

Montana's Hard Right Turn

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Abstract

Budgets, combined with tax policy, provide rich evidence of the applied values of legislative bodies and executives. This paper evaluates budget and tax legislation in Montana that resulted from the 67th legislative session in 2021 that set policy for the 2023 biennium. Montana, whose political complexion has long been purple, moved unambiguously red in the elections of November 2020. This paper speaks to how this changed things in Montana's public policy, in the areas of budget and tax, and a series of other policy areas. One of the more notable findings is that while budget and tax certainly shifted right with the dominance of the Republican Party that itself has moved further right than where it was as recently as 2019, it did not move as far right as many observers had anticipated. The explanation provided here is that this was largely a result of the large infusion of federal COVID relief funds.

Introduction

Budgets are statements of applied value. Budgets, unlike rhetoric, are where the rubber meets the road, where elected officials put their (our) money where their mouths are. Analyzing budgets create opportunities for scholars, investigative journalists, and civil society watchdogs to contrast word and deed. Budgets, combined with tax policy, provide rich evidence of the applied values of legislative bodies and executives. For example, it is possible to assess budget and tax legislation and determine the extent to which the following values were applied: correcting for market failures and distortions in favor of achieving greater equity of opportunities and outcomes as well as the degree of commitment to environmental sustainability.

I am not arguing here that budgets and taxes can be the sole basis of a comprehensive applied values assessment of government performance. Many other important variables are at play. Many policies without significant fiscal impacts are important for signaling the values of a legislative body, such as the debates that took place in Montana this session regarding transgender rights, gun rights, the authority of local health boards to impose local mandates, and sanctuary cities. My argument is rather that a detailed knowledge of budget and tax is necessary but not sufficient for an adequate understanding of the applied values of a legislative session.

This paper describes and analyzes the period leading up to and the results of the 67th legislative session that met January – May 2021 to set the biennium budget for the next two fiscal years, with reference to:

1. The budget proposed by outgoing Democratic Governor Steve Bullock.
2. The budget proposed by incoming Republican Governor Greg Gianforte.
3. The legislative process that led to the budgetary recommendations in the form of spending bills, most significantly HB 2, was sent to the governor for signature. Here we are able to evaluate not only what passed in terms of tax and spending but to evaluate what was proposed and failed to pass.

The first two are stationary targets of analysis. In them, we can see clear value statements from Bullock and Gianforte regarding spending and revenues, including different visions of how to use, or not, the state's budgetary reserves. The legislative process is a dynamic period in which we peer into the complexity of arguments made regarding how best to tax and spend in the pursuit of different visions for creating the best Montana that government can buy.

Political and Electoral Context

During the research and writing of this paper, I had the opportunity to read and hear from other contributors to this volume reporting on other western states. I have been struck by the contrasts between the situation in Montana and that of other states, most notably New Mexico. The political situation in Montana is moving in the opposite direction of New Mexico.

In November 2020, Montana experienced a political tsunami. After 16 years of mostly Republican controlled legislatures and a moderate Democratic governor, Republicans won solid control of both houses and the election of a "Make America Great Again" (MAGA) Republican Greg Gianforte. In sharp contrast to New Mexico, where at least in some instances progressive Ds defeated incumbent moderates in primaries, in Montana the trend curved in the opposite direction, with extreme right-wing candidates defeating a number of moderate Rs.

The Rs swept all the races for statewide offices. At the national level, our one House member is a far-right Republican, and so is one of our senators. Trump carried the state by over 16 points. Montana has finally turned red and few if any seasoned hands anticipate this changing any time soon. Republicans hold 67 of 100 House seats and 31 of 50 Senate seats. This is the most lopsided Republican legislative majority since 1931.¹

It is important to point out for readers not familiar with Montana politics of the significant changes in the state's political landscape born of the 2020 electoral results. Montanans had grown accustomed to Republicans proposing far-right legislation but what legislation passed, or passed and survived the Democratic governor's veto, was significantly tempered over the course of the previous 16 years. In the years previous to that, when Republicans held both the governor's office and legislative majorities in one or both houses, the Montana Republican Party was different: it was much more heterodox. While it contained far-right voices, it also contained a number of moderate voices who often voted with Democrats to pass or stymie legislation favored by more right leaning Republicans. During the 2019 session, the "solutions caucus" was composed of 20 Republicans in the House and 10 in the Senate.

