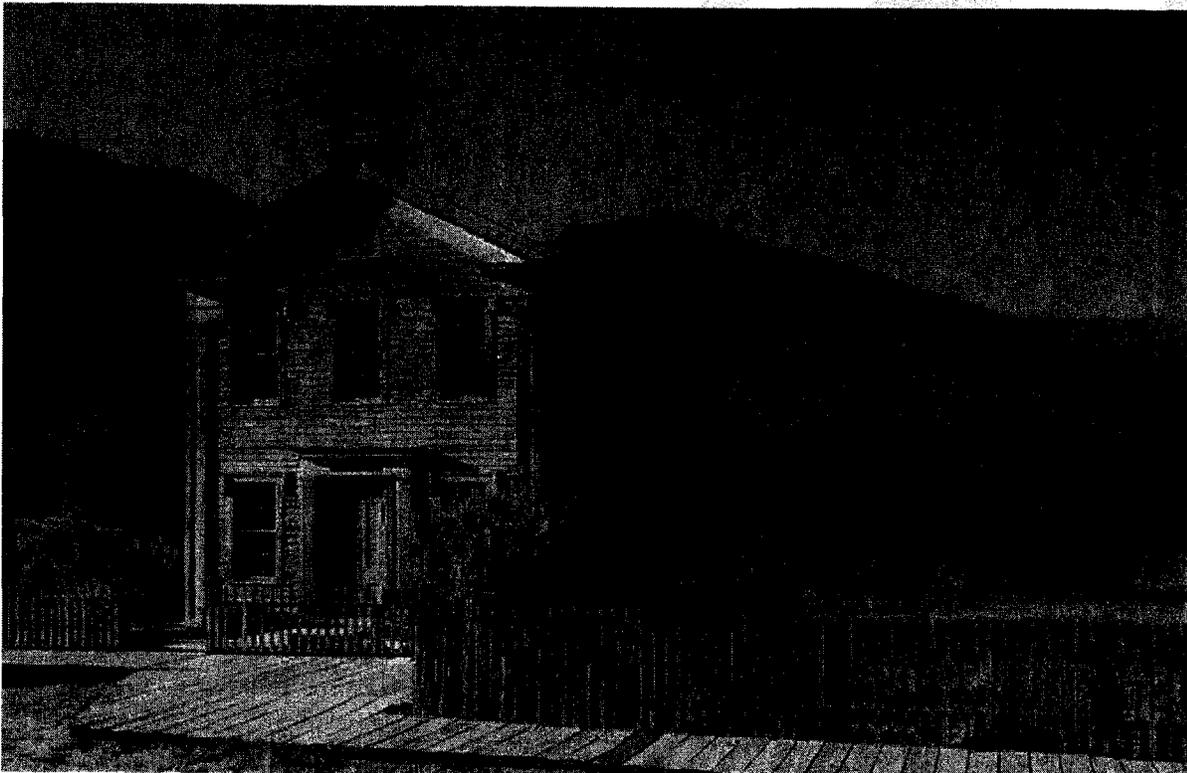


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HJR 32

**A Study of State Parks, Outdoor Recreation, and
Heritage Resource Programs**



Masonic Lodge and School House, Bannack State Park -- Photo by Hope Stockwell

**A report to the 63rd Legislature
July 2012**

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September 12, 2012
Exhibit 7

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Introduction

House Joint Resolution No. 32 (Appendix A), assigned to the Environmental Quality Council (EQC), requested an interim study of ways to improve the management, recognition, and coordination of state parks and outdoor recreation and heritage resource programs operated by the state of Montana.

HJR 32 asked that the assigned committee:

- review audits and studies related to the management, support, and funding of state parks and outdoor recreational and heritage resource programs;
- evaluate the priority, organizational structure, and management of Department of Fish, Wildlife, and Parks (DFWP) programs related to state parks, boating, off-highway vehicles, and snowmobiling;
- evaluate the relationship between state, city, county, and federal park and recreation programs and provide recommendations for improving statewide coordination and communication between these programs;
- identify methods to improve the management of state parks and recreational and heritage resources for Montana citizens while supporting local communities and their economic health;
- compile and review information on other state park and recreational systems in the Rocky Mountain region, including their organizational structure, management, and governance;
- recommend changes to improve the balance, effectiveness, and priority of parks, recreation, and heritage resource stewardship in Montana; and
- propose legislation for consideration by the 63rd Legislature that raises the awareness, professionalism, and priority of state parks and recreational programs in Montana and establishes a state parks and recreation board that fosters additional citizen involvement and oversight of these programs.

