

HOUSE BILL NO. 289

INTRODUCED BY JOHNSON, STEPPLER, STANG,
KASTEN, GILBERT, TVEIT, GIACOMETTO

IN THE HOUSE

JANUARY 18, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.
JANUARY 19, 1989	FIRST READING.
JANUARY 21, 1989	ON MOTION BY CHIEF SPONSOR, REPRESENTATIVES STEPPLER, STANG, KASTEN, AND GILBERT ADDED AS SPONSORS.
JANUARY 24, 1989	ON MOTION BY CHIEF SPONSOR, REPRESENTATIVE GIACOMETTO AND SENATOR TVEIT ADDED AS SPONSORS.
FEBRUARY 10, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 11, 1989	PRINTING REPORT.
FEBRUARY 13, 1989	SECOND READING, DO PASS.
FEBRUARY 14, 1989	ENGROSSING REPORT.
FEBRUARY 15, 1989	THIRD READING, PASSED. AYES, 85; NOES, 11.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 16, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.
	FIRST READING.
MARCH 11, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 13, 1989	SECOND READING, CONCURRED IN AS

AMENDED.

MARCH 15, 1989

THIRD READING, CONCURRED IN.
AYES, 40; NOES, 8.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 16, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 18, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 289
2 INTRODUCED BY Johnson
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DONATION
5 OF PADDLEFISH ROE TO A NONPROFIT CORPORATION FOR USE IN
6 CAVIAR PRODUCTION; DESIGNATING HOW PROFITS REALIZED FROM THE
7 SALE OF CAVIAR ARE TO BE USED; AND AMENDING SECTIONS
8 87-3-111 AND 87-4-601, MCA."
9

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

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

12 "87-4-601. Sale of fish or spawn unlawful --
13 exceptions. (1) Except as provided in subsection subsections
14 (2) and (3), no a person may not, for speculative purposes,
15 for market, or for sale, in any way, catch any of the fish
16 which in this title are classified as game fish or remove or
17 cause to be removed the eggs or spawn of any such fish. No
18 person may sell or offer for sale any of the game fish of
19 this state as defined in this title or the eggs or spawn
20 therefrom from any game fish.

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

23 (a) the catching of fish in private ponds by the
24 owners thereof of private ponds;

25 (b) the taking of fish by state authorities for the

1 purpose of obtaining eggs for propagation in state fish
2 hatcheries or by any person who receives a permit from the
3 department to take eggs for such propagation purposes;

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

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

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

15 (3) (a) A person issued a paddlefish tag under
16 87-2-306 who takes a paddlefish at the Intake fishing access
17 site north of Glendive during an authorized paddlefish
18 season may donate the paddlefish roe, or eggs, to a Montana
19 nonprofit corporation for processing and marketing as
20 caviar.

21 (b) The department shall supervise the collection of
22 paddlefish roe from tagged paddlefish at the site and time
23 specified in subsection (3)(a).

24 (c) After deducting the cost of collecting paddlefish
25 roe, the nonprofit corporation shall use any profits

1 realized from caviar production to enhance and develop
 2 fishing access, habitat, campgrounds, and fisheries in the
 3 area of the Intake fishing access site and to provide
 4 information on tourism and recreation in the area."

5 **Section 2.** Section 87-3-111, MCA, is amended to read:

6 **"87-3-111. Unlawful to buy, sell, possess, or**
 7 **transport fish or game -- exceptions -- penalties.** (1) It is
 8 **hereby-made** unlawful for any person to purchase, sell, offer
 9 to sell, possess, ship, or transport any game fish, game
 10 bird, migratory game bird, game animal, or fur-bearing
 11 animal or part thereof protected by the laws of this state,
 12 whether belonging to the same or different species from that
 13 native to the state of Montana, except as specifically
 14 permitted by the laws of this state.

