

MINUTES OF THE HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman John Faber at 3:30 P.M. on February 12, 2007, in Room 423-S of the Capitol.

All members were present except:

Representative Holmes, excused
Representative Aurand, excused

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department
Jason Thompson, Revisor of Statutes
Florence Deeter, Committee Assistant

Conferees appearing before the committee:

Representative Grange, District 75
Representative Phelps, District 111
Representative Otto, District 9
Justin Holstin, Executive Vice-President Propane Marketers Association
Lonny G. Wright, Chairman, Wichita Plumbing Board of Appeals
Ron Means, Chairman, Mechanical Trades Advisory Council
Mary Jane Stankiewicz, Kansas Agribusiness Retailers Association
Leslie Kaufman, Kansas Cooperative Council
Chris Wilson, Executive Director, Kansas Building Industry Association {Written Only}
Steve Adams, Kansas Department of Wildlife and Parks
Chris Mammoliti, Past President, Kansas Chapter of American Fisheries Society
Ron Klataske, Executive Director, Audubon of Kansas
Bill Jensen, Kansas Wildlife Advisory Council
Tom Thompson, Kansas Sierra Club
Alan Pollom, Nature Conservancy

Others Attending:

See attached list.

The Chairman opened the hearing on **HB 2294 - exemption from Kansas propane safety and licensing act; licensing and training requirements.**

Raney Gilliland, Kansas Legislative Research, provided some historical background on the bill. The Propane Association requested the 2004 Legislature consider certain requirements for licensure, education and training for persons in the propane industry. The Kansas propane safety and licensing act gives the state fire marshal responsibilities to administer the necessary training. The bill provides for exceptions to licensing and education requirements under the state fire marshal.

Representative Grange, District 75, speaking as a proponent of **HB 2294**, and CEO of Carlisle Heating and Air Conditioning to clarify a proposed change of the rules and regulations which would allow for statewide acceptance of certified contractors to provide service in areas of the state other than the specific county of licensure issuance. He said that current law allows the state fire marshal to license, train and provide inspection of persons not otherwise certified (Attachment 1).

Representative Phelps, District 111, spoke in favor of the exemption provision provided in **HB 2294**. He said that additional testing of individuals who have completed National Testing and are licensed is redundant and unnecessary (Attachment 2).

Justin Holstin, Executive Vice-President Propane Marketers Association, a proponent of **HB 2294**, advocates the licensure and certification of plumbers and installers in the areas that do not have oversight. At issue is that of faulty installations done by some business entities across the state. Mr. Holstin reiterated the original intent of the legislation was to provide education in relation to propane installations and in providing service to existing equipment (Attachment 3).

CONTINUATION SHEET

MINUTES OF THE House Agriculture and Natural Resources Committee at 3:30 P.M. on February 12, 2007, in Room 423-S of the Capitol.

Lonny G. Wright, Chairman, Wichita Plumbing Board of Appeals, spoke as a proponent of **HB 2294**, advocating the need for protection in areas of the state which do not have current licensing and inspection requirements (Attachment 4).

Ron Means, Chairman, Mechanical Trades Advisory Council (MTAC), advised the members that the number of trade associations and labor unions who participate in MTAC are supportive of **HB 2294**. He said the propane safety act is appropriately worded and exempts these certified tradesmen from additional examination (Attachment 5).

Mary Jane Stankiewicz, Kansas Agribusiness Retailers Association (KARA), spoke as a proponent of **HB 2294** stating that KARA believes lawfully certified individuals who have demonstrated professional skills in the propane industry do not need duplication of licensing (Attachment 6). She said KARA supports exempting providers of propane from the propane safety act.

Leslie Kaufman, Kansas Cooperative Council (KCC), presented the position of KCC regarding **HB 2294** as being one means for streamlining recognition for certifications already obtained (Attachment 7). She said the bill would reduce duplicative regulatory requirements for various industries.

Written testimony in support of **HB 2294** was submitted by Chris Wilson, Executive Director of the Kansas Building Industry Association (Attachment 8).

The Chairman closed the hearing on **HB 2294**.

Hearing on HB 2311 - Repealing non-game and endangered species conservation act.

Representative Bill Otto, District 9, spoke as a proponent of **HB 2311** - repealing non-game and endangered species conservation act. He said that in the flood plain of the south part of Iola, Kansas, there are adequate abatement areas of habitat for skunks and other wildlife (Attachment 9). Representative Otto said the problem lies in the unfinished portion of flood control in his district; his positional request is to repeal this law.

Steve Adams, Natural Resources Coordinator for Kansas Department of Wildlife and Parks, speaking as an opponent of **HB 2311** said that projects related to threatened or endangered species are closely regulated by the department (Attachment 10). He said that modifications are made to avoid impacting various species and when a project changes or removes habitat for spawning and nesting, project sponsors are asked to have in place specific plans to replace lost habitat. Mr. Adams stated the importance of providing protection for species at the state level in order to remain off the federal endangered species list.

Mr. Adams provided a copy of the listings of both Kansas and Federal Threatened and Endangered Species (Attachment 11).

Chris Mammoliti, Past President, Kansas Chapter of American Fisheries Society, brought testimony regarding **HB 2311** stating the majority of Kansans support the protection of habitat that is critical to the existence of endangered species (Attachment 12). He cited data from a science publication which reviewed the status of fish in Kansas; a decline of 46% was reported. Mr. Mammoliti said that local control as opposed to federal oversight would be of greater benefit to Kansans, and if this bill is repealed, by default the Federal government will gain control.

Ron Klataske, Executive Director, Audubon of Kansas, speaking in opposition to **HB 2311** stated that it is highly important to prevent species from becoming endangered and that prevention is one of the priorities of conservation programs (Attachment 13). His testimony included information regarding the proposed reintroduction of the Black-footed Ferret in Logan County. Imperative to the programs' success is the presence of prairie dogs. He said the U. S. Fish and Wildlife Service is working in collaboration with stakeholders and in partnership with some ranch landowners.

Bill Jensen, Kansas Wildlife Advisory Council, spoke on behalf of the Central Plains Society of Mammalogists (Attachment 14). He noted the biological consequences and the economic and legal

CONTINUATION SHEET

MINUTES OF THE House Agriculture and Natural Resources Committee at 3:30 P.M. on February 12, 2007, in Room 423-S of the Capitol.

ramifications of repealing **HB 2311**. Mr. Jensen further stated that without the provision of funds, students in various universities will be limited in their contribution to the study of conservation of threatened and endangered species in Kansas.

