

SECOND REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 756

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WHITE.

3774S.10P

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 34.045, 44.032, 144.010, 144.011, 144.030, 386.266, 386.890, 393.1400, 393.1640, 393.1655, 393.1700, 442.404, and 610.021, RSMo, and to enact in lieu thereof seventeen new sections relating to public utilities, with an effective date for a certain section.

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

Section A. Sections 34.045, 44.032, 144.010, 144.011, 2 144.030, 386.266, 386.890, 393.1400, 393.1640, 393.1655, 3 393.1700, 442.404, and 610.021, RSMo, are repealed and 4 seventeen new sections enacted in lieu thereof, to be known as 5 sections 34.045, 44.032, 144.010, 144.011, 144.030, 386.266, 6 386.885, 386.890, 393.1072, 393.1275, 393.1400, 393.1640, 7 393.1655, 393.1656, 393.1700, 442.404, and 610.021, to read as 8 follows:

34.045. **1.** The commissioner of administration may 2 waive the requirement of competitive bids or proposals for 3 supplies when the commissioner of administration has 4 determined that there exists a threat to life, property, 5 public health or public safety or when immediate expenditure 6 is necessary for repairs to state property in order to 7 protect against further loss of, or damage to, state

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

8 property, to prevent or minimize serious disruption in state
9 services or to ensure the integrity of state records.
10 Emergency procurements shall be made with as much
11 competition as is practicable under the circumstances.

12 **2. The commissioner of administration shall waive the**
13 **requirement of competitive bids or proposals for the**
14 **contracting of legal counsel, financial advisors, and other**
15 **consultants as necessary to effectuate the purposes of**
16 **section 393.1700.**

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.

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 Missouri company of solar**
604 **photovoltaic energy equipment 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) Allow for energy storage;**

609 **(b) Include advanced or smart meter inverter capacity;**

610 or

611 (c) **Are projects greater than twenty megawatts.**

612 **For the purposes of this subdivision, the term "Missouri**
613 **company" shall mean any corporation or other business**
614 **organization that is registered with the secretary of state.**

615 3. Any ruling, agreement, or contract, whether written
616 or oral, express or implied, between a person and this
617 state's executive branch, or any other state agency or
618 department, stating, agreeing, or ruling that such person is
619 not required to collect sales and use tax in this state
620 despite the presence of a warehouse, distribution center, or
621 fulfillment center in this state that is owned or operated
622 by the person or an affiliated person shall be null and void
623 unless it is specifically approved by a majority vote of
624 each of the houses of the general assembly. For purposes of
625 this subsection, an "affiliated person" means any person
626 that is a member of the same controlled group of
627 corporations as defined in Section 1563(a) of the Internal
628 Revenue Code of 1986, as amended, as the vendor or any other
629 entity that, notwithstanding its form of organization, bears
630 the same ownership relationship to the vendor as a
631 corporation that is a member of the same controlled group of
632 corporations as defined in Section 1563(a) of the Internal
633 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 propriety 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 include
34 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**
183 **notice to the commission one time under this subsection if**
184 **such corporation has applied to the commission under**
185 **subsection 2 of section 386.266, provided the corporation**
186 **shall not concurrently utilize deferrals under this**
187 **subsection and the electric rate adjustments set forth in**
188 **subsection 3 of section 386.266.** An electrical
189 corporation's election shall allow it to make the deferrals
190 provided for by subsection 2 [of this section until December
191 31, 2023 , unless the electrical corporation requests and
192 the commission approves the continuation of such deferrals
193 beyond that date and approves continuation of the discounts
194 authorized by section 393.1640 beyond that date as
195 hereinafter provided. An electrical corporation that wishes
196 to continue to make the deferrals provided for by subsection
197 2 of this section from January 1, 2024 , through December
198 31, 2028 , shall obtain the commission's approval to do so,
199 shall be subject to the compound annual growth rate
200 limitations set forth under section 393.1655 , and shall
201 also obtain the commission's approval to continue to provide
202 the discounts authorized by section 393.1640 in a commission
203 order issued on or before December 31, 2023 . The
204 commission shall have the authority to grant or deny such
205 approval based upon the commission's evaluation of the costs
206 and benefits of such continuation to electrical corporations
207 and consumers, but shall not be authorized to condition such
208 approval or otherwise modify the deferrals authorized by
209 subsection 2 of this section, or the discounts authorized by
210 section 393.1640. In deciding whether to extend the program
211 for an additional five years, the commission shall develop

212 an objective analytical framework to determine whether there
213 is a continuing need. The commission shall make a finding
214 about whether there is a continuing need after hearing.
215 Failure to obtain such commission approval shall not affect
216 deferrals made through December 31, 2023 , or the regulatory
217 and ratemaking treatment of the regulatory assets arising
218 from such deferrals as provided for by this section] of this
219 section until December 31, 2028. Notwithstanding the
220 immediately preceding sentence, an electrical corporation
221 may seek permission to continue to make the deferrals
222 provided for by subsection 2 of this section for an
223 additional five years beyond December 31, 2028, by filing an
224 application with the commission seeking such permission by
225 December 31, 2026, which application shall be ruled upon by
226 the commission within one hundred eighty days after its
227 filing. In deciding whether to grant such permission to
228 continue the commission shall have the authority, consistent
229 with its statutory authority outside this section, to
230 consider such factors as in its judgment it deems necessary
231 and may condition the permission on factors that are
232 relevant to the deferrals authorized by subsection 2 of this
233 section. The commission shall make the determination of
234 whether to grant such permission to continue after a
235 hearing. An electrical corporation making deferrals
236 provided for by subsection 2 of this section on and after
237 January 1, 2024, shall be subject to the revenue requirement
238 impact cap set forth under section 393.1656. Failure to
239 obtain such commission permission to continue shall not
240 affect deferrals made through the date for which permission
241 has been granted, or the regulatory and ratemaking treatment
242 of the regulatory assets arising from such deferrals as
243 provided for by this 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
2 corporation that has elected to exercise any option under
3 section 393.1400 and that has more than two hundred thousand
4 Missouri retail customers in 2018, and shall continue to
5 apply to such electrical corporation until December 31,
6 2023[, if the commission has not issued an order approving
7 continuation of the deferrals authorized by subsection 2 of
8 section 393.1400, and continuation of the discounts
9 authorized by section 393.1640 as authorized by subsection 5
10 of section 393.1400 with respect to the electrical

11 corporation, or until December 31, 2028, if the commission
12 has issued such an order with respect to the electrical
13 corporation].

14 2. Notwithstanding any other provision of law and
15 except as otherwise provided for by this section, an
16 electrical corporation's base rates shall be held constant
17 for a period starting on the date new base rates were
18 established in the electrical corporation's last general
19 rate proceeding concluded prior to the date the electrical
20 corporation gave notice under subsection 5 of section
21 393.1400 and ending on the third anniversary of that date,
22 unless a force majeure event as determined by the commission
23 occurs. Whether a force majeure event has occurred shall be
24 subject to commission review and approval in a general rate
25 proceeding, and shall not preclude the commission from
26 reviewing the prudence of any revenue reductions or costs
27 incurred during any proceeding to set rates. This
28 subsection shall not affect the electrical corporation's
29 ability to adjust its nonbase rates during the three-year
30 period provided for in this subsection as authorized by its
31 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.

