

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By \_\_\_\_\_

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 40, Page  
2 11, Section 260.520, Line 17, by inserting after all of said section and line the following:

3  
4 "319.123. Application for a certificate of registration shall be accompanied by a fee. The  
5 fee shall be fifteen dollars per tank per year assessed on a rotating basis during a five-year period.  
6 All fees collected under this ~~[subsection shall be placed in the]~~ section, including any general  
7 revenue, federal funds, gifts, bequests, transfers, moneys appropriated by the general assembly, or  
8 any other moneys so designated, shall be paid into the "Underground Storage Tank Regulation  
9 Program Fund" which is hereby established in the state treasury. All moneys in the fund shall be  
10 used solely for expenses related to the administration of sections 319.100 to 319.137 and section  
11 319.139. The underground storage tank regulation program fund shall be administered by the  
12 department of natural resources. All interest earned on moneys in the fund shall accrue to the fund.  
13 Except as described in subdivision (2) of subsection 1 of section 319.132, any balance in the fund at  
14 the end of the biennium shall remain in the fund, and notwithstanding the provisions of section  
15 33.080 to the contrary, moneys in the fund shall not be transferred to general revenue at the end of  
16 each biennium.

17 319.129. 1. There is hereby created a special trust fund to be known as the "Petroleum  
18 Storage Tank Insurance Fund" within the state treasury which shall be the successor to the  
19 underground storage tank insurance fund. Moneys in such special trust fund shall not be deemed to  
20 be state funds. Notwithstanding the provisions of section 33.080 to the contrary, moneys in the fund  
21 shall not be transferred to general revenue at the end of each biennium.

22 2. The owner or operator of any underground storage tank, including the state of Missouri  
23 and its political subdivisions and public transportation systems, in service on August 28, 1989, shall  
24 submit to the department a fee of one hundred dollars per tank on or before December 31, 1989.  
25 The owner or operator of any underground storage tank who seeks to participate in the petroleum  
26 storage tank insurance fund, including the state of Missouri and its political subdivisions and public  
27 transportation systems, and whose underground storage tank is brought into service after August 28,  
28 1998, shall transmit one hundred dollars per tank to the board with his or her initial application.  
29 Such amount shall be a one-time payment, and shall be in addition to the payment required by  
30 section 319.133. The owner or operator of any aboveground storage tank regulated by this chapter,  
31 including the state of Missouri and its political subdivisions and public transportation systems, who  
32 seeks to participate in the petroleum storage tank insurance fund, shall transmit one hundred dollars  
33 per tank to the board with his or her initial application. Such amount shall be a one-time payment  
34 and shall be in addition to the payment required by section 319.133. Moneys received pursuant to  
35 this section shall be transmitted to the director of revenue for deposit in the petroleum storage tank  
36 insurance fund.

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1           3. The state treasurer may deposit moneys in the fund in any of the qualified depositories of  
2 the state. All such deposits shall be secured in a manner and upon the terms as are provided by law  
3 relative to state deposits. Interest earned shall be credited to the petroleum storage tank insurance  
4 fund.

5           4. The general administration of the fund and the responsibility for the proper operation of  
6 the fund, including all decisions relating to payments from the fund, are hereby vested in a board of  
7 trustees. The board of trustees shall consist of the commissioner of administration or the  
8 commissioner's designee, the director of the department of natural resources or the director's  
9 designee, the director of the department of agriculture or the director's designee, and eight citizens  
10 appointed by the governor with the advice and consent of the senate. Three of the appointed  
11 members shall be owners or operators of retail petroleum storage tanks, including one tank owner or  
12 operator of greater than one hundred tanks; one tank owner or operator of less than one hundred  
13 tanks; and one aboveground storage tank owner or operator. One appointed trustee shall represent a  
14 financial lending institution, and one appointed trustee shall represent the insurance underwriting  
15 industry. One appointed trustee shall represent industrial or commercial users of petroleum. The  
16 two remaining appointed citizens shall have no petroleum-related business interest, and shall  
17 represent the nonregulated public at large. The members appointed by the governor shall serve four-  
18 year terms except that the governor shall designate two of the original appointees to be appointed  
19 for one year, two to be appointed for two years, two to be appointed for three years and two to be  
20 appointed for four years. Any vacancies occurring on the board shall be filled in the same manner  
21 as provided in this section.

