

## HB1626

**Sponsor: Willard Haley**

### PART 1 – QUICK SNAPSHOT

#### 1.1 One-Paragraph Overview

HB 1626 (the “Missouri Nuclear Clean Power Act”) keeps Missouri’s general ban on charging customers for *construction work in progress* (CWIP), but carves out a big new exception for **new nuclear plants** and extends a similar exception that already exists for **new natural-gas plants**. In plain terms, it lets investor-owned utilities start billing Missouri families **while a new nuclear plant is still being built**, years before it produces a single kilowatt of power. The bill hands the Public Service Commission (PSC) power to decide how much CWIP can go into rates and to extend this regime out to 2046. That shifts major financial risk from utility shareholders to captive ratepayers and sets up Missouri families to pre-finance very large projects that may primarily benefit big power users and utility investors.

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#### 1.2 Triage Table

- **Single-subject (Mo. Const. Art. III §23)**
  - **Mostly Yes, with a title concern.** Core subject is utility rate treatment for CWIP for gas and nuclear plants. However, the title focuses on the “Missouri nuclear clean power act” while the bill also extends CWIP treatment for **natural gas** plants, which isn’t clearly mentioned in the title.

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- **Does it grow government?**
  - **Yes.** Expands PSC discretion over how billions in construction costs are pushed into rates *before* service is provided and lets the PSC extend these powers for an extra decade (to 2045/2046) by later order, not by a new statute.

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- **Overall impact on Missouri families:**
  - **Hurts.** Families and small businesses can be forced to pay higher electric bills to finance nuclear (and gas) construction long before power is delivered, absorbing cost-overrun and cancellation risk that should rest on the utility and its investors.

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- **Alignment with Act for Missouri core beliefs:**

- **Undermines.** While firm, in-state generation can support reliability and energy security (good), the financing method socializes risk and empowers unelected regulators, undermining limited, accountable government and economic freedom for ordinary families.
- **Recommended stance:**
  - **Strongly Oppose**

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## PART 2 – PURPOSE & PROVISION MAP

### 2.1 Stated Purpose & Title

- **Apparent purpose (plain language):**  
Enable utilities to build “clean baseload” nuclear plants in Missouri by allowing them to **recover construction costs from customers while the plant is still being built**, instead of waiting until the plant is in service. Along the way, the bill also continues special CWIP treatment for new natural-gas units.

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- **Title accuracy:**
  - Title: “AN ACT … relating to the Missouri nuclear clean power act.”

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- The body **also** deals with CWIP for **natural gas-generating units** (expiration and possible extension).

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- So: **Subject-matter is fairly unified (utility CWIP for baseload plants), but the title under-describes the natural-gas CWIP component.**

### 2.2 Provision-by-Provision Map

#### Provision 1 – Keep general CWIP ban but add nuclear carve-out

- **Location:** §393.135.1.

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- **What it does (plain language):**  
Missouri keeps its rule that utilities **generally may not charge customers** for construction work in progress or other pre-service costs—*except* where allowed in subsection 2 (gas generation) and the new §393.1250 (nuclear). The phrase “is unjust and unreasonable” is removed, but the conduct remains prohibited.
- **Tag: [Concern]**

- **Why:** The “ban” now has large exceptions; opening the door for CWIP on nuclear plants is a major shift away from long-standing protections for ratepayers.

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## **Provision 2 – CWIP exception for new natural-gas units, with PSC power to extend**

- **Location:** §393.135.2(1)–(2).

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- **What it does:**

- Allows an electrical corporation to include CWIP for a **new natural gas-generating unit** in rate base instead of booking an “allowance for funds used during construction” (AFUDC).
- PSC, in a proceeding under §393.170, sets how much CWIP can go into rate base, limited by the project’s estimated cost and expenditures during the construction period.
- CWIP-based recoveries are **subject to refund with interest** if PSC later finds costs were imprudent or the project is not placed in service “within a reasonable amount of time”.
- This CWIP provision **expires 12/31/2035**, but PSC can extend it to **12/31/2045** upon an application from a utility and a showing of “good cause.” The PSC must then notify the revisor of statutes.
- **Tag:** [Concern]
- **Why:** Continues a special financing regime for gas plants and lets PSC—not the legislature—decide whether it continues another decade, even though CWIP fundamentally shifts risk from investors to ratepayers.

