

CHAPTER 203
SB 129 - FINAL VERSION

02/18/2021 0416s
06/24/2021 2051EBA

2021 SESSION

21-1076
04/05

SENATE BILL ***129***

AN ACT relative to minimizing environmental impacts on the habitats of endangered or threatened species.

SPONSORS: Sen. Bradley, Dist 3

COMMITTEE: Energy and Natural Resources

AMENDED ANALYSIS

This bill requires all state departments and agencies to take actions designed to minimize environmental impacts to endangered or threatened species habitats. The bill also authorizes the executive director of fish and game to accept payment for the unavoidable loss of such habitat and establishes a threatened and endangered species compensatory mitigation fund.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to minimizing environmental impacts on the habitats of endangered or threatened species.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 203:1 Endangered Species Conservation Act; Conservation Programs. Amend RSA 212-A:9, III
2 to read as follows:

3 III. All other state departments and agencies, to the extent possible, consistent with their
4 authorities and responsibilities, shall assist and cooperate with the executive director in the
5 furtherance of the purposes of this chapter for the conservation of endangered or threatened species.
6 They shall take such action as is reasonable and prudent to insure that actions authorized, funded,
7 or carried out by them do not ***appreciably*** jeopardize the continued existence of such species or
8 result in the destruction or modification of habitat of such species which is determined by the
9 executive director to be critical, ***by requiring that all such action is designed to avoid and***
10 ***minimize harm to such species and habitat designated as critical. For the purpose of this***
11 ***statute, “appreciably jeopardize the continued existence of such species” shall be defined in***
12 ***rules adopted by the executive director pursuant to RSA 541-A.*** The provisions of RSA 212-A
13 or any rule promulgated under this chapter shall not be applicable to a state department or agency
14 when that state department or agency, in the process of undertaking an action, is required by federal
15 law or regulation to address the environmental impact on wildlife or wildlife habitat, of that action.

16 203:2 New Section; Fish and Game Fund; Funds Paid as Mitigation for Unavoidable Impacts to
17 Wildlife or Habitat of Wildlife. Amend RSA 206 by inserting after section 33-f the following new
18 section:

19 206:33-g Funds Paid as Mitigation for Unavoidable Impacts to Wildlife or Habitat of Wildlife.
20 The executive director may accept funds paid as mitigation for unavoidable impacts to wildlife or
21 habitat of wildlife within the state of New Hampshire. Notwithstanding any other provision of law
22 to the contrary, the executive director may accept and receive such funds without the approval of the
23 governor, the governor and council, or the commission. All moneys received under this section for
24 mitigation of impacts shall be deposited as follows:

25 I. For impacts to nongame species or the habitat of nongame species that are not considered
26 threatened or endangered, moneys shall be deposited in the nongame species account established
27 under RSA 212-B:6 and used solely for the purposes set forth in that section.

28 II. For impacts to threatened and endangered species or the habitats of threatened and
29 endangered species, moneys shall be deposited in the threatened and endangered species

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1 compensatory mitigation fund established under RSA 212-A:16 and used solely for the purposes set
2 forth in that section.

3 III. All other moneys received under this section shall be deposited into the fish and game
4 fund established under RSA 206:33 and used solely for the purposes set forth in RSA 206:34-a.

5 203:3 New Section; Endangered Species Conservation Act; Threatened and Endangered Species
6 Compensatory Mitigation Fund. Amend RSA 212-A by inserting after section 15 the following new
7 section:

8 212-A:16 Threatened and Endangered Species Compensatory Mitigation Fund. There is hereby
9 established in the state treasury a separate fund to be known as the threatened and endangered
10 species compensatory mitigation fund into which payments made pursuant to this section shall be
11 credited. The fund shall be non-lapsing and continually appropriated to the department, for the
12 purpose of funding projects that facilitate a net conservation benefit to threatened and endangered
13 species, including, but not limited to critical habitat creation or restoration and the monitoring and
14 maintenance of such areas. The state treasurer shall invest the fund as provided by law and any
15 interest received on such investment shall be credited to the fund. Notwithstanding any other
16 provision of law to the contrary, the executive director may accept payment for deposit into the fund
17 for an unavoidable loss of critical habitat from a proposed activity without the approval of the
18 governor, the governor and council, or the commission. The executive director shall approve
19 disbursements from the fund following consultation with the commissioner of the department of
20 environmental services. The department shall submit an annual report by October 1, 2022, and
21 every year there after, to the fiscal committee, the speaker of the house of representatives, the
22 president of the senate, the house clerk, the senate clerk, the governor, and the state library,
23 summarizing all deposits and expenditures from the fund. The report shall include, but not be
24 limited to a description of all projects undertaken. The executive director shall adopt rules under
25 RSA 541-A for the threatened and endangered species compensatory mitigation fund no later than
26 one year following the effective date of this section.

27 203:4 New Subparagraph; Application of Receipts; Threatened and Endangered Species
28 Compensatory Mitigation Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (364) the
29 following new subparagraph:

30 (365) Moneys credited to the threatened and endangered species compensatory
31 mitigation fund established in RSA 212-A:16.

203:5 Effective Date. This act shall take effect 60 days after its passage.

Approved: August 10, 2021
Effective Date: October 09, 2021