22           5. The board shall meet in Jefferson City, Missouri, within thirty days following August 28,  
23 1996. Thereafter, the board shall meet upon the written call of the chairman of the board or by the  
24 agreement of any six members of the board. Notice of each meeting shall be delivered to all other  
25 trustees in person or by registered mail not less than six days prior to the date fixed for the meeting.  
26 The board may meet at any time by unanimous mutual consent. There shall be at least one meeting  
27 in each quarter.

28           6. Six trustees shall constitute a quorum for the transaction of business, and any official  
29 action of the board shall be based on a majority vote of the trustees present.

30           7. The trustees shall serve without compensation but shall receive from the fund their actual  
31 and necessary expenses incurred in the performance of their duties for the board.

32           8. The board of trustees shall be a type III agency and shall appoint an executive director  
33 and other employees as needed, who shall be state employees and be eligible for all corresponding  
34 benefits. The executive director shall have charge of the offices, operations, records, and other  
35 employees of the board, subject to the direction of the board. Employees of the board shall receive  
36 such salaries and necessary expenses as shall be fixed by the board.

37           9. Staff resources for the Missouri petroleum storage tank insurance fund may be provided  
38 by the department of natural resources or another state agency as otherwise specifically determined  
39 by the board. The fund shall compensate the department of natural resources or other state agency  
40 for all costs of providing staff required by this subsection. Such compensation shall be made  
41 pursuant to contracts negotiated between the board and the department of natural resources or other  
42 state agency.

43           10. In order to carry out the fiduciary management of the fund, the board may select and  
44 employ, or may contract with, persons experienced in insurance underwriting, accounting, the  
45 servicing of claims and rate making, and legal counsel to defend third-party claims, who shall serve  
46 at the board's pleasure. Invoices for such services shall be presented to the board in sufficient detail  
47 to allow a thorough review of the costs of such services.

48           11. At the first meeting of the board, the board shall elect one of its members as chairman.  
49 The chairman shall preside over meetings of the board and perform such other duties as shall be

1 required by action of the board.

2 12. The board shall elect one of its members as vice chairman, and the vice chairman shall  
3 perform the duties of the chairman in the absence of the latter or upon the chairman's inability or  
4 refusal to act.

5 13. The board shall determine and prescribe all rules and regulations as they relate to  
6 fiduciary management of the fund, pursuant to the purposes of sections 319.100 to 319.137. In no  
7 case shall the board have oversight regarding environmental cleanup standards for petroleum  
8 storage tanks.

9 14. No trustee or staff member of the fund shall receive any gain or profit from any moneys  
10 or transactions of the fund. This shall not preclude any eligible trustee from making a claim or  
11 receiving benefits from the petroleum storage tank insurance fund as provided by sections 319.100  
12 to 319.137.

13 15. The board may reinsure all or a portion of the fund's liability. Any insurer who sells  
14 environmental liability insurance in this state may, at the option of the board, reinsure some portion  
15 of the fund's liability.

16 16. The petroleum storage tank insurance fund shall expire on December 31, ~~[2025]~~ 2030,  
17 unless extended by action of the general assembly. After December 31, ~~[2025]~~ 2030, the board of  
18 trustees may continue to function for the sole purpose of completing payment of claims made prior  
19 to December 31, ~~[2025]~~ 2030.

20 17. The board shall annually commission an independent financial audit of the petroleum  
21 storage tank insurance fund. The board shall biennially commission an actuarial analysis of the  
22 petroleum storage tank insurance fund. The results of the financial audit and the actuarial analysis  
23 shall be made available to the public. The board may contract with third parties to carry out the  
24 requirements of this subsection.

25 319.131. 1. Any owner or operator of one or more petroleum storage tanks may elect to  
26 participate in the petroleum storage tank insurance fund to meet the financial responsibility  
27 requirements of sections 319.114 and 414.036. Subject to regulations of the board of trustees,  
28 owners or operators may elect to continue their participation in the fund subsequent to the transfer  
29 of their property to another party. Current or former refinery sites or petroleum pipeline or marine  
30 terminals are not eligible for participation in the fund.

