



## Written Testimony of Denise L. Nappier

### Treasurer of the State of Connecticut

SUBMITTED TO THE FINANCE, REVENUE AND BONDING COMMITTEE

MARCH 21, 2011

Senator Daily, Representative Widlitz, and members of the Finance, Revenue and Bonding Committee, thank you for the opportunity to offer written testimony in connection with two bills on today's agenda: (1) **Senate Bill 1156, *An Act Limiting the Term of Temporary Borrowing by the State Treasurer and Requiring Notice of Such Borrowing***, and (2) **Senate Bill 1157, *An Act Concerning the Restoration of the Energy Conservation and Load Management Fund***.

Senate Bill 1156 would, if enacted, impose three new requirements for any temporary borrowing going forward – all of which are appropriate: (1) specific reference in the Governor's authorization to the dollar amount of borrowing; (2) maturity of any borrowing within two years of issuance; and (3) notification of temporary borrowing to the committees on Finance and Appropriations. The Treasury is in support of this measure.

Senate Bill 1157 would impact a transaction that has yet to be executed, namely, the issuance of Economic Recovery Revenue Bonds ("ERRBs"). The policy decisions concerning the repayment of these bonds fall squarely with the Governor and the General Assembly. However, if it is this Committee's intention to favorably report a bill that would maintain the Conservation & Load Management Fund at current levels and reduce the size of the financing by using any available Fiscal Year 2011 surplus, then I respectfully submit substitute language that would more effectively accomplish that objective.

By way of background, the proceeds of the ERRBs are to fund the economic recovery transfer to the General Fund. Although the original legislation authorized an economic recovery transfer of \$956 million pursuant to Section 139 of Public Act No. 10-179, the amount of the economic recovery transfer was later reduced to \$646.6 million. While we don't know to what extent there may be FY11 surplus available to reduce the economic recovery transfer, we have calculated that if \$166.6 million were available, that amount would be sufficient to eliminate the need to use C&LM as a revenue source without increasing charges to customers.

Under the existing public act authorizing the Bonds, funding for the C&LM programs will be reduced by 35% until the ERRBs are repaid – even if the size of the transaction were to be scaled down.

Consistent with the intent of Senate Bill 1157, the substitute language we offer today would maintain the funding of the C&LM programs at current levels with no impact on customer bills, provided that the FY11 surplus is at least \$166.6 million. In order to accomplish that, this substitute language would repeal the provisions of the existing act that relate to the reduction of the C&LM Charge. To offset the associated impact, the substitute language would further provide that the amount of the economic recovery transfer funded by the ERRBs shall be reduced by the amount of the estimated general fund surplus as of June 30, 2011 -- which shall be reflected in the Comptroller's Monthly Letter to the Governor dated May 1, 2011 -- up to a maximum amount of \$166.6 million. If the economic recovery transfer is reduced by the full \$166.6 million, then the proposed legislation would allow for the funding for C&LM projects to be maintained without any increase in total charges for the repayment of the bonds over the life of the ERRBs. The size of the economic recovery transfer would be reduced to \$480 million.

**In order for the ERRB financing to proceed in late May, in a manner that accomplishes the objectives described above, this legislation must be enacted no later than May 1, 2011.**

Thank you for the opportunity to offer testimony. As always, my office stands ready to further assist with these proposals.

**Office of the Treasurer's Proposed Substitute Language for**  
**S.B. 1157: AAC the Restoration of the Energy Conservation and Load Management Fund**

(Legislation to modify the ERRB authorization to maintain Conservation & Load Management Funding and reduce the economic recovery transfer to the extent FY11 surplus funds are available)

Section 1. Subsections 16-245e(a)(19) and 16-245e(a)( 20) of the general statutes is hereby repealed and the following is substituted in lieu thereof ( *Effective from passage*):

