

## Summary of Natural Resource Legislation 2017 Legislative Session

The 2017 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 Responsibilities  
Agency Bills  
Water  
Fire and Forestry  
Fish, Wildlife, Parks  
State Lands

Mining, Permitting, and Remediation  
Land Use  
Oil and Gas  
Agriculture and Livestock  
Vetoed Bills

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

### EQC Responsibilities

The EQC proposed no legislation after the 2015-16 interim. However, eight bills were approved that alter the EQC's statutory responsibilities. The bills, and the topics they address, include:

#### EQC Responsibilities/Administration

**HB 128** requires FWP to report to the EQC specific information about mountain sheep harvested from the Tendoy Mountain herd by September 1 of each even-numbered year.

**HB 211** requires FWP to report current sage grouse population numbers, including the number of leks, to the Montana Sage Grouse Oversight Team and the EQC annually. The report must include seasonal and historic population data.

**HB 434** requires FWP to report to the EQC on or before September 1 of each year preceding a regular session regarding implementation of the Wildlife Habitat Improvement Act.

**HB 507** revises laws concerning sanitation review for proposed subdivisions, creating a pilot program to allow subdivision applicants to request a preapplication meeting with the reviewing authority and allowing a preliminary site assessment by a local board of health to determine whether the site meets applicable state and local sewage disposal requirements. The bill also requires the department of environmental quality to report annually to the EQC summarizing the review procedures adopted under Title 76, chapter 4, and whether statutory changes are needed.

**HB 622** requires the Invasive Species Council and the Upper Columbia Conservation Commission to report on their activities to the EQC annually.

**HB 661** requires the EQC to appoint two members to serve on a subcommittee to study the long-term future of and possible efficiencies to be gained from the Veterinary Diagnostic, Wool, Wildlife, and Seed Labs on the MSU Bozeman campus.

**SB 315** requires the Libby asbestos superfund liaison to report to the EQC by July 1 of each year.

**SB 363** requires the Departments of Agriculture, FWP, DNRC, and MDT to report to the EQC at least biannually on their activities undertaken and expenditures incurred related to implementation of aquatic invasive species laws.

## 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 42** revises the Major Facility Siting Act by requiring consultation with applicants if the department determines a modification is needed, modifying reporting authority, modifying corridor width and selection requirements, expanding landowner notice requirements, and providing for public notice and comment on adjustments to a proposed facility's location.

### Department of Natural Resources and Conservation

**HB 38** increases from one million board feet to two million board feet the amount of timber that may be harvested on inaccessible state lands when an adjoining landowner grants access to only one potential buyer.

**HB 58** clarifies the procedure for calculating levies for conservation districts.

**HB 110** provides for the filing of exempt water right claims, sets filing fees and deadlines, and provides for supplemental preliminary decrees.

**SB 24** clarifies the valuation process for commercial leasing of state land and extends lease periods.

**SB 39** repeals the notification to and of the county commission regarding organization of conservation districts.

### Department of Fish, Wildlife, and Parks

**HB 97** increases the block management landowner payment cap from \$12,000 to \$15,000. The legislature's intent is that the increase provides the opportunity for the Fish and Wildlife Commission to increase payments made to landowners on a per-hunter-day or equivalent basis by \$2 per year.

**HB 108** allocates two wild buffalo licenses to each tribe in Montana, except the Crow, for traditional purposes.

**HB 128** revises the waiting requirements for certain mountain sheep licenses.

**HB 214** eliminates the requirement that the Fort Peck Hatchery use water from the dredge cut and the limitation on the production of cold water fish at the hatchery.

**SB 50** allows for the use of digital carcass tags.

**SB 52** clarifies additional penalties for the use of artificial light.

Department of Agriculture

**HB 82** revises the list of vertebrate pests to include snakes, voles, and depredatory and nuisance birds, which are subject to department pest management. The list of vertebrate pests does not apply to nongame wildlife managed or protected by FWP.

**HB 126** revises the Montana Pesticides Act, including raising fees and adding day-care facilities, nursing homes, hospitals, and other educational and health care facilities as part of an integrated pest and pesticide management safety program.

**SB 55** revises licensing, fees, inspections, and penalties for plant nurseries.

**Water**

In 2009, the Legislature created a permanent Water Policy Interim Committee (WPIC) to study water policy issues. In 2015, the Legislature expanded the WPIC's duties to include administrative rule review, draft legislation review, program evaluation, and monitoring functions for the DEQ, DNRC, and FWP for issues where the primary concern is the quality or quantity of water.

