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By: **Delegate Hixson**

Introduced and read first time: February 19, 1998

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Electric Utility Tax Reform**

3 FOR the purpose of altering the public service company franchise tax for a public  
4 service company engaged in an electric business in the State so as to impose the  
5 tax based on kilowatt hours of certain electricity delivered by a public service  
6 company; setting the rate of the tax imposed on a public service company  
7 engaged in an electric business in the State; excluding gross charges from the  
8 sale or delivery of electricity by a public service company from the definition of  
9 gross receipts subject to the public service company franchise tax; altering the  
10 definition of a public service company for purposes of the public service company  
11 franchise tax; providing a credit against the public service company franchise  
12 tax or corporate income tax for certain property taxes paid on machinery and  
13 equipment used to generate electricity in the State; providing that the public  
14 service company franchise tax with respect to electricity delivered for final  
15 consumption shall be surcharged to customers; repealing a certain subtraction  
16 modification under the income tax for gross receipts derived by a public service  
17 company engaged in an electric business in the State; providing certain  
18 modifications under the income tax for the purposes of determining Maryland  
19 modified income of a public service company engaged in an electric business in  
20 the State; clarifying a certain exemption under the sales and use tax for sales of  
21 certain energy for use in residential property; repealing the environmental  
22 surcharge on generation of electricity in the State and the Environmental Trust  
23 Fund; repealing certain provisions relating to the environmental surcharge on  
24 the generation of electricity in the State and the Environmental Trust Fund;  
25 defining certain terms; requiring the Public Service Commission to determine  
26 and require a certain reduction in electric utility rates; prohibiting an electric  
27 utility from surcharging a certain tax to its customers until a certain reduction  
28 in rates is effective; requiring an electric utility to provide certain information to  
29 certain customers; requiring a certain report; providing for the effective dates  
30 and application of this Act; and generally relating to the taxation of public  
31 service companies engaged in electric business in the State.

32 BY adding to

33 Article - Tax - General

34 Section 8-401(a-1) and (a-2), 8-406(d), 10-309, and 10-709

1 Annotated Code of Maryland  
2 (1997 Replacement Volume)

3 BY repealing and reenacting, with amendments,  
4 Article - Tax - General  
5 Section 8-401(b)(3) and (c), 8-402 through 8-404, 8-409, 10-307(e), and  
6 11-207(a)(2)  
7 Annotated Code of Maryland  
8 (1997 Replacement Volume)

9 BY repealing  
10 Article - Natural Resources  
11 Section 3-302  
12 Annotated Code of Maryland  
13 (1997 Replacement Volume and 1997 Supplement)

14 BY repealing  
15 Article - Public Utility Companies  
16 Section 7-203  
17 Annotated Code of Maryland  
18 (As enacted by Chapter \_\_\_\_\_ (S.B. 1) of the Acts of the General Assembly of  
19 1998)

20 Preamble

21 WHEREAS, The General Assembly believes that competition is good for the  
22 State and that it will lead to more diverse, more efficient, and lower priced electricity  
23 for consumers; and

24 WHEREAS, The electric utility industry in Maryland and around the country is  
25 undergoing rapid change as companies attempt to position themselves for increasing  
26 competition; and

27 WHEREAS, It is recognized that Maryland's public service company franchise  
28 tax and public utility property tax law may restrict competition and that  
29 comprehensive tax reform is needed to enable local electric utilities to compete more  
30 effectively; and

31 WHEREAS, It is also recognized that the State of Maryland may suffer a  
32 significant loss of tax revenue unless the 2% public service company franchise tax is  
33 modified to apply to all deliveries of electricity for final consumption within  
34 Maryland; and

35 WHEREAS, The General Assembly wishes to clarify that the sales tax  
36 exemption for certain energy sold for use in residential properties and apartment  
37 dwellings applies regardless of whether the sale is made by a public service company  
38 or an other energy supplier; and

1 WHEREAS, It is the intent of the General Assembly that the reforms embodied  
2 in this Act not result in increases in customer electric bills, and consistent with that  
3 position, the Public Service Commission is required to reduce the rates electric  
4 utilities charge to reflect the public service company franchise tax included in those  
5 rates that will be disclosed as a separate line item on a customer's bill; now, therefore,

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article - Tax - General**

9 8-401.

