

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE SUBSTITUTE NO. 5 FOR

SENATE BILL NO. 564

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Offered February 7, 2018.

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ADRIANE D. CROUSE, Secretary.

5027S.11P

AN ACT

To repeal sections 386.266, 386.390, and 393.170, RSMo, and to enact in lieu thereof twelve new sections relating to public utilities, with an emergency clause for a certain section.

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

Section A. Sections 386.266, 386.390, and 393.170, RSMo, are repealed
2 and twelve new sections enacted in lieu thereof, to be known as sections 386.266,
3 386.390, 393.137, 393.170, 393.1400, 393.1610, 393.1640, 393.1650, 393.1655,
4 393.1665, 393.1670, and 1, to read as follows:

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

10 2. Subject to the requirements of this section, any electrical, gas, or water
11 corporation may make an application to the commission to approve rate schedules
12 authorizing periodic rate adjustments outside of general rate proceedings to

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

13 reflect increases and decreases in its prudently incurred costs, whether capital
 14 or expense, to comply with any federal, state, or local environmental law,
 15 regulation, or rule. Any rate adjustment made under such rate schedules shall
 16 not exceed an annual amount equal to two and one-half percent of the electrical,
 17 gas, or water corporation's Missouri gross jurisdictional revenues, excluding gross
 18 receipts tax, sales tax and other similar pass-through taxes not included in
 19 tariffed rates, for regulated services as established in the utility's most recent
 20 general rate case or complaint proceeding. In addition to the rate adjustment, the
 21 electrical, gas, or water corporation shall be permitted to collect any applicable
 22 gross receipts tax, sales tax, or other similar pass-through taxes, and such taxes
 23 shall not be counted against the two and one-half percent rate adjustment
 24 cap. Any costs not recovered as a result of the annual two and one-half percent
 25 limitation on rate adjustments may be deferred, at a carrying cost each month
 26 equal to the utilities net of tax cost of capital, for recovery in a subsequent year
 27 or in the corporation's next general rate case or complaint proceeding.

28 3. Subject to the requirements of this section, any gas **or electrical**
 29 corporation may make an application to the commission to approve rate schedules
 30 authorizing periodic rate adjustments outside of general rate proceedings to
 31 [reflect the nongas revenue effects] **adjust rates of customers in eligible**
 32 **customer classes to account for the impact on utility revenues of**
 33 increases or decreases in residential and commercial customer usage due to
 34 variations in either weather, conservation, or both. **No electrical corporation**
 35 **shall make an application to the commission under this subsection if**
 36 **such corporation has provided notice to the commission under**
 37 **subsection 5 of section 393.1400. ~~For purposes of this section: for~~**
 38 **~~electrical corporations, eligible customer classes means the residential~~**
 39 **~~class and classes that are not demand metered; and for gas~~**
 40 **~~corporations, eligible customer classes means the residential class and~~**
 41 **~~the smallest general service class.~~** As used in this subsection,
 42 "revenues" means the revenues recovered through base rates, and does
 43 not include revenues collected through a rate adjustment mechanism
 44 authorized by this section or any other provisions of law. This
 45 subsection shall apply to electrical corporations beginning January 1,
 46 2019, and shall expire for electrical corporations on January 1, 2029.

47 4. The commission shall have the power to approve, modify, or reject
 48 adjustment mechanisms submitted under subsections 1 to 3 of this section only

House language
 allows costs of
 decoupling to be
 spread across all
 customer classes
 not just residential.

49 after providing the opportunity for a full hearing in a general rate proceeding,
50 including a general rate proceeding initiated by complaint. The commission may
51 approve such rate schedules after considering all relevant factors which may
52 affect the costs or overall rates and charges of the corporation, provided that it
53 finds that the adjustment mechanism set forth in the schedules:

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

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

60 (3) In the case of an adjustment mechanism submitted under subsections
61 1 and 2 of this section, includes provisions requiring that the utility file a general
62 rate case with the effective date of new rates to be no later than four years after
63 the effective date of the commission order implementing the adjustment
64 mechanism. However, with respect to each mechanism, the four-year period shall
65 not include any periods in which the utility is prohibited from collecting any
66 charges under the adjustment mechanism, or any period for which charges
67 collected under the adjustment mechanism must be fully refunded. In the event
68 a court determines that the adjustment mechanism is unlawful and all moneys
69 collected thereunder are fully refunded, the utility shall be relieved of any
70 obligation under that adjustment mechanism to file a rate case;

71 (4) In the case of an adjustment mechanism submitted under subsection
72 1 or 2 of this section, includes provisions for prudence reviews of the costs subject
73 to the adjustment mechanism no less frequently than at eighteen-month
74 intervals, and shall require refund of any imprudently incurred costs plus
75 interest at the utility's short-term borrowing rate.

76 5. Once such an adjustment mechanism is approved by the commission
77 under this section, it shall remain in effect until such time as the commission
78 authorizes the modification, extension, or discontinuance of the mechanism in a
79 general rate case or complaint proceeding.

80 6. Any amounts charged under any adjustment mechanism approved by
81 the commission under this section shall be separately disclosed on each customer
82 bill.

83 7. The commission may take into account any change in business risk to
84 the corporation resulting from implementation of the adjustment mechanism in

85 setting the corporation's allowed return in any rate proceeding, in addition to any
86 other changes in business risk experienced by the corporation.

87 8. In the event the commission lawfully approves an incentive- or
88 performance-based plan, such plan shall be binding on the commission for the
89 entire term of the plan. This subsection shall not be construed to authorize or
90 prohibit any incentive- or performance-based plan.

91 9. [Prior to August 28, 2005,] The commission shall have the authority to
92 promulgate rules under the provisions of chapter 536 as it deems necessary, to
93 govern the structure, content and operation of such rate adjustments, and the
94 procedure for the submission, frequency, examination, hearing and approval of
95 such rate adjustments. Such rules shall be promulgated no later than one
96 hundred fifty days after the initiation of such rulemaking proceeding. Any
97 electrical, gas, or water corporation may apply for any adjustment mechanism
98 under this section whether or not the commission has promulgated any such
99 rules.

