

AMENDMENTS TO LB1335

Introduced by Natural Resources.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 37-201, Revised Statutes Cumulative Supplement,
4 2022, is amended to read:

5 37-201 Sections 37-201 to 37-811 and 37-1501 to 37-1510 and sections
6 6 to 8 of this act and the State Park System Construction Alternatives
7 Act shall be known and may be cited as the Game Law.

8 Sec. 2. Section 37-801, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 37-801 Sections 37-801 to 37-811 and sections 6 to 8 of this act
11 shall be known and may be cited as the Nongame and Endangered Species
12 Conservation Act.

13 Sec. 3. Section 37-802, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 37-802 For purposes of the Nongame and Endangered Species
16 Conservation Act, unless the context otherwise requires, the definitions
17 found in sections 37-203 to 37-236, 37-238, 37-239, 37-241, and 37-243 to
18 37-247 and the following definitions are used:

19 (1)(a) Critical habitat means any specific area within the
20 geographical area occupied by any endangered or threatened species at the
21 time such species was listed pursuant to section 37-806 that contains the
22 physical or biological features that are essential to the conservation of
23 the species and that may require special management considerations or
24 protection.

25 (b) Critical habitat includes any specific area outside the
26 geographical area occupied by the species at the time such species is
27 listed pursuant to section 37-806 upon a determination by the commission

1 that such area is essential for the conservation of the species.

2 (c) Critical habitat does not include any manmade structure that is
3 not necessary to the survival or recovery of any endangered or threatened
4 species that is listed pursuant to section 37-806, including any
5 transportation infrastructure or human settlement.

6 (d) Each public road, street, and highway, including any associated
7 right-of-way, is a manmade structure and is not critical habitat for
8 purposes of the Nongame and Endangered Species Conservation Act;

9 (2) ~~(1)~~ Endangered species means any species of wildlife or wild
10 plants whose continued existence as a viable component of the wild fauna
11 or flora of the state is determined to be in jeopardy or any species of
12 wildlife or wild plants which meets the criteria of the Endangered
13 Species Act;

14 (3) Exempt party means any state agency or political subdivision
15 with a lawful duty to design, construct, reconstruct, repair, operate, or
16 maintain transportation infrastructure, or any agent, employee,
17 consultant, or contractor of any such state agency or political
18 subdivision;

19 (4) ~~(2)~~ Extirpated species means any species of wildlife or wild
20 plants which no longer exists or is found in Nebraska;

21 (5) ~~(3)~~ Nongame species means any species of mollusks, crustaceans,
22 or vertebrate wildlife not legally classified as game bird, game animal,
23 game fish, fur-bearing animal, threatened species, or endangered species
24 by statute or regulation of this state;

25 (6) ~~(4)~~ Person means an individual, corporation, partnership,
26 limited liability company, trust, association, or other private entity or
27 any officer, employee, agent, department, or instrumentality of the
28 federal government, any state or political subdivision thereof, or any
29 foreign government;

30 (7) Restore means to return to a state that is not less beneficial
31 for endangered or threatened species than property was prior to an

1 exempted party's actions;

2 (8) (5) Species means any subspecies of wildlife or wild plants and
3 any other group of wildlife of the same species or smaller taxa in common
4 spatial arrangement that interbreed when mature;

5 (9) (6) Take means to harass, harm, pursue, hunt, shoot, wound,
6 kill, trap, capture, or collect or attempt to engage in any such conduct;
7 and

8 (10) (7) Threatened species means any species of wild fauna or flora
9 which appears likely to become endangered, either by determination of the
10 commission or by criteria provided by the Endangered Species Act; and -

11 (11) Transportation infrastructure includes any:

12 (a) Road, street, highway, or any right-of-way of a road, street, or
13 highway;

14 (b) Previously approved and utilized interdependent or interrelated
15 contractor-use site that is identified on the website of the Department
16 of Transportation, including any borrow, waste, plant, stockpile, or
17 construction debris site;

18 (c) Actions permitted by a state agency or political subdivision
19 within any road, street, highway, or right-of-way of any road, street, or
20 highway controlled by the state agency or political subdivision;

21 (d) Pedestrian or bicycle trail, lane, or bridge;

22 (e) Technology with the primary purpose of benefiting the traveling
23 public; and

24 (f) Broadband infrastructure placed by the Department of
25 Transportation.

