

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

S

D

**SENATE BILL 709
PROPOSED COMMITTEE SUBSTITUTE S709-PCS75156-TD-25**

Short Title: Energy Jobs Act.

(Public)

Sponsors:

Referred to:

April 20, 2011

A BILL TO BE ENTITLED

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

8
9 Whereas, renewable energy and energy efficiency industries in North Carolina
10 comprise more than 1,100 companies and currently employ more than 12,500 North
11 Carolinians, representing a 22% growth in jobs from 2009 to 2010; and

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

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

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

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

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

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

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

33 Whereas, the findings in the April 2010 final report of the Legislative Research
34 Commission's Advisory Subcommittee on Offshore Energy Exploration noted that potentially



1 significant energy resources exist offshore North Carolina that included quantifiable estimates
2 from the federal government of almost 30 trillion cubic feet of natural gas in offshore North
3 Carolina and adjacent mid-Atlantic states; and

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

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

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

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

22 Whereas, the General Assembly of the Commonwealth of Virginia authorized an
23 offshore energy study of natural gas potential with findings in the final report, completed in
24 2006, recommending exploration and development of natural gas resources offshore Virginia as
25 well as federal revenue sharing of these resources; and

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

33 **SECTION 1.** Royalties and revenue from offshore and onshore energy production.
34 – Any revenues and royalties paid to the State as a result of offshore or onshore leasing,
35 exploration, development, and production of all energy resources shall be appropriated and
36 used for the following purposes:

- 37 (1) Twenty-four percent (24%) of such revenues and royalties shall be credited
38 to the General Fund.
- 39 (2) Twenty percent (20%) of such revenues and royalties shall be credited to the
40 Highway Trust Fund established under G.S. 136-176.
- 41 (3) Five percent (5%) of such revenues and royalties shall be transferred to the
42 Community Colleges System Office to establish and manage a fund for
43 curriculum development and implementation as well as financial assistance
44 for students attending community college to receive vocational training
45 through this curriculum in fields directly related to energy exploration and
46 development and related energy infrastructure.
- 47 (4) Fifteen percent (15%) of such revenues and royalties shall be transferred to
48 the Board of Governors of The University of North Carolina System to
49 establish and manage research and development funds for programs directly
50 related to energy research and development.

- 1 (5) Thirty percent (30%) of such revenues and royalties shall be transferred to
2 the Department of Environment and Natural Resources for coastal
3 conservation, including, but not limited to, beach and inlet management
4 projects, channel navigation and maintenance, public beach and water
5 access, water quality management, as well as fisheries and shellfish
6 restoration.
- 7 (6) Five percent (5%) of such revenues and royalties shall be transferred to the
8 State Ports Authority for expansion and maintenance of State Port
9 infrastructure associated with energy-related commerce.
- 10 (7) One percent (1%) of such revenues and royalties shall be transferred to the
11 Department of Commerce for recruitment of energy-related industries to the
12 State.

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

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

49 **SECTION 2.(b)** No later than three months after the effective date of this act, and
50 at least every three months thereafter, the Governor shall report to the General Assembly on the
51 progress of the Governor and others in complying with the requirements under this section, to

1 include providing copies of correspondence and other relevant materials to or from the Office
2 of the Governor when the correspondence or materials pertain to the subject under this section
3 or to any requirement under this section. The Governor shall report her final recommendations
4 for the three-state energy compact to the Joint Regulatory Reform Committee no later than May
5 1, 2012.

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

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

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

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

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

45 **"§ 113B-1. Legislative findings and purpose.**

46 Upon investigation the General Assembly hereby finds that:

- 47 (1) Energy is essential to the health, safety and welfare of the people of this
48 State and to the workings of the State ~~economy~~;economy.
- 49 (2) ~~Growth in the consumption of energy resources is in some part due to~~
50 ~~wasteful, uneconomic and inefficient uses of energy and a continuation of~~

1 ~~this trend will adversely affect the future social, economic and~~
 2 ~~environmental development of North Carolina;~~

3 (3) ~~It is the responsibility of State government to encourage in the State's best~~
 4 ~~interest to support the development of a reliable and adequate supply of~~
 5 ~~energy for North Carolina at a level consistent with such energy needs~~
 6 ~~required for the protection of public health and safety, and for the promotion~~
 7 ~~of the general welfare; and that is secure, stable, and predictable in order to~~
 8 ~~facilitate economic growth, job creation, and expansion of business and~~
 9 ~~industry opportunities.~~

10 (3a) It is in the State's best interest to support the exploration, development, and
 11 production of domestic energy supplies, preferably from the resources within
 12 the State or region and most certainly from within the country.

13 (3b) It is the duty of State government to protect and preserve the State's natural
 14 resources, cultural heritage, and quality of life and, above all, the public
 15 health and safety of its residents during the exploration, development, and
 16 production of domestic energy resources.

