Members of the House Judiciary-
I deeply appreciate the work that has gone into preparing S.119, just to bring it forward for review. We know how much effort and thought it takes to create and explore a complex idea, and how easy it is for someone to come in and offer suggestions afterward. Please know that anything I say below is well-intended, as part of the conversation, and I hope it will land with all the kind regard I have for all of you who deliberate for us.

My concerns with S.119 as crafted:
1) **Vermont's Land Trust process-already in place- seems to be working.**

Land Trusts (LTs) ***do*** currently have some tools to work with for many unexpected circumstances- and a court process for amendments- that seem to be functioning well. Why not use the highest standard, already in place, rather than creating an amendment process that is looser?

If the IRS's approach to dealing with amendments is the driver for S.119, those circumstances that are already being dealt with successfully using the present systems should be allowed to work as they already do. Strategies on specific amendments likely to trigger negative IRS response might be better dealt with as a special category in the Court, case by case, but opened to broader input. A Panel of experts could serve as an excellent resource for a judge to access valued understanding.

As well, public input is not always appropriate, but where it IS helpful in consideration of certain requests for amendment, it could be solicited.There are all sorts of ways it can be inserted that wouldn't require adoption of a law.

Involving local opinion and the opinion of agency heads doesn't guarantee prevention of the unforeseeable from happening. A Land Trust that takes an active role in solving the unexpected, while respecting the high standard required, finds a quick teacher of what worked and what didn't, to make future easement considerations more useful at allowing for the unforeseen. A solution that involves intimate knowledge (as a Land Trust has) of the original easement, the intent of the donor, the integrated position of land in its township and area, the people involved, the tools they have to work with, builds public confidence in Land Trust interaction.

.2) **I feel that this bill is written more loosely and broadly than it should be .**

It establishes a lower and more accessible bar for amendments to conservation easements than is intended. There will be low function times in the history of panels, boards and commissions, and the language of a bill has to stand when the original intent is no longer clear.

Trying to fit easements and circumstances calling for amendment under one roof and process is problematic. Not all easements are created the same. There are different legal regimes that apply to donations, purchases, easements imposed by regulatory permits etc. Why not simply use the highest standard already in place? A Panel using a broader format may actually open the process to more requests for amendment rather than less, which I don't think is the intent.

3) I think we have to be VERY careful about weighing the value of one donated property against another.

When an easement is made, it is a gift into the future which holds quantifiable benefits just as it stands. In public polls, a substantial majority of citizens soundly supported conservation of land as highly important and desirable, and this regardless of the format of the particular easement , because of the clear and general good it provides.

There are beneficial aspects of having a tool that allows "swapping" conservation easements, but there would at least need to be landowner agreement to allow or restrict such an action. Making an exchange an acceptable and accessible process will have a very chilling effect on the willingness of an owner to conserve their property. Comparisons of "higher and lower value" is a bad precedent to introduce. Each property is unique, and in ways we are still learning. A conservation easement donor with hillside farm might balk from considering an easement if there was a chance that it would be replaced by the river bottom easement nearby.

"Public conservation interest" does not trump original intent. While both private and public funding contribute to the amount and variety of easements possible, there is first a landowner, who could easily sell up for development and retire. By going through a very layered process of broad and thoughtful considerations, family discussion, sacrifice, huge gifts of time and substance, these owners who grant an easement give up a great deal to allow the process to happen. Conservation easements are not a disconnected unit of commodity. Abutting landowner choices, conservation processes, and broader environmental realities often rely on the fact of a particular conservation easement. A high bar should be set to change it. The primary obligation is not to the community at large, which benefits as a whole, but to the original intent in the easement.

The language and structure of exchanges described in the bill could provide an interesting roadmap for someone who owns a conserved property which they wish to disencumber and develop years down the road. If they are clever and patient, they stand to earn a lot by setting circumstances up that make it possible. -------

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In Closing, my points are:

I would vote against S.119 as presently written and conceived because it takes what is working and bundles it up with what has yet to be solved under one umbrella. The process suggested is cumbersome to read and understand, and invites a broadened ability to amend than might be necessary or wise. The concept of easement swaps could be worrisome.

I recommend narrowing the focus to specific amendment needs and solutions , and continuing to invite all the best minds into the discussion on how to accomplish a broader conservation good in special situations, which is a good aim, while still honoring easement donor intent and maintaining respectable standing with the IRS.

Sincerely, Peggy Willey, West Fairlee Conservation Commission