



TREASURE STATE
RESOURCES ASSOCIATION
OF MONTANA

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TREASURE STATE RESOURCES ASSOCIATION NEWS
March, 2021

Reminder: Governor Gianforte Needs Your Ideas for Regulatory Reform ASAP

As a reminder, one of MT Governor Gianforte's priorities is to review and reform regulations in all state agencies in an effort to reduce regulatory burdens imposed on Montana farmers, ranchers, businesses and industries. He created the Red Tape Relief Advisory Council for purposes of implementing regulatory reform.

That effort is led by Lt. Governor Juras. The Red Tape Relief Advisory Council will present a report and proposed plan of regulatory review to the Governor by August 1, 2021.

The Governor has reached out to a number of organizations to ask for their assistance in reaching out to their members to help with this undertaking. Specifically, he would appreciate input regarding:

1. What state regulation(s) can you identify that unnecessarily impact your ability to maintain and/or grow your business. For example, those regulations might be duplicative of other rules, fail to accomplish their intended purpose, or have unintended consequences in terms of their implementation.
2. For those regulations you have identified, what is the estimated cost of compliance?

3. What do you recommend as a solution, ie. repealing the rule, amending it, or other options?

The Administration requests this information by mid-March if possible. Your input will help the Council zero in on those regulations that are having the most significant impact in terms of high compliance costs and limitations on job growth and investment.

In order to assist the Administration, TSRA would be glad to collect your input and provide that to the Red Tape Advisory Council if that is helpful. You may send that to Peggy Trenk at ptrenk@tsria.net. Or you may choose to work directly with your industry association as appropriate -- this is a "team effort". The important thing is to provide timely information.

Time to Plan for TSRA Annual Meeting – Room Block is Open

TSRA's 2021 Annual Meeting is scheduled for June 16-17th at the DoubleTree Hilton Hotel in Billings. Unless COVID throws us another curve in the coming weeks, this will be an in-person meeting.

Activities begin with the traditional 4-person golf scramble on the afternoon of June 16th with the first tee time at 1:00 pm. A box lunch will be included. We'll be playing at the Pryor Creek Golf Course at Huntley, MT on their private course - the Elmer Link Course.

Meeting registration and a conference agenda will be available in the near future. We hope to feature updates from the new Gianforte Administration and learn more about how we can help with Montana's "Come Back Plan". Watch for more details to follow.

It is now possible to reserve your room at the hotel using the link below. **Please note that the Room Block is set up for two nights beginning on Tuesday, the 15th, just in case you need to arrive earlier for golf or other business. If you only need to stay for the night of the 16th, you will need to make a change on the arrival date by clicking on "edit stay", change the arrival day and hit update.**

To make a reservation, click here:

https://doubletree.hilton.com/en/dt/groups/personalized/B/BILDTRDT-TSR-20210615/index.jhtml?WT.mc_id=POG

If you need to contact the hotel directly call: 406-238-4306.

Thank you to our Early Bird Meeting Sponsors

TSRA appreciates all the sponsors who help make our annual meeting program possible. To date our Early Bird Sponsors include:

Trailblazer: BNSF, MDU Resources, and NorthWestern Energy

Champion: Browning, Kaleczyc, Berry & Hoven, Enbridge Energy, Hecla Montana, NextEra Energy, The Washington Companies, and Weyerhaeuser

Advocate: Ash Grove Cement, Denbury Resources, Energy Laboratories, Great Northern Properties, IBEW #44, Montana Coal Council, Montana Independent Bankers Association, Parsons, Behle & Latimer, Phillips 66, and Sandfire Black Butte

Groundbreaker Golf: Citizens for Balanced Use and Great Northern Properties

Supporter: Galt Government Affairs, Ken Morrison, and Melissa Lewis & Associates

TSRA Legislative Activity Update

The Montana Legislative Session has reached the halfway point – known as “transmittal” – for which all general bills must pass from one house to the other to remain alive for this session. Members have returned home to spend time in their local communities before beginning the second half of the session. The state budget will take priority in the upcoming weeks and the general (or policy) bills also make their way through the rest of the process.

TSRA has worked closely with our members and partner organizations on a broad range of bills either to support or oppose. The following is an update on bills we have followed to date:

HB 86 (Rep. Mary Ann Dunwell, D-Helena) Rep. Dunwell carried HB 86 on behalf of the Local Government Interim Committee. The bill authorized the creation of regional fire protection service authorities and allowed for fees to be assessed for their operation. Owners of forest lands, including TSRA member companies, already pay the DNRC assessment for fire preparedness and regional fire district fees for services provided by local fire departments. Formation of Regional Fire Protection Service Authorities could have resulted in a cost increase for owners of those forest lands. The Montana Wood Products Association and individual forest land owners, as well as TSRA, opposed the bill as written and asked for an amendment that would provide a mechanism to assure their costs would not increase if an “authority” were created.

