

Senate Finance Committee

Deb Martone 271-4980

SB 97-FN-A, relative to funding the New Hampshire agricultural lands program.

Hearing Date: January 31, 2017

Time Opened: 1:30 p.m.

Time Closed: 2:05 p.m.

Members of the Committee Present: Senators Daniels, Reagan, Morse, D'Allesandro and Feltes

Members of the Committee Absent: Senator Giuda

Bill Analysis: This bill appropriates money to the New Hampshire agricultural lands program.

Sponsors:

Sen. Fuller Clark

Sen. Carson

Sen. Feltes

Sen. Hennessey

Sen. Watters

Rep. Gourgue

Rep. Bixby

Rep. Scruton

Rep. Oxenham

Who supports the bill: Senators Carson and Fuller Clark; Representative Scruton; James Monahan; Cris Coffin; Barbara Richter; Jim O'Brien; Jesse Robertson DuBois; Rob Johnson.

Summary of testimony presented in support:

Jen Horgan for Senator Fuller Clark, Prime Sponsor:

- Ms. Horgan introduced the bill on behalf of Senator Fuller Clark. It is the result of a study committee on SB 38, which met last summer.

Cris Coffin, Land for Good:

- The mission of Land for Good is to work with farmers and farmland owners to help gain ground for farmers, and to encourage the transition of agricultural land in a way that keeps it in farming for the next generation.
- There are two trends occurring in New Hampshire agriculture. One is the continued "graying" of New Hampshire's farmers. Secondly, estimates show over the next 10-20 years, one-third of New Hampshire farmers are likely to exit farming.
- Studies indicate 158,000 acres of land and approximately \$600 million worth of land and agricultural assets are likely to transition. But transition into what?
- At the same time, there is a strong interest from younger farmers but an accompanying problem in accessing affordable farmland.
- A program such as the Agricultural Lands Program is a way for older farmers to

be able to sell their development rights in a way that gets the equity out of the land and enables them to retire or transfer their land inside of the family. It is also a way for the price of farmland to be more affordable for younger farmers.

- Older farmers participated in a focus group and lamented they wished they could sell their development rights. Their land would stay in farming, they would still have the income and ability to retire, they could find a younger farmer, and the price would be affordable.
- This is a very important program which should be funded.
- Senator Daniels inquired as to what happens to the subsequent generation of farmers. Ms. Coffin agreed that was a good question. She indicated some of the money received from the sale of development rights goes to retirement, and some gets reinvested back into the farm. The reinvestment assists that next generation.
- With the interest of local "farm to table" foods, there are additional opportunities for younger farmers. But challenges remain, especially in the dairy sector. For exiting dairy farmers, opportunity lies with finding the most "value-added" or direct marketing avenue for those farms, for the next generation. It is a function of how economically viable that farm is to begin with. It goes to the creativity of the next generation having the resources to capitalize on new market opportunities.
- Senator Reagan understood the bill wants the Legislature to take money from the taxpayers to maintain an individual in a business that's not viable. Ms. Coffin clarified that she did not say the farms were not viable. This program is completely voluntary. The public investment is going to the protection of that land in perpetuity, because there are permanent easements. With the money going into this program, it is going into easements that allow for commercial activity on that land. Is the public investment supporting that farm operation? It depends on that family selling those development rights, and what they choose to do with the money. The funding is not a subsidy. It is paying for the fair market value of the rights that are being given. Senator Reagan stated this is already occurring now with town conservation commissions that sometimes have massive amounts of money to do this. They own farms that are then placed in a conservation easement, and the money doesn't come out of the state's General Fund. Ms. Coffin went back to the findings of the focus groups they held, whereby older farmers wished there were more funding for the purchase of development rights. There are towns that are able to raise funding locally, as well as successful land trusts. Other towns do not have the means to do so, and have inactive land trusts. Having some additional state investment is important.
- Senator D'Allesandro pointed out the Fiscal Note indicates this program was established in 1980. He wondered what has happened between 1980 and the present with regards to an appropriation and how it was spent. Ms Coffin was unable to respond to the question, other than to say in the most recent past all of the agricultural land protection that has occurred has been through LCHIP. Senator D'Allesandro then requested the LBA Staff to research what has happened with the program between its inception in 1980 and 1990 when funds were appropriated, and the results of that appropriation. It would be important

for committee members to learn what state money has done for this program.

