

## Summary of Natural Resource Legislation 2015 Legislative Session

The 2015 Legislature acted on a number of bills involving environmental policy, water quantity and quality, fish, wildlife, parks, and state lands. This summary provides an overview of major legislation, excluding the budget provisions of House Bill 2, in the following areas:

EQC Bills and Responsibilities	Mining, Remediation, and Permitting Bills
Agency Bills	Land Use Bills
Water Bills	Oil and Gas Bills
Fire and Forestry Bills	Agriculture Bills
Fish, Wildlife, Parks & State Land Bills	Vetoed Bills

This summary focuses on legislation approved by the Legislature that has become law. Another section includes bills that were vetoed.

### EQC Bills and Responsibilities

During the 2013-14 Interim, the Environmental Quality Council approved the drafting of three pieces of council legislation, all of which were subsequently approved by the 2015 Legislature. Four bills also were approved that alter the EQC's statutory responsibilities. The bills, and the topics they address, include:

#### EQC Committee Bills Approved

**HB 140** grew out of the EQC's study of the Department of Fish, Wildlife, and Parks' (FWP) hunting and fishing licenses. In its final form, HB 140 decreased FWP's revenue-decision cycle from 10-years to 4-years, created a base hunting license, standardized discounts available to youth, senior, and disabled hunters, allocated additional funding to the hunting access enhancement programs, and created an apprentice hunting certificate.

**SB 64** was the result of the EQC's study of the Montana Heritage Preservation and Development Commission's (MHC) management of state-owned properties at Virginia City, Nevada City, and Reeder's Alley. SB 64 refocused the MHC's activities on management of properties already acquired and removed some statutory restrictions on how the MHC is funded and how funding may be used.

**SJR 2** requests an interim study of the feasibility of Montana assuming authority to administer Federal Section 404 permits required by the Clean Water Act.

#### EQC Responsibilities/Administration

**HB 2** requires:

- the Department of Agriculture to report on a quarterly basis to the EQC on the performance of the Statewide Noxious Weed Control Coordination Program and on the performance of the Food and Ag Development Centers Program;

- FWP to report to the EQC regarding hunting access program landowner contracts, including the terms of acres, costs, and services provided to manage block management areas 90 days after the big game hunting season ends; and
- that Forest Management FTE and Operations is restricted and one-time-only for the purpose of providing the EQC a cost-benefit analysis on the program.

**SB 82** transfers administrative rule review, draft legislation review, program evaluation, monitoring functions, and environmental analysis review where the primary concern is the quality or quantity of water from the EQC to the Water Policy Interim Committee (WPIC).

**SB 96** requires that on or before July 1 of each year, the DEQ shall report to the EQC the amount of funds from the orphan share account used to take remedial action, the type of expenditures made, and the identity and location of facilities addressed.

**SB 293** eliminates the statutory term limits for EQC members.

## Agency Bills

Under 75-1-324, MCA, the EQC has broad statutory oversight authority. That oversight authority includes draft legislation review, administrative rule review, program evaluation, and monitoring the functions of the DEQ, DNRC, and DFWP.

### Department of Environmental Quality

**SB 49** expands the DEQ's authority to include the use of a petroleum mixing zone in a corrective action plan for a petroleum tank release site beyond the boundary of the property on which the release occurs.

**SB 96** expands the uses of the orphan share account to pay certain remedial action costs incurred by the department of environmental quality.

**SB 97** revises the process to modify classification of state water bodies.

**SB 102** revises air quality fee structure laws.

### Department of Natural Resources and Conservation

**HB 36** allows a water right permit volume change if proposed use completed outside time limit.

**HB 39** allows the use of electronic funds transfers for certain payments related to the sale and lease of state trust land.

**HB 40** revises board of adjustment laws for conservation districts.

**HB 49** revises the Board of Land Commissioners' requirements for reporting to state trust land beneficiaries.

**SB 28** revises state revolving loan fund laws.

**SB 32** revises laws related to the use of premiums in state bond sales, allowing premiums paid to be used for debt service payment or to pay project costs.

**SB 34** revises laws related to funding and access for the sale of state cabin and home-sites, allowing advance payment of survey costs and providing access easements.

**SB 47** increases assessments on owners of classified forest land.

**SB 57** revises processes related to water rights adjudication, including new benchmarks to reexamine verified claims, extending the adjudication sunset to 2028, revising the funding for adjudication, and clarifying reporting requirements.

**SB 58** revises public notice requirements for a permit or change in appropriation right, essentially adding notice for all permits and changes.

**SB 88** creates procurement laws for conservation districts.

Department of Fish, Wildlife, and Parks

**HB 82** allows development of a boat dock on Wild Horse Island.

**SB 21** provides for automatic forfeiture of hunting, fishing, and trapping licenses and privileges for at least 24 months for the unlawful procurement, possession, use, or transfer of replacement hunting and fishing licenses. For subsequent violations, the penalty compounds and is extended by an additional 24 months for each violation.

