



July 18, 2019

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

**RE: In Support of H.2522/S.1767 Raising the Annual Cap on Conservation Land Tax Credits**

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

On behalf of our organizations, we are writing to respectfully offer testimony in support of H.2522, *An Act relative to the conservation land tax credit* sponsored by Representative Brad Jones, and S.1767, *An Act increasing the land conservation tax credit* sponsored by Senator Bruce Tarr.

Our organizations are united by a commitment to conserve the Commonwealth’s natural resources for both human and natural communities. We work with landowners who have the same vision for their land, and the Conservation Land Tax Credit (CLTC) incentive program is a critical tool our organizations use to help them turn that vision into reality.

**Introduction**

The CLTC program has been highly effective at conserving the Commonwealth’s most critical natural resources for the past seven years. **As of May 2019, the CLTC program permanently protected 12,087 acres of significant conservation land across 130 municipalities**, including prime forest soils (working forests), prime agricultural soils (working farms), natural good/services (water quality protection), and rare and endangered species habitat. Conserved natural areas are also increasingly important in the face of climate change because they protect communities from climate impacts, including storms, floods, and extreme weather events, and remove carbon pollution from the air. **Diverse stakeholders have used the CLTC to incentivize conservation by:**

- **Nearly 50 different municipal Conservation Commissions and various other municipal bodies (such as water commissions);**
- **Several state agencies (Departments of Agricultural Resources, Conservation and Recreation, and Fish and Game); and,**
- **Over 40 local, regional, and statewide land trusts.**

The CLTC program is highly cost effective. **For every \$1 of state tax credit money spent, \$4.36 of private land is permanently conserved for the public benefit.** Unfortunately, there is a chronic backlog, and the program has been unable to meet demand since its inception. The current backlog is \$5.3 million in credits, pushing deals into 2021 and beyond. Many landowners cannot afford to wait that long, and we risk losing key opportunities to set aside critical private lands.

### **The Legislation**

H.2522 and S.1767 would:

- Raise the annual cap of the Executive Office of Energy and Environmental Affairs' (EEA) Conservation Land Tax Credit Program incrementally from \$2 million to: \$3 million as of January 1, 2020; \$4 million as of January 1, 2021; and \$5 million as of January 1, 2022.
- Amend the definition of "public or private conservation agency" which may receive donations of land subject to a conservation tax credit to include realty trusts organized for conservation purposes pursuant to Chapter 203 (please note that more than a third of land trusts in Massachusetts are organized as realty trusts).
- Sunset (or expire) the enhanced credit on December 31, 2029.

The increase of the annual cap and expanding the definition of eligible conservation agencies would greatly increase private land donations with multiple public benefits.

### **Program Description**

Launched in 2011, the CLTC program allows taxpayers (individuals and corporations) a refundable conservation land 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 EEA for land that is *permanently protected* 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 is a refundable tax credit: the donor receives a rebate on any income taxes due for that calendar year and receives a refund check for the difference. Land trusts often play a key role in assisting landowners throughout the donation process.

We would also like to note that when the bill originally creating this program was sent to Governor Patrick, it had no cap. However, due to the recession of 2008, he returned it, and the legislature agreed to add a cap

