

SENATE No. 448

The Commonwealth of Massachusetts

PRESENTED BY:

Joanne M. Comerford

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act investing in natural and working lands.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/15/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/5/2023</i>

SENATE No. 448

By Ms. Comerford, a petition (accompanied by bill, Senate, No. 448) of Joanne M. Comerford, Lindsay N. Sabadosa and James B. Eldridge for legislation to invest in natural and working lands. Environment and Natural Resources.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act investing in natural and working lands.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 21N of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by inserting after the definition of “Nature-based solutions”
3 the following definition:-

4 “Nature Services”, the processes and properties of both natural and human-managed
5 ecosystems that provide human societies with benefits and resources of fundamental value.
6 These services include the provision of resources essential for life such as food, clean water,
7 clean air, shelter, and medicines as well as stabilizing environmental processes such as
8 purification of air and water, flood control, and nutrient cycling.

9 SECTION 2. Said section 1 of said chapter 21N, as so appearing, is hereby further
10 amended by inserting after the definition of “Person” the following definition:-

11 “Reforestation”, the process of replanting trees in areas depleted by natural or unnatural
12 disturbances such as wildfires, natural disasters, drought, insects, disease, logging, mining,
13 agricultural clearing, and development.

14 SECTION 3. Chapter 21N of the General Laws, as appearing in the 2020 Official
15 Edition, is hereby amended by adding the following sections:-

16 Section 12. (a) The commonwealth shall undertake actions under this chapter with the
17 goal of preventing the loss of farmland, forest lands and trees and promoting equitable access to
18 nature services. The commonwealth shall seek to avoid, minimize, and mitigate the impact of the
19 loss or conversion of farmland, forest lands, and trees to promote the full ecological, agricultural,
20 natural, public health, and economic benefits of the land.

21 (b) All relevant state agencies shall implement regulations under this chapter in alignment
22 with this section and its policies, including:

23 (i) Funds and federal grants administered by the commonwealth shall not be used to
24 encourage the conversion of farmland or forested land to other uses when feasible alternatives
25 are available.

26 (ii) Agency actions shall encourage the protection of farmland or forest land by avoiding,
27 minimizing, and mitigating against the conversion of land to non-agricultural or non-forest uses,
28 and by promoting soil, tree and water conservation practices.

29 (iii) Agencies controlling state-owned land or undertaking projects that result in the
30 conversion of forest land or land suitable for agricultural use shall coordinate with the executive

31 office of environmental affairs and shall conduct permitting and mitigation in accordance with
32 the goals of this section.

33 Section 13. (a) The secretary of the executive office of energy and environmental affairs
34 shall establish a municipal opt-in farm and forest-friendly communities program.

35 (b) The program shall advance state policy to: (1) prevent the loss of working farmlands,
36 forest lands and trees; (2) promote carbon sequestration and storage capacity; (3) promote
37 reforestation; (4) promote nature services, particularly in environmental justice communities; and
38 (5) increase food and agricultural production.

39 (i) The secretary shall adopt rules, regulations, and guidelines for the administration,
40 oversight, accountability, and enforcement of this section, including, but not limited to,
41 establishing eligibility criteria, funding priorities, application forms and procedures, and
42 reporting requirements.

43 (ii) The secretary may develop and implement the farm and forest-friendly communities
44 program as a stand-alone program or combine the program with other municipal assistance
45 programs related to climate adaptation, resiliency or mitigation.

46 (c) The secretary shall collect revenues and distribute funds to support eligibility
47 requirements under subsection (d) as provided in this section. Funding for the farm and forest-
48 friendly communities program in any single fiscal year shall be available, without further
49 appropriation, from sources including, but not limited to, the Global Warming Solutions Trust
50 Fund established in section 35GGG of chapter 10 as well as the federal Inflation Reduction Act
51 of 2022; and any land management and restoration grant, loan, and incentive programs
52 administered by the executive office of energy and environmental affairs.

53 (d) To qualify as a farm and forest-friendly community, a municipality or other local
54 governmental body shall comply with eligibility requirements. The secretary shall set eligibility
55 requirements including adoption of natural resource protection zoning ordinances or by-laws;
56 and requiring municipalities to adhere to a majority of the following, as chosen by the
57 municipality: (1) adoption of a municipal tree retention and replacement by-law or ordinance; (2)
58 adoption of ordinances or by-laws to expand or conserve natural tree canopy; (3) a local or
59 regional agricultural commission that has the ability to comment on related matters; (4) including
60 agriculture as a category on all master plans, open space plans, and other relevant land use plans;
61 and (5) adoption of a municipal right-to-farm by-law; provided, that ordinances and by-laws
62 enacted under this subsection may exempt the development of affordable housing.

63 (i) Eligibility requirements set under this section shall encourage and assist participating
64 municipalities to achieve the goals under subsection (a) of section 12.

65 (ii) The secretary may waive specified requirements based on a written finding that, due
66 to unusual circumstances, a municipality cannot reasonably meet the requirements and that the
67 municipality has committed to alternative measures that advance the purposes of the farm and
68 forest-friendly communities program in a way that aligns with program requirements. The
69 secretary may also waive requirements based upon municipal income factors or upon
70 environmental justice criteria that make the program requirements overly burdensome for a
71 particular municipality. The secretary may adopt alternative eligibility requirements that provide
72 opportunities to those municipalities to achieve the goals of the program.

73 (e) The secretary shall accept applications from municipalities annually. Applications
74 shall be noncompetitive and shall be accepted or denied based only upon whether municipalities
75 have met the eligibility requirements.