Tom Thompson, Kansas Sierra Club, opposes the repeal of **HB 2311** as an act of irresponsibility. (Attachment 15). He stated that Kansas is noted for protecting wildlife in the state; it is unwise to allow the Federal Government define the parameters of protection for endangered species.

Alan Pollom, State Director, Kansas Chapter, The Nature Conservancy, testified in opposition to **HB 2311** (Attachment 16). He said The Nature Conservancy is a private-non-profit 501c3 organization and priority is given to the preservation of plants and animals by providing protection of the flora and fauna needed for survival. Much work is being done to protect conservation easements in the Flint Hills of Kansas. Mr. Pollom revealed the organization is completing the process of a capital campaign to raise 11 million private dollars for the continuing work of supporting the Kansas non-game and endangered species act.

The Chairman closed the hearing on **HB 2311**.

The Chairman announced a tour of Rolling Hills Landfill on Thursday, February 15, 2007 at 7:30 a.m. Meet at the East Door for transportation.

A joint meeting with Senate Agriculture and Senate Natural Resources on Friday, February 16, 2007 at 7:30 a.m. in Room 313-S. Mr. Bill Fuller, State Executive Director of Kansas Farm Service Agency will be the speaker.

Representative Knox presented a report from the sub-committee on the changes related to the dam inundation bill. He said the maps produced by the Department of Agriculture will be distributed to the register of deeds then given to the county commission. If passed, the cost would be prioritized by the Department of Agriculture and the State Conservation Commission and limited to the amount of appropriations.

The meeting was adjourned at 5:00 p.m. The next meeting is scheduled for February 13, 2007.

HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: February 12, 2007

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Craig Thompson	KDHE
Steve Hasbuer	KDHE
LONNY WRIGHT	Wichita Plumbing Board
REN MEANS	MTAC
ALAN POLLON	TNC
Jim Hays	KDWP
Steve Adams	KDWP
Tom Thompson	Sierra Club
Eber Phelps	Legislature
Mike Beam	Ks Livestock Assn.
Mary Ann Staniewicz	KARA
Stella Kaufman	Ks Coops Council
Dennis Hupe	KSA
Chris Wilson	KBIA
Sustin Holstin	PNIAK
Brend Harrelson	KFB

JOHN C. GRANGE
REPRESENTATIVE, 75TH DISTRICT
BUTLER COUNTY



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AGRICULTURE AND NATURAL RESOURCES
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BUDGET

Testimony on HB 2294 Before the House Committee on Agriculture and Natural Resources.
February 12th 2007

By Rep. John C. Grange, Representative 75th District Kansas Legislature, and Owner, CEO,
Carlisle Heating and Air Conditioning, 1100 North Main El Dorado Kansas, 67042

I present this testimony to clarify the issue that has arisen as an unintended consequence from
Sub for SB 335 as agreed to March 31, 2004 and led to subsequent rules and regulations from the
State Fire Marshal Office, that became effective in October of 2006.

The intent of Sub SB 335 is to enact the Kansas Propane Safety and Licensing act and give the
State Fire Marshal authority to establish programs relating to the regulation and licensing of the
liquefied petroleum (LPG) industry in the state.

The intent is to require licensing of dealers that are engaged in the retail distribution, bulk
storage, cylinder transfer companies, recreation vehicle fueling stations, and etc. What started out
as an effort to improve the safety practices of this industry has led to the requirement that service
providers, specifically those that service LPG appliances to be likewise licensed by the Fire
Marshal, irrespective of current license holdings.

The issue of this required license has led to my intervention beginning in November 2006. I
proposed a change to Mr. Jack Alexander, the State Fire Marshal, to the rules and regulations to
exclude those service providers that are already licensed by recognized code authorities and
jurisdictions. That is; county and city code enforcement that require certification by existing state
statute K.S.A. 12-1508 et seq. or 12-1541 et seq. This statute allows for statewide acceptance of
certification of contractors and allows the test results received in one community jurisdiction to
be accepted in other jurisdictions within the state.

Simply put this allows a contractor who is licensed in Sedgwick County, and after paying the
license and permit fees in Butler County, Douglas County, Lawrence, Topeka, or elsewhere, to
continue to work as long as they meet all other requirements in that jurisdiction where they are
wanting to work or provide service. This usually requires proof of insurance and mandates
permits and inspections for work performed.

Not much difference in accepting my drivers license from El Dorado that allows me to operate a motor vehicle in any city or county in the state, or even the United States for that matter. K.A.R. 22-8-10, (8) as written will require everyone that works on, repairs, installs, moves, or services any appliance that is fueled by LPG, pay a \$20.00 fee and to have a state Fire Marshal issued license and meet all the requirements of this statute.

Since last October 06, I have worked with the interested parties that include builders, code authorities, city and county inspectors, mechanical contractors, union officials, and the State Fire Marshal office, to correct this unnecessary redundant license requirement. We had an agreement that was acceptable to all parties, The base statute is to license those individuals that are not subject to existing code authorities and is endorsed by those of us that already meet these requirements.

On February 5th the Kansas State Attorney General issued a letter signed, by Theresa Marcel Bush, Assistant Attorney General, that K.S.A. 55-1808 does not allow exemption of anyone and that to accomplish exemption, current Kansas law must first be amended. Essentially the State Fire Marshal cannot amend his own rules and regulation. That brings us together to discuss HB 2294.

The training required by this statute and the classes that are mandated; currently are required in our own local jurisdiction. As professional contractors we want continuing education and as a matter of fact we as an industry provide this training as a way of setting us apart from those that wish to practice our trade after hours, on weekends, and as "moonlighters". We must carry insurance, get permits, stay current with code updates, and keep our employees trained.

HB 2294, recognizes the professionals that are already tested and certified by a National Testing Agency whose results are accepted by the State of Kansas and certified by local authorities; that we do not need to carry a card issued by the state that certifies us for the same thing. Why would we need multiple drivers licenses? Would that make us safer drivers? I think not.

Current law would allow State Fire Marshal licensing, training, and inspection of those not otherwise certified.