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## **Provision 3 – Create the “Missouri Nuclear Clean Power Act” & define “clean baseload generating plant”**

- **Location:** §393.1250.1–2.

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- **What it does:**

- Names the new section the “Missouri Nuclear Clean Power Act” and states its purpose is “to enable the construction of clean baseload electric generating plants.”
- Applies **only** to plants **not** in commercial operation before August 28, 2026.

- Defines “clean baseload generating plant” as a new, **nuclear-fueled** generating facility in Missouri, sized at **600 MW or less**, designed in whole or in part to serve Missouri retail customers.
- **Tag: [Mixed]**
- **Why:** Encourages in-state nuclear baseload, which could improve reliability and reduce dependence on external resources, but sets the stage for CWIP cost-shifting addressed in the next provision.

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#### **Provision 4 – Allow CWIP for new nuclear plants, with refund mechanisms and PISA offset**

- **Location:** §393.1250.3.

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- **What it does:**

- Explicitly allows an electrical corporation to include CWIP for a new nuclear “clean baseload generating plant” in rate base.
- PSC decides the amount in a §393.170 proceeding, limited by project estimated cost and expenditures during the construction period.
- Base-rate recoveries from CWIP are **subject to refund with interest** if costs are later found imprudent.
- For any plant included in base rates as CWIP, the “return deferred” under §393.1400.3(2) (PISA-style deferrals) must **offset** amounts deferred under §393.1400, avoiding double recovery.

- **Tag: [Red Flag]**

- **Why:** This is the core shift: utilities can charge customers **during construction** of a nuclear plant, flipping financing risk from investors to Missouri families, while PSC retains wide discretion about “prudence” and project treatment.

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#### **Provision 5 – Sunset and PSC extension for nuclear CWIP**

- **Location:** §393.1250.4.

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- **What it does:**

- Nuclear CWIP authority expires **12/31/2036**, but PSC may extend it to **12/31/2046** upon utility application and a showing of “good cause” after a 2036 hearing.

- PSC secretary must notify the revisor of statutes when the conditions for extension are met.
- **Tag: [Concern]**
- **Why:** Lets an unelected commission effectively extend a major policy choice (nuclear CWIP) for another decade without a fresh legislative vote, based on a vague “good cause” standard.

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## Provision 6 – PSC rulemaking authority & non-severability clause

- **Location:** §393.1250.5.

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- **What it does:**

- Authorizes PSC to promulgate rules to implement the section, subject to the usual Chapter 536 rulemaking requirements.
- Declares §393.1250 and Chapter 536 **non-severable** as to rulemaking authority: if the General Assembly’s rule-review powers under Chapter 536 are held unconstitutional, the grant of rulemaking authority and any rules adopted after August 28, 2026, are invalid.

- **Tag: [Neutral/Mixed]**

- **Why:** Standard rulemaking language, but further centralizes implementation details in an unelected commission.

## 2.3 Changes to Existing Law

- **§393.135 (CWIP ban):**

- **Current law (substance):** Generally prohibits utilities from charging rates based on construction work in progress or other pre-service costs; existing law already contained a gas CWIP exception in subsection 2.
- **Change:**
  - Keeps the general ban but makes it subject to *both* the existing gas exception and the new nuclear CWIP section.

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- Tweaks phrasing (dropping “is unjust and unreasonable”), which slightly softens the moral/legal condemnation of CWIP outside the exceptions.
- Ties CWIP inclusion to PISA offsets and allows the gas CWIP program to be extended by PSC to 2045.

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- **New §393.1250 (Nuclear Clean Power Act):**
  - Adds a **new statutory framework** specifically authorizing CWIP in rate base for new nuclear plants up to 600 MW, with PSC discretion on amounts, refund mechanisms, and timelines, and with a sunset that PSC can extend by 10 years.

