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# **New England Food Policy:** *Building a Sustainable Food System*

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**March 2014**

**American Farmland Trust  
Conservation Law Foundation  
Northeast Sustainable Agriculture Working Group**

## Land

### Reducing Conversion, Increasing Permanent Protection and Expanding Access

**F**armland is essential to New England's food system, and is a finite resource that has disappeared at an alarming rate. A century ago, the region had about 6 million acres in agricultural use; today the total area devoted to crops and pasture has shrunk to less than 2 million acres.<sup>1</sup> This represents just 5 percent of the region's total land base, or less than a quarter of an acre per person.<sup>2</sup> While some of this land was abandoned and could be reclaimed for agricultural use, a significant portion has been permanently lost to development, especially in the more densely populated southern New England states and along the coasts of northern New England. In the past 30 years alone, New England developed almost 300,000 acres of crop and pastureland and nearly 1 million acres of forested land, much of which was once farmland.<sup>3</sup> Four states lost more than 10 percent of their farmland to development in this time period: Connecticut and New Hampshire both lost 13 percent; Massachusetts lost 18 percent; and Rhode Island lost 22 percent.<sup>4</sup> As farmland has grown scarcer, farmland values have risen. The average farmland value in the region is more than \$7,000 per acre, well over twice the national average.<sup>5</sup> Not surprisingly, interviewees cited the lack of access to affordable land as one of the chief impediments to expanding the region's food production.

Stopping the loss of productive farmland will require new and improved policy tools — from more effective planning and zoning, to estate and other tax policy changes, better mitigation requirements, and increased investments in permanent farmland protection at all levels of government. New policy innovations will also be needed to promote environmentally sound farmland reclamation and to help the next generation of farmers — many of whom do not come from farm families — gain access to land. This chapter explores some of these new policy options, as well as state and federal policies that are currently helping to reduce farmland conversion, increase permanent protection and help new and established farmers gain access to land.

### Highlights

- Access to affordable farmland is a significant barrier to expanded food production in New England. Improving land access will require new policy tools, including tax policy changes to promote the sale or lease of land to farmers.
- Stopping the loss of productive farmland will require additional investments in farmland protection, as well as new protection strategies, strengthened farmland mitigation policies and more aggressive state incentives for urban infill development.
- Less restrictive or ambiguous local zoning ordinances are needed to encourage urban agriculture.

## 1.1 REDUCING FARMLAND CONVERSION

### CURRENT USE PROPERTY TAX VALUATION

#### *Introduction*

Every New England state has a program that permits taxation of agricultural land based on the actual, ongoing use of the land rather than its full market value or highest and best use. In most parts of the region, highest and best use is usually considered residential or commercial development. American Farmland Trust's Farmland Information Center cites three purposes of "current use" programs:

- Helping farmers stay in business by reducing their real property taxes;
- Treating farmers fairly by taxing farmland based on its value for agriculture, rather than at fair market value, as if it were in residential use; and
- Protecting farmland by easing the financial pressures that force some farmers and farmland owners to sell their land for development.<sup>6</sup>

The second purpose is borne out by American Farmland Trust's Cost of Community Services studies. Averaging the more than 150 Cost of Community Services studies that have been conducted around the country, American Farmland Trust estimates that farmland and other open space requires, on average, less than 35 cents in municipal services for every dollar that it contributes in municipal property taxes. Conversely, land in residential development requires, on average, \$1.16 in services for every dollar it contributes in local property taxes.<sup>7</sup>

#### *Discussion*

Each state has its own set of program rules and eligibility requirements. Below is a comparison of some of the key provisions of current use statutes around the region. For more information about current use statutes, see the Appendix.

#### **ELIGIBILITY**

All six New England states authorize participation in current use valuation by landowners who farm their own land and by those who lease their land to farmers for agricultural purposes. Eligibility is generally based on three criteria: parcel size, income generation and continuity of use

on the land. Vermont is the only state to require non-farming landowners to have a three-year written lease with a farmer in order to qualify for current use.<sup>8</sup>

#### **Size**

New Hampshire, Massachusetts, and Maine have minimum acreage requirements to qualify for current use valuation; Connecticut, Rhode Island, and Vermont do not.<sup>9</sup> In Connecticut, local assessors determine eligibility, and acreage is one of the factors they may consider.<sup>10</sup> Rhode Island has the most flexible approach and allows parcels of any acreage as long as the parcel's primary purpose is agricultural and it yields agricultural products grossing at least \$2,500 in sales annually.<sup>11</sup> The director of Rhode Island's Department of Environmental Management reviews applications and on a case-by-case basis can authorize participation by owners of parcels smaller than five acres.<sup>12</sup> Rhode Island's flexible approach recognizes the potential of small farm parcels to generate high yields.<sup>13</sup>

#### **Income**

Several states require parcels to gross an agricultural income of between \$500 and \$5,000 before the landowner applies.<sup>14</sup> These income requirements are often required for several successive years.<sup>15</sup> Massachusetts and Connecticut are exceptions. Massachusetts law requires only that the land be used with the purpose to gross the minimum income, insulating farmers from lean years.<sup>16</sup> The Connecticut statute does not set an income threshold, but local assessors may consider it in determining eligibility.<sup>17</sup> Vermont has an income exemption for orchard land that is planted to fruit producing trees, bushes or vines that are not yet of bearing age.<sup>18</sup>

Vermont and Massachusetts both have a graduated income threshold. Massachusetts requires \$500 of gross income on the first five acres, and an additional \$5 for every acre thereafter, with an exception for wetlands and woodland, which only need to produce 50 cents per acre.<sup>19</sup> Vermont requires \$2,000 for any plot up to 25 acres, and an additional \$75 for each acre over 25 acres, up to \$5,000. While Massachusetts requires a five-acre minimum, the Vermont approach, with no minimum acreage, allows small parcels to qualify as long as the parcel is producing \$2,000 in income annually.

#### **Continuous Agricultural Use**

Typically landowners must show continuous agricultural use on the parcel. Statutory requirements often call for a demonstration that landowners have met the size and

acreage requirements for one out of two years or three out of five years before a landowner submits an application for current use assessment.<sup>20</sup>

Connecticut has no state-level requirements for size, income or continuity. Farmers can qualify for current use valuation on fallow fields, as long as the reason for its disuse is “soil nutrient replenishment, crop rotation, ... market conditions or various other reasons that might result in a less productive use of the land.”<sup>21</sup> The state explicitly recognizes that beginning farmers may take several years to see meaningful returns, and therefore does not include an income threshold in its current use valuation statute.<sup>22</sup> While this state policy encourages the inclusion of most farm parcels, the program is administered at the local level and town assessors can set more restrictive eligibility requirements, which may exclude some parcels, especially those on smaller acreage.<sup>23</sup>

#### **Farm Buildings**

Vermont includes farm buildings in its current use program. Farm buildings located on land enrolled in current use, including farmworker housing, are taxed at zero percent for property tax purposes. Up to \$100,000 of the valuation of a farm facility that processes crops produced on the farm may also be included.<sup>24</sup>

Connecticut allows municipalities to elect to exempt from property taxes any building used exclusively in farming or that provides housing for seasonal employees, up to a value of \$100,000 per building.<sup>25</sup>

New Hampshire also allows towns to assess farm structures at “no more than their replacement costs less depreciation.”<sup>26</sup>

#### **APPLICATION**

Farmland under current use valuation is generally assessed at “the price per acre which the land would command if it were required to remain henceforth in agriculture.”<sup>27</sup> In most states, state boards establish guidelines or a recommended schedule of land use values for current use valuation, typically based, in part, on farmland rental rates, farm product values and farmer-to-farmer land sales. Assessors are allowed to deviate from these recommendations and consider other factors, provided the valuations they use are supported by data.<sup>28</sup> If an application for current use is denied, or if a landowner contests the valuations used by local assessors, landowners typically have the right to

seek abatement and to appeal decisions to a state property tax review board.

#### **ENROLLMENT**

Data detailing the percentage of eligible land enrolled in current use programs in each state is not readily available. In New Hampshire, landowners have enrolled nearly 3 million acres, though this total includes all lands in the program, not just farmland. In western Massachusetts, 40 percent of the region’s eligible farmland is enrolled in the state’s current use program. Better statewide enrollment data could help inform outreach strategies and program implementation.

#### **PENALTIES FOR WITHDRAWAL FROM THE PROGRAM**

All New England states charge landowners a recapture tax when they take land out of current use valuation for development.<sup>29</sup> This “land use change tax” penalty generally decreases the longer land is in the program.<sup>30</sup>

Massachusetts has strong incentives to keep land enrolled in its program. In addition to the recapture tax levied on the original owner, the Commonwealth charges a conveyance tax on the new owner taking the land out of the program.<sup>31</sup>

Additionally, Massachusetts law provides a right of first refusal to municipalities hosting enrolled farmland proposed for sale and conversion. The right of first refusal gives a municipality the option to buy land under the current use valuation program ahead of potential developers or conversion by the existing landowner.<sup>32</sup> A landowner with enrolled land must notify the municipality prior to converting the land to a non-qualifying use, or prior to selling to a bona fide purchaser who intends to convert the property.<sup>33</sup> After receiving notice in the former scenario, the municipality has 120 days to purchase the land for conservation purposes by paying fair market value — as determined by an independent appraiser — to the landowner.<sup>34</sup> In the latter scenario, the municipality can purchase the land by matching the sale price being offered by the bona fide purchaser.<sup>35</sup> In either case, a municipality may assign its right of first refusal to a qualified conservation organization that can purchase the land and subject it to a permanent conservation easement before deeding it back to the municipality.<sup>36</sup>

New Hampshire gives municipalities the option of directing money from land use change taxes to a town conservation fund.<sup>37</sup> These funds are administered locally, and municipalities can use the money to purchase conservation easements, among other options.<sup>38</sup> Currently, 160 communities in New Hampshire have chosen to direct these land use change taxes to conservation funds, which in one recent year grossed more than \$7.5 million.<sup>39</sup>

**MAINE’S VOLUNTARY MUNICIPAL FARM SUPPORT PROGRAM**

Maine has added to its property tax toolbox a new program for towns that enables them to further reduce local property taxes. Under the Voluntary Municipal Farm Support Program, a community can adopt a local program that lowers property taxes on participating farms beyond the reduction available through current use taxation. In exchange for this additional tax relief, a farmer must place an agricultural conservation easement on his or her land that remains in effect for at least 20 years. The program is intended to boost farm profitability while helping communities protect farmland without having to raise capital to purchase an easement. To be eligible for the program, state rules require that the parcel be at least five acres; the parcel produce at least one agricultural crop that generates an annual gross income of at least \$2,000; and eligible farm buildings be used for producing or processing agricultural crops.<sup>40</sup>

*Action*

**Research and Analysis**

- Better current use enrollment data is needed at the state level. Most states do not have available data on the percentage of eligible land that is enrolled in the program. State-level analyses, including enrollment patterns by town or county, landowner and/or commodity type, and withdrawal data, would help policymakers evaluate the program’s effectiveness.
- Additional analysis based on a survey of landowners, assessors and municipal planning officials would help measure the impact of current use programs on development patterns. Are current program withdrawal penalties acting as an adequate deterrent to developing farmland? Are current use programs steering development to unenrolled parcels? Insights on these questions could help state policymakers tailor programs to more effectively reduce farmland conversion.

- The impact of Massachusetts’ right of first refusal policy should be examined to determine its effectiveness in helping towns protect farmland.
- Current use programs offer a potential policy vehicle to expand farmland access. Increasing thresholds for income generated from the farmland could encourage non-farming landowners or hobby farmers to increase use of their land for agriculture. This, in turn, could lead to more land leased to farmers. Examining the impact that such an increase in income thresholds would have on agricultural production, land availability and current use enrollment could help policymakers determine whether such a policy shift would have the desired effect.

**Policy Options**

- More can be done to improve the effectiveness of these programs in reducing farmland conversion. Potential program improvements include:
  - » Allowing municipalities, as New Hampshire does, to retain and direct recapture penalties toward municipal farmland protection projects, including, where applicable, the exercise of a right of first refusal on lands coming out of current use protection. States might also revisit the current penalty structure, where tax disincentives decrease over time.
  - » Incorporating a right of first refusal into the program, as Massachusetts does. The practice enables a town to purchase a farm parcel or assign the purchase to a land trust in the event the parcel is going to be developed. This process ensures that landowners are compensated for their land at the highest and best use value, while offering towns the opportunity to protect land they consider agriculturally important to the community.
- Current use programs can also be used to encourage farming in urban and suburban areas and to encourage more secure tenure for farmers leasing land. Possible policy options in this regard include:
  - » Eliminating minimum acreage requirements and shifting eligibility to meaningful income thresholds to ensure that enrolled parcels are being actively farmed.
  - » Requiring a multiyear written lease, as Vermont does, from a landowner that is leasing land to a farmer.
- To incentivize conservation stewardship practices, adjust valuation guidelines to provide greater tax relief

on land being farmed using key conservation practices or in conformance with a conservation plan.

- Provide towns with additional property tax tools to protect farmland, as Maine's Voluntary Municipal Farm Support Program does.
- Consider changes to current use statutes to incentivize additional leasing to farmers and longer lease terms.

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## STATE AND FEDERAL ESTATE TAXES

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### *Introduction*

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Historically, state and federal estate taxes have sometimes caused farm families to sell land and other farm infrastructure, either before the death of the senior generation to avoid taxes or after, in order to pay those taxes. The appreciation of value in a New England farm — including land, buildings, equipment and livestock — often triggers significant state and federal estate taxes upon the death of the farmer or surviving spouse. The increase in the federal estate tax exemption to \$5.25 million has significantly reduced the number of farm families potentially subject to the tax in New England. While more than 5,000 farms have farm real estate values alone higher than \$1 million, and almost 2,000 have values higher than \$2 million, just 1 percent of farms in the region — about 345 — have a farm real estate value higher than \$5 million.<sup>41</sup> These figures do not include other farm assets, however, so the number of farms subject to the federal estate tax may be higher. Modifications to federal and state estate tax policies could help reduce the loss of farmland and farm infrastructure during farm transitions and encourage a next generation of farmers on the land. (For more information about the value of total farm assets, see the note in the Appendix.)

### *Discussion*

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#### FEDERAL ESTATE TAX

The 2013 federal estate tax applies to the amount of an estate's value that exceeds \$5.25 million, and the tax rate is capped at 35 percent.<sup>42</sup> This relatively high exemption, enacted by Congress in 2011, was an important priority for many farm advocates, as estate taxes would otherwise have returned to the previous \$1 million valuation exemption and a top tax rate of 55 percent.

In determining the value of an estate, Internal Revenue Code section 2032A applies a special use valuation assessment rather than fair market value to farmland. To qualify, the property must have been used as a farm for five of the last eight years before the farmer died; the decedent or a member of his or her family must have participated in the farm business; and the property must be passed to an heir. The use value tax benefit is lost if the property is sold to a non-family member or if it ceases to be used for farming within 10 years of the original farmer's death.<sup>43</sup> The use value tax benefit is capped, however, at \$1 million, which limits its usefulness for many New England farms.<sup>44</sup> (For more information about the federal estate tax, see the Appendix.)

