AN ACT

To repeal section 393.1075, RSMo, and to enact in lieu thereof one new section relating to the energy efficiency investment act.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 393.1075, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.1075, to read as follows:

393.1075. 1. This section shall be known as the "Missouri Energy Efficiency Investment Act".

2. As used in this section, the following terms shall mean:
   (1) "Commission", the Missouri public service commission;
   (2) "Demand response", measures that decrease peak demand or shift demand to off-peak periods;
   (3) "Demand-side program", any program conducted by the utility to modify the net consumption of electricity on the retail customer's side of the electric meter, including but not limited to energy efficiency measures, load management, demand response, and interruptible or curtailable load;
   (4) "Energy efficiency", measures that reduce the amount of electricity required to achieve a given end use;
   (5) "Interruptible or curtailable rate", a rate under which a customer receives a reduced charge in exchange for agreeing to allow the utility to withdraw the supply of electricity under certain specified conditions;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.
(6) "Total resource cost test", 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 program, as defined by the commission in rules.

3. It shall be the policy of the state to value demand-side investments equal to traditional investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs. In support of this policy, the commission shall:

(1) Provide timely cost recovery for utilities;

(2) Ensure that utility financial incentives are aligned with helping customers use energy more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy more efficiently; and

(3) Provide timely earnings opportunities associated with cost-effective measurable and verifiable efficiency savings.

4. The commission shall permit electric corporations to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side savings. Recovery for such programs shall not be permitted unless the programs are approved by the commission, result in energy or demand savings and are beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers. The commission shall consider the total resource cost test a preferred cost-effectiveness test. Programs targeted to low-income customers or general education campaigns do not need to meet a cost-effectiveness test, so long as the commission determines that the program or campaign is in the public interest. Nothing herein shall preclude the approval of demand-side programs that do not meet the test if the costs of the program above the level determined to be cost-effective are funded by the customers participating in the program or through tax or other governmental credits or incentives specifically designed for that purpose.

5. To comply with this section the commission may develop cost recovery mechanisms to further encourage investments in demand-side programs including, in combination and without limitation: capitalization of investments in and expenditures for demand-side programs, rate design modifications, accelerated depreciation on demand-side investments, and allowing the utility to retain a portion of the net benefits of a demand-side program for its shareholders. In setting rates the commission shall fairly apportion the costs and benefits of demand-side programs to each customer class except as provided for in subsection 6 of this section. Prior to approving a rate design modification associated with demand-side cost recovery, the commission shall conclude a docket studying the effects thereof and promulgate an appropriate rule.
6. The commission may reduce or exempt allocation of demand-side expenditures to low-income classes, as defined in an appropriate rate proceeding, as a subclass of residential service.

7. Provided that the customer has notified the electric corporation that the customer elects not to participate in demand-side measures offered by an electrical corporation, none of the costs of demand-side measures of an electric corporation offered under this section or by any other authority, and no other charges implemented in accordance with this section, shall be assigned to any account of any customer, including its affiliates and subsidiaries, meeting one or more of the following criteria:

   (1) The customer has one or more accounts within the service territory of the electrical corporation that has a demand of five thousand kilowatts or more;

   (2) The customer operates an interstate pipeline pumping station, regardless of size; or

   (3) The customer has accounts within the service territory of the electrical corporation that have, in aggregate, a demand of two thousand five hundred kilowatts or more, and the customer has a comprehensive demand-side or energy efficiency program and can demonstrate an achievement of savings at least equal to those expected from utility-provided programs.

8. Customers that have notified the electrical corporation that they do not wish to participate in demand-side programs under this section shall not subsequently be eligible to participate in demand-side programs except under guidelines established by the commission in rulemaking.

9. Customers who participate in demand-side programs initiated after August 1, 2009, shall be required to participate in program funding for a period of time to be established by the commission in rulemaking.

10. Customers electing not to participate in an electric corporation's demand-side programs under this section shall still be allowed to participate in interruptible or curtailable rate schedules or tariffs offered by the electric corporation.

11. The commission shall provide oversight and may adopt rules and procedures and approve corporation-specific settlements and tariff provisions, independent evaluation of demand-side programs, as necessary, to ensure that electric corporations can achieve the goals of this section. 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 pursuant to 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, 2009, shall be invalid and void.
12. Each electric corporation shall submit an annual report to the commission describing
the demand-side programs implemented by the utility in the previous year. The report shall
document program expenditures, including incentive payments, peak demand and energy savings
impacts and the techniques used to estimate those impacts, avoided costs and the techniques used
to estimate those costs, the estimated cost-effectiveness of the demand-side programs, and the
net economic benefits of the demand-side programs.

13. Charges attributable to demand-side programs under this section shall be clearly
shown as a separate line item on bills to the electrical corporation's customers.

14. (1) Any customer of an electrical corporation who has received a state tax credit
under sections 135.350 to 135.362 or under sections 253.545 to 253.561 shall not be eligible for
participation in any demand-side program offered by an electrical corporation under this section
if such program offers a monetary incentive to the customer, except as provided in subdivision
(4) of this subsection.

(2) As a condition of participation in any demand-side program offered by an electrical
corporation under this section when such program offers a monetary incentive to the customer,
the commission shall develop rules that require documentation to be provided by the customer
to the electrical corporation to show that the customer has not received a tax credit listed in
subdivision (1) of this subsection.

(3) The penalty for a customer who provides false documentation under subdivision (2)
of this subsection shall be a class A misdemeanor.

(4) The provisions of this subsection shall not apply to any low-income customer who
would otherwise be eligible to participate in a demand-side program that is offered by an
electrical corporation to low-income customers.

15. The commission shall develop rules that provide for disclosure of participants in all
demand-side programs offered by electrical corporations under this section when such programs
provide monetary incentives to the customer. The disclosure required by this subsection may
include, but not be limited to, the following: the name of the participant, or the names of the
[principles] principals if for a company, the property address, and the amount of the monetary
incentive received.