

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION**

SUBCOMMITTEE ON FISH & GAME

Call to Order: By **CHAIRMAN BILL TASH**, on March 9, 1995, at 7:00 a.m.

ROLL CALL

Members Present:

Rep. Bill Tash (R)
Rep. Hal Harper (D)
Rep. Dick Knox (R)
Rep. Bob Raney (D)
Rep. Paul Sliter (R)

Members Excused: None.

Members Absent: None.

Staff Present: Doug Sternberg, Legislative Council
Patti Borneman, Subcommittee Secretary

Please Note: These are summary minutes. Discussion is paraphrased and condensed.

Committee Business Summary:

Discussion on amendments for HB 349.

Tape 1 - Side A

Discussion:

Doug Sternberg described the amendments on the latest version of HB 349 and referred to the termination date and changes requested by **Mr. Bloomquist**. **EXHIBIT 1**

Mr. Graham commented on the language referring to the Department of Fish, Wildlife and Parks (FWP) protecting the water rights of property owners and it was suggested that it might not be appropriate.

CHAIRMAN TASH read from language in the bill that he found problematic: "providing for the protection and enhancement of Montana fisheries by requiring enhancement of spawning streams and other habitats for the natural reproduction of fish and growth populations of wild fish." He said it sounds like a mandate rather than inviting cooperation and agreed with **Mr. Graham's** concerns about the Department having to protect water rights.

REP. RANEY asked if the word "requiring" was a problem.

CHAIRMAN TASH said that was correct, because it sounds like a mandate.

REP. RANEY said they want to require the program to implement the program and not require landowners to participate.

CHAIRMAN TASH said it's a sensitive subject, because it could impede their efforts for voluntary participation.

Mr. Ochenski suggested they leave the word "providing" and get rid of "requiring."

CHAIRMAN TASH said that would be an improvement. **Mr. Sternberg** asked him to repeat the suggested language. He said to strike "by requiring" and put "to voluntary enhancement of spawning streams and other habitats."

REP. RANEY asked where that was reflected in the bill.

CHAIRMAN TASH said it wouldn't change elsewhere in the bill, but was only in that first section. **Mr. Sternberg** suggested the first sentence was more conceptual about the goals, and then later it addresses the establishment and administration through FWP.

Mr. Sternberg then explained amendments on page 3, sub (2) where they've changed "projects" to "programs" in several sentences where appropriate.

REP. RANEY said they want the bill to say the program cannot interfere with anybody's water rights, and the way the language reads now the Department has become the protector of water rights, so they want to change that.

CHAIRMAN TASH suggested language, "the Department shall not encroach on existing water rights."

REP. SLITER asked what's done to a water right in statute. "Do you violate it?" **CHAIRMAN TASH** said, "You respect it." He asked again what the proper term is if water rights are not respected legally.

Mr. Ochenski said that the word "respect" has been used in most legislation regarding water rights. **Mr. Sternberg** said that the river restoration project uses the wording: "A project ... may not restrict or interfere with the exercise of any water right." The subcommittee and **Mr. Graham** concurred that this language may be workable for this bill.

Mr. Sternberg continued describing the amendments as follows:
Sub (3) - "cooperating" with landowners instead of "closely".
Sub (4) - assuring that on-the-ground department employees would have experience in commercial or irrigated agriculture and **Mr.**

Graham requested clarification that this employee would be hired under the funding provided for this project, because he said they may have current FWP employees work on this project who don't have that background and it would preclude them from being involved. **Mr. Sternberg** said that language was also stricken from this section regarding the legislature's evaluation of the project. He said a new sub (5) was added, per **Mr. Bloomquist**, to allow that funds expended can only be used for voluntary projects and may not be used for the acquisition of any interest in land.

REP. HARPER clarified the use of the word "voluntary" to be defined as "projects entered into voluntarily" and said he wonders if the word voluntary could be distorted, and if the meaning is captured correctly in the bill.

