

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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**SENATE BILL 76
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PROPOSED HOUSE COMMITTEE SUBSTITUTE S76-PCS35357-RI-22**

Short Title: Domestic Energy Jobs Act.

(Public)

Sponsors:

Referred to:

February 12, 2013

A BILL TO BE ENTITLED

AN ACT TO (1) AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ISSUE PERMITS ON OR AFTER MARCH 1, 2015, FOR OIL AND GAS EXPLORATION AND DEVELOPMENT ACTIVITIES IN THE STATE, INCLUDING THE USE OF HORIZONTAL DRILLING AND HYDRAULIC FRACTURING TREATMENTS FOR THAT PURPOSE, BUT PREVENT THOSE PERMITS FROM BECOMING EFFECTIVE UNTIL A SUBSEQUENT ACT OF THE GENERAL ASSEMBLY AUTHORIZES THOSE PERMITS TO BECOME EFFECTIVE; (2) DIRECT THE MINING AND ENERGY COMMISSION TO STUDY DEVELOPMENT OF A COMPREHENSIVE ENVIRONMENTAL PERMIT FOR OIL AND GAS EXPLORATION AND DEVELOPMENT ACTIVITIES USING HORIZONTAL DRILLING AND HYDRAULIC FRACTURING TREATMENTS; (3) REQUIRE THE MINING AND ENERGY COMMISSION AND THE DEPARTMENT OF REVENUE TO STUDY ESTABLISHMENT OF A TAX FOR THE SEVERANCE OF ENERGY MINERALS FROM THE SOIL OR WATER OF THE STATE IN AN AMOUNT SUFFICIENT TO COVER ALL COSTS ASSOCIATED WITH ADMINISTRATION OF A MODERN REGULATORY PROGRAM FOR THE MANAGEMENT OF OIL AND GAS EXPLORATION AND DEVELOPMENT ACTIVITIES USING THE PROCESSES OF HORIZONTAL DRILLING AND HYDRAULIC FRACTURING TREATMENTS FOR THAT PURPOSE, INCLUDING CREATION OF AN EMERGENCY FUND TO PROTECT AND PRESERVE THE STATE'S NATURAL RESOURCES, CULTURAL HERITAGE, AND QUALITY OF LIFE; (4) DIRECT THE MINING AND ENERGY COMMISSION AND OTHER ENTITIES TO STUDY AND ISSUE A RECOMMENDATION FOR AN IMPACT FEE, OR DEDICATION OF A PORTION OF ANY SEVERANCE TAX TO BE IMPOSED, ON OIL AND GAS EXPLORATION AND DEVELOPMENT ACTIVITIES USING HORIZONTAL DRILLING AND HYDRAULIC FRACTURING TREATMENTS THAT WOULD BE SUFFICIENT TO COVER ALL COSTS THAT MAY REASONABLY BE EXPECTED TO ACCRUE TO LOCAL GOVERNMENTS AS A RESULT OF SUCH ACTIVITIES OCCURRING WITHIN THEIR JURISDICTIONS; (5) DIRECT THE MINING AND ENERGY COMMISSION, THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, AND THE CONSUMER PROTECTION DIVISION OF



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1 THE DEPARTMENT OF JUSTICE TO STUDY AND ISSUE RECOMMENDATIONS
2 FOR CREATION OF A RESTITUTION FUND FOR LANDOWNERS HARMED AS A
3 RESULT OF AN ACT OF FRAUD, DECEPTION, MISREPRESENTATION, OR
4 KNOWING OMISSION OF MATERIAL FACTS; (6) MODIFY APPOINTMENTS TO
5 THE MINING AND ENERGY COMMISSION; (7) MODIFY THE MINING AND
6 ENERGY COMMISSION'S AUTHORITY TO SET "ALLOWABLES"; (8) MODIFY
7 PROVISIONS ASSOCIATED WITH THE LANDMEN REGISTRY; (9) CLARIFY
8 BONDING REQUIREMENTS ASSOCIATED WITH OIL AND GAS ACTIVITIES; (10)
9 ASSIGN FUTURE REVENUE FROM ENERGY EXPLORATION, DEVELOPMENT,
10 AND PRODUCTION OF OFFSHORE ENERGY RESOURCES IN ORDER TO
11 PROTECT AND PRESERVE THE STATE'S NATURAL RESOURCES, CULTURAL
12 HERITAGE, AND QUALITY OF LIFE; (11) ENCOURAGE THE GOVERNOR TO
13 DEVELOP THE REGIONAL INTERSTATE OFFSHORE ENERGY POLICY
14 COMPACT; (12) AMEND THE ENERGY POLICY ACT OF 1975 AND THE ENERGY
15 POLICY COUNCIL; AND (13) DIRECT THE MEDICAL CARE COMMISSION TO
16 ADOPT RULES AUTHORIZING FACILITIES LICENSED BY THE DEPARTMENT OF
17 HEALTH AND HUMAN SERVICES TO USE COMPRESSED NATURAL GAS AS AN
18 EMERGENCY FUEL.

19 The General Assembly of North Carolina enacts:
20

21 **PART I. PERMIT ISSUANCE**

22 **SECTION 1.(a)** All rules required to be adopted by the Mining and Energy
23 Commission, the Environmental Management Commission, and the Commission for Public
24 Health to create a modern regulatory program for the management of oil and gas exploration
25 and development activities in the State, including the use of horizontal drilling and hydraulic
26 fracturing for that purpose, shall be adopted no later than October 1, 2014, as provided in
27 subsection (m) of Section 2 of S.L. 2012-143. Effective March 1, 2015, the Department of
28 Environment and Natural Resources and the Mining and Energy Commission are authorized to
29 issue permits for oil and gas exploration and development activities using horizontal drilling
30 and hydraulic fracturing treatments in the State pursuant to G.S. 113-395; however, the permits
31 shall not become effective until the General Assembly takes affirmative legislative action,
32 including repeal of subsection (d) of Section 3 of S.L. 2012-143, as amended by subsection (b)
33 of Section 1 of this act, to allow the permits to become effective.

