

VOTING RECORD

2013 Montana Legislature



CITIZEN LOBBYISTS:
 Northern Plains members Cheryn Ayoub, center, of Helena and Wade Sikorski of Baker visit with Rep. Virginia Court (D-Billings) during a Northern Plains Lobby Day at the State Capitol in February 2013.

More than 30 members participated in three Lobby Days, expanding their skills through trainings and then spending the day lobbying legislators.

Attacks to family ag, clean water defeated

It could have been worse. Despite the wide anti-conservation majorities that controlled the 63rd Montana Legislature, Montanans succeeded in killing the most out-of-step proposals that the corporate interests and their allies in the legislature brought forward.

Northern Plains members were in the thick of the fight, working tenaciously with our friends and allies to protect Montana's water quality, family agriculture, and our unique quality of life.

Plenty of outlandish, ill-informed, and cynical proposals were

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Landowners push ahead with eminent domain reforms

The 2011 Legislature created a significant expansion of the state's authority to grant the power of eminent domain to private corporations. In 2013, landowners pushed back with some successful reforms of the laws that govern the process.

Eminent domain is the government's authority to take private property – which can be extended to private companies if it is deemed in the public interest. Our position on eminent domain is that it should only be used as a last resort for public projects that advance the public good. The process, in our opinion, must include fair compensation and treatment for landowners.

Ultimately, we were successful in passing two small measures that should restore some fairness and balance to the process for landowners. We also blocked bad legislation that would give more power to the corporate interests that seek to condemn land for private, for-profit ventures.

Most notably, HB 417 passed the legislature and was signed by the Governor in early May. Sponsored by Rep. Kelly Flynn (R-Townsend), the bill would require the condemnor to provide a final written offer to the landowner prior to initiating the condemnation proceedings. Before HB 417, the condemnor could give as many verbal and written offers as they wished, often at varying levels of compensation in an inconsistent and irregular pattern, and then file a condemnation complaint at any time. The end result is a process that left landowners confused and unsure which offer before them was the real one, and therefore unsure how to make the best decision: to sign the agreement or to go to court. Companies could cherry-pick which offer they meant to be the one used by the court to determine who was the prevailing party in the proceedings. That's important because it affected whether the landowner received compensation for attorney's fees. HB 417 will put an end to some of the games that corporations play to manipulate the condemnation process against the landowner.

HB 45, sponsored by Rep. Steve Lavin (R-Kalispell), was also

signed into law. HB 45 aims to make additional information available to the landowner at the beginning of the process by requiring the handbook published by the Legislative Services Division to be provided in the original condemnation complaint. Often, landowners lack essential knowledge about how the eminent domain process works, what steps are most important, and what rights they have in the proceedings. While trying to navigate a process with which they are generally unfamiliar, landowners often face an entourage of high-power corporate attorneys that represent the condemnor.

HB 417 and HB 45 passed by wide margins in the legislature and represent small steps in the right direction for landowners.

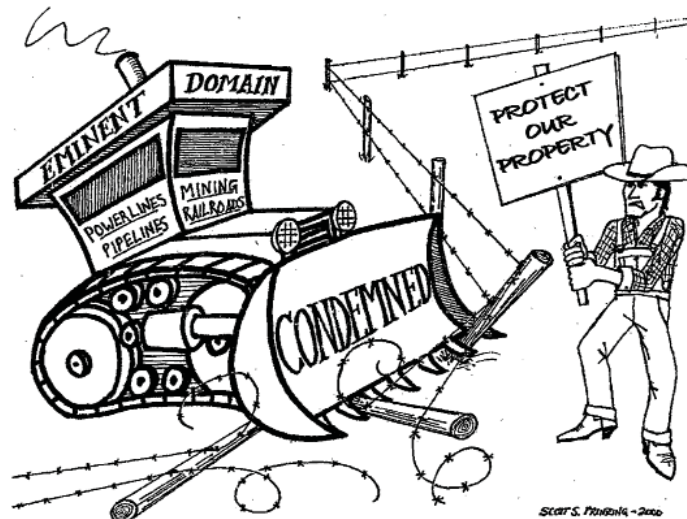
In a direct challenge to the eminent domain bill enacted by the

2011 legislature, Sen. Debby Barrett (R-Dillon) introduced legislation to repeal portions of the 2011 law that granted the power of eminent domain to any party issued a certificate under the Major Facility Siting Act. While the bill cleared the Senate, Northwestern Energy and its allies succeeded in locking the bill up in the House Federal Relations, Energy, and Telecommunications Committee late in the session. Other

landowner-friendly bills that would reform the process were also tied up and killed by the corporate interests.