31 2. The board shall establish an advisory committee which shall be composed of insurers,  
32 owners and operators of petroleum storage tanks, and other interested parties. The advisory  
33 committee established pursuant to this subsection shall report to the board. The committee shall  
34 monitor the fund and recommend statutory and administrative changes as may be necessary to  
35 assure efficient operation of the fund. The committee, in consultation with the board and the  
36 department of commerce and insurance, shall report every two years to the general assembly on the  
37 availability and affordability of the private insurance market as a viable method of meeting the  
38 financial responsibilities required by state and federal law in lieu of the petroleum storage tank  
39 insurance fund.

40 3. (1) Except as otherwise provided by this section, any person seeking to participate in the  
41 insurance fund shall submit an application to the board of trustees and shall certify that the  
42 petroleum tanks meet or exceed and are in compliance with all technical standards established by  
43 the United States Environmental Protection Agency, except those standards and regulations  
44 pertaining to spill prevention control and counter-measure plans, and rules established by the  
45 Missouri department of natural resources and the Missouri department of agriculture. The applicant  
46 shall submit proof that the applicant has a reasonable assurance of the tank's integrity. Proof of tank  
47 integrity may include but not be limited to any one of the following: tank tightness test, electronic  
48 leak detection, monitoring wells, daily inventory reconciliation, vapor test or any other test that may  
49 be approved by the director of the department of natural resources or the director of the department

1 of agriculture. The applicant shall submit evidence that the applicant can meet all applicable  
2 financial responsibility requirements of this section.

3 (2) A creditor, specifically a person who, without participating in and not otherwise  
4 primarily engaged in petroleum production, refining, and marketing, holds indicia of ownership  
5 primarily for the purpose of, or in connection with, securing payment or performance of a loan or to  
6 protect a security interest in or lien on the tank or the property where the tank is located, or serves as  
7 trustee or fiduciary upon transfer or receipt of the property, may be a successor in interest to a debtor  
8 pursuant to this section, provided that the creditor gives notice of the interest to the insurance fund  
9 by certified mail, return receipt requested. Part of such notice shall include a copy of the lien,  
10 including but not limited to a security agreement or a deed of trust as appropriate to the property.  
11 The term "successor in interest" as provided in this section means a creditor to the debtor who had  
12 qualified real property in the insurance fund prior to the transfer of title to the creditor, and the term  
13 is limited to access to the insurance fund. The creditor may cure any of the debtor's defaults in  
14 payments required by the insurance fund, provided the specific real property originally qualified  
15 pursuant to this section. The creditor, or the creditor's subsidiary or affiliate, who forecloses or  
16 otherwise obtains legal title to such specific real property held as collateral for loans, guarantees or  
17 other credit, and which includes the debtor's aboveground storage tanks or underground storage  
18 tanks, or both such tanks shall provide notice to the fund of any transfer of creditor to subsidiary or  
19 affiliate. Liability pursuant to sections 319.100 to 319.137 shall be confined to such creditor or such  
20 creditor's subsidiary or affiliate. A creditor shall apply for a transfer of coverage and shall present  
21 evidence indicating a lien, contractual right, or operation of law permitting such transfer, and may  
22 utilize the creditor's affiliate or subsidiary to hold legal title to the specific real property taken in  
23 satisfaction of debts. Creditors may be listed as insured or additional insured on the insurance fund,  
24 and not merely as mortgagees, and may assign or otherwise transfer the debtor's rights in the  
25 insurance fund to the creditor's affiliate or subsidiary, notwithstanding any limitations in the  
26 insurance fund on assignments or transfer of the debtor's rights.

27 (3) Any person participating in the fund shall annually submit an amount established  
28 pursuant to subsection 1 of section 319.133 which shall be deposited to the credit of the petroleum  
29 storage tank insurance fund.

30 4. Any person making a claim pursuant to this section and sections 319.129 and 319.133  
31 shall be liable for the first ten thousand dollars of the cost of cleanup associated with a release from  
32 a petroleum storage tank without reimbursement from the fund. The petroleum storage tank  
33 insurance fund shall assume all costs, except as provided in subsection 5 of this section, which are  
34 greater than ten thousand dollars but less than one million dollars per occurrence or two million  
35 dollars aggregate per year. The liability of the petroleum storage tank insurance fund is not the  
36 liability of the state of Missouri. The provisions of sections 319.100 to 319.137 shall not be  
37 construed to broaden the liability of the state of Missouri beyond the provisions of sections 537.600  
38 to 537.610 nor to abolish or waive any defense which might otherwise be available to the state or to  
39 any person. The presence of existing contamination at a site where a person is seeking insurance in  
40 accordance with this section shall not affect that person's ability to participate in this program,  
41 provided the person meets all other requirements of this section. Any person who qualifies pursuant  
42 to sections 319.100 to 319.137 and who has requested approval of a project for remediation from the  
43 fund, which request has not yet been decided upon shall annually be sent a status report including an  
44 estimate of when the project may expect to be funded and other pertinent information regarding the  
45 request.