I thank you for your consideration on this matter and I would ask for your support of HB 2294.

Thank-you Chairman Faber and committee members, I will stand for your questions.



John C. Grange
State Representative 75th District.

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

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Testimony
House Agriculture and Natural Resources
HB 2294
Representative Eber Phelps, District 111
February 12, 2007

Good afternoon chairman Faber and members of the committee. Thank you for the opportunity to appear before you today and testify in favor of the exemption provision provided by HB 2294.

This exemption targets those individuals who have already completed training and testing in the area of fuel gases as well as licensure.

Individuals who have successfully completed Block or Experiour National Testing programs are in fact, licensed to safely make connections of propane fueled equipment to propane supply sources.

Many communities in Kansas require Block or other national testing programs for technicians and plumbers to qualify for licensure and the ability to handle fuel gases within their jurisdictions.

Further requirements for testing and training would simply duplicate what has already been done to insure a safe environment when working with propane or other fuel gases.

Thank you for the opportunity to testify. I will be happy to stand for questions.



PROPANE MARKETERS ASSOCIATION OF KANSAS

501 SE Jefferson , Suite 2000 Topeka, KS 66608 Phone: 785/354-1749 Fax: 785/354-1740 jkholstin@pmak.org

February 12, 2007

Mr. Chairman and Members of the House Agriculture & Natural Resources Committee;

Thank you Mr. Chairman, members of the committee, I appreciate the ability to come and talk to you about HB 2294.

My name is Justin Holstin and I am the Executive Vice President of the Propane Marketers Association of Kansas. The Propane Marketers Association of Kansas represents about 200 members in all aspects of the propane industry including retail, wholesale, transportation, production, and manufacturing of propane and propane related equipment. The propane industry serves more than 98,000 households in Kansas, not including barbeque grills, heaters, agricultural implements and application, and motor vehicles. Each year over 192 million gallons of propane are consumed in Kansas.

Today we are here to address HB 2294. This issue has been one that has been discussed and worked on for over five months after it was brought to our attention by a group of certified plumbers and HVAC personnel who felt that the licensing of their group would be redundant and unnecessary. A major issue that the propane industry has had for many years is that of faulty installations done by businesses across the state. This remains an issue, but we also understand that the people that you have heard from today, and those they represent, are in-fact reputable and do what they can to make sure systems are installed correctly. However, through our conversations, we made it known that we still want to license those plumbers and installers that are in areas that do not have oversight as they do in Sedgwick and Butler counties and other jurisdictions or do not have their certification.

On another note, we receive many calls each day from plumbing and HVAC industry personnel who are interested in receiving education classes related to propane installations and equipment servicing, which is the true intent of the original legislation: to reach out and provide opportunities for those that need expanded knowledge.

We had come to what we all believed a workable solution to this issue of making a change in the regulations that apply the statute and the Fire Marshal's office had requested an emergency regulation change, but that was denied for lack of statutory authority. Therefore, and I agree, the issue has come back to this committee.

The Propane Marketers Association agree with the intent of this legislation as it is presently written which is the culmination of many months of work and would ask for your support and quick resolution of the issue. I would be happy to stand for questions.

Respectfully submitted,

Justin K. Holstin
Executive Vice President

**HS AGRICULTURE AND NATURAL
RESOURCES COMMITTEE
2-12-2007
ATTACHMENT 3**

Committee for Agriculture and Natural Resources
HB 2294 Proponent

February 12, 2007

Representatives,

The Propane Safety and Licensing Act brings much needed protection to those areas of our state that do not currently have licensing and inspection requirements for the service and installation of LP.

The Class 8 license provides this protection.
Hopefully, the license will eventually require some practical training and/or experience in addition to the 6 days of classroom training.

Most of our larger population centers have been providing fuel gas protection through their inspection departments for decades.

Allowing persons with only classroom training to work in these jurisdictions would lower their standard of protection. Duplicating the current permit, inspection and licensing requirements would create unnecessary cost.

Requiring additional training may conflict with K.S.A. 12-1509 (b) "...examination... shall be valid proof of competency for licensure, without additional examination". AG Opinion #99-42 that states that even additional experience cannot be required (statute later amended).

I urge you to support HB 2294.

Lonny G. Wright, Juris Doctor
Chairman, Wichita Plumbing Board of Appeals
Secretary, Mechanical Trades Advisory Council
Member, United Association Local #441
1721 S. Lulu, Wichita, KS 67211
attorneyplumber@yahoo.com c-316-619-7571

I am a plumbing contractor from the Wichita area and I am the Chairman of the Mechanical Trades Advisory Council, also known as the MTAC. The participants in the MTAC are representatives of numerous trade associations, labor unions, and code enforcement jurisdictions. We all support the intent of House Bill 2294.

Kansas State Statutes established in the 1980's provide "*Rules and regulations relating to licensure and examination; certificate of competency; uniform fee required; where license valid; continuing education; field experience*" for plumbing and hvac tradesmen.

Per these statutes;

A tradesman must have 2 years of experience prior to testing for a journeyman certificate.

2 years experience as a journeyman is required prior to testing for a master certificate.

75% is the minimum passing score.

Twelve hours of approved continuing education is required every twenty four months prior to license renewal, journeyman or master.

The Kansas Propane Safety Act establishes eight classes requiring a State Propane License. Class eight - Installation & Service of LPG Systems – states in part, "*class eight installation and service of liquefied petroleum gas systems license which is required to install, maintain, or modify a residential or commercial liquefied petroleum gas distribution and utilization system*".

It is our position that class eight of the Propane Safety Act has inappropriately included State certified tradesmen who are already meeting State statutes designed to demonstrate their competency. Many of the regulations imposed by the Propane Safety Act upon these tradesmen are either redundant to their current requirements, reflect a lesser standard than is currently required, or are impossible to comply with.

House Bill 2294 keeps the Propane Safety Act intact while exempting these State certified tradesmen from the "***additional examination***" prohibited in KSA 12-1508 and KSA 12-1541.

Thank you for your consideration and I urge your support of House Bill 2294.