#### STATE ESTATE TAXES

##### *Connecticut*

Connecticut's estate tax currently applies to the amount of an estate's value that exceeds \$2 million per individual, a reduction from the \$3.5 million exemption in place in 2011. Given Connecticut's high farmland values, 530 farms are adversely affected by this lower exemption level, or at least 11 percent of all farms in the state, without accounting for other non-real estate assets.<sup>45</sup>

##### *Maine*

Effective January 1, 2013, the Maine estate tax applies to the amount of an estate's value that exceeds \$2 million; this exemption was increased from \$1 million in 2011.<sup>46</sup> Based on farm real estate values, at least 125 farms in the state are potentially affected by the current state estate tax.<sup>47</sup>

##### *Massachusetts*

The Massachusetts estate tax applies to the gross value of an estate higher than \$1 million per individual.<sup>48</sup> Approximately 1,800 Massachusetts farms have a current farm real estate value that alone exceeds \$1 million, and therefore could be subject to the state estate tax. This represents approximately 23 percent of the state's farms.<sup>49</sup>

##### *New Hampshire*

New Hampshire has no state estate or inheritance tax.<sup>50</sup>

##### *Rhode Island*

Rhode Island has the second highest farm real estate values in the country and the lowest exemption level in the region. The Rhode Island estate tax applies to the amount of an estate's value that exceeds \$910,000 per individual, an increase from the \$675,000 exemption in place in 2010. More than a quarter of all farms in the state — 325 total

— have farm real estate values worth more than \$1 million. In 2013, however, the state legislature approved a bill to assess farmland at its use value for estate tax purposes. By not assessing farms at the highest use value, many will be valued under the state exemption level.<sup>51</sup>

### **Vermont**

The Vermont estate tax applies to the amount of an estate's value that exceeds \$2.75 million per individual, an increase from the \$2 million exemption in place in 2011.<sup>52</sup> Vermont's estate tax, however, is tied to the federal estate tax, and state estate taxes are reduced by the portion of the estate comprised of farm assets. For example, if the farm business makes up 50 percent of the federal adjusted gross estate, the Vermont estate tax will be reduced by 50 percent.<sup>53</sup> There is no available data to indicate how frequently this reduction has been used. Approximately 230 Vermont farms have farm real estate values alone that exceed \$2 million, and thus would be subject to the Vermont estate tax.<sup>54</sup>

## **Action**

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### **Research and Analysis**

- The federal estate tax special use valuation assessment allows farmland to be valued for estate tax purposes at its agricultural use value, but limits the exemption to \$1 million. The Family Farm Estate Tax Relief Act of 2010 (H.R. 5475) proposed to eliminate the cap for use value assessment, retained the recapture provision if the property or a portion is sold or ceases to be used for agricultural purposes, and added an adjustment of the recapture tax to reflect any increase in the farmland's value. An analysis of how an increase in the exemption would affect New England farms would be helpful, as would an analysis of the changes proposed in H.R. 5475.
- Explore the connection between and opportunities to synchronize state current use provisions for property taxes and federal and state estate tax provisions relating to special use valuation assessment.

### **Policy Options**

#### **Federal**

- There are many legislative proposals to revise the federal estate tax. One such proposal, developed by American Farmland Trust, proposes to revise the

special use valuation assessment to provide a significant incentive to keep agricultural land in production. The proposal would eliminate many of the restrictions on eligibility for special use valuation assessment while maintaining the requirement that the property continue to be used for farming and preserving the current valuation methodology. These changes would enable anyone whose land is devoted to agriculture to avoid estate tax on the entire value beyond its agricultural value provided that the land continues to be used for agriculture. Specifically, it would:

- » Eliminate the requirement that the property pass from the decedent to a family member.
- » Eliminate the requirements that the decedent or members of the family have "materially participated" in the operation of the property prior to the farmer's death and continue to do so after the death of the decedent.
- » Eliminate the requirement that to qualify for special use valuation the real and personal property devoted to a qualified use must comprise at least 50 percent of the value of the decedent's estate.
- » Expand the recapture period from 10 to 30 years.
- » Allow property that has been valued using IRS Code section 2032A to be freely transferred without triggering recapture — as long as it is maintained in its qualified use— and eliminate recapture on conservation easement sales.
- » Eliminate the cap on the amount by which an estate's value may be reduced.

### **State**

- Vermont and Rhode Island are the only states in the region with special provisions for farms in their estate tax. Changes to estate taxes have been urged by farm advocates in several New England states, including Maine. Legislative Document 490, introduced in the Maine legislature in 2011, proposed to exempt from the state estate tax the value of any land classified as farmland under the state's farm and open space tax law for five years preceding the death of the owner.
- States in other parts of the country have enacted provisions to exempt agricultural assets from estate taxes. Pennsylvania, for example, exempts land used for farming purposes entirely. The state also exempts other agricultural real estate, such as buildings, if certain criteria are met, including that the transfer must be within the family; the farm business must continue

for seven years after the farmer's death; and the farm must produce a gross income of at least \$2,000 annually for the seven years.<sup>55</sup>

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## PLANNING AND LAND USE

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### *Introduction*

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Sprawl<sup>56</sup>— the pattern of low-density residential and commercial development that characterizes many New England suburban areas — has helped drive the conversion of farmland around the region. Farmland conversion rates throughout New England between 1982 and 2007 ranged from a low of 4 percent in Vermont, to an astounding 22 percent in Rhode Island.<sup>57</sup> U.S. Department of Agriculture (USDA) Natural Resources Inventory data through 2013 will not be available until 2015<sup>58</sup>, so each state's conversion rate is not available yet for the immediate past five years. Due to the 2008 recession, however, it is likely that conversion has slowed. Market demand and public policies have also helped to encourage denser development in the region's urban areas. Eight of the region's 12 major metropolitan areas increased their rate of infill development since 2000.<sup>59</sup> As housing development begins picking up again, the region's most productive farmland, which is also its most developable land, will continue to be at risk.

Within New England, municipalities have varying degrees of autonomy to pass local laws without permission from the state. Several New England states are "Home Rule" states, while others follow "Dillon's Rule." In Home Rule states, the state constitution or legislation provides that municipalities enjoy the freedom to pass laws and govern themselves as they see fit.<sup>60</sup> In Dillon's Rule states, however, municipalities may pass laws that are only specifically permitted by state statute.<sup>61</sup> Accordingly, land use plans and zoning around agriculture differ from town to town, in some cases with little coordination or oversight from state government. While several states have state planning offices and statewide planning efforts, only Vermont and Rhode Island have statewide planning statutes requiring towns to coordinate their land use planning efforts with state land use policies.

Reducing farmland conversion will require new and better coordinated policies at the state and local levels. State policies can do more to incentivize denser development in both city centers and rural village centers, while helping

communities plan and zone in ways that support farming and save farmland. State climate change mitigation strategies should include strategies aimed at retaining working lands.<sup>62</sup>

The federal government's support for sustainable communities over the past few years has encouraged local and regional planning around food systems, and could be better integrated with USDA programs and priorities in the region. The USDA's Know Your Farmer, Know Your Food Compass is an interactive mapping project using data for the years 2009 to 2012 that shows how the Department of Agriculture and other federal partners are supporting local and regional food economies.<sup>63</sup>

### *Discussion*

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#### STATE GOALS AND PLANNING

All states have codified smart growth goals or strategies, or at least included them in policy statements, but each state implements these strategies differently.<sup>64</sup> Some states encourage municipalities to follow those growth principles,<sup>65</sup> and some, including Rhode Island and Vermont, require town plans to be consistent with broad state land use policies.<sup>66</sup> With the exception of Vermont's statewide structure for regulating land use under Acts 250 and 183 (described below), no state conducts comprehensive land use planning at the state level.

Vermont's Act 250 regulates development through a statewide permitting system: Most moderate and large subdivisions and many new commercial land uses trigger Act 250, under which the appropriate regional district commission reviews the proposed project for environmental effects, infrastructure impacts and consistency with local and regional plans.<sup>67</sup> Projects that do not trigger Act 250 are subject to local zoning requirements.<sup>68</sup> To guide local planning in a way that channels development and preserves the state's rural character, Vermont has also enacted Act 183, which sets forth smart growth guiding principles for municipalities, establishes a process for designating growth areas, and provides communities with regulatory and financial incentives to drive development to these areas.<sup>69</sup> Act 250 specifically recognizes the protection of the state's prime agricultural soils as a goal; Act 183 recognizes the need for smart growth in order, in part, to strengthen the state's farm and forest economies and prevent farm and forest land fragmentation.<sup>70</sup>



## **STATE ASSISTANCE FOR SMART GROWTH REGIONAL PLANNING**

Most New England states offer municipalities grant money or direct technical assistance from planners, consultants or mapping software to create and implement plans or projects around smart growth or sustainable communities.<sup>71</sup> While some states condition all development-related grant money on the municipality-applicant adhering to smart growth techniques, others simply give preference to applicants who incorporate smart growth strategies. At least one state, Vermont, created a competitive grant fund in the state treasury that allocates money toward regional planning projects, including acquisition of real estate in order to preserve farmland identified as “requiring special consideration.”<sup>72</sup> The Vermont fund is called the Municipal and Regional Planning Fund.

While some states assist only with drafting regional plans, Vermont and Connecticut go one step further by offering grants toward actual development projects. Under Vermont’s Designated Growth Center program, a municipality may apply to have its downtown area classified as a growth center.<sup>73</sup> Once designated, Vermont municipalities become eligible for some funding benefits;<sup>74</sup> designation unlocks state permission to use tax-increment financing to fund projects within that growth center.<sup>75</sup> Connecticut prioritizes grant money for development projects located in designated growth areas.<sup>76</sup>

Alternatively, New Hampshire and Massachusetts have compiled model zoning ordinances, smart growth handbooks, and other educational or advisory literature to help municipalities develop smart growth-oriented land use ordinances and bylaws.<sup>77</sup>

These programs are crucial components of state-level smart growth policy in New England, in particular because many New England municipalities lack professional planning or legal staff and rely on volunteer land use and planning boards to review development proposals and to draft local zoning and development rules.

## **REGIONAL PLANNING COMMISSIONS**

Nearly all New England states have some form of sub-state planning entities, which may be more or less comprehensive and wield varying amounts of power from state to state.<sup>78</sup> Although no state commands its municipalities to work together regionally, some states incentivize such cooperation. Most states facilitate that

cooperation by creating regional planning commissions or councils of governments — organizations composed of representatives from towns in a certain region, as well as planning experts.<sup>79</sup> Vermont, for example, divided the state into regional planning districts, and then by statute made each town a member of its respective regional planning commission.<sup>80</sup> A municipality is not required to pay dues to its regional planning commissions, nor adhere to any regional plan the commission creates.<sup>81</sup> Nevertheless, Vermont towns actively participate in regional planning, in part because the commissions offer technical and legal assistance<sup>82</sup> partially funded by the state.<sup>83</sup> The regional planning commissions also provide a useful framework for towns to mold their individualized plans.

Many regional planning commissions around New England have been active in food system planning. Much of this work has been funded through grants from the federal Partnership for Sustainable Communities, a program sponsored by the Environmental Protection Agency and the U.S. Departments of Housing and Urban Development and Transportation.<sup>84</sup> For instance, the Berkshire Regional Planning Commission in Massachusetts has used part of its federal grant to create a Local Food and Agriculture plan that will be integrated into a larger Sustainable Berkshires comprehensive plan. The plan focuses on strengthening the economics of farming to ensure that farming remains viable in the county.<sup>85</sup> Similarly, Boston’s Metropolitan Area Planning Commission is using Sustainable Communities funding to work with 13 communities in its service area on a comprehensive agricultural plan, intended to increase the economic viability of farming in the region and protect sustainable “foodsheds.”<sup>86</sup>

One avenue for further exploration in these regional planning efforts is the potential for a regional transfer of development rights program. Transfer of development rights programs allow towns or counties to shift development from agricultural land to designated growth zones. Programs that allow the transfer of development rights have been used most effectively around the country at the county level, where there is sufficient scale to incorporate both farmland to be protected and growth areas, into which development rights can be transferred. Montgomery County, Md., for instance, has permanently protected more than 50,000 acres of farmland through its program.<sup>87</sup> Few towns in New England have authorized development rights transfer programs, largely because towns with significant farmland resources do not also have sizeable areas of development where growth can be

channeled. A regional program could provide the needed geographic diversity; depending on the state, state enabling legislation may be needed for such a program.

## OPTIMIZING ZONING STATUTES

Some states have facilitated municipal-level smart growth policy by amending zoning enabling acts to eliminate contradictory provisions and strengthen municipal land use tools that facilitate mixed-use and high-density development.<sup>88</sup> Even in Home Rule states, the state government can limit or expand municipal power to a great extent.<sup>89</sup>

In 2004, Massachusetts adopted the Smart Growth Zoning Overlay District Act, which created overlay zoning districts with smart growth requirements.<sup>90</sup> These districts, for example, must permit infill development and achieve a high minimum housing density.<sup>91</sup> Municipalities must apply to the Department of Housing and Community Development to place these zones, but the state grants money to towns that adopt them.<sup>92</sup> As of 2009, 27 overlay districts had been placed in Massachusetts.<sup>93</sup> Pending legislation in the Massachusetts legislature (H. 1859) would update the state's zoning, subdivision and planning laws to encourage balanced development and land preservation.<sup>94</sup>

Rhode Island has encouraged integrating agriculture into mixed use and dense urban development by amending its state zoning legislation to make plant agriculture a permitted use in every zoning district in the state, whether residential, industrial or commercial.<sup>95</sup> Rhode Island's Comprehensive Planning and Land Use Act seeks to formally connect the State Guide Plan and municipal planning, by requiring local comprehensive plans to meet certain minimum standards, including the identification of prime agricultural soils and ways to protect them. The act requires local comprehensive plans to conform to the State Guide Plan and municipalities to pair their zoning with their comprehensive plans.<sup>96</sup>

## MAPPING

Most states now use Geographic Information System (GIS) mapping to aid their land use planning process. Technology now allows states to see precisely where and when changes in land use, population growth, and infrastructure have occurred over time. The Massachusetts Office of Geographic Information, for example, has created a comprehensive, statewide database of spatial information for mapping and analysis supporting environmental

planning and management, transportation planning, and economic development. Municipal staff and the general public can access mapping information through an online GIS viewer called MuniMapper, which creates maps with dozens of map layers of interest to municipal staff.

Connecticut also has an interactive GIS map on its website, which highlights the state's main growth corridors, tracking major highways.<sup>97</sup> Connecticut's Conservation and Development Plan — a smart growth-oriented list of goals and strategies to control the location and type of development — refers to that map.<sup>98</sup> Together, the map and plan implement a point system for determining priority funding, based on color-coordinated areas designated for either conservation or development.<sup>99</sup> One version of the map specifically identifies farmland protected through the state's Farmland Preservation Program.<sup>100</sup>

## Action

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### Support for Existing Programs

- The federal Partnership for Sustainable Communities provides funding for regional planning around food systems, including agricultural land use.
- States offer communities financial and technical assistance to develop plans and zoning that encourage smart growth, support farming, and protect farmland.

### Policy Options

- States can do more to maximize the impact of codified smart growth principles by requiring all local and regional plans to incorporate smart growth techniques. Rhode Island's Comprehensive Planning and Land Use Act provides a useful framework of coordination between state and local planning, and conformance of local zoning to local comprehensive plans.
- States can use technology to unify state, regional and local planning. GIS mapping and extrapolation software visually demonstrate the effects on agriculture of current and past planning strategies, and can show the impact of potential future policies. After studying potential effects, states can designate areas for varying levels of growth, from prime agricultural lands to dense urban infill.
- Amend state zoning laws to permit plant agriculture in all zoning districts, as Rhode Island has done.

- Incentivize municipalities to designate growth areas that can support increased development density. Massachusetts' Transit Oriented Development Infrastructure and Housing Support Program, for example, offers financial grants through state agencies to municipalities for bikeways, pedestrian improvements, park-and-ride lots, and other transportation projects located within half a mile of a public transit station.<sup>101</sup> Vermont's Act 183 offers an example of the type of state incentives that can be used to help drive smart growth at the local level.
- Explore creation of sub-state regional transfer of development rights programs and needed state-level enabling legislation or possible incentives to promote.

