

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 76
Finance Committee Substitute Adopted 2/14/13

Short Title: Domestic Energy Jobs Act.

(Public)

Sponsors:

Referred to:

February 12, 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) AMEND THE
15 STATUTE GOVERNING SUBSURFACE INJECTION OF FLUID; (7) PROVIDE A
16 TAX FOR THE SEVERANCE OF ENERGY MINERALS FROM THE SOIL OR
17 WATER OF THE STATE, REPEAL OUTDATED OIL AND GAS TAX STATUTES,
18 AND AUTHORIZE THE SUSPENSION OF PERMITS FOR FAILURE TO FILE A
19 RETURN FOR SEVERANCE TAXES; (8) APPROPRIATE MONIES FROM THE
20 MINERAL INTEREST FUND TO THE DEPARTMENT OF ENVIRONMENT AND
21 NATURAL RESOURCES TO OPERATE THE MINING AND ENERGY COMMISSION
22 AND FOR RELATED EXPENDITURES; (9) ASSIGN FUTURE REVENUE FROM
23 ENERGY EXPLORATION, DEVELOPMENT, AND PRODUCTION OF ENERGY
24 RESOURCES IN ORDER TO PROTECT AND PRESERVE THE STATE'S NATURAL
25 RESOURCES, CULTURAL HERITAGE, AND QUALITY OF LIFE; (10) ENCOURAGE
26 THE GOVERNOR TO DEVELOP THE REGIONAL INTERSTATE OFFSHORE
27 ENERGY POLICY COMPACT; (11) AMEND THE ENERGY POLICY ACT OF 1975
28 AND THE ENERGY POLICY COUNCIL; AND (12) DIRECT THE MEDICAL CARE
29 COMMISSION TO ADOPT RULES AUTHORIZING FACILITIES LICENSED BY THE
30 DEPARTMENT OF HEALTH AND HUMAN SERVICES TO USE COMPRESSED
31 NATURAL GAS AS AN EMERGENCY FUEL.

32 The General Assembly of North Carolina enacts:

33 **PART I. ISSUANCE OF PERMITS**
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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-293.2 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~~who, at the time of initial
40 appointment, is an elected official of a municipal government located in the
41 ~~Triassic Basin of North Carolina~~a region of North Carolina that has oil and
42 gas potential. A person serving in this seat may complete a term on the
43 Commission even if they are no longer serving as an elected official of a
44 municipal government and may be reappointed to a second term.
- 45 (6) One appointed by the General Assembly upon recommendation of the
46 Speaker of the House of Representatives who is a representative of the
47 mining industry.
- 48 (7) One appointed by the General Assembly upon recommendation of the
49 Speaker of the House of Representatives who shall be a geologist with
50 experience in oil and gas exploration and development.

- 1 (8) One appointed by the General Assembly upon recommendation of the
 2 President Pro Tempore of the Senate who is a member of a nongovernmental
 3 conservation interest.
- 4 (9) One appointed by the General Assembly upon recommendation of the
 5 President Pro Tempore of the Senate ~~who~~ who, at the time of initial
 6 appointment, is a member of a county board of commissioners of a county
 7 located in the Triassic Basin of North Carolina, a region of North Carolina
 8 that has oil and gas potential. A person serving in this seat may complete a
 9 term on the Commission even if they are no longer serving as county
 10 commissioner and may be reappointed to a second term.
- 11 (10) One appointed by the General Assembly upon recommendation of the
 12 President Pro Tempore of the Senate who is a representative of the mining
 13 industry.
- 14 (11) One appointed by the General Assembly upon recommendation of the
 15 President Pro Tempore of the Senate who shall be an engineer with
 16 experience in oil and gas exploration and development.
- 17 (12) One appointed by the Governor who shall be a representative of a publicly
 18 traded natural gas company.
- 19 (13) One appointed by the Governor who shall be a licensed attorney with
 20 experience in legal matters associated with oil and gas exploration and
 21 development.
- 22 (14) One appointed by the Governor who is a member of the Environmental
 23 Management ~~Commission~~ Commission and knowledgeable in the principles
 24 of water and air resources management.
- 25 (15) One appointed by the Governor who is a member of the Commission for
 26 Public ~~Health~~ Health and knowledgeable in the principles of waste
 27 management.

