

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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**SENATE BILL 709
Commerce Committee Substitute Adopted 5/4/11
Third Edition Engrossed 5/10/11
House Committee Substitute Favorable 6/8/11
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Short Title: Energy Jobs Act.

(Public)

Sponsors:

Referred to:

April 20, 2011

A BILL TO BE ENTITLED

1
2 AN ACT TO INCREASE ENERGY PRODUCTION IN NORTH CAROLINA TO DEVELOP
3 A SECURE, STABLE, AND PREDICTABLE ENERGY SUPPLY TO FACILITATE
4 ECONOMIC GROWTH, JOB CREATION, AND EXPANSION OF BUSINESS AND
5 INDUSTRY OPPORTUNITIES AND TO ASSIGN FUTURE REVENUE FROM
6 ENERGY EXPLORATION, DEVELOPMENT, AND PRODUCTION OF ENERGY
7 RESOURCES IN ORDER TO PROTECT AND PRESERVE THE STATE'S NATURAL
8 RESOURCES, CULTURAL HERITAGE, AND QUALITY OF LIFE.

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

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

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

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

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

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

29 Whereas, in May 2011, the Governors of Alaska, Texas, Louisiana, Mississippi, and
30 Virginia created the Outer Continental Shelf Governors Coalition for the greater coordination
31 between the state and federal governments on offshore energy exploration, development, and
32 production and are calling for a better understanding of how federal decisions impact state and
33 local economies; and



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

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

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

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

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

17 Whereas, onshore renewable energy and energy efficiency industries in North
18 Carolina comprise more than 1,100 companies and currently employ more than 12,500 North
19 Carolinians, representing a 22% growth in jobs from 2009 to 2010; and

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

25 Whereas, the Legislative Research Commission's Advisory Subcommittee on
26 Offshore Energy Exploration heard comments and received a report from the Southeast Energy
27 Alliance that found production of natural gas and associated hydrocarbons offshore North
28 Carolina would create more than 6,700 new jobs and add more than \$659 million annually to
29 the State's Gross Domestic Product over three decades, during which time this energy
30 production could generate almost \$10 billion in cost sharing of government revenues at an
31 average of \$484 million per year to the State; and

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

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

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

43 Whereas, the General Assembly of the Commonwealth of Virginia authorized an
44 offshore energy study of natural gas potential with findings in the final report, completed in
45 2006, recommending exploration and development of natural gas resources offshore Virginia as
46 well as federal revenue sharing of these resources; and

47 Whereas, during the past few years, the Governor of Virginia, the General
48 Assembly of the Commonwealth of Virginia, and the United States Congressional delegation
49 for Virginia continue to proactively support, put forth legislation in both the Commonwealth
50 and in the United States Congress, and ratify legislation in the Commonwealth to move forward

1 with energy exploration, development, and production as well as ensuring federal revenue
2 sharing of these resources; Now, therefore,

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.(a)** Royalties and revenue from offshore and onshore energy
5 production. – Any revenues and royalties paid to the State as a result of offshore or onshore
6 leasing, exploration, development, and production of all energy resources shall be deposited in
7 an interest-bearing special revenue fund to be established within the State treasury until a total
8 of five hundred million dollars (\$500,000,000) is reached. This fund shall be used only for
9 emergency response, emergency environmental protection, or mitigation associated with a
10 release of liquid hydrocarbons or associated fluids directly related to offshore or onshore
11 energy exploration, development, production, or transmission after such an event has been
12 declared a disaster by the Governor. Once the fund balance reaches the amount of five hundred
13 million dollars (\$500,000,000), the funds shall be appropriated as provided in subsection (b) of
14 this section. If monies are withdrawn from this fund to carry out the provisions in this section,
15 all revenues and royalties paid to the State as a result of offshore or onshore leasing,
16 exploration, development, and production of all energy resources shall be deposited in the fund
17 until a total of five hundred million dollars (\$500,000,000) is reestablished. Once the fund
18 balance reaches the amount of five hundred million dollars (\$500,000,000), the funds shall be
19 appropriated as provided in subsection (b) of this section. Any interest or other income
20 generated from the corpus of this fund in excess of the five hundred million dollars
21 (\$500,000,000) fund balance shall be deposited back into this fund.