46 5. The fund shall provide coverage for third-party claims involving property damage or  
47 bodily injury caused by leaking petroleum storage tanks whose owner or operator is participating in  
48 the fund at the time the release occurs or is discovered. Coverage for third-party property damage  
49 or bodily injury shall be in addition to the coverage described in subsection 4 of this section but the

total liability of the petroleum storage tank insurance fund for all cleanup costs, property damage, and bodily injury shall not exceed one million dollars per occurrence or two million dollars aggregate per year. The fund shall not compensate an owner or operator for repair of damages to property beyond that required to contain and clean up a release of a regulated substance or compensate an owner or operator or any third party for loss or damage to other property owned or belonging to the owner or operator, or for any loss or damage of an intangible nature, including, but not limited to, loss or interruption of business, pain and suffering of any person, lost income, mental distress, loss of use of any benefit, or punitive damages.

6. ~~[The fund shall, within limits specified in this section, assume costs of third-party claims and cleanup of contamination caused by releases from petroleum storage tanks.]~~ In addition to the other coverage limits in this section, the fund shall provide the defense of eligible third-party claims including the negotiations of any settlement and may specify a legal defense cost coverage limit.

7. Nothing contained in sections 319.100 to 319.137 shall be construed to abrogate or limit any right, remedy, causes of action, or claim by any person sustaining personal injury or property damage as a result of any release from any type of petroleum storage tank, nor shall anything contained in sections 319.100 to 319.137 be construed to abrogate or limit any liability of any person in any way responsible for any release from a petroleum storage tank or any damages for personal injury or property damages caused by such a release.

8. (1) The fund shall provide moneys for cleanup of contamination caused by releases from petroleum storage tanks, the owner or operator of which is participating in the fund or the owner or operator of which has made application for participation in the fund by December 31, 1997, regardless of when such release occurred, provided that those persons who have made application are ultimately accepted into the fund. Applicants shall not be eligible for fund benefits until they are accepted into the fund. This section shall not preclude the owner or operator of petroleum storage tanks coming into service after December 31, 1997, from making application to and participating in the petroleum storage tank insurance fund.

(2) Notwithstanding the provisions of section 319.100 and the provisions of subdivision (1) of this section, the fund shall provide moneys for cleanup of contamination caused by releases from petroleum storage tanks owned by school districts all or part of which are located in a county of the third classification without a township form of government and having a population of more than ten thousand seven hundred but less than eleven thousand inhabitants, and which make application for participation in the fund by August 28, 1999, regardless of when such release occurred. Applicants shall not be eligible for fund benefits until they are accepted into the fund, and costs incurred prior to that date shall not be eligible expenses.

9. (1) The fund shall provide moneys for cleanup of contamination caused by releases from underground storage tanks which contained petroleum and which have been taken out of use prior to December 31, 1997, provided such sites have been documented by or reported to the department of natural resources prior to December 31, 1997, and provided further that the fund shall make no reimbursements for expenses incurred prior to August 28, 1995. The fund shall also provide moneys for cleanup of contamination caused by releases from underground storage tanks which contained petroleum and which have been taken out of use prior to December 31, 1985, if the current owner of the real property where the tanks are located purchased such property before December 31, 1985, provided such sites are reported to the fund on or before June 30, 2000. The fund shall make no payment for expenses incurred at such sites prior to August 28, 1999. Nothing in sections 319.100 to 319.137 shall affect the validity of any underground storage tank fund insurance policy in effect on August 28, 1996.

(2) An owner or operator who submits a request as provided in this subsection is not required to bid the costs and expenses associated with professional environmental engineering services. The board may disapprove all or part of the costs and expenses associated with the

1 environmental engineering services if the costs are excessive based upon comparable service costs  
 2 or current market value of similar services. The owner or operator shall solicit bids for actual  
 3 remediation and cleanup work as provided by rules of the board.