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## PART 3 – CONSTITUTIONAL & PROCESS CHECKS

### 3.1 Single-Subject & Original-Purpose

- **Main subject in one sentence:**  
How investor-owned utilities may recover **construction costs for new gas and nuclear plants** through retail electric rates (CWIP and related accounting).
- **Additional subjects or policy areas:**
  - Extension of existing gas CWIP authority and interaction with PISA (§393.1400).
  - PSC rulemaking and sunset-extension authority.
- **Are all provisions related to one clear subject?**
  - Yes, in the broad sense: all provisions relate to **utility rate treatment of construction costs for certain generating plants** and PSC powers tied to that.
- **Title clarity:**
  - The title frames the act entirely around the **“Missouri nuclear clean power act”**, but the bill also materially adjusts and extends CWIP rules for **natural gas** units in §393.135.2.

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- That creates a **potential clear-title vulnerability**: a court could find that CWIP for gas plants is a distinct, significant component not fairly reflected in the nuclear-centered title.
- **Conclusion:**
  - **Likely complies with single-subject**, because everything ties to utility CWIP and rate treatment.
  - **Clear-title risk is present**, mainly because of the under-described natural-gas CWIP extension.

### 3.2 U.S. & Missouri Constitutional Rights

- **Direct rights issues:**
  - No obvious explicit infringement of free speech, religious liberty, arms, or privacy rights.
  - The bill deals with **economic regulation and ratemaking**, an area where courts typically grant wide deference.
- **Economic due process / takings concerns (indirect):**
  - By allowing utilities to collect CWIP *before* a plant is “fully operational and used for service,” families can be compelled to pay higher bills today for a facility that may never actually serve them (e.g., if it’s delayed or cancelled).

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- If a project is abandoned or stretches far beyond a “reasonable amount of time,” refunds depend on PSC determinations of “imprudence,” not on an automatic right to recovery.

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- That raises fairness questions under **Missouri’s due process and equal-protection principles** (Art. I, §§2, 10) even if courts ultimately uphold the scheme under economic-regulation deference.

### **3.3 Delegation & Unelected Power**

- **Key delegations to PSC:**
  - PSC decides **how much CWIP** goes into rate base for both gas and nuclear projects, bounded only by broad concepts like “estimated cost” and “estimated construction period.”

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- PSC decides whether costs were “imprudently incurred” and whether a project is placed in service within a “reasonable amount of time,” which determines if customers get refunds.

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- PSC can extend gas CWIP authority from 2035 to 2045, and nuclear CWIP authority from 2036 to 2046, upon a showing of “good cause” after a hearing.

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- PSC promulgates rules to “assist in the implementation” of the section.

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- **Why this matters:**

- The **practical law-making power**—how much families pay, when, and for what risk—is heavily shifted to the PSC.
- The legislature is effectively authorizing a **broad, long-running financing regime** and then letting an unelected body decide if it continues another decade.
- From a limited-government, constitutionalist view, that is a **significant delegation of economic power without tight guardrails**.

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## PART 4 – IMPACT ON MISSOURI FAMILIES

### 4.1 Economic, Tax, and Utility Impacts

- **What CWIP means in practice:**

- Under this bill, a utility can start charging customers **during construction** of new gas or nuclear plants, rather than waiting until the plant is in service.

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- This turns customers into **forced, unsecured lenders** to the project: they carry financing risk and inflation risk while still having to pay normal bills for existing service.

- **Short-term (1–2 years):**

- As soon as CWIP is approved, **base rates can rise** even though no new power is being delivered yet.
- Families already dealing with high food, fuel, and housing costs may see electric bills go up to fund large capital projects that won't help reliability for years.

- **Long-term (5+ years):**

- If the project goes over budget (as nuclear projects often do), more CWIP can be pushed into rates—again subject only to PSC prudence review.
- If the plant is eventually cancelled or severely delayed, refunds are limited to what PSC decides was “imprudent,” plus interest; families may never be fully “made whole” for years of higher bills.

