

HOUSE**AMENDMENT NO. _____****Offered by****of**

1 AMEND House Committee Substitute for House Bill No. 613, Page 1,
 2 In the Title, Line 3, by inserting after the word "act" the words
 3 ", with an emergency clause for certain sections"; and

4 Further amend said bill, Page 1, Section A, Line 4, by
 5 inserting after all of said line the following:

6 "386.370. 1. The commission shall, prior to the beginning
 7 of each fiscal year beginning with the fiscal year commencing on
 8 July 1, 1947, make an estimate of the expenses to be incurred by
 9 it during such fiscal year reasonably attributable to the
 10 regulation of public utilities as provided in chapters 386, 392
 11 and 393 and shall also separately estimate the amount of such
 12 expenses directly attributable to such regulation of each of the
 13 following groups of public utilities: Electrical corporations,
 14 gas corporations, water corporations, heating companies and
 15 telephone corporations, telegraph corporations, sewer
 16 corporations, and any other public utility as defined in section
 17 386.020, as well as the amount of such expenses not directly
 18 attributable to any such group.

19 2. The commission shall allocate to each such group of
 20 public utilities the estimated expenses directly attributable to
 21 the regulation of such group and an amount equal to such
 22 proportion of the estimated expenses not directly attributable to
 23 any group as the gross intrastate operating revenues of such
 24 group during the preceding calendar year bears to the total gross
 25 intrastate operating revenues of all public utilities subject to
 26 the jurisdiction of the commission, as aforesaid, during such
 27 calendar year. The commission shall then assess the amount so
 28 allocated to each group of public utilities, subject to reduction
 29 as herein provided, to the public utilities in such group in

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1 proportion to their respective gross intrastate operating
2 revenues during the preceding calendar year, except that the
3 total amount so assessed to all such public utilities shall not
4 exceed one-fourth of one percent of the total gross intrastate
5 operating revenues of all utilities subject to the jurisdiction
6 of the commission.

7 3. The commission shall render a statement of such
8 assessment to each such public utility on or before July first
9 and the amount so assessed to each such public utility shall be
10 paid by it to the director of revenue in full on or before July
11 fifteenth next following the rendition of such statement, except
12 that any such public utility may at its election pay such
13 assessment in four equal installments not later than the
14 following dates next following the rendition of said statement,
15 to wit: July fifteenth, October fifteenth, January fifteenth and
16 April fifteenth. The director of revenue shall remit such
17 payments to the state treasurer.

18 4. The state treasurer shall credit such payments to a
19 special fund, which is hereby created, to be known as "The Public
20 Service Commission Fund", which fund, or its successor fund
21 created pursuant to section 33.571, shall be devoted solely to
22 the payment of expenditures actually incurred by the commission
23 and attributable to the regulation of such public utilities
24 subject to the jurisdiction of the commission, as aforesaid. Any
25 amount remaining in such special fund or its successor fund at
26 the end of any fiscal year shall not revert to the general
27 revenue fund, but shall be applicable [by appropriation of the
28 general assembly] to the payment of such expenditures of the
29 commission in the succeeding fiscal year and shall be applied by
30 the commission to the reduction of the amount to be assessed to
31 such public utilities in such succeeding fiscal year, such
32 reduction to be allocated to each group of public utilities in
33 proportion to the respective gross intrastate operating revenues
34 of the respective groups during the preceding calendar year.

35 5. In order to enable the commission to make the
36 allocations and assessments herein provided for, each public
37 utility subject to the jurisdiction of the commission as

1 aforesaid shall file with the commission, within ten days after
2 August 28, 1996, and thereafter on or before March thirty-first
3 of each year, a statement under oath showing its gross intrastate
4 operating revenues for the preceding calendar year, and if any
5 public utility shall fail to file such statement within the time
6 aforesaid the commission shall estimate such revenue which
7 estimate shall be binding on such public utility for the purpose
8 of this section.

