

## Office of Policy and Legal Analysis

Date: February 26, 2021  
To: Joint Standing Committee on Inland Fisheries and Wildlife  
From: Rachel Olson, Legislative Analyst  
Re: LD 88, An Act To Amend Maine's Wildlife Laws Regarding Species of Special Concern (Ordway)

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### Summary

This bill does the following:

1. Defines “species of special concern” to mean a species that may become endangered, threatened or extirpated. In current statute the term “of special concern” is used when referring to permits to possess wildlife in captivity. The phrase is used twice when specifically referring to reptiles, amphibians or invertebrates. Those references are changed to reflect the newly defined term “species of special concern.” The department currently has a process and maintains a list of species of special concern that is established by policy. It is that list that current statute is referring to in §12152.
2. It reduces to one the number of public hearings that are required in order for the commissioner to make a recommendation to the legislature for a change to the endangered species list or the threatened species list.

### Testimony

**Proponents:** Eliza Donoghue, Maine Audubon; Patrick Strauch, MFPC; Nate Webb, DIFW

- Change to hearings removes mandatory reference, but more than one hearing is still an option
- Language around the hearings needs to make clear that more than one hearing could still be held
- Supportive but would like to see more clearly defined process for outlining existing species, reviewing the list, and how the list can be used
- Removes ambiguity to ensure transparency and consistency in practices already in place

**Opponents:** Julie-Ann Smith, ME Farm Bureau Assoc.; Robert Likins, PIJAC

- Language is too subjective in the definition
- Only one hearing does not give interested parties enough opportunity to participate
- Concern about impact of designating a species as of special concern on breeding programs related to pressured species

**Neither for nor against:** Don Kleiner, MPGA

- Concern about the practical implications of designating species of special concern moving forward

### **Possible Amendments**

- Two options regarding the hearing change in Sec. 4 (§12803, sub-§4) were put forth by Eliza Donoghue, Maine Audubon and Patrick Strauch, MFPC. Both versions aim to clarify that more than one hearing can be held, but only one is statutorily required. *Please refer to their testimony for their specific language recommendations.*
- Additionally, Patrick Strauch from MFPC suggested that language be included that would control the use of Species of Special Concern within the following parameters:
  1. Use only for prioritizing state conservation programs and projects, and voluntary conservation measures by private landowners.
  2. No requirements in permits to conserve these species; recommendations may be made by IFW but permitting agencies shall not require any of these conservation measures for a permit.
  3. Extra credit or priority for mitigation measures that benefit these species.

### **Notes/Issues**

- As the bill is written, it reads that there will be only one public hearing.
- In the definition for “Species of Special Concern,” the phrases “particularly vulnerable” and “could easily” are both subjective and open to interpretation.

### **Fiscal Impact**

- Fiscal Status: Not Yet Determined

### **Links**

#### [Testimony](#)

[12 MRSA §10001. Definitions](#)

[12 MRSA §12152. Permit to possess wildlife in captivity](#)

[12 MRSA §12803. Designation of endangered species](#)

[Maine Department of Inland Fisheries and Wildlife: Species of Special Concern \(webpage\)](#)

[Maine Endangered and Threatened Species Listing Handbook](#) (p. 17 refers to the criteria used currently to identify a species of special concern)