¹ <https://www.leg.mt.gov/civic-education/facts/party-control/>

We can get a view into the tone of Montana's hard right turn from a story that garnered high media coverage in November 2021. Rep. Derek Skees, a prominent Republican, currently expected to run soon for the Public Service Commission, referred to the Montana State Constitution as a "socialist rag" that should be thrown out and replaced. The source of his ire was his accusation that state courts use it to defend a women's right to choose, but I suspect the sources of his wrath run to other constitutional provisions as well. Journalist Eric Dietrich reported that "Spokespeople for the Legislature's Republican majority leadership, Gov. Greg Gianforte, Attorney General Austin Knudsen and the state Republican Party did not reply to inquires asking whether they believe 'socialist rag' is an appropriate description of the Montana Constitution and whether they believe the document should be replaced."²

Montana's constitution has been in place since 1972, when it was drafted by a truly bipartisan convention and ratified by the voters. It has long been something that Montanans across the political spectrum have been proud of, a document widely taught in public school curriculums across the state. As reported by Dietrich, Montanans must vote on whether they want to replace the 1972 Constitution at least once every 20 years. Votes to call a new convention failed by an 18-82 margin in 1990 and a 41-59 margin in 2010. Provisions exist for amending the constitution as well, and if the Republicans pick up two more legislative seats in the next election they will have sufficient votes in the legislature that would enable them to put amendments on the ballot. Current trends in Montana would make this a good bet to happen. Notably, the 67th Legislature passed a referendum measure to ask Montana voters to change how Montana selects Supreme Court justices, as dictated by the Constitution, from statewide to district elections. This is motivated by the fact that Republicans are unhappy with the current makeup of the court and believe that shifting to districts would allow them, in the words of critics that oppose this change, to gerrymander judicial appointments.

As will be detailed below, the policy outcomes in the budget, tax, Medicaid, energy, and mental health illustrate the hard right turn. This hard right turn is also in clear view in a number of "hot button" issue areas that elicited fiery debates in committee and on the floor and attracted substantial media attention during the session.

Perhaps the most controversial was the Conceal and Carry Bill. HB 102 significantly expanded the ability to carry concealed weapons in public places. The bill singled out universities explicitly, forbidding them to prevent the carrying of concealed weapons on campus, including classrooms. The bill passed and was signed into law quite early in the session. However, the Board of Regents challenged the bill in courts as a violation of the Montana State Constitution to be the sole authority governing campuses across the Montana State System. The challenge is still making its way through the courts.

As was true in many Republican controlled legislatures across the country, Montana's Republican caucus also proposed and passed a number of bills signed into law by the governor that imposed new requirements on voters. HB 176 puts an end to Montana's long-standing tradition of same day registration. SB 169 requires voters without a government issued photo ID or a state concealed carry permit to present two forms of identification to vote at the polls.

² <https://montanafreepress.org/2021/11/18/derek-skees-calls-for-replacing-montana-constitution/>

Students lobbied to allow a school photo ID to serve as a single source equal to the concealed carry permit, but this was rejected by the Republican majority, adding an added tone of political polarization to the bill. HB 530 prohibits people from distributing or collecting mail-in ballots from voters if paid to do so. HB 651 makes it harder to run ballot initiatives in Montana. SB 319, a broad bill revising campaign finance law, “was amended during the final week of the Legislature to include language specifically barring the well-known and liberal leaning MontPIRG from conducting voter registration or signature gathering efforts in campus dorms, dining halls and athletic facilities. It also requires that an optional \$5 student fee supporting MontPIRG be presented to students at the University of Montana, where MontPIRG is based, as an opt-in rather than opt-out option.”³ All of these bills are-as of this writing-being challenged in court.

Rs also put forward a number of anti-transgender bills, generating some of the most heated debates of the session. HB 112, which bars transgender women from participating on collegiate women’s sports teams, is being challenged on grounds similar to HB 102 (concealed carry), that it trespasses on the Regent’s mandate.

The Montana legislature, coordinating with the governor’s office, also passed a number of restrictive immigration bills in a state with one of the lowest immigrant populations in the country, leading some critics of the legislation to charge that passing immigration enforcement laws in Montana is a solution in search of a problem. As reported enthusiastically by Brietbart, Montana Gov. Greg Gianforte (R) signed HB 200 into law on March 31, 2021, banning sanctuary cities, which effectively act as safe havens for illegal immigrants across the state, promising “immigration laws will be enforced in Montana.” Montana has no sanctuary cities.

There was widespread going into the session amongst unionists the legislature would pass anti-union legislation, including so-called right to work bills. SB 89 would have barred public employers from collecting dues for unions via paycheck withholding. HB 168 would have required annual worker consent for union membership. HB 251 would have required written consent for union due paycheck deductions. Montana unions, including many blue-collar trades workers affiliated with the AFL-CIO, organized and mobilized visibly in the capital. The most compelling speculation for why anti-union Rs in the legislature backed down is that the legislation lacked the backing of the governor, who decided not to pay the political costs anticipated with opposing organized labor in such a frontal attack this session.

