

Montana's Hard Right Turn Continues

Paul Haber

University of Montana
paul.haber@mso.umt.edu

Abstract

This paper analyzes the politics and early outcomes of the 2023 68th legislative session that set budgetary and other policy for the 2025 biennium. Montana, whose political complexion was purple 2004-2020 moved unambiguously red in the elections of November 2020. This trend continued in the 2022 elections in which the GOP gained a legislative supermajority, with significant state fiscal implications for the most recent state budget. The first half of the paper focuses on spending and tax bills. The second half focuses on what attracted the most attention in Montana's media and citizenry- the culture wars. Budgetary decisions often interacted with culture war issues and the paper makes note of this. The battle continues in the courts after a major climate change case challenged the state's way of doing business.

Introduction

For 16 years starting in 2004, Montana maintained a nuanced, somewhat unpredictable purplish divided government. Although there were signs of the growing power of the political right, this was restrained by two centrist two-term Democratic governors and the moderating influence of a group of Republican legislators organized into a caucus known as The Solutions Caucus.¹ This paper begins with a summary of the political context that shaped key spending and revenue legislation. This is followed by a section that briefly references some of the key culture war legislation, culminating with a concluding comment.

Political Context

The 2020 electoral outcome ended Montana's purple political status. The governorship was won by a hard right Republican, multimillionaire Greg Gianforte,² and the Republicans succeeded in winning both houses by significant margins. Furthermore, and importantly, hard right Republicans successfully defeated a number of moderate Republicans in the primaries.

In the November 2022 election, the trend continued, with Republicans gaining a legislative supermajority and sweeping all the statewide races.³ As the 2023 session opened, the Republican

¹ <https://montanafreepress.org/2021/03/05/solutions-status/> and <https://www.mtpr.org/podcast/capitol-talk/2023-01-06/week-1-shows-republicans-competing-visions-what-to-do-with-an-extra-2-billion>

² Open Secrets rated Gianforte the wealthiest person in the House of Representatives in 2018. <https://www.opensecrets.org/personal-finances/greg-gianforte/net-worth?cid=N00040733&year=2018>

³ https://montanafreepress.org/2022/11/28/where-montana-voted-red-and-blue-in-2022-precinct-by-precinct/?utm_medium=email&mc_cid=bbba99abc0&mc_eid=e55cd49179

supermajority enhanced their potential power to overturn vetoes and pass proposed amendments to the state constitution, to be voted on in the 2024 general election.

2019 session: House 58 Rs and 42 Ds

2019 session: Senate 30 Rs and 20 Ds

2023 session: House 68 Rs and 32 Ds

2023 session: Senate 34 Rs and 16 Ds

Total: 102 Rs (100 combined for both houses required for a supermajority in Montana)

Eight constitutional amendments were proposed, including the right to hunt, the right to carry concealed weapons, asserting legislative control over the universities, enshrining the rights of county sheriffs, undermining the authority of the nonpartisan redistricting commission (that has prevented gerrymandering in Montana), and the establishment of a mental health fund. In the end, they all failed because it turned out impossible to prevent a small number of Republican defectors in every case.⁴

With a radical Christian Nationalist vanguard in clear control of Montana's leading institutions the GOP has directed itself to unseating progressives, liberals, and moderates.⁵ The most important target is the judicial branch, with the State Supreme Court being priority number one because it retains a moderate majority that has stymied important hard right priorities. As is true of hard right elected officials and their core constituencies in other states, significant effort has been directed toward gaining influence in public education. In Montana, this means the Board of Regents that governs the public university system and public school boards, as clearly mandated by the state's progressive constitution.⁶ Republicans hold all statewide offices, except one. This includes Montana's two federal House members and one of the senators.⁷

⁴ <https://www.greatfallstribune.com/story/news/2023/05/05/no-constitutional-amendments-coming-out-of-the-legislature/70189728007/>

⁵ This characterization is not hyperbole but rather reflects a realistic assessment of statements and actions of many observers over the course of the last four years. See, for example, the carefully researched and well documented long-form article by Abe Streep in the New York Times Magazine in January of this year:

<https://www.nytimes.com/2023/01/11/magazine/montana-republicans-christian-nationalism.html>

For a recent display by leading Montana U.S. Senate candidate Tim Sheehy and other Montana Republican lights articulating and embracing as their own a clearly articulated Christian Nationalism, see

https://montanafreepress.org/2023/08/04/sheehys-political-positions-at-forefront-during-america-first-town-hall/?utm_medium=email&mc_cid=dd2069f8ad&mc_eid=e55cd49179

⁶ What is occurring in Montana is consistent with political changes as depicted in the invaluable study by Pippa Norris and Ronald Inglehart, *Cultural Backlash: Trump, Brexit and Authoritarian Populism*. Cambridge University Press, 2019 and also in the equally incisive and valuable book by Jake Grumbach, *Laboratories Against Democracy: How National Parties Transformed State Politics*. Princeton University Press, 2022.

⁷ The only remaining statewide Democrat office holder is Senator Jon Tester, who has decided to run again in 2024 for a fourth term. This election is important not only to Montana, but the outcome may decide which party holds the majority in the Senate.

In preceding sessions, the Solutions Caucus would often negotiate with legislative Democrats and the Democratic governor, resulting in the passage of key legislation. High profile examples of this include Medicaid expansion and bonding for major infrastructure projects. The Solutions Caucus also flexed its muscle when refusing to vote for radical right culture war proposals, including rights issues on abortion, transgender and LGBTQ+, and the radical right's version of parental rights in education.

In sharp contrast, “caucus buzz” during the 2023 session shifted to the recently created Freedom Caucus, which like the Solutions Caucus, was inspired by events in DC and then spreading around to other states. The Freedom Caucuses, wherever they exist at the state or federal level, are not adequately described as conservative, but rather as radical. I use this term not in a normative sense but insist upon it for purposes of descriptive accuracy. They are anti-establishment, they seek to overturn long held traditions of governance. Key to their success is that moderate Republican legislators have been increasingly willing to join forces with them.

As was true of the 2021 session, significant budget cuts favored by fiscal conservatives and libertarians had difficulty passing due to budget surpluses. This allowed the GOP to maintain spending and even increase spending in some areas, most notably for Medicaid reimbursements which significantly affect many Republican majority districts, while also being able to make generous tax cuts. The radical right preferences on a host of culture war issues, including some that were stymied in the 2021 session, passed in 2023, generating (as expected) court challenges on state constitutional grounds.