28"

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

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 36 **PART III. MISCELLANEOUS MODIFICATIONS TO THE OIL AND GAS**
 37 **CONSERVATION ACT: ALLOWABLES AND REPEAL OF LANDMEN REGISTRY.**

38 **SECTION 3.(a)** G.S. 113-394 reads as rewritten:

39 **"§ 113-394. Limitations on production; allocating and prorating "allowables."**

40 (a) ~~Whenever the total amount of oil, including condensate, which all the pools in the~~
 41 ~~State can produce, exceeds the amount reasonably required to meet the reasonable market~~
 42 ~~demand for oil, including condensate, produced in this State, then the~~The ~~Commission shall~~
 43 may ~~limit~~ the total amount of oil, including condensate, which may be produced in the State by
 44 fixing an amount which shall be designated "allowable" for this State, ~~which will not exceed~~
 45 ~~the reasonable market demand for oil, including condensate, produced in this the~~ State. The
 46 Commission ~~shall~~ may then allocate or distribute the "allowable" for the State among the pools
 47 on a reasonable basis and in such manner as to avoid undue discrimination, and so that waste
 48 will be prevented. In allocating the "allowable" for the State, and in fixing "allowables" for
 49 pools producing oil or hydrocarbons forming condensate, or both oil and such hydrocarbons,
 50 the Commission ~~shall~~ may take into account the producing conditions and other relevant facts
 51 with respect to such pools, including the separate needs for oil, gas and condensate, and ~~shall~~

1 may formulate rules setting forth standards or a program for the distribution of the "allowable"
2 for the State, and ~~shall~~ distribute the "allowable" for the State in accordance with such
3 standards or program, and where conditions in one pool or area are substantially similar to
4 those in another pool or area, then the same standards or programs shall be applied to such
5 pools and areas so that as far as practicable a uniform program will be followed; provided,
6 however, the Commission shall allow the production of a sufficient amount of natural gas from
7 any pool to supply adequately the reasonable market demand for such gas for light and fuel
8 purposes if such production can be obtained without waste, and the condensate "allowable" for
9 such pool shall not be less than the total amount of condensate produced or obtained in
10 connection with the production of the gas "allowable" for light and fuel purposes, and provided
11 further that, if the amount allocated to pool as its share of the "allowable" for the State is in
12 excess of the amount which the pool should produce to prevent waste, then the Commission
13 shall fix the "allowable" for the pool so that waste will be prevented.

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

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

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

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

45 **SECTION 3.(b)** G.S. 113-425 is repealed.

46 **PART IV. AMEND STATUTE GOVERNING SUBSURFACE FLUID INJECTION**

47 **SECTION 4.** G.S. 143-214.2 reads as rewritten:

48 **"§ 143-214.2. Prohibited discharges.**

49 (a) The discharge of any radiological, chemical or biological warfare agent or
50 high-level radioactive waste to the waters of the State is prohibited.
51

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

6 (c) Unless permitted by a rule of the Commission, the discharge of wastes, including
7 thermal discharges, to the open waters of the Atlantic Ocean over which the State has
8 jurisdiction are prohibited."
9

10 PART V. SEVERANCE TAXES

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

13 "Article 5I.
14 "Severance Tax.

15 "§ 105-187.71. Definitions.

16 The following definitions apply in this Article:

- 17 (1) Casinghead gas. – Gas or vapor indigenous to an oil stratum and produced
18 from the stratum with oil.
- 19 (2) Condensate. – Liquid hydrocarbon that is or can be recovered from gas by a
20 separator or other means.
- 21 (3) Energy mineral. – All forms of natural gas, oil, and related condensates.
- 22 (4) First purchaser. – A person who purchases an energy mineral from a
23 producer.
- 24 (5) Gas. – All natural gas, including casinghead gas, and all other hydrocarbons
25 not defined as oil or condensates.
- 26 (6) MCF. – One thousand cubic feet of natural gas.
- 27 (7) Oil. – Crude petroleum oil, and other hydrocarbons, regardless of gravity,
28 which are produced at the well in liquid form by ordinary production
29 methods and which are not the result of condensation of gas after it leaves
30 the reservoir.
- 31 (8) Owner. – An owner of a landowner's royalty interest, of an overriding
32 royalty, of profits and working interests, or any combination thereof in
33 energy minerals. The term does not include an owner of federal, state, or
34 local governmental royalty interest.
- 35 (9) Person. – Defined in G.S. 105-228.90.
- 36 (10) Producer. – A person who takes an energy mineral from the soil or water in
37 this State.
- 38 (11) Return. – Any report or statement required to be filed under this Article to
39 determine the tax due.
- 40 (12) Royalty interest. – An interest in mineral rights in a producing leasehold in
41 the State. A royalty interest does not include the interest of a person having
42 only the management and operation of a well.
- 43 (13) Secretary. – The Secretary of Revenue.
- 44 (14) Severance. – The extraction or other removal of an energy mineral from the
45 soil or water of this State.
- 46 (15) Severed. – The point at which the energy mineral has been separated from
47 the soil or water of this State.
- 48 (16) Standard barrel of oil. – A barrel of oil containing 42 gallons.
- 49 (17) Taxpayer. – Any person required to pay the severance tax levied by this
50 Article.

