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# 2025 Legislative Briefing: What Montana Businesses Need to Know

THURSDAY, JUNE 5, 2025 | HOLIDAY INN DOWNTOWN

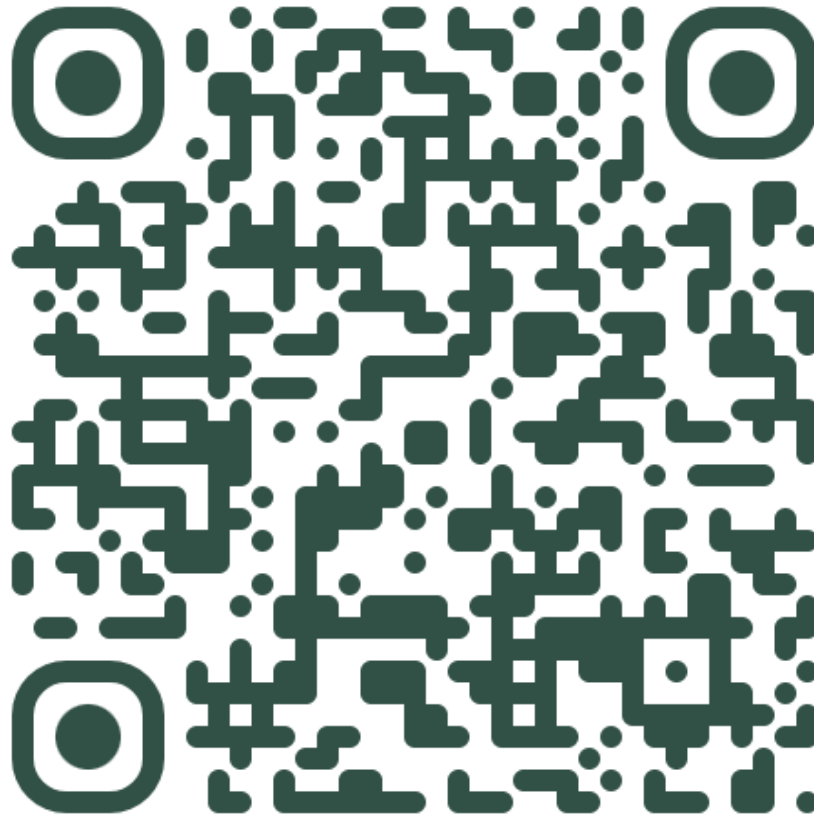
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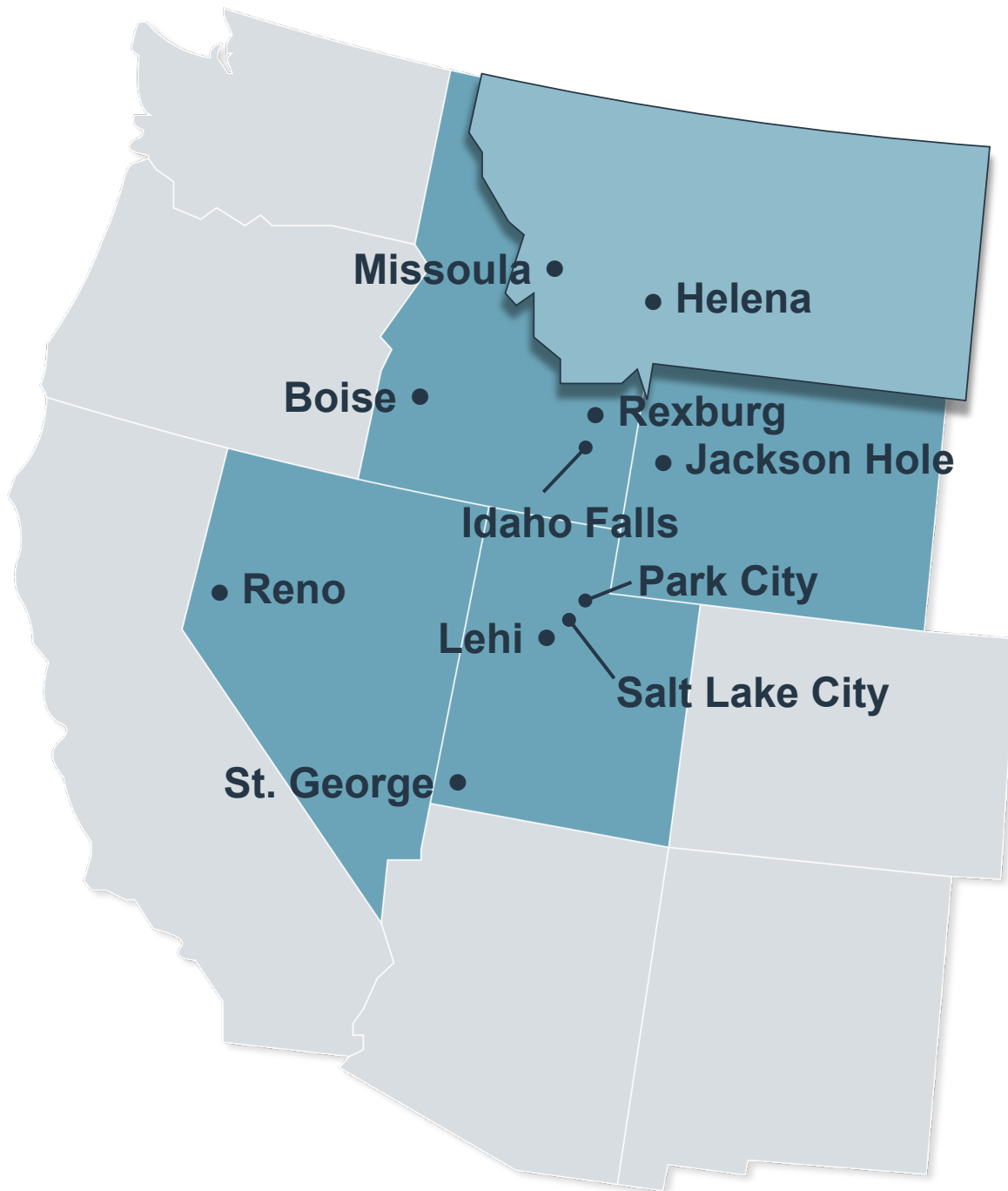
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*This presentation is based on available information as of June 5, 2025, but everyone must understand that the information provided is not a substitute for legal advice. This presentation is not intended and will not serve as a substitute for legal counsel on these issues.*

