

HB 378 INTRODUCED BY COBB  
TRANSFER SUPERVISION OF STATE PARKS FROM  
DEPARTMENT OF FISH, WILDLIFE, & PARKS TO  
DEPARTMENT OF STATE LANDS

1/21 INTRODUCED  
1/21 FISCAL NOTE REQUESTED  
1/21 REFERRED TO FISH & GAME  
1/28 FISCAL NOTE RECEIVED  
1/29 HEARING  
1/29 TABLED IN COMMITTEE

1 House BILL NO. 378  
2 INTRODUCED BY Cobb

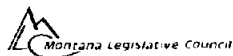
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING  
5 SUPERVISION OF STATE PARKS FROM THE DEPARTMENT OF FISH,  
6 WILDLIFE, AND PARKS TO THE DEPARTMENT OF STATE LANDS;  
7 AMENDING SECTIONS 23-1-101, 23-1-102, 23-1-108, 23-2-101  
8 THROUGH 23-2-103, 87-1-209, 87-1-712, AND 87-1-713, MCA; AND  
9 PROVIDING A DELAYED EFFECTIVE DATE."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 23-1-101, MCA, is amended to read:  
13 "23-1-101. Purpose. For the purpose of conserving the  
14 scenic, historic, archaeologic, scientific, and recreational  
15 resources of the state and providing for their use and  
16 enjoyment, thereby contributing to the cultural,  
17 recreational, and economic life of the people and their  
18 health, the department of ~~fish, wildlife, and parks~~ state  
19 lands (hereinafter referred to as department) is hereby  
20 vested with the duties and powers hereinafter set forth."

21 Section 2. Section 23-1-102, MCA, is amended to read:  
22 "23-1-102. Powers and duties of department of ~~fish~~  
23 ~~wildlife, and parks~~ state lands. The department shall make a  
24 study to determine the scenic, historic, archaeologic,  
25 scientific, and recreational resources of the state and may

1 by purchase, lease, agreement, acceptance of donations, or  
2 condemnation for the purposes outlined in 87-1-209(2)  
3 acquire for the state any areas, sites, or objects which in  
4 its opinion should be held, improved, and maintained as  
5 state parks, state recreational areas, state monuments, or  
6 state historical sites. The department may in its  
7 discretion accept in the name of the state, in fee or  
8 otherwise, any areas, sites, or objects conveyed, entrusted,  
9 donated, or devised to the state. It may in its discretion  
10 accept gifts, grants, bequests, or contributions of money or  
11 other property to be spent or used for any of the purposes  
12 of this part. A contract, for any of the purposes of this  
13 part, may not be entered into or other obligation incurred  
14 until moneys have been appropriated by the legislature or  
15 are otherwise available and, if the contract or obligation  
16 pertains to acquisition of areas or sites in excess of  
17 either 100 acres or \$100,000 in value, until the board of  
18 land commissioners has specifically approved such  
19 acquisition. The department also has jurisdiction, custody,  
20 and control of all state parks, recreational areas, public  
21 camping grounds, historical sites, and monuments, except  
22 wayside camps and other public conveniences acquired,  
23 improved, and maintained by the department of highways and  
24 contiguous to the state highway system. The department may  
25 designate lands under its control as state parks, state



1 historical sites, state monuments, or by any other  
2 designation it considers appropriate, remove or change the  
3 designation of any area or portion, and name or change the  
4 name of any area as designated. The department may lease  
5 those portions of designated lands which are necessary for  
6 the proper administration of these lands in keeping with the  
7 basic purpose of this part."

8 Section 3. Section 23-1-108, MCA, is amended to read:

9 "23-1-108. Acquisition of certain state parks,  
10 monuments, or historical sites. (1) Any person, association,  
11 or representative of a governing unit may submit a proposal  
12 for the acquisition of a site or area described in 23-1-102  
13 from the income of the trust fund created in 15-35-108 to  
14 the department of ~~fish, wildlife, and parks~~ state lands by  
15 July 1 of the year preceding the convening of a legislative  
16 session.

