

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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SENATE BILL 709

Short Title: Energy Jobs Act. (Public)

Sponsors: Senators Rucho, Brown, Tucker; Allran, Brock, Gunn, Rouzer, and Soucek.

Referred to: Commerce.

April 20, 2011

A BILL TO BE ENTITLED
AN ACT TO INCREASE ENERGY PRODUCTION IN NORTH CAROLINA TO DEVELOP
A SECURE, STABLE, AND PREDICTABLE ENERGY SUPPLY TO FACILITATE
ECONOMIC GROWTH, JOB CREATION, AND EXPANSION OF BUSINESS AND
INDUSTRY OPPORTUNITIES AND TO ASSIGN FUTURE REVENUE FROM
ENERGY EXPLORATION, DEVELOPMENT, AND PRODUCTION OF ENERGY
RESOURCES IN ORDER TO PROTECT AND PRESERVE THE STATE'S NATURAL
RESOURCES, CULTURAL HERITAGE, AND QUALITY OF LIFE.

Whereas, in April 2011, the President of the United States linked economic growth to energy independence and stated that the nation must increase its domestic energy production and efficiency while concurrently decreasing energy imports; and

Whereas, the United States government forecasts rising natural gas consumption, including a 40% increase in the use of natural gas for electric power generation; and

Whereas, North Carolina has had active offshore leases with estimated economically recoverable natural gas of approximately five trillion cubic feet specific to two individual lease blocks, each with an area of approximately nine square nautical miles; and

Whereas, North Carolina's 60 million acres of federal offshore waters is the largest along the Atlantic and the fourth largest in the United States; and

Whereas, the General Assembly authorized the creation of the Legislative Research Commission's Advisory Committee on Offshore Energy Exploration in 2008 to study offshore hydrocarbon and other energy resources; and

Whereas, the Legislative Research Commission's Advisory Committee on Offshore Energy Exploration heard testimony and received a report from the University of North Carolina Wind Study Group that found a yet to be quantified potential for utility-scale production of wind energy off the coast of North Carolina and possibly within eastern Pamlico Sound; and

Whereas, both State and federal agencies indicate a yet to be quantified potential for onshore energy resources in the State that include shale gas, nonedible biofuels crops in the agricultural and forestry industries, wind, and other alternative energy sources; and

Whereas, the findings in the April 2010 final report of the Legislative Research Commission's Advisory Committee on Offshore Energy Exploration noted that potentially significant energy resources exist offshore North Carolina that included quantifiable estimates from the federal government of almost 30 trillion cubic feet of natural gas in offshore North Carolina and adjacent mid-Atlantic states; and

Whereas, the Legislative Research Commission's Advisory Committee on Offshore Energy Exploration heard comments and received a report from the Southeast Energy Alliance that found production of natural gas and associated hydrocarbons offshore North Carolina



1 would create more than 6,700 new job and add more than \$659 million annually to the State's
2 Gross Domestic Product over three decades, during which time this energy production could
3 generate almost \$10 billion in cost sharing of government revenues at an average of \$484
4 million per year to the State; and

5 Whereas, the Legislative Research Commission's Advisory Committee on Offshore
6 Energy Exploration recommended that production of fossil fuel and alternative energy
7 resources in the North Carolina's outer continental shelf should include provisions for revenue
8 and royalty sharing directed to the State of North Carolina; and

9 Whereas, the Legislative Research Commission's Advisory Committee on Offshore
10 Energy Exploration recommended that North Carolina participate cooperatively in regional
11 offshore energy endeavors with Virginia and South Carolina; and

12 Whereas, the General Assembly of South Carolina authorized an offshore energy
13 study with findings in the final report, completed in 2009, recommending that the state of South
14 Carolina should consider the development of an offshore natural gas industry with appropriate
15 federal revenue sharing; and

16 Whereas, the General Assembly of the Commonwealth of Virginia authorized an
17 offshore energy study of natural gas potential with findings in the final report, completed in
18 2006, recommending exploration and development of natural gas resources offshore Virginia as
19 well as federal revenue sharing of these resources; and

20 Whereas, during the past few years, the Governor of Virginia, the General
21 Assembly of the Commonwealth of Virginia, and the United States Congressional delegation
22 for Virginia continue to proactively support, put forth legislation in both the Commonwealth
23 and in the United States Congress, and ratify legislation in the Commonwealth to move forward
24 with energy exploration, development, and production as well as ensuring federal revenue
25 sharing of these resources; Now, therefore,

26 The General Assembly of North Carolina enacts:

27 **SECTION 1.** Royalties and Revenue From Offshore and Onshore Energy
28 Production. – Any revenues and royalties paid to the State as a result of offshore or onshore
29 leasing, exploration, development, and production of all energy resources shall be appropriated
30 and used for the following purposes:

- 31 (1) Twenty-five percent (25%) of such revenues and royalties shall be credited
32 to the General Fund.
- 33 (2) Twenty percent (20%) of such revenues and royalties shall be credited to the
34 Highway Trust Fund established under G.S. 136-176.
- 35 (3) Fifteen percent (15%) of such revenues and royalties shall be transferred to
36 the Community Colleges System Office to establish and manage a fund for
37 curriculum development and implementation as well as financial assistance
38 for students attending community college to receive vocational training
39 through this curriculum in fields directly related to energy exploration and
40 development and related energy infrastructure.
- 41 (4) Fifteen percent (15%) of such revenues and royalties shall be transferred to
42 the Board of Governors of The University of North Carolina to establish and
43 manage research and development fund for programs directly related to
44 energy research and development.
- 45 (5) Fifteen percent (15%) of such revenues and royalties shall be transferred to
46 the Department of Environment and Natural Resources for coastal
47 conservation, including, but not limited to, beach and inlet management
48 projects, channel navigation and maintenance, public beach and water
49 access, water quality management, as well as fisheries and shellfish
50 restoration.

