

**Amendment - 1st Reading/2nd House-blue - Requested by: Mike Lang - (S) Finance and Claims**

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0520.002.001

1 HOUSE BILL NO. 520  
2 INTRODUCED BY D. LOGE  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A STUDY ON THE EFFECTS OF PRIVATE PONDS  
5 ON THE STATE, PERMITTING, WATER RIGHTS, AND OPTIONS TO MITIGATE NEGATIVE IMPACTS,  
6 INCLUDING INVASIVE SPECIES AND THREATS TO WILD FISH AND AQUATIC RESOURCES; ASSIGNING  
7 THE STUDY TO THE ENVIRONMENTAL QUALITY COUNCIL WATER POLICY INTERIM COMMITTEE;  
8 ESTABLISHING REPORTING REQUIREMENTS; PROVIDING AN APPROPRIATION; PROVIDING FOR  
9 CONTINGENT VOIDNESS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION  
10 DATE."

11  
12 WHEREAS, Montana's world-class fisheries are rooted in a philosophy of wild fish management; and  
13 WHEREAS, high-quality fisheries that rely on self-sustaining wild fish and high-quality aquatic habitat  
14 may be negatively impacted by private ponds; and

15 WHEREAS, often touted to increase property values, more than 10,000 pond permits have been  
16 issued—most of which remain active; and

17 WHEREAS, the department of fish, wildlife, and parks issues about 200 pond permits annually to stock  
18 fish, and the permit review is complex and burdensome leading to inconsistent administration statewide; and

19 WHEREAS, the department cost of managing private pond issues far outweighs the cost of the  
20 permit—\$10 for a 10-year permit or \$10 annually for a commercial production pond permit; and

21 WHEREAS, private ponds can provide optimal environments for invasive species and pathogen  
22 introduction and propagation; and

23 WHEREAS, the number of permitted in-state commercial hatcheries providing fish for private pond  
24 stocking declined over the last decade, and four of the remaining five commercial hatcheries are on limited  
25 quarantine due to invasive species or pathogen detection; and

26 WHEREAS, applications for importing stocked fish have increased fivefold because of limited in-state  
27 sources, increasing the risk of introducing nontarget species that could damage aquatic resources; and

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1 WHEREAS, stocking private ponds illegally from nonpermitted out-of-state commercial hatcheries is  
2 also on the rise due in part to easy access to fish purchased online and from other sources; and

3 WHEREAS, frequent and severe drought years in southwest Montana harm agriculture and fisheries,  
4 yet pond development continues, bringing with it increased water temperature and water loss from evaporation;  
5 AND

6 WHEREAS, IT IS CRITICAL TO FULLY UNDERSTAND HOW THE DEVELOPMENT OF PONDS MAY IMPACT  
7 CONSTITUTIONALLY PROTECTED WATER RIGHTS; AND

8 WHEREAS, THE PRIOR APPROPRIATION DOCTRINE AND MONTANA WATER USE ACT MUST BE CONSIDERED  
9 WHEN EVALUATING THE CUMULATIVE IMPACTS OF PONDS AND THE ASSOCIATED CONSUMPTION OF WATER; AND

10 WHEREAS, THE IMPACT OF PONDS ON EXISTING WATER RIGHTS IS AN IMPORTANT ELEMENT OF DETERMINING  
11 THE LEVEL AND TYPE OF PERMITTING THAT IS NECESSARY FOR PONDS.

12

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

14

15 NEW SECTION. Section 1. Study of private ponds. (1) The environmental quality council, provided  
16 for in ~~5-16-104~~ WATER POLICY INTERIM COMMITTEE, PROVIDED FOR IN 5-5-231, shall study issues related to private  
17 ponds as defined in 87-4-603.

18 (2) The study must examine:

19 (a) private pond policies, including permitting and protocols;

20 (b) impacts of private ponds on aquatic resources as well as water quality and quantity related to  
21 drought, high water temperatures, and evaporation and options to mitigate these impacts;

22 (C) COSTS OF REGULATING PRIVATE PONDS, INCLUDING FOR PERMITTING, ENFORCEMENT, FINES, FEES,  
23 AND RESTITUTION; and

24 (D) THE TYPE AND VOLUME OF PRIVATE PONDS IN THE STATE AND THE WATER RIGHTS ASSOCIATED WITH  
25 THOSE PONDS;

26 (E) THE EXISTENCE AND EXTENT OF PRIVATE PONDS THAT HAVE BEEN DEVELOPED WITHOUT A WATER  
27 RIGHT; and