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

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

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

32 **"§ 113B-2. Creation of Energy Policy Jobs Council; purpose of Council.**

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

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

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

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

44 **"§ 113B-3. Composition of Council; appointments; terms of members; qualifications.**

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

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

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

51 (2a) The Secretary of Commerce.

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

5 (b) Appointments to the Energy ~~Policy~~ Jobs Council shall be made by ~~July 15,~~
6 ~~2009,~~ October 1, 2011, and each such appointee shall serve ~~until January 31, 2011.~~ Thereafter,
7 the appointed members of the General Assembly shall serve ~~two-year terms,~~ and the appointed
8 public members shall serve ~~four-year~~ four-year terms. A member of the Energy Policy Council
9 shall continue to serve until his successor is duly appointed, but such holdover shall not affect
10 ~~the expiration date of such succeeding term.~~ Appointments made by the President Pro Tempore
11 of the Senate and the Speaker of the House of Representatives shall be allowed when the
12 General Assembly is not in session.

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

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

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

21 ~~(2a) One member shall be experienced in energy policy matters;~~

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

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

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

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

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

38 (8) One member ~~who, at the time of appointment, is a county commissioner; or~~
39 ~~elected municipal officer; provided, the member's term on the Council shall~~
40 ~~expire immediately in the event that he or she vacates office as a county~~
41 ~~commissioner or municipal officer;~~ who has experience in trucking, rail, or
42 shipping transportation, to be appointed by the Speaker of the House of
43 Representatives.

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

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

49 (11) ~~One member shall be experienced in low income energy policy matters or~~
50 ~~low income residential weatherization.~~ One member shall be a representative

1 with experience in environmental management, appointed by the Speaker of
2 the House of Representatives.

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

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

7 **"§ 113B-4. Chairman of Council; replacement; reimbursement of members.**

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

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

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

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

17 **"§ 113B-6. General duties and responsibilities.**

18 The goal of the Energy Jobs Council is to identify and utilize all domestic energy resources
19 in order to ensure a secure, stable, and predictable energy supply and to protect the economy of
20 the State, promote job creation, and expand business and industry opportunities while ensuring
21 the protection and preservation of the State's natural resources, cultural heritage, and quality of
22 life. The Energy ~~Policy~~Jobs Council ~~shall~~may delegate its duties where appropriate to the State

23 Energy Office. Provided, however, the Council shall provide oversight and approval to the
24 duties delegated to the State Energy Office. The Energy Jobs Council shall have the following
25 general duties and responsibilities:

- 26 (1) To develop and recommend to the Governor and the General Assembly a
27 comprehensive ~~long-range~~ State energy policy that addresses requirements
28 in the short term (10 years), in the midterm (25 years), and in the long term
29 (50 years) to achieve maximum effective management and use of present
30 and future sources of energy, such policy to include but not be limited to
31 energy efficiency, renewable and alternative sources of energy, research and
32 development into alternative energy technologies, and improvements to the
33 State's energy infrastructure and energy ~~economy;~~economy including smart
34 grid and domestic energy resources that shall include at least natural gas,
35 coal, hydroelectric power, solar, wind, nuclear energy, and biomass.

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

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

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

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

1 **"§ 113B-7. Energy Efficiency Program; components.**

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

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

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

9 (1) Recommendations to the Building Code Council for lighting, insulation,
10 climate control systems and other building design and construction standards
11 which increase the efficient use of energy and are economically feasible to
12 implement;

13 (2) Recommendations to the Building Code Council for per unit energy
14 requirement allotments based upon square footage for various classes of
15 buildings which would reduce energy consumption, yet are both technically
16 and economically feasible and not injurious to public health and safety;

17 (3) Recommendations for minimum levels of operating efficiency for all
18 appliances whose use requires a significant amount of energy based upon
19 both technical and economic feasibility considerations;

20 (4) Recommendations for State government purchases of supplies, vehicles and
21 equipment and such operating practices as will make possible more efficient
22 use of energy;

23 (5) Recommendations on energy conservation policies, programs and
24 procedures for local units of government;

25 (6) Any other recommendations which the Energy ~~Policy~~-Jobs Council
26 considers to be a significant part of a statewide conservation effort and
27 which include provisions for sufficient incentives to further energy
28 conservation;

29 (7) An economic and environmental impact analysis of the recommended
30 program.

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

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

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

50 (g) At least every two years and whenever such changes take place as would
51 significantly affect energy supply or demand in North Carolina, the Energy ~~Policy~~-Jobs Council

1 shall review and, if necessary, revise the Energy Efficiency Program, transmitting such revised
2 plan to the Governor pursuant to the procedures contained in subsections (e) and (f) of this
3 section."