15 (2) The provisions of this section ~~shall~~ do not
 16 prohibit:

17 (a) the possession or transportation within the state
 18 of any legally taken fish, game bird, migratory game bird,
 19 game animal, or fur-bearing animal or part thereof; or

20 (b) the sale, purchase, or transportation of hides,
 21 heads, or mounts of lawfully killed game birds, game fish,
 22 fur-bearing animals, or game animals, except that the sale
 23 or purchase of a hide, head, or mount of a grizzly bear is
 24 prohibited, except as provided in 87-3-110; or

25 (c) the donation and sale of paddlefish roe as caviar

1 under the provisions of 87-4-601.

2 (3) Except as provided in subsection (4), any person
 3 violating any of the provisions of this section is guilty of
 4 a misdemeanor and upon conviction thereof shall be punished
 5 as provided by law.

6 (4) Any person engaging in the activities prohibited
 7 in subsection (1) in furtherance of a scheme to traffic in
 8 the body parts of unlawfully taken species is guilty of a
 9 felony and shall be punished by a fine of \$10,000 or
 10 imprisonment in the state prison for a term of 1 year, or
 11 both."

12 NEW SECTION. **Section 3.** Extension of authority. Any
 13 existing authority to make rules on the subject of the
 14 provisions of [this act] is extended to the provisions of
 15 [this act].

-End-

APPROVED BY COMM.
ON FISH AND GAME

HOUSE BILL NO. 289

INTRODUCED BY JOHNSON, STEPPLER, STANG,

KASTEN, GILBERT, TVEIT, GIACOMETTO

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DONATION OF PADDLEFISH ROE TO A NONPROFIT CORPORATION FOR USE IN CAVIAR PRODUCTION; DESIGNATING HOW PROFITS REALIZED FROM THE SALE OF CAVIAR ARE TO BE USED; INCREASING RESTITUTION ON ILLEGAL KILLING OR POSSESSION OF PADDLEFISH; AND AMENDING SECTIONS 87-1-111, 87-3-111, AND 87-4-601, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because 87-4-601(3) grants rulemaking authority to the department of fish, wildlife, and parks to implement the paddlefish roe donation program. The legislature intends that the priority in implementing the provisions of this bill be on maintaining the paddlefish fishery. At a minimum, it is intended that the rules address the following:

(1) a process for the selection of a Montana nonprofit corporation to accept roe donations and to process and market the paddlefish roe;

(2) recordkeeping required of the selected corporation and commercial buyers to assure proper administration of the

program;

(3) a process for development of recommendations and review of projects in expending funds raised through the paddlefish roe program; and

(4) any other topics necessary for administration of the program.

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. Sale of fish or spawn unlawful -- exceptions. (1) Except as provided in ~~subsection~~ subsections (2) and (3), no 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 therefrom 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 thereof 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 such 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 such 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.

(b) ~~The department shall supervise the collection of paddlefish roe from tagged paddlefish at the site and time specified in subsection (3)(a):~~

(c) ~~After deducting the cost of collecting paddlefish roe, the nonprofit corporation shall use any profits realized from caviar production to enhance and develop fishing access, habitat, campgrounds, and fisheries in the~~

~~area of the intake fishing access site and to provide information on tourism and recreation in the area:~~ THE DEPARTMENT SHALL DEVELOP RULES FOR SELECTING ONE MONTANA NONPROFIT ORGANIZATION TO ACCEPT PADDLEFISH EGG DONATIONS AND PROCESS AND MARKET THE EGGS AS CAVIAR. THE DEPARTMENT SHALL ALSO DEVELOP RULES FOR THE MARKETING AND SALE OF CAVIAR.

(C) THE DEPARTMENT MAY ENTER INTO AN AGREEMENT WITH THE ORGANIZATION SELECTED PURSUANT TO SUBSECTION (3)(B) SPECIFYING TIMES, SITES, AND OTHER CONDITIONS UNDER WHICH PADDLEFISH EGGS MAY BE COLLECTED. THE AGREEMENT MUST REQUIRE THE ORGANIZATION TO MAINTAIN RECORDS OF REVENUE COLLECTED AND RELATED EXPENSES INCURRED AND TO MAKE THE RECORDS AVAILABLE TO THE DEPARTMENT AND THE LEGISLATIVE AUDITOR UPON REQUEST.