26 Sec. 4. Section 37-806, Revised Statutes Cumulative Supplement,
27 2022, is amended to read:

28 37-806 (1)(a) (1) Any species of wildlife or wild plants determined
29 to be an endangered species pursuant to the Endangered Species Act shall
30 be an endangered species under the Nongame and Endangered Species
31 Conservation Act, and any species of wildlife or wild plants determined

1 to be a threatened species pursuant to the Endangered Species Act shall
2 be a threatened species under the Nongame and Endangered Species
3 Conservation Act.

4 (b) Within a reasonable time after any federal listing, downlisting,
5 removal, or uplisting, the ~~The~~ commission may determine that any species
6 of wildlife or wild plant should receive a different state-listed status
7 ~~such threatened species is an endangered species~~ throughout all or any
8 portion of the range of such species within this state by completing the
9 formal listing process as prescribed in this section or by retaining its
10 previous state-listed status.

11 (2) In addition to the species determined to be endangered or
12 threatened pursuant to the Endangered Species Act, the commission shall,
13 by adopting and promulgating rules and regulations, ~~regulation~~ determine
14 whether any species of wildlife or wild plants normally occurring within
15 this state is an endangered or threatened species as a result of any of
16 the following factors:

17 (a) The present or threatened destruction, modification, or
18 curtailment of its habitat or range;

19 (b) Overutilization for commercial, recreational ~~sporting,~~
20 scientific, educational, or other purposes;

21 (c) Disease or predation;

22 (d) The inadequacy of existing regulatory mechanisms; or

23 (e) Other natural or manmade factors affecting its continued
24 existence within this state.

25 (3)(a) The commission shall make determinations required by
26 subsection (2) of this section on the basis of the best scientific,
27 commercial, and other data available to the commission.

28 (b) Except with respect to species of wildlife or wild plants
29 determined to be endangered or threatened species under subsection (1) of
30 this section, the commission shall ~~may~~ not add a species to nor remove a
31 species from any list published pursuant to subsection (5) of this

1 section unless the commission has first:

2 (i) Provided public notice of such proposed action by publication in
3 a newspaper of general circulation in each county in that portion of the
4 subject species' range in which it is endangered or threatened or, if the
5 subject species' range extends over more than five counties, in a
6 newspaper of statewide circulation distributed in the county;

7 (ii) Provided notice of such proposed action to and allowed comment
8 from the Department of Agriculture, the Department of Environment and
9 Energy, ~~and~~ the Department of Natural Resources, and any other state
10 agency that the commission determines might be impacted by the proposed
11 action;

12 (iii) Provided notice of such proposed action to and allowed comment
13 from each natural resources district and public power district located in
14 that portion of the subject species' range in which it is endangered or
15 threatened;

16 (iv) Notified the Governor of any state sharing a common border with
17 this state, in which the subject species is known to occur, that such
18 action is being proposed;

19 (v) Allowed at least sixty days following publication for comment
20 from the public and other interested parties;

21 (vi) Held at least one public hearing on such proposed action in
22 each game and parks commissioner district of the subject species' range
23 in which it is endangered or threatened;

24 (vii) Submitted the scientific, commercial, and other data that
25 ~~which~~ is the basis of the proposed action to scientists or experts
26 outside and independent of the commission for peer review of the data and
27 conclusions. If the commission submits the data to a state or federal
28 fish and wildlife agency for peer review, the commission shall also
29 submit the data to scientists or experts not affiliated with such an
30 agency for review. For purposes of this section, state fish and wildlife
31 agency does not include a postsecondary educational institution; and

1 (viii) For species proposed to be added under this subsection but
2 not for species proposed to be removed under this subsection, developed
3 an outline of the potential impacts, requirements, or rules and
4 regulations that may be placed on private landowners, or on other persons
5 who hold state-recognized property rights on behalf of themselves or
6 others, as a result of the listing of the species or the development of a
7 proposed program for the conservation of the species as required in
8 subsection (1) of section 37-807.

9 (c) The inadvertent failure to provide notice as required by
10 subdivision (3)(b) of this section shall not prohibit the listing of a
11 species and shall not be deemed to be a violation of the Administrative
12 Procedure Act or the Nongame and Endangered Species Conservation Act.

