

# State-level incentives for promoting private land conservation in North Carolina

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## Abstract

Private land conservation confers a number of public benefits, including ecosystem services, access to recreation, and protection of natural and cultural heritage elements. North Carolina's population is expected to grow by more than 30% by 2030, creating new urgency for conservation priorities such as watershed and open space protection around the state's growing population centers.

State budget cuts resulted in historically low levels of public grant funding for nonprofit land conservation in FY 2011-2012. However, depressed land markets represent a significant window of opportunity for land trusts to acquire and protect ecologically significant properties from development. Federal, state, and local governments employ a variety of incentive programs to encourage private citizens to donate real property to nonprofit land trusts.

Following Eugene Bardach's method for qualitative policy analysis, I use four criteria – (1) strengthening partnerships between DENR and nonprofit conservation organizations, (2) minimizing costs to state agencies, (3) supporting the state's long-term economic development goals, and (4) protecting DENR's authority to oversee future conservation initiatives - to evaluate seven options for increasing private conservation in FY 2012-2103 in North Carolina: (a) property tax rebates, (b) reducing present use valuation tax penalties, (c) transferable state income tax credits, (d) increasing the corporate income tax deduction, (e) increased appropriations for state trust funds, (f) municipal revenue streams for conservation projects, and (g) a voluntary conservation offset program for housing developers.

In order to promote private land conservation in FY 2012-2013, I recommend that the North Carolina General Assembly remove the tax penalty for lands switched from present use valuation categories to dedicated conservation programs, encourage municipalities to develop alternative revenue schemes for funding conservation, and create a statewide voluntary conservation offset program for developers.

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## Executive Summary

### Policy Question

What policies should the North Carolina General Assembly adopt in order to promote private land conservation in FY 2012-2013?

### Problem Statement

North Carolina's population is expected to grow by more than 30% by 2030. Development resulting from this growth will jeopardize the state's natural resources, placing a new sense of urgency on conservation priorities such as watershed and open space protection around the state's growing population centers. Private land conservation confers a number of public benefits, including ecosystem services, access to recreation, and protection of natural and cultural heritage elements.

Federal, state, and local governments employ a variety of incentive programs to encourage private citizens to donate real property to nonprofit land trusts. North Carolina's tax revenue has decreased in the current economic downturn and state legislators are reluctant to fund environmental programs at the state level. State budget cuts resulted in historically low levels of public grant funding for nonprofit land conservation in FY 2011-2012. However, depressed land markets represent a significant window of opportunity for land trusts to acquire and protect ecologically significant properties from development. In order to promote private land conservation in FY 2012-2013, conservation advocates must encourage the General Assembly to adopt strategic low-cost incentives to encourage individual landowners to donate conservation properties.

### Criteria

- **Minimize costs** to state agencies.
- **Strengthen partnerships** between nonprofit conservation organizations and state agencies.
- Contribute to the state's long-term **economic development** goals.
- **Protect DENR oversight** for state conservation initiatives.

## **Policy Options**

### ***Local Funding***

1. Broaden the definition of “conservation purposes” qualifying lands for property tax exemptions.
2. Eliminate the tax penalty for properties removed from present use valuation programs for agriculture or forestry and into conservation/regrowth purposes.
3. Encourage municipalities to develop dedicated revenue schemes to pay for conservation.

### ***State Funding***

4. Make state income tax credits transferable.
5. Increase the maximum income tax credit cap for corporate landowners.
6. Increase appropriations for the state’s 4 conservation trust funds.

### ***Private Funding***

7. Establish a voluntary conservation offset program for real-estate developers.

## **Recommendation**

I recommend that the North Carolina General Assembly promote increased conservation donations in FY 2012-2013 by removing the tax penalty for lands switched from present use valuation categories to dedicated conservation programs, encouraging municipalities to develop alternative revenue schemes for funding conservation, and creating a statewide voluntary conservation offset program for developers.

## **Policy Question**

What policies should the North Carolina General Assembly adopt in order to promote private land conservation in FY 2012-2013?

## **Problem Statement**

### ***Private land conservation confers a wide variety of public benefits***

From ecosystem services such as nutrient and sediment filtration to support improved water quality and providing carbon sinks, to providing open space for recreation, to preserving scenic viewsheds, private land conservation confers a host of widely recognized public benefits. Protecting ecologically sensitive lands from development is an important strategy for preserving historical and cultural heritage, protecting watersheds and wildlife habitats, and promoting landscape-level ecosystem management. Governments that want to encourage individual landowners to make qualified conservation donations use a set of federal, state, and local incentives to tip the balance in favor of conservation for landowners who may be considering other land uses, such as selling their property to developers.

### ***Decreased public funds available for conservation in FY 2012-2013***

Key public funding sources in North Carolina to pay for conservation land acquisitions have decreased substantially over the past few years. For example, one of North Carolina's largest line-item appropriations for land acquisitions designed to protect critical water supplies, the Clean Water Management Trust Fund, had its funding levels reduced by nearly 90 percent from historical levels in FY 2011-2012 (Edney 2012). Increasingly, government agencies must look to tax incentive programs rather than direct grant funding in order to encourage conservation donations. Examples of existing programs include state and federal income tax credits, in addition to local or county property tax rebates for landowners who donate properties in fee simple to land trusts or nonprofit conservation organizations.

Lower levels of direct public grant funding available also affect private and nonprofit land organizations' abilities to leverage other funds to implement conservation projects. Many of the latest innovations in conservation financing mechanisms, such as conservation easements and public-private partnerships, require matching funds from government agencies to secure project implementation. When combined with decreased grant levels from foundations and philanthropic organizations in the current economic downturn, land trusts must look for other opportunities to generate revenue and continue pursuing land acquisitions.

### NC General Assembly unlikely to support new environmental programs

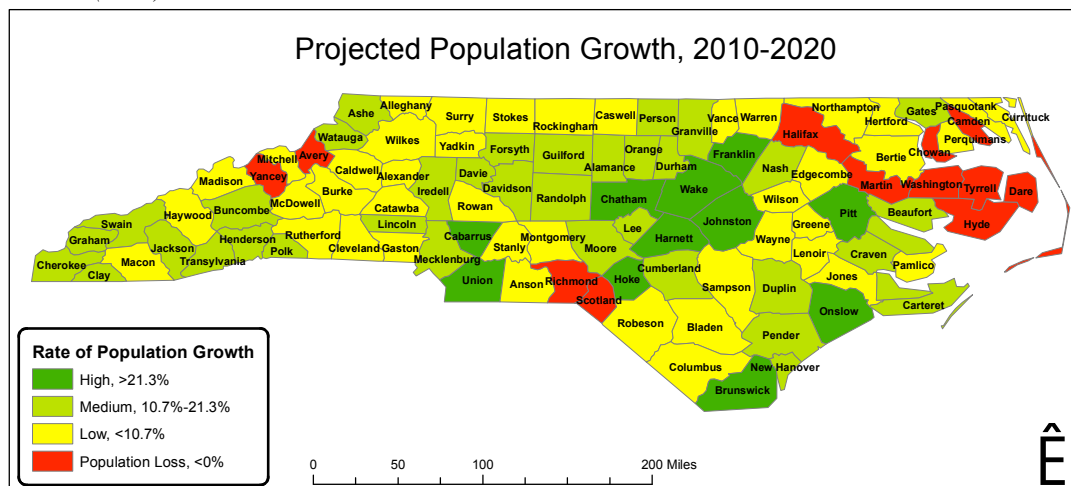
The political climate at the General Assembly is sympathetic neither to environmental legislation nor to increasing funding for conservation programs. With the passage of SL 2011-398 (Senate Bill 781), also known as the “Regulatory Reform Act of 2011,” the General Assembly consolidated decision-making authority at the state’s Department of Environment and Natural Resources (DENR). This statute effectively stipulates that DENR cannot pass environmental regulations stricter than the federal standard, meaning that the General Assembly itself must pass such regulations. The Environmental Management Commission (EMC), the oversight commission for DENR composed of technical, scientific, and policy advisors, also lost important provisions of their authority to approve agency rulemakings as a result of this bill.

### Statewide growth will jeopardize key natural resources

According to the NC Office of State Budget and Management, North Carolina’s population is projected to increase nearly a third by 2030, from 9.5 million residents to 12.5 million residents (NC State Office of Budget and Management 2010). While several counties, particularly “Inner Banks” coastal communities, will lose population over the next decade, many other areas in the state, including the Triangle Region, are projected to face more than 20% population growth in the next decade (see Figure 1). These levels of growth almost certainly foretell increased development pressures, particularly in the state’s population centers.

From a conservation advocate’s perspective, high growth projections matter because increased development leads to increased rates of natural resource extraction and environmental degradation. A large body of literature links population growth and increased urbanization with deforestation and increases in impervious surface coverage, leading to higher nutrient runoff and overall degradation of area water quality (Tufford, Samarghitan et al. 2003; Wang, Da et al. 2008).

Figure 1: North Carolina Office of State Budget and Management County-Level Projections for Growth in the Next Decade (2010)



### ***Current land markets present low-cost opportunities for conservation***

Local-level conservation organizations recognize that the most important time for land conservation is precisely during an economic downturn, when the threat of future development is high but current land market prices are depressed. Bottom market land prices represent an opportunity for land trusts to move quickly and capitalize on opportunities for protecting crucial lands through land conservation before market pressures make development the only viable land use choice. The most important time for land trusts to work with conservation-minded landowners is before real estate markets recover and development pressures cause irreversible changes to the landscape.

Conservation-based, scientific management of natural resources also supports important economic growth in the state. For example, the state-run Clean Water Management Trust Fund estimates that water quality protection plays an important role in supporting the state's \$74.3 billion agricultural industry, \$16.5 billion tourism industry, \$1 billion fisheries economy, and \$6.5 billion timber and forest products industry. In this regard, finding cost-effective ways to promote conservation is directly in line with the state's economic development goals. However, given the budget situation facing legislators for the upcoming adjustment in June 2012, the state does not have any additional money leftover to seed new conservation programs. To encourage the General Assembly to incentivize private conservation in FY 2012-2013, conservation advocates must situate the issue of funding land acquisition in the midst of other pressing concerns and competing budgetary priorities.

