

Joint Legislative Commission on Land and Water Conservation



**REPORT TO THE 2007
GENERAL ASSEMBLY OF NORTH CAROLINA**

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JOINT LEGISLATIVE COMMISSION ON LAND AND WATER CONSERVATION
State Legislative Building
Raleigh, North Carolina 27603

January 24, 2007

TO THE MEMBERS OF THE 2006 GENERAL ASSEMBLY:

The Joint Legislative Commission on Land and Water Conservation submits to you for your consideration its report.

Respectfully Submitted,

Sen. Charles W. Albertson, Co-Chair

Rep. Lucy T. Allen, Co-Chair

2005-2006

JOINT LEGISLATIVE COMMISSION
ON LAND AND WATER CONSERVATION

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Land and Water Conservation Study Commission
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Executive Summary of Commission Report

The Land and Water Conservation Study Commission was established to consider funding options for a major initiative for conservation of land, water, and historic resources that was proposed in HB 2827/SB 1907 during the 2006 Regular Session of the 2005 General Assembly.

Commission Charge:

- To identify and evaluate existing State funding sources for historical preservation, for acquiring public lands for various conservation purposes, and for related economic development related to land and water conservation and historic preservation.
- To collect information from other states regarding incentive-based techniques and management tools used to protect land and water resources.
- To recommend a way to address the funding needs of land and water conservation.
- To hold public meetings in three different areas of the State.

Commission Findings:

Land and water conservation, including preservation of the State's cultural heritage, benefits the State in many ways: economic growth and job creation; protection of the public health; enhancement of our citizens' quality of life; and protection of native species of flora and fauna.

A number of factors have converged in recent years to make now a key time in protecting the environment of the State for generations to come: population growth; rapid development of land; and an unusually high percentage of large tracts of land for sale.

The State-established trust funds, coupled with other conservation-oriented entities, have a strong history of serving the conservation needs of North Carolina and of coordinating with one another: Natural Heritage Trust Fund; Parks and Recreation Trust Fund; Clean Water Management Trust Fund; Agriculture Development and Farmland Preservation Trust Fund; the Wildlife Resources Commission; the Ecosystem Enhancement Program; the State Historic Preservation Office and State Historic Sites; the conservation tax credit; and the present-use value property taxation system.

There are at least seven 'best practices' related to land and water conservation and cultural and historic preservation: substantial state investment in these areas; enabling local financing; providing state incentives for projects; allowing for the purchase of development rights; supporting public-private partnerships; conservation tax credits; and partnerships with federal agencies. The State has been active in each of these areas, but the Commission

finds that the State could improve its record on land and water conservation and cultural and historic preservation by adopting some of the strategies used in other states.

Commission Recommendations:

The Commission recommends that the General Assembly provide an additional \$1 billion in funding over five years for land and water conservation, cultural and historic preservation, and related economic development needs. The Commission does not have a specific recommendation as to how the additional funds should be allocated. The Commission recommends that the additional funding be allocated among the existing trust funds and used for a variety of different programs.

The Commission recommends that the existing entities involved in land and water conservation and cultural and historic preservation continue to improve the manner in which they coordinate with one another in order to function in a more collaborative, systematic, and integrated manner so as to maximize the use of State investments. As part of this coordination, the Commission encourages the development of statewide priorities for land and water conservation and cultural and historic preservation and enhanced data collection efforts regarding conservation and preservation needs and efforts.

The Commission recommends a balanced financing approach based on debt financing and dedicated sources of tax or fee revenue. The Commission does not have a recommendation as to the specific mix of additional funding sources for conservation efforts. However, it has identified a number of possible revenue sources for consideration: broad-based tax options; development-based tax options; and tourism-based tax options.

The Commission recommends that both chambers of the General Assembly establish a committee at the start of the 2007 Regular Session to address the State's infrastructure needs including conservation, water and sewer, public schools, transportation, State government facilities, and affordable housing.

The Commission recommends that the General Assembly study further the idea of land mitigation requirements and any authorizing legislation needed to authorize voluntary or mandatory mitigation banking.

The Commission finds that encouraging local government participation in land and water conservation and cultural and historic preservation is a necessary part of any reform to the State's current conservation and preservation efforts. The Commission recommends that the General Assembly consider proposals that would provide additional funding options at the local level for conservation purposes. In addition, the Commission recommends that the General Assembly evaluate the means by which it encourages local participation with projects funded by the four major conservation trust funds with the goal of encouraging greater local participation.

The Commission recommends that the General Assembly consider an enhancement of the tax credits for real property donations for conservation purposes.

The Commission recommends that the General Assembly consider establishing a tax incentive to encourage people to manage lands for conservation. The incentive could take the form of a property tax deferral or an income tax credit.

The Commission recommends that the General Assembly further study the potential effect of time-limited conservation agreements on the State's conservation and preservation efforts.

The Commission recommends that the General Assembly study alternative allocations of State funds to ensure that the State fully leverages available federal funds.

COMMITTEE PROCEEDINGS

The Joint Legislative Commission on Land and Water Conservation met five times and held three public hearings in Asheville, Greensboro, and Greenville after the adjournment of the 2006 Regular Session of the 2005 General Assembly on July 28, 2006. The Commission was established to consider funding options for a major initiative for conservation of land, water, and historic resources that was proposed in HB 2827/SB 1907 during the 2006 Regular Session of the 2005 General Assembly. The Commission was charged with identifying and evaluating existing State funding sources for historical preservation, for acquiring public lands for various conservation purposes, and for related economic development. In addition, the Commission was charged with collecting information from North Carolina and other states and jurisdictions regarding incentive-based techniques and management tools used to protect land and water resources.

LAND AND WATER CONSERVATION NEEDS

The State's land and water conservation needs, including preservation of the State's cultural heritage, have been well established. Land and water conservation and cultural and historic preservation are important for many reasons. In addition to the benefits of maintaining some of the world's most beautiful natural areas, conservation of our natural cultural resources will lead to benefits such as economic growth and job creation, protection of the public health, enhancement of our citizens' quality of life, and the protection of native species of flora and fauna.

Economic Growth and Job Creation. Land and water conservation play a key role in fostering economic growth and job creation in the State. Many of the State's largest economic sectors are dependent upon the maintenance of a sound and healthy environment. The agricultural and forestry industries are affected greatly by land conservation since their products are grown on that land. Tourism in the State is greatly dependent on the preservation of the State's outstanding natural and cultural resources. Military bases depend on having easy access to large parcels of open land. In addition, many economic sectors that are not dependent directly on the conservation of land for success still value a diverse and healthy environment because of the quality of life benefits it provides to employees.

Agriculture is one of the State's largest industries, generating almost \$8.2 billion in cash receipts in 2004 for North Carolina's economy. The agribusiness sector as a whole contributes \$68.3 billion annually to the State's economy and employs 17% of its workforce. Despite the changing nature of North Carolina's economy, the State still has the eighth largest agricultural economy in the nation. A major threat to the agricultural sector is rapid development in the State.

Forestry is another of the State's traditional industries that is heavily dependent on good stewardship of the environment. The State has the ninth largest forestry industry in the nation, contributing approximately \$4 billion to the State gross domestic product in 2004. The manufacturing of forest products, such as lumber, pulp and paper, and wood furniture, is the State's second largest manufacturing industry. The North Carolina Forestry Association estimates that the total impact of the forestry industry on North Carolina's economy is \$29.7 billion annually. While over 50% of the State's land area remains in timberland, forest acreage has fallen by over 5% (over 1,000,000 acres) since 1990.

Tourism is a large and growing industry in the State. The State's tourism industry was the eighth largest in the nation and caters to 65.4 million tourists a year. These tourists contribute \$14.2 billion annually to the State gross domestic product and provide jobs for over 185,000 North Carolinians. Surveys reveal that one of the key reasons tourists choose to visit the State is that it is considered a "state where you can enjoy unspoiled natural beauty in a restful and relaxing atmosphere."

North Carolina's four major military bases generate approximately \$12 billion of gross State product and are directly responsible for over 333,000 jobs. Military bases have need of large, undeveloped land areas in order to adequately train soldiers and sailors. In recent years, urban encroachment around the major military bases has become a significant issue.

The rise of 'knowledge workers' and the advent of the 'new economy' have been well documented over the past decade. Because knowledge workers are not tied to a particular tangible resource, they are very mobile and can locate practically anywhere in the developed world. In order to recruit and retain knowledge workers in sufficient numbers, a community must provide the amenities desired by those workers. In addition to other amenities, knowledge workers tend to desire communities that offer numerous options for outdoor activities and close proximity to authentic and unique natural and rural landscapes and historic places.

Public Health Protection. Clean water and air are essential to individual and public health. North Carolina's air quality deteriorated significantly during the 1990s and the early part of this decade. By 2003, North Carolina had the 13th worst air quality in the nation. To address the State's air pollution, the General Assembly enacted the Clean Smokestacks Act in 2002 in an effort to reduce emissions from coal-fired

power plants by 2013. In addition, the State has adopted standards to reduce automobile emissions to comply with clean air standards. Despite these efforts, North Carolina continues to face significant challenges to sustain clean air for future generations. Cars and power plants represent the State's two largest sources of air emissions and the State is experiencing more cars on its roads and an increasing demand for electricity. The State must continue to be vigilant in its efforts to curb air emissions and strive for better air quality for all of our citizens.

North Carolina has about 40,000 miles of freshwater streams, 194,000 acres of freshwater lakes and more than 2 million acres of estuarine and saltwater bays, inlets and tidal areas. Approximately 10 percent of the State's freshwater streams do not fully support all the uses they should and about 35 percent of freshwater lakes and 6 percent of the estuarine and saltwater acres are also known to be impaired. Most of this pollution is a result of land-disturbing activities that force sediment and stormwater into the water and increase the level of nutrients and bacterial contamination. To improve water quality, North Carolina has increased requirements for the management of stormwater, addressed sources of nutrients, and strengthened permit requirements for wastewater treatment and collection. However, the State must continue to strive for clean water for future generations. Waterways benefit from increased cooperation between local, county, and State agencies working with farmers, developers, and other residents to preserve, restore and protect the natural wetlands and vegetated areas.

In addition to the inherent benefits of clean air and water, a thriving and health environment contributes to public health in other ways. For example, the ready availability of parks and trails helps to encourage healthy, active lifestyles

and can help counteract the trend toward obesity, which has become the second-leading cause of preventable death in North Carolina.

Quality of Life. Outdoor activities and access to robust and diverse natural areas are also key components in quality of life. North Carolinians have expressed great interest in participating in a number of outdoor activities that require or are enhanced by a thriving natural environment. These activities range from hiking, camping, hunting and fishing in more rural areas to walking and biking trails, playgrounds, and recreation fields in more urban or suburban areas. In addition, North Carolinians have expressed a strong desire to preserve their cultural heritage through the preservation of significant cultural and historical sites throughout the State.

Protecting Native Flora and Fauna. North Carolina is home to some of the most diverse ecoregions in the world. The freshwater ecoregion in North Carolina's mountains has been described as possibly the most diverse temperate ecoregion in the world. Similarly, the freshwater ecoregion in the eastern part of the State and the State's terrestrial ecoregions are considered to be outstanding. However, the World Wildlife Federation considers these ecoregions to be endangered by every category of threat: impoundment, channelization, pollution, sedimentation, and urbanization. For example, the State's Piedmont ecoregion is thought to be critically endangered because only 1% of its natural areas remain intact. In addition, scientists estimate that as many 18% of the State's known native species are endangered, threatened, or of special concern because of rarity.

FACTORS CONTRIBUTING TO LAND AND WATER CONSERVATION NEEDS

A number of factors have converged in recent years to make now a key time in protecting the environment of the State for generations to come. Rapid population

growth, and forecasts for continuing rapid growth for the next quarter century, is a key factor. In conjunction with rapid growth, the population has shifted from more rural ways of living to more urban and suburban lifestyles. Both of these factors have resulted in rapid development of land within the State and have placed additional strains on land and water resources. In addition, other factors have come into play recently that put an unusually high percentage of land on the auction block.

