

1 S.157

2 Introduced by Senator Illuzzi

3 Referred to Committee on

4 Date:

5 Subject: Natural resources; conservation easement; tax deduction; donated  
6 easement; breach of representation

7 Statement of purpose: This bill proposes to require the agency of natural  
8 resources to compensate a specific applicant for its failure to fulfill a promise  
9 to treat a conservation easement as a donated easement.

10 An act relating to the state's failure to fulfill a promise to treat a  
11 conservation easement as donated

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

13 Sec. 1. FINDINGS

14 The general assembly finds:

15 (1) The Vermont department of fish and wildlife (DFW) is a part of the  
16 Vermont agency of natural resources (ANR).

17 (2) In 2010, Calvin and Cherryll Bunnell of St. Johnsbury sought an  
18 extension of an existing permit under 10 V.S.A. chapter 151 (Act 250) for land  
19 which they purchased in 2002 containing an operating sand pit.

1           (3) During the application process, DFW opposed a plan by the  
2           Bunnells for reforesting an existing deeryard which had been significantly  
3           damaged by severe thunderstorms.

4           (4) On December 27, 2010, DFW and the Bunnells signed an agreement  
5           under which the Bunnells would execute a conservation easement to protect a  
6           deer wintering area amounting to 100 acres on other land owned by the  
7           Bunnells. The agreement stated that the monetary value of the easement was  
8           \$69,387.00.

9           (5) During the course of the negotiations leading to this agreement,  
10          ANR represented to the Bunnells that it would treat the conservation easement  
11          as a donated easement so that the Bunnells could receive a federal tax  
12          deduction and would sign the necessary tax forms.

13          (6) After the agreement was signed, a conservation easement promptly  
14          was prepared and submitted to DFW. To achieve a federal tax deduction,  
15          DFW needed to complete review and approval of the easement before  
16          April 18, 2011. However, DFW did not complete its review until May 2011  
17          and declined to sign a tax form to certify that the easement was donated. The  
18          Bunnells did not receive a federal tax deduction for the easement.

19          Sec. 2. COMPENSATION

20          No later than August 1, 2012, the agency of natural resources shall  
21          compensate Calvin and Cherryll Bunnell of St. Johnsbury, Vermont by paying

1 them the full value of the reduction in income tax liability which they would  
2 have received if the conservation easement described in Sec. 1 of this act had  
3 been treated as a tax deductible donated easement. This payment shall include  
4 interest under 9 V.S.A. § 41a(a) commencing as of April 18, 2011. The  
5 payment shall be applied to the fiscal year 2013 budget of the department of  
6 fish and wildlife.

7 Sec. 3. EFFECTIVE DATE

8 This act shall take effect on passage.