393.1700. 1. For purposes of sections 393.1700 to
2 393.1715, the following terms shall mean:

3 (1) "Ancillary agreement", a bond, insurance policy,
4 letter of credit, reserve account, surety bond, interest
5 rate lock or swap arrangement, hedging arrangement,
6 liquidity or credit support arrangement, or other financial
7 arrangement entered into in connection with securitized
8 utility tariff bonds;

9 (2) "Assignee", a legally recognized entity to which
10 an electrical corporation assigns, sells, or transfers,
11 other than as security, all or a portion of its interest in
12 or right to securitized utility tariff property. The term
13 includes a corporation, limited liability company, general
14 partnership or limited partnership, public authority, trust,

15 financing entity, or any entity to which an assignee
16 assigns, sells, or transfers, other than as security, its
17 interest in or right to securitized utility tariff property;

18 (3) "Bondholder", a person who holds a securitized
19 utility tariff bond;

20 (4) "Code", the uniform commercial code, chapter 400;

21 (5) "Commission", the Missouri public service
22 commission;

23 (6) "Electrical corporation", the same as defined in
24 section 386.020, but shall not include an electrical
25 corporation as described in subsection 2 of section 393.110;

26 (7) "Energy transition costs" include all of the
27 following:

28 (a) Pretax costs with respect to a retired or
29 abandoned or to be retired or abandoned electric generating
30 facility that is the subject of a petition for a financing
31 order filed under this section where such early retirement
32 or abandonment is deemed reasonable and prudent by the
33 commission through a final order issued by the commission,
34 include, but are not limited to, the undepreciated
35 investment in the retired or abandoned or to be retired or
36 abandoned electric generating facility and any facilities
37 ancillary thereto or used in conjunction therewith, costs of
38 decommissioning and restoring the site of the electric
39 generating facility, other applicable capital and operating
40 costs, accrued carrying charges, and deferred expenses, with
41 the foregoing to be reduced by applicable tax benefits of
42 accumulated and excess deferred income taxes, insurance,
43 scrap and salvage proceeds, and may include the cost of
44 retiring any existing indebtedness, fees, costs, and
45 expenses to modify existing debt agreements or for waivers
46 or consents related to existing debt agreements;

47 (b) Pretax costs that an electrical corporation has
48 previously incurred related to the retirement or abandonment
49 of such an electric generating facility occurring before
50 August 28, 2021;

51 (8) "Financing costs" includes all of the following:

52 (a) Interest and acquisition, defeasance, or
53 redemption premiums payable on securitized utility tariff
54 bonds;

55 (b) Any payment required under an ancillary agreement
56 and any amount required to fund or replenish a reserve
57 account or other accounts established under the terms of any
58 indenture, ancillary agreement, or other financing documents
59 pertaining to securitized utility tariff bonds;

60 (c) Any other cost related to issuing, supporting,
61 repaying, refunding, and servicing securitized utility
62 tariff bonds, including servicing fees, accounting and
63 auditing fees, trustee fees, legal fees, consulting fees,
64 structuring adviser fees, administrative fees, placement and
65 underwriting fees, independent director and manager fees,
66 capitalized interest, rating agency fees, stock exchange
67 listing and compliance fees, security registration fees,
68 filing fees, information technology programming costs, and
69 any other costs necessary to otherwise ensure the timely
70 payment of securitized utility tariff bonds or other amounts
71 or charges payable in connection with the bonds, including
72 costs related to obtaining the financing order;

73 (d) Any taxes and license fees or other fees imposed
74 on the revenues generated from the collection of the
75 securitized utility tariff charge or otherwise resulting
76 from the collection of securitized utility tariff charges,
77 in any such case whether paid, payable, or accrued;

78 (e) Any state and local taxes, franchise, gross
79 receipts, and other taxes or similar charges, including
80 commission assessment fees, whether paid, payable, or
81 accrued;

82 (f) Any costs associated with performance of the
83 commission's responsibilities under this section in
84 connection with approving, approving subject to conditions,
85 or rejecting a petition for a financing order, and in
86 performing its duties in connection with the issuance advice
87 letter process, including costs to retain counsel, one or
88 more financial advisors, or other consultants as deemed
89 appropriate by the commission and paid pursuant to this
90 section;

91 (9) "Financing order", an order from the commission
92 that authorizes the issuance of securitized utility tariff
93 bonds; the imposition, collection, and periodic adjustments
94 of a securitized utility tariff charge; the creation of
95 securitized utility tariff property; and the sale,
96 assignment, or transfer of securitized utility tariff
97 property to an assignee;

98 (10) "Financing party", bondholders and trustees,
99 collateral agents, any party under an ancillary agreement,
100 or any other person acting for the benefit of bondholders;

101 (11) "Financing statement", the same as defined in
102 article 9 of the code;

103 (12) "Pledgee", a financing party to which an
104 electrical corporation or its successors or assignees
105 mortgages, negotiates, pledges, or creates a security
106 interest or lien on all or any portion of its interest in or
107 right to securitized utility tariff property;

108 (13) "Qualified extraordinary costs", costs incurred
109 prudently before, on, or after August 28, 2021, of an

110 extraordinary nature which would cause extreme customer rate
111 impacts if reflected in retail customer rates recovered
112 through customary ratemaking, such as but not limited to
113 those related to purchases of fuel or power, inclusive of
114 carrying charges, during anomalous weather events;

115 (14) "Rate base cutoff date", the same as defined in
116 subdivision (4) of subsection 1 of section 393.1400 as such
117 term existed on August 28, 2021;

118 (15) "Securitized utility tariff bonds", bonds,
119 debentures, notes, certificates of participation,
120 certificates of beneficial interest, certificates of
121 ownership, or other evidences of indebtedness or ownership
122 that are issued by an electrical corporation or an assignee
123 pursuant to a financing order, the proceeds of which are
124 used directly or indirectly to recover, finance, or
125 refinance commission-approved securitized utility tariff
126 costs and financing costs, and that are secured by or
127 payable from securitized utility tariff property. If
128 certificates of participation or ownership are issued,
129 references in this section to principal, interest, or
130 premium shall be construed to refer to comparable amounts
131 under those certificates;

132 (16) "Securitized utility tariff charge", the amounts
133 authorized by the commission to repay, finance, or refinance
134 securitized utility tariff costs and financing costs and
135 that are, except as otherwise provided for in this section,
136 nonbypassable charges imposed on and part of all retail
137 customer bills, collected by an electrical corporation or
138 its successors or assignees, or a collection agent, in full,
139 separate and apart from the electrical corporation's base
140 rates, and paid by all existing or future retail customers
141 receiving electrical service from the electrical corporation

142 or its successors or assignees under commission-approved
143 rate schedules, except for customers receiving electrical
144 service under special contracts as of August 28, 2021, even
145 if a retail customer elects to purchase electricity from an
146 alternative electricity supplier following a fundamental
147 change in regulation of public utilities in this state;

148 (17) "Securitized utility tariff costs", either energy
149 transition costs or qualified extraordinary costs as the
150 case may be;

151 (18) "Securitized utility tariff property", all of the
152 following:

153 (a) All rights and interests of an electrical
154 corporation or successor or assignee of the electrical
155 corporation under a financing order, including the right to
156 impose, bill, charge, collect, and receive securitized
157 utility tariff charges authorized under the financing order
158 and to obtain periodic adjustments to such charges as
159 provided in the financing order;

160 (b) All revenues, collections, claims, rights to
161 payments, payments, money, or proceeds arising from the
162 rights and interests specified in the financing order,
163 regardless of whether such revenues, collections, claims,
164 rights to payment, payments, money, or proceeds are imposed,
165 billed, received, collected, or maintained together with or
166 commingled with other revenues, collections, rights to
167 payment, payments, money, or proceeds;

168 (19) "Special contract", electrical service provided
169 under the terms of a special incremental load rate schedule
170 at a fixed price rate approved by the commission.

