



TREASURE STATE RESOURCES ASSOCIATION OF MONTANA

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TREASURE STATE RESOURCES ASSOCIATION NEWS March, 2017

Breaking News: Today, March 1, 2017 Montana Congressman Ryan Zinke was confirmed as the new Secretary of the Interior by the United States Senate. Congratulations to Secretary Zinke!

Montana Legislative Update – We’re Halfway There!

March 1st represents the 45th Legislative Day – otherwise known as the transmittal deadline. Under the rules for transmittal (ie. the hallway point), all general bills, or those not having a potential impact on revenue such as tax-related measures, have to pass from one Chamber to the other in order to remain in play. The following is an update on the status of the major bills TSRA has been following so far this session. For those first addressed in the February newsletter, the updated information appears in **red**:

HB 38: Introduced by Rep. Curdy on behalf of the Department of Natural Resources, this bill increases the amount of timber that can be harvested on an inaccessible section of state land when the adjoining landowner will authorize access to only one potential buyer. The Department believes this will aid in carrying out their forest management goals. Status: Passed the House of Representatives. **Hearing scheduled in the Senate Natural Resources Committee on Friday, March 10th at 3:00 pm. TSRA will support.**

HB 211: Introduced by Rep. Hamlett, the bill requires the Department of Fish, Wildlife and Parks to report sage grouse population data to the Montana Sage Grouse Oversight Team and the Environmental Quality Council on an annual basis. The report must include seasonal and historic population data available from the department or any other source. **The bill was**

amended to include the requirement that the Department also report the number of leks. The goal is to stay abreast of population trends so MSGOT can evaluate whether efforts to conserve habitat are on track, or if adjustments may be warranted.

Status: Passed the House of Representatives. Heard in the Senate Fish and Game Committee and is awaiting Executive Action. TSRA Supports.

HB 228: Introduced by Rep. Keane to revise funding for the Montana Greater Sage Grouse Stewardship Act. This bill authorizes resources for operation of the sage grouse program, as well as funding for stewardship grants for a 4-year period. The bill was amended to cap the amount of money that would be spent on administration of the program.

Status: Passed the House of Representatives. Awaiting a hearing in Senate Natural Resources. TSRA Supports.

HB 296: Introduced by Rep. Hayman, the legislation called for establishing a hazardous materials response and preparedness task force to identify needs for beefing up readiness across the state to respond to hazardous waste emergencies. TSRA emphasized the commitment to safety across all industry sectors, but opposed the measure because it created a duplication of effort. The State Emergency Response Commission is already in place and working on the same issues.

Status: The bill was tabled in committee. Bill is probably dead for this session.

SB 109: Introduced by Senator Mike Phillips, the bill would have allowed regulators to consider potential environmental impacts outside of Montana when reviewing a proposed action. It would roll back limitations placed on consideration of those impacts in an earlier session. Opponents pointed to the uncertainty the change would create in state permitting processes. TSRA President Todd O'Hair testified in opposition to the bill on behalf of the Association.

Status: Tabled in the Senate Natural Resources Committee. Bill is probably dead for this session.

SB 132: Introduced by Sen. Tom Richmond, the bill makes the 10-year tax exemption created in the 2015 session permanent for certain pollution control equipment installed by industry. The sponsor focused on the renewed potential for use of carbon capture equipment by some Montana facilities and the need to plan for costs in the long term.

Status: Passed the Senate. Scheduled for hearing in the House Taxation Committee at 8:00 am. on March 9, 2017. TSRA Supports.

SJ 5: Introduced by Senator Mike Phillips, the joint resolution calls for an interim study to look at threats to the mining and burning of coal in Montana and the consequences of significant reductions in coal mining and usage. While a study might call attention to the significant contribution coal makes to the state, there was some discomfort with the sponsor's approach based on the measure's short title calling for an "interim study regarding coal phase-out". TSRA President Todd O'Hair testified in opposition on behalf of the Association. The

resolution was amended to include language that the study look at the potential for other economic sectors to compensate for any reduction in the coal severance tax due to reduced coal mining in Montana.

Status: The resolution was passed by the Senate and will be heard in the House Energy, Technology, and Federal Relations Committee on Friday, March 10th at 3:00 pm.

