A Strategy for Addressing Climate Change in the North Carolina Legislature

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**Policy Question**

What should North Carolina Conservation Network’s state legislative strategy be regarding climate change policy?

**Executive Summary**

The North Carolina Conservation Network (ConNet) is seeking a successful legislative strategy to achieve the passage of policy in North Carolina General Assembly addressing climate change. This is a particular challenge in the light of the 2010 election, which ushered in a Republican majority in both Houses, which are generally either indifferent or hostile to climate policy and ConNet. Further, ConNet’s previous legislative strategy frequently depended on strong ties to the then Democratic legislative leadership which helped to move their legislative priorities forward, legislators who no longer hold that power.

This is not the only challenge facing ConNet’s strategy. Even when there was a Democratic legislative majority, achievements were generally in the related field of energy policy and few climate policies made it through the many informal planning processes to actually make it to the Assembly floor. Finally, ConNet is a coalition of diverse environmental organizations which has split in the past over legislative issues. Therefore, ConNet needs a strategy that is amenable to all of its coalition members, or have a strategy for handling disagreement without severely weakening their coalition.

This paper examines both policy and political strategy options available to ConNet in the next legislative session. Policy options include greenhouse gas mitigation policy, energy generation and efficiency policy, climate adaptation policy and fuels policy. The analysis will narrow these options by evaluating their policy effectiveness, political feasibility, and their alignment with the short and long-term interests of ConNet and its coalition. The paper will also suggest some political strategy options that can be effective in moving these policy options forward in the short and long term. They are titled in this paper: “Divide and Conquer”, “Fight the Power”, “New Coalitions”, “Proactive Agenda”, “Reactive Agenda” and “Venue Change”. Each uses the resources available to the ConNet coalition and its members to attempt to move climate policy forward, or at least limit reversals of policy implemented thus far.
Introduction

To respond to this policy question, I will analyze and make recommendations for potentially successful climate and energy related strategy for the North Carolina Conservation Network (ConNet) in its dealings with the North Carolina General Assembly. This analysis will investigate how ConNet can more effectively pursue policies that can result, either directly or indirectly, in greenhouse gas mitigation or adaptation to expected impacts of climate change. The inclusion of a policy or strategy in the recommendations will be based upon analysis of policy effectiveness, political feasibility, and alignment with the short and long term interests of North Carolina Conservation Network.

In the long term, North Carolina is a unique model of state climate policy, with characteristics of both leader and laggard states in climate and energy regulation. North Carolina has one significant reason to want action on climate change: its 300 miles of coastline that are vulnerable to sea level rise. Losses to coastal property in the state are forecast to be in the billions of dollars over the next seventy-five years.1 Other potential impacts include severe weather, water supply impacts and impacts to agriculture and natural resources.

Further, North Carolina has recent precedents for action on air pollution and air quality issues. North Carolina was a national pioneer in multi-pollutant regulation with the adoption of the Clean Smokestacks Act in 2002. This was the first state multi-pollutant air quality law in the nation focused on utility emissions, making significant cuts to nitrogen oxide and sulfur dioxide pollutants from coal-fired power plants. This passage of this act was inspired by an outpouring of popular concern in the state over federal nitrogen oxide rules, as well as by the conclusions of the multi-state air quality planning processes under the Southern Appalachian Mountains Initiative.2 More recently, support for clean air improvements is reflected in a state lawsuit against the Tennessee Valley Authority over pollution from coal plants in Tennessee and Alabama.3

North Carolina is also the only state in the Southeast to have a binding renewable energy standard. Adopted in 2007, the Renewable Energy and Energy Efficiency Portfolio Standard (REPS) requires utilities to provide 12.5% of their electricity demand through renewable generation or energy efficiency, with some specific set-asides for solar and livestock waste generation. While this is below the 18.5% target average across states with portfolio standards4, North Carolina does have the seventh highest requirement for new solar among these states.5

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4Calculated from “Detailed Table of State Policies, Pew Center on Global Climate Change,” accessed on August 2, 2010 at http://www.pewclimate.org/what_s_being_done/in_the_states/rps.cfm. Please keep in mind that this is a rough measure, as the details of each state’s requirements vary widely.
The North Carolina Utilities Commission issued final REPS rules in early 2008. Utilities are meeting the many of the renewables requirements at prices below those projected, though efforts to produce electricity from swine waste are stalled. This indicates capacity for further renewables and efficiency development in some sectors, and is one reason that legislators and environmental groups are interested in reevaluating this policy.

The state also created GHG emissions and renewable energy reporting infrastructures needed for carbon regulation. North Carolina created the first Renewable Energy Credit (RECs) tracking system in the Southeast. North Carolina’s Department of Environment and Natural Resources (DENR) joined the national Climate Registry in 2007 as a founding member, providing a voluntary reporting framework for GHG emitting entities within North Carolina.

However, the momentum for increasing rigor in the state’s environmental policy has been radically affected by significant change in the North Carolina General Assembly. As a result of the last election, the leadership of both houses were taken over by the Republican Party for the first time in over 100 years. The leadership in control of the Assembly has an expressed interest in the relaxation of environmental laws, with the justification of economic growth. Con Net has experienced an unprecedented year navigating this new legislature during the 2011 long session. In part recommendations for this paper will be based upon this experience, and inform a short and long term strategy that can better prepare the organization for the current circumstances and possible future legislative change.

Climate Policy Models and their History in North Carolina

Several states have advanced models for legislation addressing different aspects of the climate change problem. Many of these models have been considered or attempted in North Carolina. This section reviews these models and discusses their varying success.

Cross-cutting Stakeholder and Planning Processes

States have frequently attempted to begin a dialog on climate policy through the creation of commissions or similar bodies that bring together the key stakeholders to discuss the costs and benefits of addressing climate for the particular state, and to propose recommendations for action. Currently, 24 states have established climate commissions or executive branch advisory groups.

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These reports have generally included recommendations that conform to several of the policy areas outlined below.

In recent years, North Carolina has gone through four stakeholder or advisory processes relevant to climate change. First, the Clean Smokestacks Act required the North Carolina Division of Air Quality (DAQ) to study carbon dioxide emissions and make recommendations to the General Assembly.\textsuperscript{13} DAQ recommended a comprehensive state climate plan and a stakeholder process.\textsuperscript{14} DENR then initiated the Climate Action Plan Advisory Group (CAPAG) to implement these recommendations. CAPAG recommended 56 policies, “for further study and potential adoption.”\textsuperscript{15} No binding action or climate planning process followed directly from these recommendations.

In parallel to CAPAG, the legislature also established the Legislative Commission on Climate Change (hereafter referred to as the Commission) and directed it to examine a set of key questions and, if appropriate, propose a state greenhouse gas reduction goal.\textsuperscript{16} The Commission produced recommendations (See Table 1) for studies and voluntary action, and did not propose a reduction goal.\textsuperscript{17} The sixth recommendation of the Commission, a requirement for state agencies to consider whether their policies account for climate change impacts and make recommendations for integrating such impacts into their work, was adopted during the 2010 legislative session.

In the last of the recent advisory efforts, in 2009 Governor Bev Perdue reorganized the North Carolina Energy Policy Council to focus on green energy and innovation.\textsuperscript{18} The reinvigorated Council has begun its own consideration of energy issues related to climate change with great expectation. Unfortunately, no significant recommendations came out of the Council, except for an endorsement of the existing renewable energy standard.\textsuperscript{19}

Each of these processes has developed recommendations relevant to climate change. Each has tapped many of the same interest groups to be involved in policy development, including environmental groups, utilities, sustainable energy groups, business leaders, farmers, energy generators, consumer advocates, manufacturers, and academics. Each has discussed a similar range of recommendations, including a greenhouse gas reduction goal, developing emissions offsets and credits, establishing energy policy that encourages clean energy and efficiency, and implementing an adaptation policy. However, no significant policy has arisen from any of these discussions.

\textsuperscript{17}Legislative Commission on Global Climate Change, “Final Report to the General Assembly and the Environmental Review Commission,” May 2010.
\textsuperscript{19}Author observation, North Carolina Energy Policy Council Meeting, January 21, 2011, notes available upon request.
Greenhouse Gas Mitigation Policy

Mitigation policy explicitly attempts through requirements or incentives to reduce the amount of greenhouse gases entering the atmosphere. At the state level, this has frequently involved creating emission reduction targets that are either recommended or binding, and creating a plan which proposes strategies to meet these targets. Binding targets have been passed by legislatures in California and the Northeast, where the target is or will be met through a cap and trade strategy.

