

INDEPENDENT STUDY OF USE VALUE APPRAISAL PROGRAM

REPORT OF THE USE VALUE APPRAISAL TASK FORCE

TASK FORCE MEMBERS:

Rep. Alison Clarkson, Task Force Chair; House Committee on Judiciary
Rep. Phil Winters, House Committee on Ways and Means
Sen. Sara Kittell, Chair, Senate Committee on Agriculture
Sen. Mark MacDonald, Vice-Chair, Senate Committee on Natural Resources
William Johnson, Director-Property Valuation and Review Division
Jonathan Wood, Commissioner of Forests, Parks, and Recreation, designee of the Agency of Natural Resources
Sylvia Jensen, designee of the Agency of Agriculture, land use planner
Nancy Patch, former consulting forester, now county forester, forestry interests
Rep. John Malcolm, House Committee on Agriculture, representing agricultural interests
Jamey Fidel, Vermont Natural Resources Council, land use or conservation interests
Al Robertson, Sheffield lister, tree farmer, assessors and listers interests
Sue Morse, Keeping Track, fish and wildlife interests
Steve Long, *Northern Woodlands* Magazine, outdoor recreational interests
George Weir, consulting forester, owner of enrolled forest or agricultural land
Warren King, owner of non-enrolled forest or agricultural land
John McClain, Chair, Current Use Advisory Board, New England Forestry Consultants, Inc., at large
John Meyer, Bardill Land & Lumber Co., at large

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Introduction

Act 65 of 2007, in Section 293a, provided for an Independent Study of the Use Value Appraisal Program. The legislation directed the Legislative Council to hire a consultant to review and analyze the use value appraisal ("current use") program, and created a Task Force to review the consultant's report, conduct public hearings, and make recommendations to the General Assembly for changes to the program. The charge to the consultant included specific questions to guide the analysis, and is reprinted in Appendix A of this report.

The consultant's report, Review and Analysis of the Use Value Appraisal Program and other materials are available on the legislative web site at [http://www.leg.state.vt.us/under Committees, Commissions, Task Forces, and Other Work Groups](http://www.leg.state.vt.us/under%20Committees,%20Commissions,%20Task%20Forces,%20and%20Other%20Work%20Groups) and at the of the Legislative Council office.

During the interim, the Task Force held three all-day meetings, and three public hearings. Each meeting and hearing were focused on one of three topics: Agriculture Issues, Forestry Issues, Administrative Issues. After the session began, the Task Force met once to review a Summary of Findings and Recommendations. The Task Force's conclusions and recommendations are described in this report.

THE VERMONT USE VALUE TASK FORCE FINDINGS AND RECOMMENDATIONS

Goals Do Not Need To Be Changed

The Task Force found the Use Value Program goals remain relevant after 30 years and agreed with the consultant's report (report) and most of the witnesses at the hearings that these goals do not need to be changed. Adopted in 1977 these goals have even more significance to Vermont today. The goals are:

“The purpose of this subchapter is to encourage and assist the maintenance of Vermont's productive agricultural and forest land; to encourage and assist in their conservation and preservation for future productive use and for the protection of natural ecological systems; to prevent the accelerated conversion of these lands to more intensive use by the pressure of property taxation at values incompatible with the productive capacity of the land; to achieve more equitable taxation for undeveloped lands; to encourage and assist in the preservation and enhancement of Vermont's scenic natural resources; and to enable the citizens of Vermont to plan its orderly growth in the face of increasing development pressures in the interests of the public health, safety and welfare.”

The Task Force found that the program for the most part is meeting these goals. The pressures of development and the conversion of our working landscape were the incentive for the legislature to adopt the program and those pressures still exist. In 2006, 516,000 acres of agricultural land, representing an estimated 75 percent of Vermont farms, were enrolled. 1.5 million acres of forest land, including over three-quarters of the land in parcels of more than 500 acres of undeveloped land, were enrolled. Vermont residents owned 76 percent of the land enrolled in the program and 74 percent of the potentially eligible land in the state. The program has helped to keep farm and forestland managed and in production. The program has allowed landowners to hold on to land that might otherwise be sold, subdivided, or taken out of production.

The program helps in lowering operating costs. The report found in 2005, the program reduced property taxes on dairy farms from \$9.4 million to \$0.9 million, increasing earnings by \$8.5 million. In 2006, the tax on productive land would have averaged \$18 an acre without the program. This cannot be supported by returns from agriculture or forestry. Vermont's scenery is based on its working landscape. By helping maintain farm and forest land, the program is also preserving scenic resources.