Ron Means
Chairman, Mechanical Trades Advisory Council
2704 Glacier Ct., Wichita, KS 67215
plumbmeans@sbcglobal.net
316-721-3068



KANSAS AGRIBUSINESS RETAILERS ASSOCIATION
SAFE AND ABUNDANT FOOD THROUGH SOUND SCIENCE

HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

HB 2294 – Kansas Propane Safety and Licensing Act

FEBRUARY 12, 2007

Good afternoon chairman Faber and members of the House Agriculture Committee, I am Mary Jane Stankiewicz, Vice President and General Counsel for the Kansas Agribusiness Retailers Association (KARA). KARA's membership includes over 700 agribusiness firms that are primarily retail facilities that supply fertilizers, crop protection chemicals, seed, petroleum products and agronomic expertise to Kansas farmers. KARA's membership base also includes providing propane to a number of people in rural Kansas.

I appear in support of HB 2294. The original propane safety act was enacted a couple of years ago with the purpose of increasing the education of the propane consumers and increasing the professionalism of the propane industry. At that time there was not any mandatory licensing or educational requirements specifically for the propane industry. The law was seen as a step forward in developing a standard for those dealing with propane.

However, last year it was determined that this law would require certain individuals in the heating and air conditioning and the plumbing business that had already been certified as being knowledgeable in their area of expertise to also be licensed through this act. While KARA appeared in support of the original propane safety act, we never intended for anyone to be doubly regulated and licensed. This duplication of licensing does not provide any benefit to the state or to the citizens and therefore is unnecessary.

We believe that the individuals who receive a certificate under the law have shown to be knowledgeable and capable professionals. These are not the type of people that the original bill was attempting to reach and regulate. Therefore, we support the exemption of these individuals from the propane safety act.

I thank you for your time and attention and urge your support of HB 2294. I would be happy to stand for questions at the appropriate time.

**HS AGRICULTURE AND NATURAL
RESOURCES COMMITTEE**
2-12-2007
ATTACHMENT 6

816 SW Tyler, Suite 100 Topeka, Kansas 66611
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House Committee on Agriculture & Natural Resources

February 12, 2007

Topeka, Kansas

HB 2294 – Recognizing Certain Certification as Sufficient Training Thus Exempting Holder from Requirements Under the Kansas Propane Safety Act.

Kansas Cooperative Council
816 S.W. Tyler St., Suite 300
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Toll Free: 888-603-COOP (2667)

Email: council@kansasco-op.coop

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Thank you, Chairman Faber and members of the House Agriculture & Natural Resources Committee for the opportunity to comment today in support of HB 2294.

I am Leslie Kaufman and I serve the Kansas Cooperative Council as Executive Director. The Kansas Cooperative Council represents all forms of cooperative businesses across the state -- agricultural, utility, credit, financial and consumer cooperatives. Approximately half of our membership is involved in agriculture/farm supply and marketing. Many of these cooperatives are actively engaged in propane supply and delivery operations.

As many of you will remember, our association was one of the main proponents of the Kansas Propane Safety Act. We have remained actively involved in the development of regulations to implement the Act. Our KCC policy position on propane outlines our support for this program, but it also reflects our general philosophy encouraging the avoidance of duplication in regulatory matters. The pertinent part to today's discussion states:

Propane Dealer Registration and Liability Protection

Safety is of paramount concern for propane dealers in Kansas. The Council supports licensing and registration programs that fulfill the requirements under Kansas law as a means of insuring that those delivering propane or performing work on any part of a propane system do so in a conscientious manner. We encourage the State Fire Marshall to recognize industry training that meets statutory and regulatory parameters as sufficient for licensing requirements...

The agriculture industry knows first-hand about the complexities of overlapping regulations. We appreciate efforts to reduce unnecessary regulatory burdens where possible and appropriate for various industry sectors. We see HB 2294 as one means for streamlining recognition for certifications already earned relative to propane safety, thus reducing duplicative regulatory requirements. As such, we encourage you to look favorably on HB 2294. Thank you.

The Mission of the Kansas Cooperative Council is to promote, support and advance the interests and understanding of agricultural, utility, credit and consumer cooperatives and their members through legislation and regulatory efforts, education and public relations.

HS AGRICULTURE AND NATURAL
RESOURCES COMMITTEE
2-12-2007
ATTACHMENT 7



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STATEMENT OF KANSAS BUILDING INDUSTRY ASSOCIATION

TO THE HOUSE AGRICULTURE COMMITTEE

JOHN FABER, CHAIR

REGARDING H.B. 2294

FEBRUARY 12, 2007

Mr. Chairman and Members of the Committee, I am Chris Wilson,
Executive Director of the Kansas Building Industry Association (KBIA). KBIA
is the statewide trade association of the home building industry, with
approximately 2500 member companies.

Thank you for the opportunity to support H.B. 2294. We appreciate Rep.
Grange's efforts on this bill and thank the Chair and the Committee for
introducing and hearing this bill in such a timely manner.

We believe that it was unforeseen by the Committee when the original law
was passed three years ago, that it would have the affect of requiring another
license for those contractors who are already locally tested and licensed in order
to do propane related work.

We ask that you support H.B. 2294 in order to clarify that those who have
been locally licensed and certified by the standard state examination that includes
fuel gas are exempt from the additional licensure.

HS AGRICULTURE AND NATURAL
RESOURCES COMMITTEE
2-12-2007

ATTACHMENT 8

CHRISTINA M. WILSON, Executive
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STATE OF KANSAS

HOUSE OF REPRESENTATIVES

SERVING: ALLEN, ANDERSON, FRANKLIN

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BILL OTTO

Testimony for HB 2311

Spotted Skunks (*Spilogale putorius*) do not vote , people do.

Spotted Skunks do not pay taxes, people do

Spotted Skunks are not a Federal Endangered Species.

Why in the world would the State of Kansas have a law to see that we have our share of Spotted Skunks?

Why would the State of Kansas make taxpayers pay good money to find a good location for Spotted Skunks to come into the State of Kansas?

Why does the south part of Iola flood? Answer—the Creek.

Why has the flood control water shed district not got their project finished?

Why must people pay money to some third party, like the Sierra Club to find a spot for Spotted Skunks?

What would prevent the Sierra Club from using water shed money to purchase land in Western Kansas to bring back the Black Footed Ferret or some other animal to cross on to other people's land?

No, HB 2311 will not let you see if eagle tastes like chicken and no it will not change any of the federal laws, nor the authority of Kansas Department of Wildlife & Parks to enforce the federal law.

