



State of New Hampshire

GENERAL COURT

CONCORD

The Honorable Terie Norelli
Speaker of the House

The Honorable Chuck Morse
President of the Senate

SB 388

Chapter 259:2, Laws of 2014

An Act establishing a committee to study the current status of land conservation in New Hampshire and the state's role in encouraging voluntary protection of land in the future.

FINAL REPORT

The above-named Joint Legislative Study Committee selected to study issues relative to the current status of land conservation in New Hampshire and the state's role in encouraging voluntary protection of land in the future, having duly met, offers the following final report:

SUMMARY

The State of New Hampshire has been most fortunate over the years to have visionary leaders and organizations that recognize that our natural lands are a cherished resource in need of protection. New Hampshire's economy is dependent on these natural resources as is the unique quality of life they provide to those who visit, live and work in our state. Providing adequate protections for these assets are essential to maintaining and safeguarding New Hampshire's economy and character for today's population and for future generations. Continued and increased state investment in land and natural resource protection is not a luxury item in the state budget but rather; it is essential to our state's continued prosperity. Since 1990, no fewer than 11 Legislative committees and commissions have documented in detail the need to protect New Hampshire's lands and natural resources for the value they provide to the state's economy and its residents.

The state continues to be fortunate to have many organizations dedicated to working in partnership with willing private landowners, often over the course of many years, to purchase land and/or easements on property throughout the state. Over many meetings, the committee heard from a variety of state agencies including the Fish and Game Department, relevant divisions from the Department of Resources and Economic Development, the Department of Agriculture, the Department of Environmental Services, the Office of Energy and Planning, and the Land and Community Heritage Investment Program. The Department of Revenue Administration reported on the role of current use with regard to non-permanent land protection. And the Treasury Department provided the committee with information regarding the state's bonding capacity and other possible financial mechanisms that might be used by the state to further the state's investment in the protection of land. Dedicated nongovernmental entities, including The Trust for Public Land, The Nature Conservancy, New Hampshire Land Trust Coalition, the New Hampshire Audubon Society, the Society for the Protection of New Hampshire Forests, the New Hampshire Association of Conservation Commissions and the established state and local land trusts shared with the committee the history of their work in protecting land. Each of these organizations and their partners has made significant contributions toward preserving New Hampshire's natural heritage. Without their work, there is no question but that the state would be in a very different position today. In addition, the committee solicited input concerning land conservation and the role it plays in our economy from the Business and Industry Association and the NH Association of Realtors.

The combined efforts of these agencies, municipalities, individuals, landowners and relevant non-profits are indeed laudable. Additionally, in the past, the Legislature did an admirable job to protect key lands in the state, with an outright allocation of \$50,000,000 to the Land Conservation Investment Program (LCIP) in the 1980's, and the match to the federal government to protect significant lands in the north country, as a result of the combined efforts of Senator Judd Gregg and Governor Jeanne Shaheen.

However, much more needs to be done. Many important natural assets continue to be at risk, including prime agricultural lands so necessary to sustain our farming and horticultural industries, critical lands essential to maintaining our drinking water supplies and habitat that are needed to support the state's thriving and diverse wildlife population and important recreational activities.

Over the last thirty years, the Legislature also voted to establish specific dedicated funds and programs in order to assist in protecting these natural resources. However, too often, such funding has either been reduced, eliminated, or used for other purposes and that which remains has not been adequate to meet the need or, more importantly, to leverage available federal and municipal dollars.

This report outlines the findings and recommendations resulting from numerous public meetings and includes important supporting documents and data from our public and private partners.

As a result of all the data provided to the committee and the comments from the many participants, the committee recommends that the State take a greater leadership role in both supporting and facilitating land protection throughout the state. Investing in the protection of New Hampshire's lands and waters by the State is essential to protect and expand the New Hampshire economy, retain and grow jobs, and maintain our outstanding quality of life.

Specifically, the committee recommends that for the next legislative session, the State should adequately fund the existing land protection programs designed to support economic growth, protect our environment and maintain our quality of life as well as provide funds to leverage local, federal and private investments. The committee also recommends that legislation be filed to create a commission of expert stakeholders to determine the most important natural resources that are in the best interest of the state to protect and how to accomplish that protection before it is too late.

FINDINGS

In keeping with its statutory charge, and as outlined below, the committee identified and examined the ways in which investment in land conservation is important to the state and can support increased voluntary land conservation over the next several years.