Contrasting Budget Proposals Going into the Session

Observers and participants on both sides of the aisle received clear indications of how the governor and the Republican majorities in both houses had set their policy compasses. Gone was the purple tinge to Montana politics, signaled most significantly by back to back two-term moderate Democratic governors balancing a Republican controlled legislature. While Republican legislative leadership, in the period leading up to the legislative session, rhetorically signaled that they would bring a bi-partisan attitude to the legislative process, no observer I spoke with going

³ <https://montanafreepress.org/2021/05/21/public-employees-union-former-regents-faculty-and-students-sue-over-campus-bills/>

into the session took this seriously. However, what did happen during the session to moderate anticipated budget cuts was the infusion of substantial COVID relief funds from the federal government. This allowed the Republican majority to both cut taxes and maintain spending levels.

Outgoing moderate Democratic Governor Bullock presented a moderate budget. Bullock was quoted as saying that his budget “does not necessitate any cuts to government programs and services” and that “if the next administration and legislature choose to cut government services, it’ll be based upon ideology, not necessity.”⁴

Brooke Stroyke chaired the Gianforte transition team. In an email to journalist Eric Dietrich, she wrote “With state spending increasing by 60% over the last 10 years, Governor-elect Gianforte thinks it’s critical to hold the line on new state spending.” Meanwhile, according to a Montana Free Press analysis of data compiled by the National Association of State Budget Officers, per-capita spending by state government, unadjusted for inflation, rose by 42%, to about \$6,600 per state resident, between 2008 and 2018. However, it is important to note that about half that increase was driven by portions of the state budget funded by federal dollars, a category that includes the vast majority of the spending resulting from Montana’s expanded Medicaid program. The source of increased state spending was rarely mentioned in Republican stump speeches that often focused on increased state spending as being “runaway” and needing of Republicans to reign it in.

Hence, the first order of business by the Republican controlled legislature was to scrap Bullock’s budget proposal.⁵ Importantly, Governor Bullock’s budget anticipated a drop in general fund revenues of \$94 million in fiscal year 2021 but also anticipated a comeback in 2023 collections. Bullock’s budget anticipated ending the biennium with a \$251 million-dollar positive balance, well above that required by state law. It included modest increases in education and health along with a \$499 million-dollar infrastructure package, largely funded with federal dollars. During the 2019 legislative session, Bullock had championed a modest \$30 million-dollar investment in early childhood education only to see it go down in flames over disagreements between Republican legislators and the powerful union representing (amongst other sectors) public school teachers, the Montana Federation of Public Employees (MFPE). This time around, he had reduced his ask to 10 million.

In contrast to the Bullock budget proposal, candidate Gianforte released a 16-page glossy pamphlet entitled The Montana Comeback Plan. Nothing in it came as a surprise to those who had followed Gianforte’s career trajectory as a businessman turned politician.⁶ “Bringing back

⁴ <https://montanafreepress.org/2020/11/16/bullock-says-cuts-arent-necessary-to-balance-the-state-budget/>

⁵ Bullock’s budget proposal available at budget.mt.gov/Budgets/2023_Budget-Page

⁶ Gianforte amassed wealth over time in the software business, selling RightNow Technologies for 1.8 billion in 2011. In 2016, he made his first bid for office and lost to a popular incumbent Democratic Governor Steve Bullock. Since then, his string of electoral wins and rise to prominence in Montana has enjoyed the advantage of running against weak candidates. In May 2017, Gianforte defeated Democratic opponent Rob Quist in a special election for Montana's at-large congressional seat to fill a vacancy created by the appointment of Ryan Zinke as United States Secretary of the Interior. Gianforte was convicted of assault in state court in June 2017 stemming from his election-

good jobs” (presumably destroyed by rabid environmentalists and high tax Democrats) was highlighted in Gianforte’s vision, which is consistent with longstanding Republican hopes to return to Montana’s resource extraction led economy. This is presumably possible by reforming state agencies and in order to “move projects forward.”

The campaign took place during the pandemic, which altered the atmospherics considerably. Governor Bullock had instituted a mask order, anathema to most Republican voters and politicians. “We need to get our economy going again and we need to get Montana open for business” was a key line in candidate Gianforte’s stump speech. Gianforte came into office promising to cut 100 million from Bullock’s budget, fulfilling his promise to “hold the line” on spending. This was tempered most importantly by the infusion of COVID funds.

