

STATE PARKS: UPDATE

A Report Prepared for the
Legislative Finance Committee

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INTRODUCTION

In December of 2009, the Legislative Finance Committee (LFC) was provided a report regarding the structural imbalance associated with operating the state park system. The discussion following the report included items such as revenue generation, demand for services, public expectations, maintenance of current facilities, and divestiture of properties and privatization of state activities. The LFC directed Legislative Fiscal Division (LFD) staff to work with the Department of Fish, Wildlife and Parks (FWP) to provide recommendations to the LFC to address structural imbalance. However, due to committee discussion, this report also includes options to address the longer term issues such as defining a state park system, including lease issues and land inventory.

BACKGROUND

In 1929 the legislature authorized the land board to designate state lands as parks. The first park, Lewis & Clark Caverns, was acquired in 1936 via donation of 650.06 acres from the Northern Pacific Railroad. Seventy four years later, the Parks Division within the Department of Fish, Wildlife and Parks manages 53 state parks, covering approximately 40,000 acres.

A state park is generally defined as a park or other [protected areas](#) of land preserved on account of its natural beauty, historic interest, recreation or other reason, and under the administration of the state. Montana code supports the development of state parks for this purpose (23-1-101, MCA). The department has categorized 53 sites as state parks. The system includes large developed parks, primitive or minimally developed parks, and areas of cultural interest. The diversity of the system plays a role in the current and future fiscal health of the system.

The December 2009 report illustrated the compounding issues of stagnant fiscal resources, diverse properties, and public expectations. Development of potential solutions required examination of current fiscal limitations and established management practices. This report will focus first on the potential options for increasing revenues for the system. The second part of the report will focus on other system issues that have been identified as a part of this project. Some of these issues will require further study, while others require statutory changes that alter the operational capacity of the department.

STAGNANT FISCAL RESOURCES

Revenues and Expenditures

The parks program is funded by four major sources: 1) bed tax; 2) coal severance tax; 3) motorboat fuel taxes; and 4) parks specific revenue, which includes the light vehicle registration fee (plate fee), camping fee, concession revenues and the like. Figure 1 below summarizes the revenues and expenditures from the four major funds from FY 2006 forward. Under the "Expenditures and Appropriations" section the increase in expenditures can be seen. Between FY 2006 and FY 2009 expenditures from these funds have increased by approximately 20 percent, while revenues have remained stable.

