



Audubon of Kansas

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Presentation by Ron Klataske,
Executive Director, Audubon of Kansas
To the Kansas House of Representatives, Committee on
Agriculture and Natural Resources
Regarding House Bill 2362
February 25, 2013

Madam Chair and members of the Committee, I thank you for the opportunity to share the perspective of Audubon of Kansas and approximately 5,000 members statewide involved in eight local Audubon chapters and in other capacities. Audubon of Kansas is an independent membership organization devoted to promoting the enjoyment, understanding, protection and restoration of natural ecosystems. We seek to establish a culture of conservation and an environmental ethic. In this capacity we work in partnership with other organizations and individuals representing many additional thousands of conservation partners throughout the state and country.

I am testifying today to support our state's wildlife agency (Kansas Department of Wildlife, Parks and Tourism) ability to maintain authority to provide effective wildlife management based on sound biological principles. In 1975 the Kansas Legislature enacted the Kansas Nongame and Endangered Species Conservation Act (K.A.C. 32-957 thru 32 963; <http://www.animallaw.info/statutes/stusks32_957.htm#32-957>) and it has proven to be an important part of the state's ability to try to provide balance for stewardship of the state's wildlife heritage. To the best of our knowledge, there are no significant flaws to the Act, or the manner in which it has been administered. If anything, the only flaw has been that the agency does not have sufficient staff or resources to support more proactive conservation initiatives to advance conservation opportunities for imperiled species.

However, as a southern professional associate used to say, "If it ain't broke, don't fix it." There is nothing in the Kansas Nongame and Endangered Species Conservation Act itself that needs fixing, and there have not been any notable mistakes in the manner in which it has been administered by the Kansas Department of Wildlife, Parks and Tourism. If they have erred slightly, it has likely been more on the side of accommodation rather than conservation.

With conservation of our state's wildlife heritage in mind, Audubon of Kansas strongly opposes House Bill 2362. It is designed to eviscerate the Nongame and Endangered Species Conservation Act of 1975. The state needs more—not fewer—ways to work in partnership with landowners and all other stakeholders to protect the integrity of our state's ecosystems. Without early and effective conservation and management more

CITIZENS COMMITTED TO CONSERVATION

Audubon of Kansas is a nonprofit 501(c)(3) organization devoted to promoting the enjoyment, understanding, restoration and stewardship of natural ecosystems in America's heartland. We work with many conservation partners, including Audubon chapters in Kansas: Burroughs A.S. of Kansas City; Jayhawk A.S. of Lawrence; Leavenworth A.S.; Northern Flint Hills A.S. of Manhattan; Smoky Hills A.S. of Salina; Sperry-Galliger A.S. of Pittsburg; Southeast Kansas A. S. of Parsons; Topeka A.S.; and Wichita A.S.

of the currently state listed threatened and endangered species, and other species in greatest need of conservation, will decline to the point where they may qualify as candidates warranted for listing as federally threatened and endangered species.

None of the proposed changes to the Kansas Nongame and Endangered Species Conservation Act included in H.B. 2362 have merit. Not a single change is worthy of this committee's support or the honorable attention of the Kansas Legislature.

H.B. 2362 would transform the Kansas Department of Wildlife, Parks and Tourism into a mere bystander on issues relating to imperiled, threatened or endangered species conservation. It would leave Kansas citizens with little or no official voice in the protection of all of these species, and leave the State of Kansas with little or no influence in consultations with federal agencies when they address management of threatened and endangered species. The State of Kansas would not be able to make any credible promises to work for the betterment of critical habitat conditions for the species and recover imperiled populations. The state would be powerless to do much without the risk of federal designation of a particular species. With enactment of H.B. 2362 the State of Kansas would simply be abrogating its authority and creditability.

It is our understanding that the advocate(s) for introduction of this bill have been complaining that a few of their clients have objected to the Act's regulations and in particular to requirements for modest mitigation. These clients readily accept federal investments of hundreds of thousands of taxpayers' dollars for their projects to assist them, via USDA's EQIP, with insulation of facilities that will help them stay in compliance with water quality requirements. However, they balk at anything more to being good stewards of the land, and now want to destroy the Kansas Nongame and Endangered Species Conservation Act.

That is why the advocate(s) of this bill want to include the provision that the Act will "not apply" to "any state or federally assisted action" or whenever a "permit from another state or federal government agency is provided to the recipient...."

It is like suggesting that if one has a local street vendor's permit, one doesn't need a separate license to sell liquor or tobacco products in Kansas. The requirements serve different public interest purposes.

For those who have suggested that the permits required under the Kansas Nongame and Endangered Species Conservation Act are so onerous, a view of the record should reveal otherwise. During the past five years, KDWP&T has reviewed 9,127 proposals, of those only 238 required permit applications, of those requiring permits 192 were satisfactory resolved with avoidance or minimization actions acceptable to all parties, and mitigation was only required for 50 permits. That is less than a very small percentage, approximately one half of one percent of projects addressed.

KDWPT Action Permit Program

The Kansas Nongame and Endangered Species Conservation Act places the responsibility for identifying and undertaking appropriate conservation measures for threatened and endangered wildlife species directly upon the Department of Wildlife, Parks

and Tourism. Although few in number, with their populations in jeopardy, these species constitute an important part of Kansas' wildlife heritage and serve as important barometers to the overall quality of life being enjoyed by all Kansans. In order to carry out this responsibility, it has been necessary for the department to implement protective regulations. Kansas Administrative Regulations provide protection for critical habitats that will be affected by proposed actions such as road and bridge construction, flood control structures, pipeline installation, etc. It is necessary for sponsors of any proposed action covered by this regulation to be aware of its requirements.