However, we were successful in killing the most egregious anti-landowner bills in the 2013 legislature. SB 288, sponsored by Sen. Chas Vincent (R-Libby), would have rolled back important protections for landowners. For example, it would have set such a high bar for the qualifications of appraisers that only those employed by corporations would have met the requirements. Despite passing the Senate, pro-landowner legislators were able to kill SB 288 on the House floor. Other bad bills never made it out of the drafting stages.

Landowners are left better off at the end of the session than at the beginning. However, the playing field when it comes to eminent domain still isn't fair to landowners.



Renewable energy in crosshairs again

As we have come to expect, fossil fuel companies and their political allies arrived in Helena once again with their sights set on tearing apart the laws that are helping build Montana's new energy economy. The string of attacks is beginning to sound like a broken record but, in the end, we succeeded in defeating nearly all of their attempts to choke the development of renewable energy in Montana.

Legislators passed the Renewable Power Production and Rural Economic Development Act in 2005, helping the emerging wind and solar industries find an in-state market for their product. The premise was simple: by the year 2015, Montana's public utilities shall procure a minimum of 15% of their electrical generation from new renewable sources. This is known as Montana's Renewable Energy Standard, or RES. Indeed, the standard has increased electrical generation by renewable sources from 2 megawatts in 2005 to more than 600 megawatts today. Ever since this hallmark legislation was enacted, however, some legislators have worked to dismantle it – piece by piece – largely at the expense of Montana's rural communities.

Once again in 2013, we saw bills introduced to retroactively include all of Montana's hydroelectric energy under the standard, attempting to reward investments made a century ago rather than incentivizing the development of new projects in rural communities.

And we faced new attacks on the community provision of the standard that tried to make it essentially optional for the utilities and their cronies at the Public Service Commission. The community provision mandates that a certain portion of the new energy produced to meet the Renewable Energy Standard has to come from small, distributed, locally-owned projects. This would spread the economic development from renewable energy across the state.

A majority of the legislature even passed a measure that would have cut the property taxes on new fossil fuel power plants to one-fourth of the level they currently pay, shifting the tax burden to other property owners in the counties where those facilities would be built.

Thankfully, after hearing from concerned citizens like you,

Governor Bullock chose to veto these damaging proposals and help keep Montana on track to create new jobs and spur investment in Montana's new energy economy.

The legislature also took aim at the most basic tax credits that middle-class homeowners use to make energy-saving investments in their homes and small businesses. Both SB 282, sponsored by Sen. Bruce Tutvedt (R-Kalispell), and HB 581, by Rep. Kris Hansen (R-Havre), used the guise of "tax bracket simplification" to repeal a number of tax credits, including those for energy conservation, biodiesel production, and distributed (that is, de-centralized) alternative energy systems.

Neither bill survived, again thanks to your calls and emails.

Unfortunately, this legislature refused to pass proactive legislation on renewable energy and conservation. Northern Plains sought legislation to require that state agencies publicly disclose how much energy they are using in their buildings. HB 227, sponsored by Rep. Amanda Curtis (D-Butte), and SB 386, by Sen. Mike Phillips

(D-Bozeman), were both quickly tabled in committee. Other measures to open new opportunities for distributed generation and net metering failed to gain enough votes to pass either chamber.

Legislators did, however, endorse a measure that will require the Energy and Telecommunications Interim Committee to conduct a rigorous study of the RES and how successful it has been. SJ 6, sponsored by Sen. Alan Olson (R-Roundup), requests the committee to review the impacts that the policy has had on Montana's economy, environment, and ratepayers. Northern Plains expects to take part in the study with other stakeholders, and we anticipate that – if it is an honest study – it will reveal what we already know: renewable energy has been a good deal for Montana.

In the end, the laws that encourage development of Montana's abundant renewable resources remain largely intact thanks to the work of citizens, legislators, and Governor Bullock. Recent polling continues to affirm Montanans' strong support for the expanded development of our wind, solar, and biomass resources. Northern Plains looks forward to moving the ball down the field in future legislative sessions and with the new Administration.