10 (A-1) "DESIGNATED SERVICE AREA" MEANS THE SERVICE AREA FOR EACH  
11 ELECTRIC UTILITY AS DELINEATED BY THE PUBLIC SERVICE COMMISSION IN ITS  
12 ORDER NO. 56203 EFFECTIVE JUNE 1, 1966, AS AMENDED BY ALL SUBSEQUENTLY  
13 ISSUED ORDERS.

14 (A-2) "ELECTRICITY DELIVERED FOR FINAL CONSUMPTION" INCLUDES ALL  
15 ELECTRICITY DELIVERED BY A PUBLIC SERVICE COMPANY WITHIN ITS DESIGNATED  
16 SERVICE AREA MEASURED AT THE POINT OF FINAL DELIVERY, GENERALLY  
17 REFERRED TO AS THE CUSTOMER METER.

18 (b) (3) "Gross receipts" does not include:

19 (i) any revenue that a public service company derives from an  
20 activity other than an electric, gas, oil pipeline, telegraph, or telephone business;

21 (ii) net uncollectible revenue;

22 (iii) gross charges from the sale by a public service company to  
23 another public service company subject to the tax imposed by this subtitle of:

24 1. a service or product for resale; or

25 2. natural gas or natural gas delivery service that is used by  
26 the other public service company in the generation of electricity; [or]

27 (iv) gross charges from the sale by a public service company of  
28 internet access service by which a connection is provided between a computer and the  
29 internet; OR

30 (V) GROSS CHARGES FROM THE SALE OR DELIVERY BY A PUBLIC  
31 SERVICE COMPANY OF ELECTRICITY.

32 (c) (1) "Public service company" means a person engaged in an electric, gas,  
33 oil pipeline, telegraph, or telephone business in the State.

34 (2) "PUBLIC SERVICE COMPANY" INCLUDES A PERSON ENGAGED IN  
35 SELF-GENERATION OF ELECTRICITY, OTHER THAN EMERGENCY BACKUP

1 GENERATION, UNLESS THE SELF-GENERATED ELECTRICITY IS DELIVERED FOR  
2 FINAL CONSUMPTION BY ANOTHER PUBLIC SERVICE COMPANY.

3 [(2)] (3) "Public service company" does not include [:

4 (i) a county;

5 (ii) a municipal corporation; or

6 (iii) a nonprofit electric cooperative] A HOLDING COMPANY THAT  
7 HOLDS STOCK OF A PUBLIC SERVICE COMPANY.

8 8-402.

9 (A) A franchise tax, measured by gross receipts, is imposed, for each calendar  
10 year, on each public service company [doing] ENGAGED IN A GAS, OIL PIPELINE,  
11 TELEGRAPH, OR TELEPHONE business in the State.

12 (B) A FRANCHISE TAX, MEASURED BY KILOWATT HOURS OF ELECTRICITY  
13 DELIVERED FOR FINAL CONSUMPTION WITHIN THE STATE, IS IMPOSED, FOR EACH  
14 CALENDAR YEAR, ON EACH PUBLIC SERVICE COMPANY ENGAGED IN AN ELECTRIC  
15 BUSINESS IN THE STATE.

16 8-403.

17 (A) The public service company franchise tax rate FOR THE TAX IMPOSED  
18 UNDER § 8-402(A) OF THIS SUBTITLE is 2% of gross receipts derived from business in  
19 the State.