(D) (1) ONE-HALF OF THE PROCEEDS FROM THE SALE OF PADDLEFISH EGG CAVIAR PRODUCTS IN EXCESS OF THE COSTS OF COLLECTION, PROCESSING, MARKETING, AND ADMINISTRATION MUST BE DEPOSITED IN A STATE SPECIAL REVENUE FUND ESTABLISHED FOR THE DEPARTMENT. THE FUND AND ANY INTEREST EARNED ON THE FUND MUST BE USED TO BENEFIT THE PADDLEFISH FISHERY, INCLUDING FISHING ACCESS, IMPROVEMENTS, HABITAT, AND FISHERIES MANAGEMENT, OR TO PROVIDE INFORMATION TO THE PUBLIC REGARDING FISHING IN EASTERN MONTANA, WHICH COULD INCLUDE THE DESIGN AND CONSTRUCTION OF INTERPRETIVE DISPLAYS.

(II) THE OTHER HALF OF THE PROCEEDS FROM THE SALE OF PADDLEFISH EGG CAVIAR PRODUCTS IN EXCESS OF THE COSTS OF COLLECTION, PROCESSING, MARKETING, AND ADMINISTRATION MUST BE PAID TO THE NONPROFIT ORGANIZATION THAT PROCESSES AND MARKETS THE CAVIAR. AN ADVISORY COMMITTEE MUST BE ESTABLISHED CONSISTING OF ONE MEMBER FROM THE ORGANIZATION SELECTED UNDER SUBSECTION (3)(B), TWO AREA LOCAL GOVERNMENT REPRESENTATIVES, AND TWO REPRESENTATIVES OF AREA SPORTSMEN. THE ADVISORY COMMITTEE SHALL SOLICIT AND REVIEW HISTORICAL, CULTURAL, RECREATIONAL, AND FISH AND WILDLIFE PROPOSALS AND FUND PROJECTS. THE COMMITTEE SHALL NOTIFY THE COMMISSION OF ITS ACTIONS. PROCEEDS MAY BE USED AS SEED MONEY FOR GRANTS."

Section 2. Section 87-3-111, MCA, is amended to read:

"87-3-111. Unlawful to buy, sell, possess, or transport fish or game -- exceptions -- penalties. (1) It is hereby-made unlawful for any person to purchase, sell, offer to sell, possess, ship, or transport any game fish, game bird, migratory game bird, game animal, or fur-bearing animal or part thereof protected by the laws of this state, whether belonging to the same or different species from that native to the state of Montana, except as specifically permitted by the laws of this state.

(2) The provisions of this section shall do not prohibit:

(a) the possession or transportation within the state

of any legally taken fish, game bird, migratory game bird, game animal, or fur-bearing animal or part thereof; or

(b) the sale, purchase, or transportation of hides, heads, or mounts of lawfully killed game birds, game fish, fur-bearing animals, or game animals, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited, except as provided in 87-3-110; or

(c) the donation and sale of paddlefish roe as caviar under the provisions of 87-4-601.

(3) Except as provided in subsection (4), any person violating any of the provisions of this section is guilty of a misdemeanor and upon conviction thereof shall be punished as provided by law.

(4) Any person engaging in the activities prohibited in subsection (1) in furtherance of a scheme to traffic in the body parts of unlawfully taken species is guilty of a felony and shall be punished by a fine of \$10,000 or imprisonment in the state prison for a term of 1 year, or both."