### **A History of US Conservation**

Nonprofit land trusts and conservation organizations grew substantially in the post-World War II period in America. After large governmental land acquisitions in the early part of the 20<sup>th</sup> century to establish the national park system and national forests, Congress moved to restrict the federal government's ability to purchase lands for park access. The number of land trusts working in America rose dramatically beginning in the 1980s (Brewer 2003). Increasingly, nonprofit land trusts play an important role in facilitating land acquisitions for government agencies. These "pass through" land donations are frequently used by The Nature Conservancy (TNC), which is the largest land-owning conservation trust operating in North Carolina. Because land trusts are often involved in initial land acquisition of properties ultimately destined for public ownership and management, federal and state agencies that maintain public lands have a direct interest in increasing incentives for individual donations (both land and other real property) to these organizations.

In fact, local land trusts often include "pass-through" holdings to government explicitly in their mission statements, including more than 150 local land trusts across the country that have



participated in transferring property title over to government entities. (Brewer 2003). One of the nation's oldest land trusts, the Save-the-Redwoods League in Northern California, was established for the direct purpose of buying land threatened by highway development so that it could be set aside for establishment of Redwoods National Park (Brewer 2003). In general, land trusts that expect to transfer land over to government agencies place minimal encumbrances on the property, including conservation easements or other restrictive covenants, so that public agencies will ultimately retain freedom to manage lands as they see fit.

In the early 1990s, land trusts' use of pass-through donations garnered a fair amount of negative media attention when TNC appeared to be amending conservation easements for the purpose of selling lands donated for conservation directly to developers. Some criticism emerged over the idea that land trusts were involved at all in owning lands or exchanging properties for the purpose of raising program funds. As a result, TNC altered its policy, generating new specifications for explicitly marking lands that had been purchased as trade lands to fund other conservation programs (McLaughlin 2006). The Land Trust Alliance now counsels land trusts to work with donors to specifically label trade lands as such, so that they cannot later be accused of impropriety. In addition, as of April 2012, 158 land trusts across the country have participated in a multi-year intensive auditing process conducted by the Land Trust Accreditation Commission, an independent third-party verification organization developed to certify bona fide conservation organizations in response to growing criticisms of the land trust industry.

### ***Growth of the land conservancy movement***

The Trustees of Public Reservations, the first land trust in America, was created in Massachusetts in 1891. Three characteristics of this organization resembled modern nonprofit land trusts: the organization's charter specifically referenced the goal of acquiring and managing natural heritage sites, these lands were tax exempt, and members vowed to keep lands protected for public purposes, including access by the public (Brewer 2003).

Over the course of the next hundred years, advocacy organizations and land trusts were established throughout the United States as the federal role in acquiring land for national forests was diminished. Since 1891, Congress authorized the president to set aside federal land "in reserve" for continued federal ownership with the Creative Act amendment to the General Land Law Revision Act (Newfont 2012). In the early 1900s, President Teddy Roosevelt embarked on an ambitious plan to acquire new public lands. He tripled the size of the national forest lands to almost 180 million acres and worked to create new national parks and wildlife refuges.

He also used his role as president to establish new funded positions for a professional cadre of forest service rangers. Meanwhile, he prosecuted timber and mining companies for illegal timbering and drilling without proper permits on public lands. In response to a famous Congressional declaration that presidents could no longer add lands to the national forests,

Roosevelt asked for guidance from the first Chief of the US Forest Service, Gifford Pinchot, to issue executive orders to add 16 million acres of forestland in a “midnight reserves” acquisition before Congress formally stripped the President’s authority to designate new national forest lands (Egan 2009). In the 30 years between 1910 and 1940, however, the federal government added 18 new parks to the National Park system. (Brewer 2003).

Following World War II, development into American suburbs accelerated, and national land trusts attempted to expand operations to counteract suburban growth and sprawl. In 1946, TNC was incorporated as the first land trust with a national reach. (Brewer 2003). By 1980, TNC as an organization had shifted priorities to preserving large landscapes (today known as high-priority eco-regions). This left a void for new local organizations to fight for smaller plots of land. Farmland preservation also grew as an important form of land conservation advocacy in the postwar period.

Farmland conservation differs from other land conservation goals in that it has an explicit mission to protect “not just land but a way of life” (Brewer 2003). The activity of farming is as essential to the farmland conservation advocate as the agricultural landscape that is preserved by those who make their livelihood on the land. Purchase of Development Rights agreements (PDRs) have been a relatively common method of farmland conservation easements, through which farm landowners benefit by gaining lowered property tax reassessments. However, some farmers are hesitant to sell development rights, because they are worried that eventual sprawl means the loss of their farmland anyhow. If their property is unavailable for development because the rights have already been sold, this land becomes a vacant lot. This fear underscores the need for more flexible encumbrances on these properties, or alternative routes for farmers with conservation goals to pursue land donations.

Farmland conservation also played an important role in the larger conservation movement because it helped state legislators understand the role of transferable income tax deductions in land conservation. Farmers and ranchers are a typical example of “land rich, income poor” tenants who do not stand to benefit monetarily from large income tax deductions if substantial portions of their wealth are represented in land values rather than earned income (Brewer 2003). Such landowners were at the forefront of pressing for tax incentive programs that would adequately compensate them for the cash value of donated easements and properties.

### ***North Carolina’s land conservation history***

In the late 1890s, Pinchot visited the Vanderbilt estate (now known as the “Biltmore”) outside Asheville, beginning a storied history of conservation partnerships in Western North Carolina. He urged George Vanderbilt to put “scientific forestry” principles into practice in the 125,000 acres Vanderbilt had purchased for a vacation retreat. Some of this land would later become the Biltmore and Pisgah forests (Newfont 2012). The North Carolina Press Association first

petitioned Congress to create a national park in Western North Carolina in 1894, but it was not until the federal Weeks Act of 1911 that the Forest Service was able to acquire lands for a federal forest in Western Carolina (Newfont 2012).

Only 6.9% of North Carolina's 31 million acres are owned by state or federal agencies (Natural Resources Council of Maine 1995). This suggests the largest gains to be made in conserving land will require working with private stakeholders. Across the state, properties with significant conservation value differ widely. Mountain lands suitable for conservation in the western part of the state have very different conservation values (supporting ecosystems in the Black and Appalachian mountains, some of the oldest mountain ranges in the world), than conservation organizations working to protect coastal ecosystems or even the forests in the Piedmont region of the state.

90% of the forested land in North Carolina is privately held (North Carolina Forestry Association 2009). Moreover, even when federal and state agencies want to acquire privately held land, they must often work in tandem with nonprofit organizations because federal regulations often stipulate that land cannot be purchased above the federal appraiser's stated value for the land, regardless of land market conditions. In order to protect land from being sold to developers, state agencies frequently work with nonprofits to secure bridge funding to cover the gap between appraised land valuations and actual market price.

## Key Stakeholders

Local, regional, and national land trusts with a presence in North Carolina (including TNC), as the recipients of private conservation donations, have a stake in influencing policy proposals that would increase the rate of private donations.

Individual landowners looking to donate land have an interest in maximizing tax deductions and other incentives as a result of land donations. In particular, owners facing potential tax penalties if their land is removed from certain types of property tax valuation exemption programs based on the land's current use designation have a specific interest in figuring out how to minimize adverse financial impacts as a result of donating their land. In addition to individual landowners, corporate landholders with tax-foreclosed properties that may be suitable for conservation management (such as banks), may have an interest in tax breaks for conservation donations, particularly if the land in question does not have significant development value in the current real estate market.

Timber management companies and real estate investment trusts hold large tracts of forested land across the state. These companies have a stake in understanding changing land markets. A large enough swing in the demand for undeveloped land could have wide-reaching partial

equilibrium effects in land markets, changing the business economics of timber harvests and other types of agricultural production. For example, Weyerhaeuser is the single largest private landowner in North Carolina, with timber stands on roughly 600,000 acres across the state (Lilly).

Environmental advocacy organizations are interested in incentives to increase private land conservation, insofar as general land conservation fits into their advocacy agenda. But given the current political climate for environmental initiatives at the General Assembly, nonprofit actors outside of dedicated land trusts likely do not have significant lobbying time or resources to devote to increasing funds for land conservation.

State legislators at the General Assembly have a stake in designing good public policy to promote pro-social behavior that creates public benefits at the least cost to government. Environmentally-friendly members will have a special interest in conservation legislation, however other members such as moderate Republicans may fear the voter backlash from pro-conservation voting behavior in a heavily contested 2012 election cycle.

Many government agencies are interested in legislation that would affect conservation behavior from individuals. In North Carolina, DENR is interested in conservation programs that would uphold the agency's mission, particularly in light of Senate Bill 781's targeting of environmental rulemaking and the General Assembly's unprecedented steps to strip the agency's regulatory powers and further curtail programming through budgetary cuts. Many municipal governments that use cost-based accounting to look at methods of providing natural resource inputs to various economies are concerned with economic valuations of ecosystem services provided by ecologically well-functioning watershed networks. The US Forest Service (US Department of Agriculture) and National Park Service (US Department of Interior), as federal agencies that typically work with state and local land trusts for bridge funding on conservation purchases, also have an interest in increasing private donations to land trusts, even if programs do not specifically address in-kind property donations to the federal lands agencies.

Finally, the county tax assessors in North Carolina, including the NC Association of County Commissioners, are interested in state programs that affect local governments' authority to raise revenue through property taxation. The General Assembly recently clashed with administrative law judges when it tried to revoke local governments' ability to raise tax revenue through annexing outlying properties, and has proposed eliminating local authority to regulate fracking should the legislature approve shale gas extraction in the state. Lastly, the NC Department of Revenue has an interest in overseeing any changes to the state income tax program as a result of new conservation exemptions.

## Literature Review

In the early 1970s, the Government Accountability Office (GAO) produced one of the earliest comprehensive reviews of the impacts of state-level land use policy on development patterns (Bosselman and Callies 1971). Following this paper, a substantial body of literature emerged that aimed to better understand the connection between government regulations and incentives in determining different types of land use patterns. In particular, several economists have been interested in demonstrating that increased compulsory program participation (typically through tax levies) often discourages charitable contributions from individuals (Adler 2007).

In the land conservation arena, two recent papers try to identify the co-effects of government grant programs on private land donations (Heutel 2009; Liu and Lynch 2009). Both found that increased government grants for conservation have the effect of inducing additional conservation donations from individuals. In other words, instead of government programs “crowding out” private contributions, these researchers found that the programs actually “crowded in” contributions, ultimately resulting in higher rates of land conservation in participating counties.