Gianforte’s proposed general fund budget included a 1.66% increase over the next two years — a 2.32% decrease in the upcoming fiscal year and a 3.98% increase in the second. Making good on a widely broadcasted campaign promise, the budget also proposed 50 million in tax cuts (their projection). This included lowering the top marginal individual income tax rate from 6.9% to 6.75%. In a press conference announcing the plan, candidate Gianforte also promised to continue this tax cutting exercise in the future. “This is just a first step. As we find greater efficiencies in government and our economy continues to grow, we will continue to cut taxes.” Democrats responded that they wanted any tax cuts directed towards middle- and lower-income Montanans: their bills to make progressive tax reform were all tabled in committee.

Gianforte’s budget also proposed eliminating the business equipment tax for roughly 4,000 businesses in the state by raising the exemption from \$100,000 to \$200,000. As reported by Holly Michels, “Heather O’Loughlin, the co-director of the left-leaning Montana Budget and Policy Center, said Thursday the income tax cut would equate to a reduction of about \$1,314 in the tax bill for the top 1% of those in the state, or people that earn \$509,000 or more annually. An analysis of the proposal by the center and Institute on Taxation and Economic Policy found that people earning from \$40,000-\$63,000 would see a reduction of about \$14.”⁷

One of the more controversial of the new governor’s proposed tax cuts was exempting businesses “that create long-term jobs in Montana” from capital gains taxes from the sale of employee-owned stock. This was particularly controversial given the rather widespread view that this proposal is directly inspired by Gianforte’s displeasure at having to pay this tax himself when he sold RightNow Technologies, located in Bozeman, to Oracle for 1.8 billion. Not surprisingly, progressives to moderates to no small number of principled conservatives cast this as a sweetheart deal for Gianforte and his well-heeled friends. Equally unsurprising is that his

eve body-slaming attack on The Guardian political reporter Ben Jacobs in May 2017, but in Montana this did not disqualify him from electability, a trend that would reach new heights during Trump’s candidacy. He then went on to win re-election in 2018, defeating Kathleen Williams. Gianforte’s sights have long been on becoming governor, and so rather than seek reelection to the House in 2020, he opted to run for governor again, this time defeating a much weaker opponent in Lt. Governor Mike Cooney.

⁷ https://helenair.com/news/state-and-regional/govt-and-politics/gianforte-releases-1st-budget/article_70ee9b9c-0e24-577c-a766-b480f0619a7b.html

defenders argued that this tax cut would attract new investment and thus new and good paying jobs to Montana.

Some of the proposals in the governor's budget did attract bipartisan support. Prominent amongst these was a proposed 25% increase in funding for the program that helps seniors and disabled veterans offset increasing property taxes and a proposed \$2.5 million to augment starting pay for public school teachers. Democrats would have favored larger budgetary commitments to both, offset by progressive taxation, but ended up voting for what they could get.

Reminiscent of Governor Bullock's passion for early childhood education, Gianforte has displayed passionate promotion of his Healing and Ending Addiction Through Recovery and Treatment (HEART) Act. His budget included \$23.5 million toward this initiative to be paid for by a combination of leveraging federal dollars and redirecting \$6 million from the revenue expected to be generated from taxing the sale of recreational cannabis beginning in January 2023, along with funds from a major tobacco settlement. I say redirected because the recreational marijuana citizen referendum that passed in November 2020 directed all proceeds from taxes to be spent on the protection and expansion of public lands. Revenues, based on a 20% state tax on sales, are anticipated to be \$52 million a year. The governor proposed putting all but the \$6 million into the general fund. Public lands advocates were, of course, up in arms against the government redirecting funds away from the protection of public lands as expressly dictated in the referendum that passed in November 2020.⁸

Gianforte's budget also proposed redirecting about \$11 million to be saved from a two-month halt to paying into the fund that pays the state's share of its employee's health insurance, along with a similar pause in contributions to the retirement of Montana's judges, citing surpluses in both. Roughly \$11 million of the reductions Gianforte proposes come from a two-month pause in the money the state pays as its share of employees' health insurance premiums.

Another controversial proposal in the governor's budget was the proposal to garner about \$24 million in savings by cutting staffing across state agencies by about 4%. Opponents argued that many state agencies were already severely understaffed. The governor's proposal to not spend down the current surplus, as proposed in Governor Bullock's budget, also motivated significant opposition. Governor Gianforte has touted this as yet another good faith demonstration of his conservative fiscal credentials.

