

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 76

Short Title: Domestic Energy Jobs Act. (Public)

Sponsors: Senators Newton, Rucho, Brock (Primary Sponsors); Cook, J. Davis, Hise, Rabin, Sanderson, and Tucker.

Referred to: Finance.

February 13, 2013

A BILL TO BE ENTITLED

1 AN ACT TO (1) AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL
2 RESOURCES TO ISSUE PERMITS ON OR AFTER MARCH 1, 2015, FOR OIL AND
3 GAS EXPLORATION AND DEVELOPMENT ACTIVITIES IN THE STATE,
4 INCLUDING THE USE OF HORIZONTAL DRILLING AND HYDRAULIC
5 FRACTURING TREATMENTS FOR THAT PURPOSE; (2) DIRECT THE MINING
6 AND ENERGY COMMISSION TO STUDY DEVELOPMENT OF A
7 COMPREHENSIVE ENVIRONMENTAL PERMIT FOR OIL AND GAS
8 EXPLORATION AND DEVELOPMENT ACTIVITIES USING HORIZONTAL
9 DRILLING AND HYDRAULIC FRACTURING TREATMENTS; (3) MODIFY
10 APPOINTMENTS TO THE MINING AND ENERGY COMMISSION; (4) MODIFY
11 PROVISIONS IN THE OIL AND GAS CONSERVATION ACT CONCERNING THE
12 MINING AND ENERGY COMMISSION'S AUTHORITY TO SET "ALLOWABLES";
13 (5) ELIMINATE THE REGISTRATION REQUIREMENTS FOR PERSONS
14 CONDUCTING LANDMEN ACTIVITIES IN THE STATE; (6) PROVIDE A TAX FOR
15 THE SEVERANCE OF ENERGY MINERALS FROM THE SOIL OR WATER OF THE
16 STATE, REPEAL OUTDATED OIL AND GAS TAX STATUTES, AND AUTHORIZE
17 THE SUSPENSION OF PERMITS FOR FAILURE TO FILE A RETURN FOR
18 SEVERANCE TAXES; (7) APPROPRIATE MONIES FROM THE MINERAL
19 INTEREST FUND TO THE DEPARTMENT OF ENVIRONMENT AND NATURAL
20 RESOURCES TO OPERATE THE MINING AND ENERGY COMMISSION AND FOR
21 RELATED EXPENDITURES; (8) ASSIGN FUTURE REVENUE FROM ENERGY
22 EXPLORATION, DEVELOPMENT, AND PRODUCTION OF ENERGY RESOURCES
23 IN ORDER TO PROTECT AND PRESERVE THE STATE'S NATURAL RESOURCES,
24 CULTURAL HERITAGE, AND QUALITY OF LIFE; (9) ENCOURAGE THE
25 GOVERNOR TO DEVELOP THE REGIONAL INTERSTATE OFFSHORE ENERGY
26 POLICY COMPACT; (9) AMEND THE ENERGY POLICY ACT OF 1975 AND THE
27 ENERGY POLICY COUNCIL; AND (10) DIRECT THE MEDICAL CARE
28 COMMISSION TO ADOPT RULES AUTHORIZING FACILITIES LICENSED BY THE
29 DEPARTMENT OF HEALTH AND HUMAN SERVICES TO USE COMPRESSED
30 NATURAL GAS AS AN EMERGENCY FUEL.

31 The General Assembly of North Carolina enacts:

32 **PART I. ISSUANCE OF PERMITS**



1 **SECTION 1.(a)** Effective March 1, 2015, the Department of Environment and
2 Natural Resources and the Mining and Energy Commission are authorized to issue permits for
3 oil and gas exploration and development activities using horizontal drilling and hydraulic
4 fracturing treatments in the State pursuant to G.S. 113-395.

5 **SECTION 1.(b)** Section 3(d) of S.L. 2012-143 is repealed.

6 **SECTION 1.(c)** The Mining and Energy Commission, with the assistance of the
7 Department of Environment and Natural Resources, shall study development of a coordinated
8 permitting program for oil and gas exploration and development activities using horizontal
9 drilling and hydraulic fracturing treatments in order that a single comprehensive environmental
10 permit may be issued to a permit applicant to govern the applicant's exploration and
11 development activities at a site, including, but not limited to, regulation of the following
12 matters: well construction, siting, and closure requirements; hydraulic fracturing treatments,
13 including subsurface injection of fluids for that purpose; water quality, including stormwater
14 control, and management of water resources; management of waste; and regulation of air
15 emissions. The Department of Environment and Natural Resources shall seek any approvals
16 necessary from the United States Environmental Protection Agency for a coordinated
17 permitting program to allow issuance of a single comprehensive environmental permit for oil
18 and gas exploration and development activities using horizontal drilling and hydraulic
19 fracturing treatments. The Mining and Energy Commission shall report its findings and
20 recommendations to the Environmental Review Commission and the Joint Legislative
21 Commission on Energy Policy on or before October 1, 2013.

