

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 76
Finance Committee Substitute Adopted 2/14/13
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Fourth Edition Engrossed 2/27/13
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Short Title: Domestic Energy Jobs Act.

(Public)

Sponsors:

Referred to:

February 12, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO (1) AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL
3 RESOURCES TO ISSUE PERMITS ON OR AFTER MARCH 1, 2015, FOR OIL AND
4 GAS EXPLORATION AND DEVELOPMENT ACTIVITIES IN THE STATE,
5 INCLUDING THE USE OF HORIZONTAL DRILLING AND HYDRAULIC
6 FRACTURING TREATMENTS FOR THAT PURPOSE, BUT PREVENT THOSE
7 PERMITS FROM BECOMING EFFECTIVE UNTIL A SUBSEQUENT ACT OF THE
8 GENERAL ASSEMBLY AUTHORIZES THOSE PERMITS TO BECOME EFFECTIVE;
9 (2) DIRECT THE MINING AND ENERGY COMMISSION TO STUDY
10 DEVELOPMENT OF A COMPREHENSIVE ENVIRONMENTAL PERMIT FOR OIL
11 AND GAS EXPLORATION AND DEVELOPMENT ACTIVITIES USING
12 HORIZONTAL DRILLING AND HYDRAULIC FRACTURING TREATMENTS; (3)
13 REQUIRE THE MINING AND ENERGY COMMISSION AND THE DEPARTMENT
14 OF REVENUE TO STUDY ESTABLISHMENT OF A TAX FOR THE SEVERANCE OF
15 ENERGY MINERALS FROM THE SOIL OR WATER OF THE STATE IN AN
16 AMOUNT SUFFICIENT TO COVER ALL COSTS ASSOCIATED WITH
17 ADMINISTRATION OF A MODERN REGULATORY PROGRAM FOR THE
18 MANAGEMENT OF OIL AND GAS EXPLORATION AND DEVELOPMENT
19 ACTIVITIES USING THE PROCESSES OF HORIZONTAL DRILLING AND
20 HYDRAULIC FRACTURING TREATMENTS FOR THAT PURPOSE, INCLUDING
21 CREATION OF AN EMERGENCY FUND TO PROTECT AND PRESERVE THE
22 STATE'S NATURAL RESOURCES, CULTURAL HERITAGE, AND QUALITY OF
23 LIFE; (4) DIRECT THE MINING AND ENERGY COMMISSION AND OTHER
24 ENTITIES TO STUDY AND ISSUE A RECOMMENDATION FOR AN IMPACT FEE,
25 OR DEDICATION OF A PORTION OF ANY SEVERANCE TAX TO BE IMPOSED,
26 ON OIL AND GAS EXPLORATION AND DEVELOPMENT ACTIVITIES USING
27 HORIZONTAL DRILLING AND HYDRAULIC FRACTURING TREATMENTS THAT
28 WOULD BE SUFFICIENT TO COVER ALL COSTS THAT MAY REASONABLY BE
29 EXPECTED TO ACCRUE TO LOCAL GOVERNMENTS AS A RESULT OF SUCH
30 ACTIVITIES OCCURRING WITHIN THEIR JURISDICTIONS; (5) DIRECT THE
31 MINING AND ENERGY COMMISSION, THE DEPARTMENT OF ENVIRONMENT