Meanwhile, not to be outdone, the Republican Legislative Caucus was busy too during the 2020 campaign season, signaling their intentions. In September 2020, anticipating with good reason a Gianforte victory, and its continued legislative majority in both houses all but guaranteed, House Republicans released their plan that enumerated their priorities, including reducing the "property tax burden," reducing the "income tax burden," a flat budget (thereby repealing Bullock's modest increases), lowering Medicaid Reimbursement rate to primary care hospitals (pg. 3), increase taxes on renewable energy generation, weaken the renewable portfolio requirement (pg. 4), introduce a series of voter repression laws (of which they have delivered during the session –

⁸ In the end, the legislature funded the executive's proposed HEART Act through HB 701, the bill which channeled 6 million dollars from anticipated new revenues from the sale of recreational cannabis and 19 million in federal funds each fiscal year.

discussed below), “remove nonessential services” (pg. 4), lower state employee FTE, literally disallow state gas tax monies from being used on bike paths and trails (pg. 5), promote school choice, a variety of anti-choice abortion proposals (pg. 6), undermine the ability of public health officials and the governor’s office from imposing restrictions during public health emergencies (of which they have made good on during the session), undermine union rights (pg. 7, which they surprisingly have, at least thus far, failed to accomplish, due to strong union organizing and high profile mobilizations at the capital during the session) and of course, strengthening law and order.⁹

Hence, as Montana headed into the 67th Session, it was assumed that there would be a rightward tilt in taxation and spending, and in a host of other bills. However, the details of what would pass and in what form were not. What follows is a summary of what happened during the session, turning attention first to the budget, then tax policy, and then more briefly describing what is intended to be a representative sampling of other bills in an effort to provide “a sense of the session.”

HB 2

Per the Montana State Constitution, the one and only requirement of the legislature is to pass a balanced budget. On March 12, HB 2, prepared in the House Appropriations Committee and chaired by renowned “budget guru” Rep. Llew Jones, R-Conrad was advanced to the full House. On Monday, March 22, the House met all day to deliberate the bill. Democrats proposed a number of amendments seeking to add back more than \$23 million in spending, all were defeated, most on strictly party line vote. On Wednesday, March 24, the House voted and approved the budget on a straight party vote, with all 67 Republicans voting in favor and 33 Democrats against. This snapshot is indicative of the legislative politics that surrounded HB 2 this session.

In the end, HB 2 is 3.3% more than the immediately previous 2021 biennium appropriation for the general fund and about 1.8% less than Gianforte’s proposed general fund budget. According to data from the Legislative Fiscal Office,¹⁰ HB 2 totals 12.6 billion for the two-year biennium based on the following revenue sources:

Federal Special Revenue: 49%

General Fund: 36%

State Special Revenue: 15%

As always, the largest apportionment is to Section B (Public Health and Human Services), at over \$6 billion, or 48% of the HB 2 budget, followed by Section E (Education) with 2.8 billion (22%), and Section C (Transportation & Natural Resources) which includes Fish, Wildlife and Parks, the Department of Environmental Quality and the Departments of Livestock and Agriculture with \$2.1 billion (17%). Judicial, Law Enforcement & Justice receives \$883 million

⁹ <https://ewscripps.brightspotcdn.com/74/d6/516654b04f2e9f820d406134bc05/gop-legislative-plan2.pdf>

¹⁰ <https://leg.mt.gov/content/Publications/fiscal/Session-2021/HB-2-Narrative/Summary-SFC.pdf>

(7%) and General Government which includes the Legislature, governor's office and Department of Revenue \$728 million (6%).

Per sector, Natural Resources and Transportation received an increase of 182 million dollars or 9.4%, Education with an increase of 160 million or 6%, General Government with an increase of 22 million or 3%, and Health & Human Services with an increase of 15.6 million or 3.3%.

It is notable that 71% of federal money was directed toward Health & Human Services, mostly via Medicare and Medicaid dollars. It is also notable that this federal money did not include the anticipated 2.7 billion dollars expected to come Montana's share of the 1.9 trillion-dollar American Rescue Plan Act, discussed in more detail below.

As HB 2 made its way through committee and was debated on the floor, the most intense debates took place around the Department of Public Health and Human Services (DPHHS). Gianforte's proposed budget had cut the appropriation in Bullock's budget, and then the House at one point proposed cutting it by an additional \$48 million (2.5%) in the following ways:

- Adoption of a lower caseload adjustment for Medicaid (resulting in lower caseload funding than the executive request by \$22.6 million general fund)
- Adjustment to Medicaid Expansion funding based on anticipated changes to continuous eligibility and a lower general fund appropriation than requested to the Medicaid and Health Services Management Division
- The legislature also did not appropriate the requested \$21.7 million in general fund for the Comprehensive School and Community Treatment (CSCT) Medicaid service
- Other general fund differences associated with lower legislative funding amounts for the Intensive Behavioral Center and the STARS to Quality program ¹¹

There was an effort during the early weeks of the session to kill the Commissioner of Political Practices but in the end, the office survived while sustaining a cut of 7.8% over the biennium. Democrats also expressed concerns that a number of programs approved this session were being funded with one-time federal money. In a statement widely reported by the media, Gianforte's budget director Kurt Alme had previously warned the Appropriations Committee against funding any long-term programs with the one-time-only funds from the American Rescue Plan – but that is exactly what they did.