Wind turbines produce power in Wheatland County.

Water policy debate central to session

Like just about every session in Northern Plains' history, we fought in 2013 against proposals to weaken the protections in law for our water quality and senior water rights holders. We also fought against bills that moved toward the privatization of water, that created loopholes for polluters, and that allowed for unregulated depletion of our aquifers.

The mining companies and their friends in the legislature worked all session to weaken Montana's water quality standards, providing them additional ability to pollute our waterways. Sen. Chas Vincent's (R-Libby) bill, SB 347, would have allowed mining companies to alter the volume and flow of streams without being subject to the Montana Water Quality Act. Under this proposal, changes to water quantity would not be seen as degrading the quality of a stream, a notion that is simply inconsistent with science and common sense.

This bill aimed to directly benefit hard rock and coal mining companies at the expense of Montana's water resources. Governor Bullock stood up to the mining companies and put the interests of Montanans first by vetoing SB 347.

The oil and gas companies also had their eyes on Montana's water. With the tremendous demand to use water in hydraulic fracturing, there has been a growth in the illegal use of water from temporary depots and in individuals by-passing the water rights process and selling their water.

Rather than dealing with the enforcement of existing statutes,

the legislature created a new loophole for fracking in the Montana Water Use Act. HB 37, sponsored by Rep. Bill McChesney (D-Miles City), will create a new temporary water lease framework in which water rights holders could lease their water rights to individuals. While we made the bill less bad by working with the Administration and the sponsor to get necessary sideboards, reporting mechanisms, and a sunset date on the bill, it is still a step in the wrong direction. Fracking represents a serious threat to Montana's water resources, and the legislature should have focused on enforcing the law instead of creating a new loophole.

The real estate industry joined in attacks on Montana's waters. After multiple sessions attempting to deal with the growth of "exempt" wells across the state, this legislature finally enacted legislation defining the term "combined appropriation." However, SB 19, sponsored by Sen. Bradley Hamlett (D-Cascade), missed the mark by codifying a flawed definition that the state district court had previously held as invalid. The definition of the term is important because it affects how multiple exempt wells (those limited to 35 gallons

per minute) in a confined location are considered under statute. As passed, SB 19 would seriously threaten senior water rights holders. Governor Bullock ultimately vetoed the bill. This will now mandate that the DNRC initiate rulemaking regarding the combined appropriation definition. Northern Plains' Oil and Gas Task Force will be watching that rulemaking process carefully to ensure that the rights of senior water rights holders are first and foremost.



Voting rights rollbacks – a solution looking for a problem

Despite clear evidence to the contrary, the majority of this legislature accepted baseless claims of voter fraud and confusion at elections. Acting on these claims, the legislature passed bills that would close the voting booth to thousands of Montanans who are legally eligible to vote.

Northern Plains believes every citizen should be able to exercise the fundamental right to participate in the democratic decision-making process.

A pair of attacks on Montana voters will appear on the 2014 general election ballot as legislative referenda. SB 405

(now known as LR 126), was sponsored by Sen. Alan Olson (R-Roundup). If passed by voters, it would roll back the current law that allows any eligible voter to register and vote up to and including on Election Day. Since being passed in 2006, the law has allowed more than 26,000 Montanans to register and vote.

While an identical bill, HB 30, was vetoed by Governor Bullock, this Legislature circumvented the Governor to place this measure directly onto the ballot. If passed, this change would be particularly hard-felt in Montana's Indian Country, on college campuses, and in low-income neighborhoods. And for what purpose?



