



Governor Steve Bullock

State of Montana

Analysis of Impediments To Fair Housing Choice

April 1, 2015 through March 31, 2020



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HAS YOUR RIGHT TO FAIR HOUSING BEEN VIOLATED?

If you feel you have experienced discrimination in the housing industry, please contact:

U. S. Department of Housing and Urban Development

Office of Fair Housing and Equal Opportunity
Department of Housing and Urban Development
451 Seventh Street SW, Room 5204
Washington, DC 20410-2000
Telephone: 202-708-1112 or 1-800-669-9777
Website: <http://www.HUD.gov/offices/fheo/online-complaint.cfm>

Montana Human Rights Bureau

Human Rights Bureau
PO Box 1728
Helena, MT 59624
Telephone: 1-800-542-0807
Fax: 406-444-2798
TDD: 406-444-9696
Website: <http://erd.dli.mt.gov/human-rights>

Montana Fair Housing

Montana Fair Housing
519 East Front Street
Butte, MT 59701
Telephone: (406) 782-2573 or 1-800-929-2611
Montana Relay: 711
Fax: 406-782-2781
Email: inquiry@montanafairhousing.org
Website: www.montanafairhousing.org

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EXECUTIVE SUMMARY

A. Analysis of Impediments to Fair Housing Choice - Purpose and Process

As a requirement of receiving funds under the Community Development Block Grant (CDBG), the HOME Investment Partnerships (HOME), and the Emergency Solutions Grant (ESG), the State must submit certification of affirmatively furthering fair housing to the Department of Housing and Urban Development (HUD). This certification has three elements:

- Completion of an Analysis of Impediments to Fair Housing Choice in Montana (AI),
- Actions taken to overcome the effects of any impediments identified, and
- Maintenance of records reflecting the actions taken in response to the analysis.

In the *Fair Housing Planning Guide*, HUD provides a definition of impediments to fair housing choice as:

- Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status, or national origin (ancestry) which restrict housing choices or the availability of housing choices [and]
- Any actions, omissions, or decisions which have [this] effect.¹

The list of protected classes included in the above definition is drawn from the federal Fair Housing Act, which was first enacted in 1968. However, state and local governments may enact fair housing laws that extend protection to other groups, and the AI is to address housing choice for these additional protected classes as well. Montana state code² has extended additional fair housing protections based on creed, marital status, and age, and the non-entitlement cities of Bozeman, Butte, and Helena, as well as the entitlement City of Missoula, have adopted ordinances prohibiting housing discrimination based on sexual orientation and gender identity or expression.

The AI process involves a thorough examination of a variety of data related to housing in Montana, the system of delivering housing to Montanans in need, and housing transactions, particularly for persons belonging to a class or status that is protected under federal, state, or local fair housing laws.

The development of the AI also includes public input and review via direct contact with stakeholders, public meetings to collect input from citizens and interested parties, distribution of draft reports for citizen review, and formal presentations of findings and impediments, along with actions to overcome the identified impediments.

Methodology

As part of the consolidated planning process, and as a requirement for receiving HUD formula grant funding, the Montana Departments of Commerce (Commerce) and Public Health and Human Services (DPHHS) is undertaking this AI to evaluate impediments to fair housing choice in Montana.

The purpose of this report is to determine current impediments to fair housing choice and to suggest actions that local communities might consider in order to overcome the identified impediments. Thus, this report represents the first step in the three-part certification process.

This AI was conducted through the assessment of a number of quantitative and qualitative sources. Quantitative sources used in analyzing fair housing choice in the Montana included:

- Socio-economic and housing data from the U.S. Census Bureau,
- Employment data from the U.S. Bureau of Labor Statistics,
- Economic data from the U.S. Bureau of Economic Analysis,
- Investment data gathered in accordance with the Community Reinvestment Act,
- Home loan application data from the Home Mortgage Disclosure Act, and
- Housing complaint data from HUD.

Qualitative research included evaluation of relevant existing fair housing research and national and state fair housing legal cases. Additionally, this research included the evaluation of information gathered from several public input opportunities conducted in relation to this AI. This included a 2014 Fair Housing Survey of stakeholders in the state, undertaken to investigate stakeholder perception of fair housing issues in the private and public sectors.

Ultimately, a list of potential impediments was drawn from these sources and further evaluated based on HUD's definition of impediments to fair housing choice, as presented previously. Potential impediments to fair housing choice were identified along with actions the state may take to address possible impediments.

Overview of Findings

This AI includes a review of both public and private sector housing market conditions in Montana to identify practices or conditions that may operate to limit fair housing choice in the state. Analysis of demographic, economic, and housing data included in that review establish the context in which housing choices are made. Demographic data indicate the sizes of racial and ethnic populations and other protected classes; economic and employment data show additional factors in influencing housing choice; and counts of housing by type, tenure, quality, and cost indicate the ability of the housing stock to meet the needs of Montana residents.

The contextual analysis described above provides a foundation for detailed review of fair housing laws, cases, studies, complaints, and public involvement data. The structure provided by state and federal fair housing laws shapes the complaint and advocacy processes available in the state, as do the services provided by state and federal agencies. Private sector factors in the homeownership and rental markets, such as home mortgage lending practices, have substantial influence on fair housing choice. In the public sector, policies and practices can significantly affect the housing choice decision. Complaint data and AI public involvement feedback further define problems and possible impediments to housing choice for persons of protected classes, and support findings from the contextual and supporting data.

In Montana, private sector impediments to fair housing choice involve discrimination by landlords, failure to reasonably accommodate, lack of knowledge about fair housing laws, and higher predatory lending and loan denials to American Indians. Public sector impediments to fair housing choice involve limited knowledge of fair housing resources, insufficient outreach and education, lack of knowledge about fair housing responsibilities, and the presence of local neighborhood resistance to the development of new affordable housing.

Socio-Economic Context

The population of Montana grew by an estimated 12.5 percent between 2000 and 2013 and underwent several minor shifts during that time. In both the 2000 and 2010 Censuses, residents aged 35 to 54 years accounted for the largest share of the population; however, this share dropped by around 4 percentage points over the decade and these residents represented 26.6 percent of the population in 2010. The eldest cohort, comprising residents over the age of 65, grew more rapidly than the overall population and came to account for 14.8 percent of the population by 2010. In short, Montana is an aging state.

The racial and ethnic composition of the state also changed, albeit slightly. White residents accounted for the largest share of residents in both years; though this share decreased by 1.1 percentage points between the two Censuses, white residents still accounted for nearly nine-tenths of all residents in 2010. American Indian residents accounted for 6.3 percent of the population in 2010, up slightly from 2000 (6.2 percent), and tended to be concentrated in and around tribal reservations. The Hispanic and Latino population grew by 58 percent over the decade, and represented 2.9 percent of the population in 2010. Montana residents with disabilities accounted for 17.5 percent of the population in 2000. By 2012, 12.9 percent of Montana residents were living with disabilities, though due to changes in the ACS and Census questionnaires in 2008, it is difficult to conclude that the share of disabled residents actually declined.

The number of workers employed in Montana grew steadily from 1991 to 2008, with the exception of a brief period from 2000 to 2002. After 2008, the number of workers employed in the state underwent a precipitous decline, dropping by over 18,000 in 2009. This decline reversed in the following year, and the number of employed persons slowly began to grow again. However, the unemployment rate continued to climb through 2010 as the growth in the labor force outpaced growth in the number of employed. From 2008 through the beginning of 2014, the unemployment rate was subject to seasonal fluctuation as the unemployment rate peaked in the winter and summer months of each year. Even as growth in the number of jobs in Montana was steady for two decades after 1986, growth in average earnings per job was subject to fluctuation. However, between 1998 and 2005 earnings per job rose steadily, though this growth slackened after that year. As had been the case with the employment figures cited above, earnings per job fell in 2009, though this decline was not as pronounced as in the case of employment. After 2009, earnings began to grow rapidly, and stood at \$41,366 in 2012.

A similar pattern was observed in trends in real per capita income (PCI), though growth in real PCI was steadier between the mid-1980s and 2008. Following a brief decline in 2009, real PCI grew by more than \$1,000 per year over the next three years, and stood at \$39,131 in 2012. At the same time, households experienced a shift toward higher incomes over the decade and the poverty rate slipped from 14.5 percent to 14.3 percent.

The composition of the housing stock also shifted as growth in the number of housing units outpaced growth in the population from 2000 to 2010. The number of occupied housing units increased by 14.2 percent, while the number of vacant units grew by 35.7 percent. Growth in the number of vacant units dedicated to seasonal, recreational, or occasional use accounted for a substantial portion of the increase in vacant units overall, along with the considerable growth in the number of “other vacant” units.

Households tended to become smaller on average between 2000 and 2010 as the number of one- and two-person households increased by 23.7 and 19.2 percent, respectively. In addition, the shares of single-family, duplex, and apartment units grew between 2000 and 2012, while the share of mobile homes fell. By 2012, fewer housing units met HUD’s definition of overcrowded (more than 1 person per room), fewer units had incomplete plumbing facilities, and fewer units lacked complete kitchen facilities.

Five-Year ACS estimates from 2012 indicate that census tracts with relatively high median contract rent prices tended to be clustered around urban areas of the state; including the non-entitlement communities of Kalispell, Helena, Bozeman, and the Bitterroot Valley, and the entitlement communities of Great Falls and Billings. Tracts with relatively high median home values tended to be concentrated in these same areas.

B. Fair Housing Law, Study, and Case Review

Montana residents are protected from discrimination in the housing market by the Federal Fair Housing Act, the Americans with Disabilities Act, and Montana Code Annotated §49-2-305. Race, color, national origin, religion, sex, familial status, and disability are recognized as protected classes in federal law, while Montana Human Rights Law extends anti-discrimination additional protections on the bases of marital status, age, and creed. In Bozeman, Butte,

and Helena, as well as the entitlement City of Missoula, local ordinances also prohibit housing discrimination based on sexual orientation and gender identity or expression. In spite of these protections, national fair housing studies demonstrated the persistence of illegal discrimination in the housing market, though they also suggest that discrimination has become more subtle and difficult to identify.

Since 2000, the U.S. Department of Justice (DOJ) has lodged five complaints against housing providers in Montana. Three of these cases concerned alleged discrimination on the basis of disability, one on the basis of sex, and one on the basis of familial status. All of these cases have been settled, the most recent being *United States v. Nistler*, to remedy the barriers to accessibility and prohibit construction of future units that do not comply with state and federal accessibility requirements.

Fair Housing Structure

Residents of Montana who believe that they have been subjected to illegal discrimination in the housing market may lodge a complaint with HUD, the Montana Human Rights Bureau (HRB), or Montana Fair Housing. HUD conducts investigations of alleged violations of the federal Fair Housing Act, while the Human Rights Bureau investigates alleged violations of Montana Human Rights Law. Both organizations have a similar complaint process, though there are some differences between the two: for example, complaints filed with HUD may be conciliated at any point up until the agency determines whether or not the complaint has cause. Under Montana Human Rights Law, complaints may be resolved voluntarily before a determination of cause is made, but they may also be conciliated after such a determination is made.

Montana Fair Housing (MFH) is a non-profit organization that is dedicated to the elimination of housing discrimination, and the advancement of civil rights. As HUD's Fair Housing Initiatives Program (FHIP) participant for the State of Montana, MFH has been active in complaint intake, investigation and testing, enforcement, conciliation proceedings, facilitation of local ordinance changes, compliance review of building permits, and education and outreach throughout the Montana. MFH has been instrumental in bringing actual, potential, and alleged violations of fair housing law to the attention of HUD and the Justice Department. MFH was actively involved in four of the five DOJ cases profiled in Section III of this report, has filed five complaints involving results acquired through testing, and assisted in the resolution of 40 pre-filing allegations. Additionally, in 2014, MFH's education and outreach activities included 21 printed advertisements, a statewide radio campaign, 18 workshops, numerous individual trainings, and the dissemination of over 200,000 different documents to various parties.

Fair Housing in the Private Sector

Private sector data that may suggest the presence of barriers to fair housing choice include those that detail patterns of lending and investment, fair housing complaints, and public perception of conditions in the housing market. Data collected through the Home Mortgage Disclosure Act (HMDA) reveals that 64,707 home purchase loans were originated in Montana from 2004 through 2012, and 14,967 were denied, for an average denial rate of 18.8 percent. However, American Indian residents, Hispanic residents, and women were denied loans at a considerably higher rate; in the case of racial and ethnic minorities, these discrepancies held even when income was taken into account. Similarly, American Indian and Hispanic borrowers were issued higher proportions of loans with high annual percentage rates than white and non-Hispanic borrowers, and higher than the overall average rate of 11.5 percent.

The analysis of private sector factors that have the potential to impact fair housing choice included a consideration of the distribution of small business loans. Data on such loans are collected in accordance with the Community Reinvestment Act (CRA), and give an indication of the economic vitality of areas within the state. Small business loans issued in Census tracts in areas of the state from 2000 to 2011 tended to be concentrated in and around urban areas. As one might expect, the same was largely true of small business loan dollars.

A substantial proportion of Montana residents who lodged housing discrimination complaints with HUD alleged that housing providers had discriminated against them on the basis of disability. Alleged discrimination on the basis of disability was cited in 76 of the 125 complaints lodged with HUD between 2004 and 2014, followed by race and familial status, cited in 24 and 23 complaints, respectively. As one might expect, based on the prevalence of these complaint bases, the largest share of complainants cited the “failure to make reasonable accommodation” in their complaints. Disability was also the most common protected class cited in complaints lodged with Montana Fair Housing; of the 216 complaints the organization received between 2004 and 2013, 134 were related to disability.

The private sector portion of the 2014 Fair Housing Survey revealed that refusal to rent and lack of knowledge of fair housing laws were the two factors that were most likely to impede to fair housing choice in the state, according to survey respondents. More than three-quarters of respondents perceived the refusal to rent based on considerations that are prohibited under the FHA, to be an impediment. More than 85 percent of respondents felt lack of knowledge of fair housing law to be an impediment, and a majority of those felt that it constituted a moderately severe or very severe impediment.

Fair Housing in the Public Sector

Consideration of potential public sector barriers to fair housing choice included an analysis of the geographic distribution of subsidized, multifamily housing units as well as a discussion of selected results from the 2014 State of Montana Fair Housing Survey. Subsidized multifamily units examined in this study were subsidized through Section 8 as well as through Low Income Housing Tax Credits (LIHTC). Project-based Section 8 units, which are units directly subsidized through Section 8 funding, were scattered throughout the state and tended to be located on major transportation corridors. Section 8 vouchers, which allow residents to maintain their subsidy as they move from one housing unit to another, tended to be clustered in and around urban areas of the state. Units that were subsidized through LIHTC were also distributed widely throughout the state along major transportation corridors, though there were some clusters of LIHTC units in and around Butte, Kalispell, Helena, and other urban areas of the state.

Lack of knowledge of housing opportunities and fair housing laws were widely perceived to constitute impediments to the provision of fair housing in the state, along with inadequate access to public transportation. More than three-quarters of respondents who answered questions concerning these factors believed them to constitute impediments to fair housing choice, while approximately 74 percent of respondents perceived an impediment in the lack of sufficient monitoring, oversight, or enforcement of fair housing laws.

Lastly, the MFH office provided input that the Board of Realty Regulations is denying credits for training on fair housing, but has been working with MFH to continue training opportunities. Also, the MFH office provided input that the Home and Community Based Services (HCBS) have implemented policies or practices that prohibit services and housing opportunities to those individuals that choose to live outside of identified locations; and state agencies have prohibited participation of MFH in events. Commerce will continue collaborating with MFH and other state agencies to address impediments to fair housing choice as identified in the MFH comments and goals established in the suggested actions in this document.

C. Public Involvement

Efforts to promote and facilitate public involvement in the AI process were significant. First, Commerce developed the online Fair Housing survey (Appendix A). This survey was sent to stakeholders and contact lists of approximately 1,300 people, which included the Montana Fair Housing office and the Montana Human Rights Bureau, in April 2014. Commerce developed a scan code and website for respondents to participate in the online survey, which were also publicized on flyers and visual boards displayed at various conferences and workshops between May 2014 and October 2014. When the survey was closed in November 2014, nearly 200 respondents had completed the survey.

