

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE JOINT RESOLUTION DRSJR95210-LGz-159B (03/29)

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Sponsors: Senators Rucho, Rabon, and Goolsby (Primary Sponsors).

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Referred to:

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1 A JOINT RESOLUTION EXPRESSING THE OPINION OF THE GENERAL ASSEMBLY  
2 THAT THERE SHOULD BE A NATIONAL ENERGY POLICY THAT SUPPORTS THE  
3 RESPONSIBLE EXPLORATION FOR AND DEVELOPMENT OF DOMESTIC  
4 ENERGY RESOURCES, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH  
5 COMMITTEE ON ENERGY POLICY ISSUES.

6 Whereas, economic recovery, job creation, effective global competitiveness, and  
7 national security depend upon developing our nation's diverse energy resources; and

8 Whereas, the identification and utilization of abundant supplies of affordable and  
9 reliable energy are vital to the prosperity of North Carolina and our nation; and

10 Whereas, the production of unconventional natural gas deposits in North America,  
11 including shale, is forecasted to increase to 64 percent of all domestic natural gas production by  
12 2020. The United States is estimated to have a future natural gas supply of over 2,000 trillion  
13 cubic feet, which is enough gas at current consumption rates to supply the nation for the next  
14 100 years. This increase is attributable to increased unconventional gas plays, largely from  
15 shale gas development; and

16 Whereas, the U.S. Department of Energy reports a shale gas potential of three to  
17 four trillion cubic feet of production per year may be sustainable for decades, and the Interstate  
18 Natural Gas Association of America reports that to achieve forecasted results, industry must  
19 have land access for drilling, a reasonable permitting process, and adequate prices and demand  
20 for natural gas; and

21 Whereas, the President of the United States, the Governor of North Carolina, and  
22 the North Carolina Department of Environment and Natural Resources have in recent months  
23 stated their support for environmentally responsible shale gas development; and

24 Whereas, the North Carolina Geological Survey reports 785,000 acres of Triassic  
25 basin formations that hold potential shale gas; and

26 Whereas, the U.S. Environmental Protection Agency is reviewing and considering  
27 new regulations regarding the practice of hydraulic fracturing used to recover natural gas from  
28 horizontal wells, often into shale formations that hold previously unavailable reserves of  
29 natural gas, to supply the nation for decades at low cost, a practice that has been used for  
30 decades and is well within the regulatory expertise of the states, pursuant to delegation by the  
31 Clean Water Act responsibilities by the U.S. Environmental Protection Agency; and

32 Whereas, North Carolina's more than 60 million acres of federally managed waters  
33 on the Atlantic Outer Continental Shelf is the largest along the Atlantic coast and the fourth  
34 largest in the United States; and

35 Whereas, the U.S. Department of the Interior failed to include the Atlantic Outer  
36 Continental Shelf in its leasing plan for 2012 through 2017; and



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

4           Whereas, the findings in the April 2010 final report of the Legislative Research  
5 Commission's Advisory Subcommittee on Offshore Energy Exploration noted that potentially  
6 significant energy resources exist offshore North Carolina that include quantifiable estimates  
7 from the federal government of almost 30 trillion cubic feet of natural gas; and

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

12           Whereas, the Legislative Research Commission's Advisory Subcommittee on  
13 Offshore Energy Exploration heard testimony from the Southeast Energy Alliance that  
14 estimated production of natural gas and associated hydrocarbons offshore North Carolina  
15 would create more than 6,700 new jobs and add more than \$659 million annually to the State's  
16 Gross Domestic Product over three decades, during which time this energy production could  
17 generate almost \$10 billion in revenue sharing of government revenues at an average of \$484  
18 million per year to North Carolina; and

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

23           Whereas, the U.S. Environmental Protection Agency has proposed New Source  
24 Performance Standards for oil and natural gas production that would significantly slow down  
25 drilling, resulting in less oil and natural gas production, lower royalties to the federal  
26 government, and lower tax payments to state governments; and

27           Whereas, the President and the Congress have not approved a pipeline project to  
28 transport oil extracted in Canada to the Gulf of Mexico for environmentally responsible  
29 refining and marketing, a project that is expected to create 13,000 construction jobs and 7,000  
30 jobs in manufacturing for Americans in several states, generate substantial revenues to support  
31 state and local needs, and decrease the potential from supply disruptions from the Gulf of  
32 Mexico that have created recent price spikes and supply shortages to the citizens and businesses  
33 of North Carolina; and