76 (f) The secretary shall provide technical and financial assistance, including incentive
77 payments, grants, and loans, to municipalities that qualify for and opt-in as a farm and forest-
78 friendly community under this section. These incentives, grants, and loans may be used to
79 finance all or a portion of the costs of studying, designing, and implementing local ordinances or
80 bylaws to prevent the loss of farmland, forest land and trees. Upon acceptance into the farm and
81 forest-friendly communities program, grants, incentives, and loans may be provided annually.

82 (g) The secretary shall, in coordination with the division of local services within the
83 department of revenue, annually provide municipalities participating in the program a higher rate
84 of reimbursement in lieu of taxes on state-owned land under sections 13 to 17, inclusive, of
85 chapter 58 of the General Laws, as determined by the secretary and not less than 5 per cent of the
86 municipality's reimbursement.

87 (h) The secretary shall, in coordination with the commissioner of agricultural resources
88 and the division of local services within the department of revenue, annually provide
89 municipalities participating in the program an incentive payment for each parcel of land
90 restricted for agricultural purposes under section 23 of chapter 20 of the General Laws.

91 (ii) The secretary shall set requirements for recertification to ensure compliance with this
92 section following the first year of acceptance, and 5 years after a municipality is accepted, and
93 every 5 years thereafter. The requirements shall include, but are not limited to, submission of
94 documentation on: the amount of farm and forest land retained; the amount of tree canopy

95 preserved or increased; the by-laws and ordinances enacted to comply with this program,
96 demonstrating those by-laws or ordinances are currently in effect; and the involvement of a local
97 or regional agricultural commission. If a community used alternative measures per a waiver from
98 the secretary, the community shall be required to submit documentation of such alternative
99 measures.

100 If a municipality was granted a waiver allowing alternative eligibility requirements, the
101 ability of said municipality to comply with the eligibility requirements in subsection (d) shall be
102 reassessed at each 5 year interval. If the secretary determines the municipality has developed the
103 capacity to meet the eligibility requirements of subsection (d), the waiver will not be extended.
104 This section does not preclude the secretary from determining a municipality is no longer able to
105 meet the requirements of subsection (d) and issue said community a waiver to remain in the
106 program, provided said community demonstrates the presence of equally effective alternative
107 measures as required per subsection (ii).

108 SECTION 4. (a) Not later than July 1, 2024, the environmental policy act office shall
109 determine a review threshold which would require projects engaging in a certain level of forest
110 clearing or farmland conversion to undergo an environmental impact review. The review
111 threshold shall further the goals under subsection (a) of section 12 of chapter 21N of the General
112 Laws.

113 (b) Not later than July 1, 2024, the environmental policy act office shall develop
114 methodologies for quantifying the greenhouse gas emissions implications of land clearing and
115 farmland development and potential options for mitigation.

116 (c) Six months before finalizing the review threshold and methodologies under
117 subsections (a) and (b), the environmental policy office shall publish a proposed draft review
118 threshold and proposed draft methodologies and solicit public comment on the proposals. The
119 office shall also solicit comments from the committee on environment, natural resources and
120 agriculture. The committee may hold a public hearing on the submitted review threshold and
121 methodologies.

122 SECTION 5. (a) The roadmap plans and implementation reports issued by the secretary
123 of energy and environmental affairs under sections 12, 13, and 14 of chapter 21N shall include
124 information about expenditures, participation rates, and results relative to the farm and forest-
125 friendly communities program, as well as recommendations for administrative policies, programs
126 and legislation to improve compliance and efficacy.

127 (b) The roadmap plans and implementation reports issued by the secretary of energy and
128 environmental affairs under sections 12, 13, and 14 of chapter 21N shall also include
129 recommendations developed in coordination with the division of local services within the
130 department of revenue for updated incentive rates for land conservation, stewardship and
131 ownership programs to ensure they:

132 (i) adjust with the value of the land, and

133 (ii) sufficiently reimburse or incentivize land conservation or stewardship to further the
134 commonwealth's overall goals as established under said sections 12 and 13. The
135 recommendations shall also be submitted to the house and senate committees on ways and
136 means, the joint committee on municipalities and regional government, and the office of the state
137 auditor.

138 SECTION 6. The department of energy resources, in consultation with the secretary of
139 energy and environmental affairs, shall make recommendations to the general court on a
140 successor program to the solar incentive program established in section 11 of chapter 75 of the
141 acts of 2016.

142 In developing recommendations, the department shall consider:

143 (i) the benefits provided by distributed generation facilities including, but not limited to:

144 (A) avoided energy purchases; (B) avoided capacity purchases; (C) avoided transmission and
145 distribution costs; (D) avoided line losses; (E) avoided environmental compliance costs; (F)
146 avoided damages from greenhouse gas emissions; (G) enhanced reliability; (H) equity and
147 environmental justice benefits; and (I) any other benefits as may be determined by the
148 department;

149 (ii) time differentiated rates and alternative rates that encourage equity and alignment
150 with the commonwealth's energy, climate and natural resources programs and policies; (iii) the
151 siting of clean energy projects in underserved communities and within the built environment on
152 developed or degraded land including, but not limited to, rooftops, parking lots and other low-
153 impact areas with minimal ecosystem service values;

154 (iv) avoiding or minimizing impacts to natural and working lands and waters; and

155 (v) potential solutions to challenges faced by municipalities relative to the deployment of
156 solar within the built environment, including the provision of guidelines, technical assistance and
157 incentives for municipalities to update local land use regulations to facilitate within-development
158 siting.

159 The process shall work in parallel with the department's technical potential of solar
160 study.

161 The department shall file its recommendations with the clerks of the senate and house of
162 representatives and the joint committee on telecommunications, utilities and energy not later than
163 July 31, 2024.