Population Growth. From 1990 to 2000, North Carolina's population grew by an additional 1.4 million residents – a 21% increase in population. During the 1990s, 97 of the State's 100 counties experienced population growth with some of those counties experiencing growth rates as high as 50%. Population growth slowed, but remained strong, during the first half of the current decade. Between 2000 and 2005, it is estimated that North Carolina's population grew by more than 600,000 (approximately 7.5%). Although most rural areas grew during the last decade and a half, overall population growth in the State has largely come from growth in the large metropolitan areas. In 2006, the Census Bureau estimated that North Carolina's population had surpassed that of the more urban New Jersey. By 2030, the Census Bureau estimates that North Carolina will have a larger population than such other urban states as Ohio and Michigan.

North Carolina is expected to continue to experience strong growth, though not at as high of rates as seen during the 1990s. The State's population is forecast to grow to over 9.3 million by 2010 (10-year growth rate of 16.2%), to over 10.7 million by 2020 (10-year growth rate of 14.6%), and to over 12 million by 2030 (10-year growth rate of 10.9%). By that time, the State's two largest counties are forecast to

each have populations in excess of 1.3 million, an amount greater than the combined populations of these two counties in 2000.

Rapid Development of Land. Obviously, population growth has led to greater population density throughout most of the State. At the same time that the State's population has been growing, our patterns of land use have been changing. Current development patterns use substantially more land per person than did past development patterns. For example, one study has estimated that 122 acres of land were developed for every 1,000 residents in the Triangle area during the 1950, but that by 1990 357 acres of land were developed for every 1,000 residents in that same area. The combined effect of population growth and greater use of land per person have contributed to a rapid conversion of lands in the State from natural or agricultural areas into developed areas. The State currently loses an average of 277 acres of undeveloped land every day. Since 2000, farmland has decreased by 310,000 acres and more than 5,500 farms are no longer operable.

Land Turnover. Three major industries in the State, which own significant tracts of land, have begun to sell off land for a variety of reasons. Power companies are selling land adjacent to rivers and streams that was acquired and used for hydropower generation. Several large industrial timber companies have decided to sell off significant portions of timber land, particularly in the coastal plains regions. With the end of the tobacco quota system, a significant sell off of land previously used for tobacco farming is anticipated. The large tracts, and varieties, of land currently available provide the State with a unique opportunity to have a large impact on land and water conservation.

EXISTING STATE FUNDING SOURCES

Natural Heritage Trust Fund. The Natural Heritage Trust Fund (NHTF) was established in 1987 and serves as a source of funding for State agencies for the acquisition and preservation of important lands in the State, for the preservation of ecological diversity, and for an inventory of the natural heritage resources of the State. The NHTF is governed by a 12-member Board of Trustees. The members of the Board of Trustees serve staggered terms and are appointed in equal numbers by the Governor, the General Assembly upon the recommendation of the Speaker of the House of Representatives, and the General Assembly upon the recommendation of the President Pro Tempore of the Senate.

The two primary sources of funding for the NHTF are the State excise tax on conveyances and a portion of the additional fee charged for a personalized license plate¹. The State levies an excise tax on each deed, instrument, or writing by which any interest in real property is conveyed to another person. The amount of the tax is \$1.00 on each \$500 of the consideration or value of the interest or property conveyed. The tax must be paid to the county register of deeds before an instrument may be recorded. One-half of this amount is retained by the county and credited to the county's general fund. The remainder is remitted to the State quarterly. Of the amount remitted to the State, 25% is credited to the Natural Heritage Trust Fund. In addition, the State charges an additional fee of \$30 for each personalized license plate. Fifteen dollars of this additional fee for each personalized plate is credited to the NHTF.

State funds contributed to the NHTF have varied significantly over the past five fiscal years. The amount of State funds contributed has ranged from \$12.6

¹ In some cases, the NHTF also receives a portion of the additional fee charged for a specialty license plate. The NHTF receives \$10 for each "First in Forestry" license plate and \$15 for each out-of-state college specialty license plate.

million in the 2002-03 fiscal year to \$23.6 million in the 2005-06 fiscal year. Since its inception, the NHTF has awarded grants of over \$136 million to help protect over 217,000 acres.

Parks and Recreation Trust Fund. The Parks and Recreation Trust Fund (PARTF) was founded in 1994 to provide funding for the acquisition of State parks lands and related capital facilities projects, to provide grants to local governments for parks and recreation land acquisition, and to provide for coastal and estuarine beach access. Approximately 65% of the PARTF's funds go for the acquisition of State parks, 30% for grants to local governments, and 5% for beach access. The PARTF is governed by the 11-member Parks and Recreation Authority. Three members of the Authority, including the chairperson, are appointed by the Governor, four are appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and four are appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.

As with the NHTF, the two primary sources of funding for the PARTF are the State excise tax on conveyances and a portion of the additional fee charged for a personalized license plate. Of the amount of the excise tax on conveyances remitted to the State, 75% is credited to the PARTF. Five dollars of the additional fee imposed for each personalized license plate is credited to the PARTF.

State contributions to the PARTF have varied significantly over the past five years. State funds contributed to the PARTF have ranged from \$27.5 million in the 2001-02 fiscal year to \$58.1 million in the 2005-06 fiscal year. Since 1997, the PARTF has spent over \$194 million for State parks land acquisition and capital improvements. In addition, the PARTF has made grants to local governments

totaling over \$92 million; those grants were leveraged by \$270 million in local matching funds.

Clean Water Management Trust Fund. The Clean Water Management Trust Fund (CWMTF) was established in 1996 and serves as a source of grant moneys for local governments, State agencies, and conservation non-profits that finance projects related to water pollution. The CWMTF is governed by a 21-member Board of Trustees. Seven members of the Board of Trustees are appointed by the Governor, seven members are appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and seven members are appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.

The CWMTF is funded primarily by direct appropriations from the General Fund. Over the past several years, the amounts appropriated to the CWMTF have varied significantly, from a low of \$33.2 million in 2001-02 to a high of \$100 million in 2005-06. The CWMTF has invested over \$371 million in clean water projects throughout the State. Those investments have leveraged over \$906 million in private and other public funds.

Agriculture Development and Farmland Preservation Trust Fund. The Agriculture Development and Farmland Preservation Trust Fund (ADFPTF) (formerly known as the Farmland Preservation Trust Fund) was restructured in 2005. The purpose of the ADFPTF is to support the purchase of agricultural easements, fund public and private enterprise programs that will promote profitable and sustainable farms, and to fund farmland conservation agreements. The ADFPTF is governed by a 19-member Advisory Committee. Sixteen members of the Committee are representatives of State agencies or various agricultural organizations. Three

members of the Committee are farmers, one each appointed by the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate.

The ADFPTF does not have a dedicated source of revenue. It is funded primarily by appropriations from the General Fund. The ADFPTF has been funded at significantly lower levels than the other trust funds. The amount appropriated to the ADFPTF has over the past five years has ranged from a minimum of \$0 to a maximum of \$200,000.

The Farmland Preservation Trust Fund was allocated a total of \$2.65 million between 1998 and 2004. The Fund used the allocation to preserve 33 farms on more than 47,000 acres and to leverage \$26 million worth of federal, private, and county funds. The ADFPTF awarded \$44,000 in grants to five projects in 2006. The projects have a value of \$3.8 million.

Wildlife Resources Commission. The Wildlife Resources Commission (WRC) was created in 1947 with the purpose of managing, restoring, developing, cultivating, conserving, protecting, and regulating the State's wildlife resources. The WRC is composed of 19 members, nine of whom are appointed by the Governor, four of whom are appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and four of whom are appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate. The nine members appointed by the Governor must come from nine different districts. Each member of the WRC must be an experienced hunter, fisherman, farmer, or biologist who is generally informed on wildlife conservation and restoration problems.

The primary funding source for the WRC is receipts from hunting, fishing, trapping, and related licenses. Over the past five fiscal years, the amount of those receipts ranged from a low of \$185,000 in 2002-03 to a high of \$1.5 million in 2003-04. The WRC also receives funds from, and works closely with, the trust funds, federal programs, and the Ecosystem Enhancement Program. The WRC is very active in conservation programs through its Inland Fisheries and Wildlife Management Divisions. Key components of those programs deal with conservation of the applicable environment. The WRC also maintains a Conservation Education Division that educates the public about conservation efforts, particularly with respect to managing wildlife populations.

Ecosystem Enhancement Program. The Ecosystem Enhancement Program (EEP) was created in 2003 as result of a memorandum of understanding between the North Carolina Department of Transportation, the North Carolina Department of Environment and Natural Resources, and the U.S. Army Corps of Engineers. The EEP had roots in several different State programs in the mid-1990s. Beginning in the mid-1990s the Department of Transportation began to experience delays with its transportation-infrastructure projects due, in part, to unavoidable environmental impacts related to the projects. The Department worked to satisfy its mitigation responsibilities through internal staffing and outsourcing to private interests. In 1997, the Department of Environment and Natural Resources created the Wetlands Restoration Program. The DOT and DENR programs were run separately and failed to meet the expectations of either State or federal agencies or of private environmental organizations. The EEP resulted from panel discussions between a number of State, federal, and private entities that began in 2001 and culminated

with the 2003 agreement. One of the basic premises of the EEP is that mitigation activities should be performed in advance of the environmental impact.

The EEP is administered through the Department of Environment and Natural Resources. Its goal includes not only wetlands protection, but also wetlands restoration. A large part of the funding for the EEP comes from the Department of Transportation under the funding agreements outlined in the 2003 tri-party Memorandum of Agreement and subsequent agreements between DENR and DOT. In addition, the EEP is funded from such sources as nutrient offset fees.

State Historic Preservation Office and State Historic Sites. State historic sites and the State Historic Preservation Office receive a significant amount of State funding. The State Historic Preservation Office assists private citizens, private institutions, local governments, and State and federal agencies in the identification, evaluation, protection, and enhancement of properties significant in North Carolina history and archaeology. The Office is supported by annual appropriations of approximately \$800,000. A number of State historic sites also receive direct funding from the General Fund. The Division of Historic Sites (including the State Capitol, Tryon Palace, and the Maritime Museum) received over \$11 million of General Fund appropriations for the 2006-07 fiscal year.

Conservation Tax Credit. The income tax credits in G.S. 105-151.12 and G.S. 105-130.34 are allowed to individual and corporate taxpayers who make a qualified donation of an interest in North Carolina real property that is useful for conservation purposes. The tax credit is equal to 25% of the fair market value of the property donated to the State, a local government, or an entity that is both organized to receive and administer lands for conservation purposes and qualified to receive tax deductible charitable contributions. The credit for a corporation may

not exceed \$500,000. The credit for an individual may not exceed \$250,000. Both corporate and individual taxpayers are allowed to carry forward for five years any unused portion of the credit.

Present-Use Value Property Taxation System. Since 1973, the General Assembly has provided that farmland may be appraised, assessed, and taxed at its present-use value, as opposed to its fair market value. The present-use value classification helps preserve farmland by insulating it from the rising property tax values caused by competing market pressures to develop farmland for commercial and residential purposes.

Under the present-use value system, farmland must be part of a unit engaged in commercial production. A "unit" is one or more tracts of farmland. Under current law, multiple units must be under the same ownership and be of the same type of classification. If the multiple tracts are located within different counties, then the tracts must be within 50 miles of a qualifying tract.

For property to qualify for present-use value classification, it must meet certain ownership requirements in addition to use and income requirements. Generally speaking, a qualifying owner must own the property for four years or the property must be the home of the qualifying owner. In addition, there is an exception to the ownership requirement that allows an owner to immediately qualify newly acquired property for use value classification if the property was appraised at its present use value at the time title to the land passed to the new owner so long as the new owner continued to use the property for farm purposes or if the property is acquired by an owner with other property in the present-use value system and the owner used the newly acquired property for eligible purposes. In

order for the exemption to apply, the new owner must file a timely application for the newly acquired property and agree to accept liability for the deferred taxes.

LAND AND WATER CONSERVATION PROGRAMS IN OTHER STATES

The Commission devoted a significant amount of time to studying how other states have chosen to pursue land and water conservation and cultural and historic preservation projects. The Commission notes that there are at least seven 'best practices' related to land and water conservation and cultural and historic preservation: substantial state investment in these areas; enabling local financing; providing state incentives for projects; allowing for the purchase of development rights; supporting public-private partnerships; conservation tax credits; and partnerships with federal agencies. The State has been active in each of these areas, but the Commission finds that the State could improve its record on land and water conservation and cultural and historic preservation by adopting some of the strategies used in other states.

