

LANDLESS: LEGAL & POLICY TOOLS FOR TRANSFERRING VERMONT FARMLAND TO THE NEXT GENERATION OF STEWARDS AND FOOD PRODUCERS

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INTRODUCTION

In 2007, the United States Census of Agriculture reported that the average age of the U.S. farmer was just over fifty-seven, and that the number of farmers over the age of sixty-five had grown by 22% from 2002, making this age bracket the “fastest growing group of farm operators” in the nation.¹ The number of farmers under forty-five decreased by 14% during this same time period.² These statistics drew attention to the widening “generational gap” in farmers, and initiated a national discussion about how to support the increasing number of young people willing to enter a profession that is notorious for its long hours, hard labor, high risk, and low financial rewards.³ Beginning farmers face numerous obstacles that make the transition from field hand or farm apprentice to owner-operator challenging.⁴ The most onerous obstacles include access to land and access to capital.⁵

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1. NAT'L AGRIC. STAT. SERV., USDA, 2007 CENSUS OF AGRICULTURE—FARMERS BY AGE 1 (2009) [hereinafter NAT'L AGRIC. STAT. SERV., FARMERS BY AGE], available at http://www.agcensus.usda.gov/Publications/2007/Online_Highlights/Fact_Sheets/Demographics/farmer_age.pdf; NAT'L AGRIC. STAT. SERV., USDA, 2007 CENSUS OF AGRICULTURE—UNITED STATES SUMMARY AND STATE DATA 7 tbl.1 (2009), available at http://www.agcensus.usda.gov/Publications/2007/Full_Report/usv1.pdf; see also Tyler Slack, *Bridging the Gap: Farm Transition Challenges Facing Elder Farmers and the Need for a Nationwide Farm-On Program*, 20 ELDER L.J. 485, 486 (2012) (showing statistical increase in average age of farmers).

2. NAT'L AGRIC. STAT. SERV., FARMERS BY AGE, *supra* note 1.

3. See Slack, *supra* note 1, at 487 (quoting USDA, A TIME TO ACT: A REPORT OF THE USDA NATIONAL COMMISSION ON SMALL FARMS 89 (1998), available at http://www.csrees.usda.gov/nea/ag_systems/pdfs/time_to_act_1998.pdf) (noting the widening generational gap in farmers); See Benjamin Shute, *We Need A New Generation of Farmers*, Room for Debate, N.Y. TIMES (Aug. 19, 2011, 3:50 PM), <http://www.nytimes.com/roomfordebate/2011/08/17/could-farms-survive-without-illegal-labor/we-need-a-new-generation-of-american-farmers> (explaining the need for new federal policies to support aspiring farmers).

4. See generally LINDSEY LUSHER SHUTE ET AL., NAT'L YOUNG FARMERS COAL., BUILDING A FUTURE WITH FARMERS: CHALLENGES FACED BY YOUNG, AMERICAN FARMERS & A NATIONAL

Congress authorized two new federal programs under the 2008 and 2014 Farm Bills to address farm succession and land access issues, and to provide technical support to young farmers: the Transition Incentives Program,⁶ and the Beginning Farmer and Rancher Development Program.⁷ The Transition Incentives Program offers farmers who own land that is enrolled in the federal Conservation Reserve Program (CRP) under expiring contracts two years of extra CRP rental payments, provided the landowner sells or rents the property “to beginning or socially disadvantaged farmers and ranchers who will use sustainable grazing practices, resource-conserving cropping systems, or transition to organic production.”⁸ The Beginning Farmer and Rancher Development Program funds “training, education, outreach, and technical assistance initiatives for beginning farmers or ranchers.”⁹ Federal programs like these make important investments in growing our nation’s next generation of farmers. This Paper, however, focuses on opportunities for Vermont to act at the state policy level.

First, this Paper contextualizes the issue of beginning farmer land access by discussing trends in farmland values and agricultural markets relevant to young farmers nationally. Second, this Paper examines current trends in Vermont land use and agricultural land tenure and highlights legal and policy issues that are specific to beginning farmers in Vermont. Third, this Paper identifies and evaluates existing Vermont laws and policies that

STRATEGY TO HELP THEM SUCCEED (2011), available at http://www.youngfarmers.org/reports/Building_A_Future_With_Farmers.pdf (arguing for policy and legislative change at the local and federal levels to help combat the obstacles facing new farmers).

5. *Id.* at 20.

6. 7 C.F.R. § 1410.64 (2014); see also *Conservation Reserve Program (CRP) – Transition Incentives Program (TIP)*, FACT SHEET (U.S. Dep’t of Agric., Farm Serv. Agency, Washington, D.C.), May 2010, at 1, available at http://www.fsa.usda.gov/Internet/FSA_File/tipfactsheet.pdf (outlining the eligibility requirements and benefits of the Transition Incentives Program); *CRP Transition Incentives Program*, NAT’L SUSTAINABLE AGRIC. COAL., <http://sustainableagriculture.net/publications/grassrootsguide/farming-opportunities/crp-transition-option/> (last visited Dec. 5, 2014) (describing the positive impacts of the Transition Incentives Program for beginning farmers); *What’s In the 2014 Farm Bill for Farm Service Agency Customers*, FACT SHEET (U.S. Dep’t of Agric., Farm Serv. Agency, Washington, D.C.), Mar. 2014, at 4, available at http://www.fsa.usda.gov/Internet/FSA_File/2014_farm_bill_customers.pdf (describing programs reauthorized under the 2014 Farm Bill, including the Transition Incentives Program).

7. 7 U.S.C. § 3319(f) (2012); *Program Synopsis: Beginning Farmers and Ranchers*, NAT’L INST. OF FOOD & AGRIC., USDA, (Mar. 6, 2014), http://www.nifa.usda.gov/funding/bfrdp/bfrdp_synopsis.html; *Grants*, NAT’L INST. OF FOOD AND AGRIC., USDA (Apr. 23, 2014), <http://www.csrees.usda.gov/fo/beginningfarmersandranchers.cfm> (describing the Beginning Farmers and Ranchers Development Program).

8. *CRP Transition Incentives Program*, *supra* note 6.

9. *Program Synopsis: Beginning Farmers and Ranchers*, *supra* note 7.

impact beginning farmer land access. Finally, this Paper explores new policy strategies and legal tools to help transition Vermont farmland to the next generation of stewards and food producers, with a particular emphasis on the following four components: increased access, secure tenure, affordability, and stewardship.¹⁰

I. NATIONAL TRENDS IMPACTING BEGINNING FARMERS

National farmland values have risen steadily over the past two decades, with the exception of a slight decline in 2009.¹¹ Thus, land access is a daunting hurdle for beginning farmers.¹² According to the USDA, “[c]ollectively the Northeast region of the United States has the highest average farmland value,” with average values per acre of \$2,500 to \$4,999 in Vermont and New Hampshire, and \$10,000 to \$14,999 in Massachusetts and Connecticut.¹³ The USDA Farm Service Agency (FSA), which provides loans for land and operating expenses to farmers who struggle to qualify for commercial credit,¹⁴ responded to this issue by increasing annual lending to beginning farmers from \$716 million in 2000 to \$1.1 billion in 2006.¹⁵ However, despite this increased dedication of funds, “FSA’s overall role in direct farm lending has dwindled to such an extent that today’s beginning farmers have decidedly less opportunity and public support than previous generations.”¹⁶ Furthermore, as the farming population ages, land

10. See ANNETTE M. HIGBY ET AL., *HOLDING GROUND: A GUIDE TO NORTHEAST FARMLAND TENURE AND STEWARDSHIP* 10–12 (Miranda Smith ed., 2004) [hereinafter HIGBY ET AL., *HOLDING GROUND*] (noting the importance of access, secure tenure, affordability, and stewardship to farmland policy).

11. See NAT’L AGRIC. STAT. SERV., USDA, 2007 CENSUS OF AGRICULTURE—VALUE OF FARM LAND AND BUILDINGS I (2009) [hereinafter *VALUE OF FARM LAND AND BUILDINGS*], available at http://www.agcensus.usda.gov/Publications/2007/Online_Highlights/Fact_Sheets/Economics/land_values.pdf (showing decline in property value in 2009 compared with values from 1987–2007).

12. See SHUTE ET AL., *supra* note 4, at 20 (stating that, of the farmers polled, 68% said one of the biggest problems facing new farmers is land access).

13. See NAT’L AGRIC. STAT. SERV., *VALUE OF FARM LAND AND BUILDINGS*, *supra* note 11, at 1 (indicating average land values).

14. FARM SERV. AGENCY, USDA, *YOUR GUIDE TO FSA FARM LOANS* 7, 10 (2012), available at http://www.fsa.usda.gov/Internet/FSA_File/fsa_br_01_web_booklet.pdf.

15. U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-07-1130, *BEGINNING FARMERS: ADDITIONAL STEPS NEEDED TO DEMONSTRATE THE EFFECTIVENESS OF USDA ASSISTANCE 4* (2007), available at <http://www.gao.gov/assets/270/267028.pdf>. This report also states that the “USDA generally defines a beginning farmer or rancher as one who has operated a farm or ranch for 10 years or less, regardless of age, and will materially and substantially participate in its operation.” *Id.* at 1.