Mr. Sternberg replied that they are saying only projects that are identified by the panel and approved by the commission can be funded. He said the word voluntary, in that instance, could be taken out because earlier on in the process when the landowner decides to enter into the project, the voluntary aspect of the participation has already occurred. They agreed to take "voluntary" out of that section of the bill, and **Mr. Sternberg** said it appears in other, more appropriate, places in the bill. He continued with subsection (c) and said that section addresses the two additional FTE for which funding would be sought, the inclusion of an additional panel member, and changed some wording at the beginning of sub (4), to be eligible for a funding project, it must be generated at the local level and must be developed and presented to the review panel.

Mr. Graham asked what makes it mandatory.

CHAIRMAN TASH said the intent was to make sure it was motivated from the local level, and **Mr. Graham** wondered if there'd be an instance that wouldn't qualify if the local area was in question and **REP. RANEY** said if the bill stipulates all projects originating from the local level, that "cuts the Department out." He suggested they strike out "local level" -- instead "to be eligible for funding a project must be developed and presented to the review panel by the department, local landowners, conservation districts, or other interested citizens".

REP. HARPER asked **REP. KNOX** if the intent of this section would be satisfied if a local biologist discovered a stretch needing improvement, would that be okay? He responded that if the landowner agreed, then it would.

Mr. Ochenski said no project could be done unless there was cooperation at the local level.

CHAIRMAN TASH again cited the effective work of the US Fish and Wildlife Service. **REP. KNOX** said he liked the language about the local level and wanted to see it in there. **Mr. Ochenski** agreed that was the intent of the bill.

Don Allen, Montana Wood Products Association, said that forestry people might be involved in some of these projects and they may want to consider someone from the timber industry to serve on the review panel.

CHAIRMAN TASH said that was a good point, because there are riparian areas near timber operations as well.

REP. SLITER said that in talking about commercial and irrigated agriculture, he wondered if it was the intent of the subcommittee to have two members for each of those agricultural areas or would there be a slot available for someone with a timber background.

CHAIRMAN TASH said that was a good point and they are trying to encourage a wide spectrum of involvement.

Mr. Ochenski asked if timber wasn't considered part of agriculture when the state's economy is analyzed. He asked if commercial agriculture could include silviculture.

CHAIRMAN TASH said he would read it that way. "Timber's just a big stand of grass."

REP. HARPER said in sub (b) they could add "and/or sivilculture" and that would cover those areas. There was agreement. **Mr. Sternberg** clarified that would be in sub (b) at the bottom of page 5. He then asked if they had come to agreement on the topic of whether or not to say "local level" and was told it was fine as is. The second sentence of sub (4) is new language, per **Mr. Bloomquist**, bottom of page 6. Section 4 is new, ten-year sunset.

Mr. Graham asked **Mr. Sternberg** what was meant on page 3, section 2, line 10, where it refers to full funding and prioritization. The subcommittee discussed this and decided there might be some redundancy. **Mr. Ochenski** suggested just putting a period after the word "habitats", and strike language that follows through "administration".

Mr. Graham pointed out in the preamble, the 7th "whereas" states the fiscally sound policy and the 4th one does as well. It sounds like a presumption that this program will offset hatchery program needs and he thinks they're different. He said there might be some benefits to the hatchery efforts underway already.

Tape 1 - Side B

Mr. Ochenski suggested a semicolon after "habitats" and strike the rest of the sentence.

CHAIRMAN TASH said in the next "whereas" where it refers to preserving fishing opportunities for future generations, it sounds redundant.

REP. RANEY suggested the 4th one could be struck, and add to the 7th "whereas" as follows: "Whereas, it is a fiscally sound state policy to enhance natural habitats and spawning areas..."

