



Senate

General Assembly

File No. 617

February Session, 2010

Substitute Senate Bill No. 484

Senate, April 22, 2010

The Committee on Finance, Revenue and Bonding reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING SECURITIZATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 16-245e of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (a) As used in this section and sections 16-245f to 16-245k, inclusive,
5 as amended by this act:

6 (1) "Rate reduction bonds" means bonds, notes, certificates of
7 participation or beneficial interest, or other evidences of indebtedness
8 or ownership, issued pursuant to an executed indenture or other
9 agreement of a financing entity, in accordance with this section and
10 sections 16-245f to 16-245k, inclusive, as amended by this act, the
11 proceeds of which are used, directly or indirectly, to provide, recover,
12 finance, or refinance stranded costs or economic recovery transfer, or
13 to sustain funding of conservation and load management and

14 renewable energy investment programs by substituting for
15 disbursements to the General Fund from the Energy Conservation and
16 Load Management Fund established by section 16-245m and from the
17 Renewable Energy Investment Fund established by section 16-245n,
18 and which, directly or indirectly, are secured by, evidence ownership
19 interests in, or are payable from, transition property;

20 (2) "Competitive transition assessment" means those non-bypassable
21 rates and other charges, that are authorized by the department (A) in a
22 financing order in respect to the economic recovery transfer, or in a
23 financing order, to sustain funding of conservation and load
24 management and renewable energy investment programs by
25 substituting disbursements to the General Fund from proceeds of rate
26 reduction bonds for such disbursements from the Energy Conservation
27 and Load Management Fund established by section 16-245m and from
28 the Renewable Energy Investment Fund established by section 16-
29 245n, or to recover those stranded costs that are eligible to be funded
30 with the proceeds of rate reduction bonds pursuant to section 16-245f,
31 as amended by this act, and the costs of providing, recovering,
32 financing, or refinancing the economic recovery transfer or such
33 substitution of disbursements to the General Fund or such stranded
34 costs through a plan approved by the department in the financing
35 order, including the costs of issuing, servicing, and retiring rate
36 reduction bonds, (B) to recover those stranded costs determined under
37 this section but not eligible to be funded with the proceeds of rate
38 reduction bonds pursuant to section 16-245f, as amended by this act, or
39 (C) to recover costs determined under subdivision (1) of subsection (e)
40 of section 16-244g. If requested by the electric company or electric
41 distribution company, the department shall include in the competitive
42 transition assessment non-bypassable rates and other charges to
43 recover federal and state taxes whose recovery period is modified by
44 the transactions contemplated in this section and sections 16-245f to 16-
45 245k, inclusive, as amended by this act;

46 (3) "Customer" means any individual, business, firm, corporation,
47 association, tax-exempt organization, joint stock association, trust,

48 partnership, limited liability company, the United States or its
49 agencies, this state, any political subdivision thereof or state agency
50 that purchases electric generation or distribution services as a retail
51 end user in the state from any electric supplier, electric company or
52 electric distribution company;

53 (4) "Finance authority" means the state, acting through the office of
54 the State Treasurer;

55 (5) "Net proceeds" means "net proceeds" as defined in section 16-
56 244f;

57 (6) "Stranded costs" means that portion of generation assets,
58 generation-related regulatory assets or long-term contract costs
59 determined by the department in accordance with the provisions of
60 subsections (e), (f), (g) and (h) of this section;

61 (7) "Generation assets" means the total construction and other
62 capital asset costs of generation facilities approved for inclusion in
63 rates before July 1, 1997, but does not include any costs relating to the
64 decommissioning of any such facility or any costs which the
65 department found during a proceeding initiated before July 1, 1998,
66 were incurred because of imprudent management;

67 (8) "Generation-related regulatory assets" means generation-related
68 costs authorized or mandated before July 1, 1998, by the Department of
69 Public Utility Control, approved for inclusion in the rates, and include,
70 but are not limited to, costs incurred for deferred taxes, conservation
71 programs, environmental protection programs, public policy costs and
72 research and development costs, net of any applicable credits payable
73 to customers, but does not include any costs which the department
74 found during a proceeding initiated before July 1, 1998, were incurred
75 because of imprudent management;

76 (9) "Long-term contract costs" mean the above-market portion of the
77 costs of contractual obligations approved for inclusion in the rates that
78 were entered into before January 1, 2000, arising from independent

79 power producer contracts required by law or purchased power
80 contracts approved by the Federal Energy Regulatory Commission;

81 (10) "Department" means the Department of Public Utility Control;

82 (11) "Financing entity" means the finance authority or any special
83 purpose trust or other entity that is authorized by the finance authority
84 to issue rate reduction bonds or acquire transition property pursuant
85 to such terms and conditions as the finance authority may specify, or
86 both;

87 (12) "Financing order" means an order of the department adopted in
88 accordance with this section and sections 16-245f to 16-245k, inclusive,
89 as amended by this act;

