

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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HOUSE BILL 1054*

Short Title: Clean Energy and Economic Security Act. (Public)

Sponsors: Representatives Hager, Gillespie, K. Alexander, and R. Moore (Primary Sponsors).

For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Environment, if favorable, Finance.

May 23, 2012

A BILL TO BE ENTITLED

1 AN ACT TO (1) ESTABLISH AN OIL AND GAS BOARD WITH JURISDICTION AND
2 AUTHORITY OVER MATTERS RELATED TO OIL AND GAS EXPLORATION AND
3 DEVELOPMENT IN THE STATE, INCLUDING THE USE OF HORIZONTAL
4 DRILLING AND HYDRAULIC FRACTURING FOR THAT PURPOSE, AND DIRECT
5 THE BOARD TO CREATE A MODERN REGULATORY PROGRAM FOR
6 MANAGEMENT OF OIL AND GAS EXPLORATION AND DEVELOPMENT IN THE
7 STATE, INCLUDING THE USE OF HORIZONTAL DRILLING AND HYDRAULIC
8 FRACTURING FOR THAT PURPOSE; (2) AUTHORIZE THE PROCESSES OF
9 HORIZONTAL DRILLING AND HYDRAULIC FRACTURING FOR THE PURPOSE
10 OF OIL AND GAS EXPLORATION AND DEVELOPMENT IN THE STATE AND
11 PLACE A MORATORIUM ON PERMITTING RELATED TO THOSE PROCESSES
12 UNTIL JULY 1, 2014; (3) ENACT VARIOUS OTHER PROVISIONS RELATED TO
13 MANAGEMENT OF OIL AND GAS EXPLORATION ACTIVITIES, INCLUDING
14 PROVISIONS RELATED TO LOCAL GOVERNMENT AUTHORITY OVER THESE
15 ACTIVITIES; (4) ESTABLISH THE JOINT LEGISLATIVE COMMISSION ON
16 ENERGY POLICY WITH LEGISLATIVE OVERSIGHT OF ALL MATTERS RELATED
17 TO OIL AND GAS EXPLORATION AND DEVELOPMENT IN THE STATE, AND
18 OTHER ENERGY-RELATED ISSUES; (5) DIRECT THE DEPARTMENT OF PUBLIC
19 INSTRUCTION TO PURCHASE SCHOOL BUSES THAT OPERATE ON
20 COMPRESSED NATURAL GAS (CNG); (6) DIRECT THE DEPARTMENT OF
21 TRANSPORTATION TO PURCHASE NEW THREE-QUARTER TON PICKUP
22 TRUCKS AND NEW ONE-HALF TON PICKUP TRUCKS THAT OPERATE ON
23 COMPRESSED NATURAL GAS (CNG) OR COMPRESSED NATURAL GAS (CNG)
24 AND GASOLINE; (7) CREATE AN INTERAGENCY TASK FORCE TO ESTABLISH
25 PUBLIC-PRIVATE PARTNERSHIPS FOR THE CONSTRUCTION AND
26 DEVELOPMENT OF COMPRESSED NATURAL GAS (CNG) FUELING
27 INFRASTRUCTURE; (8) ESTABLISH CRITERIA FOR THE OPERATION OF
28 ELECTRIC VEHICLE CHARGING STATIONS LOCATED AT STATE-OWNED REST
29 STOPS ALONG THE HIGHWAYS; (9) ENSURE THE USE OF FUEL-EFFICIENT AND
30 COST-EFFICIENT RETREAD TIRES ON STATE VEHICLES; AND (10) AMEND THE
31 ENERGY JOBS ACT OF 2011 IF THE ENERGY JOBS ACT OF 2011 BECOMES LAW,
32 AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION ENERGY
33 ISSUES POLICY COMMITTEE.
34



PART I. LEGISLATIVE FINDINGS AND INTENT

Whereas, in S.L. 2011-276, the General Assembly directed the Department of Environment and Natural Resources and other entities to study the issue of oil and gas exploration in the State and the use of horizontal drilling and hydraulic fracturing for that purpose, including study of (i) oil and gas resources present in the Triassic Basins and in any other areas of the State; (ii) methods of exploration and extraction of oil and gas, including directional and horizontal drilling and hydraulic fracturing; (iii) potential environmental, economic, and social impacts arising from such activities, as well as impacts on infrastructure; and (iv) appropriate regulatory requirements for management of oil and gas exploration activities, with particular attention to regulation of horizontal drilling and hydraulic fracturing for that purpose; and

Whereas, pursuant to S.L. 2011-276, the Department of Environment and Natural Resources (DENR), in conjunction with the Department of Commerce, the Department of Justice, and the Rural Advancement Foundation (RAFI-USA), issued a draft report on oil and gas resources in March 2012; and

Whereas, DENR's draft report set forth a number of recommendations, including recommendations concerning all of the following:

- (1) Development of a modern oil and gas regulatory program, taking into consideration the processes involved in hydraulic fracturing and horizontal drilling technologies, and long-term prevention of physical or economic waste in developing oil and gas resources.
- (2) Collection of baseline data for areas near proposed drill sites concerning air quality and emissions, as well as groundwater and surface water resources and quality.
- (3) Requirements that oil and gas operators prepare and have approved water management plans that limit water withdrawals during times of low-flow conditions and droughts.
- (4) Enhancements to existing oil and gas well construction standards to address the additional pressures of horizontal drilling and hydraulic fracturing.
- (5) Development of setback requirements and identification of areas where oil and gas exploration and development activities should be prohibited.
- (6) Development of a State stormwater regulatory program for oil and gas drilling sites.
- (7) Development of specific standards for management of oil and gas wastes.
- (8) Requirements for disclosure of hydraulic fracturing chemicals and constituents to regulatory agencies and the public.
- (9) Prohibitions on use of certain chemicals or constituents in hydraulic fracturing fluids.
- (10) Improvements to data management capabilities and development of a coordinated electronic permitting program for oil and gas exploration and development activities.
- (11) Development of protocols to ensure that State agencies, local first responders, and industry are prepared to respond to a well blowout, chemical spill, or other emergency.
- (12) Appropriate distribution of revenues from any taxes or fees that may be imposed on oil and gas exploration and development activities to support a modern regulatory program for the management of all aspects of oil and gas exploration and development activities using the processes of horizontal drilling and hydraulic fracturing in the State, and to support local governments impacted by the activities, including, but not limited to,

- 1 sufficient funding for improvements to and repair of roads subject to damage
2 by truck traffic and heavy equipment from these activities.
- 3 (13) Clarifications needed to address local government regulatory authority over
4 oil and gas exploration and development activities, and use of horizontal
5 drilling and hydraulic fracturing for that purpose.
- 6 (14) Additional research required on impacts to local governments and local
7 infrastructure, as well as potential economic impacts from oil and gas
8 exploration and development activities.
- 9 (15) Development of provisions to address liability of the oil and gas industry for
10 environmental contamination caused by exploration and development
11 activities, particularly with regard to groundwater contamination.
- 12 (16) Establishment of a process that affords additional public participation in
13 connection with development of a modern oil and gas regulatory program;
14 and

15 Whereas, it is the intent of the General Assembly to move forward with
16 development of a modern regulatory program for the management of oil and gas exploration
17 and development in the State and the use of horizontal drilling and hydraulic fracturing for that
18 purpose in an environmentally responsible manner; and

19 Whereas, it is also the intent of the General Assembly to incorporate the
20 recommendations included in the draft study issued by DENR as outlined above; Now,
21 therefore,

22
23 The General Assembly of North Carolina enacts:

24
25 **PART II. ESTABLISH OIL AND GAS BOARD**

26 **SECTION 1.(a)** Article 27 of Chapter 113 of the General Statutes is amended by
27 adding a new Part to read:

28 "Part 4. Oil and Gas Board.

29 **"§ 113-430. Oil and Gas Board – creation; powers and duties.**

30 (a) There is hereby established the North Carolina Oil and Gas Board with the power
31 and duty to adopt rules governing the management of oil and gas exploration and development
32 activities in the State.

33 (b) The Board shall have jurisdiction and authority concurrent with that of the
34 Department of Environment and Natural Resources established under G.S. 113-391 and over all
35 persons and property necessary to administer and enforce effectively the provisions of this
36 Article and all other laws relating to oil and gas exploration and development activities in the
37 State.

