

SECOND REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 838

103RD GENERAL ASSEMBLY

4751S.03C

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 260.035, 393.1025, 393.1030, and 393.1050, RSMo, and to enact in lieu thereof four new sections relating to nuclear energy.

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

Section A. Sections 260.035, 393.1025, 393.1030, and  
2 393.1050, RSMo, are repealed and four new sections enacted in  
3 lieu thereof, to be known as sections 260.035, 393.1025,  
4 393.1030, and 393.1050, to read as follows:

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

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

9 (2) To adopt an official seal;

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

12 (4) To sue and be sued;

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

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

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

23           (7) To issue bonds and notes as hereinafter provided  
24 and to make, purchase, or participate in the purchase of  
25 loans or municipal obligations and to guarantee loans to  
26 finance the acquisition, construction, reconstruction,  
27 enlargement, improvement, furnishing, equipping,  
28 maintaining, repairing, operating, or leasing of a project;

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

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

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

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

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

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

55           (14) To sell at private sale any of its property or  
56 projects to any private person, firm, or corporation, or to  
57 any public body, political subdivision, or municipal  
58 corporation, on such terms as it deems advisable, including  
59 the right to receive for such sale the note or notes of any  
60 such person to whom the sale is made. Any such sale shall  
61 provide for payments adequate to pay the principal of and  
62 interest and premiums, if any, on the bonds or notes issued  
63 to finance such project or portion thereof. Any such sale  
64 may provide for the construction of the project by the  
65 purchaser of the project;

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

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

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

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

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

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

84           (18) To collect reasonable fees and charges in  
85 connection with making and servicing its loans, notes, bonds  
86 and obligations, commitments, and other evidences of  
87 indebtedness made, issued or entered into to develop energy  
88 resources, and in connection with providing technical,  
89 consultative, and project assistance services in the area of  
90 energy development. Such fees and charges shall be limited  
91 to the amounts required to pay the costs of the authority,  
92 including operating and administrative expenses, and  
93 reasonable allowance for losses which may be incurred;

94           (19) To enter into agreements or other transactions  
95 with any federal or state agency, any person and any  
96 domestic or foreign partnership, corporation, association,  
97 or organization to carry out the provisions of sections  
98 260.005 to 260.125;

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

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

105           (22) To consent to the modification of the rate of  
106 interest, time of payment for any installment of principal  
107 or interest, or any other terms, of any loan, loan  
108 commitment, temporary loan, contract, or agreement made  
109 directly by the authority;

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

118           (24) To borrow money to carry out and effectuate its  
119 purpose in the area of energy resource development and to  
120 issue its negotiable bonds or notes as evidence of any such  
121 borrowing in such principal amounts and upon such terms as  
122 shall be determined by the authority, and to secure such  
123 bonds or notes by the pledge of revenues, mortgages, or  
124 notes of others as authorized by sections 260.005 to 260.125.

125           2. The authority shall develop a hazardous waste  
126 facility if the study required in section 260.037  
127 demonstrates that a facility is economically feasible. The  
128 facility, which shall not include a hazardous waste  
129 landfill, may be operated by any eligible party as specified  
130 in this section. The authority shall begin development of  
131 the facility by July 1, 1985.

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

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

3           (1) **"Battery energy storage systems", battery energy**  
4 **electrochemical devices that charge, or collect, energy from**  
5 **the grid or a generation facility, store that energy, and**

6 **then discharge that energy at a later time to provide**  
7 **electricity or other grid services;**

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

9 [(2)] (3) "Department", the department of economic  
10 development;

11 [(3)] (4) "Electric utility", any electrical  
12 corporation as defined by section 386.020;

13 (5) **"Nuclear energy credit" or "NEC", a tradeable**  
14 **certificate of proof that one megawatt-hour of electricity**  
15 **has been generated from nuclear power generated from a**  
16 **nuclear generating facility that begins operation after**  
17 **August 28, 2026;**

18 [(4)] (6) "Renewable energy credit" or "REC", a  
19 tradeable certificate of proof that one megawatt-hour of  
20 electricity has been generated from renewable energy  
21 sources; [and

22 (5)] (7) "Renewable energy resources", electric energy  
23 produced from wind, solar thermal sources, photovoltaic  
24 cells and panels, dedicated crops grown for energy  
25 production, cellulosic agricultural residues, plant  
26 residues, methane from landfills, from agricultural  
27 operations, or from wastewater treatment, thermal  
28 depolymerization or pyrolysis for converting waste material  
29 to energy, clean and untreated wood such as pallets,  
30 hydropower (not including pumped storage) that does not  
31 require a new diversion or impoundment of water and that has  
32 a nameplate rating of ten megawatts or less, fuel cells  
33 using hydrogen produced by one of the above-named renewable  
34 energy sources, **battery energy storage systems**, and other  
35 sources of energy not including nuclear that become  
36 available after November 4, 2008, and are certified as  
37 renewable by rule by the department.

