

# VERMONT DEPARTMENT OF TAXES

## USE VALUE MUNICIPAL REIMBURSEMENT REPORT

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### Act 57 of 2015, Sec. 54. MUNICIPAL REIMBURSEMENT PAYMENTS

(a) There is created a Use Value Appraisal Municipal Reimbursement Study Committee to examine the existing formula for municipal reimbursement payments (hold harmless payments) to determine if the payments are equitable and appropriate in light of the reallocation of land use change tax payments under this act and, if not, to propose an alternative formula. The Committee shall issue a report on or before January 15, 2016, and the report shall be submitted to the House Committees on Agriculture and Forest Products and on Ways and Means and to the Senate Committees on Agriculture and on Finance. The members of the Study Committee shall be:

- (1) the Director of Property Valuation and Review, who shall serve as the Chair of the Committee and shall call the first meeting of the Committee on or before September 1, 2015;
- (2) the Secretary of Agriculture, Food and Markets or designee;
- (3) the Commissioner of Forests, Parks and Recreation or designee;
- (4) the Executive Director of the Vermont Assessors and Listers Association or designee;
- (5) two representatives of the Vermont League of Cities and Towns, one from a rural community and one from an urban community, appointed by its Board of Directors;
- (6) a member of the House appointed by the Speaker of the House;
- (7) a member of the Senate appointed by the Committee on Committees; and
- (8) a member of the public appointed by the Governor who shall be a land owner with land subject to use value appraisal.

(b) Members of the Committee who are not employees of the State of Vermont shall be entitled to compensation as provided in 32 V.S.A. § 1010. Legislative members of the Committee shall be entitled to the same per diem compensation and reimbursement for necessary expenses for attendance at a meeting when the General Assembly is not in session as provided to members of standing committees under 2 V.S.A. § 406.

# USE VALUE MUNICIPAL REIMBURSEMENT REPORT

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## **SUBMITTED TO**

House Committees on Agriculture and Forest Products and on Ways and Means  
Senate Committees on Agriculture and on Finance

## **UNANIMOUSLY SUBMITTED BY**

Use Value Appraisal Municipal Reimbursement Study Committee

## **MEMBERS**

Douglas Farnham, Chair, Property Valuation and Review  
Representative Alison Clarkson  
Senator Michael Sirotkin  
Diane Bothfeld, Agency of Agriculture, Food, and Markets  
Keith Thompson, Department of Forests, Parks, and Recreation  
Randy Viens, Vermont Assessors and Listers Association  
Sue Janssen, Vermont League of Cities and Towns  
Kathleen Ramsay, Vermont League of Cities and Towns  
John McClain, member of the public and Governor's Appointee

## **DATE SUBMITTED**

January 15, 2017

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## Executive Summary

At the direction of the Legislature, a Committee consisting of eight members defined in Act 57 was formed to examine the existing formula for municipal reimbursement payments (hold harmless payments) to determine if the payments are equitable and appropriate in light of the reallocation of land use change tax payments under this act and, if not, to propose an alternative formula. Due to the number and scope of the changes made to the Use Value Appraisal Program, also known as “Current Use,” in 2015, the Committee gathered information on the impact of these changes prior to making a recommendation.

This report summarizes the current formula for calculating the hold harmless payments and presents information and statistics related to the hold harmless payments and Land Use Change Tax. It also describes how the Committee gathered sufficient information to determine whether an alternative hold harmless payment calculation formula is necessary.

Presently, the hold harmless payment is calculated annually based on the prior year grand list. The Current Use exemption for each parcel is calculated by the Municipal Lister or Assessor as defined in 32 V.S.A. § 3756(d) and can include enrolled land and farm buildings. This exemption amount reduces the municipal and statewide education tax paid by the landowner. For the purposes of the hold harmless payment, the exemption amount is then subjected to the municipal tax rates to calculate the payment amount for every enrolled parcel in Vermont. The calculation completely reimburses municipalities for municipal taxes not collected on properties enrolled in Current Use. Although it has not been necessary in recent years, the Director of Property Valuation & Review (PVR) may prorate if the appropriation is insufficient to cover the total cost. The payment is distributed annually on or before October 31.

The overall cost of the hold harmless payment has increased substantially in recent years (see Appendix B for further detail). Beginning in 2015, the Legislature requires the Division of PVR to select three towns annually for an audit of all parcels enrolled in Current Use and reduce the property values if a discrepancy greater than 10 percent is identified. Conducting these audits provided valuable insight into the factors behind the growth of the hold harmless payment and promote consistent valuation of land and buildings enrolled in Current Use.

### Timeline:

**January – March 2016:** 2015 Current Use Audit Report, Easy Out Impact Report, and LUCT revenue figures was distributed to Committee members

**April - August 2016:** Impact analysis of the annual agricultural certification process, and 2016 Current Use Audit Report, and LUCT revenue figures were distributed to the Committee members

**September – December 2016:** Committee reconvened over 3 sessions to consider new information and formulate recommendations.

**January 2017:** Present the Legislature with updated UVA Municipal Reimbursement Report

## Introduction and Charge

### Introduction

The Use Value Appraisal Municipal Reimbursement Study Committee consists of the Director of Property Valuation and Review (Douglas Farnham), the Secretary of Agriculture, Food and Markets or designee (Diane Bothfeld); the Commissioner of Forests, Parks and Recreation or designee (Keith Thompson); the Executive Director of the Vermont Assessors and Listers Association or designee (Randy Viens); two representatives of the Vermont League of Cities and Towns, one from a rural community (Sue Janssen) and one from an urban community (Kathleen Ramsay), appointed by its Board of Directors; a member of the House appointed by the Speaker of the House (Alison Clarkson); a member of the Senate appointed by the Committee on Committees (Michael Sirotkin); and a member of the public appointed by the Governor who shall be a land owner with land subject to use value appraisal (John McClain).

