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## MEMORANDUM

**TO:** Steve Klein, Chief Fiscal Officer, Joint Fiscal Office  
**FROM:** Andrew Pallito, Commissioner, Finance and Management  
**THRU:** Justin Johnson, Secretary, Agency of Administration  
**RE:** Additional Language and Language Updates for the FY 2017 Governor's Recommended Budget  
**DATE:** February 3, 2016

In addition to the language submitted to the Joint Fiscal Office as part of the Governor's FY 2017 Budget Recommendation, the Administration requests that the language included in this memo and in the attached memos from the Department of Mental Health and the Agency of Education be included in the language recommendation of the Governor.

ANR Pilot:

**Sec. E. 701** 32 V.S.A. § 3708 is amended to read:

### § 3708. PAYMENTS IN LIEU OF TAXES FOR LANDS HELD BY THE AGENCY OF NATURAL RESOURCES

(a) ~~All ANR land, excluding buildings or other improvements thereon, shall be appraised at fair market value by the Director of Property Valuation and Review and listed separately in the grand list of the town in which it is located. Annually, the State shall pay to each municipality an amount of 0.5 percent of the Director's appraisal value for the current year for ANR land. The State shall annually pay to each municipality a payment in Lieu of taxes (PILOT) that shall be the base payment as set forth herein, for all ANR land, excluding buildings or other improvements thereon, as of April 1 of the current year.~~

(b) ~~"ANR land" in this section means lands held by the Agency of Natural Resources. The State shall establish the base payment for all ANR land, excluding buildings or other improvements thereon, as follows:~~

(1) ~~On parcels acquired before April 1, 2016, 0.6 percent of the fair market value as appraised by the Director of Property Valuation and Review as of fiscal year 2015;~~

(2) ~~On parcels acquired after April 1, 2016, the municipal tax rate of the fair market value as assessed by the municipality in which it is located.~~

(c) ~~"Municipality" in this section means an incorporated city, town, village, or unorganized town, grant or gore in which a tax is assessed for noneducational purposes. Annually each base payment will be adjusted by the rolling three year average of the statewide median municipal tax rate change as determined by the Director of Property Valuation and Review. The adjusted base payment will become the base payment for the next fiscal year. This subsection shall take effect in fiscal year 2022.~~

(d) ~~"Fair market value" in this section shall be based upon the value of the land at its highest and best use determined without regard to federal conservation restrictions on the parcel or any conservation restrictions under a state agreement made with respect to the parcel. Any adjustment~~

to the acreage of any existing ANR parcel will result in the change of the base payment for the year that change occurs in. A per acre payment will be determined for the parcel. This per acre payment will be either added or subtracted from the base payment as necessary for the number of acres that need to be adjusted.

(e) The Selectboard of a town aggrieved by the appraisal of property by the Division of Property Valuation and Review under this subsection (b) (1) may, within 21 days after the receipt by the town listers of notice of the appraisal of its property by the Division of Property Valuation and Review in fiscal year 2017 only, appeal from that appraisal to the Superior Court of the district in which the property is situated.

**EXPLANATION:** See Explanation in Sec. E.701.1

**Sec. E.701.1** Section E.701.2 of Acts and resolves No. 58 of the 2015 Session is amended to read: PAYMENT IN LIEU OF TAXES FOR AGENCY OF NATURAL RESOURCES LANDS IN FISCAL YEARS 2017, ~~AND 2018, 2019, 2020 & 2021~~

(a) Notwithstanding the requirements of 32 V.S.A. § 3708 to the contrary, for purposes of payment in lieu of taxes (PILOT) for lands held by the Agency of Natural Resources, the State shall pay to each municipality:

(1) in fiscal year 2017, the PILOT amount received by the municipality in fiscal year 2016 plus or minus one-third~~fourth~~ of the difference between the PILOT amount the municipality received in fiscal year 2016 and the PILOT amount the municipality would receive under 32 V.S.A. § 3708, ~~as amended by Sec. E.701.1 of this act;~~ and;

(2) in fiscal year 2018, the PILOT amount received by the municipality in fiscal year 2016 plus or minus two-thirds~~fourths~~ of the difference between the PILOT amount the municipality received in fiscal year 2016 and the PILOT amount the municipality would receive under 32 V.S.A. § 3708, ~~as amended by Sec. E.701.1 of this act and;~~

(3) in fiscal year 2019, the PILOT amount received by the municipality in fiscal year 2016 plus or minus three-fourths of the difference between the PILOT amount the municipality received in fiscal year 2016 and the PILOT amount the municipality would receive under 32 V.S.A. § 3708.

(b) If the Agency of Natural Resources acquires land in a municipality after April 1, 2015~~6~~, the State shall make a PILOT payment on the newly acquired land to the municipality under ~~Sec. E.701.1 of this act~~ 32 V.S.A. § 3708, and the newly acquired land shall not be subject to this section.