100 10. Nothing contained in this section shall be construed as affecting any
101 existing adjustment mechanism, rate schedule, tariff, incentive plan, or other
102 ratemaking mechanism currently approved and in effect.

103 11. Each of the provisions of this section is severable. In the event any
104 provision or subsection of this section is deemed unlawful, all remaining
105 provisions shall remain in effect.

106 12. The [provisions of this section shall take effect on January 1, 2006,
107 and the] commission shall have previously promulgated rules to implement the
108 application process for any rate adjustment mechanism under this section prior
109 to the commission issuing an order for any **such** rate adjustment.

110 13. The public service commission shall appoint a task force, consisting
111 of all interested parties, to study and make recommendations on the cost recovery
112 and implementation of conservation and weatherization programs for electrical
113 and gas corporations.

114 14. **Each public utility operating under a mechanism proposed**
115 **and approved under subsection 3 of this section shall quarterly file a**
116 **surveillance monitoring, consisting of five parts. Each part, except the**
117 **rate base quantifications report, shall contain information for the last**
118 **twelve month period and the last quarter data for total company**
119 **electric operations and Missouri jurisdictional operations. Rate base**
120 **quantifications shall contain only information for the ending date of**

121 the period being reported.

122 (1) Part one of the surveillance monitoring report shall be the
123 rate base quantifications report. The quantification of rate base items
124 in part one shall be consistent with the methods or procedures used in
125 the most recent rate proceeding unless otherwise specified. The report
126 shall consist of specific rate base quantifications of:

- 127 (a) Plant in service;
- 128 (b) Reserve for depreciation;
- 129 (c) Materials and supplies;
- 130 (d) Cash working capital;
- 131 (e) Fuel inventory, if applicable;
- 132 (f) Prepayments;
- 133 (g) Other regulatory assets;
- 134 (h) Customer advances;
- 135 (i) Customer deposits;
- 136 (j) Accumulated deferred income taxes;
- 137 (k) Any other item included in the electrical corporation's rate
138 base in its most recent rate proceeding;
- 139 (l) Net operating income from part three; and
- 140 (m) Calculation of the overall return on rate base.

141 (2) Part two of the surveillance monitoring report shall be the
142 capitalization quantifications report, which shall consist of specific
143 capitalization quantifications of:

- 144 (a) Common stock equity (net);
- 145 (b) Preferred stock, par or stated value outstanding;
- 146 (c) Long-term debt, including current maturities;
- 147 (d) Short-term debt; and
- 148 (e) Weighted cost of capital, including component costs.

149 (3) Part three of the surveillance monitoring report shall be the
150 income statement, which shall consist of an income statement
151 containing specific quantification of:

- 152 (a) Operating revenues to include sales to industrial,
153 commercial, and residential customers, sales for resale, and other
154 components of total operating revenues;
- 155 (b) Operating and maintenance expenses for fuel expense,
156 production expenses, purchased power energy and capacity, if
157 applicable;

- 158 (c) **Transmission expenses;**
159 (d) **Distribution expenses;**
160 (e) **Customer accounts expenses;**
161 (f) **Customer service and information expenses;**
162 (g) **Sales expenses;**
163 (h) **Administrative and general expenses;**
164 (i) **Depreciation, amortization, and decommissioning expense;**
165 (j) **Taxes other than income taxes;**
166 (k) **Income taxes; and**
167 (l) **Quantification of heating degree and cooling degree days,**
168 **actual and normal.**
- 169 (4) **Part four of the surveillance monitoring report shall be the**
170 **jurisdictional allocation factor report, which shall consist of a listing**
171 **of jurisdictional allocation factors for the rate base, capitalization**
172 **quantification reports, and income statement.**
- 173 (5) **Part five of the surveillance monitoring report shall be the**
174 **financial data notes, which shall consist of notes to financial data**
175 **including, but not limited to:**
- 176 (a) **Out of period adjustments;**
177 (b) **Specific quantification of material variances between actual**
178 **and budget financial performance;**
179 (c) **Material variances between current twelve month period and**
180 **prior twelve month period revenue;**
181 (d) **Expense level of items ordered by the commission to be**
182 **tracked under the order establishing the rate adjustment mechanism;**
183 (e) **Budgeted capital projects; and**
184 (f) **Events that materially affect debt or equity surveillance**
185 **components.**
- 186 (6) **This subsection shall expire on January 1, 2029.**

386.390. 1. Complaint may be made by the commission of its own motion,
2 or by the public counsel or any corporation or person, chamber of commerce,
3 board of trade, or any civic, commercial, mercantile, traffic, agricultural or
4 manufacturing association or organization, or any body politic or municipal
5 corporation, by petition or complaint in writing, setting forth any act or thing
6 done or omitted to be done by any corporation, person or public utility[, including
7 any rule, regulation or charge heretofore established or fixed by or for any
8 corporation, person or public utility,] in violation, or claimed to be in violation,

9 of any provision of law **subject to the commission's authority**, [or] of any
10 rule **promulgated by the commission, of any utility tariff, or of any order**
11 or decision of the commission; provided, that no complaint shall be entertained
12 by the commission, except upon its own motion, as to the reasonableness of any
13 rates or charges of any gas, electrical, water, sewer, or telephone corporation,
14 unless the same be signed by the public counsel or the mayor or the president or
15 chairman of the board of aldermen or a majority of the council, commission or
16 other legislative body of any city, town, village or county, within which the
17 alleged violation occurred, or not less than twenty-five consumers or purchasers,
18 or prospective consumers or purchasers, of such gas, electricity, water, sewer or
19 telephone service.

20 2. All matters upon which complaint may be founded may be joined in one
21 hearing, and no motion shall be entertained against a complaint for misjoinder
22 of causes of action or grievances or misjoinder or nonjoinder of parties; and in any
23 review by the courts of orders or decisions of the commission the same rule shall
24 apply with regard to the joinder of causes and parties as herein provided.