WPIC bills

**HB 48** clarifies that a change in the method of irrigation does not trigger the DNRC process for other changes in a water right.

**HB 49** allows the transfer of a water right to occur based on information from the Department of Revenue or the DNRC.

**HB 99** limits DNRC analysis of adverse effects to other water rights holders during the water right permitting process if a senior water rights holder files a written consent to approval for that permit.

**HB 124** requires a water commissioner to have completed DNRC training before administering water, unless excused by a district court judge.

**HB 140** clarifies that owners of 15 percent of the flow rate affected by a water rights decree could petition for enforcement of their rights through a district court and a water commissioner.

**SB 28** allows a party aggrieved by an agency decision on a water rights permit or change to appeal to the Montana Water Court, which is in addition to a district court.

General Water Policy

**HB 110** clarifies the process for filing "exempt" water right claims, including changes to filing fees and a deadline.

**HB 337** requires the DNRC to reissue a report on water reservations by 2026.

**HB 360** establishes the Surface Water Assessment and Monitoring Program at the Montana Bureau of Mines and Geology.

**HB 368** removes a 500-foot setback requirement between sewage lagoons and groundwater wells.

**HB 407** revises sanitation in subdivision rule requirements to allow for a well isolation zone for an individual water system well to extend outside of the boundaries of a subdivision under certain circumstances.

**HB 424** makes projects in source watersheds or for soil and range are available for the DNRC's Renewable Resource Grant and Loan Program.

**HB 429** clarifies exempt appropriations of water to include emergency fire training and emergency fire-related operations.

**Fire and Forestry**

**HB 38** increases from one million board feet to two million board feet the amount of timber that may be harvested on inaccessible state lands when an adjoining landowner grants access to only one potential buyer.

**HB 427** provides that a real property owner is not liable for damages or injury resulting from acts or omissions by a volunteer firefighter while engaged in fire suppression activities on the owner's property.

**HB 492** revises laws governing consolidation of fire districts and fire service areas.

**HB 644** prohibits interference with aerial wildfire suppression.

**HJ 9** supports the release of wilderness study areas in Montana.

**SB 46** decreases the time required for distribution of federal forest reserve funds to Montana counties.

**SB 281** revises the use of fire suppression account funds and allows up to \$5 million to be used for certain purposes if the account's fiscal yearend balance exceeds \$40 million.

**SB 324** establishes good neighbor forestry accounts from which state and federal funds must be used for forest management activities conducted pursuant to the good neighbor policy established by the Department of Natural Resources and Conservation.

## Fish, Wildlife, and Parks

### Licensing and Hunting

**HB 108** allocates two wild buffalo licenses to each tribe in Montana, except the Crow, for traditional purposes.

**HB 128** revises the waiting requirements for certain mountain sheep licenses.

**HB 150** clarifies the residency requirements for members of the armed forces and their spouses and dependents.

**HB 183** removes the sunset on outfitter assistant laws.

**HB 289** revises outfitter assistant laws.

**HB 597** creates the Montana public land access network grant program from which an individual or organization may seek funding to secure public access through private land to public land for which there is no other legal public access or to enhance existing access to public land. The grants are funded by private donations and require approval of the Board of Land Commissioners, and payments made to landowners are excluded from adjust gross income.

**HB 623** allows for the purchase of bonus points without the purchase of a license, tag, or permit.

**SB 50** allows for the use of digital carcass tags.

**SB 52** clarifies additional penalties for the use of artificial light.

**SB 91** clarifies what constitutes as shooting from a vehicle for hunting purposes.

**SB 119** revises what licenses are available to certain nonresidents at a discount, including college students, youth, and nonresident relatives of residents.

**SB 172** allows the denial of hunting, fishing, or trapping licenses for failure to pay child support and other support debt or obligation.

**SB 173** prohibits the use or sale of certain urine as cover scent.

**SB 218** revises the apprentice hunter program to allow persons of any age to participate and disallows the purchase of certain licenses.

### Fish and Wildlife Management

**HB 166** allows nonprofit retail food establishments to use commercially processed meat from wild game and fish taken in Montana in meals served to individuals at no charge.

**HB 211** requires FWP to report current sage grouse population numbers, including the number of leks, to the Montana Sage Grouse Oversight Team and the EQC annually. The report must include seasonal and historic population data.

**HB 214** eliminates the requirement that the Fort Peck Hatchery use water from the dredge cut and the limitation on the production of cold water fish at the hatchery.

