



Montana Fish, Wildlife & Parks

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Ref: DO391-06
August 23, 2006

Representative Christopher Harris, Co-Chair
Representative Debby Barrett, Co-Chair
EQC
P.O. Box 201704
Helena, MT 59620-1704

Dear Representative Harris and Representative Barrett:

The attached legislative summaries provided to you for the Environmental Quality Council's (EQC) review and evaluation are those that have been reviewed and approved by the Governor's Office through the Office of Budget and Program Planning. The Fish, Wildlife and Parks Commission has also reviewed and approved the legislative proposals. Also Attached for the convenience of EQC is a list in priority of FWP's proposed legislation by title and another document that briefly summarizes each proposal.

Between now and the session FWP will be seeking review and input from the public, constituents, groups, local governments, other agencies including the Attorney General's Office, etc., on many of these proposals where that review and input will be appropriate and helpful.

FWP has one "placeholder" for possible legislation based on potential recommendations from the Private Land/Public Wildlife (PL/PW) Council. FWP may be able to report to EQC with any recommendations from the PL/PW Council as they are meeting this week. FWP is also reviewing the funding for the Ft. Peck hatchery operation. FWP will be reviewing options and working with constituent groups to develop a specific proposal. Also the proposal to make illegal outfitting a felony will probably not be an agency requested bill. FWP understands that the Montana Outfitters and Guides Association is considering requesting the bill.

FWP looks forward to discussing our proposed legislation package with you on September 11.

Sincerely,

M. Jeff Hagener
Director

C: Chris Smith, FWP
Larry Peterman, FWP
Bob Lane, FWP
Sue Daly, FWP

ENVIRONMENTAL QUALITY COUNCIL
September 11, 2006
Exhibit 9

2007 FWP Legislative Proposals Under Consideration

1. **Make the Future Fisheries Program Permanent.**
2. **Remove the Sunset on Prairie Dog Management.**
3. **Removing the Sunset from the Instream Leasing Authority and Allowing the Transfer of Water to Instream Flow.**
4. **Statutory Changes Proposed by the PL/PW Council.**
5. **Make Illegal Outfitting a Felony.**
6. **Revise Funding of the Ft. Peck Hatchery Operations.**
7. **Revise Boating Under the Influence Laws.**
8. **Require Trapper Safety and Education Course.**
9. **FWP Enforcement Authority for Minors in Possession of Intoxicating Substance.**
10. **Revise FWP's Outdated Publication Requirement for Hunting and Fishing Regulations.**
11. **Direct All Restitution Fines for Law Enforcement.**
12. **Increase the Commission's Authority to Set Reduced License Prices for Game Management Purposes.**
13. **Make Violations of Snowmobile Statutes Criminal Rather than Civil.**
14. **Repeal the Outdated Montana Conservation Corps Statutes.**

2007 FWP Legislative Proposals Under Consideration

- 1. Make the Future Fisheries Program Permanent.** Remove the sunset of July 1, 2009 from the Future Fisheries Improvement Program (MCA §§ 87-1-272 and 273) and the integrated Bull Trout and Cutthroat Trout Enhancement Program (MCA § 87-1-283). Continue Resource Indemnity Trust funding of \$500,000 which will otherwise also terminate July 1, 2009 (MCA § 15-38-202). If the programs are allowed to sunset, the department will lose the FTE established to implement the program and the dedicated revenue sources.
- 2. Remove the Sunset on Prairie Dog Management.** HB 492 passed by the 2001 Legislative Session allowed FWP to classify prairie dogs (white-tailed and black-tailed) as a species in need of management consistent with a management plan approved by FWP, the Department of Agriculture and the Department of Natural Resources and Conservation. Because prairie dogs are now a species in need of management, Montana is able to protect, manage and control prairie dogs pursuant to Montana's prairie dog conservation plan. HB 492 sunsets on October 1, 2007. This proposal would remove the sunset allowing Montana to continue active, balanced management of both prairie dog species (black-tailed and white-tailed).
- 3. Removing the Sunset from the Instream Leasing Authority and Allowing the Transfer of Water to Instream Flow.** The authority for FWP's successful water leasing program sunsets on June 20, 2009. This bill would remove the sunset and make the authority permanent. The bill would also allow FWP (and perhaps other government entities) to transfer consumptive rights to instream flow. Water right owners can change the use of their water to any other beneficial use provided other users are not adversely affected. The proposed change would allow FWP to change the use of a consumptive right owned by FWP, such as irrigation, to instream flows for fish and wildlife. For example, FWP needs this authority to accept water rights from ARCO for instream protection in the Upper Clark Fork River. This is a possible opportunity for FWP as part of the restoration of the Upper Clark Fork River. Leasing the water rights from ARCO for a maximum of 20 years now allowed by the leasing statute will not work here.
- 4. Statutory Changes Proposed by the PL/PW Council.** Before the year is up, the Private Lands/Public Wildlife Council (PL/PW) may have recommendations for legislative changes to improve FWP's Block Management Program. The range of possibilities include changes to landowner incentives, hunting license structure, and funding. This is a placeholder in the event the administration concurs with any changes and decides to request that an agency bill be drafted.
- 5. Make Illegal Outfitting a Felony.** Fines for illegal outfitting as misdemeanors are not high enough to be anything but a relatively minor cost of doing business. Also the Board of Outfitting can't revoke the license of an unlicensed, illegal outfitter. FWP intends this to be a "placeholder" in case the Board of Outfitting and/or the Montana Outfitters and Guides Association do not decide to introduce this legislation.