9 386.715. 1. The public counsel shall, prior to the
10 beginning of each fiscal year, make available to the commission
11 an estimate of the expenses to be incurred by the public counsel
12 during such fiscal year, reasonably attributable to his or her
13 responsibilities with respect to public utilities under sections
14 386.700 and 386.710 and shall also separately estimate the amount
15 of such expenses directly attributable to such responsibilities
16 with respect to each of the following groups of public utilities:
17 electrical corporations, gas corporations, water corporations,
18 heating companies, telephone corporations, telegraph
19 corporations, sewer corporations, and any other public utility as
20 defined in section 386.020, as well as the amount of such
21 expenses not directly attributable to any such group.

22 2. The public counsel shall allocate to each such group of
23 public utilities the estimated expenses directly attributable to
24 his or her responsibilities under sections 386.700 and 386.710
25 with respect to such group and an amount equal to such proportion
26 of the estimated expenses not directly attributable to any group
27 as the gross intrastate operating revenues of such group during
28 the three preceding calendar years bears to the total gross
29 intrastate operating revenues of all public utilities subject to
30 the jurisdiction of the commission during such calendar years.
31 The amount so allocated to telephone corporations shall not
32 exceed three percent of the total estimated expenses directly
33 attributable to the public counsel's responsibilities under
34 sections 386.700 and 386.710. The commission shall then assess,
35 on behalf of the public counsel, the amount so allocated to each
36 group of public utilities, subject to reduction as provided in
37 this section, to the public utilities in such group in proportion

1 to its respective gross intrastate operating revenues during the
2 preceding calendar year. The total amount so assessed to all
3 such public utilities shall not exceed five hundredths of one
4 percent of the total gross intrastate operating revenues of all
5 utilities subject to the jurisdiction of the commission. In the
6 event that telephone corporations or telegraph corporations are
7 no longer subject to the jurisdiction of the commission, the
8 total amount so assessed to all public utilities subject to the
9 jurisdiction of the commission shall increase to an amount not to
10 exceed six hundredths of one percent. Nothing in this section
11 shall authorize the commission to determine how the public
12 counsel allocates the estimated expenses directly attributable to
13 his or her responsibilities under sections 386.700 and 386.710
14 with respect to public utilities described in subsection 1 of
15 this section or how the assessment imposed under this section is
16 spent by the public counsel.

17 3. On behalf of the public counsel, the commission shall
18 render a statement of such assessment to each such public utility
19 on or before July first and the amount so assessed to each such
20 public utility shall be paid by it to the director of revenue in
21 full on or before July fifteenth next following the rendition of
22 such statement, except that any such public utility may at its
23 election pay such assessment in four equal installments not later
24 than the following dates next following the rendition of such
25 statement, to wit: July fifteenth, October fifteenth, January
26 fifteenth, and April fifteenth. The director of revenue shall
27 remit such payments to the state treasurer.

28 4. The state treasurer shall credit such payments to a
29 special fund, which is hereby created, to be known as "The Public
30 Counsel Fund", which fund, or its successor fund created under
31 section 33.571, shall be devoted solely to the payment of
32 expenditures actually incurred by the public counsel and
33 attributable to his or her responsibilities under sections
34 386.700 and 386.710 with respect to such public utilities subject
35 to the jurisdiction of the commission and shall consist of all
36 gifts, donations, appropriations, transfers, payments, and
37 bequests to the fund and investment income on the fund. Any

1 amount remaining in such special fund or its successor fund at
2 the end of any fiscal year shall not revert to the general
3 revenue fund, but shall be applicable to the payment of such
4 expenditures of the public counsel in the succeeding fiscal
5 year and shall be applied by the public counsel to the reduction
6 of the amount to be assessed to such public utilities in such
7 succeeding fiscal year, such reduction to be allocated to each
8 group of public utilities in proportion to the respective gross
9 intrastate operating revenues of the respective groups during the
10 preceding calendar year.

11 5. In order to enable the public counsel to make the
12 allocations and assessments provided for in this section, each
13 public utility subject to the jurisdiction of the commission
14 shall file with the commission on or before March thirty-first of
15 each year, a statement under oath showing its gross intrastate
16 operating revenues for the preceding calendar year, and if any
17 public utility shall fail to file such statement within the time
18 established in this subsection, the commission shall estimate
19 such revenue. Such estimate shall be binding on such public
20 utility for the purpose of this section.