This does not mean that there were not bills that Republican and Democrat members came together to pass in bipartisan fashion. It should be noted however that even those high-profile bills that rallied bipartisan roll call support, including bills pertaining to increased Medicaid funding, the coal trust fund, and housing, reflected bottom lines closer to Republican calculations than those of the Democrats. In essence, the Democrats lobbied for more money for what they determined to be essential services but smaller and more progressive tax cuts.

The governor and the Republican supermajority came into the 90-day legislative session with an approximately 2.5 billion dollar budget surplus, which is the largest in Montana history. In the words of the Legislative Fiscal Division, “State financial reserves and the general fund balance is at unprecedented levels.” LFD reports that the ending fund balance ranged from 1.0% to 32.3% of annual General Fund expenditures between FY 1987 until 2022, when the fund balance reached 67.3%. Furthermore, in addition to the ending fund balance, the state also has other reserves, bringing the total up to 73.5% of annual General Fund spending in FY 2022.⁸ Regarding taxes and spending, the top priority of the Republican governor and legislature was clearly tax cuts to businesses and individuals, and tax rebates to individuals. Given their control of the legislative and executive branches, there was never any doubt that this would happen, the

⁸ <https://leg.mt.gov/content/Publications/fiscal/2025-Biennium/2025-Biennium-Budget-Analysis/Vol-1-DEC-15-FINAL.pdf>

only questions were in the details of the deal. The Democrats fought hard to postpone the inevitable tax cuts until after what they called “essential services” had been funded but failed.

Democrats also fought hard to make the tax cuts more progressive but again they failed. Examples of this included efforts to direct two billion dollars of the surplus into the Coal Trust Fund and extending property tax relief efforts to include renters. The Democrats were bolstered in their argument to sock away some of this money into the Coal Fund by revenue projections from the Legislative Fiscal Division (LFD) showing declining revenues starting with a decline in individual income tax revenues of 15% in FY 2023.⁹ House Minority Leader Kim Abbot joined forces with Republican House Speaker Matt Regier and rallied their forces around HB 927 that would have transferred 115 million dollars from the General Fund to the state’s coal severance tax trust fund for use developing and maintaining affordable housing in Montana. Its prospects looked good as it passed the House and headed to the Senate.¹⁰ However, it died in the Senate.

Due to skyrocketing prices affordable housing was a huge issue this session. However, during a press conference the last week of March, the governor said that there was simply not enough state money to make much of a dent in the housing shortage via public spending. This is why his administration was focused on legislation that would increase the housing supply “by growing the state’s construction workforce” and discouraging burdensome land use regulations. While in the end some money was directed to housing, the Republican majority was in no mood to spend a lot of state dollars on public housing subsidies.

Montana is no stranger to inequality but the spikes in purchase price and rent have seriously exacerbated it and contributed to the spikes in homelessness witnessed in many communities.¹¹ As astutely reported by Eric Diedrich, the legislature ended up coming at the issue from two angles:

First, they passed an array of regulatory reform measures that, broadly speaking, intend to accelerate home construction by making it easier to build. Some of those bills focus on streamlining subdivision review, making it faster to divide undeveloped parcels into lots for homes or apartments. Others rein in city zoning powers, negating local land-use rules that housing advocates accuse of bogging down residential construction.

⁹ Although this is mitigated by expected increases in revenues from property tax receipts and the Treasury Cash Account. <https://leg.mt.gov/content/Publications/fiscal/2025-Biennium/2025-Biennium-Budget-Analysis/Vol-1-DEC-15-FINAL.pdf>

¹⁰ https://montanafreepress.org/2023/03/29/bipartisan-legislation-to-boost-coal-trust-unanimously-passes-committee/?utm_medium=email&mc_cid=9129778eb0&mc_eid=e55cd49179

It should be noted that Abbot participated in this effort only after HB 574, which would have put \$500 million of budget surplus to price-restricted housing efforts was tabled on March 30.

¹¹ For a long and thoughtful story by a native Montanan on how housing inequality is playing itself, see <https://inthesetimes.com/article/displaced-montana-workers-luxury-housing-2>

Second, lawmakers passed House Bill 819, a compromise spending package that puts \$175 million toward housing initiatives as well as authorizing an extra \$50 million for low-interest loans to developers who build rent-restricted apartments.¹²

As also chronicled by Dietrich, a host of other housing bills were defeated, including “a bill to establish a state workforce housing tax credit to fund affordable housing projects” and bills that would have taxed vacation rentals failed bills that would have allowed localities to regulate these rentals themselves. Of the many bills designed to help mobile home park tenants most failed in the face of stiff opposition from the Montana Landlords Association. However, the governor and legislators joined forces and passed a series of zoning measures designed to facilitate construction despite being opposed by some local government leaders who lobbied against them.¹³

Key Spending and Revenue Legislation

All the players, in and out of government, knew that the state coffers were flush going into the session. According to the 2025 Biennium Budget Analysis publicly released in December 2022, the legislature was to have a \$4.0 billion ending fund balance and a \$748.3 million structural balance.¹⁴ To put this in perspective, “typically the structural balance would be neutral or zero and the ending fund balance would be around \$250 - \$300 million.”¹⁵ The 2023 session concluded, the structural balance was reduced to \$487.9 million and the ending fund balance was at \$539.3 million, which is healthy for Montana and well above historic norms even allowing for inflation. The main expenditures spent from General Funds were “tax rebates, filling reserve balances, public health (including behavioral health), debt reduction, infrastructure, funding for highways and roads, pensions and trust funds, and tax policy changes.”¹⁶ What follows directly below are facts and analysis of the most important spending bills. This is followed by the same for revenue.