The Committee convened five times in 2015 with monthly meetings taking place from August to December and reconvened in September of 2016.

### Charge

The charge to the Committee is set out in Act 54, Section 65:

#### *Sec. 54. MUNICIPAL REIMBURSEMENT PAYMENTS*

*There is created a Use Value Appraisal Municipal Reimbursement Study Committee to examine the existing formula for municipal reimbursement payments (hold harmless payments) to determine if the payments are equitable and appropriate in light of the reallocation of land use change tax payments under this act and, if not, to propose an alternative formula. The Committee shall issue a report on or before January 15, 2016, and the report shall be submitted to the House Committees on Agriculture and Forest Products and on Ways and Means and to the Senate Committees on Agriculture and on Finance.*

## Major Factors Influencing Municipal Reimbursement

### Impacts of the New Land Use Change Tax Revenue Distribution

Until Oct 1, 2015, all LUCT revenues were paid to the State of Vermont. Effective Oct. 2, 2015, half of the LUCT collected (up to \$2,000 per transaction) will be distributed to the municipality, because the new calculation is dependent on municipal valuations of each portion of land being removed. It is highly difficult to forecast the financial impacts of this change. In cases where a landowner is developing small portions of a large parcel of land, the effects of this change could be significant; however, as larger portions of the parcels are withdrawn, the effect is diluted until there is no impact. If the land has been held for fewer than 10 years and the entire parcel is withdrawn, the landowner will owe less LUCT than he or she would have owed under the previous calculation method. The point at which the new method becomes a revenue loss over the old method depends on the municipality's land schedule and the size of the enrolled parcel. Land schedules, which drive the value assessed to acreage, are built during reappraisals and reflect real estate market data showing that as parcels of land become larger, the value per acre declines sharply at first and gradually plateaus.

This Committee has determined that the revenue streams of LUCT and hold harmless payments are too disparate in scale to be linked. The LUCT revenue has a historical average of \$526,000 and has fluctuated – showing neither a consistent positive or negative trend line. The hold harmless payments have demonstrated consistent growth of approximately 5 percent annually and the FY16 payment was \$14,647,867.

The impacts on behavior from this change could include a reduction in partial withdrawals, an increase in complete withdrawals from the Current Use Program, and potentially a reduction in the enrollment of parcels under 25 acres. If the average volume of current use discontinuances were to hold steady at between 400 and 500 annually, this would result in at most \$1,000,000 in revenue to municipalities annually.

The Committee believes that, based on the historical revenue figures shown in paragraph 2 of this section, the reallocation of the LUCT payments is not likely to have a significant enough impact to merit adjustment of the hold harmless calculation formula. To date, insufficient revenue data was available as many discontinuances are still being processed in December of 2016. Until the process is normalized, projections will not be meaningful.

### Conservation Easements

In 2015, the Vermont legislative session Act 57 Section 55 required the Director of Property Valuation & Review (PVR) to publish guidance on how to assess land permanently encumbered by a conservation easement or subject to use value appraisal by April 15, 2016. A significant number of parcels enrolled in current use are permanently encumbered by conservation easements. Guidance on how to assess fair market value may have a noticeable impact on the valuation of the enrolled land and the corresponding hold harmless payment.

Discussions on the guidance are ongoing and include representatives from the Vermont Land Trust, Vermont Housing and Conservation Board, and the Vermont Association of Listers and Assessors. The published guidance on conservation easements finalized in time to begin impacting property values for the 2016 grand list. A copy of this guidance is attached to the report.

## 2015 Current Use Audit Requirement

In the 2015 legislative session, Act 57 Section 56 added 32 V.S.A. § 3760a to require the Director of PVR to, audit on an annual basis, three towns with land enrolled in Current Use. The 2015 Current Use Audit was completed for the first three towns in January 2016.

The 2016 Current Use Audit is in progress as of December 2016. The expectation is that they will be completed by April 1, 2017 so that any changes can be included in the 2017 grand list. Results from the 2015 audits showed that, although there were some required adjustments, there was no evidence of intentional manipulation by the listers or assessors of the property values for parcels enrolled in current use.

## 2015 Easy-Out Program

In the 2015 legislative session Act 57 Section 53 created the “Easy-Out” program to allow Current Use enrollees to submit an application between July 1 and October 1, 2015, to discontinue enrollment in Current Use and be relieved of the first \$50,000 of the LUCT liability. For summary information on the results of the Easy-Out see Figure 1 below, and for more detail refer to Appendix A.

Figure 1: Easy-Out Summary Information

|                | Count | Acres  | LUCT Forgiven | LUCT Collected | Grand List Property Value |
|----------------|-------|--------|---------------|----------------|---------------------------|
| <b>Entire</b>  | 273   | 17,733 | \$3,486,182   | \$83,670       | \$26,501,294              |
| <b>Partial</b> | 606   | 6,697  | \$1,519,414   | \$5,689        | \$12,233,252 (estimate)   |
| <b>Denied</b>  | 20    | N/A    | N/A           | N/A            | N/A                       |

## Annual Agricultural Certification Status Report

The 2015 Vermont legislative session, Act 57 Section 57 required landowners to annually submit certification under oath to the Commissioner of Taxes that agricultural land and buildings enrolled in the Current Use program continue to meet the requirements for enrollment. In order to properly notify all enrollees subject to this new requirement for compliance purposes, the Department mailed all enrollees with agricultural land and/or buildings a prefilled form with instructions to validate the information, sign, and submit the form to the Department.

In August 2015, more than 7,300 Annual Agricultural Certifications (Ag Certs) were mailed to Current Use enrollees. Ag Certs which returned to the Department were evaluated and a second mailing was generated in January of 2016 to address issues identified or non-responsive enrollees. Ag Certs submitted on or before Sept. 1, 2015, impacted the enrollment status for tax year 2016 to remain consistent with the annual application cycle.