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**Liz M. Mellem**  
Director & Vice  
President



**Ross P. Keogh**  
Office Managing  
Shareholder



**Jesse C. Kodadek**  
Shareholder



**Jeffrey R. Kuchel**  
Shareholder



**Abigail R. Brown**  
Office Managing  
Shareholder



**Tara Rice**  
Shareholder



**Diana J. Abbott**  
Associate



**Mathew T. Bain**  
Associate



**William T. Casey III**  
Associate



**Emma B. Dugenske**  
Associate



**John E. Bloomquist**  
Of Counsel



**Betsy Story**  
Associate



**McKenna R. Ford**  
Associate



**Elliott D. McGill**  
Associate



**Leah Trahan**  
Associate



# Today's Presenters

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Liz M. Mellem  
Director & Vice President  
[amellem@parsonsbehle.com](mailto:amellem@parsonsbehle.com)  
406.317.7240



Jeffrey R. Kuchel  
Shareholder  
[jkuchel@parsonsbehle.com](mailto:jkuchel@parsonsbehle.com)  
406.317.7250



Jazmynn B. Pok  
Associate  
[jpok@parsonsbehle.com](mailto:jpok@parsonsbehle.com)  
801.536.6792



Mathew T. Bain  
Associate  
[mbain@parsonsbehle.com](mailto:mbain@parsonsbehle.com)  
406.317.7246



Leah Trahan  
Associate  
[ltrahan@parsonsbehle.com](mailto:ltrahan@parsonsbehle.com)  
406.317.7244



Ross P. Keogh  
Missoula Office  
Managing Shareholder  
[rkeogh@parsonsbehle.com](mailto:rkeogh@parsonsbehle.com)  
406.317.7241

# Legislative Overview

Liz M. Mellem



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# 2025 Montana Legislature by the Numbers

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**Montana is one of only four states with a biannual session.**