*HB 2*¹⁷

¹² https://montanafreepress.org/2023/05/10/how-the-montana-legislature-tried-to-tackle-housing-crunch/?utm_medium=email&mc_cid=b2ab8fe321&mc_eid=e55cd49179

¹³ *Ibid.*

¹⁴ <https://leg.mt.gov/content/Publications/fiscal/2025-Biennium/2025-Biennium-Budget-Analysis/Vol-1-DEC-15-FINAL.pdf>

¹⁵ <https://leg.mt.gov/content/Publications/fiscal/2025-Biennium/Analyses-Reports/Vol-1-Statewide-Perspectives-2025Bi.pdf>

¹⁶ *Ibid.*

¹⁷ <https://leg.mt.gov/content/Publications/fiscal/2025-Biennium/Budget-Report-HB2/House-Floor/Overview-FINAL.pdf>

House Bill 2 is the state's primary two-year appropriations bill, the vehicle the legislature uses to set most of the state budget. The bill passed by the House along strict party lines, 68-32, on March 22 authorized spending of \$14.3 billion for the biennium. This amounts to \$13,000 for each of Montana's 1.1 million residents. Medium income in Montana was \$29,817 in 2020.¹⁸

Democrats argued from the beginning to the end of the session that funding levels in HB 2 were inadequate. The highest priorities for the minority party were Medicaid reimbursement rates, affordable housing, and childcare. During the day long floor debate before the final House vote, as is traditional, Democrats predictably proposed numerous amendments that were just as predictably all defeated. In fact, of the 14 amendments proposed by Democrats, they only received one vote on one amendment from a Republican.¹⁹

The Montana budget always draws heavily from federal subsidies, a fact rarely, if ever, acknowledged by Republican legislators. This biennium, almost exactly half, \$7.1 billion, will be federally funded. As always, the largest amount by far will go to fund health and human services with the second largest amount dedicated to K-12 education, followed closely by transportation infrastructure. The remainder will come from the General Fund (\$4.2 billion). As always, it was this General Fund amount that was the subject of the most debate. In the end, funding levels for the largest ticket items in HB 2 were \$1.6 billion for public education, \$1.4 billion for state health and human services programs, and \$798 million for courts, prisons, and state law enforcement.²⁰

State agencies are facing increased costs of 14% inflation and the budget as it came out of the House is 14% higher than the budget passed last session. As is true for all states, an important variable will be what the inflation turns out to be over the course of the biennium. The most recent projection from the Congressional Budget Office is that inflation as measured by the Consumer Price Index would amount to 4.0 percent in 2023 and 2.4 percent in 2024.²¹

The biggest increases from the previous biennium spending in HB 2 were in Section B, Department of Public Health and Human Services (DPHHS). Of these, the most significant was clearly the adoption of higher provider rates, mostly Medicaid providers, totaling \$91.9 million, increased case load funding for Medicaid totaling \$34.6 million, and the adoption of statewide present law adjustments for personal services, fixed costs, and inflation totaling \$19.0 million, all from the General Fund.²²

¹⁸https://datacommons.org/place/geold/30/?utm_medium=explore&mprop=income&popt=Person&cpv=age,Years15Onwards&hl=en

¹⁹ <https://montanafreepress.org/2023/03/22/montana-budget-bill-clears-debate-on-house-floor/>

²⁰ Ibid.

²¹<https://www.cbo.gov/publication/58957#:~:text=In%20May%2C%20CBO%20projected%20that,2.4%20percent%20versus%202.3%20percent.>

²² <https://leg.mt.gov/content/Publications/fiscal/2025-Biennium/Budget-Report-HB2/House-Floor/Overview-FINAL.pdf>

Medicaid was once again at the center of the legislative agenda this session. And it again generated a fair amount of bipartisanship. In 2022, Governor Gianforte commissioned a study of Medicaid and found that Medicaid providers were being severely underpaid. Also, as was widely reported, in 2022 eleven nursing homes closed in Montana, which was 16% of the total.²³ The study made numerous funding recommendations that were repeatedly referenced by Medicaid advocates during the session. As noted in an excellent article by Keely Larson, “Republican Gov. Greg Gianforte and legislators agree that Medicaid rates need to rise; where they disagree is by how much.”²⁴

Labor shortages in basic health care services for vulnerable low-income populations, including in-home and at nursing homes, is a national phenomenon, as are inadequate reimbursement rates to the institutions that provide such services and must come up with the money to pay their staff, hopefully at rates that are higher than working in fast food joints, which often they are not. By every account, the 68th session passed legislation that made progress on the provision of providing medical services to those who qualify for Medicaid.

It is also important to take note of the fact that Montana initiated an eligibility review for those currently receiving Medicaid funding during the session that is still underway. Of those reviewed in April 2023, almost half lost their eligibility.²⁵ Most of them lost coverage because of failure to file the proper paperwork, so the numbers of those who are in the end able to retain coverage may be greater than this number suggests. The budgetary implications could be significant. As reported by Mara Silvers on August 8, “Federal regulators are urging Montana health officials to fix shortcomings in the state’s Medicaid redetermination process, expressing ‘concerns’ that the state may be disenrolling people who are eligible for the public health insurance and creating barriers for others through long wait times at call centers and during the application process.”²⁶

One of the central dramas of the 68th legislative session was that after the session adjourned the governor took an extraordinary amount of time to sign off on a number of high profile bills, including HB 2. The fight over how much to increase Medicaid reimbursements for certain types of providers dominated much of the 2023 legislative session. After the session ended, House Majority Leader Steve Fitzpatrick, R-Great Falls, petitioned the governor to cut \$15 million from the overall rate increases. In the end, the governor decided to fund the Medicaid increases as proposed by the legislature. What would the governor do?

²³ https://billingsgazette.com/lifestyles/health-med-fit/miles-city-nursing-home-closing-the-11th-one-in-montana-this-year/article_870d87ce-7754-11ed-986a-73a43692930e.html

²⁴ https://khn.org/news/article/health-providers-scramble-to-keep-remaining-staff-amid-medicaid-rate-debate/?utm_medium=email&mc_cid=4fffd359cf&mc_eid=e55cd49179

²⁵ https://montanafreepress.org/2023/06/20/montana-releases-first-glimpse-into-medicaid-redeterminations/?utm_medium=email&mc_cid=6507200864&mc_eid=e55cd49179

²⁶ https://montanafreepress.org/2023/08/11/federal-regulators-flag-concerns-as-montana-cuts-medicaid-rolls/?utm_medium=email&mc_cid=ebec350320&mc_eid=e55cd49179

On June 14, after much delay peppered with lots of speculation regarding political motivations for the unusually long delay between passage of the omnibus spending bill and the governor's signature, Governor Gianforte finally signed off on HB 2. At the center of the speculation was Medicaid funding. Would the governor sign off on the substantial increase on Medicaid reimbursements for certain services that a study commissioned by the governor himself had identified as being dangerously low and therefore putting access to those services in jeopardy? With the signing of the bill, the long saga was finally over, with notable sighs of relief from key players in behavioral health, developmental disabilities, and senior and long-term care providers.