These responses indicate that opinions on issues pertaining to fair housing can differ considerably, though respondents tended to feel that current levels of fair housing outreach, education, and testing are not sufficient to meet the needs of Montana residents. In addition, nearly 40 percent of respondents maintained that they had suffered discrimination themselves, or had witnessed discrimination, in the housing market. These respondents experienced or witnessed these acts much more commonly in the rental housing market.

Second, Commerce notification of a July 16, 2014 hearing in Kalispell was sent to stakeholders and contact lists of approximately 1,300 people, which included the Montana Fair Housing office and the Montana Human Rights Bureau. Commerce conducted the public hearing to solicit comments for the development of the draft 2015-2020 AI. Approximately 13 individuals and organizations attended that meeting in person or via webinar/conference call. The Fair Housing hearing afforded participants an opportunity to learn more about the AI and fair housing in general, and to offer their perspective on the state of fair housing in Montana. Participants in the hearing discussed challenges associated with vacant housing in the state, as well as a perceived disconnect between regulations and policies, and regulatory agencies, and the manner in which fair housing policies are implemented locally.

Third, Commerce created and published an official transcript of the public meeting to encourage public participation and access to information regarding the development of the AI document (Appendix B). Full details of the citizen participation process are available on the Commerce website.

Commerce will announce and publish the draft *2015–2020 Analysis of Impediments to Fair Housing Choice in Montana* by emailing notices requesting comments from stakeholders to an interested party list of approximately 1,300 people; publishing advertisements in newspapers across Montana, and providing copies of the draft document for review on the website and at the various repositories across the state. Commerce will also be holding a public hearing on July 29, 2015 to encourage comments on the draft document. A summary of public comments received on the draft *2015-2020 Analysis of Impediments to Fair Housing Choice in Montana* will be provided in the final documents submitted to HUD after the public comment period has ended (Appendix C). Commerce will also create and publish an official transcript of the July 29, 2015 public meeting on its Consolidated Plan website (Appendix D).

D. Impediments to Fair Housing Choice and Suggested Actions

Private Sector Impediments, Suggested Actions, and Measurable Objectives

Impediment 1: Discriminatory terms and conditions in the rental markets. This impediment was identified through review of the results of the fair housing survey and fair housing studies profiled in the literature review. Perception of discriminatory refusal to rent was relatively common among survey respondents: those who maintained they had experienced or witnessed discrimination overwhelmingly identified rental housing providers as the perpetrators of that perceived discrimination. In addition, several of the national fair housing studies focus on the persistence of discrimination in the rental housing industry.

Action 1.1: Engage partnerships that support and enhance outreach to and education of landlords and property management companies about fair housing rights.

Measurable Objective 1.1: The number of outreach and educational activities conducted, and number of landlords and other housing providers who have participated in those activities.

Impediment 2: Failure to make reasonable accommodation. This impediment was identified through the review of fair housing complaints submitted to HUD and Montana Fair Housing, as well as the Fair Housing Survey and review of Department of Justice complaints lodged against housing providers in Montana. More than 60 percent of complaints lodged with HUD between 2004 and the beginning of 2014 alleged discrimination on the basis of disability, as did a similar proportion of those who filed complaints with Montana Fair Housing³. In addition, survey respondents

who maintained that they had experienced or witnessed discrimination identified persons with disabilities as one of the most common victims of that discrimination, and three of the five cases the Department of Justice brought against housing providers in the state since 2000 have involved alleged discrimination on the basis of disability.

Action 2.1: Support efforts that secure services which conduct audit tests on rental units.

Measurable Objective 2.1: Consult with Montana Fair Housing and other Fair Housing testing entities as part of the monitoring and site visits that are conducted for funded rental projects.

Impediment 3: Lack of understanding of fair housing laws. This impediment was identified in the results of the 2014 Fair Housing Survey. Lack of knowledge of fair housing laws was the most frequently identified impediment to fair housing choice by all survey respondents in public and private housing market contexts.

Action 3.1: Support annual public meetings and other activities pertaining to affirmatively furthering fair housing, and broadcast programmatic statewide meetings using technology meeting software.

Measurable Objective 3.1: Maintain a record of the meetings, including agendas and attendance; presentation materials for the meetings; and marketing materials used to publicize those meetings.

Action 3.2: Support the creation and distribution of fair housing informational flyers or brochures to grantees, applicants, and the general public.

Measurable Objective 3.2: Maintain a record of the number of such materials printed or purchased and distributed.

Impediment 4: Higher denial rates for American Indian loan applicants. This impediment was identified through a review of home loan data gathered under the HMDA. Nearly 34 percent of home loan applications from American Indian residents were turned down over the period from 2004 to 2012, and denial rates remained high even when the income of the applicant was taken into account.

Action 4.1: Support partnerships that enhance outreach and education for American Indian homebuyers through educational forums, credit counseling and home purchase training.

Measurable Objective 4.1: Maintain a record of the number of outreach and educational activities conducted, and number of clients who have participated in those activities.

Impediment 5: Higher incidence of predatory style loans for American Indian borrowers. Just as American Indian loan applicants were turned down more frequently for home purchase loans, American Indian borrowers were issued predatory style loans at a rate of 26.8 percent from 2004 through 2012, well above the average rate of 11.5 percent.

Action 5.1: Support partnerships that enhance outreach and education for American Indian homebuyers through educational forums, credit counseling and home purchase training.

Measurable Objective 5.1: Maintain a record of the number of outreach and educational activities conducted, and number of clients who have participated in those activities.

Public Sector Impediments, Suggested Actions, and Measurable Objectives

Impediment 1: Limited knowledge of the fair housing infrastructure. Few survey respondents were aware of the entities that make up the fair housing infrastructure in the state and the fair housing testing being completed in the

state. When asked to assess current levels of fair housing testing, most responded that there was too little information or professed to not know well enough to respond. Others in the survey indicated that there were no local entities to which they could turn for fair housing assistance.

Action 1.1: Encourage partnerships to support the fair housing infrastructure through a network of organizations knowledgeable of local fair housing barriers in Montana and to encourage creation of an additional Fair Housing participant specific to Native Programs.

Measurable Objective 1.1: Maintain record of correspondence with partners regarding the availability of fair housing organizations in the state.

Action 1.2: Support the identification and analysis of the relationship between funded projects and identified impediments.

Measurable Objective 1.2: Create a qualitative and quantitative analysis of sub-grantees within program application guidelines and final closeout reviews of funded projects to obligate sub-grantees to review proposed projects in the context of the AI.

Impediment 2: Insufficient outreach and education. As noted previously, survey respondents identified lack of knowledge or understanding of fair housing law as the most prevalent impediment to fair housing choice in both private and public sector housing contexts. In addition, 41.3 percent of survey respondents were unaware of any educational or training opportunities to learn about fair housing laws, and 40 percent of respondents felt that current levels of fair housing outreach and education are insufficient.

Action 2.1: Support partnerships that hold annual public meetings and other outreach activities pertaining to fair housing and affirmatively furthering fair housing, and broadcast meetings statewide using internet and phone capabilities for meetings.

Measurable Objective 2.1: Maintain a record of the meetings, presentation materials for the meetings, and marketing materials used to publicize those meetings.

Action 2.2: Support the creation and distribution of fair housing flyers and informational brochures to grantees, applicants, and the general public.

Measurable Objective 2.2: Maintain a record of the number of such materials printed and/or distributed.

Action 2.3: Support the identification of, and analysis of, the relationship between funded projects and identified impediments.

Measurable Objective 2.3: Create a qualitative and quantitative analysis of sub-grantees within program application guidelines and final closeout reviews of funded projects to obligate sub-grantees to review proposed projects in the context of the AI.

Impediment 3: Presence of “Not In My Back Yard” (NIMBYism). This impediment was identified through review of the Fair Housing hearing, the Land Use Survey and 2014 Fair Housing Survey. This is a method to discourage certain types of housing to be developed in a locale.

Action 3.1: Support public meetings and other outreach activities pertaining to affirmatively furthering fair housing, and broadcast these statewide using internet and phone capabilities for meetings.

Measurable Objective 3.1: Maintain a record of the meetings, presentation materials for the meetings, and marketing materials used to publicize those meetings.

Action 3.2: Engage and support partnerships that provide outreach to and train prospective grantees and units of local government on how to affirmatively further fair housing.

Measurable Objective 3.2: Maintain a record of the meetings and trainings, presentation materials for the meetings, and recruitment materials used to solicit participation in the trainings and meetings.

Impediment 4: Some units of local government lack sufficient understanding of the responsibilities to affirmatively further fair housing. This particular impediment was identified in the 2014 Fair Housing Survey, the Land Use Survey, and from input at the Fair Housing hearing. It represents a composite of several inefficiencies in the public sector of Montana's communities.

Action 4.1: Support efforts to reach out and to educate prospective grantees about fair housing and the responsibilities to affirmatively further fair housing.

Measurable Objective 4.1: Maintain a record of the number of outreach and education actions taken throughout the year.

Action 4.2: Sponsor or co-sponsor events during Fair Housing Month and throughout the year.

Action 4.3: Support the creation of fair housing practices that are considered to be 'best practices' for distribution to grantees and units of local government.

Measurable Objective 4.2: Distribute recommended list of best practices and a list of the entities to which the document was provided.

Action 4.4: Support the identification of, and analysis of, the relationship between funded projects and identified impediments.

Measurable Objective 4.3: Create a qualitative and quantitative analysis of sub-grantees within program application guidelines and final closeout reviews of funded projects to obligate sub-grantees to review proposed projects in the context of the AI.

SECTION I. INTRODUCTION

Title VIII of the 1968 Civil Rights Act, also known as the Federal Fair Housing Act, made it illegal to discriminate in the buying, selling, or renting of housing based on a person's race, color, religion, or national origin. Sex was added as a protected class in the 1970s. In 1988, the Fair Housing Amendments Act added familial status and disability to the list, making a total of seven federally protected classes. Federal fair housing statutes are largely covered by the following three pieces of U.S. legislation:

1. The Fair Housing Act,
2. The Housing Amendments Act, and
3. The Americans with Disabilities Act.

The purpose of fair housing law is to protect a person's right to own, sell, purchase, or rent housing of his or her choice without fear of unlawful discrimination. The goal of fair housing law is to allow everyone equal access to housing.

A. Why Assess Fair Housing?

Provisions to affirmatively further fair housing are long-standing components of the U.S. Department of Housing and Urban Development's (HUD's) housing and community development programs. These provisions come from Section 808(e) (5) of the federal Fair Housing Act, which requires that the Secretary of HUD administer federal housing and urban development programs in a manner that affirmatively furthers fair housing.

In 1994, HUD published a rule consolidating plans for housing and community development programs into a single planning process. This action grouped the Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME), Emergency Shelter Grants (ESG)⁴, and Housing Opportunities for Persons with AIDS (HOPWA) programs into the Consolidated Plan for Housing and Community Development, which then created a single application cycle.

As a part of the consolidated planning process, states and communities that receive such funds as a formula allocation directly from HUD are required to submit to HUD certification that they are affirmatively furthering fair housing. This certification has three parts:

- Complete an Analysis of Impediments to Fair Housing Choice (AI),
- Take actions to overcome the effects of any impediments identified through the analysis, and
- Maintain records reflecting the analysis and actions taken.

In the *Fair Housing Planning Guide*, HUD notes that impediments to fair housing choice are:

- "Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status, or national origin which restrict housing choices or the availability of housing choices [and]
- Any actions, omissions, or decisions which have [this] effect."⁵

State governments have the right to enact fair housing laws that extend protected class status to groups that are not included in the federal FHA. Generally speaking, local governments have the same right, and may extend fair housing protections beyond what is provided for in State Fair Housing laws. In the case of Montana, Title 49, Chapter 2 of the State's code of laws extends protected class designations to those groups that are protected by the federal FHA along with additional protections based on marital status, creed, and age.⁶

B. Purpose of This Research

HUD interprets the broad objectives of affirmatively furthering fair housing certification to include:

- “Analyzing and working to eliminate housing discrimination in the jurisdiction;
- Promoting fair housing choice for all persons;
- Providing opportunities for racially and ethnically inclusive patterns of housing occupancy;
- Promoting housing that is physically accessible to, and usable by, all persons, particularly individuals with disabilities; and,
- Fostering compliance with the nondiscrimination provisions of the Fair Housing Act.”⁷

The objective of the 2014 AI process was to research, analyze, and identify prospective impediments to fair housing choice throughout the State of Montana. The goal of the completed AI is to suggest actions that the sponsoring jurisdiction can consider when working toward eliminating or mitigating the identified impediments.

C. Lead Agency

Commerce is the lead agency overseeing the development of *the 2015-2020 Analysis of Impediments to Fair Housing Choice in Montana*. Commerce administers the Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) Programs covered by this Plan, and the Montana Department of Public Health and Human Services (DPHHS) administers the Emergency Solutions Grant (ESG) Program and Montana’s cooperative partnership with North and South Dakota’s Housing Opportunities for Persons with AIDS (HOPWA) Program (“Tri-State Housing Environments for Living Positively,” or “Tri-State HELP”).

Commitment to Fair Housing

In accordance with the applicable statutes and regulations governing the Consolidated Plan, the state certifies that it will affirmatively further fair housing. This statement means that it has conducted an AI, will take appropriate actions to overcome the effects of any impediments identified through that analysis, and will maintain records that reflect the analysis and actions taken in this regard.

D. Geographic Scope of the Analysis

This AI addresses the status of fair housing in the State of Montana. Map I.1 (Appendix I), displays the Montana study area, as well as surrounding county boundaries, selected major highways, and census tract boundaries.

E. Research Methodology

The AI process involves a thorough examination of a variety of data sources related to housing and housing decisions. Some baseline secondary and quantitative data were drawn from the Census Bureau, including 2000 and 2010 Census counts, as well as American Community Survey data averages from 2008 through 2012. Data from these sources included population, personal income, poverty, housing units by tenure, cost burdens, and housing conditions. Other data were drawn from records provided by the Bureau of Labor Statistics, the Bureau of Economic Analysis, and a variety of other sources, and from responses to the Fair Housing survey conducted in 2014. The following narrative offers a brief description of other key data sources employed for the 2014 AI for the State of Montana.

Home Mortgage Disclosure Act Data

To examine possible fair housing issues in the home mortgage market, Home Mortgage Disclosure Act (HMDA) data were analyzed. Congress enacted the HMDA in 1975 and has since amended it several times. It is intended to provide the public with loan data that can be used to determine whether financial institutions are serving the housing credit needs of their communities and to assist in identifying possible discriminatory lending patterns. HMDA requires lenders to publicly disclose the race, ethnicity, and genders of mortgage applicants, along with loan application amounts, household income, the Census tract in which the home is located, and information concerning prospective lender actions related to the loan application. For this analysis, HMDA data from 2004 through 2012 were analyzed, with the measurement of denial rates by Census tract and by race and ethnicity of applicants the key research objectives. These data were also examined to identify the groups and geographic areas most likely to encounter higher denial rates and receive loans with unusually high interest rates.

Fair Housing Complaint Data

Housing complaint data were used to analyze discrimination in the renting and selling of housing. HUD provided fair housing complaint data for the state from 2004 through 2013. This information included the basis, or protected class pursuant to the complaint; the issue, or prospective discriminatory action pursuant to the grievance; and the closure status of the alleged fair housing infraction, which relates to the result of the fair housing investigation. The review of fair housing complaints from within the state allowed for inspection of the tone, the relative degree and frequency of certain types of unfair housing practices, and the degree to which complaints were found to be with cause. Analysis of complaint data focused on determining which protected classes may have been disproportionately impacted by housing discrimination based on the number of complaints, while acknowledging that many individuals may be reluctant to step forward with a fair housing complaint for fear of retaliation or similar repercussion.

F. Fair Housing Survey

HUD recommends that jurisdictions conduct a survey during the AI process to gather public input about perceived impediments to fair housing choice. The State of Montana elected to utilize a survey instrument as a means to encourage public input in the AI process.

The survey targeted individuals involved in the housing arena, although anyone was allowed to complete the survey. In addition to gathering data, this survey was utilized to help promote public involvement throughout the AI process.