22 23 **PART II. MINING AND ENERGY COMMISSION APPOINTMENT** 24 **MODIFICATIONS**

25 **SECTION 2.(a)** G.S. 143B-239.2 reads as rewritten:

26 "**§ 143B-293.2. North Carolina Mining and Energy Commission – members; selection;**
27 **removal; compensation; quorum; services.**

28 (a) Members Selection. – The North Carolina Mining and Energy Commission shall
29 consist of ~~15~~13 members appointed as follows:

- 30 (1) The Chair of the North Carolina State University Minerals Research
31 Laboratory Advisory Committee, or the Chair's designee, ex officio.
- 32 ~~(2) The State Geologist, or the State Geologist's designee, ex officio.~~
- 33 ~~(3) The Assistant Secretary of Energy for the Department of Commerce, ex~~
34 ~~officio.~~
- 35 (4) One appointed by the General Assembly upon recommendation of the
36 Speaker of the House of Representatives who is a member of a
37 nongovernmental conservation interest.
- 38 (5) One appointed by the General Assembly upon recommendation of the
39 Speaker of the House of Representatives who is an elected official of a
40 municipal government located in the Triassic Basin of North Carolina.
- 41 (6) One appointed by the General Assembly upon recommendation of the
42 Speaker of the House of Representatives who is a representative of the
43 mining industry.
- 44 (7) One appointed by the General Assembly upon recommendation of the
45 Speaker of the House of Representatives who shall be a geologist with
46 experience in oil and gas exploration and development.
- 47 (8) One appointed by the General Assembly upon recommendation of the
48 President Pro Tempore of the Senate who is a member of a nongovernmental
49 conservation interest.

- 1 (9) One appointed by the General Assembly upon recommendation of the
 2 President Pro Tempore of the Senate who is a member of a county board of
 3 commissioners of a county located in the Triassic Basin of North Carolina.
 4 (10) One appointed by the General Assembly upon recommendation of the
 5 President Pro Tempore of the Senate who is a representative of the mining
 6 industry.
 7 (11) One appointed by the General Assembly upon recommendation of the
 8 President Pro Tempore of the Senate who shall be an engineer with
 9 experience in oil and gas exploration and development.
 10 (12) One appointed by the Governor who shall be a representative of a publicly
 11 traded natural gas company.
 12 (13) One appointed by the Governor who shall be a licensed attorney with
 13 experience in legal matters associated with oil and gas exploration and
 14 development.
 15 (14) One appointed by the Governor who is a member of the Environmental
 16 Management ~~Commission, Commission and knowledgeable in the principles~~
 17 ~~of water and air resources management.~~
 18 (15) One appointed by the Governor who is a member of the Commission for
 19 Public ~~Health, Health and knowledgeable in the principles of waste~~
 20 ~~management.~~

21"

22 **SECTION 2.(b)** The term of the member serving pursuant to subdivision (14) of
 23 G.S. 143B-293.2(a), as amended by Section 2(a) of this act, shall terminate immediately should
 24 that individual's membership on the Environmental Management Commission terminate. The
 25 term of the member serving pursuant to subdivision (15) of G.S. 143B-293.2(a), as amended by
 26 Section 2(a) of this act, shall terminate immediately should that individual's membership on the
 27 Commission for Public Health terminate.

29 **PART III. MODIFY MEC'S AUTHORITY FOR SETTING LIMITS ON** 30 **PRODUCTION**

31 **SECTION 3.** G.S. 113-394 reads as rewritten:

32 "**§ 113-394. Limitations on production; allocating and prorating "allowables."**

33 (a) ~~Whenever the total amount of oil, including condensate, which all the pools in the~~
 34 ~~State can produce, exceeds the amount reasonably required to meet the reasonable market~~
 35 ~~demand for oil, including condensate, produced in this State, then the~~The ~~Commission shall~~
 36 may ~~limit~~ the total amount of oil, including condensate, which may be produced in the State by
 37 fixing an amount which shall be designated "allowable" for ~~this State, which will not exceed~~
 38 ~~the reasonable market demand for oil, including condensate, produced in this the State.~~ The
 39 Commission ~~shall~~may then allocate or distribute the "allowable" for the State among the pools
 40 on a reasonable basis and in such manner as to avoid undue discrimination, and so that waste
 41 will be prevented. In allocating the "allowable" for the State, and in fixing "allowables" for
 42 pools producing oil or hydrocarbons forming condensate, or both oil and such hydrocarbons,
 43 the Commission ~~shall~~may take into account the producing conditions and other relevant facts
 44 with respect to such pools, including the separate needs for oil, gas and condensate, and ~~shall~~
 45 may formulate rules setting forth standards or a program for the distribution of the "allowable"
 46 for the State, and ~~shall~~ distribute the "allowable" for the State in accordance with such
 47 standards or program, and where conditions in one pool or area are substantially similar to
 48 those in another pool or area, then the same standards or programs shall be applied to such
 49 pools and areas so that as far as practicable a uniform program will be followed; provided,
 50 however, the Commission shall allow the production of a sufficient amount of natural gas from
 51 any pool to supply adequately the reasonable market demand for such gas for light and fuel

1 purposes if such production can be obtained without waste, and the condensate "allowable" for
2 such pool shall not be less than the total amount of condensate produced or obtained in
3 connection with the production of the gas "allowable" for light and fuel purposes, and provided
4 further that, if the amount allocated to pool as its share of the "allowable" for the State is in
5 excess of the amount which the pool should produce to prevent waste, then the Commission
6 shall fix the "allowable" for the pool so that waste will be prevented.

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

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

24 (d) ~~Whenever the total amount of gas which can be produced from any pool in this~~
25 ~~State exceeds the amount of gas reasonably required to meet the reasonable market demand~~
26 ~~therefrom, the Commission shall limit~~ limits the total amount of gas which may be produced
27 ~~from such pool. Thea pool,~~ the Commission shall then allocate or distribute the allowable
28 production among the developed areas in the pool on a reasonable basis, so that each producer
29 will have the opportunity to produce his just and equitable share, as such share is set forth in
30 subsection G.S. 113-392(d), whether the restriction for the pool as a whole is accomplished by
31 order or by the automatic operation of the prohibitory provisions of this law. As far as
32 applicable, the provisions of subsection (a) of this section shall be followed in allocating any
33 "allowable" of gas for the State.

