

Fuchs *Brad Moran* *Shary Run*
 INTRODUCED BY *Raney Gifford* *Esob* *Simon Beck*
Lauson Kadar *J. Hayes* *Billingham* *Reynolds* *L. Smith*

House BILL NO. 349

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; 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."

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.

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 a program that ensures that functioning spawning tributaries are available for each 10 river miles and each 10 stream miles of Montana's cold water fisheries.

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0349, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

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; 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.

ASSUMPTIONS:

1. The existing hatchery operations, fisheries management operations, and the capital budgets will be reduced to accommodate the redirection of fisheries funds.
2. Existing positions may be reclassified, redirected, or eliminated due to the creating of the Future Fisheries Improvement Program. Until the program is actually implemented, position changes can not be identified.
3. The fisheries capital program includes: \$344,000 for the construction of the Fish Laboratory; \$192,000 on going maintenance on all hatcheries; \$2.5 million for phase II of construction for the Blue Water Hatchery; \$200,000 for the Thompson Chain of Lakes project; and \$290,000 for river restoration. These projects may be impacted by the passage of this bill.
4. Revenue projections for FY96 and FY97 are based on FY94 actuals and they are as follows:


Fishing Licenses (02)	\$5,786,000
Dingel-Johnson (03)	4,055,066
River Restoration (02)	<u>116,813</u>
Total	\$9,957,879
5. About \$4,978,940 of the projected revenues will be available in each year of the biennium for the Future Fisheries Improvement Program.

FISCAL IMPACT:

A projected \$4,978,940 per year will be redirected to the Future Fisheries Improvement Program. The capital project proposals will be impacted by the redirection of fishery activities.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The direction of the Montana fisheries program will change with primary emphasis being on the Future Fisheries Improvement Program which will also impact the capital project budget.

 2-3-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2/4/95
BOB RANEY, PRIMARY SPONSOR DATE

Fiscal Note for HB0349, as introduced

HB 349

HOUSE BILL NO. 349

INTRODUCED BY RANEY, GROSFIELD, COBB, SIMON, BECK, FUCHS, MOLNAR, HEAVY RUNNER,
PECK, RYAN, LARSON, KADAS, HARPER, GRINDE, BOHLINGER, REAM, MESAROS, L. SMITH,
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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
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WHEREAS, the rivers and streams of Montana hold one of the state's most important and
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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

1 WHEREAS, A WILD FISHERIES ENHANCEMENT PROGRAM WILL BENEFIT MONTANA'S
 2 ECONOMY; AND

3 WHEREAS, IT IS FISCALLY SOUND STATE POLICY TO ENHANCE NATURAL HABITATS AND
 4 SPAWNING AREAS TO IMPROVE FISHING OPPORTUNITIES NOW AND PRESERVE FISHING
 5 OPPORTUNITIES FOR FUTURE GENERATIONS; AND

6 WHEREAS, VOLUNTARY COOPERATION BETWEEN LANDOWNERS, INTERESTED CITIZENS,
 7 PUBLIC AND PRIVATE ORGANIZATIONS, AND THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS WILL
 8 HELP ACCOMPLISH THE PURPOSES OF THE FUTURE FISHERIES IMPROVEMENT PROGRAM.

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

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 14 establish ~~AND IMPLEMENT~~ a STATEWIDE VOLUNTARY program that ensures that functioning PROMOTES
 15 FISHERY HABITATS AND spawning tributaries are available for each 10 river miles and each 10 stream
 16 miles AREAS FOR THE RIVERS, STREAMS, AND LAKES of Montana's cold water fisheries.

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

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

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

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

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

26 ~~(3) The department shall prioritize its efforts regarding the enhancement of streams and~~
 27 ~~streambanks, instream flows, water leasing and purchase, fish hatcheries, and other programs that deal~~
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 29 ~~this section receives full funding and prioritized department administration. THE DEPARTMENT SHALL BY~~
 30 APRIL 1, 1996, AND THEREAFTER WHEN PROJECTS ARE SUGGESTED BY THE FUTURE FISHERIES