The survey was designed to address a wide variety of issues related to fair housing and affirmatively furthering fair housing in Montana. If limited input on a particular topic was received, it was assumed that stakeholders generally did not view the issue as one of high pervasiveness or impact. This does not mean that the issue was nonexistent in the state, but rather that there was no widespread perception of its prevalence as gauged by survey participants. The following narrative summarizes key survey themes and data that were addressed in the survey instrument.

Federal, State, and Local Fair Housing Laws

The first section of the survey asked respondents to address a number of questions related to fair housing laws, including assessment of their familiarity with and understanding of these laws, knowledge of classes of persons protected by these laws, the process for filing fair housing complaints, and an inquiry into whether or not fair housing laws should be changed.

Fair Housing Activities

The second section of the survey evaluated stakeholders' awareness of and participation in fair housing activities in the state, including outreach activities such as trainings and seminars, as well as monitoring and enforcement activities such as fair housing testing exercises.

Barriers to Fair Housing Choice in the Private Sector

This section addressed fair housing in the private housing sector of Montana and offered a series of two-part questions. The first part asked respondents to indicate awareness of questionable practices or barriers to fair housing choice in a variety of private sector industries, and the second part requested a narrative description of these questionable practices or concerns if an affirmative response was received. The specific areas of the private sector that respondents were asked to examine included the:

- Rental housing market,
- Real estate industry,
- Mortgage and home lending industries,
- Housing construction or accessible housing design fields,
- Home insurance industry,
- Home appraisal industry, and
- Any other housing services.

The use of open-ended questions allowed respondents to address any number of concerns such as redlining, neighborhood issues, lease provisions, steering, substandard rental housing, occupancy rules, and other fair housing issues in the private housing sector of the state.

Fair Housing in the Public Sector

In a manner similar to the previous section, respondents were asked to offer insight into their awareness of questionable practices or barriers to fair housing in the public sector. A list of areas within the public sector was provided, and respondents were asked first to specify their awareness of fair housing issues within each area. If they were aware of any fair housing issues, they were asked to further describe these issues in a narrative fashion. Respondents were asked to identify fair housing issues within the following public sector areas related to housing:

- Land use policies,
- Zoning laws,
- Occupancy standards or health and safety codes,
- Property tax policies,
- Permitting processes,
- Housing construction standards,
- Neighborhood or community development policies, and
- Any other public administrative actions or regulations.

The questions in this section were used to identify fair housing issues in the state regarding zoning, building codes, accessibility compliance, subdivision regulations, displacement issues, development practices, residency requirements, property tax policies, land use policies, and NIMBYism⁸.

Additional Questions

Finally, respondents were asked about their awareness of any local fair housing plans or specific geographic areas of the state with fair housing problems. Respondents were also asked to leave additional comments.

Land Use Survey

Communities throughout the State were selected to participate in an informal and confidential survey pertaining to local land use policies and practices as they relate to defining a family, a dwelling unit, ways that the disabled may request a variance, and if the community has formally incorporated any fair housing policies or practices.

Research Conclusions

The final list of impediments to fair housing choice for Montana was drawn from all quantitative, qualitative, and public input sources, and was based on HUD's definition of an impediment to fair housing choice as any action, omission, or decision that affects housing choice because of protected class status. The determination of qualification as an impediment was derived from the frequency and severity of occurrences drawn from quantitative and qualitative data evaluation and findings.

Public Involvement

This section discusses analysis of fair housing in areas of the State of Montana as gathered from various public involvement efforts conducted as part of the AI process. Public involvement feedback is a valuable source of qualitative data about impediments, but, as with any data source, citizen comments alone do not necessarily prove the existence of statewide impediments to fair housing choice. However, survey and hearing comments that support findings from other parts of the analysis reinforce findings from other data sources concerning impediments to fair housing choice.

SECTION II. SOCIO-ECONOMIC CONTEXT

This section presents demographic, economic, and housing information collected from the Census Bureau, the Bureau of Economic Analysis, the Bureau of Labor Statistics, and other sources. Data were used to analyze a broad range of socio-economic characteristics, including population growth, race, ethnicity, disability, employment, poverty, and housing trends. These data are also available by Census tract, and are shown in geographic maps. Ultimately, the information presented in this section helps illustrate the underlying conditions that shape housing market behavior and housing choice in the State of Montana by presenting the demographic, economic, and housing stock context.

To supplement 2000 and 2010 Census data, information for this analysis was also gathered from the Census Bureau's American Community Survey (ACS). The ACS data cover similar topics to the decennial counts but include data not appearing in the 2010 Census, such as household income and poverty. The key difference of these datasets is that ACS data represent a five-year average of annual data estimates as opposed to a point-in-time 100 percent count; the ACS data reported herein span the years from 2008 through 2012. The ACS figures are not directly comparable to decennial Census counts because they do not account for certain population groups such as the homeless and because they are based on estimates rather than counts of the population. However, percentage distributions from the ACS data can be compared to distributions from the 2000 and 2010 Censuses.

A. Demographics

Review of demographic and economic data establishes the context for the analysis of the environment in which housing choices are made. These data summarize not only the protected class populations, but characteristics of the total population for the areas of Montana, as well as the outcome of housing location choices. These data help to address whether over-concentrations of protected-class individuals exist, and if so, which areas of the state are most affected. Note that high concentrations of protected class populations do not necessarily imply impediments to fair housing choice, but may represent the results of impediments identified in other data.

Population Dynamics

Table II.1 presents population counts in the State of Montana, as drawn from the 2000 and 2010 Censuses and intercensal estimates for 2001 through 2009 and 2011 through 2013. According to these counts and estimates, population in non-entitlement areas of the state grew from 698,605 persons in 2000 to an estimated 777,633 in 2013, or by 11.3 percent. Intercensal population estimates suggest that growth in the population of the state accelerated in the late 2000s.

Population by Age

When the population is considered by age group, residents 35 to 54 years of age were observed to account for the largest percentage of Montana residents in both 2000 and 2010, as shown in Table II.2. However, this group declined by 6 percent between Censuses and accounted for 27.1 percent of the population in 2010, down from 31.4 percent in 2000. The same was true of residents aged 5 to 19 years, which represented the second largest age cohort in both Census counts. By 2010, the share of residents in this cohort had fallen to 19.4 percent from 23.1 percent in 2000. By contrast, residents aged 55 to 64 increased substantially in number, and came to account for nearly 15 percent of the total population in 2000. There were also considerable increases in the number of residents aged less than 5 years, between 20 and 34 years of age, and over the age of 63.

Table II.1
Census and Intercensal Population Estimates
 Areas of Montana
 2000, 2010 Census and Intercensal Estimates

Year	Estimate
Census 2000	698,605
July 2001 Est.	698,303
July 2002 Est.	701,177
July 2003 Est.	707,543
July 2004 Est.	715,975
July 2005 Est.	723,415
July 2006 Est.	733,340
July 2007 Est.	742,795
July 2008 Est.	751,215
July 2009 Est.	756,444
Census 2010	759,952
July 2011 Est.	765,457
July 2012 Est.	770,880
July 2013 Est.	777,633
Change 00-13	11.30%

Table II.2
Population by Age
 Area of Montana
 2000 & 2010 Census SF1 Data

Age	2000 Census		2010 Census		% Change 00-10
	Population	% of Total	Population	% of Total	
Under 5	42,318	6.1%	47,376	6.2%	12.0%
5 to 19	161,035	23.1%	147,726	19.4%	-8.3%
20 to 24	39,461	5.6%	45,163	5.9%	14.4%
25 to 34	75,664	10.8%	87,210	11.5%	15.3%
35 to 54	219,142	31.4%	206,024	27.1%	-6.0%
55 to 64	68,195	9.8%	112,128	14.8%	64.4%
65 or Older	92,790	13.3%	114,325	15.0%	23.2%
Total	698,605	100.0%	759,952	100.0%	8.8%

The elderly cohort, composed of residents aged 65 and above, grew by 23.2 percent between 2000 and 2010, as shown in Table II.3. Residents at the younger end of this cohort contributed substantially to this growth, as the number of residents aged 65 to 66 grew by 51.9 percent and the number of those aged 67 to 69 years grew by 42.5 percent. However, there was also considerable growth in the number of residents aged 85 and older. While all other cohorts grew during this time, all of them did so at a rate that was below average for the cohort of persons aged 65 and older.

Table II.3
Elderly Population by Age
 Area of Montana
 2000 & 2010 Census SF1 Data

Age	2000 Census		2010 Census		% Change 00-10
	Population	% of Total	Population	% of Total	
65 to 66	10,554	11.4%	16,029	14.0%	51.9%
67 to 69	15,190	16.4%	21,646	18.9%	42.5%
70 to 74	23,218	25.0%	27,254	23.8%	17.4%
75 to 79	18,791	20.3%	19,753	17.3%	5.1%
80 to 84	13,747	14.8%	15,175	13.3%	10.4%
85 or Older	11,290	12.2%	14,468	12.7%	28.1%
Total	92,790	100.0%	114,325	100.0%	23.2%

Population by Race and Ethnicity

The State of Montana experienced a subtle shift in its racial and ethnic composition between 2000 and 2010, as shown in Table II.4. In both years, the white population represented the largest racial group in Montana. However, due to a slow rate of growth in the intervening years, white residents accounted for a smaller share of the population at the end of the decade, falling from 90.2 percent in 2000 to 89.3 percent in 2010. The black population increased by 53.8 percent over the decade, but still accounted for less than half a percent of the total population in 2010. The rate of growth for the American Indian population was around the average rate of 8.8 percent; this group accounted for 7 percent of the population in both Censuses.

The geographic distribution of racial and ethnic minorities can vary significantly throughout a community. The U.S. Department of Housing and Urban Development (HUD) has determined that an area demonstrates a disproportionate share of a population when the percentage of that population is 10 percentage points or more above the study area average. For example, the Hispanic population represented 2.5 percent of the total population of Montana in 2010. Therefore, any area in the State in which Hispanic residents accounted for more than 12.5 percent of the population was considered to hold a disproportionate share of Hispanic residents.

Table II.4
Population by Race and Ethnicity

Area of Montana
2000 & 2010 Census SF1 Data

Race	2000 Census		2010 Census		% Change 00–10
	Population	% of Total	Population	% of Total	
White	630,307	90.2%	678,349	89.3%	7.6%
Black	1,450	.2%	2,230	.3%	53.8%
American Indian	48,751	7.0%	53,156	7.0%	9.0%
Asian	2,970	.4%	4,146	.5%	39.6%
Native Hawaiian/ Pacific Islander	326	.0%	430	.1%	31.9%
Other	3,384	.5%	3,809	.5%	12.6%
Two or More Races	11,417	1.6%	17,832	2.3%	56.2%
Total	698,605	100.0%	759,952	100.0%	8.8%
Non-Hispanic	686,640	98.3%	740,764	97.5%	7.9%
Hispanic	11,965	1.7%	19,188	2.5%	60.4%

An analysis of the racial and ethnic spatial distribution was conducted by calculating race or ethnicity as the percentage of total population per Census tract and then plotting the data on a geographic map by Census tract. For the purposes of this AI, maps were produced for several racial and ethnic groups based on both 2000 and 2010 Census data in order to examine how the concentrations of these populations changed over time.

Map II.1 (Appendix I) shows that in 2000 the American Indian population in Montana was disproportionately concentrated in areas within and around tribal reservation boundaries. In these areas, American Indian residents accounted for as much as 97.5 percent of the population. These residents accounted for 7 percent of the population in all areas of the state in 2000, a figure that remained unchanged by 2010.

The distribution of the population in the state in 2010 also remained similar to what it had been in 2000, as American Indian residents remained concentrated in and around tribal reservation areas, as shown in Map II.2 (Appendix I). However, there was a higher concentration of American Indian residents in Havre in 2010 than there had been in 2000.

The distribution of the Hispanic population, at the time of the 2000 Census, is presented in Map II.3 (Appendix I). In that year, the population was observed to be disproportionately concentrated in Census tracts in the southern and western portions of the state, along with a handful of Census tracts near the northern and western borders. The highest concentration of Hispanic residents in that year was observed in a small tract to the immediate southeast of Billings, where 21.9 percent of the population was Hispanic. The distribution of the population changed very little

between 2000 and 2010, even as the population grew both in size and as a share of the overall population, as shown in Map II.4 (Appendix I).

Disability Status

Tables II.5 and II.6 present data on disability rates in 2000 and 2012, respectively. The Census Bureau defines disability as a lasting physical, mental, or emotional condition that makes it difficult for a person to conduct daily activities of living or impedes him or her from being able to go outside the home alone or to work. Among all persons aged 5 years or older, 17.3 percent were living with disabilities in Montana in 2000, below the 19.3 percent national disability rate at that time⁹. Residents with disabilities accounted for 13.2 percent of the population in 2012, according to five-year ACS estimates from that year, though due to changes to the ACS questionnaire in 2008 it is impossible to state with certainty whether, or how much, the disability rate declined during that time. The distribution of the population with disabilities in 2000 is presented in Map II.5 (Appendix I). As shown, tracts with above- average shares of persons with disabilities were distributed throughout the state, though there was some tendency toward the concentration of these units in western Census tracts.

Table II.5
Disability by Age
Non-Entitlement Area of Montana
2000 Census SF3 Data

Age	Total	
	Disabled Population	Disability Rate
5 to 15	6,037	5.20%
16 to 64	71,166	16.10%
65 and older	34,313	39.10%
Total	111,516	17.30%

Table II.6
Disability by Age
Area of Montana
2012 Five-Year ACS Data

Age	Male		Female		Total	
	Disabled Population	Disability Rate	Disabled Population	Disability Rate	Disabled Population	Disability Rate
Under 5	155	0.70%	126	0.60%	281	0.60%
5 to 17	3,740	5.80%	2,599	4.20%	6,339	5.00%
18 to 34	5,434	7.00%	3,746	5.20%	9,180	6.10%
35 to 64	22,869	14.60%	18,633	11.80%	41,502	13.20%
65 to 74	10,108	30.70%	7,033	22.00%	17,141	26.40%
75 and older	11,541	53.80%	12,935	49.90%	24,476	51.60%
Total	53,847	14.30%	45,072	12.10%	98,919	13.20%

B. Economics

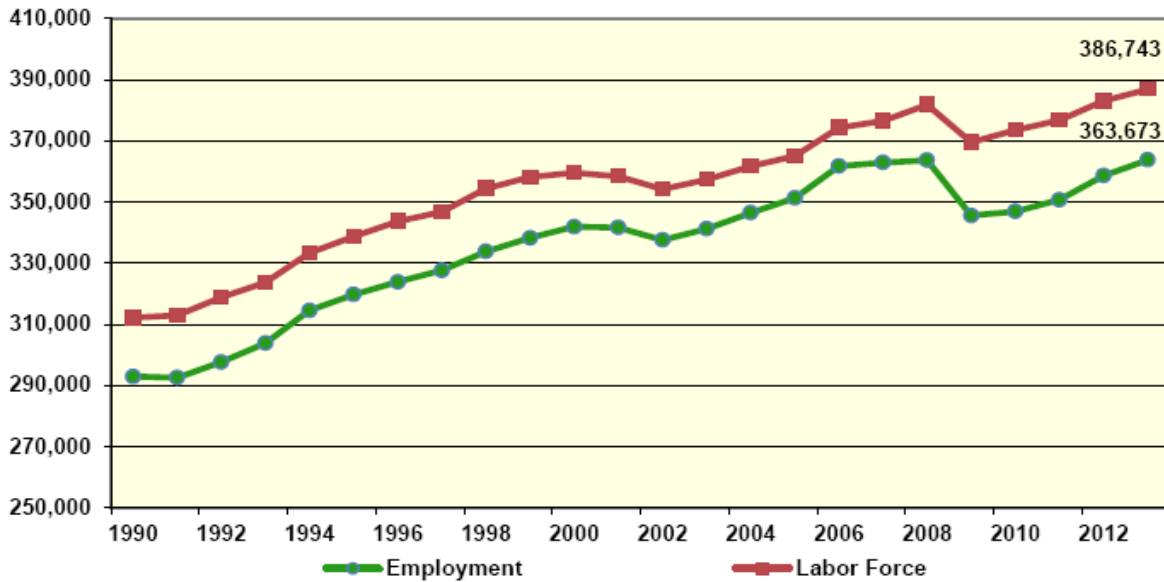
Data indicating the size and dynamics of Montana’s job markets, workforce, incomes, and persons in poverty provide essential contextual background and indicate the potential buying power or other limitations of state residents when making a housing choice. A review of the state’s residents in such a context is presented in the following information.