34 **SECTION 1.(b)** Section 3(d) of S.L. 2012-143 reads as rewritten:

35 **"SECTION 3.(d)** ~~The issuance of permits~~Permits issued for oil and gas exploration and
36 development activities using horizontal drilling and hydraulic fracturing treatments in the State
37 pursuant to G.S. 113-395, as amended by subsection (c) of this section, or any other provision
38 of law shall ~~be prohibited~~not become effective until the General Assembly takes affirmative
39 legislative action to allow the permits to become effective in order to allow the Mining and
40 Energy Commission sufficient time for development of a modern regulatory program for the
41 management of oil and gas exploration and development in the State and the use of horizontal
42 drilling and hydraulic fracturing treatments for that purpose, and for adoption of appropriate
43 environmental standards applicable to these activities. No permit issued by an agency of the
44 State, including the Department of Environment and Natural Resources, the Environmental
45 Management Commission, the Commission on Public Health, or the Mining and Energy
46 Commission, ~~shall issue a permit~~ for oil or gas exploration or development activities using
47 horizontal drilling and hydraulic fracturing treatments shall become effective until the General
48 Assembly takes affirmative legislative action to allow the ~~issuance of such permits~~permits to
49 become effective."

PART II. REQUIRED REPORTS AND STUDIES: COORDINATED PERMITTING; IMPOSITION OF A SEVERANCE TAX SUFFICIENT IN AMOUNT TO FUND ADMINISTRATION OF A REGULATORY PROGRAM AND SUFFICIENT TO COVER FUNDING FOR ANY EMERGENCY SITUATIONS THAT MAY ARISE FROM OIL AND GAS ACTIVITIES; IMPOSITION OF AN IMPACT FEE, OR DEDICATION OF A PORTION OF ANY SEVERANCE TAX TO BE IMPOSED, THAT WOULD BE SUFFICIENT TO COVER ALL COSTS THAT MAY REASONABLY BE EXPECTED TO ACCRUE TO LOCAL GOVERNMENTS AS A RESULT OF OIL AND GAS ACTIVITIES OCCURRING WITHIN THEIR JURISDICTIONS; AND CREATION OF A RESTITUTION FUND FOR LANDOWNERS HARMED AS A RESULT OF AN ACT OF FRAUD, DECEPTION, MISREPRESENTATION, OR KNOWING OMISSION OF MATERIAL FACTS

SECTION 2.(a) The Mining and Energy Commission, with the assistance of the Department of Environment and Natural Resources, shall study development of a coordinated permitting program for oil and gas exploration and development activities using horizontal drilling and hydraulic fracturing treatments in order that a single comprehensive environmental permit may be issued to a permit applicant to govern the applicant's exploration and development activities at a site, including, but not limited to, regulation of the following matters: well construction, siting, and closure requirements; hydraulic fracturing treatments; water quality, including stormwater control, and management of water resources; management of waste; and regulation of air emissions. The Department of Environment and Natural Resources shall seek any approvals necessary from the United States Environmental Protection Agency for a coordinated permitting program to allow issuance of a single comprehensive environmental permit for oil and gas exploration and development activities using horizontal drilling and hydraulic fracturing treatments. The Mining and Energy Commission shall report its findings and recommendations to the Environmental Review Commission on or before March 1, 2014.

SECTION 2.(b) The Mining and Energy Commission and the Department of Revenue, with the assistance of the Department of Commerce and the Department of Environment and Natural Resources, shall study an appropriate rate of severance tax that should be imposed in association with oil and gas exploration and development activities using horizontal drilling and hydraulic fracturing treatments in the State. In conducting the study, the Commission and the Department shall examine information compiled by the Department of Commerce in Section 5 of the North Carolina Oil and Gas Study issued in April 2012 pursuant to S.L. 2011-276 on potential economic impacts that could be expected if drilling for oil or natural gas were to take place in the State, which included data on severance taxes established in other states. In addition, the Commission and the Department shall consider information compiled pursuant to the ongoing study of appropriate levels of funding and potential sources for that funding required by Section 2(j) of S.L. 2012-143, as amended by Section 12(a) of S.L. 2012-201, which requires examination of (i) funding required to address expected impacts to infrastructure throughout the State and other impacts that may be experienced by local governments in areas where drilling activities may occur and (ii) funding needed to cover any costs to the State for administering an oil and gas regulatory program, including remediation and reclamation of drilling sites when necessary due to abandonment or insolvency of an oil or gas operator or other responsible party. The Commission and the Department shall also formulate recommendations for appropriate levels of funding that should be maintained to address emergency events associated with oil and gas exploration, including sufficient funding for emergency preparation, emergency response, emergency environmental protection, or mitigation associated with a release of liquid hydrocarbons or associated fluids directly related to onshore energy exploration, development, production, or transmission. Any recommendation for emergency funding for this purpose shall provide that the funds shall be used only upon a

determination that sufficient funds for corrective action or emergency response cannot be obtained from other sources without incurring a delay that would significantly increase the threat to life or risk of damage to the environment, and provide that the State shall pursue recovery of all costs incurred by the State or local governments for any corrective action or emergency response, including attorneys' fees and other expenses of bringing the cost recovery action from the responsible party or parties. The Mining and Energy Commission shall report its findings and recommendations to the Environmental Review Commission on or before October 1, 2013.

