

Rob Manes, Director

TO: The Kansas Senate Natural Resources Committee
Senator Larry Powell, Chairman

FROM: Rob Manes, Director, The Nature Conservancy of Kansas

RE: **Senate Bill 425** – testimony in **opposition** to a bill establishing county authority
to regulate conservation easements

DATE: February 18, 2016

The Nature Conservancy is a 64-year-old, private, non-profit conservation organization. The Conservancy is founded on sound science, collaboration, and integrity. The Nature Conservancy's work in Kansas focuses on initiatives and strategies that benefit both ecosystem health and the lives and well-being of people, including the economies and communities that sustain them.

Chairman Powell and members of the Committee:

I value greatly the privilege and freedom to engage the rulemaking processes of our society; that we are able to discuss, debate, and differ on issues that impact our lives; and, in the end, we remain orderly and unified. Thank you for the opportunity to offer the following comments in opposition to Senate Bill 425.

The apparent fundamental precept behind Senate Bill 425 is that Kansas private landowners should be further regulated in the management, development, use, and transfer of their own properties. Conservation easements are important tools, not simply for conserving natural assets, as the name implies; these voluntarily-entered agreements are important tools which private landowners employ to:

- facilitate generational succession of family legacy lands;
- implement and protect landuse and management vision;
- avoid severe federal tax impacts associated with inherited lands;
- protect agricultural values and uses of lands;
- protect long-treasured natural assets and vistas;
- contribute to the stewardship of important wildlife and habitats; and
- while retaining ownership and management, liquidate significant and inherent land values that are purchased with the land at acquisition. (Landowners pay for rights affected by conservation easements; restrictions on easements reduce and confiscate those legally purchased rights.)

It is important to note, in addition, that the alleged detriments of conservation easements (including such allegations as widespread landownership impacts, county tax base erosion, government land seizure, and land value distortions) are without merit. It is true, that conservation easements allow landowners to make decisions regarding the future use of their lands; this is consistent with countless other rights accorded to private landownership - rights that landowners purchase in good faith when acquiring property - including, subdivision, development, and severing and extracting gravel and petroleum resources.

It is worth noting also that the 2015 United States Congress ratified the validity and importance of conservation easements by restoring and making permanent a previously expired major tax benefit for private landowners who donate conservation easements. This federal tax law provides benefits only to landowners who grant perpetual conservation easements, and it creates one of the greatest sources of federal tax relief available to private landowners. It seems then inconsistent and counterproductive to establish a Kansas statute that positions counties to diminish or deny those benefits to some state residents.

It is difficult to understand how un-needed additional governance over private landownership and private landowner self-determination is necessary or desirable, even under the banner of “local control”. This is especially evident in consideration of the fact that the vast majority of conservation easements protect agricultural uses and values. The merit of county control over landowners who may wish to establish conservation easements is called more starkly into question by Kansas law, including KSA 19-2921, KSA 19-2908, and KSA 19-2960. Under these statutes, counties generally have home rule power to implement zoning; however, except with respect to flood plain regulations, such rules may not restrict the use of land for agricultural purposes, which is an expressed fundamental element of conservation easements.

In light of these considerations, and on behalf of more than 7,000 Kansas members of The Nature Conservancy, I ask you to oppose Senate Bill 425 and any other efforts to inhibit the use or duration of conservation easements in Kansas.

Thank you for considering these comments.