



2019 Legislative Scorecard

PROPERTY RIGHTS HEROES

Special recognition for the
outstanding champions of
property rights in 2019



Rep. Dan Bartel, Lewistown

Rep. Bartel was the primary sponsor of HJ 28, our resolution to block grazing permit changes requested by the APR. He scored a 122% on the scorecard.



Rep. Wylie Galt, Martinsdale
Representing HD 30, Rep. Galt

sponsored HB 497, which allows additional elk to be harvested during the shoulder season by increasing the number of elk a person can take from two to three. He scored 108% in our scorecard.

Property Rights in the 2019 Legislative Session

The most important item on our legislative agenda was HJ 28, a resolution from the legislature to the BLM asking for a denial of the American Prairie Reserve's application for a livestock change in use (LCIU) on the eighteen grazing allotments under their control. In addition to requesting to put bison on those allotments, the APR is also seeking permission from the BLM to remove the interior fences. Ultimately the APR intends to use the property under their control as a base for free-roaming bison, and this LCIU is an obvious first step in toward that goal.

Dozens of property owners from the APR target area traveled to Helena to support HJ 28, which passed both chambers of the legislature largely on party-line votes, illustrating a concerning partisan divide on the free-roaming bison issue. As a legislative resolution, HJ 28 did not require approval from the Governor.

HJ 28 is making a difference. Shortly after the conclusion of the legislative session, the bill's primary sponsors, Rep. Dan Bartel and Senator Mike Lang, were invited to share their concerns in a conversation with Secretary of the Interior David Bernhardt. Additionally, a copy of the final version of HJ 28 was hand delivered by UPOM to the acting Director of the BLM in June. There is still work to do, but we are making real progress in blocking the APR's objectives of establishing free-roaming bison and depopulating the communities around them.

Unfortunately, two other important measures related to bison were vetoed by the governor. HB 132 would have made a mild alteration to the legal definitions of "wild" and "domestic" bison to clarify that domestic bison cannot be declared wild by bureaucratic declaration. HB 332 would have given authority to county governments to approve any translocation of wild bison into their jurisdiction.

The governor vetoed several other bills that UPOM supported in the 2019 legislative session, two of which are included in this scorecard. HB 265 would have restored the Land Board's oversight authority over major conservation easements entered into by FWP. And HB 394 would have improved the tax appraisal process to ensure fairness for homeowners and other property owners.

Despite these veto setbacks inflicted by the Governor, the remainder of our legislative agenda had positive outcomes in the 2019 legislative session. One of our top bills, HB 229, was passed with unanimous support in both chambers. This bill corrected a bad precedent set by the 9th Circuit Court of Appeals whereby they declared fossils, including dinosaurs, belonged to the mineral owners in a split estate. Fossils had previously belonged to the surface estate, which HB 229 restored.

SB 253 established an innovative new way for county governments to conduct tax lien auctions, and will ensure that property owners facing an auction of their property will be treated more fairly and recoup some equity from their property. HB 497 liberalizes elk shoulder seasons to allow more elk to be harvested. HB 286 reversed a Bullock administration practice of asserting claims on water rights on state leases.

There were fewer outright attacks on property rights than we've seen in prior sessions, but those bad ideas have not died out entirely. Significantly, the chief opponent to property rights, Senator Tom Jacobsen, was back again this session with an attempt to effectively prohibit property owners from placing gates on private roads that might lead to public land. Despite our objections SB 224 was heavily amended in Senate committee and passed the Senate, but was killed in a House committee. Our experience with SB 224 shows how narrow our margins are on protecting property rights.

We're looking forward to working with a new administration in the 2021 legislative session, and working on a proactive agenda to enhance property rights even more after the successes we had in 2019.

Bill Descriptions for UPOM's Legislative Scorecard

The following bills from the 2019 Legislative session were used to grade each legislator. The bills are weighted according to their impact—positive or negative—on property rights. Bonus points based on these weights are added to, or subtracted from, the scores of the primary sponsor of each bill included in our scorecard.