1 (6) Five percent (5%) of such revenues and royalties shall be transferred to the
2 State Port Authority for expansion and maintenance of State Port
3 infrastructure associated with energy-related commerce.

4 (7) Five percent (5%) of such revenues and royalties shall be transferred to the
5 Department of Commerce for recruitment of energy-related industries to the
6 State.

7 **SECTION 2.(a)** Governors' Regional Interstate Offshore Energy Policy Compact.

8 – The Governor shall enter into a regional compact with the governors of South Carolina and
9 Virginia to develop and implement a strategy to increase exploration and production of
10 domestic offshore energy resources within this three-state region. Under this compact, the
11 Governor shall work directly with the states' Congressional delegations, the United States
12 Department of the Interior, the United States Department of Energy, the United States
13 Environmental Protection Agency, and other appropriate federal agencies to develop strategies
14 for increasing domestic energy supply and production within each state in the three-state region
15 and their adjacent federal waters. The compact shall include provisions to address at least all of
16 the following:

17 (1) Ensure a timely review and consideration of permits and proposals at both
18 the state and federal level for both state and federal waters adjacent to each
19 state in the three-state region for seismic and other marine geophysical
20 exploration to identify and quantify natural gas and related hydrocarbon
21 resources along the continental margin.

22 (2) Amend the Five Year Leasing Plan of the United States Department of the
23 Interior to include leasing federal waters adjacent to the State and the
24 three-state region for the exploration, quantification, and development of
25 natural gas and related hydrocarbon energy resources.

26 (3) Advocate proactively with each state's Congressional delegation and
27 appropriate federal agencies to ensure direct sharing of royalties and
28 revenues related to energy leasing, exploration, development, and production
29 of all offshore energy resources in federal waters adjacent to the State and
30 the three-state region.

31 (4) Request the United States Department of the Interior to reinstate the federal
32 Offshore Policy Committee with new members and new alternate members
33 to be nominated by the governor of the state represented on the Offshore
34 Policy Committee and appointed by the Secretary of the Interior, six of
35 whom are to be one member and one alternate member from each of North
36 Carolina, Virginia, and South Carolina.

37 **SECTION 2.(b)** No later than December 1, 2011, and at least every three months
38 thereafter, the Governor shall report to the General Assembly on the progress of the Governor
39 and others in complying with the requirements under this section, to include providing copies
40 of correspondence and other relevant materials to or from the Office of the Governor when the
41 correspondence or materials pertain to the subject under this section or to any requirement
42 under this section.

43 **SECTION 3.** Onshore Shale Gas. – The Department of Environment and Natural
44 Resources shall, in conjunction with the Energy Jobs Council, created in G.S. 113B-2, as
45 amended by Section 4 of this act, provide a comprehensive report to the Governor, the General
46 Assembly, and the Joint Regulatory Reform Committee by May 1, 2012, that outlines the
47 commercial potential of onshore shale gas resources within the State as well as the regulatory
48 framework necessary to develop this resource. As part of this report, the Department shall
49 review all existing State laws and regulations regarding natural gas and related onshore
50 hydrocarbon production specific to shale gas. The Department shall also review existing laws
51 and regulations in states currently exploring for or producing shale gas, including Texas,

1 Pennsylvania, and Alabama, as well as related federal regulations and programs. In addition,
2 the Department shall do all of the following for inclusion in its report under this section:

- 3 (1) Review State laws and regulations, including G.S. 113-393(d) and 15 NCAC
4 05D, and provide recommendations on amendments and additions to address
5 issues related to shale gas exploration, development, and production,
6 including horizontal drilling, well permitting, well spacing, maximum
7 permitted well depth, reporting requirements, bonding requirements, fees,
8 and penalties.
- 9 (2) Review State laws and regulations, including G.S. 87-88(c) and 15A NCAC
10 02C, and provide recommendations on amendments and additions to address
11 issues related to shale gas exploration, development, and production,
12 including hydraulic fracturing, reporting requirements for fracturing fluids,
13 environmental management of fracturing fluids, water use, and groundwater
14 protection. In addition, provide recommendations on the reuse, recycling,
15 and disposal requirements for waste hydraulic fluids, water, and related solid
16 waste and recommend well drilling, casing, and cementing standards for
17 wells that may be subject to hydraulic fracturing.
- 18 (3) Provide an inventory of all water supplies and evaluate the availability of
19 water supply and potential impacts on other water users in any area of shale
20 gas interest identified by either the State Geologist or the United States
21 Geological Survey.
- 22 (4) Develop a regulatory framework proposal, including agencies, staffing,
23 processes, permit requirements, penalties, fees, and reporting requirements
24 necessary to evaluate the technical and public safety merits of shale gas
25 exploration and energy production and, where appropriate, outline processes
26 for the provision of permit oversight, approval, and management.