51 "§ 105-187.72. Tax on severance of energy minerals.

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

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

10 (1) Condensates. – The applicable percentage rate of tax multiplied by the
11 market value per each barrel of oil equivalents (BOE) of the condensates
12 sold.

13 (2) Gas. – The applicable percentage rate of tax multiplied by the market value
14 per each MCF of the gas sold.

15 (3) Oil. – The applicable percentage rate of tax multiplied by the market value
16 per each standard barrel of the oil sold.

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

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

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

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

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

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

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

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

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

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

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

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

43 (f) Exemption. – The severance of energy minerals from land or water in this State
44 owned legally or beneficially by the producer, which energy minerals are used on the land from
45 which they are taken by the producer as part of the improvement of or use in the producer's
46 homestead, is exempt from the severance tax. To claim the exemption allowed by this
47 subsection, the taxpayer shall provide any information required by the Secretary. Every
48 taxpayer claiming the exemption under this subsection shall maintain and make available for
49 inspection by the Secretary any records the Secretary considers necessary to determine and
50 verify the amount of the exemption or special rate of tax to which the taxpayer is entitled. The
51 burden of proving eligibility for the exemption and the amount of the exemption shall rest upon

1 the taxpayer, and no exemption shall be allowed to a taxpayer that fails to maintain adequate
2 records or to make them available for inspection.

3 **"§ 105-187.73. Market value.**

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

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

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

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

17 (b) Marketing Costs. – Marketing costs are the costs incurred by the producer to get the
18 gas from the mouth of the well to the market. Marketing costs do not include costs for which a
19 producer receives a cost reimbursement from the gas purchaser. Marketing costs do not include
20 costs incurred in producing the gas, costs incurred in normal lease separation of the oil or
21 condensate from the gas, or insurance premiums on the marketing facility. Marketing costs
22 include all of the following:

23 (1) Costs for compressing the gas sold.

24 (2) Costs for dehydrating the gas sold.

25 (3) Costs for sweetening the gas sold.

26 (4) Costs for delivering the gas to the purchaser.

27 (5) Costs for gathering the gas sold.

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

37 **"§ 105-187.74. Returns and payment of tax.**

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

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

45 (c) Quarterly. – A taxpayer who is consistently liable for less than one thousand dollars
46 (\$1,000) a month in severance taxes must file a return and pay the taxes due on a quarterly
47 basis. A quarterly return covers a calendar quarter and is due by the last day of the month
48 following the end of the quarter.

49 (d) Monthly. – A taxpayer who is consistently liable for at least one thousand dollars
50 (\$1,000) a month in severance taxes must file a return and pay the taxes due on a monthly

1 basis. A monthly return is due by the 20th day of the month following the calendar month
2 covered by the return.

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

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

14 (1) The gross amount of energy minerals produced that are subject to the tax
15 imposed by this Article.

16 (2) The leases from which the energy minerals were produced.

17 (3) The names and addresses of the first purchasers of the energy minerals.

18 **§ 105-187.75. Bond or letter of credit required.**

19 A producer must file with the Secretary a bond or an irrevocable letter of credit if the
20 producer fails to file a return required under this Article. A bond or an irrevocable letter of
21 credit must be conditioned upon compliance with the requirements of this Article, be payable to
22 the State, and be in the form required by the Secretary. The amount of the bond or irrevocable
23 letter of credit is two times the applicant's average expected monthly tax liability under this
24 Article, as determined by the Secretary. When notified to do so by the Secretary, a person that
25 is required to file a bond or an irrevocable letter of credit must file the bond or irrevocable letter
26 of credit in the amount required by the Secretary within 30 days after receiving the notice from
27 the Secretary.

28 **§ 105-187.76. Allocation of revenue.**

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

30 (1) Twenty-five percent (25%), not to exceed one million dollars (\$1,000,000)
31 per year, to the Department of Environment and Natural Resources for
32 purposes of administering its duties and responsibilities under Article 27 of
33 Chapter 113 of the General Statutes.