20 (B) THE PUBLIC SERVICE COMPANY FRANCHISE TAX RATE FOR THE TAX  
21 IMPOSED UNDER § 8-402(B) OF THIS SUBTITLE IS:

22 (1) 0.145 CENTS PER KILOWATT HOUR OF ELECTRICITY DELIVERED FOR  
23 FINAL CONSUMPTION WITHIN THE DESIGNATED SERVICE AREA OF BALTIMORE GAS  
24 AND ELECTRIC COMPANY;

25 (2) 0.219 CENTS PER KILOWATT HOUR OF ELECTRICITY DELIVERED FOR  
26 FINAL CONSUMPTION WITHIN THE DESIGNATED SERVICE AREA OF POTOMAC  
27 ELECTRIC POWER COMPANY;

28 (3) 0.024 CENTS PER KILOWATT HOUR OF ELECTRICITY DELIVERED FOR  
29 FINAL CONSUMPTION WITHIN THE DESIGNATED SERVICE AREA OF POTOMAC  
30 EDISON COMPANY;

31 (4) 0.117 CENTS PER KILOWATT HOUR OF ELECTRICITY DELIVERED FOR  
32 FINAL CONSUMPTION WITHIN THE DESIGNATED SERVICE AREA OF DELMARVA  
33 POWER AND LIGHT COMPANY;

34 (5) 0.052 CENTS PER KILOWATT HOUR OF ELECTRICITY DELIVERED FOR  
35 FINAL CONSUMPTION WITHIN THE DESIGNATED SERVICE AREA OF CHOPTANK  
36 ELECTRIC COOPERATIVE;

1 (6) 0.100 CENTS PER KILOWATT HOUR OF ELECTRICITY DELIVERED FOR  
2 FINAL CONSUMPTION WITHIN THE DESIGNATED SERVICE AREA OF SOUTHERN  
3 MARYLAND ELECTRIC COOPERATIVE;

4 (7) 0.052 CENTS PER KILOWATT HOUR OF ELECTRICITY DELIVERED FOR  
5 FINAL CONSUMPTION WITHIN THE DESIGNATED SERVICE AREA OF A&N ELECTRIC  
6 COOPERATIVE;

7 (8) 0.052 CENTS PER KILOWATT HOUR OF ELECTRICITY DELIVERED FOR  
8 FINAL CONSUMPTION WITHIN THE DESIGNATED SERVICE AREA OF SOMERSET  
9 RURAL ELECTRIC COOPERATIVE;

10 (9) 0.052 CENTS PER KILOWATT HOUR OF ELECTRICITY DELIVERED FOR  
11 FINAL CONSUMPTION WITHIN THE DESIGNATED SERVICE AREA OF BERLIN  
12 MUNICIPAL ELECTRIC COMPANY;

13 (10) 0.052 CENTS PER KILOWATT HOUR OF ELECTRICITY DELIVERED FOR  
14 FINAL CONSUMPTION WITHIN THE DESIGNATED SERVICE AREA OF THE EASTON  
15 UTILITIES COMMISSION;

16 (11) 0.081 CENTS PER KILOWATT HOUR OF ELECTRICITY DELIVERED FOR  
17 FINAL CONSUMPTION WITHIN THE DESIGNATED SERVICE AREA OF THE  
18 HAGERSTOWN MUNICIPAL ELECTRIC LIGHT PLANT;

19 (12) 0.084 CENTS PER KILOWATT HOUR OF ELECTRICITY DELIVERED FOR  
20 FINAL CONSUMPTION WITHIN THE DESIGNATED SERVICE AREA OF THE THURMONT  
21 MUNICIPAL LIGHT COMPANY; AND

22 (13) 0.090 CENTS PER KILOWATT HOUR OF ELECTRICITY DELIVERED FOR  
23 FINAL CONSUMPTION WITHIN THE DESIGNATED SERVICE AREA OF THE  
24 WILLIAMSPORT MUNICIPAL ELECTRIC LIGHT SYSTEM.