This bill will just say that we care about people, and if the world has plenty of some animal, we do not necessarily have to import our share. It will say we are not going to shoot ourselves in the foot over a skunk.

Oh, the delay in the flood control has already provided plenty of habitat for skunks, armadillo, possums, foxes and other varmints. They are moving into the vacant houses located in the flood plain in South Iola.

Mastodons once roamed Kansas and Japan is using DNA from a frozen mastodon to try to clone a new mastodon. If this is a success, will Wildlife and Parks try to bring in mastodon?

Please stand up for the PEOPLE of Kansas and repeal this law.

A handwritten signature in cursive script that reads "Bill Otto".

HS AGRICULTURE AND NATURAL
RESOURCES COMMITTEE
2-12-2007
ATTACHMENT 9

KANSAS

DEPARTMENT OF WILDLIFE & PARKS

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on HB 2311 relating to the Kansas Nongame and Endangered Species
Act
To
House Committee on Agriculture and Natural Resources**

**By Steve Adams
Natural Resource Coordinator
Kansas Department of Wildlife and Parks**

February 12, 2007

House Bill 2311 would repeal all provisions of the Kansas Nongame and Endangered Species Act and provisions of the bill would be effective on publication in the statute book. The Department of Wildlife and Parks opposes this bill.

Kansan's are fortunate to enjoy a wealth of natural resources including a very rich diversity of native animals. Those fish and wildlife resources have played an important part of the history of Kansas and will be an important part of the legacy we leave for future generations.

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 some of those are included on three different lists.

The first list, Species in Need of Conservation (70 species), are animals that are known to be in decline but do not yet warrant listing as a threatened or endangered species. It is a watch list and the goal is to prevent these species from further decline and formal listing. There is no regulatory protection for these species under the state act.

The second list includes threatened species (34 species). These species are in serious trouble and their numbers have declined dramatically, but they are not yet in imminent danger of disappearing altogether. The third list is the species classified as endangered (25 species). These species numbers have declined dramatically and are at a point where they are in danger of disappearing from Kansas. Both threatened and endangered species are protected and the Department administers a permit program for projects that may affect these species.

Threatened or endangered species can result in strong emotions shown on all sides. And as with any regulatory program, it is impossible to make everyone happy. However, the

Office of the Secretary

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**HS AGRICULTURE AND NATURAL
RESOURCES COMMITTEE**

2-12-2007

ATTACHMENT 10

Department's approach to this program is one of both preservation and progress. The Department tries to find a way to both allow the project to proceed while at the same time preserving the listed species. In many instances, once the project sponsor is aware that a listed species will be affected, they modify their project to avoid impacting the species. With other projects, replanting disturbed areas, preventing soils from entering a stream, or avoiding construction during nesting and spawning seasons resolves the problem. In rare cases a project that changes or removes the habitat for the species is asked to mitigate or replace the lost habitat when no other alternative is possible.

What are the numbers. Since 1990

- Department staff reviewed 15,495 projects.
- Of those 15,495 projects, 413 were required to have a permit (2.6%).
- And of those 413 required to have a permit, 38 projects have been required to mitigate or replace habitat (0.24% of the 15,495 projects reviewed).

The Department believes these numbers speak for themselves and demonstrate a very small regulatory footprint. It demonstrates the commitment the Department has to exploring every possible means to find a way to allow the project to proceed while at the same time preserving the species, and illustrates the cooperative working relationship with project sponsors.

The species of animals that are native to Kansas are both part of our State's history and part of the legacy we leave for future generations. These animals are a resource the state is entrusted by the public to protect. And there is an expectation among the public that someone is ensuring these animals continue to exist. The State's Nongame and Endangered Species Act is a critical part of our ability to meet that public expectation.

In addition, there are other consequences of this bill. Protecting the survival of these species is also an important component in protecting them from decline throughout the nation and ultimately federal listing. Elsewhere in the nation when protection of species has been lessened, the result has been both the continued decline of these species and third party litigation to federally list and protect them. When that happens we all have fewer options.

In conclusion the Department strongly recommends the Committee look unfavorably on this legislation and carefully consider the consequences of this bill.

Kansas

Threatened & Endangered Species (T/E)

THREATENED:

INVERTEBRATES

Butterfly Mussel, *Ellipsaria lineolata*
Flutedshell Mussel, *Lasmigona costata*
Ouachita Kidneyshell Mussel, *Ptychobranchus occidentalis*
Rock Pocketbook Mussel, *Arcidens confragosus*
Sharp Hornsnail, *Pleurocera acuta*

FISH

Arkansas Darter, *Etheostoma cragini* (C)
Blackside Darter, *Percina maculata*
Chestnut Lamprey, *Ichthyomyzon castaneus*
Flathead Chub, *Platygobio gracilis*
Hornyhead Chub, *Nocomis biguttatus*
Neosho Madtom, *Noturus placidus* (F)
Redspot Chub, *Nocomis asper*
Silverband Shiner, *Notropis shumardi*
Sturgeon Chub, *Macrhybopsis gelida* (C)
Topeka Shiner, *Notropis topeka* (F)
Western Silvery Minnow, *Hybognathus argyritis*

AMPHIBIANS

Eastern Newt, *Notophthalmus viridescens*
Eastern Narrowmouth Toad, *Gastrophryne carolinensis*
Green Frog, *Rana clamitans*
Green Toad, *Bufo debilis*
Longtail Salamander, *Eurycea longicauda*
Spring Peeper, *Pseudacris crucifer*
Strecker's Chorus Frog, *Pseudacris streckeri*

REPTILES

Broadhead Skink, *Eumeces laticeps*
Checkered Garter Snake, *Thamnophis marcianus*
Common Map Turtle, *Graptemys geographica*
Longnose Snake, *Rhinocheilus lecontei*
Redbelly Snake, *Storeria occipitomaculata*
Smooth Earth Snake, *Virginia valeriae elegans*
Texas Blind Snake, *Leptotyphlops dulcis*

BIRDS

Bald Eagle, *Haliaeetus leucocephalus* (F)
Piping Plover, *Charadrius melodus* (F)
Snowy Plover, *Charadrius alexandrinus*