The Department continues to work on bringing current use enrollees into compliance with the certification requirement. Data is not yet available for further analysis.

## Current Use Allocation Language Change

In 2015, Vermont legislative session Act 57 Section 50 amended 32 V.S.A. § 3756(d) to clarify the proper method of determining the current use allocation for parcels which are not completely enrolled in current use. Property Valuation & Review (PVR) has received a significant number of inquiries on this change and worked in cooperation with the Vermont Association of Listers and Assessors (VALA) to develop and distribute guidance.

PVR's initial assessment of the impacts of this change as it is implemented statewide is that it will reduce the hold harmless payment by reducing the value allocated to the enrolled land on the grand list. PVR worked in cooperation with the municipal officials to implement this methodology statewide and trained over 200 municipal officials. The results of this change was evaluated by the Committee, and will likely impact the FY18 hold harmless payment.

**Figure 2: 2015 Current Use Parcel Distribution**

|                 | Parcel Count | Total Acreage | Median Total Acreage | Enrolled Acreage | Median Enrolled Acreage | Excluded Acreage | Median Excluded Acreage |
|-----------------|--------------|---------------|----------------------|------------------|-------------------------|------------------|-------------------------|
| <b>Total</b>    | 18,158       | 2,588,592     | 82                   | 2,426,684        | 75                      | 161,908          | 2                       |
| <b>Partial</b>  | 13,755       | 2,058,393     | 87                   | 1,896,485        | 78                      | 161,908          | 4                       |
| <b>Complete</b> | 4,403        | 530,199       |                      | 530,199          |                         |                  |                         |

## Current Use Program General Information

For additional information on the Current Use program, an excerpt from the 2016 PVR Annual Report has been included as Appendix B.

## eCuse Status Report

The web-based current use application system, eCuse, was launched to several key audiences in 2015. Because current use applications were only received in paper fashion for 2015, they were all entered into the eCuse system by PVR staff. This allowed them to go through the edit checks and flow in anticipation of the online application process. The system then allows for those applications that need to have forest management plans approved or updated to go through the "County Forester Review Service." In this service, the Department of Forests, Parks and Recreation's County Foresters indicated whether a forest management plan or update has been approved for each parcel. The Current Use Program Staff then approve application in the Review Service. At this point, an email is sent to the town clerk notifying them that there is an application to record. Payment for the lien recording is then based upon the clerk completing the recording information. Listers, town clerks, and county foresters can view both approved and pending applications at any point in the process.

Throughout the spring and summer of 2016, PVR trained consultants and provided guidance for landowners on how to submit applications for the 2017 grand list through eCuse. Attachments (such as map files) and notices of development or discontinuance have not yet been developed in eCuse, and are scheduled for future development.



## Appendix A

### 2015 Current Use Easy Out Summary

#### 2015 Easy-Out Program

In the 2015 Vermont legislative session Act 57 Section 53 created the “Easy-Out” program to allow Current Use enrollees to submit an application between July 1 and October 1 of 2015 to discontinue enrollment in Current Use and be relieved of the first \$50,000 of the LUCT liability.

|                | Count | Acres  | LUCT        | LUCT Over \$50,000 | Grand List Property Value |
|----------------|-------|--------|-------------|--------------------|---------------------------|
| <b>Entire</b>  | 273   | 17,733 | \$3,486,182 | \$83,670           | \$26,501,294              |
| <b>Partial</b> | 606   | 6,697  | \$1,519,414 | \$5,689            | \$12,233,252 (estimate)   |
| <b>Denied</b>  | 20    | N/A    | N/A         | N/A                | N/A                       |

- In 2014 there were 18,020 parcels for a total of 2.4M acres and \$3.15B in property value enrolled in Current Use. The cost of the program was \$59.7M in FY15 (Hold Harmless payments to towns and foregone education fund revenue).
- 899 Easy-out applications were processed by the Department of Taxes (withdrawals were not tracked).
- 273 parcels were entirely removed, 606 were partially removed, and 20 applications were denied.
- 24,700 acres, or 1% of the entire 2014 program, was removed.
- The median acreage removed was 10 acres and the average was 28 acres.
- More of the acreage was Nonresidential than Homestead and most of the acreage removed was forest.
- \$4.9M of Land Use Change Tax was forgiven. \$90,000 was collected.
- \$38M of land value was removed from the program, saving the state approximately \$200,000 in hold harmless payments and generating approximately \$600,000 for the education fund for FY16. Even if you don't account for increases in property values or tax rates, this represents approximately \$4,000,000 in savings over a five-year period.
- In 2015, there were approximately 400 new parcels. With some routine processing of parcels still left to do by PVR, the approximate size of the Current Use Program is now 18,150 Parcels for a total of 2.43M acres and \$3.17B in property value.
- The cost of the program in FY16 will be approximately \$60.2M: \$14.7M Hold Harmless payments to towns and \$45.2 in foregone education fund revenue.

#### Current Use Allocation Language Change

In the 2015 Vermont legislative session, Act 57 Section 50 amended 32 V.S.A. § 3756(d) to clarify the proper method of determining the current use allocation for parcels which are not completely enrolled in current use.

PVR's initial assessment of the impacts of this change are that, as it is implemented statewide, it will reduce the hold harmless payment by reducing the value allocated to the enrolled land on the Grand List. PVR intends to work in cooperation with the municipal officials to implement this methodology statewide and will report on the impact to the Committee in September 2016.