1 REVIEW PANEL, THROUGH A PUBLIC HEARING PROCESS AND WITH THE APPROVAL OF THE
2 COMMISSION, PRIORITIZE PROJECTS THAT HAVE BEEN RECOMMENDED BY THE REVIEW PANEL TO BE
3 FUNDED. EMPHASIS MUST BE GIVEN TO PROJECTS THAT ENHANCE THE HISTORIC HABITAT OF
4 NATIVE FISH SPECIES. THE DEPARTMENT SHALL FUND AND IMPLEMENT THE PROGRAM REGARDING
5 THE LONG-TERM ENHANCEMENT OF STREAMS AND STREAMBANKS, INSTREAM FLOWS, WATER
6 LEASING, LEASE OR PURCHASE OF STORED WATER, AND OTHER VOLUNTARY PROGRAMS THAT DEAL
7 WITH WILD FISH AND AQUATIC HABITATS. A PROJECT CONDUCTED UNDER THE FUTURE FISHERIES
8 IMPROVEMENT PROGRAM MAY NOT RESTRICT OR INTERFERE WITH THE EXERCISE OF ANY WATER
9 RIGHTS OR PROPERTY RIGHTS OF THE OWNERS OF STREAMBEDS AND PROPERTY ADJACENT TO
10 STREAMBEDS, STREAMBANKS, AND LAKES. THE FACT THAT A PROGRAM PROJECT HAS BEEN
11 COMPLETED ON PRIVATE PROPERTY DOES NOT CREATE ANY RIGHT OF PUBLIC ACCESS TO THE
12 PRIVATE PROPERTY UNLESS THAT RIGHT IS GRANTED VOLUNTARILY BY THE PROPERTY OWNER.

13 (3) THE DEPARTMENT SHALL WORK IN COOPERATION WITH PRIVATE LANDOWNERS,
14 CONSERVATION DISTRICTS, IRRIGATION DISTRICTS, LOCAL OFFICIALS, ANGLERS, AND OTHER
15 CITIZENS TO IMPLEMENT THE FUTURE FISHERIES IMPROVEMENT PROGRAM. ANY DEPARTMENT
16 EMPLOYEE WHO IS EMPLOYED UNDER THIS SECTION TO FACILITATE CONTACT WITH LANDOWNERS
17 MUST HAVE EXPERIENCE IN COMMERCIAL OR IRRIGATED AGRICULTURE. THE DEPARTMENT SHALL
18 ENCOURAGE THE USE OF VOLUNTEER LABOR AND GRANTS, MATCHING GRANTS, AND PRIVATE
19 DONATIONS TO ACCOMPLISH PROGRAM PURPOSES. THE DEPARTMENT MAY USE CONTRACTED
20 SERVICES:

21 (A) FOR NEGOTIATIONS WITH LANDOWNERS, LOCAL OFFICIALS, CITIZENS, AND OTHERS;

22 (B) FOR COORDINATION WITH OTHER AGENCIES THAT MAY BE INVOLVED IN PROJECTS
23 CONDUCTED UNDER THIS SECTION; AND

24 (C) TO PERFORM AND SUPERVISE PROJECT WORK.

25 (4) FUNDS EXPENDED UNDER THIS SECTION MAY BE USED ONLY FOR PROJECTS FOR THE
26 PROTECTION OF THE FISHERIES RESOURCE THAT HAVE BEEN IDENTIFIED BY THE REVIEW PANEL
27 ESTABLISHED IN [SECTION 2] AND APPROVED BY THE COMMISSION AND MAY NOT BE USED FOR THE
28 ACQUISITION OF ANY INTEREST IN LAND.

29 ~~(4)~~(5) (a) The department shall report to the commission on the progress of the future fisheries
30 improvement program every ~~6~~ 12 months and post a copy of the report on the state electronic bulletin

1 board to ensure public access to the report.

2 (b) The department shall also PRESENT A DETAILED report to each regular session of the legislature
3 on the progress of the future fisheries improvement program. The legislative report must include the
4 department's PROGRAM ACTIVITIES AND EXPENSES SINCE THE LAST REPORT AND THE project ~~schedule~~
5 SCHEDULES and ~~budget schedule~~ ANTICIPATED EXPENSES for the ensuing 10 years' implementation of
6 the future fisheries improvement program.

7 (C) IN ORDER TO IMPLEMENT [SECTIONS 1 AND 2], THE DEPARTMENT MAY EXPEND REVENUE
8 FROM THE FUTURE FISHERIES IMPROVEMENT PROGRAM FOR UP TO TWO ADDITIONAL FULL-TIME
9 EMPLOYEES.