25 8-404.

26 (a) Each public service company that, in a calendar year, has gross receipts  
27 derived from business in the State OR DELIVERS ELECTRICITY FOR FINAL  
28 CONSUMPTION IN THE STATE shall complete, under oath, and file with the  
29 Department a public service company franchise tax return, on or before March 15th of  
30 the next year.

31 (b) (1) Each public service company that reasonably expects its public  
32 service company franchise tax for a year to exceed \$1,000 shall complete, under oath,  
33 and file with the Department a declaration of estimated tax, on or before April 15 of  
34 that year.

35 (2) A public service company required under paragraph (1) of this  
36 subsection to file a declaration of estimated tax for a taxable year shall complete and  
37 file with the Department a quarterly estimated tax return on or before June 15,  
38 September 15, and December 15 of that year.

1 (c) A public service company shall file with the return an attachment that  
2 states any information that the Department requires to determine gross receipts  
3 derived from business in the State OR KILOWATT HOURS OF ELECTRICITY  
4 DELIVERED FOR FINAL CONSUMPTION IN THE STATE.

5 8-406.

6 (D) (1) IN THIS SUBSECTION, "AFFILIATED GROUP" HAS THE MEANING  
7 STATED IN § 1504 OF THE INTERNAL REVENUE CODE.

8 (2) A PUBLIC SERVICE COMPANY MAY CLAIM A CREDIT AGAINST THE  
9 PUBLIC SERVICE COMPANY FRANCHISE TAX IMPOSED UNDER § 8-402(B) OF THIS  
10 SUBTITLE IN AN AMOUNT EQUAL TO 60% OF THE TOTAL COUNTY AND MUNICIPAL  
11 CORPORATION PROPERTY TAXES ON MACHINERY AND EQUIPMENT USED TO  
12 GENERATE ELECTRICITY IN THE STATE IF:

13 (I) THE MACHINERY AND EQUIPMENT USED TO GENERATE THE  
14 ELECTRICITY IS OWNED BY THE PUBLIC SERVICE COMPANY OR BY A MEMBER OF AN  
15 AFFILIATED GROUP OF WHICH THE PUBLIC SERVICE COMPANY IS A MEMBER; AND

16 (II) THE PROPERTY TAXES ARE PAID DURING THE TAXABLE YEAR  
17 BY THE PUBLIC SERVICE COMPANY OR BY A MEMBER OF THE AFFILIATED GROUP.

18 (3) THE TOTAL CREDIT CLAIMED BY MEMBERS OF AN AFFILIATED  
19 GROUP MAY NOT EXCEED 60% OF THE TOTAL COUNTY AND MUNICIPAL  
20 CORPORATION PROPERTY TAXES ON MACHINERY AND EQUIPMENT USED TO  
21 GENERATE ELECTRICITY BY ALL THE MEMBERS OF THE AFFILIATED GROUP.

22 (4) (I) THE CREDIT ALLOWED UNDER THIS SUBSECTION MAY NOT  
23 EXCEED THE TAX IMPOSED UNDER § 8-402(B) OF THIS SUBTITLE DETERMINED AFTER  
24 THE APPLICATION OF ALL OTHER CREDITS ALLOWED UNDER THIS SUBTITLE.

25 (II) THE UNUSED AMOUNT OF THE CREDIT FOR ANY TAXABLE YEAR  
26 MAY NOT BE CARRIED OVER TO ANY OTHER TAXABLE YEAR.

27 8-409.

28 (A) The public service company franchise tax with respect to gross receipts  
29 from telecommunications service shall be added to and disclosed as an element of the  
30 public service company's charge to the customer for the service.

31 (B) A PUBLIC SERVICE COMPANY SHALL SURCHARGE ITS CUSTOMERS FOR  
32 THE PUBLIC SERVICE COMPANY FRANCHISE TAX IMPOSED UNDER § 8-402(B) OF THIS  
33 SUBTITLE.