6. Revise Funding of the Ft. Peck Hatchery Operations. Because the warm water stamp revenue will not be sufficient to fund operations of the Fort Peck Hatchery, a legislative solution could be to increase the cost of the warm water stamp or to repeal the warm water fishing stamp and incorporate the warm water fishing fee into the general resident and nonresident fishing licenses. This request is a placeholder until FWP has investigated the options and has developed a specific proposal.

7. Revise Boating Under the Influence Laws. This proposal would strengthen the boating under the influence (BUI) law by clarifying the standards for alcohol concentration and testing. The present BUI law is difficult to enforce and does not meet the recommendations by the National Transportation Safety Board.

8. Require Trapper Safety and Education Course. Require successful completion of a trapper safety and education course as a pre-requisite to purchasing a trapper's license. The recreational aspects of trapping are similar in many respects to big game hunting in that the safe use of equipment, appropriate harvest practices and ethical behavior are a public expectation for a safe environment. Increasing conflicts between resident trappers and a growing number of recreating publics has highlighted the need for the state to require a reasonable level of knowledge by trappers to obtain a state license to harvest furbearers in Montana.

9. FWP Enforcement Authority for Minors in Possession of Intoxicating Substance. This bill would expand the authority of Fish, Wildlife and Parks Wardens, Park Rangers and Ex Officio Wardens, giving them authority to address possession of alcohol by minors in state parks, fishing access sites (FASs) and on public waters. This clarification would allow enforcement personnel to effectively enforce the law and protect department properties.

10. Revise FWP's Outdated Publication Requirement for Hunting and Fishing Regulations. In some circumstance the archaic publication requirements for FWP's hunting, fishing, trapping and land use rules are confusing and sometimes difficult or impossible to comply with. These rules are adopted annually or biennially as an exception to the Montana Administrative Procedures Act. The rules are not valid unless they are published as required by statute. MCA § 87-1-202. This proposal would cure these defects and modernize the publication requirements.

11. Direct All Restitution Fines for Law Enforcement. Presently each year the first \$60,000 of restitution fines (those additional fines for fish and wildlife violations intended as compensation for illegally taking a public resource) go to the department for hunter education or enforcement and any fines each year exceeding \$60,000 go to the general fund. MCA § 87-1-114 (2). This proposal would allocate all restitution fines collected each year to the department for law enforcement and hunter education.

12. Increase the Commission's Authority to Set Reduced License Prices for Game Management Purposes. Authorize the commission to set reduced prices for

licenses for species other than deer, elk and antelope for game management purposes. The commission already has the authority to authorize additional deer, elk and antelope management licenses at reduced prices. For example, this would allow the department to sell bighorn sheep ewe licenses and cow bison licenses at reduced rates for the purposes of reducing herd numbers. Hunting is not an effective tool for desired herd reductions when the license prices are high and there is a need to reduce the number of females.

13. Make Violations of Snowmobile Statutes Criminal Rather than Civil. Under current statutes, penalties for most snowmobile violations, with the exception of failure to display a current registration decal, have civil penalties. FWP does not currently have a process to handle the civil violations. This proposal would make these violations misdemeanors.

14. Repeal the Outdated Montana Conservation Corps Statutes. In 1989, the Montana Conservation Corps (MCC) was statutorily put under direction of the parks division within MCA § 23-1-301 through 23-1-314. In approximately 1993, MCC was reorganized to work as a non-profit and removed from direct state government oversight. The statute was never changed or repealed. This law needs to be repealed or revised to reflect the current structure and purpose of the Montana Conservation Corps.

Proposed 2007 Session Legislation

Agency Name: **Fish, Wildlife and Parks**

Agency No: **5201**

Priority Number: **1**

Filename: **\5201\03-001**

Short Title: **Make the Future Fisheries Program Permanent**

Agency Contact Person/Phone: **Jeff Hagener; Bob Lane (Legal); Chris Hunter (Fisheries)**

1. Purpose:

Remove the sunset of July 1, 2009 from the Future Fisheries Improvement Program (MCA §§ 87-1-272 and 273) and the intergrated Bull Trout and Cutthroat Trout Enhancement Program (MCA § 87-1-283). Continue Resource Indemnity Trust funding of \$500,000 which will otherwise also terminate July 1, 2009 (MCA § 15-38-202).

2. Background:

If the programs are allowed to sunset, the department will lose the FTE established to implement the program and the dedicated revenue sources. Without the FTE and funding sources, the programs will not be viable. A greatly reduced program could be maintained using the River Restoration funds. At this time there is very little public awareness of the sunset or involvement. These are very popular programs and FWP will begin this spring to make interested parties aware of the need to make these programs permanent.

3. Fiscal Impact by Fund Type:

This impact should be as specific as possible.

Potential loss of the \$500,000 annual allocation to this program from the Resource Indemnity Trust fund interest income.