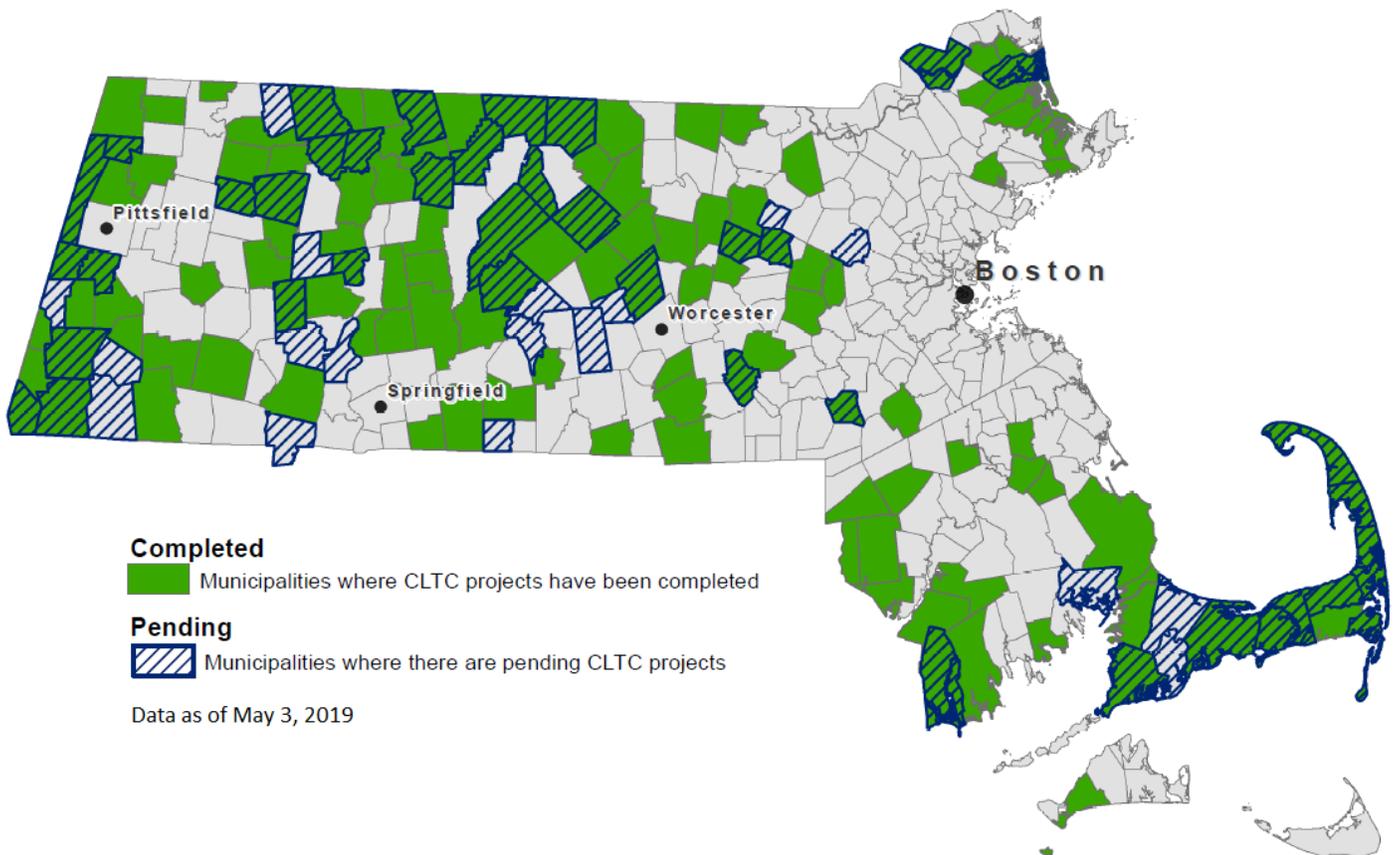
and delay launching the program for two years. Since that time, it has been clear that demand for the program far exceeds the annual cap.

### Supply and Demand

As of May 3, 2019, total dollars requested for 2019 and beyond are \$7.3 million. Of that, \$2 million has been committed to 2019 projects. **There remains an additional \$5.3 million in requested projects being pushed into 2020, 2021, and beyond.** As the program operates on a first-come-first-served basis, all new applications received in the remainder of year will not be eligible for funding until 2021, at the earliest. Indeed, the EEA administrator of the CLTC program, recently shared that he gets at least one call a week where he hears disappointment when he tells an interested landowner about the waitlist.

Many landowners cannot wait several years to take advantage of the credit, as they have financial needs that may be prompting the timing of their applications. In addition, as delays happens, the CLTC gets out of sync with opportunities to leverage funds from other state, federal and private grant programs.

