

HOUSE BILL NO. 203

INTRODUCED BY LARSON, SAYLES, TOOLE, PIPINICH

IN THE HOUSE

JANUARY 15, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
	FIRST READING.
JANUARY 27, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 28, 1993	PRINTING REPORT.
JANUARY 29, 1993	SECOND READING, DO PASS.
JANUARY 30, 1993	ENGROSSING REPORT.
FEBRUARY 1, 1993	THIRD READING, PASSED. AYES, 99; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 3, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
	FIRST READING.
MARCH 3, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 4, 1993	SECOND READING, CONCURRED IN.
MARCH 5, 1993	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 9, 1993	RECEIVED FROM SENATE.
	SECOND READING, AMENDMENTS CONCURRED IN.

MARCH 11, 1993

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1
2 INTRODUCED BY

House BILL NO. 203

Baird

Tipton

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A FIRE SERVICE
5 AREA TO ENTER INTO A MUTUAL AID AGREEMENT WITH AN
6 INCORPORATED MUNICIPALITY; AND AMENDING SECTION 7-33-4112,
7 MCA."
8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 7-33-4112, MCA, is amended to read:11 "7-33-4112. Mutual aid agreements. (1) A mutual aid
12 agreement is an agreement for protection against natural or
13 manmade disasters.14 (2) Councils or commissions of incorporated
15 municipalities may enter such mutual aid agreements with the
16 proper authority of:

- 17 (a) other incorporated municipalities;
-
- 18 (b) fire districts;
-
- 19 (c) unincorporated municipalities;
-
- 20 (d) state agencies which have fire protection services;
-
- 21 (e) private fire-prevention agencies;
-
- 22 (f) federal agencies; and
-
- 23 (g)
- fire service areas.
- "

-End-

HB 203
INTRODUCED BILL

APPROVED BY COMM.
ON LOCAL GOVERNMENT

INTRODUCED BY

House BILL NO. 203

Baldwin
By
For

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A FIRE SERVICE
AREA TO ENTER INTO A MUTUAL AID AGREEMENT WITH AN
INCORPORATED MUNICIPALITY; AND AMENDING SECTION 7-33-4112,
MCA."

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

Section 1. Section 7-33-4112, MCA, is amended to read:

"7-33-4112. Mutual aid agreements. (1) A mutual aid
agreement is an agreement for protection against natural or
manmade disasters.

(2) Councils or commissions of incorporated
municipalities may enter such mutual aid agreements with the
proper authority of:

- (a) other incorporated municipalities;
- (b) fire districts;
- (c) unincorporated municipalities;
- (d) state agencies which have fire protection services;
- (e) private fire-prevention agencies;
- (f) federal agencies; and
- (g) fire service areas."

-End-



HB 203
SECOND READING

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INTRODUCED BY

HOUSE BILL NO.

203

Baird Liginich

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A FIRE SERVICE AREA TO ENTER INTO A MUTUAL AID AGREEMENT WITH AN INCORPORATED MUNICIPALITY; AND AMENDING SECTION 7-33-4112, MCA."

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

Section 1. Section 7-33-4112, MCA, is amended to read:

"7-33-4112. Mutual aid agreements. (1) A mutual aid agreement is an agreement for protection against natural or manmade disasters.

(2) Councils or commissions of incorporated municipalities may enter such mutual aid agreements with the proper authority of:

- (a) other incorporated municipalities;
- (b) fire districts;
- (c) unincorporated municipalities;
- (d) state agencies which have fire protection services;
- (e) private fire-prevention agencies;
- (f) federal agencies; and
- (g) fire service areas."

-End-

1 HOUSE BILL NO. 203

2 INTRODUCED BY LARSON, SAYLES, TOOLE, PIPINICH

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A FIRE SERVICE
5 AREA TO ENTER INTO A MUTUAL AID AGREEMENT---WITH---AN
6 INCORPORATED--MUNICIPALITY AGREEMENTS; AND AMENDING SECTION
7 SECTIONS 7-33-2108 AND 7-33-4112, MCA; AND PROVIDING AN
8 IMMEDIATE EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 NEW SECTION. **SECTION 1. MUTUAL AID AGREEMENTS. (1) A**
12 **MUTUAL AID AGREEMENT IS AN AGREEMENT FOR PROTECTION AGAINST**
13 **NATURAL OR MANMADE DISASTERS.**

14 **(2) THE GOVERNING BODY OF A FIRE SERVICE AREA MAY ENTER**
15 **MUTUAL AID AGREEMENTS WITH THE PROPER AUTHORITY OF:**