**SB 46** allows hunting and fishing licenses to be electronically signed for validity.

**Water Bills**

In 2009, the Legislature created a permanent WPIC to study water policy issues. The water policy committee coordinates with the EQC to avoid duplication of work. Agency oversight duties remain with the EQC.

WPIC bills

**SB 20** reallocates a portion of metalliferous mines license tax collections to counties and transfers orphan share cleanup funds to the Libby asbestos superfund site and for abandoned mine sites.

**SB 82** delegates certain duties and increases WPIC authority for issues where the primary concern is the quality or quantity of water. This authority includes oversight of agency programs where the primary concern is the quality or quantity of water.

General Water Policy

**HB 36** allows a water right permit volume change if proposed use completed outside time limit.

**HB 40** revises appointment and terms of boards of adjustments for conservation districts.

**HB 168** clarifies a definition of "combined appropriation" that applies retroactively to any project, development, or subdivision in existence before Oct. 17, 2014.

**HB 180** extends the termination date for the Treasure State Endowment Regional Water System Fund to 2031.

**HB 270** allows for a compliance schedule for water discharge permittees who have a permit vetoed by the EPA.

**HB 525** revises invasive species funding laws by creating a trust fund and grant account from which excess principal and interest and income may be used to by the DNRC to award grants or contracts to communities or local, state, tribal, or other entities for aquatic invasive species management programs and projects.

**HB 590** creates a Columbia River Treaty Account, which would disperse funds to Lincoln County to compensate for loss of lands flooded by the Libby Dam project. This compensation might be possible during ongoing renegotiations of the Columbia River Treaty.

**SB 56** revises notice requirements for use of navigable riverbeds.

**SB 57** revises processes related to water rights adjudication, including new benchmarks to reexamine verified claims, extending the adjudication sunset to 2028, revising the funding for adjudication, and clarifying reporting requirements.

**SB 58** revises public notice requirements for a permit or change in appropriation right, essentially adding notice for all permits and changes.

**SB 88** creates procurement laws for conservation districts.

**SB 97** revises the process to modify the classification of state water bodies.

**SB 112** requires the DEQ to prioritize development of a TMDL when one is necessary to issue a discharge permit.

**SB 221** directs the DNRC to dispose of the Willow Creek Dam by June 30.

**SB 232** modifies laws related to stream access to reflect a 1987 Montana Supreme Court decision.

**SB 262** implements a water rights settlement with the Confederated Salish and Kootenai Tribes.

**SB 325** revises the Board of Environmental Review process when adopting water quality regulations more stringent than federal regulations.

**SB 330** requires the DNRC to summarize its review of existing state water reservations.

**SB 387** implements maximum penalties for water quality violations that do not harm or have the potential to harm human health.

**SB 389** provides a definition for "ephemeral" and "intermittent" streams, as related to the permitting process for stock ponds.

**SJR 2** requests an interim study of the feasibility of Montana assuming authority to administer Federal Section 404 permits required by the Clean Water Act.

**SR 11** confirms Chief Water Judge McElyea until 2017.

**SR 27** confirms Water Court Judge Ritter until 2016.

## Fire and Forestry Bills

**HB 504** allows for consolidation of rural fire districts and fire service areas to create a new rural fire district.

**HB 555** increases the allowance that may be paid to volunteer firefighters.

**HR 2** recognizes the service of 75 years of smoke jumpers.

**SB 47** increases assessments on owners of classified forest land.

**SB 188** clarifies that real property damage restorations costs may not be greater than the fair market value of the property immediately before a fire.

**SB 256** clarifies the attorney general's authority to intervene in litigation involving projects that lie within a landscape-scale insect and disease area designated by the U.S. Department of Agriculture.

**SJR 21** requests an interim study of local fire protection and emergency service entities and firefighter and emergency medical technician benefits.

## Fish, Wildlife, Parks, and State Land Bills

### Licensing and Hunting

**HB 140** decreases FWP's revenue-decision cycle from 10-years to 4-years, creates a base hunting license, standardizes discounts available to youth, senior, and disabled hunters, allocates additional funding to the hunting access enhancement programs, and creates an apprentice hunting certificate.

**HB 144** requires that game bird hunters obtain landowner permission to hunt on private property.

**HB 150** revises penalties for harassment of wildlife, hunting from a public highway, and use of vehicles while hunting. HB 150 provides a mandatory 24 month loss of hunting, fishing, and trapping licenses and privileges for certain second offenses.

**HB 212** clarifies the types of fish and game harvest protected under the Montana Constitution by revising the definitions of hunting, angling, and trapping.