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

20 The General Assembly of North Carolina enacts:

21
22 **PART I. PERMIT ISSUANCE**

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

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

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

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

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

28 **SECTION 2.(b)** The Mining and Energy Commission and the Department of
29 Revenue, with the assistance of the Department of Commerce and the Department of
30 Environment and Natural Resources, shall study an appropriate rate of severance tax that
31 should be imposed in association with oil and gas exploration and development activities using
32 horizontal drilling and hydraulic fracturing treatments in the State. In conducting the study, the
33 Commission and the Department shall examine information compiled by the Department of
34 Commerce in Section 5 of the North Carolina Oil and Gas Study issued in April 2012 pursuant
35 to S.L. 2011-276 on potential economic impacts that could be expected if drilling for oil or
36 natural gas were to take place in the State, which included data on severance taxes established
37 in other states. In addition, the Commission and the Department shall consider information
38 compiled pursuant to the ongoing study of appropriate levels of funding and potential sources
39 for that funding required by Section 2(j) of S.L. 2012-143, as amended by Section 12(a) of S.L.
40 2012-201, which requires examination of (i) funding required to address expected impacts to
41 infrastructure throughout the State and other impacts that may be experienced by local
42 governments in areas where drilling activities may occur and (ii) funding needed to cover any
43 costs to the State for administering an oil and gas regulatory program, including remediation
44 and reclamation of drilling sites when necessary due to abandonment or insolvency of an oil or
45 gas operator or other responsible party. The Commission and the Department shall also
46 formulate recommendations for appropriate levels of funding that should be maintained to
47 address emergency events associated with oil and gas exploration, including sufficient funding
48 for emergency preparation, emergency response, emergency environmental protection, or
49 mitigation associated with a release of liquid hydrocarbons or associated fluids directly related
50 to onshore energy exploration, development, production, or transmission. Any recommendation
51 for emergency funding for this purpose shall provide that the funds shall be used only upon a

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

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

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

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

45 46 **PART III. MINING AND ENERGY COMMISSION APPOINTMENT** 47 **MODIFICATIONS**

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

49 "**§ 143B-293.2. North Carolina Mining and Energy Commission – members; selection;**
50 **removal; compensation; quorum; services.**"

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

3 (1) The Chair of the North Carolina State University Minerals Research
4 Laboratory Advisory Committee, or the Chair's designee, ex officio.

5 (2) The State Geologist, or the State Geologist's designee, ex officio.

6 ~~(3) The Assistant Secretary of Energy for the Department of Commerce, ex~~
7 ~~officio.~~

8 (3a) One appointed by the Governor who owns land in the Triassic Basin of
9 North Carolina.

10 (4) One appointed by the General Assembly upon recommendation of the
11 Speaker of the House of Representatives who is a member of a
12 nongovernmental conservation interest.

13 (5) One appointed by the General Assembly upon recommendation of the
14 Speaker of the House of Representatives who is an elected official of a
15 municipal government located in the Triassic Basin of North Carolina.

16 (6) One appointed by the General Assembly upon recommendation of the
17 Speaker of the House of Representatives who is a representative of the
18 mining industry.

19 (7) One appointed by the General Assembly upon recommendation of the
20 Speaker of the House of Representatives who shall be a geologist with
21 experience in oil and gas exploration and development.

22 (8) One appointed by the General Assembly upon recommendation of the
23 President Pro Tempore of the Senate who is a member of a nongovernmental
24 conservation interest.

25 (9) One appointed by the General Assembly upon recommendation of the
26 President Pro Tempore of the Senate who is a member of a county board of
27 commissioners of a county located in the Triassic Basin of North Carolina.

28 (10) One appointed by the General Assembly upon recommendation of the
29 President Pro Tempore of the Senate who is a representative of the mining
30 industry.

31 (11) One appointed by the General Assembly upon recommendation of the
32 President Pro Tempore of the Senate who shall be an engineer with
33 experience in oil and gas exploration and development.

34 (12) One appointed by the Governor who shall be a representative of a publicly
35 traded natural gas company.

36 (13) One appointed by the Governor who shall be a licensed attorney with
37 experience in legal matters associated with oil and gas exploration and
38 development.

39 (14) One appointed by the Governor who is a member of the Environmental
40 Management Commission and knowledgeable in the principles of water and
41 air resources management.

42 (15) One appointed by the Governor who is a member of the Commission for
43 Public Health and knowledgeable in the principles of waste
44 management.Health.

45 ...

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

50"

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

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

4 **"§ 113-394. Limitations on production; allocating and prorating "allowables."**

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

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

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

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

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

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

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

11 **"§ 113-425. Registry of landmen required.**

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

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

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

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

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

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

1 (6) Otherwise violates this section.