13 (d) ~~(e)~~ When the commission proposes ~~is proposing~~ to add or remove a
14 species under this subsection, public notice under subdivision (3)(b)(i)
15 of this section shall include, but not be limited to, (i) the species
16 proposed to be listed and a description of that portion of its range in
17 which the species is endangered or threatened, (ii) a declaration that
18 the commission submitted the data that ~~which~~ is the basis for the listing
19 for peer review and developed an outline if required under subdivision
20 (b)(viii) of this subsection, and (iii) a declaration of the availability
21 of the peer review, including an explanation of any changes or
22 modifications the commission has made to its proposal as a result of the
23 peer review, and the outline required under subdivision (b)(viii) of this
24 subsection, if applicable, for public examination.

25 (e) ~~(d)~~ In cases when the commission determines that an emergency
26 situation exists involving the continued existence of such species as a
27 viable component of the wild fauna or flora of the state, the commission
28 may add species to such lists after having first publishing ~~published a~~
29 public notice that such an emergency situation exists together with a
30 summary of facts that ~~which~~ support such determination.

31 (4) In determining whether any species of wildlife or wild plants is

1 an endangered or threatened species, the commission shall take into
2 consideration those actions being carried out by the federal government,
3 by other states, by other agencies of this state or its political
4 subdivisions ~~thereof~~, or by any other person which may affect the species
5 under consideration.

6 (5) The commission shall adopt and promulgate rules and issue
7 regulations containing a list of all species of wildlife and wild plants
8 normally occurring within this state that ~~which~~ it determines, in
9 accordance with subsections (1) through (4) of this section, to be
10 endangered or threatened species and a list of all such species. Each
11 list shall refer to the species contained in such list ~~therein~~ by
12 scientific and common name or names, if any, and shall specify with
13 respect to each such species over what portion of its range it is
14 endangered or threatened.

15 (6) Except with respect to species of wildlife or wild plants
16 determined to be endangered or threatened pursuant to the Endangered
17 Species Act, the commission shall, upon the petition of an interested
18 person, conduct a review of any listed or unlisted species proposed to be
19 removed from or added to the lists published pursuant to subsection (5)
20 of this section, but only if the commission publishes a public notice
21 that such person has presented substantial evidence that ~~which~~ warrants
22 such a review.

23 (7) Whenever any species of wildlife or wild plants is listed as a
24 threatened species pursuant to subsection (5) of this section, the
25 commission shall issue such rules and regulations as are necessary to
26 provide for the conservation of such species. The commission may
27 prohibit, with respect to any threatened species of wildlife or wild
28 plants, any act prohibited under subsection (8) or (9) of this section.

29 (8) With respect to any endangered species of wildlife, it shall be
30 unlawful, except as provided in subsection (7) of this section or section
31 37-807, for any person subject to the jurisdiction of this state to:

1 (a) Export any such species from this state;

2 (b) Take any such species within this state;

3 (c) Possess, process, sell or offer for sale, deliver, carry,
4 transport, or ship, by any means whatsoever except as a common or
5 contract motor carrier under the jurisdiction of the Public Service
6 Commission or the federal Surface Transportation Board Interstate
7 ~~Commerce Commission~~, any such species; or

8 (d) Violate any rule or regulation pertaining to the conservation of
9 such species or to any threatened species of wildlife listed pursuant to
10 this section and adopted and promulgated by the commission pursuant to
11 the Nongame and Endangered Species Conservation Act.

12 (9) With respect to any endangered species of wild plants, it shall
13 be unlawful, except as provided in subsection (7) of this section, for
14 any person subject to the jurisdiction of this state to:

15 (a) Export any such species from this state;

16 (b) Possess, process, sell or offer for sale, deliver, carry,
17 transport, or ship, by any means whatsoever, any such species; or

18 (c) Violate any rule or regulation pertaining to such species or to
19 any threatened species of wild plants listed pursuant to this section and
20 adopted and promulgated by the commission pursuant to the act.

21 (10) Any endangered species of wildlife or wild plants that which
22 enters this state from another state or from a point outside the
23 territorial limits of the United States and that which is being
24 transported to a point within or beyond this state may be so entered and
25 transported without restriction in accordance with the terms of any
26 federal permit or permit issued under the laws or regulations of another
27 state.

28 (11) The commission may permit any act otherwise prohibited by
29 subsection (8) of this section for scientific purposes or to enhance the
30 propagation or survival of the affected species.