Labor Force and Employment

Data regarding the labor force, defined as the total number of persons working or looking for work and gathered from the Bureau of Labor Statistics (BLS), can be segmented by city for cities of 25,000 or more but are not available for smaller communities and CDPs. Employment figures for the State of Montana from 1990 to 2013, presented in Figure II.1, show that employment and the size of the labor force grew steadily throughout most of this period in spite of a

moderate decline in both beginning in 2000 and a sharper decline between 2008 and 2009. Since 2009, growth in employment and the size of the labor force has been steady.

Figure II.1
Employment and Labor Force
 Areas of Montana
 1990-2013 BLS Data



The unemployment rate is based on the difference between the number of people in the labor force and the number of people employed. As shown in Figure II.2, the unemployment rate in areas of Montana fell between 1992 and 2006, and though there were minor fluctuations, this downward trend was relatively steady during that time. In 2007, the unemployment rate grew slightly as growth in the number of employed fell behind growth in the labor force. This uptick in unemployment was followed by a 3-year spike in the unemployment rate which coincided with the global recession of the late 2000s. The unemployment rate rose to 7.1 in 2010, but began to fall thereafter. By 2012, 6.4 percent of workers in Montana’s areas were unemployed.

More recent monthly unemployment rate data are presented in Figure II.3. As shown, the unemployment rate in Montana increased after 2008 but fluctuated between 2009 and 2012, ranging from 4.2 to 8.4 percent. Some seasonal employment changes were seen in the winter and early summer months of most years.

Figure II.2
Unemployment Rate
 Areas of Montana
 1990-2013 BLS Data

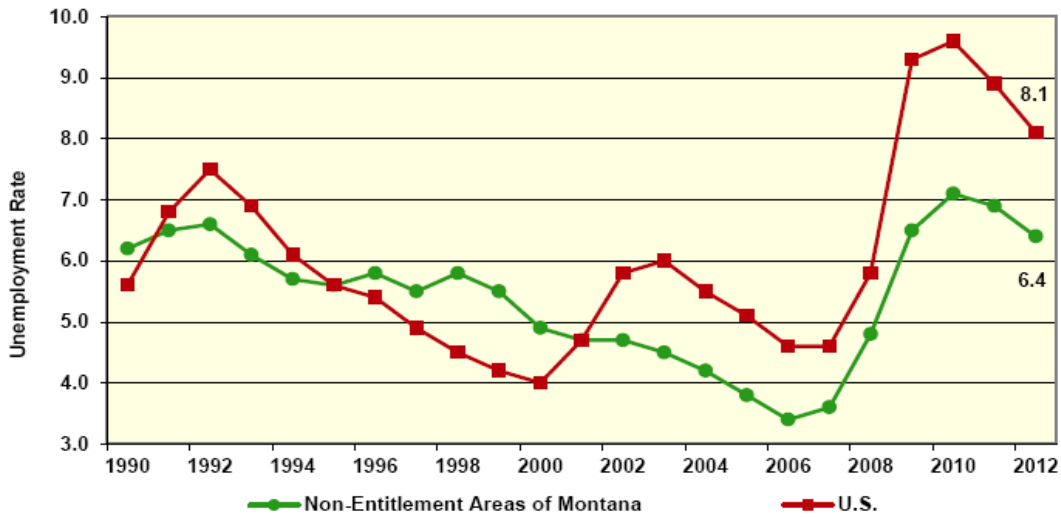
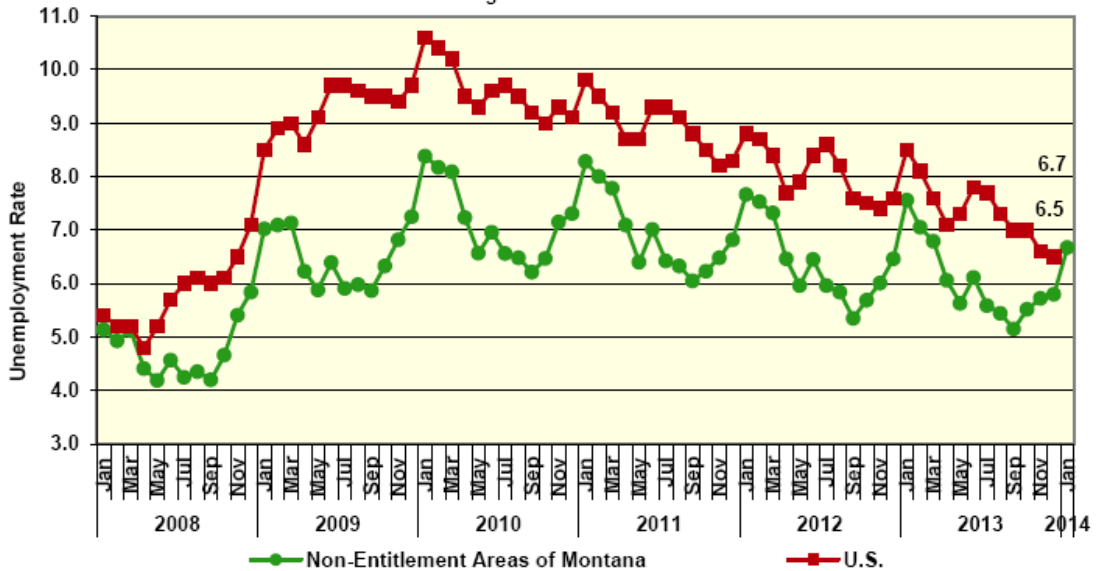


Figure II.3
Monthly Unemployment Rate
 Areas of Montana
 2008-August 2012 BLS Data

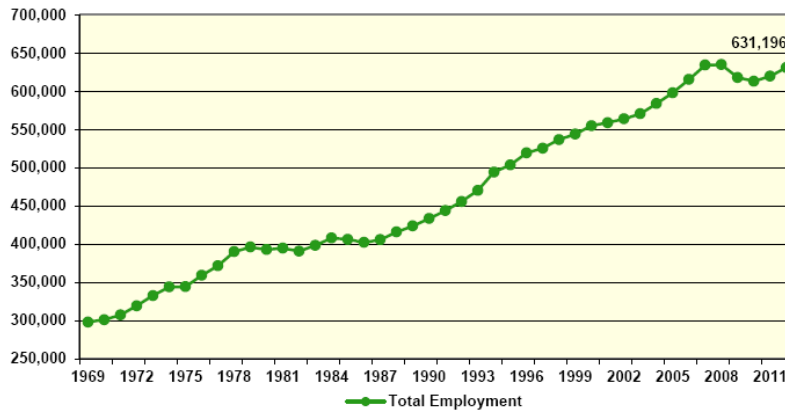


Full- and Part-Time Employment and Earnings

The Bureau of Economic Analysis (BEA) provides an alternate view of employment: a count of both full- and part-time jobs¹⁰. As shown in Figure II.4, the total number of full- and part-time jobs in Montana more than doubled from around 300,000 jobs in 1969 to over 630,000 in 2008. During that time, the overall trend in the number of jobs was positive, though it was punctuated by several periods of stagnation, as well as a period of moderate decline between 1984 and 1987. After 2008, the number of full- and part-time jobs in the state fell by more than 20,000 jobs in two years. However, following 2010 the total number of jobs in the state began to rise, and stood at 631,196 in 2012.

Figure II.4
Full- and Part-Time Employment

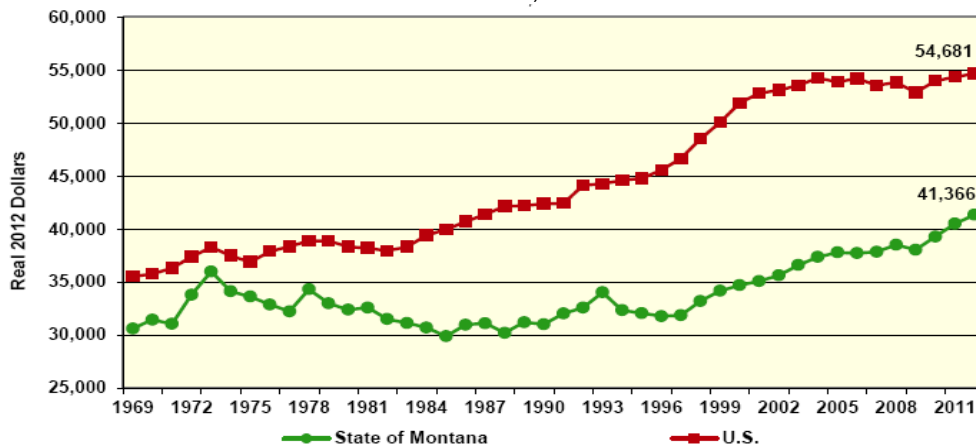
State of Montana
 1969-2012 BEA Data



When compared with the U.S. as a whole, Montana employment data shows the amount of money that the average worker earned at his or her job, in real 2012 earnings, grew very little between 1969 and 1997, and this figure was subject to considerable fluctuation during that time, as shown in Figure II.5. However, when looking at the same comparative data, after 1997 real average earnings per job—defined as the total earnings¹¹ from employment divided by the total number of jobs in areas of Montana—grew steadily through the late 2000s. Though real earnings per job fell slightly in 2009, the impact of the recession on real earnings was not as pronounced as its impact on employment. Growth in real average earnings per job resumed in 2010 and has continued steadily.

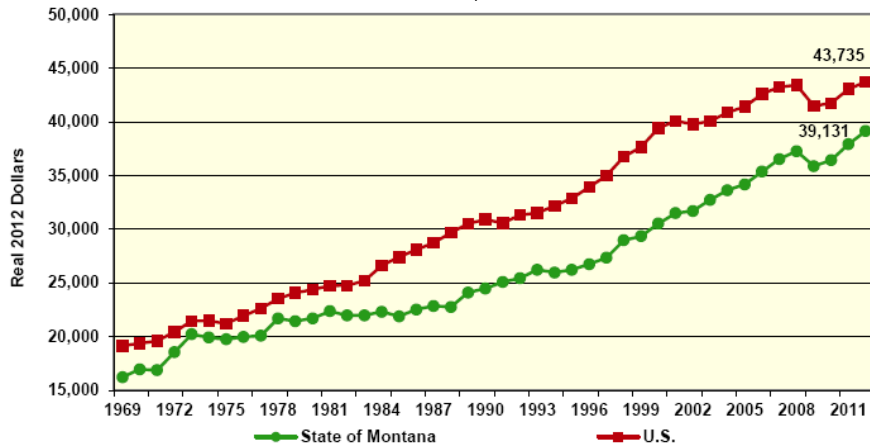
Figure II.5
Real Average Earnings per Job

State of Montana
 1969-2012 BEA Data, 2012 Dollars



Unlike real average earnings per job, real average per capita income (PCI) has generally been growing steadily since 1969, as shown in Figure II.6, consistent with national figures. Real PCI in areas of Montana, which includes wages; transfer payments; and property income such as dividends, interest, and rents, grew from \$16,205 to \$37,263, in 2012 dollars, between 1969 and 2008. Real PCI dropped by around \$1,400 in 2009, though it has since rebounded. By 2012, real PCI in areas of Montana stood at \$39,131.

Figure II.6
Real Average per Capita Income
 State of Montana
 1969-2012 BEA Data, 2012 Dollars



Household Income

Table II.7 presents the number of households in areas of the State of Montana by income range, as derived from the 2000 Census count and the 2012 five-year ACS estimates. In 2000 19.8 percent of households had incomes under \$15,000, and an additional 8.6 percent had incomes between \$15,000 and \$24,999. More recent ACS data showed that the percentage of households with incomes of \$100,000 or above increased— from 5.4 percent in 2000 to 14.8 percent by 2012. The share of households with incomes between \$75,000 and \$99,000 per year also increased, from 6.4 to 12.3 percent, as did the share of households with incomes between \$50,000 and \$74,999. The share of households at all other income levels fell between 2000 and 2012, indicating a shift toward higher income households during that time period. This shift is illustrated in Figure II.7.

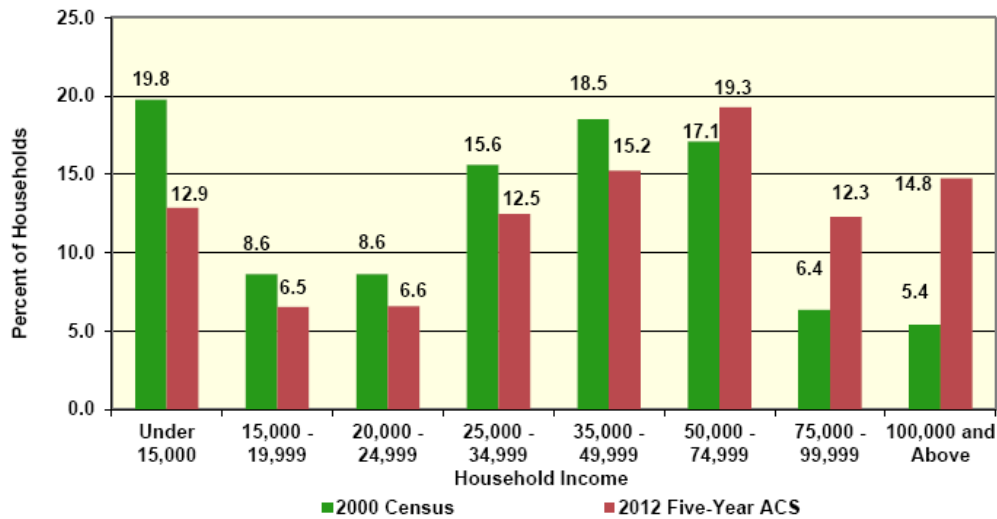
Table II.7
Households by Income

Areas of Montana
 2000 Census SF3 & 2012 Five-Year ACS Data

Income	2000 Census		2012 Five-Year ACS	
	Households	% of Total	Households	% of Total
Less than \$15,000	54,133	19.8%	39,611	12.9%
\$15,000 to \$19,999	23,613	8.6%	20,100	6.5%
\$20,000 to \$24,999	23,596	8.6%	20,231	6.6%
\$25,000 to \$34,999	42,723	15.6%	38,383	12.5%
\$35,000 to \$49,999	50,710	18.5%	46,904	15.2%
\$50,000 to \$74,999	46,792	17.1%	59,385	19.3%
\$75,000 to \$99,999	17,401	6.4%	37,743	12.3%
\$100,000 to More	14,807	5.4%	45,406	14.8%
Total	273775	100%	307,763	100%

Figure II.7
Households by Income

Areas of Montana
2000 Census SF3 & 2012 Five-Year ACS Data



Poverty

The Census Bureau uses a set of income thresholds that vary by family size and composition to determine poverty status. If a family’s total income is less than the threshold for its size, then that family, and every individual in it, is considered poor. The poverty thresholds do not vary geographically, but they are updated annually for inflation using the Consumer Price Index. The official poverty definition counts income before taxes and does not include capital gains and non-cash benefits such as public housing, Medicaid, and food stamps.

The poverty rate in Montana stood at 14.5 percent in 2000, with 99,261 persons considered to be living in poverty, as shown in Table II.8. Nearly 10,895 children aged 6 and below were counted as living in poverty at that time, in addition to over 8,190 persons aged 65 and older. The 2008 to 2012 ACS data showed that poverty in the state fell to 14.3 percent by 2012.

Table II.8
Poverty by Age

Area of Montana
2000 Census SF3 & 2012 Five-Year ACS Data

Age	2000 Census		2012 Five-Year ACS	
	Persons in Poverty	% of Total	Persons in Poverty	% of Total
Under 6	10,895	11%	12,577	11.8%
6 to 17	23,183	23.4%	20,580	19.3%
18 to 64	56,993	57.4%	63,876	60%
65 or Older	8,190	8.3%	94,68	8.9%
Total	99,261	100%	106,501	100%
Poverty Rate	14.5%		14.3%	

Poverty was not spread evenly throughout the State, as some Census tracts had much higher rates of poverty than others. Map II.6 (Appendix I) presents the poverty rates in 2000 geographically. Census tracts with disproportionate shares of persons living in poverty tended to be concentrated in and around tribal reservation areas, as can be shown through comparison of this map with Map II.1 (Appendix I) detailing the distribution of the American Indian population. The highest rate of poverty was observed in a small Census tract in the Fort Peck Reservation— however,

this tract only had a population of five residents. The next highest rate was observed in a more populous tract near Rocky Boy’s Reservation, where more than half of all residents were living in poverty in 2000.