Glenn Marx, Governor's Office, commented on the current water leasing program as having to go through public hearings and approval by state boards and commissions, with red tape and delays and hassles. He supported **REP. KNOX'S** bill because it eliminates that process and said all they have to do is to get a point source change permit from the Department of Natural Resources and Conservation. He said that if there was a pot of public money, funds would be sought for the purpose of getting water leases. He said a new review panel was unnecessary since they have the Fish and Game Commission, which already manages millions of dollars to protect habitat and has the background and authority already. He predicted there'd be 150 applicants for the review panel and after the Governor appointed the eight [10] on the panel, they would be criticized for not appointing the right people. He said the Governor wants to see priority given to native fish in the bill and for management of threatened and endangered species. He said that other species could be considered, but that threatened and endangered fish should get the first priority.

REP. KNOX responded to **Mr. Marx** and said that the proposed review panel will be essential to the program considering how they've developed it.

Mr. Marx asked what the review panel will do that an existing commission wouldn't do.

REP. KNOX said the panel was specifically designed to be friendly and sensitive to the "thrust and the needs" of this particular project. He said it's a very delicate project, especially in the initial stages and thinks the makeup of the review panel is important.

CHAIRMAN TASH also commented that the panel is made up of people from local areas who have credibility with and confidence of the landowners from whom cooperation is imperative for the project's success.

REP. SLITER questioned **REP. KNOX'S** remark that perhaps the Fish and Game Commission doesn't represent the wants and needs of Montanans. **REP. KNOX** reiterated his view that the review panel is tailored to do a specific job and said it's important to have the right type of people on the panel to get the job done.

REP. RANEY said the impressive thing about the review panel is how it will encourage public participation, but he could also see **Mr. Marx's** point that it will be onerous for the Governor to appoint people. He said it will raise awareness of people across the state. **Mr. Marx** feared red tape and delays, and thought they should have a grant writer and have it be a "user-friendly system

that will enable you to do on-the-ground good work." He thinks the review panel will create a "duplicative layer of bureaucracy."

CHAIRMAN TASH said they are good points and the full committee will learn of them.

REP. HARPER reminded the Chairman that the Governor would have the power to send it back with recommended changes.

CHAIRMAN TASH said they've invested the time they have into the bill to make sure it will be acceptable to all concerned.

Mr. Ochenski said he has worked quite a bit on water legislation and didn't think the problem was red tape, but was resistance by landowners to lease their water to the Department of Fish, Wildlife and Parks. He compared this bill to a water leasing bill and cited the 1989 legislative session where safeguards were added because people were "paranoid about what the impact was going to be." He stressed the importance of legislators being comfortable with the bill for it to work.

Mr. Marx said he was also involved in 1989 and learned from landowners in terms of the Department of State Land's block management program, "Don't put us through any public hearings on block management." He said this bill sets up that kind of a process.

REP. HARPER said he agreed that the word "native" be added to a number of "whereas" statements, top of page 3. He suggested additional language with this word.

REP. KNOX commented on native fish and how language could be misconstrued if not specific enough.

REP. HARPER wanted to address **Mr. Marx's** request. **REP. RANEY** suggested "to encourage projects in the historic habitat of native fish..." **REP. KNOX** thought the word "historic" would do it.

REP. HARPER also suggested language utilizing "historic habitats."

Glenn Phillips, River Restoration Project, FWP, in answer to **Mr. Marx's** concerns, described how applications are made for projects, and are reviewed and funded within a month. He suggested their project may lend support to the new project in developing efficient administrative procedures, and to cut down on delays.

REP. RANEY asked for more details on how this would work.

Mr. Phillips suggested that the river restoration employees might be able to assist in reviewing projects. **Mr. Graham** described the

review panels that already exist with the Department and are statewide.

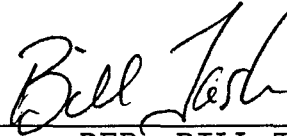
CHAIRMAN TASH said they would have to discuss funding at the next meeting.

REP. HARPER recommended the bill with the conceptual changes to avoid having to have another meeting. They agreed, and **CHAIRMAN TASH** said he wanted to wait for the full committee meeting. **REP. RANEY** said he wished to report the bill out as it stands, with some work yet to do, especially the funding issue.

