

1 H.697

2 Introduced by Committee on Natural Resources, Fish, and Wildlife

3 Date:

4 Subject: Taxation; use value appraisal; reserve forestland

5 Statement of purpose of bill as introduced: This bill proposes to authorize
6 enrollment of reserve forestland in the Use Value Appraisal Program as a new
7 category of managed forestland where active growing and harvesting of forest
8 crops would not be required.

9 An act relating to eligibility of reserve forestland for enrollment in the Use
10 Value Appraisal Program

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

12 Sec. 1. FINDINGS

13 The General Assembly finds:

14 (1) Vermont's forests:

15 (A) provide unique and irreplaceable resources, benefits, and values
16 of statewide importance;

17 (B) contribute to the protection and conservation of wildlife, wildlife
18 habitat, air, water, and soil resources of the State;

19 (C) provide a resource for the State constitutional right to hunt and
20 fish;

1 (D) mitigate the effects of climate change; and

2 (E) are a general benefit to the health and welfare of the persons of
3 the State.

4 (2) Privately owned forestland:

5 (A) constitutes nearly 80 percent of Vermont's forests;

6 (B) provides the foundation for ecosystem services derived from
7 Vermont's forests, including wildlife habitat, connectivity, and biodiversity;
8 provisioning of clean air and carbon sequestration and storage; scenic beauty;
9 flood attenuation; and clean water; and

10 (C) provides the foundation of the forest economy in the State that,
11 in total, contributes more than 13,000 jobs and \$2.1 billion to Vermont's
12 economy.

13 (3) The Use Value Appraisal Program:

14 (A) has encouraged and assisted in the maintenance of the working
15 landscape and rural character of Vermont and the protection of natural
16 ecological systems for more than 40 years;

17 (B) currently has approximately 16,000 forestland parcels
18 encompassing two million acres of enrolled forestland;

19 (C) has enrolled approximately 70 percent of the eligible forestland
20 acres in the State and 55 percent of the eligible forestland parcels in the State;

1 (D) is critical for helping landowners keep forest as forest and
2 ensuring its careful stewardship and management; and

3 (E) has, with few exceptions, limited eligibility and enrollment to
4 those lands that are actively managed for timber and related forest products.

5 (4) Climate change:

6 (A) is creating challenges that threaten forest health, working forests,
7 and ecological functions;

8 (B) causes significant negative ecologic and economic impacts, and
9 forests constitute Vermont's most valuable resource for adapting to and
10 mitigating these impacts; and

11 (C) is best mitigated and adapted to through a diversity of forest
12 management strategies and forest conditions in Vermont.

13 (5) Forests that exhibit old forest characteristics:

14 (A) can provide unique contributions to biodiversity;

15 (B) contribute to and complement the climate resilience and adaptive
16 capacity of Vermont's working landscape;

17 (C) serve as ecological benchmarks against which to measure active
18 management of Vermont's forests;

19 (D) are less than one percent of Vermont's forestland; and

20 (E) can be effectively attained through passive or restorative
21 management or silviculture.

1 (6) Preserving the working landscape and attainment of old forest
2 conditions at a meaningful scale are compatible and complementary goals
3 within Vermont's landscape.

4 (7) However, forests that are managed passively for old forest
5 characteristics are only eligible for enrollment in the Use Value Appraisal
6 Program under very limited circumstances.

7 (8) It is in the public interest of the persons of the State to increase
8 opportunities within the Use Value Appraisal Program for attainment of old
9 forest while ensuring that the Program continues to effectively preserve the
10 working landscape.

11 Sec. 2. 32 V.S.A chapter 124 is amended to read:

12 CHAPTER 124. AGRICULTURAL AND FOREST LANDS

13 Subchapter 1. Agricultural and Managed Forest Land Use Value
14 Appraisal Program

15 § 3750. STATUTORY PURPOSES

 The statutory purpose of the Vermont Use Value Appraisal Program in
chapter 124 of this title is to preserve the working landscape ~~and the rural~~
~~character of Vermont,~~ *preserve the rural character of Vermont, and protect the*
natural ecological systems and natural resources of the forestland of Vermont.

