

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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SENATE JOINT RESOLUTION 819

Sponsors: Senators Rucho, Rabon, Goolsby; Allran, Apodaca, Bingham, Blake, Brock, Brown, Brunstetter, Carney, Daniel, Davis, East, Gunn, Harrington, Hartsell, Hise, Hunt, Jackson, Meredith, Newton, Pate, Preston, Rouzer, Soucek, Stevens, Tillman, Tucker, Walters, and Westmoreland.

Referred to: Agriculture/Environment/Natural Resources.

May 21, 2012

1 A JOINT RESOLUTION EXPRESSING THE OPINION OF THE GENERAL ASSEMBLY
2 THAT THERE SHOULD BE A NATIONAL ENERGY POLICY THAT SUPPORTS THE
3 RESPONSIBLE EXPLORATION FOR AND DEVELOPMENT OF DOMESTIC
4 ENERGY RESOURCES, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH
5 COMMITTEE ON ENERGY POLICY ISSUES.

6 Whereas, economic recovery, job creation, effective global competitiveness, and
7 national security depend upon developing our nation's diverse energy resources; and

8 Whereas, the identification and utilization of abundant supplies of affordable and
9 reliable energy are vital to the prosperity of North Carolina and our nation; and

10 Whereas, the production of unconventional natural gas deposits in North America,
11 including shale, is forecasted to increase to 64 percent of all domestic natural gas production by
12 2020. The United States is estimated to have a future natural gas supply of over 2,000 trillion
13 cubic feet, which is enough gas at current consumption rates to supply the nation for the next
14 100 years. This increase is attributable to increased unconventional gas plays, largely from
15 shale gas development; and

16 Whereas, the U.S. Department of Energy reports a shale gas potential of three to
17 four trillion cubic feet of production per year may be sustainable for decades, and the Interstate
18 Natural Gas Association of America reports that to achieve forecasted results, industry must
19 have land access for drilling, a reasonable permitting process, and adequate prices and demand
20 for natural gas; and

21 Whereas, the President of the United States, the Governor of North Carolina, and
22 the North Carolina Department of Environment and Natural Resources have in recent months
23 stated their support for environmentally responsible shale gas development; and

24 Whereas, the North Carolina Geological Survey reports 785,000 acres of Triassic
25 basin formations that hold potential shale gas; and

26 Whereas, the U.S. Environmental Protection Agency is reviewing and considering
27 new regulations regarding the practice of hydraulic fracturing used to recover natural gas from
28 horizontal wells, often into shale formations that hold previously unavailable reserves of
29 natural gas, to supply the nation for decades at low cost, a practice that has been used for
30 decades and is well within the regulatory expertise of the states, pursuant to delegation by the
31 Clean Water Act responsibilities by the U.S. Environmental Protection Agency; and

32 Whereas, North Carolina's more than 60 million acres of federally managed waters
33 on the Atlantic Outer Continental Shelf is the largest along the Atlantic coast and the fourth
34 largest in the United States; and



1 Whereas, the U.S. Department of the Interior failed to include the Atlantic Outer
2 Continental Shelf in its leasing plan for 2012 through 2017; and

3 Whereas, the North Carolina General Assembly authorized the creation of the
4 Legislative Research Commission's Advisory Subcommittee on Offshore Energy Exploration
5 in 2008 to study offshore hydrocarbon and other energy resources; and

6 Whereas, the findings in the April 2010 final report of the Legislative Research
7 Commission's Advisory Subcommittee on Offshore Energy Exploration noted that potentially
8 significant energy resources exist offshore North Carolina that include quantifiable estimates
9 from the federal government of almost 30 trillion cubic feet of natural gas; and

10 Whereas, the Legislative Research Commission's Advisory Subcommittee on
11 Offshore Energy Exploration recommended that production of fossil fuel and alternative energy
12 resources in North Carolina's outer continental shelf should include provisions for revenue and
13 royalty sharing directed to the State of North Carolina; and

14 Whereas, the Legislative Research Commission's Advisory Subcommittee on
15 Offshore Energy Exploration heard testimony from the Southeast Energy Alliance that
16 estimated production of natural gas and associated hydrocarbons offshore North Carolina
17 would create more than 6,700 new jobs and add more than \$659 million annually to the State's
18 Gross Domestic Product over three decades, during which time this energy production could
19 generate almost \$10 billion in revenue sharing of government revenues at an average of \$484
20 million per year to North Carolina; and

21 Whereas, the Legislative Research Commission's Advisory Subcommittee on
22 Offshore Energy Exploration recommended that production of fossil fuel and alternative energy
23 resources in North Carolina's outer continental shelf should include provisions for revenue and
24 royalty sharing directed to the State of North Carolina; and