HB 5

HB 5 is the major infrastructure bill, generally funding state facility and university projects. It is expensive and notoriously one of the major magnets for pork-barrel spending. As approved, HB 5 contained \$1.2 billion in total spending. The governor decided a few weeks after the legislature adjourned May 2 to exercise his line-item veto on \$23 million that had been authorized for 11 projects.²⁷

HB 13

Second to HB 2, HB 13 traditionally draws the most significant attention each session. This bill sets raises for state employees, which officially includes primary and secondary public-school teachers and by practical implication sets the bar for higher education. It set the rate at 4 and 4 for the biennium after being at 0 and 2 for the previous biennium in an inflationary context.

It is worth noting in this context the challenges faced by Montana's K-12 teachers. The starting salary for teachers in Montana is dead last in the country.²⁸ This was the case even after HB 143 passed during the 2021 legislative session, "which sought to incentivize local increases to starting teacher salaries by offering districts additional state funding to offset the expense."²⁹ Sadly, while the pay raise was loudly celebrated as a win by the state's teacher union, this far from effectively addresses the problem.

HB 267

Montana has a lot of roads for a state with just over a million inhabitants. And that is expensive however you measure it, including by passenger miles traveled per mile of road each year. Montana is heavily reliant on the federal government to provide the bulk of spending on Montana pavement. HB 267 puts \$100 million into a highway fund to help the state access

²⁷ <https://montanafreepress.org/2023/05/25/montana-governor-gianforte-takes-veto-scalpel-to-infrastructure-bill/>

²⁸ <https://www.nea.org/resource-library/teacher-salary-benchmarks#:~:text=The%20average%20starting%20teacher%20salary,over%20the%20previous%20two%20years.>

²⁹ https://montanafreepress.org/2022/08/31/how-montana-is-trying-to-solve-its-struggles-with-teacher-pay/?utm_medium=email&mc_cid=784500c145&mc_eid=e55cd49179

federal match dollars. Again, the amount of money spent by the federal government, and the fact that Montana roadways would be in serious trouble without these federal funds, goes largely unmentioned upon in Montana.

SB 531

“According to *BroadbandNow*, which compiles internet access data, Montana is ranked last in the nation for the fraction of residents, 73%, that have access to high-speed internet with at least 100 megabits per second connectivity.”³⁰ Combine this with the number of Republican legislators who come from sparsely populated rural countries in Montana, along with the amount of federal subsidy available for broadband, and you have the explanation for how Montana passed SB 531 with a price tag of \$700 million to invest in more broadband infrastructure.

HB 648

Childcare was a major priority for Democratic legislators this session. While there is nothing new about shortages of childcare providers and struggles for all but top earners to pay the bill, the situation was markedly worsened and attention to the problem spiked during the pandemic. “Research by the Montana Department of Labor & Industry estimates the state has licensed childcare capacity for only 43% of kids who need care. Labor department economists also say childcare for kids under 5 costs Montana families \$16,269 on average in 2022 — a figure equivalent to a quarter of the state’s median household income and well above the 7%-of-income figure used as an affordability benchmark by the U.S. Department of Health and Human Services.”³¹

This set up a lot of attention on HB 648 as the legislature opened and it remained an important issue throughout the session. Democrats benefited from the fact that the governor has a soft spot for childcare and is not opposed to expending limited public funds to subsidize the cost incurred by families. He is also interested in making childcare facilities easier to run, which is part of his broader red tape reform initiative.³²

³⁰ <https://montanafreepress.org/2023/04/19/gop-broadband-bill-advances-as-democrat-proposal-stalls/>

³¹ <https://montanafreepress.org/2023/06/14/new-childcare-laws-expand-subsidies-deregulate-small-home-based-daycares/> As noted in this article, Montana of course is far from alone in facing childcare shortages and costs well above what is recommended by the U.S. Department of Health and Human Services: “Research by the Montana Department of Labor & Industry [estimates the state has licensed childcare capacity for only 43% of kids who need care](#). Labor department economists also say childcare for kids under 5 costs Montana families \$16,269 on average in 2022 — a figure equivalent to a quarter of the state’s median household income and well above the 7%-of-income figure used as an affordability benchmark by the U.S. Department of Health and Human Services.”

³² One of Governor Gianforte’s priorities since taking the reins of the executive branch in 2020 has been what Republicans often refer to as streamlining government, to make government smaller and more efficient, so as to decrease the need to generate tax revenues and thus be able to cut taxes without cutting what are determined to be necessary state services. The purported benefits being to stimulate economic growth and increase individual freedom.

In the end, this session resulted in both increased subsidies and deregulated home-based daycare. In my view, this provides good evidence that Montana's majority party is carrying out the new Trumpian inspired politics of right leaning social policy combined with increased willingness to subsidize what libertarians would argue should be paid for by individuals making their own choices. While these libertarian views certainly still exist in the legislature and executive branch, they no longer carry the day.

HB 648 comes with a very modest price tag, \$7.0 million a year to subsidize low-income families. Even so, the bill, referred to as the Best Beginnings bill, was touted in a statement by legislative Democrats to be "the most significant investment in childcare in the state's history."³³

Revenue Legislation

Turning attention now to revenue, "tax relief" was indisputably the top priority of the Republican caucus and the governor this session. The case was made repeatedly that Montanans had long been unfairly taxed (mostly, if not entirely, by Democrats) and that the Republicans were to be thanked for making it right. On March 13 the governor and legislators proclaimed on the steps of the capitol its tax package, calculated to have spent down \$764 million of the 2.5 billion dollar surplus. The package includes one-time only property tax relief and permanent tax rate cuts, significant cuts in the business equipment tax, and cuts in capital gains. So, not only did the state spend down \$764 million later recalculated to be \$899 million, but it forfeited an estimated \$150 million dollars a year in tax collections for each of the next two years of the biennium.³⁴

Democrats emphasized that these lost revenues would extend out into the future while the Republicans, most notably the governor, emphasized how these lost revenues would be more than made up for by increased investments and economic activity, which would enrich not only enterprising Montanans but also increase tax revenues that would more than make up for the cuts. The governor has also repeatedly emphasized the necessity to cutting tax rates to remain competitive with other states, particularly those with whom we share borders.

During the public display of signing these bills into law the governor repeated the claim often heard from Republicans- that Montana has one of the highest income tax rates in the region and the country. However, when one considers the fact that Montana has no sales tax, the Tax Foundation, which ranks based on libertarian principles, scored Montana fifth best overall, after

HB 152 was the bill that carried the governor's reform wishes. The effort was extremely ambitious, aiming to rewrite Montana's code book. Unfortunately, it turns out to be much more difficult to streamline licensing processes than the governor wished or imagined. Slews of professional associations and licensing boards flooded the capital during hearings on the bill to push back against undermining the processes they had set in place to uphold regulatory standards. It died in the Senate in April.