Current status of land conservation

New Hampshire's majestic landscape is diverse and beautiful, making the Granite State an extraordinary place to live, work and play. Over the years, investments in natural resource protection from both the private and public sector have made major contributions to the state's strong economy and high quality of life. The extent and distribution of these conservation lands varies significantly across the State. Northern municipalities and counties, along with areas of high elevation, tend to have more conserved lands, while southern regions and lower elevation zones have less, even though these lands often contain significant natural resources worthy of protection and are typically at greater risk of development. Current data shows that 1,850,584 acres of the state's lands are permanently protected. This includes nearly 760,000 acres in the White Mountain National Forest. Nearly 70% of these permanently protected lands are under federal or state jurisdiction; municipalities hold another 10%. Private conservation land owned or held through easements by land trusts and other nonprofit organizations account for almost 20% of all the remaining conserved land statewide. Quasi-public entities, such as water and school districts, make up the remainder.

It is widely believed that that the current use program is a type of permanent land conservation, when, in fact, landowners willing to pay the penalty, can take their land out of current use at any time and develop it. While current use designation may not provide permanent protection, it can play a role in land protection in two important ways. First, by keeping the land temporally undeveloped under current use, the possibility exists that the landowner may at a later date decide to permanently protect the

land. Secondly, if a landowner decides to remove land from current use, either for sale or development, the landowner must pay a penalty that goes to the local community. In 2012, \$6.2 million was paid out in current use penalties. Many communities transfer some or all of these dollars into their municipal land conservation fund for the acquisition of other lands. Significantly, in 2012, New Hampshire towns and cities put 60% of their current use revenues into their conservation funds for future land purchases.

The nearly 70% of the remaining non-conserved lands throughout the state include land that provides natural goods and services essential to the state's economy and quality of life, whether for clean water, forest and agricultural-based jobs, healthy wildlife, outdoor recreation or tourism.

The threat to these lands comes in the form of potential increased development in areas where there is land of great public value that should be conserved. It should also be noted that much of the state's open space and farmlands will soon experience a generational transfer in ownership, quite unlike anything seen before in the state's history, as older residents begin to sell off their assets or pass them on to the next generation. This transfer of ownership poses both a threat and an opportunity. The threat is that these lands will be sold for development. However, generational change also presents opportunities for owners, wanting to permanently protect their lands for ensuing generations to use and enjoy, by placing easements on such land or sell them with protective covenants to local municipalities or land trusts. Consistent funding and additional state dollars to leverage other investments will be needed as such opportunities occur.

Increased investment in conservation by both the state and the private sector is important because of the multiple benefits these lands provide, specifically with regard to the following areas potentially at risk:

Drinking Water Supply Protection:

Of the lands delineated by the New Hampshire Department of Environmental Services as critical to maintaining clean sources of public drinking water, more than two-thirds remain unprotected. These areas include land around the wells and surface waters that provide water to businesses, industry, and municipal and community drinking water systems. Protection of these lands reduces the risk of drinking water contamination, thereby protecting public health. The availability of clean drinking water makes New Hampshire an attractive state for current and potential residents, commerce and industry and, of course, tourist-dependent businesses. Recent studies by the Trust for Public Lands and others have documented that keeping lands in an undeveloped state allow for natural cleansing of pollutants and can also reduce the cost of treating drinking water for municipalities and businesses.

Working Farms:

Of the most productive agricultural soils available for growing food (about 7% of New Hampshire's land base), already 20% have been converted to development and 68% remain vulnerable for development. To provide for future agricultural production in the state more than 12% must be permanently protected. Farming and related agricultural uses not only preserve a traditional way of life in New Hampshire but also contribute to our economy. For example, in 2011, dairy products were a top-grossing agricultural commodity with \$61 million in sales; greenhouse and nursery products with \$53 million in sales, and apples, ranking third, generated over \$8.8 million. In 2010, agricultural production alone added \$138 million to the state's economy and supported 5,050 jobs, sustaining strong food and textile manufacturing sectors estimated to generate an additional 8,280 jobs statewide.

Working Forests:

New Hampshire is the second most forested state in the US with 84% forested lands, and 4.67 million acres in productive timberland supporting a \$1.7 billion forest products industry. Excluding the pulp and paper industry, New Hampshire's wood products, forestry, and logging industries

annually support 3,240 jobs with \$103 million in associated payroll income. Yet, of forested blocks of land 500 acres or larger, accounting for two-thirds of the state's forested land base, 60% are not permanently protected as forest lands. Major land protection efforts in the North Country have partnered timber companies with conservation and recreational interests for a multi-faceted long term benefit to this region of the state. The same benefits serve other areas where conserved productive woodlands also protect water supply lands and provide recreational trails.