(c) If the PILOT amount to be received by a municipality under 32 V.S.A. § 3708, as of April 1, 2016, is:

(1) more than \$25,000 less than that municipality's PILOT payment in fiscal year 2016 the municipality will receive an additional payment of \$3,000 in fiscal years 2017, 2018, 2019, 2020 and 2021;

(2) between \$24,999 and \$20,000 less than that municipality's PILOT payment in fiscal year 2016 the municipality will receive an additional payment of \$2,500 in fiscal years 2017, 2018, 2019, 2020 and 2021;

(3) between \$19,999 and \$15,000 less than that municipality's PILOT payment in fiscal year 2016 the municipality will receive an additional payment of \$2,000 in fiscal years 2017, 2018, 2019, 2020 and 2021;

(4) between \$14,999 and \$10,000 less than that municipality's PILOT payment in fiscal year 2016 the municipality will receive an additional payment of \$1,500 in fiscal years 2017, 2018, 2019, 2020 and 2021;

(5) between \$9,999 and \$7,500 less than that municipality's PILOT payment in fiscal year 2016 the municipality will receive an additional payment of \$1,000 in fiscal years 2017, 2018, 2019, 2020 and 2021;

(6) between \$7,499 and \$5,000 less than that municipality's PILOT payment in fiscal year 2016 the municipality will receive an additional payment of \$500 in fiscal years 2017, 2018, 2019, 2020 and

2021:

(7) more than \$25,000 more than that municipality's PILOT payment in fiscal year 2016 the municipality will receive \$3,000 less in fiscal years 2017, 2018, 2019, 2020 and 2021;

(8) between \$24,999 and \$20,000 more than that municipality's PILOT payment in fiscal year 2016 the municipality will receive \$2,500 less in fiscal years 2017, 2018, 2019, 2020 and 2021;

(9) between \$19,999 and \$15,000 more than that municipality's PILOT payment in fiscal year 2016 the municipality will receive \$2,000 less in fiscal years 2017, 2018, 2019, 2020 and 2021;

(10) between \$14,999 and \$10,000 more than that municipality's PILOT payment in fiscal year 2016 the municipality will receive \$1,500 less in fiscal years 2017, 2018, 2019, 2020 and 2021;

(11) between \$9,999 and \$7,500 more than that municipality's PILOT payment in fiscal year 2016 the municipality will receive \$1,000 less in fiscal years 2017, 2018, 2019, 2020 and 2021;

(12) between \$7,499 and \$5,000 more than that municipality's PILOT payment in fiscal year 2016 the municipality will receive \$500 less in fiscal years 2017, 2018, 2019, 2020 and 2021.

**EXPLANATION:** Sections B. 701 and 701.1 implement Agency of Natural Resources and the Division of Property Valuation and Review (PVR) recommendations for PILOT for State Lands. The FY 2016 big bill, Act 58 included language that would implement "Option A" as outlined in the November 15, 2014 Report on Annual Payments In Lieu of Taxes to Towns For Land Owned By the Agency of Natural Resources. This was not done as a result of preference for "Option A", but rather to have a default option ready pending further study. ANR worked with the stakeholders to develop an optimally fair methodology for PILOT accordingly: base PILOT payment for parcels acquired by ANR before April 1, 2016 will be 1% of the Fair Market Value (FMV) as determined by PVR, prorated to 60%. Base PILOT payment for parcels acquired by the Agency of Natural Resources after April 1, 2016 will be the municipal tax rate multiplied by the town assessed FMV for the most recent tax year. Each base payment will be adjusted by the rolling three-year average of the statewide median municipal tax rate change as determined by the Director of Property Valuation and Review annually. The adjusted base payment will become the base payment for the next fiscal year. This new formula will be phased in over 4 years. A buffer is put on towns receiving the biggest gains and losses during the phase in. This option is estimated to control growth in PILOT payments compared to a system based on periodic reappraisal.

**Sec. E.233** 30 V.S.A. § 20 is amended to read:

§ 20. Particular proceedings; personnel

(a)(1) The Board or Department may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, and other research, scientific, or engineering services:

(i) To assist the Board or Department in any proceeding listed in subsection (b) of this section.

(ii) To monitor compliance with any formal opinion or order of the Board.

(iii) In proceedings under section 248 of this title, to assist other State agencies that are named parties to the proceeding where the Board or Department determines that they are essential to a full consideration of the petition, or for the purpose of monitoring compliance with an order resulting from such a petition.

(iv) In addition to the above, in proceedings under subsection 248(h) of this title, by contract with the regional planning commission of the region or regions affected by a proposed facility, to assist in determining conformance with local and regional plans and to obtain the commissions data, analysis, and recommendations on the economic, environmental, historic, or other impact of the proposed facility in the region.

(v) To assist in monitoring the ongoing and future reliability and the postclosure activities of any nuclear generating plant within the State. For the purpose of this subdivision, "postclosure activities" includes planning for and implementation of any action within the State's jurisdiction that shall or will occur when the plant permanently ceases generating electricity.

(2) The Agency of Natural Resources and the Department of Health may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, and other research, scientific, or engineering services to:

(A) Assist ~~Agency of Natural Resources~~ in any proceeding under section 248 of this title.

(B) Monitor compliance with an order issued under section 248 of this title.