90 (13) "Transition property" means the property right created
91 pursuant to this section and sections 16-245f to 16-245k, inclusive, as
92 amended by this act, in respect to the economic recovery transfer or in
93 respect of disbursements to the General Fund to sustain funding of
94 conservation and load management and renewable energy investment
95 programs or those stranded costs that are eligible to be funded with
96 the proceeds of rate reduction bonds pursuant to section 16-245f, as
97 amended by this act, including, without limitation, the right, title, and
98 interest of an electric company or electric distribution company or its
99 transferee or the financing entity (A) in and to the rates and charges
100 established pursuant to a financing order, as adjusted from time to
101 time in accordance with subdivision (2) of subsection (b) of section 16-
102 245i, as amended by this act, and the financing order, (B) to be paid the
103 amount that is determined in a financing order to be the amount that
104 the electric company or electric distribution company or its transferee
105 or the financing entity is lawfully entitled to receive pursuant to the
106 provisions of this section and sections 16-245f to 16-245k, inclusive, as
107 amended by this act, and the proceeds thereof, and in and to all
108 revenues, collections, claims, payments, money, or proceeds of or
109 arising from the rates and charges or constituting the competitive
110 transition assessment that is the subject of a financing order including
111 those non-bypassable rates and other charges referred to in

112 subdivision (2) of this subsection, and (C) in and to all rights to obtain
113 adjustments to the rates and charges pursuant to the terms of
114 subdivision (2) of subsection (b) of section 16-245i, as amended by this
115 act, and the financing order. "Transition property" shall constitute a
116 current property right notwithstanding the fact that the value of the
117 property right will depend on consumers using electricity or, in those
118 instances where consumers are customers of a particular electric
119 company or electric distribution company, the electric company or
120 electric distribution company performing certain services;

121 (14) "State rate reduction bonds" means the rate reduction bonds
122 issued on June 23, 2004, by the state to sustain funding of conservation
123 and load management and renewable energy investment programs by
124 substituting for disbursements to the General Fund from the Energy
125 Conservation and Load Management Fund, established by section 16-
126 245m, and from the Renewable Energy Investment Fund, established
127 by section 16-245n. The state rate reduction bonds for the purposes of
128 section 4-30a shall be deemed to be outstanding indebtedness of the
129 state;

130 (15) "Operating expenses" means, with respect to state rate
131 reduction bonds or rate replacement bonds, (A) all expenses, costs and
132 liabilities of the state or the trustee incurred in connection with the
133 administration or payment of the state rate reduction bonds or rate
134 replacement bonds, or in discharge of its obligations and duties under
135 the state rate reduction bonds or rate replacement bonds, or bond
136 documents, expenses and other costs and expenses arising in
137 connection with the state rate reduction bonds or rate replacement
138 bonds, or pursuant to the financing order providing for the issuance of
139 such bonds including any arbitrage rebate and penalties payable under
140 the code in connection with such bonds, and (B) all fees and expenses
141 payable or disburseable to the servicers or others under the bond
142 documents;

143 (16) "Bond documents" means, with respect to state rate reduction
144 bonds or rate replacement bonds, the following documents: The

145 servicing agreements, the tax compliance agreement and certificate,
146 and the continuing disclosure agreement and indenture entered into in
147 connection with the state rate reduction bonds [and the indenture] or
148 the rate replacement bonds;

149 (17) "Indenture" means the indenture executed in connection with
150 the state rate reduction bonds or the rate replacement bonds, or, with
151 respect to state rate reduction bonds, the RRB Indenture, dated as of
152 June 23, 2004, by and between the state and the trustee, as amended
153 from time to time; [and]

154 (18) "Trustee" means, with respect to state rate reduction bonds, the
155 trustee appointed under the indenture;

156 (19) "Economic recovery transfer" means the disbursement to the
157 General Fund of one billion two hundred ninety million dollars from
158 proceeds of the issuance of the rate replacement bonds; and

159 (20) "Rate replacement bonds" means rate reduction bonds issued to
160 fund the economic recovery transfer, the costs of issuance, credit
161 enhancements and such other costs as the finance authority deems
162 necessary or advisable, and which shall be payable from competitive
163 transition assessment charges replacing the competitive transition
164 assessment charges funding stranded costs.

165 Sec. 2. Section 16-245f of the general statutes is repealed and the
166 following is substituted in lieu thereof (*Effective from passage*):

167 (a) An electric company or electric distribution company shall
168 submit to the department an application for a financing order with
169 respect to any proposal to sustain funding of conservation and load
170 management and renewable energy investment programs by
171 substituting disbursements to the General Fund from proceeds of rate
172 reduction bonds for such disbursements from the Energy Conservation
173 and Load Management Fund established by section 16-245m and from
174 the Renewable Energy Investment Fund established by section 16-
175 245n, and may submit to the department an application for a financing