16. HIGBY ET AL., *HOLDING GROUND*, *supra* note 10, at 8; See also ANNETTE M. HIGBY ET AL., *A LEGAL GUIDE TO THE BUSINESS OF FARMING IN VERMONT* 67 (Miranda Smith ed., 2006) [hereinafter HIGBY ET AL., *A LEGAL GUIDE*], available at <http://www.uvm.edu/farmtransfer/>

ownership has become concentrated in the hands of farmers who are retired or near retirement,¹⁷ many of whom do not have heirs who want to continue the family business.¹⁸ Therefore, to an increasing degree, those individuals entering agriculture are first generation farmers who are unlikely to inherit land.¹⁹ This trend invites questions about how to incentivize farm succession planning that benefits both “landless” beginning farmers, as well as retiring farmers who are “likely to have their retirement savings tied up in on-farm assets such as farmland.”²⁰ As Secretary of Agriculture Tom Vilsack summarized, our national challenge is “to find new ways, through tax policy, through regulations, through our credit programs or other programs, to help transition farms to the next generation.”²¹

Meanwhile, U.S. consumers have expressed a growing interest in both organic and local foods.²² In fact, organics are the fastest growing sector in the food industry today, with most growth occurring in sales of organic

LegalGuide.pdf (“Since the 1930s, FSA has been the lender of last resort and, as such, has made farm ownership a reality for thousands and thousands of farm families. However, the current level of public commitment to providing economic opportunity and entry into agriculture leaves much to be desired. In 1997, FSA’s share of lending in the Northeast had dwindled to 6.7 percent—not much ahead of implement dealers as a source of credit.”).

17. See Neil D. Hamilton, *Farms, Food, & the Future: Legal Issues and Fifteen Years of the “New Agriculture,”* 26 J. ENVTL. L. & LITIG. 1, 16 (2011) (describing the concentration of farmland ownership among older generations).

18. See Slack, *supra* note 1, at 495–96 (stating that “studies have revealed that although farming operations have been traditionally passed down from generation to generation, intergenerational transfers of family farms have significantly decreased” (citing David Laband & Bernard Lentz, *Occupational Inheritance in Agriculture*, 36 AM. J. OF AGRIC. ECON. 311, 311–14 (1983)); SHUTE ET AL., *supra* note 4, at 25 (“Across the United States, farmland is becoming more and more concentrated in the hands of older farmers. In 1999, only 1.67 percent of farmland owners were under the age of 35, whereas 40 percent of farmland owners were over the age of 70.”).

19. See SHUTE ET AL., *supra* note 4, at 25 (stating that, of the farmers who took their research survey, “more than three-quarters . . . did not come from farming backgrounds,” and that “[a]mong farm business owners raised on a farm, 65 percent owned land as compared to 50 percent of farmers who did not grow up on a farm.”).

20. See Slack, *supra* note 1, at 491 (noting the difference in retirement funds between farmers and traditional employees).

21. *Id.* at 487 (quoting Tom Vilsack, U.S. Sec’y of Agric., Address at the John Deere Des Moines Works (Oct. 25, 2011) (internal quotation marks omitted), available at <http://www.thebaynet.com/articles/1011/agriculture-secretary-vilsack-on-priorities-for-the-2012-farm-bill.html>).

22. See Press Release, Organic Trade Association, Consumer-driven U.S. Organic Market Surpasses \$31 Billion in 2011 (Apr. 23, 2012), available at http://www.organicnewsroom.com/2012/04/us_consumerdriven_organic_mark.html (“Consumers are increasingly engaged and discerning when they shop, making decisions based on their values and awareness about health and environmental concerns.”); ORGANIC TRADE ASS’N, U.S. ORGANIC INDUSTRY OVERVIEW 1 (2011), available at <http://www.ota.com/pics/documents/2011OrganicIndustrySurvey.pdf>.

fruits and vegetables, followed by organic dairy products.²³ The USDA reports that “[o]rganic production is poised to grow over the next five years, with more than 78 percent of certified and exempt producers indicating that they plan to maintain or increase organic production levels.”²⁴ Further, the USDA reports that in 2007 many organic producers (44%) sold their products locally, within 100 miles of the farm.²⁵ In addition, the number of farmers’ markets, community supported agriculture (CSA) operations, and farm-to-school programs has exploded over the past two decades, further evidencing consumer demand for local foods.²⁶ For example, there were only two CSA operations in the United States in 1986, whereas today there are almost 4,000.²⁷

Local and organic agriculture has environmental, economic, and cultural benefits.²⁸ The most significant economic benefits of local foods include that farmers have an opportunity to retain a larger portion of every dollar sold through direct-to-consumer sales,²⁹ and that money spent on local foods stays within the community. These benefits support industries and create new jobs through a process known as the multiplier effect.³⁰ In addition, eliminating fossil fuel-based inputs, a core tenet of sustainable agriculture, will reduce energy consumption in the agricultural sector.³¹ Further, various soil conservation practices actually increase rates of soil-carbon sequestration and reduce greenhouse gas emissions, thereby helping

23. ORGANIC TRADE ASS’N, *supra* note 22, at 1.

24. NAT’L AGRIC. STAT. SERV., USDA, 2007 CENSUS OF AGRICULTURE—2008 ORGANIC PRODUCTION SURVEY (2008), available at http://www.agcensus.usda.gov/Publications/2007/Online_Highlights/Fact_Sheets/Practices/organics.pdf (defining “exempt” producers as those who employ organic practices but are exempt from certification because of sales totaling less than \$5,000).

25. *Id.*

26. *Know Your Farmer, Know Your Food: Our Mission*, U.S. DEP’T OF AGRIC., http://www.usda.gov/wps/portal/usda/usdahome?navid=KYF_MISSION (last updated Aug. 19, 2013).

27. Ryan E. Galt et al., *Community Supported Agriculture is Thriving in the Central Valley*, 66 CAL. AGRIC. 8, 8 (2012), available at http://asi.ucdavis.edu/resources/publications/Galt_CSAs%20in%20Central%20Valley%20_%20California%20agriculture.pdf.

28. See generally STEVE MARTINEZ ET AL., U.S. DEP’T OF AGRIC., LOCAL FOOD SYSTEMS: CONCEPTS, IMPACTS, AND ISSUES (2010), available at http://www.ers.usda.gov/media/122868/err97_1_.pdf (highlighting the benefits of local food markets); see also JEFFREY K. O’HARA, UNION OF CONCERNED SCIENTISTS, MARKET FORCES: CREATING JOBS THROUGH PUBLIC INVESTMENT IN LOCAL AND REGIONAL FOOD SYSTEMS 2, 3, 7 (2011) available at http://www.ucsusa.org/assets/documents/food_and_agriculture/market-forces-report.pdf (outlining the rise and benefits of local food markets).

29. See MARTINEZ ET AL., *supra* note 28, at 19 (noting that direct-to-consumer sales are one reason local farms can compete with larger farms).

30. See *id.* at 43–45 (explaining how local markets can create a multiplier effect).

31. See MARTIN C. HELLER & GREGORY A. KEOLEIAN, CTR. FOR SUSTAINABLE SYS., UNIV. OF MICH., LIFE CYCLE-BASED SUSTAINABILITY INDICATORS FOR ASSESSMENT OF THE U.S. FOOD SYSTEM 39–42 (2000) (explaining the relationship between fossil fuel use, local markets, and sustainability).

to mitigate climate change impacts.³² Sustainable soil management techniques also make farms more resilient in the face of drought and extreme weather, demonstrating that they are a key strategy for climate change adaptation.³³

A growing number of fledgling agriculturalists are expressing an interest in meeting the demand for local and organic foods, and many of them are motivated by strong conservation values.³⁴ Taken together, the trends outlined above suggest there is an opportunity to address the generational farm gap by better linking young farmers with land opportunities so they can serve emerging agricultural markets. All of the pieces are there. However, a set of policies and legal tools is needed to link land, farmer, and market in a manner that also fosters and rewards environmental stewardship. Land is the basic building block of sustainable, regional food systems. Without land, and without policies that help to put a new generation of farmers on the land, we will not have local food. Moreover, our ability to protect the climate and natural resources upon which farms depend will ultimately determine the future of agriculture, making land stewardship a key priority for farm policy.

32. See NAT. RES. CONS. SERV., USDA, OPPORTUNITIES FOR MANAGING CARBON SEQUESTRATION AND GREENHOUSE GAS EMISSIONS IN AGRICULTURAL SYSTEMS 2 (2006) available at http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs143_023251.pdf (explaining ways to manage greenhouse gas emissions from agriculture); ROBERT JORDAN ET AL., INT'L FED'N OF ORGANIC AGRIC. MOVEMENTS, ORGANIC AGRICULTURE—A GUIDE TO CLIMATE CHANGE & FOOD SECURITY 9–13 (2009) available at http://www.ifoam-eu.org/sites/default/files/page/files/ifoam_ifoameu_policy_climate_food_security_dossier_2009.pdf (describing soil management techniques and other practices that reduce greenhouse gas emissions).

33. See JORDAN ET AL., *supra* note 32, at 14 (“Organic Agriculture creates robust and environmentally benign farming systems that are resilient to temperature extremes, drought and which avoid soil erosion.”); see also Tom Philpott, *Food and Extreme Weather: It's the Soil, Stupid*, MOTHER JONES (July 9, 2012, 3:00 AM), <http://www.motherjones.com/tom-philpott/2012/07/what-organic-ag-teaches-us-about-feeding-ourselves-while-planet-heats> (“Soil rich in organic matter (well-decayed remnants of plants and other living creatures) bolster soil in weather extremes by helping store water in times of scarcity and by holding together and not eroding away during heavy rains.”).

34. See SHUTE ET AL., *supra* note 4, at 10 (“The ‘good food’ movement—the interest and enthusiasm for organic, local and sustainably grown food now spreading across the country—is one of many factors bringing young people back to farming in the United States.”); Hamilton, *supra* note 17, at 5–6 (discussing various programs available to help new farmers begin and be successful).