MAMMALS

Eastern Spotted Skunk, *Spilogale putorius*

ENDANGERED:

INVERTEBRATES

American Burying Beetle, *Nicrophorus americanus* (F)
Ellipse Mussel, *Venustaconcha ellipsiformis*
Elktoe Mussel, *Alasmidonta marginata*
Flat Floater Mussel, *Anodonta suborbiculata*
Mucket Mussel, *Actinonaias ligamentina*
Neosho Mucket Mussel, *Lampsilis rafinesqueana*
Optiosevus Riffle Beetle, *Optioservus phaeus*
Rabbitsfoot Mussel, *Quadrula cylindrica*
Slender Walker Snail, *Pomatiopsis lapidaria*
Western Fanshell Mussel, *Cyprogenia aberti*

FISH

Arkansas River Shiner, *Notropis girardi* (F)
Arkansas River Speckled Chub, *Macrhybopsis tetranema*
Pallid Sturgeon, *Scaphirhynchus albus* (F)
Sicklefin Chub, *Macrhybopsis meeki* (C)
Silver Chub, *Macrhybopsis storeriana*

AMPHIBIANS

Cave Salamander, *Eurycea lucifuga*
Many-ribbed Salamander, *Eurycea multiplicata*
Grotto Salamander, *Typhlotriton spelaeus*

BIRDS

Black-capped Vireo, *Vireo atricapilla* (F)
Eskimo Curlew, *Numenius borealis* (F)
Least Tern, *Sterna antillarum* (F)
Peregrine Falcon, *Falco peregrinus*
Whooping Crane, *Grus Americana* (F)

MAMMALS

Black-footed Ferret, *Mustela nigripes* (F)
Gray Myotis, *Myotis grisescens* (F)

(F) – Federal List

(C) – Candidate for Federal List



KANSAS CHAPTER AMERICAN FISHERIES SOCIETY

To: John Faber, Chairperson
House Agriculture and Natural Resources Committee

Committee Members: Forrest Knox (*Vice-chairperson*), Clay Aurand, Elaine Bowers, Rocky Fund, John Grange, Carl Holmes, Bill Light, Tom Moxley, Larry Powell, Don Schroeder, Bill Wolf, Joshua Svaty (*Ranking Minority Member*), Bill Feuerborn, Vaughn Flora, Doug Gatewood, Steve Lukert, Shirley Palmer, and Jerry Williams.

From: Executive Committee, Kansas Chapter of the American Fisheries Society
President – Mark Eberle
President-Elect – Dan Mosier II
Past-President – Chris Mammoliti

Re: HB 2311—Proposal to repeal the Kansas Nongame and Endangered Species Conservation Act.

As an interested party in the conservation and management of the natural resources of the state of Kansas for the benefit of all Kansans, the Kansas Chapter of the American Fisheries Society, a formally constituted subunit of the American Fisheries Society, respectfully submits its opposition to the repeal of the Kansas Nongame and Endangered Species Conservation Act proposed in HB 2311.

We base our opposition on three lines of reasoning:

1. *The majority of Kansas residents support the protection of sensitive species.*

Kansas State University surveyed the attitude of Kansans regarding threatened and endangered species. Based on this statistically-valid survey, 96.6% of Kansans surveyed support a Kansas list of endangered species; and 97.6% support the identification and protection of habitat critical to the existence of endangered wildlife.

2. *A recent science publication reviewing the status of Kansas fish documents a decline in the distribution and abundance of 46% of native species.*

A 2005 article published in Transactions of Kansas Academy of Science states “a re-evaluation of the status of fishes in Kansas suggests that 54 of the 116 native species should be assigned special conservation status due to substantial declines in distribution or abundance and/or their rarity in the state.” This article was co-authored by 10 of the top fisheries experts in Kansas including scientists from Fort Hays State University, Pittsburg State University, Emporia State University, Kansas State University, and the Kansas Biological Survey.



KANSAS CHAPTER AMERICAN FISHERIES SOCIETY

3. *The benefits of local control as opposed to federal oversight of Kansas species.*

We offer two examples of this benefit:

In 1991, the United States Fish & Wildlife Service (USFWS) defined the Arkansas Darter (*Etheostoma cragini*) as a candidate for federal protection under the Endangered Species Act of 1973. In 2004, the species was formally petitioned to be listed as federally-endangered. The petitioning organization is based in Tucson, Arizona. The most recent federal assessment continues the darter's candidate status but notes the development of a Kansas Recovery Plan and state protection as positive factors. It states "the most persistent threats to this species are adverse impacts to habitat quantity and quality, and in all States *except Kansas* (emphasis added), regulations do not adequately address habitat." One reason the Arkansas Darter is not federally-protected rests with the existence and implementation of the Kansas Nongame and Endangered Species Conservation Act.

Our second example is the federally-endangered Topeka Shiner (*Notropis topeka*). In 2004 the USFWS published a final rule designating 836 miles of streams in three states as federal critical habitat for the Topeka Shiner. Kansas was excluded from federal critical habitat designations specifically because of actions taken by the Department of Wildlife & Parks under authority granted to the Secretary through the Kansas Nongame and Endangered Species Conservation Act.

In summary, we oppose HB2311 because it runs contrary to the will of the majority of Kansas citizens; it removes statutes necessary to the conservation of the state's rich natural heritage; and it weakens the state's ability to maintain local control over sensitive species conservation.

In providing this testimony, the Kansas Chapter has the full support of the American Fisheries Society and its North Central Division. Founded in 1870, the 9,000 member American Fisheries Society is the oldest and largest professional society representing fisheries scientists. These scientists include state, federal, academic, and private industry biologists. The Society serves to promote and strengthen the field's professional standards by encouraging a comprehensive education and continuing on-the-job training for fisheries scientists. The Society and its North Central Division lend their support because the value of applicable education and experience in natural resource leadership is widely recognized and respected. Thank you for your time and consideration.

