



General Assembly

January Session, 2011

**Raised Bill No. 1157**

LCO No. 4366

\*04366\_\_\_\_\_FIN\*

Referred to Committee on Finance, Revenue and Bonding

Introduced by:  
(FIN)

**AN ACT CONCERNING THE RESTORATION OF THE ENERGY  
CONSERVATION AND LOAD MANAGEMENT FUND.**

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

1 Section 1. Subdivision (19) of subsection (a) of section 16-245e of the  
2 general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective from passage*):

4 (19) "Economic recovery transfer" means the disbursement to the  
5 General Fund of up to nine hundred fifty-six million dollars from  
6 proceeds of the issuance of the economic recovery revenue bonds; and

7 Sec. 2. Subsection (b) of section 16-245f of the general statutes is  
8 repealed and the following is substituted in lieu thereof (*Effective from*  
9 *passage*):

10 (b) Prior to September 1, 2010, each electric distribution company  
11 shall submit to the department an application for a financing order  
12 with respect to funding the economic recovery transfer through the  
13 issuance of economic recovery revenue bonds. The department shall  
14 hold a hearing for each such electric distribution company to

15 determine the amount necessary to fund the economic recovery  
16 transfer, the payment of economic recovery revenue bonds, costs of  
17 issuance, credit enhancements and operating expenses for the  
18 economic recovery revenue bonds. Such amount as determined by the  
19 department shall constitute transition property. The department shall  
20 allocate the responsibility for the funding of the economic recovery  
21 transfer and the expenses of the economic recovery revenue bonds  
22 equitably between the electric distribution companies. Such allocation  
23 may provide that the respective charges payable by the customers of  
24 each electric distribution company may commence on different dates  
25 and that such rates may vary over the period the economic recovery  
26 revenue bonds and the related operating expenses are being paid,  
27 provided (1) such charges are equitably allocated to the customers of  
28 each electric distribution company, and (2) the department determines  
29 that, over such period, and taking into account the timing of charges,  
30 the charges on a kilowatt hour basis assessed to the customers of the  
31 respective electric distribution companies have substantially the same  
32 present value after consultation with the finance authority as to the  
33 discount rate to be used in determining such present value. Any  
34 hearing with respect to a financing order in respect to the economic  
35 recovery transfer and the issuance of economic recovery revenue  
36 bonds shall not be a contested case, as defined in section 4-166. The  
37 department shall issue a financing order in respect to the economic  
38 recovery revenue bonds for each electric distribution company on or  
39 before October 1, 2010. In such financing order, the department shall  
40 determine the competitive transition assessment in respect of the  
41 economic recovery revenue bonds, which shall not be assessed prior to  
42 June 30, 2011, unless the department sets an earlier date in the  
43 financing order. A component of the competitive transition assessment  
44 in respect of the economic recovery revenue bonds shall [be equal to  
45 the] represent any decreases to the charges provided in subdivision (3)  
46 of subsection (a) of section 16-245m, as amended by this act, funding  
47 the Energy Conservation and Load Management Fund. The portion of  
48 the competitive transition assessment in respect to the economic

49 recovery revenue bonds [equal to] representing such decreases shall be  
50 assessed and collected from the date such charges are reduced  
51 pursuant to the financing order. The department may provide in such  
52 financing order that money from other sources, including proceeds of  
53 charges assessed customers of municipal electric companies,  
54 transferred to the trustee under the indenture and intended to be used  
55 to pay debt service on the bonds shall be taken into account in making  
56 adjustments to the competitive transition assessment pursuant to  
57 subdivision (2) of subsection (b) of section 16-245i if such payment is  
58 not made from General Fund revenues and would not adversely affect  
59 the tax status or credit rating of economic recovery revenue bonds.

60 Sec. 3. Subsection (b) of section 16-245h of the general statutes is  
61 repealed and the following is substituted in lieu thereof (*Effective from*  
62 *passage*):

63 (b) Any surplus competitive transition assessment described in  
64 subparagraph (A) of subdivision (2) of subsection (a) of section 16-245e  
65 in excess of the amounts necessary to pay principal, premium, if any,  
66 interest and expenses of the issuance of the rate reduction bonds  
67 issued prior to January 1, 2002, after such bonds have been defeased or  
68 paid in full, shall be remitted to the finance authority who shall apply  
69 such charges to the payment of economic recovery revenue bonds and  
70 cause such charges to be credited against the payment obligation in  
71 respect to the economic recovery revenue bonds of the customers  
72 making such excess payments. If the economic recovery revenue bonds  
73 are not issued, the finance authority shall transfer such excess charges  
74 to the General Fund. Any surplus competitive transition assessment  
75 described in subparagraph (A) of subdivision (2) of subsection (a) of  
76 section 16-245e in excess of the amounts necessary to pay principal,  
77 premium, if any, interest and expenses of the issuance of the rate  
78 reduction bonds issued on or after May 1, 2010, shall be remitted to the  
79 financing entity and [may be used to benefit customers] shall be  
80 transferred to the Energy Conservation and Load Management Fund  
81 as compensation for disbursements from such fund, and any further