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



There is an unprecedented transition in ownership across the Commonwealth and an enormous opportunity to conserve ecologically and economically valuable lands. Many landowners are “land rich and cash poor” and need the credit to help with family expenses, such as medical or college, and some are aging and cannot wait for the credit. Surveys of private landowners by the U.S. Forest Service document that family forest owners are overwhelmingly over the age of 55 and that one in six acres is owned by someone who plans to sell or transfer some or all of their woods or forest in the next 5 years.<sup>1</sup> In Massachusetts, those willing to sell or give away land in the next five years overwhelmingly prefer to see the land stay forested.<sup>2</sup> This kind of landowner is a perfect match for the CLTC program.

### **Justification: Economic Benefits of Land Conservation**

In a 2013 report, The Trust for Public Land analyzed the economic value of natural goods and services provided by lands conserved by the Commonwealth of Massachusetts between 1998 and 2011.<sup>3</sup> For every \$1 invested in land conservation, \$4 in natural resource goods and services is returned to the Massachusetts economy. These services benefit municipalities and include water quality protection, flood control, air pollution removal and storm water management.

### **Justification: Revenue Cycling**

Land conserved under the CLTC program helps generate revenue from private sector activity in forestry, agriculture, and recreation, or saves public revenues in water supply protection and carbon sequestration. Conservation is critical to supporting the following sectors:

- **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.<sup>4</sup> 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.<sup>5</sup>
- **Agriculture:** Massachusetts’ annual total market value for agricultural is \$492 million, with the average farm at 68 acres generating \$64,000 annually (direct). Then, processing and support add additional value and jobs in this sector.<sup>6</sup>

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<sup>1</sup> U.S. Forest Service. 2015. Who owns America’s trees, woods and forests? Available at: [https://www.fs.fed.us/nrs/pubs/inf/nrs\\_inf\\_31\\_15-NWOS-whoowns.pdf](https://www.fs.fed.us/nrs/pubs/inf/nrs_inf_31_15-NWOS-whoowns.pdf).

<sup>2</sup> Butler, Brett J.; Miles, Patrick D.; Hansen, Mark H. Mon Jun 03 16:37:13 UTC 2019. National Woodland Owner Survey Table Maker web-application version 2.0. Amherst, MA: U.S. Department of Agriculture, Forest Service, Northern Research Station. Available at: <http://fiatools.fs.fed.us/NWOS/tablemaker.jsp>.

<sup>3</sup> The Trust for Public Land. 2013. The return on investment in parks and open space in Massachusetts. Available at: <https://www.tpl.org/return-investment-parks-and-open-space-massachusetts>.

<sup>4</sup> 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](http://www.nefainfo.org/uploads/2/7/4/5/27453461/economic_importance_of_massachusetts_forest_based_economy_5.19.15.pdf).

<sup>5</sup> 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>.

<sup>6</sup> Massachusetts Department of Agricultural Resources. 2016. A snapshot of Massachusetts agriculture. Available at: <https://www.mass.gov/files/documents/2016/08/rf/snapshot-of-ma-ag-presentation.pdf>.

- **Recreation:** Recreational trails in Massachusetts often cross a matrix of public and private land. Massachusetts sees \$16.2 billion in recreational consumer spending and \$911 million in annual state and local tax revenues each year. This industry generates 120,000 direct jobs and \$5.9 billion in wages.<sup>7</sup>
- **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.<sup>8</sup>
- **Carbon Sequestration:** Massachusetts' forests sequester carbon equal to more than 15% (11.9 million metric tons CO<sub>2</sub>e) of the state's gross greenhouse gas emissions each year,<sup>9</sup> with the potential to do much more, thereby moving us toward the goals of the Global Warming Solutions Act. 38,000 acres of Massachusetts forest and farmland were developed between 2005 and 2013<sup>10</sup> – acres that can no longer remove and store carbon.