393.1030. 1. The commission shall, in consultation  
2 with the department, prescribe by rule a portfolio  
3 requirement for all electric utilities to generate or  
4 purchase electricity generated from renewable energy  
5 resources **and nuclear energy sources generated from nuclear**  
6 **generating facilities that begin operation after August 28,**  
7 **2026.** Such portfolio requirement shall provide that  
8 electricity from renewable energy resources **and nuclear**  
9 **energy sources under this subsection** shall constitute the  
10 following portions of each electric utility's sales:

11 (1) No less than two percent for calendar years 2011  
12 through 2013;

13 (2) No less than five percent for calendar years 2014  
14 through 2017;

15 (3) No less than ten percent for calendar years 2018  
16 through 2020; and

17 (4) No less than **[fifteen]** **seven and one-half** percent  
18 in each calendar year beginning in **[2021]** **2027.**

19 At least two percent of each portfolio requirement shall be  
20 derived from solar energy. The portfolio requirements shall  
21 apply to all power sold to Missouri consumers whether such  
22 power is self-generated or purchased from another source in  
23 or outside of this state. A utility may comply with the  
24 standard in whole or in part by purchasing RECs **or NECs.**  
25 Each kilowatt-hour of eligible energy generated in Missouri  
26 shall count as 1.25 kilowatt-hours for purposes of  
27 compliance.

28 2. (1) This subsection applies to electric utilities  
29 with more than two hundred fifty thousand but less than one  
30 million retail customers in Missouri as of the end of the  
31 calendar year 2024.

32           (2) Energy meeting the criteria of the renewable  
33 energy portfolio requirements set forth in subsection 1 of  
34 this section that is generated from renewable energy  
35 resources **and nuclear energy sources pursuant to subsection**  
36 **1 of this section** and contracted for by an accelerated  
37 renewable buyer shall:

38           (a) Have all associated renewable energy certificates  
39 **and nuclear energy certificates** retired by the accelerated  
40 renewable buyer, or on their behalf, and the certificates  
41 shall not be used to meet the electric utility's portfolio  
42 requirements pursuant to subsection 1 of this section;

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

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

50           (3) The accelerated renewable buyer shall be exempt  
51 from any renewable energy standard compliance costs as may  
52 be established by the utility and approved by the  
53 commission, based on the amount of renewable energy  
54 certificates **and nuclear energy certificates** retired  
55 pursuant to this subsection in proportion to the accelerated  
56 renewable buyer's total electric energy consumption, on an  
57 annual basis.

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

62           (a) Renewable energy certificates **or nuclear energy**  
63 **certificates** from renewable energy resources as defined in

64 section 393.1025, **and nuclear energy sources under**  
65 **subsection 1 of this section;** or

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

73 (5) Each electric utility shall certify, and verify as  
74 necessary, to the commission that the accelerated renewable  
75 buyer has satisfied the exemption requirements of this  
76 subsection for each year, or an accelerated renewable buyer  
77 may choose to certify satisfaction of this exemption by  
78 reporting to the commission individually.

79 (6) The commission may promulgate such rules and  
80 regulations as may be necessary to implement the provisions  
81 of this subsection. Any rule or portion of a rule, as that  
82 term is defined in section 536.010, that is created under  
83 the authority delegated in this section shall become  
84 effective only if it complies with and is subject to all of  
85 the provisions of chapter 536 and, if applicable, section  
86 536.028. This section and chapter 536 are nonseverable and  
87 if any of the powers vested with the general assembly  
88 pursuant to chapter 536 to review, to delay the effective  
89 date, or to disapprove and annul a rule are subsequently  
90 held unconstitutional, then the grant of rulemaking  
91 authority and any rule proposed or adopted after August 28,  
92 2025, shall be invalid and void.

93 (7) Nothing in this section shall be construed as  
94 imposing or authorizing the imposition of any reporting,

95 regulatory, or financial burden on an accelerated renewable  
96 buyer.