**HB 221** allows a critically injured law enforcement officer, firefighter, or volunteer firefighter who is permanently unable to return to work because of the injury to fish with a wildlife conservation license during expeditions arranged by a nonprofit organization that uses fishing for rehabilitation of the person.

**HB 250** allows the use of a sound reduction device or mechanism registered with the Bureau of Alcohol, Tobacco, Firearms, and Explosives while hunting wildlife.

**HB 279** revises the requirements for tagging game animals and game birds at the site of the kill.

**SB 21** provides for automatic forfeiture of hunting, fishing, and trapping licenses and privileges for at least 24 months for the unlawful procurement, possession, use, or transfer of replacement hunting and fishing licenses. For subsequent violations, the penalty compounds and is extended by an additional 24 months for each violation.

**SB 46** allows hunting and fishing licenses to be electronically signed for validity.

**SB 333** clarifies the state policy toward nonresident hunters.

#### *Fish and Wildlife Management*

**HB 525** revises invasive species funding laws by creating a trust fund and grant account from which excess principal and interest and income may be used to by the DNRC to award grants or contracts to communities or local, state, tribal, or other entities for aquatic invasive species management programs and projects.

#### *State Parks*

**HB 82** allows development of a boat dock on Wild Horse Island.

#### *Agency Administration*

**HB 553** revises laws related to aquatic invasive species, including authorization for other entities to operate a check station under an agreement with FWP, use of Department of Transportation ports of entry and adjacent facilities for check stations to the greatest extent possible, and enforcement provisions.

**SB 230** requires a public scoping process for FWP land acquisitions.

#### *Recreation*

**HB 167** requires nonresidents to purchase a temporary-use sticker to operate an off-highway vehicle (OHV) in Montana unless the OHV is registered in an adjacent state that does not require payment of a fee to use an OHV registered in Montana in that state. HB 167 also increases the temporary-use sticker fee from \$5 to \$27 and allocates the revenue between search and rescue, trail maintenance, enforcement, education, and noxious weed control.

**HB 300** requires the purchase of an \$18 snowmobile trail pass in order to operate a snowmobile or to use motorized equipment or mechanical transport in snowmobile areas

groomed with a grant or funding assistance awarded by FWP. Proceeds from the trail pass must be used to provide additional grants and for enforcement of snowmobile laws.

**HB 553** revises laws related to aquatic invasive species, including authorization for other entities to operate a check station under an agreement with FWP, use of Department of Transportation ports of entry and adjacent facilities for check stations to the greatest extent possible, and enforcement provisions.

## Mining, Remediation, and Permitting Bills

### Mining

**SB 20** reallocates a portion of metalliferous mines license tax collections to counties and transfers orphan share cleanup funds to the Libby asbestos superfund site and for abandoned mine sites.

**SB 409** establishes standards for tailings storage facilities.

**SJR 13** supports the responsible development of coal resources and coal-based electricity.

### Permitting

**SB 102** allows the DEQ to collect and use registration fees for the administration of air quality permitting and registration and allows local air quality programs to collect and use registration fees for the administration of local air quality permitting and registration.

### Remediation

**HB 434** requires a 5-day review period for small asbestos projects and establishes an asbestos advisory group to advise the DEQ.

**SB 49** expands the DEQ's authority to include the use of a petroleum mixing zone in a corrective action plan for a petroleum tank release site beyond the boundary of the property on which the release occurs.

**SB 96** expands the uses of the orphan share account to pay certain remedial action costs incurred by the department of environmental quality.

**SB 136** limits the collection of fees for the generation of remediation waste.

**SB 355** establishes requirements for the use and reimbursement of federal petroleum brownfields money at petroleum tank release sites.

## Land Use Bills

**HB 300** requires the purchase of a snowmobile trail pass in order to operate a snowmobile or to use motorized equipment or mechanical transport in snowmobile areas groomed with a grant or funding assistance awarded by FWP.

**SB 261** creates the Montana Greater Sage-grouse Stewardship Act, establishes the Montana Sage Grouse Oversight Team (MSGOT) and the sage grouse stewardship account, from which the MSGOT may authorize and the DNRC may award grants to projects that maintain, enhance, restore, expand, or benefit sage grouse habitat or populations. SB 261 also authorizes the creation of a habitat quantification tool to calculate credits generated by those projects that can be used as compensatory mitigation to offset debits resulting from certain development.

## Oil and Gas Bills

**HB 67** removes the Wall Street Journal as the source for oil prices.

**HB 226** revises laws related to funding of oil and gas reclamation projects by decreasing funds for reclamation and development grants and increasing funds for oil and gas damage mitigation.

**HB 393** allows the Board of Oil and Gas Conservation to certify the amount of carbon dioxide stored incidentally through an oil or gas enhanced recovery project.

