

December 15, 2021

The Honorable Adam Hinds, Chair
The Honorable Mark Cusack, Chair
Joint Committee on Revenue
State House
Boston, MA 02133

RE: In Support of H.2960/S.1986, *An Act increasing the conservation land tax credit*

Dear Chair Hinds, Chair Cusack, and Members of the Revenue Committee,

Our organizations respectfully offer testimony in support of H.2960 and S.1986, *An Act increasing the conservation land tax credit*, sponsored by Representatives Brad Jones and Smitty Pignatelli and Senators Bruce Tarr and Adam Hinds. We are united by a commitment to conserve the Commonwealth's natural resources for human and natural communities. We work with landowners who have the same vision for their land, and want to leave valuable natural resources for future generations to use and enjoy. The Massachusetts Conservation Land Tax Credit (CLTC) incentive program is a critical tool our organizations use to help them turn our collective visions into reality.

Overview

Launched in 2011, the Conservation Land Tax Credit (CLTC) statewide incentive program allows taxpayers (individuals and corporations) to apply for a state income tax credit for qualified donations of certified land to a public or private conservation agency (this includes donations of land in fee, donations of conservation restrictions, and below market 'bargain sales.'). The certification process is conducted by the Executive Office of Energy and Environmental Affairs (EEA) for land that is *permanently protected* by the state, a municipality, or a land trust and has *significant conservation value*, such as maintaining working farms and forests, wildlife habitat, wetlands, lands important for water quality, and historic resources. Currently, the credit is subject to an annual \$2 million cap and is equal to 50% of the fair market value of the qualified donation up to a maximum credit of \$75,000 for each qualified donation.

This legislation would:

- **Raise the annual cap** of the CLTC program from \$2 million to \$5 million, by \$1 million a year over three years.
- **Amend the definition** of "public or private conservation agency" to include realty trusts organized for conservation purposes pursuant to Chapter 203 (more than a third of land trusts in Massachusetts are organized as realty trusts).
- **Sunsets** the enhanced credit on December 31, 2031.

An identical bill was reported favorably by the Joint Committee on Revenue during the 2019-2020 legislative session. The incremental increase to \$5 million was also unanimously adopted as a budget amendment in the MA House four times, in FY18, FY19, FY20, and FY22. (A CLTC budget amendment was not pursued in FY21 due to uncertainty around the pandemic).

The CLTC is a refundable tax credit: the donor receives a rebate on income taxes due for that calendar year and if the credit exceeds taxes due, then the donor receives a refund check for the difference. State agencies, municipalities, land trusts, and conservation organizations often play a key role in assisting landowners throughout the donation process. The CLTC both helps compensate landowners for their generous gifts, as well as saves scarce resources for cash strapped land trusts and municipalities by offering an incentive that reduces the costs of the sale price of the land.

Unfortunately, the highly effective and popular CLTC program suffers from a chronic backlog, and the program has been unable to meet demand since its inception. Current CLTC requests for 2022 and beyond total \$6,762,750. Of that, \$2 million has been committed each to projects in 2022 and 2023.

Impacts of the Conservation Incentive

The CLTC incentive program has been highly effective at conserving the Commonwealth's most critical natural resources for the past decade, used by municipalities, land trusts, and the state to **permanently conserve 14,110 acres of certified land of significant conservation value**, including prime forest soils (working forests), prime agricultural soils (working farms), source water lands, and habitat for fish and wildlife, including rare species. **Under the program, for every \$1 in state tax credit provided, \$4.25 of private land value is gifted and over \$10 in land value is ultimately conserved.**

The CLTC has led to the conservation of critical natural resources in **145 municipalities (14 cities and 131 towns)**. The receiving entities of the land donations have included a range of state, municipal, and conservation entities:

- **58 different municipal entities**, including Conservation Commissions and Water Districts;
- **48 local, regional, and statewide land trusts**; and
- **State agencies**, including the Departments of Agricultural Resources, Conservation and Recreation, and Fish and Game.