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## FARMLAND MITIGATION

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### Introduction

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With fewer than 2 million acres in active agricultural use and more than 14 million residents, New England is a densely populated region, with less than one-fifth of an acre of farmland per person. Continued loss of farmland in the region, especially its most productive land, threatens the region's future production capacity as well as its economy and environment. Since 1982, 10 percent of the region's crop and pastureland has been converted to development; some states, such as Rhode Island and Massachusetts, have had significantly higher conversion rates (22 and 18 percent, respectively).<sup>102</sup>

Government policy at the federal, state and municipal level has often, intentionally or not, been a driver in farmland conversion. At the federal level, the Farmland Protection Policy Act, enacted in 1981, was intended to reduce the federal government's role in farmland conversion, but has been less than effective in doing so. Across the region, some state governments have taken steps to address state and municipal actions that contribute to farmland conversion, and, as importantly, are using state policy to encourage more compact and infill development and to avoid or mitigate the conversion of productive farmland.

While the concept of mitigation has been widely used for wetlands protection, it has been applied less frequently to farmland. Farmland mitigation policies could

be strengthened around the region to deter farmland conversion and finance permanent protection efforts.

## Discussion

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### FEDERAL

The National Agricultural Land Study of 1980-81 found that millions of acres of farmland were being converted in the United States each year and that much of the sprawl was the result of programs funded by the federal government. As a result, the Farmland Protection Policy Act (FPPA) was passed as part of the 1981 Farm Bill. The stated purpose of the law is to minimize the impact federal programs, including construction projects such as highways, airport, dams and buildings, have on the conversion of farmland to nonagricultural uses, and to ensure that federal programs are compatible with state and local programs and policies to protect farmland.<sup>103</sup>

For projects that are supported or financed partially or entirely by the federal government, the FPPA requires federal agencies to examine the impact before approving any activity that would convert farmland. To do so, agencies request assistance from the NRCS for a land evaluation and site assessment. Based on this analysis, a federal agency can deny assistance to private parties or to state and local governments undertaking projects that would convert farmland. USDA is not granted the authority to stop projects of other agencies.<sup>104</sup>

In fiscal year 2011, NRCS received 3,154 requests for assistance in evaluating projects from 29 federal agencies. These assessments found that a total of 202,513 acres of land were proposed for conversion to nonagricultural uses.<sup>105</sup> Federal agencies do not report their final decisions to NRCS and therefore the impact of the assessments on projects is unknown.<sup>106</sup>

While the Farmland Protection Policy Act has helped identify federally funded projects that may convert farmland, it has done little to stop or mitigate the impacts of those projects. Specifically, agencies may deny funding based on the analysis of impact to farmland, but the FPPA does not require federal agencies to alter projects to avoid or minimize farmland conversion. The only recourse for reviewing decisions is litigation brought by state governors; no other entity has the authority to challenge federal action under the act. Other shortcomings of the Farmland Protection Policy Act include:

- Agencies supporting the development can determine whether a site contains farmland and thus is subject to the act.
- Although the Natural Resources Conservation Service evaluates the land, the final review relies on site assessments performed by agencies that are not concerned with farmland protection.
- The act lacks reporting requirements and measures to evaluate effectiveness.<sup>107</sup>

## STATE

### *Connecticut*

Under Connecticut General Statutes Section 22-6, the commissioner of agriculture is empowered to review any proposed capital project receiving state funding that would convert 25 acres or more of prime farmland to nonagricultural use. The commissioner must report to the state Bond Commission whether the project “promotes agriculture or the goal of agricultural land preservation or if there is no reasonable alternative site for the project.” The statute does not specifically empower the commissioner to require mitigation.

The statute has been used in at least one instance where state funding was used for the development of nearly 100 acres of prime farmland. Through negotiations after a project review, state funding for the project included a condition that the town create a Farmland Preservation Committee that was charged with developing a farmland preservation strategy and identifying farms for conservation.<sup>108</sup>

In 2004, Connecticut enacted a municipal farmland mitigation policy that requires towns that take agricultural land by eminent domain to mitigate this loss. Local governments may either purchase an agricultural conservation easement on comparable land within its jurisdiction or, if no land is available, pay a mitigation fee to the state’s farmland protection program to be used to protect farmland of similar size and quality elsewhere in the state. The state’s municipal farmland mitigation policy is limited in scope as it only applies to the taking of farmland by eminent domain. It does not appear that any municipality has been required to take action pursuant to this policy.

### *Massachusetts*

Two policies are used to mitigate the loss of farmland in Massachusetts. Issued in 1991, Executive Order 193 declares it “essential to ensure that the Commonwealth’s agricultural land remains available for present and future generations.”<sup>109</sup> This order directs state agencies to avoid and mitigate against the conversion of farmland. State funds and federal grants administered by the state cannot be used to encourage the conversion of agricultural land to other uses when feasible alternatives are available. Mitigation must be provided in cases where state-owned farmland is converted to non-agricultural uses.

The second policy, the Massachusetts Environmental Policy Act, requires that state agencies study the environmental impact of their actions and take all feasible measures to avoid, minimize and mitigate damage to the environment.<sup>110</sup> In cases where there will be an effect on the environment, the Massachusetts Environmental Policy Act requires enforceable mitigation commitments, which become permit conditions for the project if and when it is permitted.<sup>111</sup> The act applies to projects that are either proposed by a state agency or are proposed by municipal, nonprofit or private parties and require a permit, financial assistance, or land transfer from state agencies.<sup>112</sup> Specifically, the Massachusetts Environmental Policy Act applies to the conversion of land in active agricultural use to non-agricultural use if the land includes prime or important soils.<sup>113</sup>

Based upon Executive Order 193 and the Massachusetts Environmental Policy Act, the Department of Agricultural Resources reviews projects involving state funds and privately funded projects that affect agriculture. The secretary of energy and environmental affairs makes the decision to include mitigation when issuing a certificate for projects. Under its Agricultural Land Mitigation Policy, when the avoidance of farmland loss is not possible, the Department of Agricultural Resources requires that for every acre of farmland converted, one acre of agricultural land of comparable or greater agricultural viability be permanently protected for future use. This is accomplished, in order of preference, by:

- The permanent protection of farmland on-site;
- The permanent protection of agricultural land off-site, but where possible in the same community or a contiguous community; or

- A financial contribution of \$10,000 per acre to the state farmland protection program, or to “a qualified non-profit farmland preservation organization or municipal farmland preservation program” as approved by the commissioner.<sup>114</sup>

Massachusetts’ farmland mitigation policies have been successfully integrated into existing environmental review processes and used on many occasions to limit the impact of new development and finance the protection of agricultural land when development does occur. Although recent data is not available, about 2,000 acres were protected and \$1.3 million contributed to farmland preservation through mitigation in Massachusetts from 1991 to 2001.<sup>115</sup>

### **Vermont**

As described in the Planning and Land Use section above, Vermont’s Act 250 includes mitigation for the loss of farmland. For subdivisions or developments involving at least 10 acres or 10 units or more, a project must receive an Act 250 permit. Among other criteria, permits are granted to projects that will not result in reducing the potential of agricultural soils; if this is impossible, permits may require mitigation. Before mitigation of farmland loss is even considered as a condition for issuing a permit, the applicant must demonstrate that there are no feasible alternatives to the project’s impacts. When necessary, a formula is used to determine mitigation steps; this formula varies depending on the location of the project. In some cases developers must pay into the Vermont Housing and Conservation Board trust fund, which administers the state’s farmland preservation program; the price per acre values are determined by the Agency of Agriculture and based on recent values of agricultural conservation easements. In other cases compact development may be required to maintain agricultural land.

As in Massachusetts, the Vermont farmland mitigation policy is incorporated into the existing environmental review process and has been used to limit the impact of new development on farmland and finance the protection of agricultural land when development does occur. As of 2010, the Vermont Housing and Conservation Board had used approximately \$3 million in mitigation funds to protect farmland.<sup>116</sup>

## Action

### **Policy Options**

#### **Federal**

The federal Farmland Protection Policy Act has had limited effect nationally. There are several ways the act could be strengthened:

- Federal agencies could be required to alter projects to avoid or minimize farmland conversion where possible; projects could be held to a “no feasible alternative” test.
- The act currently excludes consideration of agricultural farm parcels that are in urbanized areas or consist of fewer than 10 acres of land. These types of farm parcels, especially with prime or statewide important soils, are increasingly important to farmers in the region, and should be covered by the act.
- When farmland is developed with funding from federal agencies, mitigate the conversion.
  - » Provide funding through the Farm and Ranch Lands Protection Program to ensure that each year, at a minimum, an equal amount of agricultural land of similar or greater soil value is protected as is unavoidably converted by federal projects and activities.
- Create additional opportunities for decisions to be reviewed and challenged by the public and key stakeholders. Currently, the only recourse for reviewing decisions is litigation brought by state governors.
- The role of the Natural Resources Conservation Service could be strengthened by:
  - » Granting that agency the authority to determine whether a site contains farmland and is therefore subject to the Farmland Protection Policy Act.
  - » Providing NRCS with greater authority in the final review process and decision.
  - » Mandating reporting by agencies to NRCS and the public, and creating measures to evaluate effectiveness of the Farmland Protection Policy Act.

#### **State**

States should enact farmland mitigation policies that achieve the following:

- State funds and federal funds administered by state agencies should not be used for the conversion of agricultural land to other uses when feasible alternatives are available.

- Where farmland must be converted, mitigation should be required.
- Any project proposed by a municipality, nonprofit or private party that requires state approval, permit or assistance should be reviewed by the state to determine if agricultural land will be converted to nonagricultural use.
  - » The conversion of agricultural land to other uses should not be allowed when feasible alternatives are available.
  - » If avoiding farmland loss is not possible, mitigation should be required.
- Options for the mitigation of farmland loss to non-agricultural uses include:
  - » The permanent protection of farmland on-site;
  - » The permanent protection of agricultural land off-site; or
  - » Financial contributions to a state, municipal or nonprofit farmland protection program.

## 1.2 INCREASING PERMANENT PROTECTION

### *Introduction*

New England has long been considered a leader in farmland protection, and several interviewees reiterated the important role that state PACE programs — also known as “purchase of development rights” programs — play in keeping farmland more affordable for both new and established farmers. These programs also help farmers expand and reinvest in their farm operations.<sup>117</sup> Since 1996, the federal Farm and Ranch Lands Protection Program (FRPP) has provided significant resources for farmland protection throughout the region, but the program has become increasingly inflexible and difficult for both partners and participating landowners to navigate. Funding for state PACE programs has been less predictable over the past few years as a result of the recession and tightening state budgets. States with dedicated revenue sources for PACE programs have been better able to maintain momentum in their protection efforts, even though they have not been immune to raids on their funding sources. State and federal conservation incentives have helped to encourage landowners to donate farmland conservation easements to land trusts, or to sell easements at less

than full fair market value. A comprehensive analysis of the effectiveness of these incentives has not yet been conducted. Farmland is also being protected through other state and federal land conservation programs in the region, but an estimate of land protected through these programs is difficult. A couple of interviewees expressed concern about the long-term viability of farmland that has been protected with easements through other programs that have multiple policy objectives.

### *Discussion*

#### **PURCHASE OF AGRICULTURAL CONSERVATION EASEMENT PROGRAMS**

Every New England state has a program that purchases agricultural conservation easements from willing landowners. Each program has unique administration, eligibility rules and partners. Collectively, the region’s states have permanently protected close to 275,000 acres of farmland, investing \$447 million of state resources and leveraging more than \$262 million in federal and local funds.<sup>118</sup> For details on programs by state, including acres protected and funding, see the Appendix.

The federal Farm and Ranch Lands Protection Program is administered by the Natural Resources Conservation Service and partners with state and local governments and land trusts to purchase agricultural conservation easements on eligible farmland. FRPP has provided significant leverage to state farmland protection efforts; in fiscal year 2012 alone, it provided almost \$30 million in funding to the region.<sup>119</sup>

The Farm and Ranch Lands Protection Program operates slightly differently in each New England state. In Vermont and Massachusetts, its primary partners are the state PACE programs. In the other four states, land trusts and towns partner more frequently with FRPP without the involvement of the state PACE program, either because the state program has insufficient funding or because the farmland to be protected does not meet the criteria of the state program. FRPP has become an increasingly problematic partner; according to a number of state PACE program managers and land trust staff, frequently changing program rules, inflexible easement terms, and delays caused by administrative reviews have led some states to return FRPP dollars and have caused some potential projects to fall through.<sup>120</sup>

In 2013, American Farmland Trust teamed up with the University of Nebraska on a research study to determine the impacts of the Farm and Ranch Lands Protection Program. Because Farm and Ranch Lands Protection Program funding is used in coordination with most state PACE programs, the study findings can be extrapolated to these programs as well.<sup>121</sup> According to the study:

- FRPP has provided liquid capital for farmers to invest in their operations. Eighty-four percent of landowners who sold easements on their land spent at least some of the proceeds for agricultural purposes. Nearly half used the money to construct, expand or repair agricultural buildings or structures including barns, greenhouses or buildings to process or market agricultural products.<sup>122</sup>
- In tandem with state PACE programs, FRPP is helping farmers finance land acquisition: 55 percent of participants who sold easements used the proceeds to repay loans on land they owned or to purchase additional land. FRPP makes the price of land more affordable as well: Among the owners who purchased protected land, 65 percent reported that the price was lower than comparable unprotected land.<sup>123</sup>
- FRPP has increased on-farm conservation practices. More than two-thirds of the owner-operators in the FRPP sample reported implementing practices to prevent soil erosion or to protect water quality. In comparison, only 23 percent of operators responding to the 2007 Census of Agriculture said they used conservation methods to achieve comparable outcomes. Among the landowners who initiated new practices since the execution of the easement, 48 percent reported that they had received “encouragement” from the farmland protection program, including education about the need for on-farm conservation and technical assistance in developing a conservation plan. Among the landowners who sold easements, 20 percent used proceeds to help install or expand conservation practices.<sup>124</sup>

With the maturation of state PACE programs in the region has come more need for monitoring and stewardship of protected land. Programs continue to grapple with identifying funding for this purpose. The Vermont Housing and Conservation Board, for example, sets aside funding for stewardship as part of the costs of an easement purchase.<sup>125</sup> In Massachusetts, a state conservation coalition has proposed creating a \$20 million Land Protection

Capital Investment Trust Fund to be used for the permanent care, monitoring and enforcement of all state-held conservation easements.<sup>126</sup> State programs also continue to address emerging needs associated with next generation farmers on protected lands, including housing, subdivision and farm viability. In Massachusetts, the APR Improvement Program was established “to help sustain active commercial farming on land that has already been protected through the Department’s Agricultural Preservation Restriction (APR) Program.”<sup>127</sup> The competitive grants program provides technical assistance and business planning to farmers on APR land; it also provides grants to implement aspects of the business plan. In fiscal year 2013, the average grant award was \$70,000.<sup>128</sup> Two states have also adopted a mechanism to maintain farmland affordability, known as the Option to Purchase at Agricultural Value (OPAV).

