

## SENATE BILL NO. 250

INTRODUCED BY KITZENBERG, COONEY, GALLUS, GEBHARDT, GOLIE, MCNUTT, PEASE, D. RYAN,  
SCHMIDT, SHEA, STEINBEISSER, TROPILA

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE FUTURE FISHERIES IMPROVEMENT PROGRAM BY ESTABLISHING AND IMPLEMENTING A PROGRAM THAT PROMOTES COMMUNITY FISHERIES AND OTHER BENEFICIAL HABITAT IMPROVEMENTS NOT QUALIFIED FOR FUNDING UNDER THE PRESENT PROGRAM AND SETTING A FUNDING LEVEL FOR THE NEW PROGRAM; ~~ALLOWING THE USE OF PROGRAM FUNDS TO ACQUIRE PERMANENT CONSERVATION EASEMENTS FOR THE PROTECTION OF RIPARIAN ZONES;~~ REVISING POSTING REQUIREMENTS OF THE FUTURE FISHERIES ANNUAL REPORT REGARDING PROGRESS OF THE PROGRAM; AMENDING SECTION 87-1-272, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 87-1-272, MCA, is amended to read:

**"87-1-272. (Temporary) 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 promotes:

(a) fishery habitats and spawning areas for the rivers, streams, and lakes of Montana's ~~natural reproducing~~ fisheries; and

(b) community fisheries and other beneficial fisheries habitat projects that do not qualify under subsection (1)(a).

(2) ~~(a) The department shall by April 1, 1996, and thereafter when~~ When projects are suggested by the future fisheries review panel, the department shall, 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.~~

(b) The department shall fund and implement the program regarding:

(i) 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, with

1 emphasis given to projects that enhance the historic habitat of native fish species; and

2 (ii) the long-term enhancement of habitat for community fisheries and other fisheries habitat  
3 enhancement projects that do not qualify under subsection (2)(b)(i).

4 (c) A project conducted under the future fisheries improvement program may not restrict or interfere with  
5 the exercise of any water rights or property rights of the owners of streambeds and property adjacent to  
6 streambeds, streambanks, and lakes. The fact that a program project has been completed on private property  
7 does not create any right of public access to the private property unless that right is granted voluntarily by the  
8 property owner.

9 (3) The department shall work in cooperation with private landowners, conservation districts, irrigation  
10 districts, local officials, anglers, and other citizens to implement the future fisheries improvement program. Any  
11 department employee who is employed under this section to facilitate contact with landowners must have  
12 experience in commercial or irrigated agriculture. The department shall encourage the use of volunteer labor  
13 and grants, matching grants, and private donations to accomplish program purposes. The department may use  
14 contracted services:

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

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

17 and

18 (c) to perform and supervise project work.

19 (4) Funds expended under this section may be used only for projects for the protection of the fisheries  
20 resource that have been identified by the review panel established in 87-1-273 and approved by the commission.  
21 ~~and Funds may not be used for the acquisition of any interest in land, except for conservation easements that~~  
22 ~~are held by a qualified organization or unit of government and that directly and permanently protect riparian~~  
23 ~~zones.~~

24 (5) In any fiscal year, the commission may fund projects authorized under subsection (1)(b) in an  
25 amount up to 30% of one-half of the license-derived biennial funding available to the program through  
26 appropriation.

27 ~~(5)(6)~~ (a) The department shall report to the commission on the progress of the future fisheries  
28 improvement program every 12 months and post a copy of the report on ~~a state electronic access system~~ the  
29 department's internet website to ensure public access to the report.

30 (b) The department shall also present a detailed report to each regular session of the legislature on the

1 progress of the future fisheries improvement program. The legislative report must include the department's  
2 program activities and expenses since the last report and the project schedules and anticipated expenses for  
3 the ensuing 10 years' implementation of the future fisheries improvement program.

4 (c) In order to implement 87-1-273 and this section, the department may expend revenue from the future  
5 fisheries improvement program for up to two additional full-time employees. (Terminates July 1, 2009--sec. 6,  
6 Ch. 529, L. 1999.)"

7  
8 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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