REP. SLITER asked if there'd be another draft, and **Mr. Sternberg** said he'd incorporate the changes and write up the amendments as a gray bill.

ADJOURNMENT

Adjournment: 7:50 a.m.



REP. BILL TASH, Chairman



PATTI BORNEMAN, Secretary

BT/pb

HOUSE OF REPRESENTATIVES

Fish and Game Subcommittee

ROLL CALL

DATE 7/9/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bill Tash	✓		
Rep. Dick Knox	✓		
Rep. Bob Raney	✓		
Rep. Paul Sliter	✓		
Rep. Hal Harper	✓		

NOTE: THIS IS NOT AN OFFICIAL BILL

FOR REFERENCE ONLY

(WITH SUBCOMMITTEE REVISIONS OF 3/6 & 3/8 AS REVISED BY STAFF)

HB0349.01

House Bill No. 349

Introduced By

A Bill for an Act entitled: "An Act creating the future fisheries improvement program; providing for the protection and enhancement of Montana fisheries by requiring enhancement of spawning streams and other habitats for the natural reproduction of fish and growth of populations of wild fish; directing a portion of state and ~~federal~~ fisheries money to fund the future fisheries improvement program; AUTHORIZING THE GOVERNOR TO APPOINT A FUTURE FISHERIES REVIEW PANEL AND ESTABLISHING THE DUTIES OF THE PANEL; directing the department of fish, wildlife, and parks to establish and administer the program; requiring the department to submit regular program progress reports to the fish, wildlife, and parks commission and to submit a progress report and the anticipated budget and related projections to the legislature; and providing an effective date DATES AND A TERMINATION DATE."

WHEREAS, the rivers and streams of Montana hold one of the state's most important and economically valuable resources--wild fish; and

WHEREAS, the loss of spawning areas and other crucial habitats is one of the greatest threats to the natural reproduction and propagation of the fish resource; and

WHEREAS, the state is presently in a position to address the key issue of these aquatic habitats in order to promote the future viability of Montana's wild fisheries before the continued loss of spawning areas and other habitats diminishes or destroys the resource; and

WHEREAS, it is a fiscally sound state policy to develop natural spawning areas and other habitats in anticipation of being able to reduce future funding that would otherwise be necessary to cover the ever-increasing costs of the fish hatchery program; and

WHEREAS, a wild fisheries enhancement program will immensely benefit landowner-sportsperson relations; and

WHEREAS, a wild fisheries enhancement program will benefit Montana's economy; and

WHEREAS, it is fiscally sound state policy to enhance natural habitats to improve fishing opportunities now and preserve fishing opportunities for future generations; and

WHEREAS, voluntary cooperation between landowners, interested citizens, public and private organizations, and the department of fish, wildlife, and parks will help accomplish the purposes of the future fisheries improvement program.

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. Section 1. Future fisheries improvement program -- funding priority -- reports required. (1) In order to enhance future fisheries through natural reproduction, the department shall establish and implement a statewide voluntary program that ensures that functioning promotes fishery habitats

and spawning tributaries are available for each 10 river miles and each 10 stream miles areas for the rivers, streams, and lakes of Montana's cold water fisheries.

(2) The department shall by April 1, 1996, and thereafter when projects are suggested by the future fisheries review panel, through a public hearing process and with the approval of the commission, prioritize projects that have been recommended by the review panel to be funded. The department shall fund and implement the program regarding the long-term enhancement of streams and streambanks, instream flows, water leasing, lease or purchase of stored water, and other voluntary programs that deal with wild fish and aquatic habitats to ensure that the future fisheries improvement program established in this section receives full funding and prioritized department administration. In establishing the program and in implementing the future fisheries improvement program, the department shall protect all existing water rights and the property rights of the owners of streambeds and property adjacent to streambeds, streambanks, and lakes. The fact that a program project has been completed on private property does not create any right of public access to the private property unless that right is granted voluntarily by the property owner.