The program has reduced accelerated development by removing the pressure of the property tax. The escalating land values, one of the forces behind the start of the program, have continued. From 1981 to 2006, the average fair market value of land went from \$254 to \$1560 per acre. The tax rate also increased. Development is more expensive than the working landscape. And the program costs only \$60 per year per \$100,000.00 of property value.

Some members of the Task Force did express serious concern that the goal of protecting natural ecological systems was not being specifically met because of the 20 percent rule. This rule limits enrollment of class 4 wetlands, maintained open land, and

high elevations to no more than 20 percent of the total eligible land in a parcel to be appraised at use value. This concern led to considerable discussion and the proposal for the Department of Forest, Parks and Recreation to amend the standards for forest management as discussed under management of ecological areas in the next section.

The Task Force does have recommendations to simplify and streamline the program. The Task Force also endorses a comprehensive effort of education about the program, which it believes would improve the program and clear up some serious misperceptions about it as discussed in the Education section below.

Simplification and Streamlining

1. **Electronic Coordination.** The administration of Use Value Appraisal program must be coordinated and modernized to reduce staff time and to improve accuracy, timeliness, and communication. The electronic filing of forms—including online error checking—could reduce the amount of time spent retyping handwritten forms, correcting errors, and following up on incomplete forms. It could also enable timely communication between the landowner, the town, Property Valuation and Review, and the Department of Forests, Parks and Recreation. Electronic filing could include: submission and approval of applications, submission and approval of forest management plans and maps, filing of forest management activity reports, and filing of withdrawals and transfers. In addition, names and addresses of landowners and property tax information from the local Grand List could be shared with the State agencies and a single mailing to participating landowners could provide information from all State agencies involved. Developing a system for linking the SPAN number of newly subdivided parcels to the parent parcel, and requiring the SPAN number on the Property Transfer Return will speed the process of collecting the land use change tax and amending local and state tax records. Moving toward a state supported GIS layer including property boundaries and boundaries of land enrolled in the program will streamline the use value program as well as many other state programs. These changes will also aid the legislature in periodically evaluating the efficiency and effectiveness of the program. A complete review of administrative procedures and a systematic upgrade should be made a legislative priority and different funding options should be explored.

New Application on Transfer. The Legislature should require notification and new application within 30 days when enrolled land is transferred to another owner. Amend the property transfer tax return to aid in obtaining this information.

Fee for Administration. The Task Force recommends that an initial application fee should be charged to help pay for the administration of the program. The existing \$8.00 charge is paid to the Town Clerk to record the application. An additional fee should be charged set by the committees of jurisdiction with the revenue going to the Division of Property Valuation and Review (PVR). Under the system as it exists today, the estimated actual cost of processing an application can be as much as \$110.00, with less complicated parcels around \$20.00. An average of 500-600 new parcels are enrolled annually. In addition, there are 1500 enrolled parcels with changes each year. There is a considerable amount of paper chasing when forms are filled out incorrectly. The program is expected to continue to grow. A sustainable revenue source must be found.

Increase staff. The Use Value Appraisal program is seriously understaffed and underfunded, both within the Department of Forests, Parks and Recreation and PVR. In three of the five county forester districts (Springfield, Barre and St. Johnsbury), the state

foresters are responsible for looking after between 60% and 120% more parcels than they can reasonably be expected to manage. This results in a back-log of site visits and other steps needed to ensure that landowners are implementing their forest management plans as approved and that the State is fully reaping the benefits of this program. The Task Force agrees with the report: “[t]he County Foresters excel in education more than administration. It is crucially important to meeting the goals of this program that they have sufficient time to meet with landowners, talk with them about their land and their goals, and introduce them to assistance that might be available. The Sustainable Forestry Task Force, comprised of field staff from the Agency of Natural Resources, recommended increasing County Forester field staff by a minimum of three.

Additional staffing is also needed at PVR, so that local listers can get the information and support they need and to implement an electronic administration of the program in order to alleviate the inefficiencies from manual handling of the files. The report stated was supported by testimony: “[I]t is clear from responses from foresters, landowners, and listers that there is a time delay at Property Valuation, and [PVR] should give more attention to public information and lister guidance.” The compliance monitoring also suffers. There are four full time positions and two more are needed. The legislature must ensure that the program has sufficient staff to achieve the goals of the program.

