

HOUSE BILL NO. 123

INTRODUCED BY J. JOHNSON, KASTEN, MCCAFFREE, KADAS,
MCCARTHY, PECK, TUNBY, MENAHAN, S. RICE, BERGMAN,
BACHINI, DAVIS, GERVAIS, GILBERT, BRUSKI-MAUS, REHBEIN

IN THE HOUSE

JANUARY 8, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.
	FIRST READING.
JANUARY 28, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 29, 1993	PRINTING REPORT.
JANUARY 30, 1993	SECOND READING, DO PASS.
FEBRUARY 1, 1993	ENGROSSING REPORT.
FEBRUARY 3, 1993	THIRD READING, PASSED. AYES, 84; NOES, 11.
FEBRUARY 4, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 4, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 8, 1993	ON MOTION, REREFERRED TO COMMITTEE ON FISH & GAME.
MARCH 5, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 6, 1993	SECOND READING, CONCURRED IN.
MARCH 8, 1993	THIRD READING, CONCURRED IN. AYES, 46; NOES, 2.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 16, 1993	RECEIVED FROM SENATE.
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. SENT TO ENROLLING.

. REPORTED CORRECTLY ENROLLED.

House BILL NO. 123

INTRODUCED BY John Peterson, Chairman, Fisheries Committee
Jim McCallister, Rodger Kellars, Rick Treacy, M. McCallister
Ellen Bergman, Barbara Davis
 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PADDLEFISH
 ROE DONATION PROGRAM; REMOVING THE RESTRICTION THAT ONLY ROE

FROM PADDLEFISH CAUGHT AT THE INTAKE FISHING ACCESS SITE IS
 ELIGIBLE FOR DONATION TO THE PROGRAM; ESTABLISHING A RESERVE
 FUND TO COVER PROGRAM COSTS; MAKING THE PROGRAM PERMANENT BY
 REMOVING THE TERMINATION DATE APPLICABLE TO THE PROGRAM;
 AMENDING SECTION 87-4-601, MCA, AND SECTION 5, CHAPTER 409,
 LAWS OF 1989; 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,
 wildlife, and parks 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~~
~~from the face of intake dam downstream to the confluence of~~
~~Cottonwood Creek and the Yellowstone River.~~ A paddlefish

brought into-the-intake-fishing-access-site for cleaning or donation to the paddlefish roe donation program must be a properly tagged, whole paddlefish. Roe separated from the paddlefish is not acceptable for donation to the program. A paddlefish intentionally cut in any manner to identify its sex is also unacceptable for donation to the program.

(b) 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 Twenty-five percent of the proceeds from the sale of paddlefish egg caviar products in excess of the costs of collection, processing, and marketing, and administration in excess of administrative costs of the nonprofit organization and after deduction of money deposited in the reserve fund established in subsection

(3)(e) 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 remaining 75% of the proceeds from the sale of paddlefish egg caviar products in excess of the costs of collection, processing, and marketing, and administration in excess of administrative costs of the nonprofit corporation and after deduction of money deposited in the reserve fund established in subsection (3)(e) must be paid to the nonprofit organization that processes and markets the caviar. An advisory committee must be appointed by the commission and consist of one member from the organization selected pursuant to the rules provided for in 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.

(e) The first \$30,000 of annual proceeds prior to

deductions for costs or an amount necessary to process and market the product and administer the program must be placed in a reserve fund for use by the nonprofit corporation in paying program costs for the following year. (Terminates June 30, 1993--sec. 5, Ch. 409, L. 1989.)

87-4-601. (Effective July 1, 1993) Sale of fish or spawn unlawful -- exceptions. (1) Except as provided in subsection (2), no person may, 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.

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

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

(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 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, wildlife, and parks 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."

Section 2. Section 5, Chapter 409, Laws of 1989, is amended to read:

"Section 5. Effective date ---termination. [This act] is effective July 1, 1989, ~~and terminates June 30, 1993.~~"

NEW SECTION. **Section 3.** Effective date. [This act] is 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 HB0123, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the paddlefish roe donation program; removing the restriction that only roe from paddlefish caught at the Intake Fishing Access Site are eligible for donation to the program; establishing a reserve fund to cover program costs; making the program permanent by removing the termination date applicable to the program; and providing for an immediate effective date.