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

5 **"§ 113B-8. Energy Management Plan; components.**

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

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

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

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

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

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

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

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

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

34 (e) The Energy ~~Policy-Jobs~~ Council shall hold one or more public hearings, investigate
35 and review the plans submitted pursuant to this section, and, within nine months after July 1,
36 1975, the Energy ~~Policy-Jobs~~ Council shall approve and recommend to the Governor guidelines
37 for emergency curtailment to be known as the Emergency Energy Program and to be
38 implemented upon adoption by the Governor after the declaration of an energy crisis and
39 pursuant to G.S. 113B-20 and 113B-23. Said program shall be based upon the plans presented
40 to the Energy ~~Policy-Jobs~~ Council, upon independent analysis and study by the Council, and
41 upon information provided at the hearing or hearings, provided, however, that they are
42 consistent with such federal programs and regulations as are already in effect at that time.

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

48 (1) A variety of strategies and staged conservation measures of increasing
49 intensity and authority to reduce energy use during an energy crisis, as
50 defined in G.S. 113B-20 and guidelines and criteria for allocation of energy
51 sources to priority users. The program shall contain alternative conservation

1 actions and allocation plans to reasonably meet various foreseeable shortage
2 circumstances and to allow a choice of appropriate responses;

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

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

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

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

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

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

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

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

30 **"§ 113B-12. Annual reports; contents.**

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

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

39 (1) An overview of statewide growth and development as they relate to future
40 requirements for energy, including patterns of urban and metropolitan
41 expansion, shifts in transportation modes, modifications in building types
42 and design, and other trends and factors which, as determined by the
43 Council, will significantly affect energy needs;

44 (2) The level of statewide and multi-county regional energy demand for a five,
45 10- and 20-year forecast period which, in the judgment of the Council, can
46 reasonably be met, with proposals as to possible energy supply sources;

47 (3) An assessment of growth trends in energy consumption and production and
48 an identification of potential adverse social, economic, or environmental
49 impacts which might be imposed by continuation of the present trends,
50 including energy costs to consumers, significant increases in air, water, and

1 other forms of pollution, threats to public health and safety, and loss of
2 scenic and natural areas;

3 (4) An analysis of the role of energy efficiency, renewable energy,
4 improvements to the State's energy infrastructure, and other means in
5 meeting the State's current and projected energy demand;

6 (6) Recommendations to the Governor and the General Assembly for additional
7 administrative and legislative actions on energy matters;

8 (7) A summary of the Council's activities since ~~its inception~~, the last report, a
9 description of major plans developed by the Council, an assessment of plan
10 implementation, and a review of Council plans and programs for the coming
11 biennium."

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

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

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

20 "**§ 113B-23. Administration of plans and procedures.**

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

24 (1) Identify and determine the nature and severity of expected energy shortages;

25 (2) Provide for daily communications with and gather information from
26 significant energy producers, distributors, transporters and major consumers,
27 as determined by the Energy ~~Policy~~ Jobs Council, to carry out its
28 responsibilities pursuant to this section;

29 (3) Provide data, carry out continuing assessments of the crisis situation, and
30 make recommendations to the Governor and to the Legislative Committee
31 for further action.

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

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

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

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

1 superior court of the county in which the acts or practices constituting a violation occurred, are
2 occurring or may occur."

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

5 "Article 1.

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

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

8 "**§ 113B-5. Organization of the Council; adoption of rules of procedure therefor.**

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

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

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

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

21 "**§ 113B-11. Powers and authority.**

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

27 ...

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

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

34 "**§ 114-4.2D. Employment of attorney for Energy ~~Policy-Jobs~~ Council and Energy**
35 **Efficiency Program of the Department of Commerce.**

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

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

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

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

49 "**§ 143-345.13. Reporting of stocks of coal and petroleum fuels.**

50 The Department of Administration may, with the prior express approval of the Energy
51 ~~Policy-Jobs~~ Council and the Governor, require that all coal and petroleum suppliers in North

1 Carolina supplying coal, motor gasoline, middle distillates, residual oils, and propane for resale
2 within the State, file with the Department of Administration, on forms prepared by the
3 Department, accurate reports as to the stocks of coal and petroleum products and storage
4 capacities maintained by the supplier, including the supplier's current inventory and stock of
5 coal, motor gasoline, middle distillates, residual oils and propane, the expected time such
6 supplies will last under ordinary distribution demand and the schedule for receiving additional
7 or replacement stocks. The reports and the information contained therein shall be proprietary
8 information available only to regular employees of the Department of Administration, except
9 that aggregate tables or schedules consolidating information from the reports may be released if
10 they do not reveal individual report data for any named supplier. It is further the intent of this
11 section that no information shall be required from coal and petroleum suppliers, that is, at the
12 time the reports are requested, already on file with any agency, commission, or department of
13 State government.

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

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

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

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

29 **SECTION 6.(c)** Upon ratification, the Secretary of State shall furnish certified
30 copies of this act to each member of the North Carolina Congressional delegation, the
31 governors of South Carolina and Virginia, the legislative bodies of South Carolina and
32 Virginia, the Secretary of the United States Department of the Interior, and the President of the
33 United States.

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