

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 367\*

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

Sponsors: Senators Kinnaird; and Atwater.

Referred to: Commerce.

March 21, 2011

A BILL TO BE ENTITLED

AN ACT (1) 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; (2) TO CREATE THE ENERGY EFFICIENCY PUBLIC BENEFIT LOAN FUND TO BE USED FOR LOANS TO CUSTOMERS FOR THE COSTS OF CERTAIN ENERGY EFFICIENCY OR RENEWABLE ENERGY PROJECTS; AND (3) 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 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, a rate structure for all residential, commercial, public, and industrial customers of electric power generated by electric public utilities. The rate structure shall include all of the following elements:

- (1) 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.
- (2) 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.
- (3) Separate inverted tiered block rate structures shall be developed for residential, commercial, public, and industrial customers.
- (4) The number of inverted tiered blocks for residential, commercial, public, and industrial customers 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.
- (5) The inverted tiered block rate structure for residential customers shall be designed to avoid a negative economic impact on low-income families and rental units.



- 1           (6)   The inverted tiered block rate structure for residential customers shall be  
2           scaled to achieve a forty percent (40%) to sixty percent (60%) statewide  
3           reduction in electricity consumption from 2010 levels within 10 years.  
4           (7)   The inverted tiered block rate structure for industrial and commercial  
5           customers shall be tailored on a case-by-case basis to maximize the financial  
6           benefit of investing in energy efficiency and job creation.  
7           (8)   All inverted tiered block rate structures shall be designed to guarantee  
8           electric public utilities regulated by the provisions of this Chapter will  
9           receive a reasonable rate of return on their capital expenditures."

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

12   "§ 62-155.2. Energy Efficiency Public Benefit Loan Fund.

13           (a)   Loan Fund Created. – The Energy Efficiency Public Benefit Loan Fund is created.  
14           The Commission shall contract with a third-party administrator or an independent government  
15           agency to administer this Loan Fund. The Loan Fund shall consist of funds from any of the  
16           following sources:

- 17           (1)   The proceeds from the avoidable pollution tax levied on the sale of energy  
18           inefficient household products under Article 5H of Chapter 105 of the  
19           General Statutes.  
20           (2)   The difference in revenues collected from the highest tiered block of the  
21           tiered rate structure developed under G.S. 62-155.1 and the revenues that  
22           would have been due based upon the next lower tiered rate block of the  
23           tiered rate structure.  
24           (3)   The difference in the rate of return on capital expenditures for an electric  
25           public utility prior to the closure of a peak demand electric power facility or  
26           other peak demand electric power generating source for that utility and the  
27           rate of return on capital expenditures for the utility after the closure.  
28           (4)   Any interest paid on loans made from the Energy Efficiency Public Benefit  
29           Loan Fund.

30           (b)   Purpose of Loan Fund. – The purpose of the Energy Efficiency Public Benefit Loan  
31           Fund is to issue loans, subject to subsection (e) of this section, to customers to be used to invest  
32           in energy efficiency and renewable energy projects in order to promote energy efficiency,  
33           energy conservation, and a reduction in electric energy consumption.

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

38           (d)   Eligible Projects. – The only efficiency and renewable energy projects that are  
39           eligible for loans under this section are projects that can be shown to the satisfaction of the  
40           administrator of the Energy Efficiency Public Benefit Loan Fund to result in a lower utility bill  
41           for that customer when the utility bill includes the loan payment amount due under subsection  
42           (c) of this section.

43           (e)   Grants to Low-Income Households, – The Energy Efficiency Public Benefit Loan  
44           Fund may be used to issue grants to low-income ratepayers to be used to invest in energy  
45           efficiency and renewable energy projects.

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

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

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

1 "Article 5H.

2 "Avoidable Pollution Tax for Certain Energy Inefficient Products.

3 **"§ 105-187.70. Definitions.**

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

10 **"§ 105-187.71. Tax imposed.**

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

16 **"§ 105-187.72. Administration.**

17 The privilege tax this Article imposes on an energy inefficient product retailer is an  
18 additional State sales tax, and the excise tax this Article imposes on the storage, use, or  
19 consumption of a new energy inefficient product in this State is an additional State use tax.  
20 Except as otherwise provided in this Article, these taxes shall be collected and administered in  
21 the same manner as the State sales and use taxes imposed by Article 5 of this Chapter. As under  
22 Article 5 of this Chapter, the additional State sales tax paid when an energy inefficient product  
23 is sold at retail is a credit against the additional State use tax imposed on the storage, use, or  
24 consumption of the same energy inefficient product.

25 **"§ 105-187.73. Exemptions and refunds.**

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

28 **"§ 105-187.74. Use of tax proceeds.**

29 The Secretary must credit the taxes collected under this Article, less the Department of  
30 Revenue's allowance for administrative expenses, to the Energy Efficiency Public Benefit Loan  
31 Fund created in G.S. 62-155.2. The Secretary may retain the Department's cost of collection,  
32 not to exceed four hundred twenty-five thousand dollars (\$425,000) a year, as reimbursement  
33 to the Department.

34 **"§§ 105-187.75 through 105-187.79: Reserved for future codification purposes."**

35 **SECTION 4.** This act becomes effective January 1, 2012.