ASSUMPTIONS:

A. Revenues related to paddlefish eggs:

1. This activity generated the following income since its inception in 1989:

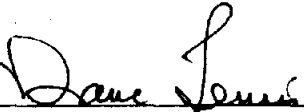
	<u>Income</u>	<u>Pounds of Caviar</u>	<u># Paddlefish</u>
1990	\$108,622	4,373	1,690
1991	\$292,563	10,672	3,090
1992	\$ 63,000	3,518	781
3 year average	\$133,749	5,748	1,853

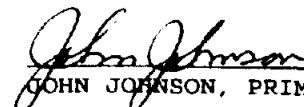
2. The eggs sold for \$20 to \$35/lb. depending on the quality and number of pounds (graduated scale).
3. Under existing legislation the Department of Fish, Wildlife and Parks (FWP) is entitled to 50% of the proceeds less all administrative costs of the non-profit corporation and FWP. The non-profit administrative costs were \$30,438 in 1990 and \$84,024 in 1991. FWP's costs were \$10,369 in 1990 and \$11,200 in 1991. The new legislation would not allow the FWP to recover its administrative costs.

B. Expenditures:

1. With the extension of the fishing area under this bill, the cost to enforce the additional paddlefish roe collection sites would increase \$8,000. The FWP's administrative costs would also increase.
2. Biological monitoring and pesticide egg testing would need to be increased to protect the resource and the caviar consumer. Fish outside of the intake site have never been tested for pesticide residues, a potential health threat.

(continued)

 1-13-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1/14/93
JOHN JOHNSON, PRIMARY SPONSOR DATE

Fiscal Note for HB0123, as introduced**HB 123**

Fiscal Note Request, HB0123, as introduced
Form BD-15 page 2
(continued)

FISCAL IMPACT:

	<u>FY94</u>			<u>FY95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Revenue:</u>	43,632	19,130	(24,502)	43,632	19,130	(24,502)
<u>Expenditures:</u>	10,785	18,785	8,000	10,785	18,785	8,000
<u>Net Impact:</u>	32,847	345	(32,502)	32,847	345	(32,502)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Increased revenue for the non-profit corporation operating the program.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Elimination of the administrative cost recovery and the reduction of income for FWP will mean that some administrative and enforcement costs may have to be absorbed by the agency in order to provide adequate enforcement of the paddlefish fishery.

TECHNICAL NOTES:

If and when the sponsoring non-profit organization changes, there is no source of revenue available to fund the reserve account during the first year.

STATE OF MONTANA - FISCAL NOTE

Form BD-15S

There is hereby submitted a Sponsor's Fiscal Note for: HB 123, Version: Introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the paddlefish roe donation program: That only roe from paddlefish caught between the confluence of Cottonwood Creek and the Burlington Northern Bridge, Glendive are eligible for donation to the program: Extension of the sunset provision to June 30, 2003 and providing for an immediate effective date.

ASSUMPTIONS:

A. Revenues related to paddlefish eggs:

1. This activity generated the following income since its inception in 1989:

	<u>Income</u>	<u>Pounds of Caviar</u>	<u># Paddlefish</u>
1990	\$108,622	4,373	1,690
1991	\$292,563	10,672	3,090
1992	\$ 63,000	3,518	781
3 year average	\$133,749	5,748	1,853

2. The eggs sold for \$20 to \$35/lb. depending on the quality and number of pounds (graduated scale). This bill changes the percent of allocation to 40% to Department and 60% to non-profit. The non-profit administrative costs were \$9,637 in 1990 and \$14,023 in 1991. FWP's costs were \$10,369 in 1990 and \$11,200 in 1991.

B. Expenditures:

1. With the extension of the fishing area under this bill, the cost to enforce the additional paddlefish roe collection sites would increase \$2,000. The FWP's administrative costs would also increase.

(continued)


PRIMARY SPONSOR

1/29/93
DATE

Sponsor's Fiscal Note
HB 123

Sponsor's Fiscal Note Request, HB0123, as introduced
(continued)
Form BD-15S

FISCAL IMPACT:

	Current	Proposed	Diff.
Average program income	158,225	158,225	
Nonprofit's Marketing & Proc. Costs	(42,025)	(42,025)	
Shared income to be split	116,200	116,200	
Non-profit's Share	58,100	69,720	11,620
Department's Share	58,100	46,480	(11,620)

	<u>Current Law</u>	<u>FY94 Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>FY95 Proposed Law</u>	<u>Difference</u>
<u>Revenue:</u>						
Paddlefish Roe Revenue	58,100	46,800	(11,620)	58,100	46,480	(11,620)
Additional Operational Costs	0	(2,000)	(2,000)	0	(2,000)	(2,000)
Net affect to Department	58,100	44,480	(13,620)	58,100	44,480	(13,620)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Increased revenue for the non-profit corporation operating the program.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Department's current research and enforcement costs would be covered. Less income for Departments that would benefit habitat, access and public information.