## Appendix B

### 2015 Current Use (Use Value Appraisal) Program

Vermont's Current Use (Use Value Appraisal) Program began in Tax Year 1980 with the enrollment of fewer than 120,000 acres. As of 2015, this number has soared to 2,426,149 acres and includes 14,653 landowners and 18,154 parcels (see Figure 1 and Figure 2 for details). These enrollments increased from 2014 to 2015 in spite of the "Easy-out" option that allowed landowners to remove all or a portion of their property with significant Land Use Change Tax (LUCT) forgiven (see below for details). Based upon ZIP codes of the owners, 4,153 of the 18,154 parcels are owned by out-of-state persons. The Vermont statute regulating the Current Use Program is found in 32 V.S.A. Chapter 124.

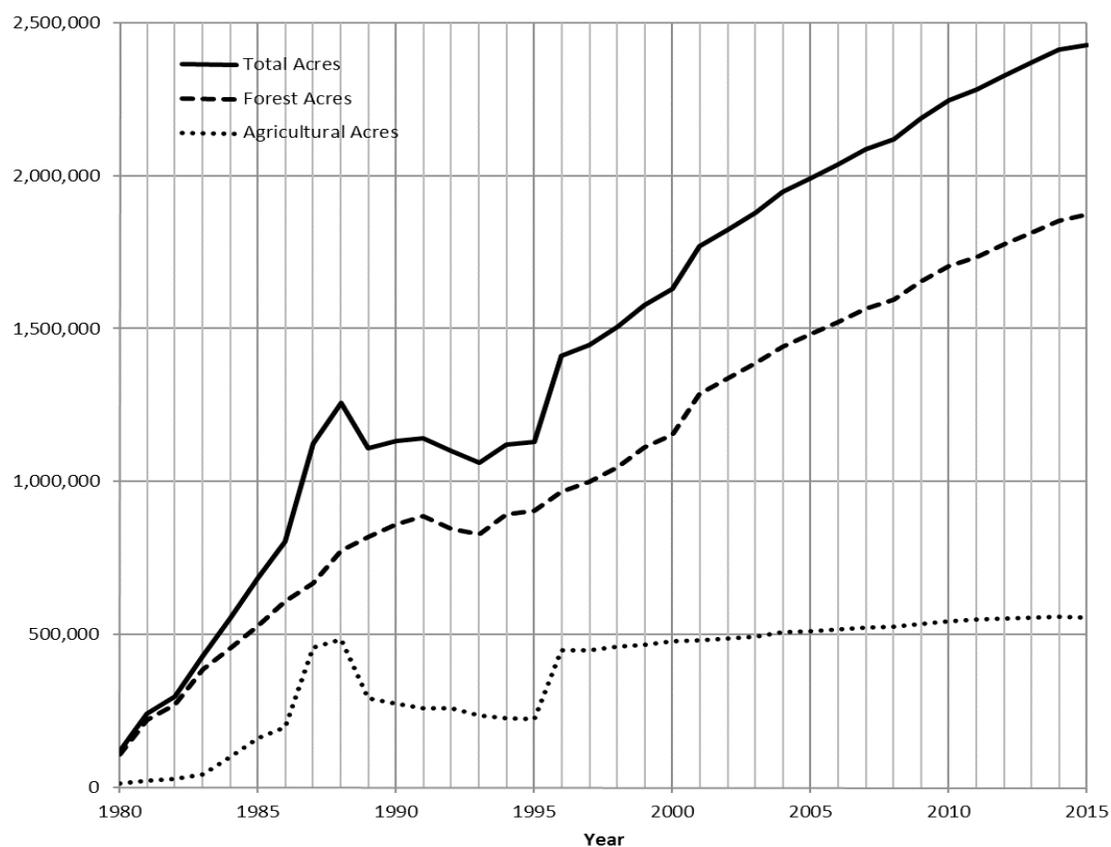


Figure 1. Annual Current Use Enrollment 1980-2014

The purposes of the program (as defined by 32 V.S.A. § 3751 are to:

- Encourage and assist the maintenance of Vermont's productive agricultural and forest land;
- Encourage and assist in their conservation and preservation for future productive use and for the protection of natural ecological systems;
- 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;
- Achieve more equitable taxation for undeveloped lands;
- 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" (32 V.S.A. § 3751).

Landowners may apply to have eligible land and farm buildings enrolled in the program. In return for agreeing to keep the property in agricultural and forest production, the owner pays property taxes based on *use value* rather than *fair market value*. Enrolled farm buildings are totally exempt from taxes. The municipalities receive an annual payment from the state, called the “Hold Harmless Payment,” to make up the difference between the municipal taxes paid at use value and the municipal taxes that would be paid on the assessed value of enrolled land and buildings.

Enrolled land is encumbered with a perpetual lien in favor of the State of Vermont in order to ensure payment of the LUCT should it ever become due. The Department of Taxes has a process where the state’s lien will be subordinated in favor of a mortgage. In 2015, the Department issued 154 subordinations and denied 14 subordinations.

LUCT becomes due when enrolled land or previously enrolled land becomes developed. The lien remains until such time as the LUCT is paid in full and documented with the state. For the 2015 tax year, 339 discontinuances were processed which involved discontinuing 5,119 acres from enrollment. The LUCT was assessed on 1,482 acres of the land discontinued.

**Figure 2: Current Use Annual Enrollment**

| Tax Year | Parcels | Owners | Agricultural Acres | Forest Acres | Total Acres |
|----------|---------|--------|--------------------|--------------|-------------|
| 2015     | 18,154  | 14,653 | 554,078            | 1,872,070    | 2,426,149   |
| 2014     | 18,020  | 14,553 | 558,320            | 1,853,765    | 2,412,096   |
| 2013     | 17,647  | 14,246 | 555,234            | 1,814,585    | 2,369,819   |
| 2012     | 17,190  | 13,831 | 551,055            | 1,776,153    | 2,327,208   |
| 2011     | 16,724  | 13,469 | 549,601            | 1,734,012    | 2,283,613   |
| 2010     | 16,308  | 13,135 | 543,354            | 1,704,668    | 2,248,022   |
| 2009     | 15,642  | 12,570 | 534,275            | 1,654,295    | 2,188,810   |
| 2008     | 15,047  | 12,078 | 524,835            | 1,594,324    | 2,119,159   |
| 2007     | 14,640  | 11,721 | 521,381            | 1,564,321    | 2,085,702   |
| 2006     | 14,061  | 11,195 | 515,422            | 1,521,506    | 2,036,928   |