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11 NEW SECTION. SECTION 2. FUTURE FISHERIES REVIEW PANEL -- PURPOSE -- APPOINTMENT
12 AND DUTIES. (1) THE GOVERNOR SHALL CALL FOR NOMINEES FOR, ACCEPT AND REVIEW
13 RECOMMENDATIONS FOR, AND, BY AUGUST 1, 1995, APPOINT A FUTURE FISHERIES REVIEW PANEL.
14 THE PANEL MUST CONSIST OF AT LEAST 10 MEMBERS, INCLUDING BUT NOT LIMITED TO:

15 (A) ONE MEMBER WHO IS A REPRESENTATIVE OF CONSERVATION DISTRICTS;

16 (B) ONE MEMBER WITH EXPERTISE IN COMMERCIAL AGRICULTURE OR SILVICULTURE;

17 (C) ONE MEMBER WITH EXPERTISE IN IRRIGATED AGRICULTURE;

18 (D) ONE MEMBER FROM THE PRIVATE SECTOR WHO IS A FISHERIES RESTORATION
19 PROFESSIONAL;

20 (E) TWO MEMBERS WHO ARE LICENSED MONTANA ANGLERS;

21 (F) ONE MEMBER OF THE HOUSE OF REPRESENTATIVES, CHOSEN BY THE SPEAKER OF THE
22 HOUSE;

23 (G) ONE MEMBER OF THE SENATE, CHOSEN BY THE PRESIDENT OF THE SENATE;

24 (H) ONE MEMBER WHO IS A REPRESENTATIVE OF THE GOVERNOR'S OFFICE; AND

25 (I) ONE MEMBER WHO IS A MONTANA HIGH SCHOOL STUDENT.

26 (2) A MEMBER APPOINTED TO THE REVIEW PANEL SHALL SERVE A 2-YEAR TERM AND MAY
27 BE REAPPOINTED.

28 (3) THE PURPOSE OF THE REVIEW PANEL IS TO:

29 (A) REVIEW, AT LEAST EVERY 6 MONTHS, PROPOSED PROJECTS THAT HAVE BEEN SUBMITTED
30 BY PUBLIC OR PRIVATE ENTITIES FOR FUNDING;

1 (B) DETERMINE WHAT PROJECTS ARE ELIGIBLE FOR INCLUSION IN THE FUTURE FISHERIES
 2 IMPROVEMENT PROGRAM;

3 (C) APPROVE OR REJECT PROPOSED PROJECTS; AND

4 (D) FORWARD A LIST OF APPROVED PROJECTS TO THE DEPARTMENT.

5 (4) TO BE ELIGIBLE FOR FUNDING, A PROJECT MUST BE GENERATED AT THE LOCAL LEVEL AND
 6 MUST BE DEVELOPED AND PRESENTED TO THE REVIEW PANEL BY THE DEPARTMENT, LOCAL
 7 LANDOWNERS, CONSERVATION DISTRICTS, OR OTHER INTERESTED CITIZENS. BEFORE
 8 CONSIDERATION OF ANY PROJECT THAT INVOLVES STREAMBED OR STREAMBANK RESTORATION,
 9 A CHANGE IN THE USE OF WATER, OR ANY OTHER PURPOSE THAT AFFECTS A PARTICULAR
 10 PROPERTY OWNER'S INTEREST IN LAND OR WATER, THE REVIEW PANEL IS REQUIRED TO FIND THAT
 11 THE PROJECT IS BEING PROPOSED FOR FUNDING WITH THE VOLUNTARY APPROVAL OF THE
 12 PARTICIPATING PROPERTY OWNER.

13
 14 NEW SECTION. SECTION 3. FUNDING OF FUTURE FISHERIES PROGRAM. THE FOLLOWING
 15 AMOUNTS MUST BE EXPENDED BY THE DEPARTMENT TO ENHANCE FUTURE FISHERIES, AS DIRECTED
 16 BY [SECTION 1]:

17 (1) \$290,000 REDIRECTED FROM THE RIVER RESTORATION PROGRAM;

18 (2) \$1.5 MILLION REDIRECTED FROM THE BLUE WATER HATCHERY PHASE II PROJECT FOR THE
 19 1996-97 BIENNIUM; AND

20 (3) \$510,000 REDIRECTED FROM THE TONGUE RIVER RESTORATION PROJECT, TO BE USED IN
 21 THE TONGUE RIVER BASIN FOR THE PURPOSES OF [SECTION 1].

22
 23 NEW SECTION. Section 4. Codification instruction. [~~Section 4~~ SECTIONS 1 AND 2] ~~is~~ ARE
 24 intended to be codified as an integral part of Title 87, chapter 1, part 2, and the provisions of Title 87,
 25 chapter 1, part 2, apply to [~~section 4~~ SECTIONS 1 AND 2].

26
 27 NEW SECTION. SECTION 5. TERMINATION. (1) [SECTIONS 1 AND 2] TERMINATE JULY 1, 2005.

28 (2) [SECTION 3] TERMINATES JULY 1, 1997.

29
 30 NEW SECTION. Section 6. Effective ~~date~~. DATES. (1) [~~This act~~ SECTION 3] is effective July 1,

1 1995.