22 **SECTION 1.(b)** Any revenues and royalties paid to the State as a result of offshore
23 or onshore leasing, exploration, development, and production of all energy resources in excess
24 of the amount needed to establish the fund created in subsection (a) of this section shall be
25 appropriated and used for the following purposes:

- 26 (1) Twenty-four percent (24%) of such revenues and royalties shall be credited
27 to the General Fund.
- 28 (2) Ten percent (10%) of such revenues and royalties shall be credited to the
29 Highway Trust Fund established under G.S. 136-176.
- 30 (3) Ten percent (10%) of such revenues and royalties shall be transferred to the
31 Community Colleges System Office to establish and manage a fund for
32 curriculum development and implementation as well as financial assistance
33 for students attending community college to receive vocational training
34 through this curriculum in fields directly related to energy exploration and
35 development and related energy infrastructure.
- 36 (4) Fifteen percent (15%) of such revenues and royalties shall be transferred to
37 the Board of Governors of The University of North Carolina System to
38 establish and manage research and development funds for programs directly
39 related to energy research and development.
- 40 (5) Thirty percent (30%) of such revenues and royalties shall be transferred to
41 the Department of Environment and Natural Resources for conservation,
42 protection, and mitigation, including, but not limited to, beach and inlet
43 management projects, channel navigation and maintenance, public beach and
44 water access, water quality management, and habitat restoration. Monies
45 may also be used for environmental assessment and cleanup for
46 non-energy-related activities, including an inactive hazardous substance or
47 waste disposal site remedial action program where a responsible person
48 cannot be identified or located, or where the responsible person is unable to
49 pay the costs of remediation. No funds appropriated to the Department by
50 this section shall be used for the construction or maintenance of terminal
51 groins.

- 1 (6) Five percent (5%) of such revenues and royalties shall be transferred to the
2 State Ports Authority for expansion and maintenance of State Port
3 infrastructure associated with energy-related commerce.
4 (7) One percent (1%) 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 (8) Five percent (5%) of such revenues and royalties shall be transferred to the
8 Rural Center for administration of a fund for water and sewer infrastructure
9 related to energy exploration, production, and development.

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

- 26 (1) Ensure a timely review and consideration of permits and proposals at both
27 the state and federal level for both state and federal waters adjacent to each
28 state in the three-state region for seismic and other marine geophysical
29 exploration to identify and quantify natural gas and related hydrocarbon
30 resources along the continental margin.
31 (2) Amend the Five Year Leasing Plan of the United States Department of the
32 Interior to include leasing federal waters adjacent to the State and the
33 three-state region for the exploration, quantification, and development of
34 natural gas and related hydrocarbon energy resources.
35 (3) Advocate proactively with each state's Congressional delegation and
36 appropriate federal agencies to ensure direct sharing of royalties and
37 revenues related to energy leasing, exploration, development, and production
38 of all offshore energy resources in federal waters adjacent to the State and
39 the three-state region.
40 (4) Request the United States Department of the Interior to reinstate the federal
41 Offshore Policy Committee with new members and new alternate members
42 to be nominated by the governor of the state represented on the Offshore
43 Policy Committee and appointed by the Secretary of the Interior, six of
44 whom are to be one member and one alternate member from each of North
45 Carolina, Virginia, and South Carolina.

46 **SECTION 2.(b)** No later than three months after the effective date of this act, and
47 at least every three months thereafter, the Governor shall report to the General Assembly on the
48 progress of the Governor and others in complying with the requirements under this section, to
49 include providing copies of correspondence and other relevant materials to or from the Office
50 of the Governor when the correspondence or materials pertain to the subject under this section
51 or to any requirement under this section. The Governor shall report her final recommendations

1 for the three-state energy compact to the Joint Regulatory Reform Committee no later than May
2 1, 2012.

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

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

- 20 (1) Review State laws and regulations, including G.S. 113-393(d) and 15 NCAC
21 05D, and provide recommendations on amendments and additions to address
22 issues related to shale gas exploration, development, and production,
23 including horizontal drilling, well permitting, well spacing, maximum
24 permitted well depth, reporting requirements, bonding requirements, fees,
25 and penalties.
- 26 (2) Review State laws and regulations, including G.S. 87-88(c) and 15A NCAC
27 02C, and provide recommendations on amendments and additions to address
28 issues related to shale gas exploration, development, and production,
29 including hydraulic fracturing, reporting requirements for fracturing fluids,
30 environmental management of fracturing fluids, water use, and groundwater
31 protection. In addition, provide recommendations on the reuse, recycling,
32 and disposal requirements for waste hydraulic fluids, water, and related solid
33 waste and recommend well drilling, casing, and cementing standards for
34 wells that may be subject to hydraulic fracturing.
- 35 (3) Provide an inventory of all water supplies and evaluate the availability of
36 water supply and potential impacts on other water users in any area of shale
37 gas interest identified by either the State Geologist or the United States
38 Geological Survey.
- 39 (4) Develop a regulatory framework proposal, including agencies, staffing,
40 processes, permit requirements, penalties, fees, and reporting requirements
41 necessary to evaluate the technical and public health and public safety merits
42 of shale gas exploration and energy production and, where appropriate,
43 outline processes for the provision of permit oversight, approval, and
44 management.

