

SECOND REGULAR SESSION

HOUSE BILL NO. 2657

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COSTLOW.

6219H.01I

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 8.800, 30.750, 67.2800, 135.950, 260.035, 386.890, 386.895, 393.1025, 393.1030, 393.1050, and 620.1878, RSMo, and to enact in lieu thereof eleven new sections relating to renewable energy.

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

Section A. Sections 8.800, 30.750, 67.2800, 135.950, 260.035, 386.890, 386.895, 393.1025, 393.1030, 393.1050, and 620.1878, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 8.800, 30.750, 67.2800, 135.950, 260.035, 386.890, 386.895, 393.1025, 393.1030, 393.1050, and 620.1878, to read as follows:

8.800. As used in sections 8.800 to 8.825, the following terms mean:

(1) "Builder", the prime contractor that hires and coordinates building subcontractors or if there is no prime contractor, the contractor that completes more than fifty percent of the total construction work performed on the building. Construction work includes, but is not limited to, foundation, framing, wiring, plumbing and finishing work;

(2) "Department", the department of economic development;

(3) "Designer", the architect, engineer, landscape architect, builder, interior designer or other person who performs the actual design work or is under the direct supervision and responsibility of the person who performs the actual design work;

(4) "District heating and cooling systems", heat pump systems which use waste heat from factories, sewage treatment plants, municipal solid waste incineration, lighting and other heat sources in office buildings or which use ambient thermal energy from sources including temperature differences in rivers to provide regional heating or cooling;

(5) "Division", the division of facilities management, design and construction;

EXPLANATION — Matter enclosed in bold-faced brackets [**thus**] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (6) "Energy efficiency", the increased productivity or effectiveness of energy
16 resources use, the reduction of energy consumption, or the use of renewable energy sources;

17 (7) "Gray water", all domestic wastewater from a state building except wastewater
18 from urinals, toilets, laboratory sinks, and garbage disposals;

19 (8) "Life cycle costs", the costs associated with the initial construction or renovation
20 and the proposed energy consumption, operation and maintenance costs over the useful life of
21 a state building or over the first twenty-five years after the construction or renovation is
22 completed;

23 (9) "Public building", a building owned or operated by a governmental subdivision of
24 the state, including, but not limited to, a city, county or school district;

25 (10) "Renewable energy source", a source of thermal, mechanical or electrical energy
26 produced from **nuclear**, solar, wind, low-head hydropower, biomass, hydrogen or geothermal
27 sources, but not from the incineration of hazardous waste, municipal solid waste or sludge
28 from sewage treatment facilities;

29 (11) "State agency", a department, commission, authority, office, college or university
30 of this state;

31 (12) "State building", a building owned by this state or an agency of this state;

32 (13) "Substantial renovation" or "substantially renovated", modifications that will
33 affect at least fifty percent of the square footage of the building or modifications that will cost
34 at least fifty percent of the building's fair market value.

30.750. As used in sections 30.750 to 30.765, the following terms mean:

2 (1) "Eligible agribusiness", a person engaged in the processing or adding of value to
3 agricultural products produced in Missouri;

4 (2) "Eligible alternative energy consumer", an individual who wishes to borrow
5 moneys for the purchase, installation, or construction of facilities or equipment related to the
6 production of fuel or power primarily for the individual's own use from energy sources other
7 than fossil fuels, including but not limited to **nuclear**, solar, hydroelectric, wind, and qualified
8 biomass;

9 (3) "Eligible alternative energy operation", a business enterprise engaged in the
10 production of fuel or power from energy sources other than fossil fuels, including but not
11 limited to **nuclear**, solar, hydroelectric, wind, and qualified biomass. Such business
12 enterprise shall conform to the characteristics of paragraphs (a), (b), and (d) of subdivision (6)
13 of this section;

14 (4) "Eligible beginning farmer":

15 (a) For any beginning farmer who seeks to participate in the linked deposit program
16 alone, a farmer who:

17 a. Is a Missouri resident;

18 b. Wishes to borrow for a farm operation located in Missouri;

19 c. Is at least eighteen years old; and

20 d. In the preceding five years has not owned, either directly or indirectly, farm land

21 greater than fifty percent of the average size farm in the county where the proposed farm

22 operation is located or farm land with an appraised value greater than four hundred fifty

23 thousand dollars. A farmer who qualifies as an eligible farmer under this provision may

24 utilize the proceeds of a linked deposit loan to purchase agricultural land, farm buildings, new

25 and used farm equipment, livestock and working capital;

26 (b) For any beginning farmer who is participating in both the linked deposit program

27 and the beginning farmer loan program administered by the Missouri agriculture and small

28 business development authority, a farmer who:

29 a. Qualifies under the definition of a beginning farmer utilized for eligibility for

30 federal tax-exempt financing, including the limitations on the use of loan proceeds; and

31 b. Meets all other requirements established by the Missouri agriculture and small

32 business development authority;

33 (5) "Eligible facility borrower", a borrower qualified under section 30.860 to apply

34 for a reduced-rate loan under sections 30.750 to 30.765;

35 (6) "Eligible farming operation", any person engaged in farming in an authorized

36 farm corporation, family farm, or family farm corporation as defined in section 350.010 that

37 has all of the following characteristics:

38 (a) Is headquartered in this state;

39 (b) Maintains offices, operating facilities, or farming operations and transacts

40 business in this state;

41 (c) Employs less than ten employees;

42 (d) Is organized for profit;

43 (7) "Eligible governmental entity", any political subdivision of the state seeking to

44 finance capital improvements, capital outlay, or other significant programs through an eligible

45 lending institution;

46 (8) "Eligible higher education institution", any approved public or private institution

47 as defined in section 173.205;

48 (9) "Eligible job enhancement business", a new, existing, or expanding firm operating

49 in Missouri, or as a condition of accepting the linked deposit, will locate a facility or office in

50 Missouri associated with said linked deposit, which employs ten or more employees in

51 Missouri on a yearly average and which, as nearly as possible, is able to establish or retain at

52 least one job in Missouri for each fifty thousand dollars received from a linked deposit loan

53 except when the applicant can demonstrate significant costs for equipment, capital outlay, or

54 capital improvements associated with the physical expansion, renovation, or modernization of

55 a facility or equipment. In such cases, the maximum amount of the linked deposit shall not
56 exceed fifty thousand dollars per job created or retained plus the initial cost of the physical
57 expansion, renovation or capital outlay;

58 (10) "Eligible lending institution", a financial institution that is eligible to make
59 commercial or agricultural or student loans or discount or purchase such loans, is a public
60 depository of state funds or obtains its funds through the issuance of obligations, either
61 directly or through a related entity, eligible for the placement of state funds under the
62 provisions of Section 15, Article IV, Constitution of Missouri, and agrees to participate in the
63 linked deposit program;

64 (11) "Eligible livestock operation", any person engaged in production of livestock or
65 poultry in an authorized farm corporation, family farm, or family farm corporation as defined
66 in section 350.010;

67 (12) "Eligible locally owned business", any person seeking to establish a new firm,
68 partnership, cooperative company, or corporation that shall retain at least fifty-one percent
69 ownership by residents in a county in which the business is headquartered, that consists of the
70 following characteristics:

71 (a) The county has a median population of twelve thousand five hundred or less; and
72 (b) The median income of residents in the county are equal to or less than the state
73 median income; or

74 (c) The unemployment rate of the county is equal to or greater than the state's
75 unemployment rate;

76 (13) "Eligible marketing enterprise", a business enterprise operating in this state
77 which is in the process of marketing its goods, products or services within or outside of this
78 state or overseas, which marketing is designed to increase manufacturing, transportation,
79 mining, communications, or other enterprises in this state, which has proposed its marketing
80 plan and strategy to the department of economic development and which plan and strategy
81 has been approved by the department for purposes of eligibility pursuant to sections 30.750 to
82 30.765. Such business enterprise shall conform to the characteristics of paragraphs (a), (b)
83 and (d) of subdivision (6) of this section and also employ less than twenty-five employees;

84 (14) "Eligible multitenant development enterprise", a new enterprise that develops
85 multitenant space for targeted industries as determined by the department of economic
86 development and approved by the department for the purposes of eligibility pursuant to
87 sections 30.750 to 30.765;

88 (15) "Eligible residential property developer", an individual who purchases and
89 develops a residential structure of either two or four units, if such residential property
90 developer uses and agrees to continue to use, for at least the five years immediately following
91 the date of issuance of the linked deposit loan, one of the units as his principal residence or if

92 such person's principal residence is located within one-half mile from the developed structure
93 and such person agrees to maintain the principal residence within one-half mile of the
94 developed structure for at least the five years immediately following the date of issuance of
95 the linked deposit loan;

96 (16) "Eligible residential property owner", a person, firm or corporation who
97 purchases, develops or rehabilitates a multifamily residential structure;