27 **SECTION 4.(a)** Amend Energy Policy Act. – The title of Chapter 113B of the
28 General Statutes reads as rewritten:

29 **"North Carolina Energy Policy Act of 1975 and Jobs Act."**

30 **SECTION 4.(b)** G.S. 113B-1 reads as rewritten:

31 **"§ 113B-1. Legislative findings and purpose.**

32 Upon investigation the General Assembly hereby finds that:

- 33 (1) Energy is essential to the health, safety and welfare of the people of this
34 State and to the workings of the State ~~economy~~; economy.
- 35 (2) ~~Growth in the consumption of energy resources is in some part due to~~
36 ~~wasteful, uneconomic and inefficient uses of energy and a continuation of~~
37 ~~this trend will adversely affect the future social, economic and~~
38 ~~environmental development of North Carolina;~~
- 39 (3) ~~It is the responsibility of State government to encourage~~ in the State's best
40 interest to support the development of a reliable and adequate supply of
41 energy for North Carolina ~~at a level consistent with such energy needs~~
42 ~~required for the protection of public health and safety, and for the promotion~~
43 ~~of the general welfare; and that is secure, stable, and predictable in order to~~
44 facilitate economic growth, job creation, and expansion of business and
45 industry opportunities.
- 46 (3a) It is in the State's best interest to support the exploration, development, and
47 production of domestic energy supplies, preferably from the resources within
48 the State or region and most certainly from within the country.
- 49 (3b) It is the duty of State government to protect and preserve the State's natural
50 resources, cultural heritage, and quality of life and, above all, the public

1 health and safety of its residents during the exploration, development, and
2 production of domestic energy resources.

3 (4) ~~The State has not provided the basis for development of a long-range unified~~
4 ~~energy policy to encompass comprehensive energy resource planning and~~
5 ~~efficient management of the rate of consumption of existing energy~~
6 ~~resources in relation to economic growth, to effectively meet an energy~~
7 ~~crisis, to encourage development of alternative sources of energy, and to~~
8 ~~prudently conserve energy resources in a manner consistent with assuring a~~
9 ~~reliable and adequate supply of energy for North Carolina.~~planning,
10 including active support and collaboration with the federal government to
11 ensure access to the nation's energy resources located on the outer
12 continental shelf directly adjacent to the State's coastal waters.

13 (5) It is the expressed intent of this Chapter to provide for development of such
14 a unified domestic energy policy for the State of North Carolina.Carolina as
15 part of a nationwide effort for increased domestic energy production in the
16 interest of national security and economic growth and stability."

17 **SECTION 4.(c)** G.S. 113B-2 reads as rewritten:

18 "**§ 113B-2. Creation of Energy Policy Council; purpose of Council.**

19 (a) ~~There~~The Energy Jobs Council is hereby created a council to advise and make
20 recommendations on increasing domestic energy policy exploration, development, and
21 production within the State and region to promote economic growth and job creation to the
22 Governor and the General Assembly to be known as the Energy PolicyAssembly. The Energy
23 Jobs Council which shall be located within the Department of Commerce.

24 (b) Except as otherwise provided in this Chapter, the powers, duties and functions of
25 the Energy ~~Policy~~Jobs Council shall be as prescribed by the Secretary of Commerce.

26 (c) The Energy ~~Policy~~Jobs Council and the State Energy Office shall serve as the
27 central energy policy planning ~~body~~bodies of the State and shall communicate and cooperate
28 with federal, State, regional and local bodies and agencies to the end of effecting a coordinated
29 energy policy."

30 **SECTION 4.(d)** G.S. 113B-3 reads as rewritten:

31 "**§ 113B-3. Composition of Council; appointments; terms of members; qualifications.**

32 (a) The Energy ~~Policy~~Jobs Council shall consist of ~~16~~9 members to be appointed as
33 follows:

34 (1) ~~Two members of the North Carolina House of Representatives to be~~
35 ~~appointed by the Speaker of the House of Representatives;~~

36 (2) ~~Two members of the North Carolina Senate to be appointed by the President~~
37 ~~Pro Tempore of the Senate;~~

38 (2a) The Secretary of Commerce.

39 (3) ~~Twelve~~Eight public members who are citizens of the State of North
40 ~~Carolina to be appointed by the Governor. The Governor shall designate one~~
41 ~~of the public members as chair of the Council.~~Carolina and who are
42 appointed in accordance with subsection (c) of this section.

43 (b) Appointments to the Energy ~~Policy~~Jobs Council shall be made by ~~July 15,~~
44 ~~2009,~~October 1, 2011, and each such appointee shall serve until January 31, 2011. Thereafter,
45 the appointed members of the General Assembly shall serve two-year terms, and the appointed
46 public members shall serve four-year four-year terms. A member of the Energy Policy Council
47 shall continue to serve until his successor is duly appointed, but such holdover shall not affect
48 the expiration date of such succeeding term. Appointments made by the President Pro Tempore
49 of the Senate and the Speaker of the House of Representatives shall be allowed when the
50 General Assembly is not in session.