At its May 2011 meeting, the EQC allocated .06 FTE, or 173 hours, to complete the HJR 32 study, including the following tasks:

1. Receive summaries of existing state parks and outdoor recreation and heritage programs and past legislative audits and reports on these programs (Appendix B and C);
✓ completed September 2011
2. Review the administrative structure and operation of these programs in other Rocky Mountain states (Appendix D);
✓ completed January 2012
3. Host a panel discussion with administering state agencies;
✓ completed January 2012
4. Follow impacts of HB 370, 2011 (Appendix E).
✓ completed July 2012

Findings and Recommendations

After completing the enclosed analysis, the EQC finds:

- Montana's state parks, outdoor recreational opportunities, and heritage sites and programs are a tremendous resource for all residents, families, schools, communities, and the economy.
- Despite the fact that Montana draws more than 10 million visitors per year, the majority are destined for Glacier and Yellowstone National Parks. Montana needs to be much more aggressive in marketing its state parks, state-owned sites at Virginia and Nevada Cities, and other recreational and heritage resources to capitalize on these visitors and help the state sites achieve their full potential and maximize use by residents and nonresidents alike.
- While integrating the administration of these programs might be desirable due to seemingly natural alliances between their missions, operations, and resource needs, it does not seem appropriate at this time to combine management of state parks with that of Virginia and Nevada Cities and Reeder's Alley in Helena.
- The Legislature should continue in the next interim to monitor the Montana Heritage Preservation and Development Commission (MHC) and its operation of state-owned properties at Virginia and Nevada Cities and Reeder's Alley in order to track the impacts of the MHC's reorganization in August 2011 and its implementation of a new business plan.
- The state parks system is overshadowed by controversial wildlife issues that dominate the attention of its mother agency, the Department of Fish, Wildlife, and Parks. While the Department of Commerce and its tourism-focused mission may present an opportunity to enhance the state parks system, it does not seem appropriate at this time to move the administration of state parks to that agency.
- It is fully appropriate to create a separate governing body to oversee state parks and other recreational programs administered by the Parks Division, regardless of which agency the division is in, in order to provide a dedicated forum for and greater discussion of parks and recreation policies, issues, and access.
- All of Montana's state parks and outdoor recreational and heritage resources deserve more support. The state has untold gems that are being neglected and may be tarnished or even lost without a greater commitment and attention by the Legislature and the people of Montana.

Background

The HJR 32 study primarily grew out of ongoing discussions about the solvency and management of Montana's state parks system. The Legislative Finance Committee reviewed the parks system in the 2009-2010 interim but did not propose legislation.

At the request of the DFWP, the 2011 Legislature passed Senate Bill No. 43, revising the state's list of primitive parks and the types of improvements that may be made at those sites with an eye toward increasing customer satisfaction and improving relationships with neighbors. The 2011 Legislature also approved House Bill No. 370, which increased the optional light motor vehicle registration fee used for operation and maintenance of state parks from \$3.50 to \$5.37 and for state-owned facilities at Virginia and Nevada Cities from \$0.25 to \$0.38.

Meanwhile, House Bill No. 628 (2011) sought to move the Parks Division out of DFWP and into the Department of Commerce, which currently houses the Montana Heritage Preservation and Development Commission (MHC). The state-owned sites in Virginia and Nevada Cities would have been converted into a state park; the MHC would have been disbanded; and a new state parks, recreation, and heritage board would have been established to oversee all. HB 628 did not pass, but it provoked discussion about improved management and coordination of these programs, leading to the drafting of HJR 32.

To Be or Not to Be

The idea of making the state-owned sites at Virginia and Nevada Cities a state park has been kicked around since before the properties were purchased.

The buildings and artifacts that make up the present-day tourist attraction were gathered over time and from around Montana and the country by Charles and Sue Bovey. The 55th Montana Legislature authorized the state's purchase of the collection for \$6.5 million in 1997. The 248 buildings, 160 acres, and estimated 500,000 to 1 million artifacts were bought whole-cloth and largely sight unseen.