98 (17) "Eligible small business", a person engaged in an activity with the purpose of
99 obtaining, directly or indirectly, a gain, benefit or advantage and which conforms to the
100 characteristics of paragraphs (a), (b) and (d) of subdivision (6) of this section, and also
101 employs less than one hundred employees or an eligible veteran-owned small business as
102 defined in subdivision (19) of this section;

103 (18) "Eligible student borrower", any person attending, or the parent of a dependent
104 undergraduate attending, an eligible higher education institution in Missouri who may or may
105 not qualify for need-based student financial aid calculated by the federal analysis called
106 Congressional Methodology Formula pursuant to 20 U.S.C. 1078, as amended (the Higher
107 Education Amendments of 1986);

108 (19) "Eligible veteran-owned small business", any business owned by an honorably
109 discharged veteran and Missouri resident who has agreed to locate his or her business in
110 Missouri for a minimum of three years and employs less than one hundred employees, a
111 majority of whom are Missouri residents;

112 (20) "Eligible water supply system", a water system which serves fewer than fifty
113 thousand persons and which is owned and operated by:

- 114 (a) A public water supply district established pursuant to chapter 247; or
- 115 (b) A municipality or other political subdivision; or
- 116 (c) A water corporation;

117 and which is certified by the department of natural resources in accordance with its rules and
118 regulations to have suffered a significant decrease in its capacity to meet its service needs as a
119 result of drought;

121 (21) "Farming", using or cultivating land for the production of agricultural crops,
122 livestock or livestock products, forest products, poultry or poultry products, milk or dairy
123 products, or fruit or other horticultural products;

124 (22) "Linked deposit", a certificate of deposit, or in the case of production credit
125 associations, the subscription or purchase outright of obligations described in Section 15,
126 Article IV, Constitution of Missouri, placed by the state treasurer with an eligible lending
127 institution at rates otherwise provided by law in section 30.758, provided the institution
128 agrees to lend the value of such deposit, according to the deposit agreement provided in

129 sections 30.750 to 30.765, to eligible multitenant development enterprises, eligible small
130 businesses, eligible alternative energy operations, eligible alternative energy consumers,
131 eligible locally owned businesses, farming operations, eligible job enhancement businesses,
132 eligible marketing enterprises, eligible residential property developers, eligible residential
133 property owners, eligible governmental entities, eligible agribusinesses, eligible beginning
134 farmers, eligible livestock operations, eligible student borrowers, eligible facility borrowers,
135 or eligible water supply systems at below the present borrowing rate applicable to each
136 multitenant development enterprise, small business, alternative energy operation, alternative
137 energy consumer, farming operation, eligible job enhancement business, eligible marketing
138 enterprise, eligible residential property developer, eligible residential property owner, eligible
139 governmental entity, eligible agribusiness, eligible beginning farmer, eligible livestock
140 operation, eligible student borrower, or supply system at the time of the deposit of state funds
141 in the institution;

142 (23) "Market rate", the interest rate more specifically described in subsection 6 of
143 section 30.260;

144 (24) "Professional forester", any individual who holds a bachelor of science degree in
145 forestry from a regionally accredited college or university with a minimum of two years of
146 professional forest management experience;

147 (25) "Qualified biomass", any agriculture-derived organic material or any wood-
148 derived organic material harvested in accordance with a site-specific forest management plan
149 focused on long-term forest sustainability developed by a professional forester and qualified,
150 in consultation with the conservation commission, by the agriculture and small business
151 development authority;

152 (26) "Water corporation", as such term is defined in section 386.020;

153 (27) "Water system", as such term is defined in section 386.020.

67.2800. 1. Sections 67.2800 to 67.2840 shall be known and may be cited as the
2 "Property Assessment Clean Energy Act".

3 2. As used in sections 67.2800 to 67.2840, the following words and terms shall mean:

4 (1) "Assessment contract", a contract entered into between a clean energy
5 development board and a property owner under which the property owner agrees to pay an
6 annual assessment for a period of up to twenty years not to exceed the weighted average
7 useful life of the qualified improvements in exchange for financing of an energy efficiency
8 improvement or a renewable energy improvement;

9 (2) "Authority", the state environmental improvement and energy resources authority
10 established under section 260.010;

11 (3) "Bond", any bond, note, or similar instrument issued by or on behalf of a clean
12 energy development board;

13 (4) "Clean energy conduit financing", the financing of energy efficiency
14 improvements or renewable energy improvements for a single parcel of property or a
15 unified development consisting of multiple adjoining parcels of property under section
16 67.2825;

17 (5) "Clean energy development board", a board formed by one or more municipalities
18 under section 67.2810;

19 (6) "Director", the director of the division of finance within the department of
20 commerce and insurance;

21 (7) "Division", the division of finance within the department of commerce and
22 insurance;

23 (8) "Energy efficiency improvement", any acquisition, installation, or modification on
24 or of publicly or privately owned property designed to reduce the energy consumption of such
25 property, including but not limited to:

26 (a) Insulation in walls, roofs, attics, floors, foundations, and heating and cooling
27 distribution systems;

28 (b) Storm windows and doors, multiglazed windows and doors, heat-absorbing or
29 heat-reflective windows and doors, and other window and door improvements designed to
30 reduce energy consumption;

31 (c) Automatic energy control systems;

32 (d) Heating, ventilating, or air conditioning distribution system modifications and
33 replacements;

34 (e) Caulking and weatherstripping;

35 (f) Replacement or modification of lighting fixtures to increase energy efficiency of
36 the lighting system without increasing the overall illumination of the building unless the
37 increase in illumination is necessary to conform to applicable state or local building codes;

38 (g) Energy recovery systems; and

39 (h) Daylighting systems;

40 (9) "Municipality", any county, city, or incorporated town or village of this state;

41 (10) "Program administrator", an individual or entity selected by the clean energy
42 development board to administer the PACE program, but this term does not include an
43 employee of a county or municipal government assigned to a clean energy development board
44 or a public employee employed by a clean energy development board who is paid from
45 appropriated general tax revenues;

46 (11) "Project", any energy efficiency improvement or renewable energy
47 improvement;

48 (12) "Property assessed clean energy local finance fund", a fund that may be
49 established by the authority for the purpose of making loans to clean energy development
50 boards to establish and maintain property assessed clean energy programs;

51 (13) "Property assessed clean energy program" or "PACE program", a program
52 established by a clean energy development board to finance energy efficiency improvements
53 or renewable energy improvements under section 67.2820;

54 (14) "Renewable energy improvement", any acquisition and installation of a fixture,
55 product, system, device, or combination thereof on publicly or privately owned property that
56 produces energy from renewable resources, including, but not limited to, **nuclear power**
57 **systems**, photovoltaic systems, solar thermal systems, wind systems, biomass systems, or
58 geothermal systems.

59 3. All projects undertaken under sections 67.2800 to 67.2840 are subject to the
60 applicable municipality's ordinances and regulations, including but not limited to those
61 ordinances and regulations concerning zoning, subdivision, building, fire safety, and historic
62 or architectural review.

135.950. The following terms, whenever used in sections 135.950 to 135.970 mean:

2 (1) "Average wage", the new payroll divided by the number of new jobs;
3 (2) "Blighted area", the same meaning as defined pursuant to section 99.805;
4 (3) "Board", an enhanced enterprise zone board established pursuant to section
5 135.957;

6 (4) "Commencement of commercial operations" shall be deemed to occur during the
7 first taxable year for which the new business facility is first put into use by the taxpayer in the
8 enhanced business enterprise in which the taxpayer intends to use the new business facility;

9 (5) "County average wage", the average wages in each county as determined by the
10 department for the most recently completed full calendar year. However, if the computed
11 county average wage is above the statewide average wage, the statewide average wage shall
12 be deemed the county average wage for such county for the purpose of determining eligibility.
13 The department shall publish the county average wage for each county at least annually.
14 Notwithstanding the provisions of this subdivision to the contrary, for any taxpayer that in
15 conjunction with their project is relocating employees from a Missouri county with a higher
16 county average wage, such taxpayer shall obtain the endorsement of the governing body of
17 the community from which jobs are being relocated or the county average wage for their
18 project shall be the county average wage for the county from which the employees are being
19 relocated;

20 (6) "Department", the department of economic development;

21 (7) "Director", the director of the department of economic development;

22 (8) "Employee", a person employed by the enhanced business enterprise that is
23 scheduled to work an average of at least one thousand hours per year, and such person at all
24 times has health insurance offered to him or her, which is partially paid for by the employer;

25 (9) "Enhanced business enterprise", an industry or one of a cluster of industries that is
26 either:

27 (a) Identified by the department as critical to the state's economic security and
28 growth; or