(3) The department shall work in cooperation with private landowners, conservation districts, irrigation districts, local officials, anglers, and other citizens to implement the future fisheries improvement program. Any department employee who is employed to facilitate contact with landowners must have experience in commercial or irrigated agriculture. The department shall encourage the use of volunteer labor and grants, matching

3 EXHIBIT 1
DATE 3-9-95
YL HB 349

HB0349.01

grants, and private donations to accomplish program purposes. The department may use contracted services:

(a) for negotiations with landowners, local officials, citizens, and others;

(b) for coordination with other agencies that may be involved in projects conducted under this section; and

(c) to perform and supervise project work.

(4) The following amounts must be expended by the department to enhance future fisheries, as directed by subsection ~~(1)~~ this section, until the required number of spawning streams or other identified key habitats are established and enhanced:

(a) not less than 50% \$1.5 million of the amount unexpended fund balance in the state special revenue fund in 87-1-601 composed of fishing license fees;

(b) not less than 50% of federal funds allocated to the state for the conservation of fish; \$1.75 million redirected from the Blue Water hatchery phase II project for the 1996-97 biennium.

(c) not less than 50% of the funds in the river restoration account; and

(d) not less than 50% of any other funds allocated to the department for the conservation of fish, which funds are not statutorily mandated for other purposes.

(3) The department shall prioritize its efforts regarding the enhancement of streams and streambanks, instream flows, water leasing and purchase, fish hatcheries, and other programs that deal with wild fish and aquatic habitats to ensure that the future fisheries improvement program established in this section receives full funding and prioritized department administration.

(5) Funds expended under this section must be used only for voluntary projects for the protection of the fisheries resource that have been identified by the review panel established in [section 2] and approved by the commission and may not be used for the acquisition of any interest in land.

~~(4)~~ (6)(a) The department shall report to the commission on the progress of the future fisheries improvement program every 6 12 months and post a copy of the report on the state electronic bulletin board to ensure public access to the report.

(b) The department shall also present a detailed report to each regular session of the legislature on the progress of the future fisheries improvement program. The legislative report must include the department's program activities and expenses since the last report and the project schedule schedules and budget schedule anticipated expenses for the ensuing 10 years' implementation of the future fisheries improvement program.

(c) In order to implement [sections 1 and 2], the department may expend revenue from the future fisheries improvement program for up to two additional full-time employees.

NEW SECTION. Section 2. Future fisheries review panel -- purpose -- appointment and duties. (1) The governor shall call for nominees for, accept and review recommendations for, and, by August 1, 1995, appoint a future fisheries review panel. The panel must consist of at least 10 members, including but not limited to:

(a) one member who is a representative of conservation districts;

(b) one member with expertise in commercial agriculture;

EXHIBIT 1
5 DATE 3-9-95
? HB 349

HB0349.01

- (c) one member with expertise in irrigated agriculture;
- (d) one member from the private sector who is a fisheries restoration professional;
- (e) two members who are licensed Montana anglers;
- (f) one member of the house of representatives, chosen by the speaker of the house;
- (g) one member of the senate, chosen by the president of the senate;
- (h) one member who is a representative of the governor's office; and
- (i) one member who is a Montana high school student.

(2) A member appointed to the review panel shall serve a 2-year term and may be reappointed.

(3) The purpose of the review panel is to:

(a) review, at least every 6 months, proposed projects that have been submitted by public or private entities for funding;

(b) determine what projects are eligible for inclusion in the future fisheries improvement program;

(c) approve or reject proposed projects; and

(d) forward a list of approved projects to the department.

(4) To be eligible for funding, a project must be generated at the local level and must be developed and presented to the review panel by the department, local landowners, conservation districts, or other interested citizens. Before consideration of any project that involves streambed or streambank restoration, a change in the use of water, or any other purpose that involves a particular property owner's interest in land or water, the review panel must find that the project is being proposed for funding with the voluntary approval of the participating property owner.