34 10-307.

35 (e) The subtraction under subsection (a) of this section includes gross receipts,  
36 less related expenses, that:

1 (1) are subject to the public service company franchise tax UNDER §  
2 8-402(A) OF THIS ARTICLE; and

3 (2) are not derived from telephone business.

4 10-309.

5 (A) IN ADDITION TO THE MODIFICATIONS UNDER §§ 10-305 THROUGH 10-308  
6 OF THIS SUBTITLE, TO DETERMINE MARYLAND MODIFIED INCOME OF A PUBLIC  
7 SERVICE COMPANY SUBJECT TO TAX UNDER § 8-402(B) OF THIS ARTICLE:

8 (1) THE AMOUNT DETERMINED UNDER SUBSECTION (B) OF THIS  
9 SECTION IS SUBTRACTED FROM FEDERAL TAXABLE INCOME; AND

10 (2) THE AMOUNT DETERMINED UNDER SUBSECTION (C) OF THIS  
11 SECTION IS ADDED TO FEDERAL TAXABLE INCOME.

12 (B) THE ADDITION UNDER SUBSECTION (A)(1) OF THIS SECTION EQUALS THE  
13 AMOUNT OF ANY DEPRECIATION DEDUCTION FOR FEDERAL INCOME TAX PURPOSES  
14 FOR PROPERTY PLACED IN SERVICE BEFORE JANUARY 1, 2000.

15 (C) (1) THE SUBTRACTION SUBSECTION (A)(2) OF THIS SECTION EQUALS  
16 THE AMOUNT DETERMINED UNDER THIS SUBSECTION AS A DEPRECIATION  
17 DEDUCTION FOR PROPERTY PLACED IN SERVICE BEFORE JANUARY 1, 2000.

18 (2) TO DETERMINE THE AMOUNT OF THE SUBTRACTION ALLOWED  
19 UNDER THIS SUBSECTION, ALL DEPRECIABLE ASSETS PLACED IN SERVICE BEFORE  
20 JANUARY 1, 2000 SHALL BE CONSIDERED A SINGLE ASSET AND DEPRECIATED AS  
21 FOLLOWS:

22 (I) THE TAX BASIS OF THE SINGLE ASSET SHALL BE EQUAL TO THE  
23 DECEMBER 31, 1999 ADJUSTED TAX BASIS FOR FEDERAL INCOME TAX PURPOSES,  
24 INCREASED BY THE EXCESS OF THE PUBLIC SERVICE COMPANY'S DECEMBER 31, 1999  
25 ADJUSTED BOOK BASIS OF ALL ASSETS AND LIABILITIES, EXCLUDING DEFERRED  
26 INCOME TAXES, OVER THE DECEMBER 31, 1999 ADJUSTED TAX BASIS OF ALL OF THE  
27 PUBLIC SERVICE COMPANY'S ASSETS AND LIABILITIES;

28 (II) THE SINGLE ASSET SHALL BE DEPRECIATED UNDER A  
29 STRAIGHT LINE METHOD OVER 20 YEARS WITH A FULL YEAR'S DEPRECIATION TO BE  
30 ALLOWED IN THE FIRST TAX YEAR BEGINNING ON OR AFTER JANUARY 1, 2000; AND

31 (III) THE DEPRECIABLE BASIS OF THE SINGLE ASSET ACCOUNT  
32 SHALL BE REDUCED BY THE ADJUSTED FEDERAL TAX BASIS OF ASSETS SOLD,  
33 RETIRED, OR OTHERWISE DISPOSED OF DURING ANY YEAR ON WHICH GAIN OR LOSS  
34 IS RECOGNIZED FOR FEDERAL INCOME TAX PURPOSES.