29 (b) Will have an impact on industry cluster development, as identified by the
30 governing authority in its application for designation of an enhanced enterprise zone and
31 approved by the department; but excluding gambling establishments (NAICS industry group
32 7132), retail trade (NAICS sectors 44 and 45), educational services (NAICS sector 61),
33 religious organizations (NAICS industry group 8131), public administration (NAICS sector
34 92), and food and drinking places (NAICS subsector 722), however, notwithstanding
35 provisions of this section to the contrary, headquarters or administrative offices of an
36 otherwise excluded business may qualify for benefits if the offices serve a multistate territory.
37 In the event a national, state, or regional headquarters operation is not the predominant
38 activity of a project facility, the new jobs and investment of such headquarters operation is
39 considered eligible for benefits under this section if the other requirements are satisfied.
40 Service industries may be eligible only if a majority of its annual revenues will be derived
41 from out of the state;

42 (10) "Existing business facility", any facility in this state which was employed by the
43 taxpayer claiming the credit in the operation of an enhanced business enterprise immediately
44 prior to an expansion, acquisition, addition, or replacement;

45 (11) "Facility", any building used as an enhanced business enterprise located within
46 an enhanced enterprise zone, including the land on which the facility is located and all
47 machinery, equipment, and other real and depreciable tangible personal property acquired for
48 use at and located at or within such facility and used in connection with the operation of such
49 facility;

50 (12) "Facility base employment", the greater of the number of employees located at
51 the facility on the date of the notice of intent, or for the twelve-month period prior to the date
52 of the notice of intent, the average number of employees located at the facility, or in the event
53 the project facility has not been in operation for a full twelve-month period, the average
54 number of employees for the number of months the facility has been in operation prior to the
55 date of the notice of intent;

56 (13) "Facility base payroll", the total amount of taxable wages paid by the enhanced
57 business enterprise to employees of the enhanced business enterprise located at the facility in
58 the twelve months prior to the notice of intent, not including the payroll of owners of the

59 enhanced business enterprise unless the enhanced business enterprise is participating in an
60 employee stock ownership plan. For the purposes of calculating the benefits under this
61 program, the amount of base payroll shall increase each year based on the consumer price
62 index or other comparable measure, as determined by the department;

63 (14) "Governing authority", the body holding primary legislative authority over a
64 county or incorporated municipality;

65 (15) "Megaproject", any manufacturing or assembling facility, approved by the
66 department for construction and operation within an enhanced enterprise zone, which satisfies
67 the following:

68 (a) The new capital investment is projected to exceed three hundred million dollars
69 over a period of eight years from the date of approval by the department;

70 (b) The number of new jobs is projected to exceed one thousand over a period of
71 eight years beginning on the date of approval by the department;

72 (c) The average wage of new jobs to be created shall exceed the county average wage;

73 (d) The taxpayer shall offer health insurance to all new jobs and pay at least eighty
74 percent of such insurance premiums; and

75 (e) An acceptable plan of repayment, to the state, of the tax credits provided for the
76 megaproject has been provided by the taxpayer;

77 (16) "NAICS", the 1997 edition of the North American Industry Classification
78 System as prepared by the Executive Office of the President, Office of Management and
79 Budget. Any NAICS sector, subsector, industry group or industry identified in this section
80 shall include its corresponding classification in subsequent federal industry classification
81 systems;

82 (17) "New business facility", a facility that does not produce or generate electrical
83 energy from a renewable energy resource and satisfies the following requirements:

84 (a) Such facility is employed by the taxpayer in the operation of an enhanced business
85 enterprise. Such facility shall not be considered a new business facility in the hands of the
86 taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another
87 person or persons. If the taxpayer employs only a portion of such facility in the operation of
88 an enhanced business enterprise, and leases another portion of such facility to another person
89 or persons or does not otherwise use such other portions in the operation of an enhanced
90 business enterprise, the portion employed by the taxpayer in the operation of an enhanced
91 business enterprise shall be considered a new business facility, if the requirements of
92 paragraphs (b), (c), and (d) of this subdivision are satisfied;

93 (b) Such facility is acquired by, or leased to, the taxpayer after December 31, 2004. A
94 facility shall be deemed to have been acquired by, or leased to, the taxpayer after December
95 31, 2004, if the transfer of title to the taxpayer, the transfer of possession pursuant to a

96 binding contract to transfer title to the taxpayer, or the commencement of the term of the lease
97 to the taxpayer occurs after December 31, 2004;

98 (c) If such facility was acquired by the taxpayer from another taxpayer and such
99 facility was employed immediately prior to the acquisition by another taxpayer in the
100 operation of an enhanced business enterprise, the operation of the same or a substantially
101 similar enhanced business enterprise is not continued by the taxpayer at such facility; and

102 (d) Such facility is not a replacement business facility, as defined in subdivision (27)
103 of this section;

104 (18) "New business facility employee", an employee of the taxpayer in the operation
105 of a new business facility during the taxable year for which the credit allowed by section
106 135.967 is claimed, except that truck drivers and rail and barge vehicle operators and other
107 operators of rolling stock for hire shall not constitute new business facility employees;

108 (19) "New business facility investment", the value of real and depreciable tangible
109 personal property, acquired by the taxpayer as part of the new business facility, which is used
110 by the taxpayer in the operation of the new business facility, during the taxable year for which
111 the credit allowed by 135.967 is claimed, except that trucks, truck-trailers, truck semitrailers,
112 rail vehicles, barge vehicles, aircraft and other rolling stock for hire, track, switches, barges,
113 bridges, tunnels, and rail yards and spurs shall not constitute new business facility
114 investments. The total value of such property during such taxable year shall be:

115 (a) Its original cost if owned by the taxpayer; or

116 (b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual
117 rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate
118 received by the taxpayer from subrentals. The new business facility investment shall be
119 determined by dividing by twelve the sum of the total value of such property on the last
120 business day of each calendar month of the taxable year. If the new business facility is in
121 operation for less than an entire taxable year, the new business facility investment shall be
122 determined by dividing the sum of the total value of such property on the last business day of
123 each full calendar month during the portion of such taxable year during which the new
124 business facility was in operation by the number of full calendar months during such period;

125 (20) "New job", the number of employees located at the facility that exceeds the
126 facility base employment less any decrease in the number of the employees at related
127 facilities below the related facility base employment. No job that was created prior to the date
128 of the notice of intent shall be deemed a new job;

129 (21) "Notice of intent", a form developed by the department which is completed by
130 the enhanced business enterprise and submitted to the department which states the enhanced
131 business enterprise's intent to hire new jobs and request benefits under such program;

132 (22) "Related facility", a facility operated by the enhanced business enterprise or a
133 related company in this state that is directly related to the operation of the project facility;

134 (23) "Related facility base employment", the greater of:

135 (a) The number of employees located at all related facilities on the date of the notice
136 of intent; or

137 (b) For the twelve-month period prior to the date of the notice of intent, the average
138 number of employees located at all related facilities of the enhanced business enterprise or a
139 related company located in this state;

140 (24) "Related taxpayer":

141 (a) A corporation, partnership, trust, or association controlled by the taxpayer;

142 (b) An individual, corporation, partnership, trust, or association in control of the
143 taxpayer; or

144 (c) A corporation, partnership, trust or association controlled by an individual,
145 corporation, partnership, trust or association in control of the taxpayer. "Control of a
146 corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty
147 percent of the total combined voting power of all classes of stock entitled to vote, "control of
148 a partnership or association" shall mean ownership of at least fifty percent of the capital or
149 profits interest in such partnership or association, and "control of a trust" shall mean
150 ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the
151 principal or income of such trust; ownership shall be determined as provided in Section 318
152 of the Internal Revenue Code of 1986, as amended;

153 (25) "Renewable energy generation zone", an area which has been found, by a
154 resolution or ordinance adopted by the governing authority having jurisdiction of such area, to
155 be a blighted area and which contains land, improvements, or a lock and dam site which is
156 unutilized or underutilized for the production, generation, conversion, and conveyance of
157 electrical energy from a renewable energy resource;

158 (26) "Renewable energy resource", shall include:

159 (a) Wind;

160 (b) Solar thermal sources or photovoltaic cells and panels;

161 (c) Dedicated crops grown for energy production;

162 (d) Cellulosic agricultural residues;

163 (e) Plant residues;

164 (f) Methane from landfills, agricultural operations, or wastewater treatment;

165 (g) Thermal depolymerization or pyrolysis for converting waste material to energy;

166 (h) Clean and untreated wood such as pallets;

167 (i) Hydroelectric power, which shall include electrical energy produced or generated
168 by hydroelectric power generating equipment, as such term is defined in section 137.010;

169 (j) Fuel cells using hydrogen produced by one or more of the renewable resources
170 provided in paragraphs (a) to (i) of this subdivision; ~~or~~

171 (k) **Nuclear; or**

172 (l) Any other sources of energy~~, not including nuclear energy,~~ that are certified as
173 renewable by rule by the department of economic development;