31 (12) Any law, rule, regulation, or ordinance of any political

1 subdivision of this state that ~~which~~ applies with respect to the taking,
2 importation, exportation, possession, sale or offer for sale, processing,
3 delivery, carrying, transportation other than under the jurisdiction of
4 the Public Service Commission, or shipment of species determined to be
5 endangered or threatened species pursuant to the Nongame and Endangered
6 Species Conservation Act shall be void to the extent that it may
7 effectively (a) permit that which is prohibited by the act or by any rule
8 or regulation that ~~which~~ implements the act or (b) prohibit that which is
9 authorized pursuant to an exemption or permit provided for in the act or
10 in any rule or regulation that ~~which~~ implements the act. The Nongame and
11 Endangered Species Conservation Act shall not otherwise be construed to
12 void any law, rule, regulation, or ordinance of any political subdivision
13 of this state which is intended to conserve wildlife or wild plants.

14 Sec. 5. Section 37-807, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 37-807 (1) The commission shall establish such programs, including
17 acquisition of land or aquatic habitat or interests therein, as are
18 necessary for the conservation of nongame, threatened, or endangered
19 species of wildlife or wild plants. Acquisition for the purposes of this
20 subsection shall not include the power to obtain by eminent domain.

21 (2) In carrying out programs authorized by this section, the
22 commission shall consult with other states having a common interest in
23 particular species of nongame, endangered, or threatened species of
24 wildlife or wild plants and may enter into agreements with federal
25 agencies, other states, political subdivisions of this state, or private
26 persons with respect to programs designed to conserve such species
27 including, when appropriate, agreements for administration and management
28 of any area established under this section or utilized for conservation
29 of such species.

30 (3)(a) For the purposes of this section, state agency means any
31 department, agency, board, bureau, or commission of the state or any

1 other entity whose primary function is to act as, and while acting as, an
2 instrumentality or agency of the state, except that state agency does not
3 include a natural resources district or any other political subdivision.

4 ~~(b) (3) The Governor shall review other programs administered by him~~
5 ~~or her and utilize such programs in furtherance of the purposes of the~~
6 ~~Nongame and Endangered Species Conservation Act. All other state agencies~~
7 ~~shall, in consultation with and with the assistance of the commission,~~
8 ~~utilize their authorities in furtherance of the purposes of the act by~~
9 ~~carrying out programs for the conservation of endangered species and~~
10 ~~threatened species listed pursuant to section 37-806, and by taking such~~
11 ~~action necessary to insure that actions authorized, funded, or carried~~
12 ~~out by them do not jeopardize the continued existence of such endangered~~
13 ~~or threatened species or result in the destruction or modification of~~
14 ~~habitat of such species which is determined by the commission to be~~
15 ~~critical. For purposes of this subsection, state agency means any~~
16 ~~department, agency, board, bureau, or commission of the state or any~~
17 ~~corporation whose primary function is to act as, and while acting as, an~~
18 ~~instrumentality or agency of the state, except that state agency shall~~
19 ~~not include a natural resources district or any other political~~
20 ~~subdivision.~~

21 (c) Each state agency shall, in consultation with and with the
22 assistance of the commission, ensure with the best scientific and
23 commercial data available that any action authorized, funded, or carried
24 out by such state agency is not likely to jeopardize the continued
25 existence of any endangered species or threatened species or result in
26 the destruction or adverse modification of any designated critical
27 habitat.

28 (4)(a) After each consultation described in subsection (3) of this
29 section, the commission shall provide each state agency, applicant, and
30 project proponent, if any, with a written statement described in
31 subdivision (4)(b) of this section if the commission concludes that:

1 (i) The agency action will not violate the restrictions in
2 subdivision (3)(c) of this section, or, if the agency action might
3 violate such restrictions, the agency offers reasonable and prudent
4 alternatives that the commission believes will not violate such
5 restrictions; and

6 (ii) The taking of any endangered or threatened species incidental
7 to the potential action of the state agency will not violate the
8 restrictions in subdivision (3)(c) of this section.

9 (b) The written statement described in subdivision (4)(a) of this
10 section shall:

11 (i) Specify the impact of any incidental taking of any endangered or
12 threatened species;

13 (ii) Specify reasonable and prudent measures that the commission
14 considers necessary or appropriate to minimize such impact; and

15 (iii) Set forth terms and conditions with which the state agency,
16 applicant, and project proponent, if any, shall comply to implement the
17 measures specified in subdivision (3)(c) of this section, including
18 reporting requirements.

19 (5) Any taking of any endangered or threatened species that is in
20 compliance with the terms and conditions specified in a written statement
21 provided under subsection (4) of this section is not a prohibited taking
22 of such species.

