

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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SENATE BILL 338

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

Sponsors: Senators Van Duyn and Woodard (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 25, 2019

A BILL TO BE ENTITLED

AN ACT TO 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, TO CREATE AN ENERGY EFFICIENCY BANK TO BE USED FOR LOANS TO CUSTOMERS FOR THE COSTS OF CERTAIN ENERGY EFFICIENCY OR RENEWABLE ENERGY PROJECTS, AND TO 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 the following new sections 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.



- 1           (2)    In addition to the characteristics set forth in subdivision (1) of this section, the  
2           inverted tiered rate structure for residential customers shall have the following  
3           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, unemployment  
10          insurance statements, or other documents deemed as proof of income  
11          by the determining State agency shall be acceptable in granting  
12          exemptions from higher tiered rates for low-income families living in  
13          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 2019 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 investing  
19          in energy efficiency and job creation. Energy use thresholds for each industry  
20          shall be determined through the use of a comprehensive, standardized  
21          energy-audit form developed by the Commission in order to determine the  
22          minimum energy use required to fulfill the industry's needs and the efficiency  
23          with which the industry is using energy. Each industrial customer shall be  
24          responsible for submitting a completed energy-audit form every three years to  
25          the Commission for rate determination. A determination that the industry is  
26          operating at ninety percent (90%) or greater of maximum efficiency potential  
27          as determined by the Commission will result in lower tier rates for that  
28          customer. A determination that the industry is operating at an efficiency lower  
29          than ninety percent (90%) will result in higher tier rates for the portion of  
30          energy use in excess of usage had the industry operated with energy efficiency  
31          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 receive  
34          a reasonable rate of return on their capital expenditures as determined by the  
35          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 imposed  
38          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 following  
43          year.
- 44          b.     Information on the availability of low-interest loans from the Energy  
45          Efficiency Bank for energy efficiency projects, rooftop or stand-alone  
46          solar energy systems, residential wind energy systems, micro-hydro  
47          energy systems, or cogeneration 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 industrial  
50          customer submitting a deliberately falsified energy-audit form under  
51          subdivision (3) of this section.

1 **"§ 62-155.2. Energy Efficiency Bank.**

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

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

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

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

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

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

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

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

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

32 (f) Authority to Adopt Rules. – (f) The Commission may adopt rules to implement this  
33 section."

34 **SECTION 3.** Chapter 105 of the General Statutes is amended by adding a new  
35 Article to read:

36 "Article 5J.

37 "Avoidable Pollution Tax for Certain Energy Inefficient Products.

38 **"§ 105-187.91. Definitions.**

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

45 **"§ 105-187.92. Tax imposed.**

46 A privilege tax is imposed on an energy inefficient product retailer for each new energy  
47 inefficient product that is sold by the retailer. An excise tax is imposed on a new energy  
48 inefficient product sold outside the State for storage or use in this State. The rate of the privilege  
49 tax and the excise tax is five percent (5%) of the sales price of the energy inefficient product.  
50 These taxes are in addition to all other taxes.

51 **"§ 105-187.93. Administration.**

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

8 **"§ 105-187.94. Exemptions and refunds.**

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

11 **"§ 105-187.95. Use of tax proceeds.**

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

16        **SECTION 4.** Section 3 of this act becomes effective January 1, 2020, and applies to  
17 tax years beginning on or after that date. The remainder of this act becomes effective January 1,  
18 2020.