34 (e) After the effective date of any rule or order of the Commission fixing the
35 "allowable" production of oil or gas, or both, or condensate, no person shall produce from any
36 well, lease, or property more than the "allowable" production which is fixed, nor shall such
37 amount be produced in a different manner than that which may be authorized."
38

39 **PART IV. REPEAL OF LANDMEN REGISTRY**

40 **SECTION 4.** G.S. 113-425 is repealed.

41 **PART V. SEVERANCE TAXES**

42 **SECTION 5.(a)** Chapter 105 of the General Statutes is amended by adding a new
43 Article to read:

44 "Article 5I.

45 "Severance Tax.

46 **"§ 105-187.71. Definitions.**

47 The following definitions apply in this Article:

48 (1) Casinghead gas. – Gas or vapor indigenous to an oil stratum and produced
49 from the stratum with oil.
50

- 1 (2) Condensate. – Liquid hydrocarbon that is or can be recovered from gas by a
2 separator or other means.
- 3 (3) Energy mineral. – All forms of natural gas, oil, and related condensates.
- 4 (4) First purchaser. – A person who purchases an energy mineral from a
5 producer.
- 6 (5) Gas. – All natural gas, including casinghead gas, and all other hydrocarbons
7 not defined as oil or condensates.
- 8 (6) MCF. – One thousand cubic feet of natural gas.
- 9 (7) Oil. – Crude petroleum oil, and other hydrocarbons, regardless of gravity,
10 which are produced at the well in liquid form by ordinary production
11 methods, and which are not the result of condensation of gas after it leaves
12 the reservoir.
- 13 (8) Owner. – An owner of a landowner's royalty interest, of an overriding
14 royalty, of profits and working interests, or any combination thereof in
15 energy minerals. The term does not include an owner of federal, state, or
16 local governmental royalty interest.
- 17 (9) Person. – Defined in G.S. 105-228.90.
- 18 (10) Producer. – A person who takes an energy mineral from the soil or water in
19 this State.
- 20 (11) Return. – Any report or statement required to be filed under this Article to
21 determine the tax due.
- 22 (12) Royalty interest. – An interest in mineral rights in a producing leasehold in
23 the State. A royalty interest does not include the interest of a person having
24 only the management and operation of a well.
- 25 (13) Secretary. – The Secretary of Revenue.
- 26 (14) Severance. – The extraction or other removal of an energy mineral from the
27 soil or water of this State.
- 28 (15) Severed. – The point at which the energy mineral has been separated from
29 the soil or water of this State.
- 30 (16) Standard barrel of oil. – A barrel of oil containing forty-two gallons.
- 31 (17) Taxpayer. – Any person required to pay the severance tax levied by this
32 Article.

33 **§ 105-187.72. Tax on severance of energy minerals.**

34 (a) Purpose. – An excise tax, to be termed a "severance tax," is levied on the privilege
35 of engaging in the severance of energy minerals from the soil or water of this State. The
36 purpose of the tax is to provide revenue to administer and enforce the provisions of this Article,
37 to administer the State's natural gas and oil reclamation regulatory program, to meet the
38 environmental and resource management needs of this State, and to reclaim land affected by
39 exploration for, drilling for, and production of natural gas and oil. The severance tax is imposed
40 upon all energy minerals severed when sold or consumed, whichever occurs first.

41 (b) Calculation of Tax. – The amount of the severance tax shall be determined as
42 follows:

- 43 (1) Condensates. – The applicable percentage rate of tax multiplied by the
44 market value per each barrel of oil equivalents (BOE) of the condensates
45 sold.
- 46 (2) Gas. – The applicable percentage rate of tax multiplied by the market value
47 per each MCF of the gas sold.
- 48 (3) Oil. – The applicable percentage rate of tax multiplied by the market value
49 per each standard barrel of the oil sold.

50 (c) Rate of Tax, Condensates. – The applicable percentage rate of the severance tax on
51 condensates shall be determined in accordance with the following schedule:

1 (1) For condensates sold from a well in calendar year 2015, 2016, or 2017, the
2 rate of tax shall be one percent (1%).
3 (2) For condensates sold from a well in calendar year 2018 or 2019, the rate of
4 tax shall be two and one-half percent (2.5%).

5 (3) For condensates sold from a well in calendar year 2020 and thereafter, the
6 rate of tax shall be six percent (6%).

7 (d) Rate of Tax, Gas. – The applicable percentage rate of the severance tax on gas shall
8 be calculated for each sale of gas. The rate will be the sales price of each MCF divided by 100
9 stated as a percentage, within the following limitations:

10 (1) For gas sold from a well in calendar year 2015, 2016, or 2017, the rate of tax
11 shall not exceed one percent (1%).

12 (2) For gas sold from a well in calendar year 2018 or 2019, the rate of tax shall
13 not exceed two and one-half percent (2.5%).

14 (3) For gas sold from a well in calendar year 2020 and thereafter, the rate of tax
15 shall be at least two and one-half percent (2.5%) and shall not exceed six
16 percent (6%).

17 (e) Rate of Tax, Oil. – The applicable percentage rate of the severance tax on
18 condensates shall be determined in accordance with the following schedule:

19 (1) For oil sold from a well in calendar year 2015, 2016, or 2017, the rate of tax
20 shall be one percent (1%).

21 (2) For oil sold from a well in calendar year 2018 or 2019, the rate of tax shall
22 be two and one-half percent (2.5%).

23 (3) For oil sold from a well in calendar year 2020 and thereafter, the rate of tax
24 shall be six percent (6%).