4. Summary Checklist [Check & complete all that apply]--

- Housekeeping Only Federal Requirement Audit Recommendation (Audit No.) Major Legislation
- Anticipated to be Controversial Legislation Bill Draft has been included in Legislation Submittal (if available)
- Supports Submitted EPP Item Number: Local Government Fiscal Impact
- Increases FTE, or Decreases FTE by

List FTE amount and program

- Increases Existing Revenue Tax Fee Penalty [amount in #3]
- Decreases Existing Revenue Tax Fee Penalty [amount in #3]
- Establishes New Revenue Tax Fee Penalty [amount in #3]

Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):

Legislation would affect other state agencies (list):

Special Interest Groups Affected (list):

People who fish; organizations like Trout Unlimited

Other:

Proposed 2007 Session Legislation

Agency Name: Fish, Wildlife and Parks Agency No: 5201

Priority Number: 2 Filename: \5201\05-002

Short Title: Remove the Sunset on Prairie Dog Management

Agency Contact Person/Phone: Jeff Hagener; Bob Lane (Legal); Don Childress (Wildlife)

1. Purpose:
 HB 492 passed by the 2001 Legislative Session allowed FWP to classify prairie dogs (white-tailed and black-tailed) as a species in need of management consistent with a management plan approved by FWP, the Department of Agriculture and the Department of Natural Resources and Conservation. Because prairie dogs are now a species in need of management, Montana is able to protect, manage and control prairie dogs pursuant to Montana's prairie dog conservation plan. HB 492 sunsets on October 1, 2007. This proposal would remove the sunset allowing Montana to continue active, balanced management of both prairie dog species (black-tailed and white-tailed).

2. Background:
 In the 2001 legislation, MCA § 87-5-102 was amended to include carefully crafted language that paved the way for "dual" legal status for the two prairie dog species that inhabit Montana. Previous to passage of HB 492, FWP did not have legal authority to establish rules to conserve prairie dogs because they were "otherwise classified" elsewhere in Montana statutes. Specifically, both black-tailed and white-tailed prairie dogs are classified as "vertebrate pests" by statute and the black-tailed prairie dog is also classified as a "rodent" for the purpose of forming rodent control districts (MCA §§ 80-7-1101 and 7-22-2207 (6)). HB 492 established dual legal status for both prairie dog species: clarifying that prairie dogs do fall under the classification of "nongame" wildlife, while also affirming the legal status of prairie dogs under Department of Agriculture statutes as "vertebrate pests" and affirming the legal status of the black-tailed prairie dog as a "rodent." In addition, language in HB 492 reaffirmed the prerogative of landowners to control prairie dogs on their private lands as they desire.

Achieving "nongame" status for prairie dogs was featured as Objective #1 in the then-draft Conservation Plan for White-tailed Prairie Dogs and Black-tailed Prairie Dogs in Montana. This document was formally adopted in 2002 by FWP, Montana Department of Agriculture, Montana Department of Natural Resources & Conservation, BLM, USFS Northern Region, Bureau of Indian Affairs, NRCS and APHIS:Wildlife Services. The goal of this conservation plan is to provide for management of prairie dog populations and habitats to ensure the long-term viability of prairie dogs and associated species. However, it was also abundantly obvious in 2001 that the potential to avoid listing under the federal Endangered Species Act of the black-tailed prairie dog could be reduced if Montana and other states amended existing statutes that, for all practical purposes, provided solely for the extermination of prairie dogs - and by extension, all wildlife species associated with prairie dogs.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*
 Removing the sunset will preserve the status quo and, therefore, will not have a fiscal impact.

4. Summary Checklist [Check & complete all that apply]--

Housekeeping Only
 Federal Requirement
 Audit Recommendation (Audit No.)
 Major Legislation
 Anticipated to be Controversial Legislation
 Bill Draft has been included in Legislation Submittal (if available)
 Supports Submitted EPP Item Number:
 Local Government Fiscal Impact
 Increases FTE, or
 Decreases FTE by

List FTE amount and program

Increases Existing Revenue
 Tax
 Fee
 Penalty [amount in #3]
 Decreases Existing Revenue
 Tax
 Fee
 Penalty [amount in #3]
 Establishes New Revenue
 Tax
 Fee
 Penalty [amount in #3]

Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):

HB 492 (2001)

Legislation would affect other state agencies (list):

DNRC and Dept. of Ag.

Special Interest Groups Affected (list):

Conservation Organizations; Mt. Shooting Sports Ass'n; Stockgrower; other Ag. groups

Other:

Proposed 2007 Session Legislation

Agency Name: **Fish, Wildlife and Parks**

Agency No: **5201**

Priority Number: **3**

Filename: **5201\03-003**

Short Title: **Removing the sunset from the instream leasing authority and allowing the transfer of water to instream flow**

Agency Contact Person/Phone: **Jeff Hagener; Bob Lane (Legal)**

1. Purpose:

The authority for FWP's successful water leasing program sunsets on June 20, 2009. This bill would remove the sunset and make the authority permanent. The bill would also allow FWP (and perhaps other government entities) to transfer consumptive rights to instream flow. Water right owners can change the use of their water to any other beneficial use provided other users are not adversely affected. The proposed change would allow FWP to change the use of a consumptive right owned by FWP, such as irrigation, to instream flows for fish and wildlife. For example, FWP needs this authority to accept water rights from ARCO for instream protection in the Upper Clark Fork River. This is a possible opportunity for FWP as part of the restoration of the Upper Clark Fork River. Leasing the water rights from ARCO for a maximum of 20 years now allowed by the leasing statute will not work here.