The "Cheap Cash Store" in Virginia City, originally built in 1867 near Radersburg, MT, is furnished today as a crowded miner's store. Photo by Hope Stockwell.

Instead of creating a state park, the 55th Legislature established the MHC and tasked it with hiring staff and running day-to-day operations in Virginia and Nevada Cities. The Legislature directed the MHC to sort through the Bovey collection and create an accurate and comprehensive inventory. The Legislature also dictated that no general fund money be given to the effort in the future and that the properties be managed to become self-sufficient and

profitable.¹

In 2003, the Legislative Audit Committee requested a performance audit of the state operations at Virginia and Nevada Cities. The audit made several findings and recommendations, many related to the efficacy of the MHC and its statutory construction.

The audit said that while the 14-member commission and its expertise were critical for providing input on the initial planning and stabilization of the sites in Virginia and Nevada Cities, the commission's structure appeared not to be conducive to effective onsite, day-to-day oversight. In addition, the MHC – which was then attached to the Historical Society – was bumping against conflicting authorities with the Society's Board of Trustees.

The audit found that while the MHC had requested various studies and plans in an effort to achieve statutorily mandated profitability, many of the study recommendations had not been implemented. The audit highlighted the lack of a full-time, on site manager and difficulties in creating the artifact inventory due to resource, staffing, and maintenance issues.

The audit also pointed out that when the state purchased the Virginia and Nevada Cities sites, limited information was available on the extent of their preservation, stabilization, maintenance, and financial needs; initially, operational expenses could not be accurately projected.

With 6 years of experience under the state's belt, the audit concluded that the sites and operations would not be self-sufficient and that long-term support would be needed. The audit suggested it was time to revise the mission and operation of the sites at Virginia and Nevada Cities.



Examples of preservation work needed in Virginia City. Left, the back of the E.L.Smith Store. Right, Cogswell Cabin where the log wall on the left has rotted away. Photos by Hope Stockwell

Auditors explored four management options: 1) Remove the Historical Society from the management structure; 2) give all management responsibilities to the Historical Society and dissolve the MHC; 3) move site management to the Department of Commerce to provide a tie with economic development and

¹ 22-3-1001 and 22-3-1003, MCA.

tourism; and 4) hand management over to the Parks Division at the DFWP.

Ultimately, the audit recommended that management be transferred to the Parks Division for the following reasons:

- no other government operation appears to have a site management system that is as comprehensive and compatible;
- stakeholders are frustrated with the current lack of structure/business approach;
- similar operations across the nation are operated as state parks; and
- operations will likely become more effective in addressing planned development and preservation goals.

In the end, it was the Legislature's decision to make and it decided to leave the MHC intact and responsible for day-to-day operations at Virginia and Nevada Cities. However, the MHC was moved from the Historical Society and administratively attached to the Department of Commerce.

In 2012, management and resource issues continue to challenge the MHC. Operations at Virginia and Nevada Cities have not achieved profitability. The artifact inventory is currently up-to-date, but a more detailed cataloging of the artifacts is only about 25% complete. The MHC also now administers historic Reeder's Alley in Helena, which has its own preservation needs.

While the Legislature has extended the statutory appropriation of accommodations tax money to the MHC (\$400,000/year, previously set to expire in 2007), it did not appropriate long-range building program (LRBP) funds for capital improvements at Virginia and Nevada Cities in FY 2012 and 2013², and the general fund is still off limits. Federal grants have waned.

Faced with a \$400,000 shortfall, the MHC reorganized in August 2011. The move affected both seasonal and permanent employees. Overall, the staff was decreased by five FTE.

In a memo to the EQC dated January 11, 2012 (Appendix F), MHC Chair Marilyn Ross stated that, moving forward, the Commission intends to "place a greater emphasis on a business model that will increase profitability of the site and greater economic sustainability." To that end, Ross wrote, the MHC created a new business development manager position as part of its reorganization.

The EQC expressed concern at its March 2012 meeting about the MHC's budget for maintenance and preservation; \$23,890 was budgeted for FY 2012 and FY 2013. That amount was reduced to \$19,412 as part of the MHC's restructuring. When asked how the MHC was prioritizing its work given the limited resources, the MHC provided an inventory of its heritage properties, created pursuant to Senate Bill No. 3 (2011) (Appendix G), and its 2013 long-range building

²The MHC received \$750,000 from the long-range building program for FY 2010 and 2011. Its request for \$1.3 million in FY 2012 and 2013 was not approved. The MHC is currently asking for \$3.0 million from LRBP in FY 2014 and 2015.

appropriations request (Appendix H). When visiting Virginia and Nevada Cities in May 2012, the EQC learned that the MHC has just two full-time maintenance workers.