25 (f) Exemption. – The severance of energy minerals from land or water in this State
26 owned legally or beneficially by the producer, which energy minerals are used on the land from
27 which they are taken by the producer as part of the improvement of or use in the producer's
28 homestead is exempt from the severance tax. To claim the exemption allowed by this
29 subsection, the taxpayer shall provide any information required by the Secretary. Every
30 taxpayer claiming the exemption under this subsection shall maintain and make available for
31 inspection by the Secretary any records the Secretary considers necessary to determine and
32 verify the amount of the exemption or special rate of tax to which the taxpayer is entitled. The
33 burden of proving eligibility for the exemption and the amount of the exemption shall rest upon
34 the taxpayer, and no exemption shall be allowed to a taxpayer that fails to maintain adequate
35 records or to make them available for inspection.

36 **"§ 105-187.73. Market value.**

37 (a) Market Value. – For the calculation of the severance tax, market value is the
38 following:

39 (1) Condensates. – The market value of condensates is the total actual gross
40 price in U.S. dollars paid by the first purchaser of condensates at the mouth
41 of the well from which it was produced.

42 (2) Gas. – The market value of gas is the total actual gross price in U.S. dollars
43 paid by the first purchaser at the mouth of the well from which the gas is
44 produced as adjusted in this section. The market value of gas at the mouth of
45 the well shall be determined by subtracting the producer's actual marketing
46 costs from the producer's total gross cash receipts from the sale of the gas.

47 (3) Oil. – The market value of oil is the total actual gross price in U.S. dollars
48 paid by the first purchaser of the oil at the mouth of the well from which it
49 was produced.

50 (b) Marketing Costs. – Marketing costs are the costs incurred by the producer to get the
51 gas from the mouth of the well to the market. Marketing costs do not include costs for which a

1 producer receives a cost reimbursement from the gas purchaser. Marketing costs do not include
2 costs incurred in producing the gas, costs incurred in normal lease separation of the oil or
3 condensate from the gas, or insurance premiums on the marketing facility. Marketing costs
4 include all of the following:

- 5 (1) Costs for compressing the gas sold.
- 6 (2) Costs for dehydrating the gas sold.
- 7 (3) Costs for sweetening the gas sold.
- 8 (4) Costs for delivering the gas to the purchaser.
- 9 (5) Costs for gathering the gas sold.

10 (c) Records. – In order to be eligible to subtract the marketing costs from the producer's
11 gross receipts for purposes of calculating the market value of gas, the producer shall provide
12 any information required by the Secretary. Every producer subtracting the marketing costs as
13 permitted under this section shall maintain and make available for inspection by the Secretary
14 of Revenue any records the Secretary considers necessary to determine and verify the amount
15 of the marketing costs the producer is eligible to subtract. The burden of proving eligibility for
16 subtracting the marketing costs and the amount of the marketing costs to be subtracted shall
17 rest upon the producer, and no subtraction of marketing costs shall be allowed to a producer
18 that fails to maintain adequate records or to make them available for inspection.

19 **"§ 105-187.74. Returns and payment of tax.**

20 (a) General. – Severance taxes are payable when a return is due. A return is due
21 quarterly or monthly as specified in this section. A return must be filed by the producer of the
22 energy mineral with the Secretary on a form prescribed by the Secretary and in the manner
23 required by the Secretary. A return must be signed by the taxpayer or the taxpayer's agent.

24 (b) Payment. – A producer of energy minerals shall pay the tax for all owners of the
25 energy minerals. The producer shall withhold from any payment due owners the proportionate
26 tax due for remittance to the Secretary.

27 (c) Quarterly. – A taxpayer who is consistently liable for less than one thousand dollars
28 (\$1,000) a month in severance taxes must file a return and pay the taxes due on a quarterly
29 basis. A quarterly return covers a calendar quarter and is due by the last day of the month
30 following the end of the quarter.

31 (d) Monthly. – A taxpayer who is consistently liable for at least one thousand dollars
32 (\$1,000) a month in severances taxes must file a return and pay the taxes due on a monthly
33 basis. A monthly return is due by the 20th day of the month following the calendar month
34 covered by the return.

35 (e) Category. – The Secretary must monitor the amount of severance taxes paid by a
36 taxpayer or estimate the amount of taxes to be paid by a new taxpayer and must direct each
37 taxpayer to pay tax and file returns as required by this section. In determining the amount of
38 taxes due from a taxpayer, the Secretary must consider the total amount due from all places of
39 business owned or operated by the same person as the amount due from that person. A taxpayer
40 must file a return and pay tax in accordance with the Secretary's direction.

41 (f) Information on Return. – The amount of tax due and any other information required
42 by the Secretary must be included on the return. Returns that do not contain the required
43 information will not be accepted. When an unacceptable return is submitted, the Secretary will
44 require a corrected return to be filed. The return must contain the following information
45 concerning energy minerals produced during the month being reported:

- 46 (1) The gross amount of energy minerals produced that are subject to the tax
47 imposed by this Article.
- 48 (2) The leases from which the energy minerals were produced.
- 49 (3) The names and addresses of the first purchasers of the energy minerals.

50 **"§ 105-187.75. Bond or letter of credit required.**

1 A producer must file with the Secretary a bond or an irrevocable letter of credit if the
2 producer fails to file a return required under this Article. A bond or an irrevocable letter of
3 credit must be conditioned upon compliance with the requirements of this Article, be payable to
4 the State, and be in the form required by the Secretary. The amount of the bond or irrevocable
5 letter of credit is two times the applicant's average expected monthly tax liability under this
6 Article, as determined by the Secretary. When notified to do so by the Secretary, a person that
7 is required to file a bond or an irrevocable letter of credit must file the bond or irrevocable letter
8 of credit in the amount required by the Secretary within 30 days after receiving the notice from
9 the Secretary.