Plant and Animal Habitat:

Of the more than 4,000 documented occurrences of rare plants and animals in New Hampshire, less than one-third occur on public and permanently protected land. Critical habitat includes both upland and wetland areas with characteristics necessary for specific species that support viable populations of fish, game, and other wildlife species. Larger game animals especially require substantial tracks of contiguous land to thrive. Failure to protect these critical lands will risk the very survival of the state's defining wildlife, which is essential to a healthy ecosystem and to our economy. In 2011 alone, 630,000 residents and nonresidents participated in wildlife watching, and spent \$281 million on wildlife-watching expenditures. Angling and hunting activities are also dependent on maintaining our rich animal and plant life. Again, in 2011, 228,000 anglers and 56,000 hunters spent \$272 million throughout the state. Hunting alone annually supports 923 jobs, generating \$34.5 million in salaries and wages.

Wetlands, shorelands, open grasslands and forests important to wildlife also provide vital services to our state and our citizens by removing air pollutants, protecting and enhancing water quality, producing healthy food and other useful products, providing fish and wildlife habitat, managing storm water, and assisting in flood control and with other necessary functions that contribute to the well being of our state. Such land conservation helps to ensure the health and security of our citizens and our communities, potentially saving property owners, municipalities and the state millions of dollars.

Further Economic Benefits of Land Conservation

Clearly land conservation is a key economic driver for the State of New Hampshire. It creates jobs, supports production of food and other goods, maintains scenic beauty essential to our recreational and tourism industry, attracts and retains new businesses and high-quality workers as well as sustaining our high quality of life. In 2012, the Trust for Public Land conducted an economic analysis of the return on New Hampshire's investment in land conservation through a variety of state programs that funded land acquisition statewide, and found that every \$1.00 invested in land conservation returned \$11.00 in natural goods and services to the New Hampshire economy. Such investments are a major economic driver for the state's economy; forestry, agriculture, commercial fishing and related processing activities annually generate \$2.5 billion in output and directly support more than 18,500 jobs.

Tourism and Visitor Spending

A 2010 consumer perception survey conducted by the NH Division of Travel and Tourism Development established the importance of conserved land to tourism. Eighty-nine percent (89%) of those surveyed associated "Beautiful Scenery" with New Hampshire, and 82% "Authentic New England." Scenic drives and leaf peeping stood out with hiking as the activities associated with the state. Clearly, protecting our open lands preserves the iconic New Hampshire landscapes and historic farms.

Additionally, outdoor recreation, generating \$4.2 billion in annual consumer spending from both tourists and residents and \$293 million in annual tax, depends upon open land and clean waters. Recreationists from wildlife observers and hikers to OHRV enthusiasts enjoy using the trails on conserved land. Conservation lands receiving LCHIP funds and any state-administered federal land and water conservation funds must provide recreational access. Many land trusts raise funds to protect lands with popular recreational trails such as Monadnock to Sunapee and the Belknap Range in Gilford.

In 2013 alone, visitors made over 34 million trips to New Hampshire and spent \$4.6 billion throughout the state. Outdoor recreation spending directly supports 49,000 New Hampshire jobs paying out \$1.2 billion in wages and salaries. It is also important to note that the state's second largest source of revenue for the general fund comes from our Rooms and Meals Tax, much of that derived from out-of-state visitors.

Land conservation also saves cities and towns money through avoided costs on expensive infrastructure and other municipal services, including roads, water supply, wastewater and storm water facilities, schools, police and fire protection. Surveys of 11 New Hampshire communities compiled by the American Farmland Trust and documented in a fact sheet distributed to the committee, found that open spaces and working farms and forests require on average \$0.56 in services for every \$1 paid in taxes, while residential lands require an average of \$1.12 in services. Local land protection also increases land values, contributing untold dollars in property taxes so essential to our towns and cities.

Status of Statewide Land Conservation Programs

Currently, the established state programs to fund land conservation receive inconsistent, unreliable or no funding. It is clear from the following update that more financial resources from the state are needed to protect key lands, waters and natural habitat.