38 (c) The Board shall have authority concurrent with that of the Department of
39 Environment and Natural Resources established under G.S. 113-391, and it shall be the Board's
40 duty to make such inquiries as it may think proper to determine whether or not waste over
41 which it has jurisdiction exists or is imminent. In the exercise of such power the Board shall
42 have the authority to collect data; to make investigations and inspections; to examine
43 properties, leases, papers, books, and records; to examine, check, test and gauge oil, and gas
44 wells, tanks, refineries, and means of transportation; to hold hearings; and to provide for the
45 keeping of records and the making of reports; and to take such action as may be reasonably
46 necessary to enforce this Article and rules adopted thereunder.

47 (d) In the exercise of its authority over oil and gas exploration and development
48 activities, the Board shall have access to all data, records, and information related to such
49 activities, including, but not limited to, seismic surveys, stratigraphic testing, geologic cores,
50 proposed well bore trajectories, hydraulic fracturing fluid chemicals and constituents, drilling
51 mud chemistry, and geophysical borehole logs. With the exception of information designated as

1 a trade secret, as defined in G.S. 66-152(3), and that is designated as confidential or as a trade
2 secret under G.S. 132-1.2, the Board shall make such information available to the public as
3 provided by G.S. 132-11. The State Geologist shall serve as the custodian of all data,
4 information, and records received pursuant to this subsection and shall ensure that (i) the
5 information shall be maintained securely as provided in G.S. 132-7; and (ii) access to
6 information designated as a trade secret, as defined in G.S. 66-152(3), and that is designated as
7 confidential or as a trade secret under G.S. 132-1.2, is limited to only those members of the
8 Board and State employees who have executed a confidentiality agreement with the owner of
9 such information.

10 (e) The Board shall adopt rules for the management of oil and gas exploration and
11 development in the State and the use of horizontal drilling and hydraulic fracturing for that
12 purpose, including rules for all of the following purposes:

13 (1) To govern pre-drilling exploration activities, including seismic and other
14 geophysical and stratigraphic surveys and testing, as well as drilling,
15 operation, casing plugging, completion, and abandonment of wells; to
16 prevent the pollution of water supplies by oil, gas, or other fluids used in oil
17 and gas exploration and development, or to protect the quality of the water,
18 air, soil, or any other environmental resource against injury or damage or
19 impairment; and to require reasonable bond conditions deemed necessary by
20 the Board in connection with oil and gas exploration and development
21 activities. Such rules shall specifically regulate the processes of horizontal
22 drilling and hydraulic fracturing for the purpose of oil and gas exploration,
23 and shall, at a minimum, include standards or requirements related to the
24 following:

- 25 a. Appropriate well construction and siting standards, including setback
26 requirements.
- 27 b. Limits on water use.
- 28 c. Prohibitions on use of certain chemicals and constituents in hydraulic
29 fracturing fluids.
- 30 d. Management of wastes produced in connection with oil and gas
31 exploration and development and use of horizontal drilling and
32 hydraulic fracturing for that purpose.
- 33 e. Stormwater control at sites.
- 34 f. Installation of appropriate safety devices, and development of
35 protocols for response to well blowouts, chemical spills, and other
36 emergencies.
- 37 g. Full disclosure of hydraulic fracturing chemicals and constituents.
- 38 h. Proper well closure and site reclamation.
- 39 i. Any other matter the Board deems necessary.

40 (2) To require surveys upon application of any owner who has reason to believe
41 that a well has been unlawfully drilled by another into land of the owner
42 without permission. In the event such surveys are required, the costs thereof
43 shall be borne by the owner making the request.

44 (3) To require the making of reports showing the location of oil and gas wells
45 and the filing of logs and drilling records.

46 (4) To prevent "blow-outs," "caving," and "seepage," as such terms are
47 generally understood in the oil and gas industry.

48 (5) To prevent fires and other emergency events potentially resulting from oil
49 and gas exploration and development activities.

- 1 (6) To identify the ownership of all oil or gas wells, producing leases, refineries,
2 tanks, plants, structures, and all storage and transportation equipment and
3 facilities.
- 4 (7) To regulate the "shooting," perforating, and chemical treatment of wells.
- 5 (8) To regulate secondary recovery methods, including the introduction of gas,
6 air, water, or other substances into producing formations.
- 7 (9) To limit and prorate the production of oil or gas, or both, from any pool or
8 field for the prevention of waste as defined in this Article and rules adopted
9 thereunder.
- 10 (10) To require, either generally or in or from particular areas, certificates of
11 clearance or tenders in connection with the transportation of oil or gas.
- 12 (11) To regulate the spacing of wells and to establish drilling units.
- 13 (12) To prevent, so far as is practicable, reasonably avoidable drainage from each
14 developed unit which is not equalized by counter-drainage.
- 15 (13) To regulate and, if necessary in its judgment for the protection of unique
16 environmental values, to prohibit the location of wells in the interest of
17 protecting the quality of the water, air, soil, or any other environmental
18 resource against injury, damage, or impairment.

19 (f) The Oil and Gas Board shall submit quarterly written reports as to its operation,
20 activities, programs, and progress to the Joint Legislative Commission on Energy Policy. The
21 Oil and Gas Board shall supplement the written reports required by this subsection with
22 additional written and oral reports as may be requested by the Joint Legislative Commission on
23 Energy Policy. The Oil and Gas Board shall submit the written reports required by this
24 subsection whether or not the General Assembly is in session at the time the report is due.

25 **§ 113-431. Oil and Gas Board – quasi-judicial powers; procedures.**

26 (a) With respect to those matters within its jurisdiction, the Oil and Gas Board shall
27 exercise quasi-judicial powers in accordance with the provisions of Chapter 150B of the
28 General Statutes. This section and any rules adopted by the Oil and Gas Board shall govern
29 such proceedings as follows:

- 30 (1) Exceptions to recommended decisions in contested cases shall be filed with
31 the Board within 30 days of the receipt by the Board of the official record
32 from the Office of Administrative Hearings, unless additional time is
33 allowed by the Chair of the Board.
- 34 (2) Oral arguments by the parties may be allowed by the Chair of the Board
35 upon request of the parties.
- 36 (3) Deliberations of the Board shall be conducted in its public meeting unless
37 the Board determines that consultation with its counsel should be held in a
38 closed session pursuant to G.S. 143-318.11.

39 (b) The final agency decision in contested cases that arise from civil penalty
40 assessments made pursuant to this Article and rules adopted thereunder shall be made by the
41 Board. In the evaluation of each violation, the Board shall recognize that harm to the natural
42 resources of the State arising from the violation of standards or limitations established to
43 protect those resources may be immediately observed through damaged resources or may be
44 incremental or cumulative with no damage that can be immediately observed or documented.
45 Penalties up to the maximum authorized may be based on any one or combination of the
46 following factors:

- 47 (1) The degree and extent of harm to the natural resources of the State, to the
48 public health, or to private property resulting from the violation.
- 49 (2) The duration and gravity of the violation.
- 50 (3) The effect on ground or surface water quantity or quality or on air quality.
- 51 (4) The cost of rectifying the damage.

- 1 (5) The amount of money saved by noncompliance.
- 2 (6) Whether the violation was committed willfully or intentionally.
- 3 (7) The prior record of the violator in complying or failing to comply with
4 programs over which the Oil and Gas Board has regulatory authority.
- 5 (8) The cost to the State of the enforcement procedures.

6 (c) The Chair shall appoint a Committee on Civil Penalty Remissions from the
7 members of the Board. No member of the Board on Civil Penalty Remissions may hear or vote
8 on any matter in which the member has an economic interest. The Committee on Civil Penalty
9 Remissions shall make the final agency decision on remission requests. In determining whether
10 a remission request will be approved, the Committee shall consider the recommendation of the
11 Secretary or the Secretary's designee and all of the following factors:

- 12 (1) Whether one or more of the civil penalty assessment factors in subsection (b)
13 of this section were wrongly applied to the detriment of the petitioner.
- 14 (2) Whether the violator promptly abated continuing environmental damage
15 resulting from the violation.
- 16 (3) Whether the violation was inadvertent or a result of an accident.
- 17 (4) Whether the violator had been assessed civil penalties for any previous
18 violations.
- 19 (5) Whether payment of the civil penalty will prevent payment for the remaining
20 necessary remedial actions.

21 (d) The Committee on Civil Penalty Remissions may remit the entire amount of the
22 penalty only when the violator has not been assessed civil penalties for previous violations and
23 when payment of the civil penalty will prevent payment for the remaining necessary remedial
24 actions.