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

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

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

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

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

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

33

34 PART V. CLARIFY BONDING REQUIREMENTS

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

36 "§ 113-378. Persons drilling for oil or gas to register and furnish bond.

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

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

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

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

5 ...
6 (13a) Criteria to set the amount of a bond required pursuant to G.S. 113-421(a3),
7 including, at a minimum, the number of wells proposed at a site, the
8 predrilling condition of the property, the amount of acreage that would be
9 impacted by the proposed oil and gas activities, and other factors designed to
10 enable establishment of bonds on a site-by-site basis."

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

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

14 ...
15 (a3) Reclamation of Surface Property Required. – An oil or gas developer or operator
16 shall reclaim all surface areas affected by its operations no later than two years following
17 completion of the operations. If the developer or operator is not the surface owner of the
18 property, prior to commencement of activities on the property, the oil or gas developer or
19 operator shall provide a bond running to the surface owner sufficient to cover reclamation of
20 the surface owner's property. Upon registration with the Department pursuant to G.S. 113-378,
21 a developer shall request that the Mining and Energy Commission set the amount of the bond
22 required by this subsection. As part of its request, the developer shall provide supporting
23 documentation, including information about the proposed oil and gas activities to be conducted,
24 the site on which they are to occur, and any additional information required by the
25 Commission. The Commission shall set the amount of the bond in accordance with the criteria
26 adopted by the Commission pursuant to G.S. 113-391(a)(13a) and notify the developer and
27 surface owner of the amount within 30 days of setting the amount of a bond. A surface owner
28 or developer may appeal the amount of a bond set pursuant to this subsection to the
29 Commission within 60 days after receipt of notice from the Commission of the amount
30 required. After evaluation of the appeal and issuance of written findings, the Commission may
31 order that the amount of the bond be modified. Parties aggrieved by a decision of the
32 Commission pursuant to this subsection may appeal the decision as provided under Article 4 of
33 Chapter 150B of the General Statutes within 30 days of the date of the decision."

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

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

37 "Article 3.

38 "Revenues From Offshore Energy Production.

39 **"§ 113B-30. Allocation of revenues from offshore energy production; creation of Offshore**
40 **Energy Management Fund.**

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

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

10 11 **PART VII. REGIONAL INTERSTATE OFFSHORE ENERGY POLICY COMPACT**

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

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

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

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

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

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

25 **SECTION 7.(e)** Upon enactment, the Secretary of State shall furnish certified
26 copies of this act to each member of the North Carolina congressional delegation, the governors
27 of South Carolina and Virginia, the legislative bodies of South Carolina and Virginia, the
28 Secretary of the United States Department of the Interior, and the President of the United
29 States.
30

31 **PART VIII. ENERGY POLICY ACT AND ENERGY POLICY COUNCIL** 32 **AMENDMENTS**

33 **SECTION 8.(a)** G.S. 113B-1 reads as rewritten:

34 **"§ 113B-1. Legislative findings and purpose.**

35 Upon investigation the General Assembly hereby finds that:

- 36 (1) Energy is essential to the health, safety and welfare of the people of this
37 State and to the workings of the State ~~economy;~~economy.
- 38 (2) ~~Growth in the consumption of energy resources is in some part due to~~
39 ~~wasteful, uneconomic and inefficient uses of energy and a continuation of~~
40 ~~this trend will adversely affect the future social, economic and~~
41 ~~environmental development of North Carolina;~~
- 42 (3) ~~It is the responsibility of State government to encourage~~in the State's best
43 interest to support the development of a reliable and adequate supply of
44 energy for North Carolina ~~at a level consistent with such energy needs~~
45 ~~required for the protection of public health and safety, and for the promotion~~
46 ~~of the general welfare; and that is secure, stable, and predictable.~~
- 47 (3a) It is in the State's best interest to support the exploration, development, and
48 production of domestic energy supplies, preferably from the resources within
49 the State or region and most certainly from within the country.
- 50 (3b) It is the duty of State government to protect and preserve the State's natural
51 resources, cultural heritage, and quality of life and, above all, the public

1 health and safety of its residents during the exploration, development, and
 2 production of domestic energy resources.