Figure 1

| Department of Fish, Wildlife and Parks Structural Balance of Four Major Park Funding Sources | | | | | | |
|---|----------------------|----------------------|----------------------|----------------------|-----------------------|----------------------|
| Funds | Actual | | | Projected | | |
| <u>Beginning Fund Balances</u> | <u>2006</u> | <u>2007</u> | <u>2008</u> | <u>2009</u> | <u>2010</u> | <u>2011</u> |
| 02274 - Bed Tax | \$863,090 | \$816,859 | \$1,026,156 | \$1,160,676 | \$1,190,529 | \$1,218,348 |
| 02408 - Coal Tax | 572,179 | 516,521 | 619,469 | 396,067 | 265,854 | 5,874 |
| 02411 - State Parks Misc. | 4,357,218 | 4,858,963 | 4,964,873 | 3,664,694 | 3,023,264 | 730,616 |
| 02412 - Motorboat Fuel | 348,228 | 635,907 | 799,335 | 766,928 | 754,863 | 416,647 |
| Subtotal | <u>\$6,140,715</u> | <u>\$6,828,250</u> | <u>\$7,409,833</u> | <u>\$5,988,365</u> | <u>\$5,234,510</u> | <u>\$2,371,485</u> |
| Revenues | | | | | | |
| 02274 - Bed Tax | \$910,440 | \$1,160,434 | \$1,117,667 | \$1,074,826 | \$1,175,000 | \$1,225,000 |
| 02408 - Coal Tax | 888,746 | 990,758 | 1,168,343 | 1,003,879 | 1,079,000 | 1,112,000 |
| 02411 - State Parks Misc. | 4,339,958 | 4,601,078 | 4,325,769 | 4,394,632 | 4,415,609 | 4,415,609 |
| 02412 - Motorboat Fuel | 1,190,844 | 1,210,284 | 1,137,441 | 1,085,547 | 1,086,000 | 1,080,000 |
| Subtotal | <u>\$7,329,988</u> | <u>\$7,962,554</u> | <u>\$7,749,220</u> | <u>\$7,558,884</u> | <u>\$7,755,609</u> | <u>\$7,832,609</u> |
| Available Funds | <u>\$13,470,703</u> | <u>\$14,790,804</u> | <u>\$15,159,053</u> | <u>\$13,547,249</u> | <u>\$12,990,119</u> | <u>\$10,204,094</u> |
| Expenditures/Appropriations (Inc. Capital) | | | | | | |
| 02274 - Bed Tax* | (\$956,671) | (\$979,412) | (\$983,148) | (\$1,044,972) | (\$1,147,181) | (\$892,077) |
| 02408 - Coal Tax | (944,403) | (887,810) | (1,389,745) | (1,136,091) | (1,338,980) | (1,156,429) |
| 02411 - State Parks Misc. | (3,838,213) | (4,495,198) | (5,625,918) | (5,036,063) | (6,708,257) | (3,916,827) |
| 02412 - Motorboat Fuel | (902,701) | (1,022,733) | (1,169,848) | (1,097,612) | (1,424,216) | (1,107,909) |
| Subtotal | <u>(\$6,641,988)</u> | <u>(\$7,385,153)</u> | <u>(\$9,168,659)</u> | <u>(\$8,314,738)</u> | <u>(\$10,618,634)</u> | <u>(\$7,073,242)</u> |
| Ending Fund Balance | | | | | | |
| 02274 - Bed Tax | \$816,859 | \$997,881 | \$1,160,675 | \$1,190,530 | \$1,218,348 | \$1,551,271 |
| 02408 - Coal Tax | 516,522 | 619,469 | 398,067 | 263,855 | 5,874 | (38,555) |
| 02411 - State Parks Misc. | 4,858,963 | 4,964,843 | 3,664,724 | 3,023,263 | 730,616 | 1,229,398 |
| 02412 - Motorboat Fuel | 636,371 | 823,458 | 766,928 | 754,863 | 416,647 | 388,738 |
| Total Ending Fund Balance | <u>\$6,828,715</u> | <u>\$7,405,651</u> | <u>\$5,990,394</u> | <u>\$5,232,511</u> | <u>\$2,371,485</u> | <u>\$3,130,852</u> |
| Structural Balance | \$688,000 | \$577,401 | (\$1,419,439) | (\$755,854) | (\$2,863,025) | \$759,367 |

* Statutorily Appropriated

Structural Balance

Structural balance illustrates if ongoing revenues are sufficient to fund ongoing activities or if an entity is utilizing fund balance to finance ongoing program activities. If there is not a positive structural balance and fund balances begin to be depleted, long term sustainability with current revenues comes into question.

As shown in Figure 1, during the 2009 biennium expenditures exceeded revenues by \$1.4 million in FY 2008 and \$.07 million in FY 2009. This reduced fund balances by \$2.1 million. FY 2010 will also have a structural imbalance, the degree of which is unknown because total capital expenditures by year are not known. If all capital appropriations are expended in FY 2010, expenditures will exceed revenues by \$2.8 million. If FY 2010 and FY 2011 revenues and expenditures are examined as a biennium, structural balance does not occur.

Options to Increase Revenues

As demonstrated above, the parks program is funded by four major sources. The LFD worked with FWP staff to identify potential options to increase revenues in three of the four major sources. Options are provided by fund sources.

State Parks Miscellaneous

This state special revenue fund includes light vehicle registration fees, camping, commercial use, concessions, and other related revenues for the purpose of supporting state parks. Changes to this revenue source could include:

- 🏕️ Increase the light vehicle registration fee – The opt-out fee is currently \$4.00, of which \$3.50 is dedicated to state parks. If the fee were raised to \$5.00 with \$4.50 dedicated to state parks, the increase would provide approximately \$760,000. This option would require a statutory change to 61-3-321, MCA.
- 🏕️ Increase user fees – The department will propose the Parks Biennial Fee rule to the FWP Commission in December 2010. Any increases done by this rule would be effective January 1, 2011. This fee rule includes camping, nonresident day use, off season rates, guided tours, meeting rooms, group use, special events, commercial use licenses, boat slip rentals, and the like. In FY 2009, these fees raised approximately \$1.2 million. ¹A ten percent increase in fees could yield an additional \$120,000. A ten percent increase in just camping fees could yield \$45,000. However, these fee increases are not within control of the legislature as the power to “levy and collect reasonable fees” is granted to the department in 23-1-105, MCA. To impact the current fee setting process, the LFC would need to consider writing to the FWP Commission urging an increase in user fees. Examples of such fee changes include:
 - Elimination of discounted camping during peak season
 - Increase in camping fees
 - Increase in fees for amenities such as electricity and water hookups
- 🏕️ Increase user fees - Another option would be for the legislature to provide an index rate of increase in statute on a yearly or biennial basis. This would require a statutory change providing direction to the FWP Commission to increase rates at a fixed rate each year or each biennium, or statute could allow for the establishment of a minimal increase, leaving the actual increase to the FWP Commission.
- 🏕️ Revise Primitive Parks – In 1993 the Legislature enacted HB 314, known as the “Montana Primitive Parks Act”. This act was designed to complement government and privately developed recreational opportunities by designating undeveloped park land to be used by Montanans without regard to the ability to pay. Since the passage of the original act, statute has been amended to allow for the collection of camping fees at two of the eight sites that have the service available. Statute could be modified to allow for the collection of fees at the other six sites.² If 50 percent of the available sites are filled through camping season, the revenue potential is approximately \$82,500.

Bed Tax

The department receives a statutory appropriation of 6.5 percent of the accommodations tax for the maintenance of facilities in state parks. This appropriation was established in 1993 in recognition of the state parks contribution to tourism. Economic data supports that visitors to state parks contribute to the economic base of local communities. The distributions of the accommodations tax have been statutorily appropriated since 1983. One potential change could be:

- 🏕️ Reallocation of proceeds – Increasing the share to state parks by one percent would provide approximately \$340,000 in additional funding each year. This would require a change to 15-65-211, MCA. The largest portion of this revenue source is provided to the Department of Commerce (67.5 percent) and the smallest portion is provided to the Historical Society (1 percent). A reduction in another agency’s allocation would need to occur.

Coal Tax Trust

This funding source is the interest and income generated from the Parks Trust. The parks trust receives 1.27 percent of coal severance taxes for the purpose of parks acquisition or management. The trust is not well defined in statute, as the purpose of the trust is not articulated. Either or a combination of the following options could be utilized.

- 🏕️ Change the allocation to the trust – An increase of one percent would deposit an additional \$400,000 into the trust subsequently increasing the interest earnings available for parks management. Given

¹ Estimate based on state parks revenues, some camping, commercial use and launch fees are from fishing access sites.

² Thompson Falls and Headwaters have statutory approval to collect fees. Lost Creek, Painted Rocks, Ackley Lake and Medicine Rocks have developed camping but cannot collect fees.

current annual returns for the trust, this increase would raise the distributable earnings by \$30,000 within the first year.

- 🏰 Change the disbursement options –Establish an inviolate level of the trust, such as \$20 million, allowing for anything over that amount in the fund to be expended. Distribution after the trust achieves \$20 million would be the total between interest and the coal tax distribution. This would be approximately \$1.4 million, an increase of \$600,000.

Other Revenue Enhancers

There are areas in statute where revenue streams from the park system are pulled off and deposited to a trust where, in theory, the parks system does not directly benefit.

- 🏰 Clarify the revenue stream to the real property trust. Currently leases are required by (statute 87-1-601, MCA) to be deposited to the real property trust, including concession leases, park leases during wildfire season, and other limited leases. Statute could be changed to treat these leases as income to the state parks. This change would benefit the parks system between \$15,000 and \$30,000 each year.

Other Issues

In response to the December LFC discussion, FWP staff reviewed a number of properties for potential operational changes such as divestiture, transfer to another entity, or privatization. The results (*see attachment*) exposed more issues than anticipated. Summarized below are the policy issues discovered during the review process, and an example for illustration purposes.