4 (3) After December 31, 2017, the current legal owner of the site shall be the responsible  
 5 party for corrective action, pursuant to section 319.109, of any releases from underground storage  
 6 tanks described in this subsection, provided the creditor, who is a successor in interest as provided in  
 7 subdivision (2) of subsection 3 of this section, is subject to no greater or lesser responsibility for  
 8 corrective action than such successor in interest would have on or before December 31, 2017.  
 9 Nothing in this subdivision shall in any way be construed to alter, alleviate, or modify in any manner  
 10 any liabilities that the fund has to pay for in cleaning up the site.

11 10. (1) The fund shall provide moneys for cleanup of contamination caused by releases  
 12 from aboveground storage tanks utilized for the sale of products regulated by chapter 414 which  
 13 have been taken out of use prior to December 31, 1997, provided such sites have been documented  
 14 by or reported to the department of natural resources prior to December 31, 1997, and provided  
 15 further that the fund shall make no reimbursements for expenses incurred prior to July 1, 1997.

16 (2) After December 31, 2017, the current legal owner of the site shall be the responsible  
 17 party for corrective action of any releases from aboveground storage tanks described in this  
 18 subsection, provided the creditor, who is a successor in interest as provided in subdivision (2) of  
 19 subsection 3 of this section, is subject to no greater or lesser responsibility for corrective action than  
 20 such successor in interest would have on or before December 31, 2017. Nothing in this subdivision  
 21 shall in any way be construed to alter, alleviate, or modify in any manner any liabilities that the fund  
 22 has to pay for in cleaning up the site.

23 319.132. 1. (1) The board shall assess a surcharge on all petroleum products within this  
 24 state which are enumerated by section 414.032. Except as specified by this section, such surcharge  
 25 shall be administered pursuant to the provisions of subsections 1 to 5 of section 414.102 and  
 26 subsections 1 and 2 of section 414.152. Such surcharge shall be imposed upon such petroleum  
 27 products within this state and shall be assessed on each transport load, or the equivalent of an  
 28 average transport load if moved by other means. Except as outlined in subdivision (2) of this  
 29 subsection, all revenue generated by the assessment of such surcharges shall be deposited to the  
 30 credit of the special trust fund known as the petroleum storage tank insurance fund.

31 (2) Subject to appropriations and beginning in fiscal year 2023 and continuing each year  
 32 until the expiration of the petroleum storage tank insurance fund in accordance with subsection 16  
 33 of section 319.129, an allocation of an amount not to exceed four dollars and sixty cents per  
 34 transport load shall be deposited into the underground storage tank regulation program fund  
 35 established in section 319.123. Funds deposited into the underground storage tank regulation  
 36 program fund according to this subsection shall be deposited up to the appropriated budgetary  
 37 amount set by the general assembly, adjusted for actual fringe, for the department's petroleum-  
 38 related activities, for the fiscal year in which funds are being deposited. If any of the allocation per  
 39 fiscal year deposited to the fund is not spent in that fiscal year, the remaining funds shall be  
 40 transferred to the petroleum storage tank insurance fund no later than August thirty-first of the  
 41 subsequent fiscal year. No later than October first each year, the department shall provide a written  
 42 accounting of all moneys spent from the allocation authorized by this subdivision for the prior fiscal  
 43 year to the petroleum storage tank insurance fund board of trustees.

44 2. Any person who claims to have paid the surcharge in error may file a claim for a refund  
 45 with the board within three years of the payment. The claim shall be in writing and signed by the  
 46 person or the person's legal representative. The board's decision on the claim shall be in writing and  
 47 may be delivered to the person by first class mail. Any person aggrieved by the board's decision  
 48 may seek judicial review by bringing an action against the board in the circuit court of Cole County  
 49 pursuant to section 536.150 no later than sixty days following the date the board's decision was

1 mailed. The department of revenue shall not be a party to such proceeding.

2 3. The board shall assess and annually reassess the financial soundness of the petroleum  
3 storage tank insurance fund.