By 2012, Census tracts with relatively high concentrations of poverty tended to be located in and around tribal reservation areas, as they had been in 2000. Map II.7 (Appendix I) shows the distribution of residents living in poverty in 2012, which accounted for 14.3 percent of residents in all areas of the state. In that year between 38 and 51.4 percent of the population was living in poverty in large Census tracts on the Fort Belknap, Crow, and Northern Cheyenne Reservations, as well as in the town of Browning on the Blackfeet Reservation. However, a similar poverty rate was also observed in a Census tract in Anaconda-Deer Lodge County and in areas in Gallatin County along the southern Montana/Wyoming border.

C. Housing

Simple counts of housing by age, type, tenure, and other characteristics form the basis for the housing stock background, suggesting the available housing from which residents of Montana have to choose. Examination of households, on the other hand, shows how residents use the available housing, and shows household size and housing problems such as incomplete plumbing and/or kitchen facilities. Review of housing costs reveals the markets in which housing consumers in the State can shop, and may suggest needs for certain populations.

Characteristics of the Housing Stock

According to the Decennial Census count, SF1 data, the number of housing units in the State of Montana increased by 17.4 percent between 2000 and 2010, from 322,865 to 378,972 units. During this time, the population of Montana increased by 8.8 percent, which indicates that housing production outpaced population growth at the state level.

Between 2000 and 2010, the number of occupied housing units increased by 14 percent as shown in Table II.9. This was less than the rate of growth for housing stock overall, and as a result the share of occupied housing units fell from 84.6 to 82.1 percent of all housing stock over the decade. Growth was particularly modest among owner-occupied units, which declined from 72 to 70.8 percent. Meanwhile, the number of renter-occupied housing units grew by 18.6 percent. However, the number of vacant housing units grew by 36.2 percent over the decade, which was substantially higher than the growth rate for the overall housing stock. Accordingly, the share of housing units in the state that were vacant grew from 15.4 to 17.9 percent over the decade.

Table II.9
Housing Units by Tenure
Area of Montana
2000 & 2010 Census SF1 Data

Tenure	2000 Census		2010 Census		Change 00–10
	Units	% of Total	Units	% of Total	
Occupied Housing Units	273,167	84.6%	311,280	82.1%	14.0%
Owner-Occupied	196,549	72.0%	220,437	70.8%	12.2%
Renter-Occupied	76,618	28.0%	90,843	29.2%	18.6%
Vacant Housing Units	49,698	15.4%	67,692	17.9%	36.2%
Total Housing Units	322,865	100.0%	378,972	100.0%	17.4%

Geographic areas with the highest percentages of owner-occupied units were largely confined to urban areas and the periphery of those urban areas, as shown in Map II.8 (Appendix I). More than 90 percent of housing units were occupied by their owners in Census tracts around the entitlement cities of Great Falls and Billings as well as the city of Helena. In addition, all of the Census tracts in which more than 85 percent of housing units were owner-occupied were located near urban areas, including Billings, Bozeman, Butte, and Helena. Though the highest concentrations of owner-occupied units were located in and around urban areas, there were areas with fewer, though still disproportionate, shares of owner-occupied units in large rural areas in the northern and eastern portions of the state,

as well as large tracts to the north of Missoula. Renter-occupied units tended to be concentrated in and around tribal reservation areas, as shown in Map II.9 (Appendix I).

Vacant Housing

The number of vacant housing units grew from 49,698 in 2000 to 67,692 in 2010 as shown in Table II.10. During this time, the number of vacant units available for rent increased by 6.2 percent. These units, which had accounted for 14.7 percent of overall vacant housing stock in 2000, represented 11.4 percent of vacant housing stock in 2010. The share of vacant units available for sale also fell during this time period, from 10 to 7.4 percent, as did the share of housing units that were rented or sold but unoccupied. Vacant units classified as “other vacant” did not represent one of the faster-growing types of vacant housing units, though they did represent more than one-fifth of all vacant units in both years. These units tend to be more problematic than other types of vacant housing units because they are not available to the marketplace. Where such units are grouped in close proximity to one another, a blighting influence may be created.

Table II.10
Disposition of Vacant Housing Units
 Area of Montana
 2000 & 2010 Census SF1 Data

Disposition	2000 Census		2010 Census		% Change 00–10
	Units	% of Total	Units	% of Total	
For Rent	7,290	14.7%	7,742	11.4%	6.20%
For Sale	4,967	10.0%	5,022	7.4%	1.11%
Rented or Sold, Not Occupied	2,225	4.5%	1,814	2.7%	-18.47%
For Seasonal, Recreational, or Occasional Use	23,838	48.0%	37,845	55.9%	58.76%
For Migrant Workers	248	0.5%	279	0.4%	12.50%
Other Vacant	11,130	22.4%	14,990	22.1%	34.68%
Total	49,698	100.0%	67,692	100.0%	36.2%

Though vacant units appeared in disproportionate concentrations in Census tracts throughout the state’s areas, the highest concentrations tended to be located in the western portion of the state, as shown in Map II.10 (Appendix I). The highest concentration of vacant units appeared in a Census tract in the northwest of the state on the Canadian border in which 83.6 percent of housing units were vacant. However, the population of this Census tract was very low, and therefore the high percentage of vacant units is accounted for by a relatively small number of housing units. Vacancy rates between 46.6 and 65 percent were observed in more populated tracts throughout the western part of the state, as well as in one Census tract partially encompassed by the Fort Peck Reservation in the east of the state. Tracts with lower, though still disproportionate, concentrations of vacant units were observed throughout the state. However, these still tended to be more concentrated in western Census tracts.

Household Size

The State of Montana experienced a modest shift toward smaller households in the period between 2000 and 2010, as shown in Table II.11. In 2000, one-person households accounted for 26 percent of all households and two-person households accounted for 36.4 percent. By 2010, these shares had grown to 28.5 and 38.4 percent respectively. Meanwhile, the share of households with three or more members fell between the Censuses, due to relatively low rates of growth in the number of households of each size or, in the case of four- and five-person households, a decrease in the number of households.

Table II.11
Households by Household Size

Area of Montana 2000 & 2010 Census SF1 Data

Size	2000 Census		2010 Census		% Change 00–10
	Households	% of Total	Households	% of Total	
One Person	70,969	26.0%	88,779	28.5%	25.1%
Two Persons	99,398	36.4%	119,662	38.4%	20.4%
Three Persons	40,607	14.9%	42,767	13.7%	5.3%
Four Persons	36,520	13.4%	34,141	11.0%	-6.5%
Five Persons	16,498	6.0%	16,158	5.2%	-2.1%
Six Persons	5,845	2.1%	6,130	2.0%	4.9%
Seven Persons or More	3,330	1.2%	3,643	1.2%	9.4%
Total	273,167	100.0%	311,280	100.0%	14.0%

Of the 323,134 housing units reported in Montana in the 2000 Census, 71.3 percent were single-family homes, as shown in Table II.12. An additional 16.5 percent were mobile home units, 5.4 percent of units were counted as apartments, 3.8 percent were tri- or four-plex units, and 2.7 percent were duplex units. By 2012 the percentages of single-family units, duplexes, tri- and four-plexes, and apartments had risen. Meanwhile, the share of mobile homes fell by nearly 4 percentage points over this time.¹²

Table II.12
Housing Units by Type

Area of Montana

2000 Census SF3 & 2012 Five-Year ACS Data

Unit Type	2000 Census		2012 Five-Year ACS	
	Units	% of Total	Units	% of Total
Single-Family	230,485	71.3%	280,850	74.4%
Duplex	8,566	2.7%	11,330	3.0%
Tri- or Four-Plex	12,123	3.8%	14,671	3.9%
Apartment	17,592	5.4%	22,164	5.9%
Mobile Home	53,186	16.5%	48,178	12.8%
Boat, RV, Van, Etc.	1,182	0.4%	409	0.1%
Total	323,134	100.0%	377,602	100.0%

Housing Problems

While the 2000 Census did not report significant details regarding the physical condition of housing units, some information can be derived from the SF3 data. These data relate to overcrowding, incomplete plumbing or kitchen facilities, and cost burdens. While these data were not collected during the 2010 Census, data were available for comparison from the 2008 to 2012 ACS averages.¹³

Overcrowding occurs when a housing unit has 1 to 1.5 persons per room, with severe overcrowding occurring in homes with 1.5 persons per room or more. At the time of the 2000 Census 2.2 percent of housing units were overcrowded and another 1.1 percent of households were severely overcrowded, as shown in Table II.13. Overcrowding was considerably more prevalent in renter occupied households than owner-occupied households. The incidence of overcrowding had decreased by 2012, when 1.4 percent of units were overcrowded and 0.6 percent was severely overcrowded.

Table II.13
Overcrowding and Severe Overcrowding

Area of Montana

2000 Census SF3 & 2012 Five-Year ACS Data

Data Source	No Overcrowding		Overcrowding		Severe Overcrowding		Total
	Households	% of Total	Households	% of Total	Households	% of Total	
Owner							
2000 Census	192,059	97.6%	3,227	1.6%	1,412	.7%	196,698
2011 Five-Year ACS	217,038	98.7%	2,256	1.0%	595	.3%	219,889
Renter							
2000 Census	72,370	94.3%	2,862	3.7%	1,536	2.0%	76,768
2011 Five-Year ACS	84,847	96.6%	1,926	2.2%	1,101	1.3%	87,874
Total							
2000 Census	264,429	96.7%	6,089	2.2%	2,948	1.1%	273,466
2011 Five-Year ACS	301,885	98.1%	4,182	1.4%	1,696	.6%	307,763

Incomplete plumbing or kitchen facilities are other indicators of potential housing problems. According to the Census Bureau, a housing unit is classified as lacking complete plumbing facilities when any of the following are not present: piped hot and cold water, a flush toilet, and a bathtub or shower. Likewise, a unit is categorized as deficient when any of the following are missing from the kitchen: a sink with piped hot and cold water, a range or cook top and oven, and a refrigerator.

At the time of the 2000 Census, a total of 273,466 housing units, or 0.9 percent of all units in the state, lacked complete plumbing facilities as shown in Table II.14. By 2012, the percentage of units with incomplete plumbing facilities dropped by 1 percentage point.

Table II.14
Households with Incomplete Plumbing Facilities

Area of Montana

2000 Census SF3 & 2012 Five-Year ACS Data

Households	2000 Census	2012 Five-Year ACS
With Complete Plumbing Facilities	271,077	305,253
Lacking Complete Plumbing Facilities	2,389	2,510
Total Households	273,466	307,763
Percent Lacking	.9%	0.8%

The shares of housing units with incomplete kitchen facilities increased slightly after 2000 as shown in Table II.1. These units, which accounted for 1.1 percent of housing units in 2000, represented 1.2 percent of housing units in the 2012 Five-Year ACS.

Table II.15
Households with Incomplete Kitchen Facilities

Area of Montana

2000 Census SF3 & 2012 Five-Year ACS Data

Households	2000 Census	2012 Five-Year ACS
With Complete Kitchen Facilities	270,497	304,075
Lacking Complete Kitchen Facilities	2,969	3,688
Total Households	273,466	307,763
Percent Lacking	1.1%	1.2%

The third type of housing problem reported in the 2000 Census was cost burden, which occurs when a household has gross housing costs that range from 30 to 49.9 percent of gross household income. Severe cost burden occurs when gross housing costs represent 50 percent or more of gross household income. For homeowners, gross housing costs include property taxes, insurance, energy payments, water and sewer service, and refuse collection. If the homeowner has a mortgage, the determination also includes principal and interest payments on the mortgage loan. For renters, this figure represents monthly rent plus utility charges.

Cost burdening impacted considerably more households in Montana than overcrowding or incomplete facilities as shown in Table II.16. In 2000, 15.2 percent of all households were cost burdened and 10 percent were severely cost burdened. By 2012, the share of cost burdened households had grown to 16.7 percent, while the share of severely cost-burdened households had grown to 12.2 percent. The prevalence of severe cost burdening increased considerably for both mortgagors and renters, from 10 to 14.1 percent in the case of mortgagors and from 14.2 to 17.4 percent in the case of renters. In both years, the problems of cost-burdening and severe cost-burdening fell more heavily on rental tenants than homeowners. A complete version of this table with data for all households is included in Appendix F.

Table II.16
Cost Burden and Severe Cost Burden by Tenure

Area of Montana
2000 Census & 2012 Five-Year ACS Data

Data Source	31%-50%		Above 50%		Total
	Households	% of Total	Households	% of Total	
Owner With a Mortgage					
2000 Census	14,367	18.8%	7,593	10.0%	76,220
2012 Five-Year ACS	26,347	21.3%	17,347	14.1%	123,464
Owner Without a Mortgage					
2000 Census	2,586	5.6%	1,662	3.6%	46,151
2012 Five-Year ACS	7,419	7.7%	4,856	5.0%	96,425
Renter					
2000 Census	12,574	17.6%	10,128	14.2%	71,316
2012 Five-Year ACS	17,595	20.0%	15,326	17.4%	87,874
Total					
2000 Census	29,527	15.2%	19,383	10.0%	193,687
2012 Five-Year ACS	51,361	16.7%	37,529	12.2%	307,763

Renters with a severe cost burden are at risk of homelessness. Cost-burdened renters who experience one financial setback often must choose between rent and food or health care for their families. Similarly, homeowners with a mortgage who have just one unforeseen financial constraint, such as temporary illness, divorce, or the loss of employment, may face foreclosure or bankruptcy. Furthermore, households that no longer have a mortgage yet still experience a severe cost burden may be unable to conduct periodic maintenance and repair of their homes, and in turn, may contribute to a dilapidation and blight problem. All three of these situations should be of concern to policymakers and program managers.

Housing Costs

Map II.11 (Appendix I) illustrates data on median contract rent prices in Montana from 2008 to 2012. During that time, housing units with relatively high rental prices were observed to be concentrated in Census tracts in and around urban areas of the state, including the entitlement cities, as well as around Helena, Bozeman, Hamilton, Whitefish, and Kalispell. Median rent prices ranged from \$727.01 to \$1,139 in large Census tracts in and around these cities. The highest median rental cost of \$1,728 was observed in a Census tract in Bozeman. By contrast, tracts with relatively low rental costs tended to be located in large, rural Census tracts, and there was a slight tendency for such tracts to be located in the eastern portion of the state.

Map II.12 (Appendix I) reveals that Census tracts with relatively high median home values were located in many of the areas that had higher median contract rent prices. Census tracts with median home values between \$336,700.01 and \$687,500 were observed in and around Bozeman, Missoula, Whitefish, and Kalispell. However, the highest home values were observed in a large Census tract on the northern border of the state, in which the median home value was

\$687,500. The trend toward the concentration of higher rental costs in the west of the state and lower costs in the east of the state, discussed above, was mirrored in the distribution of home values, though the trend was more pronounced in the case of median home values.

Summary

The population in areas of Montana grew by an estimated 11.3 percent between 2000 and 2013 and underwent several minor shifts during that time. In both the 2000 and 2010 Censuses, residents aged 35 to 54 years accounted for the largest share of the population; however, this share dropped by around 4 percentage points over the decade and these residents represented 27.1 percent of the population in 2010. The eldest cohort, comprising residents over the age of 65, grew more rapidly than the overall population and came to account for 15 percent of the population by 2010.

The racial and ethnic composition of the state also changed, albeit slightly. White residents accounted for the largest share of residents in both years; though this share slipped by 0.9 percentage points between the two Censuses, white residents still accounted for nearly nine-tenths of all residents in 2010. American Indian residents accounted for 7 percent of the population in both years, and tended to be disproportionately concentrated in and around tribal reservation areas in both years. The Hispanic population grew by 60.4 percent over the decade, and represented 2.5 percent of the population in 2010. Non-Hispanic residents accounted for 97.5 percent of the population in that same year. In 2000 and 2010, Hispanic residents made up an above-average share of the population in Census tracts in the south of the state.