25 3. The commission shall not be required to dismiss any complaint because
26 of the absence of direct damage to the complainant. Upon the filing of a
27 complaint, the commission shall cause a copy thereof to be served upon the public
28 utility, corporation or person complained of.

29 4. Service in all hearings, investigations and proceedings pending before
30 the commission may be made upon any person upon whom summons may be
31 served in accordance with the provisions of the code of civil procedure of this
32 state, and may be made personally or by mailing in a sealed envelope with
33 postage prepaid.

34 5. The commission shall fix the time when and the place where a hearing
35 will be had upon the complaint and shall serve notice thereof, not less than ten
36 days before the time set for such hearing, unless the commission shall find that
37 the public necessity requires that such hearing be held at an earlier date.

**393.137. 1. This section applies to electrical corporations that do
2 not have a general rate proceeding pending before the commission as
3 of the later of February 1, 2018, or the effective date of this section.**

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

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

**6 (2) "Electrical corporation", the same as defined in section
7 386.020, but shall not include an electrical corporation as described in**

8 subsection 2 of section 393.110.

9 3. If the rates of any electrical corporation to which this section
10 applies have not already been adjusted to reflect the effects of the
11 federal 2017 Tax Cut and Jobs Act, Pub. L. No. 115-97, 94 Stat. 2390, the
12 commission shall have one time authority that shall be exercised within
13 ninety days of the effective date of this section to adjust such electrical
14 corporation's rates prospectively so that the income tax component of
15 the revenue requirement used to set such an electrical corporation's
16 rates is based upon the provisions of such federal act without
17 considering any other factor as otherwise required by section
18 393.270. The commission shall also require electrical corporations to
19 which this section applies, as provided for under subsection 1 of this
20 section, to defer to a regulatory asset the financial impact of such
21 federal act on the electrical corporation for the period of January 1,
22 2018, through the date the electrical corporation's rates are adjusted on
23 a one-time basis as provided for in the immediately preceding
24 sentence. The amounts deferred under this subsection shall be
25 included in the revenue requirement used to set the electrical
26 corporation's rates in its subsequent general rate proceeding through
27 an amortization over a period determined by the commission.

28 4. Upon good cause shown by the electrical corporation, the
29 commission may, as an alternative to requiring a one-time rate change
30 and deferral under subsection 2 of this section, allow a deferral, in
31 whole or in part, of such federal act's financial impacts to a regulatory
32 asset starting January 1, 2018, through the effective date of new rates
33 in such electrical corporation's next general rate proceeding. The
34 deferred amounts shall be included in the revenue requirement used to
35 set the electrical corporation's rates in its subsequent general rate
36 proceeding through an amortization over a period determined by the
37 commission.

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

6 2. No such corporation shall exercise any right or privilege under any
7 franchise hereafter granted, or under any franchise heretofore granted but not

House adds section 5
clarifying Ameren
must make rate
rollback within 90
days of bill passage.

8 heretofore actually exercised, or the exercise of which shall have been suspended
 9 for more than one year, without first having obtained the permission and
 10 approval of the commission. Before such certificate shall be issued a certified
 11 copy of the charter of such corporation shall be filed in the office of the
 12 commission, together with a verified statement of the president and secretary of
 13 the corporation, showing that it has received the required consent of the proper
 14 municipal authorities.

15 3. The commission shall have the power to grant the permission and
 16 approval herein specified whenever it shall after due hearing determine that such
 17 construction or such exercise of the right, privilege or franchise is necessary or
 18 convenient for the public service. The commission may by its order impose such
 19 condition or conditions as it may deem reasonable and necessary. Unless
 20 exercised within a period of two years from the grant thereof, authority conferred
 21 by such certificate of convenience and necessity issued by the commission shall
 22 be null and void. House adds 393.1100 "smart meter section"

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

- 2 **(1) "Commission", the public service commission;**
 3 **(2) "Electrical corporation", the same as defined in section**
 4 **386.020, but shall not include an electrical corporation as described in**
 5 **subsection 2 of section 393.110;**
 6 **(3) "Qualifying electric plant", all rate base additions, except rate**
 7 **base additions for new coal-fired generating units, new nuclear**
 8 **generating units, new natural gas units, or rate base additions that**
 9 **increase revenues by allowing service to new customer premises;**
 10 **(4) "Rate base cutoff date", the date rate base additions are**
 11 **accounted for in a general rate proceeding. In the absence of a**
 12 **commission order that specifies the rate base cutoff date, such date as**
 13 **reflected in any jointly proposed procedural schedule submitted by the**
 14 **parties in the applicable general rate proceeding, or as otherwise**
 15 **agreed to by such parties, shall be used;**
 16 **(5) "Weighted average cost of capital", the return on rate base**
 17 **used to determine the revenue requirement in the electrical**
 18 **corporation's most recently completed general rate proceeding;**
 19 **provided, that in the absence of a commission determination of the**
 20 **return on rate base within the three-year period prior to the effective**
 21

House adds
 Smart Meter
 language
 section
 393.1100 but
 limits it to 2%
 of statewide
 customers.

22 date of this section, the weighted average cost of capital shall be
23 determined using the electrical corporation's actual capital structure
24 as of December 31, 2017, excluding short-term debt, the electrical
25 corporation's actual cost of long-term debt and preferred stock as of
26 December 31, 2017, and a cost of common equity of nine and one-half
27 percent.