21 393.135. 1. Any charge made or demanded by an electrical
22 corporation for service, or in connection therewith, which is
23 based on the costs of construction in progress upon any existing
24 or new facility of the electrical corporation, or any other cost
25 associated with owning, operating, maintaining, or financing any
26 property before it is fully operational and used for service, is
27 unjust and unreasonable, and is prohibited.

28 2. Notwithstanding the provisions of subsection 1 of this
29 section, whenever an electrical corporation obtains an early site
30 permit granted by the United States Nuclear Regulatory Commission
31 or a successor organization, the commission shall allow recovery
32 of the electrical corporation's cost of obtaining the early site
33 permit in the manner provided for in subsection 3 of this
34 section, for the prudently incurred expenditures directly
35 resulting from the electrical corporation's application for such
36 permit. The amounts shall be recovered through each applicable
37 electrical corporation's rates charged to its ratepayers ratably

1 over a period of ten years. The electrical corporation shall use
2 its best efforts to minimize the cost of applying for such
3 permit. The total amount of expenditures, including all
4 interest, financing or other costs recoverable under this
5 subsection shall not exceed forty-five million dollars.

6 3. Recovery of the costs identified in subsection 2 of this
7 section shall be provided through the electrical corporation's
8 rates or charges. Recovery shall commence with the effective
9 date of tariffs approved by the commission in the electrical
10 corporation's first rate proceeding that is filed after the
11 Nuclear Regulatory Commission's grant of the early site permit
12 is final and nonappealable. Recovery shall be allowed only for
13 expenditures directly resulting from the electrical corporation's
14 application for such permit that the commission has found to be
15 prudent and reasonable after consideration of all relevant
16 factors in a general rate case. The electrical corporation shall
17 have the burden of establishing the prudence of such
18 expenditures.

19 4. The commission shall require that any profits, accruing
20 to an electrical corporation from the sale or transfer of the
21 early site permit, including explicit or implicit consideration
22 in joint development of a nuclear generating plant, be refunded
23 to ratepayers with interest to the extent the costs of the early
24 site permit have been recovered in rates.

25 5. If the electrical corporation does not construct or
26 participate in construction of a nuclear generating plant at the
27 site for which an early site permit is granted that is fully
28 operational and used to provide service within ten years after
29 the Nuclear Regulatory Commission's grant of the early site
30 permit is final and nonappealable, the commission shall require
31 that any cost recovery under subsection 3 of this section be
32 refunded to the electrical corporation's customers with interest
33 over a period of five years. However, if an electrical
34 corporation has committed to a specific technology and location
35 in writing to the commission, such corporation shall be granted a
36 five-year extension before any cost recovery is to be refunded to
37 the electrical corporation's customers. If, after a five-year

1 extension, no good faith effort to construct or participate in
2 the construction of a nuclear generating plant has been made,
3 then the cost recovery for the five-year extension period with
4 fifteen percent interest and determined in accordance with
5 subsection 3 of this section, is to be refunded to the electrical
6 corporation's customers.

7 6. There is hereby established the "Governor's Task Force
8 on Electrical Generation Options". The task force shall review
9 evidence regarding generation options, including nuclear power
10 options other than a traditional large base load nuclear plant,
11 including evidence regarding system benefits, rate impact, and
12 financing options. The task force shall issue a report on or
13 before September 30, 2012. The governor shall appoint members on
14 the task force, which shall include an equal number of
15 representatives of each of the following: the commission, the
16 public counsel, industrial consumers, commercial consumers,
17 investor-owned utilities, rural electric cooperatives, and
18 municipal utilities. The governor shall also appoint at least
19 one member to the task force from each additional consumer group
20 seeking appointment to the task force."; and

21 Further amend said bill, Page 16, Section 393.1445, Line 4,
22 by inserting after all of said line the following:

23 "620.010. 1. There is hereby created a "Department of
24 Economic Development" to be headed by a director appointed by the
25 governor, by and with the advice and consent of the senate. All
26 of the general provisions, definitions and powers enumerated in
27 section 1 of the Omnibus State Reorganization Act of 1974 shall
28 continue to apply to this department and its divisions, agencies
29 and personnel.

