

---

By: **Senators Hollinger, Forehand, Green, and Middleton**

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session

Introduced and read first time: March 22, 2006

Rules suspended

Assigned to: Budget and Taxation and Finance

---

A BILL ENTITLED

1 AN ACT concerning

2 **Electric Utilities - Windfall Profits Tax - Electric Universal Service Program**

3 FOR the purpose of imposing a certain tax on certain income of certain corporations  
4 that transmit or distribute electricity in the State and certain affiliated  
5 corporations; providing for the distribution of the revenues from the tax to the  
6 Electric Universal Service Program Fund; defining certain terms; providing for  
7 the application of this Act; and generally relating to the imposition of a windfall  
8 profits tax on certain income of certain corporations that transmit or distribute  
9 electricity in the State and certain affiliated corporations.

10 BY repealing and reenacting, with amendments,  
11 Article - Public Utility Companies  
12 Section 7-512.1(f)(3)  
13 Annotated Code of Maryland  
14 (1998 Volume and 2005 Supplement)

15 BY adding to  
16 Article - Tax - General  
17 Section 2-613.1 and 10-102.2  
18 Annotated Code of Maryland  
19 (2004 Replacement Volume and 2005 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article - Tax - General  
22 Section 2-614(a), 2-615, and 10-101(n)  
23 Annotated Code of Maryland  
24 (2004 Replacement Volume and 2005 Supplement)

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

1 **Article - Public Utility Companies**

2 7-512.1.

3 (f) (3) (i) 1. The Comptroller shall collect the revenue collected by electric  
4 companies under subsection (b) of this section and place the revenue into the Fund.

5 2. The General Assembly may appropriate funds  
6 supplemental to the funds collected under sub-subparagraph 1 of this subparagraph.

7 3. THE REVENUE FROM THE WINDFALL PROFITS TAX  
8 DISTRIBUTED TO THE FUND UNDER § 2-613.1 OF THE TAX - GENERAL ARTICLE SHALL  
9 BE USED TO SUPPLEMENT THE FUNDS AVAILABLE FOR THE PROGRAM UNDER  
10 SUB-SUBPARAGRAPH 1 OR 2 OF THIS SUBPARAGRAPH.

11 (ii) The Fund is a continuing, nonlapsing fund that is not subject to  
12 § 7-302 of the State Finance and Procurement Article.

13 (iii) The purpose of the Fund is to assist electric customers as  
14 provided in subsection (a)(1) of this section.

15 **Article - Tax - General**

16 2-613.1.

17 AFTER MAKING THE DISTRIBUTION REQUIRED UNDER § 2-613 OF THIS  
18 SUBTITLE, THE COMPTROLLER SHALL DISTRIBUTE THE REVENUE FROM THE  
19 WINDFALL PROFITS TAX IMPOSED UNDER § 10-102.2 OF THIS ARTICLE TO THE  
20 ELECTRIC UNIVERSAL SERVICE PROGRAM FUND ESTABLISHED UNDER § 7-512.1 OF  
21 THE PUBLIC UTILITY COMPANIES ARTICLE.

22 2-614.

23 (a) After making the [distribution] DISTRIBUTIONS required under [§ 2-613]  
24 §§ 2-613 AND 2-613.1 of this subtitle, the Comptroller shall distribute monthly 24% of  
25 the remaining income tax revenue from corporations to a special fund to be  
26 distributed as provided in subsection (b) of this section.

27 2-615.

28 After making the distributions required under [§§ 2-613 and 2-614] §§ 2-613,  
29 2-613.1, AND 2-614 of this subtitle, the Comptroller shall distribute the remaining  
30 income tax revenue from corporations to the General Fund of the State.

31 10-101.

32 (n) (1) "State income tax" means the State tax on income imposed under this  
33 title.

1 (2) "STATE INCOME TAX" INCLUDES THE WINDFALL PROFITS TAX  
2 IMPOSED UNDER § 10-102.2 OF THIS SUBTITLE.

3 10-102.2.

4 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
5 INDICATED.

6 (2) "ADJUSTED BASE YEAR INCOME" MEANS, FOR ANY TAXABLE YEAR,  
7 THE MARYLAND TAXABLE INCOME OF A CORPORATION FOR THE BASE YEAR  
8 INCREASED BY A PERCENTAGE EQUAL TO 110% OF THE PERCENTAGE INCREASE, IF  
9 ANY, IN THE TOTAL MARYLAND TAXABLE INCOME OF ALL CORPORATIONS FOR THE  
10 MOST RECENT TAXABLE YEAR FOR WHICH DATA IS AVAILABLE OVER THE TOTAL  
11 MARYLAND TAXABLE INCOME OF ALL CORPORATIONS FOR THE BASE YEAR, AS  
12 DETERMINED BY THE COMPTROLLER UNDER SUBSECTION (C) OF THIS SECTION.