1 (c) The public members of the Energy ~~Policy~~ Jobs Council shall have the following
2 ~~qualifications~~; qualifications and shall be appointed as follows:

- 3 (1) One member shall be ~~experienced in the electric power industry~~; a
4 representative of an investor-owned electric public utility, to be appointed by
5 the Governor.
- 6 (2) One member shall be ~~experienced in the natural gas industry~~; experienced in
7 offshore natural gas and associated hydrocarbon exploration, development,
8 and production, to be appointed by the Governor.
- 9 ~~(2a) One member shall be experienced in energy policy matters;~~
- 10 (3) One member shall be ~~experienced in alternative fuels and biofuels~~; a
11 representative of an investor-owned natural gas public utility, to be
12 appointed by the President Pro Tempore.
- 13 (4) One member shall be ~~experienced in energy efficient building design or~~
14 ~~construction~~; an energy economist, to be appointed by the President Pro
15 Tempore.
- 16 (5) One member shall be ~~experienced in environmental protection~~; a geologist
17 with experience in hydrocarbon resource evaluation and geophysical data
18 acquisition, to be appointed by the President Pro Tempore.
- 19 (6) One member ~~who is engaged in a business providing renewable energy or~~
20 ~~other energy services~~; shall be an industrial energy consumer, to be appointed
21 by the Speaker of the House of Representatives.
- 22 (7) One member shall be knowledgeable of alternative and renewable sources of
23 ~~energy~~; energy, to be appointed by the Speaker of the House of
24 Representatives.
- 25 (8) One member ~~who, at the time of appointment, is a county commissioner; or~~
26 ~~elected municipal officer; provided, the member's term on the Council shall~~
27 ~~expire immediately in the event that he or she vacates office as a county~~
28 ~~commissioner or municipal officer~~; who has experience in trucking, rail, or
29 shipping transportation, to be appointed by the Speaker of the House of
30 Representatives.
- 31 ~~(10) One member shall be knowledgeable in the finance, business development,~~
32 ~~or technology development of energy related business;~~
- 33 ~~(11) One member shall be experienced in low income energy policy matters or~~
34 ~~low income residential weatherization.~~
- 35 ~~(12) One member shall be experienced in the petroleum industry."~~

36 **SECTION 4.(e)** G.S. 113B-4 reads as rewritten:

37 **"§ 113B-4. Chairman of Council; replacement; reimbursement of members.**

38 (a) ~~On August 15, 2009, on January 31, 2011, and every four years thereafter, the~~
39 ~~Governor shall appoint a~~ The Secretary of Commerce shall serve as chair of the Council.

40 (b) In case of a vacancy in the membership on the Energy ~~Policy~~ Jobs Council prior to
41 the expiration of a member's term, a successor shall be appointed within 30 days of such
42 vacancy for the remainder of the unexpired term by the appropriate official pursuant to the
43 provisions of G.S. 113B-3.

44 (c) Members of the Energy ~~Policy~~ Jobs Council shall be reimbursed for their services
45 pursuant to the provisions of G.S. 138-5.

46 **SECTION 4.(f)** G.S. 113B-6 reads as rewritten:

47 **"§ 113B-6. General duties and responsibilities.**

48 The goal of the Energy Jobs Council is to identify and utilize all domestic energy resources
49 in order to ensure a secure, stable, and predictable energy supply and to protect the economy of
50 the State, promote job creation, and expand business and industry opportunities while ensuring
51 the protection and preservation of the State's natural resources, cultural heritage, and quality of

1 life. The Energy PolicyJobs Council shall share its duties where appropriate with the State
2 Energy Office. To achieve the goal of the Energy Jobs Council, the Secretary of Commerce has
3 the discretion to delegate duties to either the Energy Jobs Council or the State Energy Office as
4 appropriate, and, in addition, the Energy Jobs Council shall have the following general duties
5 and responsibilities:

- 6 (1) To develop and recommend to the Governor and the General Assembly a
7 comprehensive long-range State energy policy that addresses requirements
8 in the short term (10 years), in the midterm (25 years), and in the long term
9 (50 years) to achieve maximum effective management and use of present
10 and future sources of energy, such policy to include but not be limited to
11 energy efficiency, renewable and alternative sources of energy, research and
12 development into alternative energy technologies, and improvements to the
13 State's energy infrastructure and energy economy; domestic energy resources
14 that shall include at least natural gas, coal, hydroelectric power, solar, wind,
15 nuclear energy, and biomass.
- 16 (2) To conduct an ongoing assessment of the opportunities and constraints
17 presented by various uses of all forms of energy to facilitate the expansion of
18 the domestic energy supply and to encourage the efficient use of all such
19 energy forms in a manner consistent with State energy ~~policy;~~policy.
- 20 (3) To continually review and coordinate all State government research,
21 education and management programs relating to energy ~~matters and~~matters,
22 to continually educate and inform the general public regarding such energy
23 ~~matters;~~matters, and to actively engage in discussions with the federal
24 government, its agencies, and its leaders to identify opportunities to increase
25 domestic energy supply within North Carolina and its adjacent offshore
26 waters.
- 27 (4) To recommend to the Governor and to the General Assembly needed energy
28 legislation and to recommend for implementation such modifications of
29 energy policy, plans and programs as the Council considers necessary and
30 desirable."

31 **SECTION 4.(g)** G.S. 113B-7 reads as rewritten:

32 **"§ 113B-7. Energy Efficiency Program; components.**

33 (a) The ~~Energy Policy Council~~State Energy Office shall prepare a recommended
34 Energy Efficiency Program for transmittal to the Governor, the initial plan to be completed by
35 January 30, 1976.

36 (b) The Energy Efficiency Program shall be designed to assure the public health and
37 safety of the people of North Carolina and to encourage and promote conservation of energy
38 through reducing wasteful, inefficient or uneconomical uses of energy resources.