Over the ten years of the program:

- \$18.4 million in tax incentives (credits and refunds) have led to
 - **\$76.6 million in private land value gifted;**
 - **\$187 million in private land value conserved; and**
 - **14,110 acres of ecologically significant land conserved in perpetuity.**

This is a significant return on investment for the Commonwealth of Massachusetts.

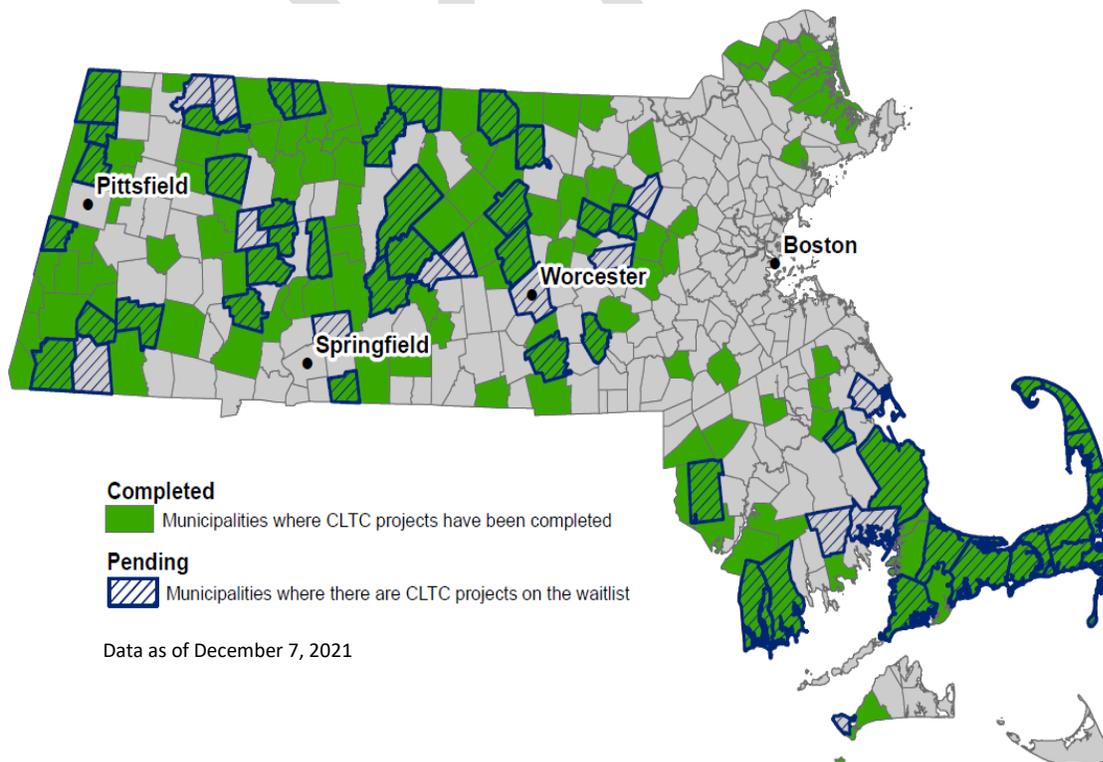
In 2019, The Nature Conservancy contacted land trusts across the state regarding how the CLTC affected their ability to conserve land. A top trend that emerged was that a donor's ability to participate in the CLTC program is **often the deciding factor** for landowners when choosing whether move forward with conservation of their property.

In some cases, the CLTC provided pivotal funds a landowner needed to conserve their property and remain solvent. In other cases, the CLTC incentivized a bargain sale, allowing a land trust or municipality to acquire property at a cost-savings that may have otherwise been out of their reach. And in yet other cases, CLTC projects are leveraged into larger landscape-scale projects, with broad economic public benefits for a region whether from improved water quality, outdoor recreation opportunities, and restored ecosystem health.