SECTION 2.(c) Section 2(j) of S.L. 2012-143, as amended by Section 12(a) of S.L. 2012-201, reads as rewritten:

"SECTION 2.(j) The Mining and Energy Commission, in conjunction with the Department of Environment and Natural Resources, the Department of Commerce, the Department of Transportation, the North Carolina League of Municipalities, and the North Carolina Association of County Commissioners, shall identify appropriate levels of funding and potential sources for that funding, including permit fees, bonds, taxes, and impact fees, necessary to (i) support local governments impacted by the industry and associated activities; (ii) address expected infrastructure impacts, including, but not limited to, repair of roads damaged by truck traffic and heavy equipment; (iii) cover any costs to the State for administering an oil and gas regulatory program, including remediation and reclamation of drilling sites when necessary due to abandonment or insolvency of an oil or gas operator or other responsible party; and (iv) any other issues that may need to be addressed in the Commission's determination. The Commission, the Departments, and other entities tasked with conduct of the study shall issue a recommendation for imposition of an impact fee, or dedication of a portion of any severance tax imposed, on oil or gas exploration or development activities using horizontal drilling and hydraulic fracturing treatments that will be sufficient in amount to cover all direct and indirect costs local governments may reasonably be expected to incur from such activities occurring within their jurisdictions based upon information and data received from the conduct of a comprehensive survey of local governments in other states where these activities are currently and have been occurring. Any recommendation concerning local impact fees shall be formulated to require that all such fees be used exclusively to address infrastructure impacts from the drilling operation for which a fee is imposed. ~~The Commission~~ Commission, the Departments, and other entities tasked with conduct of the study shall report its findings and recommendations, including legislative proposals, to the Joint Legislative Commission on Energy Policy, created under Section 6(a) of this act, and the Environmental Review Commission on or before October 1, 2013. March 1, 2014."

SECTION 2.(d) The Mining and Energy Commission, the Department of Environment and Natural Resources, and the Consumer Protection Division of the Department of Justice shall study and issue recommendations for establishment of a restitution fund for landowners who suffer damages as a result of an act of fraud, deception, misrepresentation, or knowing omission of material facts related to oil or gas interests. At a minimum, these recommendations shall include sources of funding, criteria to award restitution, and factors to assess appropriate amounts of restitution on a case-by-case basis. The Commission, the Department, and the Division shall report their findings and recommendations, including any legislative proposals, to the Environmental Review Commission on or before March 1, 2014.

PART III. MINING AND ENERGY COMMISSION APPOINTMENT MODIFICATIONS

SECTION 3. G.S. 143B-293.2 reads as rewritten:

"§ 143B-293.2. North Carolina Mining and Energy Commission – members; selection; removal; compensation; quorum; services.

(a) Members Selection. – The North Carolina Mining and Energy Commission shall consist of 15 members appointed as follows:

- (1) The Chair of the North Carolina State University Minerals Research Laboratory Advisory Committee, or the Chair's designee, ex officio.
- (2) The State Geologist, or the State Geologist's designee, ex officio.
- ~~(3) The Assistant Secretary of Energy for the Department of Commerce, ex officio.~~
- (3a) One appointed by the Governor who owns land in the Triassic Basin of North Carolina.
- (4) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is a member of a nongovernmental conservation interest.
- (5) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is an elected official of a municipal government located in the Triassic Basin of North Carolina.
- (6) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is a representative of the mining industry.
- (7) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who shall be a geologist with experience in oil and gas exploration and development.
- (8) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a member of a nongovernmental conservation interest.
- (9) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a member of a county board of commissioners of a county located in the Triassic Basin of North Carolina.
- (10) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a representative of the mining industry.
- (11) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who shall be an engineer with experience in oil and gas exploration and development.
- (12) One appointed by the Governor who shall be a representative of a publicly traded natural gas company.
- (13) One appointed by the Governor who shall be a licensed attorney with experience in legal matters associated with oil and gas exploration and development.
- (14) One appointed by the Governor who is a member of the Environmental Management Commission and knowledgeable in the principles of water and air resources management.
- (15) One appointed by the Governor who is a member of the Commission for Public Health and knowledgeable in the principles of waste management.Health.

...
(h) Office May Be Held Concurrently With Others. – Membership on the Mining and Energy Commission is hereby declared to be an office that may be held concurrently with other elective or appointive offices in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

...."

PART IV. MISCELLANEOUS MODIFICATIONS TO THE OIL AND GAS CONSERVATION ACT: ALLOWABLES AND LANDMEN REGISTRY

SECTION 4.(a) G.S. 113-394 reads as rewritten:

"§ 113-394. Limitations on production; allocating and prorating "allowables."

(a) ~~Whenever the total amount of oil, including condensate, which all the pools in the State can produce, exceeds the amount reasonably required to meet the reasonable market demand for oil, including condensate, produced in this State, then the~~The Commission shall ~~may~~ limit the total amount of oil, including condensate, which may be produced in the State by fixing an amount which shall be designated "allowable" for this State, ~~which will not exceed the reasonable market demand for oil, including condensate, produced in this the State.~~ The Commission shall ~~may~~ then allocate or distribute the "allowable" for the State among the pools on a reasonable basis and in such manner as to avoid undue discrimination, and so that waste will be prevented. In allocating the "allowable" for the State, and in fixing "allowables" for pools producing oil or hydrocarbons forming condensate, or both oil and such hydrocarbons, the Commission shall ~~may~~ take into account the producing conditions and other relevant facts with respect to such pools, including the separate needs for oil, gas and condensate, and shall ~~may~~ formulate rules setting forth standards or a program for the distribution of the "allowable" for the State, and ~~shall~~ distribute the "allowable" for the State in accordance with such standards or program, and where conditions in one pool or area are substantially similar to those in another pool or area, then the same standards or programs shall be applied to such pools and areas so that as far as practicable a uniform program will be followed; provided, however, the Commission shall allow the production of a sufficient amount of natural gas from any pool to supply adequately the reasonable market demand for such gas for light and fuel purposes if such production can be obtained without waste, and the condensate "allowable" for such pool shall not be less than the total amount of condensate produced or obtained in connection with the production of the gas "allowable" for light and fuel purposes, and provided further that, if the amount allocated to pool as its share of the "allowable" for the State is in excess of the amount which the pool should produce to prevent waste, then the Commission shall fix the "allowable" for the pool so that waste will be prevented.