174 (27) "Replacement business facility", a facility otherwise described in subdivision
175 (17) of this section, hereafter referred to in this subdivision as "new facility", which replaces
176 another facility, hereafter referred to in this subdivision as "old facility", located within the
177 state, which the taxpayer or a related taxpayer previously operated but discontinued operating
178 on or before the close of the first taxable year for which the credit allowed by this section is
179 claimed. A new facility shall be deemed to replace an old facility if the following conditions
180 are met:

181 (a) The old facility was operated by the taxpayer or a related taxpayer during the
182 taxpayer's or related taxpayer's taxable period immediately preceding the taxable year in
183 which commencement of commercial operations occurs at the new facility; and

184 (b) The old facility was employed by the taxpayer or a related taxpayer in the
185 operation of an enhanced business enterprise and the taxpayer continues the operation of the
186 same or substantially similar enhanced business enterprise at the new facility.
187 Notwithstanding the preceding provisions of this subdivision, a facility shall not be
188 considered a replacement business facility if the taxpayer's new business facility investment,
189 as computed in subdivision (19) of this section, in the new facility during the tax period for
190 which the credits allowed in section 135.967 are claimed exceed one million dollars and if the
191 total number of employees at the new facility exceeds the total number of employees at the
192 old facility by at least two;

193 (28) "Same or substantially similar enhanced business enterprise", an enhanced
194 business enterprise in which the nature of the products produced or sold, or activities
195 conducted, are similar in character and use or are produced, sold, performed, or conducted in
196 the same or similar manner as in another enhanced business enterprise.

260.035. 1. The authority is hereby granted and may exercise all powers necessary or
2 appropriate to carry out and effectuate its purposes pursuant to the provisions of sections
3 260.005 to 260.125, including, but not limited to, the following:

4 (1) To adopt bylaws and rules after having held public hearings thereon for the
5 regulation of its affairs and the conduct of its business;

6 (2) To adopt an official seal;

7 (3) To maintain a principal office and such other offices within the state as it may
8 designate;

9 (4) To sue and be sued;

10 (5) To make and execute leases, contracts, releases, compromises, and other
11 instruments necessary or convenient for the exercise of its powers or to carry out its purposes;

12 (6) To acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain,
13 repair, operate, lease, finance, and sell equipment, structures, systems, and projects and to
14 lease the same to any private person, firm, or corporation, or to any public body, political
15 subdivision, or municipal corporation. Any such lease may provide for the construction of
16 the project by the lessee;

17 (7) To issue bonds and notes as hereinafter provided and to make, purchase, or
18 participate in the purchase of loans or municipal obligations and to guarantee loans to finance
19 the acquisition, construction, reconstruction, enlargement, improvement, furnishing,
20 equipping, maintaining, repairing, operating, or leasing of a project;

21 (8) To invest any funds not required for immediate disbursement in obligations of the
22 state of Missouri or of the United States or any agency or instrumentality thereof, or in bank
23 certificates of deposit; provided, however, the foregoing limitations on investments shall not
24 apply to proceeds acquired from the sale of bonds or notes which are held by a corporate
25 trustee pursuant to section 260.060;

26 (9) To acquire by gift or purchase, hold and dispose of real and personal property in
27 the exercise of its powers and the performance of its duties hereunder;

28 (10) To employ managers and other employees and retain or contract with architects,
29 engineers, accountants, financial consultants, attorneys, and such other persons, firms, or
30 corporations who are necessary in its judgment to carry out its duties, and to fix the
31 compensation thereof;

32 (11) To receive and accept appropriations, bequests, gifts, and grants and to utilize or
33 dispose of the same to carry out its purposes pursuant to the provisions of sections 260.005 to
34 260.125;

35 (12) To engage in research and development with respect to pollution control
36 facilities and solid waste or sewage disposal facilities, water facilities, resource recovery
37 facilities, and the development of energy resources;

38 (13) To collect rentals, fees, and other charges in connection with its services or for
39 the use of any project hereunder;

40 (14) To sell at private sale any of its property or projects to any private person, firm,
41 or corporation, or to any public body, political subdivision, or municipal corporation, on such
42 terms as it deems advisable, including the right to receive for such sale the note or notes of
43 any such person to whom the sale is made. Any such sale shall provide for payments
44 adequate to pay the principal of and interest and premiums, if any, on the bonds or notes
45 issued to finance such project or portion thereof. Any such sale may provide for the
46 construction of the project by the purchaser of the project;

47 (15) To make, purchase, or participate in the purchase of loans to finance the
48 development and marketing of:

49 (a) Means of energy production utilizing energy sources other than fossil [or nuclear]
50 fuel, including, but not limited to, nuclear, wind, water, solar, biomass, solid waste, and other
51 renewable energy resource technologies;

52 (b) Fossil fuels and recycled fossil fuels which are indigenous energy resources
53 produced in the state of Missouri, including coal, heavy oil, and tar sands; and

54 (c) Synthetic fuels produced in the state of Missouri;

55 (16) To insure any loan, the funds of which are to be used for the development and
56 marketing of energy resources as authorized by sections 260.005 to 260.125;

57 (17) To make temporary loans, with or without interest, but with such security for
58 repayment as the authority deems reasonably necessary and practicable, to defray
59 development costs of energy resource development projects;

60 (18) To collect reasonable fees and charges in connection with making and servicing
61 its loans, notes, bonds and obligations, commitments, and other evidences of indebtedness
62 made, issued or entered into to develop energy resources, and in connection with providing
63 technical, consultative, and project assistance services in the area of energy development.
64 Such fees and charges shall be limited to the amounts required to pay the costs of the
65 authority, including operating and administrative expenses, and reasonable allowance for
66 losses which may be incurred;

67 (19) To enter into agreements or other transactions with any federal or state agency,
68 any person and any domestic or foreign partnership, corporation, association, or organization
69 to carry out the provisions of sections 260.005 to 260.125;

70 (20) To sell, at public or private sale, any mortgage and any real or personal property
71 subject to that mortgage, negotiable instrument, or obligation securing any loan;

72 (21) To procure insurance against any loss in connection with its property in such
73 amounts, and from such insurers, as may be necessary or desirable;

74 (22) To consent to the modification of the rate of interest, time of payment for any
75 installment of principal or interest, or any other terms, of any loan, loan commitment,
76 temporary loan, contract, or agreement made directly by the authority;

77 (23) To make and publish rules and regulations concerning its lending, insurance of
78 loans, and temporary lending to defray development costs, along with such other rules and
79 regulations as are necessary to effectuate its purposes. No rule or portion of a rule
80 promulgated under the authority of sections 260.005 to 260.125 shall become effective unless
81 it has been promulgated pursuant to the provisions of section 536.024;

82 (24) To borrow money to carry out and effectuate its purpose in the area of energy
83 resource development and to issue its negotiable bonds or notes as evidence of any such

84 borrowing in such principal amounts and upon such terms as shall be determined by the
85 authority, and to secure such bonds or notes by the pledge of revenues, mortgages, or notes of
86 others as authorized by sections 260.005 to 260.125.

87 2. The authority shall develop a hazardous waste facility if the study required in
88 section 260.037 demonstrates that a facility is economically feasible. The facility, which shall
89 not include a hazardous waste landfill, may be operated by any eligible party as specified in
90 this section. The authority shall begin development of the facility by July 1, 1985.

91 3. All employees of the authority shall be eligible for membership in the Missouri
92 state employees' retirement system, subject to all provisions in chapters 104 and 105
93 applicable to the system.

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

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

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

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

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

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

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

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

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

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

20 (f) Meets all applicable safety, performance, interconnection, and reliability standards
21 established by the National Electrical Code, the National Electrical Safety Code, the Institute
22 of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy
23 Regulatory Commission, and any local governing authorities; and

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

27 (4) "Department", the department of natural resources;

28 (5) "Net metering", using metering equipment sufficient to measure the difference
29 between the electrical energy supplied to a customer-generator by a retail electric supplier and
30 the electrical energy supplied by the customer-generator to the retail electric supplier over the
31 applicable billing period;

32 (6) "Renewable energy resources", electrical energy produced from **nuclear**, wind,
33 solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using
34 hydrogen produced by one of the above-named electrical energy sources, and other sources of
35 energy that become available after August 28, 2007, and are certified as renewable by the
36 department;

(7) "Retail electric supplier" or "supplier", any municipally owned electric utility operating under chapter 91, electrical corporation regulated by the commission under this chapter, or rural electric cooperative operating under chapter 394 that provides retail electric service in this state. An electrical corporation that operates under a cooperative business plan as described in subsection 2 of section 393.110 shall be deemed to be a rural electric cooperative for purposes of this section.