For those owners who qualify by making 50% of their gross annual income from the business of farming or who lease to someone who makes 50% of their gross annual income from the business of farming, farm buildings in active agricultural use can be enrolled in the program. This includes dwellings used for farm employee housing. By statute, the use value on these buildings is established at 0% of fair market value (32 V.S.A. § 3752(12)). For 2015, the value of farm buildings on a parcel enrolled in the program ranged from \$100 to over \$2.5 million for the 1,843 parcels that had enrolled farm buildings (Figure 3). The total assessed value of enrolled farm buildings for the 2015 tax year was \$266,363,596.

Figure 3: Recent Farm Building Enrollment

| Year | Parcels with Farm Buildings | Listed Value of Farm Buildings |
|------|-----------------------------|--------------------------------|
| 2015 | 1,843                       | \$266,363,596                  |
| 2014 | 1,879                       | \$272,374,020                  |
| 2013 | 1,883                       | \$266,749,350                  |
| 2012 | 1,857                       | \$257,446,331                  |
| 2011 | 1,851                       | \$251,682,401                  |
| 2010 | 1,972                       | \$255,515,511                  |
| 2009 | 1,993                       | \$250,021,848                  |

Based upon prior year trends, the program anticipates 1,200 transfers of enrollments and 400 applications to increase enrollments for the 2016 tax year.

### Easy-out Program

In the 2015 Vermont legislative session, Section 53 of Act 57 created the Easy-out program to allow current use enrollees discontinue enrollment of all or a portion of their land in current use and be relieved of the first \$50,000 of the LUCT liability. The change applied retroactively to the April 1, 2015, grand list. The legislation requires that the land cannot be re-enrolled in the program for five years.

More than 900 applications were received for the Easy-out program. Of these applications, 273 parcels were removed entirely from the program and 606 parcels had a portion of land removed from the program. Several landowners chose to withdraw their applications. Twenty applications were denied because they did not meet the legislative criteria for the program. Figure 4 provides a summary of the Easy-out program.

The Easy-out program involved 1% of all land enrolled in the program. The median acreage removed was 10 acres and the average was 28 acres. In total, \$38M of land value was removed from the program. This saves the state approximately \$200,000 in hold harmless payments annually and generated approximately \$600,000 for the Education Fund for FY16. Even without accounting for increases in property values or tax rates over the next 5 years, this represents approximately \$4,000,000 in savings in hold-harmless payments and increases to the Education Fund over the time period that the land cannot be re-enrolled.

Figure 4: Easy-out Option Summary

| Type of Easy Out   | Number of Applications | Acres Discontinued | Land Use Change Tax (LUCT) Forgiven | Grand List Property Value of Discontinued Acres |
|--------------------|------------------------|--------------------|-------------------------------------|---|
| Entire Parcel      | 273                    | 17,733             | \$3,486,182                         | \$26,501,294                                    |
| Partial Parcel     | 606                    | 6,697              | \$1,519,414                         | \$12,233,252 (estimate)                         |
| Denied Application | 20                     | N/A                | N/A                                 | N/A   |
| TOTAL              | 899                    | 24,430             | \$5,005,596                         | \$38,734,546                                    |

### 2015 Current Use Audit Requirement

In the 2015 Vermont legislative session Act 57 Section 56 added 32 V.S.A. § 3760a to require the Director of PVR to, on an annual basis, audit three towns with land enrolled in Current Use. These audit findings could have a significant impact on the hold harmless payments in 2017 and moving forward. The 2015 Current Use Audit has been completed for 1 out of the 3 towns and will be completed in January 2016 for the other 2 towns. A summary of these findings will be included in the next Annual Report.

### Annual Agricultural Certification Status Report

In the 2015 Vermont legislative session Act 57 Section 57 added the requirement for landowners to certify agricultural land use eligibility. In August of 2015 over 7,300 Annual Agricultural Certifications (Ag Certs) were mailed to Current Use enrollees; Ag Certs which have been returned to the Department are currently being evaluated and a second mailing will be generated in January of 2016 to address issues identified or non-responsive enrollees. Ag Certs submitted on or before Sept. 1, 2015 will impact the enrollment status for tax year 2016 to remain consistent with the annual application cycle.

Impacts of the Ag Certs to Current Use enrollments will not be available for analysis until the summer of 2016. Initial assessment of the Ag Certs by PVR indicates that some recipients of the Ag Cert chose to file an easy-out application to remove their land from Current Use, however, this observation will take some time to validate.

### Use Values

The Current Use Advisory Board (CUAB) is charged with adopting rules, providing administrative oversight, and establishing use values. The CUAB meets annually to review data presented by the Agency of Agriculture, Food and Markets and by the Department of Forests, Parks and Recreation regarding the appropriate use values to be assigned for the next property tax year. The data is used to establish the use values for computing the taxes on enrolled land (see Figure 5). The net annual stumpage value per acre is a key component for forest land use value rate. Pasture and crop land rental values are the key component for agricultural land. Enrolled farm building use value is established in statute as 0% of the fair market value, so no taxes are paid by the landowner on these buildings.