II. TRENDS IN LAND USE AND AGRICULTURAL LAND TENURE IN VERMONT

A. Land Use and Farmland Preservation

According to 2013 data from the USDA National Agriculture Statistics Service, Vermont is home to 7,300 farms and 1,250,000 acres used primarily for crops, pasture, or grazing.³⁵ Approximately 21% of the total land area in the State is characterized as “farmland.”³⁶ By many measures, Vermont leads the nation in farmland preservation efforts. From Act 250’s protections for “primary agricultural soils,”³⁷ to the Vermont Land Trust’s (VLT) three decades of conservation work in partnership with the Vermont Housing and Conservation Board (VHCB),³⁸ Vermont has rigorously pursued strategies through both public and private mechanisms to protect lands with high ecological and agricultural values. Vermont’s efforts to preserve farmland are readily apparent. Driving through the state on country roads, or climbing to ridgelines to view the pastoral patchwork in the river valleys below, one cannot help but be struck by the absence of sprawling development typical to so many parts of the American landscape. Indeed, Vermont is the most “rural” state in the nation—nearly 66% of Vermonters live in non-urban areas.³⁹

35. 2013 *State Agriculture Overview: Vermont*, NAT’L AGRIC. STAT. SERV., USDA, http://www.nass.usda.gov/Quick_Stats/Ag_Overview/stateOverview.php?state=VERMONT (last visited Dec. 5, 2014); see also NAT’L AGRIC. STAT. SERV., USDA, 2007 CENSUS OF AGRICULTURE—VERMONT STATE AND COUNTY DATA B-14 app. (2009) [hereinafter VERMONT STATE AND COUNTY DATA], available at http://www.agcensus.usda.gov/Publications/2007/Full_Report/Volume_1,_Chapter_1_State_Level/Vermont/vtvl.pdf. The report states that “land in farms” is:

[A]gricultural land used for crops, pasture, or grazing. It also includes woodland and wasteland not actually under cultivation or used for pasture or grazing, provided it was part of the farm operator’s total operation. Large acreages of woodland or wasteland held for nonagricultural purposes were deleted from individual reports during the edit process. Land in farms includes CRP, WRP, FWP, and CREP acres.

Id.

36. Econ. Research Serv., *State Fact Sheets: Vermont*, USDA, <http://www.ers.usda.gov/data-products/state-fact-sheets/state-data.aspx?StateFIPS=50&StateName=Vermont#.UVcxbZjHbA5> (last updated Sept. 12, 2014).

37. VT. STAT. ANN. tit. 10, § 6086(a)(9)(B) (2013).

38. *Conserving Vermont’s Farmland*, VT. LAND TRUST, <http://www.vlt.org/land-weve-conserved/farmland> (last visited Dec. 5, 2014).

39. Econ. Research Serv., *supra* note 36; Todd W. Daloz, *Farm Preservation: A Vermont Land-Use Perspective*, 12 VT. J. ENVTL. L. 427, 429 n.7 (2011).

Vermont's mountainous geography, short growing season, and humid climate make the state well suited to animal agriculture.⁴⁰ Perhaps not surprisingly, the value of sales of milk and other dairy products far exceeds that of other commodity groups, constituting 72% of total farm receipts in the state.⁴¹ Cattle and calves are the next largest agricultural commodity at roughly 10% of total farm receipts.⁴² Accordingly, the vast majority of farmland in the state is used for pasture, forage, and hay crops as opposed to fruit and vegetable production.⁴³ These land use patterns may shift slightly as demand grows for a broader diversity of local agricultural products.⁴⁴ For example, while the number of dairy farms fell between 1992 and 2007,⁴⁵ the number of fruit and vegetable farms showed a slight increase.⁴⁶

Overall, Vermont farms are small as measured by both sales and acreage. According to the 2007 Census of Agriculture, the average size of farm operations in Vermont is 177 acres, and over 70% of the state's farms operate on fewer than 180 acres.⁴⁷ The farms included in these statistics may be comprised of multiple parcels and may host a variety of agricultural uses, making it difficult to analyze exactly what types and sizes of properties may be available to beginning farmers as current farmers retire.⁴⁸ In addition, the USDA defines "farm" broadly as "any enterprise that sells

40. See VT. SUSTAINABLE JOBS FUND, *Analysis of Vermont's Food System: Food Production: Dairy*, in FARM TO PLATE STRATEGIC PLAN 206 (2013), available at http://www.vtfoodatlas.com/assets/plan_sections/files/3.3_Food%20Production_Dairy_MAY%202013.pdf (stating that the "soils and climate" in Vermont are "highly favorable to raising the forage crops needed for dairy cows").

41. See Econ. Research Serv., *supra* note 36.

42. *Id.*

43. VERMONT STATE AND COUNTY DATA, *supra* note 35, at 27–28 tbl.33.

44. See VINCE BOLDUC & HERB KESSEL, VERMONT IN TRANSITION: A SUMMARY OF SOCIAL, ECONOMIC, AND ENVIRONMENTAL TRENDS 76 (2008), available at http://vtrural.org/sites/default/files/content/futureofvermont/documents/VTTransitions_Full_noAppen.pdf (noting that "[t]he health of Vermont's agricultural economy in the future will depend on the ability of farmers to differentiate their products" to meet increased demand for local foods and compete with out-of-state producers).

45. Daloz, *supra* note 39, at 431 ("In 1947 over 11,000 dairies blanketed the fields and hills. That figure dropped to 2,370 in 1990, and by 2007 only 1,097 survive" (quoting COUNCIL ON THE FUTURE OF VT., IMAGINING VERMONT: VALUES & VISIONS FOR THE FUTURE 56 (2009))).

46. BOLDUC & KESSEL, *supra* note 44, at 74; VERMONT STATE AND COUNTY DATA, *supra* note 35, at 8 tbl.1, 29 tbl.34.

47. VERMONT STATE AND COUNTY DATA, *supra* note 43, at 7 tbl.1.

48. VT. SUSTAINABLE JOBS FUND, *Analysis of Vermont's Food System: Farm Inputs: Land*, in FARM TO PLATE STRATEGIC PLAN 147–48 (2013), available at http://www.vtfoodatlas.com/assets/plan_sections/files/3.2_Farm%20Inputs_Land_MAY%202013.pdf. ("[A]lthough data on aggregate land in agriculture exists at the county level, it is currently not easy to describe and graphically depict the mosaic of land uses at the county and town levels. Many stakeholders identified and supported the need for mapping agricultural soils, parcels, and land uses to match farmers with potentially available land.")

at least \$1,000 of agricultural output per year,” which means that many non-commercial “farms” are included in USDA statistics.⁴⁹ In 2002, 41% of Vermont’s farms had sales of less than \$2,500, up from 25% in 1997.⁵⁰ Moreover, only 53% of farmers reported farming as their primary occupation in 2002, down from 73% in 1974.⁵¹ These data suggest that Vermont is home to a growing number of hobby, lifestyle, and retirement farms, or farms that provide a supplemental source of income.⁵² Indeed, one study explains the significant percentage of Vermont farms with minimal sales as follows:

Vermont is a high cost state . . . and many people try to find ways to supplement their income, agricultural endeavors being one such way. Others may simply desire to remain close to the land, to retain their connections with the state’s agricultural heritage, while others may be motivated by the beneficial tax consequences of operating a home based business or being able to enroll land in the Current Use Program⁵³

Overall, Vermont’s pastoral landscape and strong agricultural brand obscure the fact that the state continues to lose active farms.⁵⁴ The amount of land dedicated to rural uses declined steadily from 1982 to 2002, largely due to an ever-dwindling number of dairy farms.⁵⁵ “For the period 1982-1997, agricultural land use decreased by 16% or 174,000 acres. Of this decrease, 81% reverted to forestland, while less than 15% moved into the developed land category.”⁵⁶ Although 15% is a relatively small percentage, “[t]he rate and extension of land development has exceeded [that] of population growth resulting in pressure that spills over from urbanized areas into rural areas.”⁵⁷ This development gives rise to a land use pattern that some might refer to as “rural sprawl.”⁵⁸

49. BOLDUC & KESSEL, *supra* note 44, at 74.

50. *Id.*

51. *Id.*

52. *See id.* at 74–75 (analyzing factors that may be causing the increase in the number of farms with minimal sales in Vermont).

53. *Id.*

54. Daloz, *supra* note 39, at 427–28.

55. BOLDUC & KESSEL, *supra* note 44, at 33.

56. BOLDUC & KESSEL, *supra* note 44, at 34; Daloz, *supra* note 39, at 431.

57. BOLDUC & KESSEL, *supra* note 44, at 35.

58. Daloz, *supra* note 39, at 450 (quoting Jesse J. Richardson, Jr., *Beyond Fairness: What Really Works to Protect Farmland*, 12 DRAKE J. AGRIC. L. 163, 167 (2007)).