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Administrative Alternatives

Over the course of the interim, the EQC has explored various administrative alternatives in hopes of providing more support and stability to the state parks system and Virginia and Nevada Cities.

At a panel discussion in January 2012, potentially affected state agencies were asked to weigh in on the pros and cons of six possible administrative scenarios:

- No change in the current structure;
- Leaving state parks within DFWP, but creating a separate governing body for them;
- Transferring administration of state parks to the Department of Natural Resources and Conservation and creating a separate governing body for them;
- Transferring administration of state parks to the Department of Commerce and creating a combined state parks/heritage commission to oversee state parks, Virginia and Nevada Cities, and Reeder's Alley;
- Transferring administration of Virginia and Nevada Cities and Reeder's Alley to the state parks system in whichever department the Parks Division is located; and
- Creating a new department, possibly combined with the Historical Society, to administer state parks, historical sites, outdoor recreation (boating, OHV, trails), and other heritage resources, including Virginia and Nevada Cities and Reeder's Alley.

Following the January 2012 discussion, the EQC asked for additional information -- much of it financial -- regarding various administrative alternatives before deciding whether to proceed with any concept. The requested data was compiled in the following appendices and presented to the EQC in March 2012.

Appendix I:	Current revenue and expenditures for the State Parks Division
Appendix J:	Current revenue and expenditures for the Montana Heritage Commission
Appendix K:	Current terms of concessionaire and rental contracts at Virginia and Nevada Cities and Reeder's Alley
Appendix L:	Current user fees collected by the State Parks Division
Appendix M:	Legislative options for increasing revenue for the State Parks Division
Appendix N:	Estimated cost of reassigning the administration of the State Parks Division to the Department of Natural Resources, the Department of Commerce, or the Montana Historical Society
Appendix O:	Estimated cost of a stand-alone State Parks agency
Appendix P:	Estimated cost of a stand-alone State Parks Commission
Appendix Q:	Comparing combined fish, wildlife, and parks commissions in MT, TX, NE, SD, KS
Appendix R:	State Parks Acquisitions Data
Appendix S:	HB 628 (2011) Fiscal Note

After discussing these appendices, the EQC agreed to draft three bills (Appendices T, U, V) that would alter the administration of state parks, Virginia and Nevada Cities, and Reeder's Alley.

These bill drafts were variations on a theme. Each of the three would create a new governing body to oversee state parks, separate from the existing Fish, Wildlife, and Parks Commission. LC 9001 and LC 9002 would transfer management of the state-owned sites in Virginia and Nevada Cities and Reeder's Alley to the Parks Division at the DFWP – without turning the sites into state parks. LC 9001 would also disband the MHC. LC 9002, meanwhile, would morph the MHC into an advisory council to a new state parks, recreation, and heritage board.

Separating Parks

Public support expressed to the EQC for creating a separate governing body for the state parks system has been two fold: 1) to increase the amount of time spent discussing parks and recreation policy issues; and 2) to insulate state parks from contentious wildlife management issues (like bison and wolves) that have cast the DFWP in a harsh spotlight.



Lewis and Clark Caverns State Park Visitor Center.

Photo by Hope Stockwell

A review of FWP Commission meetings between March 2011 and March 2012 finds wildlife management issues (many related to the setting of hunting seasons and regulations) routinely dominate the agenda. During that time period, 136 agenda items dealt with wildlife-related issues, while 27 were specific to fish and fisheries and 30 were related to parks and recreation.³ (For the purposes of this analysis, the term “recreation” includes boating and motorized and nonmotorized trail use.)

Of the 30 parks and recreation agenda items, 22 dealt with boating and water use regulations and 8 were specific to state parks. Of the latter, three dealt with acquisition of the former Milltown Dam site and two were about Smith River usage. The other three were related to the Parks Division's new online reservation system, acquisition of the Travelers' Rest State Park visitor center, and a grazing lease adjacent to First Peoples Buffalo Jump State Park.