First, individuals’ demand for land conservation is at least moderately elastic in response to price changes. Second, individuals do not view government spending on conservation programs and individual charitable contributions for conservation purposes as one-to-one substitutes.

Four recent papers evaluating the causal impacts of conservation easement programs on property tax reappraisals offer important ideas for structuring treatment variables related to local-level property tax programs (Madden 1983; Stockford 1989; Richardson Jr 1995; Rigby 1998). Poe et al. (1998) demonstrate a causal link between anticipated changes in property tax evaluations and individual land donation behavior. Parker and Thurman (2011) prove that land trust activity conditionally fluctuates in response to government spending on conservation programs.

Selected studies in the psychology of conservation have important implications for understanding how to incentivize donations. A central tenet of American environmental thought centers on principles of stewardship as the private virtue of landholders and that long-term viability of land conservation rests in the cultural impulse to preserve heritage rather than any regulatory authority to prevent development (Soule, Tegene et al. 2000). Lynne et. al (1998) examine cultural attitudes towards land conservation in traditional rural communities amongst farmers and ranchers and focus on the economic implications of stakeholder management of shared resources.

Finally, Sundberg (2006) explores social characteristics influencing active participation in land trust organizations, including individuals who donate property or time to membership organizations. Building on psychosocial analyses of conservation impulses, some researchers in

the behavioral psychology of conservation donations begin to offer suggestions for public programs designed to encourage increased conservation behavior (Cook and Berrenberg 1981).

After the introduction of both federal and state tax incentives designed to increase conservation behavior, there was both academic and practical interest in evaluating the efficiency of these programs in actually increasing rates of land conservation. McLaughlin (2004) concluded that generally tax incentives are responsible only if they demonstrate economic efficiency. If the missing tax revenue could have been spent by government on other conservation programs, then incentive programs may not be the most effective way of promoting land conservation. Even the most sophisticated econometric models designed to evaluate the cost-benefit implications of tax incentive programs typically end up relying on estimates of the value of land conservation that are derived from theoretical models of ecosystem services markets (Huff 2004).

Having found many existing incentive programs insufficient to actually ensure adequate protection of ecologically important lands, or having judged that several incentive programs are not properly designed to actually address key psychological features of individual charitable donations, several researchers have proposed new designs for conservation tax incentive programs. Elmendorf (2003) combined financial analysis with a sociological review of rural Americans' views toward wildlife and habitat conservation to make preliminary suggestions about combining social pressure with incentive gifts to increase conservation.

Stern (2006) demonstrates in a behavioral analysis of financial incentives for conservation that incentive feedbacks support intrinsic motivation to donate, but only up to a certain point, after which it begins to crowd out more altruistic motives for donation. She also explores proposals for restructuring financial incentives to increase efficiency based on underlying behavioral motivators. These range from social marketing suggestions to technical comments about the importance of structuring intermittent reinforcement mechanisms, including repeated staggered compensation over regular intervals.

## Methodology

In this paper, I follow a qualitative method for policy analysis developed by Professor Eugene Bardach, from the University of California – Berkeley's Goldman School of Public Policy. Bardach's (2000) methodology, described in *A Practical Guide for Policy Analysis: The Eightfold Path to More Effective Problem Solving*, involves listing evaluative criteria developed from the root of the policy problem itself. Criteria are then ranked in priority order dictated by the existing policy problem, and a set of policy alternatives are evaluated against the ranked criteria. In this paper, I use "pass versus no-pass" determinations for each policy option against the set of criteria. The final policy recommendation is the result of a decision matrix that weights

each criterion based on their relationship to the largest policy hurdles. Below, I describe the set of evaluative criteria used to judge the performance of each policy option.

## Criteria

- **Minimize costs** to state agencies. The state budget is approved on a two-year cycle in North Carolina. By law, the state cannot carry a deficit – the state’s debt ceiling is capped at zero. This means that when revenue is down, state lawmakers must cut programs and spending allocations in order to make up the difference. In 2011, the General Assembly had to cut programs ranging from education to transportation in order to handle a projected \$3 billion budget shortfall (Mildwulf 2010). The state’s budget will be readjusted in June of 2012 for the following fiscal year. Given the continuing economic downturn and political reluctance to fund environmental programs, minimizing direct and indirect costs to state agencies is the single most important evaluative criterion. Alternatives that would increase private conservation at considerable public cost to state agencies are simply not feasible given the political constitution of the General Assembly and funding constraints for FY 2012-2013.
- **Strengthen partnerships** between nonprofit conservation organizations and state agencies. The history of land conservation in North Carolina has traditionally been a highly cooperative enterprise between individuals, independent organizations, and federal and state public lands agencies. For example, some of the state’s most iconic national forests in western Carolina, such as the Pisgah National Forest, was first acquired by the Appalachian National Park Association and later donated to the US Forest Service in a pass-through donation (Newfont 2012). Local and regional land trusts continue to work directly with state and federal agencies for expanding state parks, realigning multistate recreational trails, and connecting a patchwork of conserved lands to form the NC Mountains-to-Sea Trail. Trends across all levels of government represent increased use of public-private partnerships to achieve goals widely understood to confer significant public benefits, such as private land conservation. Incentive programs should build on the state’s rich history of collaboration in achieving land conservation goals and encourage the continued use of these strategic partnerships.
- Contribute to the state’s long-term **economic development** goals. The state’s population is expected to grow rapidly over the next 20 years, with specific regions experiencing strong population surges. All of the state’s gubernatorial candidates have included strengthening economic development in their electoral platforms. As the recent public debate over the state’s proposal to lift its statutory ban on horizontal drilling for natural gas (“fracking”) has shown, advocates for environmental protection who allow the issue

to be framed in terms of environment versus jobs and economic development find themselves in the midst of an intensely difficult political battle. Particularly in the face of a widespread conception that NC is an under-developed state with natural resources that are underutilized economically, conservation programs that are at odds with the state's aggressive goals for economic and population growth are not politically viable.

Yet population and economic growth imply increased levels of development to meet housing and commercial needs, along with more transportation, communications, and water infrastructure. Energy and water quantity needs will also increase with further development. However, prioritized ecological protection and conservation of natural resources can occur simultaneously with increased development. In fact, forward-thinking management of land assets can often encourage local economic growth, particularly in sectors such as tourism or where water quality is an essential industrial asset (Booker 1994). In order for an incentive program to succeed, it must not threaten the future Governor's and state legislators' goals for continued economic growth in the state.

- **Protect DENR oversight** for state conservation initiatives. Currently, DENR manages several conservation-related programs within the state, including the state conservation funds and the wildlife present use valuation program (through the Wildlife Resources Commission). Given the General Assembly's recent moves to consolidate the trust funds and reorganize their leadership under the Department of Agriculture, as well as the regulatory reform initiative driven by Senate Bill 781, it is important that state options for promoting conservation do not damage DENR's future ability to maintain environmental programs. Land conservation has inherently environmental goals. It would be possible to design conservation programs under the purview of a commerce or state agricultural agency, whose ultimate missions would be to help developers or farmers secure conservation tax credits. Such programs would increase private conservation donations, but could do so at the expense of the underlying environmental aims and public benefits conferred by private conservation. Therefore, protecting the authority of the state regulatory agency that has been granted oversight authority for operating conservation certification programs is essential to ensuring future conservation programs meet the highest standards of scientific management for conservation principles.



## Policy Options

### Local Funding

1. Broaden the definition of “conservation purposes” qualifying lands for property tax exemptions.
2. Eliminate the tax penalty for properties removed from present use valuation programs for agriculture or forestry and into conservation/regrowth purposes.
3. Encourage municipalities to develop dedicated revenue schemes to pay for conservation.

### State Funding

4. Make state income tax credits transferable.
5. Increase the maximum income tax credit cap for corporate landowners.
6. Increase appropriations for the state’s 4 conservation trust funds.

### Private Funding

7. Establish a voluntary conservation offset program for real-estate developers.

## Analysis of conservation incentive options

### Option 1: Broaden the definition of “conservation purposes” qualifying lands for property tax exemptions

(NOT RECOMMENDED)

✓	<b>Minimize costs</b> to state agencies
✓	<b>Strengthen partnerships</b> between nonprofit conservation organizations and state agencies
X	Contribute to state’s long-term <b>economic development</b> goals
✓	<b>Protect DENR oversight</b> for state conservation initiatives

### Description

North Carolina law currently defines six categories of conservation purposes in SL 2011-274 (see Appendix 1), that enable a property to qualify for a local property tax rebate, including lands that are

- (1) used for an educational or scientific purpose as a nature reserve or park in which wild nature, flora and fauna, and biotic communities are preserved for observation and study;
- (2) managed under a written wildlife habitat conservation agreement with the North Carolina Wildlife Resources Commission;
- (3) managed under a forest stewardship plan developed by the Forest Stewardship Program;
- (4) used for public access to public waters or trails;
- (5) used for protection of water quality and subject to a conservation agreement under the provision of the Conservation and Historic Preservation Agreements Act, Article 4, Chapter 121 of the General Statutes; or
- (6) held by a nonprofit land conservation organization for sale or transfer to a local, state or federal government unit for conservation purposes.

Option 1 would involve amending this statute to add additional categories of qualifying conservation purposes, such as protection of scenic viewsheds, natural or cultural heritage elements, and being held by a nonprofit land conservation in perpetuity for conservation purposes. This policy option was advanced as a policy priority by regional and local land trusts within the state.

In July of 2011, the North Carolina General Assembly clarified the situations under which land trusts must be exempted from paying property taxes on donated lands. Court challenges dating back to the late 1960s established that property must be held for a “public or governmental purpose” in order to be exempted from normal property tax assessments, but state courts later upheld that even income-generating properties can be exempted from taxation if the purpose for which the land is principally owned has broadly-defined public purpose (Lewis 1970). Under this application of public use benefits governed by conservation activities, the General Assembly was able to clarify that conservation lands held by nonprofit land trusts could be exempted from county tax bases. Before the statute was revised, county tax assessors typically made their own internal guidelines about how to process exemption applications for conservation properties. The intent of this statute was to clarify that properties held by land trusts should be excluded from the normal tax property base.

Tax policy can be used by local governments for the express purpose of promoting development, or conversely, inhibiting development and thus promoting land conservation (Ladd 1998). Where the local government has a stake in incentivizing development because underdeveloped land hurts regional economic development, land taxes can be used to make sure property ultimately is held by those who believe future land markets will reward development (Tideman 1999).

