



An Early Look at Legislative Action on the State Budget

May 2021

Our state budget represents our collective investment in the public institutions and services that educate our children, keep our communities safe, and provide health care and other services to our neighbors who need it. The 2019 Legislature enacted the state budget, housed within HB 2, providing funding for state agencies to provide services across the state. This report provides an overview of the key actions during the session.

Budget Overview

Overall, HB 2 ongoing expenditures (all funds) for the 2023 biennium are 3.3% above the previous 2021 biennium and about 1.8% below Governor Gianforte's proposed executive budget.¹ While some funding was provided in other legislation (most notably HB 701 implementing the voter approved legalization of recreational cannabis), many agencies were left with budgets below the executive's proposed budget. Appendix A provides some of the highlights of the enacted HB 2 state budget.

State to Receive \$3 Billion in Federal Recovery Funds

In the midst of the 2021 legislative session, Congress passed and President Biden signed the American Rescue Plan Act (ARPA), providing state fiscal relief and other federal funds to support states' responses to the COVID-19 pandemic. Montana is estimated to receive roughly \$3 billion in federal funds, to support local governments, public health and safety, and emerging infrastructure and broadband needs.² The Legislature passed HB 632 appropriating these funds to various state agencies and establishing four oversight commissions (made up of the legislative and executive branches) to recommend the use of funds. For more information on ARPA funds allocated to the state and commission authority, see [Montana Budget & Policy Center, "HB 632 – ARPA Funding."](#)

State Continues Critical Investments in Indian Country

While the federal budget plays a significant role in Indian Country, the state budget also matters. HB 2 includes millions of dollars of targeted investments in fostering government-to-government relations, preserving tribal languages, enhancing economic development opportunities, and strengthening education in tribal and rural communities. The budget provides nearly \$1.8 million for language immersion programs, the Montana Digital Academy, and the Montana Indian Language Preservation Program, which funds language preservation efforts of tribal governments. HB 2 additionally provides \$1.75 million to grow economic development opportunities in Indian Country through the Indian Country Economic Development Program and \$2.5 million for tribal colleges and developing teacher pipelines in rural and tribal communities. The legislature added \$100,000 in additional state special revenue funds for the Governor's Office of Indian Affairs (for the biennial state-tribal relation training).³ For a more detailed list of legislation impacting Indian Country, see Montana Budget & Policy Center, "[2021 State-Tribal Legislative Impacts.](#)"

Legislature Maintains Medicaid Expansion but Signals End to Continuous Eligibility

Since 2015, the Health and Economic Livelihood Partnership (HELP), Montana’s Medicaid expansion program, has provided affordable health care coverage for tens of thousands of Montanans. While the Legislature rejected efforts to create further barriers to accessing Medicaid and CHIP health care coverage, the Legislature did signal its approval of ending 12-month continuous eligibility for Medicaid expansion, which allows eligible recipients to maintain their eligibility for one year, even if their income fluctuates over those twelve months.

Continuous eligibility has been an important policy to provide a continuity of coverage for individuals who are eligible for Medicaid and helps reduce “churn”, or instances when individuals lose coverage but become eligible and reenroll again in a few short months. Nearly 75 percent of Medicaid expansion enrollees are working, often in jobs that are seasonal, part-time, or have frequently changing schedules.⁴ The end of continuous eligibility will result in many families losing coverage and access to health services and will likely result in higher administrative burden to the state as individuals apply to reenroll.⁵

Tax Cuts Will Cost the State Millions in Lost Revenue

Montana’s path to economic recovery and future prosperity is dependent upon the state budget and revenue needed to invest in that budget. The 2021 Legislature enacted 21 pieces of legislation to cut taxes ultimately costing the state \$77 million in lost revenue in the next biennium.⁶ 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.⁷

Tax cut measures passed during the 2021 session will primarily benefit wealthy households and large businesses. The largest tax cut enacted will lower the state’s top income tax rate from 6.9 percent to 6.75 percent. Under this change, roughly 80 percent of the tax benefit will go to the wealthiest 20 percent of households.⁸ Furthermore, the Legislature enacted additional reductions and changes to the state income tax, effective in 2024, costing the state more than \$40 million in lost revenue each biennium.⁹

The Legislature also enacted several pieces of legislation that will benefit business, with the elimination of taxation on certain capital gains and further lowering the business equipment tax. In total, tax cuts for businesses will cost the state nearly \$30 million in lost revenue per biennium in the out-years, putting pressure on our ability to invest in families and communities.¹⁰ For a look at the major tax cut measures that passed, see Appendix A.