43 3. A retail electric supplier shall:

44 (1) Make net metering available to customer-generators on a first-come, first-served
45 basis until the total rated generating capacity of net metering systems equals five percent of
46 the retail electric supplier's single-hour peak load during the previous year, after which the
47 commission for an electrical corporation or the respective governing body of other retail
48 electric suppliers may increase the total rated generating capacity of net metering systems to
49 an amount above five percent. However, in a given calendar year, no retail electric supplier
50 shall be required to approve any application for interconnection if the total rated generating
51 capacity of all applications for interconnection already approved to date by said supplier in
52 said calendar year equals or exceeds one percent of said supplier's single-hour peak load for
53 the previous calendar year;

54 (2) Offer to the customer-generator a tariff or contract that is identical in electrical
55 energy rates, rate structure, and monthly charges to the contract or tariff that the customer
56 would be assigned if the customer were not an eligible customer-generator but shall not
57 charge the customer-generator any additional standby, capacity, interconnection, or other fee
58 or charge that would not otherwise be charged if the customer were not an eligible customer-
59 generator; and

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

62 4. A customer-generator's facility shall be equipped with sufficient metering
63 equipment that can measure the net amount of electrical energy produced or consumed by the
64 customer-generator. If the customer-generator's existing meter equipment does not meet

65 these requirements or if it is necessary for the retail electric supplier to install additional
66 distribution equipment to accommodate the customer-generator's facility, the customer-
67 generator shall reimburse the retail electric supplier for the costs to purchase and install the
68 necessary additional equipment. At the request of the customer-generator, such costs may be
69 initially paid for by the retail electric supplier, and any amount up to the total costs and a
70 reasonable interest charge may be recovered from the customer-generator over the course of
71 up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment
72 change necessitated by the customer-generator shall be paid for by the customer-generator.

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

75 (1) For a customer-generator, a retail electric supplier shall measure the net electrical
76 energy produced or consumed during the billing period in accordance with normal metering
77 practices for customers in the same rate class, either by employing a single, bidirectional
78 meter that measures the amount of electrical energy produced and consumed, or by
79 employing multiple meters that separately measure the customer-generator's consumption and
80 production of electricity;

81 (2) If the electricity supplied by the supplier exceeds the electricity generated by the
82 customer-generator during a billing period, the customer-generator shall be billed for the net
83 electricity supplied by the supplier in accordance with normal practices for customers in the
84 same rate class;

85 (3) If the electricity generated by the customer-generator exceeds the electricity
86 supplied by the supplier during a billing period, the customer-generator shall be billed for the
87 appropriate customer charges for that billing period in accordance with subsection 3 of this
88 section and shall be credited an amount at least equal to the avoided fuel cost of the excess
89 kilowatt-hours generated during the billing period, with this credit applied to the following
90 billing period;

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

94 (5) For any rural electric cooperative under chapter 394, or any municipally owned
95 utility, upon agreement of the wholesale generator supplying electric energy to the retail
96 electric supplier, at the option of the retail electric supplier, the credit to the customer-
97 generator may be provided by the wholesale generator.

98 6. (1) Each qualified electric energy generation unit used by a customer-generator
99 shall meet all applicable safety, performance, interconnection, and reliability standards
100 established by any local code authorities, the National Electrical Code, the National Electrical
101 Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters

102 Laboratories for distributed generation. No supplier shall impose any fee, charge, or other
103 requirement not specifically authorized by this section or the rules promulgated under
104 subsection 9 of this section unless the fee, charge, or other requirement would apply to
105 similarly situated customers who are not customer-generators, except that a retail electric
106 supplier may require that a customer-generator's system contain a switch, circuit breaker,
107 fuse, or other easily accessible device or feature located in immediate proximity to the
108 customer-generator's metering equipment that would allow a utility worker the ability to
109 manually and instantly disconnect the unit from the utility's electric distribution system.

110 (2) For systems of ten kilowatts or less, a customer-generator whose system meets the
111 standards and rules under subdivision (1) of this subsection shall not be required to install
112 additional controls, perform or pay for additional tests or distribution equipment, or purchase
113 additional liability insurance beyond what is required under subdivision (1) of this subsection
114 and subsection 4 of this section.

115 (3) For customer-generator systems of greater than ten kilowatts, the commission for
116 electrical corporations and the respective governing body for other retail electric suppliers
117 shall, by rule or equivalent formal action by each respective governing body:

118 (a) Set forth safety, performance, and reliability standards and requirements; and
119 (b) Establish the qualifications for exemption from a requirement to install additional
120 controls, perform or pay for additional tests or distribution equipment, or purchase additional
121 liability insurance.

122 7. (1) Applications by a customer-generator for interconnection of a qualified electric
123 energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this
124 section to the distribution system shall be accompanied by the plan for the customer-
125 generator's electrical generating system, including but not limited to a wiring diagram and
126 specifications for the generating unit, and shall be reviewed and responded to by the retail
127 electric supplier within thirty days of receipt for systems ten kilowatts or less and within
128 ninety days of receipt for all other systems. Prior to the interconnection of the qualified
129 generation unit to the supplier's system, the customer-generator will furnish the retail electric
130 supplier a certification from a qualified professional electrician or engineer that the
131 installation meets the requirements of subdivision (1) of subsection 6 of this section. If the
132 application for interconnection is approved by the retail electric supplier and the customer-
133 generator does not complete the interconnection within one year after receipt of notice of the
134 approval, the approval shall expire and the customer-generator shall be responsible for filing a
135 new application.

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

139 8. Each electrical corporation shall submit an annual net metering report to the
140 commission, and all other retail electric suppliers shall submit the same report to their
141 respective governing body and make said report available to a consumer of the supplier upon
142 request, including the following information for the previous calendar year:

143 (1) The total number of customer-generator facilities;
144 (2) The total estimated generating capacity of its net-metered customer-generators;
145 and
146 (3) The total estimated net kilowatt-hours received from customer-generators.

147 9. The commission shall, within nine months of January 1, 2008, promulgate initial
148 rules necessary for the administration of this section for electrical corporations, which shall
149 include regulations ensuring that simple contracts will be used for interconnection and net
150 metering. For systems of ten kilowatts or less, the application process shall use an all-in-one
151 document that includes a simple interconnection request, simple procedures, and a brief set of
152 terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010,
153 that is created under the authority delegated in this section shall become effective only if it
154 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
155 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with
156 the general assembly under chapter 536 to review, to delay the effective date, or to disapprove
157 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
158 authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

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

164 11. For any cause of action relating to any damages to property or person caused by
165 the qualified electric energy generation unit of a customer-generator or the interconnection
166 thereof, the retail electric supplier shall have no liability absent clear and convincing evidence
167 of fault on the part of the supplier.

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

172 13. The sale of qualified electric energy generation units to any customer-generator
173 shall be subject to the provisions of sections 407.010 to 407.145 and sections 407.700 to
174 407.720. The attorney general shall have the authority to promulgate in accordance with the
175 provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of

176 qualified electric energy generation units. Any interested person who believes that the seller
177 of any qualified electric energy generation unit is misrepresenting the safety or performance
178 standards of any such systems, or who believes that any electric energy generation unit poses
179 a danger to any property or person, may report the same to the attorney general, who shall be
180 authorized to investigate such claims and take any necessary and appropriate actions.

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

183 15. No consumer shall connect or operate a qualified electric energy generation unit
184 in parallel phase and synchronization with any retail electric supplier without written
185 approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of
186 this section have been met. For a consumer who violates this provision, a supplier may
187 immediately and without notice disconnect the electric facilities of said consumer and
188 terminate said consumer's electric service.

189 16. The manufacturer of any qualified electric energy generation unit used by a
190 customer-generator may be held liable for any damages to property or person caused by a
191 defect in the qualified electric energy generation unit of a customer-generator.

192 17. The seller, installer, or manufacturer of any qualified electric energy generation
193 unit who knowingly misrepresents the safety aspects of a qualified electric generation unit
194 may be held liable for any damages to property or person caused by the qualified electric
195 energy generation unit of a customer-generator.

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

2 (1) "Biogas", a mixture of carbon dioxide and hydrocarbons, primarily methane gas,
3 released from the biological decomposition of organic materials;

4 (2) "Biomass", has the meaning given the term "qualified biomass" in section
5 142.028;

6 (3) "Gas corporation", the same as defined in section 386.020;

7 (4) "Qualified investment", any capital investment in renewable natural gas
8 infrastructure incurred by a gas corporation for the purpose of providing natural gas service
9 under a renewable natural gas program;

10 (5) "Renewable energy sources", **nuclear**, hydroelectric, geothermal, solar
11 photovoltaic, wind, tidal, wave, biomass, or biogas energy sources;

12 (6) "Renewable natural gas", any of the following products processed to meet
13 pipeline quality standards or transportation fuel grade requirements:

14 (a) Biogas that is upgraded to meet natural gas pipeline quality standards such that it
15 may blend with, or substitute for, geologic natural gas;

16 (b) Hydrogen gas; or

17 (c) Methane gas derived from any combination of:

18 a. Biogas;
19 b. Hydrogen gas or carbon oxides derived from renewable energy sources; or
20 c. Waste carbon dioxide;

21 (7) "Renewable natural gas infrastructure", all equipment and facilities for the
22 production, processing, pipeline interconnection, and distribution of renewable natural gas to
23 be furnished to Missouri customers.