35 (D) GAINS AND LOSSES ON SALES, RETIREMENTS, AND OTHER DISPOSITIONS  
36 OF ASSETS PLACED IN SERVICE BEFORE JANUARY 1, 2000 SHALL BE RECOGNIZED  
37 AND REPORTED ON THE SAME BASIS AS FOR FEDERAL INCOME TAX PURPOSES.

1 10-709.

2 (A) IN THIS SECTION, "AFFILIATED GROUP" HAS THE MEANING STATED IN §  
3 1504 OF THE INTERNAL REVENUE CODE.

4 (B) AN INDIVIDUAL OR CORPORATION MAY CLAIM A CREDIT AGAINST THE  
5 INCOME TAX IN AN AMOUNT EQUAL TO 60% OF THE TOTAL COUNTY AND MUNICIPAL  
6 CORPORATION PROPERTY TAXES ON MACHINERY AND EQUIPMENT USED TO  
7 GENERATE ELECTRICITY IN THE STATE IF:

8 (1) THE MACHINERY AND EQUIPMENT USED TO GENERATE THE  
9 ELECTRICITY IS OWNED BY THE INDIVIDUAL OR CORPORATION OR BY A MEMBER OF  
10 AN AFFILIATED GROUP OF WHICH THE CORPORATION IS A MEMBER; AND

11 (2) THE PROPERTY TAXES ARE PAID DURING THE TAXABLE YEAR BY THE  
12 INDIVIDUAL OR CORPORATION OR BY A MEMBER OF THE AFFILIATED GROUP.

13 (C) THE TOTAL CREDIT CLAIMED BY MEMBERS OF AN AFFILIATED GROUP  
14 MAY NOT EXCEED 60% OF THE TOTAL COUNTY AND MUNICIPAL CORPORATION  
15 PROPERTY TAXES ON MACHINERY AND EQUIPMENT USED TO GENERATE  
16 ELECTRICITY BY ALL THE MEMBERS OF THE AFFILIATED GROUP.

17 (D) (1) THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED THE  
18 STATE INCOME TAX BEFORE APPLICATION OF THE CREDITS ALLOWED UNDER THIS  
19 SECTION AND §§ 10-701 AND 10-701.1 OF THIS SUBTITLE BUT AFTER APPLICATION OF  
20 ALL OTHER CREDITS ALLOWED UNDER THIS SUBTITLE.

21 (2) THE UNUSED AMOUNT OF THE CREDIT FOR ANY TAXABLE YEAR MAY  
22 NOT BE CARRIED OVER TO ANY OTHER TAXABLE YEAR.

23 (E) THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT BE CLAIMED FOR  
24 ANY PROPERTY TAX AMOUNTS FOR WHICH A CREDIT IS CLAIMED AGAINST THE  
25 PUBLIC SERVICE COMPANY FRANCHISE TAX UNDER § 8-406(D) OF THIS ARTICLE.

26 11-207.

27 (a) The sales and use tax does not apply to:

28 (2) a sale of electricity, steam, or artificial or natural gas [made under a  
29 residential or domestic rate schedule on file with the Public Service Commission] FOR  
30 USE IN RESIDENTIAL PROPERTY IF THE SALE IS MADE DIRECTLY TO THE OCCUPANT  
31 OF THE PROPERTY OR DWELLING;

32 **Article - Natural Resources**

33 [3-302.

34 (a) There is an Environmental Trust Fund. For the purpose of this subtitle,  
35 there is established as an added cost of generation, an environmental surcharge per  
36 kilowatt hour of electric energy generated in the State to be paid by any electric

1 company as defined in the Public Service Commission Law. This surcharge initially  
2 shall be assessed at 0.1 mill per kilowatt hour as of January 1, 1972. The Public  
3 Service Commission shall impose the surcharge per kilowatt hour of electric energy  
4 generated within the State and shall authorize the electric companies to add the full  
5 amount of the surcharge to customers' bills. To the extent that the surcharge is not  
6 collected from customers, the surcharge shall be deemed a cost of generation and  
7 shall be allowed and computed as such, together with other allowable expenses, for  
8 rate-making purposes. Revenues from the surcharge shall be collected by the  
9 Comptroller and placed in the Fund.

