

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1491 PCS (Third Edition)

SHORT TITLE: Amend Conservation Easements Tax Credit

SPONSOR(S): Representatives Weatherly & Hackney

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 1998-99</u>	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>	<u>FY 2002-03</u>
REVENUES					
General Fund					
Eliminate Addback		(\$200,000)	(\$200,000)	(\$200,000)	(\$200,000)
Increase Credit Amounts		(\$500,000 to \$1,000,000 revenue loss each year)			
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources; Department of Revenue					
EFFECTIVE DATE: Effective for taxable years beginning on or after January 1, 1999.					

BILL SUMMARY: Section 1 of the act amends the income tax credit for real property donated for conservation purposes to eliminate the requirement to add back to taxable income the fair market value of the donated property. Section 3 increases the maximum tax credit to \$500,000 for corporate income tax and to \$250,000 for individual income tax.

BACKGROUND: Under prior law, a taxpayer could receive a tax credit equal to 25% of the fair market value of a property interest donated to the State, a unit of local government, or a body organized to receive and administer lands for conservation purposes. The 1997 General Assembly increased the \$25,000 cap on this credit to \$100,000 for individual income taxes and \$250,000 for corporate income taxes (S. L. 1997-226) beginning on or after January 1, 1997. The 1997 act also made a conforming change to ensure that a taxpayer who chooses to claim the State credit does not also claim and receive a deduction for federal income tax purposes. This is necessary since federal taxable income is the starting point for calculating State taxable income. The taxpayer must add back the fair market value of the donated property to federal taxable income the first year the tax credit is claimed.

ASSUMPTIONS AND METHODOLOGY:

ELIMINATE ADDBACK

The Tax Research Division of the Department of Revenue examined the 1997 tax returns of individuals claiming the conservation tax credit and the 1998 property donation certifications from the Department of Environment and Natural Resources. This data was used to calculate the tax benefit to the taxpayer with the addback and without the addback. Based on the 1997 and 1998 data, the Tax Research Division estimates an annual General Fund revenue loss of \$200,000 each fiscal year.

INCREASE CREDIT MAXIMUMS

The proposed increase in the amount of credit to \$250,000 for individuals and \$500,000 for corporations will increase the revenue loss to the General Fund. The history of the conservation tax credit suggest a correlation between an increase in the maximum credit allowed and an increase in the number of donations and the amount of credits requested. Prior to 1989, the maximum tax credit was \$5,000 per gift or donation. For tax years 1983 through 1988, 37 donations totaling 2,383 acres were made. The estimated value of this acreage was \$5.6 million. In 1989, the maximum credit was increased to \$25,000. For tax years 1989 through 1995, 95 donations totaling 23,714 acres were made. The estimated value of this acreage was \$34.5 million. The cumulative credit for the period 1983 to 1988 was \$574,151 and for the period 1989 to 1995 was \$2,805,488. The cumulative credit for the 1989-1995 period is almost five times the 1983-1988 period amount. However, part of the growth in conservation credits during the 1989-1995 period might be attributed to economic growth and profit taking in the 1990s and to the growth in the land conservation movement.

The jury is still out on the extent the 1997 increase in the credit maximum has increased the amount of credits taken. The increase in the corporate maximum from \$25,000 to \$250,000 and in the individual maximum from \$25,000 to \$100,000 was expected to increase the General Fund revenue loss approximately \$3.2 million a year. The Department of Revenue is still waiting on tax returns for the 1997 tax year due to the filing of tax extensions. However, Katherine Skinner of the Nature Conservancy North Carolina Chapter believes tax year 1998 will be a better indicator of the impact of increased credit amounts, because the 1997 legislation (HB 260) was not passed until June 30, 1997. With the late approval date, land conservation groups had little time to promote the new credit amounts in tax year 1997. Unfortunately, only 1 application for credit has been filed thus far in 1998 and most will not be filed until the spring of 1999.

It is difficult to project the impact of further increasing the credit amounts without the 1997 and 1998 data. Applying the proposed rates to projects from 1989 to 1995, the increased revenue loss ranged from \$550,000 in 1989 to \$47,250 in 1995. If the increased credit amounts were applied to the 1997 conservation credit applications (not actual tax returns), four corporations and one individual taxpayer would gain \$685,000 in additional tax credits and the state would lose a like amount. Katherine Skinner of the Nature Conservancy North Carolina Chapter believes increased credit amounts will accelerate many land transactions and increase bargain sales of land to her non-profit. She has four projects underway, including the much publicized Jocassee Gorge land, that will use the increased credits in 1998 if HB 1491 is approved. Based on the unused credits from past conservation projects, this note estimates the new maximum credit amounts will produce an annual revenue loss of \$500,000 to \$1 million each year.

FISCAL RESEARCH DIVISION (733-4910)

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