171 2. (1) An electrical corporation may petition the
172 commission for a financing order to finance energy
173 transition costs through an issuance of securitized utility

174 tariff bonds. The petition shall include all of the
175 following:

176 (a) A description of the electric generating facility
177 or facilities that the electrical corporation has retired or
178 abandoned, or proposes to retire or abandon, prior to the
179 date that all undepreciated investment relating thereto has
180 been recovered through rates and the reasons for undertaking
181 such early retirement or abandonment, or if the electrical
182 corporation is subject to a separate commission order or
183 proceeding relating to such retirement or abandonment as
184 contemplated by subdivision (2) of this subsection, and a
185 description of the order or other proceeding;

186 (b) The energy transition costs;

187 (c) An indicator of whether the electrical corporation
188 proposes to finance all or a portion of the energy
189 transition costs using securitized utility tariff bonds. If
190 the electrical corporation proposes to finance a portion of
191 the costs, the electrical corporation shall identify the
192 specific portion in the petition. By electing not to
193 finance all or any portion of such energy transition costs
194 using securitized utility tariff bonds, an electrical
195 corporation shall not be deemed to waive its right to
196 recover such costs pursuant to a separate proceeding with
197 the commission;

198 (d) An estimate of the financing costs related to the
199 securitized utility tariff bonds;

200 (e) An estimate of the securitized utility tariff
201 charges necessary to recover the securitized utility tariff
202 costs and financing costs and the period for recovery of
203 such costs;

204 (f) A comparison between the net present value of the
205 costs to customers that are estimated to result from the

206 issuance of securitized utility tariff bonds and the costs
207 that would result from the application of the traditional
208 method of financing and recovering the undepreciated
209 investment of facilities that may become securitized utility
210 tariff costs from customers. The comparison should
211 demonstrate that the issuance of securitized utility tariff
212 bonds and the imposition of securitized utility tariff
213 charges are expected to provide quantifiable net present
214 value benefits to customers;

215 (g) A proposed future ratemaking process to reconcile
216 any differences between securitized utility tariff costs
217 financed by securitized utility tariff bonds and the final
218 securitized costs incurred by the electrical corporation or
219 assignee provided that any such reconciliation shall not
220 affect the amount of securitized utility tariff bonds or the
221 associated securitized utility tariff charges paid by
222 customers; and

223 (h) Direct testimony supporting the petition.

224 (2) An electrical corporation may petition the
225 commission for a financing order to finance qualified
226 extraordinary costs. The petition shall include all of the
227 following:

228 (a) A description of the qualified extraordinary
229 costs, including their magnitude, the reasons those costs
230 were incurred by the electrical corporation and the retail
231 customer rate impact that would result from customary
232 ratemaking treatment of such costs;

233 (b) An indicator of whether the electrical corporation
234 proposes to finance all or a portion of the qualified
235 extraordinary costs using securitized utility tariff bonds.
236 If the electrical corporation proposes to finance a portion
237 of the costs, the electrical corporation shall identify the

238 specific portion in the petition. By electing not to
239 finance all or any portion of such qualified extraordinary
240 costs using securitized utility tariff bonds, an electrical
241 corporation shall not be deemed to waive its right to
242 reflect such costs in its retail rates pursuant to a
243 separate proceeding with the commission;

244 (c) An estimate of the financing costs related to the
245 securitized utility tariff bonds;

246 (d) An estimate of the securitized utility tariff
247 charges necessary to recover the qualified extraordinary
248 costs and financing costs and the period for recovery of
249 such costs;

250 (e) A comparison between the net present value of the
251 costs to customers that are estimated to result from the
252 issuance of securitized utility tariff bonds and the costs
253 that would result from the application of the customary
254 method of financing and reflecting the qualified
255 extraordinary costs in retail customer rates. The
256 comparison should demonstrate that the issuance of
257 securitized utility tariff bonds and the imposition of
258 securitized utility tariff charges are expected to provide
259 quantifiable net present value benefits to retail customers;

260 (f) A proposed future ratemaking process to reconcile
261 any differences between securitized utility tariff costs
262 financed by securitized utility tariff bonds and the final
263 securitized costs incurred by the electrical corporation or
264 assignee provided that any such reconciliation shall not
265 affect the amount of securitized utility tariff bonds or the
266 associated securitized utility tariff charges paid by
267 customers; and

268 (g) Direct testimony supporting the petition.

269 (3) (a) Proceedings on a petition submitted pursuant
270 to this subsection begin with the petition by an electrical
271 corporation and shall be disposed of in accordance with the
272 requirements of this section and the rules of the
273 commission, except as follows:

274 a. The commission shall establish a procedural
275 schedule that permits a commission decision no later than
276 two hundred fifteen days after the date the petition is
277 filed;

278 b. No later than two hundred fifteen days after the
279 date the petition is filed, the commission shall issue a
280 financing order approving the petition, an order approving
281 the petition subject to conditions, or an order rejecting
282 the petition; provided, however, that the electrical
283 corporation shall provide notice of intent to file a
284 petition for a financing order to the commission no less
285 than sixty days in advance of such filing;

286 c. Judicial review of a financing order may be had
287 only in accordance with sections 386.500 and 386.510.

288 (b) In performing its responsibilities under this
289 section in approving, approving subject to conditions, or
290 rejecting a petition for a financing order, the commission
291 may retain counsel, one or more financial advisors, or other
292 consultants as it deems appropriate. Such outside counsel,
293 advisor or advisors, or consultants shall owe a duty of
294 loyalty solely to the commission and shall have no interest
295 in the proposed securitized utility tariff bonds. The costs
296 associated with any such engagements shall be paid by the
297 petitioning corporation and shall be included as financed
298 costs in the securitized utility tariff charge and shall not
299 be an obligation of the state and shall be assigned solely
300 to the subject transaction. **The commission may directly**

301 **contract counsel, financial advisors, or other consultants**
302 **as necessary for effectuating the purposes of this section.**

303 (c) A financing order issued by the commission, after
304 a hearing, to an electrical corporation shall include all of
305 the following elements:

306 a. The amount of securitized utility tariff costs to
307 be financed using securitized utility tariff bonds and a
308 finding that recovery of such costs is just and reasonable
309 and in the public interest. The commission shall describe
310 and estimate the amount of financing costs that may be
311 recovered through securitized utility tariff charges and
312 specify the period over which securitized utility tariff
313 costs and financing costs may be recovered;

314 b. A finding that the proposed issuance of securitized
315 utility tariff bonds and the imposition and collection of a
316 securitized utility tariff charge are just and reasonable
317 and in the public interest and are expected to provide
318 quantifiable net present value benefits to customers as
319 compared to recovery of the components of securitized
320 utility tariff costs that would have been incurred absent
321 the issuance of securitized utility tariff bonds.

