

**LAND CONSERVATION TASK FORCE
BACKGROUND PAPER: FINANCIAL IMPACTS ON MUNICIPALITIES**

I. Introduction

The financial impact of land conservation on towns is an issue that has been prominent in the state political arena in recent years. A legislative study on the subject was completed earlier this year and is discussed below.

This is a complicated issue to analyze for a variety of reasons including the following:

- Municipalities have been facing numerous fiscal pressures in recent years including cuts to state revenue sharing and education funding.
- Land trust properties and programs provide a wide variety of benefits to Maine communities providing open space and recreation opportunities at no direct cost to the taxpayer.
- Conservation lands place few demands on public services. While developed properties provide more property tax income, they also require much higher costs of services ranging from education, to trash disposal to water/sewer.
- Conservation lands can, in some instances, increase property values (and property taxes) on other lands in the community.
- Maine's current use tax programs, established in the Maine Constitution, have a significant impact on property tax revenues which often get confused with or combined with the property tax implications of lands and easements held by land trusts.

Moreover, experiences and attitudes vary greatly from region to region and town to town. Numerous Maine towns have made significant financial contributions to conservation acquisitions, while representatives from some other Maine towns feel that conservation purchases in their communities have been excessive and have occurred without full involvement from the community.

A previous briefing paper focused on the community benefits of land conservation. That information will not be repeated here instead relying on a general presumption that these benefits are substantial.

II. What We Know

Information on this subject is limited, particularly from government sources. Based upon the best information available, this is what we know:

- Maine has a relatively small amount of public conservation land; approximately 6.5% of the land base which ranks it 38th in the country. This has given rise to an active land trust community which has significantly expanded conservation ownership both in fee and easement.
- In 2016, there was an estimated \$18.3 billion of tax exempt property in Maine. \$11.8 billion of that amount is land owned by federal, state and local governments or quasi-municipal agencies such as water districts. The remaining \$6.4 billion is spread across all qualified non-profit organizations including churches, hospitals, universities, other charitable organizations such as chambers of commerce as well as conservation properties.
- According to a recent survey conducted by Maine Coast Heritage Trust, non-profit conservation organizations, predominantly land trusts, have conserved roughly 2.5 million acres in Maine.

Approximately 1.9 million acres are in private ownership with conservation easements and 600,000 acres are owned in fee.

- The overwhelming majority of these lands, 94.5%, are on the tax rolls, mostly enrolled in Maine's current use tax programs. On an additional 4% of these lands, land trusts make voluntary Payments In Lieu Of Taxes (PILOTs) to towns or, in the case of the unorganized territories, to the counties.
- In total, approximately 1.5% of land trust properties are exempt from property tax payments (and no PILOT is paid) which includes about 30,000 acres in Maine towns and 7,500 acres in the unorganized territories.
- The percentage of lands in some form of private conservation ownership varies greatly around the state. In Piscataquis, Somerset and Washington Counties, over 20% of the land based is subject to conservation easements. For all other counties in the state, it is under 10%. Similarly, the value of conservation lands, as a percentage of a town's total property assessment, can vary greatly between towns around the state.

III. Current Use Taxation

Maine's current use taxation programs include the tree growth tax program, farmland program, open space program and working waterfront program, with tree growth the most widely used program by far. While each program is different, they all have the purpose of assessing lands within the program at their current use (forestry, farming, open space and working waterfront) rather than their ad valorem value, meaning their "highest and best use" which is typically for development. The dual goals of these programs are to promote the maintenance of these lands for their traditional economic and conservation uses which benefit Maine people and to provide fair taxation to landowners who agree to not develop their property and manage it consistent with the programs' requirements. Property owners have the option of placing their lands in a current use program if certain minimum requirements are met (e.g. tree growth parcels must be > 10 acres).

The reduction in property taxes varies from program to program and from parcel to parcel. The greatest reduction occurs on parcels that have high development potential (e.g. waterfront) where the development value is many times higher than the current use value.

Once enrolled in a program, the property must be managed according to the requirements of the program which among other things, precludes development. If a landowner elects to remove land from a current use program, a substantial penalty must be paid to the town. Penalties are greatest on lands with high development value.

The great majority of land trust properties are enrolled in one of the current use programs unless they are in the small percentage of lands where PILOTs are made or are exempt. However, land trust properties make up only a small fraction (<4%) of the lands enrolled in these programs which, based upon 2016 statistics, includes:

- Tree Growth in organized towns: 3,666,916 acres
- Tree growth in unorganized territories: 7,300,000 acres
- Farmland: 294,078 acres
- Open Space: 139,340 acres
- Working Waterfront: 89 acres
- **Total Acreage of Lands Enrolled in Current Use Statewide: 11,400,000 acres**

One last point about current use programs. The placement of conservation easements on a property do not impact its valuation under the current use taxation programs with the exception of the Open Space Program. Deductions allowed under the Open Space Program are based upon a formula involving a number of factors including the existence of a conservation easement and whether it is a “forever-wild” easement.