NEW SECTION. Section 3. Codification instruction.

~~[Section 1 Sections 1 and 2]~~ is are intended to be codified as an integral part of Title 87, chapter 1, part 2, and the provisions of Title 87, chapter 1, part 2, apply to ~~[section 1 sections 1 and 2]~~.

NEW SECTION. Section 4. Termination. [This act] terminates July 1, 2005.

NEW SECTION. Section 5. Effective ~~date~~ dates. (1) [This ~~act~~ Section 1] is effective July 1, 1995.

(2) [Sections 2 through 4 and this section] are effective on passage and approval.

-END-

EXHIBIT 1
DATE 3-9-95
HB 349

NOTE: THIS IS NOT AN OFFICIAL BILL

EXHIBIT 1

FOR REFERENCE ONLY

DATE 3-9-95

HB 349

(WITH SUBCOMMITTEE REVISIONS OF 3/6, 3/8 & 3/9)

HB0349.01

House Bill No. 349

Introduced By

A Bill for an Act entitled: "An Act creating the future fisheries improvement program; providing for the protection and enhancement of Montana fisheries ~~by requiring~~ THROUGH VOLUNTARY enhancement of spawning streams and other habitats for the natural reproduction of fish and growth of populations of wild fish; directing a portion of state ~~and federal~~ fisheries money to fund the future fisheries improvement program; AUTHORIZING THE GOVERNOR TO APPOINT A FUTURE FISHERIES REVIEW PANEL AND ESTABLISHING THE DUTIES OF THE PANEL; directing the department of fish, wildlife, and parks to establish and administer the program; requiring the department to submit regular program progress reports to the fish, wildlife, and parks commission and to submit a progress report and the anticipated ~~budget~~ expenses and related projections to the legislature; and providing an effective ~~date~~ DATES AND TERMINATION DATES."

WHEREAS, the rivers and streams of Montana hold one of the state's most important and economically valuable resources--wild fish; and

WHEREAS, the loss of historic spawning areas and other crucial habitats of native fish species is one of the greatest

threats to the natural reproduction and propagation of the fish resource; and

WHEREAS, the state is presently in a position to address the key issue of these aquatic habitats in order to promote the future viability of Montana's wild fisheries before the continued loss of spawning areas and other habitats diminishes or destroys the resource; and

~~WHEREAS, it is a fiscally sound state policy to develop natural spawning areas and other habitats in anticipation of being able to reduce future funding that would otherwise be necessary to cover the ever increasing costs of the fish hatchery program.~~

WHEREAS, a wild fisheries enhancement program will immensely benefit landowner-sportsperson relations; and

WHEREAS, a wild fisheries enhancement program will benefit Montana's economy; and

WHEREAS, it is fiscally sound state policy to enhance natural habitats and spawning areas to improve fishing opportunities now and preserve fishing opportunities for future generations; and

WHEREAS, voluntary cooperation between landowners, interested citizens, public and private organizations, and the department of fish, wildlife, and parks will help accomplish the purposes of the future fisheries improvement program.

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. Section 1. Future fisheries improvement program -- funding priority -- reports required. (1) In order to

enhance future fisheries through natural reproduction, the department shall establish and implement a statewide voluntary program that ensures that functioning promotes fishery habitats and spawning tributaries are available for each 10 river miles and each 10 stream miles areas for the rivers, streams, and lakes of Montana's cold water fisheries.

(2) The department shall by April 1, 1996, and thereafter when projects are suggested by the future fisheries review panel, through a public hearing process and with the approval of the commission, prioritize projects that have been recommended by the review panel to be funded. Emphasis must be given to projects that enhance the historic habitat of native fish species. The department shall fund and implement the program regarding the long-term enhancement of streams and streambanks, instream flows, water leasing, lease or purchase of stored water, and other voluntary programs that deal with wild fish and aquatic habitats. A project conducted under the future fisheries improvement program may not restrict or interfere with the exercise of any water rights or property rights of the owners of streambeds and property adjacent to streambeds, streambanks, and lakes. The fact that a program project has been completed on private property does not create any right of public access to the private property unless that right is granted voluntarily by the property owner.