34 (2) After allocation pursuant to subsection (a) of this section, the Secretary shall
35 allocate:

36 a. Fifty percent (50%) to the General Fund.

37 b. Fifty percent (50%) to the Onshore Energy Management Fund until
38 the Fund reaches ten million dollars (\$10,000,000). The Onshore
39 Energy Management Fund is an interest-bearing special revenue fund
40 to be established within the State treasury. This fund shall be used
41 only for emergency preparation, emergency response, emergency
42 environmental protection, or mitigation associated with a release of
43 liquid hydrocarbons or associated fluids directly related to onshore
44 energy exploration, development, production, or transmission. Once
45 the fund balance reaches the amount of ten million dollars
46 (\$10,000,000), funds over that amount shall be allocated to the
47 General Fund. If monies are withdrawn from the Onshore Energy
48 Emergency Fund to carry out the provisions in this sub-subdivision,
49 revenues generated by the tax levied in this Article shall be deposited
50 in the Onshore Energy Emergency Fund until a total of ten million
51 dollars (\$10,000,000) is reestablished.

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

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

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

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

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

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

If an entity fails to file any report or return or to pay any tax or fee required by this Article for 90 days after it is due, the Secretary shall inform the Secretary of Environment and Natural Resources of this failure. The Secretary of Environment and Natural Resources shall suspend permits for oil and gas exploration using horizontal drilling and hydraulic fracturing under G.S. 113-395 of any entity that fails to file a return under this Article. The Secretary of Environment and Natural Resources shall immediately notify by mail an entity of a suspension under this section.

"§ 105-187.80. No local taxation.

A city or county may not impose a franchise, privilege, license, income, or excise tax on the severing, production, treating, processing, ownership, sale, storage, purchase, marketing, or transportation on any energy minerals produced in the State, or upon the business of severing, producing, treating, processing, owning, selling, buying, storing, marketing, or transporting such energy minerals, or upon the ownership, operation, or maintenance of plants, facilities, machinery, pipelines, and gathering lines related to the severing, production, treating, processing, ownership, storage, sale, purchase, marketing, or transportation of energy minerals. This section does not preclude the taxation of the property in accordance with Article 11 of this Chapter."

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

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

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

PART VI. APPROPRIATION FROM MINERAL INTEREST FUND FOR OPERATION OF MEC

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

PART VII. REVENUE FROM OFFSHORE ENERGY PRODUCTION

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

"Article 3.

"Revenues from Offshore Energy Production.

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

(a) Any revenues and royalties paid to the State as a result of offshore leasing, exploration, development, and production of all energy resources shall be deposited in the Offshore Emergency Fund until the Fund reaches fifty million dollars (\$50,000,000). The Offshore Energy Management Fund is an interest-bearing special revenue fund to be established within the State treasury. This Fund shall be used only for emergency preparation, emergency response, emergency environmental protection, or mitigation associated with a release of liquid hydrocarbons or associated fluids directly related to offshore energy exploration, development, production, or transmission. Once the Fund balance reaches the amount of fifty million dollars (\$50,000,000), the funds shall be used as provided in subsection (b) of this section. If monies are withdrawn from this Fund to carry out the provisions in this section, all revenues and royalties paid to the State as a result of offshore leasing, exploration, development, and production of all energy resources shall be deposited in the Fund until a total of fifty million dollars (\$50,000,000) is reestablished. Once the Fund balance reaches the amount of fifty million dollars (\$50,000,000), the funds shall be used as provided in subsection (b) of this section.

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

- (1) Thirty percent (30%) of such revenues and royalties shall be credited to the General Fund.
- (2) Ten percent (10%) of such revenues and royalties shall be credited to the North Carolina Highway Trust Fund established under G.S. 136-176.
- (3) Ten percent (10%) of such revenues and royalties shall be transferred to the Community Colleges System Office to establish and manage a fund for curriculum development and implementation as well as financial assistance for students attending community college to receive vocational training through this curriculum in fields directly related to energy exploration and development and related energy infrastructure.
- (4) Ten percent (10%) of such revenues and royalties shall be transferred to the Board of Governors of The University of North Carolina System to establish and manage research and development funds for programs directly related to energy research and development.
- (5) Thirty percent (30%) of such revenues and royalties shall be transferred to the Department of Environment and Natural Resources for conservation, protection, and mitigation, including, but not limited to, beach and inlet management projects, dredging operations, channel navigation and maintenance, public beach and water access, water quality management, and habitat restoration.
- (6) Eight percent (8%) of such revenues and royalties shall be transferred to the State Ports Authority for expansion and maintenance of State Port infrastructure associated with energy-related commerce.