Respectfully submitted,

Chris Mammoliti
Past-President and Legislative Liaison

The Kansas Chapter of
The American Fisheries Society
Presented February 12, 2007

Resolution to Oppose State of Kansas House Bill No. 2311

WHEREAS:

THE KANSAS CHAPTER OF THE AMERICAN FISHERIES SOCIETY is comprised of Regular Members in good standing, of the AMERICAN FISHERIES SOCIETY, 5410 Grosvenor Lane, Suite 110, Bethesda, MD 20814-2199,

AND WHEREAS:

The membership of THE KANSAS CHAPTER OF THE AMERICAN FISHERIES SOCIETY is composed of scientists, educators, students and other professionals with specific knowledge of ecological issues relating to the aquatic resources of the State of Kansas,

AND WHEREAS:

The current Kansas Statutes Annotated regarding regulation of threatened and endangered species of animals—known as the Kansas Nongame and Endangered Species Conservation Act—serve to protect valuable aquatic resources within the state,

IT SHALL BE RESOLVED THAT:

The Kansas Chapter of the American Fisheries Society strongly opposes H.B. 2311 or any additional action, by any group, that would undermine, restrict, or eliminate any current Kansas Statutes (K.S.A.'s) regarding protection or conservation of threatened or endangered species of animals within the State of Kansas.



Audubon of Kansas

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Kansas House of Representatives Agriculture and National Resources Committee

Statement on House Bill No. 2311 By Ron Klataske Executive Director, Audubon of Kansas

February 12, 2007

Mr. Chairman and members of the Committee. Thanks for giving me an opportunity to testify. I am here on behalf of Audubon of Kansas, an organization that works with and represents approximately 5,000 members at the state and local level throughout Kansas.

I had the good fortune to grow up on a farm in Washington County and I still manage and operate ranchland in four counties. This land provide me with rewarding experiences of being out on the land in every season and at every time of day. Although livestock and farm programs and payments provide most of the income, I take special pride in the opportunity to reinvest in making the land better, especially in terms of native plant communities on the rangelands and wildlife habitat associated with former highly erodible fields.

Although wildlife conservation is my career and life interest, there are thousands of other landowners who approach land stewardship in the same way. We have several on our Board of Trustees, and one received the Greenwood County Conservation District award on Saturday evening. One of the things that was most compelling at the 'Cooperative Conservation Listening Session' sponsored by the Bush Administration in Enid, OK on August 20, 2006 was the number of ranchers and farmers from throughout the southern Great Plains who spoke on the need to address recovery and conservation of at-risk wildlife before they become threatened or endangered.

Preventing species from becoming endangered and recovering them so they can be removed from state and federal endangered species lists is the one of the great values of the nongame and endangered species conservation programs. These programs are designed to prevent ecological wrecks and prevent more disastrous consequences down the road.

Although I am here to express opposition to H.B. 2311, I think it is appropriate for your committee to examine the relevant issues from time to time. It would be nice if we had a broader opportunity to discuss many aspects of at-risk conservation in much more detail and

examine ways for the State of Kansas to do a better job of involving all of the state's stakeholders on a more regular basis. However, one of the most inclusive and outstanding forums that has occurred was the two day conference devoted to development of **"A Future For Kansas Wildlife" Kansas' Comprehensive Wildlife Conservation Plan, October, 2005.**" I am providing a copy of the cover of the 164-page document that resulted. I encourage you to obtain a copy.

Another collaborative document that I hope you will obtain is the 2002 **"Kansas Black-tailed Prairie Dog Conservation and Management Plan"** prepared by a workgroup including the Kansas Farm Bureau, Kansas Livestock Association and various others. Because of a lack of leadership and funding at the state level, this issue is neglected and forced to be debated among landowners at the local and county level. It has become a symbol of state and legislative failure, when in fact it could become a model for how we can readily solve the most difficult of challenges.

On a related matter, please find included a copy of the fact sheet on the proposed experimental reintroduction of Black-footed Ferrets in Logan County. This native of the Great Plains is the rarest mammal in the interior of the North American Continent and like several other at-risk species depends on the presence of prairie dogs for existence. Although the State of Kansas has not played a role in recovering this species, the U.S. Fish & Wildlife Service is taking a leadership role and will do an exceptionally good job. They are working in collaboration with many stakeholders and in partnership with a number of ranch landowners.

When I was feeding cattle at our ranch in Pottawatomie County late yesterday afternoon, several flocks of giant Canada Geese flew over, low in the mist. It was a beautiful sight and sound. A quarter mile away eleven whitetails were feeding in a field, and a flock of Wild Turkeys were going to roost in the big sycamores along the creek. The State of Kansas has been successful in terms of fostering several game species to levels that contribute to the state's economy and outdoor recreational opportunities. However, far too little is funded or accomplished on behalf of nongame species, including most that are "species of conservation concern." Missouri and many other states devote many times more talent and resources to the conservation needs of these species and to partnerships with landowners to accomplish species and habitat goals.

We need to do a lot more--not less--to accomplish conservation goals that are in everyone's best interest.

**Position Statement of the Central Plains Society of Mammalogists
on Kansas HB 2311**

12 February 2007

The purpose of the Central Plains Society of Mammalogists (CPSM) is “to foster, encourage, and promote the study and conservation of mammals in the [Central Great Plains] Region” (Art. I, Sec. 2, CPSM Constitution). Members of the CPSM are professional biologists and naturalists who study mammals in the central Great Plains Region, representing the States of Arkansas, Iowa, Kansas, Missouri, Nebraska, and Oklahoma.

The CPSM opposes Kansas House Bill No. 2311 (HB 2311), a proposal to repeal the Kansas Nongame and Endangered Species Act of 1975, which, if signed into law, will have serious consequences for the protection of imperiled, native, wild animal species that are important components of the natural heritage of the State of Kansas. The mammalian taxonomic focus of the CPSM does *not* limit the organization’s concern solely to mammals, as CPSM members have great concern for the integrity of entire ecosystems in the mid-continent.

Here CPSM notes the biological, economic, and legal ramifications of repealing the Kansas Nongame and Endangered Species Act.

Biological Consequences

Kansas contains ecosystems and associated species that have otherwise become rare on a continental scale. For example, only four percent of the original tallgrass prairie in North America remains and Kansas contains the greatest acreage (over 1 million acres) and largest remnants of this once vast ecosystem. Many grassland wildlife species depend on this continentally rare habitat. In addition to remnant prairies, Kansas contains many other terrestrial and aquatic habitats that provide refugia for continentally collapsing wildlife populations.