³³ <https://montanafreepress.org/2023/06/14/new-childcare-laws-expand-subsidies-deregulate-small-home-based-daycares/>

³⁴ https://montanafreepress.org/2023/06/16/how-to-claim-your-montana-tax-rebates-updated/?utm_medium=email&mc_cid=b63dc7858e&mc_eid=e55cd49179

Wyoming, South Dakota, Alaska, and Florida. On corporate taxes, it is 22nd. Individual taxes 24th and property taxes 21st.³⁵

While the governor and his supporters were and remain fond of framing this cut as “the largest in Montana’s history” Democrats counter with reference to three major arguments. First, it was not progressive enough. Second, tax cuts should have happened later in the legislative process, after the legislature had adequately funded public services at adequate levels. Third, given the gap between legitimate needs and resources, the tax cut should not be this large. While the governor argues that the existing tax structure hampers business investment, job creation, and freedom, Democrats argued that the state is responsible to its citizens to adequately fund essential state services. And the tax cuts make a difficult job more so.

During the session and since the session ended, property tax hikes have been much in the news and on the minds of Montana’s policymakers and homeowners. As is true in so much of the country, property values have skyrocketed in Montana. The Department of Revenue reported that statewide, the median residential property saw its value increase by a whopping 46% between its 2021 and 2023 reappraisal cycles.³⁶ The Democrats argued throughout the session for more property tax relief than the Republicans were willing to do. They offered up numerous alternative tax schemes designed to give more property tax relief, the most significant being to forgo the income tax cuts as written which they deemed to be, correctly, regressive.³⁷ For some observers, this one included, an obvious source of new revenue would be a state sales tax. Montana is only one of five states that does not have a sales tax. Even a sales tax on out of state retail sales, the so called “tourist tax” would be a real money maker for Montana. However, the anti-tax sentiment in Montana runs so deep that not even Democrats were willing to broach the subject during the session.

One of the legislature’s most powerful leaders, House Appropriations Chair Llew Jones, made two central arguments in response to Democratic critiques. First, he argued against paying for more residential property tax relief by taxing businesses more. Second, “he argued that the two-time property tax rebates and reductions from the school funding measure, which he sponsored, would come close to offsetting the extra tax burden expected to fall on residential properties over the next two years. The Legislative Fiscal Division memo, which was produced at Jones’ request, estimates residential taxpayers will pay \$394 million over the next two years while the

³⁵https://statetaxindex.org/state/montana/?_hstc=254296215.d0bab2e4569cbd24f921e2f4b7f4ef8a.1678732952349.1678732952349.1678732952349.1&_hssc=254296215.1.1678732952349&_hsfp=1404585697

³⁶ https://montanafreepress.org/2023/07/20/montana-property-value-assessments-county-by-county/?utm_medium=email&mc_cid=44af80c73d&mc_eid=e55cd49179

³⁷ Tully Olson, executive director of Big Sky 55+, a progressive advocacy group, calculated, based on data from the Budget and Center, that when assessing the tax cuts and rebates in total over the biennium, that the top 1% of income earners in Montana (5,388 taxpayers with annual incomes of \$649,000+) would receive on average, a tax cut of \$9,153. “This amounts to \$49,316,364 taken from programs and services that could benefit all Montanans, and sent to those who need it the least.” Available at <https://www.bigskyfiftyfive.org/fair-taxation?emci=d730ed60-0bde-ed11-8e8b-00224832eb73&emdi=db4f16b6-2ede-ed11-8e8b-00224832eb73&ceid=2495155>

state provides \$350 million in property tax rebates and reduces collections by another \$33 million as a result of the school shift.”³⁸

Key Tax Cut Bills

SB 121

SB 121 is an interesting bill in that it reflects the values and interests most often associated with both parties. That is, it both cuts the marginal income tax rate on top earners from 6.5% to 5.9% (a favorite of Republicans) while also expanding the state earned tax credit on a long-term basis (always a Democratic Party priority). “The governor’s budget office says the income tax cut is expected to reduce state revenue by about \$150 million a year, while the earned income tax provision is expected to cost the state about \$11 million annually.”³⁹ So, while the bill reflects the priorities of both parties, the balance of power in the legislature dictated the distribution of rewards.

HB192

HB 192 “spends \$480 million on income tax rebates of up to \$1,250 per taxpayer, or \$2,500 for spouses who file taxes jointly. The revenue department estimates the rebates will be available to an estimated 460,000 taxpayers who were full-time Montana residents in 2020 and 2021.”⁴⁰ This amount was later increased in HB 816.

HB 212

“HB 212 raises the exemption threshold for the state’s business equipment tax from \$300,000 to \$1 million. The revenue department estimates the tax cut will cost the state about \$9 million a year. The bill will also backfill local government revenues reduced by the cut.”⁴¹

HB 221

“HB 221 streamlines the state’s capital gains tax code and cuts its effective rates. The revenue department estimates the bill will reduce state revenues by about \$16 million a year.”⁴² On one hand, it can be argued that this is not that big of a hit to the treasury and that it will generate so much new economic activity as to more than make up for itself in tax receipts. The counter to this is that the perennially promised benefits of trickle-down economics has long been

³⁸ <https://montanafreepress.org/2023/07/14/five-ways-montana-could-reduce-residential-property-taxes/>

³⁹ <https://montanafreepress.org/2023/03/13/gianforte-signs-1-billion-tax-rebate-cut-package-montana/>

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

discredited but here it is continuing to be practiced in Montana.⁴³ And, in addition, the bottom-line amount is more than is being distributed through the changes in the progressive earned income tax credit. The regressive nature of the 2023 session tax cuts is evidenced further when one considers the benefit distribution of reductions in the business equipment tax. And that renters do not benefit directly from HB 222.

HB 222

HB 222 authorized \$284 million for one-time property tax rebates to homeowners with nothing directly paid out to renters (who may or may not benefit from these rebates in lower rents, a possibility that Democrats looked upon with skepticism at best). As originally conceived, homeowners would receive up to \$500 for each of both years in the biennium for a maximum total of \$1,000. This amount was later augmented to \$1,250 with the passage of HB 816.

HB 268

HB 268, which aimed to establish a child tax credit of \$1,200 per child to families with incomes up to \$50,000, is a very different story than the other tax bills.⁴⁴ It would have been, in Montana terms, expensive. The fiscal note is “6.648 million in FY 2024 and 33.240 million in FY 2025, FY 2026, and FY 2027.”⁴⁵ The bill was a top priority for the governor. Democrats joined forces with hard-core fiscal conservative Republicans to kill the bill. If it had passed, there is every reason to expect that it would have meant that other progressive Democratic spending priorities would have suffered, given other Republican priorities such as tax cuts and more generally fiscal conservatism.