2. Background:

Make the leasing program permanent. The leasing program was conceived as a study in 1989. Ten years into the program the EQC published a final report on the leasing study. The EQC considered making the program permanent but recommended that the study be continued for another ten years citing the need to take a cautious approach with the legislature rather than risk losing the entire program to a sunset clause. FWP's current authority to lease water will expire in 2009. FWP believes that the study phase of water leasing can be safely drawn to a close.

Permanent dedication of water to instream flow. The leasing program is a valuable tool for the enhancement of fishery resources. However, the time limitations imposed by statute call into question its long-term effectiveness. Other western states including Colorado and Oregon allow water to be permanently dedicated to instream flow. Montana does not. Moreover in Montana, a consumptive water right holder may change the use of that right to any beneficial use other than instream flow so long as certain statutory criteria are met – the most important of which is that the change does not adversely affect any other water user.

Because many of Montana's rivers and streams are over allocated and large areas are closed to new surface water appropriations, those seeking new uses of water are increasingly looking to purchase water rights. As a markets for water rights develop and the value of water rights increases, the cost to lease water will increase as well. At this time, however, there are still opportunities to not only lease water, but to purchase or otherwise acquire them permanently. It follows that we need a mechanism to permanently dedicate formerly consumptive water rights to instream flow. Instream flow rights will benefit rather than harm or adversely affect other water right users such as irrigators, especially with appropriate and adequate safeguards. In fact the present process for changes in the use of a water right, administered by DNRC, requires a determination that the change in use will not adversely affect other water right users.

3. Fiscal Impact by Fund Type:

This impact should be as specific as possible.

No direct fiscal impact. However, this Legislature and future Legislatures may appropriate money for leases and purchases of consumptive water rights for conversion to instream flows.

4. Summary Checklist [Check & complete all that apply]--

- Housekeeping Only Federal Requirement Audit Recommendation (Audit No.) Major Legislation
- Anticipated to be Controversial Legislation Bill Draft has been included in Legislation Submittal (if available)
- Supports Submitted EPP Item Number: Local Government Fiscal Impact
- Increases FTE, or Decreases FTE by

List FTE amount and program

- Increases Existing Revenue Tax Fee Penalty [amount in #3]
- Decreases Existing Revenue Tax Fee Penalty [amount in #3]
- Establishes New Revenue Tax Fee Penalty [amount in #3]

Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):

HB 515 (2005) failed

Legislation would affect other state agencies (list):

DNRC

Special Interest Groups Affected (list):

Trout Unlimited, Walleyes Unlimited

Other:

People who fish and recreate in the state's rivers and streams

Proposed 2007 Session Legislation

Agency Name: **Fish, Wildlife and Parks**

Agency No: **5201**

Priority Number: **4**

Filename: **5201\02-004**

Short Title: **Statutory Changes Proposed by the PL/PW Council**

Agency Contact Person/Phone: **Jeff Hagener; Bob Lane (Legal)**

1. Purpose:
 Before the year is up, the Private Lands/Public Wildlife Council (PL/PW) may have recommendations for legislative changes to improve FWP's Block Management Program. The range of possibilities include changes to landowner incentives, hunting license structure, and funding. This is a placeholder in the event the administration concurs with any changes and decides to request that an agency bill be drafted.

2. Background:
 The PL/PW Council is reviewing, as required by statute, the hunting access enhancement program (Block Management Program), landowner relations, outfitter issues, and related issues. They are asked to "make recommendations for funding, modification, or improvements needed to acheive the objectives of the program (hunter access enhancement program)." MCA § 87-1-269(2). If the present Council makes recommendations that need to be implemented by statutory changes, the legislation will likely be proposed and sponsored by the legislator members of the Council

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*
 Any fiscal impacts will depend on the Council's recommendations.

4. Summary Checklist [Check & complete all that apply]--

Housekeeping Only
 Federal Requirement
 Audit Recommendation (Audit No.)
 Major Legislation
 Anticipated to be Controversial Legislation
 Bill Draft has been included in Legislation Submittal (if available)
 Supports Submitted EPP Item Number:
 Local Government Fiscal Impact
 Increases FTE, or
 Decreases FTE by

List FTE amount and program

Increases Existing Revenue
 Tax
 Fee
 Penalty [amount in #3]
 Decreases Existing Revenue
 Tax
 Fee
 Penalty [amount in #3]
 Establishes New Revenue
 Tax
 Fee
 Penalty [amount in #3]

Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):

Legislation would affect other state agencies (list):

Special Interest Groups Affected (list):

PL/PW council; MOGA; landowner groups like the Stockgrowers; hunting and fishing groups like the MWF.

Other:

Landowners, hunters and fishers, and outfitters

Proposed 2007 Session Legislation

Agency Name: **Fish, Wildlife and Parks**

Agency No: **5201**

Priority Number: **5**

Filename: **\5201\04-005**

Short Title: **Make Illegal Outfitting A Felony**

Agency Contact Person/Phone: **Jeff Hagener; Bob Lane (Legal); Jim Kropp (Enforcement)**

1. Purpose:

Fines for illegal outfitting as misdemeanors are not high enough to be anything but a relatively minor cost of doing business. Also the Board of Outfitting can't revoke the license of an unlicensed, illegal outfitter. FWP intends this to be a "placeholder" in case the Board of Outfitting and/or the Montana Outfitters and Guides Association do not decide to introduce this legislation.