10 **"§ 105-187.76. Allocation of revenue.**

11 The Secretary shall allocate the tax levied in this Article as follows:

- 12 (1) Twenty-five percent (25%), not to exceed one million dollars (\$1,000,000)
13 per year, to the Department of Environment and Natural Resources for
14 purposes of administering its duties and responsibilities under Article 27 of
15 Chapter 113 of the General Statutes.
- 16 (2) After allocation pursuant to subsection (a) of this section, the Secretary shall
17 allocate:
- 18 a. Fifty percent (50%) to the General Fund.
- 19 b. Fifty percent (50%) to the Onshore Energy Management Fund until
20 the Fund reaches ten million dollars (\$10,000,000). The Onshore
21 Energy Management Fund is an interest-bearing special revenue fund
22 to be established within the State treasury. This fund shall be used
23 only for emergency preparation, emergency response, emergency
24 environmental protection, or mitigation associated with a release of
25 liquid hydrocarbons or associated fluids directly related to onshore
26 energy exploration, development, production, or transmission. Once
27 the fund balance reaches the amount of ten million dollars
28 (\$10,000,000), funds over that amount shall be allocated to the
29 General Fund. If monies are withdrawn from the Onshore Energy
30 Emergency Fund to carry out the provisions in this sub-subdivision,
31 revenues generated by the tax levied in this Article shall be deposited
32 in the Onshore Energy Emergency Fund until a total of ten million
33 dollars (\$10,000,000) is reestablished.

34 **"§ 105-187.77. Liability of producer for tax.**

35 The tax imposed by this Article is the primary liability of the producer except as provided
36 in this section. A first purchaser may not take delivery of energy minerals from a producer
37 unless the producer furnishes the purchaser with a taxpayer identification number assigned by
38 the Secretary. A first purchaser failing to secure the producer's taxpayer number, either from
39 the producer or the Secretary, will be liable for any tax, penalty, and interest due on the energy
40 minerals purchased from the producer.

41 **"§ 105-187.78. Royalty owner's records.**

42 The owner of a royalty interest shall keep both of the following:

- 43 (1) A record of all money received as royalty from each producing leasehold in
44 the State.
- 45 (2) A copy of all settlement sheets furnished by a purchaser or operator or other
46 statement showing the amount of energy minerals for which a royalty was
47 received and the amount of severance tax deducted.

48 **"§ 105-187.79. Permits suspended for failure to report.**

49 If an entity fails to file any report or return or to pay any tax or fee required by this Article
50 for 90 days after it is due, the Secretary shall inform the Secretary of Environment and Natural
51 Resources of this failure. The Secretary of Environment and Natural Resources shall suspend

1 permits for oil and gas exploration using horizontal drilling and hydraulic fracturing under
2 G.S. 113-395 of any entity that fails to file a return under this Article. The Secretary of
3 Environment and Natural Resources shall immediately notify by mail an entity of a suspension
4 under this section.

5 **"§ 105-187.80. No local taxation.**

6 A county, city, town, or municipality of the State of North Carolina shall not establish, levy,
7 impose, or collect, as a condition of doing business or otherwise, any tax, fee, license, or charge
8 whatsoever, directly or indirectly, on or with respect to the severing, production, treating,
9 processing, ownership, sale, storage, purchase, marketing, or transportation on any energy
10 minerals produced in the State of North Carolina and on which severance taxes are due or have
11 been paid to the State of North Carolina, or upon the business of severing, producing, treating,
12 processing, owning, selling, buying, storing, marketing, or transporting such energy minerals,
13 or upon the ownership, operation, or maintenance of plants, facilities, machinery, pipelines,
14 gathering lines, or any equipment whatsoever, which are, or may be, necessary or convenient to
15 the severing, production, treating, processing, ownership, storage, sale, purchase, marketing, or
16 transportation of such energy minerals."

17 **SECTION 5.(b)** G.S. 105-259(b) is amended by adding a new subdivision to read:

18 "(44) To furnish to the Department of Environment and Natural Resources the
19 name, address, tax year end, and account and identification numbers of an
20 entity liable for severance tax to enable the Secretary of Environment and
21 Natural Resources to notify the entity that the Department of Environment
22 and Natural Resources shall suspend permits of the entity for oil and gas
23 exploration using horizontal drilling and hydraulic fracturing under
24 G.S. 113-395."

25 **SECTION 5.(c)** G.S. 113-387 and G.S. 113-388 are repealed.

26
27 **PART VI. APPROPRIATION FROM MINERAL INTEREST FUND FOR**
28 **OPERATION OF MEC**

29 **SECTION 6.** There is appropriated from the Mineral Interest Fund to the
30 Department of Environment and Natural Resources the sum of twenty-two thousand nine
31 hundred dollars (\$22,900) for the 2012-2013 fiscal year to be used to operate the Mining and
32 Energy Commission and for payment of expenditures related to the Commission's
33 implementation of legislative mandates to the Commission, including the hiring of temporary
34 or contract employees to assist with policy development and rule making.

35
36 **PART VII. REVENUE FROM OFFSHORE ENERGY PRODUCTION**

37 **SECTION 7.** Chapter 113B of the General Statutes is amended by adding a new
38 Article to read:

39 "Article 3.

40 "Revenues from Offshore Energy Production.