Historically, an estimated one-fifth to one-third of all real property in the state of North Carolina (including land holdings) is exempted from property taxation under several special use categories defined by statutes (Lewis 1970). Encouraging local property tax assessors to rebate property could strengthen partnerships between state agencies and nonprofit conservation organizations if landowners used guidance from DENR or the state Department of Agriculture to develop guidance for managing new conservation properties.

Across the US, several traditional farmland conservation programs also rely on property tax rebates. In a study of land use change in 3,000 counties across 47 states, Adele Morris found that preferential tax assessments of farmland, either through reduced property tax burdens or through full property tax rebates, resulted in an average 10 percent fewer conversion rate of farmland to other use categories as compared to regular tax assessment schemes (1998).

### **Evaluation**

This policy option does minimize costs to statewide agencies, but it does so at the cost of placing the full extent of the burden on local municipalities, whose ability to levy *ad valorem* property taxes is one of the most substantial sources of municipal revenue (NC League of Municipalities). However, Option 1 does not pass the economic development criterion because it will reduce decreased property tax revenue and therefore local governments' ability to pay for extending municipal services such as sewer and water lines, garbage collection, and even school construction. Increasing the number of conservation purposes qualifying for the property tax deduction would likely increase cooperation between nonprofit organizations and DENR, since enrolling new properties in state conservation programs would require increased coordination and communication between agency staff and nonprofit land trusts. By encouraging new program growth, this option does not threaten DENR's future ability to oversee conservation initiatives.

## Option 2: Eliminate the tax penalty for lands taken out of present use valuation programs for agriculture or forestry for conservation/regrowth purposes

### (RECOMMENDED)

✓	<b>Minimize costs</b> to state agencies
✓	<b>Strengthen partnerships</b> between nonprofit conservation organizations and state agencies
✓	Contribute to state's long-term <b>economic development</b> goals
✓	<b>Protect DENR oversight</b> for state conservation initiatives

### Description

Currently, landowners whose properties are enrolled in the state's present use valuation (PUV) tax deferral programs for agricultural, horticultural, or forested lands face a tax penalty if they remove properties from those special user designations. The intent of this tax penalty is to avoid landowners taking advantage of the tax rebate for several years before ultimately selling lands to real estate developers. However, this incentive structure means that even landowners who intend to donate properties for conservation purposes or who might otherwise be inclined to let regrowth occur naturally on their properties instead continue nominal crop cover or timber harvesting, in order to avoid paying back taxes on these properties. Option 2 is modeled on a provision in the state's wildlife protection land conservation program, overseen by the state's Wildlife Resources Commission, which removes this tax penalty for property owners delisting their property from these PUV designations, provided landowners demonstrate credible intent to enroll their properties in new state-managed conservation programs.

### Evaluation

Removing the tax penalty for lands taken out of various present use valuation programs not only strengthens partnerships between conservation organizations and DENR, it would also strengthen interagency collaboration to increase land conservation. For example, if staff helping landowners develop a forestry management protocol for a timber stand realized the land was suitable for regrowth and being held for conservation purposes, staff could communicate with DENR in approaching the landowner to enroll the property in a state-recognized conservation program.

As in Option 1, the loss in tax revenue represented by this program would be absorbed by local governments charged with collecting property tax rather than state agencies, so Option 2

minimizes costs to state agencies. Unlike Option 1, however, Option 2 sufficiently supports the state’s economic development goals. The tax penalty was initially established with the goal of preventing landowners from taking advantage of short-term use valuations that they ultimately intended to sell to developers. However, Option 2 specifically ensures that the landowners are only removing lands from the previous use designations only for the purpose of making conservation donations, so they are still in line with the state’s economic development goals.

Additionally, Option 2 does not delegate authority for conservation programming to any other agency than DENR and does not threaten the agency’s future ability to oversee such programs.

### Option 3: Encourage municipalities to develop alternative revenue schemes to pay for conservation

**(RECOMMENDED)**

✓	<b>Minimize costs</b> to state agencies
✓	<b>Strengthen partnerships</b> between nonprofit conservation organizations and state agencies
✓	Contribute to state’s long-term <b>economic development</b> goals
✓	<b>Protect DENR oversight</b> for state conservation initiatives

#### Description

The city of New York realized in the late 1990s that building new water treatment plants would likely cost more than protecting land within the watershed to protect drinking water quality. In 1997, New York City’s Department of Environmental Protection established the Long-Term Watershed Protection Program, working with 8 county governments and many nonprofit organizations within the watershed to prioritize lands for (New York City Department of Environmental Protection 2012). Today, this watershed supplies drinking water to nearly half of New York state’s residents, who they enjoy some of the cleanest drinking water in the nation.

Option 3 is based on an innovative watershed-level collaboration between the cities of Raleigh and Durham. In order to support increased water quality, the city of Raleigh’s public water utility enacted a 10 cent surcharge per every 100 gallons of water consumed, effective in October of 2011. This watershed protection fee funds conservation projects in Durham county, particularly surrounding the Falls Lake watershed. Because Durham’s drinking water primarily comes from the Jordan Lake reservoir, development pressures in Durham will likely impair the city Raleigh’s drinking water first. (Durham residents also pay to conserve land surrounding the Jordan Lake

reservoir). Since 2005, the city of Raleigh used funds from a variety of sources, including the CWMTF, to put restrictive conservation easements limiting development rights on properties throughout the Upper Neuse watershed.

Rather than fighting Durham for the right to impose restrictions on development across county lines, the city of Raleigh instead opted for a revenue instrument to protect its own water quality. The surtax will cost residential customers an average estimated 45 cents per month, and is projected to raise \$1.8 million over the next year (Riechers 2012). Land acquisitions will be overseen by nonprofits such as the Triangle Land Conservancy and the Conservation Trust for North Carolina, but the city also directs funds to help acquire additional land for public parks through state agencies.

Such solutions are likely viable in localities with overlapping development pressures, as well as a clear incentive to keep the land base from overdevelopment in order to protect water quality. Raising utility rates during an economic recession requires fairly progressive politicians willing to publicly propose a user fee for conservation. Also, in the case of less pressing development scenarios, areas across the state may have less political will to fund municipal revenue instruments in support of conservation.

### **Evaluation**

Option 3 strengthens partnerships between land trusts and state agencies. In particular, state coordination is likely necessary to facilitate regional collaboration on trans-boundary water and conservation issues. The only cost to state agencies then comes in the form of staff costs, but direct costs to pay for conservation initiatives are likely borne by municipalities and other funding partners. Encouraging municipalities to develop these alternative revenue schemes to pay for conservation guarantees that resources necessary for future economic development remain available well until the future (for example, water quality as an industrial input). Thus, Option 3 satisfies the criterion of supporting the state's long-term economic development goals. This option does not directly involve DENR in conservation planning but it does not shift oversight of these initiatives (which DENR would still certify through its conservation programs) to any other state agency. While the funding source is supplied from outside DENR, the agency still retains regulatory powers and would provide oversight in a guidance role to local municipalities implementing cooperative conservation funding programs. Therefore, Option 6 satisfies the final criterion of upholding DENR's role in promoting conservation initiatives in the state.

## Option 4: Make state income tax credits transferable

(NOT RECOMMENDED)

X	<b>Minimize costs</b> to state agencies
✓	<b>Strengthen partnerships</b> between nonprofit conservation organizations and state agencies
✓	Contribute to state's long-term <b>economic development</b> goals
✓	<b>Protect DENR oversight</b> for state conservation initiatives

### Description

State tax incentives for conservation, which follow the federal conservation income tax credit program. The federal government provides estate tax exclusions and allows easement donors to deduct resulting losses in property value against their federal income tax liability. The enhanced federal conservation easement incentive allowed individual donors to deduct up to 50 percent of the value of conservation donations against their federal income tax liability, with a 15-year carry forward. Ranchers and farmers who derive more than 50 percent of their gross income from farming activities were eligible to deduct up to 100 percent of the appraised value of the conservation easement. This enhanced incentive expired in 2011, but is likely to be renewed with retroactive deductions for land donated starting in January of 2012.

As of 2012, 16 states offer state income tax credits to qualified easement donors, and five of these states allow conservation tax credit transfers that permit donors to sell tax credits through third-party clearinghouses: Colorado, New Mexico, Virginia, South Carolina, and Georgia. Under this option, donors who are land-rich but do not have large levels of taxable income can sell their income tax credit in a supervised trading scheme to corporations within the state. Such tax credits typically retail on the market for a reduced portion of their assessed value (Maybank December 2005). Transferable tax credits create additional incentives for states with large populations of landowners without consistent incomes, which includes ranch owners or agricultural landholders seeking a “conservation buy-out” bonus when they transfer their lands for conservation purposes.

### Evaluation

For several years, the IRS has named conservation fraud schemes as one of its “Dirty Dozen” most popular abusive tax schemes. If it is not clear that tax incentives actually drive increases in

rates of land donations, then these programs divert tax revenue from cash-strapped governments and waste public resources.

The NC General Assembly previously considered transferable income tax credits, but tabled the issue in 2011. Transferable tax credit programs can invite fraudulent donations and other tax abuse schemes, making legislators hesitant to bring in the additional market oversight required for successful implementation of these schemes. In 2005, the US Senate Committee on Finance convened hearings to review the practice of questionable conservation donations being claimed for federal income tax credits. The Chairman of this committee noted that he found it troubling when nationally recognized non-profit organizations such as TNC referred to conservation donations as a “tax shelter” in internal documents. In the same hearing, the Director of the South Carolina Department of Revenue testified that up to one third of the conservation tax benefits claimed in that state had gone to golf course developers, which clearly represents a distorted application of lands kept from development for conservation purposes (2005).

Many land trusts are already significantly engaged in discussing tax policy and helping landowners navigate tax and estate planning options for conservation donations. Transferable state income tax credits would almost certainly require increased coordination between nonprofit conservation organizations and state agencies, in addition to increasing cooperation between the state Department of Revenue and the same organizations for preparation of audits and other regulatory investigations.

Option 4 does not minimize costs to state agencies. In addition to decreasing state income tax revenue and thus imposing direct costs on the state’s general fund, Option 4 also imposes staff costs on the Department of Revenue. As options for tax fraud increase with expansion of qualifying donations, the need for staff to evaluate and monitor donations also increases, imposing indirect burdens on the agency. While Option 4 may be a smart long-run policy choice for the state to consider as a mechanism for increasing private conservation, the direct regulatory and enforcement costs to developing a transferable tax credit program are too high for the option to be recommended to the General Assembly at this time.