Residents with disabilities accounted for 17.3 percent of the population in 2000. In that year, residents with disabilities were disproportionately concentrated in a large Census tract to the northwest of Missoula. By 2012, 13.2 percent of Montana residents were observed to be living with disabilities, though due to changes in the ACS and Census questionnaires in 2008, it is impossible to conclude with certainty that the share of disabled residents actually declined. The number of workers employed in areas of Montana grew steadily from 1991 to 2008, with the exception of a brief period from 2000 to 2002. After 2008, the number of workers employed in the state underwent a precipitous decline, dropping by over 18,000 in 2009. However, this decline reversed in the following year, and the number of employed persons slowly began to grow again. However, the unemployment rate continued to climb through 2010 as the growth in the labor force outpaced growth in the number of employed.

From 2008 through the beginning of 2014, the unemployment rate was subject to seasonal fluctuation as the unemployment rate peaked in the winter and summer months of each year. Data from the Bureau of Economic Analysis indicated that the total number of full- and part-time jobs grew steadily from 1986 to 2007, fell after 2008, and has recently begun to rise again.

Even as growth in the number of jobs in areas of Montana was steady for two decades after 1986, growth in real average earnings per job was subject to fluctuation. However, between 1998 and 2005 earnings per job rose steadily, though this growth slackened after that year. As had been the case with the employment figures cited above, earnings per job fell in 2009, though this decline was not as pronounced as in the case of employment. After 2009, earnings began to grow rapidly, and stood at \$41,366 in 2012.

A similar pattern was observed in trends in real per capita income (PCI), though growth in real PCI was steadier between the mid-1980s and 2008. Following a brief decline in 2009, real PCI grew by more than \$1,000 per year over the next three years, and stood at \$39,131 in 2012. At the same time, households experienced a shift toward higher incomes over the decade and the poverty rate slipped from 14.5 percent to 14.3 percent. The composition of the housing stock in areas also shifted as growth in the number of housing units outpaced growth in the population. Though the number of occupied housing units increased by 14 percent these units declined as a share of the overall housing stock as the number of vacant units grew by 36.2 percent. Growth in the number of vacant units dedicated to seasonal, recreational, or occasional use accounted for a substantial portion of the increase in vacant units overall, along with the considerable growth in the number of “other vacant” units.

Households tended to become smaller on average between 2000 and 2010 as the number of one- and two-person households increased by 25.1 and 20.4 percent, respectively. In addition, the shares of single-family, duplex, and apartment units grew between 2000 and 2012, while the share of mobile homes fell sharply. Fewer housing units were overcrowded by 2012, and fewer units had incomplete plumbing facilities. However, the share of units lacking complete kitchen facilities grew from 1.1 to 1.2 percent between 2000 and 2012. Five-Year ACS estimates from 2012 indicate that tracts with relatively high median contract rent prices tended to be clustered around urban areas of the state; including Kalispell, Helena, Great Falls, Bozeman, and Billings; as well as in the Bitterroot Valley. Tracts with relatively high median home values tended to be concentrated in these same areas.

SECTION III. FAIR HOUSING LAW, STUDY AND CASE REVIEW

As part of the AI process, existing fair housing laws, studies, cases, and other relevant materials were reviewed on a national and local scale. Results of this review are presented below.

A. Fair Housing Laws

Federal laws provide the backbone for U.S. fair housing regulations. While some laws have been previously discussed in this report, a brief list of laws related to fair housing, as defined on the U.S. Department of Housing and Urban Development's (HUD's) website.

Fair Housing Act. Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and persons securing custody of children under the age of 18), and handicap (disability).¹³

Title VIII was amended in 1988 (effective March 12, 1989) by the Fair Housing Amendments Act. In connection with prohibitions on discrimination against individuals with disabilities, the Act contains design and construction accessibility provisions for certain new multi-family dwellings developed for first occupancy on or after March 13, 1991.¹⁴

Title VI of the Civil Rights Act of 1964. Title VI prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance.

Section 504 of the Rehabilitation Act of 1973. Section 504 prohibits discrimination based on disability in any program or activity receiving federal financial assistance.

Section 109 of the Housing and Community Development Act of 1974. Section 109 prohibits discrimination on the basis of race, color, national origin, sex or religion in programs and activities receiving financial assistance from HUD's Community Development Block Grant Program.

Title II of the Americans with Disabilities Act of 1990. Title II prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities. HUD enforces Title II when it relates to state and local public housing, housing assistance and housing referrals.

Architectural Barriers Act of 1968. The Architectural Barriers Act requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 be accessible to and useable by handicapped persons.

Age Discrimination Act of 1975. The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.

Title IX of the Education Amendments Act of 1972. Title IX prohibits discrimination on the basis of sex in education programs or activities that receive federal financial assistance.

State Fair Housing Laws

In addition to federal law, citizens of Montana are also protected by Montana State Code, §49- 2-305: Montana Human Rights Law prohibits discrimination in housing choice on the basis of sex, marital status, race, creed, religion, age, familial status, physical or mental disability, color, or national origin.

B. Fair Housing Studies

In 2000, HUD released a publication entitled “Discrimination in Metropolitan Housing Markets,” which measured the prevalence of housing discrimination based on race and ethnicity in the U.S. This was the third nationwide effort to measure discrimination against minority home seekers since 1977. It was conducted in three phases.

Phase 1 – Black and Hispanic Populations

The study, based on 4,600 paired tests in 23 metropolitan cities in the U.S., found large decreases in the levels of discrimination against black and Hispanic home seekers between 1989 and 2000. In the rental markets, a moderate decrease was seen in discrimination toward black individuals, who experienced adverse treatment more often than white individuals, whereas the Hispanic population was more likely to face discrimination in the rental markets than its black and white counterparts. Many black and Hispanic home seekers were told that units were unavailable, although the same units were available to white home seekers, and the black and Hispanic populations were also shown and told about fewer units. In addition, Hispanic individuals were more likely in 2000 than in 1989 to be quoted a higher rent than white individuals who sought to rent the same unit.

Phase 2 – Asian and Pacific Islander Populations

This study, conducted in 2000 and 2001 and based on 889 paired tests in 11 metropolitan areas in the U.S., showed that Asian and Pacific Islander individuals who sought to rent a unit experienced adverse treatment more often than white individuals in 21.5 percent of tests, which was similar to the rate black and Hispanic individuals saw. The study also showed that Asian and Pacific Islander prospective homebuyers experienced adverse treatment more often than white prospective homebuyers 20.4 percent of the time, with discrimination occurring in the availability of housing, inspections, assistance with financing, and encouragement by agents.

Phase 3 –American Indian Population

The last phase of HUD’s nationwide effort to measure housing discrimination involved estimating the level of discrimination experienced by American Indian individuals in their search for housing in metropolitan areas across Minnesota, Montana, and New Mexico. The findings showed that the American Indian population experienced adverse treatments more often than white individuals in 28.5 percent of rental tests. White individuals were consistently told about advertised units, similar units, and more units than American Indian individuals with similar qualifications. The high level of discrimination experienced by the American Indian population in these areas surpassed rates seen by Hispanic, black, and Asian individuals in the metropolitan rental markets nationwide. ¹⁶

In April 2002, HUD released a national study that assessed public awareness of and support for fair housing law titled *How Much Do We Know?: Public Awareness of the Nation’s Fair Housing Laws*. The study found that only 50 percent of the population was able to identify most scenarios describing illegal conduct. In addition, 14 percent of the nationwide survey’s adult participants believed that they had experienced some form of housing discrimination in their lifetime. However, only 17 percent of those who had experienced housing discrimination had taken action to resolve the issue,

such as filing a fair housing complaint. Finally, two-thirds of all respondents said that they would vote for a fair housing law.^{16, 17, 18}

As a follow-up, HUD later released a study in February 2006 called *Do We Know More Now?: Trends in Public Knowledge, Support and Use of Fair Housing Law*. One aim of the study was to determine whether a nationwide media campaign had proven effective in increasing the public's awareness of housing discrimination, and another goal was to determine the public's desire to report such discrimination. Unfortunately, the study found that overall public knowledge of fair housing law did not improve between 2000 and 2005. As before, just half of the public knew the law regarding six or more illegal housing activities. The report showed that 17 percent of the study's adult participants experienced discrimination when seeking housing; however, after reviewing descriptions of the perceived discrimination, it was determined that only about 8 percent of the situations might be covered by the Fair Housing Act. Four out of five individuals who felt they had been discriminated against did not file a fair housing complaint, indicating that they felt it "wasn't worth it" or that it "wouldn't have helped." Others did not know where to complain, assumed it would cost too much, were too busy, or feared retaliation. One positive finding of the survey was that public support for fair housing law increased from 66 percent in 2000 to 73 percent in 2005.¹⁸

In 2004, the U.S. General Accounting Office's (GAO) released a report titled *Fair Housing: Opportunities to Improve HUD's Oversight and Management of the Enforcement Process*. The GAO report found that between 1996 and 2003, the median number of days required to complete fair housing complaint investigations was 259 for HUD's Fair Housing and Equal Opportunity Offices and 195 for Fair Housing Assistance Program (FHAP) agencies—far above the 100-day mandate. However, the report did find a higher percentage of investigations completed within that time limit. The GAO report also identified the following trends between 1996 and 2003:

- The number of fair housing complaints filed each year steadily increased since 1998. An increasing proportion of grievances alleged discrimination based on disability and a declining proportion alleged discrimination based on race, although race was still the most cited basis of housing discrimination;
- FHAP agencies conducted more fair housing investigations than Fair Housing and Equal Opportunity (FHEO) agencies over the eight-year period. The total number of investigations completed each year increased slightly after declining in 1997 and 1998; and
- Over this time period, an increasing percentage of investigations closed without finding reasonable cause to believe discrimination occurred. However, a declining percentage of investigations were resolved by the parties themselves or with help from FHEO or FHAP agencies.¹⁹

In 2006, the University of Southern California and Oregon State University collaborated to study rental discrimination and race. The universities responded to 1,115 advertisements regarding apartment vacancies in Los Angeles County and signed the bottom of each email with Tyrell Jackson, a traditionally black name; Patrick McDougall, a traditionally white name; or Said Al-Rahman, a traditionally Arab name. Analysis indicated that individuals who were perceived as black were four times more likely to be discouraged from viewing an apartment than persons perceived as white, and individuals considered to be Arab were three times more likely to be discouraged from viewing an apartment than individuals who appeared white. The analysis also noted that applicants perceived as black were more likely to receive negative responses, such as the apartment was no longer available for market rate or above market rate apartments. For example, only an email signed Tyrell Jackson received a reply that reiterated the apartment cost to ensure the apartment was within the applicant's price range. The study also analyzed the responses from private property owners versus corporate property owners, but found no statistical difference in the way the two groups responded to applicants of different races.²⁰

Released by the Poverty & Race Research Action Council in January 2008, *Residential Segregation and Housing Discrimination in the United States* asserts that many current governmental efforts to further fair housing actually result in furthering unfair housing practices across the U.S. This article suggests that fair housing efforts can cause residential segregation. For example, if the majority of public housing residents are non-white and most public housing accommodations are grouped in the same Census tracts, residential segregation is resultant. Similarly, many Section 8

voucher holders are racial or ethnic minorities, and most housing that accepts Section 8 vouchers is grouped in selected areas, which again results in residential segregation. The report offers recommendations to curb such residential segregation, including dispersing public housing developments throughout cities and communities and providing greater incentives for landlords with several properties to accept the vouchers.^{20, 21, 22}

Published in 2009 by the National Fair Housing Alliance, *For Rent: No Kids!: How Internet Housing Advertisements Perpetuate Discrimination* presented research on the prevalence of discriminatory housing advertisements on popular websites such as Craigslist. According to the study, while newspapers are prohibited from publishing discriminatory housing advertisements, no such law exists for websites like Craigslist, as they are considered interactive internet providers rather than publishers of content. As such, they are not held to the same legal standards as newspapers. While individual landlords who post discriminatory advertisements may be held responsible, there are no such standards for companies like Craigslist that post the discriminatory advertisements. Newspapers and other publishers of content are required to screen the advertisements they accept for publishing for content that could be seen as discriminatory. This may include phrases like “no children” or “Christian only,” which violate provisions of the Fair Housing Act that state families with children and religious individuals are federally protected groups.²¹

In May 2010, the National Fair Housing Alliance published a fair housing trends report, *A Step in the Right Direction*, which indicated that recent years have demonstrated forward movement in furthering fair housing. The report began with a commendation of HUD’s federal enforcement of fair housing law and noted the agency’s willingness to challenge local jurisdictions that failed to affirmatively further fair housing. In response to the recent foreclosure crisis, many credit institutions have implemented tactics to reduce risk. However, this report suggests that policies that tighten credit markets, such as requiring larger cash reserves, higher down payments, and better credit scores, may disproportionately affect lending options for communities of color and women. *A Step in the Right Direction* concludes with examples of ways in which the fair housing situation could be further improved, including addressing discriminatory internet advertisements and adding gender identity, sexual orientation, and source of income as federally protected classes²³.

The positive note that the NFHA struck in its 2010 report carried over into the following year’s *The Big Picture: How Fair Housing Organizations Challenge Systemic and Institutionalized Discrimination*, published by the Alliance in April of 2011. This report began by noting an encouraging downward trend in the proportion of individuals in large metropolitan areas living in segregation, which had dropped from 69 to 65 percent between 2000 and 2010, according to census data from 2010. The report also highlighted the work of fair housing organizations to combat systemic and institutionalized discrimination produced by exclusionary zoning, NIMBYism, the dual credit market, and other fair housing challenges, often on limited budgets and with limited personnel. The NFHA closed its 2011 report by praising the work of private fair housing organizations while underscoring the need for continued work²⁴.

The 2012 report from the NFHA focused on issues of fair housing in the context of the shifting demographic composition of the United States, where the white population is projected to no longer represent a majority of residents within thirty years. The report discussed encouraging signals from HUD and the Justice Department, who have “increased their efforts and announced landmark cases of mortgage lending, zoning, and other issues that get to the heart of the [Fair Housing] Act: promoting diverse and inclusive communities²⁵.” The report also highlights a new arena for discrimination in housing, which has emerged as a result of the massive level of foreclosures in the country in recent years: uneven maintenance of Real Estate Owned (REO) properties in white and minority areas. In concluding, the report hails the creation of the Consumer Financial Protection Bureau as a new ally for fair housing and equal opportunity²⁶.

Another more recent report from the NFHA outlines an ambitious policy goal: expansion of the Fair Housing Act to prohibit discrimination based on source of income, sexual orientation, gender identity, and marital status. The report relates that cases of housing discrimination in general increased between 2011 and 2012, and that complaints based on non-protected statuses (source of income, etc.) were included in that upward trend. In spite of this, the report says that only 12 states include protections based on source of income, 21 states prohibit discrimination based on sexual orientation, 16 states protect against discrimination based on gender identity, and 22 states offer protections based on

marital status (the District of Columbia also extends protections on all of these bases). In concluding the report, the NFHA advocates the modernization and expansion of the FHA to bring the protection of individuals based on source of income, sexual orientation, gender identity, and marital status within its compass.

C. Fair Housing Cases

As noted in the introduction to this report, provisions to affirmatively further fair housing are long-standing components of HUD's Housing and Community Development programs. In fact, in 1970, *Shannon v. HUD* challenged the development of a subsidized low-income housing project in an urban renewal area of Philadelphia that was racially and economically integrated. Under the Fair Housing Act, federal funding for housing must further integrate community development as part of furthering fair housing, but the plaintiffs in the Shannon case claimed that the development would create segregation and destroy the existing balance of the neighborhood. As a result of the case, HUD was required to develop a system to consider the racial and socio-economic impacts of their projects. The specifics of the system were not decided upon by the Court, but HUD was encouraged to consider the racial composition and income distribution of neighborhoods, racial effects of local regulations, and practices of local authorities²⁷. The Shannon case gave entitlement jurisdictions the responsibility of considering the segregation effects of publicly-funded housing projects on their communities as they affirmatively further fair housing.