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

43 (a) Any revenues and royalties paid to the State as a result of offshore leasing,
44 exploration, development, and production of all energy resources shall be deposited in the
45 Offshore Emergency Fund until the Fund reaches fifty million dollars (\$50,000,000). The
46 Offshore Energy Management Fund is an interest-bearing special revenue fund to be
47 established within the State treasury. This fund shall be used only for emergency preparation,
48 emergency response, emergency environmental protection, or mitigation associated with a
49 release of liquid hydrocarbons or associated fluids directly related to offshore energy
50 exploration, development, production, or transmission. Once the fund balance reaches the
51 amount of fifty million dollars (\$50,000,000), the funds shall be used as provided in subsection

1 (b) of this section. If monies are withdrawn from this fund to carry out the provisions in this
2 section, all revenues and royalties paid to the State as a result of offshore leasing, exploration,
3 development, and production of all energy resources shall be deposited in the fund until a total
4 of fifty million dollars (\$50,000,000) is reestablished. Once the fund balance reaches the
5 amount of fifty million dollars (\$50,000,000), the funds shall be used as provided in subsection
6 (b) of this section.

7 (b) Any revenues and royalties paid to the State as a result of offshore leasing,
8 exploration, development, and production of all energy resources in excess of the amount
9 needed to establish the fund created in subsection (a) of this section are annually appropriated
10 and shall be used for the following purposes:

- 11 (1) Thirty percent (30%) of such revenues and royalties shall be credited to the
12 General Fund.
- 13 (2) Ten percent (10%) of such revenues and royalties shall be credited to the
14 North Carolina Highway Trust Fund established under G.S. 136-176.
- 15 (3) Ten percent (10%) of such revenues and royalties shall be transferred to the
16 Community Colleges System Office to establish and manage a fund for
17 curriculum development and implementation as well as financial assistance
18 for students attending community college to receive vocational training
19 through this curriculum in fields directly related to energy exploration and
20 development and related energy infrastructure.
- 21 (4) Ten percent (10%) of such revenues and royalties shall be transferred to the
22 Board of Governors of The University of North Carolina System to establish
23 and manage research and development funds for programs directly related to
24 energy research and development.
- 25 (5) Thirty percent (30%) of such revenues and royalties shall be transferred to
26 the Department of Environment and Natural Resources for conservation,
27 protection, and mitigation, including, but not limited to, beach and inlet
28 management projects, dredging operations, channel navigation and
29 maintenance, public beach and water access, water quality management, and
30 habitat restoration.
- 31 (6) Eight percent (8%) of such revenues and royalties shall be transferred to the
32 State Ports Authority for expansion and maintenance of State Port
33 infrastructure associated with energy-related commerce.
- 34 (7) Two percent (2%) of such revenues and royalties shall be transferred to the
35 Department of Commerce for recruitment of energy-related industries to the
36 State."

37 38 **PART VIII. REGIONAL INTERSTATE OFFSHORE ENERGY POLICY COMPACT**

39 **SECTION 8.(a)** Development of Regional Interstate Offshore Energy Policy
40 Compact. – The Governor is strongly encouraged to commence negotiations on the
41 development of a regional energy compact with the governors of South Carolina and Virginia
42 in order to develop a unified regional strategy for the exploration, development, and production
43 of all commercially viable federal and state offshore energy resources within the three-state
44 region. The Governor shall develop recommendations for the General Assembly to consider for
45 the development of a statutory regional compact, and these recommendations shall reflect the
46 collective agreement of all three governors in the three-state region in order to provide common
47 language for consideration by each state's General Assembly. During the development of these
48 compact recommendations, the Governor or the Governor's designee is authorized to work
49 directly with each of the three states' Congressional delegations, the United States Department
50 of the Interior, the United States Environmental Protection Agency, and other appropriate
51 federal agencies on behalf of the State of North Carolina to develop appropriate strategies to be

1 considered in the development of the three-state compact for increasing domestic energy
2 exploration, development, and production within each state in the three-state region and their
3 adjacent state and federal waters. The compact negotiations and recommendations shall address
4 at least all of the following:

- 5 (1) Ensure a timely review and consideration of permits and proposals at both
6 the state and federal level for both state and federal waters adjacent to each
7 state in the three-state region for seismic and other marine geophysical
8 exploration to identify and quantify natural gas and related hydrocarbon
9 resources along the continental margin.
- 10 (2) Amend the 2012 to 2017 Five Year Leasing Plan of the United States
11 Department of the Interior to include leasing federal waters adjacent to the
12 State and the three-state region for the exploration, quantification, and
13 development of natural gas and related hydrocarbon energy resources.
- 14 (3) Advocate proactively with each state's Congressional delegation and
15 appropriate federal agencies to ensure direct sharing of royalties and
16 revenues related to energy leasing, exploration, development, and production
17 of all offshore energy resources in federal waters adjacent to the State and
18 the three-state region.
- 19 (4) Request the United States Department of the Interior to reinstate the federal
20 Offshore Policy Committee with new members and new alternate members
21 to be nominated by the governor of the state represented on the Offshore
22 Policy Committee and appointed by the Secretary of the Interior, six of
23 whom are to be one member and one alternate member each from North
24 Carolina, Virginia, and South Carolina.
- 25 (5) Request the United States Department of the Interior to immediately move
26 forward with permitting geological and geophysical data acquisition
27 activities associated with oil and gas exploration in the Mid- and South
28 Atlantic Planning Areas of the Atlantic Outer Continental Shelf immediately
29 as outlined in Alternative A of the Bureau of Ocean Energy Management's
30 Draft Programmatic Environmental Impact Statement entitled "Atlantic OCS
31 Proposed Geological and Geophysical Activities" published in 2012.