2. Background:

Individuals are providing unlicensed or rogue outfitting or guiding services for hunting and fishing throughout Montana. The current fines and penalties for unlicensed practice are far less than the fees or remuneration received for providing the unlawful services and are merely a cost of doing business for the unlicensed providers. Currently, the Board of Outfitters has no regulatory authority over the unlicensed operators. The licensed outfitting industry is harmed by the unprofessional and unethical behavior of the unlicensed parties who are generally in operation to turn a quick profit. Additionally, unlicensed operators lease private lands, which causes more private lands to be closed to traditional public access.

3. Fiscal Impact by Fund Type:

This impact should be as specific as possible.

This bill will be essentially revenue neutral. FWP Wardens will continue to enforce the illegal outfitting statutes but with a greater penalty for violators. However, compliance is expected to be greater, therefore offsetting higher fines. Fines revenues are split evenly between counties and the general fund.

4. Summary Checklist [Check & complete all that apply]--

- Housekeeping Only Federal Requirement Audit Recommendation (Audit No.) Major Legislation
- Anticipated to be Controversial Legislation Bill Draft has been included in Legislation Submittal (if available)
- Supports Submitted EPP Item Number: Local Government Fiscal Impact
- Increases FTE, or Decreases FTE by

List FTE amount and program

- Increases Existing Revenue Tax Fee Penalty [amount in #3]
- Decreases Existing Revenue Tax Fee Penalty [amount in #3]
- Establishes New Revenue Tax Fee Penalty [amount in #3]

Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):

Legislation would affect other state agencies (list):

Board of Outfitting.

Special Interest Groups Affected (list):

Mont. Outfitters and Guides Ass'n

Other:

Non-resident hunters

Proposed 2007 Session Legislation

Agency Name: **Fish, Wildlife and Parks**

Agency No: **5201**

Priority Number: **6**

Filename: **5201\03-006**

Short Title: **Revise Funding Of the Ft. Peck Hatchery Operations**

Agency Contact Person/Phone: **Jeff Hagener; Bob Lane (Legal); Chris Hunter (Fisheries)**

1. Purpose:
 Because the warm water stamp revenue will not be sufficient to fund operations of the Fort Peck Hatchery, a legislative solution could be to increase the cost of the warm water stamp or to repeal the warm water fishing stamp and incorporate the warm water fishing fee into the general resident and nonresident fishing licenses.

2. Background:
 This request is a placeholder until FWP has investigated the options and has developed a specific proposal. The operations of the Ft. Peck Hatchery were initially intended by the Legislature to be funded with revenue from the warmwater stamp (MCA §§ 87-3-235 and 236). However, it is apparent the revenues will not be sufficient to fund operations. There are several options being considered. Not all potential solutions require legislation. FWP is currently exploring other funding possibilities including seeking federal funding for the operations and maintenance associated with raising pallid sturgeon and using the warmwater stamp or general license revenues (which would require legislation) to match federal Wallop-Breaux to cover the cost of the hatchery. At this time it appears that the most sure way to fund the hatchery is to take legislative action, use the funds to match Wallop-Breaux and obtain some federal financial assistance for propagation of pallid sturgeon. The interested angler groups, including Walleyes Unlimited, are very aware of the need to address this problem. The Region 6 Citizen Advisory Committee is exploring this issue and will make recommendations to the department. Trout Unlimited, which has been an opponent of the hatchery, is also aware of the situation.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*
 The shortfall in warm water stamp fees to fund the operations of the Fort Peck Hatchery will need to come from somewhere. The cost to operate the Fort Peck Hatchery is estimated at \$400,000 annually. The warmwater fish stamp generates approximately \$250,000 annually. The difference of \$150,000 will need to come from a warmwater fish stamp fee increase, some other fee adjustment, or from the general license account fund balance.

- 4. Summary Checklist [Check & complete all that apply]--**
- Housekeeping Only Federal Requirement Audit Recommendation (Audit No.) Major Legislation
 - Anticipated to be Controversial Legislation Bill Draft has been included in Legislation Submittal (if available)
 - Supports Submitted EPP Item Number: Local Government Fiscal Impact
 - Increases FTE, or Decreases FTE by

List FTE amount and program

- Increases Existing Revenue Tax Fee Penalty [amount in #3]
- Decreases Existing Revenue Tax Fee Penalty [amount in #3]
- Establishes New Revenue Tax Fee Penalty [amount in #3]

Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):

Legislation would affect other state agencies (list):

Special Interest Groups Affected (list):

Walleyes Unlimited; Trout Unlimited

Other:

City of Glasgow and surrounding community

Proposed 2007 Session Legislation

Agency Name: **Fish, Wildlife and Parks**

Agency No: **5201**

Priority Number: **7**

Filename: **5201\04-007**

Short Title: **Revise Boating Under the Influence Laws**

Agency Contact Person/Phone: **Jeff Hagener; Bob Lane (Legal); Jim Kropp (Enforcement)**

1. Purpose:
 This proposal would strengthen the boating under the influence (BUI) law by clarifying the standards for alcohol concentration and testing. The present BUI law is difficult to enforce and does not meet the recommendations by the National Transportation Safety Board.

2. Background:
 In 2005, the BUI proposal was combined with FWP's minor in possession proposal. For 2007, they are separate proposals. FWP will again work with the Attorney General's Office in developing a draft bill.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*
 FWP anticipates no fiscal impact. The purchase of additional needed equipment (primarily portable breath testers) will be done with other available funds and the training requirements would be phased in using existing funding.

