

HOUSE BILL NO. 520

INTRODUCED BY D. LOGE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A STUDY ON THE EFFECTS OF PRIVATE PONDS ON THE STATE, PERMITTING, WATER RIGHTS, AND OPTIONS TO MITIGATE NEGATIVE IMPACTS, INCLUDING INVASIVE SPECIES AND THREATS TO WILD FISH AND AQUATIC RESOURCES; ASSIGNING THE STUDY TO THE ~~ENVIRONMENTAL QUALITY COUNCIL~~ WATER POLICY INTERIM COMMITTEE; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING AN APPROPRIATION; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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

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

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

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

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

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

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

WHEREAS, stocking private ponds illegally from nonpermitted out-of-state commercial hatcheries is

1 also on the rise due in part to easy access to fish purchased online and from other sources; and
2 WHEREAS, frequent and severe drought years in southwest Montana harm agriculture and fisheries,
3 yet pond development continues, bringing with it increased water temperature and water loss from evaporation;

4 AND

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

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

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

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

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

17 (2) The study must examine:

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

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

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

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

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

27 ~~(e)(f)~~ (D) options to provide in-state certified fish to stock private ponds.

28 (3) ~~The environmental quality council~~ WATER POLICY INTERIM COMMITTEE shall complete the study by

1 September 15, 2024, and report its findings and recommendations, including legislation, to the 69th legislature.

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3 NEW SECTION. Section 2. Appropriation. There is appropriated ~~\$100,000~~ \$50,000 from the
4 general fund to the legislative services division for the biennium beginning July 1, 2023, to pay for costs
5 associated with the study required by [section 1].

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7 NEW SECTION. Section 3. Contingent voidness. (1) Pursuant to Joint Rule 40-65, if [this act] does
8 not include an appropriation prior to being transmitted to the governor, then [this act] is void.

9 (2) If the appropriation in [section 2] is vetoed, then [this act] is void.

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11 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

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13 NEW SECTION. Section 5. Termination. [Section 1] terminates December 31, 2024.

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