(C) Assist in monitoring the postclosure activities of any nuclear generating plant within the State. For the purpose of this subdivision, "postclosure activities" includes planning for and implementation of any action within the State's jurisdiction that shall or will occur when the plant permanently ceases generating electricity.

~~(C)(D)~~ Assist the Board or Department in any proceedings described in subdivisions (b)(9) (Federal Energy Regulatory Commission) and (11) (Nuclear Regulatory Commission) of this section. Allocation of Agency of Natural Resources costs under this subdivision (C) shall be in the same manner as provided under subdivisions (b)(9) and (11) of this section. The Agency of Natural Resources shall report annually to the Joint Fiscal Committee all costs incurred and expenditures charged under the authority of this subsection with respect to proceedings under subdivision (b)(9) of this section and the purpose for which such costs were incurred and expenditures made.

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**EXPLANATION:** This is technical and clarifying language to the State's existing bill-back authority in Title 30. Allows additional Agencies/Departments to use the bill back authority. Related to Sec. B.233.1.

**Sec. E.233.1** 30 V.S.A. § 21 is amended to read:

§ 21. Particular proceedings; assessment of costs

(a) As used in this section, the word "Agency" or "Agencies" means a state agency or department that may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, and other research, scientific, or engineering services under section 20 of this chapter, and includes the Agency of Natural Resources and the Department of Health.

~~(a)(b)~~ The Board, the Department, or the ~~Agencies Agency of Natural Resources~~ may allocate the portion of the expense incurred or authorized by it in retaining additional personnel ~~for the particular proceedings as authorized in section 20 of this title to the applicant or the public service company or companies involved in those particular proceedings.~~

(1) The Board shall upon petition of an applicant or public service company to which costs are proposed to be allocated, review and determine, after opportunity for hearing, having due regard for the size and complexity of the project, the necessity and reasonableness of such costs, and may amend or revise such allocations. Nothing in this section shall confer authority on the Board to select or decide the personnel, the expenses of whom are being allocated, unless such personnel are retained by the Board. Prior to allocating costs, the Board shall make a determination of the purpose and use of the funds to be raised hereunder, identify the recipient of the funds, provide for allocation of costs among companies to be assessed, indicate an estimated duration of ~~the~~ any proceedings, and estimate the total costs to be imposed. With the approval of the Board, such estimates may be revised as necessary. From time to time during the progress of the work of such additional personnel, the Board, the Department, or the ~~Agencies Agency of Natural Resources~~ of Natural Resources shall render to the company detailed statements showing the amount of money expended or contracted for in the work of such personnel, which statements shall be paid by the applicant or the public service company into the State Treasury at such time and in such manner as the Board, the Department, or the Agency of Natural Resources may reasonably direct.

(2) In any proceeding under section 248 of this title, the ~~Agencies Agency of Natural Resources~~ may allocate the portion of the expense incurred in retaining additional staff authorized in subsection 21(a) of this title only if the following apply:

(A) the ~~Agency Agencies~~ does not have the expertise and the retention of such expertise is required to fulfill the ~~Agency's Agencies'~~ statutory obligations in the proceeding; and

(B) the ~~Agency~~ Agencies allocates only that portion of the cost for such expertise that exceeds the fee paid by the applicant under section 248b of this title.

~~(b)(c)~~ When regular employees of the Board, the Department, or the ~~Agencies~~ Agency of Natural Resources are employed in the particular proceedings described in section 20 of this title, the Board, the Department, or the ~~Agencies~~ Agency of Natural Resources may also allocate the portion of their costs and expenses to the applicant or the public service company or companies involved in the proceedings. The costs of regular employees shall be computed on the basis of working days within the salary period. The manner of assessment and of making payments shall otherwise be as provided for additional personnel in subsection (a) of this section. However, with respect to proceedings under section 248 of this title, the ~~Agency~~ Agencies shall not allocate the costs of regular employees.

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~~(e)(f)~~ On or before January 15, 2011, and annually thereafter, the ~~Agencies~~ Agency of Natural Resources shall report to the Senate and House Committees on Natural Resources and Energy the total amount of expenses allocated under this section during the previous fiscal year. The report shall include the name of each applicant or public service company to whom expenses were allocated and the amount allocated to each applicant or company.

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~~(g)(h)~~ The Board, ~~or~~ the Department, ~~or the Agencies,~~ with the approval of the Governor, may allocate such portion of expense incurred or authorized by it in compensating persons retained pursuant to subdivision 20(a)(1)(v) or 20(a)(2)(C) of this title to the nuclear generating plant whose activities are being monitored.

~~(h)(i)~~ Under subsections ~~(f) and (g)~~ and (h) of this section, the manner of assessment and making payments shall be as provided in subsection ~~(a)(b)(1)~~ (a)(b)(1) of this section. A generator or plant to which expense is allocated under subsection ~~(f) and (g)~~ and (h) of this section may petition the Board in accordance with the procedures of subsection ~~(a)(b)(1)~~ (a)(b)(1) of this section.

**EXPLANATION:** This is technical and clarifying language to the State's existing bill-back authority in Title 30. Allows additional Agencies/Departments to use the bill back authority. Related to Sec. B.233.