

Floor Amendment to SB 129

1 Amend the bill by replacing all after the enacting clause with the following:

2  
3 1 Endangered Species Conservation Act; Conservation Programs. Amend RSA 212-A:9, III to  
4 read as follows:

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

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

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

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

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

**Floor Amendment to SB 129**

**- Page 2 -**

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 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 limited  
24 to a description of all projects undertaken. The executive director shall adopt rules under RSA 541-  
25 A for the threatened and endangered species compensatory mitigation fund no later than one year  
26 following the effective date of this section.

27 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.

32 5 Effective Date. This act shall take effect 60 days after its passage.

**Floor Amendment to SB 129**  
**- Page 3 -**

2021-0416s

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.