

**Testimony on HB 2362 relating to the Kansas Nongame and Endangered Species Act  
To  
The House Committee on Agriculture and Natural Resources**

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HB 2362 seeks to amend laws related to threatened and endangered species in Kansas. **The Department opposes the provisions contained in the bill.** The provisions of the bill would be effective upon publication in the statute book.

The management of threatened and endangered species in Kansas is a relatively new concept, beginning in the 1970's, but is very limited in nature as the application is limited to publicly funded projects or projects which require a public permit. As this committee is well aware, wildlife management, including threatened and endangered species, is funded by hunters and anglers dollars. A recent survey conducted by Responsive Management, an internationally recognized research firm specializing in natural resource and outdoor recreation issues, found that conservation of threatened and endangered wildlife remains important to Kansans. Some interesting findings include:

- 91 percent of Kansas residents agreed that the Department should continue to identify and protect habitat critical to the existence of threatened and endangered species
- 73 percent of residents agree with the statement "Wildlife that is threatened and endangered in Kansas, yet abundant in other states should still be protected in Kansas."

The proposed bill seeks to limit the ability of Department to do both of those activities, contrary to the wishes of the clear majority of Kansans. Further, provisions of the bill would automatically reduce the number of species on the Kansas endangered species list by 21 percent and the Kansas threatened list by 64 percent and as a result, will ultimately lead to more federal intrusion into Kansas because of the inadequacy of regulatory mechanisms, one of the major factors the USFWS looks at when reviewing Federal threatened and endangered species listing petitions. For an example when the USFWS did their most recent review of the Arkansas darter (Federal Candidate), the document specifically mentions that all states, **with the exception of Kansas**, do not have adequate existing regulatory mechanisms.

The bill also could potentially limit the ability of the Department to conduct NEPA reviews of federally funded actions should the USFWS consider the amendments in the bill to provide less protection than federal law. That will have a large impact on the lives of Kansans as well as increase costs for all Kansans because all projects will now need federal review whereas the Department could conduct the reviews previously.

The bill also contains provisions that would make the Kansas nongame and endangered species act not applicable to post construction permits. It is poor public policy at best and encourages individuals to act without regard to the consequences.

There is some irony with this bill. The lesser prairie-chicken, which is currently proposed for listing, would impact a large swathe of western Kansas. In that listing, the proponents of this bill have all advocated for local control of the species, rather than listing the bird as threatened, yet in this bill, they are advocating ceding control only to the USFWS and species they may propose for listing. Further, in the case of the lesser prairie-chicken, the Department would have to consider the impacts to the fringe ranges of the population because the majority of the population resides in Kansas, exactly contrary to the position they advocate in the bill.

And finally, the Department contends this bill is unnecessary and the Department is hardly heavy handed in enforcing the provisions of the Kansas Nongame and Endangered Species Statutes. The concepts of avoidance, minimization and, in a last resort, mitigation have served the Department and all Kansans well. From 2008-2012, the Department reviewed 9,127 publicly funded or publicly permitted projects. Of those, 242 required action permits. Of those action permits, only 50 resulted in mitigation, because the permit applicants chose that option. That is a result of 0.54 percent that resulted in mitigation.

Notwithstanding the above, there are certain internal procedures that the Department is willing to review with the proponents and potentially modify, which would not have the unintended consequences of this bill. Additionally the proponents have the option to use current processes and petition for delisting of species they feel should not be on the threatened or endangered species list, rather than legislatively remove species arbitrarily and potentially jeopardize future federal intrusion into the lives of Kansans. It is also note worthy that we're in the statutory 5-year review of our state T & E listing and this is a good time to take a very hard look at the species we have listed and look at the science that supports the listings.

**The Department appreciates the support of the Committee in opposing the bill.**