1. In September 2000, the **Land and Community Heritage Investment Program** (LCHIP established in RSA 227-M) was formed as an independent state authority. LCHIP makes matching grants to New Hampshire communities and nonprofits engaged in protecting the state's most important natural, cultural, and historic resources. Since 2008, it has been supported by a dedicated fund through a \$25 fee charged on documents recorded at county registries of deeds. For fiscal years 2014 and 2015, the state budget allocated the entire income from the Registry Fees to LCHIP, which is estimated to be \$4.1 million for fiscal year 2014 and almost \$4.3

million for fiscal year 2015. (This is the first time ever that the LCHIP program has received the full amount of dedicated funds allocated to the program.) Since its inception in 2000, about \$33 million of state funds for LCHIP have led to a total project value of \$258 million for New Hampshire.

2. **The Water Supply Land Protection Grant Program** (RSA 486-A) allows the Department of Environmental Services to make matching grants to municipal water suppliers covering up to 25 percent of the cost of the purchase of land or conservation easements critical to the supplier's water quality. It has not been funded by the state since 2008. To date the \$6,830,881 that has funded this program has leveraged an additional \$20 million in expenditures to protect critical water supply lands.
3. The Land Management Bureau in the **Department of Resources and Economic Development** (DRED) (RSA 227-G and 227-H) is responsible for the acquisition of land for expansion of the state forest and state park system. Presently, there are no regularly appropriated state funds for DRED land acquisitions.
4. **The Agricultural Lands Program** (ALP), established in 1979 (RSA 432:18-31-a), with New Hampshire being the fourth state in the country to establish a purchase of development rights program to protect farmland. However, ALP has not received a state appropriation since 1990.
5. **The Department of Fish and Game's Wildlife Habitat Account** (RSA 214:1-f) is funded through a \$2.50 stamp that is required of all individuals who purchase a hunting license at the time of purchase. Proceeds from the stamp are used in part for restoration and conservation on public and private lands, including purchasing easements, to protect critical wildlife habitats. The stamp collects about \$145,000 annually.

6. The **Department of Fish and Game's Fisheries Habitat Account** (RSA 214:1-g) establishes a \$1 fee on fisherman in the state to help protect and restore critical fisheries habitats, including the acquisition of private land, among other uses. The Fisheries Habitat account collects about \$140,000 annually.
7. The **Department of Environmental Service's Aquatic Resources Mitigation (ARM) Fund** (RSA 482-A:28) provides a mitigation option for certain development projects that are not able to address their wetland impacts on-site. These projects pay into the fund, which is used to support projects in the watershed that compensate for the loss of aquatic resource functions and values.

Land Protection in New Hampshire Compared to other New England States

New Hampshire ranks last among the New England states in both total state spending on land protection as well as per capita state spending. Recent data from the Trust for Public Land show that New Hampshire invests \$28 per person per year; Rhode Island \$58; Vermont invests \$107; and Connecticut invests \$109 per person per year. These figures reflect state expenditures only – not federal or private investment funds.

RECOMMENDATIONS

Land conservation transactions in New Hampshire involve funding from a variety of sources including private donors, local and federal dollars and the state. However, when the state fails to provide consistent, reliable funding for core programs such as LCHIP, there is a chilling effect on conservation and the state misses real opportunities to protect key natural resources. In fact, for every \$1 invested by LCHIP at least \$7.00 in

additional contributions from local, state, federal and private sources is raised. And federal agencies, including the Natural Resources Conservation Service (NRCS) and several state agencies indicate that there are federal match dollars available for additional land conservation, but the state is leaving those dollars on the table because of inconsistent, unreliable state funding needed as match.

Moreover, New Hampshire voters want to fund land protection. A 2012 public opinion survey conducted by UNH found that voters across the political spectrum overwhelmingly - by 97% - support land conservation efforts in the state, believe the state should fund such efforts, and want fee revenues intended for the protection of open land and historic sites used only for those purposes. The survey found that voters also see a connection between conservation and the state's economy. At the same time, most voters disagreed with arguments that are used against state funding for land conservation. Only 23% agree that "the legislature has to make hard choices in these tough times, and we just can't afford land conservation right now," and only 11% believe that "New Hampshire has more than enough forests, farms, and open space, and we do not need to do any more to protect them."

With that, the committee recommends the following:

1. Full funding for the Land and Community Heritage and Investment Program (LCHIP) in the 2016-2017 biennial budget by ensuring that all funds are dedicated to LCHIP, and prohibiting the use of those funds for other purposes. LCHIP has broad and bipartisan public support, provides competitive grants to land conservation projects and leverages \$7.00 for every \$1 of state funds committed.
2. Constitutionally protect dedicated funds for LCHIP to ensure permanent funding for our state's natural, cultural and historic resources.