17 (2) The ~~fish--and--game--commission~~ board of land  
18 commissioners shall present to the legislature by the 15th  
19 day of any legislative session a list of areas, sites, or  
20 objects that were proposed for purchase for use as state  
21 parks, state recreational areas, state monuments, or state  
22 historical sites with the money contained in the parks  
23 account.

24 (3) The legislature must appropriate funds from this  
25 account before any park, area, monument, or site may be

1 purchased."

2 Section 4. Section 23-2-101, MCA, is amended to read:

3 "23-2-101. Legislative findings -- purpose. Montana is  
4 uniquely endowed with scenic landscapes and areas rich in  
5 recreational value. This outdoor heritage enriches the lives  
6 of citizens, attracts new residents and businesses to the  
7 state, and is of major significance to the expanding tourist  
8 industry. It is the purpose of this part to give authority  
9 to the department of ~~fish, wildlife, and parks~~ state lands  
10 to plan and develop outdoor recreational resources in the  
11 state, which authority shall permit receiving and expending  
12 funds including federal grants for this purpose."

13 Section 5. Section 23-2-102, MCA, is amended to read:

14 "23-2-102. Department of ~~fish, wildlife, and parks~~  
15 state lands to implement federal act. The department of  
16 ~~fish, wildlife, and parks~~ state lands is hereby designated  
17 as the state agency to represent and act for the state for  
18 the purpose of implementing the Land and Water Conservation  
19 Fund Act of 1965."

20 Section 6. Section 23-2-103, MCA, is amended to read:

21 "23-2-103. Compliance with federal act authorized --  
22 powers of department. The department of ~~fish, wildlife, and~~  
23 state lands shall do those things necessary to comply  
24 with the provisions of the Land and Water Conservation Fund  
25 Act of 1965. Among other things, the department of ~~fish~~

1 ~~wildlife-and-parks~~ state lands may:

2 (1) prepare a comprehensive statewide outdoor  
3 recreational plan which shall contain an evaluation of the  
4 demand for and supply of outdoor recreational resources and  
5 facilities in Montana and a program for implementation of  
6 the plan;

7 (2) accept and administer moneys paid by the secretary  
8 of the interior for approved projects;

9 (3) contract with other state agencies, cities,  
10 counties, and other political subdivisions of the state,  
11 private organizations, and agencies of the federal  
12 government;

13 (4) acquire, other than by eminent domain, and develop  
14 outdoor recreational areas and facilities and land and  
15 waters and interests in land and waters for such areas and  
16 facilities;

17 (5) for the purpose of implementing the Land and Water  
18 Conservation Fund Act of 1965, coordinate its activities  
19 with and represent the interests of all agencies of state,  
20 city, county, and other governmental units with outdoor  
21 recreational responsibilities."

22 Section 7. Section 87-1-209, MCA, is amended to read:

23 "87-1-209. Acquisition and sale of lands or waters.

24 (1) The department, with the consent of the commission and,  
25 in the case of land acquisition involving more than 100

1 acres or \$100,000 in value, the approval of the board of  
2 land commissioners, may acquire by purchase, lease,  
3 agreement, gift, or devise and may acquire easements upon  
4 lands or waters for the purposes listed in this subsection.  
5 The department may develop, operate, and maintain acquired  
6 lands or waters:

7 (a) for fish hatcheries, nursery ponds, or game farms;

8 (b) as lands or water suitable for game, bird, fish,  
9 or fur-bearing animal restoration, propagation, or  
10 protection;

11 (c) for public hunting, fishing, or trapping areas;

12 (d) to capture, propagate, transport, buy, sell, or  
13 exchange any game, birds, fish, fish eggs, or fur-bearing  
14 animals needed for propagation or stocking purposes or to  
15 exercise control measures of undesirable species;

16 ~~{e}--for-state-parks-and-outdoor-recreation;~~

17 ~~{f}{e}~~ to extend and consolidate by exchange, lands or  
18 waters suitable for these purposes.