UPOM's 'Property Rights Heroes' are selected by UPOM's Board of Directors as those legislators who sponsored legislation, who scored over 100% on the scorecard, or who have exhibited an exemplary commitment to protecting private property rights throughout their tenure in the Montana State Legislature.

HB 132—Clarify definition of bison

Rep. Holmlund, R-Miles City

Weight: 2 Support

Revised the definition of bison and buffalo to specify that a bison that had previously been subject to the per capita fee could never be classified as "wild". This bill was important policy to prevent domestic bison from being reclassified as wildlife.

House Vote: 3rd Reading on 3/27, passed 54-45

Senate Vote: 3rd Reading on 3/22, passed 30-20

Final Status: Vetoed by Governor

HB 265—Revise laws related to approval of FWP easements

Rep. White, R-Bozeman

Weight: 2 Support

This bill would have required Land Board approval of FWP easements costing the state over \$100,000. The Land Board had historically approved such easements until Governor Bullock changed that practice in 2018, removing transparency from the process.

House Vote: 3rd Reading on 2/18, passed 54-44

Senate Vote: 3rd Reading on 4/8, passed 26-23

Final Status: Vetoed by Governor

HB 229—Clarify dinosaur bones and fossils are part of surface estate

Rep. Hamlett, D-Cascade

Weight: 4 Support

This bill was a response to a new legal precedent created by the federal 9th Circuit Court of Appeals in which they awarded ownership of fossil remains, including dinosaur fossils, to the mineral owner in a split estate. HB 229 clarified Montana law to unequivocally state that fossil remains are part of the surface estate.

House Vote: 3rd Reading on 2/23, passed 100-0

Senate Vote: 3rd Reading on 3/22, passed 50-0

Final Status: Became Law

HB 332—Require county approval to relocate bison

Rep. Kassmier, R-Fort Benton

Weight: 4 Support

This simple bill specified that county commissioners must approve any translocation of bison into their jurisdiction.

House Vote: 3rd Reading on 2/26, passed 56-41

Senate Vote: 3rd Reading on 3/8, passed 29-20

Final Status: Vetoed by Governor

SB 224—Generally revise laws related to county road access

Senator Jacobson, D-Great Falls

Weight: 5 Oppose

SB 224 was an attempt to force access across private land. Under this bill, activists could claim any road to be public and ask the county commission to impose a \$500 per day fine on the landowner for gating that road.

House Vote: Blast Motion on 4/9, failed 42-55

Senate Vote: 3rd Reading on 3/9, passed 31-13

Final Status: Died in Committee

SB 253—Revise the tax lien and tax deed process for residential property

Senator C. Smith, R-Billings

Weight: 3 Support

Overhauled county treasurer procedures regarding tax liens that end up in auction. Ensures that the property owner has an opportunity to retain some equity from their property. This legislation was developed in conjunction with the Pacific Legal Foundation with the intention that it will be used as a model bill for other states.

House Vote: 3rd Reading on 4/12, passed 89-8

Senate Vote: 3rd Reading on 4/18, passed 49-1

Final Status: Became Law

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Rep. Alan Redfield, Livingston

Rep. Redfield carried critical water rights legislation to address a new precedent created by the Bullock administration. He scored 108% in our scorecard.



Sen. Mike Lang, Malta

Senator Lang was the Senate co-sponsor of HJ 28 and also carried important legislation on sage grouse conservation this session. He scored 110% in this scorecard.

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Rep. Joshua Kassmier, Fort Benton

Rep. Kassmier carried HB 332, which gives local governments a role in determining if bison may be translocated into their jurisdictions. He scored 103% on our scorecard.



Rep. Bradley Hamlett, Cascade

Rep. Hamlett succeeded in achieving unanimous approval of HB 229, the legislation that clarifies that fossil remains belong to the surface owner in a split estate. He scored highest among Democrats, at 78%, on our scorecard.

HB 497—Allow additional elk to be harvested during shoulder season

Rep. Galt, White Sulphur Springs

Weight: 3 Support

Increases the number of elk a person may take from two to three.