IV. Cost of Conservation Versus Development

For many years, there has been an ongoing discussion among land use and taxation interests as to whether conservation of land has a net positive or negative fiscal impact on towns. Without question, land conservation reduces potential property tax revenues, simply due to the fact that undeveloped land is assessed less than developed properties. However, it is also true that conservation lands require far fewer municipal expenditures than developed land – the “trees don’t go to school” argument. There are also studies showing increased property values in neighborhoods and communities with quality open space and trails. While the literature on this issue is by no means unanimous, the findings of a 2009 study in Vermont identified the following relationships between conservation and property taxes:

- The more acres of conserved land in a town, the lower the median house property tax bill;
- The greater total valuation of property in a town, the higher the median house property tax bill; and
- The greater the number of primary residences in a town, the higher the median house property tax bill.

While one should not conclude that conserved lands always has positive fiscal impact on a community, it does demonstrate that the measure of impact should not be lost property tax revenue, but rather the difference between lost tax revenues and the savings resulting from the municipal costs related to the potential development of land.

V. Legislative Study of Issue

In February 2018, the “Study of Conserved Lands Owned by Nonprofit Organizations was released by the Legislature’s Joint Standing Committee on Agriculture, Conservation and Forestry which was tasked by the Legislature to “conduct a study of the financial and nonfinancial aspects of conserved lands owned by nonprofit conservation organizations, including property taxes paid, community benefits realized and value of lands to the State’s economy.” The Study Committee gathered the best information available to it and held several meetings with land trust representatives, municipal representatives and other stakeholders. Its principal findings were as follows:

1. Nonprofit conservation organizations hold roughly 2.5 million acres in Maine, in fee ownership and conservation easements, and the overwhelming majority of these lands, 94.5%, are on the tax rolls.
2. Nonprofit conservation organizations devote significant resources to the protection of natural resources that are integral to the State’s fishing, farming and forestry industries.
3. Nonprofit conservation organizations contribute significantly to the public and Maine’s tourism economy by providing opportunities to hunt, fish, hike, snowmobile, canoe and engage in other outdoor recreational activities.
4. Land trusts benefit local communities in a multitude of ways, including, but not limited to, education programs, downtown revitalization efforts, community gardens, youth sports activities and other initiatives.

5. The ACF Committee has heard that the relationship between local communities and nonprofit conservation organizations has been mostly positive; however, for a handful of communities, the interaction with nonprofit conservation organizations has been negative.

Its final recommendations included the following:

The ACF Committee recognizes that some communities in Maine, particularly those that are small and rural with little economic base, are struggling. In these communities the reduced tax or tax-exempt status of land associated with land trust organizations combined with the reduced tax or tax-exempt status of land owned by the State, federal government, other nonprofit entities, and private individuals may negatively impact these areas because a disproportionate amount of land is not subject to full taxation and other positive economic opportunities are absent.

The ACF Committee recommends that the Legislature reexamine current-use tax programs and how these tax programs may adversely affect certain communities.

In addition, the ACF Committee also recommends that the Legislature review the four current use tax programs and how each program treats the issue of public access. The ACF Committee believes that a certain level of public access to land should be a requirement in order for a property owner to be eligible for a reduced rate of property tax.

VI. Some key issues and questions for the future

- What information and research are needed to better understand the relationship between land conservation and municipal fiscal health?
- Should the State play a greater role in compensating towns for lost property tax revenue from all of the state's current use tax programs?
- Without a legislative mandate, can land trusts work out ways to reduce acreage of lands that are exempt from property taxes in towns that are struggling financially?
- How can the public gain a better understanding of the fiscal tradeoffs of conservation and development in Maine communities?

VII. Suggested resources for those who want to dig deeper

Report of Legislative Study Committee:

<http://www.legislature.maine.gov/doc/2165>

Land Conservation and Property Taxes in Vermont:

https://www.farmlandinfo.org/sites/default/files/Land_Conservation_and_Property_Taxes_in_Vermont_1.pdf

Land Conservation Tax Exemptions ; Maine Municipal Association Legislative Bulletin

https://www.memun.org/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core_Download&EntryId=11499&language=en-US&PortalId=0&TabId=204

With Tax Bases Eroding, Some Rural Communities Say Land Trust Conservation Comes at Their Expense

<https://pinetreewatch.org/the-public-cost-of-private-conservation/>

Maine Land Trusts and Property Tax Exemption; Maine Coast Heritage Trust Bulletin:

<http://www.mltn.org/perch/resources/land-trust-property-tax-exemption-former-tb-109-kmpedits-071713.pdf>