16 § 3751. STATEMENT OF PURPOSE

1 The purpose of this subchapter is to encourage and assist the maintenance
2 of Vermont’s productive agricultural and forestland; to encourage and assist in
3 their conservation and preservation for future productive use and for the
4 protection of natural ecological systems and services, including air and water
5 quality, wildlife habitat and wildlife corridors, enhanced biodiversity, and
6 forest health and integrity; to prevent the accelerated conversion of these lands
7 to more intensive use by the pressure of property taxation at values
8 incompatible with the productive capacity of the land; to achieve more
9 equitable taxation for undeveloped lands; to encourage and assist in the
10 preservation and enhancement of Vermont’s scenic natural resources; to assist
11 in climate adaptation and mitigation; and to enable the citizens of Vermont to
12 plan its orderly growth in the face of increasing development pressures in the
13 interests of the public health, safety, and welfare.

14 § 3752. DEFINITIONS

15 As used in this subchapter:

16 * * *

17 (4) “Commissioner” means the Commissioner of Taxes.

18 (5)(A) “Development” means, for the purposes of determining whether
19 a land use change tax is to be assessed under section 3757 of this chapter, the
20 construction of any building, road, or other structure, or any mining,
21 excavation, or landfill activity.

1 (B) “Development” also means the subdivision of a parcel of land
2 into two or more parcels, regardless of whether a change in use actually
3 occurs, where one or more of the resulting parcels contains less than 25 acres
4 each; but if subdivision is solely the result of a transfer to one or more of a
5 spouse, ex-spouse in a divorce settlement, parent, grandparent, child,
6 grandchild, niece, nephew, or sibling of the transferor, or to the surviving
7 spouse of any of the foregoing, then “development” shall not apply to any
8 portion of the newly created parcel or parcels that qualify for enrollment and
9 for which, within 30 days following the transfer, each transferee or transferor
10 applies for reenrollment in the ~~use value appraisal program~~ Use Value
11 Appraisal Program.

12 (C) “Development” also means the cutting of timber on property
13 appraised under this chapter at use value in a manner contrary to a forest or
14 conservation management plan as provided for in subsection 3755(b) of this
15 title during the remaining term of the plan, or contrary to the minimum
16 acceptable standards for forest management if the plan has expired; or a
17 change in the parcel or use of the parcel in violation of the conservation
18 management standards established by the Commissioner of Forests, Parks and
19 Recreation.

20 (D) “Development” also means notification of the Director by the
21 Secretary of Agriculture, Food and Markets under section 3756 of this title

1 that the owner or operator of agricultural land or a farm building is violating
2 the water quality requirements of 6 V.S.A. chapter 215 or is failing to comply
3 with the terms of an order issued under 6 V.S.A. chapter 215, subchapter 10.

4 (E) The term “development” ~~shall~~ does not include the construction,
5 reconstruction, structural alteration, relocation, or enlargement of any building,
6 road, or other structure for farming, logging, forestry, or conservation
7 purposes, but shall include the subsequent commencement of a use of that
8 building, road, or structure for other than farming, logging, or forestry
9 purposes.

10 * * *

11 (9) “Managed forestland” means:

12 (A) ~~any~~ Any land, exclusive of any house site, that is at least 25 acres
13 in size and that is under active long-term forest management for the purpose of
14 growing and harvesting repeated forest crops or attaining old forest values and
15 functions in accordance with minimum acceptable standards for forest
16 management. Such land may include ~~eligible ecologically significant~~
17 ~~treatment areas~~ the following in accordance with minimum acceptable
18 standards for forest management and as approved by the Commissioner:

19 (i) eligible ecologically significant treatment areas; or

20 (ii) reserve forestland; or

21 (B) ~~any~~ Any land, exclusive of any house site, that is:

1 (i) certified under 10 V.S.A. § 6306(b);

2 (ii) owned by an organization that was certified by the

3 Commissioner of Taxes as a qualified organization as defined in 10 V.S.A.

4 § 6301a and for at least five years preceding its certification was determined

5 by the Internal Revenue Service to qualify as a Section 501(c)(3) organization

6 that is not a private foundation as defined in 26 U.S.C. § 509(a); and

7 (iii) under active conservation management in accord with

8 standards established by the Commissioner of Forests, Parks and Recreation.

9 * * *

10 (12) “Use value appraisal” means, with respect to land, the price per
11 acre that the land would command if it were required to remain henceforth in
12 agriculture or forest use, as determined in accordance with the terms and
13 provisions of this subchapter. With respect to farm buildings, “use value
14 appraisal” means zero percent of fair market value.

15 * * *

16 (16) “Ecologically significant treatment areas” means lands within a
17 parcel of managed forestland that will be managed using protective or
18 conservation management strategies and are not required to be managed for
19 timber, including old forests; State-significant natural communities; rare,
20 threatened, and endangered species; riparian areas; forested wetlands; and
21 vernal pools.