The northeast regional market, or Regional Greenhouse Gas Initiative, is currently in force and trading emissions, though New Jersey has withdrawn from the compact and other newly elected governors have considered doing the same. California’s cap and trade program is scheduled to be implemented in the fall, after surviving a ballot initiative attempt to indefinitely postpone it based on economic criteria and a court challenge on environmental justice grounds. Regional markets have also been discussed in the West and Mid-West. However, a proposed western market has lost all state participants with the exception of California and four Canadian provinces. The official draft 2009 recommendations of the Midwestern coalition, based out of the Midwestern Governors Association, focused generally on energy policy and carbon capture and storage, without mention of a cap and trade program.

Discussion of cap and trade markets frequently touch on offsets: saleable market credits provided to someone who prevents emissions of greenhouse gases from an unregulated sector of the economy. In the United States, the agricultural and forestry sectors are frequently discussed as a potential source of carbon offsets through changing cultivation practices. The Commission recommended legislative language that would direct North Carolina agencies to study offsets as an economic opportunity, including agricultural and forest offsets.

Other policies aside from cap and trade have been proposed or implemented at the state level or nationally. GHG taxes are a less frequently discussed market mechanism, though one had been enacted in British Columbia, Canada. Performance and technology standards are non-market policies that require a particular emissions level from an emitting source or installation of a particular emissions control technology. The U.S. EPA has proposed emissions standard based regulations to regulate GHGs from new sources under the Clean Air Act at the federal level.

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25Legislative Commission on Global Climate Change, ibid.
Ambient air pollutant standards, where a government measures the amount of a pollutant in the air and takes enforcement action in any areas in violation of these standards, has not been seriously considered for GHGs because they are globally mixed and all locations would generally found to be in violation of any standard stringent enough to address climate change.

However, direct mitigation of greenhouse gases is unlikely to be passed by the current North Carolina General Assembly. Even during recent legislative sessions when Democrats held a majority in both houses, no greenhouse gas mitigation legislation of any kind has been seriously considered in the legislature and there has not been a proposed state or regional cap and trade program in any other state the Southeast. These strategies have been frequently discussed in stakeholder process, but have never achieved sufficient consensus to be recommended for further action. Now under in a much more conservative legislature, direct climate change policies seem to stand little chance.

**Energy Generation and Efficiency**

Energy generation and energy use have a significant impact on the amount of greenhouse gases emitted. A wide variety of energy policies have been proposed to specifically target energy-related emissions. Sectors targeted include electricity production, heating and cooling, manufacturing, and transportation.

*Energy generation:* Generation can be targeted through requirements, taxes or subsidies for fuel feedstocks other than fossil fuels. Examples include requiring replacement of coal generated electricity with renewable power, or replacing petroleum-based automobile fuel with biomass based products like ethanol or biodiesel. North Carolina’s Renewable Energy and Energy Efficiency Portfolio Standard is a generation-based policy.

North Carolina stakeholders have also discussed technical regulations to encourage renewable energy generation. These include rules for electrical grid interconnection and net metering that allow renewable sources to more easily connect to the grid and benefit financially from it. Another example is regulations that ease the installation of fueling infrastructure for alternative fuel vehicles.

One specific area of generation which sparks significant controversy in North Carolina is new nuclear construction. Both major utilities are considering investing in new nuclear plants, but they are also seeking better terms of finance from the Utilities Commission that would allow them to start collecting funds for investment in nuclear plants from ratepayers prior to plant construction. This is a major issue on the environmental policy landscape in North Carolina, and polarizing between environmental groups. NC WARN and other grassroots groups launched a proactive campaign opposing such cost recovery proposals this year. The issue was not brought up in the Legislature this session.

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28 Legislative Commission on Global Climate Change, *ibid.*
Energy Efficiency: The other major area of energy policy is energy efficiency. Governments often encourage energy efficiency by implementing requirements, taxes or subsidies to require energy production or energy use to be more efficient. One example would be a policy to encourage the use of combined heat and power generating plants, something recommended for further study by CAPAG and the Commission.32

Efficiency policy also includes programs that retrofit buildings to reduce energy use. North Carolina’s major building efficiency programs are currently implemented by its investor owned utilities. Their plans have been criticized in the past for both lack of ambition and utility profit-taking.33 Other states have made major changes to the role of utilities in efficiency through third party administration of programs or decoupling, a type of policy that removes the profit incentive that utilities currently have to sell more electricity. Though these alternatives are discussed by some North Carolina stakeholders, it is assumed that the power of the utility lobby prevents serious discussion of these types of major efficiency policy changes.34

Recently, low-carbon energy generation and efficiency policies have received significant federal funding through federal economic stimulus programs, also known as the American Recovery and Reinvestment Act (ARRA) funds. Much of this funding passes through state government and is coordinated in North Carolina by the State Energy Office. Major energy initiatives resulted from this funding, and program supporters are concerned about what funds will support these efforts in the long-term.

Adaptation Policy: As researchers have determined that the earth is likely to experience some impacts of climate change no matter what policy is implemented, governments at all levels have begun to investigate how they may need to adapt to climate impacts.

In North Carolina, much of this discussion has focused on coastal flooding. Eleven states have completed or are completing adaptation plans, and all have a certain extent of coastal exposure.35 The CAPAG process recommended the completion of an adaptation plan and the Commission drafted relevant legislation. The legislation died in Committee in the 2010 short session.36 However, the legislature did pass the Commission’s recommendation that state agencies be required to consider climate impacts on their policies and programs, which may have an impact on administrative policy going forward.37

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32 Ibid.
34 Author Interviews, notes available upon request.
Relevant Institutions

Environmental policy in North Carolina has direct mandate from two main sources. The first is federally required rules which are implemented at the state level. The implementation of these rules is primarily an executive action, and the state has little power in determining level of compliance. Federal rules determine the bulk of North Carolina regulatory action in the environmental sphere, and the actions of most states. State environmental laws should always be viewed in the context of the federal laws and regulations that limit and complement them, particularly since the legislature has little control over the nature and the extent of these rules.

The second main source of environmental policy, and the focus of this paper, is original policymaking in North Carolina. This applies to areas in which North Carolina policy exceeds federal standards, or in which they regulate in areas not dealt with in any federal rules. This is an area in which the legislature has significant control over policy, in balance with executive and judicial bodies.

North Carolina has a significant history of environmental policy beyond federal rules. North Carolina exceeds comparable federal rules in air quality policy, through the requirements of the North Carolina Clean Smokestacks Act. An area in which North Carolina has significant policy in the absence of federal rules is in the area of coastal management, through the North Carolina Coastal Area Management Act. These are areas where the North Carolina General Assembly has a dominant power to determine the nature and extent of regulation. Climate change is another area where there is little preemptive law. The lack of a presence of federal law provides flexibility in policymaking, but little possibility for action unless there is significant support in the state for action.

Governmental Institutions

The North Carolina General Assembly: The Dominant Branch

Original environmental policy in the states generally arises from legislative action, as in the case in the State Environmental Policy Act (SEPA), the North Carolina Coastal Area Management Act and the Clean Smokestacks Act as mentioned above. In addition to traditional legislative powers, the state constitution and established law gives the legislature particular power over rulemaking, and is considered one of the strongest state legislatures in the country.39 The General Assembly in particular has special powers unique among state legislatures to affect rulemaking after the passage of legislation.

In fact, the General Assembly has formed institutions to review all types of regulations and the actions of environmental agencies in particular. The General Assembly also has formal powers to review and reject rules from the executive branch. Below are descriptions of the main bodies involved: the Environmental Management Commission and the Rules Review Commission. In

the last legislative session, the legislature acted to expand its influence and the influence of other non-executive bodies over executive actions. These changes are detailed in later sections.

The Environmental Management Commission (EMC) formally adopts all environmental rules in the state. Rather than being an exclusively executive body, the thirteen members appointed by the Governor are joined by six members selected by the Senate President Pro Tempore and the Speaker of the House. This legislative representation gives the legislative leadership limited control over the adoption of rules and a piece of a conventional executive power.

The Rules Review Commission is an executive body, though it was created through legislative action in 1986 and its members are selected exclusively by the legislative leadership. All rules are required to be filed with the Commission for review, and they are reviewed on the basis of proper authority, clarity, necessity, and compliance with administrative procedures. If the Commission objects to the rule, the executive agency may rewrite or withdraw the rule. Rules cannot become North Carolina code without the approval of the Commission. Ironically, the Commission itself is exempt from the state Administrative Policies Act (APA), but generally follows APA for its own rulemaking nonetheless.