28 2. (1) Notwithstanding any other provision of chapter 393 to the
29 contrary, electrical corporations shall defer to a regulatory asset
30 **eighty-five percent of all depreciation expense and return associated**
31 **with all** qualifying electric plant recorded to plant-in-service on the
32 utility's books commencing on or after the effective date of this section,
33 if the electrical corporation has made the election provided for by
34 subsection 5 of this section by that date, or on the date such election is
35 made if the election is made after the effective date of this section. In
36 each general rate proceeding concluded after the effective date of this
37 section, the balance of the regulatory asset as of the rate base cutoff
38 date shall be included in the electrical corporation's rate base without
39 any offset, reduction, or adjustment based upon consideration of any
40 other factor, other than as provided for in subdivision (2) of this
41 subsection, with the regulatory asset balance arising from deferrals
42 associated with qualifying electric plant placed in service after the rate
43 base cutoff date to be included in rate base in the next general rate
44 proceeding. The expiration of this section shall not affect the
45 continued inclusion in rate base and amortization of regulatory asset
46 balances that arose under this section prior to such expiration.

47 (2) The regulatory asset balances arising under this section shall
48 be adjusted to reflect any prudence disallowances ordered by the
49 commission. The provisions of this section shall not be construed to
50 affect existing law respecting the burdens of production and persuasion
51 in general rate proceedings for rate base additions.

52 (3) Parts of regulatory asset balances created under this section
53 that are not yet being recovered through rates shall include carrying
54 costs at the electrical corporation's weighted average cost of capital,
55 plus applicable federal, state, and local income or excise
56 taxes. Regulatory asset balances arising under this section and
57 included in rate base shall be recovered in rates through a twenty-year
58 amortization beginning on the date new rates reflecting such

House language
allows 100%
depreciation
recapture after bill
passage and 50%
prior to bill passage.

59 amortization take effect.

60 3. (1) Depreciation expense deferred under this section shall
61 account for all qualifying electric plant placed into service less
62 retirements of plant replaced by such qualifying electric plant.

63 (2) Return deferred under this section shall be determined using
64 the weighted average cost of capital applied to the change in plant-
65 related rate base caused by the qualifying electric plant, plus
66 applicable federal, state, and local income or excise taxes. In
67 determining the return deferred, the electrical corporation shall
68 account for changes in all plant-related accumulated deferred income
69 taxes and changes in accumulated depreciation, excluding retirements.

70 4. Beginning February 28, 2019, and by each February twenty-
71 eighth thereafter while the electrical corporation is allowed to make
72 the deferrals provided for by subsection 2 of this section, electrical
73 corporations that defer depreciation expense and return authorized
74 under this section shall submit to the commission a five-year capital
75 investment plan setting forth the general categories of capital
76 expenditures the electrical corporation will pursue in furtherance of
77 replacing, modernizing, and securing its infrastructure. The plan shall
78 also include a specific capital investment plan for the first year of the
79 five-year plan consistent with the level of specificity used for annual
80 capital budgeting purposes. For each of the first five years that an
81 electrical corporation is allowed to make the deferrals provided for by
82 subsection 2 of this section, the purchase and installation of smart
83 meters shall constitute no more than six percent of the electrical
84 corporation's total capital expenditures during any given year under
85 the corporation's specific capital investment plan. At least twenty-five
86 percent of the cost of each year's capital investment plan shall be
87 comprised of grid modernization projects, including but not limited to:

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

90 (2) Dynamic optimization of grid operations and resources, with
91 full cyber-security;

92 (3) Deployment and integration of distributed resources and
93 generation, including renewable resources;

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

96 **(5) Deployment of "smart" technologies (real-time, automated,**
97 **interactive technologies that optimize the physical operation of**
98 **appliances and consumer devices) for metering, communications,**
99 **concerning grid operations and status, and distribution automation;**

100 **(6) Integration of "smart" appliances and devices;**

101 **(7) Deployment and integration of advanced electricity storage**
102 **and peak-shaving technologies, including plug-in electric and hybrid**
103 **electric vehicles, and thermal storage air conditioning;**

104 **(8) Provision of timely information and control options to**
105 **consumer;**

106 **(9) Development of standards for communication and**
107 **interoperability of appliances and equipment connected to the electric**
108 **grid, including the infrastructure serving the grid; and**

109 **(10) Identification and lowering of unreasonable or unnecessary**
110 **barriers to adoption of smart grid technologies, practices, and services.**

111 **Project specific information need not be included for the five-year**
112 **period covered by the plan. Within thirty days of the filing of any**
113 **capital investment plan or annual update to an existing plan, the**
114 **electrical corporation shall host a public stakeholder meeting to**
115 **answer questions and receive feedback about the plan. After feedback**
116 **is received, the electrical corporation shall file a notice with the**
117 **commission of any modifications to the capital investment plan it has**
118 **accepted. Changes to the plan, its implementation, or the level of**
119 **investments made shall not constitute evidence of imprudence of the**
120 **investments made under such plan. The submission of a capital**
121 **investment plan under this section shall not affect in any way the**
122 **commission's authority with respect to the grant or denial of a**
123 **certificate of convenience and necessity under section 393.170. By**
124 **February twenty-eighth following each year in which the electrical**
125 **corporation submits a capital investment plan, the electrical**
126 **corporation shall submit a report to the commission detailing actual**
127 **capital investments made the previous year.**

128 **5. This section shall only apply to any electrical corporation that**
129 **has filed a notice with the commission of the electrical corporation's**
130 **election to make the deferrals for which this section provides. No**
131 **electrical corporation shall file a notice with the commission under this**
132 **subsection if such corporation has made an application under**

133 subsection 3 of section 386.266, and such application has been
134 approved. An electrical corporation's election shall allow it to make
135 the deferrals provided for by subsection 2 of this section until
136 December 31, 2023, unless the electrical corporation requests and the
137 commission approves the continuation of such deferrals beyond that
138 date and approves continuation of the discounts authorized by section
139 393.1640 beyond that date as hereinafter provided. An electrical
140 corporation that wishes to continue to make the deferrals provided for
141 by subsection 2 of this section from January 1, 2024, through December
142 31, 2028, shall obtain the commission's approval to do so, shall be
143 subject to the compound annual growth rate limitations set forth under
144 section 393.1655, and shall also obtain the commission's approval to
145 continue to provide the discounts authorized by section 393.1640 in a
146 commission order issued on or before December 31, 2023. The
147 commission shall have the authority to grant or deny such approval
148 based upon the commission's evaluation of the costs and benefits of
149 such continuation to electrical corporations and consumers, but shall
150 not be authorized to condition such approval or otherwise modify the
151 deferrals authorized by subsection 2 of this section, or the discounts
152 authorized by section 393.1640. In deciding whether to extend the
153 program for an additional five years, the commission shall develop an
154 objective analytical framework to determine whether there is a
155 continuing need. The commission shall make a finding about whether
156 there is a continuing need after hearing. Failure to obtain such
157 commission approval shall not affect deferrals made through December
158 31, 2023, or the regulatory and ratemaking treatment of the regulatory
159 assets arising from such deferrals as provided for by this section.