The Commission also discovered that ballot referenda dealing with land and water conservation and cultural and historic preservation issues have been remarkably successful over the past decade. Since 2001, over 657 referenda out of 883 total referenda nationwide relating to funding of conservation and preservation programs have been successful, providing over \$14 billion in new resources. This represents a 74% success rate. In a similar time period (1999-2006), referenda in North Carolina have been even more successful; 22 out of 26 referenda for conservation and preservation purposes have passed, providing almost \$400 million in new resources. This represents a success rate of over 84%.

Substantial State Investment. The Commission notes that substantial state investment is an important part of any state's activities with respect to conservation and

preservation activities. Key factors to be considered in this area are whether the state investment is a stable source of revenue and whether the investment is a long-term investment. Examples of state revenue sources used in other states include general obligation bonds, statutory budget appropriations, lottery proceeds, property taxes, real estate transfer taxes, sales taxes, severance taxes, and tipping fees. One particularly strong example of a state's substantial investment is Florida's Preservation 2000 and Florida Forever programs. These programs committed \$3 billion each over separate ten-year periods for conservation programs. The Preservation 2000 program was supported by state appropriations whereas the Florida Forever program was supported by state bonds backed by the state's real estate transfer tax.

Enabling Local Financing. The Commission notes that a local commitment to land and water conservation and cultural and historic preservation is an important part of a state system. In some circumstances, local governments are best situated to address conservation and preservation needs of particular concern to the local community. Successful programs in other states have relied, in part, on granting local governments the authority to raise funds for these purposes through a variety of sources, including general obligation bonds, sales taxes, property taxes, impact fees, special district assessments, and budget appropriations. One example of a state's commitment to enabling local governments is New Jersey's Open Space Trust Fund program. In 1998, the state legislature in New Jersey enacted legislation allowing local governments to impose a property tax to fund an Open Space Trust Fund. Moneys in the trust funds may be used only for local conservation programs. To date, all of New Jersey's counties and hundreds of the state's municipalities have imposed a tax to support an Open Space Trust Fund.

State Incentives for Local Conservation. The Commission notes the importance of providing state incentives to encourage local conservation efforts. In these instances, the state provides a dedicated source of funding, such as a grant or low-interest loan fund, to match local dollars used for conservation or preservation programs. This strategy is often used in conjunction with efforts to enable local governments to adopt new financing mechanisms. An example of a state's efforts to provide matching funds can be found in Colorado's Great Outdoors Colorado Incentive Grant program. That program provides matching grants to local governments totaling up to 75% of a project's costs. An example of a state's efforts to incentivize local governments while also enabling new local funding options is Massachusetts's Community Preservation Act. This program allows local governments to levy an additional property tax for conservation purposes and sets up a state matching fund to complement the local programs. To date, 121 of Massachusetts's local governments have participated in the Community Preservation Act.

Purchase of Development Rights. The Commission notes that a program allowing for purchase of development rights can be an integral part of a state's conservation efforts. Often times, it is not desirable or economically feasible to purchase land in fee simple for conservation purposes. The purchase of development rights allows a landowner to make a binding commitment not to develop the property in certain ways for a certain period of time. The purchase is of an interest in the land, and the subsequent sale or transfer of the land is subject to the original commitment. The sale of development rights allows a current owner of land to continue the present use of the land while supplying a source of income for the landowner. This sale of development rights may ease the pressure on the landowner to sell the land for

development purposes. The purchase of development rights may also be more cost effective for the purchaser who may not have the means to purchase the land outright. The State has already begun to use such an approach through the use of conservation easements.

Public-Private Partnerships. The Commission recognizes that private interests are key players in the land and water conservation and cultural and historic preservation arena and that the efforts of both public and private agencies can be optimized through cooperation and coordination between the agencies. Public-private partnerships can take many forms. They can involve state grants or low-interest loans to private conservation or preservation groups or can involve the provision of administrative support or expertise to these groups. In addition, the partnership can be established so that there is joint ownership of valuable resources. Our State has made extensive use of public-private partnerships with land trusts active in the State.

Conservation Tax Credits. The Commission notes that conservation tax credits can be an important part of a state's overall conservation and preservation efforts. Conservation tax credits generally provide income tax benefits to landowners who donate land, or conservation easements, for conservation or preservation purposes. The programs are often set up to provide more of a benefit than what would generally be available as a charitable deduction. Oftentimes, the programs are set up to target particular types of important natural or cultural resources. North Carolina is recognized as one of the leading states with respect to conservation tax credits.

Federal Partnerships. The Commission finds that there are numerous federal programs in which state and local dollars can leverage additional federal funding.

An important part of any state system includes a program that can leverage funds from a federal source. Designing programs so that they can leverage federal funds ensures that scarce state and local dollars can be stretched further. North Carolina has done a relatively good job of leveraging federal funds, but there is room for some improvement with several of the federal programs.

COMMITTEE RECOMMENDATIONS

The Joint Legislative Commission on Land and Water Conservation finds that additional funding is needed to finance land and water conservation and cultural and historic preservation. The Commission recommends that the 2007 General Assembly provide an additional \$1 billion in funding over five years for land and water conservation, cultural and historic preservation, and related economic development needs. Although the Commission notes the willingness of the General Assembly to appropriate funds for these purposes, the Commission finds that a larger dedicated source of revenue is needed to adequately address conservation and preservation needs. The Commission finds that a balanced approach based on debt financing and dedicated sources of tax or fee revenue is the best approach for providing for these needs. As such, the Commission has identified a number of possible revenue sources.

At this time the Commission does not have a specific recommendation as to how additional funds should be allocated². However, the Commission does recognize that the existing trust funds and other entities involved in land and water conservation and cultural and historic preservation have a strong history of serving the needs of the State and of coordinating with one another. Therefore, the Commission recommends that the additional funding for land and water conservation and cultural and historic preservation efforts be allocated among a variety of different programs. In addition, the Commission encourages these

² The allocation recommended by the Land for Tomorrow partnership is provided in the chart included in *Appendix E*.

entities to further improve the manner in which they coordinate with one another in order to function in a more collaborative, systematic, and integrated manner so as to maximize the use of State investments. As part of this coordination, the Commission encourages the development of statewide priorities for land and water conservation and cultural and historic preservation and enhanced data collection efforts regarding conservation and preservation needs and efforts.

FINANCING OPTIONS FOR LAND AND WATER CONSERVATION

General Obligation Bonds. The Commission believes that any financing mechanism for land and water conservation and cultural and historic preservation must include the issuance of general obligation bonds; and, therefore, strongly recommends that the General Assembly authorize the issuance of general obligation bonds for these purposes. The Commission notes that future generations will greatly benefit from the investments made in land and water conservation and cultural and historic preservation today and believes that some of the burden for conserving these important resources should be borne by taxpayers in the future. In addition, the Commission notes that many opportunities for conservation will be lost if the State does not act quickly to secure land now and that the State will be able to buy land at lower prices now than it will in the future.

The Commission is mindful of the State's judicious use of debt financing and of potential competing interests for the State's debt capacity. In addition, the Commission is aware that the Debt Affordability Advisory Committee will issue new recommendations with respect to debt capacity in February 2007. For these reasons, the Commission does not recommend a specific dollar amount for the general obligation bond authorization. That determination needs to be made once

the General Assembly has the benefit of the findings of the Debt Affordability Advisory Committee.

The Commission finds that the proceeds from any general obligation debt issued for land and water conservation and cultural and historic preservation purposes should be used for a variety of programs. The Commission also finds that the current system of trust funds (NHTF, PARTF, CWMTF, and ADFPTF) has served the State well and that these trust funds should be the primary recipients of any proceeds resulting from the issuance of general obligation debt. Finally, the Commission finds that a portion of the proceeds of general obligation debt should be used for programs that will specifically promote economic development through the sustainable use and stewardship of the State's natural and cultural resources.

Special Indebtedness. The Commission notes that in the past the State has used special indebtedness to finance various conservation projects. In 2004, the General Assembly authorized the issuance of up to \$45 million of special indebtedness to fund the acquisition of land for improvements to State parks and to protect military bases from encroachment. These issuances of special indebtedness were supported by monies in the NHTF, PARTF, and CWMTF. The Commission recommends that the General Assembly continue to evaluate projects in order to determine whether this financing mechanism is a viable option for a specific project and that the General Assembly use this financing mechanism when appropriate.

FUNDING OPTIONS FOR LAND AND WATER CONSERVATION

At this time, the Commission does not have a recommendation as to the specific mix of additional funding sources for conservation efforts. However, the Commission has identified a number of possible revenue sources that it recommends the General Assembly consider.

Broad-based Tax Options. The Commission finds that land and water conservation and cultural and historic preservation will benefit all North Carolinians. As such, it recommends that a portion of the costs associated with conservation and preservation be offset by a broad-based tax the burden of which is shared by all, or almost all, North Carolinians. The Commission has identified the personal income tax and the sales and use tax as examples of taxes that affect all, or most, residents of the State. The Commission further notes that the State has already earmarked certain tax receipts for some of its highest priorities (such as the earmarking of a portion of corporate income tax receipts for public school construction) and finds that the State should consider a similar earmarking for conservation and preservation purposes.

➤ Sales Tax Earmarking. One possible source of funding for land and water conservation and cultural and historic preservation would be an increase in the State sales and use tax, with all or a portion of that increase dedicated to these purposes. The Commission notes that now may be an opportune time to pursue this strategy as the current State sales and use tax is set to fall by $\frac{1}{4}$ percentage point effective July 1, 2007. Maintaining the State sales and use tax at a rate of 4.25% past July 1, 2007, could generate over \$240 million in the 2007-2008 fiscal year. The Commission recommends that the General Assembly consider maintaining the State sales and use tax rate at 4.25% and devoting the proceeds from $\frac{1}{4}$ percentage point of the tax to conservation and preservation purposes.

➤ Personal Income Surtax. A second broad-based source of funding for conservation and preservation purposes is a surtax on personal income tax. A surtax is a tax that is imposed on tax liability. Unlike increasing marginal

rates or eliminating credits or deductions, a surtax is a method of increasing income tax liability proportionately among all taxpayers. The surtax is a specified percentage that is applied to income tax liability once all other adjustments (such as filing status, deductions, and credits) have been made. It is estimated that a one-percent surtax could generate additional revenues of approximately \$100 million during the 2007-08 fiscal year. The Commission recommends that the General Assembly consider imposing a personal income tax surtax and devoting the proceeds from the surtax to conservation and preservation purposes.

Development-based Tax Options. The Commission finds that a portion of the needs with respect to land and water conservation and cultural and historic preservation are driven by the continued development of the State's land. As noted earlier, the State loses 277 acres of natural or agricultural land a day to development. The Commission believes that a portion of the costs of conservation and preservation should be borne by those responsible for the changing environment. The Commission therefore suggests the following options as possible sources of revenue for land and water conservation and cultural and historic preservation.

➤ Excise Tax on Conveyances. The Commission notes that the State has previously relied upon the excise tax on conveyances as a means of providing a dedicated revenue source for conservation purposes and that this structure has greatly benefited the State's conservation efforts. As noted previously, the State currently imposes an excise tax on conveyances of interest in real property at the rate of 0.2% (\$2 per \$1,000 of value transferred). The tax is collected by county governments who retain one-half of the proceeds. The remaining proceeds are transferred to the State and are distributed to the

NHTF and the PARTF. The tax does not apply to all conveyances of interest in land, however. Specifically excluded from the tax are transfers of an interest in real property by operation of law; by lease for a term of years; by or pursuant to the terms of a will; by intestacy; by gift; if no consideration in property or money is due or paid by the transferee to the transferor; by merger, conversion, or consolidation; or by an interest securing indebtedness (such as a mortgage).

The Commission recommends that the General Assembly consider amending the excise tax on conveyances in two ways. First, the Commission recommends that the General Assembly consider increasing the rate of tax. The Commission notes that a tax rate of 0.1% (\$1 per \$1,000 of value transferred) on the current base raises an estimated \$60 million (based on collections for the most recent fiscal year). Second, the Commission recommends that the General Assembly consider expanding the tax base so that it includes transfers of an interest in real property by an instrument securing indebtedness. This could be structured so that it applies to all instruments securing indebtedness or solely to instruments securing indebtedness that are not accompanied by the transfer of an ownership interest in the property (refinancings).