(19) "Economic recovery transfer" means the disbursement to the General Fund of nine hundred fifty-six million dollars from the proceeds of the issuance of Economic Recovery Revenue Bonds which disbursement as reduced in accordance with Section 139 of Public Act No 10-179, shall be reduced by a further amount equal to the estimated general fund surplus as of June 30, 2011 reflected in the financial statements accompanying the Comptroller's Monthly Letter to the Governor dated May 1, 2011, but such reduction shall not be in excess of \$166,600,000. Such surplus shall be determined without taking into account the reduction to the economic recovery transfer contemplated by this Act. The Comptroller's Monthly Letter to the Governor dated May 1, 2011 will specifically note that the determination of the surplus had been determined without taking into account the reduction to the economic recovery transfer contemplated by this Act and that any projected current year estimated surplus of up to the \$166,600,000 million shall be used to reduce the economic recovery transfer to be paid from the expected proceeds of the Economic Recovery Revenue Bonds and such letter shall report the revised amount of the economic recovery transfer to be paid from the proceeds of the Economic Recovery Revenue Bonds.

(20) "Economic recovery revenue bonds" means rate reduction bonds issued to fund the economic recovery transfer, the costs of issuance, credit enhancements, operating expenses and such other costs as the finance authority deems necessary or advisable, and which shall be payable from competitive transition assessment charges that replace the competitive transition assessment charges funding stranded costs. ~~and that are offset in part by decreases to the charges funding the Energy Conservation and Load Management Fund, as provided in subdivision (3) of subsection (a) of section 16-245m, as amended by this act.~~

2. Subsection 16-245f(b) of the general statutes is hereby repealed and repealed following is substituted in lieu thereof (*effective from passage*):

(b) Prior to September 1, 2010, each electric distribution company shall submit to the department an application for a financing order with respect to funding the economic recovery transfer through the issuance of economic recovery revenue bonds. The department shall hold a hearing for each such electric distribution company to determine the amount necessary to fund the economic recovery transfer, the payment of economic recovery revenue bonds, costs of issuance, credit enhancements and operating expenses for the economic recovery revenue bonds. Such amount as determined by the department shall constitute transition property. The department shall allocate the responsibility for the funding of the economic recovery transfer and the expenses of the economic recovery revenue bonds equitably between the electric

distribution companies. Such allocation may provide that the respective charges payable by the customers of each electric distribution company may commence on different dates and that such rates may vary over the period the economic recovery revenue bonds and the related operating expenses are being paid, provided (1) such charges are equitably allocated to the customers of each electric distribution company, and (2) the department determines that, over such period, and taking into account the timing of charges, the charges on a kilowatt hour basis assessed to the customers of the respective electric distribution companies have substantially the same present value after consultation with the finance authority as to the discount rate to be used in determining such present value. Any hearing with respect to a financing order in respect to the economic recovery transfer and the issuance of economic recovery revenue bonds shall not be a contested case, as defined in section 4-166. The department shall issue a financing order in respect to the economic recovery revenue bonds for each electric distribution company on or before October 1, 2010. In such financing order, the department shall determine the competitive transition assessment in respect of the economic recovery revenue bonds, which shall not be assessed prior to June 30, 2011, unless the department sets an earlier date in the financing order. ~~A component of the competitive transition assessment in respect of the economic recovery revenue bonds shall be equal to the decreases to the charges provided in subdivision (3) of subsection (a) of section 16-245m funding the Energy Conservation and Load Management Fund. The portion of the competitive transition assessment in respect to the economic recovery revenue bonds equal to such decreases shall be assessed and collected from the date such charges are reduced pursuant to the financing order.~~ The department may provide in such financing order that money from other sources, including proceeds of charges assessed customers of municipal electric companies, transferred to the trustee under the indenture and intended to be used to pay debt service on the bonds shall be taken into account in making adjustments to the competitive transition assessment pursuant to subdivision (2) of subsection (b) of section 16-245i if such payment is not made from General Fund revenues and would not adversely affect the tax status or credit rating of economic recovery revenue bonds.

3. Subsection 16-245m(a) of the general statutes is hereby repealed and repealed following is substituted in lieu thereof (*effective from passage*)

Sec. 16-245m. Assessment for conservation and load management programs. Disbursement of funds raised pursuant to financing orders. Establishment of Energy Conservation and Load Management Fund. Energy Conservation Management Board. (a)(1) On and after January 1, 2000, the Department of Public Utility Control shall assess or cause to be assessed a charge of three mills per kilowatt hour of electricity sold to each end use customer of an electric distribution company to be used to implement the program as provided in this section for conservation and load management programs but not for the amortization of costs incurred prior to July 1, 1997, for such conservation and load management programs.