Supply and Demand

As of December 2021, **total CLTC requests for 2022 and beyond are \$6,762,750**. Of that, \$2 million has been committed each to projects in 2022 and 2023. There remains an additional \$2,877,250 in requested projects being pushed into 2024 and beyond. As the program operates on a first-come-first-served basis, any new applications received this year will not be eligible for funding until 2024, at the earliest. **The permanent conservation of over 2,000 acres of natural lands are being delayed, or are at risk of falling through, due to the backlog.** Indeed, EEA receives at least one call a week where an interested landowner is disappointed to hear that there is a multi-year waitlist.

The map below shows municipalities where projects using the CLTC have been completed (green) and those where there are projects on the waitlist (striped).



Many “land rich, cash poor” property owners cannot wait several years, and may decide to sell valuable conservation land for development purposes, instead of setting the land aside to protect habitat, drinking water supplies, outdoor recreational opportunities, or to conserve a working farm or forest. Some landowners have financial needs that the credit could help offset and that may be prompting the timing of their applications. In addition, as this happens, the CLTC gets out of sync with other state, federal and private grants programs that fund conservation projects, which hinders the ability of willing landowners, municipalities, agencies, and land trusts to leverage programs to maximize outcomes and leaves money on the table.

The CLTC is also particularly important for families of modest means, who tend not to have enough income to be able to recover the value of their donation through the federal tax deduction and for whom the costs associated with protecting their land can be significant. Indeed, the Department of Revenue (DOR) has reported that in tax years 2018 and 2019, **44% and 58%, respectively, of landowners receiving the credit has an adjusted gross income of under \$100,000** (see table from DOR in Appendix A). The CLTC can help such families make a gift for the public good and take less of a financial loss.

This high demand for the CLTC program comes at a time when there is an unprecedented transition in ownership across the Commonwealth and an enormous opportunity to conserve ecologically and economically valuable lands. Surveys of private landowners by the U.S. Forest Service document that family forest owners in Massachusetts are largely over the age of 65 and that about a quarter of privately owned forest acres are owned by someone who plans to sell or transfer some or all of their woods or forest in the next 5 years.¹ These same forest owners overwhelmingly (90%) want to see their land remain forested.² This kind of landowner is a perfect match for the CLTC program.

Our organizations are eager to increase the CLTC cap as soon as possible. The long wait for the credits is impacting the effective use of the credit as a conservation tool. Many land trusts have donors who are waiting on the credit to close a land deal, and deals are already falling through due to the long wait list.

Why Now?

In addition to the tremendous backlog, there are several recent developments that further underscore the urgency to increase the capacity of this program.

- Both the Next Generation Road Map for Massachusetts Climate Policy Law and the Draft 2030 Clean Energy and Climate Plan recognize the role of our **natural and working lands in achieving our statutory Net Zero targets**. Raising the cap on the CLTC is an incredible near term and cost-effective opportunity to increase permanently conserved land, thereby ensuring its ability to sequester and store carbon into the future and help communities become resilient to climate impacts using nature-based solutions.

¹ Caputo, J. and B. Butler. National Woodland Owner Survey Dashboard (NWOS-DASH) version 1.0. Accessed 2021-06-07. Available at: <https://ffrc.shinyapps.io/NWOSdashboard/>.

² Ibid.

- Use of our public outdoor spaces significantly increased during the pandemic (with some parks seeing a 300% increase in visitorship). The CLTC is an important tool for **increasing public access** to land that was once privately held.
- The pandemic has also led to increased development pressure in rural areas that have some of the highest ecologically valuable land, as people move out of cities in search of more space. A lengthy wait time for the credit is more likely to jeopardize deals when the real estate market is this active. This situation also makes it more difficult for land trusts and municipalities that may be cash strapped to **afford properties** if there is not an incentive, like the CLTC, for landowners to reduce the costs of the sale price of the land.
- In 2020, EEA led a robust stakeholder process to develop a “Resilient Lands Vision” to **protect and improve the quality of life for residents** of every Massachusetts community through land conservation initiatives that conserve and enhance the health of the forests, farms and soils. The draft vision that was made available for public comment last year included raising the CLTC cap to \$5 million as one of its core recommendations to advance conservation across the Commonwealth.

