

**SENATE BILL No. 374**

By Committee on Utilities

2-11

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1 AN ACT creating the energy efficiency investment act.

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3 *Be it enacted by the Legislature of the State of Kansas:*

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Section 1. (a) As used in this section:

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(1) "Commission" means the state corporation commission;

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(2) "demand response" means measures that decrease peak demand or shift demand to off-peak periods of time;

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(3) "demand-side program" means any program conducted by the utility to modify the net consumption of electricity by a retail customer.

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"Demand-side program" may include, but shall not be limited to: (A) Energy efficiency measures; (B) load management; (C) demand response; and (D) interruptible or curtailable load;

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(4) "electric public utility" means any public utility, as defined in K.S.A. 66-104, and amendments thereto, which generates or sells electricity;

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(5) "energy efficiency" means measures that reduce the amount of electricity required to achieve a given end use; and

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(6) "total resource cost test" means a test that compares the sum of avoided utility costs and avoided probable environmental compliance costs to the sum of all incremental costs of end-use measures that are implemented due to the demand-side program.

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(b) It is the goal of the state to promote the implementation and expansion of cost-effective demand-side programs and investments in Kansas. It shall be the policy of the state to value demand-side program investments equal to traditional investments in supply and delivery infrastructure as much as is practicable.

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(c) (1) (A) Electric public utilities shall submit demand-side program plans and cost-recovery mechanisms to the commission for approval pursuant to this section. The commission shall either approve or disapprove in writing such program plan and cost-recovery mechanisms as submitted within 120 days after submission to the commission. If the commission fails to issue a final order on such program plan and cost-recovery mechanism within 120 days, such program plan and cost-recovery mechanism shall be deemed approved as submitted.

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(B) The commission may approve, with modifications, an electric public utility's proposed program plan submitted for approval. If the

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1 commission approves a program plan with modifications, including  
2 modifications to the electric public utility's proposed cost-recovery  
3 mechanism, the electric public utility shall either accept such  
4 modifications and implement the modified plan or reject the modified  
5 plan. The electric public utility may submit a new plan to the commission  
6 for approval.

7 (C) If the plan is not approved, the commission shall provide  
8 justifications for such disapproval and allow the electric public utility an  
9 opportunity to modify and re-submit the plan for approval.

10 (D) In determining whether to approve the proposed program, the  
11 commission shall consider the total resource cost test. Pilot programs,  
12 programs targeted to low-income customers or general education  
13 campaigns do not need to meet a cost-effectiveness test, so long as the  
14 commission determines that the program or campaign is in the public  
15 interest. Nothing in this subsection shall preclude the commission from  
16 approving a demand-side program that does not meet the test if the excess  
17 costs of the demand-side program are funded by the customers  
18 participating in the demand-side program or through tax or other  
19 governmental credits or incentives specifically designed for such purpose.

20 (2) The commission shall allow recovery of the reasonable and  
21 prudent costs associated with delivering cost-effective demand-side  
22 programs, so long as the program: (A) Results in energy or demand  
23 savings; and (B) is beneficial to customers in the customer class for which  
24 the programs were implemented, regardless of whether the program is  
25 utilized by all customers.

26 (d) (1) The commission shall allow cost recovery mechanisms that  
27 further encourage investments in demand-side programs. Such investments  
28 may include, but shall not be limited to: (A) Capitalization of investments  
29 in and expenditures for demand-side programs; (B) recovery of lost  
30 revenue associated with demand-side programs; (C) decoupling; (D) rate  
31 design modifications; (E) accelerated depreciation on demand-side  
32 investments; and (F) allowing the utility to retain a portion of the net  
33 benefits of a demand-side program for its shareholders.

34 (2) In determining rates for electricity as part of a demand-side  
35 program, the commission shall fairly apportion the costs and benefits of  
36 such programs to each customer class.

37 (e) To achieve the goals of this act, the commission shall:

38 (1) Provide timely cost recovery for electric public utilities;

39 (2) ensure that the financial incentives for an electric public utility are  
40 aligned with helping such utility's customers use energy more efficiently  
41 and in a manner that sustains or enhances such customers' incentives to use  
42 energy more efficiently;

43 (3) provide timely earnings opportunities associated with cost-

1 effective, measurable and verifiable savings;

2 (4) provide oversight and approval for utility-specific settlements and  
3 tariff provisions; and

4 (5) provide independent evaluation of demand-side programs, as  
5 deemed necessary by the commission.

6 (f) On or before March 31 of each year, each electric public utility  
7 that has implemented a demand-side program or portfolio of programs  
8 shall submit an annual report to the commission describing the results of  
9 such demand-side programs for the previous calendar year. The report  
10 shall include:

11 (1) Program expenditures, including incentive payments;

12 (2) peak demand and energy savings impacts and the techniques used  
13 to estimate such impacts;

14 (3) avoided costs and the techniques used to estimate such costs;

15 (4) the estimated cost-effectiveness of the demand-side programs; and

16 (5) the net economic benefits of the demand-side programs.

17 (g) The electric public utility shall have the authority to terminate any  
18 existing demand-side program upon filing notice of such termination with  
19 the commission.

20 (h) The commission shall adopt rules and regulations for the  
21 administration of this act on or before December 31, 2014.

22 (i) This section shall be known and may be cited as the Kansas  
23 energy efficiency investment act.

24 Sec. 2. This act shall take effect and be in force from and after its  
25 publication in the statute book.