45 **SECTION 3.(b)** In order to avoid redundancy and to make the most efficient use of
46 State resources, the Department of Environment and Natural Resources and the Energy Jobs
47 Council shall, to the maximum extent practicable, conduct the study required by Section 3(a) of
48 this act in conjunction with the study required by Section 4 of House Bill 242, 2011 Regular
49 Session, if House Bill 242 becomes law, and deference shall be given to the findings and
50 legislative recommendations issued pursuant to the study required by House Bill 242.

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

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

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

5 **"§ 113B-1. Legislative findings and purpose.**

6 Upon investigation the General Assembly hereby finds that:

- 7 (1) Energy is essential to the health, safety and welfare of the people of this
8 State and to the workings of the State ~~economy;~~economy.
- 9 (2) ~~Growth in the consumption of energy resources is in some part due to~~
10 ~~wasteful, uneconomic and inefficient uses of energy and a continuation of~~
11 ~~this trend will adversely affect the future social, economic and~~
12 ~~environmental development of North Carolina;~~
- 13 (3) ~~It is the responsibility of State government to encourage~~in the State's best
14 interest to support the development of a reliable and adequate supply of
15 energy for North Carolina at a level consistent with such energy needs
16 required for the protection of public health and safety, and for the promotion
17 of the general welfare; and that is secure, stable, and predictable in order to
18 facilitate economic growth, job creation, and expansion of business and
19 industry opportunities.
- 20 (3a) It is in the State's best interest to support the exploration, development, and
21 production of domestic energy supplies, preferably from the resources within
22 the State or region and most certainly from within the country.
- 23 (3b) It is the duty of State government to protect and preserve the State's natural
24 resources, cultural heritage, and quality of life and, above all, the public
25 health and safety of its residents during the exploration, development, and
26 production of domestic energy resources.
- 27 (4) The State has not provided the basis for development of a long-range unified
28 energy policy to encompass comprehensive energy resource planning and
29 efficient management of the rate of consumption of existing energy
30 resources in relation to economic growth, to effectively meet an energy
31 crisis, to encourage development of alternative sources of energy, and to
32 prudently conserve energy resources in a manner consistent with assuring a
33 reliable and adequate supply of energy for North ~~Carolina.~~Carolina,
34 including active support and collaboration with the federal government to
35 ensure access to the nation's energy resources located on the outer
36 continental shelf directly adjacent to the State's coastal waters.
- 37 (5) It is the expressed intent of this Chapter to provide for development of such
38 a unified domestic energy policy for the State of North ~~Carolina.~~Carolina as
39 part of a nationwide effort for increased domestic energy production in the
40 interest of national security and economic growth and stability."

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

42 **"§ 113B-2. Creation of Energy Policy Jobs Council; purpose of Council.**

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

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

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

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

5 "**§ 113B-3. Composition of Council; appointments; terms of members; qualifications.**

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

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

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

12 (2a) The Secretary of Commerce.

13 (3) ~~Twelve~~Eleven public members who are citizens of the State of North
14 ~~Carolina to be appointed by the Governor. The Governor shall designate one~~
15 ~~of the public members as chair of the Council.~~Carolina and who are
16 appointed in accordance with subsection (c) of this section.

17 (b) Appointments to the Energy ~~Policy~~Jobs Council shall be made by ~~July 15,~~
18 ~~2009,~~October 1, 2011, and each such appointee shall serve until January 31, 2011. Thereafter,
19 the appointed members ~~of the General Assembly shall serve two-year terms, and the appointed~~
20 ~~public members shall serve four-year~~four-year terms. ~~A member of the Energy Policy Council~~
21 ~~shall continue to serve until his successor is duly appointed, but such holdover shall not affect~~
22 ~~the expiration date of such succeeding term.~~Appointments made by the President Pro Tempore
23 of the Senate and the Speaker of the House of Representatives shall be allowed when the
24 General Assembly is not in session.

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

27 (1) One member shall be ~~experienced in the electric power industry;~~a
28 representative of an investor-owned electric public utility, to be appointed by
29 the Governor.

30 (2) One member shall be ~~experienced in the natural gas industry;~~experienced in
31 offshore natural gas and associated hydrocarbon exploration, development,
32 and production, to be appointed by the Governor.

