

HOUSE BILL NO. 115

INTRODUCED BY J. JOHNSON, PAVLOVICH, STICKNEY, DAILY, KELLER,  
WEEDING, H. HANSON, KILPATRICK, MCCAFFREE,  
BRUSKI, KASTEN, SOUTHWORTH

IN THE HOUSE

JANUARY 8, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
ON FISH & GAME.

JANUARY 9, 1991                   FIRST READING.

FEBRUARY 2, 1991                  COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 4, 1991                  PRINTING REPORT.

FEBRUARY 5, 1991                  SECOND READING, DO PASS.

FEBRUARY 6, 1991                  ENGROSSING REPORT.

FEBRUARY 7, 1991                  THIRD READING, PASSED.  
AYES, 95; NOES, 4.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 8, 1991                  INTRODUCED AND REFERRED TO COMMITTEE  
ON FISH & GAME.

FIRST READING.

FEBRUARY 20, 1991                 COMMITTEE RECOMMEND BILL BE  
CONCURRED IN. REPORT ADOPTED.

MARCH 5, 1991                    SECOND READING, CONCURRED IN.

MARCH 6, 1991                    THIRD READING, CONCURRED IN.  
AYES, 49; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 7, 1991                    RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

*HOUSE* BILL NO. *115*

INTRODUCED BY *Stimpson* *Adrian* *W. G. G. G. G.*

*Daily* *Walter* *W. G. G. G.*  
A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PADDLEFISH ROE DONATION PROGRAM; SPECIFYING THAT ADMINISTRATIVE COSTS ARE NOT ALLOWED TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; CLARIFYING THE DEFINITION OF THE INTAKE FISHING ACCESS SITE FOR PURPOSES OF DONATION OF ROE TO THE PROGRAM; REVISING THE MEMBERSHIP OF THE PADDLEFISH ADVISORY COMMITTEE; ADDING ECONOMIC DEVELOPMENT AS A PERMISSIBLE USE OF PROGRAM FUNDS; ESTABLISHING A RESERVE FUND TO COVER OPERATING COSTS OF THE PROGRAM; AMENDING SECTION 87-4-601, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 87-4-601, MCA, is amended to read:

"87-4-601. (Temporary) Sale of fish or spawn unlawful -- exceptions. (1) Except as provided in subsections (2) and (3), a person may not, for speculative purposes, for market, or for sale, in any way, catch any of the fish which in this title are classified as game fish or remove or cause to be removed the eggs or spawn of any such fish. No person may sell or offer for sale any of the game fish of this state as defined in this title or the eggs or spawn from any game fish.

(2) The restrictions of subsection (1) do not apply to:  
(a) the catching of fish in private ponds by the owners of private ponds;

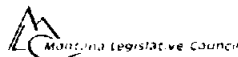
(b) the taking of fish by state authorities for the purpose of obtaining eggs for propagation in state fish hatcheries or by any person who receives a permit from the department to take eggs for propagation purposes;

(c) the catching of whitefish by the holder of a valid fishing license fishing with hook and line or rod in specified waters designated by rules and regulations of the department;

(d) the taking of whitefish by nets or traps in the Kootenai River and in its tributary streams within 1 mile of the Kootenai River, under rules and regulations as the fish and game commission may prescribe; or

(e) the sale by the department of fish eggs produced from brood stock owned by the department but determined to be in excess of the department's needs.

(3) (a) A person issued a paddlefish tag under 87-2-306 who legally takes a paddlefish at the Intake fishing access site north of Glendive during an authorized paddlefish season may donate the paddlefish roe, or eggs, to a Montana nonprofit corporation as specified in subsection (3)(b) for processing and marketing as caviar. For purposes of this subsection, the Intake fishing access site means the area



1 from the face of Intake dam downstream to the confluence of  
 2 Cottonwood Creek and the Yellowstone River.

3 (b) The department shall develop rules for selecting  
 4 one Montana nonprofit organization to accept paddlefish egg  
 5 donations and process and market the eggs as caviar. The  
 6 department shall also develop rules for the marketing and  
 7 sale of caviar under this section.

8 (c) The department may enter into an agreement with the  
 9 organization selected pursuant to the rules provided for in  
 10 subsection (3)(b) specifying times, sites, and other  
 11 conditions under which paddlefish eggs may be collected. The  
 12 agreement must require the organization to maintain records  
 13 of revenue collected and related expenses incurred and to  
 14 make the records available to the department and the  
 15 legislative auditor upon request.