1 ~~(17) "Reserve forestland" means land that is managed for the purpose of~~
2 ~~attaining old forest values and functions in accordance with minimum~~
3 ~~acceptable standards for forest management and as approved by the~~
4 ~~Commissioner.~~

*(17) "Reserve forestland" means land that is managed for the purpose
of attaining old forest values and functions in accordance with minimum
acceptable standards for forest management and as approved by the
Commissioner of Forests, Parks and Recreation. On parcels of up to 100
acres, 50 percent or more of the enrolled parcel acres shall be composed of
significant and sensitive conditions in accordance with the minimum
acceptable standards established by the Commissioner. On parcels of 100
acres or more, 30 percent of the enrolled parcel acres shall be composed of
significant and sensitive conditions in accordance with the minimum
acceptable standards established by the Commissioner.*

5 * * *

6 § 3755. ELIGIBILITY FOR USE VALUE APPRAISALS

7 (a) Except as modified by subsection (b) of this section, any agricultural
8 land, managed forestland, and farm buildings that meet the criteria contained
9 in this subchapter and in the rules adopted by the Board shall be eligible for
10 use value appraisal.

1 (b) Managed forestland shall be eligible for use value appraisal under this
2 ~~subchapter~~ chapter only if:

3 (1) The land is subject to a forest management plan, ~~or~~ subject to a
4 conservation management plan in the case of lands certified under 10 V.S.A.
5 § 6306(b), that is filed in the manner and form required by the Department of
6 Forests, Parks and Recreation and that:

7 (A) Is signed by the owner of the parcel.

8 (B) Complies with subdivision 3752(9) of this title.

9 (C) Is approved by the Department of Forests, Parks and Recreation.

10 (D) Provides for continued conservation management, reserve
11 forestland management, or forest crop production on the parcel for 10 years.

12 An initial forest management plan or conservation management plan must be
13 filed with the Department of Forests, Parks and Recreation on or before
14 October 1 and shall be effective for a 10-year period beginning the following
15 April 1. Prior to expiration of a 10-year plan and on or before April 1 of the
16 year in which the plan expires, the owner shall file a new conservation or
17 forest management plan for the next succeeding 10 years to remain in the
18 program.

19 * * *

20 (3) There has not been filed with the Director an adverse inspection
21 report by the Department stating that the management of the tract is contrary

1 to the forest or ~~management plan~~, conservation management plan, or contrary
2 to the minimum acceptable standards for forest or conservation management.
3 The management activity report shall be on a form prescribed by the
4 Commissioner of Forests, Parks and Recreation in consultation with the
5 Commissioner of Taxes and shall be signed by all the owners and shall contain
6 the tax identification numbers of all the owners. All information contained
7 within the management activity report shall be forwarded to the Department of
8 Forests, Parks and Recreation, except for any tax identification number
9 included in the report. If any owner satisfies the Department that he or she
10 was prevented by accident, mistake, or misfortune from filing an initial or
11 revised management plan that is required to be filed on or before October 1, or
12 a management plan update that is required to be filed on or before April 1 of
13 the year in which the plan expires, or a management activity report that is
14 required to be filed on or before February 1 of the year following the year
15 when the management activity occurred, the owner may submit that
16 management plan or management activity report at a later date; provided,
17 however, no initial or revised management plan shall be received later than
18 December 31, and no management plan update shall be received later than one
19 year after April 1 of the year the plan expires, and no management activity
20 report shall be received later than March 1.

1 (c) The Department of Forests, Parks and Recreation shall periodically
2 review the management plans and each year review the management activity
3 reports that have been filed.

4 (1) At intervals not to exceed 10 years, ~~that~~ the Department shall inspect
5 each parcel of managed forestland qualified for use value appraisal to verify
6 that the terms of the management plan have been carried out in a timely
7 fashion.

8 (2) The Department shall have the ability to enter parcels of managed
9 forestland for the purpose of inspections. The Department may bring any
10 other staff from the Agency of Natural Resources that have the expertise to
11 evaluate compliance with this chapter or staff that may be required to ensure
12 the safety of the Department while conducting the inspections.

13 (3) If ~~that~~ the Department finds that the management of the tract is
14 contrary to the conservation plan or forest management plan, or contrary to the
15 minimum acceptable standards for conservation or forest management, it shall
16 file with the owner, the assessing officials, and the Director an adverse
17 inspection report within 30 days after the conclusion of the inspection process.