39 (c) The Energy Efficiency Program shall include but not be limited to the following
40 recommendations:

- 41 (1) Recommendations to the Building Code Council for lighting, insulation,
42 climate control systems and other building design and construction standards
43 which increase the efficient use of energy and are economically feasible to
44 implement;
- 45 (2) Recommendations to the Building Code Council for per unit energy
46 requirement allotments based upon square footage for various classes of
47 buildings which would reduce energy consumption, yet are both technically
48 and economically feasible and not injurious to public health and safety;
- 49 (3) Recommendations for minimum levels of operating efficiency for all
50 appliances whose use requires a significant amount of energy based upon
51 both technical and economic feasibility considerations;

- 1 (4) Recommendations for State government purchases of supplies, vehicles and
2 equipment and such operating practices as will make possible more efficient
3 use of energy;
- 4 (5) Recommendations on energy conservation policies, programs and
5 procedures for local units of government;
- 6 (6) Any other recommendations which the ~~Energy Policy Council~~State Energy
7 Office considers to be a significant part of a statewide conservation effort
8 and which include provisions for sufficient incentives to further energy
9 conservation;
- 10 (7) An economic and environmental impact analysis of the recommended
11 program.

12 (d) In addition to specific conservation recommendations, the Energy Efficiency
13 Program shall contain proposals for implementation of such recommendations as can be carried
14 out by executive order. Upon completion of a draft recommended program, the ~~Council~~State
15 Energy Office shall arrange for its distribution to interested parties and shall make the program
16 available to the public and the ~~Council~~State Energy Office further shall set a date for public
17 hearing on said program.

18 (e) Upon completion of the Energy Efficiency Program, the ~~Council~~State Energy
19 Office shall transmit said program, to be known as the State Energy Efficiency Program, to the
20 Governor for approval or disapproval. Upon approval, the Governor shall assign administrative
21 responsibility for such implementation as can be carried out by executive order to appropriate
22 agencies of State government, and submit to the General Assembly such proposals which
23 require legislative action for implementation. The Governor shall have the authority to accept,
24 administer, and enforce federal programs, program measures and permissive delegations of
25 authority delegated to the Governor by the President of the United States, Congress, or the
26 United States Department of Energy, on behalf of the State of North Carolina, which pertain to
27 the conservation of energy resources.

28 (f) The Governor shall transmit the approved Energy Efficiency Program to the
29 President Pro Tempore of the Senate, to the Speaker of the House of Representatives, to the
30 heads of all State agencies and shall further seek to publicize such plan and make it available to
31 all units of local government and to the public at large.

32 (g) At least every two years and whenever such changes take place as would
33 significantly affect energy supply or demand in North Carolina, the ~~Energy Policy Council~~State
34 Energy Office shall review and, if necessary, revise the Energy Efficiency Program,
35 transmitting such revised plan to the Governor pursuant to the procedures contained in
36 subsections (e) and (f) of this section."

37 **SECTION 4.(h)** G.S. 113B-8 reads as rewritten:

38 "**§ 113B-8. Energy Management Plan; components.**

39 (a) The ~~Energy Policy Council~~State Energy Office shall prepare a recommended
40 Energy Management Plan for transmittal to the Governor, the initial plan to be completed by
41 June 30, 1976.

42 (b) The Energy Management Plan shall be designed to encourage the most efficient use
43 of all sources of energy available to meet the needs of the State and to avoid undue dependence
44 upon relatively limited, unreliable or uneconomical sources of energy.

45 (c) The Energy Management Plan shall include but not be limited to the following:

- 46 (1) An analysis of the current pattern of consumption of energy throughout the
47 State by category of energy user and by sources of energy supply;
- 48 (2) An assessment of the effect of demand and supply of different forms of
49 energy upon the current pattern of consumption;

- 1 (3) An independent analysis, in five-, 10-and 20-year forecasts, of future energy
2 production, supplies and consumption for North Carolina in relation to
3 forecasts of statewide population growth and economic expansion;
- 4 (4) An analysis of the anticipated effects of recommended conservation
5 measures upon the consumption of energy in the State;
- 6 (5) An assessment of the possible effects of national energy and economic
7 policy and international economic and political conditions upon an adequate
8 and reliable supply of different forms of energy for North Carolina;
- 9 (6) An assessment of the social, economic and environmental effects of
10 alternative future consumption patterns on energy usage in North Carolina,
11 including the potentially disruptive effects of supply limitations;
- 12 (7) Recommendations on the use of different future energy sources that seem
13 most appropriate and feasible for North Carolina in meeting expected energy
14 needs during the next five-, 10-and 20-year periods, with consideration given
15 to growth trends in North Carolina industry and possible adverse economic
16 impact on such trends.

17 (d) In addition to the above, the Energy Management Plan shall contain proposals for
18 the implementation of such recommendations as can be carried out by executive order. Upon
19 completion of a draft recommended plan, the ~~Council-State Energy Office~~ shall arrange for its
20 distribution to interested parties and shall make such plan available to the public and the
21 ~~Council-State Energy Office~~ further shall set a date for public hearing on said plan.

22 (e) Upon completion of the Energy Management Plan, the ~~Council-State Energy Office~~
23 and the Governor shall follow the procedures as outlined in G.S. 113B-7(e) and (f).

24 (f) The ~~Council-State Energy Office~~ shall update such plan upon a finding by it that an
25 update is justified and shall follow the procedures for adoption pursuant to G.S. 113B-7(e) and
26 (f).

27 (g) The Governor shall have the authority to accept, administer and enforce federal
28 programs, program measures, and permissive delegations of authority delegated to the
29 Governor by the President of the United States, Congress, or the United States Department of
30 Energy, on behalf of the State of North Carolina, which pertain to management of energy
31 resources.