SJ 6: Introduced by Sen. Ankney, the resolution would urge Congress to propose the Regulation Freedom Amendment to the United States Constitution. The amendment would state that “whenever one quarter of the members of the United States House of Representatives or the United States Senate transmits to the President their written declaration of opposition to a proposed federal regulation, it shall require a majority vote of the House of Representatives and the Senate to adopt that regulation.” TSRA supported the resolution, citing the growing number of regulatory proposals that have far-reaching impacts on jobs and the economy that federal agencies aren’t taking into consideration when adopting rules.

Status: The resolution passed the Senate and will be heard in the House Energy, Technology, and Federal Relations Committee on Friday, March 10th at 3:00 pm.

(Note: The following bills were heard after the publication of the February Newsletter.)

HB 486: Introduced by Rep. George Kipp, the bill would have prohibited fossil fuel pipelines from being located under navigable lakes and streams. The sponsor stated he wanted to put some sideboards on the ability of companies to locate pipelines under streambeds owned by the State of Montana. Among other things, he discussed the potential for the contamination of aquifers. Proponents talked about historic issues with pipeline accidents and the importance of protecting the state’s environment. No one commenting on the bill was able to point to definitive research that illustrated pipelines located above ground were safer than those located under the water crossing. Opponents, including TSRA, noted new federal requirements for locating pipelines under water bodies, as well as new technologies being employed. 99.999 % of all crude oil, gasoline, diesel, and jet fuel transported by pipeline in this country is safely delivered to its destination. During Executive Action in Committee, some members expressed a concern that the bill seemed to be aimed at stopping or delaying the Keystone Pipeline project.

Status: HB 486 was tabled in the House Energy, Technology and Federal Relations Committee. Bill is probably dead for this session.

SB 170: Introduced by Sen. Hinebauch, the bill provides that a person who owns or operates real property can bring a civil action against an operator of an unmanned aerial vehicle (drone) who trespasses on their property. The hearing drew a number of opponents, including TSRA, who while appreciating the intent to protect private property rights, pointed out the potential for unintended consequences for parties conducting various commercial activities. The sponsor of the bill has been very receptive to making changes in the bill to address many, though not all, of the concerns raised by those commenting at the hearing. A number of amendments were added

during Executive Action to exempt some activities, including those being conducted by law enforcement, land surveying, or for insurance purposes.

Status: Bill passed out of the Senate Judiciary Committee. It is awaiting floor action after transmittal (bill is considered a revenue bill). Should it pass the Senate, additional amendments may be considered as it moves through the House.

SB 190: Senators Phillips and Barrett brought this bill to require the MT Department of Environmental Quality to develop and implement a greenhouse gas reporting program. The Board of Environmental Review would be charged with adopting fees to be assessed on “significant sources of greenhouse gas emissions” for purposes of funding the program. The DEQ would need to produce a report by August 1, 2018 that would include a proposal to cap greenhouse gas emissions in Montana. Both Senators offered scholarly testimony concerning scientific evidence about the impact of global warming and the economic choices that lay before us on a global scale. Proponents of the bill largely spoke to concerns about global warming. TSRA joined other opponents in pointing out challenges to the workability of the bill, including the very short timeline for approving rules to collect fees and to produce a report. TSRA pointed out that the EPA already collects information on greenhouse gas emissions under two different programs and many of those reporting would ultimately be paying DEQ to report the same information they have already provided at the federal level.

Status: Executive Action is pending in the Senate Natural Resources Committee. SB 190 is considered a revenue bill and did not have to meet the transmittal deadline.

SB 207: Sen. Moore introduced SB 207 to protect the confidentiality of certain artifacts or remains found on land obtained for common carrier pipelines. Sen. Moore noted there were some inconsistencies in current state regulatory requirements. Originally limited to lands obtained through the exercise of eminent domain, the bill was amended to apply to all lands, rights-of-way, or easements obtained for common carrier pipelines. TSRA was a “soft” opponent to the bill as introduced because of the eminent domain limitation, but now supports the bill as amended.

Status: The bill has passed the Senate and has been transmitted to the House of Representatives.

SB 232: This bill was brought on behalf of the Montana Trail Vehicle Riders Association and was sponsored by Sen. Connell. SB 232 would require all resident users of Off-Highway Vehicles (OHV's) to purchase and display a \$10 annual trail pass to operate them on public lands. Funds raised would go toward ethics and safety education, weed control, new trail construction, signage, trail clearing and maintenance. MTVRA representatives, as well as a representative from Fish, Wildlife and Parks noted funds available for these activities had been greatly reduced and with added interest in outdoor recreation, including OHV activities, more resources were needed. TSRA supported the bill, noting MTVRA's long participation in the association and

recognizing the extensive volunteer efforts already expended by MTVRA members to maintain trails and provide safety education.