160 **6.** This section shall expire on December 31, 2028, except that the
161 amortization of the regulatory asset balances arising under this section
162 shall continue to be reflected in the electrical corporation's rates and
163 remaining regulatory asset balances shall be included in the electrical
164 corporation's rate base consistent with the ratemaking treatment and
165 amortization previously approved by the commission pursuant to this
166 section.

393.1610. 1. The commission may approve investments by an
2 electrical corporation in small scale or pilot innovative technology
3 projects, including but not limited to renewable generation, micro

4 grids, or energy storage, if the small scale or pilot project is designed
5 to advance the electrical corporation's operational knowledge of
6 deploying such technologies, including to gain operating efficiencies
7 that result in customer savings and benefits as the technology is scaled
8 across the grid or network.

9 2. For purposes of this section, "electrical corporation" and
10 "commission" shall mean the same as defined in section 386.020, but an
11 "electrical corporation" shall not include an electrical corporation as
12 described in subsection 2 of section 393.110.

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

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

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

15 (3) The customer meets the criteria set forth in the electrical
16 corporation's economic development rider tariff sheet, as approved by
17 the commission, that are not inconsistent with the provisions of this
18 subsection.

19 The discount shall be a percentage applied to all base rate components
20 of the bill. The percentage shall be fixed for each year of service under
21 the discount for a period of up to five years. Subject to the remaining
22 provisions of this subsection, the average of the annual discount
23 percentages shall equal forty percent and shall not be less than thirty
24 percent nor more than fifty percent in any year. The discount shall be
25 applied to such incremental load from the date when the meter has
26 been permanently set until the date that such incremental load no
27 longer meets the criteria required to qualify for the discount, as
28 determined under the provisions of subsection 2 of this section. An

29 eligible customer shall also receive a ten percent discount of all base
30 rate components of the bill applied to such incremental load for one
31 year after the initial discount period ends if the electrical corporation
32 determines that the customer is taking service from an under-utilized
33 circuit. In no event shall a customer receive a discount under this
34 subsection after the date this section expires. The electrical
35 corporation may include in its tariff additional or alternative terms
36 and conditions to a customer's utilization of the discount, subject to
37 approval of such terms and conditions by the commission. The
38 customer, on forms supplied by the electrical corporation, shall apply
39 for the discount provided for by this subsection at least ninety days
40 prior to the date the customer requests that the incremental demand
41 receive the discounts provided for by this subsection. If the
42 incremental demand is not separately metered, the electrical
43 corporation's determination of the incremental demand shall
44 control. Notwithstanding the foregoing provisions of this subsection,
45 the cents per kilowatt-hour realization resulting from application of
46 any such discounted rate as calculated shall be higher than the
47 electrical corporation's variable cost to serve such accounts in
48 aggregate and the discounted rate also shall make a positive
49 contribution to fixed costs associated with such service. If in a
50 subsequent general rate proceeding the commission determines that
51 application of such discounted rate is not adequate to cover the
52 electrical corporation's variable cost to serve such accounts and
53 provide a positive contribution to fixed costs then the commission shall
54 increase the rate prospectively to the extent necessary to do so.

55 2. In each general rate proceeding concluded after the effective
56 date of this section, the reduced level of revenues arising from the
57 application of discounted rates provided for by subsection 1 of this
58 section shall be allocated to all the electrical corporation's customer
59 classes, including the classes with customers that qualify for discounts
60 under this section. This increase shall be implemented through the
61 application of a uniform percentage adjustment to the revenue
62 requirement responsibility of all customer classes. To qualify for the
63 discounted rates provided for in this section, if incremental load is
64 separately metered, customers shall meet the applicable criteria within
65 twenty-four months after the date the meter is permanently set based

66 on metering data for calendar months thirteen through twenty-four and
67 annually thereafter. If such data indicates that the customer did not
68 meet the criteria for any applicable twelve-month period, it shall
69 thereafter no longer qualify for the discounted rate. The provisions of
70 this section do not supersede or limit the ability of an electrical
71 corporation to continue to utilize economic development or retention
72 tariffs previously approved by the commission that are in effect on the
73 effective date of this section. If, however, a customer is receiving any
74 economic development or retention-related discounts as of the date it
75 would otherwise qualify for a discount provided for by this section, the
76 customer shall agree to relinquish the prior discount concurrently with
77 the date it begins to receive a discount under this section; otherwise,
78 the customer shall not be eligible to receive any discount under this
79 section. Customer demand existing at the time the customer begins to
80 receive discounted rates under this section shall not constitute
81 incremental demand. The discounted rates provided for by this section
82 apply only to base rate components, with the charges or credits arising
83 from any rate adjustment mechanism authorized by law to be applied
84 to customers qualifying for discounted rates under this section in the
85 same manner as such rate adjustments would apply in the absence of
86 this section.

87 3. For purposes of this section, "electrical corporation" shall
88 mean the same as defined in section 386.020, but shall not include an
89 electrical corporation as described in subsection 2 of section 393.110.

90 4. This section shall expire on December 31, 2028, provided, that
91 unless the electrical corporation has timely obtained the order
92 provided for by subsection 5 of section 393.1400, the electrical
93 corporation's customers shall, after December 31, 2023, no longer
94 receive the discounts provided under this section.