HB 816

This bill allocates an additional \$135 million for property and income tax rebates. It was introduced relatively late in the session and was only finally reconciled on the 87th and final day of the session, May 2.

Taxing and Regulating Marijuana

As I reported last year in this journal, Montana’s 2021 legislative session approved and the governor signed into law a bill that legalized, taxed, and regulated the sale of recreational marijuana products for the first time.⁴⁶ It was a forgone conclusion that efforts would be made during the 2023 session to try to kill the industry, to reregulate it in light of experience to date, and also those intending to redirect the tax revenues. The most significant outcome of the many

⁴³ See, for example, <https://www.thebalancemoney.com/trickle-down-economics-theory-effect-does-it-work-3305572> and https://www.law.columbia.edu/sites/default/files/2023-02/Trickle_Down_Feb14%20%281%29.pdf

⁴⁴ <https://montanafreepress.org/2023/04/06/democratic-opposition-may-stymie-gianfortes-child-tax-credit-push/>

⁴⁵ https://leg.mt.gov/bills/2023/FNPdf//HB0268_1.pdf

⁴⁶ <https://escholarship.org/uc/item/5np5s9t3>

bills proposed was that those bills designed to kill the industry or to severely constrain the way it has been operating to date were defeated.

The two most important bills for the purposes of this paper were HB 903 and SB 442, both of which deal with revenue. HB 903, which passed and has been signed into law, includes a number of important revisions to existing law. Most important it promises to increase revenue by increasing license renewal fees. “The Department of Revenue estimates the new policy will generate an additional \$4 million for the state this year, with \$1 million coming from the state’s largest provider, Bloom, alone.”⁴⁷ SB 442 would have allowed marijuana tax revenue that currently goes to wildlife habitat and public access programs to be redirected to county road maintenance. The bill was passed by both houses but vetoed by the governor.

The Montana Culture Wars⁴⁸

There exists an interesting juxtaposition between the fact that the only thing that the legislature is constitutionally mandated to do each time it meets is to pass a budget and the fact that for most people, including most legislators, most members of the press corps, and most Montana residents, the culture wars increasingly generate much more interest.⁴⁹

While it is heuristically useful to distinguish between tax and spend legislation on the one hand and the culture wars legislation on the other, in truth, they are often quite intertwined with one another. This will become clear below as I run through the most important pieces of legislation, summarizing the content of the bills and the politics that swarmed around each one.

Abortion

There was little, if any, doubt that Montana’s evangelical fundamentalist governor and Republican supermajority in the legislature would move aggressively to restrict abortion, that they would be able to pass significant legislation, and that this legislation would be challenged in court with reference to the Montana State Constitution that has, repeatedly, affirmed a women’s right to choose based on the privacy provision. All of this came to pass.

Less certain was whether legislators would act to approve a constitutional amendment that would effectively undermine abortion being protected by the privacy clause. According to a 2022 *New York Times* estimate of polls, between 50 and 60% of Montanans support legalized abortion. This contrasts with all our bordering states, which oppose maintaining legalized abortion by about the

⁴⁷ <https://montanafreepress.org/2023/05/12/montana-legislature-marijuana-what-passed-what-failed/>

⁴⁸ The culture war section of this paper is organized differently than the economic issues above. Whereas above I found it most useful to make summary statements about taxation and budget expenditures and then to provide a subheading for each of the key pieces of legislation, for the culture war section of the paper I have found it better to organize by issue area and then under each issue area to discuss the key pieces of legislation.

⁴⁹ I have not taken the time to research and thus be able to support this fact by say number of hearings or press stories, but as someone who followed the 68th legislative session closely, and talked with legislators, members of the press, and Montana residents, this juxtaposition is glaringly apparent.

same percentages and all of which had abortion bans cued up should Roe be overturned.⁵⁰ It is reasonable to speculate that this contributed to the decision not to act to put an amendment on the ballot.⁵¹ Six anti-abortion bills passed the legislature and were signed into law by the governor: SB 154, HB 544, HB 575, HB 625, HB 721, and HB 862. The chances are good that all of these bills will be effectively challenged given the Armstrong decision and its reaffirmation in May 2023.

LGBTQ+

The key bills passed and signed into law by the governor were HB 99, HB 303, HB 359, HB 361, and SB 458.

HB 359 was particularly high profile, attracting considerable attention. It bars drag performances in publicly funded schools and libraries. In the early months it was referenced by a number of localities in their decisions not issue permits for drag shows in places where minors may be present and also to ban gay pride celebrations that elicited court challenges and some reversals of bans.

Bills that ban gender-affirming medical care for transgender minors, prohibit drag shows in public places, and define “sex” in state law based on reproductive characteristics sailed through the legislative process on their way to the governor’s desk, where they were signed. And, just like legislation restricting abortion rights, these bills were just as quickly challenged in court.⁵² For example, not long after “Senate Bill 99 the gender-affirming care ban, passed the House

⁵⁰ <https://www.nytimes.com/2022/05/04/upshot/polling-abortion-states.html> Sources cited in the article are Public Religion Research Institute, Pew Research Center; Guttmacher Institute State figures. They use polling averages, weighted by sample size. “Support for legal abortion” represents the difference between those who say abortion should be legal in most or all cases and those who say it should be illegal in most or all cases.

⁵¹ <https://montanafreepress.org/2021/04/26/montana-republicans-want-to-limit-abortion-access-it-wont-be-easy/> Very useful background on the 1999 Armstrong decision, which has proven to be the bedrock legal defense against efforts to encroach upon a women’s right to choose an abortion. As the journalist Mara Silvers summed up to me in an email: “Republicans have recently been arguing a couple of things: that Armstrong was wrongly decided and should be left to the Legislature, and that all of these restrictions are proper exercises of the state’s power to police health care and the administration of medicine.” (Personal correspondence, May 23, 2023)

The Montana Supreme Court reaffirmed Armstrong in early May. The battle for the Republicans is uphill on this and would seem to require that they win their battle to “reform” the judicial system, either by handing power back to the legislature and executive branches or replacing Supreme Court justices with those who would refuse to reaffirm Armstrong. Montanans’ refusal to vote in November 2022 for just these kinds of judges is all that keeps Montana from having already joined the ranks of those many states currently passing, and enforcing, anti-abortion legislation. As is discussed in the conclusion to this paper, the right is preparing another run for Supreme Court seats in November 2026.