The bill was heard in the House Local Government Committee. An amendment was offered to address the opponents’ concerns. The amendment was added but the bill was ultimately tabled.

TSRA Position: Oppose as Introduced

HB 99 (Rep. Denise Hayman, D-Bozeman) The bill would have eliminated the preapproval process for electricity supply sources essentially undoing the practice established in 2007 when Montana sought to re-regulate utilities. Under pre-approval, the state Public Service Commission can approve a resource acquisition that is determined to be prudent before it's purchased or built and allow the utility to "rate base" the cost. That would help with financing and other planning needs. The measure came out of a last minute action taken by the Interim Energy and Telecommunications Committee in response to a suggestion from an outgoing PSC member with very little discussion.

The bill was heard in the House Energy, Technology and Federal Relations and later tabled.

TSRA Position: Oppose

HB 150 (Rep. Mary Ann Dunwell, D-Helena) Similar to a measure introduced in 2019, the bill would have established carbon equivalent emission reduction targets and enacted a carbon tax on large sources. Montana would be the second state to enact a carbon tax. The bill was widely opposed by industry representatives and business groups.

The measure was heard in the House Taxation Committee on January 21, 2021 and tabled the following day.

TSRA Position: Oppose

HB 173 (Rep. Denley Loge, R-St. Regis) This act establishes a fire hazard reduction fund and requires the deposit of revenue from forfeited fire hazard reduction performance bonds into a state special revenue fund for authorization, management, and completion of fire hazard reduction activities. The Department of Natural Resources has been using forfeited bond funds for reclamation of abandoned projects for decades, but discovered legislative authority for that activity did not exist. This bill gives the Department the authority for that expenditure.

The bill passed the House and has been assigned to the Senate Natural Resources Committee.

TSRA Position: Support

HB 245 (Rep. Larry Brewster, R-Billings) This bill took an opposite approach to the utility pre-approval process and reinforced the practice by providing for accountability on the part of both the utility and the Public Service Commission. The Public Service Commission would be directed to provide more information about why a request for pre-approval was denied.

The bill was heard in the House Energy, Technology and Federal Relations Committee and was later tabled.

TSRA Position: Support

HB 387 and HB 389 (Rep. Ed Stafman, D-Bozeman) Both these measures were aimed at the Colstrip Energy Limited Partnership (CELP) and Yellowstone Energy Limited Partnership (YELP) plants, both of which utilize waste material to generate electricity. The sponsor proposed to set arbitrary emission limits and impose bonding costs that would very likely cause them to shut down. Opponents provided information about the broader purposes served by the plants besides just producing energy, including maintaining compliance with overall air quality standards in the Billings area.

The bills were heard in the House Energy, Technology and Federal Relations Committee and were later tabled.

TSRA Position: Oppose

HB 394 (Rep. Mark Noland, R-Bigfork) HB 394 would make the temporary (originally 10-year) tax exemption for air and water pollution control and carbon capture equipment permanent. Proponents called attention to the fact that pollution control equipment that is installed at considerable expense to the affected entity is intended to produce a “healthier” environment for everyone and as such their tax burden should not be increased as a result. It allows companies to make long term plans for capital improvements with more predictability.

The bill was heard and passed by the House Taxation Committee and is awaiting second reading on the House floor. Because it is a revenue bill, as opposed to a general bill, it did not have to meet the mid-session transmittal deadline.

TSRA Position: Support

HB 481 (Rep. Steve Gunderson, R-Libby) This measure identifies an extensive list of critical infrastructure facilities for added protection in terms of penalties imposed for trespassing or damage. While civil protests are not affected, anyone who knowingly trespasses is subject to fines and minimal jail time. However, if that individual also causes damage the penalties grow in severity. If it can be clearly demonstrated they were hired by an organization to take such action that entity is also liable for penalties. One of our TSRA members called attention to the possibility that activities conducted by organized labor that are allowed under the National Labor Relations Act might be implicated under the original language of the bill. At our request, Rep. Gunderson supported an amendment that exempted those activities.

The bill was amended and then passed out of the House Judiciary Committee and through the House of Representatives. It is expected to be assigned to the Senate Judiciary Committee after the transmittal break.