HOUSE

A = Absent, E = Excused

Representatives	Party	City	HD	Percent favorable	HB 417 - Revise eminent domain laws - due process	HB 431 - Surface owner damage compensation	HB 471 - Provide farm-to-school program	HB 515 - Disclose financial support in certain civil suits	SB 125 - Revise penalties for failure to meet RES	SB 138 - Tax breaks for dirty energy	SB 19 - Define exempt wells	SB 282 - Repeal energy tax credits	SB 31 - Revise definition of eligible renewable resource	SB 347 - Revise water degradation laws	SB 405 - Referendum to end late voter registration
Lang, Mike	R	Malta	35	36%	+	+	+	-	-	-	+	-	-	-	-
Laszloffy, Sarah	R	Laurel	57	27%	+	+	+	-	-	-	-	-	-	-	-
Lavin, Steve	R	Kalispell	8	18%	+	+	-	-	-	-	-	-	-	-	-
Lenz, Dennis	R	Billings	50	18%	+	+	-	-	-	-	-	-	-	-	-
Lieser, Ed	D	Whitefish	4	100%	+	+	+	+	+	+	+	+	+	+	+
Lynch, Ryan	D	Butte	74	82%	-	+	+	+	+	+	+	+	+	-	+
MacDonald, Margie	D	Billings	54	100%	+	+	+	+	+	+	+	+	+	+	+
McCarthy, Kelly	D	Billings	51	100%	+	+	+	+	+	+	+	+	+	+	+
McChesney, Bill	D	Miles City	40	73%	+	+	+	+	-	+	+	-	+	-	+
McClafferty, Edie	D	Butte	75	91%	+	+	+	+	+	+	+	+	+	-	+
McNally, Mary	D	Billings	49	100%	+	+	+	+	E	+	+	+	+	+	+
McNiven, Jonathan	R	Huntley	44	27%	+	+	+	-	-	-	-	-	-	-	-
Mehlhoff, Bob	D	Great Falls	26	82%	+	+	+	+	+	+	-	-	+	+	+
Miller, Mike	R	Helmville	84	27%	+	+	-	+	-	-	-	-	-	-	-
Moore, Doc	R	Missoula	91	45%	+	+	+	-	-	+	-	-	-	-	+
Neill, Reilly	D	Livingston	62	100%	+	+	+	+	+	+	+	+	+	+	+
Noonan, Pat	D	Ramsay	73	82%	-	+	+	+	+	+	+	+	+	-	+
O'Hara, Jesse	R	Great Falls	18	27%	+	+	+	-	-	-	-	-	-	-	-
O'Neil, Jerry	R	Columbia Falls	3	18%	+	-	-	+	-	-	-	-	-	-	-
Osmundson, Ryan	R	Buffalo	29	18%	+	+	-	-	-	-	-	-	-	-	-
Pease-Lopez, C.	D	Billings	42	100%	+	+	+	+	E	+	+	+	+	+	+
Peppers, Rae	D	Lame Deer	41	100%	+	+	+	+	+	+	+	+	+	+	+
Pierson, Gordon	D	Deer Lodge	85	82%	+	+	+	+	-	+	+	+	+	-	+
Pomnichowski, JP	D	Bozeman	66	91%	+	-	+	+	+	+	+	+	+	+	+
Price, Jean	D	Great Falls	21	100%	+	+	+	+	+	+	+	+	+	+	+
Randall, Lee	R	Broadus	39	36%	+	+	+	-	-	-	+	-	-	-	-
Redfield, Alan	R	Livingston	61	36%	+	+	+	-	-	-	+	-	-	-	-
Regier, Keith	R	Kalispell	5	18%	+	+	-	-	-	-	-	-	-	-	-
Reichner, Scott	R	Bigfork	9	36%	+	+	+	+	-	-	-	-	-	-	-
Salomon, Daniel	R	Ronan	12	36%	+	+	+	-	-	-	-	-	-	+	-
Schreiner, Casey	D	Great Falls	22	100%	+	+	+	+	+	+	+	+	+	+	+
Schwaderer, N.	R	Superior	14	36%	+	+	+	+	-	-	-	-	-	-	-
Shaw, Ray	R	Sheridan	71	27%	+	+	+	-	-	-	-	-	-	-	-
Smith, Bridget	D	Wolf Point	31	91%	+	+	+	+	+	+	+	-	+	+	+
Smith, Cary	R	Billings	55	18%	+	+	-	-	-	-	-	-	-	-	-
Squires, Carolyn	D	Missoula	96	80%	E	-	+	+	+	+	-	+	+	+	+
Steenberg, Tom	D	Missoula	95	100%	+	+	+	+	+	+	+	+	+	+	+
Swanson, Kathy	D	Anaconda	86	100%	+	+	+	+	+	+	+	+	+	+	+
Vance, Gordon	R	Bozeman	67	18%	+	+	-	-	-	-	-	-	-	-	-
Wagoner, Kirk	R	Montana City	67	18%	+	+	-	-	-	-	-	-	-	-	-
Warburton, Wendy	R	Helena	34	30%	E	+	+	-	-	-	+	-	-	-	-
Washburn, Ted	R	Bozeman	69	27%	+	+	+	-	-	-	-	-	-	-	-
Welborn, Jeffrey	R	Dillon	72	36%	+	+	+	+	-	-	-	-	-	-	-
White, Kerry	R	Bozeman	70	18%	+	+	-	-	-	-	-	-	-	-	-
Whitford, Lea	D	Cut Bank	16	100%	+	+	+	+	+	+	+	+	+	+	+
Williams, Kathleen	D	Bozeman	65	100%	+	+	+	+	+	+	+	+	+	+	+
Wilmer, Franke	D	Bozeman	63	100%	+	+	+	+	+	+	+	+	+	+	+
Wilson, Nancy	D	Missoula	97	100%	+	+	+	+	+	+	+	+	+	+	+
Woods, Tom	D	Bozeman	64	91%	+	-	+	+	+	+	+	+	+	+	+
Zolnikov, Daniel	R	Billings	47	30%	+	+	A	+	-	-	-	-	-	-	-