16 **(A) OTHER FIRE SERVICE AREAS;**17 **(B) UNINCORPORATED MUNICIPALITIES;**18 **(C) INCORPORATED MUNICIPALITIES;**19 **(D) STATE AGENCIES THAT HAVE FIRE-PREVENTION SERVICES;**20 **(E) PRIVATE FIRE-PREVENTION AGENCIES;**21 **(F) FEDERAL AGENCIES; AND**22 **(G) FIRE DISTRICTS.**23 **SECTION 2. SECTION 7-33-2108, MCA, IS AMENDED TO READ:**

24 "7-33-2108. Mutual aid agreements. (1) A mutual aid
25 agreement is an agreement for protection against natural or

1 manmade disasters.

2 (2) Fire district trustees may enter such mutual aid
3 agreements with the proper authority of:

4 (a) other fire districts;

5 (b) unincorporated municipalities;

6 (c) incorporated municipalities;

7 (d) state agencies which have fire-prevention services;

8 (e) private fire-prevention agencies;

9 (f) federal agencies; and

10 (g) fire service areas."11 **Section 3. Section 7-33-4112, MCA, is amended to read:**

12 "7-33-4112. Mutual aid agreements. (1) A mutual aid
13 agreement is an agreement for protection against natural or
14 manmade disasters.

15 (2) Councils or commissions of incorporated
16 municipalities may enter such mutual aid agreements with the
17 proper authority of:

18 (a) other incorporated municipalities;

19 (b) fire districts;

20 (c) unincorporated municipalities;

21 (d) state agencies which have fire protection services;

22 (e) private fire-prevention agencies;

23 (f) federal agencies; and

24 (g) fire service areas."25 **NEW SECTION. SECTION 4. CODIFICATION INSTRUCTION.**

1 [SECTION 1] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART
2 OF TITLE 7, CHAPTER 33, PART 24, AND THE PROVISIONS OF TITLE
3 7, CHAPTER 33, PART 24, APPLY TO [SECTION 1].

4 NEW SECTION. SECTION 5. EFFECTIVE DATE. [THIS ACT] IS
5 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

1 House BILL NO. 204
2 INTRODUCED BY Ream
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING COUNTIES AND
5 MUNICIPALITIES TO LEVY NOT MORE THAN 4 MILLS FOR CAPITAL
6 IMPROVEMENTS; EXEMPTING THE LEVY FROM THE PROPERTY TAX
7 FREEZE; AMENDING SECTIONS 7-6-2220, 7-6-4134, AND 15-10-412,
8 MCA; AND PROVIDING AN EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 7-6-2220, MCA, is amended to read:

12 "7-6-2220. levy Levies for capital improvement fund.
13 Money for the capital improvement fund is to be derived
14 from:

15 (1) a special mill levy not to exceed 4 mills on the
16 taxable value of property within the county but outside the
17 corporate limits of any city or town, the entire proceeds of
18 which must be appropriated to the capital improvement fund;
19 or

20 (2) the multiple levies authorized by statute and
21 appropriated to the capital improvement fund. However, no
22 more than 10% of the money derived from any one levy may be
23 appropriated to the capital improvement fund."

24 **Section 2.** Section 7-6-4134, MCA, is amended to read:

25 "7-6-4134. Capital improvement program fund. An amount

1 not to exceed ~~5% of the money received from and as a part of~~
2 ~~the--aforesaid--all-purpose--levy~~ 4 mills of special tax
3 authority may be placed in a separate fund, known as the
4 capital improvement program fund, to be earmarked for the
5 replacement and acquisition of property, plant, or equipment
6 costing in excess of \$5,000 \$25,000, with a life expectancy
7 of 5 years or more, provided that a capital improvement
8 program has been formally adopted by city or town ordinance.
9 The special tax levy authorized in this section may be made
10 in addition to the all-purpose mill levy established by
11 7-6-4451 through 7-6-4453."

12 **Section 3.** Section 15-10-412, MCA, is amended to read:

13 "15-10-412. Property tax limited to 1986 levels --
14 clarification -- extension to all property classes. Section
15 15-10-402 is interpreted and clarified as follows:

16 (1) The limitation to 1986 levels is extended to apply
17 to all classes of property described in Title 15, chapter 6,
18 part 1.