House Vote: 3rd Reading on 2/27, passed 59-40

Senate Vote: 3rd Reading on 4/2, passed 28-21

Final Status: Became Law

HJ 28—Joint resolution requesting denial of American Prairie Reserve grazing permit

Rep. Bartel, Lewistown

Weight: 5 Support

A resolution to the Bureau of Land Management asking that they reject the APR's application to change grazing practices on allotments under their control. The APR's application is the first step to establishing a free-roaming bison herd.

House Vote: 3rd Reading on 3/1, passed 59-40

Senate Vote: 3rd Reading on 4/8, passed 30-19

Final Status: Resolution Passed

HB 286—Revise water right laws related to state water claims

Rep. Redfield, R-Livingston

Weight: 4 Support

Reversed a controversial practice implemented by Governor Bullock where DNRC would assert a water rights claim for water that originated on private land for use on a state lease.

House Vote: 3rd Reading on 4/5, passed 90-9

Senate Vote: 3rd Reading on 4/2, passed 42-7

Final Status: Became Law

SB 299—Generally revise laws related to sage grouse conservation

Senator Lang, R-Malta

Weight: 4 Support

Requires the Montana Sage Grouse Oversight Team to report the number of projects required to pay compensatory mitigation for the preservation of sage grouse to the Environmental Quality Council. This bill also seeks to limit the ability of MSGOT to require compensatory mitigation.

House Vote: 3rd Reading on 4/8, passed 62-35

Senate Vote: 3rd Reading on 4/24, passed 46-3

Final Status: Became Law

Bill descriptions cont.

HB 394—Revise property tax appraisal and tax appeal process

Rep. Hertz, R-Polson

Weight: 3 Support

A bill designed to make the tax appeals process more fair for property owners. Would have allowed property owners to collect attorney fees, and changed certain appraisal practices for residential property.

House Vote: 3rd Reading on 2/26, passed 78-19

Senate Vote: 3rd Reading on 4/4, passed 33-15

Final Status: Vetoed by Governor

SB 300—Generally revise property laws to protect property rights

Senator Bogner, R-Miles City

Weight: 1 Support

Provides that an HOA may not impose more onerous restrictions on a property owner than those restrictions that existed when the property was originally acquired.

