

To: Senate Natural Resources and Energy Committee

From: Jamey Fidel  
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Vermont Natural Resources Council

Re: H.329

Date: April 17, 2014

Thank you for the opportunity to testify on H.329. Vermont's Current Use Program is one of the most important and successful programs for maintaining Vermont's working lands and rural character. VNRC has been a long-standing supporter of the Program, and we appreciate the opportunity to testify on potential changes to the Current Use Program.

### **Revenue Options:**

It seems that even with the best of intentions to leave the Current Use Program intact, when budget discussions come up in the State House, current use is mentioned because of concerns over property tax rates. This year is a good example where we see school boards struggling, and various letters from the public raise the issue of whether current use taxation is fair. We believe current use or use value appraisal is fair taxation, and the benefits far outweigh the costs, but if revenue is a concern, and in order to maintain the credibility of the Program, we believe the penalty should be strengthened. We think this is a much better policy versus capping enrollees in the Program, which was proposed in an earlier version of H.329.

According to a study that was performed for the Legislature back in 2007, the development penalty, or land use change tax, is an effective disincentive for temporary enrollment of land when the landowner intends to develop the **entire parcel**. The land use change tax, however, is not an effective disincentive for temporary enrollment of land when the landowner intends to develop a **portion of the parcel**.

Increasing the development penalty would address the issue that partial withdrawal penalties are diluted due to the methodology of pro-rating the penalty on the basis of acreage, divided by the common level of appraisal. As one forester told me, she counsels landowners to always enroll land because the penalty for withdrawing a portion of land will amount to the cost one to two windows that are being installed in a new house. Quite simply, the penalty for partial withdrawal is weak.

The version of H.329 that passed out of the Senate Agriculture Committee strengthens the penalty for partial withdrawal of parcels enrolled for less than ten years, which will help discourage short-term enrollment or "parking" in the program. The Agriculture Committee, however, did not strengthen the penalty for partial withdrawal that occurs if landowners have been enrolled for 10 or more years. The House version of H.329 suggests strengthening the penalty for partial withdrawal, but with a tiered down approach based on the number of years enrolled. We encourage you to look at the merits of strengthening the penalty beyond ten years

of enrollment as a way to support long-term enrollment, and provide a revenue source to keep the program growing.

**Appraisal/Audit Considerations:**

We support the concept of ensuring consistent appraisal by local officials. This pertains to lands that are enrolled in current use, and lands that have conservation easements. Requiring a certain amount of audits may be one effective method to ensure consistent valuation.

We also strongly encourage you to add Section 8 of H.329 as passed by the House, which required the Director of Property Valuation and Review to publish guidance for local official concerning how to assess land (1) subject to use value appraisal and (2) permanently encumbered by a conservation easement. This last point is important because not all land that is conserved by an easement is enrolled in current use, and because assessment rates may vary across the state, some landowners with easements have had to appeal their appraisals to achieve the correct valuation. Requiring the Director of Property Valuation and Review to publish guidance for local assessing officials concerning how to apply the methodologies in a consistent manner across the State is good policy.

**Other Considerations:**

We support the floating two-acre concept.

We support greater flexibility for enrolling ESTA's or Ecologically Significant Treatment Areas. Only approximately 1,000 acres have been enrolled out of the 1.7 million acres of forestland that is enrolled in UVA. These areas serve important ecological functions and should be enrolled in the Program to compliment areas that are actively managed. Keeping them out of the program is not a good solution.

We support Section 11 and the desire to ensure that there is adequate staffing of foresters to reflect the growth of forestland parcels in the Program.

*Sec. 8. ASSESSMENT OF PROPERTY*

On or before April 15, 2014, the Director of Property Valuation and Review shall publish guidance for the local assessing officials concerning:

- (1) how to assess land permanently encumbered by a conservation easement;
- (2) how to assess land subject to a use value appraisal; and
- (3) how to apply the methodologies in subdivisions (1) and (2) of this section in a consistent manner across the State.

*Sec. 9. REPEAL OF WASTEWATER PROVISIONS*

The following provisions are repealed:

- (1) 2011 Acts and Resolves No. 45, Sec. 13a (wastewater permits);
- (2) 2012 Acts and Resolves No. 143, Secs. 41 through 43 (wastewater permits).

*Sec. 10. EFFECTIVE DATE AND TRANSITION RULES*

(a) Subject to Sec. 6 of this act, property withdrawn from use value appraisal on or before October 1, 2013 but not developed before that date shall be subject to the land use change tax under the provisions of 32 V.S.A. § 3757 in effect at the time of withdrawal; and revenues from the land use change tax paid on any such property shall be paid to the Commissioner for deposit into the General Fund.