19 (2) The limitation on the amount of taxes levied is
20 interpreted to mean that, except as otherwise provided in
21 this section, the actual tax liability for an individual
22 property is capped at the dollar amount due in each taxing
23 unit for the 1986 tax year. In tax years thereafter, the
24 property must be taxed in each taxing unit at the 1986 cap
25 or the product of the taxable value and mills levied,

whichever is less for each taxing unit, except in a taxing unit that levied a tax in tax years 1983 through 1985 but did not levy a tax in 1986, in which case the actual tax liability for an individual property is capped at the dollar amount due in that taxing unit for the 1985 tax year.

(3) The limitation on the amount of taxes levied does not mean that no further increase may be made in the total taxable valuation of a taxing unit as a result of:

(a) annexation of real property and improvements into a taxing unit;

(b) construction, expansion, or remodeling of improvements;

(c) transfer of property into a taxing unit;

(d) subdivision of real property;

(e) reclassification of property;

(f) increases in the amount of production or the value of production for property described in 15-6-131 or 15-6-132;

(g) transfer of property from tax-exempt to taxable status; or

(h) revaluations caused by:

(i) cyclical reappraisal; or

(ii) expansion, addition, replacement, or remodeling of improvements.

(4) The limitation on the amount of taxes levied does

not mean that no further increase may be made in the taxable valuation or in the actual tax liability on individual property in each class as a result of:

(a) a revaluation caused by:

(i) construction, expansion, replacement, or remodeling of improvements that adds value to the property; or

(ii) cyclical reappraisal;

(b) transfer of property into a taxing unit;

(c) reclassification of property;

(d) increases in the amount of production or the value of production for property described in 15-6-131 or 15-6-132;

(e) annexation of the individual property into a new taxing unit; or

(f) conversion of the individual property from tax-exempt to taxable status.

(5) Property in classes four and eleven is valued according to the procedures used in 1986, including the designation of 1982 as the base year, until the reappraisal cycle beginning January 1, 1986, is completed and new valuations are placed on the tax rolls and a new base year designated, if the property is:

(a) new construction;

(b) expanded, deleted, replaced, or remodeled improvements;

1 (c) annexed property; or
 2 (d) property converted from tax-exempt to taxable
 3 status.
 4 (6) Property described in subsections (5)(a) through
 5 (5)(d) that is not class four or class eleven property is
 6 valued according to the procedures used in 1986 but is also
 7 subject to the dollar cap in each taxing unit based on 1986
 8 mills levied.
 9 (7) The limitation on the amount of taxes, as clarified
 10 in this section, is intended to leave the property appraisal
 11 and valuation methodology of the department of revenue
 12 intact. Determinations of county classifications, salaries
 13 of local government officers, and all other matters in which
 14 total taxable valuation is an integral component are not
 15 affected by 15-10-401 and 15-10-402 except for the use of
 16 taxable valuation in fixing tax levies. In fixing tax
 17 levies, the taxing units of local government may anticipate
 18 the deficiency in revenues resulting from the tax
 19 limitations in 15-10-401 and 15-10-402, while understanding
 20 that regardless of the amount of mills levied, a taxpayer's
 21 liability may not exceed the dollar amount due in each
 22 taxing unit for the 1986 tax year unless:
 23 (a) the taxing unit's taxable valuation decreases by 5%
 24 or more from the 1986 tax year. If a taxing unit's taxable
 25 valuation decreases by 5% or more from the 1986 tax year, it

1 may levy additional mills to compensate for the decreased
 2 taxable valuation, but in no case may the mills levied
 3 exceed a number calculated to equal the revenue from
 4 property taxes for the 1986 tax year in that taxing unit.
 5 (b) a levy authorized under Title 20 raised less
 6 revenue in 1986 than was raised in either 1984 or 1985, in
 7 which case the taxing unit may, after approval by the voters
 8 in the taxing unit, raise each year thereafter an additional
 9 number of mills but may not levy more revenue than the
 10 3-year average of revenue raised for that purpose during
 11 1984, 1985, and 1986;
 12 (c) a levy authorized in 50-2-111 that was made in 1986
 13 was for less than the number of mills levied in either 1984
 14 or 1985, in which case the taxing unit may, after approval
 15 by the voters in the taxing unit, levy each year thereafter
 16 an additional number of mills but may not levy more than the
 17 3-year average number of mills levied for that purpose
 18 during 1984, 1985, and 1986.
 19 (8) The limitation on the amount of taxes levied does
 20 not apply to the following levy or special assessment
 21 categories, whether or not they are based on commitments
 22 made before or after approval of 15-10-401 and 15-10-402:
 23 (a) rural improvement districts;
 24 (b) special improvement districts;
 25 (c) levies pledged for the repayment of bonded