The Extent of Executive Discretion

There are several executive bodies involved in the implementation of state and federal climate related policy, including the development of state regulation. These include the Department of Environment and Natural Resources (DENR), the primary implementer of both federal and state environmental regulation in North Carolina; the Public Utilities Commission, which enforces energy related regulation and has special powers to adjudicate said regulation; and the North Carolina State Energy Office, which serves as a source for funding and voluntary programs as part of the Department of Commerce.

As has been stated, the North Carolina state government structure favors the legislature over the executive branch. For example, until 1996, the Governor of North Carolina did not even have veto power over legislative bills. The implementation actions of the administrative branch are guided by the North Carolina Administrative Powers Act, which is also the law that outlines the role of the legislative bodies, described above, that oversee legislative action. This was also the law which the most recent legislature sought to change to give the executive less power to implement regulation, and they succeeded to a certain extent. The legislature also has authority over the size of the budgets for executive departments, and budget cuts have played a significant part recently in the capacity of environmental agencies to implement new regulation.

40North Carolina General Statutes §143B-283.
43Daniel McClawhorn, North Carolina Environmental Politics Seminar, February 15, 2011.
The Utilities Commission

The Utilities Commission in North Carolina has oversight over the economic sectors in the state that are considered regulated utilities, including electricity, water and telecommunications. In North Carolina, as in many states, utilities are monopolies which are highly regulated to assure they do not abuse their market power. The Utilities Commission reviews most major actions by the utilities, particularly changes to their rates and where they invest their resources. The Utilities Commission is unique in that, while they are guided by laws passed by the legislature, they are generally an independent quasi-judicial body. Their proceedings resemble court hearings, and the people are represented by the Public Staff, who are meant to provide a counterpoint to the parties bringing action before the Commission. Members are appointed by the Governor and approved by the legislature.44

However, many in the ConNet coalition do not find the Commission to be favorable venue to environmental causes. For example, the Utilities Commission has been given oversight power on the state’s renewable and energy efficiency portfolio standard. Specifically, the Commission has been given power to interpret the legislative guidelines regarding what is considered a renewable fuel. This has led to several controversial decisions including the definition of the rubber component of tires and whole trees being considered a renewable fuel.45 Such decisions were actively opposed by members of the ConNet coalition, including the North Carolina Sustainable Energy Association (see below for more information), the Environmental Defense Fund and the Southern Environmental Law Center.46

Non-Governmental Organizations

North Carolina Conservation Network and Their Coalition

Within this larger policy process, the North Carolina Conservation Network plays a role as a coalition builder among the state’s environmental community. ConNet is a network of around 100 state-wide and local environmental groups. ConNet staff provide resources to and advocate on behalf of these groups on a variety of environmental issues. Member groups have a diversity of priorities, with only a subset primarily interested in climate and energy.47

Within this subgroup, there is a spectrum of views on how North Carolina should respond to climate change. While a consensus among the member groups is not required for ConNet to advocate on an issue, ConNet must consider the long-term strength of its coalition when

considering policy priorities. Ideally, short-term policy actions should enhance the long-term integrity of the coalition and their strength in the wider political environment.

The policy process that led to the adoption of the renewable energy standard in Senate Bill 3 is a key case study that will inform analysis of the dynamics of the North Carolina environmental coalition, and that history is still affecting relationships between stakeholders moving forward.

The North Carolina, renewable portfolio standard, known as Senate Bill 3, was the last major energy and environmental legislation passed by the legislature, and is known for how it challenged the environmental coalition. The final agreement on legislative language got utility buy-in on the renewable standard in exchange for enhanced cost recovery to utilities for conventional power plants. The NCSEA and some other groups decided to go along with this deal, while others wished to hold a harder line with the utilities. It was a well-publicized disagreement, as some groups like Environmental Defense Fund publicly endorsed the agreement, and some groups vocally condemned it. This is a widely discussed disagreement within the movement, one which they hoped to avoid in future years.

ConNet began discussing legislative strategy with member and non-member environmental and energy groups prior to the 2011 legislative session, and continues to seek short-term and long-term consensus policy recommendations and legislative strategy for energy and climate. At minimum, they seek a coalition that agrees to disagree when consensus is not possible, but that will not act at cross-purposes within the legislature.

So how should the ConNet move forward with effective legislative recommendations that can feasibly become state law? This will require determining the policies that effectively address the problem, have a good chance of passage in the legislature, align with existing law and meet the interests of ConNet and its partners. This is the goal of this Master’s Project.

Below we feature three contrasting players in the ConNet coalition who play unique roles within ConNet and in the legislature as a whole. The complete list of ConNet members is available in Appendix A.

NCSEA & New Energy Businesses

The North Carolina Sustainable Energy Association (NCSEA) is symbolic of a small but growing constituency in North Carolina: clean energy businesses. Organizations such as NCSEA and the Solar Alliance are trying to aggregate this previously small business sector that is commonly divided by technology. NCSEA is not a new organization, it was founded in 1978 with a focus on promoting solar energy. In the early 2000's, it experienced a renaissance under

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48 Author Interview with Peter Walz, ConNet Organizing Director and Dan Conrad, ConNet Policy Analyst, August 3, 2010.
49 Author Interview with Grady McCallie, ConNet Policy Director, August 3, 2010.
51 Brian Buzby, Author Interview, Thursday, August 26, 2010.
the leadership of Executive Director Ivan Urlaub, who widened its mission and sought to give it a new and unique position in the North Carolina policy conversation.

While it grew out of the environmental movement, NCSEA also seeks to represent an industry, which can bring it in conflict with the environmental movement in the state. One issue in particular where the groups could differ is biomass energy. NCSEA has been supportive of environmental positions on the definition of renewable energy under the state REPS law. However, this may bring them into conflict at some point with some of their members involved in the biomass energy industry. Also, NCSEA is also seeking to cultivate a working relationship with the utilities in the state in order to play a stronger player in the energy sector in the long-term, where other organizations, like NC WARN, have followed a strategy of confrontation in their interactions with the utilities.

NC WARN

The North Carolina Waste Awareness & Reduction Network (NC WARN) is a small environmental organization that has run high profile and confrontational environmental campaigns in North Carolina. One of their areas of emphasis is advocacy campaigns focused on large industrial projects with potentially significant environmental impacts. NC WARN has frequently protested actions of Duke and Progress Energy, including the expansion of the Cliffside coal plant in Cleveland and Rutherford County and, more recently, the Duke Energy request for rate increases. In contrast to NCSEA, NC WARN has always had a confrontational relationship with the utilities, and protested their actions through official channels like the Utilities Commission and through public campaigns and protests. NC WARN is also strongly anti-nuclear power, and has been vocal in opposition to Duke’s plans for new nuclear power in North Carolina, and has been unwilling to negotiate on new nuclear, even as a low-carbon response to climate change. As part of the ConNet coalition, they are a strong voice for a more confrontational stance in the General Assembly.

Local Conservation Groups

In addition to the state-wide and energy focused groups that are affiliates of the ConNet coalition, like NCSEA and NC WARN, much of ConNet’s coalition consists of small, locally-based organizations primarily concerned with natural resources and land conservations. While smaller than the state-wide organizations, they are over forty of ConNet’s 91 members. The following list provides some examples of these conservation organizations.

Examples of ConNet Local Conservation Groups (see Appendix A for a Full List of ConNet’s Membership)

- Albemarle Environmental Association
- Bald Head Island Conservancy
- Carolina Mountain Land Conservancy
- Catawba Riverkeeper Foundation
- Davidson Lands Conservancy
- Eno River Association
- Highlands-Cashiers Land Trust
- Pacolet Area Conservancy
- Roanoke River Partners
- Yadkin Riverkeeper, Inc.

Climate and energy are often not the priorities of these organizations, and instead they view climate and energy policy through a natural resources lens. Most of these organizations are generally supportive of climate change action, and sometimes it can be a priority if there they perceive climate change as an imminent threat to the ecosystem with which they are concerned. A key example of this is coastal organizations, like the North Carolina Coastal Federation, which is increasingly concerned with policy addressing sea level rise. The Coastal Federation’s 2011 State of the Coast Report was entitled The Future of Renewable Energy and explicitly discussed how energy policy interacted with their issue priorities.⁵⁸

However, where climate and energy policy can come in conflict with their conservations goals, these organizations may be in opposition. Conservation groups may be much more apt to oppose biomass policy if it involves disturbing local ecosystems for fuel, as they were generally in strong opposition to the use of whole trees at the as a renewable fuel under REPS.⁵⁹ They may also oppose renewable energy installations if there is what they perceive as a significant impact on ecosystems.⁶⁰ As is reflected in the Coastal Federation 2011 report, some climate policy may entail some very difficult choices on the part of conservation organizations, balancing local ecosystem impacts of policies and projects with the ecosystem impacts of climate change.