4 4. (1) The board shall set, in a public meeting with an opportunity for public comment, the  
5 rate of the surcharge that is to be assessed on each such transport load or equivalent but such rate  
6 shall be no more than sixty dollars per transport load or an equivalent thereof. A transport load shall  
7 be deemed to be eight thousand gallons.

8 (2) The board may increase or decrease the surcharge, up to a maximum of sixty dollars,  
9 only after giving at least sixty days' notice of its intention to alter the surcharge; provided however,  
10 the board shall not increase the surcharge by more than fifteen dollars in any year. The board must  
11 coordinate its actions with the department of revenue to allow adequate time for implementation of  
12 the surcharge change.

13 (3) If the fund's cash balance on the first day of any month exceeds the sum of its liabilities,  
14 plus ten percent, the transport load fee shall automatically revert to twenty-five dollars per transport  
15 load on the first day of the second month following this event.

16 (4) Except as authorized in subdivision (2) of subsection 1 of this section, moneys generated  
17 by this surcharge shall not be used for any purposes other than those outlined in sections 319.129  
18 through 319.133 and section 319.138. Nothing in this subdivision shall limit the board's authority to  
19 contract with the department of natural resources pursuant to section 319.129 to carry out the  
20 purposes of the fund as determined by the board.

21 5. The board shall ensure that the fund retain a balance of at least twelve million dollars but  
22 not more than one hundred million dollars. If, at the end of any quarter, the fund balance is above  
23 one hundred million dollars, the treasurer shall notify the board thereof. The board shall suspend the  
24 collection of fees pursuant to this section beginning on the first day of the first quarter following the  
25 receipt of notice. If the board has suspended the collection of the fee under this section, the board  
26 shall make payments in equal monthly installments, in accordance with the provisions of this  
27 section, into the underground storage tank regulation program fund established in section 319.123,  
28 up to the appropriated budgetary amount set by the general assembly, adjusted for actual fringe, for  
29 the department's petroleum-related activities, for the fiscal year in which funds are being deposited  
30 until such time as the board has reinstated the fee. If, at the end of any quarter, the fund balance is  
31 below twenty million dollars, the treasurer shall notify the board thereof. The board shall reinstate  
32 the collection of fees pursuant to this section beginning on the first day of the first quarter following  
33 the receipt of notice.

34 6. Railroad corporations as defined in section 388.010 and airline companies as defined in  
35 section 155.010 shall not be subject to the load fee described in this chapter nor permitted to  
36 participate in or make claims against the petroleum storage tank insurance fund created in section  
37 319.129.

38 386.885. 1. There is hereby established the "Task Force on Distributed Energy Resources  
39 and Net Metering", which shall be composed of the following members:

40 (1) Three members of the senate, with two appointed by the president pro tempore of the  
41 senate and one appointed by the minority floor leader of the senate;

42 (2) Three members of the house of representatives, with two appointed by the speaker of the  
43 house of representatives and one appointed by the minority floor leader of the house of  
44 representatives;

45 (3) The director of the division of energy, or his or her designee, to serve as a member and  
46 to provide technical assistance to the task force;

47 (4) The chair of the public service commission, or his or her designee, to serve as a member  
48 and to provide technical assistance;

49 (5) A representative from each of the three segments of the retail electric energy industry

1 appointed by the president pro tempore of the senate from the respective nominees submitted by the  
 2 statewide associations of the investor-owned electric utilities, rural electric cooperatives, and  
 3 municipally owned electric utilities;

4 (6) Two representatives of the retail distributed energy resources industry appointed by the  
 5 chairman of the public service commission; and

6 (7) One representative each of retail, residential, and  
 7 commercial electric consumers appointed by the president pro tempore of the senate.

8 2. The task force shall conduct public hearings and research, and shall compile a report for  
 9 delivery to the general assembly by no later than December 31, 2021. Such report shall include  
 10 information on the following:

11 (1) A distributed energy resources study, which shall include a value of solar study along  
 12 with the practical and economic benefits, challenges, and drawbacks of increased distributed energy  
 13 generation in the state;

14 (2) The fair and equitable setting of rates between distributed generation and non-distributed  
 15 generation consumers; and

16 (3) Potential legislation including, but not limited to, changes to the Net Metering and Easy  
 17 Connection Act, if any, that would promote the overall public interest.

