

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

**SENATE BILL 709  
RATIFIED BILL**

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, the citizens of North Carolina would benefit not only from energy-related employment opportunities, but also the discovery of secure domestic energy resources and the associated federal royalty and revenue sharing that should accompany successful discoveries; and

Whereas, the citizens of North Carolina deserve strong representation in both regional and national coastal coalitions by their Governor and General Assembly to secure energy jobs and revenue; and

Whereas, such coalitions will promote a better understanding of the relationship between coastal states, their unique resources, and the potential for energy development in connection with federal agencies and Congress; and

Whereas, North Carolina's neighboring states are also hopeful of new energy discoveries and related employment and revenue sharing and currently are taking the initiative to secure a robust energy jobs sector; and

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, in May 2011, the U.S. House of Representatives passed H.R. 1230 to require that within one year the U.S. Department of the Interior is required to hold a lease sale for energy exploration offshore Virginia directly adjacent to North Carolina's offshore waters; and

Whereas, in May 2011, the Governors of Alaska, Texas, Louisiana, Mississippi, and Virginia created the Outer Continental Shelf Governors Coalition for the greater coordination between the state and federal governments on offshore energy exploration, development, and production and are calling for a better understanding of how federal decisions impact state and local economies; 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 Subcommittee on Offshore Energy Exploration in 2008 to study offshore hydrocarbon and other energy resources; and

Whereas, the Legislative Research Commission's Advisory Subcommittee 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, onshore renewable energy and energy efficiency industries in North Carolina comprise more than 1,100 companies and currently employ more than 12,500 North Carolinians, representing a 22% growth in jobs from 2009 to 2010; and

Whereas, the findings in the April 2010 final report of the Legislative Research Commission's Advisory Subcommittee 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 Subcommittee 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 would create more than 6,700 new jobs and add more than \$659 million annually to the State's Gross Domestic Product over three decades, during which time this energy production could generate almost \$10 billion in cost sharing of government revenues at an average of \$484 million per year to the State; and

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

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

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

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

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

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** Royalties and revenue from offshore and onshore energy production. – Any revenues and royalties paid to the State as a result of offshore or onshore leasing, exploration, development, and production of all energy resources shall be deposited in an interest-bearing special revenue fund to be established within the State treasury until a total of five hundred million dollars (\$500,000,000) is reached. This fund shall be used only for emergency response, emergency environmental protection, or mitigation associated with a release of liquid hydrocarbons or associated fluids directly related to offshore or onshore energy exploration, development, production, or transmission after such an event has been declared a disaster by the Governor. Once the fund balance reaches the amount of five hundred million dollars (\$500,000,000), the funds shall be appropriated as provided in subsection (b) of this section. If monies are withdrawn from this fund to carry out the provisions in this section, all revenues and royalties paid to the State as a result of offshore or onshore leasing, exploration, development, and production of all energy resources shall be deposited in the fund until a total of five hundred million dollars (\$500,000,000) is reestablished. Once the fund balance reaches the amount of five hundred million dollars (\$500,000,000), the funds shall be appropriated as provided in subsection (b) of this section. Any interest or other income generated from the corpus of this fund in excess of the five hundred million dollars (\$500,000,000) fund balance shall be deposited back into this fund.

**SECTION 1.(b)** Any revenues and royalties paid to the State as a result of offshore or onshore leasing, exploration, development, and production of all energy resources in excess

of the amount needed to establish the fund created in subsection (a) of this section shall be appropriated and used for the following purposes:

- (1) Twenty-four percent (24%) of such revenues and royalties shall be credited to the General Fund.
- (2) Ten percent (10%) of such revenues and royalties shall be credited to the Highway Trust Fund established under G.S. 136-176.
- (3) Ten percent (10%) of such revenues and royalties shall be transferred to the Community Colleges System Office to establish and manage a fund for curriculum development and implementation as well as financial assistance for students attending community college to receive vocational training through this curriculum in fields directly related to energy exploration and development and related energy infrastructure.
- (4) Fifteen percent (15%) of such revenues and royalties shall be transferred to the Board of Governors of The University of North Carolina System to establish and manage research and development funds for programs directly related to energy research and development.
- (5) Thirty percent (30%) of such revenues and royalties shall be transferred to the Department of Environment and Natural Resources for conservation, protection, and mitigation, including, but not limited to, beach and inlet management projects, channel navigation and maintenance, public beach and water access, water quality management, and habitat restoration. Monies may also be used for environmental assessment and cleanup for non-energy-related activities, including an inactive hazardous substance or waste disposal site remedial action program where a responsible person cannot be identified or located, or where the responsible person is unable to pay the costs of remediation. No funds appropriated to the Department by this section shall be used for the construction or maintenance of terminal groins.
- (6) Five percent (5%) of such revenues and royalties shall be transferred to the State Ports Authority for expansion and maintenance of State Port infrastructure associated with energy-related commerce.
- (7) One percent (1%) of such revenues and royalties shall be transferred to the Department of Commerce for recruitment of energy-related industries to the State.
- (8) Five percent (5%) of such revenues and royalties shall be transferred to the Rural Center for administration of a fund for water and sewer infrastructure related to energy exploration, production, and development.