176 order with respect to the following stranded costs: (1) The cost of
177 mitigation efforts, as calculated pursuant to subsection (c) of section
178 16-245e; (2) generation-related regulatory assets, as calculated
179 pursuant to subsection (e) of section 16-245e; and (3) those long-term
180 contract costs that have been reduced to a fixed present value through
181 the buyout, buydown, or renegotiation of such contracts, as calculated
182 pursuant to subsection (f) of section 16-245e. No stranded costs shall be
183 funded with the proceeds of rate reduction bonds unless (A) the
184 electric company or electric distribution company proves to the
185 satisfaction of the department that the savings attributable to such
186 funding will be directly passed on to customers through lower rates,
187 and (B) the department determines such funding will not result in
188 giving the electric distribution company or any generation entities or
189 affiliates an unfair competitive advantage. The department shall hold a
190 hearing for each such electric distribution company to determine the
191 amount of disbursements to the General Fund from proceeds of rate
192 reduction bonds that may be substituted for such disbursements from
193 the Energy Conservation and Load Management Fund established by
194 section 16-245m and from the Renewable Energy Investment Fund
195 established by section 16-245n, and thereby constitute transition
196 property and the portion of stranded costs that may be included in
197 such funding and thereby constitute transition property. Any hearing
198 shall be conducted as a contested case in accordance with chapter 54,
199 except that any hearing with respect to a financing order or other order
200 to sustain funding for conservation and load management and
201 renewable energy investment programs by substituting the
202 disbursement to the General Fund from the Energy Conservation and
203 Load Management Fund established by section 16-245m and from the
204 Renewable Energy Investment Fund established by section 16-245n
205 shall not be a contested case, as defined in section 4-166. The
206 department shall not include any rate reduction bonds as debt of an
207 electric distribution company in determining the capital structure of
208 the company in a rate-making proceeding, for calculating the
209 company's return on equity or in any manner that would impact the
210 electric distribution company for rate-making purposes, and shall not

211 approve such rate reduction bonds that include covenants that have
212 provisions prohibiting any change to their appointment of an
213 administrator of the Energy Conservation and Load Management
214 Fund. Nothing in this subsection shall be deemed to affect the terms of
215 subsection (b) of section 16-245m.

216 (b) Prior to September 1, 2010, each electric distribution company
217 shall submit to the department an application for a financing order
218 with respect to funding the economic recovery transfer through the
219 issuance of rate replacement bonds. The department shall hold a
220 hearing for each such electric distribution company to determine the
221 amount necessary to fund the economic recovery transfer, the payment
222 of rate replacement bonds, costs of issuance, credit enhancements and
223 operating costs for the rate replacement bonds. Such amount as
224 determined by the department shall constitute transition property. The
225 department shall allocate the responsibility for the funding of the
226 economic recovery transfer and the expenses of the rate replacement
227 bonds equitably between the electric distribution companies, after
228 taking into account any remaining charges for stranded costs. Such
229 allocation may provide that the respective charges payable by the
230 customers of each electric distribution company may commence on
231 difference dates and that such rates may vary over the period the rate
232 replacement bonds and the related operating expenses are being paid,
233 provided (1) such charges are equitably allocated to the customers of
234 each electric distribution company, and (2) the department determines
235 that, over such period, and taking into account the timing of charges,
236 the charges on a kilowatt basis assessed to the customers of the
237 respective electric distribution companies have substantially the same
238 present value. Any hearing with respect to a financing order in respect
239 to the economic recovery transfer and the issuance of rate replacement
240 bonds shall not be a contested case, as defined in section 4-166. The
241 department shall issue a financing order in respect to the rate
242 replacement bonds for each electric distribution company on or before
243 October 1, 2010.

244 (c) In the event that the rate replacement bonds are not issued prior

245 to January 1, 2011, the department, on and after January 1, 2011, shall
246 assess or cause to be assessed a charge of 617 mills per kilowatt hour of
247 electricity sold to each end use customer of an electric distribution
248 company and shall cause such assessments to be deposited in the
249 General Fund.

250 Sec. 3. Subsections (c) and (d) of section 16-245g of the general
251 statutes are repealed and the following is substituted in lieu thereof
252 (Effective from passage):

253 (c) The competitive transition assessment shall be determined by the
254 department in a general and equitable manner and, in accordance with
255 the provisions of subsection (b) of section 16-245f, as amended by this
256 act, shall be imposed on all customers at a rate that is applied equally
257 to all customers of the same class in accordance with methods of
258 allocation in effect on July 1, 1998, provided the competitive transition
259 assessment shall not be imposed on customers receiving services
260 under a special contract which is in effect on July 1, 1998, until such
261 special contract expires. The competitive transition assessment shall be
262 imposed beginning on January 1, 2000, on all customers receiving
263 services under a special contract which is entered into or renewed after
264 July 1, 1998. The competitive transition assessment shall have a
265 generally applicable manner of determination that may be measured
266 on the basis of percentages of total costs of retail sales of electric
267 generation services. [The] Subject to the provisions of subsection (b) of
268 section 16-245f, as amended by this act, the competitive transition
269 assessment shall be payable by customers on an equal basis on the
270 same payment terms and shall be eligible or subject to prepayment on
271 an equal basis. Any exemption of the competitive transition
272 assessment by customers under a special contract shall not result in an
273 increase in rates to any customer.

274 (d) The department shall establish, fix and revise the competitive
275 transition assessment in an amount sufficient at all times to: (1) Pay the
276 principal of and the interest on rate reduction bonds and rate
277 replacement bonds as the same shall become due and payable; (2) to

278 pay all reasonable and necessary expenses relating to the financing;
279 and (3) to pay an electric company stranded costs that are not funded
280 with the proceeds of rate reduction bonds and interim capital costs
281 determined under subdivision (1) of subsection (e) of section 16-244g.