Figure 5: Use Values

| Tax Year | Forest Land Value per Acre | Forest Land Value Greater than One Mile from Road per Acre | Agriculture Land Value per Acre |
|----------|----------------------------|--|---------------------------------|
| 2016     | \$135                      | \$101  | \$306                           |
| 2015     | \$131                      | \$98   | \$289                           |
| 2014     | \$118                      | \$89   | \$279                           |
| 2013     | \$119                      | \$89   | \$265                           |
| 2012     | \$123                      | \$92   | \$254                           |
| 2011     | \$122                      | \$92   | \$238                           |
| 2010     | \$122                      | \$92   | \$215                           |
| 2009     | \$123                      | \$92   | \$199                           |
| 2008     | \$136                      | \$102  | \$187                           |
| 2007     | \$133                      | \$100  | \$146                           |
| 2006     | \$127                      | \$95   | \$146                           |

### Program Costs and Tax Saving

Tax savings to landowners climbed to more than \$59,128,471 million in 2015 (see Figure 6). The enrollment in the program also saw a steady increase both in parcels, owners, and acres enrolled except for the “easy-out” years in the 1990s and the slight decline in agricultural land enrollment for 2015 (see Figure 6). As the enrollment has climbed and landowners overall saved more in property taxes, the cost of the program has increased.

The “Municipal Tax Savings to Landowners” column in Figure 6 is the total municipal taxes saved by enrolled land owners and conversely the taxes not paid to the municipality by the landowner due to enrollment in the program. The state provides a “Hold Harmless Payment” to the municipality each year which makes up for the difference in the lost property taxes due to the prior year’s current use enrollment. The Hold Harmless payment in 1980 was just over \$400,000. In 2015, it was \$15.0 million. The calculations for each municipality’s hold harmless payment are available on the Department’s website at <http://tax.vermont.gov/content/reports-hold-harmless>.

The “Education Tax Savings to Enrolled Landowners” column in Figure 6 is the total statewide education taxes saved by enrolled land owners and conversely the forgone revenue to the state’s Education Fund. Forgone revenue means that these taxes are never paid into the Education Fund. In 2015, the forgone revenue to the Education Fund was \$44,609,223. The drop of \$551,923 from 2014 can be attributed to the Easy-out program which applied to the 2015 property tax year that began April 1, 2015. The value of the program to Vermont’s working landscape, relating industries, and environmental quality are not quantified here, but are viewed as significant.

Figure 6: Tax Savings to Landowners

| Tax Year | Municipal Tax Savings to Enrolled Landowners | Education Tax Savings to Enrolled Landowners | Total Savings to Enrolled Landowners |
|----------|--|--|--------------------------------------|
| 2015     | \$14,519,248                                 | \$44,609,223                                 | \$59,128,471                         |
| 2014     | \$14,530,332                                 | \$45,161,146                                 | \$59,691,478                         |
| 2013     | \$13,890,827                                 | \$43,110,537                                 | \$57,001,364                         |
| 2012     | \$13,384,246                                 | \$41,209,109                                 | \$54,593,355                         |
| 2011     | \$12,549,456                                 | \$40,668,894                                 | \$53,218,350                         |
| 2010     | \$12,288,566                                 | \$40,191,533                                 | \$52,480,099                         |
| 2009     | \$11,585,297                                 | \$37,385,819                                 | \$48,971,116                         |
| 2008     | \$10,712,418                                 | \$33,913,934                                 | \$44,626,352                         |
| 2007     | \$9,728,409                                  | \$29,797,654                                 | \$39,526,063                         |
| 2006     | \$8,871,412                                  | \$27,125,217                                 | \$35,996,629                         |
| 2005     | \$8,078,698                                  | \$24,901,872                                 | \$32,980,570                         |

### Land Use Change Tax

A one-time Land Use Change Tax (LUCT) is levied when enrolled land is “developed” as that term is defined in 32 V.S.A. § 3752(5). Landowners may withdraw from the program without paying the tax provided they have not developed the land. The lien remains on the land until such time as the LUCT tax is paid. The calculation of LUCT changed for property developed or discontinued after Oct. 2, 2015. Due to the overwhelming workload associated with the legislative changes from 2015, no discontinuances have been processed under the new formula. This report only covers those discontinuances done under the previous formula.

The acres developed and discontinued are shown in Figure 7 along with the amount of LUCT assessed and the number of discontinuances that were processed by the program. The LUCT is assessed when the land is developed or the land owner wishes to voluntarily remove the lien. By statute, development includes the construction of any building, road, or other structure that is not used for farming. For logging, forestry, or conservation purposes, development includes:

- Any mining, excavation, or landfill activity
- Creation of a parcel of fewer than 25 acres unless the transfer is to an immediate relative and the new parcel is eligible for continued enrollment
- Cutting of timber contrary to a forest or conservation management plan
- Or a change in the parcel or use of parcel in violation of the conservation management standards

Land can be discontinued from the program without having been assessed. These acres are shown in the “Acres Discontinued, but No Land Use Change Tax Due” column. If the land is then developed in the future, the program might find out about the development through a title search when a parcel is being transferred, through the listers who are aware of the previous enrollment, or it might go undetected for years. In addition to the discontinuance of the land summarized in the table, 18 parcels had all or some of their farm buildings discontinued from the program.

Figure 7: Development and Discontinuance of Enrolled Land

| Calendar Year | LUCT Assessed | Acres Developed and/or Lien Voluntarily Removed | Acres Discontinued, but LUCT Due | Number of Discontinuances |
|---------------|---------------|---|----------------------------------|---------------------------|
| 2015          | \$398,881     | 1,483   | 5,119                            | 358                       |
| 2014          | \$418,604     | 1,826   | 10,863                           | 453                       |
| 2013          | \$575,675     | 2,350   | 8,331                            | 457                       |
| 2012          | \$528,492     | 3,005   | 8,792                            | 432                       |
| 2011          | \$539,781     | 2,865   | 10,271                           | 412                       |
| 2010          | \$528,710     | 1,807   | 5,484                            | 341                       |
| 2009          | \$406,245     | 2,742   |                                  |                           |
| 2008          | \$654,924     | 3,286   |                                  |                           |
| 2007          | \$489,540     | 2,752   |                                  |                           |
| 2006          | \$643,642     | 4,497   |                                  |                           |
| 2005          | \$840,159     | 5,127   |                                  |                           |
| 2004          | \$700,839     | 4,602   |                                  |                           |

## Appendix C

### MEMORANDUM

**TO:** Use Value Appraisal Municipal Reimbursement Study Committee  
**FROM:** Douglas Farnham, Director of Property Valuation & Review  
**DATE:** November 4, 2016  
**RE:** Use Value Appraisal Reimbursement Report

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#### Purpose

The purpose of this memorandum is to recommend a course of action for the use value appraisal municipal reimbursement study committee (“the committee”).