18 (d) After managed forestland has been removed from use value appraisal
19 due to an adverse inspection report under subsection 3756(k) of this title, a
20 new application for use value appraisal shall not be considered for a period of
21 five years, and then the forest management plan shall be approved by the

1 Department of Forests, Parks and Recreation only if a compliance report has
2 been filed with the new forest management plan, certifying that appropriate
3 measures have been taken to bring the parcel into compliance with minimum
4 acceptable standards for forest or conservation management.

5 * * *

6 ~~Sec. 3. DEPARTMENT OF FORESTS, PARKS AND RECREATION;~~

7 ~~MANAGEMENT STANDARDS FOR RESERVE FORESTLAND;~~
8 ~~IMPLEMENTATION~~

9 ~~(a) On or before December 31, 2022, the Commissioner of Forests, Parks~~
10 ~~and Recreation, after consultation with the Division of Property Valuation and~~
11 ~~Review and other interested parties, shall submit to the House Committees on~~
12 ~~Natural Resources, Fish, and Wildlife and on Ways and Means and the Senate~~
13 ~~Committees on Natural Resources and Energy and on Finance the standards~~
14 ~~for the management of reserve forestland eligible for participation in the Use~~
15 ~~Value Appraisal Program under 32 V.S.A. § 3752(9)(A)(ii). The standards~~
16 ~~established by the Commissioner of Forests, Parks and Recreation shall be the~~
17 ~~same or substantially similar to the standards set forth in the Department of~~
18 ~~Forests, Parks and Recreation report on Considerations for a Reserve~~
19 ~~Forestland Subcategory in Vermont's Use Value Appraisal Program, dated~~
20 ~~October 15, 2021. The standards shall include:~~

1 ~~(1) the threshold conditions or requirements for eligibility of reserve~~
2 ~~forestland in the Use Value Appraisal Program, including the specific~~
3 ~~attributes of parcels that would qualify for enrollment as reserve forestland;~~
4 ~~(2) the requirements of a forest management plan for reserve forestland;~~
5 ~~(3) the management activities allowed or prohibited on reserve~~
6 ~~forestland;~~
7 ~~(4) how a property owner, including an owner of land already enrolled~~
8 ~~in the Use Value Appraisal Program, would enroll land as reserve forestland;~~
9 ~~(5) the reporting and inspection requirements for reserve forestland; and~~
10 ~~(6) proposed legislation, if any, that the Commissioner of Forests, Parks~~
11 ~~and Recreation recommends to implement enrollment of reserve forestland in~~
12 ~~the Use Value Appraisal Program, including staffing or funding necessary for~~
13 ~~implementation.~~
14 ~~(b) Beginning July 1, 2023, managed forestland shall be eligible for~~
15 ~~enrollment in the Use Value Appraisal Program as reserve forestland in~~
16 ~~accordance with the minimum acceptable standards and administrative~~
17 ~~requirements established by the Commissioner of Forests, Parks and~~
18 ~~Recreation.~~

*Sec. 3. DEPARTMENT OF FORESTS, PARKS AND RECREATION;
REPORT ON ENROLLMENT OF RESERVE FORESTLAND
IN USE VALUE APPRAISAL*

(a) On or before December 31, 2022, the Commissioner of Forests, Parks and Recreation, after consultation with the Division of Property Valuation and Review and the Current Use Advisory Board, shall submit to the House Committees on Natural Resources, Fish, and Wildlife, on Agriculture and Forestry, and on Ways and Means and the Senate Committees on Natural Resources and Energy, on Agriculture, and on Finance a report regarding the enrollment of reserve forestland in the Use Value Appraisal Program. The report shall include the following:

(1) The standards for the management of reserve forestland eligible for participation in the Use Value Appraisal Program under 32 V.S.A. § 3752(9)(A)(ii). The standards established by the Commissioner of Forests, Parks and Recreation shall be the same or substantially similar to the standards set forth in the Department of Forests, Parks and Recreation report on Considerations for a Reserve Forestland Subcategory in Vermont's Use Value Appraisal Program, dated October 15, 2021.

(2) A summary of how a property owner of land already enrolled in the Use Value Appraisal Program as productive forestland would enroll land as reserve forestland and how a property owner of land enrolled in the Use Value Appraisal Program as reserve forestland would transition to enrollment as productive forestland.