➤ Statewide Building Permit Fee. The Commission finds that a more narrowly focused means of imposing the costs of land and water conservation and cultural and historic preservation on those responsible for development would be provided by imposing a statewide building permit fee. The Commission notes that not all transfers of property from one person to another would result in further development, but that further development

would result from the vast majority of instances where building permits are issued. The fee could be structured so that it applies to all new construction, or just to new residential construction. The U.S. Census Bureau found that almost 100,000 new privately-owned residential units were constructed in North Carolina in 2005. Based on those figures, a statewide building permit fee of \$100 on residential units would yield approximately \$10 million per year. The Commission recommends that the General Assembly consider imposing a statewide building permit fee, but does note that building permit fees have traditionally been a source of revenue for local governments rather than the State.

➤ Landfill Tipping Fee. The Commission notes that the State produces roughly 11 million tons of waste per year (1.29 tons, or 2,580 pounds, per person). In addition, North Carolinians are producing much more waste per capita than in the past; there has been an increase of roughly 21% per capita since 1991. Of the total amount of waste generated, roughly 2.4 million tons is waste generated by construction and demolition. The Commission recommends that the General Assembly consider implementing a statewide landfill tipping fee. This fee, or tax, would be a flat rate imposed per ton of waste generated. The fee could be imposed on all waste generated or just on waste generated by construction and demolition projects. A \$1 per ton tax on all waste generated would provide roughly \$11 million annually at current rates of waste generation. A \$10 per ton tax on construction and demolition waste generated would provide roughly \$24 million annually at current rates of waste generation. The Commission recommends that the General Assembly consider imposing a statewide landfill tipping fee.

Tourism-based Tax Options. As noted previously in this report, the tourism industry in the State has benefited greatly from the State's varied and diverse natural and cultural resources. The State's natural and cultural resources are one of the primary reasons that the State has the eighth largest tourism industry in the nation. As such, the Commission finds that a portion of the costs of preserving our natural and cultural heritage should be borne by those who visit these areas.

There are two taxes often associated with tourism-based tax options: the occupancy tax and the meals tax. The Commission recognizes that many counties and cities have already adopted local occupancy taxes. However, very few jurisdictions in North Carolina have been authorized to impose meals taxes³. Only four counties (Cumberland, Dare, Mecklenburg and Wake) and two municipalities (Hillsborough and Monroe) have been authorized to levy a meals tax. In each case, the jurisdiction has been authorized to levy a tax of up to 1% of the sales price.

Meals taxes are imposed on prepared food and beverages purchased within a jurisdiction. Generally, the tax is imposed as a percentage of the sales price of prepared food and beverages. It is estimated that a statewide meals tax at the rate of 1% would generate approximately \$100 million annually. The Commission recommends that the General Assembly consider imposing a statewide meals tax with the proceeds dedicated to farmland conservation purposes because of the connection between farmland and food, but does note that the meals tax has traditionally been a source of revenue for local governments rather than for the State.

PROGRAMMATIC OPTIONS FOR LAND AND WATER CONSERVATION

³ A county or municipality has no independent authority to levy a meals tax. All local meals taxes are authorized by local legislation specifically authorizing the county or municipality to levy the tax.

As part of its studies, the Commission looked at other programmatic changes that could also encourage further land and water conservation and cultural and historic preservation. These options are discussed below.

Infrastructure Needs Committee. The Commission recognizes that the State has many important issues to address with respect to future infrastructure needs. Because land, water, cultural, and historic resources are a critical part of the State's infrastructure, the Commission recommends that both chambers of the General Assembly establish a committee at the start of the 2007 Regular Session to address the State's infrastructure needs including conservation, water and sewer, public schools, transportation, State government facilities, and affordable housing and to develop a bond and dedicated funding package to meet these overall needs.

Mitigation Banking. Mitigation programs require developers to protect a specified amount of land based on the amount of undeveloped land developed by the developer. The exact ratio to be used varies from one jurisdiction to another based on local priorities. To date, these programs have been used most frequently when land that is valuable as wetlands or as a habitat for threatened or endangered species has been developed. These programs generally require that land be permanently protected rather than for a period of years.

Mitigation banks are one type of entity that may be involved in mitigation programs. A mitigation bank is an area of land that has been restored, established, enhanced, or preserved in order to provide compensating credit for development that occurs in another area. Mitigation banks function by offering transferable credits for required mitigation. A developer that is required to provide some level of mitigation may contract with a third party (the mitigation banker) to provide for the mitigation. The Environmental Protection Agency has recognized that

mitigation banks provide many benefits including their ability to reduce uncertainty over whether mitigation will adequately offset development impacts; to apply financial resources, planning, and expertise not always available to individual developers; and to reduce permit processing times and provide cost-effective means to accomplish mitigation goals.

The Commission recommends that the General Assembly study further the idea of land mitigation requirements and any authorizing legislation needed to authorize voluntary or mandatory mitigation banking.

Encouraging Local Governments. The Commission finds that encouraging local government participation in land and water conservation and cultural and historic preservation is a necessary part of any reform to the State's current conservation and preservation efforts. The Commission recommends that the General Assembly consider proposals that would provide additional funding options at the local level for conservation purposes. Those options could include allowing the imposition of a special property tax dedicated to conservation purposes, authorization for additional levies of local sales and use taxes, or modifying local legislation relating to occupancy taxes to clarify or establish that those funds may be used for conservation or preservation purposes. In addition, the Commission recommends that the General Assembly evaluate the means by which it encourages local participation with projects funded by the four major conservation trust funds with the goal of encouraging greater local participation.

Enhancement of the Conservation Tax Credit. The Commission finds that the tax credits for certain real property donations (G.S. 105-130.34 and G.S. 105-105-151.12) have been successful in encouraging private donations of valuable land for conservation purposes. The Commission recommends that the General Assembly

consider an enhancement of these tax credits. One option for enhancing the credits would be to provide for a larger credit, with respect to both the percentage used to determine the amount of the credit and dollar amount limitation on specific taxpayers. The Commission recommends that the General Assembly consider increasing the value of the credit for certain types of strategic or high-priority interests in land.

Property Tax Incentives for Conservation. The Commission recognizes that the present-use value property taxation system has been a valuable tool in the State's efforts with respect to land conservation. The Commission recommends that the General Assembly consider establishing a property tax incentive for lands being managed for conservation. This incentive could take the form of a deferred property tax value, similar to the current present-use value program for agricultural, forestry, and horticultural land. The incentive could also take the form of an income tax credit.

Time-Limited Conservation Agreements. The Commission notes that the State and private conservation groups have made great use of conservation agreements to preserve lands. The Commission further notes that these agreements have generally been in perpetuity. The Commission recommends that the General Assembly further study the potential effect of time-limited conservation agreements on the State's conservation and preservation efforts.

Leveraging Federal Funds. The Commission notes that the State has generally been prudent in the use of its conservation and preservation dollars by using that money to leverage federal funds. The Commission recommends that the General Assembly study alternative allocations of State funds to ensure that the State fully leverages available federal funds.

APPENDIX A

AUTHORIZING LEGISLATION S.L. 2006-233

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2006-223
SENATE BILL 1122**

**AN ACT TO CREATE THE LAND AND WATER CONSERVATION STUDY
COMMISSION.**

Whereas, North Carolina has more than 3,000 miles of streams that fail to meet State water quality standards; and

Whereas, North Carolina is losing natural areas, historic sites, and agricultural and forestry lands at a rate of over 100,000 acres per year; and

Whereas, North Carolina's waters, open lands, and historic properties are critical to our State's economic future and quality of life; and

Whereas, land costs are increasing rapidly; and

Whereas, Article XIV, Section V of the State Constitution states, "North Carolina must use every appropriate way to preserve as part of the common heritage of this State its forests, wetlands, estuaries, beaches, historical sites, open lands and places of beauty;" and

Whereas, G.S. 113A-241(a) provides, "The State of North Carolina shall encourage, facilitate, plan, coordinate, and support appropriate federal, State, local, and private land protection efforts so that an additional one million acres of farmland, open space, and conservation lands in the State are permanently protected by December 31, 2009."; and

Whereas, traditional methods for funding the State's Clean Water Management Trust Fund, Parks and Recreation Trust Fund, Natural Heritage Trust Fund, Agricultural Development and Farmland Preservation Trust Fund, and economic development efforts related to land and water conservation have failed to keep pace with conservation needs and rapidly rising land costs and are not able to meet the State's conservation goals at current funding levels; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Commission Established. – The Land and Water Conservation Commission is hereby established.

SECTION 2. Membership. –The Commission shall consist of 16 members as follows:

- (1) Five members appointed by the President Pro Tempore of the Senate.
- (2) Five members appointed by the Speaker of the House of Representatives.
- (3) The State Treasurer or the State Treasurer's designee.
- (4) The Director of the Governor's Policy Office or the Director's designee.
- (5) The Secretary of Environment and Natural Resources or the Secretary's designee.
- (6) Three representatives from the public at large appointed by the Governor.

SECTION 3. Cochairs. – The Commission shall have two cochairs, one designated by the President Pro Tempore of the Senate and one designated by the Speaker of the House of Representatives from among their respective appointees. The Commission shall meet upon the call of the cochairs.

SECTION 4. Quorum. – A quorum of the Commission shall consist of nine members.

SECTION 5. Vacancies. – Any vacancy on the Commission shall be filled by the original appointing authority.

SECTION 6. Purpose and Duties. – The Commission shall:

- (1) Identify and evaluate the existing sources of State funding for: (i) the public acquisition of land or interests in land to protect drinking water quality and prevent polluted runoff, conserve rivers, wetlands, floodplains, coastal waters, working farms, working forests, local parks, State parks, game lands and other natural areas, urban forests, and land visible from scenic highways in North Carolina; (ii) historic preservation; and (iii) economic and community development tied to land and water conservation and historic preservation.
- (2) Collect research and information from North Carolina and other states and jurisdictions regarding incentive based techniques and management tools used to protect land and water and assess the applicability of such tools and techniques to land conservation in North Carolina.
- (3) Prepare a draft report with a statement of the issues, a summary of the research, and recommendations to address funding needs and other issues affecting land and water conservation in North Carolina.
- (4) Hold at least three public meetings, including at least one meeting in the Mountains, Piedmont, and the Coastal Plain region of the State to present the draft report and recommendations to the public and user groups.

SECTION 7. Expenses of Members. – Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 8. Staff. – Upon the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to the Commission to aid in its work.

SECTION 9. Consultants. – The Commission may hire consultants to assist with the study as provided in G.S. 120-32.02(b).

SECTION 10. Meetings. – The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission.

SECTION 11. Report. – The Commission shall report its findings and recommendations to the General Assembly and the Environmental Review Commission on or before 1 February 2007, at which time the Commission shall terminate.

SECTION 12. Funding. – From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the purpose of conducting the study provided for in this act.

SECTION 13. Effective Date. – This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 27th day of July, 2006.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 3:37 p.m. this 10th day of August, 2006

APPENDIX B

COMMISSION MEETING AGENDAS

LAND AND WATER CONSERVATION STUDY COMMISSION

Sen. Charles W. Albertson

Rep. Lucy T. Allen

Wednesday, October 11, 2006
Room 424, Legislative Office Building
9:00 a.m.

I. Introduction.

II. Importance of Land & Water Conservation to North Carolina's Economy and Future

Kipling Godwin, Chair, Columbus County Board of Commissioners

III. Existing Sources of State Funding for Land & Water Conservation

- **Parks and Recreation Trust Fund**

Jonathan Howes, Chair, Parks and Recreation Authority

- **Natural Heritage Trust Fund**

Lisa Riegel, Executive Director, Natural Heritage Trust Fund

- **Clean Water Management Trust Fund**

Bill Holman, Executive Director, Clean Water Management Trust Fund

- **Farmland Preservation Trust Fund**

- *Dewitt Hardee, Environmental Program Manager, Department of Agriculture*

- *Max Merrill, Environmental Program Specialist, Department of Agriculture*

IV. Unmet Conservation Needs in North Carolina

Kate Dixon, Director, Land for Tomorrow

V. Land & Water Conservation Efforts by Other States

Will Abberger, Associate Director, Conservation Finance, The Trust for Public Land

VI. Adjournment

*Upcoming meeting dates: November 16; November 28, December 14
Remind about January public hearings*

LAND AND WATER CONSERVATION STUDY COMMISSION

Sen. Charles W. Albertson

Rep. Lucy T. Allen

Thursday, November 16, 2006
Room 643, Legislative Office Building
9:00 a.m.