#### Context

In the report published by the committee on January 15, 2016, the committee decided to reconvene in the fall of 2016 to consider the impacts of changes made to the Current Use program during the 2015 legislative session prior to executing a final recommendation on whether the Hold Harmless payment calculation as described in 32 V.S.A. §3760 should be changed.

The Hold Harmless payment calculation is intended to pay each municipality an amount sufficient to prevent an increase of the municipal tax rate due to current use enrollments (which reduce municipal tax revenue). This payment is calculated every year using prior year enrollment, tax rate, and grand list data. The payment to the municipality is calculated based on the difference in value between the total listed (fair market) value and the use value for every enrolled parcel in a municipality.

The limitations of the current calculation method are primarily that, because the calculation uses prior year tax rate and Grand List parcel level data, changes to the municipal tax rate do not impact the Hold Harmless payment until the following year. This can make it difficult to draw a direct cause-and-effect conclusion when evaluating changes in the Hold Harmless payment, because changes to the municipal tax rate take over a year to impact the Hold Harmless payment and, due to the calculation method, the impact is not directly proportional.

PVR has committed to producing outreach and education materials to be available on our website, and to be distributed to municipalities to build a stronger understanding of how the Hold Harmless payment and other state payments to municipalities are calculated. An explanation of the calculation methodology and an example case are included in the next section of this document.

During the 2015 legislative session, lawmakers passed a clarification of the language defining the value of land excluded from the Current Use program. This clarification resolved a long-standing difference of opinion between Property Valuation & Review (PVR) and some municipal officials over how the excluded land should be valued. In 2016, PVR trained over 200 listers and assessors at seven locations around Vermont on this and other Current Use changes. These courses were eagerly attended, and it is my opinion that there is a much greater degree of understanding and agreement in the assessment community than there was prior to the change in language. Treatment of Current Use excluded land has also been added to PVR’s lister education curriculum both for new and experienced listers to maintain common understanding going forward. Standardized treatment of excluded land is exceptionally important as it directly impacts the amount

of benefit each landowner receives and the hold harmless payments paid to the municipalities. It creates a severe equity concern if varying methodologies are used in different municipalities. I see this change as making significant progress towards proper reimbursement to municipalities for Current Use properties.

The 2015 Legislation also requires PVR to conduct an annual audit of at least three municipalities. Towns are selected through rigorous evaluation of multiple criteria involving enrolled and excluded land values, value trends during and outside of reappraisals, and agricultural building values. During fiscal year 2016, audits of Salisbury, Isle La Motte, and Ludlow were conducted and the results showed that in those three towns there were no egregious or systematic valuation issues. Issues were primarily identified with the allocation method (excluded land vs. enrolled land) which should not be construed as a failure on the part of the municipalities as those values were entered prior to the 2015 statutory change. The annual audit requirement provides a necessary internal control for the Current Use program, and has already provided improvements to standardization of methodology across Vermont by auditing towns and sharing the results of those audits with other municipalities after they are concluded. PVR has also taken steps to conduct these audits in a cost-effective and collaborative manner, which provides our office with certainty that the municipality is applying the correct methodologies both for valuation and allocation of Current Use parcels.

The sum effect of these changes is that internal controls in the Current Use program are stronger and PVR is more proactive about engaging with and monitoring Current Use municipal and landowner activity. While there is still progress to be made, a significant amount of staff time has been spent in 2016 educating and working with municipal staff and producing outreach and training materials. I believe the investment of resources has paid off already in more consistent treatment of Current Use properties, and that there is no need to adjust the Hold Harmless calculation methodology on the basis of compliance concerns.

### Calculation Methodology

The Hold Harmless payment calculation involves three major steps, using the municipal Grand List value, municipal tax rates, reduction in property value due to Use Value Appraisal (Current Use), and prior year Hold Harmless payments made to a municipality. The calculation is performed at the municipal level, but for purposes of example, I will use a single parcel.

Prior year data is used per 32 V.S.A. §3760. It is important to note that, at the time of calculation, current year tax data is still fluctuating and the Grand List would not be considered final until two months after this payment is issued. Use of current year data would result in inaccurate payment amounts and would not be recommended.

Example: Calculation of the Hold Harmless payment in calendar year 2017 for a parcel which was enrolled in 2015 with a \$200,000 total listed value and a \$50,000 Use Value Reduction.

1. The prior year municipal tax revenue is calculated for a municipality by adding the prior year municipal tax billed and the prior year Hold Harmless payment paid to the municipality.

2016 municipal tax revenue = 2016 municipal tax billed + 2016 Hold Harmless payment

$$\$750.00 = \$600.00 + \$150.00$$

2. The current year Hold Harmless tax rate is then calculated by dividing the prior year municipal tax revenue by the prior year municipal list value if fully taxed and multiplying by 100.

$$2017 \text{ Hold Harmless tax rate} = 2016 \text{ municipal tax revenue} / 2016 \text{ municipal list value} * 100$$

$$.3750 = (\$750.00 / \$200,000) * 100$$

3. The current year Hold Harmless tax rate is then applied to the prior year Use Value reduction to determine the current year Hold Harmless payment.

$$2017 \text{ Hold Harmless payment} = (2017 \text{ Hold Harmless tax rate} * 2016 \text{ use value reduction}) / 100$$

$$\$187.50 = (.3750 * \$50,000) / 100$$

All examples use a \$200,000 total listed value with a \$50,000 Use Value reduction enrolled in 2015 and withdrawn in 2022.