34           Whereas, commercial nuclear power plants provide base load electricity generation  
35 to and are an important component of a reliable, safe, and secure electric power supply for the  
36 citizens of North Carolina; and

37           Whereas, North Carolina receives approximately forty percent of its electricity from  
38 nuclear energy, is one of the top nuclear power producers in the country, and nuclear energy  
39 continues to be a safe, reliable, and clean resource; and

40           Whereas, the Nuclear Waste Policy Act of 1982 mandates that generators of nuclear  
41 power are responsible for paying the costs associated with establishing a permanent repository  
42 for the disposal of nuclear fuel from commercial reactors; and

43           Whereas, the United States government failed to begin accepting commercial  
44 nuclear fuel by 1998 as required by the Nuclear Waste Policy Act of 1982, and there have been  
45 ongoing and extensive delays caused by the government's failure to reasonably implement a  
46 waste management program and develop a disposal facility; and

47           Whereas, the President has unilaterally halted development by the U.S. Department  
48 of Energy of a planned national repository for spent nuclear fuel at Yucca Mountain, a  
49 repository that was required by federal law to be in place by 1998, and the Department of  
50 Energy continues to collect the fees authorized by the Nuclear Waste Policy Act of 1982 to

1 fund the required repository, fees that are paid by utilities that own nuclear power generation  
2 facilities and recovered from the purchasers of electricity generated by those facilities; and

3       Whereas, the Secretary of the U.S. Department of Energy has now taken action to  
4 terminate the current waste disposal program approved by the Yucca Mountain Repository Site  
5 Approval Act of 2002 and, therefore, there is currently no centralized waste management and  
6 disposal program being implemented and against which a fee can be assessed; and

7       Whereas, despite the absence of an ongoing waste management and disposal  
8 program, the Secretary is continuing to collect over \$750 million per year from reactor  
9 licensees, including those serving the citizens of North Carolina; and

10       Whereas, the citizens of North Carolina, through the rates charged, have contributed  
11 \$897.3 million in fees to fund the federal government's waste management and disposal  
12 program as prescribed in the Nuclear Waste Policy Act of 1982; and

13       Whereas, the Nuclear Waste Policy Act of 1982 requires the Secretary of the U.S.  
14 Department of Energy to collect fees only in an amount sufficient to offset the costs of the  
15 federal government's waste management and disposal program and provides that the Secretary  
16 is to request a fee adjustment if "excess or insufficient" revenues are being collected, and the  
17 current balance of the fund is more than \$25 billion and grows by approximately \$1 billion  
18 annually solely from the addition of investment income; and

19       Whereas, the recent report by the United States Secretary of Energy's Blue Ribbon  
20 Commission on America's Nuclear Future described the federal government's program to  
21 manage and dispose of used nuclear fuel as "... one of broken promises and unmet  
22 commitments" and recommended fundamental changes in the program, but the federal  
23 government has yet to act on any of the Blue Ribbon Commission's recommendations; and

24       Whereas, the U.S. Environmental Protection Agency has developed and proposed  
25 numerous significant new rules, regulations, and policy guidelines that will impact energy  
26 generation and utilization, including the Clean Water Act, section 316(b) rules; the Cross-State  
27 Air Pollution Rule; the Cooling Water Intake Structures rules; Title I of the Clean Air Act,  
28 Utility Maximum Achievable Control Technology (MACT) Standards and new Boiler MACT  
29 Standards; National Ambient Air Quality Standards for Sulfur Dioxide and Ozone; and the  
30 Coal Combustion Residuals rule; and

31       Whereas, the U.S. Environmental Protection Agency has not considered the  
32 combined impact of these new rules, regulations, and policy guidelines on citizens, states, and  
33 businesses, and the compliance with this array of new regulatory requirements, separately and  
34 together, particularly in the short time frames provided, will be extraordinarily expensive,  
35 directing available business capital to regulatory compliance rather than economic growth; and

36       Whereas, the U.S. Environmental Protection Agency has not considered the  
37 combined impact of these new and proposed rules and regulations on citizens, states, and  
38 businesses, and, if compliance can be accomplished at all, it is certain to increase the cost and  
39 reliability of electricity to residential, commercial, and industrial users at a time when no  
40 citizen or business can afford to pay more for energy without cutting back on other expenses,  
41 inhibiting economic growth and posing a serious risk to the reliability of the electric grid; and