32 (h) The Governor shall have the authority to accept, administer and enforce the
33 delegation of authority delegated to the State by the Emergency Petroleum Allocation Act and
34 the Emergency Energy Conservation Act of 1979 and any orders, rules, and regulations issued
35 pursuant to those acts as well as any succeeding federal programs, program measures, laws,
36 orders, or regulations relating to the allocation, conservation, consumption, management or
37 rationing of energy resources."

38 **SECTION 4.(i)** G.S. 113B-9 reads as rewritten:

39 **"§ 113B-9. Emergency Energy Program; components.**

40 (a) The ~~Energy Policy Council~~State Energy Office shall, in accordance with the
41 provisions of this Article, develop contingency and emergency plans to deal with possible
42 shortages of energy to protect public health, safety and welfare, such plans to be compiled into
43 an Emergency Energy Program.

44 (b) Within four months of July 1, 1975:

- 45 (1) Each electric utility and natural gas utility in the State shall prepare and
46 submit to the ~~Energy Policy Council~~State Energy Office a proposed
47 emergency curtailment plan setting forth proposals for identifying priority
48 loads or users in the event of the declaration of an energy crisis pursuant to
49 G.S. 113B-20, and proposals for supply allocation to such priority loads or
50 users.

1 (2) Each major oil producer doing business in this State as determined by the
2 ~~Energy Policy Council~~State Energy Office shall prepare and submit to the
3 ~~Energy Policy Council~~State Energy Office an analysis of how any national
4 supply curtailment pursuant to federal regulations shall affect the supply for
5 North Carolina and how priority users will be determined and available
6 supplies allocated to such users.

7 (c) The ~~Energy Policy Council~~State Energy Office shall encourage the preparation of
8 joint emergency curtailment plans and analyses. If such cooperative plans and analyses are
9 developed between two or more utilities, major producers or by an association of such
10 companies, the joint plans or analyses may be submitted to the ~~Energy Policy Council~~State
11 Energy Office in lieu of information required pursuant to subsection (b) of this section.

12 (d) The ~~Energy Policy Council~~State Energy Office shall collect from all relevant
13 governmental agencies any existing contingency plans for dealing with sudden energy
14 shortages or information related thereto.

15 (e) The ~~Energy Policy Council~~State Energy Office shall hold one or more public
16 hearings, investigate and review the plans submitted pursuant to this section, and, within nine
17 months after July 1, 1975, the ~~Energy Policy Council~~State Energy Office shall approve and
18 recommend to the Governor guidelines for emergency curtailment to be known as the
19 Emergency Energy Program and to be implemented upon adoption by the Governor after the
20 declaration of an energy crisis and pursuant to G.S. 113B-20 and 113B-23. Said program shall
21 be based upon the plans presented to the ~~Energy Policy Council~~State Energy Office, upon
22 independent analysis and study by the ~~Council~~State Energy Office, and upon information
23 provided at the hearing or hearings, provided, however, that they are consistent with such
24 federal programs and regulations as are already in effect at that time.

25 (f) The Emergency Energy Program shall provide for the maintenance of essential
26 services, the protection of public health, safety, and welfare, and the maintenance of a sound
27 basic State economy. Provisions also shall be made in said program to differentiate curtailment
28 of energy consumption by users on the basis of ability to accommodate such curtailments, and
29 shall also include, but not be limited to, the following:

30 (1) A variety of strategies and staged conservation measures of increasing
31 intensity and authority to reduce energy use during an energy crisis, as
32 defined in G.S. 113B-20 and guidelines and criteria for allocation of energy
33 sources to priority users. The program shall contain alternative conservation
34 actions and allocation plans to reasonably meet various foreseeable shortage
35 circumstances and to allow a choice of appropriate responses;

36 (2) Evidence that the program is consistent with requirements of federal
37 emergency energy conservation and allocation laws and regulations;

38 (3) Proposals to assist such individuals, institutions, agriculture and businesses
39 which have engaged in energy saving measures;

40 (g) The ~~Energy Policy Council~~State Energy Office shall carry out such investigations
41 and studies as are necessary to determine if and when potentially serious shortages of energy
42 are likely to affect North Carolina and the ~~Council~~State Energy Office shall make
43 recommendations to the Governor concerning administrative and legislative actions required to
44 avert such shortages, such recommendations to be included as a section of the Emergency
45 Energy Program.

46 (h) In addition to the above information and recommendations, the program shall
47 contain proposals for implementation of such recommendations which include procedures,
48 rules and regulations and agency administrative responsibilities for implementation, and shall
49 further contain procedures for fair and equitable review of complaints and requests for special
50 exemptions from emergency conservation measures or emergency allocations. Upon
51 completion of a draft recommended plan, the ~~Council~~State Energy Office shall arrange for its

1 distribution to interested parties and shall make such plan available to the public and the
2 ~~Council-State Energy Office~~ further shall set a date for public hearing on said plan.

3 (i) Upon completion of the Emergency Energy Allocation Program, the ~~Council-State~~
4 ~~Energy Office~~ and the Governor shall follow the procedures as outlined in G.S. 113B-7(e) and
5 (f).

6 (j) The ~~Council-State Energy Office~~ shall update said program upon a finding by it that
7 an update is justified and shall follow the procedures for adoption pursuant to G.S. 113B-7(e)
8 and (f).

9 (k) The Governor shall have the authority to accept, administer and enforce federal
10 programs, program measures and permissive delegations of authority delegated to the Governor
11 by the President of the United States, Congress, or the United States Department of Energy, on
12 behalf of the State of North Carolina, which pertain to actions necessary to deal with an actual
13 or impending energy shortage."