- 1 (7) Two percent (2%) of such revenues and royalties shall be transferred to the
2 Department of Commerce for recruitment of energy-related industries to the
3 State."
4

5 **PART VIII. REGIONAL INTERSTATE OFFSHORE ENERGY POLICY COMPACT**

6 **SECTION 8.(a)** Development of Regional Interstate Offshore Energy Policy
7 Compact. – The Governor is strongly encouraged to commence negotiations on the
8 development of a regional energy compact with the governors of South Carolina and Virginia
9 in order to develop a unified regional strategy for the exploration, development, and production
10 of all commercially viable federal and state offshore energy resources within the three-state
11 region. The Governor shall develop recommendations for the General Assembly to consider for
12 the development of a statutory regional compact, and these recommendations shall reflect the
13 collective agreement of all three governors in the three-state region in order to provide common
14 language for consideration by each state's General Assembly. During the development of these
15 compact recommendations, the Governor or the Governor's designee is authorized to work
16 directly with each of the three states' Congressional delegations, the United States Department
17 of the Interior, the United States Environmental Protection Agency, and other appropriate
18 federal agencies on behalf of the State of North Carolina to develop appropriate strategies to be
19 considered in the development of the three-state compact for increasing domestic energy
20 exploration, development, and production within each state in the three-state region and their
21 adjacent state and federal waters. The compact negotiations and recommendations shall address
22 at least all of the following:

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

50 **SECTION 8.(b)** No later than three months after the effective date of this act, and
51 at least every three months thereafter, the Governor or the Governor's designee shall report to

1 the General Assembly on the progress of the Governor and others in complying with the
2 requirements under this section, to include providing copies of correspondence and other
3 relevant materials to or from the Office of the Governor when the correspondence or materials
4 pertain to the subject under this section or to any requirement under this section. The Governor
5 shall report the Governor's final recommendations for the three-state energy compact to the
6 Joint Energy Oversight Committee no later than March 1, 2014.

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

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

19 **SECTION 8.(e)** Upon ratification, the Secretary of State shall furnish certified
20 copies of this act to each member of the North Carolina Congressional delegation, the
21 governors of South Carolina and Virginia, the legislative bodies of South Carolina and
22 Virginia, the Secretary of the United States Department of the Interior, and the President of the
23 United States.

24 25 **PART IX. ENERGY POLICY ACT AND ENERGY POLICY COUNCIL** 26 **AMENDMENTS**

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

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

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

32 "Article 1.

33 "Energy Policy Jobs Council.

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

35 **"§ 113B-1. Legislative findings and purpose.**

36 Upon investigation the General Assembly hereby finds that:

- 37 (1) Energy is essential to the health, safety and welfare of the people of this
38 State and to the workings of the State ~~economy;~~economy.
- 39 (2) ~~Growth in the consumption of energy resources is in some part due to~~
40 ~~wasteful, uneconomic and inefficient uses of energy and a continuation of~~
41 ~~this trend will adversely affect the future social, economic and~~
42 ~~environmental development of North Carolina;~~
- 43 (3) ~~It is the responsibility of State government to encourage~~in the State's best
44 interest to support the development of a reliable and adequate supply of
45 energy for North Carolina at a level consistent with such energy needs
46 required for the protection of public health and safety, and for the promotion
47 of the general welfare; and that is secure, stable, and predictable in order to
48 facilitate economic growth, job creation, and expansion of business and
49 industry opportunities.

- 1 (3a) It is in the State's best interest to support the exploration, development, and
 2 production of domestic energy supplies, preferably from the resources within
 3 the State or region and most certainly from within the country.
- 4 (3b) It is the duty of State government to protect and preserve the State's natural
 5 resources, cultural heritage, and quality of life and, above all, the public
 6 health and safety of its residents during the exploration, development, and
 7 production of domestic energy resources.
- 8 (4) ~~The State has not provided~~must provide the basis for development of a
 9 long-range unified energy policy to encompass comprehensive energy
 10 resource planning and efficient management of ~~the rate of consumption of~~
 11 existing energy resources in relation to economic growth, to effectively meet
 12 an energy crisis, to encourage development of alternative sources of
 13 ~~energy~~energy that are capable of achieving a positive benefit-to-cost ratio,
 14 and to ~~prudently conserve~~ensure efficient utilization of energy resources in
 15 a manner consistent with assuring a reliable and adequate supply of energy
 16 for North ~~Carolina~~Carolina, including active support and collaboration with
 17 the federal government to ensure access to the nation's energy resources
 18 located on the outer continental shelf directly adjacent to the State's coastal
 19 waters.
- 20 (5) It is the expressed intent of this Chapter to provide for development of such
 21 a unified domestic energy policy for the State of North ~~Carolina~~Carolina as
 22 part of a nationwide effort for increased domestic energy production in the
 23 interest of national security and economic growth and stability."