(b) ~~The Commission shall not be required to determine the reasonable market demand applicable to any single pool except in relation to all pools producing oil of similar kind and quality and in relation to the demand applicable to the State, and in relation to the effect of limiting the production of pools in the State.~~ In allocating "allowables" to pools, the Commission shall not be bound by nominations or desires of purchasers to purchase oil from particular fields or areas, and the Commission shall allocate the "allowable" for the State in such manner as will prevent undue discrimination against any pool or area in favor of another or others which would result from selective buying or nominating by purchasers of oil, as such term "selective buying or nominating" is understood in the oil business.

(c) Whenever the Commission limits the total amount of oil or gas which may be produced in any pool in this State to an amount less than that which the pool could produce if no restrictions were imposed (which limitation may be imposed either incidental to, or without, a limitation of the total amount of oil or gas which may be produced in the State), the Commission shall prorate or distribute the "allowable" production among the producers in the pool on a reasonable basis, and so that each producer will have the opportunity to produce or receive his just and equitable share, as such share is set forth in subsection G.S. 113-392(d), subject to the reasonable necessities for the prevention of waste.

(d) ~~Whenever the total amount of gas which can be produced from any pool in this State exceeds the amount of gas reasonably required to meet the reasonable market demand therefrom, the Commission shall limit~~ limits the total amount of gas which may be produced from such pool. ~~Thea~~ The pool, the Commission shall then allocate or distribute the allowable production among the developed areas in the pool on a reasonable basis, so that each producer

will have the opportunity to produce his just and equitable share, as such share is set forth in subsection G.S. 113-392(d), whether the restriction for the pool as a whole is accomplished by order or by the automatic operation of the prohibitory provisions of this law. As far as applicable, the provisions of subsection (a) of this section shall be followed in allocating any "allowable" of gas for the State.

(e) After the effective date of any rule or order of the Commission fixing the "allowable" production of oil or gas, or both, or condensate, no person shall produce from any well, lease, or property more than the "allowable" production which is fixed, nor shall such amount be produced in a different manner than that which may be authorized."

SECTION 4.(b) G.S. 113-425 reads as rewritten:

"§ 113-425. Registry of landmen required.

(a) Establishment of Registry. – The Department of Environment and Natural Resources, in consultation with the Consumer Protection Division of the North Carolina Department of Justice, shall establish and maintain a registry of landmen operating in this State. As used in this section, "landman" means a person that, in the course and scope of the person's business, does any of the following:

- (1) Acquires or manages oil or gas interests.
- (2) Performs title or contract functions related to the exploration, exploitation, or disposition of oil or gas interests.
- (3) Negotiates for the acquisition or divestiture of oil or gas rights, including the acquisition or divestiture of land or oil or gas rights for a pipeline.
- (4) Negotiates business agreements that provide for the exploration for or development of oil or gas.

(b) Registration Required. – A person may not act, offer to act, or hold oneself out as a landman in this State unless the person is registered with the Department in accordance with this section. To apply for registration as a landman, a person shall submit an application to the Department on a form to be provided by the Department, which shall include, at a minimum, all of the following information:

- (1) The name of the applicant or, if the applicant is not an individual, the names and addresses of all principals of the applicant.
- (2) The business address, telephone number, and electronic mail address of the applicant.
- (3) The social security number of the applicant or, if the applicant is not an individual, the federal employer identification number of the applicant.
- (4) A list of all states and other jurisdictions in which the applicant holds or has held a similar registration or license.
- (5) A list of all states and other jurisdictions in which the applicant has had a similar registration or license suspended or revoked.
- (6) A statement whether any pending judgments or tax liens exist against the applicant.

(c) Grounds for Denial, Reprimand, Suspension, or Revocation. – The Department may deny registration to an applicant, reprimand a registrant, or suspend or revoke a registration, ~~or impose a civil penalty on a registrant~~ if the Department determines that the applicant or registrant does any of the following:

- (1) Fraudulently or deceptively obtains, or attempts to obtain, a registration.
- (2) Uses or attempts to use an expired, suspended, or revoked registration.
- (3) Falsely represents oneself as a registered landman.
- (4) Engages in any other fraud, deception, misrepresentation, or knowing omission of material facts related to oil or gas interests.
- (5) Had a similar registration or license denied, suspended, or revoked in another state or jurisdiction.

(6) Otherwise violates this section.

(c1) Administrative Penalty. – The Department may impose a civil penalty upon a person who fails to register in compliance with subsection (b) of this section or commits a violation described in subdivisions (1) through (4) of subsection (c) of this section. The penalty shall not exceed five thousand dollars (\$5,000) for each violation of this section. If a person fails to pay a civil penalty within 60 days after the final agency decision or court order has been served on the violator, the Department shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or her or its principal place of business to recover the amount of the assessment. Such civil actions must be filed within three years of the date the final agency decision or court order was served on the violator.

(c2) Criminal Penalty. – Any person who fails to register in compliance with subsection (b) of this section or commits a violation described in subdivisions (1) through (4) of subsection (c) of this section shall upon conviction be guilty of a Class 1 misdemeanor.

(c3) Agreements Null and Void. – Any agreement for the acquisition or divestiture of oil or gas rights, including the acquisition or divestiture of land or oil or gas rights for a pipeline, or any business agreement that provides for the exploration for or development of oil or gas that results in any manner from negotiations with a landman acting in violation of this section shall be null and void as being against the public policy of the State.

(c4) Injunctive Relief. – The Department may appear in its own name in superior court in actions for injunctive relief to prevent any person from violating the provisions of this section. The superior court shall have the power to grant these injunctions even if criminal prosecution has been or may be instituted as a result of the violations.