⁵² https://montanafreepress.org/2023/05/09/montana-families-doctors-challenge-state-ban-gender-affirming-care-trans-minors/?utm_medium=email&mc_cid=c54beb5376&mc_eid=e55cd49179

March 24, the ACLU of Montana and the national LGBTQ rights group Lambda Legal were the first to announce their intent to sue if the bill becomes law.”⁵³

One of the most controversial of the controversial bills is SB 458, which precludes legal recognition of transgender people and those with “intersex conditions” by defining “sex” based on reproductive systems. This is because, as Arren Kimbel-Sannit put it, “a deep-dive fiscal note requested by legislative Democrats and distributed [in late March stated] Montana could lose “any, all or none” of the \$7.5 billion dollars in federal grants it receives should SB 458 be enacted, depending on how SB 458 is enforced by state agencies. SB 458 “inserts a definition of sex based on a person’s reproductive characteristics into more than 40 sections of state code.”⁵⁴

In addition to the prospect of losing federal funding based on discrimination that violates gay rights, as interpreted by the SCOTUS in 2020 in *Bostock v. Clayton County*, which ruled that the 1964 Civil Rights Act protects employees from discrimination based on their identity as gay or transgender, critics also charged that it would create a logistical nightmare for state agencies charged with interpreting and implementing the law.⁵⁵ Universities also have hundreds of millions of dollars of federal funding on the line.

For these reasons, it seemed reasonable to suspect that SB 458 would give more lawmakers pause. In the end, it did give some Republicans cause to vote against it, but it still passed both houses relatively easily and was signed into law by the governor.

Public Education

As elsewhere in the nation, public education, K-post secondary, is where high stakes budgetary matters met the culture wars in 2023. The School Administrators of Montana tracked 169 education-related bills during the session. School boards, administrators, and teachers scrambled throughout the summer to figure out how best to implement a staggering number of changes. Some of the most difficult to figure out how best to respond were those that dealt with LBTTQ+ students. Amongst other complexities is the widespread concern that implementing some of the new laws and regulations passed this session would endanger Title IX revenues. As a result of these concerns, a number of school districts “have opted to remain silent on the issue save for legal references to new state laws” and to handle “individual situations as they arise, with input from students, parents, teachers, and legal experts.”⁵⁶ Furthermore, there is ample reason to be concerned that legislation passed this session includes a variety of encroachments on local

⁵³ <https://montanafreepress.org/2023/04/03/where-lgbtq-bills-stand-in-the-montana-legislature/>

⁵⁴ <https://montanafreepress.org/2023/03/27/montana-could-lose-any-all-or-none-of-its-7-5-billion-federal-special-revenue-authority/>

⁵⁵ <https://montanafreepress.org/2023/04/03/where-lgbtq-bills-stand-in-the-montana-legislature/>

⁵⁶ https://montanafreepress.org/2023/08/25/montana-schools-implement-new-education-laws/?utm_medium=email&mc_cid=861c8c1f8a&mc_eid=e55cd49179

control, leading to speculations that Montana’s right turn may eventually lead to “the kind state-level influence over school textbooks similar to what Texas has experienced.”⁵⁷

The most important education bills were HB 234, HB 837, HB 517, SB 518, HB 549, HB 562, and SB 458.

Because of their potential fiscal impact, two of these bills deserve brief comment here. The legislature passed and the governor signed into law two charter school bills, HB 549 and HB 562. Both bills would allow for the public financing of charter schools. HB 549 received bipartisan support no doubt in part because the Democrats who voted for it knew that to not support this bill was to guarantee the passing of the other bill. As predicted, a coalition of teachers, parents, and statewide advocacy organizations filed a lawsuit in June arguing that HB 562 violates Montana Constitution’s guarantee of educational equality for all students.⁵⁸

The governor could have prevented this by not signing onto the bill favored by the radical right but of course being at the helm of this movement would do no such thing. As the governor himself stated, “Government should never stand between parents and their kid’s education... We’re empowering Montana parents to choose what’s best for their family and their kids. We’re putting students and parents first in education.”⁵⁹

Judicial Reform

The highest stakes ground in Montana politics is the judiciary. Now that the radical right has become dominant within the Republican Party, and it has a legislative supermajority as well as holding all but one statewide office, its primary nemesis is the Montana Constitution and the judiciary that upholds it. As accurately noted by Arren Kimbel-Sannit, “Arguably the defining issue of the 2021 legislative session — and much of the ensuing interim — was a knock-down, drag-out fracas between Republican lawmakers and the Montana judiciary.”⁶⁰

During the 2021 session, the Republican trifecta passed into law a number of high-profile bills that were successfully challenged in court and ruled unconstitutional. This included the concealed weapon carry law that was ruled unconstitutional because it overstepped the Board of Regents sole authority over internal university affairs. As detailed above, the court also stands as the sole obstacle to the radical wishes of the Montana right on abortion.

⁵⁷ Ibid.

⁵⁸ https://montanafreepress.org/2023/06/14/montana-teachers-parents-and-education-advocates-challenge-constitutionality-of-charter-school-bill/?utm_medium=email&mc_cid=7fce867669&mc_eid=e55cd49179

⁵⁹ <https://missoulacurrent.com/gianforte-choice-education/#:~:text=Let's%20be%20clear%20%E2%80%93%20government%20should,his%20or%20her%20individual%20needs.%E2%80%9D>

⁶⁰ https://montanafreepress.org/2023/05/09/how-montana-gop-attempts-to-reshape-the-judiciary-fared-this-session/?utm_medium=email&mc_cid=c54beb5376&mc_eid=e55cd49179

These rulings prompted the majority party and the governor to go after the judiciary in the 2023 session, most notably the state supreme court, which has a moderate majority. However, as pithily summed up by Kimbel-Sannit, “Comparatively moderate changes succeed, structural overhauls fall by the wayside.”⁶¹

Republican legislatures and the governor did cast for big fish, it’s just that they were not able to bring them in (Montanans just love fishing metaphors). The most important of these big bills that failed was HB 915 which would have sent a constitutional amendment to the voters to decide whether to do away with the time-honored Montana tradition of electing Supreme Court justices in nonpartisan races in favor of transferring power to the governor to appoint them. SB 311 was also a power grab reflecting the current balance of party power in Montana; if passed it would have reduced the number of associate justices on the court. There were also a batch of bills that would have turned the nonpartisan races partisan in the name of “judicial transparency.” All of these also failed.