House Vote: 3rd Reading on 4/5, passed 73-24

Senate Vote: 3rd Reading on 4/12, passed 39-11

Final Status: Became Law

Montana Senate Scorecard

Bill		HB 132	HB 265	HB 229	HB 332	SB 224	SB 253	HB 497	HJ 28	HB 286	SB 299	HB 394	SB 300
Position		S	S	S	S	O	S	S	S	S	S	S	S
Weight		2	2	4	4	5	3	3	5	4	4	3	1
Senator	Score												
Duane Ankney (R)	89%	+	+	+	+	E	+	+	+	+	-	+	+
Dick Barrett (D)	20%	-	-	+	-	-	+	-	-	-	-	-	+
Bryce Bennett (D)	40%	-	-	+	-	-	+	-	-	+	+	-	+
Mark Blasdel (R)	100%	+	+	+	+	+	+	+	+	+	+	+	+
Kenneth Bogner (R)	90%	+	+	+	+	-	+	+	+	+	+	+	Sp.
Carlie Boland (D)	28%	-	-	+	-	-	+	-	-	-	+	-	-
Dee Brown (R)	100%	+	+	+	+	+	+	+	+	+	+	+	+
Jill Cohenour (D)	38%	-	-	+	-	-	+	-	-	+	+	-	-
Mike Cuffe (R)	88%	+	+	+	+	-	+	+	+	+	+	+	+
Janet Ellis (D)	38%	-	-	+	-	-	+	-	-	+	+	-	-
Jason Ellsworth (R)	100%	+	+	+	+	+	+	+	+	+	+	+	+
John Esp (R)	100%	+	+	+	+	E	+	+	+	+	+	+	+
Jennifer Fielder (R)	100%	+	E	+	E	E	+	E	E	E	+	E	+
Steve Fitzpatrick (R)	78%	+	-	+	+	-	+	+	+	+	E	+	-
Pat Flowers (D)	45%	-	-	+	-	-	+	-	-	+	+	+	-
Terry Gauthier (R)	88%	+	+	+	+	-	+	+	+	+	+	+	+
Bruce Gillespie (R)	88%	+	+	+	+	-	+	+	+	+	+	+	+
Jen Gross (D)	30%	-	-	+	-	-	+	-	-	-	+	-	+
Steve Hinebauch (R)	100%	+	+	+	+	E	+	+	+	+	+	+	+
Brian Hoven (R)	88%	+	+	+	+	-	+	+	+	+	+	+	+
David Howard (R)	100%	+	+	+	+	+	+	+	+	+	+	+	+
Tom Jacobson (D)	43%	-	-	+	-	Sp.	Sp.	-	-	+	+	+	+
DougKary(R)	98%	+	+	+	+	+	+	+	+	+	+	+	-
Bob Keenan (R)	88%	+	+	+	+	-	+	+	+	+	+	+	+
Mike Lang (R)	110%	+	+	+	+	+	+	+	+	+	Sp.	+	+
Margie Macdonald (D)	40%	-	-	+	-	-	+	-	-	+	+	-	+
Sue Malek (D)	43%	-	-	+	-	-	+	-	-	+	+	E	+
Edie Mcclafferty (D)	40%	-	-	+	-	-	+	-	-	+	+	-	+
Nate Mcconnell (D)	38%	-	-	+	-	-	+	-	-	+	+	-	-
Mary McNally (D)	38%	-	-	+	-	-	+	-	-	+	+	-	-
Albert Olszewski (R)	98%	+	+	+	+	+	+	+	+	+	+	+	-
Ryan Osmundson (R)	100%	+	+	+	+	+	+	+	+	+	+	+	+
Mike Phillips (D)	40%	-	-	+	-	-	+	-	-	+	+	-	+

Legend:
Sp. - Bill Sponsor S - UPOM-supported bill O - UPOM-opposed bill A - Absent
Scores greater than 100% include bonus points for bill sponsorship.

Montana Senate Scorecard

Bill		HB 132	HB 265	HB 229	HB 332	SB 224	SB 253	HB 497	HJ 28	HB 286	SB 299	HB 394	SB 300
Position		S	S	S	S	O	S	S	S	S	S	S	S
Weight		2	2	4	4	5	3	3	5	4	4	3	1
Senator	Score												
Jp Pomnichowski (D)	28%	-	-	+	-	-	+	-	-	-	+	-	-
Keith Regier (R)	88%	+	+	+	+	-	+	+	+	+	+	+	+
Tom Richmond (R)	88%	+	+	+	+	-	+	+	+	+	+	+	+
Scott Sales (R)	98%	+	+	+	+	+	+	+	+	+	+	+	-
Daniel Salomon (R)	88%	+	+	+	+	-	+	+	+	+	+	+	+
Diane Sands (D)	38%	-	-	+	-	-	+	-	-	-	+	+	+
Jon Sesso (D)	40%	-	-	+	-	-	+	-	-	+	+	-	+
Jason Small (R)	83%	+	-	+	+	-	+	+	+	+	+	+	+
Cary Smith (R)	95%	+	+	+	+	-	Sp.	+	+	+	+	+	+
Frank Smith (D)	63%	-	-	+	-	+	+	-	+	-	+	+	+
Russel Tempel (R)	80%	+	+	+	+	-	-	+	+	+	+	+	+
Fred Thomas (R)	100%	+	+	+	+	+	+	+	+	+	+	+	+
Gordon Vance (R)	100%	+	+	+	+	+	+	+	+	+	+	+	+
Gene Vuckovich (D)	46%	-	-	+	-	E	+	-	-	+	+	-	+
Roger Webb (R)	100%	+	+	+	+	+	+	+	+	+	+	+	+
Susan Webber (D)	34%	-	-	+	-	E	+	-	-	-	+	-	+
Jeffrey Welborn (R)	65%	+	-	+	+	-	+	-	+	+	-	+	+

For more information on legislators, bills, and voting records, please visit www.leg.mt.gov

Legend:

Sp. - Bill Sponsor S - UPOM-supported bill O - UPOM-opposed bill A - Absent

Scores greater than 100% include bonus points for bill sponsorship.