2013 scored legislative bills

Here are the 2013 bills that rose to the top of Northern Plains' legislative priorities and had votes that we can use for our scorecard. (Even though a committee vote may have been pivotal in the outcome on a bill, we only use votes by either the full House or Senate in this scorecard)

SB 19

Defining combined appropriation for exempt well, codifying illegal loophole

Sponsor: Sen. Bradley Hamlett (D-Cascade)

This bill would have codified in statute the current flawed definition of combined appropriation relative to exempt wells. This proposed statute would continue to allow multiple exempt wells (those under 35 gallons per minute) drilled in confined locations to be exempted from the water rights permitting process, providing a loophole around protections for senior water rights holders.

■ **Northern Plains position:** Oppose

■ **Votes used in this scorecard:**

Senate: 3rd reading, February 27, passed 26-24

House: 3rd reading, March 28, passed 54-45

■ **Status:** Vetoed by Governor

SB 347

Gutting water quality standards for mining companies

Sponsor: Sen. Chas Vincent (R-Libby)

This bill proposed amending (and weakening the enforcement of) Montana's Water Quality Act by not allowing changes in stream flow or quantity as a result of mining activity to be considered degradation of water resources. The bill would jeopardize Montana waterways, their aquatic life, and the rights of senior water holders for the sole benefit of mining companies.

■ **Northern Plains position:** Oppose

■ **Votes used in this scorecard:**

Senate: 3rd reading, April 19, passed 39-11

House: 3rd reading, April 6, passed 64-35

■ **Status:** Vetoed by Governor

HB 471

Creating a grant-making program for farm-to-school programs

Sponsor: Rep. Greg Hertz (R-Polson)

This bill would have created a new farm-to-school grant program within the Office of Public Instruction. The purpose of the grants would be to assist individual school districts in procuring locally produced foods for school cafeteria menus.

The bill included a \$300,000 appropriation to seed the grant program, and would provide a needed boost for building local and regional markets for Montana's family farms and ranches.

■ **Northern Plains position:** Support

■ **Vote used in this scorecard:**

House: 2nd reading, March 15, passed 70-29

■ **Status:** Died in committee

SB 405

Legislative referendum to end same-day voter registration

Sponsor: Sen. Alan Olson (R-Olson)

This bill puts a referendum on the 2014 general election ballot to repeal the law that allows eligible voters to register and vote up to Election Day. Since the 2006 law to allow same-day voter registration went into effect, it has allowed more than 28,000 Montanans to exercise their constitutional right to participate in our election system. We see no reason why that right should be denied.

■ **Northern Plains position:** Oppose

■ **Votes used in this scorecard:**

Senate: 3rd reading, April 19, passed 29-20

House: 3rd reading, April 17, passed 58-42

■ **Status:** Will appear on 2014 general election ballot as LR 126

HB 417

Leveling the playing field for landowners facing condemnation

Sponsor: Rep. Kelly Flynn (R-Townsend)

This bill would require the condemnor to provide landowners a final written offer prior to initiating a condemnation complaint. Before HB 417, the condemnor could give as many verbal and written offers as they wished, often at varying levels of compensation in an inconsistent and irregular pattern, and then file a condemnation complaint at any time. The end result is a process that leaves landowners confused and unsure which offer before them is the real one, and therefore unsure how to make the best decision for them - to sign the agreement or to go to court. Companies could cherry-pick which offer they meant to be the one used by the court to determine who was the prevailing party in the proceedings. That's important because it affects whether the landowner receives compensation for attorney's fees.

