



Kansas Chapter of the American Fisheries Society

To the House Committee on Agriculture: Ron Highland (Chair), Eric Smith (Vice Chair), Sydney Carlin (Ranking Minority Member), Doug Blex, Eileen Horn, Trevor Jacobs, Jim Karleskint, Joe Newland, Boyd Orr, Bill Pannbacker, Jason Probst, Mark Schreiber, Joe Seiwert, Alicia Straub, Kent Thompson, Virgil Weigel, Rui Xu, John Willey (Committee Assistant)

From: Kansas Chapter of the American Fisheries Society

Re: HB 2669 - "Requiring the secretary of wildlife, parks and tourism to establish state threatened and endangered species lists that are based on the federal threatened and endangered species lists."

The Kansas Chapter of the American Fisheries Society is composed of aquatic science professionals, students, educators, and interested parties devoted to the conservation, development, and wise use of fisheries and aquatic resources of Kansas and the United States. On behalf of members of the KS-AFS, we are writing to **oppose HB 2669**. House Bill 2669 seeks to remove the ability of the Secretary of Kansas Department of Wildlife, Parks, and Tourism (KDWPT) to list threatened and endangered species unless the species exist on the federal endangered species list. We expand on our attached resolution below.

1. Populations of many Kansas fish species are declining

According to a 2008 [report by the American Fisheries Society](#)¹, 46% of North American fish species are imperiled. The story is similar for Kansas where we have 116 species of native fish, 48 of which are considered imperiled within the state. Additionally, a 2005 publication in the Transactions of the [Kansas Academy of Science](#)² suggested that 54 species have experienced substantial population declines. Without sufficient protection, these species could be in jeopardy of being lost from Kansas' natural heritage. Such biodiversity losses can be permanent, impacting the integrity and function of our aquatic resources forever.

2. The majority of Kansans support protection of sensitive species

A 2011 survey conducted by [Responsive Management](#)³, an internationally recognized survey research firm, found that a majority of Kansas residents: 1) 74% support having a state list of threatened and endangered wildlife; 2) 73% support the protection of species threatened and endangered species in Kansas that may be abundant in other states; 3) and 93% support that KDWPT should continue to identify and protect habitat critical to the existence of state threatened and endangered species. Under the proposed bill, much of this authority currently maintained by KDWPT and supported by the majority of Kansans would be left to the U.S. Fish and Wildlife Service (USFWS) and their listing process at the national scale.



Kansas Chapter of the American Fisheries Society

3. The current listing process provides state control of species conservation

HB 2669 favors federal oversight by removing the current state petition process that is locally guided and based on species conditions within Kansas. Additionally, the federal listing process considers the adequacy of existing regulatory mechanisms, so weakening state protections could lead to additional federal listings when they previously may have been precluded. HB 2669 also removes the emergency listing process for Kansas, reducing the ability of the state to act quickly in protecting a species and potentially preempting federal listing. In summary, while this bill seeks to reduce protections of species at the state level, it could result in additional federal oversight. Below, we provide three examples where the current efficacy of the Kansas Nongame and Endangered Species Conservation Act has reduced federal oversight of imperiled species.

- A. The Arkansas Darter was petitioned for federal listing in 2004 by an entity in Tucson, Arizona. An [assessment of the species by USFWS⁴](#) recognized the value of state protections by claiming that “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.” In 2016, the USFWS determined the species did not warrant federal listing. In 2019, thanks to conservation efforts and research by KDWP, the Arkansas Darter was downlisted from state-threatened to species-in-need-of-conservation.
- B. In 2004, the USFWS proposed federal designated critical habitat for the Topeka Shiner. This federal designation was made in several states, but not Kansas due to existing state protections. The [federal register⁵](#) containing the proposal noted conservation efforts in the state, the state recovery plan, state designated critical habitat, and administration of the Kansas Nongame and Endangered Species Conservation Act as reasons for not including Kansas in federal critical habitat. The following quote from page 44752 provides a summary of their reasoning: “We conclude that the benefits of including Federal critical habitat in Kansas are small due to KDWP’s regulatory purview over State critical habitat and the ongoing implementation of conservation actions, as identified in the Kansas [Recovery] Plan, and that the benefits of excluding Kansas areas from Federal critical habitat exceed the limited benefits of including them.”
- C. The Scott Riffle Beetle was petitioned for federal listing in 2013 by an entity in Sante Fe, New Mexico. However, due to current protections and conservation efforts by KDWP, it was not listed federally. A [USFWS news release⁶](#) stated “Thanks to ongoing conservation actions and protections by Kansas Department of Wildlife, Parks, and Tourism (KDWP), today the U.S. Fish and Wildlife



Kansas Chapter of the American Fisheries Society

Service announced that federal protections for the beetle under the Endangered Species Act (ESA) are not warranted."

These examples provide evidence for the need for continued state protections of listed species through the state listing process. Had there been no state protections for the species listed above, there clearly could have been additional federal regulation originating from petitioning entities outside of Kansas.

Additionally, given the Committee reviewing this bill, it is worth noting that normal farming and ranching practices are exempt from regulation under the Kansas Nongame and Endangered Species Act.

Again, the KS-AFS opposes HB 2669 and requests that this letter and resolution be entered as written testimony prior to the hearing on February 18, 2020.

Sincerely,

Kansas Chapter of the American Fisheries Society

References

1. [Conservation Status of Imperiled North American Freshwater and Diadromous Fishes](#). American Fisheries Society Endangered Species Committee. Fisheries Magazine Vol. 33, No. 8, August 2008.
2. [Current Status of Native Fish Species in Kansas](#). Transactions of the Kansas Academy of Science. Haslouer et al. 2005.
3. [Kansas residents' opinions on threatened and endangered wildlife and actions to protect wildlife](#). Final Report to KDWPT. Responsive Management 2011.
4. [U.S. Fish and Wildlife Service Species Assessment and Listing Priority Assignment Form – Arkansas Darter](#). 2005.
5. [Final Designation of Critical Habitat for the Topeka Shiner](#). Federal Register Vol 69, No. 143, July 2004.
6. [Endangered Species Act Protection Not Needed for Rare Insect Found Only in Kansas](#). U.S. Fish and Wildlife Service News Release, 4 Oct. 2019.



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16 February 2020

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Resolution Regarding:

House Bill 2669

WHEREAS, the Kansas Chapter of the American Fisheries Society (KS-AFS), being a full member of the American Fisheries Society since 1975; and,

WHEREAS, the KS-AFS is composed of aquatic science professionals, students, educators, and interested parties devoted to promoting the conservation, development and wise use of the fisheries and aquatic resources of Kansas and the United States; and,

WHEREAS, the KS-AFS recognizes the importance of the current, locally driven petition process for listing and protecting threatened and endangered species at the state level in Kansas.

THEREFORE, BE IT RESOLVED that the KS-AFS OPPOSES HB 2669 which would reduce protections for imperiled species by limiting state control of the listing process.