- I. Adoption of the Minutes from October 11, 2006, Meeting**
- II. Importance of Land & Water Conservation to North Carolina's Economy and Future**
Dr. Denise Barnes, President, Board of Preservation NC
- III. North Carolina Conservation Funding Efforts and Needs: Relationship between Land Conservancies in NC and the four Conservation Trust Funds and Assessment of Present and Future Funding Needs**
Kate Dixon, Director, Land for Tomorrow
- III. Current State Revenues Dedicated to Conservation Projects: General Fund Appropriations and Dedicated Sources of Revenue**
Kristin Walker, Fiscal Research Division
- IV. Creating Partnerships: Leveraging State Funds with Federal, Local, and Private Dollars**
Will Abberger, Associate Director, Conservation Finance, The Trust for Public Land
- V. Various Statewide Options to Finance Conservation Projects**
Richard Whisnant, Associate Professor of Public Law and Government, UNC School of Government
- VI. Commission Discussion: Funding Options to Pursue in 2007**
- VII. Adjournment**

LAND AND WATER CONSERVATION STUDY COMMISSION

Sen. Charles W. Albertson

Rep. Lucy T. Allen

**Tuesday, November 28, 2006
Room 643, Legislative Office Building
9:00 a.m.**

- I. Adoption of the Minutes from November 16, 2006, Meeting**
- II. Importance of Land & Water Conservation to North Carolina's Economy and Future**
Kirk Bradley, Chairman, President, and CEO of Lee-Moore Oil Company, Sanford, NC
- III. Agricultural Development and Farmland Preservation**
Steve Troxler, Commissioner of Agriculture
- IV. Ecosystem Enhancement Program**
Bill Gilmore, Director, Ecosystem Enhancement Program, Department of Environment and Natural Resources
- V. Ways to Expand Local Government Involvement in Water and Land Conservation**
David Owens, Professor of Public Law and Government, UNC School of Government
- VI. State Debt Affordability**
Vance Holloman, Deputy Treasurer, State and Local Finance Division, NC Department of State Treasurer
- VII. Commission Discussion: Proposed Recommendations to the 2007 General Assembly**
- VIII. Adjournment**

LAND AND WATER CONSERVATION STUDY COMMISSION

Sen. Charles W. Albertson

Rep. Lucy T. Allen

**Thursday, December 14, 2006
Room 643, Legislative Office Building
9:00 a.m.**

- I. Adoption of the Minutes from November 28, 2006, Meeting**
- II. Importance of Land & Water Conservation to North Carolina's Economy and Future**
Crae Morton, President of Grandfather Mountain
- III. Presentation of Draft Report**
Y. Canaan Huie, Legislative Drafting Division
- IV. Commission Discussion**
- V. Adjournment**

LAND AND WATER CONSERVATION STUDY COMMISSION

Sen. Charles W. Albertson

Rep. Lucy T. Allen

Monday, January 22, 2007
Room 544, Legislative Office Building
2:30 p.m.

- I. Adoption of the Minutes from November 28, 2006, Meeting and December 14, 2006, Meeting**

- II. Importance of Land & Water Conservation to North Carolina's Military Installations**
Colonel David G. Fox, Garrison Commander, Fort Bragg, North Carolina

- III. Review of Public Hearings**

- IV. Chris Beacham, Assistant Secretary, Policy, Research, and Strategic Planning, NC Department of Commerce**

- V. Abdul Sm Rasheed, CEO, NC Community Development Initiative**

- VI. Larry Wooten, President, NC Farm Bureau**

- VII. Discussion and Adoption of Final Report**

- VIII. Adjournment**

APPENDIX C

TRUST FUND ENABLING LEGISLATION

NATURAL HERITAGE TRUST FUND

Article 5A.

Natural Heritage Trust Program.

§ 113-77.6. Definitions.

As used in this Article:

- (1) "Appraised value" means the price estimated in terms of money at which the property would change hands between a willing and financially able buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the uses to which the property is adapted and for which it is capable of being used.
- (2) "Fund" means the Natural Heritage Trust Fund created pursuant to this Article.
- (3) "Land" and "lands" mean real property and any interest in, easement in, or restriction on real property.
- (4) "Secretary" means the Secretary of Environment and Natural Resources.
- (5) "Trustees" means the trustees of the Natural Heritage Trust Fund.

§ 113-77.7. Natural Heritage Trust Fund.

(a) There is established a Natural Heritage Trust Fund in the State Treasurer's office that shall be used to finance the Natural Heritage Trust Program authorized by this Article.

(b) The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the Chairman of the Board of Trustees.

(c) When the State acquires land pursuant to this Article, the Trustees may direct a request to the State Treasurer to set aside an amount from the Fund not to exceed twenty percent (20%) of the appraised value of the land acquired, or the land affected if less than a fee interest was acquired, to be placed in a special stewardship account in the Fund. The special stewardship account shall be a nonlapsing account, and income derived from investment of the account shall be credited to the account. The special stewardship account shall be used for the management of land acquired pursuant to this Article under the direction of the Trustees.

(d) Monies in the Fund are appropriated annually and may be used for the purposes provided in G.S. 113-77.9.

§ 113-77.8. Natural Heritage Trust Fund Board of Trustees.

(a) Expenditures from the Fund shall be authorized by a 12-member Board of Trustees. Four members shall be appointed by the Governor, four by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, and four by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121. Persons appointed shall be knowledgeable in the acquisition and management of natural areas. Each appointing officer shall designate one of his initial appointments to serve a two-year term, one to serve a four-year term, and one to serve a six-year term. Thereafter, all appointments shall be for six years, subject to reappointment. Appointments shall expire January 1 of even-numbered years. The Governor shall appoint one Trustee to serve as Chairman of the Board. The Secretary shall provide the Trustees with staff

support and meeting facilities using expenditures from the Fund. The office of Trustee is declared to be an office that may be held concurrently with any other executive or appointive office, under the authority of Article VI, Section 9, of the North Carolina Constitution.

(b) The Trustees shall meet at least once each year and may hold special meetings at the call of the Chairman or a majority of the members.

(c) The Trustees shall receive the per diem allowed for other members of boards and commissions of the State as fixed in the Biennial Appropriations Act, and, in addition, the Trustees shall receive subsistence and travel expenses as fixed by statute for such purposes. Travel and subsistence expenses shall be allowed while going to or from any place of meeting or when on official business. Per diem payments shall include necessary time spent in traveling to and from their places of residence to any meeting place or while traveling on official business. Per diem, subsistence, and travel expenses of the Trustees shall be paid from the Fund.

§ 113-77.9. Acquisition of lands with funds from the Natural Heritage Trust Fund.

(a) Proposals. – From time to time, but at least once each year, the Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources may propose to the Trustees lands to be acquired with funds from the Fund. For each tract or interest proposed, the Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources shall provide the Trustees with the following information:

- (1) The value of the land for recreation, forestry, fish and wildlife habitat, and wilderness purposes, and its consistency with the plan developed pursuant to the State Parks Act, the State's comprehensive plan for outdoor recreation, parks, natural areas development, and wildlife management goals and objectives.
- (2) Any rare or endangered species on or near the land.
- (3) Whether the land contains a relatively undisturbed and outstanding example of a native North Carolina ecological community that is now uncommon.
- (4) Whether the land contains a major river or tributary, watershed, wetland, significant littoral, estuarine, or aquatic site, or important geologic feature.
- (5) The extent to which the land represents a type of landscape, natural feature, or natural area that is not currently in the State's inventory of parks and natural areas.
- (6) Other sources of funds that may be available to assist in acquiring the land.
- (7) The State department or division that will be responsible for managing the land.
- (8) What assurances exist that the land will not be used for purposes other than those for which it is being acquired.
- (9) Whether the site or structure is of such historical significance as to be essential to the development of a balanced State program of historic properties.

(b) Land Acquisition and Debt Service. – The Trustees may authorize expenditures from the Fund for the following purposes:

- (1) To acquire land that represents the ecological diversity of North Carolina, including natural features such as riverine, montane, coastal, and geologic systems and other natural areas to ensure their preservation and conservation for recreational, scientific, educational, cultural, and aesthetic purposes, and to

retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.

- (2) To acquire land as additions to the system of parks, State trails, aesthetic forests, fish and wildlife management areas, wild and scenic rivers, and natural areas for the beneficial use and enjoyment of the public, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.
- (3) Subject to the limitations of subsection (b2) of this section, to acquire land that contributes to the development of a balanced State program of historic properties.

(b1) **Priorities.** – In authorizing expenditures from the Fund to acquire land pursuant to this Article, the first priority shall be the protection of land with outstanding natural or cultural heritage values. Land with outstanding natural heritage values is land that is identified by the North Carolina Natural Heritage Program as having State or national significance. Land with outstanding cultural heritage values is land that is identified, inventoried, or evaluated by the Department of Cultural Resources. The Trustees shall be guided by any priorities established by the Secretary, the Chairman of the Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources in their proposals made pursuant to subsection (a) of this section.

(b2) **Historic Properties.** – The Trustees may authorize expenditure of up to twenty-five percent (25%) of the funds credited to the Fund pursuant to G.S. 105-228.30 during the preceding fiscal year to acquire land under subdivision (3) of subsection (b) of this section. No other funds in the Fund may be used for expenditures to acquire land under subdivision (3) of subsection (b) of this section.

(b3) **Debt.** – Of the funds credited annually to the Fund pursuant to G.S. 105-228.30, the Trustees may authorize expenditure of up to fifty percent (50%) to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in subdivisions (b)(1) and (2) of this section. In order to authorize expenditure of funds for debt service reimbursement, the Trustees must identify to the State Treasurer and the Department of Administration the specific natural heritage projects for which they would like special indebtedness to be issued or incurred and the annual amount they intend to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a natural heritage project requested by the Trustees, the Trustees must direct the State Treasurer to credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer.

(c) **Other Purposes.** – The Trustees may authorize expenditures from the Fund to pay for the inventory of natural areas conducted under the Natural Heritage Program established pursuant to the Nature Preserves Act, Article 9A of Chapter 113A of the General Statutes. The Trustees may also authorize expenditures from the Fund to pay for conservation and protection planning and for informational programs for owners of natural areas, as defined in G.S. 113A-164.3.

(d) **Acquisition.** – The Department of Administration may, pursuant to G.S. 143-341, acquire by purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to this Article. Title to any land acquired pursuant to this Article shall be vested in the State. A State agency with management responsibility for land acquired pursuant to this Article may enter into a management agreement or lease with a county, city, town, or private nonprofit

organization qualified under G.S. 105-151.12 and G.S. 105-130.34 and certified under section 501(c)(3) of the Internal Revenue Code to aid in managing the land. A management agreement or lease shall be executed by the Department of Administration pursuant to G.S. 143-341.

(d1) Local Reimbursement. – In any county in which real property was purchased pursuant to subsection (d) of this section as additions to the fish and wildlife management areas and where less than twenty-five percent (25%) of the land area is privately owned at the time of purchase, that county and any other local taxing unit shall be annually reimbursed, for a period of 20 years, from funds available to the North Carolina Wildlife Resources Commission in an amount equal to the amount of ad valorem taxes that would have been paid to the taxing unit if the property had remained subject to taxation.

(e) Reports. – The Secretary shall maintain and revise twice each year a list of acquisitions made pursuant to this Article. The list shall include the acreage of each tract, the county in which the tract is located, the amount paid from the Fund to acquire the tract, and the State department or division responsible for managing the tract. The Secretary shall furnish a copy of the list to each Trustee, the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission within 30 days after each revision.

(f) Hunting and Fishing. – No provision of this Article shall be construed to eliminate hunting and fishing, as regulated by the laws of the State of North Carolina, upon properties purchased pursuant to this Article.

PARKS AND RECREATION TRUST FUND

§ 113-44.15. Parks and Recreation Trust Fund.

(a) Fund Created. – There is established a Parks and Recreation Trust Fund in the State Treasurer's Office. The Trust Fund shall be a nonreverting special revenue fund consisting of gifts and grants to the Trust Fund, monies credited to the Trust Fund pursuant to G.S. 105-228.30(b), and other monies appropriated to the Trust Fund by the General Assembly.