Appendix A – Major Tax Measures Passed by the Legislature

Bill	Description	Fiscal Impact (2023 Biennium)	Fiscal Impact (2025 Biennium)
HB 191	Revise residential property tax credit for elderly	(\$5,783,000)	(\$5,363,000)
HB 252	Non-refundable tax credit for employer-paid education of trade professions	(\$2,000,000)	(\$2,000,000)
HB 279	Revise laws related to tax credit scholarship and innovative education programs	(\$1,975,437)	(\$8,550,528)
HB 303	Revise business equipment tax	(\$9,981,445)	(\$13,711,992)

HB 340	Revise the MEDIA Act film tax credits	(\$2,000,000)	(\$4,000,000)
HB 629	Provide for job creation tax credits	(\$378,067)	(\$1,258,538)
HB 663	Generally revising school funding to increase GTB and lower property taxes	(\$20,685,115)	(\$23,377,569)
SB 51	Exempting certain fiber optic, coaxial cable from property taxation	(\$152,685)	(\$263,534)
SB 159	Personal Income Tax Relief Act	(\$37,233,000)	(\$19,500,000)
SB 184	Montana Entrepreneur Magnet Act	\$0	\$0
SB 399	Generally revise and simplify income tax	\$5,013,417	(\$39,637,938)

Appendix B - Summary of Enacted 2023 Biennium Budget by Agency

The below table provides an overview of major action taken in key state agencies. This does not include all agencies. Percentage above or below the previous biennium and executive budget are calculated using all funds (general fund, state special revenue, and federal funds).¹¹

Section A- General Government

Legislative Branch	The legislative branch 2023 biennium budget is roughly 12.6% above 2021 Biennium (all funds) and roughly the same as the Gianforte Administration's executive budget. The legislature passed OTO funding for increased audit services required for HB 632 Appropriations for the federal American Rescue Plan Act. The legislature adopted increases for information technology and for completing the session system replacement.
Governor's Office	The Governor's office 2023 biennium budget is 3.7% below 2021 Biennium (all funds) and 6.9% below the executive's proposed budget. The legislature appropriated an additional 1.5 FTE and \$643,000 OTO in personal services and operating expenses to review administrative rules and efficiencies in state agencies and \$360,000 OTO to the Office of Budget and Program Planning for the Government Efficiency Initiative. The legislature provided an additional \$100,000 in SSR for the Office of Indian Affairs, for the state-tribal relations training. The Air Transportation Program was eliminated.
Secretary of State	Generally, the Secretary of State is funded entirely through proprietary funds. However, the legislature appropriated \$100,000 in GF for FY 2022 for lawsuits that may be filed based on election law changes enacted by the legislature.
Department of Revenue	The Department of Revenue 2023 biennium budget is roughly the same as 2021 biennium and sits 13% below the executive's proposed budget. This is, in part, due to funding positions related to the administration of legalized recreational marijuana in separate legislation (HB 701). The legislature combined administration of recreational and medical marijuana under the DOR through HB 701, revising marijuana laws. The legislature transferred 22.0 existing FTE from the DPHHS medical marijuana program and outlined additional positions for a total of 31.5 FTE in FY 2022 and 33.0 FTE in FY 2023.
Department of Commerce	The Department of Commerce 2023 biennium budget is 8.6% above 2021 biennium and 9% above the executive's proposed budget. The legislature transferred the MT Indian Language Preservation Program from Commerce to Office of Public Assistance. The legislature reestablished the Taipei, Taiwan Trade Office.
Department of Labor and Industry	The Department of Labor & Industry 2023 biennium budget is 1.6% above the 2021 biennium and 1.4% below the executive's proposed budget. The legislature imposed an additional 1% vacancy savings on the agency and

	decreased state special revenue for the Montana Health and Economic Livelihood Partnership (HELP) Act.
Department of Military Affairs	The Department of Military Affairs 2023 biennium budget is 4.1% above the 2021 biennium and 0.5% above the executive's proposed budget. The legislature appropriated \$1.0 million OTO to assist the City of Laurel with water system repairs.
Section B – Public Health and Human Services	
Overall Agency	DPHHS 2023 biennium budget (all funds) is roughly flat compared to 2021 biennium and 2.4% (\$150 million) below the executive's proposed budget.
Provider Rate Increase	The legislature adopted provider rate increases (PRI) across the biennium: 1.0% in FY 2022 and 2.0% in FY 2023 in the Health Resources, Developmental Services, Addictive and Mental Disorders Division, and some Senior Long-Term Care services. The provider rate increase excludes non-critical access (larger) hospitals and physicians. An additional 1.0% provider rate increase was provided for developmental disability waiver services. The legislature reduced the appropriation for non-critical access hospital Medicaid services by an amount equivalent to a 1.0% provider rate reduction.
Medicaid Funding	The legislature did not adopt the executive's caseload adjustment for Medicaid services and instead reduced the caseload adjustment by 3.0%. The legislature limited the Department's authority to transfer Medicaid funds among divisions.
Medicaid Continuous Eligibility	The legislature decreased the general fund appropriation for Medicaid Expansion by \$10.7 million over the 2023 biennium and increased the federal fund appropriation. Legislative intent language was added to eliminate the policy of 12-month continuous eligibility for Medicaid expansion participants.
Contingency Fund	An unrestricted contingency funding appropriation of both general fund and state special funds was created to hold "savings" from the enhanced FMAP due to the Families First Coronavirus Response Act. DPHHS will have an estimated \$20 million per quarter within this fund for discretionary uses.
Comprehensive Schools and Community Treatment (CSCT)	The legislature did not fund the \$21.7 million GF biennium request to continue the CSCT Medicaid services within Developmental Services Division. Rather, CSCT was transferred to the Office of Public Instruction. (See Section E.)
Healing and Ending Addiction through Recovery and Treatment (HEART) Act	The legislature funded the executive's proposed HEART Act through HB 701, <i>revising recreational marijuana laws</i> , providing \$6 million in SSR and \$19 million in federal funds each fiscal year.
Section D – Judicial Branch, Law Enforcement, and Justice	
Judicial Branch	The Judicial Branch 2023 biennium budget is 6.4% above 2021 biennium and 0.6% above the executive's proposed budget. The legislature approved two new judge positions and associated staff, one for the 18 th Judicial District (Gallatin Co.) and one for 11 th Judicial District (Flathead Co.) (funding for 11 th Judicial District is contingent upon establishment of a treatment court). The legislature increased funding for drug courts with the majority of funding contingent on implementation of evidence-based evaluation and provided additional one-time funding for the pre-trial program.
Department of Justice	The Department of Justice 2023 biennium budget is 3% above 2021 biennium and 0.4% above the executive's proposed budget. The Governor signed an executive order transferring the Boulder campus from DPHHS to the MT Highway Patrol. The legislature funded the Boulder campus transfer with \$1.0 million GF over the biennium. The legislature provided \$125,000 in one-time funding for sexual assault kit testing.
Office of State Public Defender	The Office of Public Defender 2023 biennium budget is 4.1% above 2021 biennium and 0.5% below the executive's proposed budget. The legislature appropriated \$400,000 in GF over the biennium for a 0.5% growth in caseload. The executive had requested a 1.0% increase (Bullock had initially proposed a 3.0% caseload adjustment).