97       **3. Notwithstanding any other provision of this section**  
98 **to the contrary, an electric utility may comply with this**  
99 **section using energy savings captured due to energy**  
100 **efficiency or demand-side measures. As part of the**  
101 **commission's rulemaking authority pursuant to subsection 8**  
102 **of this section, the commission shall prescribe a rule**  
103 **allowing an electric utility to comply with the portfolio**  
104 **requirements of subsection 1 of this section using verified**  
105 **megawatt-hour savings captured due to commission-approved**  
106 **demand-side programs under section 393.1075 during each**  
107 **compliance year, whether such annual energy savings is due**  
108 **to measures installed in that compliance year or in previous**  
109 **compliance years beginning with 2022.**

110       **4.** The commission, in consultation with the department  
111 and within one year of November 4, 2008, shall select a  
112 program for tracking and verifying the trading of renewable  
113 energy credits **and nuclear energy credits.** An unused credit  
114 may exist for up to three years from the date of its  
115 creation. A credit may be used only once to comply with  
116 sections 393.1020 to 393.1030 and may not also be used to  
117 satisfy any similar nonfederal requirement. An electric  
118 utility may not use a credit derived from a green pricing  
119 program. Certificates from net-metered sources shall  
120 initially be owned by the customer-generator. The  
121 commission, except where the department is specified, shall  
122 make whatever rules are necessary to enforce the renewable  
123 energy standard. Such rules shall include:

124       (1) A maximum average retail rate increase of one  
125 percent determined by estimating and comparing the electric  
126 utility's cost of compliance with least-cost renewable

127 generation and the cost of continuing to generate or  
128 purchase electricity from entirely nonrenewable sources,  
129 taking into proper account future environmental regulatory  
130 risk including the risk of greenhouse gas regulation.  
131 Notwithstanding the foregoing, until June 30, 2020, if the  
132 maximum average retail rate increase would be less than or  
133 equal to one percent if an electric utility's investment in  
134 solar-related projects initiated, owned or operated by the  
135 electric utility is ignored for purposes of calculating the  
136 increase, then additional solar rebates shall be paid and  
137 included in rates in an amount up to the amount that would  
138 produce a retail rate increase equal to the difference  
139 between a one percent retail rate increase and the retail  
140 rate increase calculated when ignoring an electric utility's  
141 investment in solar-related projects initiated, owned, or  
142 operated by the electric utility. Notwithstanding any  
143 provision to the contrary in this section, even if the  
144 payment of additional solar rebates will produce a maximum  
145 average retail rate increase of greater than one percent  
146 when an electric utility's investment in solar-related  
147 projects initiated, owned or operated by the electric  
148 utility are included in the calculation, the additional  
149 solar rebate costs shall be included in the prudently  
150 incurred costs to be recovered as contemplated by  
151 subdivision (4) of this subsection;

152 (2) Penalties of at least twice the average market  
153 value of renewable energy credits for the compliance period  
154 for failure to meet the targets of subsection 1 of this  
155 section. An electric utility will be excused if it proves  
156 to the commission that failure was due to events beyond its  
157 reasonable control that could not have been reasonably  
158 mitigated, or that the maximum average retail rate increase

159 has been reached. Penalties shall not be recovered from  
160 customers. Amounts forfeited under this section shall be  
161 remitted to the department to purchase renewable energy  
162 credits needed for compliance. Any excess forfeited  
163 revenues shall be used by the division of energy solely for  
164 renewable energy and energy efficiency projects;

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

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

173 [4.] 5. As provided for in this section, except for  
174 those electrical corporations that qualify for an exemption  
175 under section 393.1050, each electric utility shall make  
176 available to its retail customers a solar rebate for new or  
177 expanded solar electric systems sited on customers'  
178 premises, up to a maximum of twenty-five kilowatts per  
179 system, measured in direct current that were confirmed by  
180 the electric utility to have become operational in  
181 compliance with the provisions of section 386.890. The  
182 solar rebates shall be two dollars per watt for systems  
183 becoming operational on or before June 30, 2014; one dollar  
184 and fifty cents per watt for systems becoming operational  
185 between July 1, 2014, and June 30, 2015; one dollar per watt  
186 for systems becoming operational between July 1, 2015, and  
187 June 30, 2016; fifty cents per watt for systems becoming  
188 operational between July 1, 2016, and June 30, 2017; fifty  
189 cents per watt for systems becoming operational between July  
190 1, 2017, and June 30, 2019; twenty-five cents per watt for

