AN ACT

To repeal sections 393.135, 393.170, 393.1025, 394.120, and 523.262, RSMo, and to enact in lieu thereof eight new sections relating to utilities.

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

Section A. Sections 393.135, 393.170, 393.1025, 394.120, and 523.262, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 67.309, 386.895, 393.135, 393.170, 393.1250, 394.120, and 523.262, to read as follows:

67.309. No political subdivision of this state, including any referenced in section 386.020, shall adopt an ordinance, resolution, regulation, code, or policy that prohibits, or has the effect of prohibiting, the connection or reconnection of a utility service based upon the type or source of energy to be delivered to an individual customer. Nothing in this section shall limit the ability of a political subdivision to choose utility services for properties owned by such political subdivision.

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

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

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

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

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

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.
(5) "Renewable energy sources", hydroelectric, geothermal, solar photovoltaic, wind, tidal, wave, biomass, or biogas energy sources;

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

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

(b) Hydrogen gas; or

(c) Methane gas derived from any combination of:

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

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

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

   (1) Rules for reporting requirements; and

   (2) Rules for establishing a process for gas corporations to fully recover incurred costs that are prudent, just, and reasonable associated with a renewable natural gas program. Such recovery shall not be permitted until the project is operational.

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

   (1) A proposal to procure a total volume of renewable natural gas over a specific period; and

   (2) Identification of the qualified investments that the gas corporation may make in renewable natural gas infrastructure.

4. A gas corporation may from time to time revise the filing submitted to the commission under this section.

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

6. When a gas corporation makes a qualified investment in the production of renewable natural gas, the costs associated with such qualified investment shall include the cost of capital established by the commission in the gas corporation's most recent general rate case.
7. Rules adopted by the commission under this section shall not prohibit an affiliate of a gas corporation from making a capital investment in a biogas production project if the affiliate is not a public utility as defined in section 386.020.

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

393.135. Except as provided in section 393.1250, any charge made or demanded by an electrical corporation for service, or in connection therewith, which is based on the costs of construction work in progress, as that term is defined in section 393.1250, upon any existing or new facility of the electrical corporation facility, or any other cost associated with owning, operating, maintaining, or financing any such property before it is fully operational and used for service, is unjust and unreasonable, and is prohibited.

393.170. 1. No gas corporation, electrical corporation, water corporation or sewer corporation shall begin construction of a gas plant, electric plant, water system or sewer system, other than an energy generation unit that has a capacity of one megawatt or less, without first having obtained the permission and approval of the commission.

2. No such corporation shall exercise any right or privilege under any franchise hereafter granted, or under any franchise heretofore granted but not heretofore actually exercised, or the exercise of which shall have been suspended for more than one year, without first having obtained the permission and approval of the commission. Before such certificate shall be issued a certified copy of the charter of such corporation shall be filed in the office of the commission, together with a verified statement of the president and secretary of the corporation, showing that it has received the required consent of the proper municipal authorities.

3. (1) Before the commission shall issue an approval under subsection 1 of this section for a merchant line, an entity shall provide the commission a resolution of support passed by the county commission of each county through which the merchant line will be built. Any entity that begins construction on a merchant line after August 28, 2021, shall provide the required resolutions to the commission prior to construction, regardless of whether the commission has previously issued its approval.

(2) For the purposes of this subsection, the following terms mean:
(a) "Entity", an electrical corporation that does not provide service to end-use customers or provide retail service in Missouri or does not collect its costs to provide service under a regional transmission organization tariff;

(b) "Merchant line", a high-voltage direct current electric transmission line that does not provide for the erection of electric substations at intervals of less than fifty miles, which substations are necessary to accommodate both the purchase and sale to persons located in this state of electricity generated or transmitted by such entity.

4. The commission shall have the power to grant the permission and approval herein specified whenever it shall after due hearing determine that such construction or such exercise of the right, privilege or franchise is necessary or convenient for the public service. The commission may by its order impose such condition or conditions as it may deem reasonable and necessary. Unless exercised within a period of two years from the grant thereof, authority conferred by such certificate of convenience and necessity issued by the commission shall be null and void.

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

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

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

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

(4) "Renewable energy credit" or "REC", a tradeable certificate of proof that one 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, dedicated crops grown for energy production, cellulosic agricultural residues, plant residues, methane from landfills, from agricultural operations, or from wastewater treatment, thermal depolymerization or pyrolysis for converting waste material to energy, clean and untreated wood such as pallets, hydropower (not including pumped storage) that does not require a new diversion or impoundment of water [and that has a nameplate rating of ten megawatts or less], fuel cells using hydrogen produced by one of the above-named renewable energy sources, and other sources of energy not including nuclear that become available after November 4, 2008, and are certified as renewable by rule by the department.

393.1250. 1. This section shall be known and may be cited as the "Missouri Nuclear Clean Power Act", the purpose of which is to enable the construction of clean baseload electric generating plants or facilities that utilize renewable sources to produce energy. This section shall not apply to clean baseload electric generating plants or renewable source generating facilities that are in commercial operation before August 28, 2021.

2. As used in this section, the following terms mean:
(1) "Clean baseload generating plant", a new nuclear-fueled electric generating facility located in this state that is designed to be operated at a capacity factor exceeding seventy percent annually and is intended in whole or in part to serve retail customers of an electrical corporation in Missouri;

(2) "Construction work in progress", the electrical corporation's share of all capital costs associated with a clean baseload generating plant or renewable source generating facility, which have been incurred but have not been included in the electrical corporation's plant in service, and are recorded in the Federal Energy Regulatory Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act, Balance Sheet Chart Accounts, as construction work in progress for electric plants in 18 CFR Part 101, or any other account established in the Uniform System of Accounts for the recording of construction work in progress;

(3) "Renewable source generating facility", any electric generating facility powered by wind, hydropower, solar power, landfill methane, biomass, or any other renewable source of power that does not produce significant carbon emissions.

