

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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**SENATE BILL 709
Commerce Committee Substitute Adopted 5/4/11
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PROPOSED HOUSE COMMITTEE SUBSTITUTE S709-PCS95104-TD-50**

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



1 production and are calling for a better understanding of how federal decisions impact state and
2 local economies; and

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

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

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

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

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

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

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

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

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

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

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

45 Whereas, the General Assembly of the Commonwealth of Virginia authorized an
46 offshore energy study of natural gas potential with findings in the final report, completed in
47 2006, recommending exploration and development of natural gas resources offshore Virginia as
48 well as federal revenue sharing of these resources; and

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

1 and in the United States Congress, and ratify legislation in the Commonwealth to move forward
2 with energy exploration, development, and production as well as ensuring federal revenue
3 sharing of these resources; Now, therefore,

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** Royalties and revenue from offshore and onshore energy
6 production. – Any revenues and royalties paid to the State as a result of offshore or onshore
7 leasing, exploration, development, and production of all energy resources shall be deposited in
8 an interest-bearing special revenue fund to be established within the State treasury until a total
9 of five hundred million dollars (\$500,000,000) is reached. This fund shall be used only for
10 emergency response, emergency environmental protection, or mitigation associated with a
11 release of liquid hydrocarbons or associated fluids directly related to offshore or onshore
12 energy exploration, development, production, or transmission after such an event has been
13 declared a disaster by the Governor. Once the fund balance reaches the amount of five hundred
14 million dollars (\$500,000,000), the funds shall be appropriated as provided in subsection (b) of
15 this section. If monies are withdrawn from this fund to carry out the provisions in this section,
16 all revenues and royalties paid to the State as a result of offshore or onshore leasing,
17 exploration, development, and production of all energy resources shall be deposited in the fund
18 until a total of five hundred million dollars (\$500,000,000) is reestablished. Once the fund
19 balance reaches the amount of five hundred million dollars (\$500,000,000), the funds shall be
20 appropriated as provided in subsection (b) of this section. Any interest or other income
21 generated from the corpus of this fund in excess of the five hundred million dollars
22 (\$500,000,000) fund balance shall be deposited back into this fund.

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

- 27 (1) Twenty-four percent (24%) of such revenues and royalties shall be credited
28 to the General Fund.
- 29 (2) Ten percent (10%) of such revenues and royalties shall be credited to the
30 Highway Trust Fund established under G.S. 136-176.
- 31 (3) Ten percent (10%) of such revenues and royalties shall be transferred to the
32 Community Colleges System Office to establish and manage a fund for
33 curriculum development and implementation as well as financial assistance
34 for students attending community college to receive vocational training
35 through this curriculum in fields directly related to energy exploration and
36 development and related energy infrastructure.
- 37 (4) Fifteen percent (15%) of such revenues and royalties shall be transferred to
38 the Board of Governors of The University of North Carolina System to
39 establish and manage research and development funds for programs directly
40 related to energy research and development.
- 41 (5) Thirty percent (30%) of such revenues and royalties shall be transferred to
42 the Department of Environment and Natural Resources for conservation,
43 protection, and mitigation, including, but not limited to, beach and inlet
44 management projects, channel navigation and maintenance, public beach and
45 water access, water quality management, and habitat restoration. Monies
46 may also be used for environmental assessment and cleanup for
47 non-energy-related activities, including an inactive hazardous substance or
48 waste disposal site remedial action program where a responsible person
49 cannot be identified or located, or where the responsible person is unable to
50 pay the costs of remediation.

- 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.** 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 safety merits of shale gas
42 exploration and energy production and, where appropriate, outline processes
43 for the provision of permit oversight, approval, and management.

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

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

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

48 **"§ 113B-1. Legislative findings and purpose.**

49 Upon investigation the General Assembly hereby finds that:

- 50 (1) Energy is essential to the health, safety and welfare of the people of this
51 State and to the workings of the State ~~economy~~;economy.