Notably, while the total amount of land in agriculture fell again by approximately 100,000 acres between 1997 and 2007, the average value of that farmland nearly doubled from \$1,618 to \$2,903 per acre during the same time period.⁵⁹ This rise in value may be partially due to increasing residential and commercial development pressures and “construction of second homes (especially related to the ski industry).”⁶⁰ In addition, the Vermont Land Trust reports that only 10% of the state’s “highest-rated agricultural soils” have been preserved under conservation easements in perpetuity, leaving a large portion of the state’s prime farmland open for development.⁶¹ As many researchers note, prime farmland is particularly attractive to developers because it is generally flat, well draining, and open—all qualities that reduce construction costs.⁶²

B. Farmland Owner Characteristics

The U.S. Census collects data on the tenure of principal farm “operators,” classifying them as either “full owners,” “part owners,” or “tenants.”⁶³ An “operator” is defined as “a person who operates a farm, either doing the work or making day-to-day decisions about such things as planting, harvesting, feeding, and marketing” and he or she “may be the owner, a member of the owner’s household, a hired manager, a tenant, a renter, or a sharecropper.”⁶⁴ The 2007 Census reports that approximately 64% of “principal operators” in Vermont are “full owners,” meaning that they farm only their own land, controlling approximately 44% of all farmland in the state.⁶⁵ Thirty percent of “principal operators” characterize themselves as “part owners,” meaning that they rent farmland in addition to acreage they own, and 5% describe themselves as “tenants” who rent all of their farmland.⁶⁶ While the Census does not collect data on the terms of leaseholds, Annette Higby, an expert in Northeast farmland tenure, writes that “[n]ationally, and perhaps in Vermont, an annual and oral cash lease

59. VERMONT STATE AND COUNTY DATA, *supra* note 35, at 7 tbl.1.

60. BOLDUC & KESSEL, *supra* note 44, at 34.

61. *Conserving Vermont’s Farmland*, *supra* note 38.

62. Daloz, *supra* note 39, at 431–32 (“The features that make [land] prime growing soil also encourage urbanization: [t]he topography of prime farmland lowers infrastructure costs for development and makes such land a tempting target for development. Its generally level grade, good drainage, and open expanse simplify the transition from amber waves to asphalt cul-de-sacs.” (internal quotation marks and citation omitted)).

63. VERMONT STATE AND COUNTY DATA, *supra* note 35, at B-11 app.

64. *Id.* at B-17 app.

65. *Id.* at 242, B-11 app.

66. *Id.*

that can be terminated at the will of the landowner is the norm.”⁶⁷ The owners of Jericho Settlers Farm, in Jericho Center, Vermont, and Fable Farm in Barnard, Vermont, confirmed this generalization, reporting that they accessed some of their first pieces of property simply by knocking on landowners’ doors and negotiating a basic handshake agreement.⁶⁸ The owner of Jericho Settlers Farm also indicated that this approach to land access is typical and even advised that young land seekers pursue such a strategy.⁶⁹

Overwhelmingly, farmland owners in Vermont are older (average age 56.5 years), white (99% of all full owners), and male (75% of all full owners).⁷⁰ In addition, a large proportion (47%) of all owned acreage is classified as either a “retirement farm” or a “residential/lifestyle farm,” as opposed to an occupational or production-oriented farm.⁷¹ “Retirement farms” are those farms with annual sales less than \$250,000 where the principal operator reports being retired, and “residential farms” are those farms that “have a market value of agricultural products sold of less than \$250,000, and a principal operator who reports his/her primary occupation as other than farming.”⁷² These definitions are a bit misleading; the vast majority of retirement and lifestyle farms in Vermont gross less than \$50,000 per year, and over a third gross less than \$1,000 per year.⁷³ Finally, “non-operators,” or landlords who do not farm their own property, own an increasing percentage of Vermont farmland.⁷⁴ Higby explains, “[i]n 1999, USDA estimated that 30 percent of Vermont’s croplands, pastures, and forested woodlands was owned by what they call ‘non-operators’ In 1988, the figure was just 8 percent.”⁷⁵

67. HIGBY ET AL., A LEGAL GUIDE, *supra* note 16, at 67.

68. Mark Fasching, Co-Owner, Jericho Settlers Farm, Presentation during the Northeast Organic Farming Ass’n of Vt. Winter Conference: Farmland Access & Acquisition (Feb. 17, 2013) [hereinafter Fasching Presentation]; Telephone Interview with Christopher Piana, Co-Owner, Fable Farm (Mar. 18, 2013) [hereinafter Piana Interview].

69. Fasching Presentation, *supra* note 68.

70. VERMONT STATE AND COUNTY DATA, *supra* note 35, at 242 tbl.65.

71. *Id.* at 244 tbl. 65.

72. *Id.* at B-9 app.

73. *Id.* at 96–97 tbl.59.

74. HIGBY ET AL., A LEGAL GUIDE, *supra* note 16, at 67.

75. *Id.*

C. Policy Issues and Data Needs

1. Tenure Type

To revitalize and sustain local food systems in Vermont, an aging population of “retirement” and “lifestyle” farmers will need to transfer their landholdings to young farmers.⁷⁶ The prevalence of retirement and lifestyle farms in Vermont may be problematic for young people seeking to purchase property.⁷⁷ A recent report from the USDA Economic Research Service notes that a “substantial number of farm operators” in the United States “do not engage in farming as their primary occupation,” and that this may lead to an increase in farmland values in rural areas because “[l]ow levels of farming activity can leave time for working off-farm jobs” where incomes may be higher.⁷⁸ Due to factors like this, there is a “weakening link between farm income and farmland values,” meaning that income generated from farming does not necessarily cover the costs of owning or renting land.⁷⁹ Therefore, young people in Vermont who truly want to earn their living off the land may be at a disadvantage in the real estate market because of competition from residential and retirement “farmers” who simply value “the lifestyle and recreational benefits farmland provides.”⁸⁰

The rapidly increasing value of farmland will make ownership transfers from retiring farmers and other landowners particularly challenging without a larger public investment.⁸¹ On average, the Vermont FSA office makes only “one to two direct farm ownership loans to beginning farmers” annually.⁸² In addition, land use trends indicate that new farmers will have to compete not just with retirement and lifestyle farmers, but also with vacation home seekers and developers, for a diminishing amount of prime farmland.⁸³ Further, the majority of prime farmland in the state is not protected under easement, which is one means

76. VERMONT STATE AND COUNTY DATA, *supra* note 35, at 242 tbl.65 (showing that a large proportion of owned acreage in Vermont is classified as a “retirement” or “lifestyle” farm).

77. See Cynthia Nickerson et al., *Farmland Values on the Rise: 2000–2010*, USDA (Sept 20, 2012), <http://www.ers.usda.gov/amber-waves/2012-september/farmland-values.aspx> (explaining that farmland values may rise as increasing numbers of farmers rely on off-farm income).

78. *Id.*

79. *Id.*

80. *Id.*

81. HIGBY ET AL., A LEGAL GUIDE, *supra* note 16, at 67 (“Giving beginning farmers a chance of success has always required a public investment.”).

82. *Id.*

83. Daloz, *supra* note 39, at 435.

of lowering property costs.⁸⁴ These trends, combined with increasing rates of “absentee” or non-farmer land ownership, suggest that “leasing or some other form of non-ownership tenure” will be the next generation’s most likely route to accessing land.⁸⁵

The type of tenure that farmers secure on a property has both environmental and economic implications.⁸⁶ “Recent studies confirm what we all know intuitively—oral and year-to-year leases offer little incentive to use resource-conserving farming practices, while long-term leases that offer relatively secure tenure stimulate good management.”⁸⁷ In addition, “Vermont farm land or farm buildings left idle for long periods often require a significant investment of labor and money to bring back into productive and profitable use. These are the properties most commonly available to beginning farmers.”⁸⁸ Thus, the trend towards leasing begs caution. Farmers and landowners must carefully draft lease agreements to specify who owns or is financially responsible for making the capital improvements necessary to operate a productive and viable farm business on the rented property—including renovating barns, installing wells and irrigation systems, building fences, planting riparian buffers, and improving soil fertility.⁸⁹ Otherwise, beginning farmers will be put in the risky position of accessing marginal land where they may either forgo investing in needed infrastructure, and thus suffer financial losses because of reduced production capacity, or be forced to invest in improvements whose value they may not be able to fully recoup due to short-term or insecure tenure.⁹⁰

84. *See id.* at 438 (explaining that easements reduce the resale value of the conserved land); *see also* Econ. Research Serv., *supra* note 36 (stating that there were approximately 5.9 million acres of farmland in Vermont in 2012); NAT’L AGRIC. STAT. SER., USDA, 2012 CENSUS OF AGRICULTURE—VERMONT STATE AND COUNTY DATA, VERMONT 37 tbl.50 (2014), *available at* http://www.agcensus.usda.gov/Publications/2012/Full_Report/Volume_1_Chapter_1_State_Level/Vermont/vtvl.pdf (stating that approximately 138,000 acres of Vermont farmland was in conservation easement in 2012).

85. HIGBY ET AL., A LEGAL GUIDE, *supra* note 16, at 67.

86. *See id.* (describing how tenure influences a farmers’ commitment to stewardship).

87. *Id.*; *see also* Edward Cox, *A Lease-Based Approach to Sustainable Farming, Part I: Farm Tenancy Trends and the Outlook for Sustainability on Rented Land*, 15 DRAKE J. AGRIC. L. 369, 372 (2010) (“[B]y including mechanisms within the lease agreement that provide incentives for the tenant’s long-term investments in the farmland’s sustainability, while maintaining alignment with the changing landowner characteristics and motivations, effective sustainability can be achieved on leased farmland.”).

88. HIGBY ET AL., A LEGAL GUIDE, *supra* note 16, at 73.

89. *See id.* at 73, 75 (describing the cost and variety of capital improvements necessary for a productive farm).

90. HIGBY ET AL., A LEGAL GUIDE, *supra* note 16, at 73, 75; *see also* Edward Cox, *A Lease Based Approach to Sustainable Farming, Part II: Farm Tenancy Trends and the Outlook for Sustainability on Rented Land*, 16 DRAKE J. AGRIC. L. 5, 21 (2011) [hereinafter Cox, *Part II*] (arguing

Furthermore, while leasing may be a good short-term solution, enabling beginning farmers to get their operations off of the ground,⁹¹ it can never offer the long-term benefits of land ownership.⁹² In the long run, the next generation of farmers will benefit most by securing some type of ownership tenure on at least a portion of the land that they work.⁹³ As the National Young Farmers' Coalition states, "[o]wning land provides personal satisfaction, confidence and practical efficiency that only comes with being in full control of the means of production of the farm."⁹⁴ Additional benefits of ownership include the ability to build equity for retirement, the ability to use land as loan collateral for equipment purchases,⁹⁵ the opportunity to take full advantage of soil fertility and other improvements that take many years to realize, and the ability to pass land on to heirs or to future farmers.⁹⁶ Where traditional land ownership is out-of-reach, there may be opportunities for lawyers to assist farmers with accessing land via creative ownership models, such as the cooperative land ownership models described below.