### Example Case 1: Increasing Tax Rate

| (numbers) indicate a loss |      | Municipal Tax Rate | Hold Harmless payment | Municipal Tax Collected | Municipal Tax If Fully Taxable | Municipal Revenue Impact |
|---------------------------|------|--------------------|-----------------------|-------------------------|--------------------------------|--------------------------|
| Enrolled                  | 2015 | 0.4                | \$ -                  | \$ 600.00               | \$ 800.00                      | \$ (200.00)              |
|                           | 2016 | 0.4                | \$ 150.00             | \$ 600.00               | \$ 800.00                      | \$ (50.00)               |
|                           | 2017 | 0.41               | \$ 187.50             | \$ 615.00               | \$ 820.00                      | \$ (17.50)               |
|                           | 2018 | 0.42               | \$ 200.63             | \$ 630.00               | \$ 840.00                      | \$ (9.38)                |
|                           | 2019 | 0.43               | \$ 207.66             | \$ 645.00               | \$ 860.00                      | \$ (7.34)                |
|                           | 2020 | 0.44               | \$ 213.16             | \$ 660.00               | \$ 880.00                      | \$ (6.84)                |
|                           | 2021 | 0.45               | \$ 218.29             | \$ 675.00               | \$ 900.00                      | \$ (6.71)                |
| Withdrawn                 | 2022 | 0.46               | \$ 223.32             | \$ 920.00               | \$ 920.00                      | \$ 223.32                |
| Total                     |      |                    | \$ 1,400.56           | \$ 5,345.00             | \$ 6,820.00                    | \$ (74.44)               |

This example demonstrates that with an increasing tax rate the Hold Harmless payment will lag slightly each year, resulting in a small loss to the municipality.

### Example Case 2: Steady Tax Rate

| (numbers) indicate a loss |      | Municipal Tax Rate | Hold Harmless payment | Municipal Tax Collected | Municipal Tax If Fully Taxable | Municipal Revenue Impact |
|---------------------------|------|--------------------|-----------------------|-------------------------|--------------------------------|--------------------------|
| Enrolled                  | 2015 | 0.4                | \$ -                  | \$ 600.00               | \$ 800.00                      | \$ (200.00)              |
|                           | 2016 | 0.4                | \$ 150.00             | \$ 600.00               | \$ 800.00                      | \$ (50.00)               |
|                           | 2017 | 0.4                | \$ 187.50             | \$ 600.00               | \$ 800.00                      | \$ (12.50)               |
|                           | 2018 | 0.4                | \$ 196.88             | \$ 600.00               | \$ 800.00                      | \$ (3.13)                |
|                           | 2019 | 0.4                | \$ 199.22             | \$ 600.00               | \$ 800.00                      | \$ (0.78)                |
|                           | 2020 | 0.4                | \$ 199.80             | \$ 600.00               | \$ 800.00                      | \$ (0.20)                |
|                           | 2021 | 0.4                | \$ 199.95             | \$ 600.00               | \$ 800.00                      | \$ (0.05)                |
| Withdrawn                 | 2022 | 0.4                | \$ 199.99             | \$ 800.00               | \$ 800.00                      | \$ 199.99                |
| Total                     |      |                    | \$ 1,333.34           | \$ 5,000.00             | \$ 6,400.00                    | \$ (66.66)               |

This example demonstrates that, with a steady tax rate, the Hold Harmless payment for a parcel is within 1 cent of municipal revenue after six years of enrollment.

### Example Case 3: Decreasing Tax Rate

| (numbers) indicate a loss |      | Municipal Tax Rate | Hold Harmless payment | Municipal Tax Collected | Municipal Tax If Fully Taxable | Muni Revenue Impact |
|---------------------------|------|--------------------|-----------------------|-------------------------|--------------------------------|---------------------|
| Enrolled                  | 2015 | 0.4                | \$ -                  | \$ 600.00               | \$ 800.00                      | \$ (200.00)         |
|                           | 2016 | 0.4                | \$ 150.00             | \$ 600.00               | \$ 800.00                      | \$ (50.00)          |
|                           | 2017 | 0.39               | \$ 187.50             | \$ 585.00               | \$ 780.00                      | \$ (7.50)           |
|                           | 2018 | 0.38               | \$ 193.13             | \$ 570.00               | \$ 760.00                      | \$ 3.13             |
|                           | 2019 | 0.37               | \$ 190.78             | \$ 555.00               | \$ 740.00                      | \$ 5.78             |
|                           | 2020 | 0.36               | \$ 186.45             | \$ 540.00               | \$ 720.00                      | \$ 6.45             |
|                           | 2021 | 0.35               | \$ 181.61             | \$ 525.00               | \$ 700.00                      | \$ 6.61             |
| Withdrawn                 | 2022 | 0.34               | \$ 176.65             | \$ 680.00               | \$ 680.00                      | \$ 176.65           |
| Total                     |      |                    | \$ 1,266.12           | \$ 4,655.00             | \$ 5,980.00                    | \$ (58.88)          |

This example demonstrates that, with a decreasing tax rate, municipalities will receive slightly more income due to the Hold Harmless payment.

#### **Recommendation**

My recommendation is that the Hold Harmless payment calculation as described in 32 V.S.A. §3760 remains unchanged unless the structure of state level control over enrollments is changed. Introduction of audit requirements, education of listers, and clarification of the exclusion language have provided sufficient internal controls to identify and prevent municipalities abusing the Hold Harmless payment to increase municipal revenue. Audit results have also shown no evidence of intentional over-valuation of Current Use parcels by municipalities.