4. Summary Checklist [Check & complete all that apply]--

Housekeeping Only
 Federal Requirement
 Audit Recommendation (Audit No.)
 Major Legislation
 Anticipated to be Controversial Legislation
 Bill Draft has been included in Legislation Submittal (if available)
 Supports Submitted EPP Item Number:
 Local Government Fiscal Impact
 Increases FTE, or
 Decreases FTE by

List FTE amount and program

Increases Existing Revenue
 Tax
 Fee
 Penalty [amount in #3]
 Decreases Existing Revenue
 Tax
 Fee
 Penalty [amount in #3]
 Establishes New Revenue
 Tax
 Fee
 Penalty [amount in #3]

Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):

HB 120 (2005) failed

Legislation would affect other state agencies (list):

Department of Justice

Special Interest Groups Affected (list):

Other:

Recreational Boaters

Proposed 2007 Session Legislation

Agency Name: **Fish, Wildlife and Parks**

Agency No: **5201**

Priority Number: **8**

Filename: **5201\05-008**

Short Title: **Require Trapper Safety and Education Course**

Agency Contact Person/Phone: **Jeff Hagener; Bob Lane (Legal); Don Childress (Wildlife)**

1. Purpose:
Require successful completion of a trapper safety and education course as a pre-requisite to purchasing a trapper's license.

2. Background:
The recreational aspects of trapping are similar in many respects to big game hunting in that the safe use of equipment, appropriate harvest practices and ethical behavior are a public expectation for a safe environment. Increasing conflicts between resident trappers and a growing number of recreating publics has highlighted the need for the state to require a reasonable level of knowledge by trappers to obtain a state license to harvest furbearers in Montana. Various publics have indicated that they expect state-licensed trappers to meet safety and educational requirements before going afield under a similar context to current hunter and bowhunter licensing requirements. The public may demand more restrictive trapping regulations if there are no efforts to address trapping safety and ethics. The Montana Trapper's Association has endorsed trapper education as a state requirement. During the 2005 legislative session, Rep. Gail Gutsche submitted HB 603, which included language to require trapper safety and education instruction prior to the purchase of any trapper's license. The bill died during first reading in the Fish & Game committee on a tie vote.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*
There will be some additional staff time expended to establish a trapper safety education course. Based on the fiscal note for HB 603 (2005), approximately \$20,000 will be needed the first year for program set up costs. In subsequent years, the annual cost is estimated to \$3,150. The source would be FWP's special license account.

4. Summary Checklist [Check & complete all that apply]--

Housekeeping Only Federal Requirement Audit Recommendation (Audit No.) Major Legislation

Anticipated to be Controversial Legislation Bill Draft has been included in Legislation Submittal (if available)

Supports Submitted EPP Item Number: Local Government Fiscal Impact

Increases FTE, or Decreases FTE by

List FTE amount and program

Increases Existing Revenue Tax Fee Penalty [amount in #3]

Decreases Existing Revenue Tax Fee Penalty [amount in #3]

Establishes New Revenue Tax Fee Penalty [amount in #3]

Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):

HB 603 (2005) Failed

Legislation would affect other state agencies (list):

Special Interest Groups Affected (list):

Montana Trapper's Association

Other:

Trappers; recreating public

Proposed 2007 Session Legislation

Agency Name: **Fish, Wildlife and Parks**

Agency No: **5201**

Priority Number: **9**

Filename: **\5201\04-009**

Short Title: **FWP Enforcement Authority for Minors in Possession of Intoxicating Substances**

Agency Contact Person/Phone: **Jeff Hagener; Bob Lane (Legal); Jim Kropp (Enforcement)**

1. Purpose:

This bill would expand the authority of Fish, Wildlife and Parks Wardens, Park Rangers and Ex Officio Wardens, giving them authority to address possession of alcohol by minors in state parks, fishing access sites (FASs) and on public waters. This clarification would allow enforcement personnel to effectively enforce the law and protect department properties.

2. Background:

Because of the ambiguity in Warden's enforcement authority in regard to minors in possession (MIP), enforcement personnel are at a loss as to whether to take action or ignore MIPs at state parks, FASs and on public water.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*

This legislation may reduce impacts from vandalism at state parks and fishing access sites. The 2005 fiscal note for HB 120 estimated that revenues from MIP violations would be \$3,750 to the general fund each fiscal year.

4. Summary Checklist [Check & complete all that apply]--

- Housekeeping Only Federal Requirement Audit Recommendation (Audit No.) Major Legislation
- Anticipated to be Controversial Legislation Bill Draft has been included in Legislation Submittal (if available)
- Supports Submitted EPP Item Number: Local Government Fiscal Impact
- Increases FTE, or Decreases FTE by

List FTE amount and program

- Increases Existing Revenue Tax Fee Penalty [amount in #3]
- Decreases Existing Revenue Tax Fee Penalty [amount in #3]
- Establishes New Revenue Tax Fee Penalty [amount in #3]

Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):

HB 120 (2005) Failed

Legislation would affect other state agencies (list):

Special Interest Groups Affected (list):

Other:

State Parks and Fishing Access Site Users

Proposed 2007 Session Legislation

Agency Name: **Fish, Wildlife and Parks**

Agency No: **5201**

Priority Number: **10**

Filename: **\5201\05-010**

Short Title: **Revise FWP's Outdated Publication Requirement for Hunting and Fishing Regulations**

Agency Contact Person/Phone: **Jeff Hagener; Bob Lane (Legal)**

1. Purpose:

In some circumstance the archaic publication requirements for FWP's hunting, fishing, trapping and land use rules are confusing and sometimes difficult or impossible to comply with. These rules are adopted annually or biennially as an exception to the Montana Administrative Procedures Act. The rules are not valid unless they are published as required by statute. MCA § 87-1-202. This proposal would cure these defects and modernize the publication requirements.