Special Federal Assistance Programs

The budgetary situation in states across the country, including Montana, has been deeply affected by Covid and government responses. The two major bills to deal with the use of these funds were HB 630 and HB 632. Montana's national share of CARES funding, including its \$1.25 billion

¹¹ The **Intensive Behavior Center** (IBC) is an intensive, short-term treatment facility in Boulder MT for individuals who have intellectual disabilities. The Best Beginnings STARS to Quality Program is a voluntary quality rating improvement system that aligns quality indicators with support and incentives for early childhood programs and early childhood professionals.

Coronavirus Relief Fund, was allocated by then-Gov. Steve Bullock and \$590 million in CARES II relief has been appropriated through other bills, most notably House Bill 630.

HB 632 is how Montana's legislature and governor decided to allocate more than \$2.1 billion of the approximately \$3 billion Montana expects to get as its share of the American Rescue Plan Act (ARPA). HB 632 spending pencils out to be about \$2,800 per Montana resident, directed to a complex mix of spending on infrastructure, pro-business support, social services, and education. While the bills, both of which passed, had their critics, they attracted much more bipartisan support than did most other bills this session.

As reported by Eric Dietrich, "Democrats [were] troubled by a provision in HB 632 that reduces the amount of stimulus money available to local governments that maintain stricter COVID-19 health measures than the state as a whole. In the bill's current form, for example, a city or tribal government that insists on keeping a local mask mandate in place or issues a business shutdown order during an upswing in cases would have state grants from stimulus money cut by 20%".¹² Some Republicans expressed concerns regarding the amount allocated to support renters. Ds also wanted front line workers to receive a check, but Rs responded that it would be difficult to discern who is and who is not an essential worker.

HB 632 creates four new commissions to oversee the spending of ARPA funds:

1. Infrastructure Advisory Commission (staffed by Dept of Natl Resources & Cons.)
2. Communications Advisory Commission (staffed by Dept of Commerce)
3. Economic Transformation and Stabilization Advisory Commission (Commerce)
4. Health Advisory Commission (staffed by Dept of Public Health & Human Services)

The Commissions are heavily tilted toward Republicans, being as they are comprised of 3 senators (2R/1D), 3 representatives (2R/1D), and 3 members appointed by the governor. Just how politicized and contentious is program approval and disbursement of funds would be a prime topic for investigation. The breakdown of the allocations:¹³

Infrastructure and State Capital Projects: \$582 million
 Broadband and Cell Towers: \$275 million
 Economic Transformation and Stabilization: \$443 million¹⁴
 Health and Human Services: \$383 million¹⁵

¹² <https://montanafreepress.org/2021/03/31/multibillion-stimulus-bill-aims-to-spur-montana-into-post-covid-prosperity-heres-what-lawmakers-want-to-spend/>

¹³ <https://mbadmin.jaunt.cloud/wp-content/uploads/2021/05/HB-632-FINAL.pdf>

¹⁴ Economic grants and loans, Mortgage/rental assistance, Small Business Credit Initiative, Workforce training, Airport and rural transit.

¹⁵ Vaccine/Testing, Child Care, Public Health Workforce, Mental Health/SUD, SNAP/LIHEAP.

Medicaid Expansion

Montana's Medicaid program provides coverage for one-in-four Montanans (265,000 people), of whom 100,000 are covered as part of Medicaid Expansion. Medicaid expansion has been contentious in Montana since it first passed during the 2015 legislature. In 2019, its fate was once again in doubt as many Republicans were opposed to the expansion. However, in the end it survived when Democrats joined with a group of moderate Republicans to pass the legislation, this time with work requirements that were insisted upon by the moderate Republicans. While the Trump Administration encouraged states to pass work requirements, this has since been reversed by the Biden Administration. As reported by Andrea Halland of Kaiser Health News in August 2021, "CMS [Centers for Medicare & Medicaid Services] has communicated to [the Montana Department of Public Health and Human Services] that a five-year extension of the Medicaid expansion waiver will not include work/community engagement requirements," health officials wrote in a Medicaid waiver amendment application out for public review.¹⁶ In other words, while the Trump Administration was friendly to state level work requirements, it never completed the approval process for Montana, and the Biden Administration has told Montana that it will not accept a work requirement. As of this writing, no work requirements have been imposed on Medicaid recipients, nor are they likely to be at least for the remainder of the Biden Administration.