82 excess amounts may be used to benefit customers. No funds shall be  
83 remitted, applied or used in accordance with the terms of this  
84 subsection if such remittance, application or use would result in a  
85 recharacterization of the tax, accounting, and other intended  
86 characteristics of the financing, including, but not limited to, the  
87 following:

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

91 (2) Treating the rate reduction bonds as debt of the electric company  
92 or electric distribution company or its affiliates for federal income tax  
93 purposes;

94 (3) Treating the transfer of the transition property by the electric  
95 company or electric distribution company as a true sale for bankruptcy  
96 purposes; or

97 (4) Avoiding any adverse impact of the financing on the credit  
98 rating of the rate reduction bonds or the electric company or electric  
99 distribution company.

100 Sec. 4. Subsection (a) of section 16-245i of the general statutes is  
101 repealed and the following is substituted in lieu thereof (*Effective from*  
102 *passage*):

103 (a) The department may issue financing orders in accordance with  
104 sections 16-245e to 16-245k, inclusive, to fund the economic recovery  
105 transfer, to sustain funding of conservation and load management and  
106 renewable energy investment programs by substituting disbursements  
107 to the General Fund from proceeds of rate reduction bonds for such  
108 disbursements from the Energy Conservation and Load Management  
109 Fund established by section 16-245m, as amended by this act, and from  
110 the Renewable Energy Investment Fund established by section 16-  
111 245n, and to facilitate the provision, recovery, financing, or refinancing

112 of stranded costs. Except for a financing order in respect to the  
113 economic recovery revenue bonds, a financing order may be adopted  
114 only upon the application of an electric company or electric  
115 distribution company, pursuant to section 16-245f, as amended by this  
116 act, and shall become effective in accordance with its terms only after  
117 the electric company or electric distribution company files with the  
118 department the electric company's or the electric distribution  
119 company's written consent to all terms and conditions of the financing  
120 order. Any financing order in respect to the economic recovery  
121 revenue bonds [shall be effective on issuance] may be amended prior  
122 to issuance of the economic recovery revenue bonds to reduce the  
123 amount of the economic recovery transfer, provided no such  
124 amendment may be made after said bonds are issued.

125 Sec. 5. Subdivision (3) of subsection (a) of section 16-245m of the  
126 general statutes is repealed and the following is substituted in lieu  
127 thereof (*Effective from passage*):

128 (3) In the financing order authorizing the economic recovery  
129 revenue bonds, or other appropriate order, the department shall  
130 reduce the charge assessed by subdivision (1) of this subsection by  
131 [thirty-five per cent] the minimum amount needed to fund the  
132 economic recovery transfer not provided by the charges payable by  
133 customers of electric utility companies in the financing order as set by  
134 the department pursuant to docket number 10-06-20, dated September  
135 29, 2010. Such reduction shall become effective on April 4, 2012, or  
136 such earlier date set by the department in the financing order. An  
137 amount equivalent to such reduction shall constitute a portion of the  
138 competitive transition assessment in respect of the economic recovery  
139 revenue bonds, provided any failure to offset all or any portion of such  
140 competitive transition assessment shall not affect the requirement to  
141 implement the full amount of such competitive transition assessment,  
142 as required by sections 16-245e to 16-245k, inclusive, as amended by  
143 this act. All receipts from the remaining charge, after reduction of such  
144 charge as provided in this subsection, shall be disbursed to the Energy

145 Conservation and Load Management Fund. The competitive transition  
146 assessment in respect to the economic recovery revenue bonds or the  
147 decrease in the conservation and load management component of an  
148 electric distribution company's rates resulting from the issuance of or  
149 obligations under the economic recovery revenue bonds shall be  
150 included as rate adjustments on customer bills.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16-245e(a)(19)
Sec. 2	<i>from passage</i>	16-245f(b)
Sec. 3	<i>from passage</i>	16-245h(b)
Sec. 4	<i>from passage</i>	16-245i(a)
Sec. 5	<i>from passage</i>	16-245m(a)(3)

**Statement of Purpose:**

To direct that repayment of economic recovery revenue bonds be structured to minimize the reduction of funding for the Energy Conservation and Load Management Fund.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*