282 Sec. 4. Subsections (a) and (b) of section 16-245h of the general
283 statutes are repealed and the following is substituted in lieu thereof
284 (*Effective from passage*):

285 (a) The competitive transition assessment described in
286 subparagraph (A) of subdivision (2) of subsection (a) of section 16-
287 245e, as amended by this act, shall constitute transition property when,
288 and to the extent that, a financing order authorizing such portion of
289 the competitive transition assessment has become effective in
290 accordance with sections 16-245e to 16-245k, inclusive, as amended by
291 this act, and the transition property shall thereafter continuously exist
292 as property for all purposes with all of the rights and privileges of
293 sections 16-245e to 16-245k, inclusive, as amended by this act, for the
294 period and to the extent provided in the financing order, but in any
295 event until the rate reduction bonds, including the rate replacement
296 bonds, are paid in full, including all principal, interest, premium, costs,
297 and arrearages on such bonds. Prior to its sale or other transfer by the
298 electric company or electric distribution company pursuant to sections
299 16-245e to 16-245k, inclusive, as amended by this act, transition
300 property, other than transition property in respect of the economic
301 recovery transfer or in respect to disbursements to the General Fund to
302 sustain funding of conservation and load management and renewable
303 energy investment programs, shall be a vested contract right of the
304 electric company or electric distribution company, notwithstanding
305 any contrary treatment thereof for accounting, tax, or other purpose.
306 Transition property in respect of disbursements to the General Fund to
307 sustain funding of conservation and load management and renewable
308 energy investment programs shall immediately upon its creation vest
309 solely in the financing entity. Transition property in respect to the
310 economic recovery transfer shall immediately upon its creation vest
311 solely in the financing entity. The electric company or electric

312 distribution company shall have no right, title or interest in transition
313 property in respect to the economic recovery transfer or in respect of
314 disbursements to the General Fund to sustain funding of conservation
315 and load management and renewable energy investment programs,
316 and in respect of such transition property shall be only a collection
317 agent on behalf of the financing entity.

318 (b) Any surplus competitive transition assessment described in
319 subparagraph (A) of subdivision (2) of subsection (a) of section 16-
320 245e, as amended by this act, in excess of the amounts necessary to pay
321 principal, premium, if any, interest and expenses of the issuance of the
322 rate reduction bonds issued prior to January 1, 2002, shall be remitted
323 to the financing entity who will apply them to the payment of rate
324 replacement bonds and credit them against the payment obligation in
325 respect to the rate replacement bonds of the customers making such
326 excess payments. If no rate replacement bonds are outstanding, the
327 Treasurer shall transfer such excess charges to the General Fund. Any
328 surplus competitive transition assessment described in subparagraph
329 (A) of subdivision (2) of subsection (a) of section 16-245e, as amended
330 by this act, in excess of the amounts necessary to pay principal,
331 premium, if any, interest and expenses of the issuance of the rate
332 reduction bonds issued on or after January 1, 2002, shall be remitted to
333 the financing entity and may be used to benefit customers if this would
334 not result in a recharacterization of the tax, accounting, and other
335 intended characteristics of the financing, including, but not limited to,
336 the following:

337 (1) Avoiding the recognition of debt on the electric company's or the
338 electric distribution company's balance sheet for financial accounting
339 and regulatory purposes;

340 (2) Treating the rate reduction bonds as debt of the electric company
341 or electric distribution company or its affiliates for federal income tax
342 purposes;

343 (3) Treating the transfer of the transition property by the electric
344 company or electric distribution company as a true sale for bankruptcy

345 purposes; or

346 (4) Avoiding any adverse impact of the financing on the credit
347 rating of the rate reduction bonds or the electric company or electric
348 distribution company.

349 Sec. 5. Subsections (a) and (b) of section 16-245i of the general
350 statutes are repealed and the following is substituted in lieu thereof
351 (*Effective from passage*):

352 (a) The department may issue financing orders in accordance with
353 sections 16-245e to 16-245k, inclusive, as amended by this act, to fund
354 the economic recovery transfer, to sustain funding of conservation and
355 load management and renewable energy investment programs by
356 substituting disbursements to the General Fund from proceeds of rate
357 reduction bonds for such disbursements from the Energy Conservation
358 and Load Management Fund established by section 16-245m and from
359 the Renewable Energy Investment Fund established by section 16-
360 245n, and to facilitate the provision, recovery, financing, or refinancing
361 of stranded costs. [A] Except for a financing order in respect to the rate
362 replacement bonds, a financing order may be adopted only upon the
363 application of an electric company or electric distribution company,
364 pursuant to section 16-245f, as amended by this act, and shall become
365 effective in accordance with its terms only after the electric company or
366 electric distribution company files with the department the electric
367 company's or the electric distribution company's written consent to all
368 terms and conditions of the financing order. Any financing order in
369 respect to the rate replacement bonds shall be effective on issuance.