2 (2) [SECTIONS 1, 2, 4, AND 5 AND THIS SECTION] ARE EFFECTIVE ON PASSAGE AND

3 APPROVAL.

4 -END-

1
2
3
4
5

HOUSE BILL NO. 349

INTRODUCED BY RANEY, GROSFIELD, COBB, SIMON, BECK, FUCHS, MOLNAR, HEAVY RUNNER,
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THERE ARE NO CHANGES IN THIS BILL AND IT WILL
NOT BE REPRINTED. PLEASE REFER TO SECOND
READING COPY (YELLOW) FOR COMPLETE TEXT.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 28, 1995

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration HB 349 (third reading copy -- blue), respectfully report that HB 349 be amended as follows and as so amended be concurred in.

Signed: 

Senator Ken Mesaros, Chair

That such amendments read:

1. Page 4, line 12.

Following: "GOVERNOR"

Insert: "or governor's designee"

2. Page 4, line 23.

Strike: "PRESIDENT OF THE SENATE"

Insert: "committee on committees"

-END-



Amd. Coord.
Sec. of Senate


Senator Carrying Bill

HB 349

SENATE

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20 PROFESSIONAL;

21 (E) TWO MEMBERS WHO ARE LICENSED MONTANA ANGLERS;

22 (F) ONE MEMBER OF THE HOUSE OF REPRESENTATIVES, CHOSEN BY THE SPEAKER OF THE
23 HOUSE;

24 (G) ONE MEMBER OF THE SENATE, CHOSEN BY THE PRESIDENT OF THE SENATE COMMITTEE
25 ON COMMITTEES;

26 (H) ONE MEMBER WHO IS A REPRESENTATIVE OF THE GOVERNOR'S OFFICE; AND

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1 (A) REVIEW, AT LEAST EVERY 6 MONTHS, PROPOSED PROJECTS THAT HAVE BEEN SUBMITTED
 2 BY PUBLIC OR PRIVATE ENTITIES FOR FUNDING;

3 (B) DETERMINE WHAT PROJECTS ARE ELIGIBLE FOR INCLUSION IN THE FUTURE FISHERIES
 4 IMPROVEMENT PROGRAM;

5 (C) APPROVE OR REJECT PROPOSED PROJECTS; AND

6 (D) FORWARD A LIST OF APPROVED PROJECTS TO THE DEPARTMENT.

7 (4) TO BE ELIGIBLE FOR FUNDING, A PROJECT MUST BE GENERATED AT THE LOCAL LEVEL AND
 8 MUST BE DEVELOPED AND PRESENTED TO THE REVIEW PANEL BY THE DEPARTMENT, LOCAL
 9 LANDOWNERS, CONSERVATION DISTRICTS, OR OTHER INTERESTED CITIZENS. BEFORE
 10 CONSIDERATION OF ANY PROJECT THAT INVOLVES STREAMBED OR STREAMBANK RESTORATION,
 11 A CHANGE IN THE USE OF WATER, OR ANY OTHER PURPOSE THAT AFFECTS A PARTICULAR
 12 PROPERTY OWNER'S INTEREST IN LAND OR WATER, THE REVIEW PANEL IS REQUIRED TO FIND THAT
 13 THE PROJECT IS BEING PROPOSED FOR FUNDING WITH THE VOLUNTARY APPROVAL OF THE
 14 PARTICIPATING PROPERTY OWNER.

15
 16 NEW SECTION. SECTION 3. FUNDING OF FUTURE FISHERIES PROGRAM. THE FOLLOWING
 17 AMOUNTS MUST BE EXPENDED BY THE DEPARTMENT TO ENHANCE FUTURE FISHERIES, AS DIRECTED
 18 BY [SECTION 1]:

19 (1) \$290,000 REDIRECTED FROM THE RIVER RESTORATION PROGRAM;

20 (2) \$1.5 MILLION REDIRECTED FROM THE BLUE WATER HATCHERY PHASE II PROJECT FOR THE
 21 1996-97 BIENNIUM; AND

22 (3) \$510,000 REDIRECTED FROM THE TONGUE RIVER RESTORATION PROJECT, TO BE USED IN
 23 THE TONGUE RIVER BASIN FOR THE PURPOSES OF [SECTION 1].

24
 25 NEW SECTION. Section 4. Codification instruction. [~~Section 4~~ SECTIONS 1 AND 2] is ARE
 26 intended to be codified as an integral part of Title 87, chapter 1, part 2, and the provisions of Title 87,
 27 chapter 1, part 2, apply to [~~section 4~~ SECTIONS 1 AND 2].

28
 29 NEW SECTION. SECTION 5. TERMINATION. (1) [SECTIONS 1 AND 2] TERMINATE JULY 1, 2005.

30 (2) [SECTION 3] TERMINATES JULY 1, 1997.

