

**From:** Peterson, Mary [Mary.Peterson@vermont.gov]  
**Sent:** Wednesday, August 17, 2011 7:52 PM  
**To:** MacLean, Alex; Recchia, Chris; Ross, Chuck; Snyder, Michael; Miller, Lawrence  
**Subject:** FW: Vermont Current Use Report 2011 #16

Following up on our discussion last week, making sure you all have seen this. See #2 on posting, and #10 on farm housing.

Cheers,  
Mary

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**From:** Johnson, Bill  
**Sent:** Wednesday, August 17, 2011 9:07 AM  
**To:** Hunt, Elizabeth  
**Cc:** Peterson, Mary; Wilson, Michelle  
**Subject:** FW: Vermont Current Use Report 2011 #16

Elizabeth, when we do our mailing to the CUAB for the upcoming meeting, please include a copy of the article below in the mailing. Thanks.

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**From:** Vermont Current Use Report [mailto:phildodd@vermontproperty.com]  
**Sent:** Tuesday, August 16, 2011 3:30 PM  
**To:** Johnson, Bill  
**Subject:** Vermont Current Use Report 2011 #16

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**Vermont Current Use Report 2011**  
**No. 16, Aug. 16, 2011**

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## Coalition Tackling Topics Identified By House As Needing Study

The Current Use Tax Coalition (CUTC) is studying several current use topics this summer and fall that are among 10 subjects listed in the House-passed current use bill, H.237, as deserving further research. Not all of the subjects will be taken up by the CUTC, however.

The Coalition's intent is to make recommendations to the Legislature to help inform debate as H.237 moves to the Senate next year, according to CUTC co-chair Put Blodgett. The next meeting of the CUTC is Sept. 1.

The CUTC is an organization that includes agricultural, forestry, environmental and recreation groups who support the current use program. It has been monitoring legislative efforts to reform current use, and has made some suggestions that were incorporated in H.237, such as having a "tiered" development penalty.

Under H.237, the development penalty - officially known as the "land use change tax" - would change to 10% for land enrolled less than 12 years, 8% for land enrolled 12 to 20 years, and 5% for land enrolled more than 20 years.

The CUTC had proposed a 10% - 5% - 3% system, and Blodgett said the Coalition has not yet decided whether it will accept the H.237 tiers or fight for lower numbers. A discussion and vote will be held this fall, he said.

At a meeting in July, the CUTC began to identify which of the bill's study subjects it would tackle, taking up a study request outlined in H.237. After listing the 10 subjects, the bill states: "Individuals and organization who are interested in the issues listed in subsection (d) are encouraged to create working groups to study these issues and develop potential solutions."

The topics proposed for study in H.237 are as follows:

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

There have been allegations for many years that current use property is over-assessed in some towns. The higher the current use assessment, the more money a town will receive from the state to replace lost municipal taxes.

Enrolled property owners also have few reasons to appeal their assessments because their property taxes are capped under current use. In addition, there is evidence that conserved land is overvalued, according to the CUTC. Jamey Fidel of the Vermont Natural Resources Council is overseeing a study of the entire over-assessment issue for the CUTC.

*2) The need to create incentives for landowners who keep enrolled land open for public recreation.*

Some legislators object to the fact that enrolled current use land - which pays reduced property taxes with the help of state funds - is sometimes posted to prevent hunting or public recreation. They have suggested that either posted land should get less of a tax reduction, or unposted land should be taxed at an even lower assessment, as an incentive. Forester John Meyer, the other co-chair of the CUTC, said he believes applying even lower assessments to posted land would be unaffordable in these fiscal times, and that it would be bad policy to penalize enrolled landowners who do post: "What posting would be covered? What about hunting by permission only? This would be a mess." Moreover, he noted that many foresters already recommend that enrolled forestland owners allow hunting in order to cut down on the number of deer that browse on young trees. A CUTC subcommittee is investigating the issue.

*3) The eligibility of agricultural parcels of less than 25 acres and the feasibility of developing productivity standards for such parcels.*

The only land parcels less than 25 acres eligible for current use are agricultural lands that produce an annual income of \$2,000, or are owned or leased to a farmer. Some argue there should be tighter standards for enrollment of these parcels. The CUTC is interested in the topic, but may not have the time or money to study the issue.

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

This topic overlaps with #2 above. A VNRC intern is researching current use laws in twenty states for CUTC.

Tom Vickery of the Vermont Assessors and Listers Association (VALA) is also doing some research on the topic.

*5) The identification and analysis of lands removed from the program over the past ten years and the subsequent use of those parcels.*

The CUTC is skipping this topic.

*6) The application of the land use change tax to timber harvesting operations after the approved forest management plan has expired and the land is no longer enrolled in use value appraisal.*

The issue here involves forestland that has been withdrawn from current use, but still has a lien on it because no development penalty has been paid. One question is whether the forest management plan is still binding since the lien still exists. Another is whether the development penalty/land use change tax should be due if such land is harvested contrary to the forest management plan, for example by clear-cutting. The state Forest, Parks and Recreation Department is reportedly seeking an opinion on the issue from the Attorney General's office.

*7) The effect of allowing an owner to relocate an undeveloped withdrawn site of two acres or less once within an enrolled parcel without incurring the land use change tax, provided there is no net reduction in the area of enrolled land.*

The CUTC is waiting for input on this from VALA's Tom Vickery, and Bill Johnson, Director of the state Division of Property Valuation and Review.

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

Oversight of enrolled forestland is conducted by state-employed county foresters, but there is no comparable system for oversight of enrolled agricultural land. One area where this has become an issue is management of maple sugar stands used for maple syrup production. County foresters are concerned that the emphasis with sugarbushes is on monetary return rather than woodland management. But the law treats sugarbushes as agricultural lands, which sugarmakers seem to prefer. The CUTC is discussing this issue with state officials.

9) *Whether the land use change tax is a tax or a penalty, and if it is a tax, whether additional penalties are appropriate for land leaving the program or for land enrolled in the program that is not, in fact, qualified for enrollment.*

CUTC is skipping this topic.

10) *Deferral of the land use change tax payment for development of farm housing.*

Farm housing can be enrolled in current use, but the CUTC says there are many unanswered questions about the topic, including when and how the development penalty should be applied to farm housing. The Vermont Land Trust will provide a report to the CUTC on the topic by October.

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