370 (b) (1) Notwithstanding any general or special law, rule, or
371 regulation to the contrary, except as otherwise provided in this
372 subsection with respect to transition property that has been made the
373 basis for the issuance of rate reduction bonds or rate replacement
374 bonds, the financing orders and the competitive transition assessment
375 shall be irrevocable and the department shall not have authority either
376 by rescinding, altering, or amending the financing order or otherwise,
377 to revalue or revise for rate-making purposes the stranded costs, or the

378 costs of providing, recovering, financing, or refinancing the stranded
379 costs, the amount of the economic recovery transfer or the amount of
380 disbursements to the General Fund from proceeds of rate reduction
381 bonds substituted for such disbursements from the Energy
382 Conservation and Load Management Fund established by section 16-
383 245m and from the Renewable Energy Investment Fund established by
384 section 16-245n, determine that the competitive transition assessment
385 is unjust or unreasonable, or in any way reduce or impair the value of
386 transition property either directly or indirectly by taking the
387 competitive transition assessment into account when setting other
388 rates for the electric company or electric distribution company; nor
389 shall the amount of revenues arising with respect thereto be subject to
390 reduction, impairment, postponement, or termination.

391 (2) Notwithstanding any other provision of this section, the
392 department shall approve the adjustments to the competitive transition
393 assessment as may be necessary to ensure timely recovery of all
394 stranded costs that are the subject of the pertinent financing order, and
395 the costs of capital associated with the provision, recovery, financing,
396 or refinancing thereof, including the costs of issuing, servicing, and
397 retiring the rate reduction bonds issued to recover stranded costs
398 contemplated by the financing order and to ensure timely recovery of
399 the costs of issuing, servicing, and retiring the rate reduction bonds
400 issued to sustain funding of conservation and load management and
401 renewable energy investment programs contemplated by the financing
402 order.

403 (3) Notwithstanding any general or special law, rule, or regulation
404 to the contrary, any requirement under sections 16-245e to 16-245k,
405 inclusive, as amended by this act, or a financing order that the
406 department take action with respect to the subject matter of a financing
407 order shall be binding upon the department, as it may be constituted
408 from time to time, and any successor agency exercising functions
409 similar to the department and the department shall have no authority
410 to rescind, alter, or amend that requirement in a financing order.
411 Section 16-43 shall not apply to any sale, assignment, or other transfer

412 of or grant of a security interest in any transition property or the
413 issuance of rate reduction bonds under sections 16-245e to 16-245k,
414 inclusive, as amended by this act.

415 Sec. 6. Subsection (a) of section 16-245j of the general statutes is
416 repealed and the following is substituted in lieu thereof (*Effective from*
417 *passage*):

418 (a) A financing entity may issue rate reduction bonds upon
419 approval by the department in the pertinent financing order. Rate
420 reduction bonds shall be nonrecourse to the credit or any assets of the
421 electric company, [or] electric distribution company or the finance
422 authority, other than the transition property as specified in the
423 pertinent financing order.

424 Sec. 7. Subdivision (6) of subsection (c) of section 16-245j of the
425 general statutes is repealed and the following is substituted in lieu
426 thereof (*Effective from passage*):

427 (6) Rate reduction bonds, other than rate replacement bonds, shall
428 mature at such time or times approved by the department in the
429 financing order; provided that such maturity shall not be later than
430 December 31, 2011. Rate replacement bonds shall mature at such time
431 or times approved by the department in the financing order, provided
432 such maturity shall not be later than December 31, 2025.

433 Sec. 8. Subsection (e) of section 16-245j of the general statutes is
434 repealed and the following is substituted in lieu thereof (*Effective from*
435 *passage*):

436 (e) [When the state is the authorized financing entity] In conjunction
437 with the issuance of rate replacement bonds or state rate reduction
438 bonds: (1) The Treasurer may enter into a trust indenture for the
439 benefit of holders of the rate reduction bonds with a corporate trustee,
440 which may be any trust company or commercial bank qualified to do
441 business within or without the state; such trust indenture shall be
442 consistent with the financing order and may contain such other

443 provisions as may be appropriate including those regulating the
444 investment of funds and the remedies of bondholders; (2) the
445 Treasurer may make representations and agreements for the benefit of
446 the holders of rate reduction bonds to make secondary market
447 disclosures; (3) the Treasurer may enter into interest rate swap
448 agreements and other agreements for the purpose of moderating
449 interest rate risk on rate reduction bonds as permitted elsewhere
450 within sections 16-245e to 16-245k, inclusive, as amended by this act,
451 provided the obligations under such agreements are payable from the
452 transition property; (4) the Treasurer may enter into such other
453 agreements and instruments to secure the rate reduction bonds as
454 provided in sections 16-245f to 16-245k, inclusive, as amended by this
455 act; and (5) the Treasurer may take such other actions as necessary or
456 appropriate for the issuance and distribution of the rate reduction
457 bonds pursuant to the financing order and the Treasurer and the
458 Secretary of the Office of Policy and Management may make
459 representations and agreements for the benefit of the holders of the
460 rate reduction bonds which are necessary or appropriate to ensure
461 exclusion of the interest payable on the rate reduction bonds from
462 gross income under the Internal Revenue Code of 1986, or any
463 subsequent corresponding internal revenue code of the United States,
464 as from time to time amended.