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- Nuclear built under CWIP is likely to be sized and justified partly around **growing large-user demand** (e.g., big industrial customers or data centers). That invites **cross-subsidy** risk, where residential customers help finance capacity whose marginal benefits flow to big customers and shareholders.

**Net economic effect:**

**Hurts household budgets and shifts risk from utilities to families.**

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#### **4.2 Freedom, Parental Rights, and Education**

- The bill does **not** address schools, curricula, parental consent, homeschool rules, or education programs.
- **Net effect on parental rights and family freedom:** *Not directly implicated by the text.*

#### **4.3 Moral & Cultural Climate**

- The bill does **not** speak to abortion, gender ideology, marriage, or explicit cultural content.
- Nuclear energy could be framed as supporting **stability, industry, and local self-reliance**, but that positive is overshadowed by the **financing model**, which favors large corporate and regulatory interests over families.

**Net impact on Missouri families:**

**Hurts** – Reliability benefits of nuclear are real in theory, but this bill finances them by making ordinary Missourians shoulder the construction risk through higher electric bills, under the control of an unelected commission.

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### **PART 5 – ACT FOR MISSOURI CORE PRINCIPLES CHECK**

- **100% Pro-Life:**
  - **Not implicated.** No abortion, bioethics, or personhood language.
- **Christian & Biblical Values:**
  - **Mixed.** Stewardship of creation and secure energy supply can align with biblical prudence, but the mechanism shifts burdens onto families in a way that looks like **partiality toward large corporations**, which Scripture warns against.
- **Property Taxes & Economic Freedom:**
  - **Undermines.** While not a property-tax bill, higher, front-loaded power bills can make it harder for families to stay current on all obligations (including property taxes and mortgages), and they limit the freedom of families to decide how to invest their own money rather than being conscripted to finance utility projects.
- **Literal / Original-Intent Constitutionalism:**
  - **Mixed.** No direct attack on constitutional text, but heavy reliance on **broad PSC discretion** and open-ended extension power is in tension with a strict separation

of powers and with the idea that major long-term commitments should go back to the people's representatives.

- **Right to Bear Arms:**
  - **Not implicated.**
- **State Sovereignty & Tenth Amendment:**
  - **Not clearly implicated.** The bill is internal to Missouri utility regulation and does not on its face invite federal control or attach to federal funding.
- **Nuclear Family & Parental Rights:**
  - **Not implicated.**
- **Homeschool Protection:**
  - **Not implicated.**
- **Currency & Financial Control (CBDC / FedNow etc.):**
  - **Not directly implicated.** This is not a banking or payments bill, though it does entrench **utility-driven, quasi-tax financing** via monopoly bills, which can feel similar to a mandatory levy.
- **Election Integrity:**
  - **Not implicated.**
- **Government Transparency:**
  - **Mixed.** PSC proceedings are technically public, but complex ratemaking and CWIP accounting make it **hard for ordinary citizens to understand how and why their bills are rising**, effectively obscuring the true cost and risk of nuclear and gas projects.

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## PART 6 – SPECIAL TOPIC TESTS (2025 PRIORITIES)

### 6.1 Amendment 3 / Personhood & Equal-Protection Test

- **Not implicated for this bill.**

### 6.2 Surveillance, Digital-ID, and Data-Hub Test

- **Not implicated for this bill.** No language on cameras, data hubs, digital IDs, or law-enforcement databases.

### 6.3 Utilities, Energy Policy, and Data-Center / Big-User Test

**Key questions from the prompt:**

- **Does it authorize discounted or special tariffs for large users?**
  - Not explicitly. The text does not create a special “data-center rate” or similar.
- **Does it encourage or subsidize 24/7 high-load facilities (like data centers)?**
  - **Indirectly, yes.** By easing financing for new nuclear baseload plants through CWIP, the bill makes it easier for utilities to build large new capacity that will often be justified by anticipated **big-user growth** (data centers, heavy industry). CWIP helps them do that **with less investor risk and more ratepayer risk**.
- **Does it authorize PISA-style accounting that defers costs now but locks in higher bills later?**
  - It interacts with Missouri’s PISA framework (§393.1400) by requiring the CWIP included in base rates to offset PISA deferrals.