24 2. The commission shall adopt rules for gas corporations to offer a voluntary
25 renewable natural gas program. Rules adopted by the commission under this section shall
26 include:

27 (1) Rules for reporting requirements; and
28 (2) Rules for establishing a process for gas corporations to fully recover incurred
29 costs that are prudent, just, and reasonable associated with a renewable natural gas program.
30 Such recovery shall not be permitted until the project is operational and produces renewable
31 natural gas for customer use.

32 3. A filing by a gas corporation pursuant to the renewable natural gas program created
33 in subsection 2 of this section shall include, but is not limited to:

34 (1) A proposal to procure a total volume of renewable natural gas over a specific
35 period; and
36 (2) Identification of the qualified investments that the gas corporation may make in
37 renewable natural gas infrastructure.

38 4. A gas corporation may from time to time revise the filing submitted to the
39 commission under this section no more than one time per year.

40 5. Any costs incurred by a gas corporation for a qualified investment that are prudent,
41 just, and reasonable may be recovered by means of an automatic rate adjustment clause.

42 6. When a gas corporation makes a qualified investment in the production of
43 renewable natural gas, the costs associated with such qualified investment shall include the
44 cost of capital established by the commission in the gas corporation's most recent general rate
45 case.

46 7. On or before January 1, 2023, the division of energy within the department of
47 natural resources shall provide to the chair of the public service commission, the speaker of
48 the house of representatives, the president pro tempore of the senate, the chair of the senate
49 committee on commerce, consumer protection, energy, and the environment, and the chair of
50 the house of representatives utility committee, a report on the renewable natural gas program
51 established under this section. Such report shall include, but not be limited to, the following:

52 (1) The number of projects submitted for the renewable natural gas program and the
53 number of projects approved for the renewable natural gas program;

54 (2) The number of projects that are operational, and the costs, projected and actual, of
55 such projects and other key metrics the division of energy deems important;

56 (3) The volume of renewable natural gas produced in the state through projects that
57 were approved by the renewable natural gas program as well as the percentage of renewable
58 natural gas produced in relation to the total volume of natural gas sold in the state;

59 (4) The environmental benefits of renewable natural gas, including but not limited to
60 greenhouse gas reduction as a result of the production of renewable natural gas;

61 (5) The economic benefits of the renewable natural gas program, including but not
62 limited to local employment, value-added production for the agricultural sector, and other
63 economic development; and

64 (6) Any economic benefits or other costs to ratepayers.

65 8. Rules adopted by the commission under this section shall not prohibit an affiliate
66 of a gas corporation from making a capital investment in a biogas production project if the
67 affiliate is not a public utility as defined in section 386.020.

68 9. The public service commission may promulgate rules to implement the provisions
69 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is
70 created under the authority delegated in this section shall become effective only if it complies
71 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
72 This section and chapter 536 are nonseverable and if any of the powers vested with the
73 general assembly pursuant to chapter 536 to review, to delay the effective date, or to
74 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
75 rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid
76 and void.

77 10. Pursuant to section 23.253 of the Missouri sunset act, this section and any rules
78 enacted under this section shall expire nine years from the date the renewable natural gas
79 program is established, unless reauthorized by the general assembly; provided that any rate
80 adjustment authorized by this section shall continue so long as the renewable natural gas
81 program remains in operation and produces renewable natural gas for customer use.

393.1025. As used in sections 393.1020 to 393.1030, the following terms mean:

2 (1) "Commission", the public service commission;

3 (2) "Department", the department of economic development;

4 (3) "Electric utility", any electrical corporation as defined by section 386.020;

5 (4) "Renewable energy credit" or "REC", a tradeable certificate of proof that one
6 megawatt-hour of electricity has been generated from renewable energy sources; and

(5) "Renewable energy resources", electric energy produced from wind, solar thermal sources, photovoltaic cells and panels, **nuclear power sources**, dedicated crops grown for energy production, cellulosic agricultural residues, plant residues, methane from landfills,

10 from agricultural operations, or from wastewater treatment, thermal depolymerization or
11 pyrolysis for converting waste material to energy, clean and untreated wood such as pallets,
12 hydropower (not including pumped storage) that does not require a new diversion or
13 impoundment of water and that has a nameplate rating of ten megawatts or less, fuel cells
14 using hydrogen produced by one of the above-named renewable energy sources, and other
15 sources of energy ~~not including nuclear~~ that become available after November 4, 2008, and
16 are certified as renewable by rule by the department.

393.1030. 1. The commission shall, in consultation with the department, prescribe by
2 rule a portfolio requirement for all electric utilities to generate or purchase electricity
3 generated from renewable energy resources. Such portfolio requirement shall provide that
4 electricity from renewable energy resources shall constitute the following portions of each
5 electric utility's sales:

- 6 (1) No less than two percent for calendar years 2011 through 2013;
- 7 (2) No less than five percent for calendar years 2014 through 2017;
- 8 (3) No less than ten percent for calendar years 2018 through 2020; ~~and~~
- 9 (4) No less than fifteen percent ~~in each~~ for calendar ~~beginning in~~ years 2021
10 **through 2025; and**

11 **(5) No less than seven and one-half percent in each calendar year beginning in**
12 **2026.**

13
14 At least two percent of each portfolio requirement shall be derived from solar energy. The
15 portfolio requirements shall apply to all power sold to Missouri consumers whether such
16 power is self-generated or purchased from another source in or outside of this state. A utility
17 may comply with the standard in whole or in part by purchasing RECs. Each kilowatt-hour of
18 eligible energy generated in Missouri shall count as 1.25 kilowatt-hours for purposes of
19 compliance.

20 2. (1) This subsection applies to electric utilities with more than two hundred fifty
21 thousand but less than one million retail customers in Missouri as of the end of the calendar
22 year 2024.

23 (2) Energy meeting the criteria of the renewable energy portfolio requirements set
24 forth in subsection 1 of this section that is generated from renewable energy resources and
25 contracted for by an accelerated renewable buyer shall:

26 (a) Have all associated renewable energy certificates retired by the accelerated
27 renewable buyer, or on their behalf, and the certificates shall not be used to meet the electric
28 utility's portfolio requirements pursuant to subsection 1 of this section;

29 (b) Be excluded from the total electric utility's sales used to determine the portfolio
30 requirements pursuant to subsection 1 of this section; and

31 (c) Be used to offset all or a portion of its electric load for purposes of determining
32 compliance with the portfolio requirements pursuant to subsection 1 of this section.

38 (4) An "accelerated renewable buyer" means a customer of an electric utility, with an
39 aggregate load over eighty average megawatts, that enters into a contract or contracts to
40 obtain:

41 (a) Renewable energy certificates from renewable energy resources as defined in
42 section 393.1025; or

43 (b) Energy and renewable energy certificates from solar or wind generation resources
44 located within the Southwest Power Pool region and initially placed in commercial operation
45 after January 1, 2020, including any contract with the electric utility for such generation
46 resources that does not allocate to or recover from any other customer of the utility the cost of
47 such resources.

48 (5) Each electric utility shall certify, and verify as necessary, to the commission that
49 the accelerated renewable buyer has satisfied the exemption requirements of this subsection
50 for each year, or an accelerated renewable buyer may choose to certify satisfaction of this
51 exemption by reporting to the commission individually.

61 (7) Nothing in this section shall be construed as imposing or authorizing the
62 imposition of any reporting, regulatory, or financial burden on an accelerated renewable
63 buyer.

64 3. The commission, in consultation with the department and within one year of
65 November 4, 2008, shall select a program for tracking and verifying the trading of renewable
66 energy credits. An unused credit may exist for up to three years from the date of its creation.