33 (2a) ~~One member shall be experienced in energy policy matters;~~

34 (3) One member shall be ~~experienced in alternative fuels and biofuels;~~a
35 representative of an investor-owned natural gas public utility, to be
36 appointed by the President Pro Tempore of the Senate.

37 (4) One member shall be ~~experienced in energy efficient building design or~~
38 ~~construction;~~an energy economist or a person with experience in the
39 financing or business development or an energy-related business, to be
40 appointed by the President Pro Tempore of the Senate.

41 (5) One member shall be ~~experienced in environmental protection;~~a geologist
42 with experience in hydrocarbon resource evaluation and geophysical data
43 acquisition, to be appointed by the President Pro Tempore of the Senate.

44 (6) One member ~~who is engaged in a business providing renewable energy or~~
45 ~~other energy services;~~shall be an industrial energy consumer, to be appointed
46 by the Speaker of the House of Representatives.

47 (7) One member shall be knowledgeable of alternative and renewable sources of
48 ~~energy;~~energy, other than wind energy, to be appointed by the Speaker of the
49 House of Representatives.

50 (8) One member ~~who, at the time of appointment, is a county commissioner; or~~
51 ~~elected municipal officer; provided, the member's term on the Council shall~~

1 ~~expire immediately in the event that he or she vacates office as a county~~
 2 ~~commissioner or municipal officer; who has experience in trucking, rail, or~~
 3 ~~shipping transportation, to be appointed by the Speaker of the House of~~
 4 ~~Representatives.~~

5 (9) Repealed by Session Laws 2009-446, s. 4, effective August 7, 2009.

6 (10) ~~One member shall be knowledgeable in the finance, business development,~~
 7 ~~or technology development of energy-related business; One member shall be~~
 8 ~~a representative with experience in wind energy, to be appointed by the~~
 9 ~~Governor.~~

10 (11) ~~One member shall be experienced in low-income energy policy matters or~~
 11 ~~low-income residential weatherization. One member shall be a representative~~
 12 ~~with experience in environmental management, appointed by the Speaker of~~
 13 ~~the House of Representatives.~~

14 (12) ~~One member shall be experienced in the petroleum industry. One member~~
 15 ~~shall be involved with the biofuels industry, to be appointed by the President~~
 16 ~~Pro Tempore of the Senate."~~

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

18 **"§ 113B-4. Chairman of Council; replacement; reimbursement of members.**

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

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

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

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

28 **"§ 113B-6. General duties and responsibilities.**

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

37 (1) To develop and recommend to the Governor and the General Assembly a
 38 comprehensive long-range State energy policy that addresses requirements
 39 in the short term (10 years), in the midterm (25 years), and in the long term
 40 (50 years) to achieve maximum effective management and use of present
 41 and future sources of energy, such policy to include but not be limited to
 42 energy efficiency, renewable and alternative sources of energy, research and
 43 development into alternative energy technologies, and improvements to the
 44 State's energy infrastructure and energy ~~economy~~;economy, including smart
 45 grid and domestic energy resources that shall include at least natural gas,
 46 coal, hydroelectric power, solar, wind, nuclear energy, and biomass. For
 47 utilities regulated under Chapter 62 of the General Statutes, the policy
 48 developed under this subdivision shall be consistent with the analysis and
 49 plan developed under G.S. 62-110.1(c).

50 (2) To conduct an ongoing assessment of the opportunities and constraints
 51 presented by various uses of all forms of energy to facilitate the expansion of

- 1 the domestic energy supply and to encourage the efficient use of all such
2 energy forms in a manner consistent with State energy ~~policy~~;policy.
3 (3) To continually review and coordinate all State government research,
4 education and management programs relating to energy ~~matters and~~matters,
5 to continually educate and inform the general public regarding such energy
6 ~~matters;~~matters, and to actively engage in discussions with the federal
7 government, its agencies, and its leaders to identify opportunities to increase
8 domestic energy supply within North Carolina and its adjacent offshore
9 waters.
10 (4) To recommend to the Governor and to the General Assembly needed energy
11 legislation and to recommend for implementation such modifications of
12 energy policy, plans and programs as the Council considers necessary and
13 desirable."

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

15 **"§ 113B-7. Energy Efficiency Program; components.**

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

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

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

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

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

50 (e) Upon completion of the Energy Efficiency Program, the Council shall transmit said
51 program, to be known as the State Energy Efficiency Program, to the Governor for approval or

1 disapproval. Upon approval, the Governor shall assign administrative responsibility for such
2 implementation as can be carried out by executive order to appropriate agencies of State
3 government, and submit to the General Assembly such proposals which require legislative
4 action for implementation. The Governor shall have the authority to accept, administer, and
5 enforce federal programs, program measures and permissive delegations of authority delegated
6 to the Governor by the President of the United States, Congress, or the United States
7 Department of Energy, on behalf of the State of North Carolina, which pertain to the
8 conservation of energy resources.