**Montana has the second shortest session (90-days) behind North Dakota (80 days).**



## **What Happened in 90-days?**

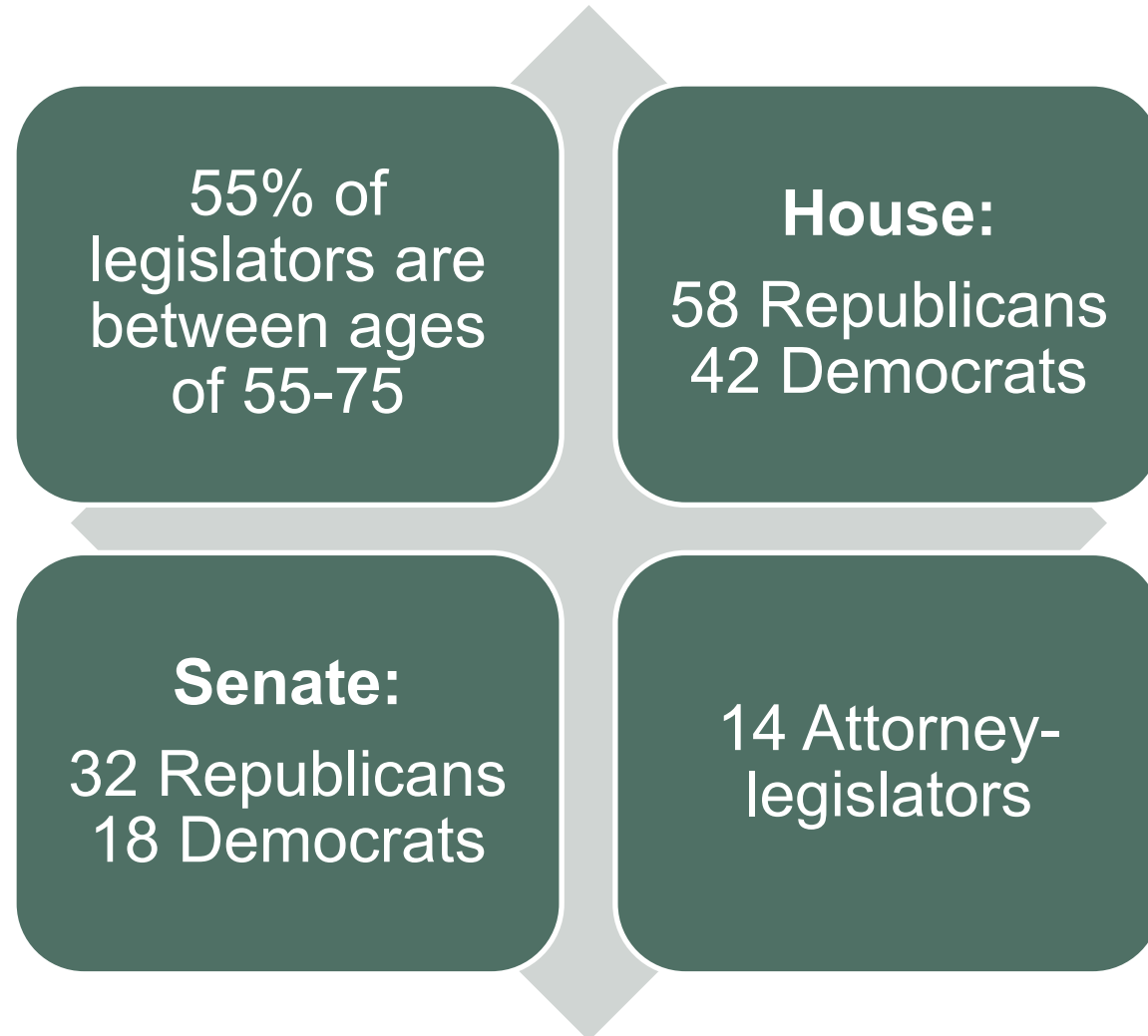
**1,759** bills made it to a committee vote (record number).

**844** bills passed the legislature and were sent to the Governor.



# Montana Legislature Demographics

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# A Bipartisan Majority Delivers for Montana

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15% increase in state budget to fund essential programs



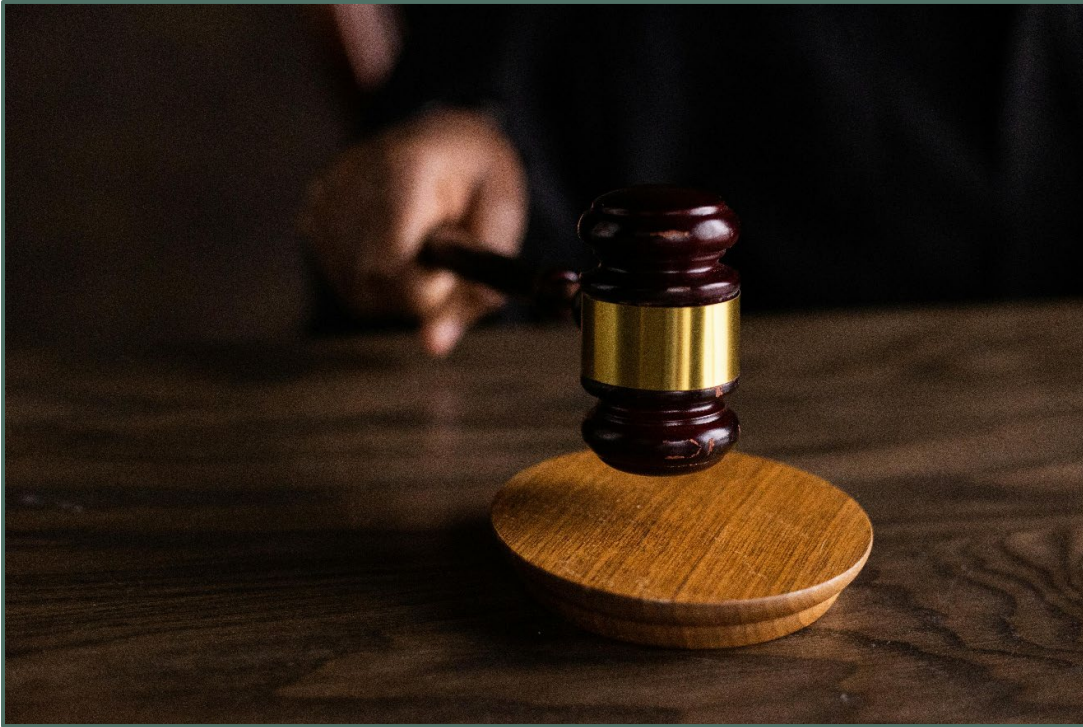
Record investments in Education; \$100M investment in teacher pay



