

KANSAS OFFICE of  
**REVISOR of STATUTES**

LEGISLATURE of THE STATE of KANSAS  
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**MEMORANDUM**

**To:** Senate Committee on Financial Institutions and Insurance

**From:** Office of Revisor of Statutes

**Date:** March 18, 2021

**Subject:** Briefing – Primary Amendments to SB 245

As originally drafted, SB 245 empowered the Kansas corporation commission to authorize the approval and issuance of energy transition bonds in order to allow electric public utilities recover certain costs related to retired or abandoned, or to-be retired or abandoned energy generating facilities.

While the original organization of the bill has been preserved, SB 245 has been amended to allow both electric public utilities and natural gas public utilities to securitize "qualified extraordinary costs," related to anomalous weather events such as the severe weather that occurred in February, as well as future such weather events.

In order to add the securitization of qualified extraordinary costs to the bill, the following amendments were made:

- Terms and definitions that could apply to the securitization of qualified extraordinary costs of both electric public utilities and natural gas public utilities were developed. These terms include:
  - (1) "Public utility";
  - (2) "Qualified extraordinary costs";
  - (3) "Securitized utility tariff bonds";
  - (4) "Securitized utility tariff charge";
  - (5) "Securitized utility tariff costs";
  - (6) "Securitized utility tariff property";
- The necessary specific terms were either added or preserved. These terms include:
  - (1) "Electric public utility";
  - (2) "Energy transition costs" (preserved from the original underlying bill);
  - (3) "Natural gas public utility"
- Where necessary, processes were bifurcated to differentiate between the securitization of energy transition costs and qualified extraordinary costs. This occurs in the following areas:
  - (1) On page 6, within the definition of securitized tariff bonds.
  - (2) In section 2, subsection (a), pertaining to the securitization of energy transition costs and subsection (b), pertaining to the securitization of qualified extraordinary costs.
  - (3) In section 2, in subsection (c)(9), pertaining to contents of the application

- Generic terms were substituted throughout the bill where necessary and applicable.
- Addition of three new sections of what a financing order from the commission should contain.
  - Pages 15-16, paragraphs 14, 15 and 16
- The act has been renamed to reflect the bill's new dual purpose: Utility Financing and Securitization Act.
- Lastly, two new provisions have been added to the bill. These provisions are the result of the compromise that was referenced during today's meeting between Evergy, Kansas Industrial Consumers group (KIC), KCC, and Citizens Utility Ratepayer Board (CURB). These provisions have been highlighted and may be found on:
  - Page 13, Section 2(e)(2)(A); and
  - Page 22, Section 3(h)

with the securitization of energy transition costs shall not exceed the rate benefits from the retirement or abandonment of the subject electric utility generating assets that are assigned or allocated to special contract customers. **The securitized utility tariff charges allocated to special contract customers as a result of a financing order regarding a retirement or abandonment shall be offset by net quantifiable rate benefits of at least the same amount.** The initial allocation of securitized utility tariff charges shall remain in effect until the public utility files a general base rate proceeding; and

(B) Once the commission's order regarding the general base rate proceeding becomes final, all subsequent applications of an adjustment mechanism regarding securitized utility tariff charges shall incorporate changes in the allocation of costs to customers as detailed in the commission's order from the public utility's most recent general base rate proceeding.

(3) a finding that the proposed issuance of securitized utility tariff bonds and the imposition and collection of a securitized utility tariff charge are expected to provide net quantifiable rate benefits to customers as compared to the traditional methods of financing and recovering securitized utility tariff costs from customers or that would avoid or mitigate rate impacts to customers;

(4) an approved plan for the public utility, by means other than on the monthly bill, to provide information regarding the benefits of securitization obtained for customers through the financing order;

(5) a finding that the structuring, pricing and financing costs of the securitized utility tariff bonds are expected to result in the lowest securitized utility tariff charges, consistent with market conditions at the time the securitized utility tariff bonds are priced and the terms of the financing order;

revenue requirement used to set its rates.

(b) The commission shall not approve an application for a financing order associated with an asset retirement or abandonment if the application does not establish that the securitization of the specified retired or abandoned generating facility provides net quantifiable rate benefits to customers as required under this act.

New Sec. 4. The bills of a public utility that has obtained a financing order and caused securitized utility tariff bonds to be issued shall comply with the provisions of this section, except the failure of a public utility to comply with this section shall not invalidate, impair or otherwise affect any financing order, securitized utility tariff property, securitized utility tariff charge or securitized utility tariff bonds. The public utility shall:

(a) Explicitly reflect that a portion of the charges on such bill represents securitized utility tariff charges approved in a financing order issued to the public utility and, if the securitized utility tariff property has been transferred to an assignee, such bill shall include a statement to the effect that the assignee is the owner of the rights to the securitized utility tariff charges and that the public utility or other entity, if applicable, is acting as a collection agent or servicer for the assignee. The tariff applicable to customer shall indicate the securitized utility tariff charge and the ownership of the charge; and

(b) include the securitized utility tariff charge on each customer's bill as a separate line item and include both the rate and the amount of the charge on each bill.

New Sec. 5. (a) All securitized utility tariff property specified in a financing order constitutes an existing, present intangible property right or interest therein, notwithstanding that the imposition and collection of securitized utility tariff charges depends on the public utility to which the financing order is issued performing its servicing functions relating to the collection of