393.1650. 1. For purposes of this section, the following terms
2 shall mean:

3 (1) "Commission", the Missouri public service commission
4 established under section 386.040;

5 (2) "Electrical corporation", a corporation with more than one
6 million Missouri retail electric customers in the year in which this
7 section becomes effective and that otherwise meets the definition of
8 "electrical corporation" in section 386.020.

9 2. Electrical corporations shall develop a qualification process
10 and make such process open to all contractors seeking to provide
11 construction and construction-related services for projects on the
12 electrical corporation's distribution system. Contractors shall have the
13 opportunity to register on the electrical corporation's vendor
14 registration site and be evaluated for bid opportunities. Under the
15 qualification process, electrical corporations may specify eligibility
16 requirements typically accepted by the industry, including but not
17 limited to, experience, performance criteria, safety policies, and
18 insurance requirements to be met by any contractor seeking to
19 participate in competitive bidding to provide construction and
20 construction-related services for distribution system projects, and the
21 electrical corporation shall not weight any contractor favorably or
22 unfavorably due to affiliation with a labor organization or union,
23 except if the work is being performed pursuant to a union-only project
24 labor agreement which requires that participating contractors use
25 union represented labor. Contractors that meet the eligibility
26 requirements set by electrical corporations shall be eligible to
27 participate in the competitive bidding process for providing
28 construction and construction-related services for distribution system
29 projects, and the contractor making the lowest and best bid shall be
30 awarded such contract.

31 3. Within thirty days after the effective date of this section,
32 electrical corporations shall file a verified statement with the
33 commission confirming that they have established a qualification
34 process for the competitive bidding of construction and construction-
35 related services for distribution system projects, and that such process
36 conforms with the requirements of this section. The commission shall
37 have the authority to verify the statement to ensure compliance with
38 this section. Whenever the electrical corporation files a general rate
39 proceeding, it shall submit concurrently with its submission of the rate
40 schedules that initiate such general rate proceeding a verified
41 statement confirming that it is using the qualification process for the
42 competitive bidding of construction and construction-related services
43 for distribution system projects required by this section for no less
44 than ten percent of the combined external installation expenditures
45 made by the electrical corporation's operating units in Missouri for

46 construction and construction-related services for distribution system
47 projects, and that such process conforms with the requirements set
48 forth in this section to ensure compliance with this subsection.

49 4. Nothing in this section shall be construed as requiring any
50 electrical corporation to use a qualified contractor or competitive
51 bidding process in the case of an emergency project, or to terminate
52 any existing contract with a contractor prior to its expiration, provided
53 that the use of any pre-existing contract for construction or
54 construction-related services for distribution system projects shall not
55 qualify as fulfilling the ten percent requirement set forth in subsection
56 3 of this section. For contractors not qualifying through the
57 competitive bid process, the electrical corporation, upon request from
58 the contractor, shall provide information from the process in which the
59 contractor can be informed as to how to be better positioned to qualify
60 for such bid opportunities in the future.

61 5. By December 31, 2020, and annually thereafter, the commission
62 shall submit a report to the general assembly on the effects of this
63 section, including electrical corporation compliance, potential
64 legislative action regarding this section, the costs of constructing
65 distribution system projects prior to the implementation of this section
66 compared to after the implementation of this section, and any other
67 information regarding the processes established under this section that
68 the commission deems necessary.

393.1655. 1. This section applies to an electrical corporation that
2 has elected to exercise any option under section 393.1400 and that has
3 more than two hundred thousand Missouri retail customers in the year
4 in which this section becomes effective, and shall continue to apply to
5 such electrical corporation until December 31, 2023, if the commission
6 has not issued an order approving continuation of the deferrals
7 authorized by subsection 2 of section 393.1400, and continuation of the
8 discounts authorized by section 393.1640 as authorized by subsection
9 5 of section 393.1400 with respect to the electrical corporation, or until
10 December 31, 2028, if the commission has issued such an order with
11 respect to the electrical corporation.

12 2. Notwithstanding any other provision of law and except as
13 otherwise provided for by this section, an electrical corporation's base
14 rates shall be held constant for a period starting on the date new base

15 rates were established in the electrical corporation's last general rate
16 proceeding concluded prior to the date the electrical corporation gave
17 notice under subsection 5 of section 393.1400 and ending on the third
18 anniversary of that date, unless a force majeure event as determined
19 by the commission occurs. Whether a force majeure event has occurred
20 shall be subject to commission review and approval in a general rate
21 proceeding, and shall not preclude the commission from reviewing the
22 prudence of any revenue reductions or costs incurred during any
23 proceeding to set rates. This subsection shall not affect the electrical
24 corporation's ability to adjust its nonbase rates during the three-year
25 period provided for in this subsection as authorized by its commission-
26 approved rate adjustment mechanisms arising under sections 386.266,
27 393.1030, or 393.1075, or as authorized by any other rate adjustment
28 mechanism authorized by law.

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

41 4. This section shall apply to electrical corporations that do not
42 have a general rate proceeding pending before the commission as of the
43 later of February 1, 2018, or the effective date of this section. If the
44 difference between (a) the electrical corporation's average overall rate
45 at any point in time while this section applies to the electrical
46 corporation, and (b) the average of (i) the electrical corporation's
47 average overall rate as of the date new base rates are set in the
48 electrical corporation's most recent general rate proceeding concluded
49 prior to the date the electrical corporation gave notice under section
50 393.1400, and (ii) the electrical corporation's average overall rate set
51 under section 393.137, reflects a compound annual growth rate of more

52 than two and eighty-five hundredths percent, the electrical corporation
53 shall not recover any amount in excess of such two and eighty-five
54 hundredths percent as a performance penalty.