Flexibility for inspection. The program should be amended to allow county foresters flexibility in determining which forestry parcels to inspect and to increase the maximum inspection interval to ten years. The foresters are not able to comply with the current statute. On parcels with a valid management plan, which does not call for any management activities, and no forest management activity report is filed, there simply is no reason to spend the time on inspection when there are many parcels with ongoing activity that should be monitored.

Allow for management of ecological areas. The Legislature should direct the department of forest, parks and recreation to amend the minimum standards of forest management to expand the eligibility of Site 4 land and to allow certain identified areas not to be managed for timber production, as follows:

A parcel may be eligible if no more than 20 percent of the acres to be enrolled are Site 4, plus open and not to be restocked within 2 years, plus ecologically significant areas designated by the department. These acres need not be managed for timber production.

If more than 20% of the acres to be enrolled are Site 4 plus open plus ecologically significant and not to be managed for timber production, landowners may apply to the Commissioner for approval. The applications would be reviewed by the county foresters. In no situation would a parcel be approved that did not provide for at least 80 percent of the land classified as Site 1, 2, or 3 to be managed for timber production. The Department should take note and consider the criteria developed by the National Heritage Program, the American Tree Farm System and the Forest Stewardship Council, in addition to the criteria submitted in testimony, for determining ecologically sensitive areas. The Task Force recommends that the amended standards be in effect before September 1.

Consistent Oversight. The Task Force recommends the program should move to more consistency of oversight and monitoring between the agricultural and forest land

programs. The Vermont Milk Commission noted in its recent report that over 100,000 acres of farmland are underutilized. PVR should provide that the annual notice of use value also includes information about the ongoing requirements of the program. When properties are transferred, the notices should include similar materials. These are necessary improvements that will require staff time. As noted above, PVR's staff needs to be increased. When the agency of agriculture, food and markets, the agency of natural resources, and other agencies or interested parties are working with farmers and landowners, they can provide information on the program.

Relax Notice and Grievance Requirement. The program puts an unnecessary burden on listers and their calendar. The program should allow towns not to send a change of appraisal notice to an owner or provide a grievance hearing if the only change is the new use value set by the current use advisory board. The existing statute requires towns to notify enrolled landowners of changes in the appraise value caused by changes in use value and requires that a grievance hearing be allowed, regardless of how small the change in use value is and even though listers have no authority to change the use value per acre. The task force recommends allowing listers not to send a change of appraisal notice to an owner, and not to provide the owner with grievance rights, if the only change is the new use value set by the current use advisory board.

Reduce Homestead Acreage Requirement for Cluster Housing. The Current Use Advisory Board in collaboration with PVR should provide a consistent rule for dealing with "cluster housing," so that enrollment rules do not prevent enrollment of two full acres for every house in the cluster.

Assistance in Monitoring Withdrawals From the Program. Both in the consultant's report and in testimony from staff who administer the program, the task force was informed that information about withdrawals from the program for development is difficult to track. What information exists is contained in the individual files of landowners who withdraw from the program. Access to the information is essential to evaluate the effectiveness of the penalty. The task force takes note of PVR's offer to work with interested parties to assemble available information to get a correct picture of what is happening to withdrawn parcels. For example, are withdrawn parcels being subdivided and developed, or are they remaining productive. PVR in consultation with interested parties should develop a methodology to simplify the tracking of withdrawal patterns in the program. The task force also heard testimony on the continuing growth of the program, which helps to offset withdrawal rates in the program. The growth will have to be monitored to understand the additional strain it may place on the administrative resources of the program.

Enable Enrollment of Town Land in Other Towns. The program should allow municipalities that own land in other towns to enroll that land in current use, if it meets all the necessary criteria. Proper management of this land is as important to the program goals as any other land, perhaps more so because some of this land is around former municipal water resource areas.

Education

1. The greatest threat to the program are the misperceptions about it. If these are not corrected, support for the program will slip away. PVR, the Agency of Agriculture, Food and Markets, the Department of Forest, Parks and Recreation must collaborate with willing parties to provide education for the following:

A. **the public:** on goals of the program, and how they are being achieved; the economic benefits from the program, including income from the sale of agricultural products, forest products, and value-added products; the cultural benefits of maintaining a working landscape; and the generational benefits of having families work their own land over long periods of time; and on the *misperceptions* of the program, including:

1. *Out-of-state residents benefit the most from the program.* In fact, Vermont residents owned 76 percent of the land enrolled in the program in 2006. PVR figures for 2003 show 67 percent of the land in the state was owned by Vermont residents. Considering the characteristics of the landowner as a problem was dismissed by the Task Force because those characteristics do not relate to the land and the goals of the program.