- 🏰 *How are state trust lands that house state parks treated? How is fair market value derived? What should the relationship between DNRC and the state parks program look like?*

- Madison Buffalo Jump (MBJ) – In 1965, the legislature approved the acquisition of this property through the passage and approval of SB 22. The bill directed the board of land commissioners to acquire the land by “gift bequest, purchase, lease or exchange of other state land of equal value” and “shall take title to such land in the name of the state for the use and benefit of the agency responsible for administering state parks.” From review of the documents associated with this parcel, it appears that the Board of Land Commissioner exchanged 640 acres of state trust land for 320 acres that are now the north half of MBJ. As for south half of the MBJ, there is limited documentation of how that parcel was acquired. Currently, both parcels of land are identified as trust lands in the state land inventory. It appears as if the common school trust and the Montana Tech trust have not been compensated for the use of the land since 1966, or 44 years. Discussions between FWP, LFD, and the Department of Natural Resources and Conservation are beginning to outline the issues and determine possible solutions for legislative consideration.

- 🏰 *What is the relationship between water projects land and state parks? How are these parcels evaluated for siting of a state park?*

- Painted Rocks Reservoir – This 23 acre leased primitive park is located on DNRC water project land. The lease fee is in exchange for recreational management of the area. Local supporters of the park would like to see more development of the area. This cannot occur without a change to the primitive park statute.

- 🏰 *What is the difference between a state park and a historic site? How should sites of regional significance be handled in the park system?*

- Anaconda Smelter State Park – This 33.12 acre property is held as an historical site. Three different transactions created the site. The site can be reverted back to the grantors, including ARCO. However, the reversion to ARCO can occur only if the stack is demolished.

- 🏰 *Does the legislature want the state to subsidize the operations of a city park? Should FWP be allowed to transfer property to another governmental entity for community use purposes?*

- East Gallatin – This 84.2 acre park is a combination of leased, purchased, and donated land that is managed by the City of Bozeman with financial assistance from FWP. The department spent \$420,000 in coal tax revenues to purchase 29.19 acres of the park. That portion of the park does not have a restrictive reversionary clause, meaning it can be returned to the City. The land donated by the City of Bozeman reverts to the City of Bozeman if the state fails to use the property for park and recreational purposes. Additionally, FWP does not have authority in state law to transfer the park land to the county. The same situation exists between Lake Josephine Park and the City of Billings.

Near and Long Term Resolutions

These few examples illustrate that the issues within the state park system expand beyond the challenge to operate and maintain the facilities with the current cash flow. Resolution of all these additional issues may not be possible in the near term. Some of these issues might be better scoped and addressed as an interim study. For the longer term issues, the LFD in consultation with the staff of the Environmental Quality Council suggest that the legislature propose a study bill for this purpose. As for the near term, the legislature could choose to address some of these issues through statutory changes. There are three issues that could be addressed through legislation in the near term:

1. Should the department have increased resources for operations?
2. Should the primitive parks act be redefined?
3. Should the department be directed to establish clear title to its properties?

Legislative Options

The legislature has the following decision points to consider:

- Does the legislature wish raise revenues for the park system through one or more of the following options?
 - Raise the light vehicle registration fee to \$5.00 or \$6.00 per plate and allocate the increased revenue to the parks system
 - Amend primitive parks statute to allow for the collection of fees in primitive parks with developed campsites
 - Raise the parks portion of the bed tax revenue from 6.5 percent to 7.5 percent
 - Change the allocation of the coal severance tax by one percent to raise the parks trust to \$20 million
 - Revise the parks trust to set a required deposit amount and appropriate funds that exceed this amount
 - Eliminate deposit of parks earned revenue to the real property trust
 - Encourage the FWP Commission to increase park user fees through the biennial fee rule
- Should the following statutory changes be made to improve opportunities for efficiencies in the park system?
 - Allow the department to transfer parks lands to other governmental entities for a community use
 - Edit the primitive parks statute to address only those parks currently in the system
 - Direct the department to assure clear and clean title to all parks properties
- Should the legislature address the larger issues, such as defining the parks system, evaluation of land arrangements between state agencies, determining the role for historical parks, and any other large scale issues through an interim study?

If the committee chooses to address one or all of these issues, a bill request, except in the case of the biennial fee rule changes, would need to be made. Should the committee choose to address the increase in state park fees, a request would need to be sent to the FWP Commission.