55 5. If a change in any rates charged under a rate adjustment
56 mechanism approved by the commission under sections 386.266 and
57 393.1030 would cause an electrical corporation's average overall rate
58 to exceed the compound annual growth rate limitation set forth in
59 subsection 3 or 4 of this section, the electrical corporation shall reduce
60 the rates charged under that rate adjustment mechanism in an amount
61 sufficient to ensure that the compound annual growth rate limitation
62 set forth in subsection 3 or 4 of this section is not exceeded due to the
63 application of the rate charged under such mechanism and the
64 performance penalties under such subsections are not triggered. Sums
65 not recovered under any such mechanism because of any reduction in
66 rates under such a mechanism pursuant to this subsection shall be
67 deferred to and included in the regulatory asset arising under section
68 393.1400 or, if applicable, under the regulatory and ratemaking
69 treatment ordered by the commission under section 393.1400, and
70 recovered through an amortization in base rates in the same manner
71 as deferrals under that section or order are recovered in base rates.

72 6. If the difference between (a) the electrical corporation's class
73 average overall rate at any point in time while this section applies to
74 the electrical corporation, and (b) the electrical corporation's class
75 average overall rate as of the date rates are set in the electrical
76 corporation's most recent general rate proceeding concluded prior to
77 the date the electrical corporation gave notice under subsection 5 of
78 section 393.1400, reflects a compound annual growth rate of more than
79 two percent for the large power service rate class, the class average
80 overall rate shall increase by an amount so that the increase shall
81 equal a compound annual growth rate of two percent over such period
82 for such large power service rate class, with the reduced revenues
83 arising from limiting the large power service class average overall rate
84 increase to two percent to be allocated to all the electrical
85 corporation's other customer classes through the application of a
86 uniform percentage adjustment to the revenue requirement
87 responsibility of all the other customer classes.

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

89 (1) "Average base rate", a rate calculated by dividing the total
90 retail revenue requirement for all the electrical corporation's rate
91 classes by the total sales volumes stated in kilowatt-hours for all such
92 rate classes used to set rates in the applicable general rate proceeding,
93 exclusive of gross receipts tax, sales tax, and other similar pass-through
94 taxes;

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

97 (3) "Average rider rate", a rate calculated by dividing the total of
98 the sums to be recovered from all customer classes under the electrical
99 corporation's rate adjustment mechanisms in place other than a rate
100 adjustment mechanism under section 393.1075 by the total sales
101 volumes stated in kilowatt-hours for all of the electrical corporation's
102 rate classes used to set rates under such rate adjustment mechanisms,
103 exclusive of gross receipts tax, sales tax, and other similar pass-through
104 taxes;

105 (4) "Class average base rate", a rate calculated by dividing the
106 retail revenue requirement from the applicable general rate proceeding
107 that is allocated to the electrical corporation's large power service rate
108 class in that general rate proceeding, by the total sales volumes stated
109 in kilowatt-hours for that class used to set rates in that general rate
110 proceeding, exclusive of gross receipts tax, sales tax, and other similar
111 pass-through taxes;

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

114 (6) "Class average rider rate", a rate calculated by dividing the
115 total of the sums allocated for recovery from the large power service
116 rate class under the electrical corporation's rate adjustment
117 mechanisms in place other than a rate adjustment mechanism under
118 section 393.1075 by the total sales volumes stated in kilowatt-hours for
119 that class used to set rates under such rate adjustment mechanisms,
120 exclusive of gross receipts tax, sales tax, and other similar pass-through
121 taxes;

122 (7) "Force majeure event", an event or circumstance that occurs
123 as a result of a weather event, an act of God, war, terrorism, or other
124 event which threatens the financial integrity of the electrical
125 corporation that causes a reduction in revenues, an increase in the cost

126 of providing electrical service, or some combination thereof, and the
 127 event has an associated fiscal impact on the electrical corporation's
 128 operations equal to three percent or greater of the total revenue
 129 requirement established in the electrical corporation's last general rate
 130 proceeding after taking into account the financial impact specified in
 131 section 393.137. Any force majeure event shall be subject to commission
 132 review and approval, and shall not preclude the commission from
 133 reviewing the prudence of any revenue reductions or costs incurred
 134 during any proceeding to set rates;

135 (8) "Large power service rate class", the rate class of each
 136 corporation that requires the highest minimum monthly billing demand
 137 of all of the electrical corporation's rate classes in order to qualify as
 138 a member of such rate class, and that applies to qualifying customers
 139 only if they utilize the electrical corporation's distribution system.

House deletes
Utility Scale Solar

~~393.1665. 1. For purposes of this section, "electrical corporation" shall mean the same as defined in section 386.020, but shall not include an electrical corporation as described in subsection 2 of section 393.110.~~

~~2. An electrical corporation with one million or more Missouri electric customers shall invest in the aggregate no less than fourteen million dollars in utility-owned solar facilities located in Missouri or in an adjacent state during the period between the effective date of this section and December 31, 2023. An electrical corporation with less than one million but more than two hundred thousand Missouri electric customers shall invest in the aggregate no less than four million dollars in utility-owned solar facilities located in Missouri or in an adjacent state during the period between the effective date of this section and December 31, 2023. An electrical corporation with two hundred thousand or fewer Missouri electric customers shall invest in the aggregate no less than three million five hundred thousand dollars in utility-owned solar facilities located in Missouri or in an adjacent state during the period between the effective date of this section and December 31, 2023. If the rate impact of the electrical corporation's investment in such facilities would cause the electrical corporation to exceed the one percent maximum average retail rate increase limitation required by subdivision (1) of subsection 2 of section 393.1030, that part of such costs that would cause such one percent~~

~~24 limitation to be exceeded shall be deferred by the electrical corporation
25 to a regulatory asset. Carrying costs at the electrical corporation's
26 weighted average cost of capital shall be added to the regulatory asset
27 balance and the regulatory asset shall be recovered through rates set
28 under section 393.150 or through a rate adjustment mechanism under
29 section 393.1030, as soon as is practical.~~

~~30 3. An electrical corporation's decision to invest in utility-owned
31 solar facilities consistent with subsection 2 of this section shall be
32 deemed to be prudent. An electrical corporation shall not be required
33 to obtain the permission of the commission to construct the facilities
34 required by this section, notwithstanding the provisions of section
35 393.170. The commission shall retain the authority to review the
36 specific costs incurred to construct and own the facilities to ensure
37 that rates are based only on prudently incurred costs.~~