13 (3) "BASE YEAR" MEANS THE TAXABLE YEAR BEGINNING IN 2004 OR  
14 ANOTHER TAXABLE YEAR AS THE COMPTROLLER ALLOWS UNDER SUBSECTION (D)  
15 OF THIS SECTION.

16 (4) "ELECTRIC COMPANY" HAS THE MEANING STATED IN § 1-101 OF THE  
17 PUBLIC UTILITY COMPANIES ARTICLE.

18 (5) "ELECTRIC COMPANY AFFILIATE" MEANS A CORPORATION THAT IS A  
19 MEMBER OF AN AFFILIATED GROUP OF CORPORATIONS:

20 (I) OF WHICH AN ELECTRIC COMPANY IS A MEMBER; AND

21 (II) MORE THAN 50% OF THE VOTING STOCK OF EACH MEMBER OF  
22 WHICH IS DIRECTLY OR INDIRECTLY OWNED BY:

23 1. A COMMON OWNER OR COMMON OWNERS, EITHER  
24 CORPORATE OR NONCORPORATE; OR

25 2. ONE OR MORE MEMBER CORPORATIONS OF THE GROUP.

26 (6) "WINDFALL PROFITS" MEANS, FOR ANY TAXABLE YEAR, THE EXCESS  
27 OF A CORPORATION'S MARYLAND TAXABLE INCOME FOR THE CURRENT TAXABLE  
28 YEAR OVER THE CORPORATION'S ADJUSTED BASE YEAR INCOME.

29 (B) (1) SUBJECT TO SUBSECTION (E) OF THIS SECTION, IN ADDITION TO THE  
30 TAX IMPOSED UNDER § 10-102 OF THIS SUBTITLE, FOR EACH TAXABLE YEAR, A TAX IS  
31 IMPOSED ON THE WINDFALL PROFITS OF EACH CORPORATION THAT IS AN ELECTRIC  
32 COMPANY OR AN ELECTRIC COMPANY AFFILIATE.

33 (2) THE RATE OF THE TAX IMPOSED UNDER THIS SECTION IS 50% OF A  
34 CORPORATION'S WINDFALL PROFITS.

35 (C) (1) FOR EACH TAXABLE YEAR, THE COMPTROLLER SHALL DETERMINE  
36 AND PUBLISH THE PERCENTAGE CHANGE IN THE TOTAL MARYLAND TAXABLE

1 INCOME OF ALL CORPORATIONS FOR THE MOST RECENT TAXABLE YEAR FOR WHICH  
2 DATA IS AVAILABLE OVER THE TOTAL MARYLAND TAXABLE INCOME OF ALL  
3 CORPORATIONS FOR 2004.

4           (2)       IF THE COMPTROLLER ALLOWS A CORPORATION TO USE A BASE  
5 YEAR OTHER THAN 2004 FOR PURPOSES OF THIS SECTION, FOR EACH TAXABLE YEAR  
6 THE COMPTROLLER SHALL DETERMINE AND NOTIFY THE CORPORATION OF THE  
7 PERCENTAGE CHANGE IN THE TOTAL MARYLAND TAXABLE INCOME OF ALL  
8 CORPORATIONS FOR THE MOST RECENT TAXABLE YEAR FOR WHICH DATA IS  
9 AVAILABLE OVER THE TOTAL MARYLAND TAXABLE INCOME OF ALL CORPORATIONS  
10 FOR THE BASE YEAR.

11       (D)       THE COMPTROLLER MAY ALLOW A CORPORATION TO USE A BASE YEAR  
12 OTHER THAN 2004 FOR PURPOSES OF THIS SECTION IF THE CORPORATION  
13 DEMONSTRATES TO THE SATISFACTION OF THE COMPTROLLER THAT THE  
14 CORPORATION'S MARYLAND TAXABLE INCOME FOR 2004 WAS SUBSTANTIALLY  
15 LOWER THAN IT OTHERWISE WOULD HAVE BEEN AS A RESULT OF NONRECURRING  
16 LOSSES OR OTHER DIMINUTIONS OF INCOME THAT WERE PROPERLY ALLOCABLE TO  
17 THE CORPORATION'S 2004 TAXABLE YEAR.

18       SECTION 2. AND BE IT FURTHER ENACTED, That § 10-102.2 of the Tax -  
19 General Article as enacted by Section 1 of this Act shall be applicable to all taxable  
20 years beginning after December 31, 2005.

21       SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 July 1, 2006.