322 Notwithstanding any provisions of this section to the
323 contrary, in considering whether to find the proposed
324 issuance of securitized utility tariff bonds and the
325 imposition and collection of a securitized utility tariff
326 charge are just and reasonable and in the public interest,
327 the commission may consider previous instances where it has
328 issued financing orders to the petitioning electrical
329 corporation and such electrical corporation has previously
330 issued securitized utility tariff bonds;

331 c. A finding that the proposed structuring and pricing
332 of the securitized utility tariff bonds are reasonably

333 expected to result in the lowest securitized utility tariff
334 charges consistent with market conditions at the time the
335 securitized utility tariff bonds are priced and the terms of
336 the financing order;

337 d. A requirement that, for so long as the securitized
338 utility tariff bonds are outstanding and until all financing
339 costs have been paid in full, the imposition and collection
340 of securitized utility tariff charges authorized under a
341 financing order shall be nonbypassable and paid by all
342 existing and future retail customers receiving electrical
343 service from the electrical corporation or its successors or
344 assignees under commission-approved rate schedules except
345 for customers receiving electrical service under special
346 contracts on August 28, 2021, even if a retail customer
347 elects to purchase electricity from an alternative electric
348 supplier following a fundamental change in regulation of
349 public utilities in this state;

350 e. A formula-based true-up mechanism for making, at
351 least annually, expeditious periodic adjustments in the
352 securitized utility tariff charges that customers are
353 required to pay pursuant to the financing order and for
354 making any adjustments that are necessary to correct for any
355 overcollection or undercollection of the charges or to
356 otherwise ensure the timely payment of securitized utility
357 tariff bonds and financing costs and other required amounts
358 and charges payable under the securitized utility tariff
359 bonds;

360 f. The securitized utility tariff property that is, or
361 shall be, created in favor of an electrical corporation or
362 its successors or assignees and that shall be used to pay or
363 secure securitized utility tariff bonds and approved
364 financing costs;

365 g. The degree of flexibility to be afforded to the
366 electrical corporation in establishing the terms and
367 conditions of the securitized utility tariff bonds,
368 including, but not limited to, repayment schedules, expected
369 interest rates, and other financing costs;

370 h. How securitized utility tariff charges will be
371 allocated among retail customer classes. The initial
372 allocation shall remain in effect until the electrical
373 corporation completes a general rate proceeding, and once
374 the commission's order from that general rate proceeding
375 becomes final, all subsequent applications of an adjustment
376 mechanism regarding securitized utility tariff charges shall
377 incorporate changes in the allocation of costs to customers
378 as detailed in the commission's order from the electrical
379 corporation's most recent general rate proceeding;

380 i. A requirement that, after the final terms of an
381 issuance of securitized utility tariff bonds have been
382 established and before the issuance of securitized utility
383 tariff bonds, the electrical corporation determines the
384 resulting initial securitized utility tariff charge in
385 accordance with the financing order, and that such initial
386 securitized utility tariff charge be final and effective
387 upon the issuance of such securitized utility tariff bonds
388 with such charge to be reflected on a compliance tariff
389 sheet bearing such charge;

390 j. A method of tracing funds collected as securitized
391 utility tariff charges, or other proceeds of securitized
392 utility tariff property, determining that such method shall
393 be deemed the method of tracing such funds and determining
394 the identifiable cash proceeds of any securitized utility
395 tariff property subject to a financing order under
396 applicable law;

397 k. A statement specifying a future ratemaking process
398 to reconcile any differences between the actual securitized
399 utility tariff costs financed by securitized utility tariff
400 bonds and the final securitized utility tariff costs
401 incurred by the electrical corporation or assignee provided
402 that any such reconciliation shall not affect the amount of
403 securitized utility tariff bonds or the associated
404 securitized utility tariff charges paid by customers;

405 l. A procedure that shall allow the electrical
406 corporation to earn a return, at the cost of capital
407 authorized from time to time by the commission in the
408 electrical corporation's rate proceedings, on any moneys
409 advanced by the electrical corporation to fund reserves, if
410 any, or capital accounts established under the terms of any
411 indenture, ancillary agreement, or other financing documents
412 pertaining to the securitized utility tariff bonds;

413 m. In a financing order granting authorization to
414 securitize energy transition costs or in a financing order
415 granting authorization to securitize qualified extraordinary
416 costs that include retired or abandoned facility costs, a
417 procedure for the treatment of accumulated deferred income
418 taxes and excess deferred income taxes in connection with
419 the retired or abandoned or to be retired or abandoned
420 electric generating facility, or in connection with retired
421 or abandoned facilities included in qualified extraordinary
422 costs. The accumulated deferred income taxes, including
423 excess deferred income taxes, shall be excluded from rate
424 base in future general rate cases and the net tax benefits
425 relating to amounts that will be recovered through the
426 issuance of securitized utility tariff bonds shall be
427 credited to retail customers by reducing the amount of such
428 securitized utility tariff bonds that would otherwise be

429 issued. The customer credit shall include the net present
430 value of the tax benefits, calculated using a discount rate
431 equal to the expected interest rate of the securitized
432 utility tariff bonds, for the estimated accumulated and
433 excess deferred income taxes at the time of securitization
434 including timing differences created by the issuance of
435 securitized utility tariff bonds amortized over the period
436 of the bonds multiplied by the expected interest rate on
437 such securitized utility tariff bonds;

438 n. An outside date, which shall not be earlier than
439 one year after the date the financing order is no longer
440 subject to appeal, when the authority to issue securitized
441 utility tariff bonds granted in such financing order shall
442 expire; and

443 o. Include any other conditions that the commission
444 considers appropriate and that are not inconsistent with
445 this section.

446 (d) A financing order issued to an electrical
447 corporation may provide that creation of the electrical
448 corporation's securitized utility tariff property is
449 conditioned upon, and simultaneous with, the sale or other
450 transfer of the securitized utility tariff property to an
451 assignee and the pledge of the securitized utility tariff
452 property to secure securitized utility tariff bonds.

453 (e) If the commission issues a financing order, the
454 electrical corporation shall file with the commission at
455 least annually a petition or a letter applying the formula-
456 based true-up mechanism and, based on estimates of
457 consumption for each rate class and other mathematical
458 factors, requesting administrative approval to make the
459 applicable adjustments. The review of the filing shall be
460 limited to determining whether there are any mathematical or

461 clerical errors in the application of the formula-based true-
462 up mechanism relating to the appropriate amount of any
463 overcollection or undercollection of securitized utility
464 tariff charges and the amount of an adjustment. The
465 adjustments shall ensure the recovery of revenues sufficient
466 to provide for the payment of principal, interest,
467 acquisition, defeasance, financing costs, or redemption
468 premium and other fees, costs, and charges in respect of
469 securitized utility tariff bonds approved under the
470 financing order. Within thirty days after receiving an
471 electrical corporation's request pursuant to this paragraph,
472 the commission shall either approve the request or inform
473 the electrical corporation of any mathematical or clerical
474 errors in its calculation. If the commission informs the
475 electrical corporation of mathematical or clerical errors in
476 its calculation, the electrical corporation shall correct
477 its error and refile its request. The time frames
478 previously described in this paragraph shall apply to a
479 refiled request.