Justification: Benefits of Land Conservation

The CLTC incentive translates private property into public value and benefits. Fee simple projects almost always provide **public access**, and many conservation restriction projects do, as well (however, some may restrict access due to impacts on sensitive wildlife habitat or public safety risks on working farms or forests). Even in cases where there is not direct public access, numerous public benefits are still realized, including: generating revenue and **jobs** from private sector activity in forestry, agriculture, and recreation; **saving public revenues** by providing water supply protection and carbon sequestration; and **avoiding costs** for municipalities by increasing resilience to natural hazards. Finally, as the CLTC incentivizes gifts of land or bargain sales, that allows municipalities to **save taxpayer dollars** when acquiring conservation land that they can then use for other public purposes. (Please see Appendix B below for examples of the many values conservation land provide to Massachusetts’ residents and economy).

Justification: Strategic Investment

The Commonwealth has protected about half of the high priority conservation land identified in collaboration between the environmental agencies and conservation community. Currently about 27% of the Commonwealth is protected as open space, which is owned by state and federal agencies, municipalities, private landowners, and nonprofit conservation organizations. An additional 21% of the Commonwealth is developed.³ Therefore, there are about 2.75 million acres of private land that are unprotected and undeveloped, which is owned by approximately 350,000 landowners. Statewide conservation plans recommend ultimate protection of about one million acres of those remaining acres, which include prime drinking water supply protection, wildlife habitat, coastal resources, farmland, recreation sites and working forests. Assuming these remaining “top priority conservation” lands of the state are owned by about 100,000 owners, the potential applicant pool for the CLTC program is

³ Ricci et al., 2020.

significant. The program has already become a key conservation tool to highlight when land trusts and municipalities approach and collaborate with landowners for donations. The land trusts are also driving the high quality of the natural resources conserved under this program – as they are actively reaching out to owners of strategic land, and Massachusetts has the most land trusts on a per capita basis in the nation.

Justification: Leveraging the Commonwealth Capital Investment

Combining the CLTC incentive and capital funding allows for the strategic and leveraged conservation of open space and natural resources. The 2018 Environmental Bond includes funds for land acquisition, and the tax incentive has historically provided a way to stretch bond dollars and achieve greater conservation outcomes with the same bond spending. (Please note that the CLTC also helps stretch other types of funding, such as foundation grants, privately raised funds, federal grants, and any other dollars going into land conservation).

State agencies work to leverage bond funds by collaborating with other entities (e.g., nonprofit conservation organizations, land trusts, municipalities, federal agencies, private landowners, etc.), leveraging additional investments, and negotiating below fair market value “bargain sales” with owners. When a state agency or land trust negotiator sits down with a landowner, the CLTC is part of a broad array of complementary strategies to bring critical projects to completion (please see the attached *CLTC Stories* for some examples).

Broad-Based Support

Finally, the increase to the credit has broad-based bipartisan support, with members of both parties and chambers collaborating for a decade to enact the CLTC statute and consistently supporting its improvements.

As a supplement to this letter, we have attached a document highlighting stories from land trusts across the state illustrating projects that would not have been possible without the CLTC incentive program. We hope that this will further demonstrate the range of circumstances in which this credit serves as the critical tool to get the project over the finish line.

This is a once in a lifetime opportunity to conserve ecologically and economically valuable lands. We respectfully ask the Revenue Committee to act on this urgency and provide a favorable report on H.2960 and S.1986 as soon as possible. The increase of the annual cap and expanding the definition of eligible conservation agencies would eliminate the backlog of this successful program and enable our organization to collaborate with private landowners to conserve land for farming, forestry, wildlife, and clean water.

Thank you for your time and consideration. Please feel free to contact Emily Myron (cell: 240-372-0792; emily.myron@tnc.org) of The Nature Conservancy should you have any questions.