~~38 4. Nothing in this section shall preclude an electrical corporation
39 from recovering costs of investing in or purchasing electricity from
40 additional solar facilities beyond those provided for under subsection
41 2 of this section.~~

~~42 5. This section shall expire on December 31, 2023, provided that
43 after such expiration the electrical corporation shall be entitled to
44 recover any remaining regulatory asset balance as provided in
45 subsection 2 of this section.~~

393.1670. 1. Notwithstanding the provisions of subdivision (1) of
2 subsection 2 of section 393.1030 and section 393.1045 to the contrary,
3 and subject to the limitations provided for in this section, an electrical
4 corporation shall, commencing January 1, 2019, make solar rebates
5 available in the amounts specified in this section. For systems
6 becoming operational between January 1, 2019, and June 30, 2019, the
7 solar rebate shall be fifty cents per watt, and for systems that become
8 operational after June 30, 2019, through December 31, 2023, the solar
9 rebate shall be twenty-five cents per watt. The rebates provided for by
10 this section shall apply to new or expanded solar electric systems up to
11 a maximum of twenty-five kilowatts per system for residential
12 customers and up to one hundred fifty kilowatts per system for
13 nonresidential customers. Customers shall be eligible for rebates on
14 new or expanded systems for the increment of new or extended
15 capacity and not for capacity on which rebates offered under any other

16 provision of law have previously been paid, up to the system kilowatt
17 limits set forth in this section. However, an electrical corporation's
18 obligation to make solar rebate payments under this section shall not
19 exceed the following limitations:

20 (1) Electrical corporations with one million or more Missouri
21 retail customers as of the effective date of this section shall not be
22 obligated to pay solar rebates in any calendar year from 2019 through
23 2023 in an amount exceeding five million six hundred thousand dollars
24 or in an aggregate amount during those calendar years exceeding
25 twenty-eight million dollars;

26 (2) Electrical corporations with less than one million but more
27 than two hundred thousand Missouri retail customers as of the
28 effective date of this section shall not be obligated to pay solar rebates
29 in any calendar year from 2019 through 2023 in an amount exceeding
30 one million six hundred thousand dollars or in an aggregate amount
31 during those calendar years exceeding eight million dollars; and

32 (3) Electrical corporations with two hundred thousand or less
33 Missouri retail customers as of the effective date of this section shall
34 not be obligated to pay solar rebates in any calendar year from 2019
35 through 2023 in an amount exceeding one million four hundred
36 thousand dollars or in an aggregate amount during those calendar
37 years exceeding seven million dollars.

38 2. At its election, the electrical corporation shall be permitted to
39 recover the cost of all solar rebate payments it has made through either
40 base rates or through a rate adjustment mechanism under section
41 393.1030, and shall, also at its election, be permitted to defer and
42 amortize the recovery of such costs, including interest at the electric
43 corporation's short-term borrowing rate, through either base rates or
44 a surcharge over a period of the electrical corporation's choice not to
45 exceed five years; provided that, if recovery of such costs in such
46 manner and over such a time period would cause the electrical
47 corporation to exceed the one percent maximum average retail rate
48 increase limitation required by subdivision (1) of subsection 2 of
49 section 393.1030, that part of recovery of such costs that would exceed
50 such one percent limitation shall be deferred by the electrical
51 corporation to a regulatory asset, to which carrying costs at the
52 electrical corporation's weighted average cost of capital shall be added

53 and recovered through base rates or through a rate adjustment
54 mechanism under section 393.1030, as soon as practicable.

55 3. Solar rebates in the amounts specified for each calendar year
56 and in the aggregate for calendar years 2019 through 2023 referred to
57 in this section shall become available effective January 1, 2019. The
58 solar rebate provision of subsection 3 of section 393.1030, including any
59 commission orders relating to such provisions applicable to an
60 electrical corporation, are unaffected by this section.

61 4. Reductions in electrical corporation loads as a result of the
62 installation of solar systems not owned by the electrical corporation
63 that provide electricity to the electrical corporation's customers
64 constitute conservation.

65 5. The commission shall have the authority to promulgate rules
66 for the implementation of this section, but only to the extent that such
67 rules are consistent with, and do not delay the implementation of, the
68 provisions of this section. Any rule or portion of a rule, as that term is
69 defined in section 536.010 that is created under the authority delegated
70 in this section shall become effective only if it complies with and is
71 subject to all of the provisions of chapter 536, and, if applicable, section
72 536.028. This section and chapter 536 are nonseverable and if any of
73 the powers vested with the general assembly pursuant to chapter 536,
74 to review, to delay the effective date, or to disapprove and annul a rule
75 are subsequently held unconstitutional, then the grant of rulemaking
76 authority and any rule proposed or adopted after August 28, 2018, shall
77 be invalid and void.

78 6. For purposes of this section, "electrical corporation" and
79 "commission" shall mean the same as defined in section 386.020, but an
80 "electrical corporation" shall not include an electrical corporation as
81 described in subsection 2 of section 393.110.

82 7. This section shall expire on December 31, 2023; provided
83 however, that after such expiration, the electrical corporation shall be
84 entitled to recover any remaining regulatory asset balance as provided
85 in subsection 2 of this section.

Section 1. Notwithstanding the provisions of section 1.140 to the
2 contrary, the provisions of this act shall be nonseverable, and if any
3 provision is for any reason held to be invalid, such decision shall
4 invalidate all of the remaining provisions of this act.

Section B. Because immediate action is necessary to reduce the electric
2 bills of consumers due to the implementation of federal tax cuts, the enactment
3 of section 393.137 of this act is deemed necessary for the immediate preservation
4 of the public health, welfare, peace, and safety, and is hereby declared to be an
5 emergency act within the meaning of the constitution, and the enactment of
6 section 393.137 of this act shall be in full force and effect upon its passage and
7 approval.

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Bill

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