Making Medicaid Expansion Permanent for 79,000 Montanans

# Friction with Judiciary Continues

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27 bills introduced to modify the state judiciary

Incremental reforms advanced but many big-ticket items failed (e.g., partisan judicial races, open judicial deliberations, special courts, and jurisdictional changes)

**Why it Matters:** Continued tensions influence bill drafting decisions, which may lead to highly restrictive legislation limiting judicial deference.

# Civil Liability, Remedies, and Damages

Jeffrey R. Kuchel



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# SB 143: Reduce Statute of Limitations

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- Reduces length of time to bring a lawsuit after an event or occurrence
  - Contracts: reduced from 8 to 6 years (amends § 27-2-202, MCA)
  - Real property improvements: reduced from 10 to 6 years (amends § 27-2-208, MCA)
- **HB 135:** Provides 5-year statute of repose from date of appraisal and 8-year statute of repose for claims arising from real-estate appraisals where statute of limitations applies. (codified in Title 27, chapter 2)
- Applicable to lawsuits filed on or after October 1, 2025

# HB 791: Amend Public & Private Nuisance Law

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## ■ Before HB 791:

- Public nuisance defined through case law
- Private nuisance defined as “injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property (amends § 27-30-101)

## ■ After HB 791: Two separate statutory definitions for nuisance

- Public nuisance: narrow statutory definition may make claims more difficult (amends § 27-30-101).
- Private nuisance: Original definition largely unchanged.

**Why it Matters:** Public nuisance laws are often used as a blunt means of addressing environmental and land use challenges.



# HB 409: Preliminary Injunction Standards

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- Requires Plaintiff to independently satisfy each element of a four-part test to obtain a preliminary injunction (amends § 27-19-201)
  - Applicant is likely to succeed on the merits;
  - Applicant is likely to suffer irreparable harm in the absence of preliminary relief
  - Balance of equities tips in the applicant's favor, and
  - The order is in the public interest.
- Overrides *Stensvad v. Ayers Ranch, Inc.* to explicitly reject the Ninth Circuit sliding scale test

# HB 324: Voluntary Partial Payment of Claims

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- Amends § 26-1-701 to clarify voluntary partial payment of ANY claim is not:
  - An admission of fault or liability; OR
  - A waiver or release of the claim by the person to whom payment is made
- Section previously applied only to claims related to injury, death, or damage to property
- Not applicable to unfair settlement practice claims (§ 33-18-201, 242)

# SB 511: Litigation Financing Amendments

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- Builds on work of 2023 Legislature to further constrain influence of 3<sup>rd</sup> parties who finance lawsuits (amends § 31-4-104)
- A litigation financier may not influence decisions about counsel, expert witnesses, litigation strategy, and settlement or other resolutions.
- Creates the Foreign Investment in Litigation Act
  - Prohibits foreign adversaries or foreign persons of concern from financing litigation

# Claims Against the Government

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SB 39: Attorney awards in civil claims must be reasonable (§ 25-10-711)

Fees must be reasonable and certain activities presumed unreasonable.



HB 365: Legislative conduct not admissible for bad faith analysis (amends § 25-10-711)



HB 480: Right to jury for factual questions in ballot issue challenges (amends § 27-8-302)



SB 97: New legislation must be challenged in county where bill sponsor lives

Applies to laws passed within 2-years of the last session

# SB 488: False or Deceptive Consumer Reviews

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- Amends the Montana Consumer Protection Act
  - Adds provision clarifying that it is a violation of the MCPA to provide “consumer reviews or testimonials that are false, misleading, or otherwise unfair or deceptive.”
  - Adds a 5-year statute of limitations for the Montana DOJ to bring a claim for violations of the Consumer Protection Act.
  - Creates limitation on who may bring a claim for a violation of § 30-14-159 to only individuals who claim to have been damaged by a commercial entity that publishes or distributes materials harmful to minors from a website if no age verification was performed.

# HB 521: Claims Related to Criminal Conduct

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- States that a person who is convicted of a crime and is injured or suffers other damages during the commission of the crime does not have a right to recover damages UNLESS the victim used unjustified force
- Codified as part of Title 27, chapter 1, part 5



# Property, Planning, and Zoning

Jazmynn B. Pok



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# Homeowner Associations

# HB 325: Modifying covenant enforcement

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- Broadens and specifies who is a “party with an interest” in land subject to covenants, and can therefore bring an enforcement action.
- **HB 325:**
  - Party to an agreement containing real property covenants, conditions, or restrictions.
  - **Owner of an interest in real property burdened or benefited by a covenant or restriction.**
  - A **homeowner’s association** or other governing body of a real property development subject to covenants, conditions, or restrictions.