Option 4 likely contributes to the state’s economic development goals by attracting corporate interests to the state who can buy income tax credits at a market rate below the tax value of those credits. Such tax breaks are already granted to manufacturing operators within the state as a means of competing for these business interests in state. Therefore, Option 4 may actually contribute to the state’s economic development agenda by reducing income tax liabilities for interested corporations. Option 4 does not reduce DENR’s future ability to oversee such programs.



## Option 5: Increase income tax deduction cap for corporate landowners

(NOT RECOMMENDED)

X	<b>Minimize costs</b> to state agencies
X	<b>Strengthen partnerships</b> between nonprofit conservation organizations and state agencies
X	Contribute to state's long-term <b>economic development</b> goals
✓	<b>Protect DENR oversight</b> for state conservation initiatives

### Description

Because the existing income tax credit tops out at \$500,000 for corporate landowners, this disqualifies corporate land holders from reaping large tax benefits for highly valuable properties. Given the current economic climate, land trusts in North Carolina believe some tax-foreclosed properties within the state may have substantial conservation value. Lack of a substantial income tax credit for conservation purposes for these properties means that instead of donating these properties while the real estate market is weak, owners are incentivized to hold out and sell these properties to developers in the future. This is a top policy advocacy priority for FY 2012-2013 for the Land for Tomorrow, a key coalition of 24 regional and local land trusts currently operating within the state of North Carolina.

### Evaluation

Option 5 is unlikely to increase partnerships between conservation organizations and state agencies. It will not spur any additional donations from corporate landowners, since development viability rather than tax liability is the driving force behind the decision to donate this land.

Option 5 does not minimize costs to state agencies. Like Option 4, it will impose significant staff costs and time requirements on the Department of Revenue to audit the donations, and will also result in decreased corporate income tax revenue. Reducing the number of tax-foreclosed properties in the state is in line with the state's economic development agenda, but leaving these lands undeveloped only serves to remove the "toxic assets" from a bank's balance sheet. Ultimately, given the relatively small number of properties this option would apply to across the state, Option 5 does not significantly contribute to any development indicators used by the state to assess progress in meeting economic development goals. Option 5 does not reduce DENR's future to manage conservation initiatives in state.

## Option 6: Increase appropriations for the state's 4 conservation trust funds

(NOT RECOMMENDED)

X	<b>Minimize costs</b> to state agencies
✓	<b>Strengthen partnerships</b> between nonprofit conservation organizations and state agencies
X	Contribute to state's long-term <b>economic development</b> goals
✓	<b>Protect DENR oversight</b> for state conservation initiatives

### Description

Four trust funds in North Carolina provide state funding for nonprofit land acquisitions: the Clean Water Management Trust Fund, the Natural Heritage Trust Fund, the Parks and Recreation Trust Fund, and the Agricultural Development and Farmland Preservation Fund.

Since 1987, the state's four conservation funds have contributed more than one billion dollars towards land acquisitions for conservation purposes in North Carolina (Bidgood 2011).

Appropriations-funded conservation trust funds are relatively rare, but they have historically been effective at encouraging conservation behavior. CWMTF estimates that it has leveraged more than \$1.5 billion in private investments as a result of innovative public-private projects enabled by the trust fund (Rogers December 14, 2011). Option 6 would use a line-item appropriation in the FY 2012-2103 state budget to restore CWMTF funding to the \$100 million/year level authorized in statute, and would additionally call for increased funding to the other state trust funds.

### Evaluation

Money to support the four trust funds must be appropriated by the state legislature as part of the state budgeting process on a biannual basis. Funding for the Clean Water Management Trust Fund, for example, dwindled from its original statutory appropriation of \$100 million to \$11.25 million in FY 2011-2012 (Rogers December 14, 2011). In 2011, CWMTF was able to fund less than 10 percent of project applications from communities across the state. Facing a legendary budget gap, legislators introduced some of the largest budget cuts in state history in FY 2011-2012, such as 10 percent cuts across the board for education. In April 2011, Senator Brent Jackson (R-10), Co-Chair of the Senate Finance Committee Appropriations Subcommittee on Natural and Economic Resources, introduced a bill that establish a Conservation Trust Fund Commission that would consolidate the boards of trustees for all four of North Carolina's conservation trust funds (see Appendix 4: NC Senate Bill 677 (2011)).

NC Governor Beverly Perdue’s budget for FY 2012-2013 recommended the state give \$50 million for CWMTF, a 50 percent reduction from statutory appropriations (NC State Office of Budget and Management 2012).

Increased funding for the conservation trust funds would dramatically increase available projects that could be funded and would result in increased collaboration between DENR and conservation organizations. However, Option 6 would not reduce costs to state agencies. Given current budgetary constraints, increasing funding for the conservation trust funds would likely mean cutting funding for other programming. Option 6 also implies direct grant funding for these programs – there is no lever for state fundraising included in this policy option.

While Option 6 might leverage private investment, this impact would likely be lessened in the current recessionary climate. Because increasing funding to the conservation trust funds would require eliminating other state funding initiatives, Option 6 could draw money away from other development initiatives, hurting the state’s economic development goals.

Out of the seven policy options proposed in this paper, Option 6 ensures the strongest DENR oversight of conservation initiatives. Restoring funding to the four funds under the auspice of DENR management would represent a vote of confidence in DENR’s ability to manage conservation programming in the state.

### Option 7: Create a voluntary conservation offset program for developers

**(RECOMMENDED)**

✓	<b>Minimize costs</b> to state agencies
✓	<b>Strengthen partnerships</b> between nonprofit conservation organizations and state agencies
✓	Contribute to state’s long-term <b>economic development</b> goals
✓	<b>Protect DENR oversight</b> for state conservation initiatives

**Description**

As part of the US Green Building Council’s Leadership in Energy and Environmental Design (LEED) program, ten states currently offer tax credits or abatements for developers that pursue various levels of LEED certifications (see Appendix 2). Sample credit language for developing a voluntary offset program is available in Appendix 3. As of 2009, the LEED for Neighborhood Design standard includes certification points for developers who pursue conservation offset

properties as a part of their sustainable site designation. In other words, government programs to incentivize LEED projects would result in increased conservation monies from developers who purchase land elsewhere to protect it from development, in exchange for habitat degradation as a result of building construction on-site.

### ***Evaluation***

Option 7 increases partnerships because developers contacting state agencies for conservation offset projects would require coordination help from nonprofit organizations with which they are pursuing the development offset projects. In addition, certifying the offset projects are reliable conservation pursuits rather than tax write-offs would require increased participation from DENR.

Option 7 is a voluntary, opt-in program for housing and commercial real estate developers that would not impose additional costs on state agencies. By helping encourage development in places where it is market viable (while simultaneously providing options for responsible conservation offsets elsewhere in the state), Option 7 contributes to the state's economic development goals while promoting conservation at the same time. Finally, Option 7 helps DENR retain oversight for managing the offset certification project, upholding its oversight for conservation programs and initiatives.

## Recommendation

	Minimize Costs	Strengthen Partnerships	Economic Development	DENR Oversight
1. Rebate property taxes	✓	✓	X	✓
2. Remove Present Use Value Penalty	✓	✓	✓	✓
3. Municipal Revenue Schemes	✓	✓	✓	✓
4. Transferable State Income Tax Credits	X	✓	✓	✓
5. Increase Income Tax Cap	X	X	X	✓
6. Increase Trust Fund Appropriations	X	✓	✓	✓
7. Voluntary Offset Program	✓	✓	✓	✓

I recommend Options 2, 3 and 7. The North Carolina General Assembly should promote increased conservation donations in FY 2012-2013 by removing the tax penalty for lands switched from present use valuation categories to dedicated conservation programs, encouraging municipalities to develop alternative revenue schemes for funding conservation, and creating a statewide voluntary conservation offset program for developers.

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# Appendices

## Appendix 1: NC Session Law 2011-274

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

SESSION LAW 2011-274  
HOUSE BILL 350

AN ACT TO MODIFY WHEN LAND USED FOR CONSERVATION PURPOSES IS TO BE EXCLUDED FROM THE PROPERTY TAX BASE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-275 reads as rewritten:

"§ 105-275. Property classified and excluded from the tax base.

The following classes of property are designated special classes under Article V, Sec. 2(2), of the North Carolina Constitution and are excluded from tax:

- ...
- (12) Real property that (i) is owned by a nonprofit corporation or association organized to receive and administer lands for conservation purposes, (ii) is exclusively held and used by its owner for educational and scientific purposes as a protected natural area for one or more of the purposes listed in this subdivision, and (iii) produces no income or produces income that is incidental to and not inconsistent with the purpose or purposes for which the land is held and used. (For purposes of this subdivision, the term "protected natural area" means a nature reserve or park in which all types of wild nature, flora and fauna, and biotic communities are preserved for observation and study.)The taxes that would otherwise be due on land classified under this subdivision shall be a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit or units as deferred taxes. The deferred taxes for the preceding five fiscal years are due and payable in accordance with G.S. 105-277.1F when the property loses its eligibility for deferral as a result of a disqualifying event. A disqualifying event occurs when the property (i) is no longer exclusively held and used for one or more of the purposes listed in this subdivision, (ii) produces income that is not incidental to and consistent with the purpose or purposes for which the land is held and used, or (iii) is sold or transferred without an easement recorded at the time of sale that requires perpetual use of the land for one or more of the purposes listed in this subdivision and that prohibits any use of the land that would generate income that is not incidental to and consistent with the purpose or purposes for which the land is held and used. In addition to the provisions in G.S. 105-277.1F, all liens arising under this subdivision are extinguished upon the real property being sold or transferred to a local, state, or federal government unit for conservation purposes or subject to an easement recorded at the time of sale that requires perpetual use of the land for one or more of the purposes listed in this subdivision. The purposes allowed under this subdivision are any of the following:
- a. Used for an educational or scientific purpose as a nature reserve or park in which wild nature, flora and fauna, and biotic communities are preserved for observation and study. For purposes of this sub-subdivision, the terms "educational purpose" and "scientific purpose" are defined in G.S. 105-278.7(f).
  - b. Managed under a written wildlife habitat conservation agreement with the North Carolina Wildlife Resources Commission.
  - c. Managed under a forest stewardship plan developed by the Forest Stewardship Program.