25 (e) If any civil penalty has not been paid within 30 days after the final agency decision
26 or court order has been served on the violator, the Secretary or the Secretary's designee shall
27 request the Attorney General to institute a civil action in the superior court of any county in
28 which the violator resides or has his or its principal place of business to recover the amount of
29 the assessment.

30 (f) For purposes of this section, "Secretary" shall mean the Secretary of Environment
31 and Natural Resources.

32 **"§ 113-432. Oil and Gas Board – members; selection; terms; vacancies; compensation;**
33 **meetings; quorum; staff.**

34 (a) Members; Selection. – The Oil and Gas Board shall consist of nine members
35 appointed as follows:

- 36 (1) One appointed by the Governor who shall be a licensed geologist with
37 experience in oil and gas exploration and development.
- 38 (2) One appointed by the Governor who shall be an employee or officer of an
39 investor-owned natural gas company.
- 40 (3) One appointed by the Governor who shall be a licensed attorney with
41 experience in mineral leasing.
- 42 (4) One appointed by the President Pro Tempore of the Senate who shall be an
43 environmental scientist with experience in environmental restoration,
44 remediation, and mitigation of contamination resulting from industrial
45 activities.
- 46 (5) One appointed by the President Pro Tempore of the Senate who shall be a
47 licensed engineer with experience in oil and gas exploration and
48 development.
- 49 (6) One appointed by the President Pro Tempore of the Senate who shall be a
50 private owner of land located in the Sanford subbasin of the Triassic basin of
51 North Carolina.

1 (7) One appointed by the Speaker of the House of Representatives who shall, at
2 the time of the initial appointment, be a member of a county board of
3 commissioners of a county located in the Sanford subbasin of the Triassic
4 basin of North Carolina.

5 (8) One appointed by the Speaker of the House of Representatives who shall, at
6 the time of the initial appointment, be a representative of a municipal
7 government of a municipality located in the Sanford subbasin of the Triassic
8 basin of North Carolina.

9 (9) One appointed by the Speaker of the House of Representatives who shall be
10 an economist with particular experience in or familiarity with energy
11 markets.

12 (b) Terms. – The term of office of members of the Board is three years. A member may
13 be reappointed to any number of successive three-year terms. Upon the expiration of a
14 three-year term, a member shall continue to serve until a successor is appointed and duly
15 qualified. The term of members appointed under subdivisions (1), (4), and (7) of subsection (a)
16 of this section shall expire on June 30 of years evenly divisible by three. The terms of members
17 appointed under subdivisions (2), (5), and (8) of subsection (a) of this section shall expire on
18 June 30 of years that precede by one year those years that are evenly divisible by three. The
19 terms of members appointed under subdivisions (3), (6), and (9) of subsection (a) of this
20 section shall expire on June 30 of years that follow by one year those years that are evenly
21 divisible by three.

22 (c) Vacancies; Removal From Office. –

23 (1) Any appointment by the Governor to fill a vacancy on the Board created by
24 the resignation, dismissal, death, or disability of a member shall be for the
25 balance of the unexpired term. The Governor shall have the power to remove
26 any member of the Board from office for misfeasance, malfeasance, or
27 nonfeasance in accordance with the provisions of G.S. 143B-13 of the
28 Executive Organization Act of 1973.

29 (2) Members appointed by the President Pro Tempore of the Senate and the
30 Speaker of the House of Representatives shall be made in accordance with
31 G.S. 120-121, and vacancies in those appointments shall be filled in
32 accordance with G.S. 120-122. In accordance with Section 10 of Article VI
33 of the North Carolina Constitution, a member may continue to serve until a
34 successor is duly appointed.

35 (d) Compensation. – The members of the Commission shall receive per diem and
36 necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

37 (e) Meetings. – The Board shall meet at least once in each quarter and may hold special
38 meetings at any time and place within the State at the call of the Chair or upon the written
39 request of at least five members.

40 (f) Quorum. – A majority of the Commission shall constitute a quorum for the
41 transaction of business.

42 (g) Staff. – All staff support required by the Board shall be supplied by the Division of
43 Energy, Mineral, and Land Resources and the North Carolina Geological Survey.

44 **"§ 113-433. Oil and Gas Board – officers; organization; seal.**

45 (a) Election of Chair and Vice-Chair. – The Commission shall elect one of its members
46 to serve as Chair, and one of its members to serve as Vice-Chair. The Chair and Vice-Chair
47 shall serve one-year terms beginning August 1 and ending July 31 of the following year. The
48 Chair and Vice-Chair may serve any number of terms, but not more than two terms
49 consecutively.

50 (b) Responsibilities of Chair. – The Chair shall guide and coordinate the activities of the
51 Board in fulfilling its duties as set out in this Article. The Chair shall report to and advise the

1 Governor and the Joint Legislative Commission on Energy Policy as provided in G.S. 113-430
2 on the activities of the Board.

3 (c) Procedure and Organization. – The Board shall determine its organization and
4 procedure in accordance with the provisions of this Article. The provisions of the most recent
5 edition of Robert's Rules of Order shall govern any procedural matter for which no other
6 provision has been made.

7 (d) Adoption of Seal. – The Board may adopt a common seal and may alter it as
8 necessary."

9 **SECTION 1.(b)** Chapter 132 of the General Statutes is amended by adding a new
10 section to read:

11 **"§ 132-11. Qualified exception for information pertaining to oil and gas exploration and**
12 **development activities.**

13 (a) Except as provided in subsection (b) of this section, data, records, and other
14 information related to oil and gas exploration and development activities obtained by the North
15 Carolina Oil and Gas Board pursuant to G.S. 113-430 and the Department of Environment and
16 Natural Resources pursuant to G.S. 113-391 shall be made available for public inspection and
17 examination after a period of two years from the date the data, records, and other information
18 were received by the Board.

19 (b) Information designated as a trade secret, as defined in G.S. 66-152(3), and that is
20 designated as confidential or as a trade secret under G.S. 132-1.2 shall be maintained as such
21 by the Board and the Department and shall not be made available to the public."

22 **SECTION 1.(c)** The Oil and Gas Board established under Section 1(a) of this act
23 shall create a modern regulatory program for the management of all aspects of oil and gas
24 exploration and development activities, including the processes of horizontal drilling and
25 hydraulic fracturing in the State. The Board shall adopt rules governing these activities as
26 quickly as practicable, but no later than December 31, 2013. The Board shall also consult and
27 coordinate with the Department of Environment and Natural Resources, the Environmental
28 Management Commission, and the Mining Commission to identify changes required to all
29 existing rules and statutes governing these activities, including repeal or modification of the
30 rules and statutes. The Board shall report to the Joint Legislative Commission on Energy Policy
31 created under Section 8(a) of this act on the progress of development of a modern regulatory
32 program, and any statutory and rule changes required, on or before May 1, 2013. From the
33 effective date of this act, the Oil and Gas Board shall have concurrent authority and jurisdiction
34 with the Department of Environment and Natural Resources to administer and enforce the
35 provisions of Article 27 of Chapter 113 of the General Statutes and rules adopted thereunder in
36 compliance with the provisions of this act.

37
38 **PART III. STATUTORY AND RULE CHANGES TO AUTHORIZE HORIZONTAL**
39 **DRILLING AND HYDRAULIC FRACTURING; MORATORIUM ESTABLISHED**

40 **SECTION 2.(a)** G.S. 113-389 reads as rewritten:

41 **"§ 113-389. Definitions.**

42 Unless the context otherwise requires, the words defined in this section shall have the
43 following meaning when found in this law:

44 (1) "Board" shall mean the North Carolina Oil and Gas Board.

45 (1a) "Department" shall mean the "Department of Environment and Natural
46 Resources," as created by this law. Resources."

47 (1b) "Division" shall mean the Division of Energy, Mineral, and Land Resources
48 of the Department of Environment and Natural Resources.

49 ...

50 (3a) "Hydraulic fracturing fluid" shall mean the base fluid type utilized in a
51 particular hydraulic fracturing treatment.

1 (3b) "Hydraulic fracturing treatment" shall mean stimulating a well by the
2 application of hydraulic fracturing fluids and additives with force in order to
3 create artificial fractures in the formation for the purpose of improving the
4 capacity to produce hydrocarbons.

