

## Senate Substitute for HOUSE BILL No. 2482

By Committee on Utilities

3-21

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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: (A) An electric utility to reduce the net consumption of electricity by a retail electric customer; or (B) a natural gas utility to reduce the net consumption of natural gas by a retail gas customer.

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

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

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(5) "public utility" means any public electric or gas utility, as defined in K.S.A. 66-101, and amendments thereto, but does not include a municipally-owned electric or gas utility or an electric or gas cooperative that is exempt from commission jurisdiction pursuant to K.S.A. 66-104d, and amendments thereto.

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(b) It is the goal of the state to promote the implementation of cost-effective demand-side programs 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, but public utilities shall not be required to offer, implement or continue demand-side programs.

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(c) (1) (A) The commission shall permit public utilities to implement commission-approved demand-side programs and cost recovery mechanisms submitted pursuant to this section. The commission shall issue an order on any demand-side program plan and cost-recovery mechanisms within 180 days after submission to the commission. The commission may extend the approval period to 240 days for good cause. Consistent with K.S.A. 66-117(c), and amendments thereto, if the commission fails to issue a final order on such program plan and cost-

1 recovery mechanism within 180 days, or 240 days if the approval period  
2 was extended by the commission for good cause, such program plan and  
3 cost-recovery mechanism shall be deemed approved by the commission  
4 and shall take effect on the proposed effective date contained in such plan.

5 (B) The public utility and the commission shall both have the  
6 independent authority to accept or reject any proposed establishment,  
7 continuation or modification of a demand-side program, portfolio of  
8 programs or associated cost-recovery or incentive mechanisms, but no  
9 such establishment, continuation or modification of such programs or  
10 mechanisms shall take effect without the approval of both the utility and  
11 the commission. If the public utility rejects modifications to a demand-side  
12 program or portfolio of programs approved by the commission, including  
13 modifications to the cost-recovery mechanism, the public utility shall not  
14 be required to implement the program or mechanism.

15 (C) Upon final ruling of the commission order, the public utility has  
16 the right to reconsider and may withdraw its plan during the  
17 reconsideration period, which shall not exceed 30 calendar days from the  
18 date the final order was issued. Pursuant to K.S.A. 77-613, and  
19 amendments thereto, the time period for filing a petition for judicial  
20 review shall not begin until the completion of any such reconsideration  
21 period.

22 (D) In making its decision whether or not to approve the proposed  
23 program, the commission shall determine the appropriate test for  
24 evaluating the cost-effectiveness of the demand-side program. Programs  
25 targeted to low-income customers or general education campaigns do not  
26 need to meet a cost-effectiveness test, so long as the commission  
27 determines that the program or campaign is in the public interest and is  
28 supported by a reasonable budget in the context of the overall budget.

29 (2) The commission shall allow recovery of the reasonable and  
30 prudent costs associated with delivering commission-approved demand-  
31 side programs, so long as the program: (A) Results in energy or demand  
32 savings; and (B) is beneficial to customers in the customer class for which  
33 the programs were implemented, whether or not the program is utilized by  
34 all customers in such class. The fact that a commission-approved program  
35 proves not to be cost-effective is not by itself sufficient grounds for  
36 disallowing cost recovery. Programs determined to be non-cost-effective,  
37 other than programs targeted to low-income customers or general  
38 education campaigns, shall be modified to address deficiencies or  
39 terminated following such determination.

40 (d) (1) To comply with this section, the commission may allow cost  
41 recovery mechanisms that further encourage investments in demand-side  
42 programs. Such cost recovery mechanisms may include, but shall not be  
43 limited to: (A) Capitalization of investments in and expenditures for

1 demand-side programs; (B) recovery of lost revenue associated with  
2 demand-side programs; (C) decoupling; (D) rate design modifications; (E)  
3 accelerated depreciation on demand-side investments; and (F) allowing the  
4 public utility to retain a portion of the net benefits of a demand-side  
5 program for its shareholders.

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

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

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

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

15 (3) provide timely earnings opportunities for public utilities  
16 associated with cost-effective, measurable and verifiable demand-side  
17 program savings;

18 (4) provide oversight and approval for utility-specific settlements and  
19 tariff provisions; and

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

22 (f) On or before May 31 of each year, each public utility shall submit  
23 an annual report to the commission describing the results of such demand-  
24 side programs for the previous calendar year. The report shall include:

25 (1) Program expenditures, including incentive payments;

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

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

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

30 (5) the net economic benefits of the demand-side programs; and

31 (6) a comparison of the commission authorized program budget to  
32 actual costs.

33 (g) The commission may adopt rules and regulations for the  
34 administration of this act.

35 (h) This section shall be known and may be cited as the Kansas  
36 energy efficiency investment act.

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