(d) Appeals. – ~~An applicant may challenge~~ A person contesting a penalty or challenging a denial, suspension, or revocation of a registration or a reprimand issued pursuant to subsection (c) of this section, as provided in Chapter 150B of the General Statutes, shall, by filing a petition pursuant to G.S. 150B-23(a) not later than 30 days after receipt by the petitioner of the document which constitutes agency action, be entitled to an administrative hearing and judicial review in accordance with Chapter 150B of the General Statutes, the Administrative Procedure Act.

(e) Rules Required. – The Department shall adopt rules as necessary to implement the provisions of this section."

PART V. CLARIFY BONDING REQUIREMENTS

SECTION 5.(a) G.S. 113-378 reads as rewritten:

"§ 113-378. Persons drilling for oil or gas to register and furnish bond.

Any person, firm or corporation before making any drilling exploration in this State for oil or natural gas shall register with the Department of Environment and Natural Resources. To provide for such registration, the drilling operator must furnish the name and address of such person, firm or corporation, and the location of the proposed drilling operations, and file with the Department a bond running to the State of North Carolina in an amount totaling the sum of (i) five thousand dollars (\$5,000) plus (ii) one dollar (\$1.00) per linear foot proposed to be drilled for the well. Any well opened by the drilling operator shall be plugged upon abandonment in accordance with the rules of the Department."

SECTION 5.(b) G.S. 113-391(a) is amended by adding a new subdivision to read:

"(a) The Mining and Energy Commission, created by G.S. 143B-293.1, in conjunction with rule-making authority specifically reserved to the Environmental Management Commission under subsection (a3) of this section, shall establish a modern regulatory program for the management of oil and gas exploration and development in the State and the use of horizontal drilling and hydraulic fracturing treatments for that purpose. The program shall be designed to protect public health and safety; protect public and private property; protect and

1 conserve the State's air, water, and other natural resources; promote economic development and
2 expand employment opportunities; and provide for the productive and efficient development of
3 the State's oil and gas resources. To establish the program, the Commission shall adopt rules for
4 all of the following purposes:

5 ...

6 (13a) Criteria to set the amount of a bond required pursuant to G.S. 113-421(a3),
7 including, at a minimum, the number of wells proposed at a site, the
8 predrilling condition of the property, the amount of acreage that would be
9 impacted by the proposed oil and gas activities, and other factors designed to
10 enable establishment of bonds on a site-by-site basis."

11 **SECTION 5.(c)** G.S. 113-421(a3) reads as rewritten:

12 **"§ 113-421. Presumptive liability for water contamination; compensation for other**
13 **damages; responsibility for reclamation.**

14 ...

15 (a3) Reclamation of Surface Property Required. – An oil or gas developer or operator
16 shall reclaim all surface areas affected by its operations no later than two years following
17 completion of the operations. If the developer or operator is not the surface owner of the
18 property, prior to commencement of activities on the property, the oil or gas developer or
19 operator shall provide a bond running to the surface owner sufficient to cover reclamation of
20 the surface owner's property. Upon registration with the Department pursuant to G.S. 113-378,
21 a developer shall request that the Mining and Energy Commission set the amount of the bond
22 required by this subsection. As part of its request, the developer shall provide supporting
23 documentation, including information about the proposed oil and gas activities to be conducted,
24 the site on which they are to occur, and any additional information required by the
25 Commission. The Commission shall set the amount of the bond in accordance with the criteria
26 adopted by the Commission pursuant to G.S. 113-391(a)(13a) and notify the developer and
27 surface owner of the amount within 30 days of setting the amount of a bond. A surface owner
28 or developer may appeal the amount of a bond set pursuant to this subsection to the
29 Commission within 60 days after receipt of notice from the Commission of the amount
30 required. After evaluation of the appeal and issuance of written findings, the Commission may
31 order that the amount of the bond be modified. Parties aggrieved by a decision of the
32 Commission pursuant to this subsection may appeal the decision as provided under Article 4 of
33 Chapter 150B of the General Statutes within 30 days of the date of the decision."

35 **PART VI. REVENUE FROM OFFSHORE ENERGY PRODUCTION**

36 **SECTION 6.** Chapter 113B of the General Statutes is amended by adding a new
37 Article to read:

38 "Article 3.

39 "Revenues From Offshore Energy Production.

40 **"§ 113B-30. Allocation of revenues from offshore energy production; creation of Offshore**
41 **Energy Management Fund.**

42 (a) Any revenues and royalties paid to the State as a result of offshore leasing,
43 exploration, development, and production of all energy resources shall be deposited in the
44 Offshore Energy Management Fund until the Fund reaches five hundred million dollars
45 (\$500,000,000). The Offshore Energy Management Fund is an interest-bearing special revenue
46 fund to be established within the State treasury. This Fund shall be used only for emergency
47 preparation, emergency response, emergency environmental protection, or mitigation
48 associated with a release of liquid hydrocarbons or associated fluids directly related to offshore
49 energy exploration, development, production, or transmission. If monies are withdrawn from
50 this Fund to carry out the provisions in this section, all revenues and royalties paid to the State
51 as a result of offshore leasing, exploration, development, and production of all energy resources

shall be deposited in the Fund until a total of five hundred million dollars (\$500,000,000) is reestablished. Monies from the Fund shall be used only upon a determination that sufficient funds for corrective action or emergency response cannot be obtained from other sources without incurring a delay that would significantly increase the threat to life or risk of damage to the environment. The State shall pursue recovery of all costs incurred by the State for funds expended, including attorneys' fees and other expenses of bringing the cost recovery action from the responsible party or parties. Once the Fund balance reaches the amount of five hundred million dollars (\$500,000,000), the excess funds shall be credited to the General Fund."