**SECTION 2.(a)** Development of Governors' Regional Interstate Offshore Energy Policy Compact. – The Governor is directed to commence development of a regional energy compact with the governors of South Carolina and Virginia in order to develop a unified regional strategy for the exploration, development, and production of all commercially viable federal and state offshore energy resources within the three-state region. The Governor shall develop recommendations for the General Assembly to consider for the development of a statutory regional compact, and these recommendations shall reflect the collective agreement of all three governors in the three-state region in order to provide common language for consideration by each state's General Assembly. During the development of these compact recommendations, the Governor is authorized to work directly with each of the three states' Congressional delegations, the United States Department of the Interior, the United States Environmental Protection Agency, and other appropriate federal agencies on behalf of the State of North Carolina to develop appropriate strategies to be considered in the development of the three-state compact for increasing domestic energy exploration, development, and production within each state in the three-state region and their adjacent state and federal waters. The compact negotiations and recommendations shall address at least all of the following:

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

- (2) Amend the Five Year Leasing Plan of the United States Department of the Interior to include leasing federal waters adjacent to the State and the three-state region for the exploration, quantification, and development of natural gas and related hydrocarbon energy resources.
- (3) Advocate proactively with each state's Congressional delegation and appropriate federal agencies to ensure direct sharing of royalties and revenues related to energy leasing, exploration, development, and production of all offshore energy resources in federal waters adjacent to the State and the three-state region.
- (4) Request the United States Department of the Interior to reinstate the federal Offshore Policy Committee with new members and new alternate members to be nominated by the governor of the state represented on the Offshore Policy Committee and appointed by the Secretary of the Interior, six of whom are to be one member and one alternate member from each of North Carolina, Virginia, and South Carolina.

**SECTION 2.(b)** No later than three months after the effective date of this act, and at least every three months thereafter, the Governor shall report to the General Assembly on the progress of the Governor and others in complying with the requirements under this section, to include providing copies of correspondence and other relevant materials to or from the Office of the Governor when the correspondence or materials pertain to the subject under this section or to any requirement under this section. The Governor shall report her final recommendations for the three-state energy compact to the Joint Regulatory Reform Committee no later than May 1, 2012.

**SECTION 2.(c)** In addition to the provisions in Sections 2(a) and 2(b) of this act, the Governor is encouraged to join the Governors of Alaska, Texas, Louisiana, Mississippi, and Virginia and any others who may sign on to the Outer Continental Shelf Governors Coalition announced on May 3, 2011, to promote a constructive dialogue among the coastal state governors and the federal government on offshore energy issues important to the future of North Carolina and the United States.

**SECTION 3.(a)** Onshore shale gas. – The Department of Environment and Natural Resources shall provide a comprehensive report to the Governor, the General Assembly, the Energy Jobs Council, created in G.S. 113B-2, as amended in Section 4 of this act, and the Joint Regulatory Reform Committee by May 1, 2012, that outlines the commercial potential of onshore shale gas resources within the State as well as the regulatory framework necessary to develop this resource. As part of this study, the Department is encouraged to collaborate with the Energy Jobs Council. As part of this report, the Department shall review all existing State laws and regulations regarding natural gas and related onshore hydrocarbon production specific to shale gas. The Department shall also review existing laws and regulations in states currently exploring for or producing shale gas, including Texas, Pennsylvania, and Arkansas, as well as related federal regulations and programs. In addition, the Department shall do all of the following for inclusion in its report under this section:

- (1) Review State laws and regulations, including G.S. 113-393(d) and 15 NCAC 05D, and provide recommendations on amendments and additions to address issues related to shale gas exploration, development, and production, including horizontal drilling, well permitting, well spacing, maximum permitted well depth, reporting requirements, bonding requirements, fees, and penalties.
- (2) Review State laws and regulations, including G.S. 87-88(c) and 15A NCAC 02C, and provide recommendations on amendments and additions to address issues related to shale gas exploration, development, and production, including hydraulic fracturing, reporting requirements for fracturing fluids, environmental management of fracturing fluids, water use, and groundwater protection. In addition, provide recommendations on the reuse, recycling, and disposal requirements for waste hydraulic fluids, water, and related solid waste and recommend well drilling, casing, and cementing standards for wells that may be subject to hydraulic fracturing.
- (3) Provide an inventory of all water supplies and evaluate the availability of water supply and potential impacts on other water users in any area of shale

gas interest identified by either the State Geologist or the United States Geological Survey.

- (4) Develop a regulatory framework proposal, including agencies, staffing, processes, permit requirements, penalties, fees, and reporting requirements necessary to evaluate the technical and public health and public safety merits of shale gas exploration and energy production and, where appropriate, outline processes for the provision of permit oversight, approval, and management.

**SECTION 3.(b)** In order to avoid redundancy and to make the most efficient use of State resources, the Department of Environment and Natural Resources and the Energy Jobs Council shall, to the maximum extent practicable, conduct the study required by Section 3(a) of this act in conjunction with the study required by Section 4 of House Bill 242, 2011 Regular Session, if House Bill 242 becomes law. The result of these consolidated studies, if applicable, shall result in one final report from the Department.

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

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

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

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

Upon investigation the General Assembly hereby finds that:

- (1) Energy is essential to the health, safety and welfare of the people of this State and to the workings of the State ~~economy; economy.~~
- (2) ~~Growth in the consumption of energy resources is in some part due to wasteful, uneconomic and inefficient uses of energy and a continuation of this trend will adversely affect the future social, economic and environmental development of North Carolina;~~
- (3) ~~It is the responsibility of State government to encourage~~ in the State's best interest to support the development of a reliable and adequate supply of energy for North Carolina at a level consistent with such energy needs required for the protection of public health and safety, and for the promotion of the general welfare; and that is secure, stable, and predictable in order to facilitate economic growth, job creation, and expansion of business and industry opportunities.
- (3a) It is in the State's best interest to support the exploration, development, and production of domestic energy supplies, preferably from the resources within the State or region and most certainly from within the country.
- (3b) It is the duty of State government to protect and preserve the State's natural resources, cultural heritage, and quality of life and, above all, the public health and safety of its residents during the exploration, development, and production of domestic energy resources.
- (4) ~~The State has not provided the basis for development of a long-range unified energy policy to encompass comprehensive energy resource planning and efficient management of the rate of consumption of existing energy resources in relation to economic growth, to effectively meet an energy crisis, to encourage development of alternative sources of energy, and to prudently conserve energy resources in a manner consistent with assuring a reliable and adequate supply of energy for North Carolina.~~ Carolina, including active support and collaboration with the federal government to ensure access to the nation's energy resources located on the outer continental shelf directly adjacent to the State's coastal waters.
- (5) ~~It is the expressed intent of this Chapter to provide for development of such a unified domestic energy policy for the State of North Carolina.~~ Carolina as part of a nationwide effort for increased domestic energy production in the interest of national security and economic growth and stability."

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

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

(a) ~~There~~ The Energy Jobs Council is hereby created a council to advise and make recommendations on increasing domestic energy policy exploration, development, and production within the State and region to promote economic growth and job creation to the

Governor and the General Assembly to be known as the Energy Policy Assembly. The Energy Jobs Council which shall be located within the Department of Commerce.

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

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

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

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

(a) The Energy Policy Jobs Council shall consist of ~~16~~12 members to be appointed as follows:

- ~~(1) Two members of the North Carolina House of Representatives to be appointed by the Speaker of the House of Representatives;~~
- ~~(2) Two members of the North Carolina Senate to be appointed by the President Pro Tempore of the Senate;~~
- ~~(2a) The Secretary of Commerce.~~
- ~~(3) Twelve~~Eleven public members who are citizens of the State of North Carolina to be appointed by the Governor. The Governor shall designate one of the public members as chair of the Council. Carolina and who are appointed in accordance with subsection (c) of this section.