# HB 416: HOA Permission to Enter Private Property

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- Generally, HOA must provide specific notice and have permission to enter private property.
- HB 416 makes exception for **condominium HOAs** if:
  - Entry into or onto private property is necessary to access common elements that benefit the homeowners (*not benefit the HOA*), AND
  - The declaration or bylaws sets forth the terms of HOA access to the property

# HB 233: Transfer of Title to Open Spaces

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- Grants right to homeowners' association (HOA) to petition land for transfer of title to any open spaces, parks, or common use areas to the HOA.
- CONDITIONS:
  - HOA is organized in accordance with covenants
  - Covenants require HOA to repair and maintain common areas
  - Governing body finds subdivider intended for the HOA to own the open spaces and parks
  - Property subject to transfer is not owned by an individual.

# HB 147: Clarification Re: Abandonment of Covenants

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- Specifies that to defend against a claim that covenants were abandoned, the association had to have “equally and consistently enforced” the covenants for over at least a two-year period.



# Zoning

# Building on 2023 Zoning Reform

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**Background:** In 2023 a suite of bills intended to expand housing through zoning and land use reform.

- **SB 175:** Adopts the same public notice and hearing process for county commissioners evaluating applications to amend zoning that are required for new zoning requests.
- **SB 121:** Clarify public notice requirements & expands public participation opportunity related to development applications, expressly grants extraterritorial zoning authority, defines “substantial compliance” under Montana Land Use Planning Act.

# Building on 2023 Zoning Reform

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- **SB 532:** Provides 15-day expedited review period for county certificate of subdivision approval for Accessory Dwelling Units on a lot with existing sewer and water service & capacity
  - Terminates September 30, 2029.

# New 2025 Zoning Changes

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- **SB 213:** Permit residential apartment buildings with one stairwell in certain zones & with conditions/qualifications
- **SB 252:** Provide that local zoning must treat manufactured and factory-built housing the same as other residential property
- **SB 214:** Require that ambiguity in zoning be construed in favor of non-conforming uses.

# New 2025 Zoning Changes

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- **HB 492:** Prohibits zoning from requiring\*:
  - more than one parking space per residential dwelling unit;
  - **any min. parking** for:
    - existing buildings
    - daycares
    - Public health & human services
    - Deed-restricted affordable housing
  - More than one-half space for a residential unit under 1,200 sq. ft.

\*subject to ADA

# HB 614: Termination of Zoning Districts

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- Grants right to property owners to submit a referendum to terminate an existing zoning district, IF:
  - County commissioners hold public hearing
  - The land subject to referendum is subject to different zoning regulations pursuant to Mont. Land Use Planning Act or another larger zoning district.



# Development

# Housing & Infrastructure Incentives

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- **HB 162:** Allowing use of resort tax levies for infrastructure to fund “workforce and community housing projects.”
- **HB 505:** Expanding Montana Housing Infrastructure Fund.
  - Requires the fund to keep interest and income in the fund.
  - Authorizes the use of funds for certain residential projects with min. gross density of 3 units/acre.
  - Authorizes the use of public infrastructure bonds for housing development and to finance ownership of certain mobile home park and multifamily housing units.

# Property Owner Rights

# New Enforcement for Property Rights

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- **SB 101:** Provides process for removal and misdemeanor offense of unlawful squatting
  - Creates criminal offense of squatting
  - Grants right to property owner to request law enforcement to:
    - remove unauthorized person or trespasser
    - Standby by and keep the peace while owner changes locks and removes squatter's property
  - Provides that property owner who provides false information to law enforcement required to indemnify the law enforcement agency against claims by alleged squatter

# New Enforcement for Property Rights

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- **SB 493:** Creating the offense of trespass for drones flying below 200ft.
  - Exceptions: government entities, utility employees and contractors, operators with an active FAA license.