#### **Option to Purchase at Agricultural Value**

To promote farmland affordability, Massachusetts and Vermont have added an OPAV to the conservation easements purchased on farmland in their states. This option gives the state, as easement holder, the option to purchase or assign its right to purchase a conserved farm at a predetermined agricultural value when a conserved farm is put up for sale. The provision was adopted to keep protected farmland affordable for farmers, eliminating the common escalation in value of many protected farms and farm parcels because of competition from estate buyers. The state may transfer the OPAV to a qualified third party, such as a land trust. Certain sales are exempt, including sales to family members and to “qualified farmers.” Vermont defines a qualified farmer as “a person who presently earns at least one-half of his or her gross income from the ‘business of farming’ (as defined by the IRS).”<sup>129</sup> For more information on the Option to Purchase at Agricultural Value programs in Massachusetts and Vermont, see the Appendix.

A recent study of the OPAV in Massachusetts and Vermont found that the mechanism has had the intended effect of keeping farmland in the hands of farmers.<sup>130</sup> According to the analysis, commissioned by Land For Good’s Land Access Project, the Option to Purchase at Agricultural Value is not, however, a tool that necessarily promotes farmland access for new and beginning farmers. The analysis found that established farmers with better access to credit and collateral typically are able to out-bid beginning farmers for protected farmland.<sup>131</sup> Therefore, the mechanism is important generally in keeping land affordable for

farmers, but is not necessarily helping new farmers who lack capital resources to gain access to land.

## **FUNDING SOURCES FOR FARMLAND PROTECTION**

The amount and source of funding for state PACE programs vary across the states. (For more information about PACE program funding, see the Appendix.) Three states rely in whole or in part on dedicated funding sources that fund either multiple programs or programs with multiple objectives. For instance, the Vermont property transfer tax helps to fund the Vermont Housing and Conservation Board, an agency that links affordable housing and community development with land conservation and historic preservation.<sup>132</sup> Similarly, New Hampshire's deed recording fee funds the Land and Community Heritage Investment Program, a multi-purpose program that supports municipal land conservation and historic preservation projects. Connecticut uses its deed recording fee to fund multiple programs, including the state Farmland Preservation Program and a dairy support program. Massachusetts is the only state in the region to have a funding mechanism that incentivizes municipalities to raise local funds to leverage state dollars. While the Massachusetts' Agricultural Preservation Restriction Program is bond-funded, the state's Community Preservation Act allows communities, by ballot referendum, to impose a local property tax surcharge of up to 3 percent.<sup>133</sup> The level of local surcharge determines the level of matching funds from the state that are financed by a statewide deed recording fee. Community Preservation Act funds are spent locally and projects are selected by a local committee.<sup>134</sup> This provides towns with both the means to finance the local match required of state Agricultural Preservation Restriction projects, and to supplement APR funding for projects that exceed the program's per-acre cap.

While dedicated funding sources seem to be a more reliable revenue stream for state PACE programs, they are not immune to being raided for other purposes. For the past two budget years, the New Hampshire legislature diverted most of the funding for its Land and Community Heritage Investment Program for other state budget needs, providing just \$1.8 million to the program.<sup>135</sup> In 2013, full funding — \$8.45 million for the two-year term — was restored.<sup>136</sup> And in Connecticut, Gov. Dannel Malloy's administration proposed in 2013 to divert \$4 million in funding from the Community Investment Act for unrelated budget

purposes; this recommendation was ultimately rejected by the legislature.<sup>137</sup>

### **Conservation Tax Incentives**

State and federal tax policy has been used in several ways to encourage farmland protection. Two mechanisms appear to be helping to protect farmland in the region—state conservation tax credits and the federal enhanced conservation tax incentive.

#### **State Tax Credits**

A conservation tax credit is an income tax credit available to landowners who either donate a conservation easement or accept a discount in the sale of a conservation easement, known as a bargain sale. The donation must protect conservation values as defined by the program and must be made to an entity qualified to hold the easement. Tax credits are generally more beneficial to landowners with higher taxable incomes, although some programs allow credits to be refundable, carried forward and applied over multiple years, or transferred to a third party.<sup>138</sup> Massachusetts and Connecticut are the only New England states that have created conservation tax credit programs. In Massachusetts, the value of the credit is 50 percent of the donation's fair market value, up to a maximum value of \$50,000. The credit is refundable, making it especially valuable to farmers: In the year that the sale or gift was done, if a farmer or landowner does not have income against which to offset the credit, the state will refund to the landowner the difference, up to \$50,000 or 50 percent of the donated value, whichever is less.<sup>139</sup> The Connecticut credit is available only to corporations, and there is no data on its use. In Massachusetts, the tax credit has been used in conjunction with the protection of five farms since 2011. The 675 acres protected on these five farms accounts for 11 percent of the total acreage where the tax credit has been used.<sup>140</sup> For more information about these programs, see the Appendix.

#### **Federal Enhanced Easement Deduction**

The enhanced federal tax incentive for conservation easement donations allows qualified farmers and ranchers to deduct up to 100 percent of their adjusted gross income for donating a conservation easement. Non-qualified farmers can deduct up to 50 percent of their adjusted gross income annually. The donor can carry forward unused portions of the deduction for 16 years.<sup>141</sup> The enhanced easement deduction, first enacted in 2006, has been reauthorized several times by Congress. Authority for the deduction expired at the end of 2013. Legislation



to make the enhanced deduction permanent has been filed and currently has 144 co-sponsors in the House and 15 in the Senate, including 20 from New England (16 in the House and four in the Senate).<sup>142</sup>

## Action

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### Support for Existing Programs

- The federal Farm and Ranch Lands Protection Program is critically important to the region's farmland protection efforts. In both the House and Senate versions of the next farm bill, this program has been reconfigured and renamed the Agricultural Lands Easement Program. The reconfigured program combines the Farm and Ranch Lands Protection Program with the Grasslands Reserve Program. The Agricultural Lands Easement Program is part of a larger Agricultural Conservation Easement Program.<sup>143</sup>
- Interviewees underscored the importance of the region's state PACE programs to new and established farmers alike, but most programs are not meeting demand. Increased funding for these programs is needed.
- Reauthorization of the enhanced federal tax incentive for conservation easement donations is needed, to continue incentivizing landowners to protect farmland. An analysis of its impact on farmland protection in New England would help to build support for the incentive among federal policymakers.

### Research and Analysis

- There is little analysis or modeling underway in any of the six New England states around land use trends and future development patterns, and how those will affect farming and farmland. There has also been little attention paid to future land needs for agriculture, especially in light of climate change. Research in this area would help states target both farmland protection dollars as well as technical and planning assistance to communities where development pressure is most likely to result in farmland conversion.
- Analysis of the effectiveness of Massachusetts' refundable conservation tax credit in protecting farmland is needed to inform the continued use of the credit for farmland protection in Massachusetts and potential use of such a credit in other New England states.

### Policy Options

#### Federal

- In 2010, the six state chief agricultural officers called for an additional investment of \$50 million annually in farmland protection funding in the region. Funding for federal farmland protection should be significantly expanded, and used to leverage additional state funding.
- Implementation of the Farm and Ranch Lands Protection Program remains a challenge for many state PACE programs. The program should be administered in a way that recognizes the longstanding expertise of state PACE programs in protecting farmland, and defers to state programs on easement terms and conditions.
- In parts of New England, productive farmland is not eligible for FRPP, notably land in sod and turf production. Additionally, forested land on prime farmland soils may not be eligible. The Natural Resources Conservation Service should work with state PACE programs to devise ways to protect these lands.

#### State

- States should consider adopting mechanisms such as Massachusetts' Community Preservation Act that incentivize farmland protection efforts by communities.
- Additional funding is needed for the long-term monitoring and enforcement of agricultural conservation easements. States should consider creating a dedicated trust fund for this purpose.
- To keep farmland protected through PACE programs affordable, states that have not done so should consider adopting an Option to Purchase at Agricultural Value in their PACE programs.
- State land conservation agencies, farmers and land trusts should increase communication to foster better understanding of easement terms and conditions and their effects on farm viability.

## 1.3 EXPANDING LAND ACCESS

### URBAN AGRICULTURE: ZONING

Farming is becoming more popular in cities across the United States, due to urban communities' interest in healthy and locally grown food. Many cities have also recognized the tangible environmental and economic benefits that urban agriculture can bring to their residents. The increased presence of agriculture in urban settings, however, is not universally supported; some residents do not want agricultural land uses in their cities, and some worry that prevalent soil contamination makes urban-grown food unsafe to eat. This section focuses on how zoning and soil quality regulatory schemes affect urban farming and suggests ways that states and municipalities can improve zoning and soil-contamination regulations to responsibly navigate the increased interest in urban farming.

#### *Introduction*

In order for farming activities to occur in any municipality, they must be permitted by applicable land use laws and regulations. Zoning regulations can be either a major barrier or an effective avenue for promoting urban farming, depending on how they are written. Because farming has historically not been a common practice in New England cities, until recently many urban zoning codes did not contemplate agriculture as a permitted land use, or included only limited or ambiguous language regarding urban farming. In an effort to increase the prevalence of urban agriculture, several cities in New England have begun to look at zoning regulations as a way to facilitate urban farming while minimizing health, safety and nuisance concerns. This section of the report examines the impact of state law and local zoning regulations on the practice of urban farming, and suggests methods for revising zoning codes in order to fully take advantage of the benefits of urban farming, while minimizing potential harms.

#### *Discussion*

##### STATE LAW

While regulation of local land uses is generally accomplished at the municipal level, several states in New England have overarching statutes aimed at minimizing the impacts of local zoning on agriculture. For instance,

in Massachusetts, General Law Chapter 40A, §3, prohibits local zoning ordinances and bylaws from regulating land used for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture. This provision, however, applies only to parcels that are at least five acres, or at least two acres if each acre produces more than \$1,000 in gross sales. Other state policies are less prescriptive: Connecticut provides that “zoning regulations shall be made with reasonable consideration for their impact on agriculture,”<sup>144</sup> and New Hampshire creates a presumption that agricultural activities are permitted wherever they are not explicitly excluded.<sup>145</sup> For a description of other New England state laws restricting the impact of local zoning regulations on agriculture, see the Appendix.

##### MUNICIPAL LAW

New England's urban zoning codes reflect a variety of approaches to regulating agricultural land uses. Below is a sampling of existing zoning regulations, or ongoing efforts to revise zoning codes, pertaining to agriculture in major urban areas in New England.

##### *New Haven, Conn.*

Agriculture, “excluding the keeping of livestock and commercial greenhouses and nurseries except for the keeping of hens,” which may not exceed six, is permitted as-of-right in several New Haven residential districts.<sup>146</sup> While the city is becoming more environmentally friendly and investing in small-scale community gardens, the perceived lack of available urban spaces impedes commercial agriculture.<sup>147</sup>

##### *Portland, Maine*

Portland's zoning ordinance allows for agriculture as-of-right in low-density residential districts.<sup>148</sup> The ordinance broadly defines agriculture to include “nurseries, greenhouses, and truck gardens.”<sup>149</sup> The city also permits commercial sales of products grown on-premises, provided that a given farm stand does not exceed 200 square feet in floor area.<sup>150</sup>

##### *Boston, Mass.*

Boston's zoning code was recently revised to permit urban agriculture in all districts of the City. Before leaving office in 2013, Mayor Thomas Menino created the Mayor's Urban Agriculture Working Group as part of a citywide rezoning initiative led by the Boston Redevelopment Authority. The working group was tasked with developing new policies to encourage urban agriculture.<sup>151</sup> A new section of the

zoning code was drafted as a result of the group's work.<sup>152</sup> Article 89, which aims to comprehensively reduce zoning barriers to commercial urban agriculture, touches on a wide range of issues including soil safety, aquaculture, the keeping of hens and bees, and market opportunities. The new article was adopted on December 20, 2013.

***Burlington, Vt.***

While state law prohibits local governments from regulating “accepted agriculture practices” as defined by the Department of Agriculture, Vermont does encourage municipalities to create agricultural districts.<sup>153</sup> Burlington established its agricultural district “to protect productive agricultural soils, provide opportunities for viable commercial agricultural production, and to protect natural resources and working forest lands.”<sup>154</sup>

In 2012, the Burlington Urban Agriculture Task Force released an in-depth report “recommending to the City Council a cohesive urban agriculture policy, improved rules and regulations addressing urban agriculture and steps to promote better urban agriculture in Burlington.”<sup>155</sup> While this report does not address large-scale commercial agriculture, the task force’s efforts reflect the community’s desire to incorporate farming into their urban environment.

***Action***

**Policy Options**

- Consider amending state laws to prohibit local zoning regulations from unnecessarily hampering the expansion of urban agriculture.<sup>156</sup>
- Update comprehensive plans to explicitly include goals supporting urban agriculture. Rhode Island’s Comprehensive Planning and Land Use Act states that any comprehensive plan must contain a land use component that designates the proposed general distribution, location and interrelationships for land uses, including agriculture.<sup>157</sup> Similar policies could be pursued in other New England states.
- Reduce local regulatory barriers by making zoning ordinances less restrictive or ambiguous toward urban agriculture:
  - » Reduce special permitting obligations for agricultural land uses, which add expense and regulatory uncertainty.
  - » Consider using interim zoning if immediate zoning relief is necessary while a more comprehensive

reform effort is underway. Interim zoning preserves the status quo and prevents additional development and other incompatible uses in designated areas while providing cities with time to update their comprehensive plans and amend their regulations relating to urban agriculture. This would prevent the usual flood of development that occurs when zoning revisions are proposed.<sup>158</sup>

- » When comprehensive zoning reform is not possible, more localized or temporary efforts, such as urban agriculture overlay districts, provide an opportunity to carve out large or small areas where urban agriculture is allowed regardless of underlying zoning restrictions.
- Provide frequent opportunity for community input and education around public health concerns related to urban soil contamination during policy development processes.

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**URBAN AGRICULTURE:  
SOIL CONTAMINATION**

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***Introduction***

Contamination issues may complicate or preclude the use of some property for agriculture due to public health concerns, both for farm employees and end consumers. Liability for clean-up costs is also a factor, as landowners may be responsible for remediating contaminated soil, regardless of fault. Understanding concerns related to soil quality is particularly important for urban agricultural operations, as soil in urban areas often contains contaminants such as lead, due to accumulated release from cars, paints and industrial activities.<sup>159</sup> Remediating contaminated properties for agricultural use is possible, but can be expensive, risky and challenging.

***Discussion***

**VOLUNTARY REMEDIATION AND  
BROWNFIELD PROGRAMS**

Brownfield sites are plots of land that are known to contain, or are suspected to contain, hazardous substances. Potential liability issues often impede redevelopment of these lots. Federal and state brownfield programs are designed to incentivize the redevelopment of contaminated properties, which otherwise might sit unused for

long periods of time and become blighted. If remediated properly, brownfield sites can be used for agricultural purposes, although great care must be taken to eliminate public health and liability risks.

Brownfield programs may provide financial assistance for the site cleanup, liability protections and development costs. Assistance is generally provided in the form of low-interest loans, grants, tax breaks, technical support and covenants not to sue. A covenant not to sue is a legally binding promise by state or federal environmental agencies or attorneys general to provide liability relief in exchange for a commitment to clean up the site and return it to productive use.

### **BEST MANAGEMENT PRACTICES FOR PUBLIC HEALTH**

Unless an environmental site assessment shows that soil on a given property is safe for growing edible products, one should not assume that is the case. Urban soils are often contaminated with background levels of lead or other potentially harmful contaminants that may not trigger legal reporting and clean-up requirements, but still pose health risks. The current accepted practice for minimizing health risks from contaminated soil is the use of raised beds with imported clean soil and geotextile liners underneath to prevent mixing native and imported soil.<sup>160</sup> Because contaminated soil is so prevalent in urban areas and can potentially contaminate imported soil, it may also be advisable to test the soil in raised beds regularly.<sup>161</sup>

## *Action*

### **Research and Analysis**

- States should encourage and make routine the implementation of best management practices for growing in soils that are not contaminated by legal standards, but may still have background levels of contaminants that pose public health threats.