Despite Kansas having a wealth of remnant ecosystems, severe degradations of habitats and their associated species have occurred in the State due to the changes in—and intensity of—land use. Removal of State protection of remnant populations and habitats of threatened and endangered species, and amidst unabated habitat degradation, might result in the permanent loss of these species from the State of Kansas.

Kansas is geographically situated at the edges of range distributions of many species, which provides further justification *for*—not against—heightened protection of the State’s biota. Research by Lomolino and Channell (1995, *Journal of Mammalogy* 76:335) demonstrated that endangered mammal species have largely persisted at the peripheries, not the centers, of their historical geographic ranges. Indeed, populations of many wildlife species, such as elk (*Cervus elaphus*), that survived the westward expansion of the United States were peripheral populations and persisted in large part due to protection in the western U.S. Peripheral and isolated wildlife populations in the Great Plains might possess unique adaptations to the Region’s environments. In the face of global climate and habitat changes, such genetic traits in peripheral populations might

prove vital for range-wide survival of species (e.g., as the eastern Midwest becomes drier and warmer, populations adapted to drier climates in Kansas might persist and possibly convey their adaptations to more eastern populations through emigration and interbreeding). Furthermore, peripheral populations of wildlife in the Great Plains might be isolated from the spread of diseases from core populations in other States. Reducing threats imposed by humans to endangered wildlife in Kansas can promote the natural resilience of species in the central Great Plains.

Economic Costs

In addition to biological costs, increased litigation from groups challenging the removal of State protection of threatened and endangered species would present additional economic costs to the State. Additionally, sponsors of development projects would no longer have the assistance of the Kansas Department of Wildlife and Parks in exploring alternatives for avoiding impact to federally listed species, and would be required to pay private consultants to perform such impact assessments.

Repealing the Kansas Nongame and Endangered Species Act would also remove the State's eligibility for federal funds to conserve and monitor federally listed species under Section 6 of the federal Endangered Species Act. Such federally supported activities include research on resource requirements and population viability of threatened and endangered species. Section 6 monies have been used in the past for research on federally listed species in Kansas. Most members of the CPSM in Kansas are prominent academic researchers from state universities who can use Section 6 monies to maximally inform the management of threatened and endangered species in Kansas. Without the provisions of the Kansas Nongame and Endangered Species Act, universities and their students in Kansas could not receive this federal support for making contributions to the conservation of threatened and endangered species.

Legal Ramifications

Species that are not federally listed as threatened or endangered, but are listed as such by the State, would lose legal protection. Failure of the State to conserve threatened and endangered species, and continued population declines of these species, could contribute to federal listing, which would increase the legal complexity for development project sponsors in Kansas. Increased litigation concerning endangered species management in Kansas, in addition to imposing costs to the State, would tarnish the reputation of Kansas as a steward of wildlife resources.

The CPSM lastly notes that State listed threatened and endangered species are not necessarily listed as such in perpetuity. K.S.A. 32-960, subsection (d) of the Kansas Nongame and Endangered Species Act requires the State to review its list of threatened and endangered species every five years for possible removal of species from—or addition of petitioned species to—the list.

Prepared by:
William E. Jensen, Ph.D.
Representative, Central Plains Society of Mammalogists
Kansas Nongame Wildlife Advisory Council

**Testimony before the House Agriculture and Natural
Resources Committee
February 12, 2007
Opposing H.B. 2311**

Chairman Faber and Honorable Members of the Committee:

My name is Tom Thompson and I represent the Kansas Chapter of the Sierra Club. I have come today to speak in opposition to H.B. 2311.

The Sierra Club opposes 2311 because it believes it is important for the state of Kansas to be responsible for the life forms within its borders. When one species in the state becomes extinct it affects an entire food web. To eliminate the mechanism that keeps track of and protects the flora and fauna of the state would be irresponsible.

Bio-diversity is important to a healthy population of wildlife. Maintaining that responsibility is an important task. Certainly the Federal Government has an endangered species protection law but who would be most able to protect the wildlife of Kansas but the state of Kansas.

The Sierra Club opposes S.B. 2311. It believes that repealing the Nongame and Endangered Species Conservation Act would be an act of irresponsibility.

Thank you for your time

Sincerely

Tom Thompson
Sierra Club

February 12, 2007

TO: House Committee on Agriculture and Natural Resources
Representative John Faber, Chair

FROM: Alan Pollom, State Director, Kansas Chapter, The Nature Conservancy

SUBJECT: House Bill No. 2311

I am testifying in opposition to HB 2311 which would repeal the Kansas nongame and endangered species conservation act.

The Nature Conservancy (TNC) is a private, non-profit 501c3 organization dedicated to preserving the plants, animals and natural communities that represent the diversity of life on earth by protecting the lands and waters they need to survive. To that end in Kansas, TNC has invested more than \$20,000,000 to acquire more than 47,000 acres for natural area preserves throughout the state and currently is working through conservation easements to protect tens of thousands of acres of Flinthills prairie. I might add that, recognizing the significance of our position as one of the state's largest landowners, our Kansas Board of Trustees has established the policy of paying full property taxes on all of our properties rather than pursuing the charitable exemptions available to our organization. Properties that you may be familiar with that TNC owns include the Konza Prairie, the Tallgrass Prairie National Preserve, Cheyenne Bottoms Preserve adjacent to that owned by Kansas Department of Wildlife and Parks and the Smoky Valley Ranch in Logan County.

We see absolutely no reason to repeal the Kansas nongame and endangered species conservation act that recognizes the state's responsibility to protect the same biodiversity that our private efforts are directed at. TNC works in cooperation with the Kansas Department of Wildlife and Parks and other interests to identify the most critical areas needing protection. We also work in cooperation with the farming and ranching communities to maintain the agricultural practices that are compatible with our state's natural biological diversity. We are currently in the process of completing a capital campaign to raise \$11 million in private dollars to allow us to continue our work supporting the intent of the Kansas nongame and endangered species act. It goes without saying, however, that we cannot carry this obligation alone and look to the Kansas Legislature to continue its history of supportive public policy.

We would urge you to consider rejecting this proposed bill which would eliminate a most important tool for protecting the diverse natural resources of our state. Thank you for the opportunity to present our viewpoints on this issue, and I would be glad to respond to any questions.

**HS AGRICULTURE AND NATURAL
RESOURCES COMMITTEE
2-12-2007
ATTACHMENT 16**