(3) The department shall work in cooperation with private landowners, conservation districts, irrigation districts, local officials, anglers, and other citizens to implement the future fisheries improvement program. Any department employee who is employed under this section to facilitate contact with landowners

EXHIBIT 1

3

DATE 3-9-95

HB 349

HB0349.01

must have experience in commercial or irrigated agriculture. The department shall encourage the use of volunteer labor and grants, matching grants, and private donations to accomplish program purposes. The department may use contracted services:

(a) for negotiations with landowners, local officials, citizens, and others;

(b) for coordination with other agencies that may be involved in projects conducted under this section; and

(c) to perform and supervise project work.

~~The following amounts must be expended by the department to enhance future fisheries, as directed by subsection (1), until the required number of spawning streams or other identified key habitats are established and enhanced:~~

~~(a) not less than 50% of the amount in the state special revenue fund in 87-1-601 composed of fishing license fees;~~

~~(b) not less than 50% of federal funds allocated to the state for the conservation of fish;~~

~~(c) not less than 50% of the funds in the river restoration account; and~~

~~(d) not less than 50% of any other funds allocated to the department for the conservation of fish, which funds are not statutorily mandated for other purposes.~~

~~(3) The department shall prioritize its efforts regarding the enhancement of streams and streambanks, instream flows, water leasing and purchase, fish hatcheries, and other programs that deal with wild fish and aquatic habitats to ensure that the future fisheries improvement program established in this section receives full funding and prioritized department administration.~~

(4) Funds expended under this section must be used only for

projects for the protection of the fisheries resource that have been identified by the review panel established in [section 2] and approved by the commission and may not be used for the acquisition of any interest in land.

~~(4)~~ (5) (a) The department shall report to the commission on the progress of the future fisheries improvement program every 6 12 months and post a copy of the report on the state electronic bulletin board to ensure public access to the report.

(b) The department shall also present a detailed report to each regular session of the legislature on the progress of the future fisheries improvement program. The legislative report must include the department's program activities and expenses since the last report and the project schedule schedules and budget schedule anticipated expenses for the ensuing 10 years' implementation of the future fisheries improvement program.

(c) In order to implement [sections 1 and 2], the department may expend revenue from the future fisheries improvement program for up to two additional full-time employees.

NEW SECTION. Section 2. Future fisheries review panel -- purpose -- appointment and duties. (1) The governor shall call for nominees for, accept and review recommendations for, and, by August 1, 1995, appoint a future fisheries review panel. The panel must consist of at least 10 members, including but not limited to:

(a) one member who is a representative of conservation districts;

(b) one member with expertise in commercial agriculture or silviculture;

EXHIBIT 1

DATE 3-9-95

5 HB 349

HB0349.01

- (c) one member with expertise in irrigated agriculture;
 - (d) one member from the private sector who is a fisheries restoration professional;
 - (e) two members who are licensed Montana anglers;
 - (f) one member of the house of representatives, chosen by the speaker of the house;
 - (g) one member of the senate, chosen by the president of the senate;
 - (h) one member who is a representative of the governor's office; and
 - (i) one member who is a Montana high school student.
- (2) A member appointed to the review panel shall serve a 2-year term and may be reappointed.
- (3) The purpose of the review panel is to:
- (a) review, at least every 6 months, proposed projects that have been submitted by public or private entities for funding;
 - (b) determine what projects are eligible for inclusion in the future fisheries improvement program;
 - (c) approve or reject proposed projects; and
 - (d) forward a list of approved projects to the department.
- (4) To be eligible for funding, a project must be generated at the local level and must be developed and presented to the review panel by the department, local landowners, conservation districts, or other interested citizens. Before consideration of any project that involves streambed or streambank restoration, a change in the use of water, or any other purpose that involves a particular property owner's interest in land or water, the review panel must find that the project is being proposed for funding with the voluntary approval of the participating property owner.