2. Parcel Size

Unfortunately, minimal data exists on the characteristics of farmland parcels in Vermont, such as their size, where they are located, what types of

that lease agreements should enable a landowner and a farmer to "work together to improve the farm operation, including its long-term productivity" and that without mutually beneficial, long-term leases farm tenants may not be able to "reap the benefits of their investments").

91. FARM TO PLATE STRATEGIC PLAN, *supra* note 48, at 153 ("For beginning farmers with limited capital, accumulating other farm assets to help with production takes priority, so leasing can offer an ability to build a market or develop a product niche.").

92. *See generally* Our Mission, Vision, and Guiding Principles, NAT'L YOUNG FARMERS COAL., <http://www.youngfarmers.org/about/our-work> (last visited Dec. 6, 2014) (outlining the benefits of long-term land ownership).

93. *See id.* (noting that, although ownership is ideal, long-term leases are also a good option).

94. *Id.*

95. ROBERT PARSONS ET AL., THE FARMLASTS PROJECT: FARM LAND ACCESS, SUCCESSION, TENURE, AND STEWARDSHIP 9 (2010), available at <http://www.uvm.edu/farmlasts/FarmLASTSResearchReport.pdf> ("Obtaining commercial credit is often difficult for beginning low-equity farmers as they often lack the collateral and/or the cash flow to provide security to the lender and show they have the ability to repay a loan. Given farming's low profit, high-risk nature, commercial banks are often cautious about lending to beginning farmers.").

96. *See* FARM TO PLATE STRATEGIC PLAN, *supra* note 48, at 153–54. ("Challenges with lease arrangements were discussed in great detail during F2P focus groups—from the difficulty of being far away from livestock, to disagreements between landlords and tenants, to difficulties in obtaining working capital because of a lack of collateral. . . . The independent nature of farming, combined with the long-term nature of land management decision making, often makes farming incompatible with temporary lease agreements.").

soils and other qualities they possess, who owns them, and how they are currently being used.⁹⁷ These factors are relevant to matching beginning farmers with properties that are appropriate for their desired operations.⁹⁸ Often, parcel size can serve as a barrier to land access.⁹⁹ The Vermont Farm to Plate Strategic Plan notes that “[f]armland parcels for sale are often too large for the needs of an individual Vermont farmer who is seeking 3–10 acres, for example, for smaller-scale vegetable production.”¹⁰⁰ While there are certainly many small farms in the state, as measured by both sales and acreage, additional, parcel-specific information would be useful in evaluating what land might be available and appropriate for transfer to the next generation.¹⁰¹

III. STATEWIDE LEGISLATION AND PROGRAMS IMPACTING BEGINNING FARMER LAND ACCESS

A. Vermont’s Land Use Value Appraisal Program (Current Use)

Like many states, Vermont has a “Current Use” program, which “taxes property based on its current use as agricultural or forest land, rather than its market-based development potential.”¹⁰² Originally enacted in 1978, the purpose of Current Use is to limit the conversion of productive agricultural and forest land to “more intensive use” and to plan for the state’s “orderly growth in the face of increasing development pressures.”¹⁰³ As land values increase, property taxes can grow to the point that farming the land is financially unsustainable.¹⁰⁴ Thus, the Current Use program offers incentives to “achieve more equitable taxation” for farmers who choose to keep their land in “active” production.¹⁰⁵ As a further incentive to keep land

97. See FARM TO PLATE STRATEGIC PLAN, *supra* note 48, at 147–48 (noting that only general information is available on a broad level as to what land is being farmed in Vermont).

98. See *id.* at 148 (“Many stakeholders identified and supported the need for mapping agricultural soils, parcels, and land uses to match farmers with potentially available land.”).

99. See *id.* at 146 (noting that farmers may only find significantly large parcels for sale).

100. *Id.*

101. *Id.* at 155 (calling for the creation of “a statewide land use spatial LiDAR database of agricultural land usage and an inventory of agricultural land that captures information on soil type, current land use, accessibility to roads, proximity to market areas, and so on”).

102. Daloz, *supra* note 39, at 439 (citing VT. STAT. ANN. tit. 32, §§ 3751–3776 (2008)).

103. VT. STAT. ANN. tit. 32, § 3751 (2014).

104. Daloz, *supra* note 39, at 439.

105. tit. 32, § 3751.

in agriculture, enrolled properties are subject to a “land use change tax” if they are ever developed or subdivided.¹⁰⁶

To be eligible for the program, “agricultural land” must be twenty-five acres or more, and must be owned or used by a farmer under a written lease of at least three years.¹⁰⁷ The statute defines a “farmer” as a person who earns at least 50% of his or her gross annual income “from the business of farming.”¹⁰⁸ Parcels less than twenty-five acres can also qualify if they have produced an annual gross income of at least \$2,000 in farm crops in “one of two, or three of the five” preceding years.¹⁰⁹ Lastly, the program taxes “farm buildings” that are “actively used by a farmer” at “zero percent of fair market value.”¹¹⁰ Therefore, “[a] landowner can construct a new farm building or make major renovations to an existing structure without suffering a big jump in the real estate tax bill.”¹¹¹ According to the Vermont Department of Taxes, currently over 500,000 acres of farmland are enrolled in Current Use, and many farmers claim that the program is essential to their financial viability.¹¹²

The Current Use program has pros and cons for beginning farmer land access. On the one hand, the program provides an incentive for absentee landowners to lease to beginning farmers in order to qualify for a property tax break.¹¹³ Maintaining a farm presence may be “so advantageous that some landowners don’t charge any rent.”¹¹⁴ In addition, program eligibility is contingent upon a three-year, written lease, providing for a certain amount of security as compared to typical year-to-year oral or “handshake” lease agreements.¹¹⁵

As discussed above, one of the most challenging aspects of farm lease agreements is negotiating who is responsible for and who owns improvements to the property.¹¹⁶ In a recent presentation, the owner of

106. HIGBY ET AL., A LEGAL GUIDE, *supra* note 16, at 68.

107. VT. STAT. ANN. tit. 32, § 3752(1) (2014).

108. tit. 32, § 3752(7)(a).

109. tit. 32, § 3752(1)(C)(i).

110. tit. 32, § 3752(12), (14).

111. HIGBY ET AL., A LEGAL GUIDE, *supra* note 16, at 74.

112. FARM TO PLATE STRATEGIC PLAN, *supra* note 48, at 148.

113. See PARSONS ET AL., *supra* note 95, at 24 (providing examples of tax credits as motivating factors for landowners to lease).

114. *Id.*

115. HIGBY ET AL., A LEGAL GUIDE, *supra* note 16, at 67.

116. See *id.* at 73–74 (noting that a lease agreement might specify that a landowner must reimburse a farmer for the depreciated value of capital improvements made to a property at the time that the lease ends, or, if the landowner decides to sell the property to the farmer after a period of leasing, the agreement might specify that the depreciated value of capital improvements is deducted from the sale

Jericho Settlers Farm indicated that a landowner's willingness to reimburse farmers for capital improvements, ranging from fencing to increased soil fertility, is highly variable and depends largely on the nature of the landlord-tenant relationship.¹¹⁷ The Current Use program indirectly addresses this issue by encouraging landlords to properly maintain farm structures such as barns, chicken houses, and other outbuildings in order to keep them in "active agricultural use," thereby qualifying for a "use appraisal" at 0% of fair market value and reducing potential capital costs for farmer lessees.¹¹⁸ Moreover, a landlord may be more willing to invest in new permanent farm structures since these improvements will likely increase the overall value of the property but will not add to property taxes.¹¹⁹

On the other hand, certain landowners may abuse the Current Use program's lenient requirements for parcels less than twenty-five acres.¹²⁰ By engaging in even a minimal amount of sugaring or logging, or by planting a small, low-maintenance crop like fruit trees or cane berries, a landowner can generate the \$2,000 in annual income necessary to qualify for a tax break.¹²¹ Elsewhere, Current Use programs have been criticized for lack of more stringent requirements.¹²² One scholar writes, "landowners who have no intention to develop their property, or fail to produce significant products, should not be subsidized to maintain a lifestyle."¹²³ Thus, the Current Use program may contribute to the prevalence of retirement and lifestyle farmers in the state, with whom young farmers must compete for land.¹²⁴ Academic or government institutions in Vermont should undertake additional studies to evaluate (a) the degree to which

price); see also Cox, *Part II, supra* note 90, at 21 ("Reimbursement for improvements, while not ensuring the tenant will enjoy the long-term profits from investments as a long-term lease does, at least protects the tenant from losing the capital or effort invested in improving the property.").

117. Fasching Presentation, *supra* note 68.

118. HIGBY ET AL., A LEGAL GUIDE, *supra* note 16, at 74.

119. *Id.*

120. See VT. STAT. ANN. tit. 32, § 3752(1)(C)(i) (2014) (providing that parcels less than 25 acres may enroll in Current Use so long as they generate \$2,000 in annual income).

121. For example, Cornell University's Sugar Maple Research & Extension Program estimates that a hobby farm producing 40–50 gallons of syrup will gross approximately \$1,600 in income revenue per year (nearly \$2,000). *Frequently Asked Questions*, CORNELL SUGAR MAPLE RESEARCH & EXTENSION PROGRAM, <http://maple.dnr.cornell.edu/FAQ.htm> (last visited Dec. 10, 2014).

122. See Jesse J. Richardson, Jr., *Beyond Fairness: What Really Works to Protect Farmland*, 12 DRAKE J. AGRIC. L. 163, 176 (2007) (explaining several drawbacks to use-value assessment).

123. *Id.* at 182.

124. BOLDUC & KESSEL, *supra* note 44, at 75 (stating that the increase in Vermont's small farms with minimal sales "may be motivated by the beneficial tax consequences of operating a home based business or being able to enroll land in the Current Use Program").

lifestyle farms contribute to high land values in Vermont; (b) the degree to which the Current Use income test for parcels less than twenty-five acres contributes to the pervasiveness of lifestyle and hobby farms; and (c) whether this lenient subsidy for small-scale food production on parcels of less than twenty-five acres is sound economic policy. On this last point, the study should take into account such factors as (a) how much small, home-based businesses contribute to rural economic revitalization; (b) the impact that any land value consequences of the program have on beginning farmers; and (c) the amount of lost tax revenue directly related to the Current Use small-parcel exception.

In sum, while the Current Use program has valuable benefits, it should be strengthened to discourage enrollment by hobbyists who make minimal contributions to the agricultural economy, possibly by increasing the minimum income required for enrollment above \$2,000.¹²⁵ At the same time, the legislation should be amended carefully so that beginning farmers operating on fewer than twenty-five acres, but producing significant revenue, can still take advantage of the program. Given the highly political nature of Current Use, however, it is unlikely that such an amendment will happen quickly.¹²⁶

B. Act 142—Working Lands Enterprise Initiative

Passed in 2012, one of the stated purposes of Act 142 (the Act) is to “attract a new generation of entrepreneurs to Vermont’s farm, food system, forest, and value-added chain by facilitating more affordable access to the working landscape.”¹²⁷ In addition, in its findings section, the Act recognizes that “[f]arm and forestland ownership is often out of reach for young people who do not have some sort of assistance.”¹²⁸ To support the state’s land-based economy, the Act created the Working Lands Enterprise Fund and the Working Lands Enterprise Board to manage a \$1 million

125. *Cf.* FARM TO PLATE STRATEGIC PLAN, *supra* note 48, at 148 (recommending changes to strengthen the Current Use Program).

126. Alison Clarkson, Vt. State Representative, Remarks at the Vermont Journal of Environmental Law Land Use Symposium: Rural Taxation: Benefits and Burdens (April 19, 2013) (discussing the difficulties of passing an amendment to Current Use). *But see* HIGBY ET AL., A LEGAL GUIDE, *supra* note 16, at 68 (stating that “Vermont’s land use value program seems to undergo legislative revision on a regular basis”).

127. VT. STAT. ANN. tit. 6 § 4604(4) (Supp. 2013).

128. tit. 6 § 4603(20).

public investment in agricultural and forestry businesses.¹²⁹ The legislature sought to leverage these funds to “attract additional private and philanthropic investment.”¹³⁰

In 2013 and 2014 combined, the Working Lands Enterprise Board (the Board) awarded over \$2 million in grants in three investment areas: Enterprise Investments, Working Lands Service Provider Grants, and Capital and Infrastructure Investments.¹³¹ Land acquisition is covered under both Enterprise Investments and Capital and Infrastructure Investments.¹³² Although the Board awarded a total of over \$1,300,000 in grants in the Enterprise and Capital and Infrastructure investment areas in 2013 and 2014, leveraging over \$1,350,000 in matching funds, only one of the fifty-seven grant recipients used the funding for land acquisition.¹³³ The majority of grants funded infrastructure purchases and capital improvements at a variety of farm and forestry businesses throughout the state.¹³⁴

In sum, while the Working Lands Enterprise Initiative has great potential to help beginning farmers with land access, thus far the grants have not been used for that purpose.¹³⁵ This may be because beginning farmers seeking land are unaware of the initiative, or because the Board has decided to focus resources on projects other than land acquisition. Nevertheless, Act 142 lays the groundwork for potential future public investment in beginning farmer land access and demonstrates the state’s commitment to supporting local and regional food systems overall. As the legislation notes, “[t]he average age of Vermont’s farmers and loggers is

129. *Purpose and Legislation*, VT. WORKING LANDS ENTER. INITIATIVE, http://workinglands.vermont.gov/wlei/working_lands_summary (last visited Dec. 10, 2014).

130. tit. 6 § 4603(7).

131. See Press Release, Vt. Working Lands Enter. Initiative, Working Lands Enterprise Board Announces \$1.1 Million in Grants to 37 Vermont Entrepreneurs and Technical Assistance Providers (June 18, 2014), available at <http://workinglands.vermont.gov/node/685> (stating that the Working Lands Enterprise Board awarded \$1.1 million in grants in 2014, and \$1 million in grants in 2013).

132. *Frequently Asked Questions*, VT. WORKING LANDS ENTER. INITIATIVE, <http://workinglands.vermont.gov/wlei/faqs> (last visited Dec. 10, 2014).

133. See Press Release, Vt. Working Lands Enter. Initiative, *supra* note 131 (announcing FY2014 grants); Press Release, Vt. Working Lands Enter. Initiative, Gov. Shumlin Announces 20 Grantees of Working Lands Enterprise (May 2, 2013), available at http://workinglands.vermont.gov/news/pr_gov_shumlin (announcing FY2013 Enterprise Investment grants); Press Release, Vt. Working Lands Enter. Initiative, Gov. Shumlin Announces Final 16 Grantees of the Working Lands Fund (June 20, 2013), available at http://workinglands.vermont.gov/news/pr_serviceprovider_and_capitalandinfrastructure (announcing FY2013 Capital and Infrastructure Investment Grants).

134. See Press Release, Vt. Working Lands Enter. Initiative, Gov. Shumlin Announces Final 16 Grantees of the Working Lands Fund, *supra* note 133 (listing funded projects, ranging from \$9,750 for cider pressing equipment to \$75,000 for a dairy processing plant and hub).

135. See *id.* (listing only one \$30,000 grant for land acquisition).

over 55 years Attention needs to be brought to efforts that will ensure intergenerational succession and lower [this average].”¹³⁶ More should be done at both state and federal levels to leverage public support in this way for farmland acquisition by beginning farmers.

C. Conservation Easements, Right of First Refusal, and the Affordability Option

The VLT has prioritized farmland conservation since its inception over three decades ago.¹³⁷ In addition to protecting farmland from development, VLT is committed to keeping farmland affordable for current and future generations.¹³⁸ The land trust uses three legal tools to achieve these aims: conservation easements, right of first refusal, and the “Affordability Option,” otherwise known as the “Option to Purchase at Agricultural Value.”¹³⁹ The State of Vermont actively supports this work by allocating funds to the VHCB, a grant-making body, to be used for farmland conservation among other program areas.¹⁴⁰ In addition, VHCB secures additional federal funds available for “farmland protection and forestland conservation,”¹⁴¹ such as funding available through the USDA Natural Resource Conservation Service Farm and Ranch Lands Protection Program.¹⁴²

A conservation easement is a voluntary agreement between a private landowner and a nonprofit or government entity (typically a land trust) through which the landowner agrees to a restricted use of his or her property.¹⁴³ In general, the restrictions involve the forfeit of development

136. VT. STAT. ANN. tit. 6 § 4603(19) (Supp. 2013).

137. Mark Aiken, *Farmland Access Program Works to Preserve Agricultural Heritage*, VT. LAND TRUST, <http://www.vlt.org/news-publications/publications-archive/archived-articles/196-fap-newsletter> (last visited Dec. 10, 2014).

138. *Conserving Vermont’s Farmland*, *supra* note 38.

139. *VLT Stewardship: Frequently Asked Questions*, VT. LAND TRUST, <http://www.vlt.org/stewardship-faq> (last visited Dec. 10, 2014).

140. *See id.* (explaining that VLT sometimes conserves land jointly with VHCB, a “state-supported funding agency”); VT. STAT. ANN. tit. 10 §§ 301–325a (2010); *VHCB Conservation Programs*, VERMONT HOUSING & CONSERVATION BOARD, <http://www.vhcb.org/conservation.html#Anchor-Farmland-65515> (last visited Dec. 10, 2014).

141. tit. 10 § 321.

142. Natural Res. Conservation Serv., *Farm and Ranch Lands Protection Program*, USDA, <http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/easements/farmranch/> (last visited Dec. 10, 2014).

143. PARSONS ET AL., *supra* note 95, at 17–18; *see also Frequently Asked Questions About Conserving Your Land*, VT. LAND TRUST, <http://www.vlt.org/land-protection/frequently-asked->

rights on all or a portion of the property, and they run with the land in perpetuity.¹⁴⁴ Development rights may be either purchased by the land trust, or donated by the landowner.¹⁴⁵ The entity that holds the easement is obligated to enforce its terms.¹⁴⁶ In addition to earning income through the sale of development rights, the landowner benefits from reduced property taxes because of the reduced fair market value (FMV) of the property.¹⁴⁷ Further, reduced FMV means that the property is more affordable for potential buyers. Landowners may also use the capital they acquire by selling their development rights to facilitate intergenerational property transfers or to fund their retirements.¹⁴⁸

Although conservation easements are one way to keep land affordable, they do not guarantee that land is kept in agriculture.¹⁴⁹ If a farmer conserves his property and then chooses to sell, he has no obligation to sell

questions (last visited Dec. 10, 2014) (explaining that conservation easements involve perpetual restrictions on future development).