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

25 **"§ 113B-2. Creation of Energy Policy Jobs Council; purpose of Council.**

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

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

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

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

39 **"§ 113B-3. Composition of Council; appointments; terms of members; qualifications.**

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

- 42 (1) ~~Two members of the North Carolina House of Representatives to be~~
 43 ~~appointed by the Speaker of the House of Representatives;~~
- 44 (2) ~~Two members of the North Carolina Senate to be appointed by the President~~
 45 ~~Pro Tempore of the Senate;~~
- 46 (2a) The Secretary of Environment and Natural Resources.
- 47 (2b) The Secretary of Commerce.
- 48 (3) ~~Twelve~~Eleven public members who are citizens of the State of North
 49 ~~Carolina to be appointed by the Governor. The Governor shall designate one~~
 50 ~~of the public members as chair of the Council~~Carolina and who are
 51 appointed in accordance with subsection (c) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 **SECTION 9.(h)** G.S. 113B-6 reads as rewritten:

34 **"§ 113B-6. General duties and responsibilities.**

35 The goal of the Energy Jobs Council is to identify and utilize all domestic energy resources
36 in order to ensure a secure, stable, and predictable energy supply and to protect the economy of
37 the State, promote job creation, and expand business and industry opportunities while ensuring
38 the protection and preservation of the State's natural resources, cultural heritage, and quality of
39 life. The Energy ~~Policy~~Jobs Council ~~shall~~may delegate its duties where appropriate to the
40 Division of Energy, Mineral, and Land Resources of the Department of Environment and
41 Natural Resources. The Council shall provide oversight and approval to the duties delegated to
42 the Division. The Energy Jobs Council shall have the following general duties and
43 responsibilities:

44 (1) To develop and recommend to the Governor and the General Assembly a
45 comprehensive ~~long range~~ State energy policy that addresses requirements
46 in the short term (10 years), in the midterm (25 years), and in the long term
47 (50 years) to achieve maximum effective management and use of present
48 and future sources of energy, such policy to include but not be limited to
49 energy efficiency, renewable and alternative sources of energy, research and
50 development into alternative energy technologies, and improvements to the
51 State's energy infrastructure and energy ~~economy~~economy, including smart

1 grid and domestic energy resources that shall include at least natural gas,
2 coal, hydroelectric power, solar, wind, nuclear energy, and biomass. For
3 utilities regulated under Chapter 62 of the General Statutes, the policy
4 developed under this subdivision shall be consistent with the analysis and
5 plan developed under G.S. 62-110.1(c).

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

10 (3) To continually review and coordinate all State government research,
11 education and management programs relating to energy ~~matters and~~ matters,
12 to continually educate and inform the general public regarding such energy
13 ~~matters;~~ matters, and to actively engage in discussions with the federal
14 government, its agencies, and its leaders to identify opportunities to increase
15 domestic energy supply within North Carolina and its adjacent offshore
16 waters.

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

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

22 **"§ 113B-7. Energy Efficiency Program; components.**

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

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

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

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

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

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

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

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

46 (6) Any other recommendations which the Energy ~~Policy~~ Jobs Council
47 considers to be a significant part of a statewide conservation effort and
48 which include provisions for sufficient incentives to further energy
49 conservation;

50 (7) An economic and environmental impact analysis of the recommended
51 program.

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

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

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

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

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

26 "**§ 113B-8. Energy Management Plan; components.**

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

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

30 "**§ 113B-9. Emergency Energy Program; components.**

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

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

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

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

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

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

9 (e) The Energy ~~Policy~~-Jobs Council shall hold one or more public hearings, investigate
10 and review the plans submitted pursuant to this section, and, within nine months after July 1,
11 1975, the Energy ~~Policy~~-Jobs Council shall approve and recommend to the Governor guidelines
12 for emergency curtailment to be known as the Emergency Energy Program and to be
13 implemented upon adoption by the Governor after the declaration of an energy crisis and
14 pursuant to G.S. 113B-20 and 113B-23. Said program shall be based upon the plans presented
15 to the Energy ~~Policy~~-Jobs Council, upon independent analysis and study by the Council, and
16 upon information provided at the hearing or hearings, provided, however, that they are
17 consistent with such federal programs and regulations as are already in effect at that time.