- d. Used for public access to public waters or trails.
- e. Used for protection of water quality and subject to a conservation agreement under the provision of the Conservation and Historic Preservation Agreements Act, Article 4, Chapter 121 of the General Statutes.
- f. Held by a nonprofit land conservation organization for sale or transfer to a local, state, or federal government unit for conservation purposes.

...."

"(a) SECTION 2. G.S. 105-277.1F(a) is amended by adding a new subdivision to read:  
 Scope. – This section applies to the following deferred tax programs:

- (1) G.S. 105-275(12)f., real property held for future transfer to government unit for conservation purposes.
- (1a) G.S. 105-275(29a), historic district property held as future site of historic structure.
- (2) G.S. 105-277.1B, the property tax homestead circuit breaker.
- (2a) G.S. 105-277.1D, the inventory property tax deferral.
- (3) G.S. 105-277.4(c), present-use value property.
- (4) G.S. 105-277.14, working waterfront property.
- (4a) G.S. 105-277.15, wildlife conservation land.
- (5) G.S. 105-278(b), historic property.
- (6) G.S. 105-278.6(e), nonprofit property held as future site of low- or moderate-income housing."

SECTION 3. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2011.  
 In the General Assembly read three times and ratified this the 18<sup>th</sup> day of June, 2011.

s/ Philip E. Berger  
 President Pro Tempore of the Senate

s/ Thom Tillis  
 Speaker of the House of Representatives

s/ Beverly E. Perdue  
 Governor

Approved 5:12 p.m. this 23<sup>rd</sup> day of June, 2011

## Appendix 2: Financial Incentives for LEED

USGBC classification of state and local incentive programs for qualifying LEED buildings:

### Financial Incentives

**Tax Credits and Abatements:** Many municipalities already offer tax credits and abatements as a means of advancing specific policy agendas. Abatements work by exempting property owners from paying taxes for a period of time. Credits work by crediting specific tax liabilities back to owners of these properties. These same principles are being applied to homes and developments that achieve measurable, verifiable green building goals. And while this incentive has an up-front cost to the municipality, the increased assessed property value from an energy-efficient, greener building frequently offsets any reduction in tax revenue over time.

**State of Maryland:** The state enacted a [tax credit program](#) for businesses that construct or rehabilitate a building that conforms to specific standards intended to save energy and to mitigate environmental impact.

**State of New Mexico:** Created [legislation](#) that provides tax credits based on the square footage of the building. For commercial buildings, the tax credits range from \$3.50 per square foot for buildings that achieve LEED for New Construction Silver certification to \$6.25 for buildings that achieve LEED for New Construction Platinum certification. For residential buildings, the tax credits range from \$5.00 per square foot for buildings that achieve LEED for Homes Silver certification to \$9.00 per square foot for buildings that achieve LEED for Homes Platinum certification.

**State of New York:** The New York State [Green Building Tax Credit Program](#) provides an income tax incentive to commercial developments incorporating specific green strategies informed by LEED.

**State of Oregon:** A LEED [Business Energy Tax Credit](#) (BETC) is being administered by the state Office of Energy. LEED for New Construction, Core and Shell, or Commercial Interiors projects achieving a minimum Silver certification will be eligible.

**Baltimore County, MD:** The County Council has passed bill incentivizing both residential and commercial building in the county via tax credits. New [residential construction](#) that earns a minimum of LEED Silver certification are eligible. Projects earning LEED Silver will earn a 40% property tax credit, 60% for LEED Gold, and 100% for LEED Platinum. The tax credits will be in effect for 3 years or up to \$1 million in total incentives. For [commercial buildings](#), tax credits are granted for projects achieving LEED for New Construction, LEED Core and Shell, and LEED for Existing Buildings. LEED for New Construction will earn a 50% property tax credit for Silver, 60% for Gold, and 80% for Platinum. LEED Core and Shell Silver will receive 40%, Gold 50%, and Platinum 70%. LEED for Existing Buildings Silver will earn a tax credit for 10%, 25% for Gold, and 50% for Platinum. The duration of the LEED NC and LEED CS tax credits are for five years consecutive years; whereas, the duration of the LEED EB tax credit is for three years.

**Chatham County, GA:** The Board of Commissioners of Chatham County passed an [ordinance](#) amending the county code, that gives full property state and county tax abatement for commercial buildings achieving LEED Gold certification for the first five years and then tapering off by 20% each year until the tenth year. Qualifying projects are new or expanding businesses in an enterprise zone that increase employment opportunities.

(To view the ordinance, see page 79–85)

**Cincinnati, OH:** Established an [ordinance](#) providing an automatic 100% real property tax exemption of the assessed property value for newly-constructed or rehabilitated commercial or residential properties that earn a minimum of LEED Certified. Buildings that earn LEED Certified, Silver or Gold can receive a real property tax abatement up to \$500,000, with no limit for LEED Platinum buildings.

**Harris County, TX:** The Harris County Commissioners Court adopted an [ordinance](#) establishing a partial tax abatement for costs incurred by developers to certify buildings with the U.S. Green Building Council. Buildings that meet the Certified level would be eligible for tax abatements of 1 percent of the construction costs. Buildings with higher ratings would get higher discounts with buildings that meet the platinum certification level eligible for tax abatements of 10 percent of the construction costs.

**Honolulu, HI:** The City and County of Honolulu passed a [bill](#) providing an exemption from real property taxes on the building improvements for a period of one year on all new commercial, resort, hotel and industrial construction that achieves LEED Certification.

**Howard County, MD:** established a five-year [property tax credit](#) for projects that achieve LEED-NC and LEED-CS. The credit increases depending on the level of certification: 25% for LEED Silver, 50% for LEED Gold and 75% for LEED Platinum. County tax credits for buildings certified under LEED for Existing Buildings extend for three years: 10% for LEED Silver, 25% for LEED Gold and 50% for LEED Platinum.

## Appendix 3: Sample Language from LEED Conservation Carve-outs

LEED 2009 Credit Standards for Neighborhood Development

### Option 3: Sites with Wetlands and Water Bodies

Design the project to conserve 100% of all water bodies, wetlands, land within 100 feet of water bodies, and land within 50 feet of wetlands on the site. Using a qualified biologist, conduct an assessment, or compile existing assessments, showing the extent to which those water bodies and/or wetlands perform the following functions: (1) water quality maintenance, (2) wildlife habitat protection, and (3) hydrologic function maintenance, including flood protection. Assign appropriate buffers not less than 100 feet for water bodies and 50 feet for wetlands) based on the functions provided, contiguous soils and slopes, and contiguous land uses. Do not disturb wetlands, water bodies, and their buffers, and protect them from development in perpetuity by donating or selling the land, or a conservation easement on the land, to an accredited land trust or relevant public agency (a deed covenant is not sufficient to meet this requirement). Identify and commit to ongoing management activities, along with parties responsible for management and funding available, so that habitat is maintained in preproject condition or better for a minimum of three years after the project is built out. The requirement for identifying ongoing management activities may also be met by earning SLL Credit 9, Long-Term Conservation Management of Wetlands and Water Bodies. The project does not meet the requirements if it has negative effects on habitat for species identified in Option 2(a).

## Appendix 4: NC Senate Bill 677 (2011)

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 677

Short Title: NC Conservation Trust Fund Commission. (Public)

Sponsors: Senators Rouzer, East, and Jackson.

Referred to: Agriculture/Environment/Natural Resources.

April 20, 2011

- 1 A BILL TO BE ENTITLED  
2 AN ACT ESTABLISHING THE CONSERVATION TRUST FUND COMMISSION AND  
3 TRANSFERRING THE DUTIES OF THE AGRICULTURAL DEVELOPMENT AND  
4 FARMLAND PRESERVATION TRUST FUND ADVISORY COMMITTEE, THE  
5 NATURAL HERITAGE TRUST FUND BOARD OF TRUSTEES, AND THE CLEAN  
6 WATER MANAGEMENT TRUST FUND BOARD OF TRUSTEES TO THE  
7 CONSERVATION TRUST FUND COMMISSION.  
8 The General Assembly of North Carolina enacts:  
9 SECTION 1. Chapter 113A of the General Statutes is amended by adding a new  
10 Article to read:  
11 "Article 19.  
12 "Conservation Trust Fund Commission.  
13 "§ 113A-261. Conservation Trust Fund Commission: members; selection; compensation;  
14 meetings.  
15 (a) Commission Established. – There is established the North Carolina Conservation  
16 Trust Fund Commission. The Commission shall be administratively located within the  
17 Department of Environment and Natural Resources but shall operate independently of the  
18 Department.  
19 (b) Membership. – The Commission shall consist of 15 members. The Secretary of the  
20 Department of Environment and Natural Resources and the Commissioner of Agriculture or  
21 their designees shall serve as ex officio nonvoting members of the Commission. The Secretary  
22 of Commerce, the Secretary of Cultural Resources, the Executive Director of the Wildlife  
23 Resources Commission, and the Chair of the State Advisory Commission on Military Affairs or  
24 their designees shall serve as ex officio voting members of the Commission. The remaining  
25 members shall be appointed as follows:  
26 (1) One member appointed by the Governor from the public at large.  
27 (2) One member appointed by the General Assembly upon the recommendation  
28 of the President Pro Tempore of the Senate, as provided in G.S. 120-121,  
29 from the public at large.  
30 (3) One member appointed by the General Assembly upon the recommendation  
31 of the President Pro Tempore of the Senate, as provided in G.S. 120-121,  
32 who shall, at the time of appointment, be actively connected with or have  
33 experience in agriculture.  
34 (4) One member appointed by the General Assembly upon the recommendation  
35 of the President Pro Tempore of the Senate, as provided in G.S. 120-121,  
36 who shall, at the time of appointment, have experience in environmental  
37 management.