2. *Speculators buy the land, use the program to lower their costs for owning the land, and cash in after 10 years at the 10-percent rate.* In fact, the consultant's report showed that just a small portion of the enrolled land is developed. In 2006, the land use change tax was paid on 4,497 acres, or about 2/10 of one percent of the land enrolled.

3. *Wealthy landowners milk the program.* In fact, testimony at the agricultural hearing in Bridport indicated that many farmers' operations are dependent on leased land that would not be available for an affordable price if it were not for the program. Means testing is not appropriate because it does not further the goals of the program.

4. *The more land in a town that is enrolled, the heavier the burden on the other local taxpayers.* In fact, use value taxation is structured so that towns are held harmless for the cost of the program.

5. *Landowners who sell or donate their development rights and then enroll their land in the program are double-dipping.* In fact, putting a conservation easement on a parcel prevents that land from being developed. Enrolling land in the Use Value Program requires that the land be managed as a farm or under a forest management plan. The easement changes the fair market value of the land, whereas the program requires the land be taxed at its use value.

B. **listers:** on allocating value to enrolled and excluded land; house site definition and value; their role in the process; valuing land subject to conservation restrictions. Because listers work very hard at trying to make the property tax system operate fairly, they are very sensitive to possible unwarranted tax breaks. Listers would like means testing and increased compliance monitoring. Many listers are part of a group that responded to the consultant's survey by saying that the program was failing to meet the goal of protecting a way of life, with local community members managing and stewarding the land. This is not a goal of the program and is not a problem of taxation but a problem of land becoming unaffordable to those Vermonters who want to work it. Increased staff would help and increased communication from those who value the program could help balance some of the negative perceptions with positive ones.

C. **potentially eligible landowners:** where to find help; requirements and advantages; financial information, and to overcome their misperceptions creating barriers to enrollment:

1. *Giving government authority over management decisions.* In fact, the forest management plan is developed by a landowner together with a consulting forester.

2. *Lack of information.* The consultant reported the second most frequently cited reason affecting the decision of whether to enroll land was “I don’t know enough about it.” This highlights the need for outreach. Increased staff at both PVR and the department would be able to correct this.

3. *The penalty is too harsh.* In fact, the consultant found that when considering enrollment, people tend to perceive the penalty to be worse than it is likely to be. However, once people are enrolled and confronted with an opportunity to subdivide, the penalty is known and is not a deterrent to develop. There is a problem for owners of smaller parcels who may need to sell all or some of the land for financial reasons because most of their wealth is in the land. Education can be provided about other programs available to help in these situations.

D. **enrolled landowners:** need to provide notice of land transfers; pros and cons of posting; how to convey development rights rather than develop the parcel when money is needed; help match people looking for agricultural or forest land with land that is for sale; assist farmers who want to retire to keep their land in “active use” or to use conservation easements as a part of their retirement plan.

E. **attorneys and realtors:** the need to fill in the property transfer tax return completely.

2. **Posting Land:** The Task Force recommends that the Agency of Natural Resources and Department of Forests, Parks and Recreation continue to educate the public about the pros and cons of posting. Recognizing that public access to private land is a long-standing Vermont tradition, the agency needs to have a full discussion of posting and public access and should develop signage alternatives for landowners who wish to control access but not exclude the public.

3. **Annual Notices:** PVR should use the annual use value notice to enrolled landowners as an opportunity to communicate annually, provide overall information about the program, and obtain any changes in status, ownership, or use of the enrolled land.

4. **Outreach:** The Legislature should encourage interest groups who support the current use program to help with the education, especially with creation and distribution of written materials to explain the program. These interest groups could also assemble the information in the files at PVR about land withdrawn from the program. This compilation would be very helpful in looking at the program so that, in combination with improved tracking of withdrawal rates, appropriate adjustments can be considered if withdrawal rates increase or spike.

PAY ATTENTION: Often in a report like this, recommendations like these seem like a do nothing approach. ***That is not the case here.*** Education about this program is critical. The program is working. If these misunderstandings about the program are not corrected, they will cause the program to be ended. Read the consultant’s report and you will see the benefits of the program.