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

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

- ~~(1) One member shall be experienced in the electric power industry;~~a representative of an investor-owned electric public utility, to be appointed by the Governor.
- ~~(2) One member shall be experienced in the natural gas industry;~~experienced in offshore natural gas and associated hydrocarbon exploration, development, and production, to be appointed by the Governor.
- ~~(2a) One member shall be experienced in energy policy matters;~~
- ~~(3) One member shall be experienced in alternative fuels and biofuels;~~a representative of an investor-owned natural gas public utility, to be appointed by the President Pro Tempore of the Senate.
- ~~(4) One member shall be experienced in energy efficient building design or construction;~~an energy economist or a person with experience in the financing or business development or an energy-related business, to be appointed by the President Pro Tempore of the Senate.
- ~~(5) One member shall be experienced in environmental protection;~~a geologist with experience in hydrocarbon resource evaluation and geophysical data acquisition, to be appointed by the President Pro Tempore of the Senate.
- ~~(6) One member who is engaged in a business providing renewable energy or other energy services;~~shall be an industrial energy consumer, to be appointed by the Speaker of the House of Representatives.
- ~~(7) One member shall be knowledgeable of alternative and renewable sources of energy;~~energy, other than wind energy, to be appointed by the Speaker of the House of Representatives.
- ~~(8) One member who, at the time of appointment, is a county commissioner; or elected municipal officer; provided, the member's term on the Council shall expire immediately in the event that he or she vacates office as a county commissioner or municipal officer;~~who has experience in trucking, rail, or shipping transportation, to be appointed by the Speaker of the House of Representatives.

- (9) Repealed by Session Laws 2009-446, s. 4, effective August 7, 2009.
- (10) ~~One member shall be knowledgeable in the finance, business development, or technology development of energy-related business; One member shall be a representative with experience in wind energy, to be appointed by the Governor.~~
- (11) ~~One member shall be experienced in low-income energy policy matters or low-income residential weatherization. One member shall be a representative with experience in environmental management, appointed by the Speaker of the House of Representatives.~~
- (12) ~~One member shall be experienced in the petroleum industry. One member shall be involved with the biofuels industry, to be appointed by the President Pro Tempore of the Senate."~~

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

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

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

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

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

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

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

The goal of the Energy Jobs Council is to identify and utilize all domestic energy resources in order to ensure a secure, stable, and predictable energy supply and to protect the economy of the State, promote job creation, and expand business and industry opportunities while ensuring the protection and preservation of the State's natural resources, cultural heritage, and quality of life. The Energy ~~Policy~~Jobs Council shall may delegate its duties where appropriate to the State Energy Office. Provided, however, the Council shall provide oversight and approval to the duties delegated to the State Energy Office. The Energy Jobs Council shall have the following general duties and responsibilities:

- (1) To develop and recommend to the Governor and the General Assembly a comprehensive long-range State energy policy that addresses requirements in the short term (10 years), in the midterm (25 years), and in the long term (50 years) to achieve maximum effective management and use of present and future sources of energy, such policy to include but not be limited to energy efficiency, renewable and alternative sources of energy, research and development into alternative energy technologies, and improvements to the State's energy infrastructure and energy economy; economy, including smart grid and domestic energy resources that shall include at least natural gas, coal, hydroelectric power, solar, wind, nuclear energy, and biomass. For utilities regulated under Chapter 62 of the General Statutes, the policy developed under this subdivision shall be consistent with the analysis and plan developed under G.S. 62-110.1(c).
- (2) To conduct an ongoing assessment of the opportunities and constraints presented by various uses of all forms of energy to facilitate the expansion of the domestic energy supply and to encourage the efficient use of all such energy forms in a manner consistent with State energy ~~policy~~; policy.
- (3) To continually review and coordinate all State government research, education and management programs relating to energy ~~matters and~~matters, to continually educate and inform the general public regarding such energy ~~matters; matters,~~ and to actively engage in discussions with the federal government, its agencies, and its leaders to identify opportunities to increase domestic energy supply within North Carolina and its adjacent offshore waters.
- (4) To recommend to the Governor and to the General Assembly needed energy legislation and to recommend for implementation such modifications of

energy policy, plans and programs as the Council considers necessary and desirable."