# Changes in Landlord Tenant Law

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- **HB 444:** Allowing email notices and electronic delivery of security deposits.
- **SB 149:** Requires tenant to provide documentation for an emotional support animal; and such documentation may not necessarily require landlord to permit ESA animal.
- **HB 311:** Requiring refund of rental application fees
  - Applies to property managers with four or more dwelling units
  - Deductions for specific services, actually performed, permitted with notice at time of application

# HB 136: Incentives for Property Risk Reduction

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Property insurers  
may offer premium  
reductions for risk  
prevention activities



Fire

- Ignition resistant materials
- Outside water source
- Defensible land scaping
- Fire alarm or emergency system
- Compliance with international  
Wildland/ Urban Interface codes



- Wind/ hail prevention
- Wind resistant shingles
- Anchoring outdoor furniture
- Pruning trees
- Installing protective coverings

# Environment, Energy, and Water

Mathew T. Bain



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# Wildfire Liability

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- **HB 490:** Providing electric utilities with enhanced liability protection in exchange for execution of proactive wildfire mitigation plans
  - An approved wildfire mitigation plan creates a presumption that the utility acted reasonably if it substantially followed its plan and a fire occurs
  - Punitive damages are unavailable unless injured party can demonstrate gross negligence on the part of the utility
- **HB 84:** Clarifying liability standard for prescribed fire and creating a prescribed fire management training program
  - A certified prescribed fire manager may not be held liable absent showing of negligence.

# Revisions to MEPA

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- **SB 221:** Provides for greenhouse gas assessments to satisfy Montana Environmental Policy Act (MEPA)
  - Required for “Fossil Fuel Activity”
  - Nex steps, DEQ Rulemaking
  - No consideration of upstream and downstream effects
- **HB 285:** Revises policy and purpose statements to clarify that MEPA is procedural, not substantive
- **HB 270:** Clarifies the standard for vacatur on remand

# Other MEPA Related Legislation

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- **HB 466:** Provide for categorical exclusions to Montana Environmental Policy Act (MEPA)
  - A categorical exclusion creates a rebuttable presumption that a permitted activity does not require in-depth environmental review.
- **SB 262:** Exempt review of subdivision applications and water or sewer plans from MEPA
- **HB 291:** Prohibit state or local air quality standards that are more stringent than the Clean Air Act

# Water Right Permit & Change Modifications

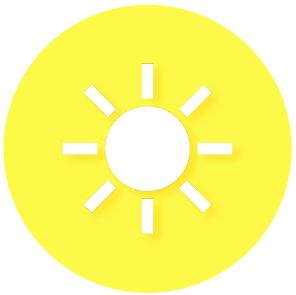
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- **SB 190:** Allows water right holders to waive adverse effects analysis when another party files a permit or change application.
- **HB 432:** Expands exceptions for when an appropriator may change an appropriation right without prior DNRC approval
  - Applies to redundant wells, replacement wells, replacement diversion points, adding or removing stock tanks
- **SB 178:** Authorizes temporary lease of a water right.
  - May not be leased for more than 40-days per year
  - May not be leased for more than 5-years of any 10-year period
- **HB 681:** A person seeking an exempt well must first file a notice of intent to appropriate groundwater with the DNRC.

# New Opportunity: Shared Solar

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- **SB 188:** Authorizes a subscription-based ownership model whereby utility customers can purchase shares of an independent renewable energy projects.



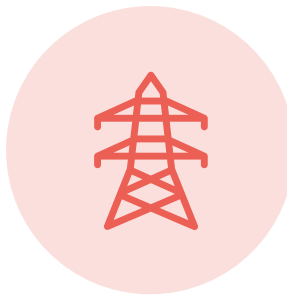
1. A developer or utility elects to build a shared solar project of at least 50 KW.



2. Individual energy users sign up for a subscription. The subscription entitles customers to a certain portion of generation from the facility.



3. Customers receive on-bill credit relative to the proportion of generation purchased from the shared solar facility.



4. A utility customer's entire bill won't be offset by shared solar. Utility customers pay for more than just electricity generation through their monthly bills.

# Employment & Emerging Issues

Leah Trahan



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# HB 226: Verification of Legal Employment

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- An employer must request and make a copy of:
  - Citizenship or work authorization status verified by E-Verify program; OR
  - Completed I-9 with corresponding documents
- Books, records, payrolls must be open to inspection.
- Refusal to submit records for inspection subject to escalating penalties
  - First violation: \$500 per wrongfully employed individual
  - Second Violation: \$1,000 per wrongfully employed individual
  - Third Violation: \$2,500 + 6 month suspension of government licenses

# Enhanced Protections for Public Service

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- **HB 667:** Prohibiting employers from restricting employees from seeking election or appointment to city, county, or state office
  - Employer may not require employee to use leave or perform work while serving
  - Applies retroactively to January 1, 2025
- **HB 128:** Protecting volunteer emergency service providers from termination.
  - May not terminate an employee who is late or absent
  - Employer may request written statement from EMS supervisor



# HB 292: Uniform Public Expression Act

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- Protects individuals from lawsuits concerning communications about public issues or exercise of First Amendment Rights
  - Public issues mean legislative, executive, or judicial proceedings
- Defendant may file motion for expedited relief within 60-days of service
- All proceedings will be stayed pending resolution of the motion.
- Court must hear motion for expedited relief within 60-days and rule on the motion 60-days after the hearing.