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

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

34 **"§ 113B-2. Creation of Energy Policy Jobs Council; purpose of Council.**

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

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

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

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

46 **"§ 113B-3. Composition of Council; appointments; terms of members; qualifications.**

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

- 49 (1) ~~Two members of the North Carolina House of Representatives to be~~
 50 ~~appointed by the Speaker of the House of Representatives;~~

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

8 (b) ~~Appointments to the Energy Policy Jobs Council shall be made by July 15,~~
9 ~~2009, October 1, 2011, and each such appointee shall serve until January 31, 2011. Thereafter,~~
10 ~~the appointed members of the General Assembly shall serve two-year terms, and the appointed~~
11 ~~public members shall serve four-year~~ four-year terms. ~~A member of the Energy Policy Council~~
12 ~~shall continue to serve until his successor is duly appointed, but such holdover shall not affect~~
13 ~~the expiration date of such succeeding term.~~ Appointments made by the President Pro Tempore
14 ~~of the Senate and the Speaker of the House of Representatives shall be allowed when the~~
15 ~~General Assembly is not in session.~~

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

- 18 (1) ~~One member shall be experienced in the electric power industry;~~ a
19 ~~representative of an investor-owned electric public utility, to be appointed by~~
20 ~~the Governor.~~
21 (2) ~~One member shall be experienced in the natural gas industry;~~ experienced in
22 ~~offshore natural gas and associated hydrocarbon exploration, development,~~
23 ~~and production, to be appointed by the Governor.~~
24 (2a) ~~One member shall be experienced in energy policy matters;~~
25 (3) ~~One member shall be experienced in alternative fuels and biofuels;~~ a
26 ~~representative of an investor-owned natural gas public utility, to be~~
27 ~~appointed by the President Pro Tempore of the Senate.~~
28 (4) ~~One member shall be experienced in energy efficient building design or~~
29 ~~construction;~~ an energy economist or a person with experience in the
30 ~~financing or business development or an energy-related business, to be~~
31 ~~appointed by the President Pro Tempore of the Senate.~~
32 (5) ~~One member shall be experienced in environmental protection;~~ a geologist
33 ~~with experience in hydrocarbon resource evaluation and geophysical data~~
34 ~~acquisition, to be appointed by the President Pro Tempore of the Senate.~~
35 (6) ~~One member who is engaged in a business providing renewable energy or~~
36 ~~other energy services;~~ shall be an industrial energy consumer, to be appointed
37 ~~by the Speaker of the House of Representatives.~~
38 (7) ~~One member shall be knowledgeable of alternative and renewable sources of~~
39 ~~energy;~~ energy, other than wind energy, to be appointed by the Speaker of the
40 ~~House of Representatives.~~
41 (8) ~~One member who, at the time of appointment, is a county commissioner; or~~
42 ~~elected municipal officer; provided, the member's term on the Council shall~~
43 ~~expire immediately in the event that he or she vacates office as a county~~
44 ~~commissioner or municipal officer;~~ who has experience in trucking, rail, or
45 ~~shipping transportation, to be appointed by the Speaker of the House of~~
46 ~~Representatives.~~
47 (9) ~~Repealed by Session Laws 2009-446, s. 4, effective August 7, 2009.~~
48 (10) ~~One member shall be knowledgeable in the finance, business development,~~
49 ~~or technology development of energy related business;~~ One member shall be
50 ~~a representative with experience in wind energy, to be appointed by the~~
51 ~~Governor.~~

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

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

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

9 **"§ 113B-4. Chairman of Council; replacement; reimbursement of members.**

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

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

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

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

19 **"§ 113B-6. General duties and responsibilities.**

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

28 (1) To develop and recommend to the Governor and the General Assembly a
 29 comprehensive ~~long range~~ State energy policy that addresses requirements
 30 in the short term (10 years), in the midterm (25 years), and in the long term
 31 (50 years) to achieve maximum effective management and use of present
 32 and future sources of energy, such policy to include but not be limited to
 33 energy efficiency, renewable and alternative sources of energy, research and
 34 development into alternative energy technologies, and improvements to the
 35 State's energy infrastructure and energy ~~economy;~~ economy, including smart
 36 grid and domestic energy resources that shall include at least natural gas,
 37 coal, hydroelectric power, solar, wind, nuclear energy, and biomass. For
 38 utilities regulated under Chapter 62 of the General Statutes, the policy
 39 developed under this subdivision shall be consistent with the analysis and
 40 plan developed under G.S. 62-110.1(c).