2. Background:

The current statutes are outdated for the posting and publication of orders, rules and regulations as it applies to local situations. The statute gives the agency broad flexibility in publication for rules that have general application across the state but requires local newspaper publication and posting in three conspicuous locations for rules of local application. There is room for debate as to what is of general application and what is of local application. For example, this is the basis for a defense in an ongoing criminal prosecution. Another example of a specific problem is the quota closure system for mountain lions, furbearers and other species. It very difficult to meet these provisions especially when closures need to be made in 12 or 24 hours after the quota is reached. A longer period results in quota harvest overages which is a concern to both the department and the commission. The statue would be amended to allow for alternative methods of publication such as the department web site, and hotline numbers for closures or other technological systems that are readily available to the public.

3. Fiscal Imact by Fund Type:

This impact should be as specific as possible.

There should be no fiscal impact.

4. Summary Checklist [Check & complete all that apply]--

- Housekeeping Only Federal Requirement Audit Recommendation (Audit No.) Major Legislation
- Anticipated to be Controversial Legislation Bill Draft has been included in Legislation Submittal (if available)
- Supports Submitted EPP Item Number: Local Government Fiscal Impact
- Increases FTE, or Decreases FTE by

List FTE amount and program

- Increases Existing Revenue Tax Fee Penalty [amount in #3]
- Decreases Existing Revenue Tax Fee Penalty [amount in #3]
- Establishes New Revenue Tax Fee Penalty [amount in #3]

Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):

Legislation would affect other state agencies (list):

Special Interest Groups Affected (list):

Sportsmen and women's groups like the Montana Wildlife Federation; outfitters like Montana Outfitters and Guides Ass'n

Other:

hunters and fishers; individual outfitters

Proposed 2007 Session Legislation

Agency Name: **Fish, Wildlife and Parks**

Agency No: **5201**

Priority Number: **11**

Filename: **\520\04-011**

Short Title: **Direct All Restitution Fines For Law Enforcement**

Agency Contact Person/Phone: **Jeff Hagener; Bob Lane (Legal); Jim Kropp (Enforcement)**

1. Purpose:
 Presently each year the first \$60,000 of restitution fines (those additional fines for fish and wildlife violations intended as compensation for illegally taking a public resource) go to the department for hunter education or enforcement and any fines each year exceeding \$60,000 go to the general fund. MCA § 87-1-114 (2). This proposal would allocate all restitution fines collected each year to the department for law enforcement and hunter education.

2. Background:
 Montana is seeing an increase in the number of organized wildlife crimes. FWP has witnessed an increasing need for additional in-depth investigative and trial preparation support essential to control the unlawful commercialization of our public resources. As a result, the amount of time available for routine patrol and hunter, angler, landowner, park visitor and recreationist contacts, one of the prime foundations for deterring criminal behavior, is diminishing. Redirecting the restitution to FWP Law Enforcement will assist in paying for the additional criminal investigators that are needed to deter and investigate the increasing amount of organized wildlife crimes.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*
 For calendar year 2004, the amount of restitution fines was \$60,000. FWP is collecting the data for other past years. FWP does know that the restitution fines are usually around \$60,000 per year, sometimes more and sometimes less. Therefore, the loss to the general fund will be very minor. However, FWP is requesting approval of an additional 2 special investigators of professional poaching. FWP's experience, based on the pilot project implemented by the 2005 Legislature, is that each investigator will be responsible for imposition and collection of at least \$50,000 annually in restitution fines.

4. Summary Checklist [Check & complete all that apply]--

Housekeeping Only
 Federal Requirement
 Audit Recommendation (Audit No.)
 Major Legislation
 Anticipated to be Controversial Legislation
 Bill Draft has been included in Legislation Submittal (if available)
 Supports Submitted EPP Item Number:
 Local Government Fiscal Impact
 Increases FTE, or
 Decreases FTE by

List FTE amount and program

Increases Existing Revenue
 Tax
 Fee
 Penalty [amount in #3]
 Decreases Existing Revenue
 Tax
 Fee
 Penalty [amount in #3]
 Establishes New Revenue
 Tax
 Fee
 Penalty [amount in #3]

Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):

Legislation would affect other state agencies (list):

The restitution fines in excess of \$60,000 would no longer go into the general fund.

Special Interest Groups Affected (list):

Other:

State Parks and Fishing Access Site Users

Proposed 2007 Session Legislation

Agency Name: **Fish, Wildlife and Parks**

Agency No: **5201**

Priority Number: **12**

Filename: **\520\105-012**

Short Title: **Increase the Commission's Authority to Set Reduced License Prices for Game Management Purposes**

Agency Contact Person/Phone: **Jeff Hagener; Bob Lane (Legal); Don Childress (Wildlife)**

1. Purpose:
 Authorize the commission to set reduced prices for licenses for species other than deer, elk and antelope for game management purposes. The commission already has the authority to authorize additional deer, elk and antelope management licenses at reduced prices. For example, this would allow the department to sell bighorn sheep ewe licenses and cow bison licenses at reduced rates for the purposes of reducing herd numbers.