Other Interest Groups in the General Assembly

Utilities

North Carolina’s environmental laggard characteristics may be a challenge for passage of substantial climate policy. North Carolina is known for its inexpensive and plentiful electricity supply, primarily fueled by coal and nuclear power. North Carolina ranks 26th in energy

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⁶⁰ Julie Cart, Environmentalists feeling burned by rush to build solar projects, Los Angeles Times, April 6, 2012.
efficiency, and its electricity consumption is among the highest in the nation. Electricity prices are below the U.S. average for all rate classes. This power supply fueled the state’s manufacturing sector, which has undergone several years of economic hardship and challenges from national and global competitors. The electrical utilities have also been a powerful lobby in the state opposing regulation of greenhouse gases or significant changes to energy policy.

There are currently two utilities in North Carolina, Duke Energy and Progress Energy. However, this will soon be changing. Duke and Progress have merged to create one utility that will have service territories in North Carolina, South Carolina, Ohio, Indiana, Kentucky and Florida. This will have a significant effect on policymaking, but particularly in recent sessions their policy advocacy has been affected, as the merger progresses. The specific effects, however, are uncertain. Many speculate that a reason for the merger was to give the utilities a larger unified capital base to put towards construction of nuclear plants. In fact, since the merger, the new Duke Energy has found a financial partner for the planned Lee Nuclear Power Plant in South Carolina.

Environmental policy experts outside of North Carolina will be familiar with Duke Energy’s name as an advocate for climate action at the federal level, both independently and as a member of the corporate alliance, the U.S. Climate Action Partnership (U.S. CAP). However, the policy actions of its regulated utility subsidiary in North Carolina generally has positions comparable to other investor owned utilities. The corporation overall, particularly its unregulated merchant power provider arm, sees strategic gains through renewable and nuclear energy production in climate regulation. The regulated utility sees benefit in regulatory flexibility, stability and maximizing return.

As a regulated utility, Duke Energy maximizes its profit through policy action within each state in which it operates. Progress Energy has worked this way as well. It only makes as much profit as the Utilities Commission allows it to. Therefore, dominating their legislative agenda is seeking maximum regulated return on its capital investments and operating costs. Thus the fact that the North Carolina renewable energy rule passed after a negotiated deal included enhanced cost recovery rates for the utilities for other capital investment makes a lot of sense. In exchange for benefits in the area of their primary objective, utilities were willing to support renewable energy requirements. Utility participation in significant policy debate decreased as the merger continues.

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63 U.S. EIA, ibid.
64 Author Interview with Dan Conrad, ConNet Legislative Counsel, August 8, 2010.
66 A complete list of U.S. CAP members can be found at http://www.us-cap.org/.
68 Ibid.
approached. For example, attendance of utility representatives at meetings of the North Carolina Energy Policy Council decreased.\(^{69}\)

Bill Becker, executive director of the National Association of Clean Air Agencies, remarked that, “The utility industry in the Southeast is still very strong,” he said. "Many, if not all, are opposed to state or regional actions and either prefer voluntary approaches or modest federal approaches."\(^{70}\)

There are two key points of opportunity in the agenda of utilities. In the past, Duke and Progress have been open to environmental policies if they are able to barter the program for a benefit for themselves, as was seen in the negotiations over the renewable portfolio standard legislation, detailed above. Also, once policies are in place, utilities have been reluctant to endorse efforts to repeal them, particularly if they have already invested significant planning into compliance with any regulation. Utilities have not endorsed legislation drafted by conservative legislators to repeal the renewable portfolio standard, as their plans for compliance are largely in place.\(^{71}\)

Overall, careful examination of the business model and interests of the utilities will enable a strategy which successfully minimizes their opposition to policies.

Utilities are always the dominant players in energy issues in North Carolina, even more so after the utility merger. It is likely that after the merger they will be the largest political spender in North Carolina.\(^{72}\) Also, the Duke-Progress merger has yet to be officially approved by the Federal Energy Regulatory Commission (FERC) or the North Carolina Utilities Commission.\(^{73}\)

**Conservative Groups**

There are several conservative leaning groups that have been driving forces in both the election of a more conservative legislature and in the legislation that is subsequently being proposed in the General Assembly. Some of these institutions are long-standing in the state, while others are new players on the political scene. The John Locke Foundation is the oldest and widely influential strongly conservative organization in North Carolina, founded in 1990. In the wake of the 2010 election, the Foundation urged legislators to repeal the REPS, create a much higher bar for new environmental regulation (concepts that did surface in regulatory reform legislation), and confirm that the North Carolina government had no authority to regulate greenhouse gases.\(^{74}\)

Art Pope is a long-time conservative activist in North Carolina, but in 2010 he significantly increased his influence in state politics. He succeeded in this by strategically funding many conservative candidates in 2010 state legislative races. He, his family and related groups

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\(^{69}\) Observation by the author at North Carolina Energy Policy Council Meetings, specific records available upon request.


\(^{73}\) *Ibid.*

\(^{74}\) John Locke Foundation, Press Release, Republican-led General Assembly should turn new leaf on environmental policy, February 15, 2011.
spending $2.2 million in twenty-two races, and many times this funding was key to a conservative candidate’s success.\textsuperscript{75} Also having growing influence is the American Legislative Exchange Council, a membership organization of state legislators which has specialized recently in providing model legislation to senators and representatives at the state level. Dan Crawford, of the ConNet affiliate North Carolina League of Conservation Voters, has stated that there is a clear link between much of the anti-regulatory legislation targeted at environmental regulation and ALEC model legislation.\textsuperscript{76}

\textbf{Problem Statement}

\textbf{2010: Expectations for Progress Take a Right Turn}

Prior to the election of 2010, advocates for North Carolina climate action, like ConNet, could have been optimistic that the time will be ripe in the next legislative session for the passage of climate change related law. The CAPAG report process had built momentum toward the Legislative Commission recommendations. The Commission did not recommend binding climate mitigation action, but it did put forward legislative language that encouraged the further study of climate policy, particularly adaptation. Particularly, the requirement for agencies to review their policies for potential climate impacts became law in the previous legislative session.\textsuperscript{77} Additionally, the Gulf Oil Spill raised concerns regarding the vulnerability of North Carolina coasts to contamination, and the legislature passed a bill holding anyone responsible for a spill affecting North Carolina waters and coast strictly liable without a cap on damages.\textsuperscript{78} Many other climate and energy bills were also submitted in the 2010 short session, but were not considered primarily because some much of the legislature’s efforts focused on a strained state budget.\textsuperscript{79,80} In general, the short session is intended to be focused on the budget process, and this was more pronounced in a time of recession and falling state revenue.

Further increasing hopes for the 2011 long session, the Energy Policy Council began meeting in the summer of 2010 to develop recommendations for energy policy in the state. Governor Perdue, by restructuring the Council and indicating her interest in their work, seemed to indicate her willingness to make energy at priority.\textsuperscript{81} The new chair, Tim Toben, was an entrepreneur, green developer, and advocate for environmental causes.\textsuperscript{82} The Commission included stakeholders from utilities, environmental organizations, the business community and social initiatives who had for the most part also participated in the CAPAG and Legislative Commission processes. Building on established relationships, along with the endorsement of the Governor, the interest of current legislative leadership, and a chair advocating for action, seemed

\textsuperscript{75} Jane Mayer, State for Sale, The New Yorker, October 10, 2011.
\textsuperscript{76} Ned Barnett, A primer on ALEC, its influence and its presence in North Carolina, September 28, 2011.
\textsuperscript{77} This was part of the Environment & Natural Resources Omnibus Bill: Session Law 2010: 180, HB 1766.
\textsuperscript{78} SL2010-179, SB836.
\textsuperscript{80} Benjamin Niolet, “Lawmakers race the clock in their final week,” The News & Observer, July 6, 2010.
to bode well for the Council recommending energy policy that would address climate issues. However, the election of 2010 would radically the interest of the General Assembly’s interest in climate policy.

ConNet’s Existing Legislative Strategy

Since environmental policy arrived on the legislative agenda in North Carolina in 1970’s, the Democratic Party has always been in control of the North Carolina Senate and they have also controlled the House for fifteen of the eighteen sessions since environmental legislation was first passed. This informed the legislative strategy of ConNet and the environmental groups in their coalition. They developed strong ties with both Democratic leadership and a small group of strongly environmental Democratic legislators who served as primary co-sponsors and advocates with leadership and other members. They were also active in informal policymaking discussion meetings which proceeded with the consent of the Democratic leadership of the General Assembly. These meetings are often where the structure of environmental legislation took form, which was then introduced into the Legislature. With the transition of leadership and staff, this infrastructure is no longer available to ConNet. ConNet has few ties to the new General Assembly leadership or to Republican representatives at all. While many of their legislative allies are still in the Assembly, they no longer have the leadership positions, committee chairs and clout to move policy forward. This leaves ConNet and its members working primarily outside of the legislative leadership structure.

The 2010 Election

The 2010 election was a watershed event in North Carolina history because of the sweeping victories of Republican candidates to an institution that has been dominated by Democratic leadership for much of the past century. While Republicans did hold the majority in the House from 1994 to 1998, they took power in the Senate for the first time since 1898. Additionally, the new leadership had an explicitly anti-regulatory agenda, with a particular emphasis on environmental regulation. There was also an important cultural change to the body. With the larger turnover of legislators, one third of the seated representatives were not in the legislature when many recent energy and environmental policies were debated, and in general presented as a significant block of legislators with little education on these issues or acquaintance with the organizational contacts involved.

83Grady and Kanipe, “Environmental Politics in the Tarheel State”, p. 244.
84Author interviews, including Dan Conrad (August 3, 2010), Grady McCallie (August 3, 2010) and Rep. Pricey Harrison (D-57th) (9/14/10).
85Ibid.
2011-2012 Biennium of the North Carolina General Assembly: A Significant Change in Atmosphere

2011 ushered a radically different legislature for the long session, including a new legislative leadership of the body as a whole, and of the committees primarily relevant to ConNet’s coalition, including the House Standing Committee on Environment (now chaired by Reps. McElraft, Samuelson, and West) and the Senate Committee on Agriculture, Environment and Natural Resources (now chaired by Sens. East and Rouzer). The new leadership brought essential changes in process. For example, under Democratic leadership a bill might be considered by multiple committees. Under the new leadership, a bill was only assigned to one committee, leaving fewer opportunities for discussion and to bring a bill forward to the legislature.

The New Majority: Anti-Environmental Priorities?

The new Assembly began with a significant anti-regulatory rhetoric and new legislation on hand to implement these views. In fact, state legislatures are increasingly seen as the path for wider legislative and political change. This can be seen in the systematic introduction of specific legislation across several states, and the association of legislative templates with specific interest groups. Currently, this is mainly stemming from conservative advocacy organizations and think tanks.

While there is a strong conservative minority within the state legislature that has an interest in minimizing environmental regulation, the 2011 legislative session gives some indication that this faction may not have high priority among the legislative leadership. Few of the energy related bills introduced during this long session specifically dealt with repealing major legislation or regulation, and those that did were not passed. The only truly troubling legislation was a dilution of the renewable energy standard which allowed energy efficient to account toward renewable goals. The legislation also contained confusing language regarding smart grid as also qualifying for renewable energy credits, though there is no way to quantify it, may also be problematic. 87

The other relevant energy legislation actually adopted were minor non-financial incentives for plug-in electric vehicles and labeling of fuel pumps with ethanol or ethanol blends, legislation that could be classified as positive and relatively benign, respectively, to the ConNet agenda.

The real concerns came not in energy specific legislation, but instead in legislation or regulatory oversight acts that affected wider swaths of environmental laws and rules, or the capacity to adopt or enforce regulation generally. This includes the S781: The Regulatory Reform Act of 2011, passed on a veto override. 88 Also particularly damaging was the budget cuts to environmental and energy programs.

The push for such regulatory review has surged in the new General Assembly, and the Assembly granted greater review authority to bodies within and outside the Assembly. These actions have generally been done in spite of Executive opposition.

A key action of the current Assembly was the passage of Senate Joint Resolution 17. This resolution establishes the Joint Regulatory Reform Committee with the mandate to review and phase out regulation limiting the private sector. The Committee, consisting of nine members from each house, explicitly includes three members of the Senate Agriculture/Environment/Natural Resources Committee and three members of the House Environment Committee. The Committee is asked to provide recommendations to the legislature for regulatory change and allows the recommendations to be submitted any time before adjournment, whereas other legislation is limited from late filing. As this was created by a joint resolution, it can’t be vetoed by the Governor. It is expected that environmental rules will be a priority of the Committee.89

Administrative Law Courts in North Carolina have decided upon cases where regulation required interpretation. Previously, it was the purview of the agency whether they decided to enforce an Administrative Court decision. Those who were not satisfied with the agency decision could then appeal to trial courts. This past legislative session, the General Assembly passed, over a gubernatorial veto, a law which made administrative court findings binding upon agencies.90

The New Issue on the Block: Natural Gas and Fracking

In just the last couple of years, a technological breakthrough in the drilling of natural gas has made vast underground reserves of natural gas feasible and inexpensive to access. This includes a large reserve in central North Carolina. However, the legislature must act to authorize this method of drilling in the state, and it must determine what policy, if any, is needed to minimize its environmental impact. Unexpected, this issue has come to dominate the environmental agenda in the legislature this year, with surprising consequences.

By a quirk of existing law, fracking is currently illegal in North Carolina due to a ban on drilling methods required for the technology.91 The legislature attempted to repeal this law in the 2011 session. The bill was vetoed by Governor Perdue, and narrowly missed an override during an eventful midnight special session of the Assembly.92 Instead, the legislation passed authorizing a study of the issue, and a draft study by DENR found that fracking could be done safely, as long as key protections were in place.93

In the wake of this report, two key Republicans, Reps. Gillespie and Stone from districts which will be significantly affected by fracking, have come forward to lead a delay of authorization of fracking by at least two to three years, endorsing DENR’s strategy of having appropriate regulation in place and conducting further research of the impacts. Significantly, these

89Bill Holman, North Carolina Environmental Politics Seminar, February 8, 2011.
90Bill Holman, North Carolina Environmental Politics Seminar, February 1, 2011.
91 North Carolina Article 27, G.S. 113-378 through 113-423.
Republicans stood side-by-side at a press conference with Rep. Pricey Harrison, one of the strongest environmental advocates in the Assembly.\textsuperscript{94} Even the two strongest supporters of fracking in the legislature, Rep. Hagar and Sen. Rucho, have expressed agreement with a cautious approach. This was a surprise to leading members of ConNet’s environmental coalition, like the Sierra Club, who expected little Republican support for their position.

Coverage of the fracking issue has framed Rep. Mitch Gillespie as a potential ally of environmentalists in the legislature.\textsuperscript{95} On fracking specifically, this may be a useful short-term coalition, but it should be acknowledged that in the long-term, Republicans are in favor of natural gas development once a legislative framework is in place, whereas many members of the ConNet coalition are in opposition to fracking in the long-term, even in the context of a policy framework. It can also be expected that there will be differences over the specific content of fracking related policy once a bill is actually drafted.\textsuperscript{96}

**Limited Federal Action Leaves North Carolina on its Own**

State action will also be affected by the fact that there is no specific finalized regulation of carbon at the federal level and significant uncertainty as to what federal policy will be and how it will affect states. The originally requested analysis of this project in the summer of 2010 was to analyze what North Carolina’s climate policy would be in the context of new federal climate legislation.\textsuperscript{97} This scenario never came to pass.

Even in the wake of the oil spill in the Gulf of Mexico, this Congressional session did not see passage of any significant federal energy reforms. However, state energy policy has been significantly affected by funding provided by the American Recovery and Reinvestment Act (ARRA), as discussed above.

In the absence of Congressional action on climate, the U.S. Environmental Protection Agency (EPA) has begun to regulate under a greenhouse gas Clean Air Act endangerment finding. In the past two years EPA released a mandatory emissions reporting rule and a tailoring rule that outlines how EPA permitting and Prevention of Significant Deterioration (PSD) requirements will apply to greenhouse gas emitters.\textsuperscript{98} EPA has also recently proposed an emission standard for new power plants that will likely require any new coal fired power plants to use carbon capture and storage.\textsuperscript{99} No standards for existing sources have yet been proposed. On August 12, 2010, EPA also issued a proposed rule requiring states to review their SIPs for applicability to


\textsuperscript{97} Dan Conrad, North Carolina Conservation Network Internship Project Proposal 4: Federal Climate Policy and State Implications, Spring 2010. Author can furnish upon request.


greenhouse gas permitting and to revise the SIP as needed by January 2, 2011. Those states unable to meet that deadline will be subject to a federal implementation plan (FIP) for PSD permitting.

North Carolina state regulators will need to review their permitting rules, and changes to regulation and administration could be required. They will also need to implement the new source performance standards if they are finalized. Meanwhile, there are federal legislative proposals to delay implementation of EPA GHG regulation and litigation has already been filed against the initial regulations. The federal policy environment and EPA regulations must be accounted for in state legislative strategy, but federal policy is likely to be a shifting landscape.

This leaves the problem: How can ConNet move its legislative agenda on climate change forward in a legislature that is frequently hostile to its goals? What should its policy and political priorities be to maximize success?

**Alternatives**

The policy alternatives analyzed are as follows:

- **Greenhouse Gas Mitigation Policy:** For the purposes of this study, we shall use the example of a cap-and-trade program for greenhouse gases.

- **Energy Generation and Efficiency Policy:** For the purposes of this analysis, we will examine two potential policies: 1) revisions to the REPS to adjust the minimum percentage requirements and standards for renewable fuels and energy efficiency 2) A tax rebate for renewable energy 3) technical changes to utility rules to smooth interconnection of rooftop renewables to the grid. These ideas are all drawn from recommendations of the committees of the Energy Policy Council, though none were specifically recommended from the Council to the legislature. Bills introducing similar ideas were introduced in the previous legislative session.

- **Climate Adaptation Policy**

- **Fuels Policy, particularly natural gas fracking legislation**

These policies are detailed above.

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Analysis

Methods and Resources Used

This analysis is informed by the following resources.

**Interviews:** I conducted interviews with stakeholders in the North Carolina policy process, including legislative and administrative board members and staff, various stakeholders with a significant interest in climate policy, and researchers who have examined North Carolina climate policy. These interviews were semi-structured. I followed an interview guide and standard set of questions, but was free to improvise questions within the interview. I used the snowball technique for sampling. My initial interviews were gleaned from document research and client recommendations, and I asked each interviewee for further contacts. I requested recommendations from both within and outside each interviewee’s stakeholder group, include those with differing viewpoints.

**Written Resources:** I conducted a review of select policy literature for articles on state climate policy and politics, applying to all states and North Carolina specifically. I also reviewed select literature in the area of federal policy, specifically focusing the interactions between the state and the federal government in the areas of climate and energy. However, due to the lack of federal action, this did not significantly influence the content of this report.

**Existing State Laws and Regulations:** There is significant existing North Carolina policy relevant to climate, whether or not it is defined as climate policy. For example, climate emissions are affected by state utility policy and transportation policy. Some examples of relevant policy include Senate Bill 3: “Promote Renewable Energy/Baseload Generation” which created the REPS, the Clean Smokestacks Act, North Carolina Utility Commission rulings, and the North Carolina State Energy Plan.

**Policy Reports and Legislative Recommendations from North Carolina Governmental Bodies:** This includes reports from various legislative and executive agencies and advisory groups. Three significant sources, for example, were the recommendations of the CAPAG Process, the Legislative Commission on Global Climate Change and the North Carolina Energy Policy Council. All were designated to provide climate and energy policy recommendations to the General Assembly and state agencies.

**Legislative Recommendations from Non-Governmental Bodies:** There are several significant interest group networks around climate and energy issues in North Carolina. This includes utilities, energy generators, environmental interest groups, and energy interest groups. Their published materials complement interviews with key members of these groups.

**Information on North Carolina Conservation Network and its Coalition:** I researched written documents from these organizations describing their policy position, interviewed key staff and stakeholders, and reviewed news coverage and academic literature for information on the past actions of these groups.
Analytical Methods & Criteria:

The following criteria were used to judge potential policy recommendations. These criteria may be refined and subdivided into multiple criteria. Due to the complexity of the policies, the analysis is primarily qualitative.

1. **Policy Effectiveness**: The policy provides maximum approximate net benefits in the following areas:
   a. The policy reduces greenhouse gas emissions in North Carolina or globally.
   b. The policy has minimal negative impacts, taking into account economic, social and environmental impacts.
   c. The policy minimizes North Carolina’s exposure to the risks of climate change.
   d. The policy addresses some other policy goal outside of climate policy. For example, the policy may improve air quality, improve transportation accessibility, or contribute to economic development.

2. **Political Feasibility**: The policy has sufficient support in key constituencies within and outside government to enable enactment. This will be analyzed primarily through interest group support and potential support from General Assembly members and the Governor. Of the three criteria, this is the one that may be considered a threshold criterion, as something which is not politically feasible should not go forward at this time, whereas something with less effectiveness in addressing climate as a policy solution may still be useful in longer term climate policy strategy, and a policy’s alignment with the interests of ConNet should be enough to warrant ConNet investment of resources, but their interests are wide enough to encompass all the alternatives available to a certain extent.

If the threshold criterion is met, this analysis will also suggest political strategy options that can be effective in moving these policy options forward in the short and long term. The strategy options are titled:

- **Reactive Agenda**: In the policy area in question, seek to defend policies that have already been established when they are targeted by others for elimination.
- **Proactive Agenda**: Seek to pass new legislation or improvements on previous legislation in a particular policy area.
- **Fight the Power**: Refrain from attempting to move policy forward with lobbying inside the legislature, and instead use protest campaigns to pressure the legislature through constituents or other interest groups. This could be as part of a reactive agenda in defense of an existing law, or in a push for new policy.
- **New Coalitions**: As a coalition, seek innovative partners to create wider coalitions in support of policy. These coalitions may be with new legislators, particularly Republican legislators, or new special interest groups.
- **Venue Change**: Seek policy venues outside of the legislature to push the issue forward. Possible venues include executive departments, the Utilities Commission, local governments and voluntary measures outside of government. When this strategy is suggested, there will not be extensive detail on the strategy to be used in the new venue, as that is outside the scope of this paper.
• **Divide and Conquer**: Contrary to the phrase’s common usage, this strategy refers to ConNet dividing itself in order to win the day. Rather than trying to force a reluctant consensus on members, the coalition should part ways on approaches to particular issues, but this can be strategic and with the agreement to stay in communication and minimize conflict. Then different ConNet members can use any of a variety of approaches as listed above. This split may be strategically preferable to other options, or it may be necessary if there is deep disagreement within the coalition.

ConNet may already be using many of these strategies to a greater or lesser extent on a variety of issues. These strategies do not include ConNet’s previous main political strategy, working within the legislature with Democratic legislators to move legislation forward. Maintaining these relationships and working with Democratic legislators may still be useful in the short and long term, particularly if the legislature majority changes again, but it should be supplemented with additional strategies to account for the more challenging environment. Whether these strategies are useful for the long versus the short term will also be considered.

3. **Alignment with the interests of ConNet**: The policy is in agreement with the mission, goals, and strategic priorities of ConNet and its collaborators in the short and the long term.

**Potential Concerns & Limitations of the Analysis**

Currently, the policy areas being considered as part of this project are quite large and diverse. A comprehensive analysis of such a wide scope of policies could be beyond the time and resources available for this project. The client has requested this comprehensive scope, so the depth of analysis of each policy area will necessarily be limited. Also, it will only be feasible to analyze select policies from each policy area. For example, a comprehensive analysis of all North Carolina energy policies relevant to climate would not be feasible in the time available.

My selection of targeted policies will be informed by interviews with stakeholders and an analysis of policies that seem to be gaining momentum in ongoing policy discussions, gleaned through interviews and discussions in meetings such as those of the Energy Policy Council. The diversity of stakeholders involved in the process affected the depth and breadth of stakeholder analysis. The project covers key constituencies, is not comprehensive. Interviews and document research of each stakeholder group is limited to a few key contacts and documents. Analysis of the environmental stakeholders was done in cooperation with the client, as they held meetings with their coalition that I was able to attend.

The uncertainty of the federal field of policy provides more concern and complexity for analyzing potential state options. The ongoing EPA regulatory process provides the most

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definitive policy in the current environment, but there is a small risk of preemption by Congressional action, either through a new climate law or legislation delaying EPA rules.

**Analysis Results**

Below is the results of an analysis of the proposed alternatives based on the criteria, and where applicable some proposed political strategies are provided.

**Greenhouse Gas Mitigation Policy**

*Policy Effectiveness*

1.a. Greenhouse mitigation policy would be the most effective at reducing greenhouse gas emissions emanating from North Carolina and impacting the global atmosphere. This is because the policy would directly seek greenhouse gas reductions. Effectiveness may depend on the mechanism, but the most likely would be a cap-and-trade program, which has been found to effectively reduce air pollutant emissions in other programs and venues, such as the EPA’s Acid Rain Trading Program\(^{104}\) and the Regional Greenhouse Gas Initiative, which also raised significant revenue for energy programs in the northeastern states involved.

1.b. It is difficult to quantify the negative impacts of a carbon mitigation policy without a specific program to analyze for costs and benefits. It can be said that cap-and-trade programs, such as the Acid Rain Trading Program, have been implemented at costs greatly below estimates at the time of implementation.\(^{105}\) As previously stated, RGGI has also served to generate revenue. However, there will also be higher costs associated with combustion for fossil fuels that will be passed on to consumers of the end use of that power, such as through electricity rates. This may be harmful to individual consumers as well as commercial and industrial users that have been attracted to North Carolina by inexpensive power prices.

1.c. This policy does not directly address North Carolina’s exposure to climate risks, as the greenhouse gas emissions reductions would be spread globally. If other parties do not also act to reduce climate emissions, North Carolina’s reductions will not have a discernible effect on climate change. This collective action problem is one of the key challenges of state, national and global climate policy.

1.d. This policy does not directly address another climate policy goal. The actions taken by emitters in order to comply with the rule may have indirect impacts such as reductions in local air pollution.

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\(^{104}\) More information on the Acid Rain Trading Program and related sulfur dioxide and nitrogen oxides markets and the related pollution reductions can be found at [http://www.epa.gov/airmarkets/progsregs/arp/](http://www.epa.gov/airmarkets/progsregs/arp/).

**Political Feasibility**

Direct greenhouse mitigation policies do not currently meet the political feasibility criteria. These types of policies were proposed in CAPAG discussions and the Legislative Commission on Climate Change, and never made it to the recommendation phase, in fact these processes never recommended any binding climate policy, and these processes took place before the change in legislative leadership. The odds against mitigation policy are even more significant now, enough that ConNet coalition members were generally in consensus that there was no reason to bring such policy proposals forward at this time.

**Alignment with the interests of ConNet**

The policies themselves would be aligned with the interests of ConNet, but proposing them at this time would not be seen as a politically strategic action. Therefore, while the ConNet coalition can still endorse such policies, these policies are not in the overall interests of ConNet to propose to the legislature at this time.

**Energy Generation and Efficiency Policy: REPS adjustments**

**Policy Effectiveness:**

It is projected that utilities in North Carolina are already set to meet the minimum percentages for renewable energy and energy efficiency in the REPS, including the set-asides for solar energy and animal waste. Part of what makes this possible is that out of state resources can be used to satisfy a certain percentage of the requirements. In fact, it is expected that major solar projects proposed may not go forward, simply because utilities have met their requirements and have no interest in purchasing more renewable energy in the next several years.

1.a. If the general requirements and the set-asides were increased, this would increase the percentage of renewables used in North Carolina, thus decreasing the amount of greenhouse gases emitted.

1.b. The negative impact of this policy would be that electricity might become more expensive if these resources are more costly. It is yet to be seen whether renewables purchases have added noticeably to utility rates.

1.c. As stated above regarding greenhouse mitigation policies, these policies will only have a discernible impact on climate change impacts in North Carolina if other governments globally adopt similar policies.

1.d. In addition to indirect benefits such as local air quality improvements, this policy also could produce an economic development benefit for the renewable energy sector in North Carolina. The policy essentially serves as a subsidy of these technologies, as the utilities are required to purchase a certain amount of them. However, the impact can be affected by the way in which the utilities choose to comply, particularly if they work with third party vendors (as Progress Energy
commonly did) or build renewable projects internally without working with local renewable companies (as Duke Energy did). Also, if the utilities are able to use out-of-state renewables to comply or renewable energy offsets, the economic impact in North Carolina may be further limited.

**Political Feasibility**

This policy is not infeasible in general, and would be considered a **Proactive Agenda**. While it may be more challenging to pass such policy in a Republican legislature, a negotiated deal with the utilities, as was down with the original REPS, could bring utilities to support the measure. A significant concern, however, would be whether opening a debate and reconsideration of the REPS law at this time, under a conservative legislative leadership, might lead to a weakened law instead of a strengthened one. Legislation was actually passed in the previous legislative session that potentially weakened the REPS by allowing for more of the requirement to be met by shifting or reducing demand (including baffling language that smart grid was eligible to meet the requirements for electricity production), and a bill was introduced that would have repealed the law in its entirety (H694/S665). Since the utilities already have extensive plans in place for compliance, they have not supported repeal of the law, but they might be supportive of reductions in future requirements or additional cost recovery allowances for compliance, something which ConNet has opposed in the past. This **Proactive Agenda** may be in danger of getting out of the control of those wanting a stronger law, and become a **Reactive Agenda** fighting against a weakened version of the bill.

**Alignment with the interests of ConNet**

These policies are in alignment with ConNet’s interests as an organization. However, this policy may offer some risks to the ConNet coalition. The members of its coalition came to conflict around the last REPS bill, and the same may come to pass regarding this legislation. This could be helped by a strategic **Divide and Conquer** strategy, so it is acknowledged the organizations will be acting on their own or in sub-coalitions on this issue. In this case, ConNet can serve as the communications liaison between actors so organizations don’t act at cross-purposes, or at least organizations can be better prepared when these situations come up.

**Energy Generation and Efficiency Policy: renewable energy generation tax rebate**

**Policy Effectiveness**

1.a. As stated above, this would increase the percentage of renewables used in North Carolina, thus decreasing the amount of greenhouse gases emitted. 

1.b. A key challenge to the tax rebate proposal right now is that it results in a reduction in revenue to the state budget. Currently, the legislature is very reluctant to pass any new programs at all, but particularly new programs that are not revenue neutral. It is likely that this makes the policy not feasible at this time, something that will be mentioned below under political feasibility.
1.c. As stated above regarding greenhouse mitigation policies, these policies will only have a discernible impact on climate change impacts in North Carolina if other governments globally adopt similar policies.

1.d. As in the item above, indirect benefits include local air quality improvements and economic development benefit for the renewable energy sector in North Carolina. The policy also serves as a subsidy of the renewables industry by reducing their tax burden.

**Political Feasibility**

Loss of state revenue likely makes this policy very difficult to sell in the current budgetary climate. Similar policies were introduced in the 2011 legislative session, including the extension of a manufacturing tax credit (S747), increases to a renewables investment tax credit (S645), and failed to emerge from committee consideration.¹⁰⁶

This is a policy for which ConNet can build support in the long term through working with NCSEA on New Coalitions with renewable energy businesses. As the renewables sector in North Carolina continues to grow, and the state eventually emerges from fiscal austerity, this may be a very successful policy.

**Alignment with the interests of ConNet**

This policy provides some long term benefits for ConNet in building new coalitions, but in the short term is likely not to yield useful results.

**Energy Generation and Efficiency Policy: technical changes to utility rules**

**Policy Effectiveness**

1.a. To the extent that these policies enable the implementation of further renewables, they reduce greenhouse gases to a similar extent to the other renewables policies above.

1.b. There are few negative impacts to this policy to the state overall. There are some concerns expressed by utilities below. The policies are generally revenue neutral for the state, and expand options for electricity users regarding renewables, and provide some economic development to the renewables sector.

1.c. As stated above, these policies will only have a discernible impact on climate change impacts in North Carolina if other governments globally adopt similar policies.

1.d. This policy also potentially has air quality and economic development impacts which are positive.

**Political Feasibility**

This policy has a particular political feasibility concern, in that it is opposed by utilities, specifically the now close to merged Duke Energy utility. They view changes to ease the installation of rooftop renewables as unnecessary and disruptive to their centralized generation model. Therefore, even though there is no significant harm to anyone from the policy and a significant benefit to a small but growing population of renewable power using homeowners, these policies have never been passed.

It is likely that a **Unified Coalition** strategy, perhaps combined with a **Fight the Power** campaign (which is actually not a bad marketing slogan as well), giving the issue higher profile and confronting the utilities could cause them to give in on this relatively low cost issue. However, that may also be more investment of resources than may be merited on this **Proactive Agenda**. Instead, it is likely that some concessions on these issues could be part of a negotiated legislation with utilities on larger issues, so the issue should be kept in mind for that.

One might also be tempted to suggest a **Venue Change** to the Utilities Commission. However, the Utilities Commission has ruled on similar issues before and sided with the utilities. Regarding legislative prospects, a bill to even just study the possibility of third party electricity sales never made it out of committee. Therefore, this is likely not a top issue to prioritize in the short term.

**Alignment with the interests of ConNet**

This type of issue is likely not worth the investment of time needed during this legislative session to achieve serious consideration. This is an issue which NCSEA and similar organizations have been focusing on at a lower level of effort, and likely does not warrant a coalition-wide push.

**Climate Adaptation Policy**

**Policy Effectiveness**

1.a. This policy will not have a significant effect on the level of greenhouse gases emitted, any reductions in emissions are incidental.