- 1           (5) One member appointed by the General Assembly upon the recommendation  
2 of the President Pro Tempore of the Senate, as provided in G.S. 120-121,  
3 who shall, at the time of appointment, be actively connected with or have  
4 experience with park and recreation issues in the State.
- 5           (6) One member appointed by the General Assembly upon the recommendation  
6 of the Speaker of the House of Representatives, as provided in G.S. 120-121,  
7 from the public at large.
- 8           (7) One member appointed by the General Assembly upon the recommendation  
9 of the Speaker of the House of Representatives, as provided in G.S. 120-121,  
10 who shall, at the time of appointment, be actively connected with or have  
11 had experience in the fish and wildlife conservation or habitat protection  
12 activities of the State.
- 13           (8) One member appointed by the General Assembly upon the recommendation  
14 of the Speaker of the House of Representatives, as provided in G.S. 120-121,  
15 who shall, at the time of appointment, be actively connected with or have  
16 experience in soil and water conservation.
- 17           (9) One member appointed by the General Assembly upon the recommendation  
18 of the Speaker of the House of Representatives, as provided in G.S. 120-121,  
19 who shall, at the time of appointment, be actively connected with or have  
20 experience in forestry.
- 21           (c) Terms. – Beginning August 1, 2012, members shall be appointed to the Commission  
22 for terms of four years. Members appointed to the Commission shall serve no more than two  
23 consecutive four-year terms.
- 24           (d) Vacancies. – An appointment to fill a vacancy on the Commission created by the  
25 resignation, removal, disability, or death of a member shall be for the balance of the unexpired  
26 term.
- 27           (e) Cochairs. – The Secretary of the Department of Environment and Natural Resources  
28 and the Commissioner of Agriculture, or their designees, shall serve as cochaurs of the  
29 Commission.
- 30           (f) Quorum. – A majority of the membership of the Commission constitutes a quorum  
31 for the transaction of business.
- 32           (g) Per Diem and Expenses. – Each member of the Commission shall receive per diem  
33 and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.  
34 Per diem, subsistence, and travel expenses of the Trustees shall be paid from the Clean Water  
35 Management Trust Fund.
- 36           (h) Meetings. – The Commission shall meet at least quarterly at a time and place  
37 designated by the cochaurs and may hold special meetings at the call of the cochaurs or a  
38 majority of the members. The Secretary of Environment and Natural Resources shall provide  
39 meeting facilities for the Commission and its staff as requested by the cochaurs.  
40 "§ 113A-262. Conservation Trust Fund Commission: powers and duties.
- 41           (a) The Commission may allocate moneys from the Clean Water Management Trust  
42 Fund established by Article 18 of this Chapter.
- 43           (b) The Commission may authorize expenditures from the Natural Heritage Trust Fund  
44 under Article 5A of Chapter 113 of the General Statutes.
- 45           (c) The Commission shall advise the Commissioner of Agriculture at least annually on  
46 the prioritization and allocation of funds, the development of criteria for awarding funds,  
47 program planning, and other areas where monies from the North Carolina Agricultural  
48 Development and Farmland Preservation Trust Fund established by G.S. 106-744 can be used  
49 to promote the growth and development of family farms in North Carolina.
- 50           (d) The Commission may receive public and private donations, appropriations, grants,  
51 and revenues for deposit into the Parks and Recreation Trust Fund established by

1 G.S. 113-44.15(e) and to allocate funds from the Fund for land acquisition, repairs,  
 2 renovations, improvements, construction, and other capital projects at units of the State Parks  
 3 System.

4 (e) The Commission may acquire land by purchase, negotiation, gift, or devise. Any  
 5 acquisition of land by the Commission must be reviewed and approved by the Council of State  
 6 and the deed for the land subject to approval of the Attorney General before the acquisition can  
 7 become effective. In determining whether to acquire land as permitted by Article 18 of this  
 8 Chapter, the Commission shall consider whether the acquisition furthers the purposes of Article  
 9 18 of this Chapter and may also consider recommendations from the Council. Nothing in this  
 10 section shall allow the Commission to acquire land under the right of eminent domain.

11 (f) The Commission may exchange any land it acquires under Article 18 of this  
 12 Chapter in carrying out the powers conferred on the Commission by that Article.

13 (g) The Commission may designate managers or managing agencies of the lands  
 14 acquired under Article 18 of this Chapter.

15 (h) Tax Credit Certification. – The Commission shall develop guidelines to determine  
 16 whether land donated for a tax credit under G.S. 105-130.34 or G.S. 105-151.12 is suitable for  
 17 one of the purposes under Article 18 of this Chapter and may be certified for a tax credit.

18 (i) Rule-Making Authority. – The Commission may adopt rules to implement this  
 19 Article and powers conferred upon it by any other provision of the General Statutes. Chapter  
 20 150B of the General Statutes applies to the adoption of rules by the Commission."

21 SECTION 2. G.S. 106-744 reads as rewritten:

22 "§ 106-744. Purchase of agricultural conservation easements; establishment of North  
 23 Carolina Agricultural Development and Farmland Preservation Trust ~~Fund~~  
 24 ~~and Advisory Committee Fund.~~

25 ...

26 (g) ~~There is established the Agricultural Development and Farmland Preservation Trust~~  
 27 ~~Fund Advisory Committee. The Advisory Committee shall be administratively located within~~  
 28 ~~the Department of Agriculture and Consumer Services and shall advise the Commissioner on~~  
 29 ~~the prioritization and allocation of funds, the development of criteria for awarding funds,~~  
 30 ~~program planning, and other areas where monies from the Trust Fund can be used to promote~~  
 31 ~~the growth and development of family farms in North Carolina. The Advisory Committee shall~~  
 32 ~~be composed of 19 members as follows:~~

- 33 (1) ~~The Commissioner of Agriculture or the Commissioner's designee, who shall~~  
 34 ~~serve as the Chair of the Advisory Committee.~~
- 35 (2) ~~The Secretary of Commerce or the Secretary's designee.~~
- 36 (3) ~~The Secretary of Environment and Natural Resources or the Secretary's~~  
 37 ~~designee.~~
- 38 (4) ~~Three practicing farmers, one appointed by the Governor, one appointed by~~  
 39 ~~the President Pro Tempore of the Senate, and one appointed by the Speaker~~  
 40 ~~of the House of Representatives.~~
- 41 (5) ~~The Dean of the College of Agriculture and Life Sciences at North Carolina~~  
 42 ~~State University or the Dean's designee.~~
- 43 (6) ~~The Dean of the School of Agriculture and Environmental Sciences at North~~  
 44 ~~Carolina Agricultural and Technical State University or the Dean's designee.~~
- 45 (7) ~~The Executive Director of the North Carolina Rural Economic Development~~  
 46 ~~Center, Inc., or the Executive Director's designee.~~
- 47 (8) ~~The Executive Director of the Conservation Trust for North Carolina or the~~  
 48 ~~Executive Director's designee.~~
- 49 (9) ~~The Executive Director of the North Carolina Farm Transition Network or~~  
 50 ~~the Executive Director's designee.~~



- 1           (10) ~~The President of the North Carolina Association of Soil and Water~~  
 2           ~~Conservation Districts or the President's designee.~~  
 3           (11) ~~The Executive Director of the Rural Advancement Foundation International~~  
 4           ~~—USA or the Executive Director's designee.~~  
 5           (12) ~~The Executive Director of the North Carolina Agribusiness Council or the~~  
 6           ~~Executive Director's designee.~~  
 7           (13) ~~The President of the North Carolina State Grange or the President's designee.~~  
 8           (14) ~~The President of the North Carolina Farm Bureau Federation, Inc., or the~~  
 9           ~~President's designee.~~  
 10          (15) ~~The President of the North Carolina Black Farmers and Agriculturalists~~  
 11          ~~Association or the President's designee.~~  
 12          (16) ~~The President of the North Carolina Forestry Association or the President's~~  
 13          ~~designee.~~  
 14          (17) ~~The Executive Director of the North Carolina Association of County~~  
 15          ~~Commissioners or the Executive Director's designee.~~  
 16          (h) ~~The Advisory Committee shall meet at least quarterly. The Department of~~  
 17          ~~Agriculture and Consumer Services shall provide the Advisory Committee with administrative~~  
 18          ~~and secretarial staff. Members of the Advisory Committee shall be entitled to per diem~~  
 19          ~~pursuant to G.S. 138-5 or G.S. 138-6, as appropriate. The Advisory Committee shall make~~  
 20          ~~recommendations to the Commissioner on the distribution of monies from the Trust Fund at~~  
 21          ~~least annually. The Commissioner shall take the recommendations of the Advisory~~  
 22          ~~Committee~~North Carolina Conservation Trust Fund Commission ~~into consideration in making~~  
 23          ~~decisions on the distribution of monies from the Trust Fund.~~  
 24          (i) ~~The Advisory Committee shall report no later than October 1 of each year to the~~  
 25          ~~Joint Legislative Commission on Governmental Operations, the Environmental Review~~  
 26          ~~Commission, and the House of Representatives and Senate Appropriations Subcommittees on~~  
 27          ~~Natural and Economic Resources regarding the activities of the Advisory Committee, the~~  
 28          ~~agriculture easements purchased, and agricultural projects funded during the previous year."~~  
 29          SECTION 3. G.S. 113-44.15 reads as rewritten:  
 30          "§ 113-44.15. Parks and Recreation Trust Fund.  
 31          (a) Fund Created. – There is established a Parks and Recreation Trust Fund in the State  
 32          Treasurer's Office. The Trust Fund shall be a nonreverting special revenue fund consisting of  
 33          gifts and grants to the Trust Fund, monies credited to the Trust Fund pursuant to  
 34          G.S. 105-228.30(b), and other monies appropriated to the Trust Fund by the General Assembly.  
 35          Investment earnings credited to the assets of the Fund shall become part of the Fund.  
 36          (b) Use. – Funds in the Trust Fund are annually appropriated to the ~~North Carolina~~  
 37          ~~Parks and Recreation Authority~~North Carolina Conservation Trust Fund Commission ~~and,~~  
 38          ~~unless otherwise specified by the General Assembly or the terms or conditions of a gift or~~  
 39          ~~grant, shall be allocated and used as follows:~~  
 40                  (1) Sixty-five percent (65%) for the State Parks System for capital projects,  
 41                  repairs and renovations of park facilities, and land acquisition, and to retire  
 42                  debt incurred for these purposes under Article 9 of Chapter 142 of the  
 43                  General Statutes.  
 44                  (2) Thirty percent (30%) to provide matching funds to local governmental units  
 45                  or public authorities as defined in G.S. 159-7 on a dollar-for-dollar basis for  
 46                  local park and recreation purposes. The appraised value of land that is  
 47                  donated to a local government unit or public authority may be applied to the  
 48                  matching requirement of this subdivision. These funds shall be allocated by  
 49                  the ~~North Carolina Parks and Recreation Authority~~North Carolina  
 50                  ~~Conservation Trust Fund Commission~~ Conservation Trust Fund Commission ~~based on criteria patterned after the~~  
 51                  ~~Open Project Selection Process established for the Land and Water~~