Status: The bill is waiting for Executive Action in the Senate Highways and Transportation Committee. It is considered a revenue bill and did not have to meet the transmittal deadline.

SB 284: Introduced by Sen. Mike Lang, the bill revises the Montana Greater Sage-Grouse Stewardship Act by changing the current requirement for the US Fish and Wildlife Service “to approve” the habitat quantification tool (HQT) being developed for Montana’s program to state that the HQT would be designated in “consideration of applicable United States Fish and Wildlife Service sage grouse policies, state law, and any rules adopted pursuant to this part.” The sponsor noted that when the legislation was first adopted in 2015, the state didn’t know if the sage grouse would be listed as an endangered species, thereby making management subject to USFWS approval. In discussions regarding rulemaking for the state program last fall, the Service noted they technically did not have the authority to “approve” anything because sage grouse were not listed and are not currently under their jurisdiction. Give the potential for confusion between the statute and the rules being developed, the clarification in the bill will better align Montana’s efforts to protect the sage grouse. TSRA supports the measure.

Status: The bill passed the Senate and has been transmitted to the House.

SJ 10: This resolution sponsored by Sen. Lang calls for Montana to urge Congress and the President to approve the Keystone XL pipeline. The language in the resolution highlights the expected \$63 million in annual property taxes that will be generated from the pipeline. The pipeline is expected to provide for 3500 jobs in the state during construction. The AFL-CIO testified in support, noting many of those jobs would be filled by union workers per agreement with the company. Representatives from local communities in eastern Montana testified as to the economic benefits the pipeline would provide and noted the company had been a “good neighbor” in terms of supporting local activities. TSRA supports the resolution.

Status: The resolution passed the Senate and was transmitted to the House of Representatives.

Funding Infrastructure Expected to be a Major Focus in the Second Half of the Session:

There are several proposals to address Montana’s infrastructure needs already, or soon to be in play in the second half of the session. Those include proposals submitted by Governor Bullock and the Montana Infrastructure Coalition. The Coalition’s centerpiece legislation, HB 473, is the fuel tax increase proposal. It was heard in the House Transportation Committee on February 22nd and is awaiting Executive Action following transmittal. Additional funding is being sought because the current revenue stream from fuel taxes has been flat for several years and more funds are needed to match available federal highway money. The measure was widely supported. The following is a guest column from the bill’s sponsor outlining the details of the measure.

A Long-Term Solution to Funding Montana's Infrastructure

We haven't raised the gas tax in nearly a quarter century

By (Representative) Frank Garner Source: Flathead Beacon, February 28, 2017

I've spent three decades involved in improving public safety. The people that know me recognize it remains one of the great passions in my life. It's that passion that has driven me in my life as a police officer, as a community volunteer and in my role in our Legislature.

It is why after seeing the information in the TRIP report I recognized we have to change the rate at which we are funding road and bridge work in this state. The TRIP report is an independent study commissioned by the Infrastructure Coalition that paints a grim picture of the state of our road and bridge infrastructure. Founded in 1971, TRIP is a private nonprofit organization that researches, evaluates and distributes economic and technical data on surface transportation issues.

To that end, I have worked across the state and aisle to craft a long-term solution and that's why I am proposing the Bridge and Road Safety and Accountability Act. The Act requires an audit of the Department of Transportation, a raise in the gas tax and a website to report all expenditures and projects.

According to the independent TRIP report, Montana is third in the nation for fatalities per miles driven, there are over 400 bridges structurally deficient and over 500 are structurally obsolete. Thirty-four percent of Montana's major roads are in poor condition.

We haven't raised the gas tax in nearly a quarter century and in the meantime, fuel efficiency has resulted in us paying much less per mile toward our repairs. It costs Montanans over \$800 million a year in unfunded improvement and repairs and about the same in damage to vehicles and delays due to poor roads.

Over 20 highway patrolman are at risk of losing their jobs as a result of a loss of highway funding.

This bill offers three primary policies and promotes solutions intended to guarantee the money will be spent on road and bridge work. The three main policy areas are:

- 1) **Efficiency** – Requiring an independent audit of the Montana Department of Transportation. It's an effort to compare our costs and expenses with similar department in other states to make sure we are being as efficient as possible.
- 2) **Revenues** – Authorizing a raise in the gas tax of 8 cents and a raise of 7.25 cents in highway diesel. It does not include a raise in off-road diesel. It raises about \$35 million to help the state capture \$220 million in federal match dollars, about \$22 million for counties and cities to work on bridges and roads and about \$2.5 million for the Highway Patrol to avoid losing several officers due to budget cuts. Visitors will pay this every time they fill

up and all of the dollars will be competitively bid. It requires these funds be spent on road and bridge work.