# HB 121: Restricting Access to Public Facilities

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- Public facilities must designate each multi-occupancy restroom, changing room, or sleeping quarters for exclusive male or female use.
- Public facilities must take reasonable steps to provide individuals with privacy from members of the opposite sex.
- Provides a private right of action for individuals who encounter an individual of the opposite sex in a restroom, changing room, or sleeping quarters
- Subject to preliminary injunction, pending legal challenge

# SB 437: Revise Definition of Sex

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- “Sex means whether someone is male, or female based on
  - The type of gamete, sperm, or eggs they are capable of or expected to produce as dictated by their primary sexual anatomy
  - There are only two sexes
  - Sex is rooted in reproductive anatomy and is in no way influenced or defined by one’s psychological state.

**Making the connection:** the Montana Human Rights Act uses this definition of sex, but Title VII still applies.

# Workers' Compensation & Unemployment

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- **HB 197:** Revise workers compensation laws related to return to work.
- **SB 109 & HB 143:** Add physician assistants and physical therapists to definition of treating physician.
- **SB 394:** Provide for workers compensation coverage of PTSD for first responders.
- **HB 516:** Relocate workers compensation court to the judicial branch
- **HB 210:** Revise unemployment insurance rates and uses

# Emerging Issues

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- **SB 426:** Modernize UCC to provide enhanced clarity for secured transactions involving digital assets
- **SB 265:** Revise crypto laws to prohibit use or testing of central bank digital currency and protect self-hosting of digital assets
- **SB 212:** Establish a fundamental right to own and make use of technological tools and computational resources
- **SB 297:** Amend Montana Consumer Data Privacy Act to provide enhanced protection for minors

# Taxes & Economic Development

Ross P. Keogh



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# Bringing Taxes into the 21<sup>st</sup> Century

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- **HB 91:** Allows taxpayers to elect to receive electronic correspondence from the Montana Department of Revenue
- **SB 54:** Require tax payments more than \$50,000 to be paid electronically
- **HB 20:** Requiring voted levies to be stated in dollars rather than mills

# Tax Increment Financing Modernization

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- **SB 1:** Limits use of blight as a TIF justification to areas determined to be detrimental to public health, safety, and welfare
  - Removes aesthetics and open spaces from definition of blight
- **HB 19:** Requires a public hearing to pledge tax increment financing for bond payments that extend a TIF district beyond 15-years



# New Development Incentives

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- **SB 337:** Allows subdivision developers to lock-in pre-development tax rate through prepayment of property tax obligations plus a 5% fee.
  - 5-year prepayment exemption terminates when subdivision is complete.
  - Each lot where a residential structure is completed expires the following year.
- **HB 424:** Reduces tax rate on communications and energy infrastructure that powers data centers.
  - First 10-years: .9% of market value.
  - Next 10-years: 3% of market value THEN 6% of market value thereafter.
  - Encourages data centers to co-locate energy infrastructure behind the meter.

# Other Notable Tax Law Changes

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- **HB 411:** Exempts agricultural and forest land from open space property tax levies
  - Applies to all open space levies and bonds, regardless of approval date
  - Effective January 1, 2026
- **HB 845:** Increases the income tax deduction for family education savings accounts
  - Individual: \$4,500 for contributions
  - Married filing jointly: \$9,000 for contributions
- **SB 117:** changes automatic adjustments to revenue authority

# Property Tax Reallocation: HB 231, SB 542

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- **Big Idea:** Property taxes largely controlled at local level leaving little opportunity for state-level relief
- **The Next Best Thing:** HB 231 and SB 542 attempt to reallocate tax burdens among different types of property through rate adjustments
- **What to Expect:** Reduced tax bills for primary residences higher taxes on second-homes, short-term rentals, agricultural property, and commercial/ industrial property.

# Residential Property Effect

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- Beginning in 2026 a flat 1.9% rate will apply UNLESS the property is a “principal residence” or “long-term” rental.
- Previously, a 1.35% rate applied for below \$1.5 million, and then 1.89%.
- Principal residences and long-term rentals follow a tiered-rate structure.

Median Residential Value	Tax Rate
0-1x median residential value (est. \$395,000)	0.76%
1x-2x median residential value (est. \$395,000 to \$790,000)	0.9%
2x-4x median residential value (est. \$790,000 to \$1,580,000)	1.1%
4x+ median residential value (est. > \$1,580,000)	1.9%

\*Multi-family long-term rental properties can apply for a flat 1.1% tax rate.

# Principle Residence & Long-term Rental

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## ■ Principle Residence:

- Owner must demonstrate residence for at least 7 months of the year;
- Only one principal residence;
- Owner must pay property taxes; and
- Can be owned by a grantor trust; but not an entity.

## ■ Long-term rental:

- Single-family, multiple unit, trailer, manufacture home or mobile home
- Rented for 28 days or more for at least 7 months, or vacant for 5 months to repair,
- Occupied by tenants who use the dwelling as a residence,
- Owner is current on taxes.