**HB 411** revises the price of a barrel of crude oil in relation to the imposition of production tax rates.

**HJR 11** urges prompt congressional and presidential approval for the Keystone XL pipeline.

**SB 261** creates the Montana Greater Sage-grouse Stewardship Act, establishes the Montana Sage Grouse Oversight Team (MSGOT) and the sage grouse stewardship account, from which the MSGOT may authorize and the DNRC may award grants to projects that maintain, enhance, restore, expand, or benefit sage grouse habitat or populations. SB 261 also authorizes the creation of a habitat quantification tool to calculate credits generated by those projects that can be used as compensatory mitigation to offset debits resulting from certain development.

**SB 368** requires that certain pipeline information be collected by the DEQ and made available on a website.

## Agriculture Bills

**HB 91** standardizes per diem for all agricultural boards and committees.

**HB 105** authorizes the Department of Agriculture to provide and set fees for analytical lab services.

**HB 108** revises noxious weed budget laws.

**HB 109** allows the Department of Agriculture to provide plant sampling services.



**HB 145** adds a livestock loss reduction restricted account to the livestock loss program, from which funds can be used to reduce predation on livestock by wolves and grizzly bears and reducing expenses incurred by livestock owners, including but not limited to veterinary bills, caused by wolves and grizzly bears.

**HB 194** requires a forage analysis as part of a management plan before wild buffalo or bison are released or transplanted onto private or public land in Montana.

**HB 206** revises grass commission laws.

**HB 252** revises laws related to the uses of the research and commercialization account.

**HB 265** allows use of alfalfa seed assessments for the leaf-cutting bee program.

**HB 355** revises the horse surrender process.

**HB 390** revises agricultural commodity committee laws.

**HB 439** requires recording of Board of Livestock meetings.

**HB 478** implements changes in Montana's food retail sales laws.

**HB 525** revises invasive species funding laws by creating a trust fund and grant account from which excess principal and interest and income may be used to by the DNRC to award grants or contracts to communities or local, state, tribal, or other entities for aquatic invasive species management programs and projects.

**HB 557** revises legal fence laws.

**HB 629** requires that the executive officer of the Board of Livestock serves at the pleasure of the Board of Livestock.

**SB 19** revises livestock special deputy laws.

**SB 31** exempts raw honey from requiring a license for farmers' market sales.

**SB 62** revises reporting dates for livestock per capita fee calculation.

**SB 78** repeals the Mint Committee.

**SB 100** regulates feral hogs.

**SB 108** clarifies and revise the Department of Livestock per capita fee calculation.

**SB 183** revises milk licensing assessments.

**SB 255** revises laws for advancing agricultural education.

**SB 261** creates the Montana Greater Sage-grouse Stewardship Act, establishes the Montana Sage Grouse Oversight Team (MSGOT) and the sage grouse stewardship account, from which the MSGOT may authorize and the DNRC may award grants to projects that maintain,

enhance, restore, expand, or benefit sage grouse habitat or populations. SB 261 also authorizes the creation of a habitat quantification tool to calculate credits generated by those projects that can be used as compensatory mitigation to offset debits resulting from certain development.

## Vetoed Bills

**HB 290** would have required FWP to provide upon request the analyses supporting a government act. The governor said it was unnecessary because the department already provides the information.

**HB 450** would have allowed use of suppressors for hunting of mountain lions and wolves. The governor said HB 450 was not necessary due to the passage of HB 250, which allows the use of a sound reduction device or mechanism registered with the Bureau of Alcohol, Tobacco, Firearms, and Explosives while hunting wildlife.

**HB 496** would have established a public lands task force. The governor said it was over broad in its scope.

**SB 37** would have revised the process for those filing water rights claims previously exempt from statewide filing requirements. The governor said the bill was too costly.

**SB 145** would have revised the allocation of oil and gas revenue for oil and natural gas impact projects. The governor said that while the intent of the measure is no doubt laudable, the placement into law of a complicated formula that binds future legislatures to automatic diversions from the general fund without regard for either the financial standing of the state or the actual need for the programs that diversion proposes to fund is not sound public policy.

**SB 160** would have provided additional definitions for a "natural" condition of a stream. The governor said the bill is unnecessary with the passage of SB325 and may add confusion due to its potentially broad application.

**SB 245** would have created late season cow elk hunts. The governor said the bill is unnecessary, and the Fish and Wildlife Commission already have similar authority.

**SB 284** would have required approval of county commissioners for bison relocation. The governor said it would have set a dangerous precedent by supplanting the state's management of its fish and wildlife with county regulation.

**SB 295** would have eliminated the state limitation on the use of sound reduction devices on firearms while hunting. The governor said SB 295 was not necessary due to the passage of HB 250, which allows the use of a sound reduction device or mechanism registered with the Bureau of Alcohol, Tobacco, Firearms, and Explosives while hunting wildlife.

**SB 334** would have revised the definitions of game animals and predatory animals. The governor said the bill may have unintended consequences.

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