41 (2) To conduct an ongoing assessment of the opportunities and constraints
 42 presented by various uses of all forms of energy to facilitate the expansion of
 43 the domestic energy supply and to encourage the efficient use of all such
 44 energy forms in a manner consistent with State energy ~~policy;~~ policy.

45 (3) To continually review and coordinate all State government research,
 46 education and management programs relating to energy ~~matters and~~ matters,
 47 to continually educate and inform the general public regarding such energy
 48 matters; matters, and to actively engage in discussions with the federal
 49 government, its agencies, and its leaders to identify opportunities to increase
 50 domestic energy supply within North Carolina and its adjacent offshore
 51 waters.

- 1 (4) To recommend to the Governor and to the General Assembly needed energy
2 legislation and to recommend for implementation such modifications of
3 energy policy, plans and programs as the Council considers necessary and
4 desirable."

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

6 **"§ 113B-7. Energy Efficiency Program; components.**

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

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

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

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

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

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

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

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

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

11 "**§ 113B-8. Energy Management Plan; components.**

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

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

15 "**§ 113B-9. Emergency Energy Program; components.**

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

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

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

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

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

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

44 (e) The Energy ~~Policy-Jobs~~ Council shall hold one or more public hearings, investigate
45 and review the plans submitted pursuant to this section, and, within nine months after July 1,
46 1975, the Energy ~~Policy-Jobs~~ Council shall approve and recommend to the Governor guidelines
47 for emergency curtailment to be known as the Emergency Energy Program and to be
48 implemented upon adoption by the Governor after the declaration of an energy crisis and
49 pursuant to G.S. 113B-20 and 113B-23. Said program shall be based upon the plans presented
50 to the Energy ~~Policy-Jobs~~ Council, upon independent analysis and study by the Council, and

1 upon information provided at the hearing or hearings, provided, however, that they are
2 consistent with such federal programs and regulations as are already in effect at that time.

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

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

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

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

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

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

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

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

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

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

43 **"§ 113B-12. Annual reports; contents.**

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

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

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

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

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

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

32 "**§ 113B-23. Administration of plans and procedures.**

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

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

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

49 (c) Upon the declaration of an energy crisis, the Governor may employ such measures
 50 and give such direction to State and local offices and agencies as may be reasonable and

1 necessary for the purpose of securing compliance with the provisions of this Article and with
2 emergency rules, orders and regulations issued pursuant to G.S. 113B-22."

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

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

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

18 "Article 1.

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

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

21 **"§ 113B-5. Organization of the Council; adoption of rules of procedure therefor.**

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

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

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

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

34 **"§ 113B-11. Powers and authority.**

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

40 ...

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

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

47 **"§ 114-4.2D. Employment of attorney for Energy ~~Policy~~-Jobs Council and Energy
48 Efficiency Program of the Department of Commerce.**

49 The Attorney General shall assign an attorney to work full time with the Energy ~~Policy~~-Jobs
50 Council and Energy Efficiency Program of the Department of Commerce. Such attorney shall
51 be subject to all provisions of Chapter 126 of the General Statutes relating to the State

1 Personnel System. Such attorney shall also perform such additional duties as may be assigned
2 by the Attorney General."

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

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

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

11 **"§ 143-345.13. Reporting of stocks of coal and petroleum fuels.**

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

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

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

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

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

42 **SECTION 6.(c)** Upon ratification, the Secretary of State shall furnish certified
43 copies of this act to each member of the North Carolina Congressional delegation, the
44 governors of South Carolina and Virginia, the legislative bodies of South Carolina and
45 Virginia, the Secretary of the United States Department of the Interior, and the President of the
46 United States.

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