of a record that identifies security  
149 systems or access codes or authorization codes for security  
150 systems of real property;

151 (21) Records that identify the configuration of  
152 components or the operation of a computer, computer system,  
153 computer network, or telecommunications network, and would  
154 allow unauthorized access to or unlawful disruption of a  
155 computer, computer system, computer network, or  
156 telecommunications network of a public governmental body.  
157 This exception shall not be used to limit or deny access to  
158 otherwise public records in a file, document, data file or  
159 database containing public records. Records related to the  
160 procurement of or expenditures relating to such computer,  
161 computer system, computer network, or telecommunications  
162 network, including the amount of moneys paid by, or on  
163 behalf of, a public governmental body for such computer,  
164 computer system, computer network, or telecommunications  
165 network shall be open;

166 (22) Credit card numbers, personal identification  
167 numbers, digital certificates, physical and virtual keys,  
168 access codes or authorization codes that are used to protect  
169 the security of electronic transactions between a public  
170 governmental body and a person or entity doing business with  
171 a public governmental body. Nothing in this section shall  
172 be deemed to close the record of a person or entity using a

173 credit card held in the name of a public governmental body  
174 or any record of a transaction made by a person using a  
175 credit card or other method of payment for which  
176 reimbursement is made by a public governmental body;

177 (23) Records submitted by an individual, corporation,  
178 or other business entity to a public institution of higher  
179 education in connection with a proposal to license  
180 intellectual property or perform sponsored research and  
181 which contains sales projections or other business plan  
182 information the disclosure of which may endanger the  
183 competitiveness of a business; [and]

184 (24) Records relating to foster home or kinship  
185 placements of children in foster care under section 210.498;  
186 **and**

187 **(25) Individually identifiable customer usage and**  
188 **billing records for customers of a municipally owned**  
189 **utility, unless the records are requested by the customer or**  
190 **authorized for release by the customer, except that a**  
191 **municipally owned utility shall make available to the public**  
192 **the customer's name, billing address, location of service,**  
193 **and dates of service provided for any commercial service**  
194 **account.**

Section B. The repeal and reenactment of section  
2 442.404 of section A of this act shall be effective on  
3 January 1, 2023.

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