Further Investigation

1. **Definitions.** The task force heard testimony that the program definitions of “agricultural land” and “farmer” were causing administrative problems and difficulties for enrolling otherwise eligible land and buildings. These definitions cause eligibility problems for horse farms because of the status of the income generated by horse farms

for giving lessons to riders, training horses owned by others, and boarding horses. Farm families increasingly have jobs off the farm which can put them in danger of not meeting the 50 percent of gross income from the business-of-farming threshold. Any changes would be likely to have other consequences, and the task force did not have the time to research and discuss the implications.

2. **Tiering.** The subject of tiering the use value on the basis of the kind of use of the land was briefly examined. The task force found that many states do offer reduced tax benefits for reduced management (e.g., brush, mowing to keep land open, maintaining open space), or enhanced benefits for increased management including, perhaps, keeping the land available to the public. The task force dismissed any consideration of reducing benefits for not keeping land available to the public.

3. **Geographic Information System.** The consultant found: "Perhaps the most significant improvement in the Use Value Appraisal Program as well as in many other state programs would be to keep all property boundaries up to date in a Geographic Information System." The task force encourages the legislature to pursue this issue. Uniform, electronic maps would make a huge difference to listers, foresters, PVR, and landowners and would be a big step forward in streamlining the program and making it more efficient.

4. **Ecologically Sensitive Areas.** One of the important recommendations of the Task Force is that the Department of Forest, Parks, and Recreation be directed to allow the enrollment of sensitive ecological areas in the program by amending the minimum standards for forest management. In the considerable discussion on this issue, there was an estimate that only 2-4 percent of the land in Vermont contained ecologically sensitive areas. While some of these areas were said by some members to require intensive management, examples were provided where sensitive or rare areas that should not be harvested would be precluded from the program based on the acreage limitation for enrolling land not being managed for timber production. Further investigation is needed to understand the extent to which ecologically sensitive areas would or could be precluded from the program based on the decision to limit the enrollment of certain types of ecological areas that are not harvested. In addition, the Task Force recommends that a review shall be conducted to determine whether the amended standards are working to meet the goals of protecting ecological systems and maintaining the productive forest.

5. **Conserved Parcels Managed as Ecological Areas.** Further investigation is needed to determine whether landowners should be able to enroll parcels with conservation easements that are managed specifically for ecological purposes, possibly at a reduced tax benefit.

Appendices

- A. Legislative Task Force charge
- B. Task Force Lists of Issues for Agriculture
- C. Proposed Legislation

[available upon request from the Office of Legislative Council: RFP, Consultant's Report, consultant's questionnaires, consultant's slide presentations in hard copy]

APPENDIX A

Sec. 293a. INDEPENDENT STUDY OF USE VALUE APPRAISAL PROGRAM

(a) Appropriation and duties and powers. The legislative council shall hire one or more consultants to conduct a thorough and independent review and analysis of the use value appraisal program. The consultants shall have the assistance of the department of taxes, the joint fiscal office and the legislative council. Funds for this purpose are appropriated in Sec. 381a(a)(1) of this act.

(b) Goals; issues. The goals of the use value appraisal program are found in 32 V.S.A. § 3751, as follows:

§ 3751. STATEMENT OF PURPOSE

The purpose of this subchapter is to encourage and assist the maintenance of Vermont's productive agricultural and forest land; to encourage and assist in their conservation and preservation for future productive use and for the protection of natural ecological systems; to prevent the accelerated conversion of these lands to more intensive use by the pressure of property taxation at values incompatible with the productive capacity of the land; to achieve more equitable taxation for undeveloped lands; to encourage and assist in the preservation and enhancement of Vermont's scenic natural resources; and to enable the citizens of Vermont to plan its orderly growth in the face of increasing development pressures in the interests of the public health, safety and welfare.

The consultant shall articulate the current statutory goals of the program, and analyze whether the program is achieving those goals. The consultant shall investigate and make findings regarding the following:

(1) Has the current use program achieved its statutory goals? If not, what were the barriers to achieving any particular goal? Are there barriers to enrollment?

(2) Does the administration of the program meet one of the stated goals, vis-à-vis of protecting natural ecological systems on enrolled forest land (wetlands, riparian areas, rare forest conditions, etc.)? If not, what are the barriers to protection of these ecosystems?