5 "

6 **SECTION 2.(b)** G.S. 113-391 reads as rewritten:

7 **"§ 113-391. Jurisdiction and authority; rules and orders.**

8 (a) The Department shall have jurisdiction and authority concurrent with that of the Oil
9 and Gas Board established pursuant to G.S. 113-430~~ef and~~ over all persons and property
10 necessary to administer and enforce effectively the provisions of this law and all other laws
11 relating to the conservation of oil and gas.

12 (b) The Department shall have ~~the~~ authority concurrent with that of the Oil and Gas
13 Board established pursuant to G.S. 113-430 and it shall be ~~its~~ the Department's duty to make
14 such inquiries as it may think proper to determine whether or not waste over which it has
15 jurisdiction exists or is imminent. In the exercise of such power the Department shall have the
16 authority to collect data; to make investigations and inspections; to examine properties, leases,
17 papers, books and records; to examine, check, test and gauge oil and gas wells, tanks,
18 refineries, and means of transportation; to hold hearings; and to provide for the keeping of
19 records and the making of reports; and to take such action as may be reasonably necessary to
20 enforce this law.

21 (b1) In the exercise of its authority over oil and gas exploration and development
22 activities, the Department shall have access to all data, records, and information related to such
23 activities, including, but not limited to, seismic surveys, stratigraphic testing, geologic cores,
24 proposed well bore trajectories, hydraulic fracturing fluid chemicals and constituents, drilling
25 mud chemistry, and geophysical borehole logs. With the exception of information designated as
26 a trade secret, as defined in G.S. 66-152(3), and that is designated as confidential or as a trade
27 secret under G.S. 132-1.2, the Department shall make any information it receives available to
28 the public pursuant to G.S. 132-11. The State Geologist shall serve as the custodian of all data,
29 information, and records received by the Department pursuant to this subsection and shall
30 ensure that (i) the information is maintained securely as provided in G.S. 132-7; and (ii) access
31 to information designated as a trade secret, as defined in G.S. 66-152(3), and that is designated
32 as confidential or as a trade secret under G.S. 132-1.2 is limited to only those staff of the
33 Department who have executed a confidentiality agreement with the owner of such
34 information.

35 (c) The Department may ~~make rules and issue~~ orders as may be necessary from time to
36 time in the proper administration and enforcement of this ~~law,~~ law and rules adopted by the Oil
37 and Gas Board pursuant to G.S. 113-430, including ~~rules or orders~~ for the following purposes:

38 (1) To require the drilling, operation, casing and plugging of wells ~~to be done in~~
39 ~~such manner as to prevent the escape of oil or gas out of one stratum to~~
40 ~~another; to prevent the intrusion of water into an oil or gas stratum from a~~
41 ~~separate stratum; to prevent the pollution of freshwater supplies by oil, gas~~
42 ~~or salt water, or to protect the quality of the water, air, soil or any other~~
43 environmental resource against injury or damage or impairment; and to
44 require reasonable bond ~~condition~~ conditions for the performance of the duty
45 to plug each dry or abandoned well.

46 (2) To require ~~directional~~ surveys upon application of any owner who has
47 reason to believe that a well ~~or wells of others has or have~~ has been
48 unlawfully drilled by another into land of the owner without permission. ~~the~~
49 ~~lands owned by him or held by him under lease.~~ In the event such surveys
50 are required, the costs thereof shall be borne by the ~~owners~~ owner making
51 the request.

- 1 (3) To require the making of reports showing the location of oil and gas wells,
2 and the filing of logs and drilling records.
- 3 ~~(4) To prevent the drowning by water of any stratum or part thereof capable of~~
4 ~~producing oil or gas in paying quantities, and to prevent the premature and~~
5 ~~irregular encroachment of water which reduces, or tends to reduce, the total~~
6 ~~ultimate recovery of oil or gas from any pool.~~
- 7 (5) To require the operation of wells with efficient gas-oil ratios, and to fix such
8 ratios.
- 9 (6) To prevent "blow-outs," "caving" and "seepage" in the sense that conditions
10 indicated by such terms are generally understood in the oil and gas business.
- 11 (7) To prevent fires.
- 12 (8) To identify the ownership of all oil or gas wells, producing leases, refineries,
13 tanks, plants, structures and all storage and transportation equipment and
14 facilities.
- 15 (9) To regulate the "shooting," perforating, and chemical treatment of wells.
- 16 (10) To regulate secondary recovery methods, including the introduction of gas,
17 air, water or other substances into producing formations.
- 18 (11) To limit and prorate the production of oil or gas, or both, from any pool or
19 field for the prevention of waste as herein defined.
- 20 (12) To require, either generally or in or from particular areas, certificates of
21 clearance or tenders in connection with the transportation of oil or gas.
- 22 (13) To regulate the spacing of wells and to establish drilling units.
- 23 (14) To prevent, so far as is practicable, reasonably avoidable drainage from each
24 developed unit which is not equalized by counter-drainage.
- 25 (15) To prevent where necessary the use of gas for the manufacture of carbon
26 black.
- 27 (16) To regulate and, if necessary in its judgment for the protection of unique
28 environmental values, to prohibit the location of wells in the interest of
29 protecting the quality of the water, air, soil or any other environmental
30 resource against injury, or damage or impairment."

31 **SECTION 2.(c)** G.S. 113-393 reads as rewritten:

32 **"§ 113-393. Development of lands as drilling unit by agreement or order of Department.**

33 (a) Integration of Interests and Shares in Drilling Unit. – When two or more separately
34 owned tracts of land are embraced within an established drilling unit, the owners thereof may
35 agree validly to integrate their interests and to develop their lands as a drilling unit. Where,
36 however, such owners have not agreed to integrate their interests, the Department shall, for the
37 prevention of waste or to avoid drilling of unnecessary wells, require such owners to do so and
38 to develop their lands as a drilling unit. All orders requiring such integration shall be made after
39 notice and hearing, and shall be upon terms and conditions that are just and reasonable, and will
40 afford to the owner of each tract the opportunity to recover or receive his just and equitable
41 share of the oil and gas in the pool without unnecessary expense, and will prevent or minimize
42 reasonably avoidable drainage from each developed unit which is not equalized by
43 counter-drainage. The portion of the production allocated to the owner of each tract included in
44 a drilling unit formed by an integration order shall, when produced, be considered as if it had
45 been produced from such tract by a well drilled thereon.

46 In the event such integration is required, and provided also that after due notice to all the
47 owners of tracts within such drilling unit of the creation of such drilling unit, and provided
48 further that the Department has received no protest thereto, or request for hearing thereon,
49 whether or not 10 days have elapsed after notice has been given of the creation of the drilling
50 unit, the operator designated by the Department to develop and operate the integrated unit shall
51 have the right to charge to each other interested owner the actual expenditures required for such

1 purpose not in excess of what are reasonable, including a reasonable charge for supervision,
2 and the operator shall have the right to receive the first production from the well drilled by him
3 thereon, which otherwise would be delivered or paid to the other parties jointly interested in the
4 drilling of the well, so that the amount due by each of them for his shares of the expense of
5 drilling, equipping, and operating the well may be paid to the operator of the well out of
6 production; with the value of the production calculated at the market price in the field at the
7 time such production is received by the operator or placed to his credit. After being reimbursed
8 for the actual expenditures for drilling and equipping and operating expenses incurred during
9 the drilling operations and until the operator is reimbursed, the operator shall thereafter pay to
10 the owner of each tract within the pool his ratable share of the production calculated at the
11 market price in the field at the time of such production less the reasonable expense of operating
12 the well. In the event of any dispute relative to such costs, the Department shall determine the
13 proper costs.

14 (b) When Each Owner May Drill. – Should the owners of separate tracts embraced
15 within a drilling unit fail to agree upon the integration of the tracts and the drilling of a well on
16 the unit, and should it be established that the Department is without authority to require
17 integration as provided for in subsection (a) of this section, then, subject to all other applicable
18 provisions of this law, the owner of each tract embraced within the drilling unit may drill on his
19 tract, but the allowable production from each tract shall be such proportion of the allowable for
20 the full drilling unit as the area of such separately owned tract bears to the full drilling unit.

21 (c) Cooperative Development Not in Restraint of Trade. – Agreements made in the
22 interests of conservation of oil or gas, or both, or for the prevention of waste, between and
23 among owners or operators, or both, owning separate holdings in the same oil or gas pool, or in
24 any area that appears from geological or other data to be underlaid by a common accumulation
25 of oil or gas, or both, or between and among such owners or operators, or both, and royalty
26 owners therein, of a pool or area, or any part thereof, as a unit for establishing and carrying out
27 a plan for the cooperative development and operation thereof, when such agreements are
28 approved by the Department, are hereby authorized and shall not be held or construed to violate
29 any of the statutes of this State relating to trusts, monopolies, or contracts and combinations in
30 restraining of trade.

