

GENERAL ASSEMBLY OF NORTH CAROLINA  
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HOUSE BILL DRH50035-MHxf-59A (02/09)

Short Title: Efficient and Affordable Energy Rates. (Public)

Sponsors: Representatives Insko, Fisher, Harrison, and Autry (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO (1) REQUIRE THE NORTH CAROLINA UTILITIES COMMISSION TO ESTABLISH TIERED ELECTRICITY RATES FOR RESIDENTIAL, COMMERCIAL, PUBLIC, AND INDUSTRIAL CUSTOMERS TO ENCOURAGE ENERGY CONSERVATION AND ENERGY EFFICIENCY; (2) CREATE THE ENERGY EFFICIENCY BANK TO BE USED FOR LOANS TO CUSTOMERS FOR THE COSTS OF CERTAIN ENERGY EFFICIENCY OR RENEWABLE ENERGY PROJECTS; AND (3) CREATE AN INCENTIVE FOR CONSUMERS TO PURCHASE ENERGY STAR QUALIFIED HOUSEHOLD PRODUCTS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 7 of Chapter 62 of the General Statutes is amended by adding a new section to read:

**"§ 62-155.1. Electric power tiered rates established.**

The Commission shall develop, for the purpose of promoting energy conservation and energy efficiency, rate structures for residential, commercial, public, and industrial customers of electric power generated by electric public utilities as set forth in this section. The rate structure shall include all of the following elements:

(1) The rate structure for residential, commercial, and public customers shall have the following characteristics:

a. The rate structure shall be inverted. Under the inverted rate structure, the use of larger quantities of electricity shall result in a higher price per kilowatt hour for the customer; lower usage shall result in a lower price.

b. The rate structure shall be in the form of tiered blocks. The inverted tiered-block rate structure shall allow that, when energy usage within a month or other billing period exceeds one tiered block, the customer shall begin to pay a higher rate for energy use in the next higher tiered block. Electricity used during peak demand periods, as that term is defined by the Commission, shall be charged at a higher tiered rate for the purpose of leveling out peak demand and minimizing the need for excess polluting generating capacity.

c. The number of inverted tiered blocks and the cost thresholds the tiered blocks represent shall be developed for the purpose of achieving the goals of promoting energy conservation and energy efficiency as provided in this section.



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- 1           (2) In addition to the characteristics set forth in subdivision (1) of this section,  
2           the inverted tiered rate structure for residential customers shall have the  
3           following additional characteristics:
- 4           a. The rate structure shall be designed to avoid a negative economic  
5           impact on low-income families living in rental units. There will be a  
6           system of exemptions from higher tiered rates for families living in  
7           rental units who have an annual income of less than one hundred fifty  
8           percent (150%) of the federally defined poverty level. Previous year  
9           State or federal tax returns, Social Security statements,  
10           unemployment insurance statements, or other documents deemed as  
11           proof of income by the determining State agency shall be acceptable  
12           in granting exemptions from higher tiered rates for low-income  
13           families living in rental units.
- 14           b. The rate structure shall be scaled to achieve a forty percent (40%) to  
15           sixty percent (60%) statewide reduction in electricity consumption  
16           from 2017 levels within 10 years.
- 17           (3) The inverted tiered-block rate structure for industrial customers shall be  
18           tailored on a case-by-case basis to maximize the financial benefit of  
19           investing in energy efficiency and job creation. Energy use thresholds for  
20           each industry shall be determined through the use of a comprehensive,  
21           standardized energy-audit form developed by the Commission in order to  
22           determine the minimum energy use required to fulfill the industry's needs  
23           and the efficiency with which the industry is using energy. Each industrial  
24           customer shall be responsible for submitting a completed energy-audit form  
25           every three years to the Commission for rate determination. A determination  
26           that the industry is operating at ninety percent (90%) or greater of maximum  
27           efficiency potential as determined by the Commission will result in lower  
28           tier rates for that customer. A determination that the industry is operating at  
29           an efficiency lower than ninety percent (90%) will result in higher tier rates  
30           for the portion of energy use in excess of usage had the industry operated  
31           with energy efficiency greater than ninety percent (90%).
- 32           (4) All inverted tiered-block rate structures shall be designed to guarantee that  
33           electric public utilities regulated by the provisions of this Chapter will  
34           receive a reasonable rate of return on their capital expenditures as  
35           determined by the Commission through a rate case.
- 36           (5) The Commission shall require each electric public utility in the State to  
37           provide all ratepayers a summary of the changes in the rate structure  
38           imposed by this section on each monthly utility bill for one year prior to the  
39           implementation of the inverted, tiered-block rate structure. The information  
40           provided to customers under this subdivision shall include the following:
- 41           a. A comparison of rates that ratepayers will pay in the event they  
42           consume a similar, greater, or lesser amount of energy in the  
43           following year.
- 44           b. Information on the availability of low-interest loans from the Energy  
45           Efficiency Bank for energy efficiency projects, rooftop or  
46           stand-alone solar energy systems, residential wind energy systems,  
47           micro-hydro energy systems, or co-generation systems.
- 48           (6) The Commission shall adopt rules to implement this section. The rules shall  
49           include a fine of no less than fifty thousand dollars (\$50,000) for any  
50           industrial customer submitting a deliberately falsified energy-audit form  
51           under subdivision (3) of this section."