There are currently five states with combined fish, wildlife, and parks commissions – Montana, South Dakota, Nebraska, Kansas, and Texas -- though Colorado is transitioning to the sixth under order from that state's 2011 Legislature.

In January 2012, the EQC asked staff to research what, if anything, these states are doing to dedicate commission time to parks issues. No specific policies were found, and trying to quantify or qualify the “face time” state parks receive with their commissions proved difficult.

³This review of FWP Commission meetings was limited to the actual number of agenda items and did not consider the length of time spent discussing each.

A review of the states' statutes reveals that while commission members with livestock or agricultural experience are required in three states (Montana, South Dakota, and Nebraska), a parks or recreation representative is not required in any. Texas' statute comes the closest, stating the governor shall "attempt to include persons with expertise in diverse fields, including historic preservation, conservation, and outdoor recreation."

Anecdotally, individual personalities seem to drive the amount of attention state parks receive from these combined commissions. Jim Fuller, a staffer with the Nebraska Parks Division, says his administrator is "a go-getter, always making sure he's out there selling our product. This guy makes sure our wants and needs are known."

Kevin Good, special assistant to the director of Texas State Parks, agrees it comes down to the individual. But, Good says, a state's characteristics drive commission agendas as well. For instance, Good describes Texas as "very much a private property state."

"Sometimes the issues our commission is dealing with on land and water use does have the impact of crowding out park issues," Good says, "not that they're (commissioners) not interested, but it's just kind of a priority thing."

In Colorado, where the 2011 Legislature approved a merger of the state's previously separate parks and wildlife divisions -- and their governing commissions -- as a cost-saving and efficiency measure, parks are already feeling a time crunch, according to Ken Brink, Assistant Director of Park Field Operations.

Brink told the EQC in January 2012 that "we've already seen in just the short amount of time we've been merged that a vast majority of time and issues that come before the commission are wildlife related, probably 90% of them. Already the former parks board members are taking notice that there's a shift in hours put into discussion and there's a concern about will there be a shift in priorities and perspective."

The five members of the previous Colorado parks board and the nine members of the previous wildlife commission were tasked with making a recommendation to the 2012 Colorado Legislature about the mission and makeup of the new, combined commission. Brink says there was a lot of discussion about which constituency groups would be represented, in what numbers, and whether there would be a geographic distribution or a preference for specialized backgrounds.

The 2012 Colorado Legislature ultimately created a 13-member Parks and Wildlife Commission consisting of 2 ex-officio members and 11 voting members. Of the voting members, four must live west of the continental divide, three must be sports persons, three must be actively involved in production agriculture and demonstrate a reasonable knowledge of wildlife issues, and three must demonstrate that they regularly engage in outdoor recreation and utilize park resources. Of the last three, one must represent a nonprofit organization that supports and promotes the conservation and enhancement of wildlife and habitat, recognizes and promotes primarily

nonconsumptive wildlife use, and has expertise in wildlife issues, wildlife habitat, or wildlife management.

Dollars and Cents

In estimating the cost of various administrative alternatives for Montana, the DFWP suggested a separate state parks board could consist of seven members meeting six times a year for about \$9,000.

The cost of a commission is primarily dependent on how many members it has and where they live, since they're reimbursed for travel.

Currently, the five-member FWP Commission meets about once a month for 1 or 2 days. It has a budget of \$39,500, which includes \$20,000 for travel-related expenses, including lodging, mileage, and meals, \$2,000 for supplies, materials, and communications, and \$17,000 for member compensation. As a quasi-judicial board, members are entitled to \$50 compensation for each day in which a member is "actually and necessarily engaged in the performance of board duties".⁴

In contrast, the MHC has 14 members, but only meets quarterly, and is not quasi-judicial. In FY 2011, the MHC reported total costs of \$5,178 including lodging, mileage, and a few meals, according to the Department of Commerce.

The bill drafts that the EQC requested in March 2012 would create a five-member governing body for state parks. The board would be quasi-judicial in order to allow for rulemaking and other agency oversight functions.

A First-Hand Look

The EQC traveled to Lewis and Clark Caverns State Park and Virginia and Nevada Cities on May 2, 2012, to get a first hand look at operations and hear from site managers and workers about how potential administrative changes could affect their programs.

⁴ 2-15-124, MCA