42       Whereas, the foregoing information regarding federal policies and their effect on  
43 energy issues provides an incoherent, indefensible, and unsustainable energy policy that risks  
44 North Carolina's and the nation's economic recovery, global competitiveness, and energy  
45 security; and

46       Whereas, these federal activities are driving up the cost and driving down the  
47 reliability of energy at a time when economic recovery, business development, and job creation  
48 should be the top priorities of our leaders; Now, therefore,

49 Be it resolved by the Senate, the House of Representatives concurring:

50       **SECTION 1.** The General Assembly understands the urgency and importance of  
51 adopting a national energy policy that supports the responsible exploration for and development

1 of this nation's diverse energy resources in order to secure abundant supplies of affordable,  
2 reliable energy for the economic recovery and future prosperity of North Carolina and the  
3 nation.

4 **SECTION 2.** The General Assembly advocates that the federal 2012-2017  
5 five-year leasing plan be amended to include at least North Carolina's more than 60 million  
6 acres of federally managed waters on the Atlantic Outer Continental Shelf and expedite studies  
7 and permits to accelerate exploration, production, and development of the natural gas and  
8 hydrocarbon resources thereunder. The General Assembly also advocates that the federal  
9 government include revenue sharing provisions for North Carolina's federally managed waters  
10 on the Atlantic Outer Continental Shelf similar, if not identical, to those included in the Gulf of  
11 Mexico Energy Security Act of 2006.

12 **SECTION 3.** It is the opinion of the General Assembly that ratepayers in North  
13 Carolina and throughout the nation could be protected by the immediate suspension of the  
14 collection of Nuclear Waste Fund fees because the continued collection cannot be justified  
15 under the Nuclear Waste Policy Act of 1982 given the unlawful termination of the waste  
16 management and disposal program at the Yucca Mountain site.

17 **SECTION 4.** It is also the opinion of the General Assembly that the collection fee  
18 should not be resumed until the long-term final repository program is revived or another waste  
19 management and disposal program is established based on the final recommendations of the  
20 President's Blue Ribbon Commission on America's Nuclear Future.

21 **SECTION 5.** The federal government should put in place immediately the  
22 governance and financial reforms recommended by the Blue Ribbon Commission in order to  
23 make real progress toward disposal of used nuclear fuel in a geologic repository and to ensure  
24 that monies paid by electricity customers toward that end are used for the purpose of fuel  
25 management.

26 **SECTION 6.** In compliance with the mandates of the Nuclear Waste Policy Act of  
27 1982 and the Yucca Mountain Repository Site Approval Act of 2002, it is the opinion of the  
28 General Assembly that the United States Department of Energy should resume work on the  
29 license application for the Yucca Mountain long-term spent nuclear fuel and high-level  
30 radioactive waste repository to the United States Nuclear Regulatory Commission to complete  
31 the environmental and technical review of the proposed repository.

32 **SECTION 7.** The General Assembly endorses the following:

- 33 (1) Providing statutory oversight and direction to implement a responsible  
34 energy policy in light of the Executive Branch's failure to implement such a  
35 policy.
- 36 (2) Having access to a cumulative regulatory impact assessment of all of the  
37 major regulations under consideration under the Clean Air Act and Clean  
38 Water Act, including the cumulative effect of all of these regulations on the  
39 economy, jobs, and energy affordability and reliability, drawing on the  
40 expertise of other federal agencies and the private sector.
- 41 (3) Providing additional oversight of the U.S. Environmental Protection  
42 Agency, considering the current encroachment of state enforcement powers  
43 and duties, air quality and water quality policy planning, and economic  
44 growth impacts due to regulatory uncertainty created by the Agency's recent  
45 actions regarding rules, regulations, and policy guidelines.

46 **SECTION 8.** The Secretary of State shall transmit certified copies of this  
47 resolution to each member of the North Carolina Congressional delegation, the Secretary of the  
48 United States Department of Energy, the Secretary of the United States Department of the  
49 Interior, the Administrator of the United States Environmental Protection Agency, the President  
50 of the United States, and the legislatures of the states so that they may be apprised of the  
51 opinions of the North Carolina General Assembly in these matters.

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**SECTION 9.** This resolution is effective upon ratification.