TSRA Position: Support as Amended

HB 554 (Rep. Josh Kassmier) This bill is a response to an effort to establish a Natural Heritage Area covering a large swath of both public and private land near Great Falls. Supporters argue that the designation will help promote tourism. Private landowners are concerned about the potential for limitations on use of their property, as has been the case in other parts of the country. HB 554 requires legislative approval of national heritage areas and national historic trails in Montana as a means to ensure concerns about property rights and other matters are carefully considered.

The bill was heard in the House Natural Resources Committee and passed by the full House. It will likely be assigned to the Senate Natural Resources Committee for its next hearing.

TSRA Position: Support

SB 38 (Sen. Terry Gauthier, R-Helena) The bill cleans up the language in the “Snowmobile Trail Pass” bill passed by the 2019 Legislature. The measure also allows private clubs and organizations to use the summer recreation trail grant program in the Department of Fish, Wildlife and Parks to provide motorized safety and ethics education as well as for other authorized uses.

The bill passed the Senate, was heard and passed out of the House Fish, Wildlife and Parks Committee and is awaiting second reading on the House floor.

TSRA Position: Support

SB 147 (Sen. Jason Small, R-Busby) This measure adds to language under the section of statute that addresses what activities qualify for working capital loans from the permanent coal tax trust fund to an owner of a coal-fired generating unit. The change would authorize costs related to decommissioning and remediation of a coal-fired generation unit or affected property to meet applicable legal obligations.

The bill passed the Senate and has been referred to the House Energy, Technology and Federal Relations Committee

TSRA Position: Support

SB 176 (Sen. Brad Molnar R-Laurel) This is one of several measures that appears aimed at “forcing” a solution for the Colstrip Generation Facility in terms of keeping it in operation. While both proponents and opponents spoke to a common desire to see Colstrip 3 & 4 continue operating, the bill presented a number of legal and practical concerns, including interference with the Administrative Order of Consent that was signed by the owners, DEQ, and other shareholders to ensure remediation of ponds and other environmental issues at the plant.

The measure passed out of the Senate Energy and Telecommunications Committee after being amended to address some fairly minor concerns relative to obligations for entities that receive funding from the interest generated by the coal trust. It failed on a tie vote on second reading in the Senate but was later revived and sent to Senate Finance and Claims, keeping it in play for the time being.

TSRA Position: Oppose

SB 201 (Sen. Steve Fitzpatrick, D-Great Falls) SB 201 provides some sideboards for the Public Service Commission and the Courts in terms of what avoided costs can, and cannot be considered in setting rates. The measure will prevent the PSC or Courts from adding a bonus payment or “adder” to the calculation of avoided cost rates that are not grounded in actual costs in regulation or law. It also prevents the PSC or the Courts from adding a bonus payment or “adder” to the calculation of utility rates that are not grounded in actual costs in regulation or law. One benefit of the measure is that it protects Montana consumers from bearing a cost of externalities, like carbon, that are speculative in nature.

The bill was heard in the Senate Energy and Telecommunications Committee and has passed the Senate. It is expected to be assigned to the House Energy, Technology and Federal Relations Committee.

TSRA Position: Support

SB 233 (Sen. Duane Ankney, R- Colstrip) Similar to a measure introduced in 2017, Senator Ankney’s bill as introduced would have eliminated the Board of Environmental Review, leaving rulemaking responsibilities and appeals to the Department of Environmental Quality. The Senator proposed to amend the bill to move all the rulemaking authority to the Department, but keep the BER for such purposes as hearing appeals from department decisions. Currently some rules are now adopted solely by the Department, while others go through the Board. It is largely a creature of how the authorizing statute was written. In both cases, the DEQ already does all the work with stakeholders and any applicable oversight entities before proposals are heard by the Board. Proponents stated it made sense to keep the rulemaking closest to staff and stakeholders with the applicable expertise and experience. All rules will still have to go through the formal public rulemaking process. There were no opponents.

The bill was heard in the Senate Natural Resources Committee and has passed the Senate. It has been assigned to the House Natural Resources Committee for hearing.

TSRA Position: Support

SB 249 (Sen. Mike Lang, R-Malta) The bill primarily revises the way the Montana Sage Grouse Program operations are funded, establishing a cost-sharing agreement between the Department of Fish, Wildlife and Parks and the Department of Natural Resources and Conservation. That includes use of excess Pittman-Robertson fees. Oversight of the program by the Montana Sage Grouse Oversight Team remains in place. Proponents stressed the importance of keeping the program in place, along with the oversight component.

The bill was heard in the Senate Finance and Claims Committee and has passed the full Senate.