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

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

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

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

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

- (1) Recommendations to the Building Code Council for lighting, insulation, climate control systems and other building design and construction standards which increase the efficient use of energy and are economically feasible to implement;
- (2) Recommendations to the Building Code Council for per unit energy requirement allotments based upon square footage for various classes of buildings which would reduce energy consumption, yet are both technically and economically feasible and not injurious to public health and safety;
- (3) Recommendations for minimum levels of operating efficiency for all appliances whose use requires a significant amount of energy based upon both technical and economic feasibility considerations;
- (4) Recommendations for State government purchases of supplies, vehicles and equipment and such operating practices as will make possible more efficient use of energy;
- (5) Recommendations on energy conservation policies, programs and procedures for local units of government;
- (6) Any other recommendations which the Energy ~~Policy~~Jobs Council considers to be a significant part of a statewide conservation effort and which include provisions for sufficient incentives to further energy conservation;
- (7) An economic and environmental impact analysis of the recommended program.

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

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

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

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

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

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



(a) The Energy ~~Policy-Jobs~~ Council shall prepare a recommended Energy Management Plan for transmittal to the Governor, the initial plan to be completed by June 30, 1976."

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

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

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

(b) ~~Within four months of July 1, 1975:~~If required for an update of the program provided under subsection (j) of this section:

(1) Each electric utility and natural gas utility in the State shall prepare and submit to the Energy ~~Policy-Jobs~~ Council a proposed emergency curtailment plan setting forth proposals for identifying priority loads or users in the event of the declaration of an energy crisis pursuant to G.S. 113B-20, and proposals for supply allocation to such priority loads or users. Utilities regulated under Chapter 62 of the General Statutes may satisfy this requirement by submitting the General Load Reduction and System Restoration Plan that is prepared annually for the Utilities Commission.

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

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

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

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

(f) The Emergency Energy Program shall provide for the maintenance of essential services, the protection of public health, safety, and welfare, and the maintenance of a sound basic State economy. For utilities regulated under Chapter 62 of the General Statutes, the program shall be consistent with the General Load Reduction and System Restoration Plan that is prepared annually for the Utilities Commission. Provisions also shall be made in said program to differentiate curtailment of energy consumption by users on the basis of ability to accommodate such curtailments, and shall also include, but not be limited to, the following:

- (1) A variety of strategies and staged conservation measures of increasing intensity and authority to reduce energy use during an energy crisis, as defined in G.S. 113B-20 and guidelines and criteria for allocation of energy sources to priority users. The program shall contain alternative conservation actions and allocation plans to reasonably meet various foreseeable shortage circumstances and to allow a choice of appropriate responses;
- (2) Evidence that the program is consistent with requirements of federal emergency energy conservation and allocation laws and regulations;
- (3) Proposals to assist such individuals, institutions, agriculture and businesses which have engaged in energy saving measures;

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

(h) In addition to the above information and recommendations, the program shall contain proposals for implementation of such recommendations which include procedures, rules and regulations and agency administrative responsibilities for implementation, and shall further contain procedures for fair and equitable review of complaints and requests for special exemptions from emergency conservation measures or emergency allocations. Upon completion of a draft recommended plan, the Council shall arrange for its distribution to interested parties and shall make such plan available to the public and the Council further shall set a date for public hearing on said plan.

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

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

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

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

"§ 113B-12. Annual reports; contents.

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

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

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

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

"(a) ~~There is hereby created~~ Upon the declaration of an energy crisis by the Governor, a Legislative Committee on Energy Crisis Management shall be created to consist of the Speaker, as chairman, the Speaker pro tempore of the House of Representatives and Representatives, the

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

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

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

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

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

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

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

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

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

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

"Article 1.

Energy ~~Policy~~ Jobs Council."

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

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

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

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

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

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

**"§ 113B-11. Powers and authority.**

(a) The Energy ~~Policy~~ Jobs Council is authorized to secure directly from any officer, office, department, commission, board, bureau, institution and other agency of the State and its

political subdivisions any information it deems necessary to carry out its functions; and all such officers and agencies shall cooperate with the Council and, to the extent permitted by law, furnish such information to the Council as it may request.

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

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 6.(c)** Upon ratification, the Secretary of State shall furnish certified copies of this act to each member of the North Carolina Congressional delegation, the governors of South Carolina and Virginia, the legislative bodies of South Carolina and

Virginia, the Secretary of the United States Department of the Interior, and the President of the United States.

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

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of June, 2011.

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Philip E. Berger  
President Pro Tempore of the Senate

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Thom Tillis  
Speaker of the House of Representatives

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Beverly E. Perdue  
Governor

Approved \_\_\_\_\_ .m. this \_\_\_\_\_ day of \_\_\_\_\_, 2011