



Montana's Lost Opportunity To Invest in a Montana for All

July 2023

Misspent Surplus: The 2025 Legislative Budget

The 2023 Montana Legislature had a once-in-a-generation opportunity to invest in a Montana for all. At the beginning of the session, the state's surplus neared \$2 billion in general funds.¹ The Legislature took some steps to fund housing, childcare, healthcare, and the right to legal representation but chose to prioritize significant tax cuts. These large tax cuts left limited opportunity to invest in issues Montanans care about and will continue the current lack of affordable housing and child care moving forward.

Missed opportunities

In 2017, Montana made significant cuts to the state budget, and communities across Montana still feel the brunt of the impact. The 2017 session led to \$388 million in budget cuts, which were only partially restored in 2019.² Scars of the funding cuts remain – for example, none of the 19 Offices of Public Assistance that were closed were reopened. The 2023 Legislature largely ignored these cuts and insisted that taxes had been overpaid while ignoring the real budget gaps left behind.

The Legislature ultimately succumbed to a false narrative – that resources, even at historic funding levels, were too scarce to address challenges like housing and childcare. This fear of investing in the public can be traced back to segregation-era America when white politicians chose to remove funding from public resources rather than invest in services all Americans could enjoy.³ Given the choice between investing in the public and funding tax cuts for the wealthy, the Legislature chose the latter. This session showed that the idea that spending resources on racial and economic justice might hurt the white and wealthy still plays out in Montana. Ultimately, the Legislature missed a chance to meet Montana's needs that may not come again.

Incremental Improvements

Despite a largely misspent surplus, legislators passed several key measures which could help improve the lives of low- and moderate-income Montanans. The Legislature passed a historic increase in the reimbursement rates Medicaid providers are paid, funded child care subsidies for families living on low incomes, made investments into the Office of Public Defender that provides legal counsel for Montanans with low incomes, put some resources into housing, and set aside funds for mental and behavioral health care. While none of these areas received the resources they deserved, the hundreds of Montanans who advocated for these issues helped guide the Legislature into making important investments.

Major Budget Impacts and Fiscal Bills of the 2023 Legislative Session

Taxes



The Legislature spent over \$1.5 billion in tax cuts over the 2025 and 2027 biennia that primarily benefited the wealthy, big business, and temporary tax rebates.⁴ The biggest, ongoing income tax cut gave the wealthiest 1 percent of Montanans around \$6,000 in tax cuts on average, while those with incomes near and below the median received less than \$100 on average.⁵ The revenue used for the temporary property tax rebate could have paid for 12 years of a property tax credit targeted to Montana homeowners and renters currently paying a high percentage of their incomes in property taxes, helping to even out the regressivity of our property tax code which currently asks the most from those with the lowest incomes.⁶ Similarly, the Legislature chose to pass one-time income tax rebates instead of a long-term state child tax credit that has been proven to help families afford food, clothing, and other basic needs.⁷

For more information on tax cuts in the 2023 Legislative session, please see our report, [“Six Things to Know About How the 2023 Legislature Changed Montana’s Tax System.”](#)

Child Care

Working parents across the state face both the high cost of child care and a lack of availability. Montana needs about twice as many child care slots to meet the demand for working families.⁸ The Best Beginnings Child Care Scholarship program helps Montanans living on low incomes access affordable child care and serves over 6,000 children in the state.⁹ This session, the Legislature passed HB 648, which invests \$7 million each year to support Best Beginnings. HB 648 directs the Department of Public Health and Human Services (DPHHS) to raise the eligibility to 185 percent of the Federal Poverty Level, or \$36,000 for a family of two, and to establish a revised sliding scale so that no family pays more than 9 percent of their income on a child care copays.^{10,11} This expansion will serve an additional 723 children and also stabilizes payments to providers. While HB 648 is a step in the right direction to support Montana families and child care providers, it still leaves many families in a bind who cannot find child care in their community.

Health Care

Medicaid Provider Rates

Certain health care providers, such as those in senior long-term care or behavioral health, rely almost exclusively on Medicaid. States can determine how much to reimburse these providers, and adequate reimbursements are necessary to ensure ongoing access to health care.