- 1 Conservation Fund administered by the National Park Service of the United  
2 States Department of the Interior.
- 3 (3) Five percent (5%) for the Coastal and Estuarine Water Beach Access  
4 Program.
- 5 (b1) Geographic Distribution. – In allocating funds in the Trust Fund under this section,  
6 ~~the North Carolina Parks and Recreation Authority~~ North Carolina Conservation Trust Fund  
7 Commission shall make geographic distribution across the State to the extent practicable.
- 8 (b2) Administrative Expenses. – Of the funds appropriated to the ~~North Carolina Parks~~  
9 ~~and Recreation Authority~~ North Carolina Conservation Trust Fund Commission from the Trust  
10 Fund each year, no more than three percent (3%) may be used by the Department for operating  
11 expenses associated with managing capital improvements projects, acquiring land, and  
12 administration of local grants programs.
- 13 (b3) Operating Expenses for State Parks System Allocations. – In allocating funds in the  
14 Trust Fund under subdivision (1) of subsection (b) of this section, the ~~North Carolina Parks and~~  
15 ~~Recreation Authority~~ North Carolina Conservation Trust Fund Commission shall consider the  
16 operating expenses associated with each capital project, repair and renovation project, and each  
17 land acquisition. In considering the operating expenses, the North Carolina Parks and  
18 Recreation Authority shall determine both:
- 19 (1) The minimal anticipated operating expenses, which are determined by the  
20 minimum staff and other operating expenses needed to maintain the project.
- 21 (2) The optimal anticipated operating budget, which is determined by the level  
22 of staff and other operating expenses required to achieve a more satisfactory  
23 level of operation under the project.
- 24 (e) ~~Reports. – The North Carolina Parks and Recreation Authority shall report no later~~  
25 ~~than October 1 of each year to the Joint Legislative Commission on Governmental Operations,~~  
26 ~~the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the~~  
27 ~~Fiscal Research Division, and the Environmental Review Commission on allocations from the~~  
28 ~~Trust Fund from the prior fiscal year. For funds allocated from the Trust Fund under~~  
29 ~~subdivision (b1) [subsection (b1)] of this section, this report shall include the operating~~  
30 ~~expenses determined under subdivisions (1) and (2) of subsection (b3) of this section.~~
- 31 (d) Debt. – The ~~Authority~~ Commission may allocate up to fifty percent (50%) of the  
32 portion of the annual appropriation identified in subdivision (b)(1) of this section to reimburse  
33 the General Fund for debt service on special indebtedness to be issued or incurred under Article  
34 9 of Chapter 142 of the General Statutes for the purposes provided in subdivision (b)(1) of this  
35 section and for waterfront access. In order to allocate funds for debt service reimbursement, the  
36 ~~Authority~~ Commission must identify to the State Treasurer the specific parks projects for which  
37 it would like special indebtedness to be issued or incurred and the annual amount it intends to  
38 make available, and request the State Treasurer to issue or incur the indebtedness. After special  
39 indebtedness has been issued or incurred for a parks project requested by the  
40 ~~Authority~~ Commission, the ~~Authority~~ Commission must credit to the General Fund each year  
41 the actual aggregate principal and interest payments to be made in that year on the special  
42 indebtedness, as identified by the State Treasurer."
- 43 SECTION 4. G.S. 113-77.6 reads as rewritten:
- 44 "§ 113-77.6. Definitions.
- 45 As used in this Article:
- 46 (1) "Appraised value" means the price estimated in terms of money at which the  
47 property would change hands between a willing and financially able buyer  
48 and a willing seller, neither being under any compulsion to buy or sell and  
49 both having reasonable knowledge of the uses to which the property is  
50 adapted and for which it is capable of being used.

- 1 (2) "Fund" means the Natural Heritage Trust Fund created pursuant to this  
 2 Article.  
 3 (3) "Land" and "lands" mean real property and any interest in, easement in, or  
 4 restriction on real property.  
 5 (4) "Secretary" means the Secretary of Environment and Natural Resources.  
 6 (5) "Trustees" means ~~the trustees of the Natural Heritage Trust Fund~~ the  
 7 members of the North Carolina Conservation Trust Fund Commission."

8 SECTION 5. G.S. 113A-252 reads as rewritten:

9 "§ 113A-252. Definitions.

10 The following definitions apply in this Article:

- 11 (1) Council. – The advisory council for the Clean Water Management Trust  
 12 Fund.  
 13 (2) Economically distressed local government unit. – An economically  
 14 distressed county, as defined in G.S. 143B-437.01, or a local government  
 15 unit located in that county.  
 16 (3) Fund. – The Clean Water Management Trust Fund created pursuant to this  
 17 Article.  
 18 (4) Land. – Real property and any interest in, easement in, or restriction on real  
 19 property.  
 20 (4a) Local government unit. – Defined in G.S. 159G-20.  
 21 (4b) Stormwater quality project. – Defined in G.S. 159G-20.  
 22 (5) Trustees. – ~~The trustees of the Clean Water Management Trust~~  
 23 ~~Fund~~ members of the North Carolina Conservation Trust Fund Commission.  
 24 (6) Wastewater collection system. – Defined in G.S. 159G-20.  
 25 (7) Wastewater treatment works. – Defined in G.S. 159G-20."

26 SECTION 6. G.S. 113A-254 reads as rewritten:

27 "§ 113A-254. Grant requirements.

28 ...

29 (g) Develop Grant Criteria. – The Trustees shall develop criteria for awarding grants  
 30 under this Article. The criteria developed shall include consideration of the following:

- 31 (1) The significant enhancement and conservation of water quality in the State.  
 32 (2) The objectives of the basinwide management plans for the State's river  
 33 basins and watersheds.  
 34 (3) The promotion of regional integrated ecological networks insofar as they  
 35 affect water quality.  
 36 (4) The specific areas targeted as being environmentally sensitive.  
 37 (5) The geographic distribution of funds as appropriate.  
 38 (6) The preservation of water resources with significant recreational or  
 39 economic value and uses.  
 40 (7) The development of a network of riparian buffer-greenways bordering and  
 41 connecting the State's waterways that will serve environmental, educational,  
 42 and recreational uses.  
 43 (8) The strategic acquisition of conservation easements or fee simple purchase  
 44 of buffer areas immediately adjacent to military installations.

45 (h) Develop Additional Guidelines. – The Trustees may develop guidelines in addition  
 46 to the grant criteria consistent with and as necessary to implement this Article.

- 47 (i) Debt. – Of the funds credited annually to the Fund, the Trustees may authorize  
 48 expenditure of a portion to reimburse the General Fund for debt service on special indebtedness  
 49 to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes  
 50 provided in G.S. 113A-253(c)(1) through (4). In order to authorize expenditure of funds for  
 51 debt service reimbursement, the Trustees must identify to the State Treasurer and the

1 Department of Administration the specific capital projects for which they would like special  
2 indebtedness to be issued or incurred and the annual amount they intend to make available, and  
3 request the State Treasurer to issue or incur the indebtedness. After special indebtedness has  
4 been issued or incurred for a capital project requested by the Trustees, the Trustees must direct  
5 the State Treasurer to credit to the General Fund each year the actual aggregate principal and  
6 interest payments to be made in that year on the special indebtedness, as identified by the State  
7 Treasurer."

8 SECTION 7. G.S. 120-123(67) reads as rewritten:

9 "§ 120-123. Service by members of the General Assembly on certain boards and  
10 commissions.

11 No member of the General Assembly may serve on any of the following boards or  
12 commissions:

13 ...

14 ~~(67) The Board of Trustees of the Natural Heritage Trust Fund, as established by~~  
15 ~~G.S. 113-77.8.~~

16 ...."

17 SECTION 8. Employees currently assigned as staff to the Clean Water  
18 Management Trust Fund Board of Trustees, the Natural Heritage Trust Fund Board of Trustees,  
19 and the Agricultural Development and Farmland Preservation Trust Fund Advisory Committee  
20 shall be transferred to the North Carolina Conservation Trust Fund Commission established by  
21 Section 1 of this act. Employees of the Division of Parks and Recreation of the Department of  
22 Environment and Natural Resources with assigned duties related to the North Carolina Parks  
23 and Recreation Trust Fund Authority shall provide support as needed to the Commission for its  
24 duties related to the Parks and Recreation Trust Fund.

25 SECTION 9.(a) G.S. 113-77.8, 113A-255, 113A-256, 143B-313.1, and  
26 143B-313.2 are repealed.

27 SECTION 9.(b) The Agricultural Development and Farmland Preservation  
28 Advisory Committee, the Natural Heritage Trust Fund Board of Trustees, and the Clean Water  
29 Management Trust Fund Board of Trustees are abolished on the effective date of this act, and  
30 the terms of the members currently serving on those boards expire on the effective date of this  
31 act.

32 SECTION 10. Notwithstanding G.S. 113A-261(b), as enacted by Section 1 of this  
33 act, an interim board shall be appointed to serve on the North Carolina Conservation Trust  
34 Fund Commission to perform the duties of the Commission until a permanent board is  
35 appointed. The interim board shall consist of 14 members. The Secretary of the Department of  
36 Environment and Natural Resources and the Commissioner of Agriculture or their designees  
37 shall serve as ex officio nonvoting members of the Commission. The Secretary of Commerce,  
38 the Secretary of Cultural Resources, the Executive Director of the Wildlife Resources  
39 Commission, and the Chair of the State Advisory Commission on Military Affairs, or their  
40 designees, shall serve as ex officio voting members. The chairs of the Natural Heritage Trust  
41 Fund Board of Trustees, the Clean Water Management Trust Fund Board of Trustees, and the  
42 North Carolina Parks and Recreation Authority, all of whom were serving as chair of their  
43 respective boards prior to the effective date of this act, shall serve on the interim board, and  
44 each chair shall appoint one member to the interim board from his or her respective board, all  
45 of whom shall have served on those boards prior to the effective date of this act. Two members  
46 shall be appointed to the interim board by the Commissioner of Agriculture from the  
47 Agricultural Development and Farmland Preservation Advisory Committee, both of whom  
48 shall have served on that committee prior to the effective date of this act. The ex officio  
49 members shall begin serving on the interim board on the effective date of this act, and the  
50 remaining members shall be appointed by August 1, 2011. Terms of the members of the  
51 interim board shall expire on July 31, 2012. The Secretary of the Department of Environment

1 and Natural Resources and the Commissioner of Agriculture shall serve as cochairs of the  
2 interim board.  
3 SECTION 11. This act is effective when it becomes law.