Montana House Scorecard

[illegible]

Montana House Scorecard

Bill		HB 132	HB 265	HB 229	HB 332	SB 224	SB 253	HB 497	HJ 28	HB 286	SB 299	HB 394	SB 300
Position		S	S	S	S	O	S	S	S	S	S	S	S
Weight		2	2	4	4	5	3	3	5	4	4	3	1
Representative	Score												
Steve Gunderson (R)	100%	+	+	+	+	+	+	+	+	+	+	+	+
Jim Hamilton (D)	30%	-	-	+	-	-	+	-	-	+	-	-	+
Bradley Hamlett (D)	78%	-	-	Sp.	-	-	+	+	+	+	+	+	+
Derek Harvey (D)	48%	-	-	+	E	-	+	-	-	+	+	E	+
Denise Hayman (D)	28%	-	-	+	-	-	+	-	-	+	-	-	-
Greg Hertz (R)	105%	+	+	+	+	+	+	+	+	+	+	Sp.	-
Kenneth Holmlund (R)	105%	Sp.	+	+	+	+	+	+	+	+	+	+	+
Mike Hopkins (R)	100%	+	+	+	+	+	+	+	+	+	+	+	+
Llew Jones (R)	100%	+	+	+	+	+	+	+	+	+	+	+	+
Jessica Karjala (D)	38%	-	-	+	-	-	+	-	-	+	-	+	+
Joshua Kassmier (R)	103%	+	+	+	Sp.	+	-	+	+	+	+	+	+
Jim Keane (D)	54%	-	-	+	-	E	+	-	-	+	+	+	+
Kathy Kelker (D)	38%	-	-	+	-	-	+	-	-	+	-	+	+
Connie Keogh (D)	20%	-	-	+	-	-	+	-	-	-	-	-	+
Emma Kerr-Carpenter (D)	40%	-	-	+	-	-	+	-	-	+	+	-	+
Rhonda Knudsen (R)	93%	+	+	+	+	+	-	+	+	+	+	+	+
Casey Knudsen (R)	100%	+	+	+	+	+	+	+	+	+	+	+	+
Joel Krautter (R)	93%	+	+	+	+	+	-	+	+	+	+	+	+
Jasmine Krotkov (D)	38%	-	-	+	-	-	+	-	-	+	-	+	+
Dennis Lenz (R)	98%	+	+	+	+	+	+	+	+	+	+	+	-
Denley Loge (R)	100%	+	+	+	+	+	+	+	+	+	+	+	+
Ryan Lynch (D)	38%	-	-	+	-	-	+	-	-	+	-	+	+
Forrest Mandeville (R)	75%	-	+	+	-	+	-	+	+	+	+	+	-
Theresa Manzella (R)	90%	+	+	+	-	+	+	+	+	+	+	+	+
Marilyn Marler (D)	30%	-	-	+	-	-	+	-	-	+	-	-	+
Wendy Mckamey (R)	98%	+	+	+	+	+	+	+	+	+	+	+	-
Bill Mercer (R)	98%	+	+	+	+	+	+	+	+	+	+	+	-
Eric Moore (R)	100%	+	+	+	+	+	+	+	+	+	+	+	+
Terry Moore (R)	83%	+	+	+	+	+	-	-	+	+	+	+	-
Shane Morigeau (D)	38%	-	-	+	-	-	+	-	-	+	-	+	+
Dale Mortensen (R)	100%	E	A	+	E	+	+	E	E	+	+	E	+
Mark Noland (R)	100%	+	+	+	+	+	+	+	+	+	+	+	+
Andrea Olsen (D)	20%	-	-	+	-	-	+	-	-	-	-	-	+
Rae Peppers (D)	30%	-	-	+	-	-	+	-	-	+	-	-	+
Zac Perry (D)	38%	-	-	+	-	-	+	-	-	+	-	+	+
Gordon Pierson Jr (D)	55%	-	-	+	+	-	+	-	-	+	+	+	-
Christopher Pope (D)	28%	-	-	+	-	-	+	-	-	+	-	-	-