(3) How are use values determined (in answering this question, the consultant shall confer with the current use advisory board)? How might use values be affected if parcel location were taken into account? Would the establishment of new categories with varying use values for eligible land, based for example upon parcel size, public access for outdoor recreation, conservation easements, protection of natural ecological systems, or other criteria, aid in achieving the statutory goals of the program? Are the goals of the program furthered by allowing enrollment of a parcel that has deed restrictions but is otherwise eligible for the program?

(4) What activities does the program require of listers and what changes, if any, would local officials like to see in the program? How is land appraised after deed restrictions are placed on the land and should the division of property valuation and review develop a guidance for listers? Can computer technology reduce the administrative burden on local listers, allow landowners and consulting foresters to file documents and reports electronically, and improve monitoring and compliance?

(5) Is there sufficient personnel to administer the program adequately within the department of taxes and the department of forests, parks and recreation? Is the monitoring of parcels manageable, and are the county foresters able to supervise and provide sufficient technical assistance?

(6) How would annual reporting by forest land owners affect the program? Should annual reporting be reinstated?

(7) Does the land use change tax provide an adequate disincentive for temporary enrollment of land, especially where the landowner intends to develop in the future?

(8) Would the addition of a “means” test for enrollment hamper or enhance, or otherwise affect, achievement of the program goals?

(9) Are the goals of open land and farmer assistance mutually exclusive or compatible goals for the program?

(10) How many parcels are exempt from municipal or education property tax, or both? What is the cost to the general fund for reimbursing the municipalities for the loss of municipal property tax revenue on enrolled properties and to the education fund in reduced revenue to the education fund? What would be the cost developing enrolled properties to the municipal and education budgets?

(c) The consultant shall report to the legislative council and the use value appraisal task force on the findings on or before October 1, 2007.

(d) Use value appraisal task force.

(1) Membership. A use value appraisal task force is created to consist of two members of the house of representatives; two members of the senate; the director of the division of property valuation and review or designee; the secretary of the agency of natural resources or designee; the secretary of agriculture, food and markets or designee; a member representing forestry interests; a member representing agricultural interests; a member representing land-use or conservation interests; a member representing assessors and listers; a member representing fish and wildlife interests; a member representing outdoor recreational interests; one owner of enrolled forest land or agricultural land, or both; one owner of nonenrolled forest land or agricultural land, or both; two members at large. The speaker of the house and the senate president pro tempore shall appoint members of the use value appraisal task force that are not members ex officio, and the governor shall appoint the two members at large. Members shall be appointed by June 1, 2007.

(2) Powers and duties. The use value appraisal task force shall determine whether the program needs to be modified to accomplish its stated goals, and whether the goals ought to be modified in light of the available resources and all the findings of the task force. In making these determinations, the task force shall confer with the consultant during the study of the use value appraisal program; review the consultant's written report; conduct public hearings at convenient times and in convenient places throughout the state, with sufficient notice to the public; and consult with identifiable affected and interested parties.

(3) The task force shall provide the house committees on agriculture, on natural resources and energy, and on ways and means, and the senate committees on agriculture, on natural resources and energy, and on finance with a copy of the consultant's study and a report of task force recommendations and legislative proposals by January 15, 2008.

(4) The task force shall meet no more than three times when the general assembly is not in session. For attendance at a meeting when the general assembly is not in session, legislative members of the task force shall be entitled to per diem compensation and reimbursement of expenses as provided in 2 V.S.A. § 406(a).

APPENDIX B

Agriculture Issues:

A list of major issues discussed by the Task Force at its October 10 meeting

The major issues are inter-related, and sub-issues may appear under more than one major issue (and may reappear under Forest or Administration issues, as well).

There are other sub-issues which were discussed, or will be discussed, and which will be added to this document at a later time.

The one over-arching issue is "What are the goals of the program?"

1. Penalty

- Apply to the market value of the developed portion?
- Change the rule for when the penalty moves from 20% to 10%?
- Revert to the WFTAP penalty of repayment of the last five years' benefits?
- Means-test the penalty?

2. Eligibility

- "Estate" issues
 - Exclude more acreage for larger house?
 - Load parcel value onto larger house?
 - Create grant program?
 - Affect ongoing affordability of land and protect a way of life: can these be better addressed by the current use program or other program?
- Means test for eligibility, or for level of tax relief?
- Exclude nonresidents?
- Add town watershed and forest land?
- Add land used for tourism and recreation/education?