SECTION 3. SECTION 87-1-111, MCA, IS AMENDED TO READ:

"87-1-111. Restitution for illegal killing or possession of certain wildlife. In addition to other penalties provided by law, a person convicted of the illegal killing or possession of a wild bird, mammal, or fish listed in this section shall reimburse the state for each such

1 bird, mammal, or fish according to the following schedule:

2 (1) bighorn sheep, mountain goat, caribou, buffalo,
3 grizzly bear, moose, and endangered species, \$1,000;

4 (2) elk, mountain lion, black bear, lynx, and
5 wolverine, \$500;

6 (3) deer, antelope, fisher, raptor, swan, bobcat, and
7 pallid and white sturgeon, and paddlefish, \$300;

8 (4) paddlefish, grayling, and furbearers not listed in
9 subsection (1), (2), or (3), \$100;

10 (5) game bird (except swan), \$25;

11 (6) game fish, \$10."

12 NEW SECTION. Section 4. Extension of authority. Any
13 existing authority to make rules on the subject of the
14 provisions of [this act] is extended to the provisions of
15 [this act].

16 NEW SECTION. SECTION 5. EFFECTIVE DATE --
17 TERMINATION. [THIS ACT] IS EFFECTIVE JULY 1, 1989, AND
18 TERMINATES JUNE 30, 1993.

-End-

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(a) the possession or transportation within the state

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(c) the donation and sale of paddlefish roe as caviar under the provisions of 87-4-601.

(3) Except as provided in subsection (4), any person violating any of the provisions of this section is guilty of a misdemeanor and upon conviction thereof shall be punished as provided by law.

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6 (3) deer, antelope, fisher, raptor, swan, bobcat, and
7 pallid and white sturgeon, and paddlefish, \$300;

8 (4) ~~paddlefish~~, grayling, and furbearers not listed in
9 subsection (1), (2), or (3), \$100;

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12 NEW SECTION. Section 4. Extension of authority. Any
13 existing authority to make rules on the subject of the
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15 [this act].

16 NEW SECTION. SECTION 5. EFFECTIVE DATE --

17 TERMINATION. [THIS ACT] IS EFFECTIVE JULY 1, 1989, AND

18 TERMINATES JUNE 30, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB289, third reading.

DESCRIPTION OF PROPOSED LEGISLATION:

HB289 would allow donation of paddlefish roe to a nonprofit corporation for use in caviar production, designate that one-half of the net profits are to be used by the Department of Fish, Wildlife and Parks to benefit the paddlefish fishery and the other half to be used by the nonprofit corporation, including expenses of an advisory committee and seed money for grants. The legislation also would increase restitution on illegal killing or possession of paddlefish.

ASSUMPTIONS:

1. Restitution revenue will increase by \$1,800 to a total of \$2,400 per year, based upon six citations issued in FY88 continuing and two new citations, all at the increased penalty rate.
2. No Department of Fish, Wildlife and Parks (FWP) revenues are assumed for the 1991 biennium from the activities of the nonprofit corporation for the following reasons:
 - 2.1. Rules will be written, a nonprofit corporation selected or formed, and the corporation will prepare to accept, process and market the roe;
 - 2.2. The amount of eggs that will be donated by sportsmen is unknown;
 - 2.3. The value of the eggs ranges from \$2 to \$40 depending upon the condition of the eggs and the time of harvest; and
 - 2.4. There is no reasonable way at this time for the FWP to project the operations costs of the nonprofit corporation in order to assume the 50% proceeds which might be forthcoming.
3. FWP will absorb the cost of developing rules and the cost of creel surveys at intake fishing access sites with existing staff and resources.
4. FWP program costs will increase by \$36,000 per year due to the proposed law commercialization of the paddlefish, primarily because Federal Fish and Wildlife Service officials and our FWP officials are concerned under current law about management of the non-native paddlefish, and the ND and SD fish and wildlife officials are recommending the paddlefish be listed as a threatened species. The increases will include the following:
 - 4.1. An additional 0.50 FTE warden for enforcement prior to spawning season when eggs are in their prime and away from the intake fishing access sites as fish are migrating;
 - 4.2. Two biologists at 0.33 FTE each to expand monitoring efforts in order to develop more accurate measures of paddlefish spawning success, population numbers and movement over a three to four month period.
 - 4.3. Travel, lodging and per diem as required for the increased personnel.



RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE

3/7/89



JOHN JOHNSON, PRIMARY SPONSOR

DATE

3/08/89

Fiscal Note for HB289, third reading

HB 289

Fiscal Note Request, HB289, third reading

Form BD-15

Page 2

FISCAL IMPACT:

Expenditures:

	Current	FY90		Current	FY91	
	Law	Proposed	Difference	Law	Proposed	Difference
FWP:						
Personal Services	\$11,850	\$38,850	\$27,000	\$11,100	\$38,100	\$27,000
Operating Expenses	4,500	13,500	9,000	5,000	14,000	9,000
Total	\$16,350	\$52,350	\$36,000	\$16,100	\$52,100	\$36,000

Funding:

State Special Revenue	\$16,350	\$52,350	\$36,000	\$16,100	\$52,100	\$36,000
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Revenue Impact:

State Special Revenue						
Restitution	\$ 600	\$ 2,400	\$ 1,800	\$ 600	\$ 2,400	\$ 1,800
License Account	15,750	49,950	(34,200)	15,500	49,700	(34,200)

HB 289

SENATE STANDING COMMITTEE REPORT

March 10, 1989

MR. PRESIDENT:

We, your committee on Fish and Game, having had under consideration HB 289 (third reading copy -- blue), respectfully report that HB 289 be amended and as so amended be concurred in:

Sponsor: Johnson (Tveit)

1. Page 2, line 4.

Strike: "and"

2. Page 2.

Following: line 4

Insert: "(4) a provision that the total number of paddlefish taken in the Yellowstone River Basin may not exceed 3,500 in any year; and"

Renumber: subsequent subsection

3. Page 4, line 9.

Following: "PURSUANT TO"

Insert: "the rules provided for in"

4. Page 5, line 7.

Strike: "UNDER"

Insert: "pursuant to the rules provided for in"

AND AS AMENDED BE CONCURRED IN

Signed


Elmer D. Severson, Chairman

SENATE

HB 289

scrhb289.310

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 13, 1989 1:26 pm

Mr. Chairman: I move to amend HB 289 (third reading copy -- blue)
as follows:

1. Page 4, line 7.

Following: "CAVIAR"

Insert: "under this section"

2. Page 5, line 6.

Strike: "ESTABLISHED CONSISTING"

Insert: "appointed by the commission and shall consist"

ADOPT

REJECT

Signed: _____

Judy Jacobson
Senator Jacobson

HB 289
cwhb289.313

SENATE

1 HOUSE BILL NO. 289

2 INTRODUCED BY JOHNSON, STEPPLER, STANG,

3 KASTEN, GILBERT, TVEIT, GIACOMETTO

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DONATION
6 OF PADDLEFISH ROE TO A NONPROFIT CORPORATION FOR USE IN
7 CAVIAR PRODUCTION; DESIGNATING HOW PROFITS REALIZED FROM THE
8 SALE OF CAVIAR ARE TO BE USED; INCREASING RESTITUTION ON
9 ILLEGAL KILLING OR POSSESSION OF PADDLEFISH; AND AMENDING
10 SECTIONS 87-1-111, 87-3-111, AND 87-4-601, MCA; AND
11 PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

12 STATEMENT OF INTENT

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14 A statement of intent is required for this bill because
15 87-4-601(3) grants rulemaking authority to the department of
16 fish, wildlife, and parks to implement the paddlefish roe
17 donation program. The legislature intends that the priority
18 in implementing the provisions of this bill be on
19 maintaining the paddlefish fishery. At a minimum, it is
20 intended that the rules address the following:

21 (1) a process for the selection of a Montana nonprofit
22 corporation to accept roe donations and to process and
23 market the paddlefish roe;

24 (2) recordkeeping required of the selected corporation
25 and commercial buyers to assure proper administration of the

1 program;

2 (3) a process for development of recommendations and
3 review of projects in expending funds raised through the
4 paddlefish roe program; and

5 (4) A PROVISION THAT THE TOTAL NUMBER OF PADDLEFISH
6 TAKEN IN THE YELLOWSTONE RIVER BASIN MAY NOT EXCEED 3,500 IN
7 ANY YEAR; AND

8 (4)(5) any other topics necessary for administration
9 of the program.