480 (f) At the time of any transfer of securitized utility
481 tariff property to an assignee or the issuance of
482 securitized utility tariff bonds authorized thereby,
483 whichever is earlier, a financing order is irrevocable and,
484 except for changes made pursuant to the formula-based true-
485 up mechanism authorized in this section, the commission may
486 not amend, modify, or terminate the financing order by any
487 subsequent action or reduce, impair, postpone, terminate, or
488 otherwise adjust securitized utility tariff charges approved
489 in the financing order. After the issuance of a financing
490 order, the electrical corporation retains sole discretion
491 regarding whether to assign, sell, or otherwise transfer
492 securitized utility tariff property or to cause securitized

493 utility tariff bonds to be issued, including the right to
494 defer or postpone such assignment, sale, transfer, or
495 issuance.

496 (g) The commission, in a financing order and subject
497 to the issuance advice letter process under paragraph (h) of
498 this subdivision, shall specify the degree of flexibility to
499 be afforded the electrical corporation in establishing the
500 terms and conditions for the securitized utility tariff
501 bonds to accommodate changes in market conditions, including
502 repayment schedules, interest rates, financing costs,
503 collateral requirements, required debt service and other
504 reserves and the ability of the electrical corporation, at
505 its option, to effect a series of issuances of securitized
506 utility tariff bonds and correlated assignments, sales,
507 pledges, or other transfers of securitized utility tariff
508 property. Any changes made under this paragraph to terms
509 and conditions for the securitized utility tariff bonds
510 shall be in conformance with the financing order.

511 (h) As the actual structure and pricing of the
512 securitized utility tariff bonds will be unknown at the time
513 the financing order is issued, prior to the issuance of each
514 series of bonds, an issuance advice letter shall be provided
515 to the commission by the electrical corporation following
516 the determination of the final terms of such series of bonds
517 no later than one day after the pricing of the securitized
518 utility tariff bonds. The commission shall have the
519 authority to designate a representative or representatives
520 from commission staff, who may be advised by a financial
521 advisor or advisors contracted with the commission, to
522 provide input to the electrical corporation and collaborate
523 with the electrical corporation in all facets of the process
524 undertaken by the electrical corporation to place the

525 securitized utility tariff bonds to market so the
526 commission's representative or representatives can provide
527 the commission with an opinion on the reasonableness of the
528 pricing, terms, and conditions of the securitized utility
529 tariff bonds on an expedited basis. Neither the designated
530 representative or representatives from the commission staff
531 nor one or more financial advisors advising commission staff
532 shall have authority to direct how the electrical
533 corporation places the bonds to market although they shall
534 be permitted to attend all meetings convened by the
535 electrical corporation to address placement of the bonds to
536 market. The form of such issuance advice letter shall be
537 included in the financing order and shall indicate the final
538 structure of the securitized utility tariff bonds and
539 provide the best available estimate of total ongoing
540 financing costs. The issuance advice letter shall report
541 the initial securitized utility tariff charges and other
542 information specific to the securitized utility tariff bonds
543 to be issued, as the commission may require. Unless an
544 earlier date is specified in the financing order, the
545 electrical corporation may proceed with the issuance of the
546 securitized utility tariff bonds unless, prior to noon on
547 the fourth business day after the commission receives the
548 issuance advice letter, the commission issues a disapproval
549 letter directing that the bonds as proposed shall not be
550 issued and the basis for that disapproval. The financing
551 order may provide such additional provisions relating to the
552 issuance advice letter process as the commission considers
553 appropriate and as are not inconsistent with this section.

554 (4) (a) In performing the responsibilities of this
555 section in connection with the issuance of a financing
556 order, approving the petition, an order approving the

557 petition subject to conditions, or an order rejecting the
558 petition, the commission shall undertake due diligence as it
559 deems appropriate prior to the issuance of the order
560 regarding the petition pursuant to which the commission may
561 request additional information from the electrical
562 corporation and may engage one or more financial advisors,
563 one or more consultants, and counsel as the commission deems
564 necessary. Any financial advisor or advisors, counsel, and
565 consultants engaged by the commission shall have a fiduciary
566 duty with respect to the proposed issuance of securitized
567 utility bonds solely to the commission. All expenses
568 associated with such services shall be included as part of
569 the financing costs of the securitized utility tariff bonds
570 and shall be included in the securitized utility tariff
571 charge.

572 (b) If an electrical corporation's petition for a
573 financing order is denied or withdrawn, or for any reason
574 securitized utility tariff bonds are not issued, any costs
575 of retaining one or more financial advisors, one or more
576 consultants, and counsel on behalf of the commission shall
577 be paid by the petitioning electrical corporation and shall
578 be eligible for full recovery, including carrying costs, if
579 approved by the commission in the electrical corporation's
580 future rates.

581 (5) At the request of an electrical corporation, the
582 commission may commence a proceeding and issue a subsequent
583 financing order that provides for refinancing, retiring, or
584 refunding securitized utility tariff bonds issued pursuant
585 to the original financing order if the commission finds that
586 the subsequent financing order satisfies all of the criteria
587 specified in this section for a financing order. Effective
588 upon retirement of the refunded securitized utility tariff

589 bonds and the issuance of new securitized utility tariff
590 bonds, the commission shall adjust the related securitized
591 utility tariff charges accordingly.

592 (6) (a) A financing order remains in effect and
593 securitized utility tariff property under the financing
594 order continues to exist until securitized utility tariff
595 bonds issued pursuant to the financing order have been paid
596 in full or defeased and, in each case, all commission-
597 approved financing costs of such securitized utility tariff
598 bonds have been recovered in full.

599 (b) A financing order issued to an electrical
600 corporation remains in effect and unabated notwithstanding
601 the reorganization, bankruptcy, or other insolvency
602 proceedings, merger, or sale of the electrical corporation
603 or its successors or assignees.

604 3. (1) The commission may not, in exercising its
605 powers and carrying out its duties regarding any matter
606 within its authority, consider the securitized utility
607 tariff bonds issued pursuant to a financing order to be the
608 debt of the electrical corporation other than for federal
609 and state income tax purposes, consider the securitized
610 utility tariff charges paid under the financing order to be
611 the revenue of the electrical corporation for any purpose,
612 consider the securitized utility tariff costs or financing
613 costs specified in the financing order to be the costs of
614 the electrical corporation, nor may the commission determine
615 any action taken by an electrical corporation which is
616 consistent with the financing order to be unjust or
617 unreasonable, and section 386.300 shall not apply to the
618 issuance of securitized utility tariff bonds.

619 (2) Securitized utility tariff charges shall not be
620 utilized or accounted for in determining the electrical

621 corporation's average overall rate, as defined in section
622 393.1655 and as used to determine the maximum retail rate
623 impact limitations provided for by subsections 3 and 4 of
624 section 393.1655.

625 (3) No electrical corporation is required to file a
626 petition for a financing order under this section or
627 otherwise utilize this section. An electrical corporation's
628 decision not to file a petition for a financing order under
629 this section shall not be admissible in any commission
630 proceeding nor shall it be otherwise utilized or relied on
631 by the commission in any proceeding respecting the
632 electrical corporation's rates or its accounting, including,
633 without limitation, any general rate proceeding, fuel
634 adjustment clause docket, or proceedings relating to
635 accounting authority, whether initiated by the electrical
636 corporation or otherwise. The commission may not order or
637 otherwise directly or indirectly require an electrical
638 corporation to use securitized utility tariff bonds to
639 recover securitized utility tariff costs or to finance any
640 project, addition, plant, facility, extension, capital
641 improvement, equipment, or any other expenditure.