14 **SECTION 4.(j)** G.S. 113B-12 reads as rewritten:

15 "**§ 113B-12. Annual reports; contents.**

16 (a) Beginning January 1, 1977, and every ~~year~~two years thereafter, the State Energy
17 Office shall collaborate with the Energy Policy-Jobs Council shall and transmit to the
18 Governor, the Speaker of the House of Representatives, the President of the Senate, the
19 chairman of the Utilities Commission and the appropriate chairmen of the House and Senate
20 committees concerned with energy matters, a comprehensive report providing a general
21 overview of energy conditions in the State. ~~On January 1, 1976, the Energy Policy Council~~
22 ~~shall transmit a progress report to the public officials named above.~~

23 (b) The report shall include, but not be limited to, the following:

- 24 (1) An overview of statewide growth and development as they relate to future
25 requirements for energy, including patterns of urban and metropolitan
26 expansion, shifts in transportation modes, modifications in building types
27 and design, and other trends and factors which, as determined by the
28 Council, will significantly affect energy needs;
- 29 (2) The level of statewide and multi-county regional energy demand for a five-,
30 10- and 20-year forecast period which, in the judgment of the State Energy
31 Office and the Council, can reasonably be met, with proposals as to possible
32 energy supply sources;
- 33 (3) An assessment of growth trends in energy consumption and production and
34 an identification of potential adverse social, economic, or environmental
35 impacts which might be imposed by continuation of the present trends,
36 including energy costs to consumers, significant increases in air, water, and
37 other forms of pollution, threats to public health and safety, and loss of
38 scenic and natural areas;
- 39 (4) An analysis of the role of energy efficiency, renewable energy,
40 improvements to the State's energy infrastructure, and other means in
41 meeting the State's current and projected energy demand;
- 42 (6) Recommendations to the Governor and the General Assembly for additional
43 administrative and legislative actions on energy matters;
- 44 (7) A summary of the ~~Council's~~ activities of the State Energy Office and the
45 Council since its inception, the last report, a description of major plans
46 developed by the State Energy Office and the Council, an assessment of plan
47 implementation, and a review of Council plans and programs for the coming
48 biennium."

49 **SECTION 4.(k)** G.S. 113B-21(a) reads as rewritten:

50 "(a) ~~There is hereby created~~ Upon the declaration of an energy crisis by the Governor, a
51 Legislative Committee on Energy Crisis Management shall be created to consist of the Speaker,

1 as chairman, the Speaker pro tempore of the House of ~~Representatives and~~ Representatives, the
2 President ~~pro tempore~~ Pro Tempore of the Senate, and the majority leader of the Senate. The
3 Lieutenant Governor shall serve as a nonvoting ex officio member, provided, however, that he
4 shall vote to break a tie."

5 **SECTION 4.(l)** G.S. 113B-23 reads as rewritten:

6 "**§ 113B-23. Administration of plans and procedures.**

7 (a) Upon the declaration of an energy crisis, pursuant to G.S. 113B-20, the ~~Energy~~
8 ~~Policy Council~~ State Energy Office, in collaboration with the Energy Jobs Council, shall
9 become the emergency energy coordinating body for the State and shall carry out the following
10 duties:

- 11 (1) Identify and determine the nature and severity of expected energy shortages;
- 12 (2) Provide for daily communications with and gather information from
13 significant energy producers, distributors, transporters and major consumers,
14 as determined by the State Energy Office in collaboration with the Energy
15 Policy Jobs Council, to carry out its responsibilities pursuant to this section;
- 16 (3) Provide data, carry out continuing assessments of the crisis situation, and
17 make recommendations to the Governor and to the Legislative Committee
18 for further action.

19 (b) Upon the declaration of an energy crisis, the Governor shall order the State Energy
20 Office, the Energy Policy Jobs Council, the Utilities Commission, the Attorney General and
21 other appropriate State and local agencies to implement and enforce the Emergency Energy
22 Program pursuant to G.S. 113B-9 and any emergency rules, orders or regulations approved
23 pursuant to G.S. 113B-22.

24 (c) Upon the declaration of an energy crisis, the Governor may employ such measures
25 and give such direction to State and local offices and agencies as may be reasonable and
26 necessary for the purpose of securing compliance with the provisions of this Article and with
27 emergency rules, orders and regulations issued pursuant to G.S. 113B-22."

28 **SECTION 4.(m)** G.S. 113B-24(c) reads as rewritten:

29 "(c) The provisions of this Article or any rules, orders or regulations promulgated
30 pursuant to G.S. 113B-22 may be enforced by bringing an action to enjoin such acts or
31 practices as may be in violation and, upon a proper showing, a temporary restraining order or a
32 preliminary or permanent injunction shall be issued. The relief sought may include a mandatory
33 injunction commanding any person to comply with any such order, rule or regulation and
34 restitution of money received in violation of any such order, rule or regulation. The Attorney
35 General shall bring any action under this subsection upon the request of the Governor, the
36 Legislative Committee on Energy Crisis Management, the State Energy Office, the Energy
37 Policy Jobs Council, or upon his direction if he deems such action advisable and in the public
38 interest. The Attorney General may institute such action in the Superior Court of Wake County,
39 or, in his discretion, in the superior court of the county in which the acts or practices
40 constituting a violation occurred, are occurring or may occur."

41 **SECTION 5.(a)** Technical Conforming Statutory Changes. – The title of Article 1
42 of Chapter 113B of the General Statutes reads as rewritten:

43 "Article 1.