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

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

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

19 **"§ 113B-8. Energy Management Plan; components.**

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

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

23 **"§ 113B-9. Emergency Energy Program; components.**

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

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

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

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

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

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

1 (e) The Energy ~~Policy~~-Jobs Council shall hold one or more public hearings, investigate
2 and review the plans submitted pursuant to this section, and, within nine months after July 1,
3 1975, the Energy ~~Policy~~-Jobs Council shall approve and recommend to the Governor guidelines
4 for emergency curtailment to be known as the Emergency Energy Program and to be
5 implemented upon adoption by the Governor after the declaration of an energy crisis and
6 pursuant to G.S. 113B-20 and 113B-23. Said program shall be based upon the plans presented
7 to the Energy ~~Policy~~-Jobs Council, upon independent analysis and study by the Council, and
8 upon information provided at the hearing or hearings, provided, however, that they are
9 consistent with such federal programs and regulations as are already in effect at that time.

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

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

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

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

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

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

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

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

50 "**§ 113B-12. Annual reports; contents.**

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

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

- 9 (1) An overview of statewide growth and development as they relate to future
 10 requirements for energy, including patterns of urban and metropolitan
 11 expansion, shifts in transportation modes, modifications in building types
 12 and design, and other trends and factors which, as determined by the
 13 Council, will significantly affect energy needs;
- 14 (2) The level of statewide and multi-county regional energy demand for a five,
 15 10- and 20-year forecast period which, in the judgment of the Council, can
 16 reasonably be met, with proposals as to possible energy supply sources;
- 17 (3) An assessment of growth trends in energy consumption and production and
 18 an identification of potential adverse social, economic, or environmental
 19 impacts which might be imposed by continuation of the present trends,
 20 including energy costs to consumers, significant increases in air, water, and
 21 other forms of pollution, threats to public health and safety, and loss of
 22 scenic and natural areas;
- 23 (4) An analysis of the role of energy efficiency, renewable energy,
 24 improvements to the State's energy infrastructure, and other means in
 25 meeting the State's current and projected energy demand;
- 26 (6) Recommendations to the Governor and the General Assembly for additional
 27 administrative and legislative actions on energy matters;
- 28 (7) A summary of the Council's activities since ~~its inception~~, the last report, a
 29 description of major plans developed by the Council, an assessment of plan
 30 implementation, and a review of Council plans and programs for the coming
 31 biennium."

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

33 "(a) ~~There is hereby created~~ Upon the declaration of an energy crisis by the Governor, a
 34 Legislative Committee on Energy Crisis Management shall be created to consist of the Speaker,
 35 as chairman, the Speaker pro tempore of the House of ~~Representatives and~~ Representatives, the
 36 President ~~pro tempore~~ Pro Tempore of the Senate, and the majority leader of the Senate. The
 37 Lieutenant Governor shall serve as a nonvoting ex officio member, provided, however, that he
 38 shall vote to break a tie."

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

40 "**§ 113B-23. Administration of plans and procedures.**

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

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

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

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

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

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

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

25 "Article 1.

26 Energy ~~Policy~~-Jobs Council."

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

28 "**§ 113B-5. Organization of the Council; adoption of rules of procedure therefor.**

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

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

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

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

41 "**§ 113B-11. Powers and authority.**

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

47 ...

48 (e) The Department of Commerce shall provide the staffing capability to the Energy
49 ~~Policy~~-Jobs Council so as to fully and effectively develop recommendations for a
50 comprehensive State energy policy as contained in the provisions of this Article. The Utilities

1 Commission is hereby ~~authorized~~ directed to make its staff available to the Council to assist in
2 the development of a State energy policy."

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

4 "**§ 114-4.2D. Employment of attorney for Energy ~~Policy~~ Jobs Council and Energy**
5 **Efficiency Program of the Department of Commerce.**

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

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

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

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

19 "**§ 143-345.13. Reporting of stocks of coal and petroleum fuels.**

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

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

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

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

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

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

1 governors of South Carolina and Virginia, the legislative bodies of South Carolina and
2 Virginia, the Secretary of the United States Department of the Interior, and the President of the
3 United States.

4 **SECTION 6.(d)** Section 2 of this act becomes effective when a direct sharing with
5 the State of royalties and revenues related to energy leasing, exploration, development and
6 production of all offshore energy resources in federal waters adjacent to the State becomes
7 effective. The remaining sections of this act are effective when it becomes law.