**HB 228** revises funding for the sage grouse stewardship program.

**HB 305** revises laws related to county bounties on predators.

**HJ 15** urges the delisting of grizzly bears.

**SB 84** extends the paddlefish roe donation program.

**SB 111** makes it unlawful to feed wild turkeys.

**SB 187** prohibits importing certain animal parts from states that have chronic wasting disease.

#### Habitat

**HB 434** creates the Montana Wildlife Habitat Improvement Act and allows the use of federal funds to combat noxious weeds and restore wildlife habitat. The bill also creates a Wildlife Habitat Improvement Advisory Council.

**HB 444** redirects Jefferson Slough fund distribution for Eurasian watermilfoil mitigation.

**HB 622** revises laws related to invasive species, establishing the Invasive Species Council, the Upper Columbia Conservation Commission, a Missouri River containment and quarantine program, and an Upper Columbia pilot program, and revising the location and timing of inspections in the statewide invasive species management area. Requires annual reports by the Council and Commission to the EQC.

**SB 363** provides funding for aquatic invasive species programs via a hydroelectric facility fee, a fee on hydroelectric dependent cooperatives, and the creation of the aquatic invasive species prevention pass, which is a prerequisite to the purchase of a fishing license.

#### Agency Administration

**HB 97** increases the block management landowner payment cap from \$12,000 to \$15,000. The legislature's intent is that the increase provides the opportunity for the Fish and Wildlife Commission to increase payments made to landowners on a per-hunter-day or equivalent basis by \$2 per year.

**HB 311** allows for veteran preference for certain block management areas on Veterans Day.

**HB 434** creates the Montana Wildlife Habitat Improvement Act and allows the use of federal funds to combat noxious weeds and restore wildlife habitat. The bill also creates a Wildlife Habitat Improvement Advisory Council.

**HB 622** revises laws related to invasive species, establishing the Invasive Species Council, the Upper Columbia Conservation Commission, a Missouri River containment and quarantine

program, and an Upper Columbia pilot program, and revising the location and timing of inspections in the statewide invasive species management area. Requires annual reports by the Council and Commission to the EQC.

**SB 183** repeals the sunset on the Hunters Against Hunger program.

**SB 213** clarifies the use of Smith River revenues.

**SB 363** provides funding for aquatic invasive species programs via a hydroelectric facility fee, a fee on hydroelectric dependent cooperatives, and the creation of the aquatic invasive species prevention pass, which is a prerequisite to the purchase of a fishing license.

#### Recreation

**HB 597** creates the Montana public land access network grant program from which an individual or organization may seek funding to secure public access through private land to public land for which there is no other legal public access or to enhance existing access to public land. The grants are funded by private donations and require approval of the Board of Land Commissioners, and payments made to landowners are excluded from adjust gross income.

**HJ 9** supports the release of wilderness study areas in Montana.

**HB 240** clarifies allowed use of groomed snowmobile trails with the snowmobile trail pass.

## State Lands

**HB 38** increases from one million board feet to two million board feet the amount of timber that may be harvested on inaccessible state lands when an adjoining landowner grants access to only one potential buyer.

**HB 316** eliminates outdated reporting of state land equalization payments.

**HB 498** extends the sunset on the unlocking public lands program to December 31, 2027.

**HB 597** creates the Montana public land access network grant program from which an individual or organization may seek funding to secure public access through private land to public land for which there is no other legal public access or to enhance existing access to public land. The grants are funded by private donations and require approval of the Board of Land Commissioners, and payments made to landowners are excluded from adjust gross income.

**SB 15** revises the collection of full market value by the Department of Natural Resources and Conservation when it issues an historic right-of-way deed.

**SB 24** clarifies the valuation process for commercial leasing of state land and extends lease periods.

**SB 224** exempts replacement water and sewer systems from subdivision review for the sale of state-owned cabin or home sites.

## Mining, Permitting, and Remediation

### Mining

**HB 156** extends the statutory appropriation for the county payment from the hard-rock mining impact trust account to June 30, 2027.

**HB 209** temporarily increases the coal severance tax allocation to the coal natural resource account.

**SB 140** allows the Board of Investments to make loans to certain local governments from the permanent coal tax trust fund for the development and maintenance of infrastructure.

### Permitting

**HB 152** allows counties to establish motor vehicle recycling and disposal capital improvement funds. Money in the fund may only be used for the replacement and acquisition of property, capital improvements, and equipment necessary to maintain and improve the county's motor vehicle recycling and disposal program.

### Remediation

**HB 216** requires owners of wind generation facilities to submit a decommissioning plan and bond to the Department of Environmental Quality.