25 Whereas, the U.S. Environmental Protection Agency has proposed New Source
26 Performance Standards for oil and natural gas production that would significantly slow down
27 drilling, resulting in less oil and natural gas production, lower royalties to the federal
28 government, and lower tax payments to state governments; and

29 Whereas, the President and the Congress have not approved a pipeline project to
30 transport oil extracted in Canada to the Gulf of Mexico for environmentally responsible
31 refining and marketing, a project that is expected to create 13,000 construction jobs and 7,000
32 jobs in manufacturing for Americans in several states, generate substantial revenues to support
33 state and local needs, and decrease the potential from supply disruptions from the Gulf of
34 Mexico that have created recent price spikes and supply shortages to the citizens and businesses
35 of North Carolina; and

36 Whereas, commercial nuclear power plants provide base load electricity generation
37 to and are an important component of a reliable, safe, and secure electric power supply for the
38 citizens of North Carolina; and

39 Whereas, North Carolina receives approximately forty percent of its electricity from
40 nuclear energy, is one of the top nuclear power producers in the country, and nuclear energy
41 continues to be a safe, reliable, and clean resource; and

42 Whereas, the Nuclear Waste Policy Act of 1982 mandates that generators of nuclear
43 power are responsible for paying the costs associated with establishing a permanent repository
44 for the disposal of nuclear fuel from commercial reactors; and

45 Whereas, the United States government failed to begin accepting commercial
46 nuclear fuel by 1998 as required by the Nuclear Waste Policy Act of 1982, and there have been
47 ongoing and extensive delays caused by the government's failure to reasonably implement a
48 waste management program and develop a disposal facility; and

49 Whereas, the President has unilaterally halted development by the U.S. Department
50 of Energy of a planned national repository for spent nuclear fuel at Yucca Mountain, a
51 repository that was required by federal law to be in place by 1998, and the Department of

1 Energy continues to collect the fees authorized by the Nuclear Waste Policy Act of 1982 to
2 fund the required repository, fees that are paid by utilities that own nuclear power generation
3 facilities and recovered from the purchasers of electricity generated by those facilities; and

4 Whereas, the Secretary of the U.S. Department of Energy has now taken action to
5 terminate the current waste disposal program approved by the Yucca Mountain Repository Site
6 Approval Act of 2002 and, therefore, there is currently no centralized waste management and
7 disposal program being implemented and against which a fee can be assessed; and

8 Whereas, despite the absence of an ongoing waste management and disposal
9 program, the Secretary is continuing to collect over \$750 million per year from reactor
10 licensees, including those serving the citizens of North Carolina; and

11 Whereas, the citizens of North Carolina, through the rates charged, have contributed
12 \$897.3 million in fees to fund the federal government's waste management and disposal
13 program as prescribed in the Nuclear Waste Policy Act of 1982; and

14 Whereas, the Nuclear Waste Policy Act of 1982 requires the Secretary of the U.S.
15 Department of Energy to collect fees only in an amount sufficient to offset the costs of the
16 federal government's waste management and disposal program and provides that the Secretary
17 is to request a fee adjustment if "excess or insufficient" revenues are being collected, and the
18 current balance of the fund is more than \$25 billion and grows by approximately \$1 billion
19 annually solely from the addition of investment income; and

20 Whereas, the recent report by the United States Secretary of Energy's Blue Ribbon
21 Commission on America's Nuclear Future described the federal government's program to
22 manage and dispose of used nuclear fuel as "... one of broken promises and unmet
23 commitments" and recommended fundamental changes in the program, but the federal
24 government has yet to act on any of the Blue Ribbon Commission's recommendations; and

25 Whereas, the U.S. Environmental Protection Agency has developed and proposed
26 numerous significant new rules, regulations, and policy guidelines that will impact energy
27 generation and utilization, including the Clean Water Act, section 316(b) rules; the Cross-State
28 Air Pollution Rule; the Cooling Water Intake Structures rules; Title I of the Clean Air Act,
29 Utility Maximum Achievable Control Technology (MACT) Standards and new Boiler MACT
30 Standards; National Ambient Air Quality Standards for Sulfur Dioxide and Ozone; and the
31 Coal Combustion Residuals rule; and

32 Whereas, the U.S. Environmental Protection Agency has not considered the
33 combined impact of these new rules, regulations, and policy guidelines on citizens, states, and
34 businesses, and the compliance with this array of new regulatory requirements, separately and
35 together, particularly in the short time frames provided, will be extraordinarily expensive,
36 directing available business capital to regulatory compliance rather than economic growth; and

37 Whereas, the U.S. Environmental Protection Agency has not considered the
38 combined impact of these new and proposed rules and regulations on citizens, states, and
39 businesses, and, if compliance can be accomplished at all, it is certain to increase the cost and
40 reliability of electricity to residential, commercial, and industrial users at a time when no
41 citizen or business can afford to pay more for energy without cutting back on other expenses,
42 inhibiting economic growth and posing a serious risk to the reliability of the electric grid; and

43 Whereas, the foregoing information regarding federal policies and their effect on
44 energy issues provides an incoherent, indefensible, and unsustainable energy policy that risks
45 North Carolina's and the nation's economic recovery, global competitiveness, and energy
46 security; and

47 Whereas, these federal activities are driving up the cost and driving down the
48 reliability of energy at a time when economic recovery, business development, and job creation
49 should be the top priorities of our leaders; Now, therefore,
50 Be it resolved by the Senate, the House of Representatives concurring:

1 **SECTION 1.** The General Assembly understands the urgency and importance of
2 adopting a national energy policy that supports the responsible exploration for and development
3 of this nation's diverse energy resources in order to secure abundant supplies of affordable,
4 reliable energy for the economic recovery and future prosperity of North Carolina and the
5 nation.

6 **SECTION 2.** The General Assembly advocates that the federal 2012-2017
7 five-year leasing plan be amended to include at least North Carolina's more than 60 million
8 acres of federally managed waters on the Atlantic Outer Continental Shelf and expedite studies
9 and permits to accelerate exploration, production, and development of the natural gas and
10 hydrocarbon resources thereunder. The General Assembly also advocates that the federal
11 government include revenue sharing provisions for North Carolina's federally managed waters
12 on the Atlantic Outer Continental Shelf similar, if not identical, to those included in the Gulf of
13 Mexico Energy Security Act of 2006.

14 **SECTION 3.** It is the opinion of the General Assembly that ratepayers in North
15 Carolina and throughout the nation could be protected by the immediate suspension of the
16 collection of Nuclear Waste Fund fees because the continued collection cannot be justified
17 under the Nuclear Waste Policy Act of 1982 given the unlawful termination of the waste
18 management and disposal program at the Yucca Mountain site.

19 **SECTION 4.** It is also the opinion of the General Assembly that the collection fee
20 should not be resumed until the long-term final repository program is revived or another waste
21 management and disposal program is established based on the final recommendations of the
22 President's Blue Ribbon Commission on America's Nuclear Future.

23 **SECTION 5.** The federal government should put in place immediately the
24 governance and financial reforms recommended by the Blue Ribbon Commission in order to
25 make real progress toward disposal of used nuclear fuel in a geologic repository and to ensure
26 that monies paid by electricity customers toward that end are used for the purpose of fuel
27 management.

28 **SECTION 6.** In compliance with the mandates of the Nuclear Waste Policy Act of
29 1982 and the Yucca Mountain Repository Site Approval Act of 2002, it is the opinion of the
30 General Assembly that the United States Department of Energy should resume work on the
31 license application for the Yucca Mountain long-term spent nuclear fuel and high-level
32 radioactive waste repository to the United States Nuclear Regulatory Commission to complete
33 the environmental and technical review of the proposed repository.

34 **SECTION 7.** The General Assembly endorses the following:

- 35 (1) Providing statutory oversight and direction to implement a responsible
36 energy policy in light of the Executive Branch's failure to implement such a
37 policy.
- 38 (2) Having access to a cumulative regulatory impact assessment of all of the
39 major regulations under consideration under the Clean Air Act and Clean
40 Water Act, including the cumulative effect of all of these regulations on the
41 economy, jobs, and energy affordability and reliability, drawing on the
42 expertise of other federal agencies and the private sector.
- 43 (3) Providing additional oversight of the U.S. Environmental Protection
44 Agency, considering the current encroachment of state enforcement powers
45 and duties, air quality and water quality policy planning, and economic
46 growth impacts due to regulatory uncertainty created by the Agency's recent
47 actions regarding rules, regulations, and policy guidelines.

48 **SECTION 8.** The Secretary of State shall transmit certified copies of this
49 resolution to each member of the North Carolina Congressional delegation, the Secretary of the
50 United States Department of Energy, the Secretary of the United States Department of the
51 Interior, the Administrator of the United States Environmental Protection Agency, the President

1 of the United States, and the legislatures of the states so that they may be apprised of the
2 opinions of the North Carolina General Assembly in these matters.

3 **SECTION 9.** This resolution is effective upon ratification.