More recently, in a landmark fraud case, Westchester County, New York, was ordered to pay more than \$50 million to resolve allegations of misusing federal funds for public housing projects and falsely claiming their certification of furthering fair housing. The lawsuit, which was filed in 2007 by an anti-discrimination center, alleged that the County failed to reduce racial segregation of public housing projects in larger cities within the County and to provide affordable housing options in its suburbs. The County had accepted more than \$50 million from HUD between 2000 and 2006 with promises of addressing these problems. In a summary judgment in February 2009, a judge ruled that the County did not properly factor in race as an impediment to fair housing and that the County did not accurately represent its efforts of integration in its AI. In the settlement, Westchester County was forced to pay more than \$30 million to the federal government, with roughly \$20 million eligible to return to the County to aid in public housing projects²⁸.

The County was also ordered set aside \$20 million to build public housing units in suburbs and areas with mostly white populations, and to promote legislation "currently before the Board of Legislators to ban 'source-of-income' discrimination in housing (§33(g))"²⁹. In complying with the latter requirement, the County Executive's actions were limited to sending five letters to various fair housing advocates, encouraging them to continue their advocacy, and one letter to the Board of Legislators expressing support for the legislation. This bill failed to pass during the 2009 legislative session, and a similar bill was taken up during the 2010 session. In the meantime, Westchester voters elected Rob Astorino to the position of County Executive. Astorino declined to promote the source-of-income legislation before the Board, and when a weakened version of the bill passed in early 2010, he vetoed it. Finding that Westchester had failed to affirmatively further fair housing in the manner agreed upon in the earlier settlement, HUD rejected the County's AFFH certification and discontinued federal funding. As of April 2013, HUD's decision had been upheld through several rounds of appeals by the county³⁰. The ramifications of this case are expected to affect housing policies of both states and entitlement communities across the nation; activities taken to affirmatively further fair housing will likely be held to higher levels of scrutiny to ensure that federal funds are being spent to promote fair housing and affirmatively further fair housing.

In 2008, \$3 billion of federal disaster aid was allotted to the Texas state government to provide relief from damage caused by hurricanes Ike and Dolly. These storms ravaged homes in coastal communities, many of which were owned by low-income families that could not afford to rebuild. However, instead of directing the federal funds to the areas most affected by the storms, the State spread funds across Texas and let local planning agencies spend at will. In reaction to this, two fair housing agencies in the state filed a complaint with HUD stating that the plan violated fair housing laws as well as federal aid requirements that specify half of the funds be directed to lower-income persons. In light of the complaint, HUD withheld \$1.7 billion in CDBG funds until the case was resolved. A settlement was reached in June 2010; the State was required to redirect 55 percent of the amount of the original funds to aid poorer families

that lost their homes. The State was also asked to rebuild public housing units that were destroyed by the storms and to offer programs that aid minority and low-income residents in relocating to less storm-prone areas or areas with greater economic opportunities.

LOCAL FAIR HOUSING CASES

The U.S. Department of Justice (DOJ) enacts lawsuits on behalf of individuals based on referrals from HUD. Under the Fair Housing Act, the DOJ may file lawsuits in the following instances:

- Where there is reason to believe that a person or entity is engaged in what is termed a “pattern or practice” of discrimination or where a denial of rights to a group of people raises an issue of general public importance;
- Where force or threat of force is used to deny or interfere with fair housing rights; and
- Where persons who believe that they have been victims of an illegal housing practice file a complaint with HUD or file their own lawsuit in federal or state court³².

There have been five fair housing complaints brought by the Department of Justice against housing providers in the State of Montana since 2000. Three of these cases concerned alleged or actual discrimination on the basis of disability, one of the cases involved discrimination on the basis of sex, and one involved discrimination on the basis of familial status. Additionally, the Montana Fair Housing Office has participated in significant ways in two cases not listed in detail below: MFH v. Jim and Julie Betty and MFH v. Jaclyn Katz and ARESM.

United States v. Bedford

In early 2008, the plaintiff in this case contacted the defendants about an apartment that was advertised as available for rent in a building that the defendants owned. Upon learning that the plaintiff had a teenage daughter, the defendants expressed their concern at having a teenager in the unit. Though the plaintiff assured the owners that they would be courteous tenants, the owners advised her to look elsewhere for their housing needs and ended the phone call. The room was subsequently rented to someone without children. The plaintiff contacted Montana Fair Housing, Inc., which subsequently conducted fair housing tests of the property. At least one tester was subjected to the same discriminatory policy as the plaintiff had been. In June 2006, MFH and the plaintiff both filed complaints with HUD, which conducted an investigation pursuant to the Fair Housing Act, and determined that there was reasonable cause to believe that discrimination had occurred. When the plaintiffs (MFH was included as a plaintiff) elected to pursue the matter in a federal civil action, the DOJ filed a complaint against the defendants.³³

The matter was settled in July 2008 through a consent decree. Under the terms of the consent decree, the owners are required to pay \$33,000 to the complainants, end the discriminatory policy barring families with children and teenagers, undergo fair housing training, adopt an anti-discrimination policy, keep records demonstrating their compliance with the terms of the consent decree, and submit to monitoring.³⁴

United States v. Boote

In early 2012, Montana Fair Housing (MFH) conducted an investigation of recently constructed townhomes at a property in Missoula to verify compliance with accessibility requirements. Having found that the property did not conform to those requirements, MFH filed a complaint with HUD in March of that year. After a period of investigation and attempted conciliation, HUD found reasonable cause to believe that discrimination had occurred and issued a Determination of Reasonable Cause and Charge of Discrimination in September 2012³⁵.

The complaint was resolved in January 2013 through a consent order requiring the property owners to construct three new units in accordance with accessibility requirements. The defendants were also required to undergo fair housing training and to pay Montana Fair Housing \$3000 in compensation³⁶.

United States v. Nistler

In July 2012, Montana Fair Housing sent a letter to the owner of a property in Helena, Montana, making reference to new construction of multi-family units on the property and highlighting the importance of accessibility in new construction. Having received no response to the letter, MFH conducted an investigation of the property and discovered barriers to accessibility in public and common-use areas of the property. After further investigation at the property, MFH filed an administrative complaint with HUD in November 2012. The investigation by HUD ended with the determination that there was reasonable cause to believe that discrimination had occurred at the property. HUD issued a Determination of Reasonable Cause and Charge of Discrimination in June 2013. Subsequent to this determination, MFH elected to have the matter resolved in a federal civil action. The case was settled in October 2014, the terms of the agreement included steps to remedy barriers to accessibility and prohibit construction of future units that do not comply with state and federal accessibility requirements³⁷.

United States, et al. v. Schaberg

In May 2001, the plaintiff, an adult, male resident of Missoula, sought rental housing in the apartment complex owned by the defendant. Upon learning that the plaintiff intended to live by himself, the defendant informed him that she was unwilling to rent the apartment to a male for single occupancy³⁸. According to the defendant, the policy of not renting apartments to single male occupants was reasonable accommodation for another resident, a woman who had “great fear of adult males in a residential setting”³⁸. Having been turned down for the apartment, the plaintiff then contacted MFH to file a complaint against the defendant, and the organization began testing immediately. The defendant reiterated the policy to one of the testers, and the plaintiff and MFH both filed complaints against the defendant with HUD. After a process of investigation and attempted reconciliation, HUD issued a Determination of Reasonable Cause and Charge of Discrimination³⁹.

Following HUD’s determination, the plaintiffs (which included MFH) both elected to pursue the matter in a federal civil action. In February 2003, the United States filed a consent decree consolidating the two complaints against the defendant. In resolution of the complaint, the defendant was required to pay \$18,000 in damages to the applicant and MFH, as well as to end the discriminatory policy and obtain fair housing training⁴⁰.

United States v. Tamarack Property Management Co., et al.

In June of 2002, the DOJ filed a complaint against the owner of retirement housing development in Forsyth on behalf of a man with disabilities and his niece/caretaker. This complaint followed a three-year investigation by HUD of the plaintiff’s allegations that the development owner had refused to allow him to make reasonable modifications, at his own expense, that would allow him to move about his home in a wheelchair⁴¹. The Montana Fair Housing office assisted in this case.

In August 2003, the complaint was resolved through a consent decree that required the development owner to pay the plaintiff \$98,000 in monetary damages. In addition, the defendant was required to establish non-discrimination policies, inform employees and tenants of those policies, undergo fair housing training, and to submit reports to the United States twice a year for three years and three months detailing their attempts to comply with the requirements of the consent decree.⁴²

Summary

Montana residents are protected from discrimination in the housing market by the Federal Fair Housing Act and Montana State Code §49-2-305. Race, color, national origin, religion, religion, sex, familial status, and disability are recognized as protected classes in both laws, while Montana Human Rights Law extends anti-discrimination additional protections on the bases of marital status, age, and creed. In spite of these protections, national fair housing studies demonstrated the persistence of illegal discrimination in the housing market, though they also suggest that discrimination has become more subtle and difficult to identify.

Since 2000, the Department of Justice has lodged five complaints against housing providers in the State of Montana. Three of these cases concerned alleged discrimination on the basis of disability, one on the basis of sex, and one on the basis of familial status. All of these cases have been settled.

SECTION IV. REVIEW OF THE EXISTING FAIR HOUSING STRUCTURE

The purpose of this section is to provide a profile of fair housing in the State of Montana based on a number of factors, including an enumeration of key agencies and organizations that contribute to affirmatively furthering fair housing, evaluation of the presence and scope of services of existing fair housing organizations, and a review of the complaint process.

A. Fair Housing Agencies

FEDERAL AGENCIES

U.S. Department of Housing and Urban Development

The U.S. Department of Housing and Urban Development (HUD) oversees, administers, and enforces the federal Fair Housing Act. HUD's regional office in Denver oversees housing, community development, and fair housing enforcement in Montana, as well as Colorado, North Dakota, South Dakota, Utah, and Wyoming⁴⁴. Contact information for HUD is listed below:

Office of Fair Housing and Equal Opportunity
Department of Housing and Urban Development
451 Seventh Street SW, Room 5204
Washington, DC 20410-2000
Telephone: (202) 708-1112
Toll Free: (800) 669-9777
Website: <http://www.HUD.gov/offices/fheo/online-complaint.cfm>

For Montana, the contact information for the regional HUD office in Denver is:

Denver Regional Office
U.S. Department of Housing and Urban Development
1670 Broadway
Denver, CO 80202
Telephone: (303)672-5440
Website: <http://www.HUD.gov>

The Office of Fair Housing and Equal Opportunity (FHEO) within HUD's Denver office enforces the Fair Housing Act and other civil rights laws that prohibit discrimination in housing, mortgage lending, and other related transactions in Montana. HUD also provides education and outreach, monitors agencies that receive HUD funding for compliance with civil rights laws, and works with state and local agencies under the Fair Housing Assistance Program (FHAP) and Fair Housing Initiative Program (FHIP), as described in this document.

Fair Housing Assistance Program

The Fair Housing Assistance Program (FHAP) was designed to support local and state agencies that enforce local fair housing laws, provided that these laws are substantially equivalent to the Federal Fair Housing Act. Substantial equivalency certification is a two-phase process: in the first phase, the Assistant Secretary for Fair Housing and Equal Opportunity makes a *prima facie* determination on the substantial equivalency of a state or local law to the federal Fair

Housing Act. Once this determination has been made, and the law has been judged to be substantially equivalent, the agency enforcing the law is certified on an interim basis for a period of three years. During those three years, the local enforcement organization “builds its capacity to operate as a fully certified substantially equivalent agency.” FHAP grants during this time period are issued to support the process of building capacity. When the interim certification period ends after three years, the Assistant Secretary issues a determination on whether or not the state or local law is substantially equivalent to the Fair Housing Act “in operation”. This is the second phase of the certification process. If the law is judged to be substantially equivalent in operation, the agency enforcing the law is fully certified as a substantially equivalent agency for five years.

HUD will typically refer most complaints of housing discrimination to a substantially equivalent state or local agency for investigation. If a substantially equivalent agency exists and has jurisdiction in the area in which the housing discrimination was alleged to have occurred, such complaints are dual-filed at HUD and the State or local agency. When federally subsidized housing is involved, however, HUD will typically investigate the complaint.

The benefits of substantially equivalent certification include the availability of funding for local fair housing activities, shifted enforcement power from federal to local authorities, and the potential to make the fair housing complaint process more efficient by vesting enforcement authority in those who are more familiar with the local housing market. In addition, additional funding may be available to support partnerships between local FHAP grantees and private fair housing organizations. There are currently no state or local agencies serving Montana residents as FHAP participants.

Fair Housing Initiative Program

The Fair Housing Initiative Program (FHIP) is designed to support fair housing organizations and other non-profits that provide fair housing services to people who believe they have faced discrimination in the housing market. These organizations provide a range of services including initial intake and complaint processing, referral of complainants to government agencies that enforce fair housing law, preliminary investigations of fair housing complaints, and education and outreach on fair housing law and policy.

FHIP funding is available through three initiatives;⁴⁵ The Fair Housing Organizations Initiative (FHOI), the Private Enforcement Initiative (PEI), and the Education and Outreach Initiative (EOI).

These initiatives are discussed in more detail below:

- **The Fair Housing Organizations Initiative (FHOI):** FHOI funds are designed to help non-profit fair housing organizations build capacity to effectively handle fair housing enforcement and outreach activities. A broader goal of FHOI funding is to strengthen the national fair housing movement by encouraging the creation of fair housing organizations.
- **The Private Enforcement Initiative (PEI):** PEI funds are intended to support the fair housing activities of established non-profit organizations—including testing and enforcement—and more generally to offer a “range of assistance to the nationwide network of fair housing groups”.
- **The Education and Outreach Initiative (EOI):** EOI funding is available to qualified fair housing non-profit organizations as well as State and local government agencies. The purpose of the EOI is to promote initiatives that explain fair housing to the general public and housing providers, and provide the latter with information on how to comply with the requirements of the FHA.

Non-profit organizations are eligible to apply for funding under each or all of these initiatives. To receive FHOI funding, such organizations must have at least two years’ experience in complaint intake and investigation, fair housing testing, and meritorious claims in the three years prior to applying for funding. Eligibility for PEI funding is subject to “certain requirements related to the length and quality of previous fair housing enforcement experience.” Organizations applying for the EOI must also have two years’ experience in the relevant fair housing activities; EOI funds are also potentially available to State and local government agencies. Montana Fair Housing, Inc., a Butte-based non-profit organization, is a FHIP grantee providing fair housing services to residents of Montana. HUD granted the organization \$167,900 every year from 2011 to 2013⁴⁶.

STATE AGENCIES AND NON-PROFIT ORGANIZATIONS

Montana Human Rights Bureau

The authority to enforce Montana Human Rights Law is vested in the Montana Department of Labor and Industry (DOL) through §49-2-501 through §49-2-512 of Montana state code. The Montana Human Rights Bureau, an office with the DOL, accepts complaints, conducts investigations, and facilitates enforcement of Montana Human Rights Law on behalf of Montana residents. The Bureau is overseen by the Human Rights Commission, which also operates within the Department of Labor and Industry. In addition to its enforcement role, the Bureau provides education and training to employers, employees, housing providers, tenants, and all Montana residents. The contact information for the Human Rights Bureau is as follows:

Human Rights Bureau
PO Box 1728
Helena, MT 59624
Telephone: 1(800) 542-0807
Fax: (406) 444-2798

Montana Fair Housing, Inc.

Montana Fair Housing (MFH) is a non-profit organization that provides fair housing outreach, education, and enforcement services to residents of Montana. As a FHIP grantee, the organization works to “promote fair housing in Montana, and elsewhere...” through “the promotion of equal opportunity in all housing related transactions” and by working to ensure that all housing is available on a non-discriminatory basis⁴⁷. Beginning in 2015, MFH received a three year award (\$205,838 annually) from HUD to carryout activities as listed above. MFH accepts complaints from Montana residents who believe that they have been subject to discrimination in the housing market, and can be contacted through the following information:

Montana Fair Housing, Inc.
501 East Front Street, Ste. 504
Butte, MT 59701
Telephone: (406) 782-2573
Web Address: www.montanafairhousing.org
Email: inquiry@montanafairhousing.org

B. Complaint Process Review

COMPLAINT PROCESSES FOR FAIR HOUSING AGENCIES

Department of Housing and Urban Development

The intake stage is the first step in the complaint process. When a complaint is submitted, intake specialists review the information and contact the complainant, the party alleging that housing discrimination has occurred, in order to gather additional details and determine if the case qualifies as possible housing discrimination. If the discriminatory act alleged in the complaint occurred within the jurisdiction of a substantially equivalent state or local agency under the FHAP, the complaint is referred to that agency, which then has 30 days to address the complaint. If that agency fails to address the complaint within that time period, HUD can take the complaint back.