NEW SECTION. Section 3. Funding of future fisheries

program. The following amounts must be expended by the department to enhance future fisheries, as directed by [section 1]:

- (1) \$290,000 redirected from the river restoration program;
- (2) \$1.5 million redirected from the Blue Water hatchery phase II project for the 1996-97 biennium; and
- (3) \$510,000 redirected from the Tongue River restoration project, to be used in the Tongue River basin for the purposes of [section 1].

NEW SECTION. Section 3. Codification instruction.

[~~Section 1~~ Sections 1 and 2] is are intended to be codified as an integral part of Title 87, chapter 1, part 2, and the provisions of Title 87, chapter 1, part 2, apply to [~~section 1~~ sections 1 and 2]:

NEW SECTION. Section 4. Termination. (1) [Sections 1 and 2] terminate July 1, 2005.

(2) [Section 3] terminates July 1, 1997.

NEW SECTION. Section 5. Effective ~~date~~ dates. (1) [~~This act~~ Section 3] is effective July 1, 1995.

(2) [Sections 1 and 2, 4, and this section] are effective on passage and approval.

-END-

EXHIBIT 1
DATE 3-9-95
HB 349

Amendments to House Bill No. 349
Introduced Reading Copy

Requested by Rep. Raney
For the Committee on Fish & Game

Prepared by Doug Sternberg
March 9, 1995

1. Title, line 4.

Following: "PROGRAM"

Insert: "AND THE FUTURE FISHERIES ACCOUNT"

2. Title, line 8.

Following: "PROGRAM"

Insert: "AND STATUTORILY APPROPRIATING THAT MONEY TO PAY EXPENSES
INCURRED UNDER THE PROGRAM"

3. Title, line 12.

Following: "LEGISLATURE;"

Insert: "AMENDING SECTION 17-7-502, MCA;"

4. Page 2, lines 1 through 9.

Following: "(2)"

Strike: remainder of line 1 through "purposes" on line 9

Insert: "The amount of \$1.75 million of fishing license revenue transferred to the department as provided in 87-1-601 must be deposited annually in the future fisheries account established in [section 2] and expended by the department for expenses incurred under the future fisheries improvement program as provided in this section."

5. Page 2, line 20.

Insert: "NEW SECTION. **Section 2. Future fisheries account established -- statutory appropriation and expenditure of account.** There is a future fisheries account in the state special revenue fund. Money transferred under [section 1(2)] must be deposited in the account to the credit of the department. Money in the account is statutorily appropriated, as provided in 17-7-502, and may be expended by the department to pay expenses incurred under the future fisheries improvement program established in [section 1].

Section 3. Section 17-7-502, MCA, is amended to read:

"17-7-502. **Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory

appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201; 17-6-409; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403; 20-26-1503; 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222; 80-4-416; 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; [section 2], 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-9-306; and 90-14-107.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates July 1, 1995.)"

Renumber: subsequent sections

6. Page 2, line 21.

Strike: "Section"

Insert: "Sections"

Following: "1"

Insert: "and 2"

7. Page 2, line 23.

Strike: "section"

Insert: "sections"

Following: "1"

Insert: "and 2"

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Fish & Game SUBCOMMITTEE DATE 3/9/95

DEPARTMENT(S) _____ DIVISION _____

PLEASE PRINT

PLEASE PRINT

NAME	REPRESENTING	
Stan Bradshaw	self	
Glenn Marx	Governor's office	
Don Allan	Mx. Wood Products Assoc.	
Glenn Phillips	Fish, Wildl. & Parks	
GEORGE OCHENSKI	TROUT UNLIMITED	
Bob Raney	H.D. 26	
Hal Hagan	HDS2	
Dave Matt	FWP	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.