(b) Use. – Funds in the Trust Fund are annually appropriated to the North Carolina Parks and Recreation Authority and, unless otherwise specified by the General Assembly or the terms or conditions of a gift or grant, shall be allocated and used as follows:

(1) Sixty-five percent (65%) for the State Parks System for capital projects, repairs and renovations of park facilities, and land acquisition, and to retire debt incurred for these purposes under Article 9 of Chapter 142 of the General Statutes.

(2) Thirty percent (30%) to provide matching funds to local governmental units or public authorities as defined in G.S. 159-7 on a dollar-for-dollar basis for local park and recreation purposes. The appraised value of land that is donated to a local government unit or public authority may be applied to the matching requirement of this subdivision. These funds shall be allocated by the North Carolina Parks and Recreation Authority based on criteria patterned after the Open Project Selection Process established for the Land and Water Conservation Fund administered by the National Park Service of the United States Department of the Interior.

(3) Five percent (5%) for the Coastal and Estuarine Water Beach Access Program.

(b1) Geographic Distribution. – In allocating funds in the Trust Fund under this section, the North Carolina Parks and Recreation Authority shall make geographic distribution across the State to the extent practicable.

(b2) Administrative Expenses. – Of the funds appropriated to the North Carolina Parks and Recreation Authority from the Trust Fund each year, no more than three percent (3%) may be used by the Department for operating expenses associated with managing capital improvements projects, acquiring land, and administration of local grants programs.

(c) Reports. – The North Carolina Parks and Recreation Authority shall report no later than October 1 of each year to the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on allocations from the Trust Fund from the prior fiscal year. The Authority also shall provide a progress report no later than March 15 of each year to the same recipients on the activities of and the expenditures from the Trust Fund for the current fiscal year.

(d) Debt. – The Authority may allocate up to fifty percent (50%) of the portion of the annual appropriation identified in subdivision (b)(1) of this section to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in subdivision (b)(1) of this section. In order to allocate funds for debt service reimbursement, the Authority must identify to the State Treasurer the specific parks projects for which it would like special indebtedness to be issued or incurred and the annual amount it intends to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a parks project requested by the Authority, the Authority must credit to the General Fund each

year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer.

§ 143B-313.1. North Carolina Parks and Recreation Authority; creation; powers and duties.

The North Carolina Parks and Recreation Authority is created, to be administered by the Department of Environment and Natural Resources. The North Carolina Parks and Recreation Authority shall have at least the following powers and duties:

- (1) To receive public and private donations, appropriations, grants, and revenues for deposit into the Parks and Recreation Trust Fund.
- (2) To allocate funds for land acquisition from the Parks and Recreation Trust Fund.
- (3) To allocate funds for repairs, renovations, improvements, construction, and other capital projects from the Parks and Recreation Trust Fund.
- (4) To solicit financial and material support from public and private sources.
- (5) To develop effective public and private support for the programs and operations of the parks and recreation areas.
- (6) To consider and to advise the Secretary of Environment and Natural Resources on any matter the Secretary may refer to the North Carolina Parks and Recreation Authority.

CLEAN WATER MANAGEMENT TRUST FUND

Article 18.

Clean Water Management Trust Fund.

§ 113A-251. Purpose.

The General Assembly recognizes that a critical need exists in this State to clean up pollution in the State's surface waters and to protect and conserve those waters that are not yet polluted. The task of cleaning up polluted waters and protecting the State's water resources is multifaceted and requires different approaches that take into account the problems, the type of pollution, the geographical area, and the recognition that the hydrological and ecological values of each resource sought to be upgraded, conserved, and protected are unique.

It is the intent of the General Assembly that moneys from the Fund created under this Article shall be used to help finance projects that specifically address water pollution problems and focus on upgrading surface waters, eliminating pollution, and protecting and conserving unpolluted surface waters, including urban drinking water supplies. It is the further intent of the General Assembly that moneys from the Fund also be used to build a network of riparian buffers and greenways for environmental, educational, and recreational benefits. While the purpose of this Article is to focus on the cleanup and prevention of pollution of the State's surface waters and the establishment of a network of riparian buffers and greenways, the General Assembly believes that the results of these efforts will also be beneficial to wildlife and marine fisheries habitats.

§ 113A-252. Definitions.

The following definitions apply in this Article:

- (1) Council. – The advisory council for the Clean Water Management Trust Fund.
- (2) Economically distressed local government unit. – An economically distressed county, as defined in G.S. 143B-437.01, or a local government unit located in that county.
- (3) Fund. – The Clean Water Management Trust Fund created pursuant to this Article.
- (4) Land. – Real property and any interest in, easement in, or restriction on real property.
- (4a) Local government unit. – Defined in G.S. 159G-20.
- (4b) Stormwater quality project. – Defined in G.S. 159G-20.
- (5) Trustees. – The trustees of the Clean Water Management Trust Fund.
- (6) Wastewater collection system. – Defined in G.S. 159G-20.
- (7) Wastewater treatment works. – Defined in G.S. 159G-20.

§ 113A-253. Clean Water Management Trust Fund.

(a) Fund Established. – The Clean Water Management Trust Fund is established as a special revenue fund. The Fund receives revenue from the following sources and may receive revenue from other sources:

- (1) Annual appropriations under G.S. 143-15.3B.
- (2) Scenic River special registration plates under G.S. 20-81.12.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. Investment earnings credited to

the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the Chair of the Board of Trustees.

(c) Fund Purposes. – Moneys from the Fund are appropriated annually to finance projects to clean up or prevent surface water pollution in accordance with this Article. Revenue in the Fund may be used for any of the following purposes:

- (1) To acquire land for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational uses and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.
- (2) To acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and urban drinking water supplies and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.
- (3) To coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water quality and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.
- (4) To restore previously degraded lands to reestablish their ability to protect water quality and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.
- (5) To repair failing wastewater collection systems and wastewater treatment works if the repair is a reasonable remedy for resolving an existing waste treatment problem and the repair is not for the purpose of expanding the system to accommodate future anticipated growth of a community.
- (6) To repair and eliminate failing septic tank systems, to eliminate illegal drainage connections, and to expand a wastewater collection system or wastewater treatment works if the expansion eliminates failing septic tank systems or illegal drainage connections.
- (7) To finance stormwater quality projects.
- (8) To facilitate planning that targets reductions in surface water pollution.
- (9) To fund operating expenses of the Board of Trustees and its staff.

(d) Limit on Operating and Administrative Expenses. – No more than two percent (2%) of the annual balance of the Fund on 1 July or a total sum of one million two hundred fifty thousand dollars (\$1,250,000), whichever is greater, may be used each fiscal year for administrative and operating expenses of the Board of Trustees and its staff.

§ 113A-253.1. (Effective July 1, 2007) The Clean Water Management Trust Fund; appropriation.

(a) The General Assembly finds that, due to the critical need in this State to clean up pollution in the State's surface waters and to protect and conserve those waters that are not yet polluted, it is imperative that the State provide a minimum of one hundred million dollars (\$100,000,000) each calendar year to the Clean Water Management Trust Fund; therefore, there is annually appropriated from the General Fund to the Clean Water Management Trust Fund the sum of one hundred million dollars (\$100,000,000).

(b) The funds in the Clean Water Management Trust Fund shall be used only in accordance with this Article.

§ 113A-254. Grant requirements.

(a) Eligible Applicants. – Any of the following are eligible to apply for a grant from the Fund for the purpose of protecting and enhancing water quality:

- (1) A State agency.
- (2) A local government unit.
- (3) A nonprofit corporation whose primary purpose is the conservation, preservation, and restoration of our State's environmental and natural resources.

(a1) Criteria. – The criteria developed by the Trustees under G.S. 113A-256 apply to grants made under this Article. The common criteria for water projects set in G.S. 159G-23 and the criteria set out in this section also apply to wastewater collection system projects, wastewater treatment works projects, and stormwater quality projects. An application for a wastewater collection system project or a wastewater treatment works project that serves an economically distressed local government unit has priority.

(b) Matching Requirement. – The Board of Trustees shall establish matching requirements for grants awarded under this Article. This requirement may be satisfied by the donation of land to a public or private nonprofit conservation organization as approved by the Board of Trustees. The Board of Trustees may also waive the requirement to match a grant pursuant to guidelines adopted by the Board of Trustees.

(c) Restriction. – No grant shall be awarded under this article to satisfy compensatory mitigation requirements under 33 USC § 1344 or G.S. 143-214.11.

(d) Wastewater Limits. – A wastewater collection system project or a wastewater treatment works project is eligible for a grant under this Article only if it is a high-unit-cost project, as defined in G.S. 159G-20. A grant made under this Article for a wastewater collection system project or a wastewater treatment works project is subject to the cost limits and recipient limits set in G.S. 159G-36 for a grant awarded from the Wastewater Reserve.

(e) Stormwater Limits. – The amount of a grant awarded under this Article for a stormwater quality project may not exceed the construction costs of the project. The total amount of grants awarded under this Article to the same recipient for stormwater quality projects for a fiscal year may not exceed the limit set in G.S. 159G-36(c)(1) for grants to the same recipient from the Wastewater Reserve.

(f) Withdrawal. – An award of a grant under this Article is withdrawn if the grant recipient fails to enter into a construction contract for the project within one year after the date of the award, unless the Trustees find that the applicant has good cause for the failure. If the Trustees find good cause for a recipient's failure, the Trustees must set a date by which the recipient must take action or forfeit the grant.

§ 113A-255. Clean Water Management Trust Fund: Board of Trustees established; membership qualifications; vacancies; meetings and meeting facilities.

(a) Board of Trustees Established. – There is established the Clean Water Management Trust Fund Board of Trustees. The Clean Water Management Trust Fund Board of Trustees shall be administratively located within the Department of Environment and Natural Resources but shall be independent of the Department.

(b) Membership. – The Clean Water Management Trust Fund Board of Trustees shall be composed of 21 members appointed to four-year terms as follows:

- (1) One member appointed by the Governor to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.
- (2) One member appointed by the Governor to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.
- (3) One member appointed by the Governor to a term that expires on 1 July of years that are evenly divisible by four.
- (4) One member appointed by the Governor to a term that expires on 1 July of years that are evenly divisible by four.
- (5) One member appointed by the Governor to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.
- (6) One member appointed by the Governor to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.
- (7) One member appointed by the Governor to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.
- (8) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.
- (9) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.
- (10) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that are evenly divisible by four.
- (11) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.
- (12) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.
- (13) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.
- (14) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.
- (15) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.
- (16) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that are evenly divisible by four.
- (17) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that are evenly divisible by four.

- (18) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.
- (19) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.
- (20) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.
- (21) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.

(b1) **Qualifications.** – The office of Trustee is declared to be an office that may be held concurrently with any other executive or appointive office, under the authority of Article VI, Section 9, of the North Carolina Constitution. Persons appointed shall be knowledgeable in at least one of the following areas:

- (1) Acquisition and management of natural areas.
- (2) Conservation and restoration of water quality.
- (3) Wildlife and fisheries habitats and resources.
- (4) Environmental management.

(b2) **Limitation on Length of Service.** – No member of the Board of Trustees shall serve more than two consecutive four-year terms or a total of 10 years.

(c) **Chair.** – The Governor shall appoint one member to serve as Chair of the Board of Trustees.

(d) **Vacancies.** – An appointment to fill a vacancy on the Board of Trustees created by the resignation, removal, disability, or death of a member shall be for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled as provided in G.S. 120-122.

(e) **Frequency of Meetings.** – The Board of Trustees shall meet at least twice each year and may hold special meetings at the call of the Chair or a majority of the members.

(e1) **Quorum.** – A majority of the membership of the Board of Trustees constitutes a quorum for the transaction of business.

(f) **Per Diem and Expenses.** – Each member of the Board of Trustees shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. Per diem, subsistence, and travel expenses of the Trustees shall be paid from the Fund.

(g) **Meeting Facilities.** – The Secretary of Environment and Natural Resources shall provide meeting facilities for the Board of Trustees and its staff as requested by the Chair.

§ 113A-256. Clean Water Management Trust Fund Board of Trustees: powers and duties.

(a) **Allocate Grant Funds.** – The Trustees shall allocate moneys from the Fund as grants. A grant may be awarded only for a project or activity that satisfies the criteria and furthers the purposes of this Article.

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

- (1) The significant enhancement and conservation of water quality in the State.
- (2) The objectives of the basinwide management plans for the State's river basins and watersheds.