2. Background:
 Hunting is not an effective tool for desired herd reductions when the license prices are high and there is a need to reduce the number of females. For example, hunters are not willing to pay the high price for a bighorn sheep license if it is for a ewe rather than a ram. This proposal would allow the commission to price game management license for females of a species at a fee that will attract hunters.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*
 The increased number of licenses sold will be offset by the lower prices. No net gain or loss is anticipated.

4. Summary Checklist [Check & complete all that apply]--

Housekeeping Only
 Federal Requirement
 Audit Recommendation (Audit No.)
 Major Legislation
 Anticipated to be Controversial Legislation
 Bill Draft has been included in Legislation Submittal (if available)
 Supports Submitted EPP Item Number:
 Local Government Fiscal Impact
 Increases FTE, or
 Decreases FTE by

List FTE amount and program

Increases Existing Revenue
 Tax
 Fee
 Penalty [amount in #3]
 Decreases Existing Revenue
 Tax
 Fee
 Penalty [amount in #3]
 Establishes New Revenue
 Tax
 Fee
 Penalty [amount in #3]

Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):

Legislation would affect other state agencies (list):

Special Interest Groups Affected (list):

Hunters and hunter organizations; Montana Wildlife Federation

Other:

Proposed 2007 Session Legislation

Agency Name: **Fish, Wildlife and Parks**

Agency No: **5201**

Priority Number: **13**

Filename: **5201\04-013**

Short Title: **Make Violations of Snowmobile Statutes Criminal Rather Than Civil**

Agency Contact Person/Phone: **Jeff Hagener; Bob Lane (Legal); Jim Kropp (Enforcement)**

1. Purpose:
 Under current statutes, penalties for most snowmobile violations, with the exception of failure to display a current registration decal, have civil penalties. FWP does not currently have a process to handle the civil violations. This proposal would make these violations misdemeanors.

2. Background:
 Without this proposed legislation FWP would need to establish a process to handle the civil violations and also would need to design and print separate civil ticket books. Changing snowmobile violations from civil penalties to misdemeanor penalties would make all violations that are enforceable by FWP consistent.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*
 Handling snowmobile violations as civil violations will require more staff time and expense than dealing with the violations as misdemeanors.

4. Summary Checklist [Check & complete all that apply]--

Housekeeping Only
 Federal Requirement
 Audit Recommendation (Audit No.)
 Major Legislation
 Anticipated to be Controversial Legislation
 Bill Draft has been included in Legislation Submittal (if available)
 Supports Submitted EPP Item Number:
 Local Government Fiscal Impact
 Increases FTE, or
 Decreases FTE by

List FTE amount and program

Increases Existing Revenue
 Tax
 Fee
 Penalty [amount in #3]
 Decreases Existing Revenue
 Tax
 Fee
 Penalty [amount in #3]
 Establishes New Revenue
 Tax
 Fee
 Penalty [amount in #3]

Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):

Legislation would affect other state agencies (list):

Special Interest Groups Affected (list):

Snowmobile organizations and participants

Other:

Proposed 2007 Session Legislation

Agency Name: **Fish, Wildlife and Parks**

Agency No: **5201**

Priority Number: **14**

Filename: **\5201\06-014**

Short Title: **Repeal the Outdated Montana Conservation Corps Statutes**

Agency Contact Person/Phone: **Jeff Hagener; Bob Lane (Legal); Joe Maurier (Parks)**

1. Purpose:
 In 1989, the Montana Conservation Corps (MCC) was statutorily put under direction of the parks division within MCA § 23-1-301 through 23-1-314. In approximately 1993, MCC was reorganized to work as a non-profit and removed from direct state government oversight. The statute was never changed or repealed. This law needs to be repealed or revised to reflect the current structure and purpose of the Montana Conservation Corps.

2. Background:
 Current statute states that the parks division of FWP is home to the Montana Conservation Corps. This has not been the case for at least 8 years. This law needs to be repealed or revised to reflect the current structure and purpose of the Montana Conservation Corps. FWP has spoken with the Office of Community Service regarding the statute. That office agrees that this law is no longer pertinent. FWP will meet with the Montana Conservation Corps and Office of Community Service to assure that there is a agreement that the statute should be repealed.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*
 None

4. Summary Checklist [Check & complete all that apply]--

Housekeeping Only
 Federal Requirement
 Audit Recommendation (Audit No.)
 Major Legislation
 Anticipated to be Controversial Legislation
 Bill Draft has been included in Legislation Submittal (if available)
 Supports Submitted EPP Item Number:
 Local Government Fiscal Impact
 Increases FTE, or
 Decreases FTE by

List FTE amount and program

Increases Existing Revenue
 Tax
 Fee
 Penalty [amount in #3]
 Decreases Existing Revenue
 Tax
 Fee
 Penalty [amount in #3]
 Establishes New Revenue
 Tax
 Fee
 Penalty [amount in #3]

Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):

Legislation would affect other state agencies (list):
 Office of Community Service

Special Interest Groups Affected (list):
 Montana Conservation Corps

Other: