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To: The Senate Natural Resources Committee
Senator Larry Powell, Chair

From: Rob Manes, State Director
The Nature Conservancy of Kansas

Re: Testimony in opposition to **Senate Bill No. 384**

This testimony in opposition to Senate Bill 384 is based on four basic tenets:

- 1) The State's responsible conservation and restoration of rare species is in the best interest of Kansas citizens, as it serves to preclude federal actions on behalf of such species, and it is fundamental to the stewardship of important State public trust resources.
- 2) Administration of the Kansas Nongame and Endangered Species Conservation Act (KNESCA) and related application of the Kansas Environmental Coordination Act (KECA) does not result unreasonable impediments or expenses to the operation and development of private lands; mitigation is required for less than one-half of one percent (.3%) of more than 2,000 projects reviewed annually under these laws.
- 3) Improving rare species' habitats outside of areas where the species presently occur is a fundamental strategy for recovering their populations to former ranges and removing the need for state and federal protection.
- 4) Projects carried out on private property, using private funds, and not requiring any other State permit (the vast majority of landuse projects in Kansas) already are exempt from review under KNESCA and KECA.

Thank you, Senator Powell, on behalf of The Nature Conservancy of Kansas, for the opportunity to address key aspects of Senate Bill 384, which proposes changes to the Kansas Nongame and Endangered Species Conservation Act. The Conservancy is a private conservation organization, which grounds its work in sound science, cooperation with other private landowners, and affecting lasting conservation that benefits people and nature. The Conservancy opposes the basic tenets of this proposed legislation, fundamentally because the changes it contemplates do not address real problems, and they would expose Kansas citizens unreasonably to natural resource losses and potential associated legal and financial detriments.

Fundamentally, this proposed legislation ignores the fact that State permit restrictions for endangered species conservation are extremely rare, and mitigation, at any cost, is even more uncommon. In typical year, State agencies review about 2,000 projects under the authorities of KNESCA and KECA. These reviews result in the issuance of fewer than 40 conditioned

permits, only 6 of which require some mitigation action, and fewer than 4 of those require additional expenses for mitigation. This simply does not represent an unreasonable hindrance to economic or cultural development or to private land use.

If the State of Kansas fails to steward its rare species in a reasonable manner, federal intervention is made more likely, as are additional costs to Kansans in outlying years. The change in critical habitat designation authority presented on page 1, lines 23-24, would limit such designations to habitats that are contemporaneously occupied by the affected species. Species subject to this provision are currently under the State's jurisdiction; but the inability to conserve their habitats outside areas of current existence dictates that their populations cannot be recovered or expanded into former range. This proposed restriction ignores sound science and increases the likelihood that some rare species presently under the sole jurisdiction of the State of Kansas could decline to the point of federal Endangered Species Act protection. Again, this does not serve the interests of Kansans.

Similarly, the provision proposed on page 5, lines 15-23, exposes both wildlife populations and Kansans to unwarranted risk of federal and state intervention; it would unnecessarily and ill-advisedly commit many rare species populations to continued declines toward federal listing thresholds. This change would limit the implementation of rules to protect State-listed species to those species for which recovery plans have been developed. Such a provision erroneously implies that protection of rare species' populations and habitats is not beneficial or warranted in the absence of full recovery plans.

The language on page 4, lines 8-20, implies, in contradiction of the facts, that private property owners who carry out development projects with private funds and in the absence of State permitting requirements are exposed to prosecution under the KNESCA. This is simply untrue; in fact, it is difficult to conceive of a situation in which this might occur. This proposed provision, therefore, is unwarranted and contrary to the interests of Kansans.

The provision offered on page 4 lines 24-29 would exempt from legal protection endangered species and their habitats, even from takings that occur in conjunction with State funded projects, except in cases of intentional harm to subject species or habitats. The underlying assumption here is that the citizens of Kansas do not have an abiding interest in how expenditures of public tax revenues impact wild resources which belong to those citizens. Again, an erroneous assumption has been applied here to justify an unwarranted and ill-advised change in policy that is contrary to the well-being of Kansans and to their meaningful engagement in the State's governing processes.

I respectfully ask you, on behalf of Kansans, including the 7,000 Kansans who are members of The Nature Conservancy, to oppose this proposed change in the Kansas Nongame and Endangered Species Conservation Act. Thank you for considering these comments.