- 3) **Accountability** – Establishing a web page to allow everyone to see the projects being funded and every dollar raised and spent

We can pay as we go for these improvements and we can get our out-of-state visitors to help us pay for them. We can turn an investment of \$60 million dollars into \$290 million with federal and local matching funds and we can save tens of millions more with safer and better roads

We can continue to sit by and watch as the gap between what we pay and what we spend on road and bridge safety becomes ever wider or we can ask those who use them to help close the gap for what will amount to the cost of a latte or about \$5 a month for most drivers.

I could ignore this, but it wouldn't fix the problem and I believe it is the right thing to do. The mission for me is road and bridge safety for our families and that's why I'm sponsoring the Bridge and Road Safety Accountability Act. (HB 473)

Royalty Program Changes Frozen

Source: [Helena Independent Record](#), February 26, 2017 By: Matthew Brown, AP

BILLINGS – The interior Department has put on hold changes to how the federal government values huge volumes of coal extracted from public lands, primarily in the Western United States, after mining companies challenged the agency in federal court.

The move by the Trump administration means current rules governing the industry will remain in place pending decisions in the courts, according to an agency notification due to be published Monday (Feb. 27) in the Federal Register.

The changes, crafted under the administration of President Barack Obama, were aimed at ensuring companies don't shortchange taxpayers on coal sales to Asia and other markets. Coal exports surged over the past decade even as domestic sales declined.

Yet federal lawmakers and watchdog groups have long complained that taxpayers were losing hundreds of millions of dollars annually because royalties on coal from public lands were being improperly calculated.

In 2016, companies sold 316 million tons of coal from federal and Indian lands valued at \$5.4 billion. Those sales generated almost \$600 million in reported royalties, according to Interior department data. Most coal from public lands is mined in Wyoming. Mines in Montana, Colorado, Utah and New Mexico also play a significant role.

The fuel is used to produce about one-third of the nation's electricity, a figure that has dropped in recent years as cheap natural gas has gained a much larger share of the power market.

In a related story written by Juliet Eilperin and published February 24, 2017 in the Washington Post Montana Senator Steve Daines was quoted as saying: " This rule would have had immediate detrimental effects to American energy producers and the hard-working Montanans and workers across the country they support". Daines had asked the new administration last month to stay the rule which took effect January 1st. (Companies were supposed to file their first reports under the new rule on February 28, 2017.)

Colin Marshal, president and chief executive of Cloud Peak Energy, called the change in accounting rules "among the most egregious" of the "punitive regulations" on coal the Obama administration had adopted, and welcomed the suspension.

Interior spokeswoman Heather Swift said in an email that her department delayed the rule's effective date "to allow the administration time to conduct a detailed review of the rule and the compliance burden it puts on job creators. The Department will make a definitive decision in the future."

Environmentalists and some watchdog groups blasted the move, which first came in the form of a letter sent Wednesday (February 22) to mining, oil and gas firms. Theo Spencer, a senior policy advocate at the Natural Resources Defense Council, said agencies are legally obligated to provide notice and take public comments before staying a rule, and that they cannot unilaterally delay a rule that is in effect.

"It's just a ham-fisted effort to try to cheat taxpayers," he said. "We and others are exploring potential litigation as we feel strongly that this was a miscarriage of justice, and an example of the administration picking which laws it wants to follow."

Trump Establishes Task Forces to Eliminate "Job Killing Regulations"

Source: Washington Post February 24, 2017 By: Juliet Eilperin

President Trump signed an Executive Order Friday establishing task forces in every agency for "removing job killing regulations and increasing economic opportunity."

Trump, who signed the measure in the Oval Office with the chief executives from U.S. firms such as Lockheed Martin, Dow Chemical and Archer Daniels Midland standing behind him, said each task force "will make recommendations to repeal or simplify existing regulations".

"It will ensure that every agency has a team of dedicated people to research all regulations that are unnecessary, burdensome and harmful to the economy and harmful to the creation of jobs and business, he declared. "Every regulation should have to pass a simple test: Does it make life

better for American workers or consumers. If the answer is 'no', if the answer is no, we will be getting rid of it and getting rid of it quickly."