3. Noncontiguous land

- Should land which is enrolled but not contiguous to the housesite parcel be allowed to be taxed at the homestead tax rate (instead of the nonresidential rate)?
- Should employee housing which is on a parcel not enrolled and not contiguous to an enrolled parcel qualify as a "farm building"?

4. Ag compliance

- Should enrolled agricultural land be consistently monitored to ensure that it still qualifies under the "agricultural land" definition? (This is not a proposal to monitor farm practices.)

5. Development rights

- Does severance of development rights:
 - result in "double dipping"?

- result in a change in parcel value (either up or down)?

6. Tiered system

- Should there be more than one level of benefits for:
 - posted land?
 - income level of owner?
 - uncropped, former pasture land?
 - tourism and recreation/education?

7. Definition of "agricultural land", "forest land", "farmer"

- Should qualified land include uncropped, former pasture land?
- Should definitions move from the idea of "production" to broader uses?
- Should the 50% farm income test be changed?

8. Agricultural maps

- Should standards be the same for PVR maps and NRCS maps?

9. Definition of "housesite"

- How should cluster housing be handled?
- Should "housesite" be defined the same way for the property tax adjustment system as it is in current use law?

10. Use value methodology

- What formula should be used?
- How frequently should the value be re-set?

APPENDIX C
Proposed Legislation

Referred to Committee on

Date:

Subject: Taxation and finance; property tax; agricultural and forest land

Statement of purpose: This bill proposes to enact the proposals of the Use Value Appraisal Task Force.

AN ACT RELATING TO USE VALUE APPRAISAL PROGRAM

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. FINDINGS; INTENT

- (a) The general assembly finds that the use value appraisal program:
- (1) Continues to achieve the goals of the program;
 - (2) Needs electronic coordination;
 - (3) Must have staff increases at the division of property valuation and review and at the Department of forests, parks and recreation;
 - (4) Needs administrative streamlining;
 - (5) Should provide consistent oversight between the agricultural and forest land programs;
 - (6) Should generate more funding for sufficient administration of the program;
 - (7) Has serious misperceptions about it in the minds of the general public, listers, potentially eligible landowners, enrolled landowners, attorneys, and realtors that the state must lead an educational effort to correct.
- (b) Therefore the general assembly intends that this act will improve this successful program.

* * * New Application at Time of Transfer of Ownership * * *

Sec. 1. 32 V.S.A. § 3756(e) is amended to read:

(e) Once a use value appraisal has been applied for and granted under this section, such appraisal shall remain in effect for subsequent tax years pursuant to the provisions of subsection (f) of this section, and until the property concerned is transferred to another owner or is no longer eligible under provisions of section 3752 or 3755 of this chapter, or due to a change of use or as otherwise provided in section 3757 of this chapter. If enrolled property is transferred to another owner, the new owner shall be entitled to continue to have the eligible property appraised at its use value provided the property remains eligible and provided the new owner shall elect continuation of use value appraisal on the property transfer tax return at the time of transfer and, within 30 days of the transfer, have applied to the director and paid the fees described in this subsection (e). The grant of use value appraisals of agricultural forest land and farm buildings shall be recorded in the land records of the municipality by the clerk of the municipality. The department of taxes may collect from applicants the fees specified in subdivision 1671(a)(6) or subsection 1671(c) of this title, for deposit in a special fund established and

managed pursuant to subchapter 5 of chapter 7 of this title, and which shall be available as payment for the fees of the clerk of the municipality.

Sec. 2. PROPERTY TRANSFER TAX RETURN

The commissioner of taxes shall amend the property transfer tax return to include an election to continue eligible property in the use value appraisal program at time of transfer to a new owner, as allowed under 32 V.S.A. § 3756(e).

* * * Application Fee * * *

Sec. 3. 32 V.S.A. § 3756(a) is amended to read:

(a) The owner of eligible agricultural land, farm buildings or managed forest land shall be entitled to have eligible property appraised at its use value provided the owner shall have applied to the director on or before September 1 of the previous tax year, on a form approved by the board and provided by the director. A fee of \$25.00 shall accompany the application. A farmer, whose application has been accepted on or before December 31 by the director of the division of property valuation and review of the department of taxes for enrollment for the use value program for the current tax year, shall be entitled to have eligible property appraised at its use value, if he or she was prevented from applying on or before September 1 of the previous year due to the severe illness of the farmer.