Senator Fuller Clark, Prime Sponsor:

- Senator Fuller Clark has brought this bill forward in the past.
- This program has not been state funded since 1990-1991. That's when the LCIP program was introduced, and \$50 million was set aside to acquire lands by the state, with the idea of protecting what is the character and inherent economy of New Hampshire.
- Jobs provided by our agricultural lands and farms are not transportable.
- Protecting these lands is becoming more and more important with regards to insuring we have clean water. Many of these agricultural lands are a way that water is collected, purified and transmigrated back to our rivers and streams. The loss of these lands, particularly in our urban areas, will put our drinking water at risk going forward.
- Currently, the Department of Agriculture does hold easements on 30+ properties with over 3,000 acres. That must be what was acquired in the period between 1988 and 1990.
- There is a need to further protect our remaining farmland. On the Seacoast, 30% of prime agricultural land within Rockingham County has already been lost. There has been an increasing loss in agricultural land throughout the state.
- The federal Farm Program was reauthorized in 2014. Monies from the state can be used to leverage those federal funds to help with this protection. Those are not monies that can be leveraged by local communities.
- Senator Fuller Clark has been chairing a commission looking at the importance of land conservation in New Hampshire. It has found that local communities, municipalities, land trusts and individuals who own property have stepped forward to conserve much of the land we have. The role of the state has been minimal in being able to assist.
- If we want to preserve clean water and preserve the jobs generated through agricultural lands, we need to establish a stronger partnership between the federal government, the state, local communities, nonprofits and individuals.
- We need to understand what is at risk and begin to re-fund this program.

Jesse Robertson DuBois, New England Director, American Farmland Trust:

- This trust is dedicated to protecting farmland, keeping farmers on the land, and promoting sound farmland practices.
- This state was one of the early investors in agricultural conservation easements and farmland protection. The shift in funding from the original Agricultural Lands Program to LCHIP has meant that land conservation activity in New Hampshire has shifted its focus to areas where there are organizations or towns that can champion projects. Too often, those projects are not focused on commercial agricultural lands. What this program offers is a voice at the table for commercial farmers to protect their land, not only for the quality of life and environmental benefits of that farmland, but truly for the economic benefits of working farms.
- The need for this is great. New Hampshire has seen increases in the number of farms and land in farms. From 2007-2012, however, there has been a 24% drop in cropland. New Hampshire farmers are making do with less. We need to stem

the loss of that important agricultural land and keep them in business.

- We are in a moment of great change in our economy and our society. Investments in our agricultural lands and our agricultural economy have unique values. It is our job to preserve these lands for our children.
- Senator Reagan inquired about the meaning of rising real estate costs continuing to put strong economic pressure on farmers. Mr. DuBois explained as land values increase, it becomes harder for farms to operate, and to afford to stay in business with their landbase. The landbase is the most important, productive asset. It becomes harder to buy new land, harder to expand an operation to make efficiency and scale improvements to stay in business. Land pressures can drive farmers to sell. The option to sell a conservation easement can give the farmer the opportunity to recapture some of that idle economic value, and reinvest that in the farm operation or pay for other family needs. Senator Reagan sought to clarify that Mr. DuBois is in favor of taking taxpayer money to buy land so that someone else can use it as a productive asset. Mr. DuBois agreed. Senator Reagan pointed out that it is not an investment by the taxpayer. It's a seizure by force to give this land to someone whom someone else favors. Mr. DuBois indicated we are seeing a market failure in the real estate market for agricultural land at this moment in time. In the future, agricultural land values will climb. We will value that land either as productive food-producing land or for what it brings to our community heritage. In years to come, our descendants will value access to that land as agricultural land much more highly than we do today. At the moment the land has value for other purposes. Senator Reagan asked how these farmers can make a living. Mr. DuBois stated it is very challenging. No one is suggesting the economics is the only reason to do it. It provides rural jobs, and provides for our rural heritage. It secures our future in a way that no other investment can.
- Senator Daniels inquired if an easement placed on a property is there in perpetuity? Mr. DuBois stated it was. The landowner retains the ability to own the land, pass it on to their heirs, sell it or farm it. If they sell it, it has to be farmed by the next owner. Senator Daniels then wondered what if we get to the point where no one is interested in running the farm. What happens to the land? What happens to the landowner who is trying to retire, trying to get rid of the land but there is no buyer? Mr. DuBois indicated the landowner will have been able to capitalize on the non-farm development value in the sale of the easement up front, and the land will continue to be available for the next generation. This is not a one- or two-generation investment. It is long-term. One hundred years from now we do not know what the land will be valued for. It could be for food production. There is also a strong market for protected land. There are buyers for protected land, and we are not seeing a collapse in land values after easements go on. More typically, those land values continue to have strong value for agricultural use after the non-farm development value is taken off.
- Agriculture is changing. Many more people are interested in entering agriculture and developing entrepreneurial, local food-focus farms that are viable.