465 Sec. 9. Subsection (l) of section 16-245k of the general statutes is
466 repealed and the following is substituted in lieu thereof (*Effective from*
467 *passage*):

468 (l) The authority of the department to issue financing orders
469 pursuant to sections 16-245e to 16-245k, inclusive, as amended by this
470 act, shall expire on December 31, 2008, with respect to bonds other
471 than rate replacement bonds. The authority of the department to issue
472 financing orders pursuant to sections 16-245e to 16-245k, inclusive, as
473 amended by this act, with respect to rate replacement bonds shall
474 expire on December 31, 2012. The expiration of the authority shall have
475 no effect upon financing orders adopted by the department pursuant
476 to sections 16-245e to 16-245k, inclusive, as amended by this act, or any

477 transition property arising therefrom, or upon the charges authorized
 478 to be levied thereunder, or the rights, interests, and obligations of the
 479 electric company or electric distribution company or a financing entity
 480 or holders of rate reduction bonds pursuant to the financing order, or
 481 the authority of the department to monitor, supervise, or take further
 482 action with respect to the financing order in accordance with the terms
 483 of sections 16-245e to 16-245k, inclusive, as amended by this act, and of
 484 the financing order.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16-245e(a)
Sec. 2	<i>from passage</i>	16-245f
Sec. 3	<i>from passage</i>	16-245g(c) and (d)
Sec. 4	<i>from passage</i>	16-245h(a) and (b)
Sec. 5	<i>from passage</i>	16-245i(a) and (b)
Sec. 6	<i>from passage</i>	16-245j(a)
Sec. 7	<i>from passage</i>	16-245j(c)(6)
Sec. 8	<i>from passage</i>	16-245j(e)
Sec. 9	<i>from passage</i>	16-245k(l)

FIN *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$	FY 13
Treasurer	GF - Revenue Gain	1.3 billion	None	None
Department of Revenue Services	GF - Revenue Gain	None	11.5 million	11.5 million
All agencies with care & control of their buildings	GF - Cost	None	See Below	See Below
All agencies with care & control of their buildings	TF - Cost	None	See Below	

Note: GF=General Fund; TF=Transportation Fund

Municipal Impact:

Municipalities	Effect	FY 11 \$	FY 12 \$	FY 13
All Municipalities	Cost	None	See Below	See Below

Explanation

Securitizing the revenue stream from two charges currently imposed on electric company bills will result in a \$1.3 billion revenue gain to the General Fund in FY 11.

Between FY 12 and FY 21, the bill will also result in: (1) a General Fund revenue gain to the Public Service Companies Gross Earnings Tax of between \$11.5 million and \$13.9 million per year beginning in FY 12 and (2) a cost to all rate payers, including the state and all municipalities.

Source of Funding

Table 1 shows the total annual revenue currently generated by two

charges currently imposed on electrical company bills. Assuming that \$1.443 billion¹ in 2010 Rate Reduction Bonds (2010 RRBs) are to be issued over a ten year term at a 4% interest rate, an average of about \$180 million would be needed for annual debt service payments, which represents about 56% of the total annual amount of revenue generated by the charges.

Source of Funding	Annual Revenue Currently Generated	Annual Debt Service	Remaining Revenue ²
CL&P RRB Charge ³	\$234,000,000	\$144,000,000	\$90,000,000
UI CTA Charge ⁴	\$85,000,000	\$36,000,000	\$49,000,000
Total	\$319,000,000	\$180,000,000	\$139,000,000

Annual Debt Service Payments

Table 2 shows the estimated amount of annual debt service (principal and interest) that would be due on the bonds assuming a 4% interest rate and a 10 year term of issuance. The figures are lower in FY 12 and 13 because the UI CTA Charge will not end until the end of FY 13.

The figures in Column F show the net amount of annual debt service due on the bonds after the annual release of interest on the 10% reserve account. The FY 21 figure reflects the release of the reserve account to pay debt service.

¹ The \$1.442 billion is composed of \$1.3 billion in principal, a 10% reserve account of \$144.2 million and issuance costs.

² This portion of the charge will end when the CL&P RRBs paid off and UI CTA expires.

³ Connecticut Light and Power (CL&P) issued Rate Reduction Bonds (RRBs) in 2001 to recover stranded costs associated with electric deregulation. The current charge on CL&P bills generates about \$234 million per year and is scheduled to sunset in December 2010.

⁴ United Illuminating (UI) used a Competitive Transaction Assessment (CTA), rather than issuing bonds as CP&L did, to amortize and recover its stranded costs. The current charge generates about \$85 million per year and is due to expire in 2013.

**Table 2: Debt Service Payments on 2010 Rate Replacement Bonds
(\$ millions)**

Col. A Fiscal Year	Col. B Principal	Col. C Interest	Col. D Gross Debt Service	Col. E Release of Reserve Account	Col. F Net Debt Service
FY 12	\$92.4	\$60.9	\$153.4	(\$1.6)	\$151.8
FY 13	\$100.7	\$52.7	\$153.4	(\$1.4)	\$151.9
FY 14	\$136.1	\$48.7	\$184.8	(\$1.4)	\$183.3
FY 15	\$141.4	\$43.4	\$184.8	(\$1.4)	\$183.3
FY 16	\$146.9	\$37.9	\$184.8	(\$1.4)	\$183.3
FY 17	\$152.6	\$32.2	\$184.8	(\$1.4)	\$183.4
FY 18	\$158.6	\$26.2	\$184.8	(\$1.4)	\$183.4
FY 19	\$164.8	\$20.0	\$184.8	(\$1.4)	\$183.3
FY 20	\$171.2	\$13.6	\$184.8	(\$1.4)	\$183.3
FY 21	<u>\$177.9</u>	<u>\$6.9</u>	<u>\$184.8</u>	<u>(\$145.7)</u>	<u>\$39.1</u>
Total	\$1,442.5	\$342.6	\$1,785.1	(\$158.8)	\$1,626.3

General Fund Revenue Gain

Table 3 shows the estimated revenue gain to the General Fund from the Public Service Companies Gross Earnings Tax, assuming an average tax rate of 7.6%⁵.