### **Policy Options**

- Update soil contamination laws and programs to anticipate agriculture as a future land use for remediated properties. Most policies currently include categories for future land uses such as residential, commercial and industrial, but do not have an agricultural category. This can make it difficult to interpret from remediation

records whether a property is sufficiently clean to be used for food cultivation.

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## **FARM LINKING PROGRAMS**

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### *Introduction*

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Farm linking programs operate in various ways to connect farmers seeking land with owners of agricultural properties. In New England, some farm link programs are statewide; others serve a more local geography. Typically, a linking program maintains a list of farms and farmland and works to connect seekers with owners. Several linking programs screen applicants; some actively facilitate matches and farmer-landowner transactions.

Successful farm linking requires more than a list of properties. Many farm link and farmland access programs provide educational programs and technical assistance for seekers. Some also work with landowners, and some help farmers with succession planning.

### *Discussion*

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Around the country, a handful of state departments of agriculture manage farm linking programs. Several have been housed within state cooperative extension services; most are managed by nonprofit organizations.

Connecticut has the only state-managed farm linking program in New England. The Connecticut FarmLink program is financed through the state's Community Investment Act. Recent data showed the program had 53 landowners and 179 land seekers.<sup>162</sup> The service does not actively match landowners with land seekers, though the Connecticut Department of Agriculture is considering making changes to the program.<sup>163</sup>

Federal and state resources have been important to the development of several farm link services in the region. For instance, the regional online property clearinghouse New England Farmland Finder was developed through the Land Access Project, which was financed in part by a USDA Beginning Farmer and Rancher Development Program grant. State agencies such as the Maine Department of Agriculture have provided financial support to New England Farmland Finder as well. Public

agencies can be important participants in farm link services by posting available public properties for lease with linking programs.

## Action

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### Support for Existing Programs

- The federal Beginning Farmer and Rancher Development Program has provided important resources for farm linking services in New England. The program should be reauthorized in the next farm bill and fully funded.
- States should help support farm linking services with resources directed to state or private sector programs.

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## LAND LEASING: BEGINNING FARMER TAX CREDIT

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## Introduction

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The high cost of farmland in New England and competition for farmland among established farmers are barriers for new farmers to purchase land for a start-up farm enterprise. Leasing is often a viable and preferred alternative. There are currently about 624,000 acres of farmland rented out by nearly 20,000 farmland owners across New England.<sup>164</sup> While there is no way to easily measure the extent of vacant, underutilized or easily restored farmland that could be added to the pool of available farmland for lease, a beginning farmer tax credit is one tool that might encourage New England farmland owners to lease land to new and beginning farmers.

## Discussion

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Nebraska and Iowa have state income tax credit programs that encourage owners of farmland and other farm-related assets to rent to qualified new and beginning farmers. The programs include farmland as well as depreciable machinery or equipment, breeding livestock and buildings. To qualify, farmland owners must lease to beginning farmers whose net worth does not exceed a certain level and who have sufficient education and training to operate a farm. The programs require lease terms between two and five years, and the lease value must be at or near

market value. Tax credits are 5 percent to 10 percent of the rental income received for cash rent.<sup>165</sup> The programs are popular in both states: From 2007 through 2011, the Iowa program issued 2,624 credits at a value of more than \$15 million; and from 2005 through 2009, the Nebraska program issued credits to 435 asset owners at a value of \$1.9 million.<sup>166</sup>

While the concept of a beginning farmer tax credit program has been discussed in several New England states, no legislation has been introduced. This is largely because farmers in New England pay much lower rental rates than farmers do in the Midwest. In some cases farmers are paying little to no rent at all for farmland, and a tax credit could incentivize raising rents. A report done in 2013 by the Land Access Project, however, proposes linking the income tax credit to property taxes paid by the landowner, to avoid putting upward pressure on farmland rental rates.<sup>167</sup>

## Action

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### Research and Analysis

- Undertake an analysis, as recommended by the Land Access Project, of a state-level beginning farmer tax credit linked to property taxes to understand its potential impact and benefits. Such an analysis might consider:
  - » Basing the amount of the income tax credit received on the property taxes paid by the landowner on the land subject to the lease.<sup>168</sup>
  - » Requiring that any lease be for a minimum term of five years, and for a minimum of two acres of prime or statewide-important farmland.
  - » Requiring that the lease be with a new and beginning farmer as defined by the USDA.<sup>169</sup>
- A two-acre minimum could encourage homeowners with large house lots that may include eligible farm soils to consider renting some of their excess land to new and beginning farmers. This would likely create opportunities for new and beginning farmers in urban and suburban areas. As urban land may not be enrolled in or be eligible for a state's current use property tax program, states should consider a per-acre and per-credit cap to enable all eligible landowners to participate, regardless of the amount of property tax they pay.<sup>170</sup>

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## LAND LEASING: PUBLIC LANDS

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### *Introduction*

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This subsection addresses state and municipal programs designed to provide opportunities to farm on public land. Expanding access to public lands suitable for agricultural activities is important for both new and established farmers. For example, in Durham, Conn., the benefits of leasing town-owned land are clearly explained by Melynda Naples of Deerfield Farm: “Without the ability to lease the land from Durham, we would not have been able to buy land and grow this farm business; the land is crucial to our farm’s viability.”<sup>171</sup>

This section spotlights some existing state and municipal farmland leasing models. Note that some public programs operate with licenses, not leases. The terms “lease” and “leasing” are intended here to cover both types of contracts. A license confers permission to use the property, whereas a lease provides the lessee with specific rights in the property.

### *Discussion*

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#### LAND

##### **Open Land**

Even in states where leasing programs exist for public farmland, more comprehensive, regularly updated surveys of public landholdings done with an eye toward identifying parcels suitable for commercially viable agricultural enterprises could enhance land access. Vacant land is often associated with state hospitals, prisons and other large public institutions. The best survey practices take parcel size, soil quality, drainage, slope, accessibility and surrounding uses into account; states can derive much of this information in a cost-effective manner from available GIS overlays.<sup>172</sup>

In 2012, for example, New Hampshire established a committee to study the promotion of leasing state-owned land to beginning farmers. By participating in this study, the Department of Resources and Economic Development has cultivated additional contacts and anticipates leasing more field land to farmers in the future.<sup>173</sup> Massachusetts has a program within its Department of Agricultural Resources to license certain state-owned lands to farmers.

In 2009, the Connecticut legislature directed the Connecticut Farmland Preservation Advisory Board to review all state-held farm parcels and make recommendations, if appropriate, on how to permanently conserve those properties for agricultural use. The board conducted a study of state-held parcels, totaling approximately 1,300 acres, and set priorities. In 2013, the legislature passed a bill to protect 825 acres of state-owned farmland at the Southbury Training School. The bill transfers the land from the Department of Developmental Services to the Department of Agriculture and allows the commissioner of agriculture to grant a permanent agriculture easement to a nonprofit conservation organization.<sup>174</sup>

##### **Forests**

Vermont identifies high-density, easily accessible maple stands for its sugar bush licensing program. The Vermont Department of Forests, Parks and Recreation has worked with the Vermont Maple Sugar Makers Association to get eight sites up and running.<sup>175</sup>

##### **TENANTS**

The bidding and application process for public lands should be transparent and efficient. Several states have modified their existing request for proposal schemes to meet these objectives.<sup>176</sup> When weighing bids, some programs look at proposals holistically, giving attention to factors other than the bid price.<sup>177</sup> Some states issue farmer self-assessments, reducing paperwork and ensuring that applicants can determine whether they are suited to lease public land before bidding.<sup>178</sup>

The Rhode Island Department of Environmental Management evaluates leasing proposals based on price-per-acre bids, the relevant experience of the prospective lessee, and the prospective lessee’s capability of managing the property in line with terms set out in the state’s request for proposals.<sup>179</sup>

##### **LEASE STRUCTURE**

In general, the basic elements of a lease as a legal contract are simple and include the parties, property, consideration, start and stop dates, and signatures. However, most agricultural leases typically contain additional terms, and some — such as long-term leases, ground leases, leases on conserved land, and leases with public entities — require considerable detail. The following discussion touches on just a few of the considerations: term; rent; and

environmental stewardship. Other important elements of leases on public land include permitted uses, repairs and improvements, liability, default and monitoring.

### **Term**

Ensuring an adequate lease term — defined as the period of time the lease covers — is important to attracting farmers to public land. What is adequate for the farmer depends on several factors. Many investments farmers make in improving the land, such as building up nutrients in or drainage of the soil, can take years to complete. Once a farmer finishes these improvements it may take additional growing seasons to realize a meaningful return on those investments. In such scenarios, multiyear leases are important. In some situations, annual leases meet the farmer’s needs.

Five-year lease terms appear to be standard across a range of programs at state and municipal levels. Under Massachusetts’ licensing program, farmers rent parcels of land for five years, with an option to renew for an additional five years. A one-year special permit is also available.<sup>180</sup> Connecticut has a program that allows the commissioner of agriculture to purchase and hold suitable land for the purpose of eventually reselling, exclusive of development rights, to a farmer “as soon as practicable.”<sup>181</sup> While the state holds the land, it may lease it to farmers for agricultural purposes under leases not to exceed five-year terms, with options to renew for additional lease terms not to exceed five years.<sup>182</sup> The town of Durham, Conn., also offers five-year rolling leases that have proved successful with some farmers.<sup>183</sup>

### **Rent**

Rent is generally paid according to fixed cash or variable cash terms. The fixed price per acre on public land varies depending on the soil quality, slope, accessibility and other factors. In one state, the fixed rental rate for public land ranges from \$18 to \$100 per acre annually.<sup>184</sup> In another state, the cost of a sugar bush license varies based on the market price of the final product, in this case, maple syrup.

Cash rent is sometimes earmarked for the agencies administering public land leases to help make the programs financially self-sustaining.<sup>185</sup> For example, income from the licensing of Vermont’s sugar bushes — 25 percent of the market rate for fancy and commercial-grade syrup, multiplied by the number of taps — goes to a revolving fund used to manage state parks.<sup>186</sup>

Tenants compensate the New Hampshire Fish and Game Department by bartering to leave a portion of a corn crop for wildlife, by delaying mowing hay fields to allow bird nesting, or by mowing other fields that are not in agricultural use for habitat purposes.<sup>187</sup>

### **Environmental Stewardship**

Rhode Island’s Department of Environmental Management’s program is an example of one with specific environmental stewardship requirements for tenants on its land.<sup>188</sup> Lease conditions include measures recognized as effective for maintaining soil health, preventing runoff and enhancing wildlife values. These include mandatory cover cropping after the harvest of a principal crop, application of fertilizers and lime in compliance with specified best management practices, and planting a portion of the land with crops, such as corn, that must be left unharvested to provide wildlife habitat and forage.<sup>189</sup>

Holders of Vermont sugaring licenses must comply with guidelines covering forest health maintenance, soil and water conservation, and limitations on outbuildings and other structures.<sup>190</sup> Fencing and other necessary improvements are often allowed if they do not interfere with other uses for the land.

## *Action*

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### **Research and Analysis**

- States that have not already done so should consider taking an inventory of their state-owned lands to determine their suitability for agricultural production.
- Encourage dialogue between state and federal natural resources agencies, state agriculture agencies, and farmers to address management concerns around leasing public land for agriculture.
- Analyze the potential of state-owned forestland for silvopasture and cultivation of agricultural products.

### **Policy Options**

- Encourage the permanent protection of state-held farmland, as Connecticut did in 2013 with the 825-acre Southbury Training School.<sup>191</sup>
- Where feasible and appropriate, encourage state conservation agencies to incorporate agricultural production into their land management strategies.
- Consider strategies to improve tenure security, such as longer or rolling lease terms and ground leases.

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## FINANCING LAND ACQUISITION

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### *Introduction*

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The high cost of land in New England is one of the most significant barriers to both farm expansion and new farm start-ups. Competition for land continues to elevate prices beyond the reach of many established farmers and for most young and beginning farmers.<sup>192</sup> The region has some of the highest farm real estate values in the country: In 2012, the six-state average per acre value was \$7,145 — more than 2.5 times the national average — and three New England states rank in the top five highest values in the country.<sup>193</sup>

State PACE programs are making farmland more affordable to farmers, both by restricting the development potential of farmland and, in some cases, by including an affordability mechanism in the easement. Several other tools are available to help farmers finance land acquisition, including individual development accounts, as well as long-established farm lending programs. For more information about PACE programs, see the Increasing Permanent Protection section earlier in this chapter.

### *Discussion*

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#### INDIVIDUAL DEVELOPMENT ACCOUNTS

A tool that new and young farmers could use for land acquisition is the individual development account (IDA). All New England states have authorized the use of IDAs for income-eligible individuals and families to save for a first home, education or small business. The 2008 Farm Bill created an individual development account pilot program for beginning farmers to start their businesses and acquire land. Similar authorization and funding at the state level could expand use of these accounts for agricultural purposes.

#### **Beginning Farmer and Rancher Individual Development Accounts**

The Beginning Farmer and Rancher Individual Development Accounts pilot program, created in the 2008 Farm Bill, is designed to help new farmers and ranchers of limited means pay for their agricultural endeavors through business and financial education and matched savings accounts. Savings from the account can be used to purchase farmland, as part of a down payment on farmland, or to purchase breeding stock, farm equipment or similar

assets. Matched savings are capped at \$3,000 annually. The 2008 Farm Bill authorized appropriations of up to \$25 million — \$5 million per year for five years — for the Farm Service Agency to establish pilot projects in at least 15 states. Since funding was never appropriated, however, pilot states have not been selected.<sup>194</sup> The program is reauthorized in both the House and Senate versions of the next farm bill.<sup>195</sup>

#### **State Individual Development Accounts**

At the state level, IDAs in New England are designed to help low-income families and individuals purchase assets, including a home, small business, post-secondary education or vehicle, or put a deposit on an apartment. Limits on annual contributions vary, but are generally rather low, ranging from \$500 to \$1,000. Many of these programs are administered by nonprofit and community organizations and data on their use is not readily available. It is unclear whether any of these state programs could be used for the purchase of farmland or farm equipment without statutory amendment. In some states, such as Connecticut, businesses that contribute to state IDA funds can receive tax credits.<sup>196</sup> (For more information about IDA programs by state, see the Appendix.)

Vermont is the only state in New England where an individual development account program for beginning farmers is in use. The Vermont Agriculture Individual Development Account Program was created with and is funded through a 2011 USDA Beginning Farmer and Rancher Development Grant. It is administered through the University of Vermont's cooperative extension. The program matches the savings of individuals up to \$1,000, and eligibility is limited to those between ages 14 and 21.<sup>197</sup>

The California FarmLink IDA program, created in 2003, is the nation's most robust IDA program for farmers. California FarmLink raises funds from private sources to match farmer investments. Although aggregated data is not available, anecdotal data and highlighted case studies demonstrate that in several cases the funds have been used by farmers to purchase farmland in the region.<sup>198</sup>

#### **Other Financing Mechanisms for Beginning Farmers**

The Land Access Project identified programs outside of New England that provide land financing for new and beginning farmers.<sup>199</sup> One such program is the Delaware Young Farmers Farmland Purchase and Preservation Loan Program, which facilitates the acquisition of farmland by young farmers while advancing state farmland protection



goals. The program is administered by the Delaware Agricultural Lands Preservation Foundation and makes zero-interest loans available for farmers between ages 18 and 40 to purchase farmland. Applicants must have at least three years of farming experience and a net worth of less than \$300,000. The farmland to be purchased must be located in Delaware and contain at least 15 tillable acres zoned for agricultural use. In addition, the land must not be subject to an existing conservation easement. The loan cannot exceed 70 percent of the appraised value of the conservation easement that will be placed on the agricultural land to be purchased, although the farmer can bid for less state funding. Development rights are determined by taking the difference between fair market value and agricultural value, up to \$500,000 — the maximum loan amount. Farmers in the program may also secure loans from commercial lenders, most commonly Mid-Atlantic Farm Credit, and are able to pay off the commercial loan first. Once the commercial loan is paid in full the farmer begins making payments on the 30-year loan to the state.<sup>200</sup>

Another suggestion from the Land Access Project is to make federal Farm Service Agency inventory lands available to new and beginning farmers.<sup>201</sup> The Farm Service Agency could work with the Farm and Ranch Lands Protection Program to place an agricultural conservation easement on all farms in its inventory and then give a preference to new and beginning farmers to purchase such properties when they are put up for sale. The easement could include an Option to Purchase at Agricultural Value mechanism to maintain future affordability.