Medicaid expansion has survived at least in part by virtue of the fact that so many Montana state legislators come from poor rural communities heavily enrolled in Medicaid Expansion.¹⁷ While the will of the Republican legislative majority and governor is clearly in favor of imposing work requirements of 80 hours a month, at least for now, the state seems ready to continue expansion even without work requirements, at least until 2025, when the legislature and governor will again have to vote to extend the program.

Another important and politically contentious issue related to Medicaid expansion is continuous coverage. At play here is whether or not a person can or cannot maintain continuous Medicaid coverage for 12 months even if their income fluctuates during that time period. The 2021 legislature voted to terminate continuous coverage despite concerns expressed by many advocates of low-income health care concerned this will adversely affect a large number of Montanans.

¹⁶ <https://montanafreepress.org/2021/08/05/feds-to-nix-work-requirements-in-montana-medicaid-expansion-program/>

¹⁷ While Republican majorities rule Montana as whole, this is largely a result of their overwhelming dominance in rural and small-town Montana. Democrats continued to win in most of Montana's larger urban areas: Missoula, Anaconda, Butte, Whitefish, Helena, Bozeman, Livingston, Red Lodge and parts of Billings. A disturbing downturn for Democrats is that they lost parts of Great Falls where they have historically won. Democrats also continued their historic electoral advantage in Montana's many tribal communities, including the Flathead, Blackfeet, Rocky Boy's, Fort Belknap, Fort Peck, Crow and Northern Cheyenne reservations.

Taxes

Tax cuts advantageous for wealthy Montanans and the businesses they own are foundational to Gianforte's Montana Comeback Plan and the Republican legislative majority. According to the Montana Budget & Policy Center, "the 2021 Legislature enacted 21 pieces of legislation to cut taxes ultimately costing the state \$77 million in lost revenue in the next biennium. While the state also will see some new revenue from the taxation of recreational cannabis, the state projects a net loss of revenue of \$19 million over the 2023 biennium."¹⁸ The cost of these tax breaks over the course of the 2025 biennium is estimated to be 109 million dollars. And, absent unforeseen changes in Montana's legislative make-up, forecasting additional tax cuts during the 2023 legislative session seems likely.

Of the tax breaks, the most regressive and the most expensive was SB 159, which cut the top income tax rate in Montana from 6.9% to 6.75%. This one was important to the governor and his supporters. The governor's vision is that it "will keep more money in the hands of those who earn it and attract more wealthy investors to live in Montana," which of course, is a good thing from perspective of the proponents. The critique is that most of these benefits go to the wealthy, and is thus unfair, and also that it costs the state revenues. The two other most important tax cuts were in capital gains and the business equipment tax.

Despite the highly party polarized tenor of most committee and floor debate over most of the tax cut proposals, some bills did generate bipartisan support. Notable amongst them was HB 191, which provided residential property tax credit for the elderly, with an anticipated fiscal impact of \$5.8 million over the course of the 2023 Biennium and about the same for the 2025 Biennium; HB 340, which provided tax incentives to film companies to shoot in Montana, with an anticipated fiscal impact of 2.0 million over the course of the 2023 Biennium and twice that in the 2025 Biennium; HB 629, which provided for job creation tax credits; HB 663, which directed state tax revenues from recreational marijuana to public schools in an effort to decrease school funding pressures placed on local property taxpayers.

Only one of these bills was key sponsored by a Democrat. Democrats, of course, put forward a series of efforts at progressive tax reform, all of which were defeated. House Bill 631 would have increased the state Earned Income Tax Credit. It was tabled in House Taxation Committee on a party-line vote. Other examples included a bill that would have created an income tax credit to help lower-income Montanans pay property taxes. Another one would have bumped up income taxes on high earners to expand the Earned Income Tax Credit. The value contrasts here are strikingly clear. Rs wanted tax breaks for businesses and wealthy individuals, and Ds wanted tax increases on the wealthy and tax breaks for middle class, working class, and low-income people.

¹⁸ <https://mbadmin.jaunt.cloud/wp-content/uploads/2021/06/2023-Budget-EARLY-SUMMARY.pdf>

Energy Policy

As articulated in an opinion piece by Harold and Jan Hoem,¹⁹ three bills sponsored by Republican Senator Steve Fitzpatrick of Great Falls “would greatly increase the utility costs of NorthWestern Energy’s customers.” SB 265, SB 266, and SB 379. In their words:

Fitzpatrick’s SB 265 would reach into a private, 40-year-old business contract and demand that arbitration between NorthWestern and its current Colstrip partners be moved from Washington to Montana. This “negotiation through legislation” tactic by NorthWestern would change the contract to give one party, NorthWestern, a more favorable outcome.

SB 266 attempts to force Colstrip to stay open until 2042, regardless of the private contract or the out-of-state owner’s decisions and legal obligations to manage the plant.