- (3) The promotion of regional integrated ecological networks insofar as they affect water quality.
- (4) The specific areas targeted as being environmentally sensitive.
- (5) The geographic distribution of funds as appropriate.
- (6) The preservation of water resources with significant recreational or economic value and uses.
- (7) The development of a network of riparian buffer-greenways bordering and connecting the State's waterways that will serve environmental, educational, and recreational uses.

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

(d) Acquisition of Land. – The Trustees may acquire land by purchase, negotiation, gift, or devise. Any acquisition of land by the Trustees must be reviewed and approved by the Council of State and the deed for the land subject to approval of the Attorney General before the acquisition can become effective. In determining whether to acquire land as permitted by this Article, the Trustees shall consider whether the acquisition furthers the purposes of this Article and may also consider recommendations from the Council. Nothing in this section shall allow the Trustees to acquire land under the right of eminent domain.

(e) Exchange of Land. – The Trustees may exchange any land they acquire in carrying out the powers conferred on the Trustees by this Article.

(f) Land Management. – The Trustees may designate managers or managing agencies of the lands acquired under this Article.

(g) Tax Credit Certification. – The Trustees shall develop guidelines to determine whether land donated for a tax credit under G.S. 105-130.34 or G.S. 105-151.12 are suitable for one of the purposes under this Article and may be certified for a tax credit.

(h) Rule-making Authority. – The Trustees may adopt rules to implement this Article. Chapter 150B of the General Statutes applies to the adoption of rules by the Trustees.

(i) Repealed by Session Laws 1999-237, s. 15.11, effective July 1, 1999.

(j) Debt. – Of the funds credited annually to the Fund, the Trustees may authorize expenditure of a portion to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in G.S. 113A-253(c)(1) through (4). In order to authorize expenditure of funds for debt service reimbursement, the Trustees must identify to the State Treasurer and the Department of Administration the specific capital projects for which they would like special indebtedness to be issued or incurred and the annual amount they intend to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a capital project requested by the Trustees, the Trustees must direct the State Treasurer to credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer.

§ 113A-257. Clean Water Management Trust Fund: reporting requirement.

The Chair of the Board of Trustees shall report each year by 1 December to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, the Subcommittees on Natural and Economic Resources of the House of Representatives and Senate Appropriations Committees, and the Fiscal Research Division of the General Assembly regarding the implementation of this Article. The report shall include a list of the projects

awarded grants from the Fund for the previous 12-month period. The list shall include for each project a description of the project, the amount of the grant awarded for the project, and the total cost of the project.

§ 113A-258. Clean Water Management Trust Fund: Executive Director and staff.

The Clean Water Management Trust Fund Board of Trustees, as soon as practicable after its organization, shall select and appoint a competent person in accordance with this section as Executive Director of the Clean Water Management Trust Fund Board of Trustees. The Executive Director shall be charged with the supervision of all activities under the jurisdiction of the Trustees and shall serve as the chief administrative officer of the Trustees. Subject to the approval of the Trustees and the Director of the Budget, the Executive Director may employ such clerical and other assistants as may be deemed necessary.

The person selected as Executive Director shall have had training and experience in conservation, protection, and management of surface water resources. The salary of the Executive Director shall be fixed by the Trustees, and the Executive Director shall be allowed travel and subsistence expenses in accordance with G.S. 138-6. The Executive Director's salary and expenses shall be paid from the Fund. The term of office of the Executive Director shall be at the pleasure of the Trustees.

These employees shall be exempt from the State Personnel Act, as provided in G.S. 126-5(c1).

§ 113A-259. Clean Water Management Trust Fund: Advisory Council.

There is established the Clean Water Management Trust Fund Advisory Council. The Council shall advise the Trustees with regard to allocations made from the Fund, and other issues as requested by the Trustees. The Council shall be composed of the following or its designees:

- (1) Commissioner of Agriculture.
- (2) Chair of the Wildlife Resources Commission.
- (3) Secretary of Environment and Natural Resources.
- (4) Secretary of the Department of Commerce.

AGRICULTURAL DEVELOPMENT AND FARMLAND PRESERVATION TRUST FUND

Part 4. Agricultural Conservation Easements.

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

(a) A county may, with the voluntary consent of landowners, acquire by purchase agricultural conservation easements over qualifying farmland as defined by G.S. 106-737.

(b) For purposes of this section, "agricultural conservation easement" means a negative easement in gross restricting residential, commercial, and industrial development of land for the purpose of maintaining its agricultural production capability. Such easement:

- (1) May permit the creation of not more than three lots that meet applicable county zoning and subdivision regulations;
- (1a) May permit agricultural uses as necessary to promote agricultural development associated with the family farm; and
- (2) Shall be perpetual in duration, provided that, at least 20 years after the purchase of an easement, a county may agree to reconvey the easement to the owner of the land for consideration, if the landowner can demonstrate to the satisfaction of the county that commercial agriculture is no longer practicable on the land in question.

(c) There is established a "North Carolina Agricultural Development and Farmland Preservation Trust Fund" to be administered by the Commissioner of Agriculture. The Trust Fund shall consist of all monies received for the purpose of purchasing agricultural conservation easements or funding programs that promote the development and sustainability of farming and assist in the transition of existing farms to new farm families, or monies transferred from counties or private sources. The Trust Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3. The Commissioner shall use Trust Fund monies for any of the following:

- (1) The purchase of agricultural conservation easements, including transaction costs.
- (2) Public and private enterprise programs that will promote profitable and sustainable family farms through assistance to farmers in developing and implementing plans for the production of food, fiber, and value-added products, agritourism activities, marketing and sales of agricultural products produced on the farm, and other agriculturally related business activities.
- (3) To fund conservation agreements to bring into or maintain farmland in active production of food, fiber, and other agricultural products.
- (4) The costs of administering the program under this Article, including the cost of staff and staff support.

(c1) The Commissioner shall distribute Trust Fund monies for such purchases, including transaction costs, as follows:

- (1) To a private nonprofit conservation organization that matches thirty percent (30%) of the Trust Fund monies it receives with funds from sources other than the Trust Fund.
- (2) To counties according to the match requirements under subsection (c2) of this section.

(c2) A county that is a development tier two or three county, as these tiers are defined in G.S. 143B-437.08, and that has prepared a countywide farmland protection plan shall match fifteen percent (15%) of the Trust Fund monies it receives with county funds. A county that has not prepared a countywide farmland protection plan shall match thirty percent (30%) of the Trust Fund monies it receives with county funds. A county that is a development tier one county, as defined in G.S. 143B-437.08, and that has prepared a countywide farmland protection plan shall not be required to match any of the Trust Fund monies it receives with county funds.

(c3) The Commissioner of Agriculture shall adopt rules governing the use, distribution, investment, and management of Trust Fund monies.

(d) This section shall apply to agricultural conservation easements falling within its terms. This section shall not be construed to make unenforceable any restriction, easement, covenant, or condition that does not comply with the requirements of this section.

This section shall not be construed to invalidate any farmland preservation program.

This section shall not be construed to diminish the powers of any public entity, agency, or instrumentality to acquire by purchase, gift, devise, inheritance, eminent domain, or otherwise and to use property of any kind for public purposes.

This section shall not be construed to authorize any public entity, agency, or instrumentality to acquire by eminent domain an agricultural conservation easement.

(e) As used in subsection (c2) of this section, a countywide farmland protection plan means a plan that satisfies all of the following requirements:

- (1) The countywide farmland protection plan shall contain a list and description of existing agricultural activity in the county.
- (2) The countywide farmland protection plan shall contain a list of existing challenges to continued family farming in the county.
- (3) The countywide farmland protection plan shall contain a list of opportunities for maintaining or enhancing small, family-owned farms and the local agricultural economy.
- (4) The countywide farmland protection plan shall describe how the county plans to maintain a viable agricultural community and shall address farmland preservation tools, such as agricultural economic development, including farm diversification and marketing assistance; other kinds of agricultural technical assistance, such as farm infrastructure financing, farmland purchasing, linking with younger farmers, and estate planning; the desirability and feasibility of donating agricultural conservation easements, and entering into voluntary agricultural districts.
- (5) The countywide farmland protection plan shall contain a schedule for implementing the plan and an identification of possible funding sources for the long-term support of the plan.

(f) A countywide farmland protection plan that meets the requirements of subsection (e) of this section may be formulated with the assistance of an agricultural advisory board designated pursuant to G.S. 106-739.

(g) There is established the Agricultural Development and Farmland Preservation Trust Fund Advisory Committee. The Advisory Committee shall be administratively located within the Department of Agriculture and Consumer Services and shall advise the Commissioner on the prioritization and allocation of funds, the development of criteria for awarding funds, program planning, and other areas where monies from the Trust Fund can be used to promote the growth

and development of family farms in North Carolina. The Advisory Committee shall be composed of 19 members as follows:

- (1) The Commissioner of Agriculture or the Commissioner's designee, who shall serve as the Chair of the Advisory Committee.
- (2) The Secretary of Commerce or the Secretary's designee.
- (3) The Secretary of Environment and Natural Resources or the Secretary's designee.
- (4) Three practicing farmers, one appointed by the Governor, one appointed by the President Pro Tempore of the Senate, and one appointed by the Speaker of the House of Representatives.
- (5) The Dean of the College of Agriculture and Life Sciences at North Carolina State University or the Dean's designee.
- (6) The Dean of the School of Agriculture and Environmental Sciences at North Carolina Agricultural and Technical State University or the Dean's designee.
- (7) The Executive Director of the North Carolina Rural Economic Development Center, Inc., or the Executive Director's designee.
- (8) The Executive Director of the Conservation Trust for North Carolina or the Executive Director's designee.
- (9) The Executive Director of the North Carolina Farm Transition Network or the Executive Director's designee.
- (10) The President of the North Carolina Association of Soil and Water Conservation Districts or the President's designee.
- (11) The Director of the Southeast Regional Office of the American Farmland Trust or the Director's designee.
- (12) The Executive Director of the North Carolina Agribusiness Council or the Executive Director's designee.
- (13) The President of the North Carolina State Grange or the President's designee.
- (14) The President of the North Carolina Farm Bureau Federation, Inc., or the President's designee.
- (15) The President of the North Carolina Black Farmers and Agriculturalists Association or the President's designee.
- (16) The President of the North Carolina Forestry Association or the President's designee.
- (17) The Executive Director of the North Carolina Association of County Commissioners or the Executive Director's designee.

(h) The Advisory Committee shall meet at least quarterly. The Department of Agriculture and Consumer Services shall provide the Advisory Committee with administrative and secretarial staff. Members of the Advisory Committee shall be entitled to per diem pursuant to G.S. 138-5 or G.S. 138-6, as appropriate. The Advisory Committee shall make recommendations to the Commissioner on the distribution of monies from the Trust Fund at least annually. The Commissioner shall take the recommendations of the Advisory Committee into consideration in making decisions on the distribution of monies from the Trust Fund.

(i) The Advisory Committee shall report no later than May 1 of each year to the Joint Legislative Commission on Governmental Operations and the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources regarding the activities of the Advisory Committee, the agriculture easements purchased, and agricultural projects funded during the previous year.

APPENDIX D

CONSERVATION TAX CREDIT STATUTES

Corporate Income Tax Credit

§ 105-130.34. Credit for certain real property donations.

(a) Any corporation that makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for public beach access or use, public access to public waters or trails, fish and wildlife conservation, or other similar land conservation purposes is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in real property must be donated in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions pursuant to G.S. 105-130.9. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit. The credit allowed under this section may not exceed five hundred thousand dollars (\$500,000). To support the credit allowed by this section, the taxpayer must file with its income tax return, for the taxable year in which the credit is claimed, a certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection.

(b) The credit allowed by this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

(c) Any unused portion of this credit may be carried forward for the next succeeding five years.

(d) That portion of a qualifying donation that is the basis for a credit allowed under this section is not eligible for deduction as a charitable contribution under G.S. 105-130.9.

Personal Income Tax Credit

§ 105-151.12. Credit for certain real property donations.

(a) A person who makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, or (iv) other similar land conservation purposes is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in property must be donated in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions under the Code. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit. The credit allowed under this section may not exceed two hundred fifty thousand dollars (\$250,000). To support the credit allowed by this section, the taxpayer must file with the income tax return for the taxable year in which the credit is claimed a certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection.