For more information of financing mechanisms, including a discussion of Farm Credit, Farm Service Agency and Aggie Bonds, see *Beginning Farmers and New Farm and Food Enterprises*, section 2.1, chapter 2.

## Action

### Research and Analysis

- Survey new and beginning farmers in the region to determine their interest in and ability to invest in individual development accounts. Use the survey results to inform future policy decisions about the use of and funding levels for these accounts.
- Research the region's Farm Service Agency loan and land portfolios to determine the amount of land currently in the agency's inventory and the amount of land that the agency has foreclosed on within the past five years.

### Policy Options

#### Federal

- Funding for the Beginning Farmer and Rancher Individual Development Accounts program should be appropriated, and at least one New England state should be included in the pilot to reflect the large number of new and beginning farmers in this region. Use the pilot program to determine how individual development accounts might best be structured to help new, beginning and limited-resource farmers purchase farmland.
- Lift the restriction on future subdivisions of protected farms in the Farm and Ranch Lands Protection Program.<sup>202</sup> Allowing appropriate subdivision of larger protected farms and farm parcels will not only help farms adapt to changing agricultural circumstances and needs, but can also provide opportunities for new and beginning farmers to gain access to smaller farm parcels at a more affordable price.
- Require the Farm Service Agency to permanently protect farmland on which it forecloses, and to sell the land with an Option to Purchase at Agricultural Value provision attached.

#### State

- State PACE programs provide a foundation of permanently protected land for the future. Even without the Option to Purchase at Agricultural Value, studies and farmer surveys show that protected farmland is more affordable to farmers than land that has not been protected. Accordingly, state PACE programs should be fully funded to meet demand.
- The Land Access Project has a series of recommendations aimed at making farmland more affordable for new and beginning farmers, including:
  - » Extending the Option to Purchase at Agricultural Value in all state PACE programs to help maintain future farmland affordability.<sup>203</sup> State PACE programs could also consider purchasing an OPAV on farms and farm parcels already protected with traditional easements that did not include an Option to Purchase at Agricultural Value provision. Purchasing an OPAV on already-protected farms could target land that is most at risk for estate conversion and that offers ownership possibilities for new and beginning farmers.

- » In state PACE programs, where applicable, lift restrictions on future subdivisions of protected farms.<sup>204</sup> Allowing appropriate subdivision of larger protected farms and farm parcels will not only help farms adapt to changing agricultural circumstances and needs, but can also provide opportunities for new and beginning farmers to gain access to smaller farm parcels at a more affordable price.
- » Within the existing PACE programs, develop entirely new offerings geared specifically to new and beginning farmers. A “starter farm” program within existing PACE programs would target the protection of smaller farm properties with housing. To encourage the property to remain a stand-alone farm, require that the house stay with the farm. To maintain its future affordability, consider restricting the size of the house.<sup>205</sup>
- Consider expanding existing state individual development account programs, or establish new programs in those states without one, to specifically include the purchase of farmland as an authorized use. Increase the annual cap on participant savings that can be matched.

**1.4 INCREASING AVAILABLE FARMLAND**

**AGRICULTURAL LAND RESTORATION**

*Introduction*

Meeting a higher percentage of New England’s food needs with regionally sourced food will require both more intensive use of current farmland and the cultivation of additional land. In some instances, farmers may be able to increase productive acreage by bringing brushy areas around fields into production. In other cases, farmers may explore expanding animal grazing areas into forests through the practice of silviculture. Any large-scale strategies to transition forested land to productive agricultural use must be carefully analyzed to address and avoid potential environmental impacts.

*Discussion*

**PROGRAMS TO INCENTIVIZE AGRICULTURAL LAND RESTORATION**

***State Programs***

Connecticut is the only New England state with a program that helps landowners restore farmland. Farmers can cost share with the Farmland Restoration Program to restore land with prime and important soils to active agricultural use. In evaluating applications, priority is given to food production, followed by livestock feed and forage, and lastly to other agricultural uses. Restoration practices approved for payment must be based on an approved conservation or farmland restoration plan. (For more details and a brief case study, see the Appendix.)

In Massachusetts, the Community Preservation Act is a funding mechanism used to preserve open space, farmland and historic sites, create affordable housing, and develop outdoor recreational facilities.<sup>206</sup> Community Preservation Act funds can be used for the “rehabilitation or restoration of open space,” which includes agricultural land.<sup>207</sup> The act allows communities to raise funds through a real estate tax surcharge that is matched at various levels by a statewide fund.<sup>208</sup> While funds have been used to restore natural areas around rivers, ponds, wetlands and coastal areas, the act does not appear to have been used for the restoration of agricultural land.

***Federal Programs***

The Environmental Quality Incentives Program administered by the Natural Resources Conservation Service provides technical assistance and cost-share assistance to plan and implement conservation practices that address natural resource concerns on farm and forest land. The program can be used for water, air quality and the improvement or creation of wildlife habitat for at-risk species.<sup>209</sup> It also provides funding for clearing trees and brush to improve a forest stand; brush removal for purposes of improving pasture or grazing land can be funded by the program.<sup>210</sup>

*Action*

**Research and Analysis**

- More research is needed on the potential carbon impacts of conversion of forestland to agriculture in the region, and on ways to minimize those impacts.

- Create a regional inventory of land that was once in agriculture and is now inactive or under forest cover.
- Conduct an analysis of the Connecticut Farmland Restoration Program to assess its effectiveness in increasing agricultural production and its impact on the environment.
- Encourage expansion of conservation tillage and no-till agricultural practices to improve soil health and carbon sequestration.
- Encourage federal cost-share assistance for silvo-pasture practices through the Environmental Quality Incentives Program and Conservation Stewardship Program, and analyze effectiveness for food production.
- At the state level, consider the priorities of current forestland protection programs to see if they might be expanded or modified to focus on the protection of prime and important agricultural soils.

## ENDNOTES

- <sup>1</sup> Brian Donahue et al., *A New England Food Vision: Healthy Food, Sustainable Farming and Fisheries, Thriving Communities* 5-7 (June 4, 2013) (draft), [http://www.kendall.org/files/Vision%20review%20draft%2013.06.03\\_0.pdf](http://www.kendall.org/files/Vision%20review%20draft%2013.06.03_0.pdf).
- <sup>2</sup> Cris Coffin, Kathy Ruhf, Kip Kolesinskas & Aaron Dushku, *What We Know (and Don't Know) About New England Farmland*, at Keep New England Farmland in Farming: A Regional Convening, at \*5 (May 8, 2013) [hereinafter *What We Know*], <http://www.farmland.org/documents/whatweknowandwelcome.pdf>.
- <sup>3</sup> *Id.* at \*11.
- <sup>4</sup> *Id.*
- <sup>5</sup> *2013 Farm Real Estate Value by State*, Nat'l Agric. Statistical Serv., [http://www.nass.usda.gov/Charts\\_and\\_Maps/Land\\_Values\\_and\\_Cash\\_Rents/farm\\_value\\_map.asp](http://www.nass.usda.gov/Charts_and_Maps/Land_Values_and_Cash_Rents/farm_value_map.asp) (last visited Dec. 24, 2013).
- <sup>6</sup> *Fact Sheet: Differential Assessment and Circuit Breaker Tax Programs*, Am. Farmland Trust (Aug. 2006), <http://www.farmland.org/programs/states/wa/documents/APPENDIXK-Currentusetaxation.pdf>.
- <sup>7</sup> *Fact Sheet: Cost of Community Services Studies*, Am. Farmland Trust (Aug. 2010), [http://www.communitypreservation.org/community\\_services.pdf](http://www.communitypreservation.org/community_services.pdf).
- <sup>8</sup> *Land Access and Tenure Toolshed: Land Use Regulations*, Univ. of Vt., [http://www.uvm.edu/newfarmer/?Page=land/land\\_use\\_regs.html&SM=land/sub-menu.html](http://www.uvm.edu/newfarmer/?Page=land/land_use_regs.html&SM=land/sub-menu.html) (last visited Dec. 24, 2013).
- <sup>9</sup> See Conn. Gen. Stat. § 12-107a to 107f; 7 M.R.S. § 152; M.G.L.c. 61A §§ 1-15; N.H. Rev. Stat. Ann. §§ 79-A:1-14; R.I.G.L. § 44-27; 32 V.S.A. §§ 3751-63.
- <sup>10</sup> *Connecticut's Land Use Value Assessment Law, Public Act 490: A Practical Guide and Overview for Landowners, Assessors and Government Officials*, Conn. Farm Bureau Ass'n, Inc. 9, 11 (2010), [http://www.ct.gov/doag/lib/doag/marketing\\_files/complete\\_490guide\\_cfba.pdf](http://www.ct.gov/doag/lib/doag/marketing_files/complete_490guide_cfba.pdf).
- <sup>11</sup> R.I. Rules and Regulations for Enforcement of the Farm, Forest, and Open Space Act § 25-3-21:5.
- <sup>12</sup> Personal Communication between Conservation Law Foundation attorney Anthony Iarrapino and Pete Susi, R.I. DEM Deputy Chief of the Div. of Agric. (Oct. 18, 2013).
- <sup>13</sup> *Id.*
- <sup>14</sup> See 7 M.R.S. § 152; N.H. Rev. Stat. Ann. §§ 79-A:1-14; R.I. Rules and Regulations for Enforcement of the Farm, Forest, and Open Space Act § 25-3-21:5; 32 V.S.A. §§ 3751-63.
- <sup>15</sup> N.H. Rev. Stat. Ann. §§ 79-A:1-14.
- <sup>16</sup> M.G.L.c. 61A §§ 1-3.
- <sup>17</sup> Conn. Gen. Stat. § 12-107c.
- <sup>18</sup> See *Land Access and Tenure Toolshed: Land Use Regulations*, Univ. of Vt., [http://www.uvm.edu/newfarmer/?Page=land/land\\_use\\_regs.html&SM=land/sub-menu.html](http://www.uvm.edu/newfarmer/?Page=land/land_use_regs.html&SM=land/sub-menu.html) (last visited Dec. 25, 2013).
- <sup>19</sup> M.G.L.c. 61A § 3.
- <sup>20</sup> *E.g.*, 7 M.R.S. § 152; M.G.L.c. 61A §§ 1-15; N.H. Rev. Stat. Ann. §§ 79-A:1-14; 32 V.S.A. §§ 3751-63; R.I. Rules and Regulations for Enforcement of the Farm, Forest, and Open Space Act § 25-3-21:5.
- <sup>21</sup> *Connecticut's Land Use Value Assessment Law, Public Act 490: A Practical Guide and Overview for Landowners, Assessors and Government Officials*, Conn. Farm Bureau Ass'n, Inc. 11 (2010), [http://www.ct.gov/doag/lib/doag/marketing\\_files/complete\\_490guide\\_cfba.pdf](http://www.ct.gov/doag/lib/doag/marketing_files/complete_490guide_cfba.pdf).
- <sup>22</sup> *Id.* at 30.
- <sup>23</sup> *Id.* at 28.
- <sup>24</sup> See *Land Access and Tenure Toolshed: Land Use Regulations*, *supra* note 18.
- <sup>25</sup> *Planning For Agriculture: A Guide for Connecticut Municipalities*, Am. Farmland Trust 10, [http://www.ctplanningforagriculture.com/guide/AFT\\_guide\\_web9-29.pdf](http://www.ctplanningforagriculture.com/guide/AFT_guide_web9-29.pdf) (last visited Dec. 26, 2013).
- <sup>26</sup> N.H. Rev. Stat. Ann. § 79-F:4.
- <sup>27</sup> *E.g.*, 32 V.S.A. §§ 3752(12).
- <sup>28</sup> *E.g.*, N.H. Rev. Stat. Ann. § 79-A:4; 32 V.S.A. § 3754.

- <sup>29</sup> See, e.g., M.G.L.c. 61A, §§ 12-13; 36 M.R.S. § 1112; N.H. Rev. Stat. Ann. § 79-A:7; R.I.G.L. § 44-27-10; 32 V.S.A. § 3757.
- <sup>30</sup> See, e.g., M.G.L.c. 61A, §§ 12-13.
- <sup>31</sup> M.G.L.c. 61A, § 19.
- <sup>32</sup> M.G.L.c. 61A, § 14.
- <sup>33</sup> *Id.*
- <sup>34</sup> *Id.*
- <sup>35</sup> *Id.*
- <sup>36</sup> *Id.*
- <sup>37</sup> N.H. Rev. Stat. Ann. § 79-A:25-a.
- <sup>38</sup> See Dijit Taylor & Carol Andrews, *The New Hampshire Municipal Conservation Fund Guidebook 1-18* (2010), <http://www.forestsociety.org/pdf/nh-municipal-conservation-fund-guidebook.pdf>.
- <sup>39</sup> *Id.* at 43.
- <sup>40</sup> See Stacey Benjamin, *Cultivating Maine's Agricultural Future: A Guide for Towns, Land Trusts, and Farm Supporters* 5, 15 (Oct. 5, 2012), [http://nnecapa.org/files/2012/02/F03-a\\_Farmland\\_NNECAPA2012.pdf](http://nnecapa.org/files/2012/02/F03-a_Farmland_NNECAPA2012.pdf); see also *Voluntary Municipal Farm Support Program*, Maine.gov, [http://www.maine.gov/dacf/ard/farmland\\_protection/voluntary\\_municipal\\_farm\\_support.shtml](http://www.maine.gov/dacf/ard/farmland_protection/voluntary_municipal_farm_support.shtml) (last visited Dec. 26, 2013).
- <sup>41</sup> *2007 Census of Agriculture*, USDA (2007) [hereinafter *2007 Census*], [http://www.agcensus.usda.gov/Publications/2007/Full\\_Report/usv1.pdf](http://www.agcensus.usda.gov/Publications/2007/Full_Report/usv1.pdf).
- <sup>42</sup> *Estate Tax*, Internal Revenue Serv., <http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Estate-Tax> (last visited Dec. 26, 2013).
- <sup>43</sup> Ron Durst et al., *How Will the Phaseout of Federal Estate Taxes Affect Farmers?*, 741-02 Agric. Info. Bulletin 1, 2 (Feb. 2002), <http://www.farmlandinfo.org/documents/29085/aib751-02.pdf>.
- <sup>44</sup> The amount by which the estate's value may be reduced is capped. For 2013, the maximum reduction in value was \$1.07 million. This amount is adjusted for inflation. If spouses own the farm jointly and both make the election, a reduction of up to \$2.14 million could be available. It is not clear how many farms would benefit from an increased cap, because the available agricultural real estate data groups farms in large categories, such as \$5 million to \$10 million in farm real estate value. See *2007 Census*, *supra* note 41.
- <sup>45</sup> See *id.*
- <sup>46</sup> See 36 M.R.S. § 4201(5).
- <sup>47</sup> See *2007 Census*, *supra* note 41.
- <sup>48</sup> See *A Guide to Estate Taxes*, Mass.gov, <http://www.mass.gov/dor/individuals/taxpayer-help-and-resources/tax-guides/estate-tax-information/estate-tax-guide.html> (last visited Dec. 26, 2013).
- <sup>49</sup> See *2007 Census*, *supra* note 41.
- <sup>50</sup> See *Frequently Asked Questions*, N.H. Dep't of Revenue Admin., <http://www.revenue.nh.gov/faq/gti-rev.htm#inheritance> (last visited Dec. 26, 2013).
- <sup>51</sup> See R.I.G.L. § 44-23-5; *Farms Win Inheritance Victory in Budget Bill*, R.I. Gen. Assembly (June 27, 2013), <http://webserver.rilin.state.ri.us/News/pr1.asp?prid=9513>.
- <sup>52</sup> 32 V.S.A. § 7442a.
- <sup>53</sup> See *id.* § 7443.
- <sup>54</sup> See *2007 Census*, *supra* note 41.
- <sup>55</sup> *Inheritance Tax*, Penn. Dep't of Revenue, [http://www.revenue.state.pa.us/portal/server.pt/community/inheritance\\_tax/11414](http://www.revenue.state.pa.us/portal/server.pt/community/inheritance_tax/11414) (last visited Dec. 26, 2013).
- <sup>56</sup> For a detailed definition and study of sprawl, see generally Reid Ewing et al., *Measuring Sprawl and Its Impact* (2002), <http://www.smartgrowthamerica.org/documents/MeasuringSprawl.PDF>.
- <sup>57</sup> See *What We Know*, *supra* note 2.
- <sup>58</sup> E-mail Communication with Jennifer Dempsey, Director, Farmland Info. Ctr., Am. Farmland Trust (Dec. 2013).