- 3 (4) ~~The State has not provided~~must provide the basis for development of a
 4 long-range unified energy policy to encompass comprehensive energy
 5 resource planning and efficient management of ~~the rate of consumption of~~
 6 existing energy resources in relation to economic growth, to effectively meet
 7 an energy crisis, to encourage development of alternative sources of
 8 ~~energy,~~energy that are capable of achieving a positive benefit-to-cost ratio,
 9 and to ~~prudently conserve~~ensure efficient utilization of energy resources in
 10 a manner consistent with assuring a reliable and adequate supply of energy
 11 for North ~~Carolina.~~Carolina, including active support and collaboration with
 12 the federal government to ensure access to the nation's energy resources
 13 located on the outer continental shelf directly adjacent to the State's coastal
 14 waters.
- 15 (5) It is the expressed intent of this Chapter to provide for development of such
 16 a unified domestic energy policy for the State of North ~~Carolina.~~Carolina as
 17 part of a nationwide effort for increased domestic energy production in the
 18 interest of national security and stability."

19 **SECTION 8.(b)** G.S. 113B-2 reads as rewritten:

20 **"§ 113B-2. Creation of Energy Policy Council; purpose of Council.**

21 (a) There is hereby created a council to advise and make recommendations on
 22 increasing domestic energy policy exploration, development, and production within the State
 23 and region to the Governor and the General Assembly ~~to be known as the Energy~~
 24 Policy Assembly. The Council ~~which~~ shall be located within the Department of ~~Commer~~ce.
 25 Environment and Natural Resources.

26 (b) Except as otherwise provided in this Chapter, the powers, duties and functions of
 27 the Energy Policy Council shall be as prescribed by the Secretary of Environment and Natural
 28 Resources.~~Commer~~ce.

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

32 **SECTION 8.(c)** G.S. 113B-3 reads as rewritten:

33 **"§ 113B-3. Composition of Council; appointments; terms of members; qualifications.**

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

- 36 (1) ~~Two members of the North Carolina House of Representatives to be~~
 37 ~~appointed by the Speaker of the House of Representatives;~~
 38 (2) ~~Two members of the North Carolina Senate to be appointed by the President~~
 39 ~~Pro Tempore of the Senate;~~
 40 (2a) The Secretary of Commerce.
 41 (2b) The Secretary of Environment and Natural Resources.
 42 (3) ~~Twelve~~Eleven public members who are citizens of the State of North
 43 ~~Carolina to be appointed by the Governor. The Governor shall designate one~~
 44 ~~of the public members as chair of the Council.~~Carolina and who are
 45 appointed in accordance with subsection (c) of this section.

46 (b) Appointments to the Energy Policy Council shall be made by ~~July 15, 2009,~~July 1,
 47 2013, and each such appointee shall serve until January 31, 2011. Thereafter, the appointed
 48 ~~members of the General Assembly shall serve two year terms, and the appointed public~~
 49 ~~members shall serve four year terms. A member of the Energy Policy Council shall continue to~~
 50 ~~serve until his successor is duly appointed, but such holdover shall not affect the expiration date~~
 51 ~~of such succeeding term.~~The terms of office of members of the Council are three years. The

1 terms of members appointed under subdivisions (1), (4), and (6) of subsection (c) of this
2 section shall expire on June 30 of years evenly divisible by three. The terms of members
3 appointed under subdivisions (2), (5), (8), and (10) of subsection (c) of this section shall expire
4 on June 30 of years that precede by one year those years that are evenly divisible by three. The
5 terms of members appointed under subdivisions (3), (7), (11), and (12) of subsection (c) of this
6 section shall expire on June 30 of years that follow by one year those years that are evenly
7 divisible by three. Appointments made by the President Pro Tempore of the Senate and the
8 Speaker of the House of Representatives shall be allowed when the General Assembly is not in
9 session.