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- That avoids true double recovery but still leaves ratepayers exposed to **complex, front-loaded cost recovery** schemes.
- **Does it require large users to build and pay for their own dedicated infrastructure instead of using the shared grid?**
  - **No.** Nothing in the bill requires data centers or other large customers to bear the full incremental cost of new nuclear capacity; instead, costs go into the general rate base subject to PSC allocation, with families likely carrying a significant share.

### Conclusion for 6.3:

This bill clearly **privatizes gains and socializes risk**. It enables utilities to pursue large nuclear projects that may heavily serve big industrial loads, while **shifting construction financing risk onto families and small businesses** through CWIP.

### 6.4 Federal Money & Strings

- The bill does **not** mention federal funding, grants, or federal standards.
- **Not directly implicated.**

### 6.5 Model-Legislation / Agenda 21 & 2030 / Globalism Indicators

- Uses “clean baseload electric generating plants” and “Nuclear Clean Power Act” language consistent with national and global “clean energy” branding.

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- However, there are **no direct references** to federal climate programs, ESG, or Agenda 2030.

- **Assessment:** The language fits the broader global “clean-energy transition” narrative, but the text itself is focused on CWIP and ratemaking rather than explicit global frameworks.

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## PART 7 – RED FLAGS, AMENDMENT IDEAS, & FINAL RECOMMENDATION

### 7.1 Red-Flag List (most serious first)

#### 1. [Red Flag #1 – Shift of Financing Risk to Families via Nuclear CWIP]

- **Location:** §393.1250.3.

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- **Issue:** Lets utilities charge Missouri families for nuclear construction long before the plant produces power, effectively conscripting them as involuntary financiers and shifting risk for cost overruns or cancellation from shareholders to ratepayers.

#### 2. [Red Flag #2 – PSC Extension Power for CWIP Regime]

- **Location:** §393.135.2(2) & §393.1250.4.

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- **Issue:** Allows an unelected commission to extend both gas and nuclear CWIP regimes by ten years based on a vague “good cause” standard, instead of requiring a fresh legislative vote on such a major policy.

#### 3. [Red Flag #3 – Weak Protection if Projects Fail or Drag On]

- **Location:** §393.135.2(1); §393.1250.3.

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- **Issue:** Refunds depend on PSC findings of “imprudence” or failure to place a plant in service within a “reasonable amount of time.” Families can still pay higher rates for many years before any refund and may never be fully compensated in real-world terms.

#### 4. [Red Flag #4 – Cross-Subsidy Risk for Large Users / Data Centers]

- **Location:** §393.1250.1–3.

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- **Issue:** Nuclear baseload justified by future high-load users can be financed broadly through CWIP in general rates, meaning residential and small business customers help pay up front for capacity that may disproportionately serve big corporate loads.

#### 5. [Red Flag #5 – Title Under-Describes Natural-Gas CWIP Changes]

- **Location:** Title & §393.135.2.

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- **Issue:** The act is branded around nuclear “clean power,” but it also extends CWIP for gas plants, raising a possible clear-title challenge and suggesting that important effects are being tucked under a feel-good label.

## 7.2 Possible Fixes / Amendments

We don’t believe this legislation can be fixed. The people of Missouri took significant steps to use the Initiative Petition process to ban CWIP in the 1970s, mainly in response to abuses during the construction of nuclear plants. Why would Missouri want to repeat this mistake again?

## 7.3 Final Recommendation

- **Recommended stance:** *Strongly Oppose.*
- **Reasoning:**
  - HB 1626 fundamentally changes who carries the risk for major nuclear and gas projects—**from investors to Missouri families**—by allowing CWIP in rate base and giving broad discretion to the PSC to manage and even extend this regime.
  - It grows government power in the hands of an unelected commission, blurs the line between fair ratemaking and forced financing, and invites cross-subsidies in favor of large industrial users.
  - While nuclear baseload can be positive for reliability and national strength, this bill’s financing method conflicts with Act for Missouri’s commitments to limited, accountable government and to protecting the economic freedom of Missouri families and small businesses.