32 **SECTION 8.(b)** No later than three months after the effective date of this act, and
33 at least every three months thereafter, the Governor or the Governor's designee shall report to
34 the General Assembly on the progress of the Governor and others in complying with the
35 requirements under this section, to include providing copies of correspondence and other
36 relevant materials to or from the Office of the Governor when the correspondence or materials
37 pertain to the subject under this section or to any requirement under this section. The Governor
38 shall report the Governor's final recommendations for the three-state energy compact to the
39 Joint Energy Oversight Committee no later than March 1, 2014.

40 **SECTION 8.(c)** In addition to the provisions in Sections 8(a) and 8(b) of this act,
41 the Governor is encouraged to join the Governors of Alaska, Texas, Louisiana, Mississippi,
42 Alabama, South Carolina, and Virginia and any others who may sign on to the Outer
43 Continental Shelf Governors Coalition announced on May 3, 2011, to promote a constructive
44 dialogue among the coastal state governors and the federal government on offshore energy
45 issues important to the future of North Carolina and the United States. The Governor is
46 authorized to expend funds related to membership in the Coalition.

47 **SECTION 8.(d)** The Governor is also encouraged to write letters to the North
48 Carolina Congressional delegation, the governors of South Carolina and Virginia, the
49 legislative bodies of South Carolina and Virginia, the Secretary of the United States
50 Department of the Interior, and the President of the United States, urging their support of the
51 recommendations set forth in subdivision (1) through (5) of Section 8(a) of this act.

1 **SECTION 8.(e)** Upon ratification, the Secretary of State shall furnish certified
 2 copies of this act to each member of the North Carolina Congressional delegation, the
 3 governors of South Carolina and Virginia, the legislative bodies of South Carolina and
 4 Virginia, the Secretary of the United States Department of the Interior, and the President of the
 5 United States.

6
 7 **PART IX. ENERGY POLICY ACT AND ENERGY POLICY COUNCIL**
 8 **AMENDMENTS**

9 **SECTION 9.(a)** The title of Chapter 113B of the General Statutes reads as
 10 rewritten:

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

12 **SECTION 9.(b)** The title of Article 1 of Chapter 113B of the General Statutes
 13 reads as rewritten:

14 "Article 1.

15 Energy Policy ~~Jobs~~ Council."

16 **SECTION 9.(c)** G.S. 113B-1 reads as rewritten:

17 **"§ 113B-1. Legislative findings and purpose.**

18 Upon investigation the General Assembly hereby finds that:

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

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

5 **SECTION 9.(d)** G.S. 113B-2 reads as rewritten:

6 "**§ 113B-2. Creation of Energy ~~Policy~~ Jobs Council; purpose of Council.**

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

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

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

19 **SECTION 9.(e)** G.S. 113B-3 reads as rewritten:

20 "**§ 113B-3. Composition of Council; appointments; terms of members; qualifications.**

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

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

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

27 (2a) The Secretary of Environment and Natural Resources.

28 (2b) The Secretary of Commerce.

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

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

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

- 1 (1) One member shall be experienced in the electric power industry; a
2 representative of an investor-owned electric public utility, to be appointed by
3 the Governor.
- 4 (2) One member shall be experienced in the natural gas industry; have
5 experience in natural gas and associated hydrocarbon exploration,
6 development, and production, to be appointed by the Governor.
- 7 ~~(2a) One member shall be experienced in energy policy matters;~~
- 8 (3) One member shall be experienced in alternative fuels and biofuels; a
9 representative of an investor-owned natural gas public utility, to be
10 appointed by the Speaker of the House of Representatives.
- 11 (4) One member shall be experienced in energy efficient building design or
12 construction; an energy economist or a person with experience in the
13 financing or business development of an energy-related business, to be
14 appointed by the President Pro Tempore of the Senate.
- 15 (5) One member shall be experienced in environmental protection; have
16 experience in energy policy, to be appointed by the President Pro Tempore
17 of the Senate.
- 18 (6) One member who is engaged in a business providing renewable energy or
19 other energy services; shall be an industrial energy consumer, to be appointed
20 by the Speaker of the House of Representatives.
- 21 (7) One member shall be knowledgeable of alternative and renewable sources of
22 energy; energy, to be appointed by the Governor.
- 23 (8) One member who, at the time of appointment, is a county commissioner; or
24 elected municipal officer; provided, the member's term on the Council shall
25 expire immediately in the event that he or she vacates office as a county
26 commissioner or municipal officer; shall have experience in trucking, rail, or
27 shipping transportation, to be appointed by the Speaker of the House of
28 Representatives.
- 29 (9) Repealed by Session Laws 2009-446, s. 4, effective August 7, 2009.
- 30 (10) ~~One member shall be knowledgeable in the finance, business development,~~
31 ~~or technology development of energy related business; One member shall~~
32 have experience in energy research and development, to be appointed by the
33 President Pro Tempore of the Senate.
- 34 (11) ~~One member shall be experienced in low income energy policy matters or~~
35 ~~low income residential weatherization. One member shall have experience in~~
36 environmental management, appointed by the Speaker of the House of
37 Representatives.
- 38 (12) ~~One member shall be experienced in the petroleum industry. One member~~
39 shall have experience in the biofuels industry, to be appointed by the
40 President Pro Tempore of the Senate."

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

42 **"§ 113B-4. Chairman of Council; replacement; reimbursement of members.**

43 (a) ~~On August 15, 2009, on January 31, 2011, and every four years thereafter, the~~
44 Governor shall appoint a chair of the Council. The Council shall elect one of its members to
45 serve as chair. The chair shall serve for a term of two years and may serve no more than two
46 terms in total.