10 (b) (1) The Secretary, in consultation with the Director of the Maryland  
11 Energy Administration, annually shall coordinate the preparation of a budget  
12 required to carry out the provisions of this subtitle. Upon approval of the budget by  
13 the General Assembly, the Public Service Commission shall establish the amount of  
14 the surcharge per kilowatt hour for the fiscal year beginning July 1, 1972, and for  
15 each subsequent fiscal year.

16 (2) Notwithstanding any other provisions of this subtitle, the amount of  
17 the surcharge for each account may not exceed the lesser of 0.15 mil per kilowatt hour  
18 or \$1,000 per month and the surcharge may not continue beyond Fiscal Year 2000.

19 (3) The Comptroller shall maintain the method of collection of the  
20 surcharge from the companies and the collections shall accrue to the Fund. The  
21 Department shall credit against the amount required to be paid into the  
22 Environmental Trust Fund by each electric company an amount equal to 1 1/2% of the  
23 total surcharge attributed to each company on the basis of the electricity generated  
24 within Maryland.

25 (c) The Secretary shall administer the Fund. The Fund is subject to the  
26 provisions for financial management and budgeting established by the Department of  
27 Budget and Management. The moneys in the Fund shall be used to carry out the  
28 provisions of this subtitle as provided for in the budget, except that 10 percent of all  
29 moneys accruing to the Fund from July 1, 1978 through June 30, 1983 shall be used  
30 to supplement funds necessary to carry out the duties of the People's Counsel of the  
31 Public Service Commission. The People's Counsel shall submit an annual budget of  
32 necessary supplemental funds to the Department to be incorporated in the  
33 Department's budget. For the purposes of this subtitle, the Secretary, in consultation  
34 with the Director of the Maryland Energy Administration, may execute appropriate  
35 contracts with any State or federal agency, research organization, industry, or  
36 academic institution to conduct the necessary research, construct or acquire, or both,  
37 real property including physical predictive models, laboratories, buildings, land, and  
38 appurtenances, or support the technological development of extraordinary systems  
39 related to power plants designed to minimize environmental impact. He may utilize  
40 available expertise in any other State unit in the development, execution, and  
41 management of contracts and agreements on projects relating to their areas of prime  
42 responsibility.

1 (d) (1) The Maryland Energy Administration shall receive administrative  
2 and fiscal support from the Fund for studies relating to the conservation or  
3 production of electric energy.

4 (2) Fiscal support to the Maryland Energy Administration from the  
5 Fund may not exceed \$250,000 in any fiscal year.

6 (e) The Legislative Auditor shall conduct post audits of a fiscal and  
7 compliance nature of the Fund and of the appropriations and expenditures made for  
8 the purposes of this subtitle. The cost of the fiscal portion of the post audit  
9 examinations shall be an operating cost of the Fund.]

#### 10 **Article - Public Utility Companies**

11 [7-203.

12 (a) (1) The Commission shall:

13 (i) impose an environmental surcharge per kilowatt hour of  
14 electricity generated within the State; and

15 (ii) authorize each electric company to add the full amount of the  
16 surcharge to its customers' bills.

17 (2) To the extent that an electric company fails to collect the surcharge  
18 from its customers, the amount uncollected shall be deemed a cost of power  
19 generation and allowed and computed as such together with other allowable expenses  
20 for purposes of rate-making.

21 (b) (1) The Comptroller shall collect the revenue from the surcharge  
22 imposed under subsection (a) of this section and place the revenue into a special fund,  
23 the Environmental Trust Fund.

24 (2) The Comptroller shall maintain the method of collection of the  
25 surcharge from each electric company, and the money collected shall accrue to the  
26 Fund.