19 (2) The department, with the consent of the  
20 commission, may acquire by condemnation lands or structures  
21 for the preservation of historical or archaeological sites  
22 that are threatened with destruction or alteration.

23 (3) (a) The department, with the consent of the  
24 commission, may dispose of lands and waters acquired by it  
25 on those terms after that public notice, without regard to

1 other laws which provide for sale or disposal of state lands  
2 and with or without reservation, as it considers necessary  
3 and advisable.

4 (b) Notice of sale describing the lands or waters to  
5 be disposed of shall be published once a week for 3  
6 successive weeks in a newspaper with general circulation  
7 printed and published in the county where the lands or  
8 waters are situated or, if no newspaper is published in that  
9 county, then in any newspaper with general circulation in  
10 that county.

11 (c) The notice shall advertise for cash bids to be  
12 presented to the director within 60 days from the date of  
13 the first publication. Each bid must be accompanied by a  
14 cashier's check or cash deposit in an amount equal to 10% of  
15 the amount bid. The highest bid shall be accepted upon  
16 payment of the balance due within 10 days after mailing  
17 notice by registered or certified mail to the highest  
18 bidder. If that bidder defaults on payment of the balance  
19 due, then the next highest bidders shall be similarly  
20 notified in succession until a sale is completed. Deposits  
21 shall be returned to the unsuccessful bidders except bidders  
22 defaulting after notification.

23 (d) The department shall reserve the right to reject  
24 any bids which do not equal or exceed the full market value  
25 of the lands and waters as determined by the department. If

1 the department does not receive a bid that equals or exceeds  
2 fair market value, it may then sell the lands or waters at  
3 private sale. The price accepted on any private sale must  
4 exceed the highest bid rejected in the bid process. The  
5 department shall convey the lands and waters without  
6 covenants of warranty by deed executed by the governor or in  
7 his absence or disability by the lieutenant governor,  
8 attested by the secretary of state and further countersigned  
9 by the director.

10 (4) The department, with the consent of the  
11 commission, is authorized to utilize the installment  
12 contract method to facilitate the acquisition of wildlife  
13 management areas in which game and nongame fur-bearing  
14 animals and game and nongame birds may breed and replenish  
15 and areas which provide access to fishing sites for the  
16 public. In no case may the total cost of such installment  
17 contracts exceed the cost of purchases authorized by the  
18 department and appropriated by the legislature."

19 Section 8. Section 87-1-712, MCA, is amended to read:

20 "87-1-712. Development of national bison range. Upon  
21 the acquisition or establishment of any such park in Lake  
22 County and Sanders County, the fish and wildlife service,  
23 United States department of the interior, agrees to  
24 cooperate with the department of state lands to develop,  
25 improve, and maintain the park for the display of such

1 native big game animals as are available on the national  
2 bison range."

3 Section 9. Section 87-1-713, MCA, is amended to read:

4 "87-1-713. Federal waterfowl and wildlife area  
5 acquisitions -- submission to affected county governing  
6 bodies for review. The governor, the department, the  
7 department of state lands, or their agents, responsible  
8 under federal law for final approval of land, wetland, and  
9 water acquisitions in fee by the United States government or  
10 its agents for waterfowl protection areas or wildlife  
11 refuges, or the United States fish and wildlife service  
12 shall submit the proposed acquisitions to the governing body  
13 of each county in which all or part of the land, wetland,  
14 and water areas are proposed to be located for the governing  
15 body's recommendations."

16 NEW SECTION. Section 10. Extension of authority. Any  
17 existing authority of the department of state lands or the  
18 department of fish, wildlife, and parks to make rules on the  
19 subject of the provisions of this act is extended to the  
20 provisions of this act.

21 NEW SECTION. Section 11. Name change. (1) In the  
22 provisions of the Montana Code Annotated, the term  
23 "department of fish, wildlife, and parks" or "department",  
24 meaning the department of fish, wildlife, and parks, is  
25 changed to "department of fish and wildlife" or

1 "department", meaning the department of fish and wildlife.

2 (2) The name change established in subsection (1)  
3 applies to enactments during the 50th legislative session.