Sincerely,

Emily Myron
Policy Manager
The Nature Conservancy

Heather Clish
Director of Conservation & Recreation Policy
Appalachian Mountain Club

Brendan Annett
Vice President, Watershed Protection
Buzzards Bay Coalition

Cynthia Henshaw
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East Quabbin Land Trust

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Executive Director
Mount Grace Land Conservation Trust

Lisa Vernegaard
Executive Director
Sudbury Valley Trustees

Kelly Boling
Acting State Director, Massachusetts & Rhode Island
The Trust for Public Land

Ross Moran
Executive Director
Westport Land Trust

Karen Grey
Executive Director
Wildlands Trust

Enclosed: Conservation Land Tax Credit Case Stories
Conservation Land Tax Credit Fact Sheet

cc: Representative Brad Jones
Representative Smitty Pignatelli
Senator Bruce Tarr
Senator Adam Hinds

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Appendix A:

Data received from the Department of Revenue on September 1, 2021 in response to The Nature Conservancy's request for information.

In response to your request, DOR created the table below which shows the percentage distribution by adjusted gross income (AGI) of taxpayers who claimed the Conservation Land Tax credit and the total amount of the credit for tax years 2018 and 2019.

Massachusetts Conservation Land Tax Credit Statistics - Percentage of Total Figures for Number of Taxpayers and Credit Claim Amount

Net Massachusetts Adjusted Gross Income	Tax Year 2018		Tax Year 2019	
	Percentage of Total Number of Taxpayers	Percentage of Total Credit Claim Amount	Percentage of Total Number of Taxpayers	Percentage of Total Credit Claim Amount
Under \$100,000	44%	42%	58%	54%
\$100,000 under \$200,000	15%	17%	9%	6%
\$200,000 under \$1,000,000	37%	37%	30%	37%
\$1,000,000 or Over	4%	4%	2%	2%
All	100%	100%	100%	100%

Source: 2018 and 2019 personal income tax returns data

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Appendix B

Some examples of the values of conservation land to Massachusetts include:

- **Ecosystem Services:** The value of climate regulation, freshwater supply, storm water mitigation, nutrient regulation, biodiversity, soil retention and aesthetics attributed to the state’s forest land is estimated at \$2.9 billion.⁴
- **Carbon Sequestration:** Massachusetts’ forests currently sequester carbon equal to about 7% (4.6 million metric tons CO₂e) of the state’s gross greenhouse gas emissions each year,⁵ with the potential to do much more.⁶ From June 2012 to June 2017, approximately 24,700 acres of natural land were converted to development in Massachusetts – acres that can no longer remove and store carbon, thereby moving us toward the goals of the Global Warming Solutions Act.⁷
- **Climate Adaptation and Resilience:** A study in *Scientific Reports* found that coastal wetlands in the northeastern USA prevented more than \$625 million in direct property damages during Hurricane Sandy (\$140 million in New York and \$425 million in New Jersey), reducing damages by an average of 22% in over half the affected areas.^{8,9}
 - The Charles River Natural Valley Storage Area, through the preservation of 8,500 acres of wetlands, prevented an estimated \$3.2 million in flood damages in 1987. In 2006, the storage area reduced flooding to a two-year event while nearby rivers were suffering 40 and 100-year flood levels.¹⁰
- **Recreation:** Recreational trails and opportunities in Massachusetts often cross a matrix of public and private land. The outdoor recreation economy in Massachusetts contributing \$10.5 billion to the state’s GDP. This industry generates 114,000 direct jobs and \$5.5 billion in wages.¹¹

⁴ University of Massachusetts Amherst, The Center for Agriculture, Food, and the Environment. 2012. Valuing the forest for the trees. Available at: <http://ag.umass.edu/news-events/highlights/valuing-forest-trees>.

⁵ Annual carbon sequestration, 2010: Methods taken from Gu et al. 2019 and applied to Massachusetts. Gu H, Williams CA, Hasler N, Zhou Y (2019) “The Carbon Balance of the Southeastern Forest Sector as Driven by Recent Disturbance Trends”, *Journal of Geophysical Research – Biogeosciences*, 124, doi:10.1029/2018jg004841 MA annual emissions, 2017: Appendix C: Massachusetts Annual Greenhouse Gas Emissions Inventory: 1990-2017 (<https://www.mass.gov/lists/massdep-emissions-inventories>).