642 (4) The commission may not refuse to allow an
643 electrical corporation to recover securitized utility tariff
644 costs in an otherwise permissible fashion, or refuse or
645 condition authorization or approval of the issuance and sale
646 by an electrical corporation of securities or the assumption
647 by the electrical corporation of liabilities or obligations,
648 because of the potential availability of securitized utility
649 tariff bond financing.

650 (5) After the issuance of a financing order with or
651 without conditions, the electrical corporation retains sole
652 discretion regarding whether to cause the securitized

653 utility tariff bonds to be issued, including the right to
654 defer or postpone such sale, assignment, transfer, or
655 issuance. Nothing shall prevent the electrical corporation
656 from abandoning the issuance of securitized utility tariff
657 bonds under the financing order by filing with the
658 commission a statement of abandonment and the reasons
659 therefor; provided, that the electrical corporation's
660 abandonment decision shall not be deemed imprudent because
661 of the potential availability of securitized utility tariff
662 bond financing; and provided further, that an electrical
663 corporation's decision to abandon issuance of such bonds may
664 be raised by any party, including the commission, as a
665 reason the commission should not authorize, or should
666 modify, the rate-making treatment proposed by the electrical
667 corporation of the costs associated with the electric
668 generating facility that was the subject of a petition under
669 this section that would have been securitized as energy
670 transition costs had such abandonment decision not been
671 made, but only if the electrical corporation requests
672 nonstandard plant retirement treatment of such costs for
673 rate-making purposes.

674 (6) The commission may not, directly or indirectly,
675 utilize or consider the debt reflected by the securitized
676 utility tariff bonds in establishing the electrical
677 corporation's capital structure used to determine any
678 regulatory matter, including but not limited to the
679 electrical corporation's revenue requirement used to set its
680 rates.

681 (7) The commission may not, directly or indirectly,
682 consider the existence of securitized utility tariff bonds
683 or the potential use of securitized utility tariff bond
684 financing proceeds in determining the electrical

685 corporation's authorized rate of return used to determine
686 the electrical corporation's revenue requirement used to set
687 its rates.

688 4. The electric bills of an electrical corporation
689 that has obtained a financing order and caused securitized
690 utility tariff bonds to be issued shall comply with the
691 provisions of this subsection; however, the failure of an
692 electrical corporation to comply with this subsection does
693 not invalidate, impair, or affect any financing order,
694 securitized utility tariff property, securitized utility
695 tariff charge, or securitized utility tariff bonds. The
696 electrical corporation shall do the following:

697 (1) Explicitly reflect that a portion of the charges
698 on such bill represents securitized utility tariff charges
699 approved in a financing order issued to the electrical
700 corporation and, if the securitized utility tariff property
701 has been transferred to an assignee, shall include a
702 statement to the effect that the assignee is the owner of
703 the rights to securitized utility tariff charges and that
704 the electrical corporation or other entity, if applicable,
705 is acting as a collection agent or servicer for the
706 assignee. The tariff applicable to customers shall indicate
707 the securitized utility tariff charge and the ownership of
708 the charge;

709 (2) Include the securitized utility tariff charge on
710 each customer's bill as a separate line item and include
711 both the rate and the amount of the charge on each bill.

712 5. (1) (a) All securitized utility tariff property
713 that is specified in a financing order constitutes an
714 existing, present intangible property right or interest
715 therein, notwithstanding that the imposition and collection
716 of securitized utility tariff charges depends on the

717 electrical corporation, to which the financing order is
718 issued, performing its servicing functions relating to the
719 collection of securitized utility tariff charges and on
720 future electricity consumption. The property exists:

721 a. Regardless of whether or not the revenues or
722 proceeds arising from the property have been billed, have
723 accrued, or have been collected; and

724 b. Notwithstanding the fact that the value or amount
725 of the property is dependent on the future provision of
726 service to customers by the electrical corporation or its
727 successors or assignees and the future consumption of
728 electricity by customers.

729 (b) Securitized utility tariff property specified in a
730 financing order exists until securitized utility tariff
731 bonds issued pursuant to the financing order are paid in
732 full and all financing costs and other costs of such
733 securitized utility tariff bonds have been recovered in full.

734 (c) All or any portion of securitized utility tariff
735 property specified in a financing order issued to an
736 electrical corporation may be transferred, sold, conveyed,
737 or assigned to a successor or assignee that is wholly owned,
738 directly or indirectly, by the electrical corporation and
739 created for the limited purpose of acquiring, owning, or
740 administering securitized utility tariff property or issuing
741 securitized utility tariff bonds under the financing order.
742 All or any portion of securitized utility tariff property
743 may be pledged to secure securitized utility tariff bonds
744 issued pursuant to the financing order, amounts payable to
745 financing parties and to counterparties under any ancillary
746 agreements, and other financing costs. Any transfer, sale,
747 conveyance, assignment, grant of a security interest in or
748 pledge of securitized utility tariff property by an

749 electrical corporation, or an affiliate of the electrical
750 corporation, to an assignee, to the extent previously
751 authorized in a financing order, does not require the prior
752 consent and approval of the commission.

753 (d) If an electrical corporation defaults on any
754 required remittance of securitized utility tariff charges
755 arising from securitized utility tariff property specified
756 in a financing order, a court, upon application by an
757 interested party, and without limiting any other remedies
758 available to the applying party, shall order the
759 sequestration and payment of the revenues arising from the
760 securitized utility tariff property to the financing parties
761 or their assignees. Any such financing order remains in
762 full force and effect notwithstanding any reorganization,
763 bankruptcy, or other insolvency proceedings with respect to
764 the electrical corporation or its successors or assignees.

765 (e) The interest of a transferee, purchaser, acquirer,
766 assignee, or pledgee in securitized utility tariff property
767 specified in a financing order issued to an electrical
768 corporation, and in the revenue and collections arising from
769 that property, is not subject to setoff, counterclaim,
770 surcharge, or defense by the electrical corporation or any
771 other person or in connection with the reorganization,
772 bankruptcy, or other insolvency of the electrical
773 corporation or any other entity.

774 (f) Any successor to an electrical corporation,
775 whether pursuant to any reorganization, bankruptcy, or other
776 insolvency proceeding or whether pursuant to any merger or
777 acquisition, sale, or other business combination, or
778 transfer by operation of law, as a result of electrical
779 corporation restructuring or otherwise, shall perform and
780 satisfy all obligations of, and have the same rights under a

781 financing order as, the electrical corporation under the
782 financing order in the same manner and to the same extent as
783 the electrical corporation, including collecting and paying
784 to the person entitled to receive the revenues, collections,
785 payments, or proceeds of the securitized utility tariff
786 property. Nothing in this section is intended to limit or
787 impair any authority of the commission concerning the
788 transfer or succession of interests of public utilities.

789 (g) Securitized utility tariff bonds shall be
790 nonrecourse to the credit or any assets of the electrical
791 corporation other than the securitized utility tariff
792 property as specified in the financing order and any rights
793 under any ancillary agreement.

794 (2) (a) The creation, perfection, priority, and
795 enforcement of any security interest in securitized utility
796 tariff property to secure the repayment of the principal and
797 interest and other amounts payable in respect of securitized
798 utility tariff bonds, amounts payable under any ancillary
799 agreement and other financing costs are governed by this
800 section and not by the provisions of the code, except as
801 otherwise provided in this section.