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

- 25 (1) A variety of strategies and staged conservation measures of increasing
26 intensity and authority to reduce energy use during an energy crisis, as
27 defined in G.S. 113B-20 and guidelines and criteria for allocation of energy
28 sources to priority users. The program shall contain alternative conservation
29 actions and allocation plans to reasonably meet various foreseeable shortage
30 circumstances and to allow a choice of appropriate responses;
- 31 (2) Evidence that the program is consistent with requirements of federal
32 emergency energy conservation and allocation laws and regulations;
- 33 (3) Proposals to assist such individuals, institutions, agriculture and businesses
34 which have engaged in energy saving measures;

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

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

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

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

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

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

10 **"§ 113B-11. Powers and authority.**

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

16 ...

17 (e) Staff support required by the Council shall be supplied by the Division of Energy,
18 Mineral, and Land Resources of the Department of Environment and Natural Resources. The
19 Department of Commerce shall provide the staffing capability to the Energy Policy Jobs
20 Council so as to fully and effectively develop recommendations for a comprehensive State
21 energy policy as contained in the provisions of this Article. The Department of Commerce and
22 the Utilities Commission is are hereby authorized to make ~~its~~ their staff available to the Council
23 to assist in the development of a State energy policy."

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

25 **"§ 113B-12. Annual reports; contents.**

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

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

- 35 (1) An overview of statewide growth and development as they relate to future
36 requirements for energy, including patterns of urban and metropolitan
37 expansion, shifts in transportation modes, modifications in building types
38 and design, and other trends and factors which, as determined by the
39 Council, will significantly affect energy needs;
- 40 (2) The level of statewide and multi-county regional energy demand for a five,
41 10- and 20-year forecast period which, in the judgment of the Council, can
42 reasonably be met, with proposals as to possible energy supply sources;
- 43 (3) An assessment of growth trends in energy consumption and production and
44 an identification of potential adverse social, economic, or environmental
45 impacts which might be imposed by continuation of the present trends,
46 including energy costs to consumers, significant increases in air, water, and
47 other forms of pollution, threats to public health and safety, and loss of
48 scenic and natural areas;
- 49 (4) An analysis of the role of energy efficiency, renewable energy,
50 improvements to the State's energy infrastructure, and other means in
51 meeting the State's current and projected energy demand;

- 1 (5) Repealed by Session Laws 2009-446, s. 9, effective August 7, 2009.
- 2 (6) Recommendations to the Governor and the General Assembly for additional
- 3 administrative and legislative actions on energy matters;
- 4 (7) A summary of the Council's activities since ~~its inception~~, the last report, a
- 5 description of major plans developed by the Council, an assessment of plan
- 6 implementation, and a review of Council plans and programs for the coming
- 7 biennium."

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

9 "(a) ~~There is hereby created~~ Upon the declaration of an energy crisis by the Governor, a

10 Legislative Committee on Energy Crisis Management shall be created to consist of the Speaker,

11 ~~as chairman~~, the Speaker pro tempore of the House of ~~Representatives and~~ Representatives, the

12 President ~~pro tempore~~ Pro Tempore of the Senate, and the majority leader of the Senate. The

13 Lieutenant Governor shall serve as chair, and shall be a nonvoting ex officio member,

14 provided, however, that ~~he~~ the chair shall vote to break a tie."

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

16 "**§ 113B-23. Administration of plans and procedures.**

17 (a) Upon the declaration of an energy crisis, pursuant to G.S. 113B-20, the Energy

18 ~~Policy~~ Jobs Council shall become the emergency energy coordinating body for the State and

19 shall carry out the following duties:

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

28 (b) Upon the declaration of an energy crisis, the Governor shall order the Energy ~~Policy~~

29 Jobs Council, the Utilities Commission, the Attorney General and other appropriate State and

30 local agencies to implement and enforce the Emergency Energy Program pursuant to

31 G.S. 113B-9 and any emergency rules, orders or regulations approved pursuant to

32 G.S. 113B-22.

33 (c) Upon the declaration of an energy crisis, the Governor may employ such measures

34 and give such direction to State and local offices and agencies as may be reasonable and

35 necessary for the purpose of securing compliance with the provisions of this Article and with

36 emergency rules, orders and regulations issued pursuant to G.S. 113B-22."