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

13 "87-4-601. Sale of fish or spawn unlawful --
14 exceptions. (1) Except as provided in subsection subsections
15 (2) and (3), no a person may not, for speculative purposes,
16 for market, or for sale, in any way, catch any of the fish
17 which in this title are classified as game fish or remove or
18 cause to be removed the eggs or spawn of any such fish. No
19 person may sell or offer for sale any of the game fish of
20 this state as defined in this title or the eggs or spawn
21 therefrom from any game fish.

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

24 (a) the catching of fish in private ponds by the
25 owners thereof 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 such 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 such 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.

(b) ~~The department shall supervise the collection of paddlefish roe from tagged paddlefish at the site and time specified in subsection (3)(a).~~

~~(c) After deducting the cost of collecting paddlefish~~

~~roe, the nonprofit corporation shall use any profits realized from caviar production to enhance and develop fishing access, habitat, campgrounds, and fisheries in the area of the intake fishing access site and to provide information on tourism and recreation in the area.~~ THE DEPARTMENT SHALL DEVELOP RULES FOR SELECTING ONE MONTANA NONPROFIT ORGANIZATION TO ACCEPT PADDLEFISH EGG DONATIONS AND PROCESS AND MARKET THE EGGS AS CAVIAR. THE DEPARTMENT SHALL ALSO DEVELOP RULES FOR THE MARKETING AND SALE OF CAVIAR UNDER THIS SECTION.

(C) THE DEPARTMENT MAY ENTER INTO AN AGREEMENT WITH THE ORGANIZATION SELECTED PURSUANT TO THE RULES PROVIDED FOR IN SUBSECTION (3)(B) SPECIFYING TIMES, SITES, AND OTHER CONDITIONS UNDER WHICH PADDLEFISH EGGS MAY BE COLLECTED. THE AGREEMENT MUST REQUIRE THE ORGANIZATION TO MAINTAIN RECORDS OF REVENUE COLLECTED AND RELATED EXPENSES INCURRED AND TO MAKE THE RECORDS AVAILABLE TO THE DEPARTMENT AND THE LEGISLATIVE AUDITOR UPON REQUEST.

(D) (I) ONE-HALF OF THE PROCEEDS FROM THE SALE OF PADDLEFISH EGG CAVIAR PRODUCTS IN EXCESS OF THE COSTS OF COLLECTION, PROCESSING, MARKETING, AND ADMINISTRATION MUST BE DEPOSITED IN A STATE SPECIAL REVENUE FUND ESTABLISHED FOR THE DEPARTMENT. THE FUND AND ANY INTEREST EARNED ON THE FUND MUST BE USED TO BENEFIT THE PADDLEFISH FISHERY, INCLUDING FISHING ACCESS, IMPROVEMENTS, HABITAT, AND FISHERIES

1 MANAGEMENT, OR TO PROVIDE INFORMATION TO THE PUBLIC
 2 REGARDING FISHING IN EASTERN MONTANA, WHICH COULD INCLUDE
 3 THE DESIGN AND CONSTRUCTION OF INTERPRETIVE DISPLAYS.