144. *Frequently Asked Questions About Conserving Your Land*, *supra* note 143.

145. *Id.*

146. *Id.*

147. *Id.*

148. *Conserving Vermont's Farmland*, *supra* note 38. Issues pertaining to intergenerational farm transfer, retirement, and farm succession planning have huge impacts on both farmland availability and farmland access. Jesse Richardson writes that:

Contrary to popular belief, farms are most often lost, not to the “evil developer,” but due to a lack of succession planning. Farm business succession planning seeks to allow an orderly and efficient transfer of control of ownership/management of the farm operation to the next generation or successor.

Richardson, *supra* note 122, at 178 (citing *About the Network*, INT'L FARM TRANSITION NETWORK, <http://www.farmtransition.org/aboutnetw.html> (last visited Dec. 10, 2014)). While an in-depth discussion of these issues is beyond the scope of this paper, the author would like to note that state policy can facilitate improved intergenerational farm transfer by funding or managing “farm business succession programs.” *Id.* As Richardson points out, “both Virginia and North Carolina have very different, yet very active, farm business succession programs.” *Id.* In addition, many states have “Land-Link or Farm-On programs which match older farmers seeking to find successors and younger farmers interested in acquiring land of their own” to varying degrees of success. Slack, *supra* note 1, at 485. For example, the University of Vermont Center for Sustainable Agriculture’s New Farmer Project runs an important land linking program that connects beginning and retiring farmers and provides assistance with business and succession planning. New Farmer Project, *Vermont Land Link*, UNIV. OF VT., <http://www.uvm.edu/newfarmer/?Page=vermont-lad/index.html&SM=land/sub-menu.html> (last visited Dec. 10, 2014).

149. Telephone Interview with Jon Ramsay, Director, Vt. Land Trust Farmland Access Program (Feb. 28, 2013) [hereinafter Ramsay Interview]; Jon Ramsay, Director, Vt. Land Trust Farmland Access Program, Presentation during the Northeast Organic Farming Ass’n of Vt. Winter Conference: Farmland Access & Acquisition (Feb. 17, 2013) [hereinafter Ramsay Presentation]; *The Affordability Option: Keeping Farms Affordable for Farmers*, VT. LAND TRUST, <http://www.vlt.org/stewardship-faq?id=235> (last visited Dec. 10, 2014).

to another farmer.¹⁵⁰ Often, this contributes to the prevalence of the types of country estates and lifestyle farms discussed throughout this paper.¹⁵¹ VLT has addressed this issue by utilizing two creative easement provisions: the right of first refusal and the “Affordability Option.”¹⁵² Right of first refusal provisions grant VLT the first option to purchase a conserved property if it comes up for sale.¹⁵³ The Affordability Option is the option to buy a conserved property at its agricultural value, rather than at FMV.¹⁵⁴ VLT rarely exercises these rights; however, the protections are important.¹⁵⁵ They enable VLT to purchase a property that might otherwise be converted away from agriculture, and then resell it to a qualified farmer at an affordable price.¹⁵⁶

In addition, through its Farmland Access Program, VLT seeks out and purchases available farm properties, conserving them under easement and then reselling them to beginning farmers who meet certain qualifications to demonstrate that their proposed operations are likely to be viable.¹⁵⁷ VLT’s vetting process helps to ensure that properties will actually be farmed productively.¹⁵⁸ If a farmer cannot initially afford the purchase price, VLT is often willing to negotiate a lease-to-own agreement.¹⁵⁹

Because conservation agreements are voluntary, they do not always occur on the “best” agricultural lands, or in the most convenient locations, close to village centers and marketing opportunities.¹⁶⁰ In addition, many farmland owners may be reluctant to enter into such restrictive agreements,

150. *The Affordability Option*, *supra* note 149.

151. *Id.* (“Something needed to be done to keep land affordable for farmers with viable commercial agricultural operations and discourage conversion of good farmland into ‘estate’ type properties.”).

152. *Id.*

153. Ramsay Interview, *supra* note 149; Ramsay Presentation, *supra* note 149; *Conservation Options: Different Ways to Conserve Your Land*, VT. LAND TRUST, <http://www.vlt.org/land-protection/conservation-options> (last visited Dec. 10, 2014).

154. Ramsay Interview, *supra* note 149; Ramsay Presentation, *supra* note 149.

155. *See Farmland Access: Connecting Farmers with Affordable Farmland*, VT. LAND TRUST, <http://www.vlt.org/initiatives/affordable-farmland> (last visited Dec. 10, 2014) (explaining under what conditions VLT may exercise its rights).

156. *See id.* (describing the buying and selling process).

157. *Id.*; Ramsay Interview, *supra* note 149.

158. Ramsay Interview, *supra* note 149.

159. *Id.*; Ramsay Presentation, *supra* note 149. To the author’s knowledge, VLT does not regularly employ lease provisions that compensate farmers at the time of sale for the depreciated value of any capital improvements made. However, Mr. Ramsay did offer one example of an agreement where VLT offered a farmer a significant rent reduction on a property with marginal, rocky soils. In this way, the farmer lessee was compensated for any work done to improve the soil quality or remove rocks from the fields. *Id.*

160. Ramsay Interview, *supra* note 149.

and may want to keep their land values high to fund retirement or to pass the property on to heirs, whether or not those heirs wish to continue the farm business. Furthermore, conservation easements are very expensive, requiring state and federal funds, as well as philanthropic investment.¹⁶¹ Despite these drawbacks, conservation easements benefit beginning farmers by reducing property values and keeping land somewhat affordable.¹⁶² Moreover, VLT's progressive work in addressing beginning farmer land access by using tools like right of first refusal and the Affordability Option, and by operating the Farmland Access Program, serves as a model for land trusts in other states.¹⁶³

IV. POLICY RECOMMENDATIONS AND LEGAL NEEDS

A. Create a "Beginning Farmer Advisor" Position Within the Vermont Agency of Agriculture, Food, and Markets

The State of Vermont can improve access to land by providing easy access to resources. Private, state, and federal programs provide a wealth of resources to young farmers—from VLT's Farmland Access Program, to the Vermont Working Lands Enterprise Initiative, to beginning farmer loan opportunities through the FSA, to cost-sharing opportunities available through the USDA's Environmental Quality Incentives Program.¹⁶⁴ However, Vermont does not have a "one stop shop" where beginning farmers can reliably locate these resources, navigate eligibility requirements, or receive assistance with application processes. The National Young Farmers' Coalition writes, "[a]ll too often, young and beginning farmers report that some FSA agents do not know about or promote young and beginning farmer loans, and loan rules are often applied too stringently, preventing young and beginning farmers from receiving credit."¹⁶⁵ They recommend that the USDA make the FSA more accessible to beginning farmers by better training state agents and expanding online resources.¹⁶⁶ As an alternative (or additional) solution, Vermont might consider creating

161. PARSONS ET AL., *supra* note 95, at 18.

162. *Id.*

163. *Id.*; *Platform: Federal Reforms*, NAT'L YOUNG FARMERS COAL., <http://www.youngfarmers.org/policy/platform/> (last visited Dec. 10, 2014) ("Model programs to assure affordability have been successfully implemented by the Vermont Land Trust and by the State of Massachusetts.")

164. SHUTE ET AL., *supra* note 4, at 32.

165. *Id.* at 33.

166. *Id.*

a “Beginning Farmer Advisor” position within the Vermont Agency of Agriculture, Food, and Markets. A Beginning Farmer Advisor would be responsible for providing in-person counseling to help connect farmers with a wide range of resources that are specific to their individual needs. In addition, the Advisor could help farmers navigate the complex applications required for participation in state and federal programs, and could act as an advocate for farmers who are confronted with resistance from FSA agents and other program officials.

B. Improving Lease Agreements: Landlord-Tenant Statutes, Tax Incentives, and Legal Assistance

As noted above, leasing will likely be beginning farmers’ most likely option for accessing land.¹⁶⁷ Thus, one way to address land access issues is to provide incentives for non-farming landlords to lease to beginning farmers.¹⁶⁸ However, because leasing can often be risky for beginning farmers,¹⁶⁹ the state should take steps to improve agricultural lease agreements.¹⁷⁰ First, Vermont should consider enacting a landlord-tenant statute governing farm leases.¹⁷¹ Landlord-tenant statutes are typical in Midwestern states, and may dictate renewal terms or “grant the landowner a lien on the tenant’s crop to secure the payment of rent.”¹⁷² Annette Higby writes, “[t]hese statutes serve to keep disputes out of court by filling in the gaps when the parties have only an oral or ‘handshake’ agreement.”¹⁷³ Furthermore, the landlord-tenant statutes in Iowa and Nebraska “offer tax credits to landowners who rent their farmland, equipment, livestock, and/or facilities to beginning farmers.”¹⁷⁴ Vermont should consider adopting similar legislation to govern and incentivize farmland leasing.

In addition to legislative solutions, lawyers with expertise in farm lease agreements may be able to offer private sector solutions. Lawyers can provide assistance with drafting mutually beneficial agreements that contain

167. HIGBY ET AL., A LEGAL GUIDE, *supra* note 16, at 67.

168. SHUTE ET AL., *supra* note 4, at 35.

169. *Cf.* HIGBY ET AL., A LEGAL GUIDE, *supra* note 16, at 73, 75; Cox, *Part II*, *supra* note 90, at 21 (explaining the risk that “permanent improvements will become the property of the landowner” at the conclusion of the lease in the absence of an express agreement to the contrary).

170. *See* HIGBY ET AL., A LEGAL GUIDE, *supra* note 16, at 69 (noting that Vermont does not have lease-governing statutes, while other states do).