191 systems becoming operational between July 1, 2019, and June  
192 30, 2020; and zero cents per watt for systems becoming  
193 operational after June 30, 2020. An electric utility may,  
194 through its tariffs, require applications for rebates to be  
195 submitted up to one hundred eighty-two days prior to the  
196 June thirtieth operational date. Nothing in this section  
197 shall prevent an electrical corporation from offering  
198 rebates after July 1, 2020, through an approved tariff. If  
199 the electric utility determines the maximum average retail  
200 rate increase provided for in subdivision (1) of subsection  
201 3 of this section will be reached in any calendar year, the  
202 electric utility shall be entitled to cease paying rebates  
203 to the extent necessary to avoid exceeding the maximum  
204 average retail rate increase if the electrical corporation  
205 files with the commission to suspend its rebate tariff for  
206 the remainder of that calendar year at least sixty days  
207 prior to the change taking effect. The filing with the  
208 commission to suspend the electrical corporation's rebate  
209 tariff shall include the calculation reflecting that the  
210 maximum average retail rate increase will be reached and  
211 supporting documentation reflecting that the maximum average  
212 retail rate increase will be reached. The commission shall  
213 rule on the suspension filing within sixty days of the date  
214 it is filed. If the commission determines that the maximum  
215 average retail rate increase will be reached, the commission  
216 shall approve the tariff suspension. The electric utility  
217 shall continue to process and pay applicable solar rebates  
218 until a final commission ruling; however, if the continued  
219 payment causes the electric utility to pay rebates that  
220 cause it to exceed the maximum average retail rate increase,  
221 the expenditures shall be considered prudently incurred  
222 costs as contemplated by subdivision (4) of subsection 3 of

223 this section and shall be recoverable as such by the  
224 electric utility. As a condition of receiving a rebate,  
225 customers shall transfer to the electric utility all right,  
226 title, and interest in and to the renewable energy credits  
227 associated with the new or expanded solar electric system  
228 that qualified the customer for the solar rebate for a  
229 period of ten years from the date the electric utility  
230 confirmed that the solar electric system was installed and  
231 operational.

232 [5.] 6. The department shall, in consultation with the  
233 commission, establish by rule a certification process for  
234 electricity generated from renewable resources and used to  
235 fulfill the requirements of subsection 1 of this section.  
236 Certification criteria for renewable energy generation shall  
237 be determined by factors that include fuel type, technology,  
238 and the environmental impacts of the generating facility.  
239 Renewable energy facilities shall not cause undue adverse  
240 air, water, or land use impacts, including impacts  
241 associated with the gathering of generation feedstocks. If  
242 any amount of fossil fuel is used with renewable energy  
243 resources, only the portion of electrical output  
244 attributable to renewable energy resources shall be used to  
245 fulfill the portfolio requirements.

246 [6.] 7. In carrying out the provisions of this  
247 section, the commission and the department shall include  
248 methane generated from the anaerobic digestion of farm  
249 animal waste and thermal depolymerization or pyrolysis for  
250 converting waste material to energy as renewable energy  
251 resources for purposes of this section.

252 [7.] 8. The commission shall have the authority to  
253 promulgate rules for the implementation of this section, but  
254 only to the extent such rules are consistent with, and do

255 not delay the implementation of, the provisions of this  
256 section. Any rule or portion of a rule, as that term is  
257 defined in section 536.010, that is created under the  
258 authority delegated in this section shall become effective  
259 only if it complies with and is subject to all of the  
260 provisions of chapter 536 and, if applicable, section  
261 536.028. This section and chapter 536 are nonseverable and  
262 if any of the powers vested with the general assembly  
263 pursuant to chapter 536 to review, to delay the effective  
264 date, or to disapprove and annul a rule are subsequently  
265 held unconstitutional, then the grant of rulemaking  
266 authority and any rule proposed or adopted after August 28,  
267 2013, shall be invalid and void.

393.1050. Notwithstanding any other provision of law,  
2 any electrical corporation as defined by subdivision (15) of  
3 section 386.020 which, by [January 20, 2009,] **January 1,**  
4 **2027,** achieves an amount of eligible renewable energy  
5 technology nameplate capacity **and capacity generated from**  
6 **nuclear energy sources pursuant to subsection 1 of section**  
7 **393.1030** equal to or greater than [fifteen] **seven and one-**  
8 **half** percent of such corporation's total owned fossil-fired  
9 generating capacity, shall be exempt thereafter from a  
10 requirement to pay any installation subsidy, fee, or rebate  
11 to its customers that install their own solar electric  
12 energy system and shall be exempt from meeting any mandated  
13 solar renewable energy standard requirements. Any disputes  
14 or denial of exemptions under this section may be reviewable  
15 by the circuit court of Cole County as prescribed by law.

✓