31 (d) Variation from Vertical. – Whenever the Department fixes the location of any well
32 or wells on the surface, the point at which the maximum penetration of such wells into the
33 producing formation is reached shall not unreasonably vary from the vertical drawn from the
34 center of the hole at the surface, provided, that the Department shall prescribe rules and orders
35 governing the reasonableness of such variation. This subsection shall not apply to wells drilled
36 for the purpose of exploration or development of natural gas through use of horizontal drilling
37 in conjunction with hydraulic fracturing treatments."

38 **SECTION 2.(d)** G.S. 143-214.2 reads as rewritten:

39 **"§ 143-214.2. Prohibited discharges.**

40 (a) The discharge of any radiological, chemical or biological warfare agent or
41 high-level radioactive waste to the waters of the State is prohibited.

42 (b) The discharge of any wastes to the subsurface or groundwaters of the State by
43 means of wells is prohibited. This section shall not be construed to ~~prohibit~~ prohibit (i) the
44 operation of closed-loop groundwater remediation systems in accordance with
45 G.S. 143-215.1A. G.S. 143-215.1A or (ii) injection of hydraulic fracturing fluid for the
46 exploration or development of natural gas resources.

47 (c) Unless permitted by a rule of the Commission, the discharge of wastes, including
48 thermal discharges, to the open waters of the Atlantic Ocean over which the State has
49 jurisdiction are prohibited."

50 **SECTION 3.(a)** With regard to wells that are drilled for the purpose of exploration
51 or development of natural gas through use of horizontal drilling in conjunction with hydraulic

1 fracturing treatments, notwithstanding subsection (e) of 15A NCAC 05D .0107 (Drilling and
2 Completion), from the effective date of this act, the Department of Environment and Natural
3 Resources shall not prohibit the drilling of wells where the vertical deviation of the hole
4 exceeds three degrees between the bottom of the hole and the top of hole.

5 **SECTION 3.(b)** With regard to wells that are drilled for the purpose of exploration
6 or development of natural gas through use of hydraulic fracturing treatments, notwithstanding
7 subsection (b) of 15A NCAC 02C 0209 (Classification of Injection Wells), from the effective
8 date of this act, the Department of Environment and Natural Resources shall not prohibit the
9 construction, use, or operation of oil or gas production and storage-related injection wells.

10 **SECTION 3.(c)** With regard to wells that are drilled for the purpose of exploration
11 or development of natural gas through use of hydraulic fracturing treatments, notwithstanding
12 subsection (b) of 15A NCAC 02C 0213 (Additional Criteria and Standards Applicable to Class
13 5 Wells), from the effective date of this act, the Department of Environment and Natural
14 Resources shall allow the use of hydraulic fracturing fluid for the exploration or development
15 of natural gas resources, provided that such additives do not cause surrounding groundwaters to
16 become nonpotable.

17 **SECTION 3.(d)** With regard to wells that are drilled for the purpose of exploration
18 or development of natural gas through use of hydraulic fracturing treatments, notwithstanding
19 subdivision (1) of subsection (e) of 15A NCAC 02C 0213 (Additional Criteria and Standards
20 Applicable to Class 5 Wells), from the effective date of this act, the Department of
21 Environment and Natural Resources shall not limit pressure at a well head to a maximum such
22 that the pressure in the injection zone would not initiate new fractures or propagate existing
23 fractures in the injection zone, initiate fractures in the confining zone, or cause the migration of
24 injected or formation fluids outside the injection zone or area.

25 **SECTION 3.(e)** With regard to wells that are drilled for the purpose of exploration
26 or development of natural gas through use of horizontal drilling and hydraulic fracturing
27 treatments, the Department shall not enforce any rule that would have the effect of prohibiting
28 such activities.

29 **SECTION 4.** There is hereby established a moratorium on the issuance of permits
30 for oil and gas exploration and development activities using the processes of horizontal drilling
31 and hydraulic fracturing in the State. The purpose of this moratorium is to allow the Oil and
32 Gas Board established under Section 1(a) of this act to create a modern regulatory program to
33 govern all aspects of such activities. No agency of the State, including the Department of
34 Environment and Natural Resources, the Environmental Management Commission, the Mining
35 Commission, or the Oil and Gas Board established under Section 1(a) of this act, shall issue a
36 permit for oil or gas exploration or development activities using the processes of horizontal
37 drilling and hydraulic fracturing for a period beginning from the effective date of this act and
38 ending on July 1, 2014.

39 **PART IV. MISCELLANEOUS PROVISIONS RELATED TO MANAGEMENT OF OIL** 40 **AND GAS EXPLORATION AND DEVELOPMENT ACTIVITIES**

41 **SECTION 5.** Article 27 of Chapter 113 of the General Statutes is amended by
42 adding a new section to read:

43 **§ 113-388A. Impact fee imposed on oil and gas exploration and development activities.**

44 **(a) A city or town in which oil and gas exploration and development activities are**
45 **occurring may levy a one-time impact fee on operators of such sites that are located within the**
46 **city's or town's jurisdiction only in accordance with this section. This fee shall not exceed thirty**
47 **thousand dollars (\$30,000) for each oil or gas well drilled by the operator within the city's or**
48 **town's jurisdiction.**

49 **(b) A county in which oil and gas exploration and development are occurring may levy**
50 **a one-time impact fee on operators of such sites that are located within unincorporated areas of**
51

1 the county only in accordance with this section. This fee shall not exceed thirty thousand
2 dollars (\$30,000) for each oil or gas well drilled by the operator within the county's jurisdiction.

3 (c) The rate or rates of a fee imposed under authority of this section shall be in an
4 amount calculated to compensate the city, town, or county, as applicable, for the additional
5 costs incurred by it from having a site on which oil and gas exploration and development
6 activities are occurring located in its jurisdiction to the extent to which compensation for such
7 costs is not otherwise provided, which costs may include the loss of ad valorem property tax
8 revenues from the property on which a facility is located, the cost of providing any additional
9 emergency services, the cost of monitoring air, surface water, groundwater, and other
10 environmental media to the extent other monitoring data is not available, the cost to improve or
11 repair roads impacted by truck traffic and heavy equipment from the activities, and other costs
12 associated with the activities and for which the city, town, or county is not otherwise
13 compensated.

14 (d) Any person or firm on which a fee is imposed pursuant to this section may appeal
15 the fee to the Oil and Gas Board established by G.S. 113-430 but shall pay the fee when due,
16 subject to a refund when the appeal is resolved by the Board or in the courts."

17 **SECTION 6.** Article 27 of Chapter 113 of the General Statutes is amended by
18 adding a new section to read:

19 **"§ 113-415A. Local ordinances prohibiting oil and gas exploration and development**
20 **activities invalid; petition to preempt local ordinance.**

21 (a) It is the intent of the General Assembly to maintain a uniform system for the
22 management of oil and gas exploration and development activities, and the use of horizontal
23 drilling and hydraulic fracturing for that purpose, and to place limitations upon the exercise by
24 all units of local government in North Carolina of the power to regulate the management of oil
25 and gas exploration and development activities by means of special, local, or private acts or
26 resolutions, ordinances, property restrictions, zoning regulations, or otherwise. Notwithstanding
27 any authority granted to counties, municipalities, or other local authorities to adopt local
28 ordinances, including, but not limited to, those imposing taxes, any fees except as authorized by
29 G.S. 113-388A, or charges or regulating health, environment, or land use, any local ordinance
30 that prohibits or has the effect of prohibiting oil and gas exploration and development activities
31 that the Oil and Gas Board has preempted pursuant this section, shall be invalid to the extent
32 necessary to effectuate the purposes of this Article. To this end, all provisions of special, local,
33 or private acts or resolutions are repealed that do the following:

34 (1) Prohibit the siting of wells for oil and gas exploration and development
35 within any county, city, or other political subdivision.

36 (2) Prohibit the use of horizontal drilling or hydraulic fracturing for the purpose
37 of oil or gas exploration or development within any county, city, or other
38 political subdivision.

39 (3) Place any restriction or condition not placed by this Article upon oil and gas
40 exploration and development activities and use of horizontal drilling or
41 hydraulic fracturing for that purpose within any county, city, or other
42 political subdivision.