1 indebtedness, including tax increment bonds;
 2 (d) city street maintenance districts;
 3 (e) tax increment financing districts;
 4 (f) satisfaction of judgments against a taxing unit;
 5 (g) street lighting assessments;
 6 (h) revolving funds to support any categories specified
 7 in this subsection (8);
 8 (i) levies for economic development authorized pursuant
 9 to 90-5-112(4);
 10 (j) levies authorized under 7-6-502 for juvenile
 11 detention programs; and
 12 (k) elementary and high school districts; and
 13 (l) levies for the municipal capital improvement
 14 program fund authorized in 7-6-4134 and the county capital
 15 improvement fund referred to in 7-6-2220.
 16 (9) The limitation on the amount of taxes levied does
 17 not apply in a taxing unit if the voters in the taxing unit
 18 approve an increase in tax liability following a resolution
 19 of the governing body of the taxing unit containing:
 20 (a) a finding that there are insufficient funds to
 21 adequately operate the taxing unit as a result of 15-10-401
 22 and 15-10-402;
 23 (b) an explanation of the nature of the financial
 24 emergency;
 25 (c) an estimate of the amount of funding shortfall

1 expected by the taxing unit;
 2 (d) a statement that applicable fund balances are or by
 3 the end of the fiscal year will be depleted;
 4 (e) a finding that there are no alternative sources of
 5 revenue;
 6 (f) a summary of the alternatives that the governing
 7 body of the taxing unit has considered; and
 8 (g) a statement of the need for the increased revenue
 9 and how it will be used.
 10 (10) (a) The limitation on the amount of taxes levied
 11 does not apply to levies required to address the funding of
 12 relief of suffering of inhabitants caused by famine,
 13 conflagration, or other public calamity.
 14 (b) The limitation set forth in this chapter on the
 15 amount of taxes levied does not apply to levies to support:
 16 (i) a city-county board of health as provided in Title
 17 50, chapter 2, if the governing bodies of the taxing units
 18 served by the board of health determine, after a public
 19 hearing, that public health programs require funds to ensure
 20 the public health. A levy for the support of a local board
 21 of health may not exceed the 5-mill limit established in
 22 50-2-111.
 23 (ii) county, city, or town ambulance services authorized
 24 by a vote of the electorate under 7-34-102(2).
 25 (11) The limitation on the amount of taxes levied by a

1 taxing jurisdiction subject to a statutory maximum mill levy
2 does not prevent a taxing jurisdiction from increasing its
3 number of mills beyond the statutory maximum mill levy to
4 produce revenue equal to its 1986 revenue.

5 (12) The limitation on the amount of taxes levied does
6 not apply to a levy increase to repay taxes paid under
7 protest in accordance with 15-1-402."

8 NEW SECTION. **Section 4.** Effective date. [This act] is
9 effective July 1, 1993.

-End-

1 *House* BILL NO. *205*
 2 INTRODUCED BY *Waleed Ammar* *Randy Davis*
 3 *John HARP* *B. Lewis* *Bob Brown*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW
 5 REGARDING RECREATIONAL ACCESS TO STATE LANDS BY ELIMINATING
 6 THE RECREATIONAL USE LICENSE; AMENDING SECTIONS 77-1-808,
 7 87-1-504, AND 87-1-601, MCA; REPEALING SECTIONS 77-1-801 AND
 8 77-1-802, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 77-1-808, MCA, is amended to read:

12 "77-1-808. State lands recreational use account. (1)

13 There is a state lands recreational use account in the state
 14 special revenue fund provided for in 17-2-102.

15 (2) There must be deposited in the account:

16 (a) ~~all revenue received from the recreational use~~
 17 ~~license established by 77-1-802;~~

18 (b) all revenue received from the imposition of fines
 19 under ~~77-1-801~~ and 77-1-806 and from civil penalties imposed
 20 pursuant to 77-1-804; and

21 (c) ~~(b)~~ money received by the department in the form of
 22 legislative appropriations, reimbursements, gifts, federal
 23 funds, or appropriations from any source intended to be used
 24 for the purposes of this account.