■ **Northern Plains position:** Support

■ **Votes used in this scorecard:**

Senate: 3rd reading, April 19, passed 47-2

House: 3rd reading, February 27, passed 94-4

■ **Status:** Became law



Governor's scorecard



Gov. Bullock

While Northern Plains members and fellow conservationists stopped a number of the egregious attacks on our water quality and working landscapes, a number of ill-conceived bills made it through the Legislature and to the Governor's desk. Fortunately, the Governor stood with the majority of Montanans in vetoing the most out-of-step of these proposals. Here are the bills that were scored by Northern Plains that required the Governor's action:

HB 417 law + SB 138 veto + SB 31 veto +
HB 431 law + SB 19 veto + SB 347 veto +
SB 125 veto + SB 282 veto +

Northern Plains members applaud the Governor, his staff, and key agency employees for standing up to the corporate interests pushing these proposals. Governor Bullock's actions promise a brighter future for the next generation of Montanans that values our clean water, family farms and ranches, and unique quality of life.

SB 125

Making it easier for utility companies to evade the community provision of the renewable energy standard

Sponsor: Sen. Alan Olson (R-Roundup)

This bill as finally passed would have essentially made the community provision optional for public utilities by revising the penalty for not complying to a fine as low as one dollar. The community provision requires that a certain portion of the renewable energy that utilities procure to meet the renewable energy standard must come from small, distributed, locally-owned projects. In addition to generating renewable energy, such projects create jobs in these communities.

■ **Northern Plains position:** Oppose

■ **Votes used in this scorecard:**

Senate: 3rd reading, February 20, passed 26-23

House: 3rd reading, March 21, passed 61-35

■ **Status:** Vetoed by Governor

SB 31

Undermining the renewable energy standard

Sponsor: Sen. Debby Barrett (R-Dillon)

This bill would have changed the definition of eligible renewable resource under Montana's renewable energy standard (RES), allowing large new hydroelectric facilities to qualify instead of promoting the emerging distributed wind and solar economy that the RES is intended for.

■ **Northern Plains position:** Oppose

■ **Vote used in this scorecard:**

Senate: 3rd reading, April 16, passed 32-18

House: 3rd reading, April 5, passed 61-39

■ **Status:** Vetoed by Governor

SB 138

Another tax break for fossil fuels

Sponsor: Sen. Art Wittich (R-Bozeman)

This bill would have changed the property tax formula for new electric generation facilities by reducing the rate on new fossil fuel plants from 12% to 3%. It would have put new coal plants in the same incentivized category as clean, renewable energy facilities like wind and solar. The impact of the rate reduction would be most harmful to rural counties that depend on tax revenue from centrally assessed projects to fund essential services.

■ **Northern Plains position:** Oppose

■ **Votes used in this scorecard:**

Senate: 3rd reading, February 9, passed 29-20

House: 3rd reading, April 11, passed 58-40

■ **Status:** Vetoed by Governor

HB 515

Unconstitutional attempt to deny citizen access to courts

Sponsor: Rep. Bill Harris (R-Winnett)

This bill would have required any organizations seeking an injunction or restraining order against specific parties engaged in large industrial projects to disclose their membership list in order to have standing in civil cases. The U.S. Supreme Court has soundly rejected similar measures as a blatantly unconstitutional violation of rights to association and free speech.

■ **Northern Plains position:** Oppose

■ **Vote used in this scorecard:**

House: 3rd reading, February 27, failed 43-57

■ **Status:** Failed to pass out of House

SB 282

Eliminating middle-class tax credits in order to undercut renewable energy

Sponsor: Sen. Bruce Tutvedt (R-Kalispell)

Under the guise of "reforming and simplifying" Montana's income tax laws, SB 282 sought to strike a number of important tax credits used by middle class families to improve the energy efficiency of their home and install decentralized renewable energy generation facilities. These tax credits help taxpayers of all income levels get over the hurdle of high up-front costs for energy-saving technologies and home power systems that cut monthly energy bills, reduce pollution, and put Montanans to work.