HB 123

APPROVED BY COMM.
ON FISH AND GAME

HOUSE BILL NO. 123

INTRODUCED BY J. JOHNSON, KASTEN, MCCAFFREE, KADAS,

MCCARTHY, PECK, TUNBY, MENAHAN, S. RICE, BERGMAN,

BACHINI, DAVIS, GERVAIS, GILBERT, BRUSKI-MAUS, REHBEIN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PADDLEFISH ROE DONATION PROGRAM; ~~REMOVING~~ REVISING THE RESTRICTION THAT ONLY ROE FROM PADDLEFISH CAUGHT AT THE INTAKE FISHING ACCESS SITE IS ELIGIBLE FOR DONATION TO THE PROGRAM BY SPECIFYING A LONGER SECTION OF THE YELLOWSTONE RIVER; ESTABLISHING--A RESERVE--POND--TO--COVER--PROGRAM--COSTS;--MAKING--THE--PROGRAM PERMANENT--BY--REMOVING EXTENDING THE TERMINATION DATE APPLICABLE TO THE PROGRAM; AMENDING SECTION 87-4-601, MCA, AND SECTION 5, CHAPTER 409, LAWS OF 1989; 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, wildlife, and parks 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 FROM THE YELLOWSTONE RIVER BETWEEN THE BURLINGTON NORTHERN RAILROAD BRIDGE AT GLENDALE TO THE CONFLUENCE OF COTTONWOOD CREEK AND THE YELLOWSTONE RIVER

1 during an authorized paddlefish season may donate the
 2 paddlefish roe, or eggs, to a Montana nonprofit corporation
 3 as specified in subsection (3)(b) for processing and
 4 marketing as caviar. ~~For purposes of this subsection, the~~
 5 ~~intake fishing access site means the area from the face of~~
 6 ~~intake dam downstream to the confluence of Cottonwood Creek~~
 7 ~~and the Yellowstone River. A paddlefish MAY BE brought into~~
 8 ~~the intake fishing access site ONLY TO THE INTAKE FISHING~~
 9 ~~ACCESS SITE~~ for cleaning or donation to the paddlefish roe
 10 donation program AND must be a properly tagged, whole
 11 paddlefish. Roe separated from the paddlefish is not
 12 acceptable for donation to the program. A paddlefish
 13 intentionally cut in any manner to identify its sex is also
 14 unacceptable for donation to the program.

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

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

1 make the records available to the department and the
 2 legislative auditor upon request.

3 (d) (i) ~~One-half Twenty-five FORTY percent~~ of the
 4 proceeds from the sale of paddlefish egg caviar products in
 5 excess of the costs of collection, processing, and
 6 marketing, and administration ~~in excess of administrative~~
 7 ~~costs of the nonprofit organization and after deduction of~~
 8 ~~money deposited in the reserve fund established in~~
 9 ~~subsection (3)(e)~~ must be deposited in a state special
 10 revenue fund established for the department. The fund and
 11 any interest earned on the fund must be used to benefit the
 12 paddlefish fishery, including fishing access,
 13 ADMINISTRATION, improvements, habitat, and fisheries
 14 management, or to provide information to the public
 15 regarding fishing in eastern Montana, which could include
 16 the design and construction of interpretive displays.

17 (ii) The other-half ~~remaining 75% SIXTY PERCENT~~ of the
 18 proceeds from the sale of paddlefish egg caviar products in
 19 excess of the costs of collection, processing, and
 20 marketing, and administration ~~in excess of administrative~~
 21 ~~costs of the nonprofit corporation and after deduction of~~
 22 ~~money deposited in the reserve fund established in~~
 23 ~~subsection (3)(e)~~ must be paid to the nonprofit organization
 24 that processes and markets the caviar. THE NONPROFIT
 25 ORGANIZATION'S ADMINISTRATIVE COSTS MUST BE PAID FROM ITS

SHARE OF THE PROCEEDS. An advisory committee must be appointed by the commission and consist of one member from the organization selected pursuant to the rules provided for in 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.