43 (4) In any manner are in conflict or inconsistent with the provisions of this
44 Article.

45 (b) No special, local, or private act or resolution enacted or taking effect hereafter may
46 be construed to modify, amend, or repeal any portion of this Article, unless it expressly
47 provides for such by specific references to the appropriate section of this Article. Further to this
48 end, all provisions of local ordinances, including those regulating land use, adopted by
49 counties, municipalities, or other local authorities that prohibit or have the effect of prohibiting
50 oil and gas exploration and development activities and use of horizontal drilling or hydraulic

1 fracturing for that purpose within the jurisdiction of a local government are invalidated to the
2 extent preempted by the Board pursuant to this section.

3 (c) When oil and gas exploration and development activities would be prevented from
4 construction or operation by a county, municipal, or other local ordinance, the operator of the
5 proposed activities may petition the Oil and Gas Board to review the matter. After receipt of a
6 petition, the Board shall hold a hearing in accordance with the procedures in subsection (d) of
7 this section and shall determine whether or to what extent to preempt the local ordinance to
8 allow for the proposed oil and gas exploration and development activities.

9 (d) When a petition described in subsection (c) of this section has been filed with the
10 Oil and Gas Board, the Board shall hold a public hearing to consider the petition. The public
11 hearing shall be held in the affected locality within 60 days after receipt of the petition by the
12 Board. The Board shall give notice of the public hearing by both of the following means:

13 (1) Publication in a newspaper or newspapers having general circulation in the
14 county or counties where the activities are to be conducted, once a week for
15 three consecutive weeks, the first notice appearing at least 30 days prior to
16 the scheduled date of the hearing.

17 (2) First class mail to persons who have requested notice. The Board shall
18 maintain a mailing list of persons who request notice in advance of the
19 hearing pursuant to this section. Notice by mail shall be complete upon
20 deposit of a copy of the notice in a postage-paid wrapper addressed to the
21 person to be notified at the address that appears on the mailing list
22 maintained by the Board, in a post office or official depository under the
23 exclusive care and custody of the United States Postal Service.

24 (e) Any interested person may appear before the Oil and Gas Board at the hearing to
25 offer testimony. In addition to testimony before the Board, any interested person may submit
26 written evidence to the Board for the Board's consideration. At least 20 days shall be allowed
27 for receipt of written comment following the hearing.

28 (f) A local zoning or land-use ordinance is presumed to be valid and enforceable to the
29 extent the zoning or land-use ordinance imposes requirements, restrictions, or conditions that
30 are generally applicable to development, including, but not limited to, setback, buffer, and
31 stormwater requirements, unless the Oil and Gas Board makes a finding of fact to the contrary.
32 The Board shall determine whether or to what extent to preempt local ordinances so as to allow
33 for the establishment and operation of the facility no later than 60 days after conclusion of the
34 hearing. The Board shall preempt a local ordinance only if the Board makes all of the following
35 findings:

36 (1) That there is a local ordinance that would prohibit or have the effect of
37 prohibiting oil and gas exploration and development activities, or use of
38 horizontal drilling or hydraulic fracturing for that purpose.

39 (2) That all legally required State and federal permits or approvals have been
40 issued by the appropriate State and federal agencies or that all State and
41 federal permit requirements have been satisfied and that the permits or
42 approvals have been denied or withheld only because of the local ordinance.

43 (3) That local citizens and elected officials have had adequate opportunity to
44 participate in the permitting process.

45 (4) That the oil and gas exploration and development activities, and use of
46 horizontal drilling or hydraulic fracturing for that purpose, will not pose an
47 unreasonable health or environmental risk to the surrounding locality and
48 that the operator has taken or consented to take reasonable measures to avoid
49 or manage foreseeable risks and to comply to the maximum feasible extent
50 with applicable local ordinances.

1 the Commission even if they do not seek reelection or are not reelected to the General
2 Assembly, but resignation or removal from service in the General Assembly constitutes
3 resignation or removal from service on the Commission. A member continues to serve until the
4 member's successor is appointed.

5 **"§ 120-286. Purpose and powers and duties of Commission.**

6 (a) The Joint Legislative Commission on Energy Policy shall exercise legislative
7 oversight over energy policy in the State. In the exercise of this oversight, the Commission may
8 do any of the following:

9 (1) Monitor and evaluate the programs, policies, and actions of the Oil and Gas
10 Board established pursuant to G.S. 113-430, the Energy Policy Council
11 established pursuant to G.S. 113B-2, the Energy Division in the Department
12 of Commerce, the Utilities Commission and Public Staff established
13 pursuant to Chapter 62 of the General Statutes, and of any other board,
14 commission, department, or agency of the State or local government with
15 jurisdiction over energy policy in the State.

16 (2) Review and evaluate existing and proposed State statutes and rules affecting
17 energy policy and determine whether any modification of these statutes or
18 rules is in the public interest.

19 (3) Monitor changes in federal law and court decisions affecting energy policy.

20 (4) Monitor and evaluate energy-related industries in the State and study
21 measures to promote these industries.

22 (5) Study any other matters related to energy policy that the Commission
23 considers necessary to fulfill its mandate.

24 (b) The Commission may make reports and recommendations, including proposed
25 legislation, to the General Assembly from time to time as to any matter relating to its oversight
26 and the powers and duties set out in this section.

27 **"§ 120-287. Organization of Commission.**

28 (a) The President Pro Tempore of the Senate and the Speaker of the House of
29 Representatives shall each designate a cochair of the Joint Legislative Commission on Energy
30 Policy. The Commission may meet at any time upon the call of either cochair, whether or not
31 the General Assembly is in session.

32 (b) A quorum of the Commission is six members.

33 (c) While in the discharge of its official duties, the Commission has the powers of a
34 joint committee under G.S. 120-19 and G.S. 120-19.1 through 120-19.4. The Commission may
35 contract for consultants or hire employees in accordance with G.S. 120-32.02.

36 (d) From funds available to the General Assembly, the Legislative Services
37 Commission shall allocate monies to fund the Joint Legislative Commission on Energy Policy.
38 Members of the Commission receive subsistence and travel expenses as provided in
39 G.S. 120-3.1. The Legislative Services Commission, through the Legislative Services Officer,
40 shall assign professional staff to assist the Commission in its work. Upon the direction of the
41 Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of
42 Representatives shall assign clerical staff to the Commission. The expenses for clerical
43 employees shall be borne by the Commission."

44 **SECTION 8.(b)** Notwithstanding G.S. 120-285(c), as enacted by Section 8(a) of
45 this act, the President Pro Tempore of the Senate and the Speaker of the House of
46 Representatives may appoint members to the Joint Legislative Commission on Energy Policy to
47 terms that begin prior to the convening of the 2013 General Assembly. The terms of members
48 appointed pursuant to this section shall end upon the convening of the 2013 General Assembly.
49 Members appointed pursuant to this section who are otherwise qualified to serve on the
50 Commission may be reappointed to the Commission upon the convening of the 2013 General
51 Assembly.

1
2 **PART VI. DIRECT THE DEPARTMENT OF PUBLIC INSTRUCTION TO**
3 **PURCHASE SCHOOL BUSES THAT OPERATE ON COMPRESSED NATURAL GAS**
4 **(CNG)**

5 **SECTION 9.(a)** Notwithstanding any other provision of law and with funds
6 available, beginning July 1, 2013, the Department of Public Instruction shall purchase only
7 passenger school buses (Types A and B) and transit-style school buses (Type D) that operate on
8 compressed natural gas (CNG) to replace school buses due to the age, mileage, condition,
9 unique circumstances, or other condition necessitating replacement of a school bus.

10 **SECTION 9.(b)** Notwithstanding any other provision of law and with funds
11 available, beginning July 1, 2015, the Department of Public Instruction shall purchase only
12 passenger school buses (Types A and B), transit-style school buses (Type D), and
13 conventional-style school buses (Type C) that operate on compressed natural gas (CNG) to
14 replace school buses due to the age, mileage, condition, unique circumstances, or other
15 condition necessitating replacement of a school bus.

16 **SECTION 9.(c)** No later than December 1, 2012, the Department of Public
17 Instruction, in consultation with local school administrative units, shall develop a plan for the
18 deployment of compressed natural gas (CNG)-fueled buses purchased in accordance with
19 subsections (a) and (b) of this section to local school administrative units based on the
20 following considerations:

- 21 (1) The availability of centralized fueling infrastructure.
- 22 (2) The ability of a local school administrative unit to operate and maintain
23 compressed natural gas (CNG)-fueled buses.
- 24 (3) The characteristics of a local school administrative unit such as the
25 geographic size, the density of the student population, and the number and
26 average length of bus routes.
- 27 (4) Any other criteria the Department of Public Instruction deems necessary and
28 applicable to implement this section.