PART VII. REGIONAL INTERSTATE OFFSHORE ENERGY POLICY COMPACT

SECTION 7.(a) Development of Regional Interstate Offshore Energy Policy Compact. – The Governor is strongly encouraged to commence negotiations on the development of a regional energy compact with the governors of South Carolina and Virginia in order to develop a unified regional strategy for the exploration, development, and production of all commercially viable federal and state offshore energy resources within the three-state region. The Governor shall develop recommendations for the General Assembly to consider for the development of a statutory regional compact, and these recommendations shall reflect the collective agreement of all three governors in the three-state region in order to provide common language for consideration by each state's general assembly. During the development of these compact recommendations, the Governor or the Governor's designee is authorized to work directly with each of the three states' congressional delegations, the United States Department of the Interior, the United States Environmental Protection Agency, and other appropriate federal agencies on behalf of the State of North Carolina to develop appropriate strategies to be considered in the development of the three-state compact for increasing domestic energy exploration, development, and production within each state in the three-state region and their adjacent state and federal waters. The compact negotiations and recommendations shall address at least all of the following:

- (1) Ensure a timely review and consideration of permits and proposals at both the state and federal level for both state and federal waters adjacent to each state in the three-state region for seismic and other marine geophysical exploration to identify and quantify natural gas and related hydrocarbon resources along the continental margin.
- (2) Amend the 2012 to 2017 Five Year Leasing Plan of the United States Department of the Interior to include leasing federal waters adjacent to the State and the three-state region for the exploration, quantification, and development of natural gas and related hydrocarbon energy resources.
- (3) Advocate proactively with each state's congressional delegation and appropriate federal agencies to ensure direct sharing of royalties and revenues related to energy leasing, exploration, development, and production of all offshore energy resources in federal waters adjacent to the State and the three-state region.
- (4) Request the United States Department of the Interior to reinstate the federal Offshore Policy Committee with new members and new alternate members to be nominated by the governor of the state represented on the Offshore Policy Committee and appointed by the Secretary of the Interior, with one member and one alternate member each from North Carolina, Virginia, and South Carolina.
- (5) Request the United States Department of the Interior to immediately move forward with permitting geological and geophysical data acquisition activities associated with oil and gas exploration in the Mid- and South

Atlantic Planning Areas of the Atlantic Outer Continental Shelf immediately as outlined in Alternative A of the Bureau of Ocean Energy Management's Draft Programmatic Environmental Impact Statement entitled "Atlantic OCS Proposed Geological and Geophysical Activities" published in 2012.

SECTION 7.(b) No later than three months after the effective date of this act, and at least every three months thereafter, the Governor or the Governor's designee shall report to the General Assembly on the progress of the Governor and others in complying with the requirements under this section, to include providing copies of correspondence and other relevant materials to or from the Office of the Governor when the correspondence or materials pertain to the subject under this section or to any requirement under this section. The Governor shall report the Governor's final recommendations for the three-state energy compact to the Joint Legislative Commission on Energy Policy no later than March 1, 2014.

SECTION 7.(c) In addition to the provisions in subsections (a) and (b) of Section 7 of this act, the Governor is encouraged to join the Governors of Alaska, Texas, Louisiana, Mississippi, Alabama, South Carolina, and Virginia and any others who may sign on to the Outer Continental Shelf Governors Coalition announced on May 3, 2011, to promote a constructive dialogue among the coastal state governors and the federal government on offshore energy issues important to the future of North Carolina and the United States. The Governor is authorized to expend funds related to membership in the Coalition.

SECTION 7.(d) The Governor is also encouraged to write letters to the North Carolina congressional delegation, the governors of South Carolina and Virginia, the legislative bodies of South Carolina and Virginia, the Secretary of the United States Department of the Interior, and the President of the United States urging their support of the recommendations set forth in subdivisions (1) through (5) of subsection (a) of Section 7 of this act.

SECTION 7.(e) Upon ratification, the Secretary of State shall furnish certified copies of this act to each member of the North Carolina congressional delegation, the governors of South Carolina and Virginia, the legislative bodies of South Carolina and Virginia, the Secretary of the United States Department of the Interior, and the President of the United States.

PART VIII. ENERGY POLICY ACT AND ENERGY POLICY COUNCIL AMENDMENTS

SECTION 8.(a) The title of Chapter 113B of the General Statutes reads as rewritten:

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

SECTION 8.(b) The title of Article 1 of Chapter 113B of the General Statutes reads as rewritten:

"Article 1.

Energy Policy-Jobs Council."

SECTION 8.(c) G.S. 113B-1 reads as rewritten:

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

Upon investigation the General Assembly hereby finds that:

- (1) Energy is essential to the health, safety and welfare of the people of this State and to the workings of the State ~~economy~~; economy.
- (2) ~~Growth in the consumption of energy resources is in some part due to wasteful, uneconomic and inefficient uses of energy and a continuation of this trend will adversely affect the future social, economic and environmental development of North Carolina;~~
- (3) ~~It is the responsibility of State government to encourage~~ in the State's best interest to support the development of a reliable and adequate supply of energy for North Carolina ~~at a level consistent with such energy needs~~

required for the protection of public health and safety, and for the promotion of the general welfare; and that is secure, stable, and predictable in order to facilitate economic growth, job creation, and expansion of business and industry opportunities.

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

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

(4) The State has not provided must provide the basis for development of a long-range unified energy policy to encompass comprehensive energy resource planning and efficient management of the rate of consumption of existing energy resources in relation to economic growth, to effectively meet an energy crisis, to encourage development of alternative sources of energy, energy that are capable of achieving a positive benefit-to-cost ratio, and to prudently conserve ensure efficient utilization of energy resources in a manner consistent with assuring a reliable and adequate supply of energy for North Carolina, including active support and collaboration with the federal government to ensure access to the nation's energy resources located on the outer continental shelf directly adjacent to the State's coastal waters.