3. The provisions of section 393.135 shall not apply to a clean baseload generating plant or a renewable source generating facility if the plant or facility is rated at two hundred megawatts or more. Costs recovered by an electrical corporation under the provisions of this section are subject to inclusion or exclusion from rates in a ratemaking proceeding pursuant to the commission's authority to determine just and reasonable rates. In addition, the commission may authorize an electrical corporation to make or demand charges for service based in whole or in part on additional amortizations to maintain the electrical corporation's financial ratios that will, in the commission's judgment, better enable the electrical corporation to cost-effectively construct a clean baseload generating plant or a renewable source generating facility.

4. The commission may promulgate rules to assist in the implementation of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid and void.
394.120. 1. No person shall become a member of a cooperative unless such person shall agree to use electric energy furnished by the cooperative when such electric energy shall be available through its facilities. The bylaws of a cooperative may provide that any person, including an incorporator, shall cease to be a member thereof if he or she shall fail or refuse to use electric energy made available by the cooperative or if electric energy shall not be made available to such person by the cooperative within a specified time after such person shall have become a member thereof. Membership in the cooperative shall not be transferable, except as provided in the bylaws. The bylaws may prescribe additional qualifications and limitations in respect of membership.

2. An annual meeting of the members shall be held at such time as shall be provided in the bylaws.

3. Special meetings of the members may be called by the board of directors, by any three directors, by not less than ten percent of the members, or by the president.

4. Meetings of members shall be held at such place as may be provided in the bylaws. In the absence of any such provisions, all meetings shall be held in the city or town in which the principal office of the cooperative is located.

5. Except as herein otherwise provided, written or printed notice stating the time and place of each meeting of members and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given to each member, either personally or by mail, not less than ten nor more than twenty-five days before the date of the meeting.

6. Two percent of the first two thousand members and one percent of the remaining members, present in person, or if the bylaws so provide, participating electronically or by mail, shall constitute a quorum for the transaction of business at all meetings of the members, unless the bylaws prescribe the presence of a greater percentage of the members for a quorum. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice.

7. Each member shall be entitled to one vote on each matter submitted to a vote at a meeting. Voting shall be in person, but, if the bylaws so provide, may also be by proxy, by electronic means, by mail, or any combination thereof. If the bylaws provide for voting by proxy, by electronic means, or by mail, they shall also prescribe the conditions under which proxy, electronic, or mail voting shall be exercised. In any event, no person shall vote as proxy for more than two members at any meeting of the members.

8. Notwithstanding the provisions of subsections 2 and 7 of this section, the board of directors shall have the power to set the time and place of the annual meeting and also to provide for voting by proxy, electronic means, mail, or any combination thereof, and to prescribe the conditions under which such voting shall be exercised. The meeting
requirement provided in this section may be satisfied through virtual means. The provisions of this subsection shall expire on August 28, 2022.

523.262. 1. Except as set forth in subsection 2 of this section, the power of eminent domain shall only be vested in governmental bodies or agencies whose governing body is elected or whose governing body is appointed by elected officials or in an urban redevelopment corporation operating pursuant to a redevelopment agreement with the municipality for a particular redevelopment area, which agreement was executed prior to or on December 31, 2006.

2. A private utility company, public utility, rural electric cooperative, municipally owned utility, pipeline, railroad or common carrier shall have the power of eminent domain as may be granted pursuant to the provisions of other sections of the revised statutes of Missouri. For the purposes of this section, the term "common carrier" shall not include motor carriers, contract carriers, or express companies. Where a condemnation by such an entity results in a displaced person, as defined in section 523.200, the provisions of subsections 3 and 6 to 10 of section 523.205 shall apply unless the condemning entity is subject to the relocation assistance provisions of the federal Uniform Relocation Assistance Act.

3. Any entity with the power of eminent domain and pursuing the acquisition of property for the purpose of constructing a power generation facility after December 31, 2006, after providing notice in a newspaper of general circulation in the county where the facility is to be constructed, shall conduct a public meeting disclosing the purpose of the proposed facility prior to making any offer to purchase property in pursuit thereof or, alternatively, shall provide the property owner with notification of the identity of the condemning authority and the proposed purpose for which the condemned property shall be used at the time of making the initial offer.

4. (1) Notwithstanding the provisions of subsection 2 of this section, no entity shall have the power of eminent domain under the provisions of this section for the purpose of constructing above-ground merchant lines.

(2) For the purpose of this subsection, the following terms mean:

(a) "Entity", a utility company that does not provide service to end-use customers or provide retail service in Missouri, or does not collect its costs to provide service under a regional transmission organization tariff, regardless of whether it has received a certificate of convenience and necessity from the public service commission under section 393.170;

(b) "Merchant line", a high-voltage direct current electric transmission line that does not provide for the erection of electric substations at intervals of less than fifty miles, which substations are necessary to accommodate both the purchase and sale to persons located in this state of electricity generated or transmitted by such entity.
(3) This subsection shall apply to any property or easement acquisition started on
or after August 28, 2021.

(4) This subsection shall not apply to any rural electric cooperative organized or
operating under the provisions of chapter 394, or to any corporation organized on a
nonprofit or a cooperative basis as described in subsection 1 of section 394.200, or to any
electrical corporation operating under a cooperative business plan as described in
subsection 2 of section 393.110.