16 (d) (i) One-half of the proceeds from the sale of  
 17 paddlefish egg caviar products in excess of the ~~costs--of~~  
 18 collection, processing, marketing, and ~~administration~~  
 19 administrative costs of the nonprofit organization and after  
 20 deduction of money deposited in the reserve fund established  
 21 in subsection (3)(e) must be deposited in a state special  
 22 revenue fund established for the department. Administrative  
 23 costs are not allowed to the department. The fund and any  
 24 interest earned on the fund must be used to benefit the  
 25 paddlefish fishery, including fishing access, improvements,

1 habitat, and fisheries management, or to provide information  
 2 to the public regarding fishing in eastern Montana, which  
 3 could include the design and construction of interpretive  
 4 displays.

5 (ii) The other half of the proceeds from the sale of  
 6 paddlefish egg caviar products in excess of the ~~costs--of~~  
 7 collection, processing, marketing, and ~~administration~~  
 8 administrative costs of the nonprofit corporation and after  
 9 deduction of money deposited in the reserve fund established  
 10 in subsection (3)(e) must be paid to the nonprofit  
 11 organization that processes and markets the caviar. An  
 12 advisory committee must be appointed by the commission and  
 13 consist of ~~one-member~~ two members from the organization  
 14 selected pursuant to the rules provided for in subsection  
 15 (3)(b), two ~~one~~ area local government representatives  
 16 representative, and two representatives of area sportsmen.  
 17 The advisory committee shall solicit and review historical,  
 18 cultural, recreational, economic development, and fish and  
 19 wildlife proposals and fund projects. The committee shall  
 20 notify the commission of its actions. Proceeds may be used  
 21 as seed money for grants.

22 (e) The first \$20,000 of annual proceeds, prior to  
 23 deductions for costs, must be placed in a reserve fund for  
 24 use by the nonprofit corporation in paying operating costs  
 25 of the paddlefish egg caviar program during the following

1 year. If the entire reserve fund is not expended during that  
 2 year, it must be replenished to a level of \$20,000 from that  
 3 year's proceeds, but at no time may the reserve fund exceed  
 4 \$20,000. (Terminates June 30, 1993--sec. 5, Ch. 409, L.  
 5 1989.)

6 **87-4-601.** (Effective July 1, 1993) Sale of fish or  
 7 spawn unlawful -- exceptions. (1) Except as provided in  
 8 subsection (2), no person may, for speculative purposes, for  
 9 market, or for sale, in any way, catch any of the fish which  
 10 in this title are classified as game fish or remove or cause  
 11 to be removed the eggs or spawn of any such fish. No person  
 12 may sell or offer for sale any of the game fish of this  
 13 state as defined in this title or the eggs or spawn  
 14 therefrom.

15 (2) The restrictions of subsection (1) do not apply to:  
 16 (a) the catching of fish in private ponds by the owners  
 17 thereof;

18 (b) the taking of fish by state authorities for the  
 19 purpose of obtaining eggs for propagation in state fish  
 20 hatcheries or by any person who receives a permit from the  
 21 department to take eggs for such purposes;

22 (c) the catching of whitefish by the holder of a valid  
 23 fishing license fishing with hook and line or rod in  
 24 specified waters designated by rules and regulations of the  
 25 department;

1 (d) the taking of whitefish by nets or traps in the  
 2 Kootenai River and in its tributary streams within 1 mile of  
 3 the Kootenai River, under such rules and regulations as the  
 4 fish and game commission may prescribe; or

5 (e) the sale by the department of fish eggs produced  
 6 from brood stock owned by the department but determined to  
 7 be in excess of the department's needs."

8 **NEW SECTION. Section 2.** Effective date. [This act] is  
 9 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0115, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The proposed bill revises the paddlefish roe donation program by: 1) specifying that the Department of Fish, Wildlife, and Parks administrative costs are not allowed; 2) clarifying the definition of the Intake fishing access site for the purposes of donation of roe to the program; 3) revising the membership of the Paddlefish Advisory Committee; 4) adding economic development as a permissible use of program funds; and 5) establishing a reserve fund to cover operation costs of the program.

ASSUMPTIONS:


1. In calendar 1990 the paddlefish roe donation program generated \$108,614. The following table details how the funds are distributed under current law and the proposed bill.