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■ **Northern Plains position:** Oppose

■ **Votes used in this scorecard:**

Senate: 3rd reading, April 24, passed 29-21

House: 3rd reading, April 24, passed 65-35

■ **Status:** Vetoed by Governor

SB 295

Repeal the oil and gas tax holiday and fund eastern Montana infrastructure projects

Sponsor: Sen. Christine Kaufmann (D-Helena)

This bill would have repealed the state's 12 to 18-month "tax holiday" that excuses oil and gas companies from paying production taxes on most of the oil and gas they extract in Montana. The booming development in eastern Montana has stressed essential public services and infrastructure, and many local governments have little or no ability to pay for these impacts. Ending the tax holiday would have provided the necessary funds for impacted communities and would have created a new statutory trust fund to deal with long-term impacts on communities and water.

■ **Northern Plains position:** Support

■ **Vote used in this scorecard:**

Senate: Motion to blast bill out of Taxation Committee, April 3, failed 20-30

■ **Status:** Died in committee

SB 262

Prohibit Montana DEQ from taking action on anonymous pollution complaints

Sponsor: Sen. John Brenden (R-Scobey)

This bill would have singled out the Department of Environmental Quality (DEQ), preventing it from investigating anonymous citizen complaints about potentially hazardous or dangerous substances, including violations at mine sites or coal plants or underground petroleum tanks. Citizens who report pollution often ask to remain anonymous because they risk retaliation. SB 262 would have opened the door to such retribution by forbidding action on anonymous reports.

■ **Northern Plains position:** Oppose

■ **Vote used in this scorecard:**

Senate: 3rd reading, February 27, passed 31-19

■ **Status:** Died in committee

HB 431

Protecting property owners from surface damage by oil and gas companies

Sponsor: Rep. Austin Knudsen (R-Culbertson)

This bill provides additional protections for surface landowners whose property is impacted by oil and gas development. The bill provides such landowners with added leverage in negotiating with oil and gas operators, and it creates a new definition of lost land value from damages, allowing a landowner to be compensated for current and future losses associated with the damage to their property.

■ **Northern Plains position:** Support

■ **Votes used in this scorecard:**

Senate: 3rd reading, April 8, passed 40-10

House: 3rd reading, April 24, passed 93-7

■ **Status:** Became law

Attacks

Continued from Page 1

considered by this legislature – attempting to roll back the laws that promote the renewable energy economy, inserting loopholes for industry into the laws that protect our land and water, and trying to weaken the fundamental rights guaranteed to all Montanans by our Constitution. But virtually every one of those bills were either killed in the legislative process or died on the Governor's desk. That's the good news.

Prior to the session, Northern Plains chose three proactive priorities for the session:

- Deliver additional money to oil and gas impacted communities by ending the state's oil and gas tax holiday;
- Require the public disclosure of energy performance in state buildings;
- Pass legislation that levels the playing field for landowners facing condemnation.

We also knew that we would have our work cut out for us defending against rollbacks to the laws that protect our land and water.

The outcome was a mixed bag. While we were successful in passing landowner-friendly reforms to our eminent domain laws, the legislature stymied efforts to repeal Montana's tax holiday for the oil and gas industry and to disclose the energy performance of state-owned and leased buildings. Despite those setbacks, we built new relationships with some legislators and ally organizations and we laid the groundwork for future sessions. Until Montanans elect a legislature that shares conservation values, we can continue to expect a largely defensive focus.

We want to thank those of you who drove through snowstorms to testify, joined a phone tree, attended a lobby day, wrote emails, or made calls to your legislator. Lawmakers heard from you, and it made a difference more than once this session! Without your voice, the outcome would have been much different.



Little relief for eastern Montana oil boom

The breakneck development of Montana's oil and gas resources has revived debates (in and out of the legislature) about what amounts to fair mineral taxation and how that tax revenue should be used. Working with a diverse coalition of allies, Northern Plains brought forward legislation aimed at helping local communities that lack the resources to maintain and expand their infrastructure and services to meet the demands being placed on them.

Exploding population growth and heavy industrial development have put pressure on local communities as they struggle to find adequate funding for essential services – sewer, water, roads, and law enforcement. This was a hotly debated topic during the 2013 session.

While Montana communities are strained to deal with the impacts created by oil and gas development, Montana law provides oil and gas drillers a 12 to 18-month “holiday” from paying taxes on the oil and gas they extract. On these horizontal wells, most of the oil and gas they will ever produce will come to the surface during that 12-18 month tax holiday.

