

1 H.237

2 Introduced by Representative Clarkson of Woodstock

3 Referred to Committee on

4 Date:

5 Subject: Taxation; property tax; use value program

6 Statement of purpose: This bill proposes to eliminate the preferential property  
7 tax transfer tax rates for enrolled land and use the savings to fund a conversion  
8 of the use value program to electronic administration. The bill also proposes to  
9 change the rate of the land use change tax. The bill would change the way  
10 certain types of land are categorized and would provide an easy opt-out for  
11 landowners who are currently enrolled in the program but who do not like the  
12 changes created by this bill. The bill also would create a program study  
13 committee to consider how to improve the use value program in the future.

14 An act relating to the use value program

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

16 Sec. 1. REPEAL

17 32 V.S.A. § 9602(2) (providing preferential property transfer tax for land  
18 enrolled in the use value appraisal program) is repealed effective July 1, 2011.

1       Sec. 2. APPROPRIATION

2           (a) For fiscal year 2012, there is appropriated \$300,000.00 from the general  
3       fund to the use value appraisal program special fund created pursuant to  
4       32 V.S.A. § 3756(e) for the purpose of administering the program  
5       electronically.

6           (b) It is the intent of the general assembly to appropriate \$300,000.00 from  
7       the general fund to the use value appraisal program special fund to continue  
8       administering the program electronically and, after the conversion to electronic  
9       administration is complete, to continue to fund the general administration of  
10       the program.

11       Sec. 3. 32 V.S.A. § 3757 is amended to read:

12       § 3757. LAND USE CHANGE TAX

13           (a) Land which has been classified as agricultural land or managed forest  
14       ~~land~~ forestland pursuant to this chapter shall be subject to a land use change  
15       tax upon the development of that land, as defined in section 3752 of this  
16       chapter. ~~Said~~ The tax shall be at the rate of ~~20~~ 10 percent of the full fair  
17       market value of the changed land determined without regard to the use value  
18       appraisal; ~~or the tax shall be at the rate of 10 percent if the owner demonstrates~~  
19       ~~to the satisfaction of the director that the parcel has been enrolled continuously~~  
20       ~~more than 10 years. If changed land is a portion of a parcel, the fair market~~  
21       ~~value of the changed land shall be the fair market value of the changed land~~

1 ~~prorated on the basis of acreage, divided by the common level of appraisal.~~  
2 ~~Such~~ For purposes of the land use change tax, fair market value shall be  
3 ~~determined as of the date the land is no longer eligible for use value appraisal~~  
4 developed or at an earlier date, if the owner petitions for the determination  
5 pursuant to subsection (c) of this section and pays the tax within 30 days of  
6 notification from the local assessing official. This tax shall be in addition to  
7 the annual property tax imposed upon such property. Nothing in this section  
8 shall be construed to require payment of an additional land use change tax  
9 upon the subsequent development of the same land, nor shall it be construed to  
10 require payment of a land use change tax merely because previously eligible  
11 land becomes ineligible, provided no development of the land has occurred.

12 (b) Any owner of eligible land who wishes to withdraw land from use  
13 value appraisal shall ~~petition for a determination of the fair market value of the~~  
14 ~~land at the time of the withdrawal~~ notify the director. Thereafter land which  
15 has been withdrawn shall be appraised and listed at its full fair market value in  
16 accordance with the provisions of chapter 121 of this title and subdivision  
17 3756(d) of this title, according to the appraisal model and land schedule of the  
18 municipality. ~~Said determination of the fair market value shall be used in~~  
19 ~~calculating the amount of the land use change tax that shall be due when and if~~  
20 ~~the development of the land occurs.~~ If the withdrawal happens between  
21 April 1 and July 1 and the local assessing official determines that development

1 has taken place before July 1, the local assessing official may treat the  
2 withdrawn land as if it had been withdrawn on March 31 of that year.

3 (c) ~~The~~ For the purposes of the land use change tax, the determination of  
4 the fair market value of the land ~~as of the date the land is no longer eligible for~~  
5 ~~a use value appraisal, or as of the time of the withdrawal of the land from use~~  
6 ~~value appraisal,~~ shall be made by the ~~director~~ local assessing officials in  
7 accordance with the provisions of subsection (b) of this section and divided by  
8 the municipality's most recent common level of appraisal as determined by the  
9 director. The determination shall be made within 30 days after the date that the  
10 owner ~~or assessing officials petition~~ petitions for the determination and shall be  
11 effective on the date ~~of dispatch~~ the notice is sent to the owner. The director  
12 may initiate a determination on his or her own initiative following written  
13 notice to the owner and a period of not less than 30 days for the owner to  
14 respond. The director shall also send a copy of the notice to the local assessing  
15 officials and to the secretary of agriculture, food and markets if the land is  
16 agricultural land and to the commissioner of forests, parks and recreation if the  
17 land is managed forestland.