# Commercial and Industrial Effect

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- New tiered Commercial and Industrial rates based on “median” value.
- Applies starting in the 2026 tax year.
- 1.5% for value below 6x the “median” (est. \$2,136,000) and 1.9% above.
- Previously, a flat 1.89% rate.

# Business Property Effect

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**Beware the Yo-Yo:** Changes will be phased in throughout 2025. Expect higher tax bills in 2025 followed by modest decreases as second-homes and short-term rentals pick up more of the burden.

Property Type	2025 Change	2026 Change	Overall Change
Commercial	11%	-7%	3%
Agricultural	7%	-5%	2%
Industrial	13%	-2%	10%

# Your Tax Action Items

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August 15 to October 1: Claim your \$400 primary residence rebate



December 2025: Claim your homestead tax rate for the property where you live 7-months out of the year

Those receiving rebates for 2025 are expected to automatically qualify



# HB 337: Income Tax Reduction

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- Reduces top income tax rate from 5.9% to 5.65% in 2026
  - Top marginal rate further reduced to 5.4% in 2027
- Doubles the income threshold for the 4.7% bracket
- \$190 million cost in 2027 to budget

Filing Status	2025 4.7% then 5.9%	2026 4.7% then 5.65%	2027 4.7% then 5.4%
Married Filing Jointly Surviving Spouse	\$0-\$41,000	\$0-95,000	\$0-\$130,000
Single Married Filing Separately	\$0-\$20,500	\$0-\$47,500	\$0-\$65,000
Head of Household	\$0-\$30,750	\$0-\$71,250	\$0-\$97,500

# Story House & the MEDIA Act

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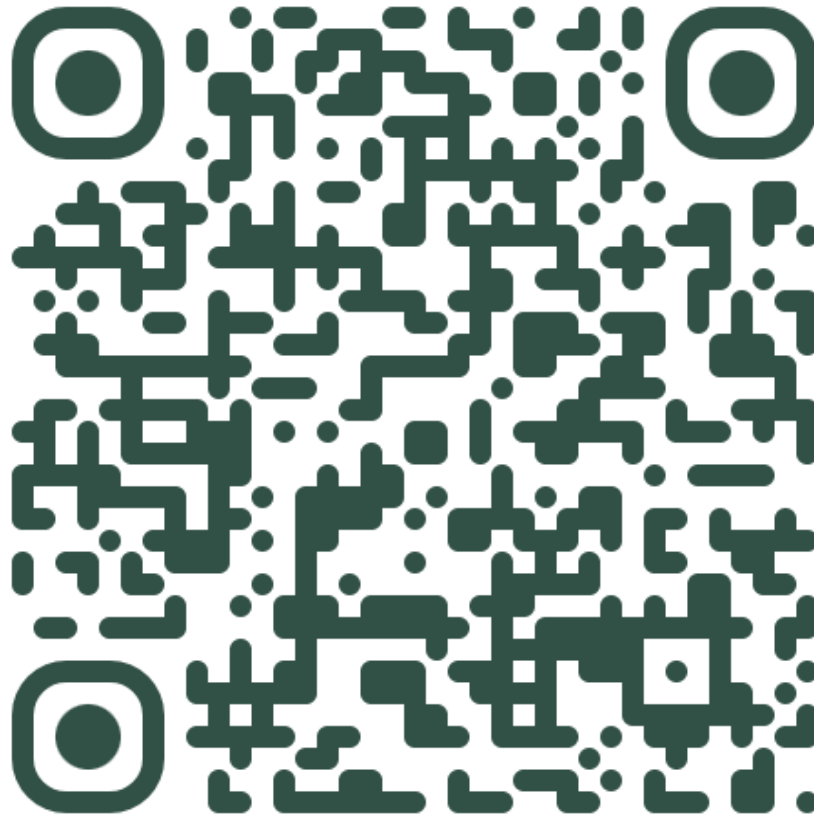
**Problem:** Large productions consumed most of Montana's \$12 M in film tax credits, but legislators were reluctant to raise the cap.

**Solution:** Create set-asides that promote an organic, sustainable film industry in Montana.

- 10% of credits allocated first-come-first serve
- 10% to independent film productions
- 40% for films renting Montana-based facilities
- 40% for companies domiciled in Montana

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# Thank You

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Liz M. Mellem  
Director & Vice President  
[amellem@parsonsbehle.com](mailto:amellem@parsonsbehle.com)  
406.317.7240



Jeffrey R. Kuchel  
Shareholder  
[jkuchel@parsonsbehle.com](mailto:jkuchel@parsonsbehle.com)  
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Jazmynn B. Pok  
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[jpok@parsonsbehle.com](mailto:jpok@parsonsbehle.com)  
801.536.6792



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406.317.7244



Ross P. Keogh  
Missoula Office  
Managing Shareholder  
[rkeogh@parsonsbehle.com](mailto:rkeogh@parsonsbehle.com)  
406.317.7241