29 **SECTION 9.(d)** This section shall not apply to noninstructional activity school
30 buses purchased by a local school administrative unit with local or community funds.

31 **SECTION 9.(e)** Beginning January 1, 2013, and annually thereafter, the
32 Department of Public Instruction shall report to the Joint Legislative Commission on Energy
33 Policy, the Joint Legislative Education Oversight Committee, the House Appropriation
34 Subcommittee on Education, and the Senate Appropriations Subcommittee on
35 Education/Higher Education on the implementation of this section.

36
37 **PART VII. DIRECT THE DEPARTMENT OF TRANSPORTATION TO PURCHASE**
38 **NEW THREE-QUARTER TON PICKUP TRUCKS AND NEW ONE-HALF TON**
39 **PICKUP TRUCKS THAT OPERATE ON COMPRESSED NATURAL GAS (CNG) OR**
40 **COMPRESSED NATURAL GAS (CNG) AND GASOLINE**

41 **SECTION 10.(a)** Notwithstanding any other provision of law and with funds
42 available, beginning July 1, 2013, fifty percent (50%) of the new three-quarter ton pickup
43 trucks purchased by the Department of Transportation shall be manufactured by an original
44 equipment manufacturer or a qualified vehicle manufacturer offering a full factory warranty
45 and be capable of operating on compressed natural gas (CNG) or compressed natural gas
46 (CNG) and gasoline.

47 **SECTION 10.(b)** Notwithstanding any other provision of law and with funds
48 available, beginning July 1, 2015, one hundred percent (100%) of the new three-quarter ton
49 pickup trucks purchased by the Department of Transportation shall be manufactured by an
50 original equipment manufacturer or a qualified vehicle manufacturer offering a full factory

1 warranty and be capable of operating on compressed natural gas (CNG) or compressed natural
2 gas (CNG) and gasoline.

3 **SECTION 10.(c)** Notwithstanding any other provision of law and with funds
4 available, beginning July 1, 2014, fifty percent (50%) of the new one-half ton pickup trucks
5 purchased by the Department of Transportation shall be manufactured by an original equipment
6 manufacturer or a qualified vehicle manufacturer offering a full factory warranty and be
7 capable of operating on compressed natural gas (CNG) or compressed natural gas (CNG) and
8 gasoline.

9 **SECTION 10.(d)** Notwithstanding any other provision of law and with funds
10 available, beginning July 1, 2016, one hundred percent (100%) of the new one-half ton pickup
11 trucks purchased by the Department of Transportation shall be manufactured by an original
12 equipment manufacturer or a qualified vehicle manufacturer offering a full factory warranty
13 and be capable of operating on compressed natural gas (CNG) or compressed natural gas
14 (CNG) and gasoline.

15 **SECTION 10.(e)** Notwithstanding any other provision of law and with funds
16 available, the Department of Transportation shall ensure that at least fifty percent (50%) of the
17 fuel used annually by the Department's three-quarter ton pickup trucks and one-half ton pickup
18 trucks that are capable of operating on both compressed natural gas (CNG) and gasoline shall
19 be compressed natural gas (CNG).

20 **SECTION 10.(f)** Beginning January 1, 2014, and annually thereafter, the
21 Department of Transportation shall report to the Joint Legislative Commission on Energy
22 Policy, the Joint Legislative Transportation Oversight Committee, the House Appropriations
23 Subcommittee on Transportation, and the Senate Appropriations Subcommittee on Department
24 of Transportation on the implementation of this section.

25
26 **PART VIII. CREATE AN INTERAGENCY TASK FORCE TO ESTABLISH**
27 **PUBLIC-PRIVATE PARTNERSHIPS FOR THE CONSTRUCTION AND**
28 **DEVELOPMENT OF COMPRESSED NATURAL GAS (CNG) FUELING**
29 **INFRASTRUCTURE**

30 **SECTION 11.(a)** The Department of Public Instruction, the Department of
31 Transportation, the Department of Commerce, and the Department of Administration, in
32 consultation with other agencies as applicable, shall create an interagency task force
33 responsible for establishing public-private partnerships with the compressed natural gas (CNG)
34 industry to develop compressed natural gas (CNG) fueling infrastructure to support the
35 operation of the vehicles purchased pursuant to Sections 9 and 10 of this act. The task force,
36 together with private industry, shall evaluate the feasibility and efficacy of the construction and
37 operation of centralized public-private fueling stations and any other fueling options that may
38 be necessary to support the operation of each Department's compressed natural gas (CNG)
39 vehicles.

40 **SECTION 11.(b)** Beginning January 1, 2013, and annually thereafter, the task
41 force shall report to the Joint Legislative Commission on Energy Policy, the Joint Legislative
42 Transportation Oversight Committee, the Joint Legislative Education Oversight Committee, the
43 House Appropriations Subcommittee on Transportation, the Senate Appropriations
44 Subcommittee on Department of Transportation, the House Appropriation Subcommittee on
45 Education, the Senate Appropriations Subcommittee on Education/Higher Education, the
46 House Appropriations Subcommittee on General Government, and the Senate Appropriations
47 Subcommittee on General Government and Information Technology on the implementation of
48 this section.

49

1 **PART IX. ESTABLISH CRITERIA FOR THE OPERATION OF ELECTRIC**
2 **VEHICLE CHARGING STATIONS LOCATED AT STATE-OWNED REST STOPS**
3 **ALONG THE HIGHWAYS**

4 **SECTION 12.(a)** The Department of Transportation may operate an electric
5 vehicle charging station at State-owned rest stops along the highways only if all of the
6 following conditions are met:

- 7 (1) The electric vehicle charging station is accessible by the public.
- 8 (2) The Department has developed a mechanism to charge the user of the
9 electric vehicle charging station a fee in order to recover the cost of
10 electricity consumed, the cost of processing the user fee, and a proportionate
11 cost of the operation and maintenance of the electric vehicle charging
12 station.

13 **SECTION 12.(b)** If the cost of the electricity consumed at the electric vehicle
14 charging stations cannot be calculated as provided by subsection (a) of this section, the
15 Department shall develop an alternative mechanism, other than electricity metering, to recover
16 the cost of the electricity consumed at the vehicle charging station.

17 **SECTION 12.(c)** The Department may consult with other State agencies and
18 industry representatives in order to develop the mechanisms for cost recovery required pursuant
19 to subsection (a) of this section.

20 **SECTION 12.(d)** Beginning January 1, 2013, and annually thereafter, the
21 Department of Transportation shall report to the Joint Legislative Commission on Energy
22 Policy, the Joint Legislative Transportation Oversight Committee, the House Appropriations
23 Subcommittee on Transportation, and the Senate Appropriations Subcommittee on Department
24 of Transportation on the implementation of this section.

25
26 **PART X. ENSURE THE USE OF FUEL-EFFICIENT AND COST-EFFICIENT**
27 **RETREAD TIRES ON STATE VEHICLES**

28 **SECTION 13.(a)** G.S. 115C-249.1 reads as rewritten:

29 **"§ 115C-249.1. Purchase of tires for school buses; repair or refurbishment of tires for**
30 **school buses.**

31 (a) Definitions. – The following terms apply in this section:

- 32 (1) Critical tire information. – Tire brand name, tire line name, tire identification
33 numbers, load and pressure markings, tire size designation, service
34 descriptions such as load and speed ratings, and other information and
35 specifications placed on the original tire sidewall by the original tire
36 manufacturer.
- 37 (2) School bus. – A vehicle as defined in G.S. 20-4.01(27)d3. and
38 G.S. 20-4.01(27)d4. that is owned, rented, or leased by a local board of
39 education.

40 (b) Forensic Tire Standards. – In order to preserve critical tire information, a local
41 board of education shall procure and install for school buses only tires that possess the original,
42 unaltered, and uncovered tire sidewall. Furthermore, a local board of education shall not
43 execute a contract for the repair or refurbishment of tires for school buses that provides for the
44 removal, covering, or other alteration in any manner of the critical tire information contained
45 on the original tire sidewall.

46 (b1) Retread Rubber Formulation Specifications. – Contracts for school bus tires
47 executed on or after July 1, 2012, shall not include any specification for retread rubber
48 formulations.