802 (b) A security interest in securitized utility tariff
803 property is created, valid, and binding at the later of the
804 time:

- 805 a. The financing order is issued;
- 806 b. A security agreement is executed and delivered by
807 the debtor granting such security interest;
- 808 c. The debtor has rights in such securitized utility
809 tariff property or the power to transfer rights in such
810 securitized utility tariff property; or
- 811 d. Value is received for the securitized utility
812 tariff property.

813 The description of securitized utility tariff property in a
814 security agreement is sufficient if the description refers
815 to this section and the financing order creating the
816 securitized utility tariff property. A security interest
817 shall attach as provided in this paragraph without any
818 physical delivery of collateral or other act.

819 (c) Upon the filing of a financing statement with the
820 office of the secretary of state as provided in this
821 section, a security interest in securitized utility tariff
822 property shall be perfected against all parties having
823 claims of any kind in tort, contract, or otherwise against
824 the person granting the security interest, and regardless of
825 whether the parties have notice of the security interest.
826 Without limiting the foregoing, upon such filing a security
827 interest in securitized utility tariff property shall be
828 perfected against all claims of lien creditors, and shall
829 have priority over all competing security interests and
830 other claims other than any security interest previously
831 perfected in accordance with this section.

832 (d) The priority of a security interest in securitized
833 utility tariff property is not affected by the commingling
834 of securitized utility tariff charges with other amounts.
835 Any pledgee or secured party shall have a perfected security
836 interest in the amount of all securitized utility tariff
837 charges that are deposited in any cash or deposit account of
838 the qualifying electrical corporation in which securitized
839 utility tariff charges have been commingled with other funds
840 and any other security interest that may apply to those
841 funds shall be terminated when they are transferred to a
842 segregated account for the assignee or a financing party.

843 (e) No application of the formula-based true-up
844 mechanism as provided in this section will affect the

845 validity, perfection, or priority of a security interest in
846 or transfer of securitized utility tariff property.

847 (f) If a default occurs under the securitized utility
848 tariff bonds that are secured by a security interest in
849 securitized utility tariff property, the financing parties
850 or their representatives may exercise the rights and
851 remedies available to a secured party under the code,
852 including the rights and remedies available under part 6 of
853 article 9 of the code. The commission may also order
854 amounts arising from securitized utility tariff charges be
855 transferred to a separate account for the financing parties'
856 benefit, to which their lien and security interest shall
857 apply. On application by or on behalf of the financing
858 parties, the circuit court for the county or city in which
859 the electrical corporation's headquarters is located shall
860 order the sequestration and payment to them of revenues
861 arising from the securitized utility tariff charges.

862 (3) (a) Any sale, assignment, or other transfer of
863 securitized utility tariff property shall be an absolute
864 transfer and true sale of, and not a pledge of or secured
865 transaction relating to, the seller's right, title, and
866 interest in, to, and under the securitized utility tariff
867 property if the documents governing the transaction
868 expressly state that the transaction is a sale or other
869 absolute transfer other than for federal and state income
870 tax purposes. For all purposes other than federal and state
871 income tax purposes, the parties' characterization of a
872 transaction as a sale of an interest in securitized utility
873 tariff property shall be conclusive that the transaction is
874 a true sale and that ownership has passed to the party
875 characterized as the purchaser, regardless of whether the
876 purchaser has possession of any documents evidencing or

877 pertaining to the interest. A sale or similar outright
878 transfer of an interest in securitized utility tariff
879 property may occur only when all of the following have
880 occurred:

- 881 a. The financing order creating the securitized
882 utility tariff property has become effective;
- 883 b. The documents evidencing the transfer of
884 securitized utility tariff property have been executed by
885 the assignor and delivered to the assignee; and
- 886 c. Value is received for the securitized utility
887 tariff property.

888 After such a transaction, the securitized utility tariff
889 property is not subject to any claims of the transferor or
890 the transferor's creditors, other than creditors holding a
891 prior security interest in the securitized utility tariff
892 property perfected in accordance with this section.

893 (b) The characterization of the sale, assignment, or
894 other transfer as an absolute transfer and true sale and the
895 corresponding characterization of the property interest of
896 the purchaser shall not be affected or impaired by the
897 occurrence of any of the following factors:

- 898 a. Commingling of securitized utility tariff charges
899 with other amounts;
- 900 b. The retention by the seller of (i) a partial or
901 residual interest, including an equity interest, in the
902 securitized utility tariff property, whether direct or
903 indirect, or whether subordinate or otherwise, or (ii) the
904 right to recover costs associated with taxes, franchise
905 fees, or license fees imposed on the collection of
906 securitized utility tariff charges;

907 c. Any recourse that the purchaser may have against
908 the seller;

909 d. Any indemnification rights, obligations, or
910 repurchase rights made or provided by the seller;

911 e. The obligation of the seller to collect securitized
912 utility tariff charges on behalf of an assignee;

913 f. The transferor acting as the servicer of the
914 securitized utility tariff charges or the existence of any
915 contract that authorizes or requires the electrical
916 corporation, to the extent that any interest in securitized
917 utility tariff property is sold or assigned, to contract
918 with the assignee or any financing party that it will
919 continue to operate its system to provide service to its
920 customers, will collect amounts in respect of the
921 securitized utility tariff charges for the benefit and
922 account of such assignee or financing party, and will
923 account for and remit such amounts to or for the account of
924 such assignee or financing party;

925 g. The treatment of the sale, conveyance, assignment,
926 or other transfer for tax, financial reporting, or other
927 purposes;

928 h. The granting or providing to bondholders a
929 preferred right to the securitized utility tariff property
930 or credit enhancement by the electrical corporation or its
931 affiliates with respect to such securitized utility tariff
932 bonds;

933 i. Any application of the formula-based true-up
934 mechanism as provided in this section.

935 (c) Any right that an electrical corporation has in
936 the securitized utility tariff property before its pledge,
937 sale, or transfer or any other right created under this
938 section or created in the financing order and assignable

939 under this section or assignable pursuant to a financing
940 order is property in the form of a contract right or a chose
941 in action. Transfer of an interest in securitized utility
942 tariff property to an assignee is enforceable only upon the
943 later of:

- 944 a. The issuance of a financing order;
- 945 b. The assignor having rights in such securitized
946 utility tariff property or the power to transfer rights in
947 such securitized utility tariff property to an assignee;
- 948 c. The execution and delivery by the assignor of
949 transfer documents in connection with the issuance of
950 securitized utility tariff bonds; and
- 951 d. The receipt of value for the securitized utility
952 tariff property.

953 An enforceable transfer of an interest in securitized
954 utility tariff property to an assignee is perfected against
955 all third parties, including subsequent judicial or other
956 lien creditors, when a notice of that transfer has been
957 given by the filing of a financing statement in accordance
958 with subsection 7 of this section. The transfer is
959 perfected against third parties as of the date of filing.

960 (d) The priority of a transfer perfected under this
961 section is not impaired by any later modification of the
962 financing order or securitized utility tariff property or by
963 the commingling of funds arising from securitized utility
964 tariff property with other funds. Any other security
965 interest that may apply to those funds, other than a
966 security interest perfected under this section, is
967 terminated when they are transferred to a segregated account
968 for the assignee or a financing party. If securitized
969 utility tariff property has been transferred to an assignee

970 or financing party, any proceeds of that property shall be
971 held in trust for the assignee or financing party.