**Table 3: General Fund Revenue Gain from the Public Service
Companies Gross Earning Tax
(\$ millions)**

Fiscal Year	Net Debt Service	General Fund Revenue Gain
FY 12	\$151.8	\$11.5
FY 13	\$151.9	\$11.5
FY 14	\$183.3	\$13.9
FY 15	\$183.3	\$13.9
FY 16	\$183.3	\$13.9
FY 17	\$183.4	\$13.9
FY 18	\$183.4	\$13.9
FY 19	\$183.3	\$13.9
FY 20	\$183.3	\$13.9
FY 21	<u>\$39.1</u>	<u>\$3.0</u>
Total	\$1,626.3	\$123.6

⁵ The Public Service Companies Gross Earnings Tax is imposed at the rate of 6.8% on residential customers and 8.5% on non-residential customers. The figures presented in the table assume that an average tax rate of 7.6%.

State and Municipal Cost

All rate payers currently pay approximately \$0.010 per kilowatt hour through the CL&P or UI stranded cost charge on their electric bill. This legislation continues a portion of this charge between FY 12 and FY 21 so there will be a cost to all rate payers, including the state and municipalities.

The Out Years

The estimated General Fund revenue gain is presented in the table above. The cost to the state and municipalities will continue for the life of the bonds (FY 12 to FY 21).

Sources: Office of the State Treasurer

OLR Bill Analysis**sSB 484*****AN ACT CONCERNING SECURITIZATION.*****SUMMARY:**

This bill authorizes the state to issue bonds backed by a charge currently imposed on electric company bills (the competitive transition assessment) to provide a \$1.29 billion transfer to the General Fund. Under current law and at current rates of electricity consumption, customers of Connecticut Light and Power will stop paying this charge at the end of 2010 and customers of United Illuminating will stop paying it in 2013. The bill instead extends the charge through the term of the bonds. The bonds must mature at the time or times approved by the Department of Public Utility Control (DPUC) in a financing order it must issue under the bill. The maturity date can be no later than December 31, 2025.

The bill requires each electric company to submit an application for a financing order to DPUC, which must issue an order for each company by October 1, 2010.

Under the bill, the bond proceeds must be used to provide revenue for the General Fund as well as cover the costs of bond issuance, credit enhancements, and other costs as the treasurer considers necessary or advisable.

The law already authorized the issuance of securitization bonds in connection with the electric companies' stranded costs arising out of the legislation that partially deregulated the electric industry. Under current law, the existing securitization bonds are not backed by any electric company assets other than those specified in the financing order. The bill extends this provision to the assets of the financing authority (the treasurer), apparently with regard to both the existing

bonds and those issued under the bill.

The bill also makes conforming and technical changes.

EFFECTIVE DATE: Upon passage

CURRENT LAW ON ELECTRIC COMPANY SECURITIZATION

Under current law, electric company customers pay the competitive transition assessment (CTA) to cover “stranded” costs. These are costs the companies incurred, with DPUC approval, whose continued recovery was jeopardized by the law that allowed customers to choose their electric supplier. The CTA is charged to customers, whether they buy power from the company or a competitive supplier. Under current law, the CTA will end when the stranded costs are paid off, which is the end of 2010 for Connecticut Light and Power and in 2013 for United Illuminating.

The law allowed the use of securitization for certain stranded costs. Securitization is process under which the state sells bonds backed by a fixture revenue stream in exchange for an immediate lump sum cash payment. Under current law, the right to the CTA used to cover the costs eligible for securitization is called “transition property,” which belongs to the electric company. The company or its affiliate can sell this interest to a “financing entity” (the state acting through the treasurer’s office or any special purpose trust or other entity the treasurer authorizes), to be used to back the securitization bonds.

The law allowed DPUC to issue a financing order authorizing the issuance of securitization bonds to facilitate the recovery and financing of stranded costs. DPUC cannot (1) revise the order, (2) revalue the stranded costs for ratemaking purposes, (3) determine that the CTA is unjust or unreasonable, or (4) do anything to reduce the value of the transition property.

The state treasurer or an entity she designates was allowed to issue securitization bonds after DPUC approved the financing order. The bond proceeds must be used for DPUC-approved purposes as

specified in the financing order. The bonds and the financing order are not state debt, and the bonds must say this on their face. They do not count towards the state's debt limit. Neither the state nor its municipalities bear any contingent liability for them. The state pledges that it will not alter the CTA, transition property, and financing orders until the bonds are paid off. The parties involved in the securitization process are exempt from taxes on the relevant property or revenue. The bonds are treated for state income tax purposes as though a public body had issued them.