	<u>Current</u>	<u>Proposed</u>
Calendar year 1990 Program Income	\$ 108,614	\$108,614
<u>DISTRIBUTION OF REVENUES:</u>		
Nonprofit Operating Costs	30,268	30,268
Dept Administrative Costs	29,560	0
Remaining balance to be divided:		
1. 50% to the department to administer for the benefit of paddlefish fisheries	24,393	39,173
2. 50% to a nonprofit organization administered by an advisory committee for seed money grants for historical, cultural, recreational, economic development, and fish and wildlife proposals and projects	24,393	39,173

In the first year the proposed bill establishes a \$20,000 reserve fund which would reduce the amounts distributed to the department and to nonprofit organizations from \$39,173 each to \$29,173.

FISCAL IMPACT:

see next page

  
ROD SUNDSTED, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning      1-14-91

\_\_\_\_\_  
JOHN JOHNSON, PRIMARY SPONSOR      DATE

Fiscal Note for HB0115, as introduced

**HB 115**

Fiscal Note Request, HB0115, as introduced

Form BD-15

Page 2

FISCAL IMPACT:

As the above table details the proposed bill removes the department's administrative and enforcement costs as a charge against paddlefish roe revenues. Therefore, the department's costs (\$29,560) of administering the paddlefish roe donation program would become a general license account obligation because the responsibilities of administering the program continue. The following two tables illustrate the transfer of program costs from paddlefish roe revenues to general license funds.

**Paddlefish Roe Funds**

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Nonprofit Oper. Costs	30,268	30,268	0	30,268	30,268	0
Dept. Admin. Costs	29,560	0	(29,560)	29,560	0	(29,560)
Reserve Fund	0	20,000	20,000	0	0	0
Dept Paddlefish Grants	24,393	29,173	4,780	24,393	39,173	14,780
Nonprofit Grants	<u>24,393</u>	<u>29,173</u>	<u>4,780</u>	<u>24,393</u>	<u>39,173</u>	<u>14,780</u>
Total	108,614	108,614	0	108,614	108,614	0

**General License Account**

Dept. Admin. Costs (02)	0	29,560	29,560	0	29,560	29,560
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LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

With an extension of the fishing area by this bill, enforcement activities will increase. The existing costs and increased enforcement costs will be absorbed by the general license account.

**HB 115**

APPROVED BY COMM.  
ON FISH AND GAME

HOUSE BILL NO. 115

INTRODUCED BY J. JOHNSON, PAVLOVICH, STICKNEY, DAILY, KELLER,  
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(e) the sale by the department of fish eggs produced  
from brood stock owned by the department but determined to  
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(3) (a) A person issued a paddlefish tag under 87-2-306  
who legally takes a paddlefish at the Intake fishing access  
site north of Glendive during an authorized paddlefish  
season may donate the paddlefish roe, or eggs, to a Montana  
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**SECOND READING**

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 13 donations and process and market the eggs as caviar. The  
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16 (c) The department may enter into an agreement with the  
 17 organization selected pursuant to the rules provided for in  
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 19 conditions under which paddlefish eggs may be collected. The  
 20 agreement must require the organization to maintain records  
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 23 legislative auditor upon request.

24 (d) (i) One-half of the proceeds from the sale of  
 25 paddlefish egg caviar products in excess of the costs--of

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 13 displays.

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 22 appointed by the commission and consist of one--member two  
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1 REPRESENTATIVES, and two representatives of area sportsmen.  
 2 The advisory committee shall solicit and review historical,  
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 8 ~~deductions for costs, must be placed in a reserve fund for~~  
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 13 ~~year's proceeds, but at no time may the reserve fund exceed~~  
 14 ~~\$20,000.~~ (Terminates June 30, 1993--sec. 5, Ch. 409, L.  
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 17 spawn unlawful -- exceptions. (1) Except as provided in  
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25 (2) The restrictions of subsection (1) do not apply to:

1 (a) the catching of fish in private ponds by the owners  
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 5 hatcheries or by any person who receives a permit from the  
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 12 Kootenai River and in its tributary streams within 1 mile of  
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 16 from brood stock owned by the department but determined to  
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18 NEW SECTION. **Section 2.** Effective date. [This act] is  
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 10 department;

11 (d) the taking of whitefish by nets or traps in the  
 12 Kootenai River and in its tributary streams within 1 mile of  
 13 the Kootenai River, under such rules and regulations as the  
 14 fish and game commission may prescribe; or

15 (e) the sale by the department of fish eggs produced  
 16 from brood stock owned by the department but determined to  
 17 be in excess of the department's needs."