171. *Id.*

172. *Id.*

173. *Id.*

174. PARSONS ET AL., *supra* note 95, at 24; SHUTE ET AL., *supra* note 4, at 37.

progressive provisions regarding capital and conservation improvements made by lessees, among other considerations.¹⁷⁵ Although parties will likely need to tailor each agreement to serve their individual circumstances and priorities, lawyers may be able to craft and use farm lease templates or lease guidelines to keep services affordable to young farmers. The University of Vermont New Farmer Project has begun this work by identifying key questions to ask when crafting a lease agreement, which are available at their online Land Access Information Toolshed.¹⁷⁶

C. Transactional Lawyers and Innovative Ownership Models

In addition to providing assistance with lease agreements, transactional lawyers can assist farmers to develop innovative business and land ownership models involving shared equity. Two potential models are described below.

1. Case Study: A Land Based Cooperative in Barnard, Vermont

Recently, VLT conserved and purchased a historic dairy farm in Barnard, Vermont, comprising over 200 acres of both forestland and pasture.¹⁷⁷ Subsequently, the land trust negotiated a two-year lease-to-own agreement with a group of four farms: Kiss the Cow Farm, which produces raw milk; Fable Farm, which produces vegetable row crops; Eastman Farm, which produces grass-fed beef; and Heartwood Farm, which produces agroforestry products such as maple syrup.¹⁷⁸ Over the next two years these farms hope to establish their operations on the new property, and to build up the capital necessary to finance the land purchase.¹⁷⁹

In the meantime, they are also working together to develop a cooperative entity that will eventually purchase and own the entire parcel.¹⁸⁰ The terms of this ownership agreement are still being negotiated; however, it is likely that each of the individual farms will eventually hold a

175. See generally HIGBY ET AL., A LEGAL GUIDE, *supra* note 16 (providing a guide for farmers and lawyers on how to better craft agreements between beginning farmers and farmland owners).

176. New Farmer Project, *Land Access and Tenure Toolshed: Leasing Farmland*, UNIV. OF VT., <http://www.uvm.edu/newfarmer/?Page=land/leasing.html&SM=land/sub-menu.html> (last visited Dec. 10, 2014).

177. Ramsay Interview, *supra* note 149; Interview with Randy Robar, Co-Owner, Kiss the Cow Farm (March 12, 2013) [hereinafter Robar Interview]; Piana Interview, *supra* note 68.

178. Ramsay Interview, *supra* note 149; Piana Interview, *supra* note 68.

179. Ramsay Interview, *supra* note 149; Piana Interview, *supra* note 68.

180. Ramsay Interview, *supra* note 149; Piana Interview, *supra* note 68.

ninety-nine year “ground lease” on the property that will provide for secure tenure and shared equity in improvements.¹⁸¹ In addition to reducing the total price of the land purchase by dividing it between four entities, this arrangement will also reduce start-up capital costs because the farms will be able to share equipment and infrastructure.¹⁸² The farms have also discussed the possibility of sharing the labor required for distribution and marketing, such as by co-marketing their products at a single farmers’ market stand, or by running cooperative distribution routes.¹⁸³ Furthermore, the farms and the land will benefit ecologically from each of the member-owners’ diverse production emphases. For example, the animals at Kiss the Cow and Eastman Farms produce manure that will benefit Fable Farm’s vegetable operation and reduce fertility input costs.¹⁸⁴

Lastly, the farms are working together on a long-term land management plan to enhance the property’s conservation values, and because they will have secure tenure, they will be able to fully reap the benefits that such planning will offer.¹⁸⁵

2. Case Study: Swanton Berry Farm and Employee Stock Ownership Plans

As an alternative to land ownership, beginning farmers may benefit from the opportunity to build equity in an established farm business. Swanton Berry Farm on the Central Coast of California has spearheaded this approach by offering “ownership opportunities in the form of stock bonuses to career-oriented employees.”¹⁸⁶ Swanton Berry Farm has long been a leader in sustainable agriculture. They were the first certified organic strawberry farm in California¹⁸⁷ and the “first organic farm in the US to sign a contract with the United Farmworkers of America AFL-CIO and to

181. Ramsay Interview, *supra* note 149; *see also* HIGBY ET AL., HOLDING GROUND, *supra* note 10, at 10–12 (explaining the benefits of common land ownership); PARSONS ET AL., *supra* note 95, at 20–21 (“In an agricultural ground lease, the tenant rents the land and builds or purchases and owns the improvements on it. A ground lease not only conveys rights to land, but can also include restrictions such as requiring owner-occupancy or limited equity resale. For example, a farmer might have a 99-year renewable lease for 30 acres of farmland. She purchases the farmhouse on the land. If she decides to move on, the lease terminates and she sells her house to the next tenant at a price determined by a formula in the lease that limits speculative gain.”).

182. Robar Interview, *supra* note 177; Piana Interview, *supra* note 68.

183. Piana Interview, *supra* note 68.

184. *Id.*

185. *Id.*

186. *History*, SWANTON BERRY FARM, <http://swantonberryfarm.com/history> (last visited Dec. 10, 2014).

187. *Id.*

carry the Union label.”¹⁸⁸ Now, they are leading the way in making a long-term farming career a more viable option for beginning farmers and field workers.¹⁸⁹

Swanton Berry Farm’s desire to reduce barriers to entry into farming directly inspired their Employee Stock Bonus Plan.¹⁹⁰ They explain: “We are trying to create a new model of farming that allows aspiring farmers to enter the profession even though they don’t have any capital.”¹⁹¹ Although the plan participants will not build equity in the farm land, they will build equity in the farm enterprise, and will have the option to sell their stock shares back to the farm based on a pre-agreed upon formula if they choose to leave the business.¹⁹² Because farm wages for field workers are typically low, many young farmers see the equity advantages of starting their own farm or purchasing property as the only way to make a living in farming. The opportunity to build equity through stock bonuses, however, may significantly offset the need to purchase property.¹⁹³ Therefore, stock bonuses directly address land access issues.

CONCLUSION

Land access challenges are one of the most significant barriers to entry into farming.¹⁹⁴ This is especially true in states like Vermont, where land values are high.¹⁹⁵ Development pressures leading to increased land values are somewhat different in Vermont than in more populous states. Vermont has few truly “urban” areas.¹⁹⁶ Farming has to be protected not from “suburban sprawl” but rather from “rural sprawl,” characterized by residential and lifestyle farms, in addition to country estates and vacation homes.¹⁹⁷ Studies should be undertaken to evaluate the impact such land

188. *The People*, SWANTON BERRY FARM, <http://www.swantonberryfarm.com/the-people> (last visited Dec. 10, 2014).

189. *Ownership*, SWANTON BERRY FARM, <http://swantonberryfarm.com/ownership> (last visited Sept. 14, 2014) (on file with *Vermont Law Review*).

190. *Id.*

191. *Id.*

192. *Id.*

193. *Id.*

194. See generally SHUTE ET AL., *supra* note 4, at 4 (detailing the problem facing new farmers and arguing that policy reform can help alleviate this problem).

195. See VALUE OF FARM LAND AND BUILDINGS, *supra* note 11.

196. See Econ. Research Serv., *supra* note 36 (highlighting that the majority of Vermonters live in non-urban settings); see also Daloz, *supra* note 39, at 429 n.7 (noting that only about 33% of Vermonters live in an urban area).

197. See HIGBY ET AL., A LEGAL GUIDE, *supra* note 16, at 67 (“Beginning farmers are competing for land not only with established farmers but also with non-farmers who want to own a

use patterns have on the farming community—particularly on beginning farmers.

There are a number of statewide programs that address land access issues, both directly and indirectly, including Current Use; the Vermont Working Lands Enterprise Initiative; and VLT's Farmland Access Program and progressive use of the right of first refusal and the Affordability Option. Utilization of these and other programs might be improved through the creation of a Beginning Farmer Advisor position within the Vermont Agency of Agriculture, Food, and Markets. In addition, Vermont might consider legislative solutions to farmland access issues, such as review and amendment of the Current Use program, and enactment of a landlord-tenant statute that provides tax incentives for leasing to beginning farmers.¹⁹⁸ Finally, lawyers can help to address land access issues by helping beginning farmers to draft creative lease agreements, and by drafting the bylaws and agreements necessary for cooperative land ownership and business models.

However, land access is only one piece of a larger sustainable food system puzzle. Beyond land, the continued development of local markets for agricultural products is vital to ensuring that operations on newly accessed properties remain financially viable.¹⁹⁹ Needed changes are not limited to agricultural policy but include social policies as well. Affordable healthcare, student loan forgiveness, and improved, government-sponsored retirement options for farmers would simplify land access by alleviating financial burdens faced by beginning and retiring farmers.²⁰⁰ Thus, this Paper ultimately recommends that supporters of sustainable food systems move beyond narrow, issue-specific advocacy and begin articulating a broader political and economic vision within which regional food systems might truly thrive.

piece of rural Vermont.”); BOLDUC & KESSEL, *supra* note 44, at 74–75 (proposing factors that may contribute to the prevalence of part-time farmers in Vermont).

198. See PARSONS ET AL., *supra* note 95, at 24 (explaining the benefits of tax incentive programs); SHUTE ET AL., *supra* note 4, at 37; HIGBY ET AL., A LEGAL GUIDE, *supra* note 16, at 68–69.

199. See Daloz, *supra* note 39, at 433 (“The preservation of the land may rely on a robust agricultural economy, but the availability of suitable agricultural land is vital to sustaining these same sectors.”).

200. See generally SHUTE ET AL., *supra* note 4 (noting that student loan debts and lack of affordable healthcare options contribute to the financial hurdles facing new farmers).