TSRA Position: Support

SB 257 (Sen. Jason Small, R-Busby) Sen. Small brought this measure to prohibit local governments from imposing their own carbon fee or tax. There has been a push nationally for local governments to impose such taxes or fees to address climate change. No Montana community has proposed a tax at this time, but many have established local policies aimed at reducing carbon.

The bill was passed out by the Senate Local Government Committee and has passed the Senate. It has been assigned to the House Taxation Committee.

TSRA Position: Support

SB 258 (Sen. Duane Ankney, R-Colstrip) At the request of the Montana Association of Oil, Gas and Coal Counties, Senator Ankney's bill proposes to rename the Treasure State Endowment Program and Fund to the Montana Coal Endowment Program and Fund. Proponents noted it made sense to connect the dots for communities that benefit from the coal severance tax in terms of funding for local infrastructure needs all across the state.

The bill was heard in the Senate Natural Resources Committee and has passed the full Senate. It has been assigned to the House Natural Resources Committee.

TSRA Position: Support

SB 325 (Sen. Brian Hoven, R-Great Falls) The bill was introduced on behalf of Malmstrom Air Force Base and sought to prohibit placement of wind turbines within 2 nautical miles of military installations. A representative of the Air Force testified the limitation was needed to address security concerns relative to landing helicopters near missile silos. Opponents pointed out the potential impacts to private property owners whose options to work with wind developers would be reduced as a result of the bill. Testimony also highlighted existing protections provided for via the Department of Defense Clearinghouse that made the bill unnecessary.

The bill was heard in the Senate Energy and Telecommunications Committee and later tabled.

TSRA Position: Oppose

SB 328 (Sen. Duane Ankney, R-Colstrip) The bill seeks to bring Montana's administrative rules in line with both state and federal laws regarding bond release for reclaimed coal mine lands. It is intended to improve the process by which private lands are returned to productive uses more quickly, while maintaining high standards for reclamation.

The bill was heard in the Senate Natural Resources Committee and has passed the full Senate. It will likely be assigned to the House Natural Resources Committee for a hearing.

TSRA Position: Support

SB 338 (Sen. Mike Lang, R-Malta) SB 328 is a Montana Chamber of Commerce priority that establishes that a landowner owes a trespasser no duty of care with respect to the condition of the property. Those individuals are on the property without permission or knowledge of the landowner and should not be able to hold the landowner responsible for actions they have taken. The landowner would still be liable for any injury to person or property for an act or omission that constitutes willful or wanton misconduct.

The bill was heard in the Senate Judiciary Committee and has passed the full Senate. It will likely be assigned to the House Judiciary Committee and be heard after the transmittal break.

TSRA Position: Support

SB 358 (Sen. John Esp, R-Big Timber) Brought at the request of the Montana League of Cities and Towns, the Montana Mining Association, the Montana Petroleum Association and TSRA this bill would repeal the current approach to regulating nutrients and replace with one that is more practical while still being protective of water quality. It follows from a series of court challenges that have created uncertainty for the future of nutrient regulation and subsequently both municipal and private dischargers. Proponents acknowledged more discussions were needed with the Department of Environmental Quality relative to the new approach (DEQ opposed the bill) and committed to working to find a resolution in the second half of the session.

The bill passed out of the Senate Natural Resources Committee and has passed the full Senate. It will likely be assigned to the House Natural Resources Committee for a hearing.

TSRA Position: Support

SJ 10 (Sen. Jason Small, R-Busby) This Joint Resolution calls on Congress to appropriate funding under the Energy Act of 2020 for the development of carbon capture technologies at the Colstrip Electric Generating Station. The sponsor spoke to the importance of keeping coal in the mix of our energy supply by using technology to reduce carbon.

The Resolution was heard in the Senate Energy and Telecommunications Committee and has passed the full Senate. It has been assigned to the House Energy, Technology and Federal Relations Committee.

TSRA Position: Support

SJ 16 (Sen. Steve Hinebauch, R-Wibaux) This Joint Resolution urges Congressional and Presidential approval for the Keystone XL Pipeline. The sponsor and proponents for the measure cited the tax revenue and jobs that would be generated in Montana and the importance of keeping an adequate supply of fossil fuels in the mix to generate energy for the nation.

The Resolution was heard in the Senate Natural Resources Committee and passed the full Senate. It has been assigned to the House Natural Resources Committee.

TSRA Position: Support

SR 4 (Sen. Jeff Welborn, R-Dillon) This resolution sought to confirm the appointment of the new Director of the Department of Environmental Quality, Christopher Dorrington. Mr. Dorrington will serve at the pleasure of the Governor.

The resolution passed out of the Senate Natural Resources Committee and adopted by the Senate on January 28, 2021.