18 NEW SECTION. Section 2. Effective date. [This act] is  
 19 effective on passage and approval.

-End-

## 1 HOUSE BILL NO. 115

2 INTRODUCED BY J. JOHNSON, PAVLOVICH, STICKNEY, DAILY, KELLER,  
3 WEEDING, H. HANSON, KILPATRICK, MCCAFFREE,  
4 BRUSKI, KASTEN, SOUTHWORTH  
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PADDLEFISH  
7 ROE DONATION PROGRAM; SPECIFYING THAT ADMINISTRATIVE COSTS  
8 ARE NOT ALLOWED TO THE DEPARTMENT OF FISH, WILDLIFE, AND  
9 PARKS; CLARIFYING THE DEFINITION OF DEFINING THE INTAKE  
10 FISHING ACCESS SITE FOR PURPOSES OF DONATION OF ROE TO THE  
11 PROGRAM; REVISING THE MEMBERSHIP OF THE PADDLEFISH ADVISORY  
12 COMMITTEE; ADDING ECONOMIC DEVELOPMENT AS A PERMISSIBLE USE  
13 OF PROGRAM FUNDS; ESTABLISHING A RESERVE FUND TO COVER  
14 OPERATING COSTS OF THE PROGRAM; AMENDING SECTION 87-4-601,  
15 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
16

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 **Section 1.** Section 87-4-601, MCA, is amended to read:

19 "**87-4-601. (Temporary) Sale of fish or spawn unlawful**  
20 **-- exceptions.** (1) Except as provided in subsections (2) and  
21 (3), a person may not, for speculative purposes, for market,  
22 or for sale, in any way, catch any of the fish which in this  
23 title are classified as game fish or remove or cause to be  
24 removed the eggs or spawn of any such fish. No person may  
25 sell or offer for sale any of the game fish of this state as

1 defined in this title or the eggs or spawn from any game  
2 fish.

3 (2) The restrictions of subsection (1) do not apply to:

4 (a) the catching of fish in private ponds by the owners  
5 of private ponds;

6 (b) the taking of fish by state authorities for the  
7 purpose of obtaining eggs for propagation in state fish  
8 hatcheries or by any person who receives a permit from the  
9 department to take eggs for propagation purposes;

10 (c) the catching of whitefish by the holder of a valid  
11 fishing license fishing with hook and line or rod in  
12 specified waters designated by rules and regulations of the  
13 department;

14 (d) the taking of whitefish by nets or traps in the  
15 Kootenai River and in its tributary streams within 1 mile of  
16 the Kootenai River, under rules and regulations as the fish  
17 and game commission may prescribe; or

18 (e) the sale by the department of fish eggs produced  
19 from brood stock owned by the department but determined to  
20 be in excess of the department's needs.

21 (3) (a) A person issued a paddlefish tag under 87-2-306  
22 who legally takes a paddlefish at the Intake fishing access  
23 site north of Glendive during an authorized paddlefish  
24 season may donate the paddlefish roe, or eggs, to a Montana  
25 nonprofit corporation as specified in subsection (3)(b) for

REFERENCE BILL

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1 processing and marketing as caviar. For purposes of this  
 2 subsection, the Intake fishing access site means the area  
 3 from the face of Intake dam downstream to the confluence of  
 4 Cottonwood Creek and the Yellowstone River. A PADDLEFISH  
 5 BROUGHT INTO THE INTAKE FISHING ACCESS SITE FOR CLEANING OR  
 6 DONATION TO THE PADDLEFISH ROE DONATION PROGRAM MUST BE A  
 7 PROPERLY TAGGED, WHOLE PADDLEFISH. ROE SEPARATED FROM THE  
 8 PADDLEFISH IS NOT ACCEPTABLE FOR DONATION TO THE PROGRAM. A  
 9 PADDLEFISH INTENTIONALLY CUT IN ANY MANNER TO IDENTIFY ITS  
 10 SEX IS ALSO UNACCEPTABLE FOR DONATION TO THE PROGRAM.

11 (b) The department shall develop rules for selecting  
 12 one Montana nonprofit organization to accept paddlefish egg  
 13 donations and process and market the eggs as caviar. The  
 14 department shall also develop rules for the marketing and  
 15 sale of caviar under this section.

16 (c) The department may enter into an agreement with the  
 17 organization selected pursuant to the rules provided for in  
 18 subsection (3)(b) specifying times, sites, and other  
 19 conditions under which paddlefish eggs may be collected. The  
 20 agreement must require the organization to maintain records  
 21 of revenue collected and related expenses incurred and to  
 22 make the records available to the department and the  
 23 legislative auditor upon request.