(b) The credit allowed by this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

Any unused portion of this credit may be carried forward for the next succeeding five years.

(c) Repealed by Session Laws 1998-212, s. 29A.13(b).

(d) In the case of property owned by a married couple, if both spouses are required to file North Carolina income tax returns, the credit allowed by this section may be claimed only if the spouses file a joint return. If only one spouse is required to file a North Carolina income tax return, that spouse may claim the credit allowed by this section on a separate return.

(e) In the case of marshland for which a claim has been filed pursuant to G.S. 113-205, the offer of donation must be made before December 31, 2003 to qualify for the credit allowed by this section.

(f) (Expires for taxable years beginning on or after January 1, 2007) Notwithstanding G.S. 105-269.15, the maximum dollar limit that applies in determining the amount of the credit applicable to a partnership that qualifies for the credit applies separately to each partner.

APPENDIX E

Land for Tomorrow FUNDING ALLOCATION RECOMMENDATIONS

Program	Purpose	Annual Funding Level		
		Current Funding/Year	Proposed Additional Funding/Year	Proposed Total Funding/Year
One NC <i>Naturally</i>	Provide leadership for land conservation and historic preservation in North Carolina; coordinate work of all NC departments and trust funds in land and historic preservation; encourage participation by local governments and nonprofits; evaluate North Carolina's progress in protecting important land and historic properties	\$0	\$3 million	\$3 million
Landing Jobs	New initiative to fund creation and retention of jobs and related economic and community development in ways that promote land conservation, historic preservation, parks and recreation, and related facilities and programs	\$0	\$30 million	\$30 million
Clean Water Mgmt Trust Fund	Enhance and restore degraded water, protect unpolluted water, contribute toward network of riparian buffers and trails for water quality improvement and other environmental, educational and recreational benefits	\$100 million	\$39.5 million	\$139.5 million
Natural and Cultural Heritage Trust Fund	Protect the state's ecological diversity and cultural heritage and inventory the natural areas and historic properties of the state	\$16 million	\$62.5 million	\$78.5 million
Parks and Recreation Trust Fund	Improve and expand state and local parks and provide access to coastal and estuarine waters; special emphasis on trails and urban forest protection	\$45 million	\$35 million	\$80 million
Agriculture Development and Farmland Preservation Trust Fund	Conservation and protection of farm and forest land and viable agricultural communities	\$0	\$30 million	\$30 million
EXISTING AND PROPOSED STATE FUNDING		\$161 million/yr OR \$805 million/5 yrs	\$200 million/yr OR \$1 billion/5 yrs	\$361 million/year

APPENDIX F

PUBLIC HEARINGS:

- Asheville, NC
- Greenville, NC
- Greensboro, NC

JOINT LEGISLATIVE STUDY COMMISSION ON

LAND & WATER

PUBLIC HEARING – ASHEVILLE

The Joint Legislative Study Commission on Land & Water Conservation met on Thursday, January 04, 2007 at 7:00 p.m. at A. B. Tech. Community College in Asheville, NC. Members present were: Rep. Lucy Allen, Co-chair, Ms. Katherine Skinner, Mr. Richard Rogers, Senator Snow, Rep. Phil Haire, Mr. George Howard, Mr. Leonard, and newly elected Representative Charles Thomas of Buncombe County.

I. CALL TO ORDER:

Chairman Lucy Allen called the meeting to order and introduced Commission members. Rep. Haire and Sen. Snow (Western Delegation legislators) welcomed everyone and thanked them for the large turnout from the public and their interest in conservation. New representative Charlie Thomas, Buncombe County, introduced himself and made opening comments.

II. OVERVIEW OF THE REPORT

Ms. Cindy Avrette, staff counsel gave an overview of the Commission's meetings held in Raleigh and the report that was generated from these meetings. (Attachment A & B-Draft Commission Report and Executive Summary of Draft Report).

III. PUBLIC COMMENTS

Sixty-five people spoke. Approximately 280 people attended. Former Mayor of Asheville, Mr. Lou Bissor began the discussions and urged strong consideration of land preservation. Ms. Bellamy, Asheville's Mayor, spoke in support of the goals of the Commission. Speakers voiced the following thoughts and concerns:

- Population growth and private development pressures make the issue of land and water conservation very timely.
- Adequately funded trust funds are important to land conservation.
- Funding options should be broad-based because conservation benefits everyone. Funding options mentioned included extension of the graduated income tax, bonds, hotel tax, meals tax, impact taxes, tax on development, and a tax on second homes/luxury homes.
- Preservation of working farms should be an important piece of land and water conservation. Farmland benefits not only conservation but also clean air and clean water. Several speakers supported conservation easements. Speakers who farmed voiced concern about the continuing profitability of farming and opposed any tax on water usage.
- Land and water conservation are important for tourism and agribusiness. It is also important for quality of life in the mountains.

- Realtors realize that preservation is necessary but spoke against an increase in the real estate excise tax or a statewide building permit fee. The speakers believe such taxes would increase the cost of homes and be an unreliable funding source.
- Some speakers felt that one billion dollars is a 'good start' for land and water conservation. "Can't fund conservation with a bake sale." The funding needs are urgent.
- Revenue source should be permanent and on-going.
- The farm community spoke against any changes to the present use value program.
- Local participation is a must for a successful conservation program. Some speakers urged the Commission to realize that not all counties have the resources for conservation.
- Several speakers commended the conservation trusts. The trusts provide consistency; enable greenways and establish partnerships for towns.
- Farm land preservation is a must. The State must become creative.
- Strong feelings expressed about preserving land for the next generation.
- Water sheds need protection.
- Forestry needs protection.

Commission members were pleased and overwhelmed at the support and attendance at this public hearing.

Meeting adjourned at 9:20 p.m.

Rep. Lucy Allen, Co-chair

Sen. Charlie W. Albertson, Co-Chair

Cindy J. B. Davis, Comm. Clerk

JOINT LEGISLATIVE STUDY COMMISSION ON

LAND & WATER

PUBLIC HEARING –GREENVILLE, NC

The Joint Legislative Study Commission on Land & Water Conservation met on Monday January 08, 2007 at 7:00 p.m. at Pitt Community College in Greenville, NC. Legislative members present were: Senator Charlie Albertson, Rep. Lucy Allen, Co-chair, Rep. Wainwright, Ms. Katherine Skinner, Mr. George Howard, Mr. Larry Tombaugh. Reps. McLawhorn and Warren who represent this district were also present.

I. CALL TO ORDER:

Chairman Lucy Allen called the meeting to order and asked for a moment of silence in memory of Sen. Robert Holloman and Rep. Howard Hunter who passed away over the weekend. She welcomed everyone and thanked them for the large turnout from the public and their interest in conservation.

II. OVERVIEW OF THE REPORT

Ms. Cindy Avrette, staff counsel, gave an overview of the Commission's meetings held in Raleigh and the report that was generated from these meetings. (Attachment A & B-Draft Commission Report and Executive Summary of Draft Report).

III. PUBLIC COMMENTS

There was an over whelming response and interest. Approximately 175 to 200 people attended and 45 people spoke. Speakers voiced the following thoughts and concerns:

- Land and water conservation is an important investment in our State and its future. The State's conservation needs should be recognized, examined, and addressed.
- Conservation necessary for recreational needs. Examples of conservation and recreation include the 'rail trails.'
- State parks have been successful in conserving our State's natural beauty.
- A key component of conservation programs must be the maintaining of open farm land.
- Conservation of working lands is important because working lands, such as farmland, continue to be part of the State's tax base and income growth.
- Conservation funding options must be friendly to farmers since farmland and farming is a key element to land and water conservation. The farming community supports term-limited conservation easements.
- Farming community opposes any taxation of water usage.
- Historic buildings need to be preserved.
- Some speakers expressed concern over the counties' tax base. Encouraged working conservation lands.
- Supportive of conservation programs and funding of the mountain to sea trail that DENR has put together.
- Realtors opposed any increase in the deed stamp transfer tax; the higher the cost of new homes the less attractive they become
- Support good development initiatives. Urban sprawl and development should be planned.

- Recognition that waterfront development has economic repercussions and hampers public access to the waters.
- Farmland preservation needs more resources. Farmland includes aquaculture fish farms.
- Military bases need to be protected because of development around them.
- Local government support necessary, but many local communities do not have the luxury of large tax bases.
- Concern expressed over the loss of wetlands if a plan is not in place.
- Everyone agrees that preservation is important but funding is the major issue; impact fees and landfill tipping fees are passed on to the consumers and the people at the bottom will be paying for this for about 30 years.
- The farming community expressed concern that it was not adequately represented on the Commission.
- Several speakers supported increased funding for the preservation of coastal habitats.
- The State should put more of its conservation emphasis on farmland protection.
- There should be a steady stream of funding for preservation in NC.
- The benefits of conservation are shared and the financial burden should be shared as well.
- Black Family Land Trust works with black family land owners. This effort should be continued and funded.
- Term easements should be considered.
- Funding now will save land for the future.
- A stable funding source for agricultural use is necessary.

Meeting adjourned at 8:40 p.m.

Rep. Lucy Allen, Co-Chair

Sen. Charlie Albertson, Co-Chair

Cindy J. B. Davis, Commission Clerk

JOINT LEGISLATIVE STUDY COMMISSION ON

LAND & WATER

PUBLIC HEARING –GREENSBORO, NC

The Joint Legislative Study Commission on Land & Water Conservation met on Wednesday, January 10, 2007 at 7:00 p.m. at Pitt Community College in Greenville, NC. Legislative members present were: Senator Charlie Albertson, Mr. Richard Rogers, Senator Snow, Mr. George Howard, Mr. Leonard, Mr. Larry Tombaugh, Mr. David Womack, Ms. Lisa Schneider, and Sec. Bill Ross. Rep. Laura Wiley and Sen. Kay Hagan, who represent this district, joined us.

I. CALL TO ORDER:

Chairman Albertson called the meeting to order. She welcomed everyone and thanked them for the large turnout from the public and their interest in conservation.

II. OVERVIEW OF THE REPORT

Mr. Canaan Huie, staff counsel gave an overview of the Commissions meetings held in Raleigh and the report that was generated from these meetings. (Attachment A & B-Draft Commission Report and Executive Summary of Draft Report).

III. PUBLIC COMMENTS

There was an over whelming response and interest. More than 290 people attended the hearing and 79 people spoke. Speakers voiced the following thoughts and concerns:

- Historic communities need to be preserved for generations to come.
- Trust funds work well.
- Land and water conservation is an important part of the public heath debate. Open lands provide more oppourtunities for recreational activity. Protecting our natural resources protects our human resources as well.
- Need a funding proposal that is balanced and fair to the taxpayers.
- Support for conserving land by encouraging people to continue farming the land. Support for the purchasing of development rights.
- Realtors did not support an increase in the deed stamp tax.
- The farming community opposed water usage fees and taxes.
- Urge state agencies to cooperate to find ways to share costs.
- Support for bond issues. Let the public decide.
- Local and state governments need to partner.
- Support expressed for farmland mitigation. Encourage developers, farmers, and environmentalist to work together.
- Support for direct funding for forestry. Attention should be given to working forests.
- Support long term permanent sources of funds. Support occupancy tax, bond initiatives, transfer tax; landfill tipping fees.
- Allow voters to make decision on how to get funds.
- Trust funds do many good things. The trust funds need more resources.

- Farmland preservation is a must. Support voluntary agricultural districts the purchase of farm land rights, and term easements.
- Farmland Protection Fund should be funded with a stable and adequate source of revenue.
- An increase in taxes that impact development are discriminatory towards homeowners and effect affordable housing.
- Conservation needs are great; one billion dollars will not be enough.
- Add one dollar to car licenses to go towards conservation needs.
- Funding between trust funds should be equitable.
- Be cautious on the amount of land purchased by the State as conservation land; finance efforts to support working lands.
- Opposition expressed to extending the present use value rollback period.
- Support occupancy taxes.
- Consider expansion of income tax credit for land donations.
- State needs to conserve lands now. The State will pay less to conserve lands now than if it waits.
- Do not increase taxes on homes.
- Impose tax on development.

Meeting adjourned at 9:00 p.m.

Sen. Charlie Albertson, Co-Chair

Rep. Lucy Allen, Co-Chair

Cindy J. B. Davis, Commission Clerk