49 (b2) Use of Pre-Cure Fuel-Efficient Rated Retread Tires. – Contracts for school bus tires
50 executed on or after July 1, 2012, shall include specifications requiring pre-cure fuel-efficient
51 rated retreaded tires, as certified by the retread rubber manufacturer.

1 (c) Tire Purchase and Contract Standards Applicability. – All contracts for the
2 purchase, repair, or refurbishment of tires for school buses, or contracts for the purchase of
3 products or services related to the repair or refurbishment of tires for school buses, executed on
4 or ~~after the date this section becomes effective~~ July 1, 2011, shall comply with the provisions of
5 this section.

6 (d) Exemption. – Notwithstanding the provisions of this section, a local board of
7 education that owns or has a legally binding contract in place for the future purchase of tires
8 having altered or covered sidewalls prior to ~~the date that this section becomes effective~~ July 1,
9 2011, shall perform its existing contractual obligations related thereto and may continue to use
10 those tires on school buses for the useful life of the retreaded tire."

11 **SECTION 13.(b)** G.S. 143-63.2 reads as rewritten:

12 **"§ 143-63.2. Purchase of tires for State vehicles; repair or refurbishment of tires for State**
13 **vehicles.**

14 (a) Definitions. – The following terms apply in this section:

15 (1) Critical tire information. – Tire brand name, tire line name, tire identification
16 numbers, load and pressure markings, tire size designation, service
17 descriptions such as load and speed ratings, and other information and
18 specifications placed on the original tire sidewall by the original tire
19 manufacturer.

20 (2) State vehicle. – Any vehicle owned, rented, or leased by the State, or an
21 institution, department, or agency of the State, that is driven on a public road
22 consistently at speeds greater than 30 miles per hour.

23 (b) Forensic Tire Standards. – In order to preserve critical tire information, the
24 Secretary of Administration and any institution, department, or agency of the State shall only
25 procure and install tires for State vehicles that possess the original, unaltered, and uncovered
26 tire sidewall. Furthermore, neither the Secretary of Administration nor any institution,
27 department, or agency of the State shall execute a contract for the repair or refurbishment of
28 tires for State vehicles that provides for the removal, covering, or other alteration in any
29 manner of the critical tire information contained on the original tire sidewall.

30 (c) Tire Purchase and Contract Standards Applicability. – All contracts for the
31 purchase, repair, or refurbishment of tires for State vehicles, or contracts for the purchase of
32 products or services related to the repair or refurbishment of tires for State vehicles, executed
33 on or after ~~the date this section becomes effective~~ July 1, 2011, shall comply with the provisions
34 of this section.

35 (d) Exemption. – Notwithstanding the provisions of this section, the State or any
36 institution, department, or agency of the State that owns or has a legally binding contract in
37 place for the future purchase of tires having altered or covered sidewalls prior to ~~the date that~~
38 ~~this section becomes effective~~ July 1, 2011, shall perform its existing contractual obligations
39 related thereto and may continue to use those tires on State vehicles for the useful life of the
40 retreaded tire."

41 **SECTION 13.(c)** The Division of Purchase and Contract shall not extend its
42 current contract for retreading of tires beyond the 90-day time period allowed under the
43 contract.

44
45 **PART XI. AMEND THE ENERGY JOBS ACT OF 2011 IF THE ENERGY JOBS ACT**
46 **OF 2011 BECOMES LAW**

47 **SECTION 14.(a)** If Senate Bill 709 of the 2011 Regular Session becomes law,
48 Sections 2(a), 2(b), and 2(c) of Senate Bill 709 reads as rewritten:

49 **"SECTION 2.(a)** Development of ~~Governors'~~ Regional Interstate Offshore Energy Policy
50 Compact. – The Governor ~~is directed to commence~~ shall lay the groundwork for development of
51 a regional energy ~~compact~~ strategy by working with the governors of South Carolina and

1 Virginia ~~in order~~ to develop recommendations for creation and implementation of a unified
2 regional strategy for the exploration, development, and production of all commercially viable
3 federal and state offshore energy resources within the three-state region. The Governor shall
4 develop recommendations for the General Assembly to consider for the development of a
5 statutory regional compact, and these recommendations shall reflect the collective agreement of
6 all three governors in the three-state region in order to provide common language for
7 consideration by each state's General Assembly. During the development of these compact
8 recommendations, the Governor is authorized to work directly with each of the three states'
9 General Assemblies, Congressional delegations, the United States Department of the Interior,
10 the United States Environmental Protection Agency, and other appropriate federal agencies on
11 behalf of the State of North Carolina to develop appropriate strategies to be considered in the
12 development of the three-state compact for increasing domestic energy exploration,
13 development, and production within each state in the three-state region and their adjacent state
14 and federal waters. The compact negotiations and recommendations shall address at least all of
15 the following:

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

36 **"SECTION 2.(b)** No later than three months after the effective date of this act, and at least
37 every three months thereafter, the Governor shall report to the General Assembly on the
38 progress of the Governor and others in complying with the requirements under this section, to
39 include providing copies of correspondence and other relevant materials to or from the Office
40 of the Governor when the correspondence or materials pertain to the subject under this section
41 or to any requirement under this section. The Governor shall report ~~her~~ the Governor's final
42 recommendations for the three-state energy compact regional energy strategy to the Joint
43 Regulatory Reform Committee no later than May 1, 2012. President Pro Tempore of the Senate
44 and the Speaker of the House of Representatives no later than December 31, 2012.

45 **"SECTION 2.(c)** In addition to the provisions in Sections 2(a) and 2(b) of this act, the
46 Governor is strongly encouraged to join the Governors of Alaska, Texas, Louisiana,
47 Mississippi, and Virginia and any others who may sign on to the Outer Continental Shelf
48 Governors Coalition announced on May 3, 2011, to promote a constructive dialogue among the
49 coastal state governors and the federal government on offshore energy issues important to the
50 future of North Carolina and the United States."

1 **SECTION 14.(b)** If Senate Bill 709 of the 2011 Regular Session becomes law,
2 Sections 3(a) and 3(b) of Senate Bill 709 are repealed.

3 **SECTION 14.(c)** If Senate Bill 709 of the 2011 Regular Session becomes law,
4 G.S. 113B-3, as amended by Senate Bill 709, reads as rewritten:

5 **"§ 113B-3. Composition of Council; appointments; terms of members; qualifications.**

6 (a) The Energy Jobs Council shall consist of 12 members to be appointed as follows:

7 (1) Repealed.

8 (2) Repealed.

9 (2a) The Secretary of Commerce.

10 (3) Eleven public members who are citizens of the State of North Carolina and
11 who are appointed in accordance with subsection (c) of this section.

12 (b) Appointments to the Energy Jobs Council shall be made by ~~October 1,~~
13 2011, September 1, 2012, and the appointed members shall serve four-year terms.
14 Appointments made by the President Pro Tempore of the Senate and the Speaker of the House
15 of Representatives shall be allowed when the General Assembly is not in session.

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

18 (1) One member shall be a representative of an investor-owned electric public
19 utility, to be appointed by the Governor.

20 (2) One member shall be a geologist experienced in ~~offshore~~ natural gas and
21 associated hydrocarbon exploration, development, and production, to be
22 appointed by the Governor.

23 (3) One member shall be a representative of an investor-owned natural gas
24 public utility, to be appointed by the President Pro Tempore of the Senate.

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

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

31 (6) One member shall be an industrial energy consumer, to be appointed by the
32 Speaker of the House of Representatives.

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

36 (8) One member who has experience in trucking, rail, or shipping transportation,
37 to be appointed by the Speaker of the House of Representatives.

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

39 (10) One member shall be a representative with experience in wind energy, to be
40 appointed by the Governor.

41 (11) One member shall be a representative with experience in environmental
42 management, appointed by the Speaker of the House of Representatives.

43 (12) One member shall be ~~involved with the biofuels industry,~~ experienced in
44 energy policy, to be appointed by the President Pro Tempore of the Senate."
45

46 **PART XII. EFFECTIVE DATE**

47 **SECTION 15.** This act is effective when it becomes law. Initial appointments to
48 the Oil and Gas Board pursuant to G.S. 113-432, as enacted by Section 1(a) of this act, shall be
49 made no later than August 1, 2012. The Oil and Gas Board shall submit the first report due
50 under G.S. 113-430(e), as enacted by Section 2(a) of this act, on or before January 1, 2013.