67 A credit may be used only once to comply with sections 393.1020 to 393.1030 and may not

68 also be used to satisfy any similar nonfederal requirement. An electric utility may not use a
69 credit derived from a green pricing program. Certificates from net-metered sources shall
70 initially be owned by the customer-generator. The commission, except where the department
71 is specified, shall make whatever rules are necessary to enforce the renewable energy
72 standard. Such rules shall include:

73 (1) A maximum average retail rate increase of one percent determined by estimating
74 and comparing the electric utility's cost of compliance with least-cost renewable generation
75 and the cost of continuing to generate or purchase electricity from entirely nonrenewable
76 sources, taking into proper account future environmental regulatory risk including the risk of
77 greenhouse gas regulation. Notwithstanding the foregoing, until June 30, 2020, if the
78 maximum average retail rate increase would be less than or equal to one percent if an electric
79 utility's investment in solar-related projects initiated, owned or operated by the electric utility
80 is ignored for purposes of calculating the increase, then additional solar rebates shall be paid
81 and included in rates in an amount up to the amount that would produce a retail rate increase
82 equal to the difference between a one percent retail rate increase and the retail rate increase
83 calculated when ignoring an electric utility's investment in solar-related projects initiated,
84 owned, or operated by the electric utility. Notwithstanding any provision to the contrary in
85 this section, even if the payment of additional solar rebates will produce a maximum average
86 retail rate increase of greater than one percent when an electric utility's investment in solar-
87 related projects initiated, owned or operated by the electric utility are included in the
88 calculation, the additional solar rebate costs shall be included in the prudently incurred costs
89 to be recovered as contemplated by subdivision (4) of this subsection;

90 (2) Penalties of at least twice the average market value of renewable energy credits
91 for the compliance period for failure to meet the targets of subsection 1 of this section. An
92 electric utility will be excused if it proves to the commission that failure was due to events
93 beyond its reasonable control that could not have been reasonably mitigated, or that the
94 maximum average retail rate increase has been reached. Penalties shall not be recovered from
95 customers. Amounts forfeited under this section shall be remitted to the department to
96 purchase renewable energy credits needed for compliance. Any excess forfeited revenues
97 shall be used by the division of energy solely for renewable energy and energy efficiency
98 projects;

99 (3) Provisions for an annual report to be filed by each electric utility in a format
100 sufficient to document its progress in meeting the targets;

101 (4) Provision for recovery outside the context of a regular rate case of prudently
102 incurred costs and the pass-through of benefits to customers of any savings achieved by an
103 electrical corporation in meeting the requirements of this section.

104 4. As provided for in this section, except for those electrical corporations that qualify
105 for an exemption under section 393.1050, each electric utility shall make available to its retail
106 customers a solar rebate for new or expanded solar electric systems sited on customers'
107 premises, up to a maximum of twenty-five kilowatts per system, measured in direct current
108 that were confirmed by the electric utility to have become operational in compliance with the
109 provisions of section 386.890. The solar rebates shall be two dollars per watt for systems
110 becoming operational on or before June 30, 2014; one dollar and fifty cents per watt for
111 systems becoming operational between July 1, 2014, and June 30, 2015; one dollar per watt
112 for systems becoming operational between July 1, 2015, and June 30, 2016; fifty cents per
113 watt for systems becoming operational between July 1, 2016, and June 30, 2017; fifty cents
114 per watt for systems becoming operational between July 1, 2017, and June 30, 2019; twenty-
115 five cents per watt for systems becoming operational between July 1, 2019, and June 30,
116 2020; and zero cents per watt for systems becoming operational after June 30, 2020. An
117 electric utility may, through its tariffs, require applications for rebates to be submitted up to
118 one hundred eighty-two days prior to the June thirtieth operational date. Nothing in this
119 section shall prevent an electrical corporation from offering rebates after July 1, 2020,
120 through an approved tariff. If the electric utility determines the maximum average retail rate
121 increase provided for in subdivision (1) of subsection 3 of this section will be reached in any
122 calendar year, the electric utility shall be entitled to cease paying rebates to the extent
123 necessary to avoid exceeding the maximum average retail rate increase if the electrical
124 corporation files with the commission to suspend its rebate tariff for the remainder of that
125 calendar year at least sixty days prior to the change taking effect. The filing with the
126 commission to suspend the electrical corporation's rebate tariff shall include the calculation
127 reflecting that the maximum average retail rate increase will be reached and supporting
128 documentation reflecting that the maximum average retail rate increase will be reached. The
129 commission shall rule on the suspension filing within sixty days of the date it is filed. If the
130 commission determines that the maximum average retail rate increase will be reached, the
131 commission shall approve the tariff suspension. The electric utility shall continue to process
132 and pay applicable solar rebates until a final commission ruling; however, if the continued
133 payment causes the electric utility to pay rebates that cause it to exceed the maximum average
134 retail rate increase, the expenditures shall be considered prudently incurred costs as
135 contemplated by subdivision (4) of subsection 3 of this section and shall be recoverable as
136 such by the electric utility. As a condition of receiving a rebate, customers shall transfer to
137 the electric utility all right, title, and interest in and to the renewable energy credits associated
138 with the new or expanded solar electric system that qualified the customer for the solar rebate
139 for a period of ten years from the date the electric utility confirmed that the solar electric
140 system was installed and operational.

141 5. The department shall, in consultation with the commission, establish by rule a
142 certification process for electricity generated from renewable resources and used to fulfill the
143 requirements of subsection 1 of this section. Certification criteria for renewable energy
144 generation shall be determined by factors that include fuel type, technology, and the
145 environmental impacts of the generating facility. Renewable energy facilities shall not cause
146 undue adverse air, water, or land use impacts, including impacts associated with the gathering
147 of generation feedstocks. If any amount of fossil fuel is used with renewable energy
148 resources, only the portion of electrical output attributable to renewable energy resources
149 shall be used to fulfill the portfolio requirements.

150 6. In carrying out the provisions of this section, the commission and the department
151 shall include methane generated from the anaerobic digestion of farm animal waste and
152 thermal depolymerization or pyrolysis for converting waste material to energy as renewable
153 energy resources for purposes of this section.

154 7. The commission shall have the authority to promulgate rules for the
155 implementation of this section, but only to the extent such rules are consistent with, and
156 do not delay the implementation of, the provisions of this section. Any rule or portion of a
157 rule, as that term is defined in section 536.010, that is created under the authority delegated in
158 this section shall become effective only if it complies with and is subject to all of the
159 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536
160 are nonseverable and if any of the powers vested with the general assembly pursuant to
161 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
162 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
163 proposed or adopted after August 28, 2013, shall be invalid and void.

393.1050. Notwithstanding any other provision of law, any electrical corporation as
2 defined by subdivision (15) of section 386.020 which, by January 20, 2009, achieves an
3 amount of eligible renewable energy technology nameplate capacity equal to or greater than
4 fifteen percent of such corporation's total owned fossil-fired generating capacity, shall be
5 exempt thereafter from a requirement to pay any installation subsidy, fee, or rebate to its
6 customers that install their own solar electric energy system and shall be exempt from
7 meeting any mandated solar renewable energy standard requirements. **Beginning August 28,**
8 **2026, any electrical corporation which achieves an amount of eligible renewable energy**
9 **technology nameplate capacity equal to or greater than seven and one-half percent shall**
10 **be exempt thereafter from such requirements.** Any disputes or denial of exemptions under
11 this section may be reviewable by the circuit court of Cole County as prescribed by law.

620.1878. For the purposes of sections 620.1875 to 620.1890, the following terms
2 shall mean:

3 (1) "Approval", a document submitted by the department to the qualified company
4 that states the benefits that may be provided by this program;

5 (2) "Average wage", the new payroll divided by the number of new jobs;

6 (3) "Commencement of operations", the starting date for the qualified company's first
7 new employee, which must be no later than twelve months from the date of the approval;

8 (4) "County average wage", the average wages in each county as determined by the
9 department for the most recently completed full calendar year. However, if the computed
10 county average wage is above the statewide average wage, the statewide average wage shall
11 be deemed the county average wage for such county for the purpose of determining eligibility.
12 The department shall publish the county average wage for each county at least annually.
13 Notwithstanding the provisions of this subdivision to the contrary, for any qualified company
14 that in conjunction with their project is relocating employees from a Missouri county with a
15 higher county average wage, the company shall obtain the endorsement of the governing body
16 of the community from which jobs are being relocated or the county average wage for their
17 project shall be the county average wage for the county from which the employees are being
18 relocated;

19 (5) "Department", the Missouri department of economic development;

20 (6) "Director", the director of the department of economic development;

21 (7) "Employee", a person employed by a qualified company;

22 (8) "Full-time employee", an employee of the qualified company that is scheduled to
23 work an average of at least thirty-five hours per week for a twelve-month period, and one for
24 which the qualified company offers health insurance and pays at least fifty percent of such
25 insurance premiums;

26 (9) "High-impact project", a qualified company that, within two years from
27 commencement of operations, creates one hundred or more new jobs;

28 (10) "Local incentives", the present value of the dollar amount of direct benefit
29 received by a qualified company for a project facility from one or more local political
30 subdivisions, but shall not include loans or other funds provided to the qualified company that
31 must be repaid by the qualified company to the political subdivision;

32 (11) "NAICS", the 1997 edition of the North American Industry Classification
33 System as prepared by the Executive Office of the President, Office of Management and
34 Budget. Any NAICS sector, subsector, industry group or industry identified in this section
35 shall include its corresponding classification in subsequent federal industry classification
36 systems;

37 (12) "New direct local revenue", the present value of the dollar amount of direct net
38 new tax revenues of the local political subdivisions likely to be produced by the project over a
39 ten-year period as calculated by the department, excluding local earnings tax, and net new