25 (3) Money deposited in the state lands recreational use

1 account is statutorily appropriated, as provided in
 2 17-7-502, and must be used by the department for the
 3 following purposes:

4 (a) compensation pursuant to 77-1-809 for damage to the
 5 improvements of leases that has been proved to be caused by
 6 recreational users;

7 (b) assistance in weed control management necessary as
 8 a result of recreational use of state lands;

9 (c) protection of the resource value of the trust
 10 assets; and

11 (d) administration and management for the
 12 implementation of recreational use of state lands."

13 **Section 2.** Section 87-1-504, MCA, is amended to read:

14 "87-1-504. Protection of private property -- duty of
 15 wardens. (1) It shall be the duty of wardens (state
 16 conservation officers) to enforce the provisions of
 17 45-6-101, 45-6-203, 75-10-212(2), ~~77-1-801~~, 77-1-806, and
 18 rules adopted under 77-1-804 on private and state lands
 19 being used for the recreational purposes of hunting and
 20 fishing and to act as ex officio firewardens as provided by
 21 77-5-104.

22 (2) As used in this section, "recreational purposes"
 23 means recreational purposes as defined in 70-16-301."

24 **Section 3.** Section 87-1-601, MCA, is amended to read:

25 "87-1-601. Use of fish and game money. (1) (a) Except

1 as provided in subsection (7), all money collected or
2 received from the sale of hunting and fishing licenses or
3 permits, from the sale of seized game or hides, or from
4 damages collected for violations of the fish and game laws
5 of this state, from appropriations, or received by the
6 department from any other state source must be turned over
7 to the state treasurer and placed by--him in the state
8 special revenue fund to the credit of the department.

9 (b) Any money received from federal sources must be
10 deposited in the federal special revenue fund to the credit
11 of the department.

12 (c) All interest earned on money from the following
13 sources must be placed in the state special revenue fund to
14 the credit of the department:

15 (i) the general license account;

16 (ii) the license drawing account;

17 (iii) accounts established to administer the provisions
18 of 87-1-246, 87-1-258, 87-1-605, 87-2-412, 87-2-722, and
19 87-2-724; and

20 (iv) money received from the sale of any other hunting
21 and fishing license.

22 (2) That money must be exclusively set apart and made
23 available for the payment of all salaries, per diem, fees,
24 expenses, and expenditures authorized to be made by the
25 department under the terms of this title. That money must be

1 spent for those purposes by the department, subject to
2 appropriation by the legislature.

3 (3) Any reference to the fish and game fund in this
4 code means fish and game money in the state special revenue
5 fund and the federal special revenue fund.

6 (4) Except as provided in subsection (7), all money
7 collected or received from fines and forfeited bonds, except
8 money collected or received by a justice's court, relating
9 to violations of state fish and game laws under Title 87
10 must be deposited by the state treasurer and credited to the
11 department in a state special revenue fund account for this
12 purpose. Out of any fine imposed by a court for the
13 violation of the fish and game laws, the costs of
14 prosecution must be paid to the county where the trial was
15 held in any case in which the fine is not imposed in
16 addition to the costs of prosecution.

17 (5) Money received by the department from the sale of
18 surplus real property; exploration or development of oil,
19 gas, or mineral deposits from lands acquired by the
20 department except royalties or other compensation based on
21 production; and from leases of interests in department real
22 property not contemplated at the time of acquisition must be
23 deposited in an account within the nonexpendable trust fund
24 of the state treasury. The interest derived from the fund,
25 but not the principal, may be used only for the purpose of

1 operation, development, and maintenance of real property of
2 the department, and only upon appropriation by the
3 legislature. If the use of money as set forth in this
4 section would result in violation of applicable federal laws
5 or state statutes specifically naming the department or
6 money received by the department, then the use of this money
7 must be limited in the manner, method, and amount to those
8 uses that do not result in a violation.

9 (6) Money received from the collection of license
10 drawing applications is not subject to the deposit
11 requirements of 17-6-105. The department shall deposit
12 license drawing application money within a reasonable time
13 after receipt.

14 (7) Money collected or received from fines or forfeited
15 bonds for the violation of ~~77-1-801~~, 77-1-806, or rules
16 adopted under 77-1-804 must be deposited as follows:

17 (a) 50% in an account for use by the department for the
18 enforcement of ~~77-1-801~~, 77-1-806, and rules adopted under
19 77-1-804; and

20 (b) 50% in the state lands recreational use account
21 established by 77-1-808 for use by the department of state
22 lands in the management of state lands."