- <sup>59</sup> *Id.*
- <sup>60</sup> See Harvard Food Law School Food Law and Policy Clinic, Good Laws, Good Food: Putting Local Food Policy to Work for Our Communities 7-9 (July 2012), <http://blogs.law.harvard.edu/foodpolicyinitiative/files/2011/09/FINAL-LOCAL-TOOLKIT2.pdf> at 7-9 (last visited Jan. 7, 2014).
- <sup>61</sup> *Id.*
- <sup>62</sup> See, e.g., California's Sustainable Communities and Climate Protection Act of 2008, S.B. 375 (Cal. 2008) (calling on regional transportation planning agencies and local governments to develop strategies for reducing per capita vehicle miles traveled).
- <sup>63</sup> See *Know Your Farmer, Know Your Food: Compass Map*, USDA, <http://www.usda.gov/maps/maps/kyfcompassmap.htm> (last visited Dec. 26, 2013).
- <sup>64</sup> See N.H. Rev. Stat. Ann. § 674:2; Conn. Office of Policy and Mgmt., Conservation & Development Policies: The Plan for Connecticut 43 (2013), [http://www.ct.gov/opm/lib/opm/igp/org/cdupdate/2013-2018\\_cd\\_plan.pdf](http://www.ct.gov/opm/lib/opm/igp/org/cdupdate/2013-2018_cd_plan.pdf) (discussing Conn. Pub. Act 09-230); 24 V.S.A. § 2791(13); *Rhode Island State Land Use Policies and Plan: Executive Summary*, R.I. Div. of Planning, [http://www.planning.ri.gov/documents/121/lu\\_exec.pdf](http://www.planning.ri.gov/documents/121/lu_exec.pdf) (last visited Dec. 26, 2013); Mass. Exec. Order No. 385; 30-A M.R.S. § 4312.
- <sup>65</sup> See, e.g., Conn. Office of Policy and Mgmt., *supra* note 64, at 6 (explaining that local plans are not required to conform to smart growth principles in the state plan, but must "note any inconsistencies").
- <sup>66</sup> E.g., R.I.G.L. § 45-22.2-9; 24 V.S.A. §§ 4302(b) & (c).
- <sup>67</sup> See Act 250, Vt. Natural Res. Bd.: District Commissions, <http://www.nrb.state.vt.us/lup/publications/nrb1.pdf> (Act 250 summary and guide developed by the Vermont Natural Resources Board).
- <sup>68</sup> *Id.*
- <sup>69</sup> See Jack Kraichnan, *Vermont's Act 183: Smart Growth Takes Root in the Green Mountain State*, 32 Vt. L. Rev. 583, 593 (2008).
- <sup>70</sup> *Id.*
- <sup>71</sup> See, e.g., Conn. Gen. Stat. 05-205; *Smart Growth/Smart Energy Toolkit*, Mass.gov [hereinafter *Smart Growth/Smart Energy Toolkit*], [http://www.mass.gov/envir/smart\\_growth\\_toolkit/pages/state-policy.htm](http://www.mass.gov/envir/smart_growth_toolkit/pages/state-policy.htm) (MA); Me. Rev. Stat. tit. 30-A, § 4346 (last visited Dec. 26, 2013); R.I.G.L. § 42-11-10(g)(4); 24 V.S.A. § 4306.
- <sup>72</sup> 24 V.S.A. 2793(a).
- <sup>73</sup> *Id.* § 2793c.
- <sup>74</sup> *Growth Center, Planning Manual for Vermont Communities*, Vt. Dep't of Housing and Community Affairs 7 (2007), [http://accd.vermont.gov/sites/accd/files/Documents/strongcommunities/cd/designations/GrowthCenter\(hr\).pdf](http://accd.vermont.gov/sites/accd/files/Documents/strongcommunities/cd/designations/GrowthCenter(hr).pdf).
- <sup>75</sup> *Id.*
- <sup>76</sup> See Conn. Gen. Stat. § 16a-35c to 35h.
- <sup>77</sup> See, e.g., *Land Use Planning Techniques*, N.H. Dep't of Envtl. Serv. et al. (Oct. 2008), [http://des.nh.gov/organization/divisions/water/wmb/repp/documents/ilupt\\_complete\\_handbook.pdf](http://des.nh.gov/organization/divisions/water/wmb/repp/documents/ilupt_complete_handbook.pdf); *Smart Growth/Smart Energy Toolkit*, *supra* note 71.
- <sup>78</sup> See Conn. Gen. Stat. §§ 8-31a et seq.; M.G.L.c. 40B §§ 1 et seq.; N.H. Rev. Stat. Ann. §§ 36:45-36:58; 30-A M.R.S. §§ 2301-43; 24 V.S.A. §§ 4301 et seq.
- <sup>79</sup> See Conn. Gen. Stat. §§ 8-31a et seq.; M.G.L.c. 40B §§ 1 et seq.; N.H. Rev. Stat. Ann. §§ 36:45-36:58; 30-A M.R.S. §§ 2301-43; 24 V.S.A. §§ 4301 et seq.
- <sup>80</sup> See 24 V.S.A. § 4342; see also Vermont Association of Planning & Development Agencies, <http://www.vapda.org/> (last visited Dec. 26, 2013) (central website for all Vermont regional planning commissions).
- <sup>81</sup> See 24 V.S.A. §§ 4349, 4362.
- <sup>82</sup> See 24 V.S.A. § 4345a.
- <sup>83</sup> See 24 V.S.A. § 4362.
- <sup>84</sup> See *Sustainable Communities*, Partnership for Sustainable Communities, <http://www.sustainablecommunities.gov/> (last visited Dec. 26, 2013).
- <sup>85</sup> See *Local Food and Agriculture*, Sustainable Berkshires, <http://sustainableberkshires.org/plan-topics/local-food-and-agriculture/> (last visited Dec. 26, 2013).
- <sup>86</sup> See *MAGIC Comprehensive Agriculture Plan*, Metropolitan Area Planning Council, <http://www.mapc.org/magicagriplan> (last visited Dec. 26, 2013).

- <sup>87</sup> See *Farmland Information, Fact Sheet: Transfer of Development Rights*, Am. Farmland Trust (Apr. 2008), [http://www.farmlandinfo.org/sites/default/files/TDR\\_04-2008\\_1.pdf](http://www.farmlandinfo.org/sites/default/files/TDR_04-2008_1.pdf).
- <sup>88</sup> See, e.g., M.G.L.c. 40R §§ 1 et seq.; 24 V.S.A. §§ 4416-23.
- <sup>89</sup> See, e.g., 30-A M.R.S. § 4351.
- <sup>90</sup> See M.G.L.c. 40R §§ 1 et seq.
- <sup>91</sup> See M.G.L.c. 40R § 6.
- <sup>92</sup> See M.G.L.c. 40R §§ 9, 11.
- <sup>93</sup> See Ann Verilli et al., *The Use of Chapter 40R in Massachusetts* 5 (Oct. 2009), <http://www.mass.gov/hed/docs/dhcd/cd/ch40r/theuseofch40rin-ma.pdf> (providing a summary and assessment of Chapter 40R).
- <sup>94</sup> See *An Act Promoting the Planning and Development of Sustainable Communities*, H.B. 1859, 188th Sess. (Mass. 2013).
- <sup>95</sup> See R.I. Pub. Laws 2011, ch. 401, § 1 & R.I. Pub. Laws 2012, ch. 342, § 1 (amending R.I.G.L. § 45-24-37).
- <sup>96</sup> See *Statute, Rule and Requirements*, RI.gov, <http://www.planning.ri.gov/statewideplanning/compplanning/statue.php> (last visited Dec. 26, 2013).
- <sup>97</sup> *Office of Policy and Mgmt.*, CT.gov, [http://www.ct.gov/opm/cwp/view.asp?a=2990&q=383182&opmNav\\_GID=1807](http://www.ct.gov/opm/cwp/view.asp?a=2990&q=383182&opmNav_GID=1807) (last visited Feb. 26, 2014).
- <sup>98</sup> See Conn. Office of Policy and Mgmt., *supra* note 64, at 11-34.
- <sup>99</sup> *Id.* at 30-34 (go to [http://www.ct.gov/opm/lib/opm/igp/org/cdupdate/lgm\\_adopted.pdf](http://www.ct.gov/opm/lib/opm/igp/org/cdupdate/lgm_adopted.pdf) for a direct link to the Locational Map).
- <sup>100</sup> See *id.* at 18-22.
- <sup>101</sup> See Mass. Gov't, *Smart Growth/Smart Energy Toolkit, Model Bylaw: Transit Oriented Development Overlay District 1-12*, [http://www.mass.gov/envir/smart\\_growth\\_toolkit/bylaws/TOD-Bylaw.pdf](http://www.mass.gov/envir/smart_growth_toolkit/bylaws/TOD-Bylaw.pdf) (last visited Dec. 26, 2013) (describing TOD Bond Program criteria).
- <sup>102</sup> See *generally Natural Resources Inventory*, USDA (2007), <http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/technical/nra/nri/>.
- <sup>103</sup> *Farmland Protection Policy Act*, USDA, [http://www.nrcs.usda.gov/wps/portal/nrcs/detail/?ss=16&navtype=SUBNAVIGATION&cid=nrcs143\\_008275&navid=100170180000000&pnavid=100000000000000&position=Welcome.Html&ttype=detail&pname=Farmland%20Protection%20Policy%20Act%20%7C%20NRCS](http://www.nrcs.usda.gov/wps/portal/nrcs/detail/?ss=16&navtype=SUBNAVIGATION&cid=nrcs143_008275&navid=100170180000000&pnavid=100000000000000&position=Welcome.Html&ttype=detail&pname=Farmland%20Protection%20Policy%20Act%20%7C%20NRCS) (last visited Dec. 26, 2013).
- <sup>104</sup> See *Mitigation of Farmland Loss*, Am. Farmland Trust 4-5 (Sept. 2002) [hereinafter *Mitigation of Farmland Loss*], [http://www.farmlandinfo.org/sites/default/files/FPPA\\_Mitigation\\_Report\\_1.pdf](http://www.farmlandinfo.org/sites/default/files/FPPA_Mitigation_Report_1.pdf).
- <sup>105</sup> Sec'y of Agric., *Farmland Protection Policy Act Annual Report for FY 2011 2* (Feb. 2011), [http://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb1049239.pdf](http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1049239.pdf).
- <sup>106</sup> *Farmland Information Center, Fact Sheet: Farmland Protection Policy Act*, Am. Farmland Trust \*2 (June 2004), [http://www.farmland.org/about/mission/documents/AFT\\_FPPA\\_6-04.pdf](http://www.farmland.org/about/mission/documents/AFT_FPPA_6-04.pdf).
- <sup>107</sup> *Id.*
- <sup>108</sup> See Town of Cromwell Farmland Preservation Committee, *Final Report* (Mar. 15, 2012) <http://cromwellct.com/whatsnew%20files/2012/fpc%20final%20report%20text31612.pdf>.
- <sup>109</sup> Exec. Order 193 (Mass. 1981), available at <http://www.lawlib.state.ma.us/source/mass/eo/eotext/EO193.txt>.
- <sup>110</sup> See M.G.L. c. 30 §§ 61-62H.
- <sup>111</sup> See *id.* § 11.07.
- <sup>112</sup> See *id.* § 11.02.
- <sup>113</sup> See *id.* § 11.03(1).
- <sup>114</sup> The \$10,000-per-acre figure is based on current applications to the Agricultural Preservation Restriction Program and thus subject to change. *Agricultural Land Mitigation Policy*, Dep't of Agric. Res. 2 (Dec. 2, 2008), [http://www.farmland.org/programs/states/ma/documents/AG\\_Land\\_Mitigation.pdf](http://www.farmland.org/programs/states/ma/documents/AG_Land_Mitigation.pdf).
- <sup>115</sup> See *Mitigation of Farmland Loss*, *supra* note 104, at 15.
- <sup>116</sup> Ben Waterman, *Prime Ag Soils in Jeopardy (Part II)* (July 28, 2010) <http://newfarmerproject.wordpress.com/2010/07/28/prime-ag-soils-in-jeopardy-part-ii/>; see *Act 250 Off-Site Mitigation: Criterion 9(B) and Mitigation Agreements: How Mitigation Funds are Used to Protect Vermont Farmland Forever*, Vt. Dep't of Agric., Food and Markets & Vt. Housing and Conservation Bd. 2-11 (Jan. 31, 2003), <http://www.vhcb.org/mitigationreport.pdf>.