Department of Corrections	The Department of Corrections 2023 biennium budget is 3% above 2021 biennium and 0.3% below the executive budget. The legislature appropriated \$0.8 million GF for 10 FTE to provide medical and mental health services and \$2.6 million GF for hepatitis C treatment. The legislature appropriated \$1.3 million for 10 FTE in Probation and Parole to manage caseload growth. Provider rates for nonprofit community corrections were increased by \$1.0 million GF over the biennium.
---------------------------	--

Section E – Education

K-12 Education/Office of Public Instruction	The Office of Public Instruction 2023 biennium budget is 5.4% above 2021 biennium and 0.6% below the executive budget. The legislature adopted present law inflationary adjustments totaling roughly \$60 million, which was adjusted to account for COVID-related decline in enrollment. The legislature transferred the MT Indian Language Preservation Program and its \$1.5 million GF budget to OPI from the Department of Commerce. The legislature appropriated \$80,000 in GF to MT Digital Academy to fund Indian Language Titles. The legislature transferred the Comprehensive School and Community Treatment from DPHHS to OPI, funding the state's match with state special revenue funds.
Higher Education/Office of the Commissioner of Higher Education	The Office of the Commissioner of Higher Education 2023 biennium budget is 4.5% above 2021 biennium and 0.2% above the executive's proposed budget. The legislature adopted \$550,000 OTO for a public/private partnership for a career and technical education finishing trades program. Tribal colleges received \$350,000 OTO for the HiSET program. The legislature funded the Grow Your Own Teacher Grant Program with \$500,000 over the biennium. The legislature appropriated \$1.0 million OTO over the biennium for the implementation of HB 102, <i>Revise gun laws</i> , contingent on the Board of Regents not challenging the law.

¹ Legislative Fiscal Division, ALL Funds HB 2, May 2021, on file with author.

² Governor's Office of Budget & Program Planning, "[American Rescue Plan Act Summary: MT Estimated Funding](#)," Mar. 14, 2021.

³ Legislative Fiscal Division, "[HB 2 Budget Narrative: Governor's Office \(as of Senate Finance & Claims Action\)](#)," Apr. 5, 2021.

⁴ Montana Health Care Foundation, "[Montana Medicaid Expansion: Strengthening Montana's Economy](#)," Feb. 2021.

⁵ Ku, L., and Brantley, E., "[Analysis of Montana Senate Bill 100: Policies to Limit 12-Month Continuous Eligibility](#)," George Washington University, 2021.

⁶ Analysis includes fiscal notes for HB 129, HB 191, HB 252, HB 279, HB 303, HB 340, HB 357, HB 629, HB 661, HB 663, SB 51, SB 52, SB 81, SB 126, SB 133, SB 159, SB 184, SB 214, SB 263, SB 288, SB 399, Montana 67th Legislature, 2021.

⁷ Legislative Fiscal Division, "[General Fund Balance Sheet](#)," May 6, 2021.

⁸ Montana Budget & Policy Center, "[What Proposed Tax Cuts Really Mean for Montanans](#)," Feb. 2021.

⁹ Governor's Office of Budget & Program Planning, "[Fiscal Note, SB 399](#)," Apr. 22, 2021.

¹⁰ Analysis of the cost for 2025 Biennium for HB 252, HB 303, HB 340, HB 629, HB 661, SB 51, SB 184, Montana 67th Legislature, 2021.

¹¹ Legislative Fiscal Division, ALL Funds HB 2, May 2021, on file with author.