4 (II) THE OTHER HALF OF THE PROCEEDS FROM THE SALE OF
 5 PADDLEFISH EGG CAVIAR PRODUCTS IN EXCESS OF THE COSTS OF
 6 COLLECTION, PROCESSING, MARKETING, AND ADMINISTRATION MUST
 7 BE PAID TO THE NONPROFIT ORGANIZATION THAT PROCESSES AND
 8 MARKETS THE CAVIAR. AN ADVISORY COMMITTEE MUST BE
 9 ESTABLISHED--CONSISTING APPOINTED BY THE COMMISSION AND
 10 CONSIST OF ONE MEMBER FROM THE ORGANIZATION SELECTED UNDER
 11 PURSUANT TO THE RULES PROVIDED FOR IN SUBSECTION (3)(B), TWO
 12 AREA LOCAL GOVERNMENT REPRESENTATIVES, AND TWO
 13 REPRESENTATIVES OF AREA SPORTSMEN. THE ADVISORY COMMITTEE
 14 SHALL SOLICIT AND REVIEW HISTORICAL, CULTURAL, RECREATIONAL,
 15 AND FISH AND WILDLIFE PROPOSALS AND FUND PROJECTS. THE
 16 COMMITTEE SHALL NOTIFY THE COMMISSION OF ITS ACTIONS.
 17 PROCEEDS MAY BE USED AS SEED MONEY FOR GRANTS."

18 **Section 2.** Section 87-3-111, MCA, is amended to read:
 19 "87-3-111. Unlawful to buy, sell, possess, or
 20 transport fish or game -- exceptions -- penalties. (1) It is
 21 hereby-made unlawful for any person to purchase, sell, offer
 22 to sell, possess, ship, or transport any game fish, game
 23 bird, migratory game bird, game animal, or fur-bearing
 24 animal or part thereof protected by the laws of this state,
 25 whether belonging to the same or different species from that

1 native to the state of Montana, except as specifically
 2 permitted by the laws of this state.

3 (2) The provisions of this section shall do not
 4 prohibit:

5 (a) the possession or transportation within the state
 6 of any legally taken fish, game bird, migratory game bird,
 7 game animal, or fur-bearing animal or part thereof; or

8 (b) the sale, purchase, or transportation of hides,
 9 heads, or mounts of lawfully killed game birds, game fish,
 10 fur-bearing animals, or game animals, except that the sale
 11 or purchase of a hide, head, or mount of a grizzly bear is
 12 prohibited, except as provided in 87-3-110; or

13 (c) the donation and sale of paddlefish roe as caviar
 14 under the provisions of 87-4-601.

15 (3) Except as provided in subsection (4), any person
 16 violating any of the provisions of this section is guilty of
 17 a misdemeanor and upon conviction thereof shall be punished
 18 as provided by law.

19 (4) Any person engaging in the activities prohibited
 20 in subsection (1) in furtherance of a scheme to traffic in
 21 the body parts of unlawfully taken species is guilty of a
 22 felony and shall be punished by a fine of \$10,000 or
 23 imprisonment in the state prison for a term of 1 year, or
 24 both."

25 **SECTION 3.** SECTION 87-1-111, MCA, IS AMENDED TO READ:

1 "87-1-111. Restitution for illegal killing or
2 possession of certain wildlife. In addition to other
3 penalties provided by law, a person convicted of the illegal
4 killing or possession of a wild bird, mammal, or fish listed
5 in this section shall reimburse the state for each such
6 bird, mammal, or fish according to the following schedule:

7 (1) bighorn sheep, mountain goat, caribou, buffalo,
8 grizzly bear, moose, and endangered species, \$1,000;

9 (2) elk, mountain lion, black bear, lynx, and
10 wolverine, \$500;

11 (3) deer, antelope, fisher, raptor, swan, bobcat, and
12 pallid and white sturgeon, and paddlefish, \$300;

13 (4) paddlefish, grayling, and furbearers not listed in
14 subsection (1), (2), or (3), \$100;

15 (5) game bird (except swan), \$25;

16 (6) game fish, \$10."

17 NEW SECTION. **Section 4.** Extension of authority. Any
18 existing authority to make rules on the subject of the
19 provisions of [this act] is extended to the provisions of
20 [this act].

21 NEW SECTION. SECTION 5. EFFECTIVE DATE --
22 TERMINATION. [THIS ACT] IS EFFECTIVE JULY 1, 1989, AND
23 TERMINATES JUNE 30, 1993.

-End-