### **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 24% 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 23% of the Commonwealth is developed. Therefore, there are about 2.75 million acres of private land that are unprotected and undeveloped, which is owned by approximately 350,000 land owners. 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 huge. The program has already become a key conservation tool to highlight when land trusts approach landowners for donations. The land trusts, state conservation agencies and municipal conservation commissions 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.

### **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 recent 2018 Environmental Bond includes new 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

<sup>7</sup> Outdoor Industry Association. 2017. Massachusetts. Available at: [https://outdoorindustry.org/wp-content/uploads/2017/07/OIA\\_RecEcoState\\_MA.pdf](https://outdoorindustry.org/wp-content/uploads/2017/07/OIA_RecEcoState_MA.pdf).

<sup>8</sup> 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>.

<sup>9</sup> Commonwealth of Massachusetts's. 2019. Global Warming Solutions Act 10-year progress report. Available at: <https://www.mass.gov/files/documents/2019/04/02/GWSA-10-Year-Progress-Report.pdf>.

<sup>10</sup> Mass Audubon. 2014. Losing ground: Planning for resilience (Fifth Edition). Available at: <https://www.massaudubon.org/our-conservation-work/advocacy/shaping-the-future-of-your-community/publications-community-resources/losing-ground-report/losing-ground-fifth-edition>.

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**

The increase to the credit has broad-based bipartisan support. House and Senate Democrats and Republicans have collaborated for a decade to first enact the CLTC statute and to consistently support its improvements. This year, the House of Representatives adopted Amendment 1202 to the State Operating Budget, which has the same language as H.2522 and S.1767, in a unanimous roll call vote; however, it remains to be seen whether it will be included by conference committee. While this support is appreciated, the Legislature has missed several opportunities during previous budget and bond debates to approve the increase to the CLTC cap. The need to increase the cap is urgent, as the backlog is preventing landowners from participating in the program, leading to the development of land that would otherwise have been conserved.

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.

The tremendous backlog demonstrates the demand for this program and is only going to increase with the generational transition of property ownership. 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.2522 and S.1767 as soon as possible. The increase of the annual cap and expanding the definition of eligible conservation agencies would help to eliminate the backlog of this successful program and enable our organizations to continue 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 (office: 617-532-8311; cell: 240-372-0792; [emily.myron@tnc.org](mailto:emily.myron@tnc.org)) of The Nature Conservancy should you have any questions.

Sincerely,

Emily Myron, Government Relations Specialist, The Nature Conservancy  
William “Buzz” Constable, President, Massachusetts Land Trust Coalition  
Heather Clish, Director of Conservation & Recreation Policy, Appalachian Mountain Club  
Mark Robinson, Executive Director, The Compact of Cape Cod Conservation Trusts, Inc.

Cynthia Henshaw, Executive Director, East Quabbin Land Trust  
Nancy Goodman, Vice President for Policy, Environmental League of Massachusetts  
Kate Bowditch, President, Essex County Greenbelt Association  
Tom Curren, Executive Director, Franklin Land Trust, Inc.  
Sally Loomis, Executive Director, Hilltown Land Trust  
Kristin DeBoer, Executive Director, Kestrel Land Trust  
Dorothy McGlincy, Executive Director, Massachusetts Association of Conservation Commissions  
Michael Cushner, Legislative Director, Mass Audubon  
Leigh Youngblood, Executive Director, Mount Grace Land Conservation Trust  
Kathy Orlando, Executive Director, Sheffield Land Trust  
Lisa Vernegaard, Executive Director, Sudbury Valley Trustees  
Jocelyn Forbush, Chief, Operations & Programs, The Trustees  
Linda Orel, New England Director of Conservation Finance, The Trust for Public Land  
Ross Moran, Executive Director, Westport Land Trust  
Stefanie Farrington, Conservation Agent, Winthrop Conservation Commission

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

cc: Representative Brad Jones  
Representative Smitty Pignatelli  
Senator Bruce Tarr