(b) On or before December 31, 2024, the Commissioner of Taxes, after consultation with the Commissioner of Forests, Parks and Recreation, the Secretary of Agriculture, Food, And Markets, and the Current Use Advisory Board, shall submit to the House Committees on Natural Resources, Fish, and Wildlife, on Agriculture and Forestry, and on Ways and Means and the Senate Committees on Natural Resources and Energy, on Agriculture, and on Finance a report that examines the strategies and rates for the valuation of all land enrolled in the Use Value Appraisal Program and that recommends whether and how to ensure that the fiscal return to landowners and the State is consistent among use values and uses of the different categories of enrolled land.

Sec. 3a. IMPLEMENTATION

Beginning on July 1, 2023 and pursuant to 32 V.S.A. § 3755, managed forestland shall be eligible for enrollment in the Use Value Appraisal Program as reserve forestland in accordance with the minimum acceptable standards and administrative requirements established by the Commissioner of Forests, Parks and Recreation.

~~Sec. 4. REPORT ON ENROLLMENT OF RESERVE FORESTLAND~~

~~On or before January 15, 2026, the Commissioner of Forests, Parks and Recreation, after consultation with the Director of Property Valuation and Review, shall report to the House Committees on Natural Resources, Fish, and~~

1 ~~Wildlife and on Ways and Means and the Senate Committees on Natural~~
2 ~~Resources and Energy and on Finance regarding enrollment of managed~~
3 ~~forestland under the Use Value Appraisal Program. The report shall include:~~

4 ~~(1) a summary of how enrollment of managed forestland in the Use~~
5 ~~Value Appraisal Program has changed since passage of this act, including~~
6 ~~whether owners of managed forestland changed the status of enrollment of~~
7 ~~their land to reserve forestland or ecologically sensitive treatment areas;~~

8 ~~(2) the number of persons enrolling land in the Use Value Appraisal~~
9 ~~Program as reserve forestland; and~~

10 ~~(3) any other information that the Commissioner determines is relevant~~
11 ~~to the ongoing enrollment of reserve forestland in the Use Value Appraisal~~
12 ~~Program.~~

13 ~~Sec. 5. EFFECTIVE DATES~~

14 ~~(a) This section and Secs. 1 (findings), 3 (management standards for~~
15 ~~reserve forestland), and 4 (report on enrollment) shall take effect on passage.~~

16 ~~(b) Sec. 2 (Use Value Appraisal Program) shall take effect on July 1, 2025.~~

Sec. 5. EFFECTIVE DATES

(a) This section and Secs. 1 (findings), 3 (report on enrollment for reserve forestland), 3a (implementation), and 4 (report on enrollment) shall take effect on passage.

~~(b) Sec. 2 (Use Value Appraisal Program) shall take effect on July 1, 2023.~~

Sec. 4. REPORT ON ENROLLMENT OF RESERVE FORESTLAND

On or before January 15, 2026, the Commissioner of Forests, Parks and Recreation, after consultation with the Director of Property Valuation and Review, shall report to the House Committees on Natural Resources, Fish, and Wildlife and on Ways and Means and the Senate Committees on Natural Resources and Energy and on Finance regarding enrollment of managed forestland under the Use Value Appraisal Program. The report shall include:

(1) a summary of how enrollment of managed forestland in the Use Value Appraisal Program has changed since passage of this act, including whether owners of managed forestland changed the status of enrollment of their land to reserve forestland or ecologically significant treatment areas;

(2) the number of persons enrolling land in the Use Value Appraisal Program as reserve forestland;

(3) any other information that the Commissioner determines is relevant to the ongoing enrollment of reserve forestland in the Use Value Appraisal Program, including any relevant information regarding any impacts to the overall managed forestland category;

(4) recommendations on how to promote the long-term enrollment of land in the reserve forestland category of enrolled land in order to attain old forest conditions or functions and values; and

(5) a recommendation on how to protect or conserve the functions and values of significant and sensitive acres enrolled as reserve forestland when the owner of the land wishes to amend the category or subcategory of enrollment.

Sec. 5. ANNUAL REPORT; DIVISION OF PROPERTY VALUATION

AND REVIEW

As part of the annual report required under 32 V.S.A. § 3412, the Director of the Division of Property Valuation and Review shall include an assessment of how enrollment of managed forestland in the Use Value Appraisal Program has changed since reserve forestland was approved as eligible managed forestland, including whether owners of managed forestland changed the status of enrollment of their land to reserve forestland or ecologically significant treatment areas.

Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 1 (findings), 3 (report on enrollment of reserve forestland), 3a (implementation), 4 (report on enrollment), and 5 (Division of Property Valuation and Review report) shall take effect on passage.

(b) Sec. 2 (Use Value Appraisal Program) shall take effect on July 1, 2023.