23 NEW SECTION. Section 4. Repealer. Sections 77-1-801
24 and 77-1-802, MCA, are repealed.

25 NEW SECTION. Section 5. Effective date. [This act] is

1 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

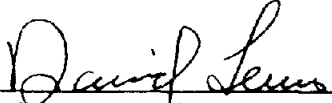
In compliance with a written request, there is hereby submitted a Fiscal Note for HB0205, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act revising the law regarding recreational access to state lands by eliminating the recreational use license.

ASSUMPTIONS:

1. FY93 State Lands Recreational Use License sales will total 32,000 licenses. Department of Fish, Wildlife and Parks (FWP) recorded sales as of November 30, 1992 were 28,450 licenses. FWP estimates total recorded sales for the license year should reach 32,000 licenses. Additionally, it is anticipated that license numbers will continue to increase in future years due to greater awareness of the program and license requirement.
2. Recreational usage of state lands would be anticipated to increase without the license requirement and thereby increase the Department of State Land's (DSL) required administration of the recreational use program. The DSL will still be required to administer the program as outlined in the remaining statutes and the administrative rules. This administration will include DSL personal services and operating expenses (processing closure and restriction requests; processing special recreational use license requests; processing open road designation requests; and investigating and prosecuting violations; damage compensation to lessees suffering damages to improvements; and noxious weed control necessary as a result of recreational use. With increased usage it can be assumed that there will be more damage compensation requests, more weed control needs, and more issues of contention between existing land uses for DSL to deal with.
3. Annual revenues of 32,000 licenses x \$5.00/license = \$160,000 will be eliminated. This total revenue breaks down to \$96,000 in annual income to the school equalization account, \$48,000 to the State Lands Recreational Use Account for program administration, and \$16,000 in license agent commissions.
4. DSL's administrative expenses will need to be funded from the general fund to continue the program as it now exists.
5. DSL's expenditures to administer the recreational use program will not change with the proposed legislation. The DSL has not completed a full fiscal year with the program in effect, so actual expenditures are not available at this time. Estimated expenditures based upon the first 6 months of FY93 amount to \$117,000 in personal services and \$7,500 in operating expenses. Assuming that these expenditures will be the same for the next 6 months, the total FY93 expenditures would be \$234,000 in personal services and \$15,000 in operating expenses. Under the proposed legislation the expenditures would be reduced by an estimated \$10,740 (current payment to FWP of \$.22/license (\$7,040) for administration of license sales; and \$3,700 for license printing).
6. To date, the personal services expenses have been charged to other existing programs due to the start up nature of the program and the uncertainty of funds in the recreational use account. This delegation of personnel time to the recreational use program has resulted in lost revenues from other existing programs. Only operating expenses have been charged to the recreational use account. The intent is to begin charging 1.00 FTE (the recreational use program coordinator) to the account from now on. It was anticipated that during the 1995 biennium, the administration of the recreational use program would become self sufficient using funds available in the state lands recreational use account.

(Continued)

 1-21-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

EDWARD DOLEZAL, PRIMARY SPONSOR DATE
Fiscal Note for HB205, as introduced

HB 205

FISCAL IMPACT:

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
School Equalization Account	96,000	0	<96,000>	96,000	0	<96,000>
State Lands Rec. Use Account	48,000	0	<48,000>	48,000	0	<48,000>
License Agent's Commission	<u>16,000</u>	<u>0</u>	<u><16,000></u>	<u>16,000</u>	<u>0</u>	<u><16,000></u>
TOTAL	160,000	0	<160,000>	160,000	0	<160,000>

Net Impact:

DSL's administrative costs must be funded from the general fund and/or other trust management program revenues. The latter would reduce funds for other agencies in order to maintain the recreational use program.

TECHNICAL NOTES:

1. Trust lands administered by the Department of State Lands are subject to the Montana Enabling Act which is Federal Law. Under Section 11 of that Act, no interest in trust land may be disposed of (sold, leased, or licensed) unless full market value is obtained. Court cases interpret this provision to require monetary compensation to the trust beneficiaries, which are the common school system, certain units of the university system, and certain other institutions. Section 4 of the proposed legislation repeals the \$5 license fee for recreational use of state land. To the extent that the grant of right to make recreational use of state land is a grant of an interest in state lands, the trusts must receive full market value for that use. The removal of the \$5 license fee therefore violates the Enabling Act.
2. The Montana Constitution, Article X, Section 11, provides that trust lands must be held and disposed of for the purposes for which they were granted and may not be disposed of (sold, leased, or licensed) at less than full market value. Thus, the defects discussed above are also constitutional defects.