

**Testimony on SB 384 relating to Amending the Kansas Nongame and Endangered Species Act
To
The Senate Committee on Natural Resources**

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SB 384 seeks to amend laws related to threatened and endangered species in Kansas by changing the definitions of critical habitat, changing the application of the laws with respect to recovery plans and broadening current exemptions. **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 survey conducted in 2011 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
- 88 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."

Kansas is home to over one hundred-forty species of fish, eighty species of amphibians and reptiles, over four hundred species of birds, almost ninety species of mammals and thousands of species of invertebrates. Most of these animals are doing relatively well, but some are in trouble and hence, the need to protect and preserve these species.

This bill will have far reaching consequences. It 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 action alone will impact the lives of Kansans by increasing costs because projects would then need federal review whereas the Department could conduct the reviews previously. The bill also appears to attempt to 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, potentially creating other unintended consequences.

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 2011-2015, the Department statewide reviewed 10,976 publicly funded or publicly permitted projects. Of those, 41 required some sort of mitigation, less than 9 per year or 0.004 percent of the projects. The numbers speak for themselves and clearly show that this process is not a large regulatory footprint.

Further, the Department has been exceptionally responsive to concerned parties, including reviewing the regulatory listings and removing, when appropriate, species to assist agricultural or development interests as well as working with parties on a one on one basis to reduce fiscal impacts of T&E species on projects. The Department also recently entered into a coordination MOA with Sedgwick County, similar to one the Department has with KDOT that provides exemptions for projects that meet certain criteria and best management practices, which reduce the impact on wildlife resources.

In summary, the current law in Kansas with regard to threatened and endangered species serves the public well. To make these changes slows the process dramatically and invites intrusion, in the form of federal regulatory action as well as putting more emphasis on placing species in Kansas onto the federal T&E lists.

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