



The Honorable Kyrsten Sinema
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The Honorable Mark Kelly
U.S. Senator
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September 28, 2021

Subject: Rationale for support for S. 2256, *Charitable Conservation Easement Program Integrity Act*, via retention in the reconciliation package

Dear Senators Sinema and Kelly:

Archaeology Southwest is a Tucson-based nonprofit organization dedicated to the preservation, enjoyment, and investigation of heritage places of the American Southwest. Archaeology Southwest collaborates with tribes, private partners, and federal, local, and state governments to protect places of the past that retain outstanding present day values. Our work includes sustained investments in conservation easements and private preserves for heritage places.

We write for two reasons. First, we applaud inclusion of the bipartisan Charitable Conservation Easement Program Integrity Act (H.R. 4164 and S. 2256) in the reconciliation package. Second, we alert you to bad actors seeking to continue to profit from unlawful transactions and to their spurious claims that passage of the *Charitable Conservation Easement Program Integrity Act* would hinder land conservation. This is untrue. Each year, about 2,500 conservation donations are made by private landowners for truly charitable purposes. These altruistic donations total about \$1 billion in claimed tax deductions per year. This figure stands in sharp contrast with the \$9.2 billion claimed by syndicators for only 296 entities in 2018 (please see the [2020 Senate Finance Committee report](#) on this abuse).

The bad actors defending the abusive transactions disguised as philanthropy claim the effective date of the proposed S. 2256 is retroactive. This, too, is false. The effective date of the legislation simply mirrors the date the IRS placed these bad actors on notice and warned them to halt their abusive transactions. Maintaining the effective date in the legislation will ensure that funds improperly taken from taxpayers will be recovered and save millions in unnecessary enforcement and litigation costs. ***Changes to the effective date would only serve to protect the massive profiteering enjoyed by the bad actors.***



Some argue that this issue is best resolved not by Congress, but by federal agencies. Unfortunately, despite actions by the IRS and the U.S. Department of Justice, these abuses continue. In December 2020, the Department of Justice announced its first criminal case; two people pleaded guilty to conspiring to develop, market, promote and sell investments in fraudulent syndicated conservation easement transactions. More recently, in June of this year, a federal grand jury indicted a certified public accountant for promoting a syndicated conservation easement tax scheme involving fraudulent charitable deductions. We commend these efforts, but their piecemeal nature and their apparent lack of deterrent effects make clear the need for Congress to pass the *Charitable Conservation Easement Program Integrity Act* to shut down these transactions for good.

The *Charitable Conservation Easement Program Integrity Act* is the most effective and efficient way to bolster existing land conservation using private property tools and, importantly, to halt egregious and ongoing abuses that detract from truly charitable investments in our nation’s cherished places and landscapes. S. 2256/H.R. 4164 is supported by innumerable national conservation organizations and those who work at local and regional levels, like Archaeology Southwest, to ethically protect our country’s irreplaceable farmlands, forests, ranches, wetlands and historic sites. We respectfully ask you to stand with us—and all in our community—by rejecting efforts to derail S. 2256/H.R. 4164 and by restoring the integrity of cherished and worthy private land conservation programs. Passing the *Charitable Conservation Easement Program Integrity Act* will safeguard the taxpaying public while ensuring that the federal tax incentive for land conservation and heritage place preservation remains available for genuine philanthropists.

The time has come to pass legislation that re-confirms the integrity of the Charitable Conservation Easement Program.

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