24 (d) (i) One-half of the proceeds from the sale of  
 25 paddlefish egg caviar products in excess of the costs--of

1 COSTS OF collection, processing, marketing, and  
 2 administration ~~administrative--costs---of---the---nonprofit~~  
 3 organization--and--after--deduction--of--money--deposited--in--the  
 4 reserve--fund--established--in--subsection--(3)(e) ADMINISTRATION  
 5 must be deposited in a state special revenue fund  
 6 established for the department. Administrative-costs-are-not  
 7 allowed--to--the--department. The fund and any interest earned  
 8 on the fund must be used to benefit the paddlefish fishery,  
 9 including fishing access, improvements, habitat, and  
 10 fisheries management, or to provide information to the  
 11 public regarding fishing in eastern Montana, which could  
 12 include the design and construction of interpretive  
 13 displays.

14 (ii) The other half of the proceeds from the sale of  
 15 paddlefish egg caviar products in excess of the costs--of  
 16 COSTS OF collection, processing, marketing, and  
 17 administration ~~administrative--costs---of---the---nonprofit~~  
 18 corporation--and--after--deduction--of--money--deposited--in--the  
 19 reserve--fund--established--in--subsection--(3)(e) ADMINISTRATION  
 20 must be paid to the nonprofit organization that processes  
 21 and markets the caviar. An advisory committee must be  
 22 appointed by the commission and consist of one--member two  
 23 members ONE MEMBER from the organization selected pursuant  
 24 to the rules provided for in subsection (3)(b), two one TWO  
 25 area local government representatives representative

1 REPRESENTATIVES, and two representatives of area sportsmen.  
 2 The advisory committee shall solicit and review historical,  
 3 cultural, recreational, economic development and fish and  
 4 wildlife proposals and fund projects. The committee shall  
 5 notify the commission of its actions. Proceeds may be used  
 6 as seed money for grants.

7 ~~(e) -- The first \$20,000 -- of -- annual -- proceeds -- prior -- to~~  
 8 ~~deductions -- for -- costs -- must -- be -- placed -- in -- a -- reserve -- fund -- for~~  
 9 ~~use -- by -- the -- nonprofit -- corporation -- in -- paying -- operating -- costs~~  
 10 ~~of -- the -- paddlefish -- egg -- caviar -- program -- during -- the -- following~~  
 11 ~~year -- if -- the -- entire -- reserve -- fund -- is -- not -- expended -- during -- that~~  
 12 ~~year -- it -- must -- be -- replenished -- to -- a -- level -- of -- \$20,000 -- from -- that~~  
 13 ~~year's -- proceeds -- but -- at -- no -- time -- may -- the -- reserve -- fund -- exceed~~  
 14 ~~\$20,000.~~ (Terminates June 30, 1993 -- sec. 5, Ch. 409, L.  
 15 1989.)

16 87-4-601. (Effective July 1, 1993) Sale of fish or  
 17 spawn unlawful -- exceptions. (1) Except as provided in  
 18 subsection (2), no person may, for speculative purposes, for  
 19 market, or for sale, in any way, catch any of the fish which  
 20 in this title are classified as game fish or remove or cause  
 21 to be removed the eggs or spawn of any such fish. No person  
 22 may sell or offer for sale any of the game fish of this  
 23 state as defined in this title or the eggs or spawn  
 24 therefrom.

25 (2) The restrictions of subsection (1) do not apply to:

1 (a) the catching of fish in private ponds by the owners  
 2 thereof;

3 (b) the taking of fish by state authorities for the  
 4 purpose of obtaining eggs for propagation in state fish  
 5 hatcheries or by any person who receives a permit from the  
 6 department to take eggs for such purposes;

7 (c) the catching of whitefish by the holder of a valid  
 8 fishing license fishing with hook and line or rod in  
 9 specified waters designated by rules and regulations of the  
 10 department;

11 (d) the taking of whitefish by nets or traps in the  
 12 Kootenai River and in its tributary streams within 1 mile of  
 13 the Kootenai River, under such rules and regulations as the  
 14 fish and game commission may prescribe; or

15 (e) the sale by the department of fish eggs produced  
 16 from brood stock owned by the department but determined to  
 17 be in excess of the department's needs."

18 NEW SECTION. Section 2. Effective date. [This act] is  
 19 effective on passage and approval.

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