~~(e) The first \$30,000 of annual proceeds prior to deductions for costs or an amount necessary to process and market the product and administer the program must be placed in a reserve fund for use by the nonprofit corporation in paying program costs for the following year.~~ (Terminates June 30, 1993--sec. 5, Ch. 409, L. 1989.)

87-4-601. (Effective July 1, 1993) Sale of fish or spawn unlawful -- exceptions. (1) Except as provided in subsection (2), no person may, 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.

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

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

(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 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, wildlife, and parks 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."

Section 2. Section 5, Chapter 409, Laws of 1989, is amended to read:

"Section 5. Effective date -----termination -- TERMINATION. [This act] is effective July 1, 1989, and terminates June 30, 1993, AND TERMINATES JUNE 30, 2003."

NEW SECTION. **Section 3.** Effective date. [This act] is effective on passage and approval.

-End-

1 HOUSE BILL NO. 123

2 INTRODUCED BY J. JOHNSON, KASTEN, MCCAFFREE, KADAS,

3 MCCARTHY, PECK, TUNBY, MENAHAN, S. RICE, BERGMAN,

4 BACHINI, DAVIS, GERVAIS, GILBERT, BRUSKI-MAUS, REHBEIN

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PADDLEFISH
7 ROE DONATION PROGRAM; ~~REMOVING~~ REVISING THE RESTRICTION THAT
8 ONLY ROE FROM PADDLEFISH CAUGHT AT THE INTAKE FISHING ACCESS
9 SITE IS ELIGIBLE FOR DONATION TO THE PROGRAM BY SPECIFYING A
10 LONGER SECTION OF THE YELLOWSTONE RIVER; ESTABLISHING--A
11 RESERVE--FUND--TO--COVER--PROGRAM--COSTS;--MAKING--THE--PROGRAM
12 PERMANENT--BY--REMOVING EXTENDING THE TERMINATION DATE
13 APPLICABLE TO THE PROGRAM; AMENDING SECTION 87-4-601, MCA,
14 AND SECTION 5, CHAPTER 409, LAWS OF 1989; AND PROVIDING AN
15 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:

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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 wildlife, and parks 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 FROM THE YELLOWSTONE RIVER BETWEEN
24 THE BURLINGTON NORTHERN RAILROAD BRIDGE AT GLENDIVE TO THE
25 CONFLUENCE OF COTTONWOOD CREEK AND THE YELLOWSTONE RIVER

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 from the face of intake dam downstream to the confluence of Cottonwood Creek and the Yellowstone River.~~ A paddlefish MAY BE brought into the ~~intake fishing access site~~ ONLY TO THE INTAKE FISHING ACCESS SITE for cleaning or donation to the paddlefish roe donation program AND must be a properly tagged, whole paddlefish. Roe separated from the paddlefish is not acceptable for donation to the program. A paddlefish intentionally cut in any manner to identify its sex is also unacceptable for donation to the program.

(b) 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~~ Twenty-five FORTY percent of the proceeds from the sale of paddlefish egg caviar products in excess of the costs of collection, processing, and marketing, and administration in excess of administrative costs of the nonprofit organization and after deduction of money deposited in the reserve fund established in subsection (3)(e) 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, ADMINISTRATION, 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 remaining 75%~~ SIXTY PERCENT of the proceeds from the sale of paddlefish egg caviar products in excess of the costs of collection, processing, and marketing, and administration in excess of administrative costs of the nonprofit corporation and after deduction of money deposited in the reserve fund established in subsection (3)(e) must be paid to the nonprofit organization that processes and markets the caviar. THE NONPROFIT ORGANIZATION'S ADMINISTRATIVE COSTS MUST BE PAID FROM ITS

SHARE OF THE PROCEEDS. An advisory committee must be appointed by the commission and consist of one member from the organization selected pursuant to the rules provided for in 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.

~~(a) The first \$30,000 of annual proceeds prior to deductions for costs or an amount necessary to process and market the product and administer the program must be placed in a reserve fund for use by the nonprofit corporation in paying program costs for the following year.~~ (Terminates June 30, 1993--sec. 5, Ch. 409, L. 1989.)

87-4-601. (Effective July 1, 1993) Sale of fish or spawn unlawful -- exceptions. (1) Except as provided in subsection (2), no person may, 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.