1.b. The steps of adaptation policy are forecasting, planning and implementation, and much of what is proposed at this point is in the forecasting and planning stages. Implementation activities can vary from enhancing emergency preparedness to significant changes in land and development policy. It is the potential of these more significant changes that can make interest groups reluctant to even invest in the forecasting and planning stages. A particular issue of controversy is planning for sea level rise along the North Carolina coast. Different scenarios of sea level rise or development limitations can have estimated impacts in the billions of dollars.

1.c. This policy does directly address North Carolina’s exposure to the risks of climate change, and is a major benefit of the policy.
1.d. These policies may also address other planning and development issues and issues such as water quality and emergency preparedness.

**Political Feasibility**

Above is discussed the political concerns regarding the potential economic impacts of some adaptation policies. Also key to whether an adaptation policy is feasible is the extent to which belief in climate change is tied into discussion of the issue. Currently NC-20, a regional economic development organization for the counties along the coast, is responding to state level reports and scientific panels on sea level rise and necessary planning with arguments that climate change and sea level rise are not actually happening.\(^{107}\)

There may also be value to Changing Venues. Working with local communities and counties that are more open to adaptation planning can build both an information base and constituency for addressing issues such as sea level rise in the long term.

**Alignment with the interests of ConNet**

ConNet and associated organizations are likely to continue to participate in low level adaptation planning activities, legislation encouraging such activities, and lobbying for funding for such planning in the budget. This is particularly true for coastal organizations who are coalition members. The question is whether campaigning for such activities becomes a higher short-term priority because it addresses additional ConNet priorities. Adaptation planning does raise the profile of climate related issues and its impact, but it can also be a highly controversial issue itself. Also, adaptation policy is more likely to go forward if the issue of man-made contributions to climate change is not part of the debate.

**Fuels Policy**

**Policy Effectiveness**

1.a. Fracking policy may have effects on the supply of natural gas, which may replace coal and oil as a fuel or feedstock in various applications, which may decrease greenhouse gases emitted. However, inexpensive natural gas may displace more expensive renewables and discourage efficiency efforts to save on fuel costs. It is likely that the use of natural gas may have a positive impact on reducing greenhouse gas emission, but the extent of this merits further study. The impacts on climate may be limited.

1.b. The negative impacts of fracking are currently being investigated. The potential negative impacts of fracking may include contamination of water supplies and water bodies with drilling chemicals and natural gas. There may also be a risk of increased seismic activity. Some local air quality problems may also be of concern. Economic impacts are generally thought to be positive.

\(^{107}\) See NC-20’s web page on the issue, which can be viewed at [http://www.nc-20.com/sealevelrise.htm](http://www.nc-20.com/sealevelrise.htm), last accessed on April 12, 2012.
1.c. This policy does not reduce North Carolina’s exposure to climate change risks. The only risk it may affect is fuel security, which is not a high climate risk in North Carolina.

1.d. This policy, over and above climate change, is primarily concerned with energy development which provides economic benefits.

**Political Feasibility**

Natural gas fracking is currently a high priority issue on the environmental front that ConNet should have a position on, and provides the greatest potential for **New Coalition** building with the new Republican leadership in the legislature. There is a high likelihood that a fracking policy will go forward in the short term, even if it is a delay of policymaking until further research is completed, and ConNet can be prepared to take a role in this policy discussion.

**Alignment with the interests of ConNet**

This is actually an issue with a limited relationship to climate, but it is a key energy issue that will help to shape discussions of other energy and climate related issues in the short and long term. In the short term, it seems that ConNet may actually be in agreement with Republican leadership, which can be a useful issue to begin to approach a working relationship with the leadership. In the long term, it is likely that ConNet and the Republican leadership will part ways on this issue. But currently there is a Republican consensus that a 2-3 year delay on fracking is advisable, so this issue can serve as an initial bridging issue, even into the next legislative term.

However, there is also likely to be a mix of views amongst the ConNet coalition. It is likely that in the short term all organizations will be against immediate authorization of fracking and will want to assure significant regulations are implemented to protect environmental quality. In the long term this strong coalition could fracture, with some organizations willing to allow fracking with environmental protections, while others will still want permanent bans on natural gas exploration. Additionally, a portion of the coalition may even have concerns about creating coalitions across the partisan divide. Over the long term, there may be a time when the strategy of** Divide and Conquer **will be most appropriate, knowing that some organizations may wish to part ways on fracking policy.

**Recommendations and Conclusions**

My recommendations are to North Carolina Conservation Network are the following regarding their legislative strategy in the North Carolina General Assembly:

- Move forward with the short-term priority of a bipartisan strategy on a delay on natural gas drilling through fracking.
- Move forward on a low profile with legislation on further study of renewables tax rebates, technical changes to utility rules for renewables and adaptation policy. A higher profile may be warranted in the long term.
- Do not act on greenhouse gas mitigation or revisions to the REPS policy until a more favorable political and policy climate develops.
Regarding political strategy, ConNet should be prepared to have various strategic positions based on the issues. It should also prepare its coalition members to act as a unified coalition on some issues, and go their own way on others, while still maintaining amicable communications with ConNet as a liaison.

My hypothesis in beginning this project was that political feasibility and secondary impacts would be dominant criteria over maximizing greenhouse gas reductions. This did turn out to be correct, and this is even more relevant under the new legislative leadership. Related issues may be acted on in the short term to build relationships, which may then serve to move climate mitigation policy later. It is also a current fact of life that legislation strengthening energy policies and adaptation planning will be more politically achievable than direct regulation of carbon, due to lack of political support.

There is a question as to whether the environmental community will be able to move forward with a new agenda, or if rather they will be spending all resources defending against attempts to weaken environmental laws and programs by the new Republican majority in the General Assembly. If specific issues can be proactively promoted with a strong coalition, without putting existing policy at risk, then moving policy forward, even in this adverse environment, may be possible.
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Appendix A: North Carolina Conservation Network Affiliates

Albemarle Environmental Association
American Rivers
Appalachian Voices
Audubon North Carolina
Bald Head Island Conservancy
Black Family Land Trust
Blue Ridge Conservancy
Cape Fear Citizens for a Safe Environment
Cape Fear River Watch
Carolina Farm Stewardship Association
Carolina Mountain Land Conservancy
Carteret County Crossroads
Catawba Center for the Environment
Catawba Lands Conservancy
Catawba Riverkeeper Foundation
Chatham Citizens for Effective Communities
Citizen Action for Responsible Roads
Citizens for a Safe Environment
Clean Air Carolina
Clean Water for North Carolina
Community United Church of Christ
Conservation Trust for NC
Dan River Basin Association
Davidson Lands Conservancy
Democracy North Carolina
Dogwood Alliance
Eno River Association
Environment North Carolina
Environmental and Conservation Organization
Environmental Defense Fund, NC Office
Environmental Educators of NC
Environmental Resource Program at UNC-CH
Farmer Foodshare
Foothills Conservancy of North Carolina
Friends of Forsyth
Friends of State Parks
Friends of the Deep River
Haw River Assembly
Highlands-Cashiers Land Trust
Land Trust for the Little Tennessee
Landtrust for Central North Carolina
League of Women Voters of North Carolina
Lumber River Conservancy
Moravian Task Force on Environmental Stewardship
MountainKeepers
National Committee for the New River
NC Alliance for Transportation Reform
NC Coastal Federation
NC Coastal Land Trust
NC Council of Trout Unlimited
NC Herpetological Society
NC Interfaith Power & Light, a program of the NC Council of Churches
NC League of Conservation Voters
NC Native Plant Society
NC PIRG
NC Rail-Trails
NC Sierra Club
NC Waste Awareness Reduction Network
Neuse Riverkeeper Foundation
New River Foundation
Northeast New Hanover Conservancy
Pacolet Area Conservancy
Pamlico-Tar River Foundation
PenderWatch & Conservancy
Pew Charitable Trusts
Physicians for Social Responsibility, Western NC Chapter
Piedmont Environmental Alliance
Piedmont Land Conservancy
Roanoke River Partners
Rocky River Heritage Foundation
Sandhills Area Land Trust
Scotland County of Tomorrow
Southern Alliance for Clean Energy
Southern Appalachian Highlands Conservancy
Southern Environmental Law Center
SouthWings
Sustainable Sandhills
Tar River Land Conservancy
The Conservation Fund's Resourceful Communities Program
The Nature Conservancy
Toxic Free NC
Triangle Greenways Council
Triangle Land Conservancy
Umstead Coalition
Union of Concerned Scientists
WakeUP Wake County
Waterkeeper Alliance
Western NC Alliance
White Oak-New Riverkeeper Alliance
Winyah Rivers Foundation
Yadkin Riverkeeper, Inc.