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

- 12 (1) One member shall be experienced in the electric power industry; a
13 representative of an investor-owned natural gas public utility, to be
14 appointed by the Governor.
- 15 (2) One member shall be experienced in the natural gas industry; have
16 experience in natural gas and associated hydrocarbon exploration,
17 development, and production, to be appointed by the Governor.
- 18 ~~(2a) One member shall be experienced in energy policy matters;~~
- 19 (3) One member shall be experienced in alternative fuels and biofuels; a
20 representative of a rural electric membership corporation formed in
21 accordance with G.S. 117-8, to be appointed by the Speaker of the House of
22 Representatives.
- 23 (4) One member shall be experienced in energy efficient building design or
24 construction; an energy economist or a person with experience in the
25 financing or business development of an energy-related business, to be
26 appointed by the President Pro Tempore of the Senate.
- 27 (5) One member shall be experienced in environmental protection; have
28 experience in energy policy, to be appointed by the President Pro Tempore
29 of the Senate.
- 30 (6) One member who is engaged in a business providing renewable energy or
31 other energy services; shall be an industrial energy consumer, to be appointed
32 by the Speaker of the House of Representatives.
- 33 (7) One member shall be knowledgeable of alternative and renewable sources of
34 energy; energy, to be appointed by the Governor.
- 35 (8) One member who, at the time of appointment, is a county commissioner; or
36 elected municipal officer; provided, the member's term on the Council shall
37 expire immediately in the event that he or she vacates office as a county
38 commissioner or municipal officer; shall have experience in trucking, rail, or
39 shipping transportation, to be appointed by the Speaker of the House of
40 Representatives.
- 41 (9) Repealed by Session Laws 2009-446, s. 4, effective August 7, 2009.
- 42 (10) One member shall be knowledgeable in the finance, business development,
43 or technology development of energy-related business; One member shall
44 have experience in energy research and development, to be appointed by the
45 President Pro Tempore of the Senate.
- 46 (11) One member shall be experienced in low income energy policy matters or
47 low income residential weatherization. One member shall have experience in
48 environmental management, to be appointed by the Speaker of the House of
49 Representatives.

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

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

5 **"§ 113B-4. Chairman of Council; replacement; reimbursement of members.**

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

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

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

15 **SECTION 8.(e)** G.S. 113B-6 reads as rewritten:

16 **"§ 113B-6. General duties and responsibilities.**

17 The goal of the Energy Policy Council is to identify and utilize all domestic energy
18 resources in order to ensure a secure, stable, and predictable energy supply while ensuring the
19 protection and preservation of the State's natural resources, cultural heritage, and quality of life.
20 The Energy Policy Council shall have the following general duties and responsibilities:

21 (1) To develop and recommend to the Governor and the General Assembly a
22 comprehensive ~~long-range~~ State energy policy that addresses requirements
23 in the short term (10 years), in the midterm (25 years), and in the long term
24 (50 years) to achieve maximum effective management and use of present
25 and future sources of energy, such policy to include but not be limited to
26 energy efficiency, renewable and alternative sources of energy, research and
27 development into alternative energy technologies, and improvements to the
28 State's energy infrastructure and energy economy; economy, including smart
29 grid and domestic energy resources that shall include at least natural gas,
30 coal, hydroelectric power, solar, wind, nuclear energy, and biomass. For
31 utilities regulated under Chapter 62 of the General Statutes, the policy
32 developed under this subdivision shall be consistent with the analysis and
33 plan developed under G.S. 62-110.1(c).

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

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

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

49 **SECTION 8.(f)** G.S. 113B-7 reads as rewritten:

50 **"§ 113B-7. Energy Efficiency Program; components.**

- 1 (a) The Energy Policy Council shall prepare a recommended Energy Efficiency
2 Program for transmittal to the Governor, the initial plan to be completed by January 30, 1976.
- 3 (b) The Energy Efficiency Program shall be designed to assure the public health and
4 safety of the people of North Carolina and to encourage and promote conservation of energy
5 through reducing wasteful, inefficient or uneconomical uses of energy resources.
- 6 (c) The Energy Efficiency Program shall include but not be limited to the following
7 recommendations:
- 8 (1) Recommendations to the Building Code Council for lighting, insulation,
9 climate control systems and other building design and construction standards
10 which increase the efficient use of energy and are economically feasible to
11 implement;
 - 12 (2) Recommendations to the Building Code Council for per unit energy
13 requirement allotments based upon square footage for various classes of
14 buildings which would reduce energy consumption, yet are both technically
15 and economically feasible and not injurious to public health and safety;
 - 16 (3) Recommendations for minimum levels of operating efficiency for all
17 appliances whose use requires a significant amount of energy based upon
18 both technical and economic feasibility considerations;
 - 19 (4) Recommendations for State government purchases of supplies, vehicles and
20 equipment and such operating practices as will make possible more efficient
21 use of energy;
 - 22 (5) Recommendations on energy conservation policies, programs and
23 procedures for local units of government;
 - 24 (6) Any other recommendations which the Energy Policy Council considers to
25 be a significant part of a statewide conservation effort and which include
26 provisions for sufficient incentives to further energy conservation;
 - 27 (7) An economic and environmental impact analysis of the recommended
28 program.
- 29 (d) In addition to specific conservation recommendations, the Energy Efficiency
30 Program shall contain proposals for implementation of such recommendations as can be carried
31 out by executive order. Upon completion of a draft recommended program, the Council shall
32 arrange for its distribution to interested parties and shall make the program available to the
33 public and the Council further shall set a date for public hearing on said program.
- 34 (e) Upon completion of the Energy Efficiency Program, the Council shall transmit said
35 program, to be known as the State Energy Efficiency Program, to the Governor for approval or
36 disapproval. Upon approval, the Governor shall assign administrative responsibility for such
37 implementation as can be carried out by executive order to appropriate agencies of State
38 government, and submit to the General Assembly such proposals which require legislative
39 action for implementation. The Governor shall have the authority to accept, administer, and
40 enforce federal programs, program measures and permissive delegations of authority delegated
41 to the Governor by the President of the United States, Congress, or the United States
42 Department of Energy, on behalf of the State of North Carolina, which pertain to the
43 conservation of energy resources.
- 44 (f) The Governor shall transmit the approved Energy Efficiency Program to the
45 President Pro Tempore of the Senate, to the Speaker of the House of Representatives, to the
46 heads of all State agencies and shall further seek to publicize such plan and make it available to
47 all units of local government and to the public at large.
- 48 (g) At least every two years and whenever such changes take place as would
49 significantly affect energy supply or demand in North Carolina, the Energy Policy Council
50 shall review and, if necessary, revise the Energy Efficiency Program, transmitting such revised

1 plan to the Governor pursuant to the procedures contained in subsections (e) and (f) of this
2 section."

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

4 **"§ 113B-9. Emergency Energy Program; components.**

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

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

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

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

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

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

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

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

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

1 sources to priority users. The program shall contain alternative conservation
2 actions and allocation plans to reasonably meet various foreseeable shortage
3 circumstances and to allow a choice of appropriate responses;

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

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

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

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

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

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

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

31 **SECTION 8.(h)** G.S. 113B-11 reads as rewritten:

32 **"§ 113B-11. Powers and authority.**

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

38 ...

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

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

46 **"§ 113B-12. Annual reports; contents.**

47 (a) ~~Beginning January 1, 1977, and every year thereafter, No later than January 1 of~~
48 every even-numbered year, the Energy Policy Council shall transmit to the Governor, the
49 Speaker of the House of Representatives, the President Pro Tempore of the Senate, the
50 Environmental Review Commission, the Joint Legislative Commission on Energy Policy, and
51 the chairman of the Utilities Commission Commission and the appropriate chairmen of the

1 ~~House and Senate committees concerned with energy matters, a comprehensive report~~
2 ~~providing a general overview of energy conditions in the State. On January 1, 1976, the Energy~~
3 ~~Policy Council shall transmit a progress report to the public officials named above.~~