TSRA Position: Support

SR 81 (Sen. Jeff Welborn, R-Dillon) SR 81 called for confirmation of a new member of the Board of Environmental Review. Julia Altemus, Executive Director of the Montana Wood Products Association was nominated by the Governor to serve as a public member. Ms. Altemus has extensive experience in resource management issues.

The resolution passed out of the Senate Natural Resources Committee and awaits final action by the full Senate.

TSRA Position: Support

Participation in the 2021 Session

The hybrid model for participation continue to work reasonably well with most members of the public and many lobbyists exercising that option for offering testimony. Each committee meeting is staffed with an individual solely devoted to assisting the Chair with identifying and

managing testimony. A number of legislators also continue to participate remotely, including engaging in floor session debate and voting.

There are no restrictions on in-person involvement, however the number of seats in hearing rooms are limited to maintain social distancing. The public is also subject to any Lewis and Clark County health directives regarding crowd size.

To offer testimony remotely those interested in testifying must **register by noon** the day before the hearing. Written testimony can be uploaded at that time and will be shared with committee member, especially important for those participating remotely. Once signed up, you'll receive a link to testify during the bill hearing. This is available for any bill that is scheduled for hearing.

For more information, go to the Montana Legislature's Homepage leg.mt.gov and for links to:

- more information on remote participation
- the form to request to testify or upload your documents
- the web messaging form
- Bill Search, Legislator Search, Session Information, and Revenue and Budget Information
- where to click to Watch/Listen to all meetings.

TIPS FOR CONTACTING LEGISLATORS

Not everyone wants to testify via Zoom. There are still several options for getting information to your legislator via email, a phone message, or a letter.

Regular office hours for the Legislative Information Desk during the session are 7:30 a.m. to 5 p.m. weekdays and 8 a.m. to adjournment on Saturdays. Callers may leave messages for legislators or acquire general legislative information by calling the Information Desk at (406) 444-4800. Callers may leave messages for up to 5 individual legislators or 1 legislative committee per call.

A well-written letter is one of the best ways to let your legislator know your thoughts and opinions about a particular issue. Here are some tips for getting your message across effectively:

- **Be brief.** Legislators have many demands on their time. They appreciate letters that are short and to the point.
- **Put the message in your own words.** Form letters and petitions don't have the same impact as personal, informed opinions and many times are disregarded. Personal letters carry a great amount of weight.
- **Address your letter to a specific legislator or legislators.** Depending on your message, you may want to write to the sponsor of a bill, certain members of a committee, or your own legislators. Don't address your letter to the entire Legislature.
- **Identify bills** by their number, title, and sponsor.

- **Explain your position** on the bill and ask for the legislator’s support or opposition.
- **Give any sources of information** that you use to make your point.
- **Include your name, address, and a little about who you are** (for example, where you work or what school you attend).

Address letters to:

Senator XXXX
Montana Senate
PO Box 200500
Helena, MT 59620-0500

or

Rep. XXXX
Montana House of Representatives
PO Box 200400
Helena, MT 59620-0400

Email:

You can also email your legislator or a legislative committee during session by using the Montana Legislature’s online message form. <https://leg.mt.gov/web-messaging/>

Standing Committee Members for 2021 Legislative Session

The 2021 House and Senate Standing Committees lists are online at: <https://leg.mt.gov/committees/session-committees/>

Members and other information are subject to change. Check the website for the most up-to-date lists.

Legislative Bill Draft Requests:

If you’d like to see what bills have been drafted and introduced, that information can be found on the legislative site. Those interested in reviewing the list can click on the following link: [List All Introduced and Unintroduced Bills](#)

The “Bill Look-Up” site also has information about upcoming hearings both the House and Senate.

TSRA Weekly Legislative Meetings - Thursdays at 7:00 am.

TSRA will continue to hold weekly legislative meetings during the second half of the session on Thursday mornings at 7:00 am. If you haven't already signed up, contact Peggy Trenk at: <mailto:ptrenk@tsria.net> to get on the list to receive the Zoom link and weekly agenda.

Weekly meetings allow us to look at upcoming hearings and determine what action TSRA will take on various bills, as well as discuss broader issues that arise during the session.

Updated Legislative Schedule

Upcoming Events/Dates:

June 16-17,2021	TSRA Annual Meeting DoubleTree Hotel, Billings, MT
August 30 – September 1, 2021	Montana Petroleum Association DoubleTree Hotel, Billings, T

If you don't want to receive the TSRA Newsletter, please let me know. If you want to share with others in your company or organization, please do so. The mission of the Treasure State Resources Association is to promote and enhance the Montana Way of Life through responsible resource development.