⁶ Nature4Climate. 2020. See MA state profile at: <https://nature4climate.org/u-s-carbon-mapper>.

⁷ Ricci, E.H., J. Collins, J. Clarke, P. Dolci, and L. de la Parra. 2020. *Losing Ground: Nature’s Value in a Changing Climate*. Massachusetts Audubon Society, Inc., Lincoln, Massachusetts, 33 pp. Available here: https://www.massaudubon.org/content/download/41477/1007612/file/Losing-Ground-VI_2020_final.pdf.

⁸ Narayan, Siddharth and Beck, Michael W. 2017. Coastal Wetlands Prevented \$625M in Property Damage During Hurricane Sandy. *Cool Green Science Blog*. <https://blog.nature.org/science/2017/08/31/coastal-wetlands-prevented-625m-in-property-damage-during-hurricane-sandy/>

⁹ Narayan, Siddharth, Beck, Michael W., Wilson, Paul, Thomas, Christopher J., Guerrero, Alexandra, Shepard, Christine C., Reguero, Borja G., Franco, Guillermo, Ingram, Jane Carter, and Trespalacios, Dania. 2017. The Value of Coastal Wetlands for Flood Damage Reduction in the Northeastern USA. *Scientific Report*, volume 7, Article number: 9463 <https://www.nature.com/articles/s41598-017-09269-z>

¹⁰ National Wildlife Federation. *Low Impact Solution Success Stories*. https://www.nwf.org/~media/PDFs/Water/WRDA/Low_Impact_Solution_Success_Stories_WRDA.ashx

¹¹ U.S. Department of Commerce, Bureau of Economic Analysis. 2019. Massachusetts Outdoor Recreation satellite Account (ORSA). Available at: <https://outdoorindustry.org/wp-content/uploads/2015/03/Massachusetts.pdf>.

- **Water Supply Protection:** Each forested acre that drains to a public water supply source filters 543,000 gallons of drinking water per year (providing the equivalent need of 19 persons) with an annual value of \$2,500.¹²
 - By preserving 22,000 acres of land around the Quabbin and Wachusett Reservoirs, the MWRA avoided a ratepayer cost of \$250 million on a filtration plant and \$4 million per year in operations.¹³
- **Forestry:** The annual Gross State Output of Massachusetts’s forest products industry totals nearly \$3 billion while the forest-based recreation economy generates approximately \$2.2 billion annually. Approximately 17,000 workers are employed in the forest products, maple, and Christmas tree sectors while another 9,000 jobs are found in the sectors that include and support the forest recreation economy.¹⁴
- **Agriculture:** Massachusetts has 7,240 farms across 491,653 acres, providing employment to 25,920 people and producing an annual market value of over \$475 million in agricultural goods. The average farm produces \$65,624 worth of agricultural products on 68 acres. Then, processing and support add additional value and jobs in this sector.¹⁵

¹² Executive Office of Energy and Environmental Affairs. 2015. Looking to the future – Massachusetts land and parks conservation and their future. Available at: <http://www.mass.gov/eea/docs/eea/land/land-report-2014.pdf>.

¹³ Burns, S. 2018. Natural & Nature-Based Solutions for Vulnerability Reduction & Resilience. Presentation delivered on 07/14/2018 at the Municipality Vulnerability Preparedness Programs’ Service Providers Training.

https://www.town.winthrop.ma.us/sites/winthropma/files/pages/nbs_winthrop_mvp_nature_conservancy.pdf

¹⁴ North East State Foresters Association. 2015. Importance of Massachusetts’ forest based economy 2015. Available at:

http://www.nefainfo.org/uploads/2/7/4/5/27453461/economic_importance_of_massachusetts_forest_based_economy_5.19.15.pdf.

¹⁵ Massachusetts Department of Agricultural Resources. 2021. Agricultural Resources Facts and Statistics. Available at: <https://www.mass.gov/info-details/agricultural-resources-facts-and-statistics>.