18 3. The task force shall meet within thirty days after its creation and shall organize by  
 19 selecting a chair and vice chair, one of whom shall be a member of the senate and the other a  
 20 member of the house of representatives. Thereafter, the task force may meet as often as necessary in  
 21 order to accomplish the tasks assigned to it. A majority of the task force shall constitute a quorum,  
 22 and a majority vote of such quorum shall be required for any action.

23 4. The staff of house research and senate research shall provide necessary clerical, research,  
 24 fiscal, and legal services to the task force, as the task force may request.

25 5. The division of energy shall oversee the distributed energy resources study to be selected  
 26 and conducted by an independent and objective expert with input from the members of the task  
 27 force. The cost of said study shall be paid for through funds available from federal and state grants  
 28 applied for by the division of energy. The division of energy shall establish procedures for the  
 29 submission and non-public disclosure of confidential and propriety information.

30 6. The members of the task force shall serve without compensation, but any actual and  
 31 necessary expenses incurred in the performance of the task force's official duties by the task force,  
 32 its members, and any staff assigned to the task force shall be paid from the joint contingent fund.

33 7. This section shall expire on December 31, 2021.

34 386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy  
 35 Connection Act".

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

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

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

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

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

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

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

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



(e) Is intended ~~[primarily to offset part or all]~~ and designed not to exceed one hundred percent of the customer-generator's own electrical energy requirements;

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

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

(4) "Department", the department of ~~[economic development]~~ natural resources;

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

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

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

3. A retail electric supplier shall:

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

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

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

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the retail electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any

1 amount up to the total costs and a reasonable interest charge may be recovered from the customer-  
 2 generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance  
 3 or meter equipment change necessitated by the customer-generator shall be paid for by the  
 4 customer-generator.

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

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

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

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

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

24 (5) For any rural electric cooperative under chapter 394, or ~~[municipal]~~ any municipally  
 25 owned utility, upon agreement of the wholesale generator supplying electric energy to the retail  
 26 electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may  
 27 be provided by the wholesale generator.

28 6. (1) Each qualified electric energy generation unit used by a customer-generator shall  
 29 meet all applicable safety, performance, interconnection, and reliability standards established by any  
 30 local code authorities, the National Electrical Code, the National Electrical Safety Code, the  
 31 Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed  
 32 generation. No supplier shall impose any fee, charge, or other requirement not specifically  
 33 authorized by this section or the rules promulgated under subsection 9 of this section unless the fee,  
 34 charge, or other requirement would apply to similarly situated customers who are not customer-  
 35 generators, except that a retail electric supplier may require that a customer-generator's system  
 36 contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in  
 37 immediate proximity to the customer-generator's metering equipment that would allow a utility  
 38 worker the ability to manually and instantly disconnect the unit from the utility's electric distribution  
 39 system.

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

45 (3) For customer-generator systems of greater than ten kilowatts, the commission for ~~[public~~  
 46 ~~utilities]~~ electrical corporations and the respective governing body for other ~~[utilities]~~ retail electric  
 47 suppliers shall, by rule or equivalent formal action by each respective governing body:

48 (a) Set forth safety, performance, and reliability standards and requirements; and

49 (b) Establish the qualifications for exemption from a requirement to install additional

controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

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

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

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

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

9. The commission shall, within nine months of January 1, 2008, promulgate initial rules necessary for the administration of this section for ~~[public utilities]~~ electrical corporations, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. 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 under 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, 2007, shall be invalid and void.

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

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

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

13. The sale of qualified electric energy generation units to any customer-generator shall be subject to the provisions of sections 407.010 to 407.145 and sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric energy generation units. Any interested person who believes that the seller of any qualified electric energy generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric energy generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

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

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

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

17. The seller, installer, or manufacturer of any qualified electric energy generation unit who knowingly misrepresents the safety aspects of ~~[an]~~ a qualified electric generation unit may be held liable for any damages to property or person caused by the qualified electric energy generation unit of a customer-generator."; and

Further amend said bill, Page 22, Section 643.310, Line 30, by inserting immediately after the word "thereunder." the following:

"If the exception of certain counties from provisions of this subsection has the effect of placing the state of Missouri in noncompliance with any federal constitutional, statutory, or regulatory provision that results in the loss of any federal funds to the state, the exception of certain counties shall expire three years from the date the state is deemed to be in noncompliance."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.