Vetoes

According to one report, 798 bills were transmitted to the governor for signature, of which he vetoed 25 while also striking 11 line items in the infrastructure bill, HB 5 (\$21 million of a total of 1.2 billion).⁶² Of these vetoes, according to the Secretary of State website, six have been overridden by the legislature.⁶³ This does not include amendatory vetoes. As reported in an article written by the excellent and invaluable staff at *Montana Free Press*, this included several vetoes of bills designed by the legislature to enhance its own power, redirect marijuana revenues, make changes in mental health services and child welfare, education, wildlife, land use, tribal affairs, and criminal justice.⁶⁴ While the relative importance of these vetoes, those that have stood and those that have been overridden, are in the eye of the beholder, I will below briefly provide my own assessment.

SB 442 sought to redirect marijuana tax revenues from environmental protection to county roads. This would have gone against the will of Montana voters who first voted for a referendum to legalize state marijuana sales for recreational use and directed the funds to a specific purpose. The legislature’s veto override effort was unsuccessful.

SB 296 would have provided additional funding for nursing homes up and above what was provided in other bills, most notably HB 2. While it passed both houses, the governor drew the

⁶¹ Ibid.

⁶² https://apps.montanafreepress.org/capitol-tracker-2023/governor/?_gl=1*315q79*_ga*MjAyNzYzNjE5Mi4xNjgwMjcxNjAx*_ga_C786L46FE8*MTY5MTc4MTUzOS4xMTAuMS4xNjkxNzgxNTM5LjAuMC4w*_ga_PZYTDJ0GN5*MTY5MTc4MTUzOS40My4wLjE2OTE3ODE1MzkuMC4wLjA.&_ga=2.144451637.1689551563.1691426211-2027636192.1680271601

⁶³ <https://sosmt.gov/elections/veto-polling-results/#1684169975048-defb55a4-ae47>

⁶⁴ https://montanafreepress.org/2023/06/30/what-gov-gianforte-vetoed-this-year/?utm_medium=email&mc_cid=bac42b04b7&mc_eid=e55cd49179

line on this additional funding. Bill proponents claimed that doing so goes against the recommendations of the special commission convened by the governor and the results of painstaking bipartisan legislative negotiations. As discussed above, many assisted-living facilities have closed and many more are on the brink.

HB 889 would have strengthened the legal protections of mobile home tenants via a vis the property owner. That the governor chose to veto HB 889 was a heartbreaker for low-income advocates on top of an overall disappointing legislative session. I cite this also because of the logic the governor referenced in explaining the veto: he feared that this would violate property rights. In the ongoing contestation between capital and low-income Montanans, the governor took a clear stand here.

Concluding Remarks

The most important institutional political fact in Montana is that the State Supreme Court of Montana has demonstrated itself to be the most consequential impediment to the hard right's determined agenda. Concern about the future of the Supreme Court comes from many quarters. Certainly amongst the most informed is widely considered moderate Chief Justice Mike McGrath, who is one of the two Supreme Court Justices not running for reelection in the nonpartisan races in November 2024, "I think there are certainly reasons for concern that the courts continue to be independent and make decisions based on the law and the facts of each individual case — and have the ability to make decisions based on the law and the facts of each individual case," he said. "That is certainly more of a struggle today than it has been historically, certainly in my 50 years in the law business."⁶⁵

The shape of Montana's Supreme Court going forward will have significant implications for the political economy with potentially significant implications for the state budget. Montana has long been dedicated to natural resource extraction and this sector of the economy historically made even more significant contributions to the state budget than it does today. During the climate change era, focus has been on its energy production. Most controversially, how it produces electricity from coal and how it has moved or refused to move more toward renewables. While there have been some bills, laws, and regulations that have generated at least a degree of bipartisanship, far more importantly has been how climate change has fueled polarization in the state.

Recently, a group of young people won a high-profile lawsuit, *Held v. Montana*. The judge ruled that "the state's failure to consider climate change when approving fossil fuel projects violated Montana's state constitution sanctioned right to a clean and safe environment" and stipulates that the state and individuals are responsible for maintaining and improving the environment "for present and future generations. ... The ruling means that Montana must consider climate change when deciding whether to approve or renew fossil fuel projects. ... It also rolls back two laws

⁶⁵ [https://montanafreepress.org/2023/06/07/neither-chief-justice-mike-mcgrath-nor-justice-dirk-sandefur-will-
seek-re-election-to-montana-supreme-court-in-
2024/?utm_medium=email&mc_cid=89216f411f&mc_eid=e55cd49179](https://montanafreepress.org/2023/06/07/neither-chief-justice-mike-mcgrath-nor-justice-dirk-sandefur-will-seek-re-election-to-montana-supreme-court-in-2024/?utm_medium=email&mc_cid=89216f411f&mc_eid=e55cd49179)

enacted by Montana’s Republican-led Legislature this year, House Bill 971 and Senate Bill 557, which made changes to the Montana Environmental Policy Act (MEPA).”⁶⁶

On October 16, 2023, “two months after a Montana trial court ruled that a Montana Environmental Policy Act provision limiting considering of climate change violated youth plaintiffs’ constitutional right to a clean and healthful environment, the defendants filed a motion for clarification and for stay of judgment pending appeal.”⁶⁷ This motion, submitted by the Attorney General, is now pending a decision. This case is part of a recent wave of litigation charging that companies and governments are in violation of their responsibilities, including well publicized lawsuits holding energy companies responsible for damages.⁶⁸ However, the Held decision is being closely watched around the country and is widely anticipated to inspire similar suits.

While the implications of these changing dynamics are highly uncertain, the one thing that seems reasonable to conclude is that the Supreme Court will remain a high priority for both parties and that the makeup of the court will have high stakes implications for a range of issues of utmost concern for Montana and beyond. The budgetary ramifications, should the court uphold the Held decision, could be substantial. It could mean that the state is on the hook for increased costs related to reducing greenhouse gases and for curbing private sector fossil fuel plans. Future Montana budget articles will need to address this ongoing skirmish.

⁶⁶ https://montanafreepress.org/2023/08/14/judge-rules-in-favor-of-youth-plaintiffs-montana-climate-lawsuit/?utm_medium=email&mc_cid=0635fd7df9&mc_eid=e55cd49179

⁶⁷ <https://climatecasechart.com/case/11091/>

⁶⁸ <https://www.nytimes.com/2023/07/19/climate/climate-lawsuit-puerto-rico.html>