23 (6) If the written statement provided under subsection (4) of this
24 section pertains to any species that was listed pursuant to subsection
25 (1) of section 37-806 and a federal incidental take statement has been
26 issued for the same action pursuant to the Endangered Species Act, the
27 commission shall issue a written statement with the same terms as the
28 federal incidental take statement.

29 (7) ~~(4)~~ The commission shall provide notice and hold a public
30 meeting prior to the implementation of conservation programs designed to
31 reestablish threatened, endangered, or extirpated species of wildlife or

1 wild plants through the release of animals or plants to the wild. The
2 purpose of holding such a public meeting shall be to inform the public of
3 programs requiring the release to the wild of such wildlife or wild
4 plants and to solicit public input and opinion. The commission shall set
5 a date and time for the public meeting to be held at a site convenient to
6 the proposed release area and shall publish a notice of such meeting in a
7 legal newspaper published in or of general circulation in the county or
8 counties where the proposed release is to take place. The notice shall be
9 published at least twenty days prior to the meeting and shall set forth
10 the purpose, date, time, and place of the meeting.

11 Sec. 6. The Nongame and Endangered Species Conservation Act does
12 not apply to any action of an exempt party in furtherance of its lawful
13 duties associated with designing, constructing, reconstructing,
14 repairing, operating, or maintaining transportation infrastructure,
15 except that:

16 (1) This exemption does not extend to any state agency as defined in
17 section 37-807 performing any action that would require consultation
18 pursuant to subsection (3) of section 37-807 if such state agency is not
19 actually engaged in designing, constructing, reconstructing, repairing,
20 operating, or maintaining transportation infrastructure; and

21 (2) The Nongame and Endangered Species Conservation Act applies to
22 any initial action by an exempt party that creates new transportation
23 infrastructure in areas not previously dedicated to the exempt party's
24 lawful duties or any subsequent action that increases the area of
25 existing transportation infrastructure.

26 Sec. 7. (1) To the extent the exempt party deems practical and
27 compatible with the primary purposes of transportation infrastructure,
28 such exempt party shall:

29 (a) Consider the impact on endangered or threatened species when
30 designing, constructing, reconstructing, repairing, operating, or
31 maintaining transportation infrastructure. The exempt party may modify or

1 amend designs and operation and maintenance practices to decrease or
2 avoid any negative impact on any endangered or threatened species; and

3 (b) Restore areas of temporary disturbance on real property it owns
4 in fee simple at the conclusion of any construction, reconstruction,
5 repair, operation, or maintenance.

6 (2)(a) Upon request of any exempt party, the commission shall
7 provide support and recommendations to such exempt party relating to any
8 potential impact caused by the actions of the exempt party on any
9 endangered or threatened species related to the design, construction,
10 reconstruction, repair, operation, or maintenance of transportation
11 infrastructure.

12 (b) The exempt party may enter into any written agreement with the
13 commission or any other governmental entity for the purpose of providing
14 aid in the conservation of any endangered or threatened species.

15 Sec. 8. (1) Any federally designated critical habitat under the
16 Endangered Species Act shall be critical habitat under the Nongame and
17 Endangered Species Conservation Act.

18 (2)(a) In addition to federally designated critical habitat under
19 the Endangered Species Act, the commission shall by rule and regulation
20 determine if any additional habitat of a species listed pursuant to
21 subsection (2) of section 87-806 is critical habitat as a result of any
22 of the following factors:

23 (i) The present or threatened destruction, modification, or
24 curtailment of the habitat or range of such species;

25 (ii) Overutilization for commercial, recreational, scientific,
26 educational, or other purposes;

27 (iii) Disease or predation;

28 (iv) The inadequacy of existing regulatory mechanisms; or

29 (v) Other natural or manmade factors affecting the continued
30 existence within this state of such species.

31 (b) The commission shall not designate as critical habitat for any

1 endangered or threatened species the entire geographical area that can be
2 occupied by such endangered or threatened species unless the commission
3 determines that such designation is essential for the survival of the
4 endangered or threatened species.

5 (c) The commission may, concurrently with making a determination
6 under subsection (2) of section 37-806 that a species is an endangered or
7 threatened species, designate any habitat of such species that is also
8 considered to be critical habitat.

9 (d) The commission may designate critical habitat for any plant or
10 animal species that is listed under section 37-806 that does not have a
11 designated critical habitat.

