

## HOUSE BILL No. 2233

By Committee on Energy and Environment

2-4

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1 AN ACT concerning utilities; relating to electric generating units and  
2 carbon dioxide emission standards; concerning the establishment of  
3 state performance standards; state corporation commission; secretary of  
4 health and environment; amending K.S.A. 2014 Supp. 65-3031 and  
5 repealing the existing section.  
6

7 WHEREAS, The United States environmental protection agency has  
8 proposed a carbon dioxide emission standard that requires the state of  
9 Kansas to comply with a state-wide emission standard rather than  
10 requiring individual utilities to meet a specific emission standard on a  
11 generating unit basis. In determining a carbon dioxide emission  
12 standard for Kansas, the environmental protection agency has elected to  
13 require states to re-dispatch coal-fired electric generating units to  
14 natural gas-fired combined cycle generation units and renewable  
15 generating resources as well as the use of energy efficiency and  
16 demand-side management resources. Because the environmental  
17 protection agency's approach to setting a carbon dioxide emission  
18 standard crosses jurisdictional authorities, and due to the complexity of  
19 re-dispatching the integrated electric system in the state of Kansas  
20 while maintaining reliable electric service and reasonable electric rates  
21 for ratepayers, both the Kansas department of health and environment  
22 and the state corporation commission will need to provide their  
23 respective expertise in order to efficiently and effectively develop a  
24 cost-effective and reliable compliance plan. This act shall be called the  
25 Kansas electric ratepayer protection act.  
26

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

28 Section 1. K.S.A. 2014 Supp. 65-3031 is hereby amended to read as  
29 follows: 65-3031. (a) For all coal-fired and natural gas electric generating  
30 units that are affected units pursuant to 42 U.S.C. § 7411, as in effect on  
31 the effective date of this act, that have been constructed or have received a  
32 prevention of significant deterioration permit by July 1, 2014, the secretary  
33 of health and environment may establish separate standards of  
34 performance for carbon dioxide emissions based upon: (1) The best system  
35 of emission reduction that has been adequately demonstrated while  
36 considering the cost of achieving such reduction;

1 (2) reductions in emissions of carbon dioxide that can reasonably be  
2 achieved through measures taken at each electric generating unit; and

3 (3) efficiency and other measures that can be undertaken at each  
4 electric generating unit to reduce carbon dioxide emissions without any  
5 requirements for fuel switching, co-firing with other fuels or limiting the  
6 utilization of the unit.

7 (b) In establishing any standard of performance for any existing  
8 electric generating unit pursuant to this section, the secretary may consider  
9 alternative standards and metrics or may provide alternative compliance  
10 schedules than those provided by federal rules or regulations by  
11 evaluating: (1) Unreasonable costs of achieving an emission limitation due  
12 to plant age, location or the design of an electric generating unit;

13 (2) any unusual physical or compliance schedule difficulties or  
14 impossibility of implementing emission reduction measures;

15 (3) the cost of applying the performance standard to an electric  
16 generating unit;

17 (4) the remaining useful life of an electric generating unit;

18 (5) any economic or electric transmission and distribution impacts  
19 resulting from closing the electric generating unit if compliance with the  
20 performance standard is not possible; and

21 (6) the potential for a standard of performance relating to unit  
22 efficiency, including any requirements for a new source review or the  
23 application of a best available control technology emission limitation for  
24 any criteria pollutant as a condition of receiving a permit or authorization  
25 for the project.

26 (c) The secretary may implement such standards through flexible  
27 regulatory mechanisms, including the averaging of emissions, ~~emissions~~  
28 ~~trading~~ or other alternative implementation measures that the secretary  
29 determines to be in the interest of Kansas. The secretary *shall not*  
30 *implement a carbon emission trading mechanism without first obtaining*  
31 *specific statutory authority for the mechanism. The secretary* may enter  
32 into voluntary agreements with utilities that operate fossil-fuel based  
33 electric generating units within Kansas to implement these carbon dioxide  
34 emission standards. Such agreements may aggregate the carbon dioxide  
35 emissions levels from electric resources in this state, including coal,  
36 petroleum, natural gas or renewable energy resources as defined in K.S.A.  
37 66-1257, and amendments thereto, that are owned, operated or utilized by  
38 power purchase agreements by utilities for purposes of determining  
39 compliance with such carbon dioxide emission standards. *Such*  
40 *agreements shall not be effective until the secretary has given notice to the*  
41 *state corporation commission, held a hearing pursuant to K.S.A. 77-501 et*  
42 *seq., and amendments thereto, and issued an order which adopts the state*  
43 *corporation commission's order pursuant to subsection (d).*

1       (d) *Before establishing any standard of performance for any existing*  
2 *electric generating unit or flexible regulatory mechanism pursuant to this*  
3 *section, the secretary shall give notice to the state corporation commission*  
4 *and adopt the order of the commission. In making a recommendation to*  
5 *the secretary, the commission shall: (1) Conduct any investigations*  
6 *necessary to determine each jurisdictional utility's re-dispatch options*  
7 *along with the cost of each option;*

8       (2) *conduct any investigations necessary to determine the lowest*  
9 *possible cost re-dispatch options on a state-wide basis;*

10       (3) *ensure that the recommended options maintain the reliability of*  
11 *Kansas' integrated electric systems;*

12       (4) *issue an order, within 300 days of receiving notice by the*  
13 *secretary, which provides a detailed explanation of the commission's*  
14 *findings and recommendations. Nothing in this subsection shall preclude*  
15 *all parties and the commission from agreeing to extend the 300-day*  
16 *period. The commission shall expeditiously conduct any such investigation*  
17 *as covered within this subsection; and*

18       (5) *provide the secretary a copy of the commission's order along with*  
19 *any evidence requested by the secretary.*

20       (e) *In any hearing held pursuant to subsection (c), the commission*  
21 *shall function as an official intervenor and may make application for a*  
22 *rehearing or seek judicial review of any order or decision of the secretary*  
23 *issued pursuant to this act.*

24       ~~(d)~~ (f) *This section shall be part of and supplemental to the Kansas air*  
25 *quality act.*

26       Sec. 2. K.S.A. 2014 Supp. 65-3031 is hereby repealed.

27       Sec. 3. This act shall take effect and be in force from and after its  
28 publication in the Kansas register.