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

- 5 (1) An overview of statewide growth and development as they relate to future
6 requirements for energy, including patterns of urban and metropolitan
7 expansion, shifts in transportation modes, modifications in building types
8 and design, and other trends and factors which, as determined by the
9 Council, will significantly affect energy needs;
- 10 (2) The level of statewide and multi-county regional energy demand for a five,
11 10- and 20-year forecast period which, in the judgment of the Council, can
12 reasonably be met, with proposals as to possible energy supply sources;
- 13 (3) An assessment of growth trends in energy consumption and production and
14 an identification of potential adverse social, economic, or environmental
15 impacts which might be imposed by continuation of the present trends,
16 including energy costs to consumers, significant increases in air, water, and
17 other forms of pollution, threats to public health and safety, and loss of
18 scenic and natural areas;
- 19 (4) An analysis of the role of energy efficiency, renewable energy,
20 improvements to the State's energy infrastructure, and other means in
21 meeting the State's current and projected energy demand;
- 22 (5) Repealed by Session Laws 2009-446, s. 9, effective August 7, 2009.
- 23 (6) Recommendations to the Governor and the General Assembly for additional
24 administrative and legislative actions on energy matters;
- 25 (7) A summary of the Council's activities since ~~its inception~~, the last report, a
26 description of major plans developed by the Council, an assessment of plan
27 implementation, and a review of Council plans and programs for the coming
28 biennium."

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

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

36 **SECTION 8.(k)** G.S. 113B-23 reads as rewritten:

37 "**§ 113B-23. Administration of plans and procedures.**

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

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

49 (b) Upon the declaration of an energy crisis, the Governor shall order the Energy Policy
50 Council, the Utilities Commission, the Attorney General and other appropriate State and local

1 agencies to implement and enforce the Emergency Energy Program pursuant to G.S. 113B-9
2 and any emergency rules, orders or regulations approved pursuant to G.S. 113B-22.

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

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

12 13 **PART IX. MODIFY ELECTRICAL REQUIREMENTS RULE TO ALLOW** 14 **HOSPITALS TO USE COMPRESSED NATURAL GAS AS EMERGENCY FUEL**

15 **SECTION 9.(a)** Definitions. – "Electrical Requirements Rule" means 10A NCAC
16 13B .6227 (Licensing of Hospitals: Electrical Requirements) for purposes of this section and its
17 implementation.

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

23 **SECTION 9.(c)** Implementation. – Notwithstanding subdivision (2) of subsection
24 (f) of the Electrical Requirements Rule, the Commission shall authorize facilities licensed by
25 the Department to use bi-fuel generators that operate with both liquid fuel and natural gas
26 (methane) that is not stored on the site, provided that the natural gas is delivered via pipe or
27 pipeline by a natural gas utility. These bi-fuel generators shall be exempt from liquid fuel
28 capacity standards established by the Commission. Bi-fuel generators that operate on both
29 liquid and other gaseous fuels, including propane and butane, that are stored on the site shall
30 also be authorized, provided that the combined capacity of both liquid and gaseous fuels meet
31 minimum on-site fuel requirements established by the Commission. The Commission may
32 adopt rules to require a licensed facility with a bi-fuel generator to develop a contingency plan
33 for liquid fuel delivery onto the site in the event of a natural gas (methane) supply disruption.

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

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

44 45 **PART X. EFFECTIVE DATE**

46 **SECTION 10.** Subsection (b) of Section 1 of this act becomes effective March 1,
47 2015. Subsection (b) of Section 4 of this act is effective when it becomes law, except that (i)
48 G.S. 113-425(c2), as enacted by subsection (b) of Section 4 of this act, becomes effective
49 December 1, 2013, and applies to offenses committed on or after that date and (ii)
50 G.S. 113-425(c3), as enacted by subsection (b) of Section 4 of this act, applies to leases or
51 contracts entered into on or after that date. G.S. 113B-30, enacted by Section 6 of this act,

1 becomes effective only if authorized by the General Assembly in the Current Operations and
2 Capital Improvements Appropriations Act of 2013. The first report due pursuant to
3 G.S. 113B-12, as amended by subsection (i) of Section 8 of this act, shall be transmitted on or
4 before January 1, 2014. Except as otherwise provided, the remainder of this act is effective
5 when it becomes law.