972 (e) The priority of the conflicting interests of
973 assignees in the same interest or rights in any securitized
974 utility tariff property is determined as follows:

975 a. Conflicting perfected interests or rights of
976 assignees rank according to priority in time of perfection.
977 Priority dates from the time a filing covering the transfer
978 is made in accordance with subsection 7 of this section;

979 b. A perfected interest or right of an assignee has
980 priority over a conflicting unperfected interest or right of
981 an assignee;

982 c. A perfected interest or right of an assignee has
983 priority over a person who becomes a lien creditor after the
984 perfection of such assignee's interest or right.

985 6. The description of securitized utility tariff
986 property being transferred to an assignee in any sale
987 agreement, purchase agreement, or other transfer agreement,
988 granted or pledged to a pledgee in any security agreement,
989 pledge agreement, or other security document, or indicated
990 in any financing statement is only sufficient if such
991 description or indication refers to the financing order that
992 created the securitized utility tariff property and states
993 that the agreement or financing statement covers all or part
994 of the property described in the financing order. This
995 section applies to all purported transfers of, and all
996 purported grants or liens or security interests in,
997 securitized utility tariff property, regardless of whether
998 the related sale agreement, purchase agreement, other
999 transfer agreement, security agreement, pledge agreement, or
1000 other security document was entered into, or any financing
1001 statement was filed.

1002 7. The secretary of state shall maintain any financing
1003 statement filed to perfect a sale or other transfer of
1004 securitized utility tariff property and any security
1005 interest in securitized utility tariff property under this
1006 section in the same manner that the secretary of state
1007 maintains financing statements filed under the code to
1008 perfect a security interest in collateral owned by a
1009 transmitting utility. Except as otherwise provided in this
1010 section, all financing statements filed pursuant to this
1011 section shall be governed by the provisions regarding
1012 financing statements and the filing thereof under the code,
1013 including part 5 of article 9 of the code. A security
1014 interest in securitized utility tariff property may be
1015 perfected only by the filing of a financing statement in
1016 accordance with this section, and no other method of
1017 perfection shall be effective. Notwithstanding any
1018 provision of the code to the contrary, a financing statement
1019 filed pursuant to this section is effective until a
1020 termination statement is filed under the code, and no
1021 continuation statement need be filed to maintain its
1022 effectiveness. A financing statement filed pursuant to this
1023 section may indicate that the debtor is a transmitting
1024 utility, and without regard to whether the debtor is an
1025 electrical corporation, an assignee or otherwise qualifies
1026 as a transmitting utility under the code, but the failure to
1027 make such indication shall not impair the duration and
1028 effectiveness of the financing statement.

1029 8. The law governing the validity, enforceability,
1030 attachment, perfection, priority, and exercise of remedies
1031 with respect to the transfer of an interest or right or the
1032 pledge or creation of a security interest in any securitized
1033 utility tariff property shall be the laws of this state.

1034 9. Neither the state nor its political subdivisions
1035 are liable on any securitized utility tariff bonds, and the
1036 bonds are not a debt or a general obligation of the state or
1037 any of its political subdivisions, agencies, or
1038 instrumentalities, nor are they special obligations or
1039 indebtedness of the state or any agency or political
1040 subdivision. An issue of securitized utility tariff bonds
1041 does not, directly, indirectly, or contingently, obligate
1042 the state or any agency, political subdivision, or
1043 instrumentality of the state to levy any tax or make any
1044 appropriation for payment of the securitized utility tariff
1045 bonds, other than in their capacity as consumers of
1046 electricity. All securitized utility tariff bonds shall
1047 contain on the face thereof a statement to the following
1048 effect: "Neither the full faith and credit nor the taxing
1049 power of the state of Missouri is pledged to the payment of
1050 the principal of, or interest on, this bond."

1051 10. All of the following entities may legally invest
1052 any sinking funds, moneys, or other funds in securitized
1053 utility tariff bonds:

1054 (1) Subject to applicable statutory restrictions on
1055 state or local investment authority, the state, units of
1056 local government, political subdivisions, public bodies, and
1057 public officers, except for members of the commission, the
1058 commission's technical advisory and other staff, or
1059 employees of the office of the public counsel;

1060 (2) Banks and bankers, savings and loan associations,
1061 credit unions, trust companies, savings banks and
1062 institutions, investment companies, insurance companies,
1063 insurance associations, and other persons carrying on a
1064 banking or insurance business;

1065 (3) Personal representatives, guardians, trustees, and
1066 other fiduciaries;

1067 (4) All other persons authorized to invest in bonds or
1068 other obligations of a similar nature.

1069 11. (1) The state and its agencies, including the
1070 commission, pledge and agree with bondholders, the owners of
1071 the securitized utility tariff property, and other financing
1072 parties that the state and its agencies will not take any
1073 action listed in this subdivision. This subdivision does
1074 not preclude limitation or alteration if full compensation
1075 is made by law for the full protection of the securitized
1076 utility tariff charges collected pursuant to a financing
1077 order and of the bondholders and any assignee or financing
1078 party entering into a contract with the electrical
1079 corporation. The prohibited actions are as follows:

1080 (a) Alter the provisions of this section, which
1081 authorize the commission to create an irrevocable contract
1082 right or chose in action by the issuance of a financing
1083 order, to create securitized utility tariff property, and
1084 make the securitized utility tariff charges imposed by a
1085 financing order irrevocable, binding, or nonbypassable
1086 charges for all existing and future retail customers of the
1087 electrical corporation except its existing special contract
1088 customers;

1089 (b) Take or permit any action that impairs or would
1090 impair the value of securitized utility tariff property or
1091 the security for the securitized utility tariff bonds or
1092 revises the securitized utility tariff costs for which
1093 recovery is authorized;

1094 (c) In any way impair the rights and remedies of the
1095 bondholders, assignees, and other financing parties;

1096 (d) Except for changes made pursuant to the formula-
1097 based true-up mechanism authorized under this section,
1098 reduce, alter, or impair securitized utility tariff charges
1099 that are to be imposed, billed, charged, collected, and
1100 remitted for the benefit of the bondholders, any assignee,
1101 and any other financing parties until any and all principal,
1102 interest, premium, financing costs and other fees, expenses,
1103 or charges incurred, and any contracts to be performed, in
1104 connection with the related securitized utility tariff bonds
1105 have been paid and performed in full.

1106 (2) Any person or entity that issues securitized
1107 utility tariff bonds may include the language specified in
1108 this subsection in the securitized utility tariff bonds and
1109 related documentation.

1110 12. An assignee or financing party is not an
1111 electrical corporation or person providing electric service
1112 by virtue of engaging in the transactions described in this
1113 section.

1114 13. If there is a conflict between this section and
1115 any other law regarding the attachment, assignment, or
1116 perfection, or the effect of perfection, or priority of,
1117 assignment or transfer of, or security interest in
1118 securitized utility tariff property, this section shall
1119 govern.

1120 14. If any provision of this section is held invalid
1121 or is invalidated, superseded, replaced, repealed, or
1122 expires for any reason, that occurrence does not affect the
1123 validity of any action allowed under this section which is
1124 taken by an electrical corporation, an assignee, a financing
1125 party, a collection agent, or a party to an ancillary
1126 agreement; and any such action remains in full force and
1127 effect with respect to all securitized utility tariff bonds

1128 issued or authorized in a financing order issued under this
1129 section before the date that such provision is held invalid
1130 or is invalidated, superseded, replaced, or repealed, or
1131 expires for any reason.

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
113 health. 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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