* * * Increase Time and Flexibility to Inspect Forest Parcels * * *

Sec. 4. 32 V.S.A. § 3755(c) is amended to read:

(c) ~~At intervals not to exceed five years, the~~ The department of forests, parks and recreation shall ~~audit periodically review~~ the management plans and each year review the conformance reports ~~for each parcel of managed forest land qualified for use value appraisal. Likewise, at .~~ that have been filed ~~At intervals not to exceed five~~ ten years, that department shall inspect each ~~tract~~ parcel of managed forest land qualified for use value appraisal to verify that the terms of the management plan have been carried out in a timely fashion. If that department finds that the management of the tract is contrary to the conservation or forest management plan, or contrary to the minimum acceptable standards for conservation or forest management, it shall file with the owner, the assessing officials and the director an adverse inspection report within 30 days of the inspection.

* * * Allow for Management of Ecological Areas * * *

Sec. 5. COMMISSIONER OF FORESTS, PARKS AND RECREATION

The commissioner of forests, parks and recreation shall amend the minimum standards of forest management to expand the eligibility of Site 4 land and to allow certain identified areas not to be managed for timber production, as follows:

(1) A parcel may be eligible if no more than 20 percent of the acres to be enrolled are Site 4, plus open and not to be restocked within 2 years, plus ecologically significant areas designated by the department. These acres need not be managed for timber production.

(2) If more than 20 percent of the acres to be enrolled are Site 4 plus open plus ecologically significant and not to be managed for timber production, landowners may apply to the Commissioner for approval. The applications would be reviewed by the county foresters. In no situation would a parcel be approved that did not provide for at least 80 percent of the land classified

as Site 1, 2, or 3 to be managed for timber production. The commissioner should take note and consider the criteria developed by the National Heritage Program, the American Tree Farm System and the Forest Stewardship Council, in addition to the criteria submitted in testimony, for determining ecologically sensitive areas.

(3) The amended standards shall be in effect before September 1, 2008.

* * * Flexibility in Updating Use Value on Town Grand List * * *

Sec. 6. 32 V.S.A. § 4111(e) and (g) are amended to read:

(e) When the listers return the grand list book to the town clerk, they shall notify by first class mail, on which postage has been prepaid and which has been addressed to their last known address, all affected persons, listed as property owners in the grand list book of any change in the appraised value of such property or any change in the allocation of value to the homestead as defined under subdivision 5401(7) of this title or the housesite as defined under subdivision 6061(11) of this title, and also notify them of the amount of such change and of the time and place fixed in the public notice hereinafter provided for, when persons aggrieved may be heard. No notice shall be required for a change solely to reflect a new use value set by the current use advisory board. Notices shall be mailed at least 14 days before the time fixed for hearing. Such personal notices shall be given in all towns and cities within the state, anything in the charter of any city to the contrary notwithstanding. At the same time the listers shall post notices in the town clerk's office and in at least four other public places in the town or in the case of a city, in such other manner and places as the city charter shall provide, setting forth that they have completed and filed such book as an abstract and the time and place of the meeting for hearing grievances and making corrections. Unless the personal notices required hereby were sent by registered or certified mail, or unless an official certificate of mailing of the same was obtained from the post office, in the case of any controversy subsequently arising it shall be presumed that the personal notices were not mailed as required.

(g) A person who feels aggrieved by the action of the listers and desires to be heard by them, shall, on or before the day of the grievance meeting, file with them his or her objections in writing and may appear at such grievance meeting in person or by his or her agents or attorneys. No grievance shall be allowed for a change solely to reflect a new use value set by the current use advisory board. Upon the hearing of such grievance, the parties thereto may submit such documentary or sworn evidence as shall be pertinent thereto.

* * * Municipalities Allowed to Enroll Land in Other Municipalities * * *

Sec. 10. 32 V.S.A. § 3752(10) is amended to read:

(10) "Owner" means the person who is the owner of record of any land, ~~provided that a municipality shall not be an owner for purposes of this subchapter.~~ When enrolled land is mortgaged, the mortgagor shall be deemed the owner of the land for the purposes of this subchapter, until the mortgagee takes possession, either by voluntary act of the mortgagor or foreclosure, after which the mortgagee shall be deemed the owner.

Sec. 11. EFFECTIVE DATE

This act shall apply to grand lists of April 1, 2009 and after.