Most shockingly, SB 379 would require NorthWestern ratepayers to pay for electricity and the purchase of additional shares of Colstrip at an inflated price even if cheaper energy sources are available. We, the customers, would take on all the risks of fuel costs, reclamation, repairs, replacement power when the plant inevitably breaks down, plus a guaranteed profit for NorthWestern. (Bill Sponsor) Fitzpatrick said this bill was “drafted primarily by NorthWestern.”

HB 359 would have changed the rules for net-metering rooftop solar installations. This bill would have reduced solar credits by 70 percent. It died early in the session, and SB 379 was killed late in the session. Proponents for the measure included NorthWestern Energy, the AFL-CIO, the Montana Chamber of Commerce, and Westmoreland Mining, which operates the mine that supplies coal to the Colstrip plant. Opposition to it included the Republican controlled Public Utilities Commission.

Montana’s Mental Health Crisis

It is widely acknowledged across the political spectrum in Montana that the state is in the midst of a mental health crisis. The legislature was all about finding ways to streamline licensure processes and thus make it easier to increase the number of therapists, which was broadly supported. However, when it came to authorizing spending, staunch resistance appeared. And this, in turn, evoked emotional testimony in hearings on this issue, including the mental health challenges of children.

As reported by Jill Van Alstyne, “According to the 2021 Youth Risk Behavior Survey, 22% of Montana students surveyed had considered suicide in the previous 12 months, 18% had made a plan, and 10% had attempted suicide.”²⁰

¹⁹ https://missoulacurrent.com/opinion/2021/03/northwestern-energy-customers/?utm_source=mailpoet&utm_medium=email&utm_campaign=montana-today_506

²⁰ <https://montanafreepress.org/2021/11/11/montana-csct-programs-struggle-with-funding-and-staffing/>

Shocking numbers. However, as reported by the Department of Public Health and Human Services (DPHHS), the number of schools offering Comprehensive School and Community Treatment (CSCT) services has dropped precipitously, just as the mental health problems in schools have increased. Exacerbating the shortage is the difficulty in hiring therapists. There is a state-wide shortage, made worse by growing demand during the pandemic, and the ability of school districts to hire therapists is made more difficult because their salaries are not competitive vs. the option of private practice. This dynamic is the worst in Montana's many rural communities.

However, the Montana legislature had the opportunity to act and chose not to. Federal funding earlier shifted from a local "soft" match of in-kind services to a "hard" match of cash. As reported by Van Alstyne, "The state had paid that hard match since 2020, but the 2021 Legislature discontinued that funding. The net effect of this funding cut is to require local school districts to pay the matching 35% cost to what is provided by Medicaid. And, this is a very tough decision by school districts that are already stretched, even if they can find the therapists willing to work for considerably less than they can make in private practice or in the case of many rural schools, be willing to live in those rural communities."

Clearly, Montana's challenges to provide adequate mental health services are broad and deep, extending far beyond the challenges encountered by kids in rural schools. However, the problem is particularly intense and tragic in rural areas. In these places, mental health problems and the inability to provide adequate services produce some of the largest and most tragic of unmet needs. Cutting funding, rather than increasing funding in an effort to attract more therapists, is clearly not helping and is further evidence of Montana's hard right turn.

Conclusion

The Legatum Institute has created what they call the United States Prosperity Index, in which all the states are rated and ranked in comparison to one another on the basis of 15 variables.²¹ Montana's composite score lands in the 4th of five tiers (with five being lowest), at number 32, down from 29 in 2010. Its position is the worst amongst its closest neighbors. Amongst all western states, only Nevada and New Mexico score lower. As noted previously in this paper, New Mexicans have, through the ballot box, put in place a government poised to improve its position. Unfortunately, the direction taken by Montanans in 2020 is likely to move the state in the opposite direction. There are of course many ways to evaluate the utility of changes in public policy at the state level. Continuing to watch how Montana fares on the United States Prosperity Index is perhaps one useful measure.

Montana has, like many other states, undergone significant recent changes in the balance of power amongst the parties and the way in which the two parties are composed internally and interact with each other across party lines. Bipartisanship has of course frayed at the national level and in most states. Montana is clearly no exception. This was not always the case, as witnessed by the remarkable deliberative bipartisan process that occurred in 1972. Time will tell

²¹ <https://usprosperity.net/>

if Montana returns to a more bipartisan approach to policy in general and budget and tax policy in particular.

Finally, as discussed above, fiscally conservative Republicans were not compelled to cut budgets as they would have if not but for the significant infusion of COVID relief funds. A fundamental question regarding the future of the Montana budget will be what the legislature and governor will decide to do when there are no longer infusions of these funds.