12 (e) The commission may revise any previous designation of critical
13 habitat.

14 (3)(a) The commission shall make determinations required by
15 subsection (2) of this section on the basis of the best scientific,
16 commercial, and other data available to the commission.

17 (b) Except with respect to critical habitat designated under
18 subsection (1) of this section, the commission shall not designate or
19 remove designation of critical habitat for a species from any list
20 published pursuant to subsection (5) of this section unless the
21 commission:

22 (i) Provides public notice of such proposed action by publication in
23 a newspaper of general circulation in each county in which the critical
24 habitat is proposed to be designated, or if the proposed critical habitat
25 designation extends over more than five counties, in a newspaper of
26 statewide circulation distributed in each of the counties;

27 (ii) Provides notice of such proposed action to and allows comment
28 from the Department of Agriculture, the Department of Environment and
29 Energy, the Department of Natural Resources, and any other state agency
30 that the commission determines might be impacted by the proposed action;

31 (iii) Provides notice of such proposed action to and allows comment

1 from each natural resources district and public power district located
2 within the area proposed to be designated as critical habitat;

3 (iv) Notifies the Governor of any state sharing a common border with
4 this state, in which the species for which the critical habitat that is
5 being proposed to be designated is known to occur, that such action is
6 being proposed;

7 (v) Allows at least sixty days following publication for comment
8 from the public and other interested parties;

9 (vi) Holds at least one public hearing on such proposed action in
10 each game and parks commissioner district where the critical habitat is
11 proposed to be designated;

12 (vii) Submits the scientific, commercial, and other data that is the
13 basis of the proposed action to scientists or experts outside and
14 independent of the commission for peer review of the data and
15 conclusions. If the commission submits the data to a state or federal
16 fish and wildlife agency for peer review, the commission shall also
17 submit the data to scientists or experts not affiliated with such agency
18 for review. For purposes of this section, state fish and wildlife agency
19 does not include a postsecondary educational institution; and

20 (viii) For critical habitat proposed to be designated under this
21 subsection, but not for critical habitat proposed to be removed from
22 designation under this subsection, develops an outline of any potential
23 impact, requirement, or rule or regulation that might be placed on any
24 private landowner or other person who holds any state-recognized property
25 right as a result of the listing of the critical habitat designation.

26 (c) The inadvertent failure to provide notice as required by
27 subdivision (3)(b) of this section shall not prohibit the designation of
28 critical habitat and shall not be deemed to be a violation of the
29 Administrative Procedure Act or the Nongame and Endangered Species
30 Conservation Act.

31 (d) When the commission proposes to designate or remove designation

1 of critical habitat under this subsection, public notice under
2 subdivision (3)(b)(i) of this section shall include (i) the critical
3 habitat proposed to be listed as designated critical habitat and a
4 description of the portion of the range in which the species for which
5 critical habitat is proposed to be designated is endangered or
6 threatened, (ii) a declaration that the commission submitted the data
7 that is the basis for the listing for peer review and developed an
8 outline if required under subdivision (b)(viii) of this subsection, and
9 (iii) a declaration of the availability of the peer review, including an
10 explanation of any changes or modifications the commission has made to
11 its proposal as a result of the peer review, and the outline required
12 under subdivision (b)(viii) of this subsection, if applicable, for public
13 examination.

14 (e) In cases when the commission determines that an emergency
15 situation exists that requires the designation of critical habitat to
16 provide for the continued existence of a species as a viable component of
17 the wild fauna or flora of the state, the commission may add the
18 designated critical habitat to such lists after first publishing public
19 notice that such an emergency situation exists together with a summary of
20 facts that support such determination.

21 (4) In determining whether any endangered or threatened species
22 requires the designation of critical habitat, the commission shall take
23 into consideration those actions being carried out by the federal
24 government, by other states, by other agencies of this state or its
25 political subdivisions, or by any other person which may affect the
26 species under consideration.

27 (5) The commission shall adopt and promulgate rules and regulations
28 containing a list of all designated critical habitat in this state and
29 the endangered or threatened species for which such critical habitat was
30 designated. Each species on such list shall be referred to by both
31 scientific and common name or names, if any.

1 Sec. 9. Original sections 37-801, 37-802, and 37-807, Reissue
2 Revised Statutes of Nebraska, and sections 37-201 and 37-806, Revised
3 Statutes Cumulative Supplement, 2022, are repealed.