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

38 "(c) The provisions of this Article or any rules, orders or regulations promulgated

39 pursuant to G.S. 113B-22 may be enforced by bringing an action to enjoin such acts or

40 practices as may be in violation and, upon a proper showing, a temporary restraining order or a

41 preliminary or permanent injunction shall be issued. The relief sought may include a mandatory

42 injunction commanding any person to comply with any such order, rule or regulation and

43 restitution of money received in violation of any such order, rule or regulation. The Attorney

44 General shall bring any action under this subsection upon the request of the Governor, the

45 Legislative Committee on Energy Crisis Management, the Energy ~~Policy~~ Jobs Council, or upon

46 his direction if he deems such action advisable and in the public interest. The Attorney General

47 may institute such action in the Superior Court of Wake County, or, in his discretion, in the

48 superior court of the county in which the acts or practices constituting a violation occurred, are

49 occurring or may occur."

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

1 **"§ 114-4.2D. Employment of attorney for Energy ~~Policy~~-Jobs Council of the Department**
2 **of Environment and Natural Resources and the Energy Efficiency Program of**
3 **the Department of Commerce.**

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

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

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

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

17 **"§ 143-345.13. Reporting of stocks of coal and petroleum fuels.**

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

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

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

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

43 **"Part 31. Energy Jobs Council.**

44 **"§ 143B-281.1. Energy Jobs Council – transfer.**

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

48 **SECTION 9.(u)** Notwithstanding G.S. 113B-3 or any other law to the contrary, the
49 terms of all members of the Energy Policy Council serving as of the effective date of this act
50 shall expire on the effective date of this act or on June 30, 2013, whichever comes first. Initial

1 appointments shall be made pursuant to subsection (c) of G.S. 113B-3, as amended by Section
2 9(e) of this act, no later than July 1, 2013.

3 **SECTION 9.(v)** The Revisor of Statutes shall make the conforming statutory
4 changes necessary to reflect the transfers under this section. The Revisor of Statutes may
5 correct any reference in the General Statutes to the statutes that are recodified by this section
6 and make any other conforming changes necessitated by this section.
7

8 **PART X. MODIFY ELECTRICAL REQUIREMENTS RULE TO ALLOW** 9 **HOSPITALS TO USE COMPRESSED NATURAL GAS AS EMERGENCY FUEL**

10 **SECTION 10.(a)** Definitions. – "Electrical Requirements Rule" means 10A NCAC
11 13B .6227 (Licensing of Hospitals: Electrical Requirements) for purposes of this section and its
12 implementation.

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

17 **SECTION 10.(c)** Implementation. – Notwithstanding subdivision (2) of subsection
18 (f) of the Electrical Requirements Rule, the Commission shall authorize facilities licensed by
19 the Department to use bi-fuel generators that operate with both liquid fuel and natural gas
20 (methane) that is not stored on the site, provided that the natural gas is delivered via pipe or
21 pipeline by a natural gas utility. These bi-fuel generators shall be exempt from liquid fuel
22 capacity standards established by the Commission. Bi-fuel generators that operate on both
23 liquid and other gaseous fuels, including propane and butane, that are stored on the site shall
24 also be authorized, provided that the combined capacity of both liquid and gaseous fuels meet
25 minimum on-site fuel requirements established by the Commission. The Commission may
26 adopt rules to require a licensed facility with a bi-fuel generator to develop a contingency plan
27 for liquid fuel delivery onto the site in the event of a natural gas (methane) supply disruption.

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

35 **SECTION 10.(e)** Effective Date. – Subsection (b) of this section expires when
36 permanent rules to replace subsection (b) of this section have become effective, as provided by
37 subsection (c) of this section.
38

39 **PART XI. EFFECTIVE DATE**

40 **SECTION 11.** Section 1(b) of this act becomes effective March 1, 2015. Section
41 3(b) of this act is effective when it becomes law and applies retroactively to October 1, 2012.
42 Sections 5(a) through 5(c) of this act are effective for energy minerals sold on or after March 1,
43 2015, except that G.S. 105-187.76, as enacted by Section 5(a) of this act, becomes effective
44 only if authorized by the General Assembly in the Current Operations and Capital
45 Improvements Appropriations Act of 2013. G.S. 113B-30, enacted by Section 7 of this act,
46 becomes effective only if authorized by the General Assembly in the Current Operations and
47 Capital Improvements Appropriations Act of 2013. The first report due pursuant to
48 G.S. 113B-12, as amended by Section 9(m) of this act, shall be transmitted on or before
49 January 1, 2014. Except as otherwise provided, the remainder of this act is effective when it
50 becomes law.