18 (d) The land use change tax shall be due and payable by the owner 30 days  
19 after the tax notice is mailed to the taxpayer. The tax shall be paid to the  
20 ~~commissioner for deposit into the general fund~~ municipality in which the land  
21 is located. The ~~commissioner~~ local assessing officials shall issue a form to the

1 ~~assessing officials~~ director which shall provide for a description of the land  
2 ~~developed~~ for which the tax is due, the amount of tax payable, and the fair  
3 market value ~~of the land at the time of development or withdrawal from use~~  
4 ~~value appraisal~~ used to calculate the tax. The owner shall fill out the form and  
5 shall sign it under the penalty of perjury. After receipt of payment, the  
6 ~~commissioner~~ local assessing officials shall furnish the owner with one copy,  
7 ~~shall~~ retain one copy ~~and shall~~ , forward one copy to the ~~local assessing~~  
8 ~~officials and~~ commissioner along with one-half of the tax collected, forward  
9 one copy to the register of deeds of the municipality in which the land is  
10 located, forward one copy to the secretary of agriculture, food and markets if  
11 the land is agricultural land, and forward one copy to the commissioner of  
12 forests, parks and recreation if the land is managed forestland. ~~Thereafter, the~~  
13 ~~land which has been developed shall be appraised and listed at its full fair~~  
14 ~~market value in accordance with the provisions of chapter 121 of this title.~~

15 (e) The owner of any classified land receiving use value appraisal under  
16 this subchapter shall immediately notify the director, local assessing officials,  
17 the secretary of agriculture, food and markets if the land is agricultural land,  
18 and the commissioner of forests, parks and recreation if the land is managed  
19 forestland of:

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1       Sec. 4. 32 V.S.A. § 3756(d) is amended to read:

2           (d) The assessing officials shall appraise qualifying agricultural and  
3       managed forest land and farm buildings at use value appraisal as defined in  
4       subdivision 3752(12) of this title. If the land to be appraised is a portion of a  
5       parcel, the assessing officials shall:

6           (1) determine the contributory value of each portion such that the fair  
7       market value of the total parcel is comparable with other similar parcels in the  
8       municipality; and

9           (2) notify the landowner according to the procedures for notification of  
10      change of appraisal. The portion of the parcel that is not to be appraised at use  
11      value shall be appraised at its fair market value determined in this subsection.

12      Sec. 5. 32 V.S.A. § 3752(12) is amended to read:

13           (12) “Use value appraisal” means, with respect to land, the price per  
14      acre which the land would command if it were required to remain henceforth in  
15      agriculture or forest use, as determined in accordance with the terms and  
16      provisions of this subchapter. With respect to farm buildings, “use value  
17      appraisal” means zero percent of fair market value. ~~The director shall annually  
18      provide the assessing officials with a list of farm sales, including the town in  
19      which the farm is located, the acreage, sales price, and date of sale.~~

1       Sec. 6. 32 V.S.A. § 3756(i) is amended to read:

2           (i) The director shall remove from use value appraisal an entire parcel of  
3       managed forest land and notify the owner in accordance with the procedure in  
4       subsection (b) of this section when the department of forests, parks and  
5       recreation has not received a required management activity report or has  
6       received an adverse inspection report, unless the lack of conformance consists  
7       solely of the failure to make prescribed planned cutting. In that case, the  
8       director may delay removal from use value appraisal for a period of one year at  
9       a time to allow time to bring the parcel into conformance with the plan.

10       Sec. 7. THE FUTURE OF THE USE VALUE APPRAISAL PROGRAM

11           (a) Given the critical importance of Vermont’s use value appraisal program  
12       to the state’s agricultural and forest industries as well as to the state’s rural  
13       character and quality of life and in response to continuing fiscal challenges, the  
14       general assembly finds that multiple strategies are needed to strengthen the  
15       effectiveness, efficiency, and fairness of the use value appraisal program and to  
16       find additional revenue generation or cost savings consistent with the  
17       program’s policy objectives.