4 NEW SECTION. Section 12. Effective date. This act is  
5 effective July 1, 1988.

-End-

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB378, as introduced.

**DESCRIPTION OF PROPOSED LEGISLATION:**

This bill proposes transferring supervision of the state park system from the Department of Fish, Wildlife and Parks to the Department of State Lands.

**ASSUMPTIONS:**

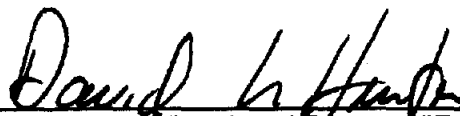
1. All FTE authority associated with Parks Program support would transfer with direct Parks program personnel.
2. All funding sources presently in place for the Parks program, except sportsman license funds, would transfer with the Division. The Lands Department would utilize general fund if necessary to maintain current level. FWP would continue to utilize license funds for the purpose of fishing access work.
3. There will be certain costs associated with the transfer. They include:
  - a. Replacing equipment currently shared by the Parks Division and other divisions of Fish, Wildlife and Parks.
  - b. Cost of providing office and utility facilities for the Parks Division.
  - c. Potential costs associated with dividing real property purchased jointly by the Parks Division and other Fish and Wildlife divisions. The division of funds issue would require consideration when dividing these lands, and could result in the need for a "buy out" by one of the parties.
4. There would be no substantial change in revenue for the Parks Division's operations.
5. The Parks Division would take on no new responsibilities or change its operational procedures.
6. Effective date would be July 1, 1988.
7. MCA 87-1-701, 87-1-710, Federal law 50-CFR-part 80, specifies usage of license fees to FWP.

**FISCAL IMPACT:**

Law assumes July 1, 1988 effective date.

"Difference" in FY89 would be the expenditures and revenue transferred from FWP to Lands.

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<b><u>Expenditures:</u></b>						
Personal Expenses	\$1,832,821	\$ 0	\$ 0	\$1,853,917	\$ 15,154	(\$1,838,763)
Operating Expenses	1,271,731	0	0	1,242,766	4,930	( 1,237,836)
Benefits/Claims	445,000	0	0	445,000	0	( 445,000)
<b>TOTAL</b>	<b>\$3,549,552</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$3,541,683</b>	<b>\$ 20,084</b>	<b>(\$3,521,599)</b>

 DATE 1/28/87  
DAVID L. HUNTER, BUDGET DIRECTOR  
Office of Budget and Program Planning

DATE \_\_\_\_\_  
JOHN COBB, PRIMARY SPONSOR

Fiscal Note for HB378, as introduced.

Fiscal Note Request, HB378, as introduced.

Form BD-15

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	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<b>Funding:</b>						
Earmarked	\$2,834,392	\$ 0	\$ 0	\$2,834,399	\$ 20,084	(\$2,814,315)
Federal	445,000	0	0	445,000	0	( 445,000)
Other	270,160	0	0	262,284	0	( 262,284)
TOTAL	<u>\$3,549,552</u>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$3,541,683</u>	<u>\$ 20,084</u>	<u>(\$3,521,599)</u>
<b>Revenue:</b>						
Snowmobile Fuel Tax	\$ 347,033	\$ 0	\$ 0	\$ 347,039	\$ 0	(\$ 347,039)
Coal Tax Interest	1,220,464	0	0	1,220,465	0	( 1,220,465)
Parks Misc.	502,547	0	0	502,547	0	( 502,547)
Motorboat Fuel Tax	724,181	0	0	724,181	0	( 724,181)
Snowmobile Registration	40,167	0	0	40,167	20,084	( 20,083)
Snogroomer Reimbursement	100,000	0	0	100,000	0	( 100,000)
Grounds Maintenance	170,160	0	0	162,284	0	( 162,284)
Land Water						
Conservation Funds	445,000	0	0	445,000	0	( 445,000)
TOTAL	<u>\$3,549,552</u>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$3,541,683</u>	<u>\$ 20,084</u>	<u>(\$3,521,599)</u>