40 utility revenues, provided the local incentives include a discount or other direct incentives
41 from utilities owned or operated by the political subdivision;

42 (13) "New investment", the purchase or leasing of new tangible assets to be placed in
43 operation at the project facility, which will be directly related to the new jobs;

44 (14) "New job", the number of full-time employees located at the project facility that
45 exceeds the project facility base employment less any decrease in the number of full-time
46 employees at related facilities below the related facility base employment. No job that was
47 created prior to the date of the notice of intent shall be deemed a new job. An employee that
48 spends less than fifty percent of the employee's work time at the facility is still considered to
49 be located at a facility if the employee receives his or her directions and control from that
50 facility, is on the facility's payroll, one hundred percent of the employee's income from such
51 employment is Missouri income, and the employee is paid at or above the state average wage;

52 (15) "New payroll", the amount of taxable wages of full-time employees, excluding
53 owners, located at the project facility that exceeds the project facility base payroll. If full-
54 time employment at related facilities is below the related facility base employment, any
55 decrease in payroll for full-time employees at the related facilities below that related facility
56 base payroll shall also be subtracted to determine new payroll;

57 (16) "Notice of intent", a form developed by the department, completed by the
58 qualified company and submitted to the department which states the qualified company's
59 intent to hire new jobs and request benefits under this program;

60 (17) "Percent of local incentives", the amount of local incentives divided by the
61 amount of new direct local revenue;

62 (18) "Program", the Missouri quality jobs program provided in sections 620.1875 to
63 620.1890;

64 (19) "Project facility", the building used by a qualified company at which the new
65 jobs and new investment will be located. A project facility may include separate buildings
66 that are located within fifteen miles of each other or within the same county such that their
67 purpose and operations are interrelated;

68 (20) "Project facility base employment", the greater of the number of full-time
69 employees located at the project facility on the date of the notice of intent or for the twelve-
70 month period prior to the date of the notice of intent, the average number of full-time
71 employees located at the project facility. In the event the project facility has not been in
72 operation for a full twelve-month period, the average number of full-time employees for the
73 number of months the project facility has been in operation prior to the date of the notice of
74 intent;

75 (21) "Project facility base payroll", the total amount of taxable wages paid by the
76 qualified company to full-time employees of the qualified company located at the project

77 facility in the twelve months prior to the notice of intent, not including the payroll of the
78 owners of the qualified company unless the qualified company is participating in an employee
79 stock ownership plan. For purposes of calculating the benefits under this program, the
80 amount of base payroll shall increase each year based on an appropriate measure, as
81 determined by the department;

82 (22) "Project period", the time period that the benefits are provided to a qualified
83 company;

84 (23) "Qualified company", a firm, partnership, joint venture, association, private or
85 public corporation whether organized for profit or not, or headquarters of such entity
86 registered to do business in Missouri that is the owner or operator of a project facility, offers
87 health insurance to all full-time employees of all facilities located in this state, and pays at
88 least fifty percent of such insurance premiums. For the purposes of sections 620.1875 to
89 620.1890, the term "qualified company" shall not include:

- 90 (a) Gambling establishments (NAICS industry group 7132);
- 91 (b) Retail trade establishments (NAICS sectors 44 and 45);
- 92 (c) Food and drinking places (NAICS subsector 722);
- 93 (d) Public utilities (NAICS 221 including water and sewer services);

94 (e) Any company that is delinquent in the payment of any nonprotested taxes or any
95 other amounts due the state or federal government or any other political subdivision of this
96 state;

97 (f) Any company that has filed for or has publicly announced its intention to file for
98 bankruptcy protection. However, a company that has filed for or has publicly announced its
99 intention to file for bankruptcy between January 1, 2009, and December 31, 2009, may be a
100 qualified company provided that such company:

- 101 a. Certifies to the department that it plans to reorganize and not to liquidate; and
- 102 b. After its bankruptcy petition has been filed, it produces proof, in a form and at
103 times satisfactory to the department, that it is not delinquent in filing any tax returns or
104 making any payment due to the state of Missouri, including but not limited to all tax
105 payments due after the filing of the bankruptcy petition and under the terms of the plan of
106 reorganization.

107

108 Any taxpayer who is awarded benefits under this subsection and who files for bankruptcy
109 under Chapter 7 of the United States Bankruptcy Code, Title 11 U.S.C., shall immediately
110 notify the department and shall forfeit such benefits and shall repay the state an amount equal
111 to any state tax credits already redeemed and any withholding taxes already retained;

- 112 (g) Educational services (NAICS sector 61);
- 113 (h) Religious organizations (NAICS industry group 8131);

114 (i) Public administration (NAICS sector 92);
115 (j) Ethanol distillation or production; or
116 (k) Biodiesel production.

117

118 Notwithstanding any provision of this section to the contrary, the headquarters or
119 administrative offices of an otherwise excluded business may qualify for benefits if the
120 offices serve a multistate territory. In the event a national, state, or regional headquarters
121 operation is not the predominant activity of a project facility, the new jobs and investment of
122 such headquarters operation is considered eligible for benefits under this section if the other
123 requirements are satisfied;

124 (24) "Qualified renewable energy sources" shall not be construed to include ethanol
125 distillation or production or biodiesel production; however, it shall include:

126 (a) Open-looped biomass;
127 (b) Close-looped biomass;
128 (c) Solar;
129 (d) Wind;
130 (e) Geothermal;

131 (f) **Nuclear**; and

132 [f] (g) Hydropower;

133 (25) "Related company" means:

134 (a) A corporation, partnership, trust, or association controlled by the qualified
135 company;

136 (b) An individual, corporation, partnership, trust, or association in control of the
137 qualified company; or

138 (c) Corporations, partnerships, trusts or associations controlled by an individual,
139 corporation, partnership, trust or association in control of the qualified company. As used in
140 this subdivision, "control of a corporation" shall mean ownership, directly or indirectly, of
141 stock possessing at least fifty percent of the total combined voting power of all classes of
142 stock entitled to vote, "control of a partnership or association" shall mean ownership of at
143 least fifty percent of the capital or profits interest in such partnership or association, "control
144 of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the
145 beneficial interest in the principal or income of such trust, and ownership shall be determined
146 as provided in Section 318 of the Internal Revenue Code of 1986, as amended;

147 (26) "Related facility", a facility operated by the qualified company or a related
148 company located in this state that is directly related to the operations of the project facility;

149 (27) "Related facility base employment", the greater of the number of full-time
150 employees located at all related facilities on the date of the notice of intent or for the twelve-

151 month period prior to the date of the notice of intent, the average number of full-time
152 employees located at all related facilities of the qualified company or a related company
153 located in this state;

154 (28) "Related facility base payroll", the total amount of taxable wages paid by the
155 qualified company to full-time employees of the qualified company located at a related
156 facility in the twelve months prior to the filing of the notice of intent, not including the payroll
157 of the owners of the qualified company unless the qualified company is participating in an
158 employee stock ownership plan. For purposes of calculating the benefits under this program,
159 the amount of related facility base payroll shall increase each year based on an appropriate
160 measure, as determined by the department;

161 (29) "Rural area", a county in Missouri with a population less than seventy-five
162 thousand or that does not contain an individual city with a population greater than fifty
163 thousand according to the most recent federal decennial census;

164 (30) "Small and expanding business project", a qualified company that within two
165 years of the date of the approval creates a minimum of twenty new jobs if the project facility
166 is located in a rural area or a minimum of forty new jobs if the project facility is not located in
167 a rural area and creates fewer than one hundred new jobs regardless of the location of the
168 project facility;

169 (31) "Tax credits", tax credits issued by the department to offset the state income
170 taxes imposed by chapters 143 and 148, or which may be sold or refunded as provided for in
171 this program;

172 (32) "Technology business project", a qualified company that within two years of the
173 date of the approval creates a minimum of ten new jobs involved in the operations of a
174 company:

175 (a) Which is a technology company, as determined by a regulation promulgated by
176 the department under the provisions of section 620.1884 or classified by NAICS codes;

177 (b) Which owns or leases a facility which produces electricity derived from qualified
178 renewable energy sources, or produces fuel for the generation of electricity from qualified
179 renewable energy sources, but does not include any company that has received the alcohol
180 mixture credit, alcohol credit, or small ethanol producer credit pursuant to 26 U.S.C. Section
181 40 of the tax code in the previous tax year;

182 (c) Which researches, develops, or manufactures power system technology for:
183 aerospace; space; defense; hybrid vehicles; or implantable or wearable medical devices; or

184 (d) Which is a clinical molecular diagnostic laboratory focused on detecting and
185 monitoring infections in immunocompromised patient populations;

186 (33) "Withholding tax", the state tax imposed by sections 143.191 to 143.265. For
187 purposes of this program, the withholding tax shall be computed using a schedule as
188 determined by the department based on average wages.

✓