27 (c) (1) Each fiscal year, the Secretary of Natural Resources shall coordinate  
28 the preparation of the annual budget required to carry out the provisions of the Power  
29 Plant Research Program under Title 3, Subtitle 3 of the Natural Resources Article.

30 (2) Each fiscal year, on approval of the annual budget by the General  
31 Assembly for the Power Plant Research Program, the Commission shall establish the  
32 amount of the environmental surcharge per kilowatt hour of electric energy generated  
33 in the State that is to be imposed on each electric company in accordance with  
34 subsection (a) of this section.

35 (d) (1) Notwithstanding any other provision of this subtitle, the amount of  
36 the surcharge for each account may not exceed the lesser of 0.15 mill per kilowatt  
37 hour or \$1,000 per month.

1           (2)       The Department of Natural Resources shall credit against the  
2 amount the Commission requires each electric company to pay into the  
3 Environmental Trust Fund 1.5% of the total surcharge amount attributed to the  
4 electric company on the basis of the amount of the electricity generated in the State.

5       (e)       The surcharge imposed under this subtitle shall terminate on June 30,  
6 2000.]

7       SECTION 2. AND BE IT FURTHER ENACTED, That:

8       (a)       The Public Service Commission shall determine and require a reduction in  
9 electric utility rates to be effective January 1, 2000, to reflect the changes to the  
10 public service company franchise tax pursuant to § 8-409(b) of the Tax - General  
11 Article and new tax credits provided under §§ 8-406(d) and 10-709 of the Tax -  
12 General Article, the costs of which were formerly included in the electric utility rates,  
13 less the corporate income tax imposed as a result of the change to the subtraction  
14 modification of § 10-307(e) of the Tax - General Article, as enacted under Section 1 of  
15 this Act;

16       (b)       Notwithstanding the provisions of § 8-409(b) of the Tax - General Article  
17 as enacted under Section 1 of this Act, an electric utility may not add the public  
18 service company franchise tax to its charge to the customer for electricity service until  
19 the reduction in electric utility rates required under subsection (a) of this section is  
20 effective; and

21       (c)       Beginning with the first monthly billing showing the public service  
22 company franchise tax as a line item on the customer bill and for the next three  
23 billings thereafter, the electric utility shall provide the customer with information in  
24 the utility's monthly billing that the public service company franchise tax line item is  
25 not a tax increase but merely a disclosure of taxes presently and previously paid by  
26 the customer.

27       SECTION 3. AND BE IT FURTHER ENACTED, That the General Assembly  
28 finds that the actual fiscal impact of this Act will depend on the attainment of the  
29 public service company franchise tax and corporate income tax from public service  
30 companies engaged in an electric business and the amount of the property tax credits  
31 against the public service company franchise tax and corporate income tax taken by  
32 these companies. In this regard, the Comptroller of the Treasury and the Department  
33 of Assessments and Taxation shall submit a report to the House Committee on Ways  
34 and Means and the Senate Budget and Taxation Committee disclosing for tax year  
35 2000, for public service companies engaged in an electric business, the public service  
36 company franchise tax and corporate income tax revenues collected and the amount  
37 of property tax credits taken, attributable to this Act. The report shall be submitted  
38 on or before December 15, 2001.

39       SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall  
40 take effect January 1, 2000. The changes to the public service company franchise tax  
41 and the income tax under Section 1 of this Act shall be applicable to all taxable years  
42 beginning after December 31, 1999; provided, however, that the public service

1 company franchise tax credit allowed under § 8-406(d) of the Tax - General Article  
2 and the income tax credit allowed under § 10-709 of the Tax - General Article, both  
3 as enacted under Section 1 of this Act, shall be allowed only for property tax paid for  
4 a property tax year beginning on or after July 1, 2000.

5 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in  
6 Section 4 of this Act, this Act shall take effect July 1, 1998.