**HB 344** provides for a transfer of funds from the orphan share account to the coal bed methane protection account and appropriates money to the Department of Natural Resources and Conservation to allow conservation districts to administer the coal bed methane program.

**SB 315** revises laws related to the cleanup of the Libby asbestos superfund site, creating an advisory team, a trust fund and an operation and maintenance account, and a liaison, requiring the liaison to report to the director of the Department of Environmental Quality, and providing funding and appropriations.

**SB 339** establishes the Coal-Fired Generating Unit Remediation Act.

## Land Use

**HB 300** exempts certain townhouses from certain sanitation regulations.

**HB 407** revises sanitation in subdivision rule requirements to allow for a well isolation zone for an individual water system well to extend outside of the boundaries of a subdivision under certain circumstances.



**HB 507** revises laws concerning sanitation review for proposed subdivisions, creating a pilot program to allow subdivision applicants to request a preapplication meeting with the reviewing authority and allowing a preliminary site assessment by a local board of health to determine whether the site meets applicable state and local sewage disposal requirements.

**HB 510** clarifies when certain subdivisions that are exempt from local subdivision review may be exempt from water and sanitation review, allowing for exemptions if storm water and municipal facilities information is provided to the Department of Environmental Quality or its designee.

**SB 207** makes confidential the location of any heritage properties or paleontological remains on or beneath land, rights-of-way, or easements obtained for a common carrier pipeline.

**SB 219** exempts certain parcels of land used to provide security for mortgages, liens, or trust indentures from the requirements of the Montana Subdivision and Platting Act.

**SB 284** revises the requirements for eligibility for sage grouse stewardship grant funding to include impacts on both habitat and populations and requires consideration of applicable US Fish and Wildlife Service policies in rulemaking by the Montana Sage Grouse Oversight Team.

## Oil and Gas

**SB 86** revises the price of oil for which incremental production tax rates apply, reinstating the enhanced recovery tax incentive.

**SB 207** makes confidential the location of any heritage properties or paleontological remains on or beneath land, rights-of-way, or easements obtained for a common carrier pipeline.

**SB 299** requires public disclosure of fracturing fluid information in oil and gas operations.

## Agriculture and Livestock

**HB 82** revises the list of vertebrate pests to include snakes, voles, and depredatory and nuisance birds, which are subject to department pest management. The list of vertebrate pests does not apply to nongame wildlife managed or protected by FWP.

**HB 126** revises the Montana Pesticides Act, including raising fees and adding day-care facilities, nursing homes, hospitals, and other educational and health care facilities as part of an integrated pest and pesticide management safety program.

**HB 256** sets standards for electric fences as legal fences.

**HB 286** allows the Livestock Loss Board to reimburse producers for mountain lion predations.

**HB 305** allows counties to set bounty amounts on predators and to appoint bounty inspectors.

**HB 345** clarifies that honey bees are considered livestock for purposes of the per capita fee.

**SB 55** revises licensing, fees, inspections, and penalties for plant nurseries.

**SB 73** revising laws related to the livestock loss program, including extending the termination of statutory appropriations for the livestock loss mitigation restricted account and the predatory animal state special revenue account, and providing a statutory appropriation for the livestock loss reduction restricted account.

**SB 155** prohibits a local government from regulating agricultural or vegetable seeds.

**SB 157** clarifies the definition of a "dairy" as a place where "hoofed mammals" are kept.

**SB 285** establishes an administratively attached Montana Pulse Crop Committee for research, publicity, education, and other efforts.

**SJ 19** requests that the USDA and the Centers for Disease Control and Prevention reconsider the appropriateness of listing *Brucella abortus* as a bioterrorist agent to facilitate research into the transmission of the pathogen to cattle and domestic bison.

## Vetoed Bills

**HB 324** revised the administration of state parks by administratively attaching the state parks and recreation board to FWP instead of parks programs being a division of FWP.

**HB 339** redefined appropriations of water exempt from the permitting process, mostly by setting distance requirements between groundwater wells.

**HB 367** created a voluntary hunting license checkoff for wolf management with the USDA Wildlife Services, including but not limited to flight time, collaring, and lethal control of wolves.

**HB 433** prohibited condemnation of agricultural water.

**SB 93** required oil and gas operation notices to be provided to the owner of an occupied dwelling within 990 feet of a wellbore's surface location at a proposed drilling operation.

**SB 235** allowed the Board of Land Commissioners to extend a coal lease if the extension is in the best interest of the state.

**SB 248** provided a specific exemption from the DNRC water rights permitting process for a family transfer division of land.

**SB 337** eliminated the Board of Environmental Review.