Montana Medicaid provider rates saw a sizeable increase in funding this year. Last biennium, Montana providers saw increases of 1 and 2 percent, for the first and second years of the biennium respectively.¹² This year, however, the providers saw increases of 4 and 4 percent for each year of the biennium.¹³ For Medicaid-dependent providers whose rates were studied over the past biennium, Montana invested \$106 million to raise the rates closer to the cost of care.¹⁴ The rates, however, are still \$9.8 below the recommendations of the study. With inflation rising, Montana providers will likely face still face challenges in future years.

Postpartum Medicaid Coverage

Currently, pregnant people in Montana whose incomes are less than 162 percent of the federal poverty level, or \$31,946 a year for a family of 2, are eligible for pregnancy Medicaid.^{15,16} Under previous law, this coverage only lasted until two months after giving birth, leaving many new parents without health insurance.

The Legislature invested \$2.8 million in general funds to expand Medicaid eligibility to 12 months after giving birth. This move will draw down an additional \$6.4 million in federal funds.¹⁷ Postpartum coverage

will allow parents to access comprehensive care, including for substance use and mental health treatment. This change will help up to 2,000 Montanans maintain coverage after giving birth.¹⁸

Behavioral Health

This session saw increased interest in addressing behavior and mental health care access across the state. The Legislature passed House Bill 872 which invests \$300 million in general funds into behavioral health care over the next two bienniums.¹⁹ In the first biennium, Legislators will need to figure out how to spend \$70 million in funds to strengthen the behavioral health care workforce, increase access to care, and invest in community-based approaches to behavioral health care. The bill also approves \$75 million to acquire or remodel behavioral health care facilities and intermediate care facilities for individuals with intellectual disabilities, and sets aside \$155 million to be spent in future years. HB 872 appoints a commission to recommend uses of these funds. However, the bill language does not require the commission to include providers or people with lived experiences on the commission. During the session, advocates raised concerns that without representation, solutions created by the commission will not reflect their needs.

Indian Country

A historical lack of substantial state and federal funding in Indian Country has created economic, educational, and other disparities for American Indians living on and off reservations. The 2023 Legislature brought some sharp changes in funding in Indian Country, primarily for education programs. Many pivotal programs from previous years were maintained or increased their funding.

Funding for nonbeneficiary students attending tribal colleges increased by \$161,000 and allows about 24 additional non-tribal members to receive funding for their education at a tribal college.²⁰ Funding for the Tribal Computer Booster Program also increased by \$32,000 during the biennium to promote access to computer education for elementary and secondary school students and teachers.²¹ The Montana Indian Language Preservation Program (MILP), which is administered by the Office of Public Instruction, maintained its funding for the 2025 biennium.²² Unfortunately, the Legislature cut funding for HiSET (High School Equivalency Test) by \$500,000.²³

The Murdered and Missing Indigenous Persons (MMIP) epidemic also received the attention of the legislature. The MMIP Task Force was appropriated \$210,162.²⁴ Several bills received funding that is not explicitly MMIP related, but are vital due to the interconnected nature of the demographics of individuals who are murdered or missing.²⁵ These include bills that study missing youth in Montana and funding for HB 79, which creates a sexual assault response team that requires a tribally affiliated team member with experience working with Indigenous survivors.²⁶

Despite the success of maintained programs, many bills that required additional investment for Indian Country throughout the 2025 biennium were not passed by the Legislature. These decisions affect tribal communities and the growing number of Montanans needing assistance. For more information on legislative action in Indian Country, please see our report: [2023 State-Tribal Legislative Impacts](#).

Affordable Housing

Montanans are experiencing a serious lack of affordable housing. A big part of the legislative session was debating various proposals to help with housing affordability through various methods, including regulatory, property taxation, and direct state investments. Housing policy was being changed until the

very last second of the 2023 legislative session, and in the end, the Legislature invested \$100 million in local government infrastructure and water and sewer projects tied to housing development.

The Legislature also invested an additional \$50 million in the Multifamily Coal Trust Homes Program. Unfortunately, this bill also increased the required interest rate for eligible projects, making more affordable projects less likely to pencil out. In this interim, stakeholders will need to keep a close eye on both these state investments to make sure they are going toward projects that are reaching families that cannot find or afford housing.