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Bill		HB 132	HB 265	HB 229	HB 332	SB 224	SB 253	HB 497	HJ 28	HB 286	SB 299	HB 394	SB 300
Position		S	S	S	S	O	S	S	S	S	S	S	S
Weight		2	2	4	4	5	3	3	5	4	4	3	1
Representative	Score												
Joe Read (R)	100%	+	+	+	+	+	+	+	+	+	+	+	+
Alan Redfield (R)	108%	+	+	+	+	+	+	+	+	Sp.	+	+	-
Matt Regier (R)	93%	+	+	+	+	+	-	+	+	+	+	+	+
Vince Ricci (R)	98%	+	+	+	+	+	+	+	+	+	+	+	-
Tyson Runningwolf (D)	36%	-	-	+	-	-	+	-	-	+	-	+	E
Marilyn Ryan (D)	20%	-	-	+	-	-	+	-	-	-	-	-	+
Walt Sales (R)	98%	+	+	+	+	+	+	+	+	+	+	+	-
Casey Schreiner (D)	36%	-	-	+	E	-	+	-	-	+	-	E	+
Ray Shaw (R)	100%	+	+	+	+	+	+	+	+	+	+	+	+
Lola Sheldon-Galloway (R)	100%	+	+	+	+	+	+	+	+	+	E	+	+
Derek Skees (R)	100%	+	+	+	+	+	+	+	+	+	+	+	+
Bridget Smith (D)	38%	-	-	+	-	-	+	-	-	+	-	+	+
Sharon Stewart Peregoy (D)	28%	-	-	+	-	-	+	-	-	+	-	-	-
Katie Sullivan (D)	35%	-	-	+	-	-	+	-	-	+	-	+	-
Mark Sweeney (D)	37%	-	E	+	-	-	+	-	-	+	-	+	-
Bradley Tschida (R)	100%	+	+	+	+	+	+	+	+	+	+	+	A
Barry Usher (R)	100%	+	+	+	+	+	+	+	+	+	+	+	+
Sue Vinton (R)	98%	+	+	+	+	+	+	+	+	+	+	+	-
Marvin Weatherwax Jr (D)	35%	-	-	+	-	-	+	-	-	-	+	+	-
Peggy Webb (R)	98%	+	+	+	+	+	+	+	+	+	+	+	-
Tom Welch (R)	85%	+	-	+	+	+	+	-	+	+	+	+	-
Kerry White (R)	105%	+	Sp.	+	+	+	+	+	+	+	+	+	+
Jonathan Windy Boy (D)	35%	-	-	+	-	-	+	-	-	+	-	+	-
Tom Winter (D)	38%	-	-	+	-	-	+	+	-	+	-	-	+
Tom Woods (D)	38%	-	-	+	-	-	+	+	-	+	-	-	+
Daniel Zolnikov (R)	88%	+	+	+	+	-	+	+	+	+	+	+	+

Legend:

Sp. - Bill Sponsor S - UPOM-supported bill O - UPOM-opposed bill A - Absent
Scores greater than 100% include bonus points for bill sponsorship.

About United Property Owners of Montana

In recent years government and special interest groups have advocated for new policies on land use, environmental protection, and social change. Unfortunately, many of those policies necessitate the erosion of private property rights. Put it all together and we have a growing movement in Montana that challenges the rights landowners have to possess, protect, and use property.

The attacks on our property rights threaten to undermine the unique culture and traditions that make Montana such a special place. UPOM is dedicated to protecting our property rights in order to preserve our ag heritage for future generations. Our philosophy is simple: the erosion of one person’s rights affects us all. We hope you’ll join our efforts to protect Montana’s property rights.