3. Restore funding of \$1.5 million per year for FY '16 and FY '17 to the existing Source Water Protection Program (authorized at the NH Department of Environmental Services by RSA 486-A: 9,II) which provides competitive matching grants to municipalities proposing to permanently conserve Source Water Protection Areas critical to meeting drinking water supply needs in the community. This program was established in 2000 with an appropriation for \$1.5 million approved in FY 2001, 2002, and 2003. Funding since 2003 has been sporadic and, since 2008, non-existent.
4. Restore funding up to \$3 million annually to the NH Agricultural Lands Program (known as "ALP" and authorized in RSA 432:18) that would enable the state to leverage new federal dollars to acquire permanent conservation easements on working farms and farmland in the state. The recently enacted federal Farm Bill makes more than \$400 million annually available to states for such investments. New Hampshire has been able to make use of this program in the past. States and their partners must match each federal grant authorized. Placing new seed money in New Hampshire's ALP will enable more New Hampshire farmers to conserve their farmland and enable more New Hampshire consumers to buy more locally grown food. This program was created in 1979 and funded until 1990 but has received no appropriation since 1990.
5. Seek immediate funding from a variety of sources for a comprehensive study to determine which lands throughout New Hampshire are in greatest need of the state's protection in partnership with the federal government, local municipalities and the private sector.
6. Introduce legislation in the 2015 session to create a diverse commission, comprised of business leaders, conservation organizations, citizens, municipal officials and others to develop a multi-year land conservation plan that considers the findings of this report, the priorities developed from the aforementioned study and

information from other available resources, including input from local communities, the public and local land trusts. One of the duties of the commission should be to recommend specific natural resource goals in need of state conservation investments, realistic budgets for the state to realize those goals, and potential sources of funding. The commission should complete their work by December 31, 2016.

Future Steps

Because of time constraints built into SB 388, our committee was unable to delve deeper into several important issues that the state should address and ask that the above-established commission consider the following:

1. Research new legislative and administrative tools to strengthen conservation easements throughout the state to aid in protecting valuable lands, drinking water supplies and working farms and forests.
2. Consider the use of general obligation or other bonds to fund land protection, especially to protect large landscapes for which existing appropriations may be inadequate.
3. Identify new ways to encourage municipal-level land protection by supporting the 216 Conservation Commissions (RSA 36-A) throughout the state, and creating new, statewide incentives to encourage cities and towns to invest revenues from the Land Use Change Tax to municipal conservation funds.
4. Determine the best ways the state can work with regional planners and municipalities to develop and implement zoning that encourages a reasonable balance between development and land conservation, and that would encourage increased density development within our communities in order to preserve open space.
5. Examine how to best leverage federal investments through major authorizations such as the recently passed federal Farm Bill.

Respectfully submitted,

Martha Fuller Clark

Martha Fuller Clark
State Senator, District 21

Jeff Woodburn

Jeff Woodburn
State Senator; District 1

Suzanne Smith

Representative Suzanne Smith
Grafton, District 8

David Hess

Representative David Hess
Merrimack, District 24

Signing in agreement with all in the
Report with the exception of
Recommendation #2

Recommendation #3 as worked.

Judith Spang

Representative Judith Spang
Strafford, District 6

APPENDICES

NOTE: Copies of the appendices to this report are available at the New Hampshire State Library and with the Office of Senate Research.

- A. NH Division of Travel and Tourism Development 2010 Consumer Perception Survey Summary
- B. New Hampshire Conservation Attitude Survey Highlights Report; *Prepared by Chad S. Novak, M.A. and Andrew E. Smith, Ph.D. of The Survey Center, University of New Hampshire, July 2012*
- C. American Farmland Trust, *Cost of Community Services Fact Sheet*, Northampton, MA, Farmland Information Center, 2010
- D. STRATEGIC ECONOMIC PLAN FOR NEW HAMPSHIRE: Prepared by the Business & Industry Association of New Hampshire, November, 2013. 9.0 – Natural, Cultural and Historic Resources, pages 30, 31 and 32.
- E. Land Conservation in New Hampshire: A Snapshot of Progress & Opportunities – A Report Prepared for the New Hampshire Legislature’s SB 388 Study Committee, October 2014