Access to Justice

The Office of State Public Defender

The Office of the State Public Defender (OPD) provides compassionate and expert legal defense to Montanans living on low incomes. Yet, since OPD's start in 2006, the agency has been consistently underfunded.²⁷

This legislative session, the OPD budget saw a 16.7 percent boost from the last biennium.²⁸ However, this boost is far from what the executive budget requested before the session started. The Legislature only funded eight out of the 20 full-time employee (FTE) requests, leaving a \$2.7 million gap in funding. Additionally, it refused to approve a \$1.5 million contingent rapid response funding request intended to provide flexibility to the agency. Overall, the Legislature left a \$4.83 million funding gap from what was initially requested.

This shortfall is even more significant in light of new laws the Legislature passed this session that will financially impact OPD. OPD's budget will grow by about \$1.2 million over the biennium due to the passage of seven bills.²⁹ However, the Legislature passed at least 20 bills this session which will likely create more strain on OPD's budget.³⁰

Department of Corrections

The Department of Corrections is the third largest agency in the state and is responsible for correctional facilities and programs.³¹ The Legislature approved a 16.3 percent increase in the Department of Corrections' budget for the 2025 biennium, amounting to \$72.1 million in additional funds.³² A large bulk of this increase was given to inflationary costs (\$14.4 million) and increased rates to providers at contracted secure facilities (\$18.1 million). Despite the increase in spending, the Legislature missed opportunities to invest resources in rehabilitating folks facing incarceration and people working at correctional facilities in the state. The Legislature denied the Executive budget's request for overtime pay to correctional officers, which would have cost \$4.8 million over the next biennium. Furthermore, it chose not to support a \$2.2 million request to implement a transitional living program model and funded only 25 percent of a request for increased costs related to medical, dental, and nursing services at correctional facilities.

Instead, the Legislature focused on funding correctional facility providers like CoreCivic. It steered \$5.7 million of general fund money to increase contracted rates paid to CoreCivic that operates the Crossroads Correctional Facility in Shelby, MT.³³ Also of note, the Legislature passed \$7.9 million into HB 817 for a contract with another CoreCivic-operated facility in Arizona. While the reference to CoreCivic was left out of the final legislation, the funding and number of beds specified match that originally slated for CoreCivic.³⁴

Conclusion

The Legislature had a historic opportunity to use its surplus to address the problems Montanans are facing, including childcare, affordable housing, health care, and improved access to justice. Instead, the Legislature used a large piece of the surplus to fund large tax cuts which primarily benefited the white and wealthy. Despite this drain on the surplus, some improvements were made during the session, including funding for the Best Beginnings child care scholarships, increases in Medicaid provider rates, improved funding for the Office of Public Defender, and improved funding for education in Indian Country. While this once-in-a-generation surplus may not come around again any time soon, future Legislatures should look to fund the needs of Montanans instead of prioritizing tax cuts for the wealthy.

¹ Legislative Fiscal Division, "[FYE 2022 Financial Report](#)," Sep. 15, 2022.

² Moreno, Z., "[State Surplus Should Support Communities: What does Montana do with \\$1.9 billion?](#)" Montana Budget & Policy Center. Nov. 2022.

³ McGhee, H. "The Sum of Us," One World, 2021.

⁴ Analysis includes [HB 189](#), [HB 192](#), [HB 212](#), [HB 221](#), [HB 222](#), [HB 225](#), [HB 245](#), [HB 325](#), [HB 408](#), [HB 485](#), [HB 816](#), [HB 830](#), [SB 3](#), [SB 104](#), [SB 121](#), [SB 122](#), [SB 124](#), [SB 246](#), [SB 253](#), [SB 506](#), [SB 507](#), [SB 510](#), [SB 530](#), [SB 550](#), Montana 68th Legislature, 2023.

⁵ Institute on Taxation and Economic Policy, Modeling of [SB 121](#), Feb. 2023.

⁶ MBPC calculation using Sen. O'Brien, S., "[Provide for all ages and homeowner and renter tax credit](#)," SB 15, Montana 68th Legislature, as introduced Nov. 28, 2022 and Montana 68th Legislature, "[Provide rebates of property taxes paid on a principal residence](#)," HB 222, enacted Mar. 13, 2023.