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

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

3 **SECTION 9.(g)** G.S. 113B-5 reads as rewritten:

4 **"§ 113B-5. Organization of the Council; adoption of rules of procedure therefor.**

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

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

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

16 **SECTION 9.(h)** 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
23 Division of Energy, Mineral, and Land Resources of the Department of Environment and
24 Natural Resources. The Council shall provide oversight and approval to the duties delegated to
25 the Division. The Energy Jobs Council shall have the following general duties and
26 responsibilities:

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

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

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

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

5 **SECTION 9.(i)** G.S. 113B-7 reads as rewritten:

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

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

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

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

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

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

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

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

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

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

34 (7) An economic and environmental impact analysis of the recommended
35 program.

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

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

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

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

10 **SECTION 9.(j)** G.S. 113B-8(a) reads as rewritten:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 **SECTION 9.(I)** G.S. 113B-11 reads as rewritten:

44 "**§ 113B-11. Powers and authority.**

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

50 ...

1 (e) Staff support required by the Council shall be supplied by the Division of Energy,
2 Mineral, and Land Resources of the Department of Environment and Natural Resources. The
3 Department of Commerce shall provide the staffing capability to the Energy Policy Jobs
4 Council so as to fully and effectively develop recommendations for a comprehensive State
5 energy policy as contained in the provisions of this Article. The Department of Commerce and
6 the Utilities Commission is-are hereby authorized to make its-their staff available to the Council
7 to assist in the development of a State energy policy."

8 **SECTION 9.(m)** G.S. 113B-12 reads as rewritten:

9 **"§ 113B-12. Annual reports; contents.**

10 (a) ~~Beginning January 1, 1977, and every year~~Every two years thereafter, the Energy
11 ~~Policy Jobs Council~~ shall transmit to the Governor, the Speaker of the House of
12 Representatives, the President Pro Tempore of the Senate, the Environmental Review
13 Commission, the Joint Legislative Commission on Energy Policy, and the chairman of the
14 Utilities Commission Commission and the appropriate chairmen of the House and Senate
15 ~~committees concerned with energy matters,~~ a comprehensive report providing a general
16 overview of energy conditions in the State. ~~On January 1, 1976, the Energy Policy Council~~
17 ~~shall transmit a progress report to the public officials named above.~~

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

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

42 **SECTION 9.(n)** G.S. 113B-21(a) reads as rewritten:

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

49 **SECTION 9.(o)** G.S. 113B-23 reads as rewritten:

50 **"§ 113B-23. Administration of plans and procedures.**

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

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

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

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

21 **SECTION 9.(p)** G.S. 113B-24(c) reads as rewritten:

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

34 **SECTION 9.(q)** G.S. 114-4.2D reads as rewritten:

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

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

43 **SECTION 9.(r)** G.S. 143-58.5(c) reads as rewritten:

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

50 **SECTION 9.(s)** G.S. 143-345.13 reads as rewritten:

51 "**§ 143-345.13. Reporting of stocks of coal and petroleum fuels.**

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

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

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

24 **SECTION 9.(t)** Article 7 of Chapter 143B of the General Statutes is amended by
25 adding a new Part to read:

26 "Part 31. Energy Jobs Council.

27 **"§ 143B-281.1. Energy Jobs Council – transfer.**

28 The Energy Jobs Council, as established by Chapter 113B of the General Statutes and other
29 applicable laws of this State, is hereby transferred to the Department of Environment and
30 Natural Resources by a Type II transfer as defined in G.S. 143A-6."

31 **SECTION 9.(u)** Notwithstanding G.S. 113B-3 or any other law to the contrary, the
32 terms of all members of the Energy Policy Council serving as of the effective date of this act
33 shall expire on the effective date of this act or on June 30, 2013, whichever comes first. Initial
34 appointments shall be made pursuant to subsection (c) of G.S. 113B-3, as amended by Section
35 9(e) of this act, no later than July 1, 2013.

36 **SECTION 9.(v)** The Revisor of Statutes shall make the conforming statutory
37 changes necessary to reflect the transfers under this section. The Revisor of Statutes may
38 correct any reference in the General Statutes to the statutes that are recodified by this section
39 and make any other conforming changes necessitated by this section.

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

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

46 **SECTION 10.(b)** Electrical Requirements Rule. – Until the effective date of the
47 revised permanent rule that the Medical Care Commission is required to adopt pursuant to
48 Section 10(c) of this act, the Commission and the Department of Health and Human Services
49 shall implement the Electrical Requirements Rule, as provided in Section 10(c) of this act.

50 **SECTION 10.(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 10.(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 Section 10(c) of this act. Rules adopted pursuant to this section are not subject to
14 G.S. 150B-21.9 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become
15 effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been
16 received as provided by G.S. 150B-21.3(b2).

17 **SECTION 10.(e)** Effective Date. – Subsection (b) of this section expires when
18 permanent rules to replace subsection (b) of this section have become effective, as provided by
19 subsection (c) of this section.

20 **PART XI. EFFECTIVE DATE**

21 **SECTION 11.** Section 1(b) of this act becomes effective March 1, 2015. Section 4
22 of this act is effective when it becomes law and applies retroactively to October 1, 2012.
23 Sections 5(a) through 5(c) of this act are effective for energy minerals sold on or after March 1,
24 2015, except that G.S. 105-187.76, as enacted by Section 5(a) of this act, becomes effective
25 only if authorized by the General Assembly in the Current Operations and Capital
26 Improvements Appropriations Act of 2013. G.S. 113B-30, enacted by Section 7 of this act,
27 becomes effective only if authorized by the General Assembly in the Current Operations and
28 Capital Improvements Appropriations Act of 2013. The first report due pursuant to
29 G.S. 113B-12, as amended by Section 9(m) of this act, shall be transmitted on or before
30 January 1, 2014. Except as otherwise provided, the remainder of this act is effective when it
31 becomes law.
32