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

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(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 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, wildlife, and parks 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."

Section 2. Section 5, Chapter 409, Laws of 1989, is amended to read:

"Section 5. Effective date -----termination --
TERMINATION. [This act] is effective July 1, 1989, and terminates June 30, 1993, AND TERMINATES JUNE 30, 2003."

NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

-End-

HOUSE BILL NO. 123

INTRODUCED BY J. JOHNSON, KASTEN, MCCAFFREE, KADAS,

MCCARTHY, PECK, TUNBY, MENAHAN, S. RICE, BERGMAN,

BACHINI, DAVIS, GERVAIS, GILBERT, BRUSKI-MAUS, REHBEIN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PADDLEFISH ROE DONATION PROGRAM; ~~REMOVING~~ REVISING THE RESTRICTION THAT ONLY ROE FROM PADDLEFISH CAUGHT AT THE INTAKE FISHING ACCESS SITE IS ELIGIBLE FOR DONATION TO THE PROGRAM BY SPECIFYING A LONGER SECTION OF THE YELLOWSTONE RIVER; ESTABLISHING--A RESERVE--POND--TO--COVER--PROGRAM--COSTS;--MAKING--THE--PROGRAM PERMANENT--BY--REMOVING EXTENDING THE TERMINATION DATE APPLICABLE TO THE PROGRAM; AMENDING SECTION 87-4-601, MCA, AND SECTION 5, CHAPTER 409, LAWS OF 1989; 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, wildlife, and parks 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~~ FROM THE YELLOWSTONE RIVER BETWEEN THE BURLINGTON NORTHERN RAILROAD BRIDGE AT GLENDIVE TO THE CONFLUENCE OF COTTONWOOD CREEK AND THE YELLOWSTONE RIVER

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 from the face of intake dam downstream to the confluence of Cottonwood Creek and the Yellowstone River.~~ A paddlefish MAY BE brought into the intake fishing access site ONLY TO THE INTAKE FISHING ACCESS SITE for cleaning or donation to the paddlefish roe donation program AND must be a properly tagged, whole paddlefish. Roe separated from the paddlefish is not acceptable for donation to the program. A paddlefish intentionally cut in any manner to identify its sex is also unacceptable for donation to the program.

(b) 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~~ Twenty-five FORTY percent of the proceeds from the sale of paddlefish egg caviar products in excess of the costs of collection, processing, and marketing, and administration in excess of administrative costs of the nonprofit organization and after deduction of money deposited in the reserve fund established in subsection (3)(e) 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, ADMINISTRATION, 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 ~~remaining 75%~~ SIXTY PERCENT of the proceeds from the sale of paddlefish egg caviar products in excess of the costs of collection, processing, and marketing, and administration in excess of administrative costs of the nonprofit corporation and after deduction of money deposited in the reserve fund established in subsection (3)(e) must be paid to the nonprofit organization that processes and markets the caviar. THE NONPROFIT ORGANIZATION'S ADMINISTRATIVE COSTS MUST BE PAID FROM ITS

1 SHARE OF THE PROCEEDS. An advisory committee must be
 2 appointed by the commission and consist of one member from
 3 the organization selected pursuant to the rules provided for
 4 in subsection (3)(b), two area local government
 5 representatives, and two representatives of area sportsmen.
 6 The advisory committee shall solicit and review historical,
 7 cultural, recreational, and fish and wildlife proposals and
 8 fund projects. The committee shall notify the commission of
 9 its actions. Proceeds may be used as seed money for grants.

10 ~~(e) The first \$30,000 of annual proceeds prior to~~
 11 ~~deductions for costs or an amount necessary to process and~~
 12 ~~market the product and administer the program must be placed~~
 13 ~~in a reserve fund for use by the nonprofit corporation in~~
 14 ~~paying program costs for the following year.~~ (Terminates
 15 June 30, 1993--sec. 5, Ch. 409, L. 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, wildlife, and parks 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 **Section 2.** Section 5, Chapter 409, Laws of 1989, is
 19 amended to read:

20 "Section 5. Effective date -----termination --
 21 TERMINATION. [This act] is effective July 1, 1989, and
 22 terminates June 30, 1993, AND TERMINATES JUNE 30, 2003."

23 NEW SECTION. **Section 3.** Effective date. [This act] is
 24 effective on passage and approval.

-End-