(2) Notwithstanding the provisions of this section, receipts from such charge shall be disbursed to the resources of the General Fund during the period from July 1, 2003, to June 30, 2005, unless the department shall, on or before October 30, 2003, issue a financing order for each affected electric distribution company in accordance with sections 16-245e to 16-245k, inclusive, to sustain funding of conservation and load management programs by substituting an equivalent amount, as determined by the department in such financing order, of proceeds

of rate reduction bonds for disbursement to the resources of the General Fund during the period from July 1, 2003, to June 30, 2005. The department may authorize in such financing order the issuance of rate reduction bonds that substitute for disbursement to the General Fund for receipts of both the charge under this subsection and under subsection (b) of section 16-245n and also may, in its discretion, authorize the issuance of rate reduction bonds under this subsection and subsection (b) of section 16-245n that relate to more than one electric distribution company. The department shall, in such financing order or other appropriate order, offset any increase in the competitive transition assessment necessary to pay principal, premium, if any, interest and expenses of the issuance of such rate reduction bonds by making an equivalent reduction to the charge imposed under this subsection, provided any failure to offset all or any portion of such increase in the competitive transition assessment shall not affect the need to implement the full amount of such increase as required by this subsection and by sections 16-245e to 16-245k, inclusive. Such financing order shall also provide if the rate reduction bonds are not issued, any unrecovered funds expended and committed by the electric distribution companies for conservation and load management programs, provided such expenditures were approved by the department after August 20, 2003, and prior to the date of determination that the rate reduction bonds cannot be issued, shall be recovered by the companies from their respective competitive transition assessment or systems benefits charge but such expenditures shall not exceed four million dollars per month. All receipts from the remaining charge imposed under this subsection, after reduction of such charge to offset the increase in the competitive transition assessment as provided in this subsection, shall be disbursed to the Energy Conservation and Load Management Fund commencing as of July 1, 2003. Any increase in the competitive transition assessment or decrease in the conservation and load management component of an electric distribution company's rates resulting from the issuance of or obligations under rate reduction bonds shall be included as rate adjustments on customer bills.

~~(3) In the financing order authorizing the economic recovery revenue bonds, or other appropriate order, the department shall reduce the charge assessed by subdivision (1) of this subsection by thirty-five per cent. Such reduction shall become effective on April 4, 2012, or such earlier date set by the department in the financing order. An amount equivalent to such reduction shall constitute a portion of the competitive transition assessment in respect of the economic recovery revenue bonds, provided any failure to offset all or any portion of such competitive transition assessment shall not affect the requirement to implement the full amount of such competitive transition assessment, as required by sections 16-245e to 16-245k, inclusive. All receipts from the remaining charge, after reduction of such charge as provided in this subsection, shall be disbursed to the Energy Conservation and Load Management Fund. The competitive transition assessment in respect to the economic recovery revenue bonds or the decrease in the conservation and load management component of an electric distribution company's rates resulting from the issuance of or obligations under the economic recovery revenue bonds shall be included as rate adjustments on customer bills.~~

4. Subsection 16-245j of the general statutes is hereby amended by adding a new subsection 16-245j(f) set forth below (*effective from passage*)

(f) The financing authority is authorized without any further proceeding before the department to structure the terms of the economic recovery revenue bonds by applying the principals incorporated in the financing order for the economic recovery revenue bonds and the provisions of this Act, as may be amended. Upon such structuring and issuance, the economic recovery revenue bonds shall be deemed to be validly issued pursuant to such financing order and this Act. Any economic recovery revenue bonds issued or sold pursuant to or in reliance on and in accordance with such financing order and this Act, shall be valid and binding in accordance with their terms and the transition property securing such bonds shall be legally enforceable in accordance with its terms for the benefit of the bondholders as provided for in sections 16-245e through 16-245k of the general statutes and not subject to challenge notwithstanding that such financing order, the use of the transition property or the issuance of the economic recovery revenue bonds is later vacated, modified, or otherwise held to be wholly or partly invalid or unenforceable, unless operation of such financing order, the issuance of the bonds or the use of the transition property has been enjoined, stayed, or suspended by the department or a court of competent jurisdiction prior to such issuance.