1 SECTION 2. Article 7 of Chapter 62 of the General Statutes is amended by adding  
2 a new section to read:

3 "**§ 62-155.2. Energy Efficiency Bank.**

4 (a) Loan Fund Created. – The Energy Efficiency Bank is created. The Commission  
5 shall contract with a third-party administrator or an independent government agency to  
6 administer this Bank. The Bank shall consist of funds from any of the following sources:

7 (1) The proceeds from the avoidable pollution tax levied on the sale of energy  
8 inefficient household products under Article 5H of Chapter 105 of the  
9 General Statutes.

10 (2) The difference in revenues collected from the highest tiered block of the  
11 tiered rate structure developed under G.S. 62-155.1 and the revenues that  
12 would have been due based upon the next lower tiered rate block of the  
13 tiered rate structure.

14 (3) The difference in the rate of return on capital expenditures for an electric  
15 public utility prior to the closure of a peak demand electric power facility or  
16 other peak demand electric power generating source for that utility and the  
17 rate of return on capital expenditures for the utility after the closure.

18 (4) Any interest paid on loans made from the Energy Efficiency Bank.

19 (b) Purpose of Bank. – The purpose of the Energy Efficiency Bank is to issue loans,  
20 subject to subsection (e) of this section, to customers to be used to invest in energy efficiency  
21 and renewable energy projects in order to promote energy efficiency, energy conservation, and  
22 a reduction in electric energy consumption.

23 (c) Loan Payments. – Loan payments due to be paid by the customer shall be integrated  
24 within each monthly, or other billing period, utility bill and shall reflect the savings that result  
25 from the energy efficiency and renewable energy made by the customer as previously  
26 determined at the time the customer entered into the loan agreement.

27 (d) Eligible Projects. – The only efficiency and renewable energy projects that are  
28 eligible for loans under this section are projects that can be shown to the satisfaction of the  
29 administrator of the Energy Efficiency Bank to result in a lower utility bill for that customer  
30 when the utility bill includes the loan payment amount due under subsection (c) of this section.

31 (e) Grants to Low-Income Households. – The Energy Efficiency Bank may be used to  
32 issue grants to low-income ratepayers to be used to invest in energy efficiency and renewable  
33 energy projects.

34 (f) Definitions. – As used in this section, "renewable energy resources" has the same  
35 meaning as in G.S. 62-133.8.

36 (g) Authority to Adopt Rules. – The Commission may adopt rules to implement this  
37 section."

38 SECTION 3. Chapter 105 of the General Statutes is amended by adding a new  
39 Article to read:

40 "Article 5J.

41 "Avoidable Pollution Tax for Certain Energy Inefficient Products.

42 "**§ 105-187.91. Definitions.**

43 The definitions in G.S. 105-164.3 apply to this Article, except that the term "sale" does not  
44 include lease or rental. The term "energy inefficient product" means a product that (i) is placed  
45 in service for residential purposes, (ii) belongs to a product category that is evaluated by the  
46 United States Environmental Protection Agency and the United States Department of Energy  
47 for purposes of setting energy efficiency guidelines and of qualifying products within the  
48 category for the Energy Star label, and (iii) does not qualify for the Energy Star label.

49 "**§ 105-187.92. Tax imposed.**

50 A privilege tax is imposed on an energy inefficient product retailer for each new energy  
51 inefficient product that is sold by the retailer. An excise tax is imposed on a new energy

1 inefficient product sold outside the State for storage or use in this State. The rate of the  
2 privilege tax and the excise tax is five percent (5%) of the sales price of the energy inefficient  
3 product. These taxes are in addition to all other taxes.

4 **"§ 105-187.93. Administration.**

5 The privilege tax this Article imposes on an energy inefficient product retailer is an  
6 additional State sales tax, and the excise tax this Article imposes on the storage or use of a new  
7 energy inefficient product in this State is an additional State use tax. Except as otherwise  
8 provided in this Article, these taxes shall be collected and administered in the same manner as  
9 the State sales and use taxes imposed by Article 5 of this Chapter. As under Article 5 of this  
10 Chapter, the additional State sales tax paid when an energy inefficient product is sold at retail is  
11 a credit against the additional State use tax imposed on the storage or use of the same energy  
12 inefficient product.

13 **"§ 105-187.94. Exemptions and refunds.**

14 Except for the exemption for sales a state cannot constitutionally tax, the exemptions and  
15 refunds allowed in Article 5 of this Chapter do not apply to the taxes imposed by this Article.

16 **"§ 105-187.95. Use of tax proceeds.**

17 The Secretary must credit the taxes collected under this Article, less the Department of  
18 Revenue's allowance for administrative expenses, to the Energy Efficiency Bank Fund created  
19 in G.S. 62-155.2. The Secretary may retain the Department's cost of collection, not to exceed  
20 four hundred twenty-five thousand dollars (\$425,000) a year, as reimbursement to the  
21 Department."

22 **SECTION 4.** Section 3 of this act becomes effective January 1, 2018, and applies  
23 to tax years beginning on or after that date. The remainder of this act becomes effective January  
24 1, 2018.