SECURITIZATION OF FUTURE CTA REVENUE

The bill largely extends the above provisions to the new bonds it authorizes to raise revenue for transfer to the General Fund. Specifically, it allows the CTA to be used both to repay the bonds and for related finance costs. It makes conforming changes to the definitions of transition property, bond documents, and indentures, among other things. It extends to the new bonds the treasurer's ability under current law to enter into trust indentures and interest rate swaps and take other steps regarding the bonds.

Electric Company Plans and Transition Property

Current law allows the electric companies to apply to DPUC for a financing order regarding their stranded costs. The bill requires each company, by September 1, 2010, to submit a plan to DPUC for a financing order for funding the transfer to the General Fund through the issuance of the new bonds.

DPUC must hold a hearing for each company to determine the amount needed to fund the transfer and pay for the new bonds, the costs of bond issuance, credit enhancements, and operating costs for the bonds. The latter includes (1) all expenses, costs, and liabilities of the state or the trustee incurred in connection with (a) administering or paying off the bonds, (b) discharging its obligations and duties under the bonds or bond documents, (c) financing order expenses and other costs for issuing the bonds including any arbitrage rebate and penalties payable in connection with them, and (2) all fees and expenses payable

or disburseable to the servicers or others under the bond documents. The total of all of these costs as determined by DPUC constitutes transition property.

Under current law, the transition property associated with the electric companies' stranded costs belongs to the companies until they sell or transfer it. The bill specifies that the electric companies have no right, title, or interest in the transition property associated with the transfer to the General Fund. Instead, they merely serve as a collection agent for the financing entity. It specifies that transition property with respect to the transfer vests solely in the financing entity immediately upon the creation of the property.

Under current law, the transition property associated with the existing bonds remains in existence until they are paid off. The bill instead provides that the transition property associated with the existing and new bonds remains in existence until the new bonds are paid off.

Allocation of Costs

Under the bill, DPUC must allocate the responsibility for funding the transfer and paying the expenses of the bonds equitably between the electric companies, after taking into account any remaining charges for stranded costs. The allocation may provide that each company's customers may start paying the charges on different dates and the charges may vary while the bonds and the related operating expenses are being paid. However, the charges must be equitably allocated to the customers of each company. DPUC must determine that, over the bond repayment period and taking into account the timing of charges, the charges on a kilowatt basis assessed to each company's customers has substantially the same present value. The CTA is currently charged on the basis of kilowatt-hours of consumption. It appears that the bill requires that the way the CTA is charged to customers be modified. Any hearing with respect to a financing order regarding the transfer and the issuance of the new bonds is not a contested case.

DPUC must issue a financing order for each company by October 1, 2010. The financing order becomes effective on issuance. The bill ends DPUC's authority to issue financing orders with respect to the new bonds as of December 31, 2012.

Assessment If Bonds Are Not Issued

Under the bill, if the new bonds are not issued before January 1, 2011, DPUC must assess an unspecified charge per kilowatt hour of electricity sold starting on that date to each end use customer of the electric companies, with the money going to the General Fund.

Setting and Adjusting the CTA

Under current law, DPUC must set the CTA at a level sufficient at all times to pay (1) the principal of and the interest on the existing bonds as they become due and payable, (2) all reasonable and necessary expenses relating to the financing, and (3) electric company stranded costs that are not funded with the bond proceeds and certain interim capital costs. The bill additionally requires DPUC to set the CTA at a level sufficient to cover the principal and interest on the new bonds and their financing expenses.

Under current law, DPUC must adjust the CTA as needed to ensure timely recovery of the stranded costs covered by the existing bonds and certain associated costs such as bond servicing. The bill does not have a parallel requirement with regard to the new bonds it authorizes.

Allocation of Excess CTA Revenue

Under current law, any CTA revenue beyond that needed to pay the principal, premium, interest, and issuance expenses of the existing bonds must be remitted to the financing entity. The financing entity may use these revenues to benefit electric company customers if it would not change the tax, accounting, and other intended characteristics of the financing order. The bill instead requires that any excess revenues associated with bonds issued before January 1, 2002 be remitted to the financing entity. It must apply these revenues to pay

for the new bonds and credit them against the customers' payment obligation for these bonds.

The bill requires that any CTA revenue beyond that needed to pay principal, premium, interest, and issuance expenses of bonds issued on or after January 1, 2002 be remitted to the financing entity which must use it in the same way as provided under current law. If no bonds are outstanding, the excess revenue must be transferred to the General Fund.

BACKGROUND

Related Law

The 2009 budget act (PA 09-3, June Special Session) required the state treasurer and the Office of Policy and Management secretary to jointly develop a financing plan to yield up to \$1.3 billion in net proceeds for the General Fund for FY 11 (reduced to \$1.2907 billion by PA 09-7, September Special Session). Under the budget act, the financing plan can include (1) securitizing revenue from the state lottery; (2) issuing bonds and other debt instruments or placing them privately; or (3) Connecticut's public pension and trust funds, such as the state, municipal employees', and teachers' retirement funds, purchasing state debt instruments. It required that the treasurer and secretary submit the plan to the chairpersons of the Appropriations and Finance, Revenue and Bonding committees by February 3, 2010. Securitizing the CTA revenue was an option included in the plan.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 37 Nay 19 (04/06/2010)