Under the 1946 Administrative Procedure Act, eliminating a rule entails a detailed process in which agencies must subject such proposals to public comment. It typically takes at least a year and a half to wipe a rule off the books, according to the George Washington University Regulatory Studies Center, although more recent ones can be overturned more quickly by a majority vote in Congress and the president's signature. Trump has already overturned two Obama-era rules that way and is poised to nullify others.

Earlier on Friday, speaking to activists at the Conservative Political Action Conference, Trump said that he aimed to preserve key environmental and worker safeguards but that 75 percent of all federal regulations are "horrible".

"We're working very hard to roll back the regulatory burden so that coal miners, factory workers, small business owners and so many others can grow their businesses and thrive," he told reporters in the Oval Office. "We cannot allow government to be an obstacle to economic opportunity."

A coalition of public watchdog and environmental groups is already challenging a Feb. 8 executive order Trump signed that calls for the elimination of two regulations for every new one that is issued. Scott Slesinger, who serves as legislative director at the Natural Resources Defense Council, said in a statement that the latest directive also poses a threat to the public.

"Don't be fooled," Slesinger said. "No matter how President Trump tries to dress it up this order is a directive to kill the safeguards Americans depend on for clean air, drinkable water, and safe food..."

American Sustainable Business Council CEO David Levine called the measure "misguided". "Regulations exist for a reason," he said in a statement, adding that regulations protect business and the public "from a range of real risks and threats that markets can no adequately address. In addition, good regulations encourage innovation, a key ingredient to a robust economy. Let's not lose those vital benefits."

Daines to Lead Montana Ag Summit 2017

U.S. Senate (February 24, 2017) – U.S. Senator Steve Daines today announced that he will be spearheading the Montana Ag Summit 2017 in Great Falls this spring.

The summit, sponsored by Daines, will take place in Great Falls on May 31 and June 1, 2017. U.S. Senator Pat Roberts, the Chairman of the U.S. Senate Committee on Agriculture, Nutrition, and Forestry will deliver a keynote address at the summit.

“The summit will highlight our state’s number one economic driver by bringing together agricultural leaders to discuss how to keep our agriculture heritage strong for generations to come,” Daines stated. “Farmers and ranchers are the backbone of Montana’s economy and I look forward to a Montana family conversation about the future of agriculture.”

The Montana Ag Summit will bring the nation’s agricultural leaders to Montana’s Golden Triangle. The focus of the summit is on strengthening international relationships for Montana agriculture, showcasing technological advancements, promoting the next generation of farmers and ranchers, and discussing the challenges of federal policies and regulations.

Save-the-Date Reminder: The Treasure State Resources Association Annual Meeting is Scheduled for June 21-23, 2017 Fairmont Hot Springs Resort, Fairmont, MT

Don’t forget this year we’ll be gathering at **Fairmont Hot Springs Resort**, Fairmont, MT on June 21-23, 2017 for our annual meeting. Plans include the traditional “golf scramble” and networking events. We’re also combining our activities with a “strategy/planning” meeting for industry, recreation and other interested groups.

Updates: The TSRA Golf Scramble will be held at the **Old Works Golf Course in Anaconda, Montana beginning at 1:00 pm. on Wednesday, June 21, 2017.** Additional Program and Registration Details will follow.

Upcoming Events/Dates

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| March 20, 2017
10 am. - 1 pm | - | DEQ Nutrient Working Group
Metcalf Building, Helena, MT |
| March 21, 2017
1 pm. – 3 pm. | - | DEQ SB 325 Rulemaking Stakeholder Group
Metcalf Building, Helena, MT |
| March 27, 2017
1 pm. – 4 pm. | - | DEQ Nutrient Working Group
Metcalf Building, Helena, MT |
| March 31, 2017
9 am. | - | Board of Environmental Review
Metcalf Building, Helena, MT |
| May 23-25, 2017 | - | Montana Mining Association Convention
Fairmont Hot Springs Resort |

May 31 – June 1, 2017		Montana Stockgrowers Assn. Mid-Year Meeting Great Falls, MT
June 21-23, 2017	-	Treasure State Resources Association Annual Mtg. Fairmont Hot Springs Resort
July 17-18, 2017	-	Montana Coal Council Annual Meeting Big Horn Resort, Billings, MT
July 27-29, 2017	-	Governor's Cup Golf Tournament Flathead
August 29 – 30, 2017		Montana Petroleum Association Annual Meeting DoubleTree by Hilton, Billings, MT