30 2. The powers, duties and functions vested in the public
31 service commission, chapters 386, 387, 388, 389, 390, 392, 393,
32 and others, and the administrative hearing commission, sections
33 621.015 to 621.198 and others, are transferred by type III
34 transfers to the department of economic development. The
35 director of the department is directed to provide and coordinate
36 staff and equipment services to these agencies in the interest of
37 facilitating the work of the bodies and achieving optimum

1 efficiency in staff services common to all the bodies. Nothing
2 in the Reorganization Act of 1974 shall prevent the chairman of
3 the public service commission from presenting additional budget
4 requests or from explaining or clarifying its budget requests to
5 the governor or general assembly.

6 3. The powers, duties and functions vested in the office of
7 the public counsel are transferred by type III transfer to the
8 department of economic development. [Funding for the general
9 counsel's office shall be by general revenue.]

10 4. The public service commission is authorized to employ
11 such staff as it deems necessary for the functions performed by
12 the general counsel other than those powers, duties and functions
13 relating to representation of the public before the public
14 service commission.

15 5. All the powers, duties and functions vested in the
16 tourism commission, chapter 258 and others, are transferred to
17 the "Division of Tourism", which is hereby created, by type III
18 transfer.

19 6. All the powers, duties and functions of the department
20 of community affairs, chapter 251 and others, not otherwise
21 assigned, are transferred by type I transfer to the department of
22 economic development, and the department of community affairs is
23 abolished. The director of the department of economic
24 development may assume all the duties of the director of
25 community affairs or may establish within the department such
26 subunits and advisory committees as may be required to administer
27 the programs so transferred. The director of the department
28 shall appoint all members of such committees and heads of
29 subunits.

30 7. The state council on the arts, chapter 185 and others,
31 is transferred by type II transfer to the department of economic
32 development, and the members of the council shall be appointed by
33 the director of the department.

34 8. The Missouri housing development commission, chapter
35 215, is assigned to the department of economic development, but
36 shall remain a governmental instrumentality of the state of
37 Missouri and shall constitute a body corporate and politic.

1 9. All the authority, powers, duties, functions, records,
2 personnel, property, matters pending and other pertinent vestiges
3 of the division of manpower planning of the department of social
4 services are transferred by a type I transfer to the "Division of
5 Job Development and Training", which is hereby created, within
6 the department of economic development. The division of manpower
7 planning within the department of social services is abolished.
8 The provisions of section 1 of the Omnibus State Reorganization
9 Act of 1974, Appendix B, relating to the manner and procedures
10 for transfers of state agencies shall apply to the transfers
11 provided in this section.

12 10. Any rule or portion of a rule, as that term is defined
13 in section 536.010, that is created under the authority delegated
14 in this section shall become effective only if it complies with
15 and is subject to all of the provisions of chapter 536 and, if
16 applicable, section 536.028. This section and chapter 536 are
17 nonseverable and if any of the powers vested with the general
18 assembly pursuant to chapter 536 to review, to delay the
19 effective date, or to disapprove and annul a rule are
20 subsequently held unconstitutional, then the grant of rulemaking
21 authority and any rule proposed or adopted after August 28, 2008,
22 shall be invalid and void.

23 Section 1. If any section, subsection, subdivision,
24 paragraph, sentence, or clause of section 386.370, 386.715, or
25 393.135 is held to be invalid or unconstitutional, such decision
26 shall not affect any remaining portion, section, or part thereof
27 which can be given effect without the invalid provision."; and

28 Further amend said bill, Page 18, Section 393.1045, Line 6,
29 by inserting after all of said line the following:

30 "Section B. Because immediate action is necessary to ensure
31 adequate funding for public representation in matters related to
32 public utilities and to ensure sufficient and affordable energy
33 provision to citizens of the state, the repeal and reenactment of
34 sections 386.370, 393.135, and 620.010 and the enactment of
35 sections 386.715 and 1 of section A of this act is deemed
36 necessary for the immediate preservation of the public health,
37 welfare, peace, and safety, and is hereby declared to be an

1 emergency act within the meaning of the constitution, and the
2 repeal and reenactment of sections 386.370, 393.135, and 620.010
3 and the enactment of sections 386.715 and 1 of section A of this
4 act shall be in full force and effect upon its passage and
5 approval."; and

6 Further amend said title, enacting clause and intersectional
7 references accordingly.