18           (b) There is created a current use study committee to examine the existing  
19       formula for municipal reimbursement payments (“hold harmless payments”) to  
20       determine if the payments are equitable and appropriate in light of the  
21       reallocation of land use change tax payments under this act and, if not, to

1 propose an alternative formula. The committee shall issue a report no later  
2 than January 15, 2012, and the report should be submitted to the house  
3 committees on agriculture, on natural resources and energy, on fish, wildlife  
4 and water resources, and on ways and means and to the senate committees on  
5 agriculture, on natural resources and energy, and on finance. The members of  
6 the study committee shall be:

7 (1) The director of property valuation and review, who shall serve as the  
8 chair of the committee and shall call the first meeting of the committee on or  
9 before September 1, 2011;

10 (2) The secretary of commerce and community development or  
11 designee;

12 (3) The executive director of the Vermont Housing and Conservation  
13 Board or designee;

14 (4) Two representatives of the Vermont League of Cities and Towns,  
15 one from a rural community and one from an urban community, appointed by  
16 its board of directors;

17 (5) A member of the house appointed by the speaker of the house;

18 (6) A member of the senate appointed by the committee on committees;

19 (7) A member of the public appointed by the governor;

20 (c) Members of the committee who are not state employees shall be entitled  
21 to compensation as provided under 32 V.S.A. § 1010.

1           (d) The general assembly has identified potential areas of additional  
2           legislative action. These issues include:

3           (1) The extent and degree of over-assessment of enrolled or conserved  
4           land, including land permanently protected by conservation easements, and  
5           ensuring a consistent approach to assessment from town to town;

6           (2) The need to create incentives for landowners who keep enrolled land  
7           open for public recreation;

8           (3) the eligibility of agricultural parcels of less than 25 acres and the  
9           feasibility of developing productivity standards for such parcels;

10           (4) Methods by which the state can enhance the long-term financial  
11           sustainability of the program without damaging its long-term effectiveness in  
12           maintaining working farms, forests, and open space, including the feasibility of  
13           using a tiered current use tax for lands devoted to different levels of production  
14           or conservation and availability for public recreational access;

15           (5) The identification and analysis of lands removed from the program  
16           over the past ten years and the subsequent use of those parcels;

17           (6) The application of the land use change tax to timber harvesting  
18           operations after the approved forest management plan has expired and the land  
19           is no longer enrolled in current use;

20           (7) The effect of allowing an owner to relocate an undeveloped  
21           withdrawn site of two acres or less once within an enrolled parcel without

1 incurring the land use change tax, provided there is no net reduction in the area  
2 of enrolled land;

3 (8) Creating a system of oversight for agricultural land that is  
4 comparable and consistent with the oversight of forestland.

5 (e) Individuals and organizations who are interested in the issues listed in  
6 subsection (d) are encouraged to create working groups to study these issues  
7 and develop potential solutions. They are further encouraged to submit their  
8 findings and recommendations to the general assembly on or before  
9 December 1, 2011 and any additional findings and recommendations on or  
10 before December 1, 2012. The reports should be submitted to the house  
11 committees on agriculture, on natural resources and energy, on fish, wildlife  
12 and water resources, and on ways and means and to the senate committees on  
13 agriculture, on natural resources and energy, and on finance.

14 Sec. 8. USE VALUE APPRAISAL "EASY-OUT"

15 Notwithstanding any other provision of law, an owner of property enrolled  
16 in use value appraisal under chapter 124 of Title 32 as of the passage of this act  
17 who elects to discontinue enrollment of the entire parcel may be relieved of the  
18 first \$100,000.00 of land use change tax imposed pursuant to section 3757 of  
19 that title; provided that if the property owner does elect to discontinue  
20 enrollment and be relieved of the first \$100,000.00 of land use change tax, the  
21 owner shall pay the full property tax, based upon the property's full fair market

1 value, for the 2011 assessment, and no state reimbursement shall be paid for  
2 that land. No property owner shall be relieved of more than \$100,000.00 in  
3 land use change tax under this provision. An election to discontinue  
4 enrollment under this provision is effective only if made in writing to the  
5 director of property valuation and review on or before November 1, 2011; and  
6 no owner who elects to discontinue enrollment under this section, or any  
7 successor owner, shall re-enroll less than the entire withdrawn parcel in the  
8 succeeding five years. If the property owner withdraws less than the entire  
9 parcel, the provisions of this section do not apply.

10 Sec. 9. LIMITATION ON EASY-OUT

11 The "easy-out" provided for in Sec. 5 of this act shall not be available for  
12 any parcel that has been developed, as that term is defined in 32 V.S.A.  
13 § 3752(5), prior to passage of this act.

14 Sec. 10. EFFECTIVE DATE AND TRANSITION RULES

15 (a) Subject to Sec. 5 of this act, property withdrawn from the use value  
16 appraisal program on or before November 1, 2011, but not developed before  
17 that date shall be subject to the land use change tax under the provisions of  
18 32 V.S.A. § 3757 in effect at the time of withdrawal; and revenues from the  
19 land use change tax paid on any such property shall be paid to the  
20 commissioner for deposit into the general fund.

21 (b) Sec. 3 of this act shall take effect on November 2, 2011.

1        (c) All other sections of this act shall take effect on July 1, 2011.