Barbara Richter, Executive Director, New Hampshire Association of

Conservation Commissions:

- The association's mission is to foster and protect New Hampshire's natural resources. It provides assistance to the member conservation commissions.
- Municipalities will benefit greatly from this farmland protection program. Investing in farmland protection not only stimulates the local economy and stabilizes the tax base, it ensures a sustainable food source for the future.
- Most conservation commissions in this state feel that a lack of funding is a major obstacle in completing land protection projects. With the help of state funding, matching funds would be made available for the very best projects.
- As part of our rural economy and cultural heritage, farms are critically important to New Hampshire.
- Towns also benefit from agricultural preservation restrictions through a more stable tax base. Farms remain in public ownership under the agriculture preservation restrictions, keeping the property taxes on the tax rolls. Thus, preserving farmland helps to stabilize local taxes and provide income for the town.
- Often the cost of agricultural land is so high that farmers struggle to be financially stable. Preservation restrictions are a vital real estate tool to help farmers pass their land on to future generations. Preservation restrictions help to keep land affordable, enabling young farmers to purchase such lands.
- The protection of farmland and prime agricultural soils should be a priority at the state level. Data shows the money invested in land protection results in quality ecosystem services such as clean air, clean water, flood protection and food sources that ultimately save money.
- Most importantly, productive agricultural land is an asset we cannot lose.
- Senator Reagan questioned how the land is taxed when it goes into a conservation easement. How does it enhance the tax base? Ms. Richter indicated it is still taxed at the current use rate. She agreed many towns are now purchasing agricultural land. In such cases, the land would be off the tax rolls. Senator Reagan asked how many purchases were made last year through this program, and how many acres. Ms. Richter stated there was no money in this program last year. Senator Reagan then inquired how many acres were purchased last year by conservation commissions in the state of New Hampshire. Ms. Richter indicated she did not have that information.

Jim O'Brien, External Affairs Director, The Nature Conservancy:

- The Conservancy supports the state helping to make investments in agricultural lands. The program hasn't been funded for a number of years.
- There are changes as to how the money is distributed, and the types of easements put on property.
- There is not a great deal of prime agricultural farmland in New Hampshire. Currently, most of our prime agricultural soils are not protected; only about 12% at this point.
- In their estimation, it's not all farms and all farmlands that are currently in operation. But it is really those prime agricultural soils. If that land gets converted, it would no longer be available for farmland. Those are some of our state's most important soils, and the Conservancy would like to see them better

protected.

- The benefits of working with farmers and placing easements on their property result in continued farming, but also benefit the wildlife habitat and water quality improvements.
- Senator Reagan inquired of Mr. O'Brien if he had any idea how many purchases have been made. How much land is in conservation in New Hampshire currently? Mr. O'Brien indicated 32% of the state's total land area, which includes the White Mountain National Forest. Senator Reagan commented one-third of the state is already in conservation, roughly. Mr. O'Brien added that most of the land is high elevation forest land, especially in the White Mountain National Forest. The less protected area overall is in the southern part of the state, where more prime agricultural soils are located.

Rob Johnson, Federation Policy Director, New Hampshire Farm Bureau:

- There are just over 110,000 acres of soils ranked "prime" in the state of New Hampshire, a little under 2% of our land area. Of that, 6,400-6,500 acres have already been developed.
- This program was the first land preservation program enacted in the state in 1980. With the exception of one year or two, it has not been funded.
- The program provides some real benefits to New Hampshire farmers.
- Unlike other land preserved in this state, there is not a requirement for public access. This is important. These farms are our homes. Farmers may allow the public access, but the program does not mandate it.
- Senator Daniels asked Mr. Johnson why the taxpayer should subsidize the program if it is someone's home. Mr. Johnson clarified that the taxpayer is paying for the right not to have that land developed, to preserve the viewsapes, and to use the land for other purposes. The taxpayer is not subsidizing someone's home.

Future Action: Pending

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Date Hearing Report completed: February 2, 2017