⁷ Montana 68th Legislature, "[Use surplus revenue for income tax and property tax refunds and payment of bonds](#)," HB 192, enacted Mar. 13, 2023 and Rep. Kassmier, "[Establish a child tax credit through the individual income tax](#)," HB 268, as passed by House Committee on Taxation on Feb. 7, 2023.

⁸ Montana Kids Count, "[A Modern Economy Depends on Child Care. Montana Can Make It Affordable and Accessible](#)," May 2021.

⁹ Montana Kids Count, "[Montana's Child Care System: Investments Needed to Support Families and Child Care Businesses](#)," Dec. 2022.

¹⁰ U.S. Office for the Assistant Secretary for Planning and Evaluation, "[HHS Poverty Guidelines](#)," Jan. 19, 2023.

¹¹ Montana 68th Legislature, "[Provide for the Best Beginnings scholarship program](#)," HB 648, enacted on June 16, 2023.

¹² O'Loughlin, H., "[An Early Look at Legislative Action on the State Budget](#)," Montana Budget & Policy Center, Jun. 2021.

¹³ Legislative Fiscal Division, "[Section B HB 2 Narrative 2025 Biennium](#)," accessed May 2023.

¹⁴ MBPC calculations, on file with author.

¹⁵ Kaiser Family Foundation, "[Medicaid and CHIP Income Eligibility Limits for Pregnant Women as a Percent of the Federal Poverty Level](#)," Jan. 1, 2023.

¹⁶ U.S. Office for the Assistant Secretary for Planning and Evaluation, "[HHS Poverty Guidelines](#)," Jan. 19, 2023.

¹⁷ Legislative Fiscal Division, "[Section B HB 2 Narrative 2025 Biennium](#)," accessed May 2023.

¹⁸ Montana Medical Association, "Postpartum Medicaid Extension in Montana," on file with author.

¹⁹ Montana 68th Legislature, "[Provide funding for behavioral health system for future generations](#)," HB 872, enacted May 22, 2023.

²⁰ Legal Fiscal Division, "[Section E HB 2 Narrative 2025 Biennium](#)," May 2023.

²¹ Montana 68th Legislature, "[Revise the Tribal Computer Programming Scholarship Program](#)," HB 346, enacted May 2023.

²² Montana 68th Legislature, "[Revise Laws related to Indian Language Program](#)," HB 287, enacted May 2023.

²³ Legal Fiscal Division, "[Section E HB 2 Narrative 2025 Biennium](#)," accessed June 2023.

²⁴ Montana 68th Legislature, "[Revise and extend Missing Indigenous Persons Task Force](#)," HB 163, enacted May 2023.

²⁵ Montana 68th Legislature, "[Establish missing persons response team training grant program](#)," HB 18, enacted Apr. 19, 2023; "[Create sexual assault response network program and committee](#)," HB 79, enacted Apr. 19, 2023; "[Request interim study on missing youth](#)," HJ 1, Mar. 15, 2023.

²⁶ Montana 68th Legislature, "[Create sexual assault response network program and committee](#)," HB 79, enacted Apr. 19, 2023.

²⁷ Moreno, Z. "[Bad Practice: The Under-Funding of OPD](#)," Montana Budget & Policy Center, Mar. 30, 2023.

²⁸ Legislative Fiscal Division, "[Section D HB 2 Narrative 2025 Biennium](#)," May 2023. .

²⁹ Legislative Fiscal Division, "[Section D HB 2 Narrative 2025 Biennium](#)," May 2023.

³⁰ Analysis includes [HB 161](#), [HB 255](#), [HB 374](#), [HB 525](#), [HB 603](#), [HB 625](#), [HB 721](#), [HB 786](#), [SB 96](#), [SB 149](#), [SB 158](#), [SB 265](#), [SB 321](#), [SB 345](#), Montana 68th Legislature, 2023.

³¹ Department of Corrections, "[About Us](#)," accessed Jun. 13, 2023.

³² Legislative Fiscal Division, "[Section D HB 2 Narrative 2025 Biennium](#)," May 2023.

³³ Legislative Fiscal Division, "[Section D HB 2 Narrative 2025 Biennium](#)," May 2023.

³⁴ Montana 68th Legislature, "[Provide for capital projects](#)," HB 817, enacted Jun. 5, 2023.