44 Energy ~~Policy Jobs~~ Council."

45 **SECTION 5.(b)** G.S. 113B-5 reads as rewritten:

46 "**§ 113B-5. Organization of the Council; adoption of rules of procedure therefor.**

47 (a) To facilitate the work of the Energy ~~Policy Jobs~~ Council and for administrative
48 purposes, the chairman of the Energy ~~Policy Jobs~~ Council, with the consent and approval of the
49 members, may organize the work of the Council so as to carry out the provisions of this
50 Chapter and to insure the efficient operation of the Council.

1 (b) The Energy ~~Policy~~Jobs Council shall adopt its own rules of procedure and shall
2 meet regularly at such times and in such places as it may deem necessary to carry out its
3 functions.

4 (c) The Energy ~~Policy~~Jobs Council is authorized to create such advisory committees as
5 will be needed to assist the Council in its efforts and to assure adequate citizen-consumer input
6 into those efforts. Members of advisory committees shall be appointed by the Council for terms
7 not to exceed the expiration date of terms of then present public members of the Council."

8 **SECTION 5.(c)** G.S. 113B-11 reads as rewritten:

9 **"§ 113B-11. Powers and authority.**

10 (a) The Energy ~~Policy~~Jobs Council is authorized to secure directly from any officer,
11 office, department, commission, board, bureau, institution and other agency of the State and its
12 political subdivisions any information it deems necessary to carry out its functions; and all such
13 officers and agencies shall cooperate with the Council and, to the extent permitted by law,
14 furnish such information to the Council as it may request.

15 ...

16 (e) The Department of Commerce shall provide the staffing capability to the Energy
17 ~~Policy~~Jobs Council so as to fully and effectively develop recommendations for a
18 comprehensive State energy policy as contained in the provisions of this Article. The Utilities
19 Commission is hereby authorized to make its staff available to the Council to assist in the
20 development of a State energy policy."

21 **SECTION 5.(d)** G.S. 114-4.2D reads as rewritten:

22 **"§ 114-4.2D. Employment of attorney for Energy ~~Policy~~Jobs Council and Energy
23 Efficiency Program of the Department of Commerce.**

24 The Attorney General shall assign an attorney to work full time with the Energy ~~Policy~~Jobs
25 Council and Energy Efficiency Program of the Department of Commerce. Such attorney shall
26 be subject to all provisions of Chapter 126 of the General Statutes relating to the State
27 Personnel System. Such attorney shall also perform such additional duties as may be assigned
28 by the Attorney General."

29 **SECTION 5.(e)** G.S. 143-58.5(c) reads as rewritten:

30 "(c) The Fund shall be used to offset the incremental fuel cost of biodiesel and biodiesel
31 blend fuel with a minimum biodiesel concentration of B-20 for use in State vehicles, for the
32 purchase of ethanol fuel with a minimum ethanol concentration of E-85 for use in State
33 vehicles, the incremental vehicle cost of purchasing AFVs, for the development of related
34 refueling infrastructure, for the costs of administering the Fund, and for projects approved by
35 the Energy ~~Policy~~Jobs Council."

36 **SECTION 5.(f)** G.S. 143-345.13 reads as rewritten:

37 **"§ 143-345.13. Reporting of stocks of coal and petroleum fuels.**

38 The Department of Administration may, with the prior express approval of the Energy
39 ~~Policy~~Jobs Council and the Governor, require that all coal and petroleum suppliers in North
40 Carolina supplying coal, motor gasoline, middle distillates, residual oils, and propane for resale
41 within the State, file with the Department of Administration, on forms prepared by the
42 Department, accurate reports as to the stocks of coal and petroleum products and storage
43 capacities maintained by the supplier, including the supplier's current inventory and stock of
44 coal, motor gasoline, middle distillates, residual oils and propane, the expected time such
45 supplies will last under ordinary distribution demand and the schedule for receiving additional
46 or replacement stocks. The reports and the information contained therein shall be proprietary
47 information available only to regular employees of the Department of Administration, except
48 that aggregate tables or schedules consolidating information from the reports may be released if
49 they do not reveal individual report data for any named supplier. It is further the intent of this
50 section that no information shall be required from coal and petroleum suppliers, that is, at the

1 time the reports are requested, already on file with any agency, commission, or department of
2 State government.

3 It is the intent of this section that the reports be filed only at such times as the Energy
4 ~~Policy~~ Jobs Council and the Governor determine that an energy crisis as defined in
5 G.S. 113B-20 exists or may be imminent.

6 If any petroleum or coal supplier fails to file the accurate reports as may be required by this
7 section for more than 10 days after the date on which any such report is due, the Secretary of
8 Administration is authorized and empowered to petition the district court, Division of the
9 General Court of Justice, in the county in which the principal office or place of business of the
10 supplier is located, for a mandatory injunction compelling the supplier to file the report."

11 **SECTION 6.(a)** Miscellaneous Provisions. – Notwithstanding G.S. 113B-3 or any
12 other law to the contrary, the memberships of all members of the Energy Policy Council
13 serving as of the effective date of this act shall be terminated on the effective date of this act.

14 **SECTION 6.(b)** The Revisor of Statutes shall make the conforming statutory
15 changes necessary to reflect the transfers under this section. The Revisor of Statutes may
16 correct any reference in the General Statutes to the statutes that are recodified by this section
17 and make any other conforming changes necessitated by this section.

18 **SECTION 6.(c)** Upon ratification, the Secretary of State shall furnish certified
19 copies of this act to each member of the North Carolina Congressional delegation.

20 **SECTION 6.(d)** This act is effective when it becomes law.