- <sup>117</sup> See generally *Impacts of the Federal Farm and Ranch Lands Protection Program: An Assessment Based on interviews with Participating Landowners*, Am. Farmland Trust [hereinafter *Impacts*], [http://www.farmlandinfo.org/sites/default/files/FRPP%20Evaluation2nn\\_web3.ppt](http://www.farmlandinfo.org/sites/default/files/FRPP%20Evaluation2nn_web3.ppt) (last visited Dec. 27, 2013); Kirsten Ferguson & Jeremiah Cosgrove, Am. Farmland Trust, *From the Field: What Farmers Have to Say About Vermont's Farmland Conservation Program*, available at [http://www.farmlandinfo.org/sites/default/files/From\\_The\\_Field\\_1.pdf](http://www.farmlandinfo.org/sites/default/files/From_The_Field_1.pdf) (last visited Dec. 27, 2013).
- <sup>118</sup> See Cris Coffin, *Permanent Protection: Raising Public and Private Dollars—Successful Strategies*, Am. Farmland Trust \*5, presented at *Keep New England Farmland in Farming: A Regional Convening* (May 8, 2013), <http://www.farmland.org/documents/PermanentProtectioRaisingPublicandPrivateDollarsFINAL.pdf>.
- <sup>119</sup> See *NRCS Conservation Programs: Farm and Ranchlands Protection Program (FRPP)*, USDA, [http://www.nrcs.usda.gov/Internet/NRCS\\_RCA/reports/fb08\\_cp\\_frpp.html](http://www.nrcs.usda.gov/Internet/NRCS_RCA/reports/fb08_cp_frpp.html) (last visited Dec. 27, 2013).
- <sup>120</sup> See E-mail Communication with Land Trusts and State PACE Program Managers from Conn., Mass., Me., N.H., R.I. and Vt. (Dec. 2013).
- <sup>121</sup> See *Impacts*, supra note 117.
- <sup>122</sup> See *id.*
- <sup>123</sup> See *id.*
- <sup>124</sup> See *id.*
- <sup>125</sup> Interview with Nancy Everhart, Agric. Director, Vt. Housing & Conservation Bd. (Dec. 20, 2013); E-mail communication by Ben Howell with Nancy Everhart, Agric. Director, Vt. Housing & Conservation Bd. (Dec. 2013).
- <sup>126</sup> Testimony of Rich Hubbard, Chair, Mass. Land Trust Coal. before the Mass. Joint Comm. on Env't, Natural Res. and Agric. (Sept. 18, 2013).
- <sup>127</sup> *APR Improvement Program (AIP)*, Mass.gov, <http://www.mass.gov/eea/agencies/agr/about/divisions/aip.html> (last visited Dec. 27, 2013).
- <sup>128</sup> *Id.*
- <sup>129</sup> *Does the Option at Agricultural Value Protect Farmland for Beginning Farmers? A Policy Analysis*, Land for Good 3 [hereinafter *A Policy Analysis*], <http://newyork.farmland.org/wp-content/uploads/2013/06/OPAV-FINAL.pdf> (last visited Dec. 27, 2013).
- <sup>130</sup> *Id.* at 2.
- <sup>131</sup> *Id.* at 6.
- <sup>132</sup> See Vt. Housing & Conservation Bd., <http://www.vhcb.org/> (last visited Dec. 27, 2013).
- <sup>133</sup> See *CPA: An Overview*, Comm. Preservation Coal., <http://www.communitypreservation.org/content/cpa-overview> (last visited Dec. 27, 2013).
- <sup>134</sup> *Id.*
- <sup>135</sup> Ben Leubsdorf, *For LCHIP, New Budget Means a Windfall for Conservation, Preservation Projects*, Concord Monitor, July 7, 2013, <http://www.concordmonitor.com/home/7262223-95/for-lchip-new-budget-means-a-windfall-for-conservation-preservation-projects>.
- <sup>136</sup> See *id.*
- <sup>137</sup> See *Policy Efforts*, Working Lands Alliance, <http://www.workinglandsalliance.org/pages/efforts.html> (last visited Dec. 27, 2013).
- <sup>138</sup> See Debra Pentz, *State Conservation Tax Credits: Impact and Analysis*, The Conservation Res. Ctr. 9, 25–26 (2007), <http://www.taxcreditexchange.com/documents/StateConservationTaxCreditsImpactandAnalysis.pdf>.
- <sup>139</sup> See *Commonwealth Conservation Land Tax Credit (CLTC)*, Mass.gov, <http://www.mass.gov/eea/state-parks-beaches/land-use-and-management/land-conservation/massachusetts-conservation-tax-credit-program.html> (last visited Dec. 27, 2013).
- <sup>140</sup> Personal Communication with Bob O'Connor, Mass. Exec. Office of Energy and Env'tl. Affairs (Aug. 2, 2013).
- <sup>141</sup> The enhanced incentive was created in the 2006 Pension Protection Act, extended through 2009 in the 2008 farm bill, and then extended through 2011 by section 723 of H. R. 4853. See *The Enhanced Easement Incentive*, Land Trust Alliance, <http://www.landtrustalliance.org/policy/tax-matters/campaigns/the-enhanced-easement-incentive> (last visited Dec. 27, 2013).
- <sup>142</sup> See *id.*
- <sup>143</sup> See *A New Farm Bill: Farm Policy for the 21st Century*, Am. Farmland Trust Farm, <http://www.farmbillfacts.org/> (last visited Dec. 27, 2013).



- <sup>144</sup> Conn. Gen. Stat. § 8-2.
- <sup>145</sup> N.H. Rev. Stat. Ann. § 674:32-a.
- <sup>146</sup> New Haven, Conn., Zoning Ordinance, art. III, § 12 & art. IV, § 34.
- <sup>147</sup> Interview by John Subranni with Joy Ford, City Plan Dep't (Sept. 27, 2012).
- <sup>148</sup> See Portland, Me., Code of Ordinance, ch. 14, art. III, div. 2, § 14-67(b); Portland, Me., Code of Ordinance, ch. 14, art. III, div. 3, § 14-77; Portland, Me., Code of Ordinance, ch. 14, art. III, div. 7.1, § 145.2.
- <sup>149</sup> See Portland, Me., Code of Ordinance, ch. 14, art. III, div. 3, § 14-77.
- <sup>150</sup> *Id.*
- <sup>151</sup> See *Urban Agriculture Rezoning Initiative*, Boston Redevelopment Authority, <http://www.bostonredevelopmentauthority.org/planning/planning-initiatives/urban-agriculture-rezoning> (last visited Jan.14, 2014).
- <sup>152</sup> *Id.*
- <sup>153</sup> 24 V.S.A. §§ 4413, 4414(1)(B).
- <sup>154</sup> Burlington, Vt., Comprehensive Development Ordinance art. III, § 4.4.6(a)(1).
- <sup>155</sup> *Urban Agriculture Task Force*, Burlington Food Council, <http://burlingtonfoodcouncil.org/our-projects/uatf/> (last visited Dec. 27, 2013).
- <sup>156</sup> See, e.g., M.G.L.c. 40A, § 3.
- <sup>157</sup> See R.I.G.L. § 45-22.2-6(b)(11).
- <sup>158</sup> See, e.g., *Interim Zoning*, South Burlington, Vt., [http://www.sburl.com/index.asp?Type=B\\_BASIC&SEC=%7BEFB8282C-0E28-4F48-A16F-8273E6CEAB75%7D](http://www.sburl.com/index.asp?Type=B_BASIC&SEC=%7BEFB8282C-0E28-4F48-A16F-8273E6CEAB75%7D) (last visited Dec. 27, 2013).
- <sup>159</sup> See, e.g., David E. Stillwell et al., *Lead and Other Heavy Metals in Community Gardens Soils in Connecticut*, The Conn. Agric. Experiment Station, Bulletin 1019, at 1 (Aug. 2008), <http://insideurbangreen.typepad.com/files/lead-and-other-heavy-metals-in-community-gardening-soils-in-connecticut.pdf>.
- <sup>160</sup> See *Brownfields and Urban Agriculture: Interim Guidelines for Safe Gardening Practices*, Env'tl. Protection Agency 14 (2011), [http://www.epa.gov/swerosps/bf/urbanag/pdf/bf\\_urban\\_ag.pdf](http://www.epa.gov/swerosps/bf/urbanag/pdf/bf_urban_ag.pdf).
- <sup>161</sup> See *Soil Safety Guidelines for Commercial Urban Farming*, Boston Redevelopment Authority 1-3, <http://www.bostonredevelopmentauthority.org/getattachment/d37db157-5bc8-479c-aa73-dc462441519a> (last visited Dec. 27, 2013).
- <sup>162</sup> See *Assessing Policies and Strengthening Resources to Help Beginning Farmers Secure Land and Succeed in Agriculture*, Am. Farmland Trust (draft Dec. 2013) [hereinafter *Assessing Policies*].
- <sup>163</sup> Comments by Joseph Dippel, Conn. Dep't of Agric. at Farmland Access Forum, Windsor, Conn. (Nov. 2013).
- <sup>164</sup> *What We Know*, *supra* note 2, at 14.
- <sup>165</sup> See *Iowa Beginning Farmer Tax Credit*, Iowa Finance Authority, <http://www.iowafinanceauthority.gov/Public/Pages/PC204LN48> (last visited Dec. 27, 2013); *Beginning Farmer Programs—Tax Credit Program*, Neb. Dep't of Agric., [http://www.agr.ne.gov/beg\\_farmer/taxcp.html](http://www.agr.ne.gov/beg_farmer/taxcp.html) (last visited Dec. 27, 2013).
- <sup>166</sup> See *Beginning Farmer Loan Program*, Iowa Finance Authority, <http://www.iowafinanceauthority.gov/Public/Pages/PC202LN48> (last visited Dec. 27, 2013); *Beginning Farmer Tax Credit Act—Annual Report*, Neb. Dep't of Agric., <http://nrc1.nrc.state.ne.us/epubs/A5000/A004-200809.pdf> (last visited Dec. 27, 2013).
- <sup>167</sup> Bob Wagner et al., *Farmland Access and Tenure Innovations: Policy and Program Suggestions to Promote Land Access for New England's Beginning Farmers*, Land Access Project 5 (2013), <http://newyork.farmland.org/wp-content/uploads/2013/06/Farmland-Access-Tenure-Innovations-FINAL.pdf>.
- <sup>168</sup> *Id.*
- <sup>169</sup> *Id.*
- <sup>170</sup> *Id.* at 6.
- <sup>171</sup> *Farmland Connections*, Am. Farmland Trust & Univ. of Conn. 3 (2011) [hereinafter *Farmland Connections*], [http://www.farmland.org/documents/FINAL\\_AFTFarmlandConnections\\_lo.pdf](http://www.farmland.org/documents/FINAL_AFTFarmlandConnections_lo.pdf).
- <sup>172</sup> Vermont Natural Resources Atlas, Vt. Agency of Natural Res., <http://anrmaps.vermont.gov/websites/anra/> (last visited Dec. 27, 2013).
- <sup>173</sup> See HB 1211, N.H. Liberty Alliance (2012), <http://www.nhliberty.org/bills/view/2012/HB1211>.

- <sup>174</sup> See *Welcome to Working Lands Alliance*, Working Lands Alliance, <http://www.workinglandsalliance.org/> (last visited Dec. 27, 2013).
- <sup>175</sup> Vt. State Legislature, *Maple Sugaring on State Forest and State Park Land 2* (Jan. 2010), <http://www.leg.state.vt.us/reports/2010ExternalReports/252639.pdf>.
- <sup>176</sup> See generally *Advertisement: Department of Environmental Management: Agricultural Land Leases*, R.I. Dep't of Envtl. Mgmt. [hereinafter *Advertisement*], <http://www.dem.ri.gov/pubs/Indlease.pdf> (last visited Dec. 27, 2013).
- <sup>177</sup> See, e.g., *id.*
- <sup>178</sup> See, e.g., *Bill Status System*, N.H. General Court, [http://www.gencourt.state.nh.us/bill\\_status/bill\\_status.aspx?sr=2622&sy=2012&sortoption=&txtsessionyear=2012&txtbillnumber=hb1211&q=1](http://www.gencourt.state.nh.us/bill_status/bill_status.aspx?sr=2622&sy=2012&sortoption=&txtsessionyear=2012&txtbillnumber=hb1211&q=1) (last visited Dec. 27, 2013).
- <sup>179</sup> See *Advertisement*, *supra* note 176, at 2, 17.
- <sup>180</sup> See *Massachusetts State-owned Farmland Licensing Program*, USDA Nat'l Agric. Library <http://www.start2farm.gov/programs/massachusetts-state-owned-farmland-licensing-program> (last visited Dec. 27, 2013).
- <sup>181</sup> Conn. Gen. Stat. § 22-26jj(b)-(d).
- <sup>182</sup> *Id.*
- <sup>183</sup> See *Farmland ConneCTions*, *supra* note 171, at 3, 9.
- <sup>184</sup> See generally *Descriptions of Program Properties*, Mass.gov, <http://www.mass.gov/eea/agencies/agr/land-use/descriptions-of-program-properties.html> (last visited Dec. 27, 2013).
- <sup>185</sup> See generally Representative Tara Sad, Study Committee on HB 1211, Report from the Study Committee on HB 1211 3 (Nov. 1, 2012), <http://www.gencourt.state.nh.us/statstudcomm/reports/2091.pdf>.
- <sup>186</sup> See Vt. State Legislature, *supra* note 175, at 5.
- <sup>187</sup> See Representative Tara Sad, *supra* note 185, at 3.
- <sup>188</sup> See *Advertisement*, *supra* note 176.
- <sup>189</sup> *Id.* at 1.
- <sup>190</sup> *Guidelines and Licensing Requirements for Tapping and Collecting Sap from Maple Trees on Department of Forests, Parks and Recreation Lands*, Vt. Dep't of Forests, Parks & Recreation 4 (July 2010), <http://www.vtfrp.org/lands/maplesugaring/SugaringTappingGuidelines.pdf>.
- <sup>191</sup> See *Policy Efforts*, *supra* note 137.
- <sup>192</sup> See *What We Know*, *supra* note 2, at 6.
- <sup>193</sup> *2013 Farm Real Estate Value by State*, USDA, [http://www.nass.usda.gov/Charts\\_and\\_Maps/Land\\_Values\\_and\\_Cash\\_Rents/farm\\_value\\_map.asp](http://www.nass.usda.gov/Charts_and_Maps/Land_Values_and_Cash_Rents/farm_value_map.asp) (last visited Dec. 27, 2013).
- <sup>194</sup> See *Individual Development Account*, Nat'l Sustainable Agric. Coal., <http://sustainableagriculture.net/publications/grassrootsguide/farming-opportunities/individual-development-account/> (last visited Dec. 27, 2013).
- <sup>195</sup> See *Agriculture Reform, Food and Jobs Act of 2012*, U.S. Senate Comm. on Agric., Nutrition & Forestry, <http://www.ag.senate.gov/issues/agriculture-reform-food-and-jobs-act-of-2012> (last visited Dec. 27, 2013); *Farm Bill*, House Comm. on Agric., <http://agriculture.house.gov/farmbill> (last visited Dec. 27, 2013).
- <sup>196</sup> *Connecticut Individual Development Account Initiative (IDA): Frequently Asked Questions*, Conn. Dep't of Labor, <http://www.ctdol.state.ct.us/ida/dir/faq.html> (last visited Dec. 27, 2013).
- <sup>197</sup> *Vermont Agriculture Individual Development Account Program*, Univ. of Vt., <http://www.uvm.edu/extension/youth/vtyouthagida/> (last visited Dec. 27, 2013).
- <sup>198</sup> See generally *California FarmLink*, <http://www.californiafarmlink.org/index.php> (last visited Dec. 27, 2013).
- <sup>199</sup> See Wagner et al., *supra* note 167, at 10.
- <sup>200</sup> See *Assessing Policies*, *supra* note 162.
- <sup>201</sup> See Wagner et al., *supra* note 167, at 11.
- <sup>202</sup> *Id.*
- <sup>203</sup> *Id.* at 10.
- <sup>204</sup> *Id.* at 12.

<sup>205</sup> See *A Policy Analysis*, *supra* note 129, at 6.

<sup>206</sup> See M.G.L.c. 44B §§ 1-17.

<sup>207</sup> *Id.* § 5(b)(2).

<sup>208</sup> See *CPA: An Overview*, *supra* note 133.

<sup>209</sup> *Fact Sheet: Environmental Quality Incentives Program*, USDA 1-2 (May 2009), [http://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/nrcs143\\_007742.pdf](http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs143_007742.pdf).

<sup>210</sup> Interview by Ben Bowell with Kip Kolesinskas, USDA, Natural Res. Conservation Serv., State Soil Scientist for Conn. and R.I. from 1991 to 2011 (Oct. 26, 2012); *Environmental Quality Incentives Program*, USDA, <http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/financial/eqip/> (last visited Dec. 27, 2013).



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