Montana's tax holiday lets the oil and gas companies pay no taxes on these valuable resources while our communities struggle to deal with the impacts that the oil and gas development has created. This tax holiday policy has left hundreds of millions of dollars on the table, money that's needed to deal with real needs.

The tax holiday is particularly counter-productive in that those early stages are when local governments most need the revenues for infrastructure upgrades.

SB 295, sponsored by Sen. Christine Kaufmann (D-Helena), would have repealed the tax holiday and put money to use in helping eastern Montana local governments. It also would have created a statutory trust fund to deal with the long-term stresses to water and land resources as a result of the booming development.

Sen. Kendall Van Dyk's (D-Billings) SB 399 would have simply used North Dakota's approach of instituting a “price trigger” on the tax holiday. When the prices of commodities are above a certain level, there is no holiday, and when it dips below that price trigger, the holiday is reinstated. Again, the additional

revenue generated by this approach would have gone directly to the local governments in impacted communities.

Both bills drew immediate and corporate-scale opposition. Oil and gas lobbyists flew in from as far away as Texas and Oklahoma to oppose the measures, threatening that their companies would relocate other states (states which don't have a tax holiday, mind you) because Montana's taxes would become too burdensome.

Without ever bothering to find out the real facts of the issue, the majority of legislators took the side of these lobbyists.

The majority of legislators put the bottom line of out-of-state oil companies ahead of the interests of eastern Montana's small towns and cities that can't afford essential services.

In the end, the Montana legislature failed to deal with the impacts to local governments affected by development. Nearly all the measures attempting to pay for infrastructure and services in impacted communities were killed.

The money was there the whole time, if only the legislature had been willing to end the tax holiday for oil and gas drillers.

Legislators also considered creating a constitutional oil and gas trust fund. HB 589, sponsored by Rep. Tom Jacobson (D-Great Falls), would have created a permanent inviolate fund where a portion of the state revenue generated from oil and gas production taxes would serve as a permanent source of revenue. The proposal died in the Senate Taxation Committee.

A measure brought forward by our allies to collect royalties from vented and flared natural gas also failed to make it out of committee. Currently, oil and gas companies can flare natural gas that is owned by the public indefinitely without paying any royalties.

Because of the legislature's failure to end the tax holiday on oil and gas production, community leaders and citizens will need to build public pressure to make sure that Montana isn't left holding an empty bucket after this boom. How much longer can the legislature ignore real needs in Montana just to accommodate the oil and gas industry?



Northern Plains member Peggy Nerud of Circle visits with Sen. Taylor Brown (R-Huntley) during a Northern Plains Lobby Day in March at the Capitol.

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VOTING RECORD
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Member engagement keeps legislators honest

Over the course of Northern Plains' 40-plus years of working through the state legislative process, the recurring theme of success has been the commitment of our members to stand up, speak out, and take action.

Indeed, your participation in our lobbying efforts keeps this organization grounded, authentic, and effective. Legislators remember our members who attend hearings, testify, and lobby them in the hallways – and those interactions make a difference in the outcome of the legislative process. We can all be proud of the wins this session because they weren't the product of high-paid corporate lobbyists, big steaks, or expensive drinks, but rather the home-grown, grassroots tenacity of our members speaking out.

In addition to the calls and emails you made, Northern Plains hosted three successful citizen Lobby Days. In February and March, members lobbied on such issues as the oil and gas tax holiday, eminent domain, clean energy, and voting rights. More than 30 members participated, expanding their skills through trainings and then spending the day lobbying legislators.

There were members who drove to Helena outside of the organized Lobby Days, too. They were equally important to moving our agenda forward during the session. I know you braved rough roads and long to-do lists back home to make to the Capitol.



Walter Archer

Beyond lobbying, every phone call and email that you took the time to send to legislators and the Governor made a difference. More than 200 members participated in our legislative phone trees. We activated those trees eight times, and almost every time the outcome ended up being in our favor. Because of your participation, we were successful in defeating some of the worst proposals of the session.

Without you, we wouldn't have passed reforms to Montana's eminent domain laws, nor would we have been successful in protecting our air, land, and water from egregious corporate attacks.

Thank you!

– Walter Archer, Northern Plains Chair