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

SECTION 8.(d) G.S. 113B-2 reads as rewritten:

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

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

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

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

SECTION 8.(e) G.S. 113B-3 reads as rewritten:

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

(a) The Energy Policy Jobs Council shall consist of 16-13 members to be appointed as follows:

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

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

(2a) The Secretary of Commerce.

(2b) The Secretary of Environment and Natural Resources.

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

(b) ~~Appointments to the Energy Policy Jobs Council shall be made by July 15, 2009, July 1, 2013, and each such appointee shall serve until January 31, 2011. Thereafter, the appointed members of the General Assembly shall serve two-year terms, and the appointed public members shall serve four-year terms. A member of the Energy Policy Council shall continue to serve until his successor is duly appointed, but such holdover shall not affect the expiration date of such succeeding term. The terms of office of members of the Council are three years. The terms of members appointed under subdivisions (1), (4), and (6) of subsection (c) of this section shall expire on June 30 of years evenly divisible by three. The terms of members appointed under subdivisions (2), (5), (8), and (10) of subsection (c) of this section shall expire on June 30 of years that precede by one year those years that are evenly divisible by three. The terms of members appointed under subdivisions (3), (7), (11), and (12) of subsection (c) of this section shall expire on June 30 of years that follow by one year those years that are evenly divisible by three. Appointments made by the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall be allowed when the General Assembly is not in session.~~

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

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

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

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

(3) ~~One member shall be experienced in alternative fuels and biofuels; a representative of a rural electric membership corporation formed in accordance with G.S. 117-8, to be appointed by the Speaker of the House of Representatives.~~

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

(5) ~~One member shall be experienced in environmental protection; have experience in energy policy, to be appointed by the President Pro Tempore of the Senate.~~

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

(7) ~~One member shall be knowledgeable of alternative and renewable sources of energy; energy, to be appointed by the Governor.~~

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

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

(10) ~~One member shall be knowledgeable in the finance, business development, or technology development of energy-related business;~~One member shall have experience in energy research and development, to be appointed by the President Pro Tempore of the Senate.

(11) ~~One member shall be experienced in low income energy policy matters or low income residential weatherization.~~One member shall have experience in environmental management, to be appointed by the Speaker of the House of Representatives.

(12) ~~One member shall be experienced in the petroleum industry.~~One member shall have experience in the biofuels industry, to be appointed by the President Pro Tempore of the Senate."

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

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

(a) ~~On August 15, 2009, on January 31, 2011, and every four years thereafter, the~~The Governor shall appoint a chair of the Council. The chair shall serve for a term of two years and may serve no more than two terms in total.

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

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

SECTION 8.(g) G.S. 113B-5 reads as rewritten:

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

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

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

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

SECTION 8.(h) G.S. 113B-6 reads as rewritten:

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

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

(1) To develop and recommend to the Governor and the General Assembly a comprehensive ~~long-range~~ State energy policy that addresses requirements in the short term (10 years), in the midterm (25 years), and in the long term (50 years) to achieve maximum effective management and use of present and future sources of energy, such policy to include but not be limited to energy efficiency, renewable and alternative sources of energy, research and development into alternative energy technologies, and improvements to the State's energy infrastructure and energy ~~economy;~~economy, including smart grid and domestic energy resources that shall include at least natural gas,

coal, hydroelectric power, solar, wind, nuclear energy, and biomass. For utilities regulated under Chapter 62 of the General Statutes, the policy developed under this subdivision shall be consistent with the analysis and plan developed under G.S. 62-110.1(c).

- (2) To conduct an ongoing assessment of the opportunities and constraints presented by various uses of all forms of energy to facilitate the expansion of the domestic energy supply and to encourage the efficient use of all such energy forms in a manner consistent with State energy ~~policy~~;policy.
- (3) To continually review and coordinate all State government research, education and management programs relating to energy ~~matters and matters~~, to continually educate and inform the general public regarding such energy ~~matters~~;matters, and to actively engage in discussions with the federal government, its agencies, and its leaders to identify opportunities to increase domestic energy supply within North Carolina and its adjacent offshore waters.
- (4) To recommend to the Governor and to the General Assembly needed energy legislation and rule making and to recommend for implementation such modifications of energy policy, ~~plans~~ plans, and programs as the Council considers necessary and desirable."

SECTION 8.(i) G.S. 113B-7 reads as rewritten:

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

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

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

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

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

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

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

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

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

SECTION 8.(j) G.S. 113B-8(a) reads as rewritten:

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

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

SECTION 8.(k) G.S. 113B-9 reads as rewritten:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 8.(l) G.S. 113B-11 reads as rewritten:

"§ 113B-11. Powers and authority.

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

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

SECTION 8.(m) G.S. 113B-12 reads as rewritten:

"§ 113B-12. Annual reports; contents.

(a) ~~Beginning January 1, 1977, and every year thereafter, No later than January 1 of every even-numbered year,~~ the Energy ~~Policy-Jobs~~ Council shall transmit to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Environmental Review Commission, the Joint Legislative Commission on Energy Policy, and the chairman of the Utilities Commission ~~Commission and the appropriate chairmen of the House and Senate committees concerned with energy matters,~~ a comprehensive report providing a general overview of energy conditions in the State. ~~On January 1, 1976, the Energy Policy Council shall transmit a progress report to the public officials named above.~~

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

- (1) An overview of statewide growth and development as they relate to future requirements for energy, including patterns of urban and metropolitan expansion, shifts in transportation modes, modifications in building types and design, and other trends and factors which, as determined by the Council, will significantly affect energy needs;
- (2) The level of statewide and multi-county regional energy demand for a five, 10- and 20-year forecast period which, in the judgment of the Council, can reasonably be met, with proposals as to possible energy supply sources;
- (3) An assessment of growth trends in energy consumption and production and an identification of potential adverse social, economic, or environmental impacts which might be imposed by continuation of the present trends, including energy costs to consumers, significant increases in air, water, and other forms of pollution, threats to public health and safety, and loss of scenic and natural areas;
- (4) An analysis of the role of energy efficiency, renewable energy, improvements to the State's energy infrastructure, and other means in meeting the State's current and projected energy demand;
- (5) Repealed by Session Laws 2009-446, s. 9, effective August 7, 2009.

- (6) Recommendations to the Governor and the General Assembly for additional administrative and legislative actions on energy matters;
- (7) A summary of the Council's activities since ~~its inception~~, the last report, a description of major plans developed by the Council, an assessment of plan implementation, and a review of Council plans and programs for the coming biennium."

SECTION 8.(n) G.S. 113B-21(a) reads as rewritten:

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

SECTION 8.(o) G.S. 113B-23 reads as rewritten:

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

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

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

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

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

SECTION 8.(p) G.S. 113B-24(c) reads as rewritten:

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

SECTION 8.(q) G.S. 143-58.5(c) reads as rewritten:

"(c) The Fund shall be used to offset the incremental fuel cost of biodiesel and biodiesel blend fuel with a minimum biodiesel concentration of B-20 for use in State vehicles, for the

1 purchase of ethanol fuel with a minimum ethanol concentration of E-85 for use in State
2 vehicles, the incremental vehicle cost of purchasing AFVs, for the development of related
3 refueling infrastructure, for the costs of administering the Fund, and for projects approved by
4 the Energy ~~Policy-Jobs~~ Council."

5 **SECTION 8.(r)** G.S. 143-345.13 reads as rewritten:

6 **"§ 143-345.13. Reporting of stocks of coal and petroleum fuels.**

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

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

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

30 **SECTION 8.(s)** Notwithstanding G.S. 113B-3 or any other law to the contrary, the
31 terms of all members of the Energy Policy Council serving as of the effective date of this act
32 shall expire on the effective date of this act or on June 30, 2013, whichever comes first. Initial
33 appointments shall be made pursuant to subsection (c) of G.S. 113B-3, as amended by
34 subsection (e) of Section 6 of this act, no later than July 1, 2013.

35 **SECTION 8.(t)** The Revisor of Statutes shall make the conforming statutory
36 changes necessary to reflect renaming of the Energy Jobs Act and the Energy Jobs Council as
37 provided in this section. The Revisor of Statutes may correct any reference in the General
38 Statutes to the statutes that are recodified by this section.

39
40 **PART IX. MODIFY ELECTRICAL REQUIREMENTS RULE TO ALLOW**
41 **HOSPITALS TO USE COMPRESSED NATURAL GAS AS EMERGENCY FUEL**

42 **SECTION 9.(a)** Definitions. – "Electrical Requirements Rule" means 10A NCAC
43 13B .6227 (Licensing of Hospitals: Electrical Requirements) for purposes of this section and its
44 implementation.

45 **SECTION 9.(b)** Electrical Requirements Rule. – Until the effective date of the
46 revised permanent rule that the Medical Care Commission is required to adopt pursuant to
47 subsection (c) of Section 9 of this act, the Commission and the Department of Health and
48 Human Services shall implement the Electrical Requirements Rule, as provided in subsection
49 (c) of Section 9 of this act.

50 **SECTION 9.(c)** Implementation. – Notwithstanding subdivision (2) of subsection
51 (f) of the Electrical Requirements Rule, the Commission shall authorize facilities licensed by

1 the Department to use bi-fuel generators that operate with both liquid fuel and natural gas
2 (methane) that is not stored on the site, provided that the natural gas is delivered via pipe or
3 pipeline by a natural gas utility. These bi-fuel generators shall be exempt from liquid fuel
4 capacity standards established by the Commission. Bi-fuel generators that operate on both
5 liquid and other gaseous fuels, including propane and butane, that are stored on the site shall
6 also be authorized, provided that the combined capacity of both liquid and gaseous fuels meet
7 minimum on-site fuel requirements established by the Commission. The Commission may
8 adopt rules to require a licensed facility with a bi-fuel generator to develop a contingency plan
9 for liquid fuel delivery onto the site in the event of a natural gas (methane) supply disruption.

10 **SECTION 9.(d)** Additional Rule-Making Authority. – The Commission shall
11 adopt a rule to replace the Electrical Requirements Rule. Notwithstanding G.S. 150B-19(4), the
12 rule adopted by the Commission pursuant to this section shall be substantively identical to the
13 provisions of subsection (c) of Section 9 of this act. Rules adopted pursuant to this section are
14 not subject to G.S. 150B-21.9 through G.S. 150B-21.14. Rules adopted pursuant to this section
15 shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written
16 objections had been received as provided by G.S. 150B-21.3(b2).

17 **SECTION 9.(e)** Effective Date. – Subsection (b) of Section 9 of this act expires
18 when permanent rules to replace subsection (b) of Section 9 of this act have become effective,
19 as provided in subsection (c) of Section 9 of this act.
20

21 **PART X. EFFECTIVE DATE**

22 **SECTION 10.** Subsection (b) of Section 1 of this act becomes effective March 1,
23 2015. Subsection (b) of Section 4 of this act is effective when it becomes law, except that (i)
24 G.S. 113-425(c2), as enacted by subsection (b) of Section 4 of this act, becomes effective
25 December 1, 2013, and applies to offenses committed on or after that date and (ii)
26 G.S. 113-425(c3), as enacted by subsection (b) of Section 4 of this act, applies to leases or
27 contracts entered into on or after that date. G.S. 113B-30, enacted by Section 6 of this act,
28 becomes effective only if authorized by the General Assembly in the Current Operations and
29 Capital Improvements Appropriations Act of 2013. The first report due pursuant to
30 G.S. 113B-12, as amended by subsection (m) of Section 8 of this act, shall be transmitted on or
31 before January 1, 2014. Except as otherwise provided, the remainder of this act is effective
32 when it becomes law.