If HUD determines that it has jurisdiction and accepts the complaint for investigation, it will draft a formal complaint and send it to the complainant to be signed. Once HUD receives the signed complaint, it will notify the respondent, the party alleged to have discriminated against the complainant, within ten days that a complaint has been filed against him or her. HUD also sends a copy of the formal complaint to the respondent at this stage. Within ten days of receiving the formal complaint, the respondent must respond to the complaint.

Next, the circumstances of the complaint are investigated through interviews and examination of relevant documents. During this time, the investigator attempts to have the parties rectify the complaint through conciliation. The case is closed if conciliation of the two parties is achieved or if the investigator determines that there was no reasonable cause of discrimination. If conciliation fails, and reasonable cause is found, then either a federal judge or a HUD Administrative Law Judge hears the case and determines damages, if any⁴⁸. In the event that the federal court judge finds the discrimination alleged in a complaint to have actually occurred, the respondent may be ordered to:

- Compensate for actual damages, including humiliation, pain, and suffering;
- Provide injunctive or other equitable relief to make the housing available;
- Pay the federal government a civil penalty to vindicate the public interest, with a maximum penalty of \$10,000 for a first violation and \$50,000 for an additional violation within seven years; and/or
- Pay reasonable attorneys' fees and costs⁴⁹.

If neither party elects to go to federal court, a HUD Administrative Law Judge will hear the case. Once the judge has decided the case, he or she issues an initial decision. If the judge finds that housing discrimination has occurred, he or she may award a civil penalty of up to \$11,000 to the complainant, along with actual damages, court costs, and attorney's fees. When the initial decision is rendered, any party that is adversely affected by that decision can petition the Secretary of HUD for review within 15 days. The Secretary has 30 days following the issuance of the initial decision to affirm, modify, or set aside the decision, or call for further review of the case. If the Secretary does not take any further action on the complaint within 30 days of the initial decision, the decision will be considered final. After that, any aggrieved party must appeal to take up their grievance in the appropriate court of appeals⁵⁰.

Montana Human Rights Bureau

When a person who feels that his or her right to fair housing choice has been violated contacts the Human Rights Bureau (HRB), the Bureau will schedule a telephone interview with that person to discuss the case. If the HRB determines that the facts demonstrate that illegal discrimination may have occurred, the Bureau will draft a formal complaint to be signed by the complainant⁵¹. This complaint must be submitted to the Bureau within 180 days of the alleged discriminatory act, or it will be deemed to lack reasonable cause and will be dismissed⁵².

Once the complaint has been filed with the HRB, the parties to the complaint (i.e., the complainant and respondent) may elect to voluntarily resolve the case. The investigator assigned to the case will begin an informal investigation lasting a maximum of 120 days. During the investigation, he or she will obtain a position statement from the complainant, and forward this statement to the respondent for rebuttal. The investigation may also involve requests on the part of the investigator for additional information, on-site inspections, or an in-person fact finding conference, which affords both parties the opportunity to present their cases and come to a voluntary, no-fault resolution. If the case is not resolved during this time, the investigator will summarize the results of the investigation in a Final Investigative Report and issue a determination of "reasonable cause".

If the investigator finds that no reasonable cause exists to believe that unlawful discrimination has occurred, the case will be dismissed. In such a case, the complainant would have the option of filing an objection with the commission and continuing the administrative process, or pursuing the matter in a district court⁵³. If the investigator finds that there is reasonable cause to believe that unlawful discrimination has occurred, the Bureau will initiate a conciliation process with the parties. The complaint process may end with a successful conciliation; results of a conciliation agreement

potentially include compensation for any losses incurred by the complainant, modification of discriminatory practices, and “other affirmative steps needed to eliminate discrimination”⁵⁴.

In the event that the conciliation process does not produce a satisfactory resolution to the complaint, the Department of Labor and Industry will hold a public hearing⁵⁵. In the course of this hearing, the hearings officer assigned to the case will come to a decision as to whether or not illegal discrimination has occurred. Following the issuance of this decision, the Human Rights Commission will issue a Final Agency Decision on the matter. If the Commission finds for the complainant, he or she may be awarded monetary damages and the respondent may be required to take other affirmative measures to address the discriminatory acts at issue in the complaint⁵⁶. In addition, the Department of Labor and Industries may assess a civil penalty against the respondent, of up to \$10,000 for first-time offenses and up to \$25,000 for those who have been adjudged to have committed similar discriminatory housing practices in the previous 5-year period⁵⁷.

Summary

Residents of Montana who believe that they have been subjected to illegal discrimination in the housing market can lodge a complaint with HUD, the Montana Human Rights Bureau, or Montana Fair Housing. HUD conducts investigations of alleged violations of the federal Fair Housing Act, while the Human Rights Bureau investigates alleged violations of Montana Human Rights Law. Both organizations have a similar complaint process, though there are some differences between the two: for example, complaints filed with HUD may be conciliated at any point up until the agency determines whether or not the complaint has cause. Under Montana Human Rights Law, complaints may be resolved voluntarily before a determination of cause is made, but they may also be conciliated after such a determination is made.

Montana Fair Housing (MFH) is a non-profit organization that is “dedicated to the elimination of housing discrimination, and the advancement of civil rights.” As a FHIP participant, MFH has been active in complaint intake, investigation, and enforcement throughout the State of Montana, and has been instrumental in bringing actual, potential, and alleged violations of fair housing law to the attention of HUD and the Justice Department. MFH was actively involved in several DOJ cases profiled in **Section III** of this report.

SECTION V. FAIR HOUSING IN THE PRIVATE SECTOR

As part of the AI process, the U.S. Department of Housing and Urban Development (HUD) suggests that the analysis focus on possible housing discrimination issues in both the private and public sectors. Examination of housing factors in Montana's public sector is presented in **Section VI**, while this section focuses on research regarding the state's private sector, including the mortgage lending market, the real estate market, the rental market, and other private sector housing industries.

A. Lending Analysis

HOME MORTGAGE DISCLOSURE ACT

Since the 1970s, the federal government has enacted several laws aimed at promoting fair lending practices in the banking and financial services industries. A brief description of selected federal laws aimed at promoting fair lending follows:

- The 1968 Fair Housing Act prohibits discrimination in housing based on race, color, religion, and national origin. Later amendments added sex, familial status, and disability. Under the Fair Housing Act, it is illegal to discriminate against any of the protected classes in the following types of residential real estate transactions: making loans to buy, build, or repair a dwelling; selling, brokering, or appraising residential real estate; and selling or renting a dwelling.
- The Equal Credit Opportunity Act was passed in 1974 and prohibits discrimination in lending based on race, color, religion, national origin, sex, marital status, age, receipt of public assistance, and the exercise of any right under the Consumer Credit Protection Act.
- The Community Reinvestment Act was enacted in 1977 and requires each federal financial supervisory agency to encourage financial institutions in order to help meet the credit needs of the entire community, including low- and moderate-income neighborhoods.

Under the *Home Mortgage Disclosure Act (HMDA)*, enacted in 1975 and later amended, financial institutions are required to publicly disclose the race, sex, ethnicity, and household income of mortgage applicants by the Census tract in which the loan is proposed as well as outcome of the loan application. The analysis presented herein is from the HMDA data system.

The HMDA requires both depository and non-depository lenders to collect and publicly disclose information about housing-related application and loans⁵⁸. Both types of lending institutions must meet the following set of reporting criteria:

- The institution must be a bank, credit union, or savings association;
- The total assets must exceed the coverage threshold⁵⁹;
- The institution must have had an office in a Metropolitan Statistical Area (MSA);
- The institution must have originated at least one home purchase loan or refinancing of a home purchase loan secured by a first lien on a one- to four-family dwelling;
- The institution must be federally insured or regulated; and
- The mortgage loan must have been insured, guaranteed, or supplemented by a federal agency or intended for sale to the Federal National Mortgage Association (FNMA or Fannie Mae) or the Federal Home Loan Mortgage Corporation (FHLMC or Freddie Mac). These agencies purchase mortgages from lenders and repackage them as securities for investors, making more funds available for lenders to make new loans.

For other institutions, including non-depository institutions, additional reporting criteria are as follows:

- The institution must be a for-profit organization;
- The institution’s home purchase loan originations must equal or exceed 10 percent of the institution’s total loan originations, or more than \$25 million;
- The institution must have had a home or branch office in an MSA or have received applications for, originated, or purchased five or more home purchase loans, home improvement loans, or refinancing mortgages on property located in an MSA in the preceding calendar year; and
- The institution must have assets exceeding \$10 million or have originated 100 or more home purchases in the preceding calendar year.

HMDA data represent most mortgage lending activity and are thus the most comprehensive collection of information available regarding home purchase originations, home remodel loan originations, and refinancing. The Federal Financial Institutions Examination Council (FFIEC) makes HMDA data available on its website. While HMDA data are available for more years than are presented in this document, modifications were made in 2004 for documenting loan applicants’ race and ethnicity, so data are most easily compared after that point.

Home Purchase Loans

As presented in Table V.1, HMDA information was collected for Census tracts in Montana from 2004 through 2012. During this time, 456,831 loan applications were reported by participating institutions for home purchases, home improvements, and refinancing mortgages. Of these loan applications, 153,672 were specifically for home purchases.

Table V.1
Purpose of Loan by Year
Area of Montana
2004–2012 HMDA Data

Purpose	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
Home Purchase	21,480	25,076	25,858	21,219	13,336	12,085	11,081	11,021	12,516	153,672
Home Improvement	3,878	4,748	5,320	6,211	3,978	3,089	2,026	1,761	1,776	32,787
Refinancing	33,340	31,570	30,601	30,528	25,914	40,279	28,044	21,952	28,144	270,372
Total	58,698	61,394	61,779	57,958	43,228	55,453	41,151	34,734	42,436	456,831

Because access to homeownership is the focus of this analysis, the following discussion will be confined to trends in home purchase loans for owner-occupied housing units. The reason for tailoring the discussion in this way is the fact that other loan statuses, such as “Not Owner Occupied” or “Not Applicable”, may refer to loans on housing units that the applicant does not intend to live in. Accordingly, such loans do not provide a reliable indication an individual’s ability to choose where he or she lives. Of the 153,672 home purchase loan applications submitted from 2004 to 2012 in areas of Montana, 129,580 were specifically for owner-occupied homes, as shown in Table V.2. The number of owner-occupied home purchase loan applications was highest in 2006 with 25,858 applications.

Table V.2
Occupancy Status for Home Purchase Loan Applications
Area of Montana
2004–2012 HMDA Data

Status	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
Owner-Occupied	17,883	20,604	21,117	17,627	11,483	10,861	9,689	9,512	10,804	129,580
Not Owner-Occupied	3,450	4,320	4,669	3,514	1,802	1,175	1,335	1,414	1,609	23,288
Not Applicable	147	152	72	78	51	49	57	95	103	804
Total	21,480	25,076	25,858	21,219	13,336	12,085	11,081	11,021	12,516	153,672

Denial Rates

After the owner-occupied home purchase loan application is submitted, the applicant receives one of the following status designations:

- “Originated,” which indicates that the loan was made by the lending institution;
- “Approved but not accepted,” which notes loans approved by the lender but not accepted by the applicant;
- “Application denied by financial institution,” which defines a situation wherein the loan application failed;
- “Application withdrawn by applicant,” which means that the applicant closed the application process;
- “File closed for incompleteness” which indicates the loan application process was closed by the institution due to incomplete information; or
- “Loan purchased by the institution,” which means that the previously originated loan was purchased on the secondary market.

These outcomes were used to determine denial rates presented in the following section. General reasons for the denial of a loan are typically provided, as noted in Table V.6, though the precise reasons for loan denials are not always known. The ratio of loan originations to loan denials serves as an indicator of the overall success or failure of home purchase loan applicants. Altogether, there were 64,707 loan originations and 14,967 applications denied in the State of Montana, for an average eight-year denial rate of 18.8 percent, as shown in Table V.3. The rate of loans denials varied from year to year, ranging from 22.7 percent in 2006 to 14.7 percent in 2009, as shown in Figure V.1.

Table V.3
Loan Applications by Action Taken

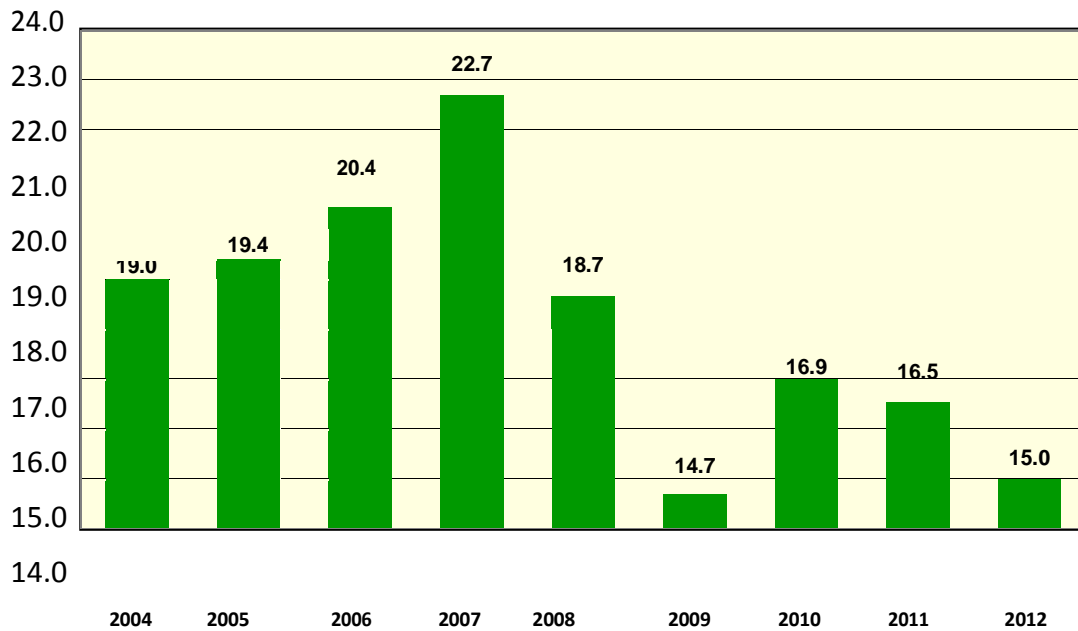
Area of Montana 2004–2012

HMDA Data

Action	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
Loan Originated	9,316	10,311	10,199	8,662	5,999	5,415	4,663	4,667	5,475	64,707
Application Approved but not Accepted	1,002	1,106	1,106	907	573	438	484	414	355	6,385
Application Denied	2,180	2,481	2,620	2,542	1,376	932	949	924	963	14,967
Application Withdrawn by Applicant	1,316	1,794	1,471	1,069	728	567	472	573	723	8,713
File Closed for Incompleteness	244	229	239	189	98	71	74	54	59	1,257
Loan Purchased by the Institution	3,825	4,682	5,477	4,256	2,703	3,432	3,043	2,877	3,228	33,523
Preapproval Request Denied	0	1	2	2	5	6	4	3	1	24
Preapproval Approved but not Accepted	0	0	3	0	1	0	0	0	0	4
Total	17,883	20,604	21,117	17,627	11,483	10,861	9,689	9,512	10,804	129,580
Denial Rate	19.0%	19.4%	20.4%	22.7%	18.7%	14.7%	16.9%	16.5%	15.0%	18.8%

Figure V.1
Denial Rates by Year

Areas of Montana
2004–2012 HMDA Data



The incidence of loan denials was subject to substantial geographic variation in Montana. The highest rates of loan denials were observed in tribal reservation areas in the north of the state. In some of these areas, more than three-quarters of loan applications were denied between 2004 and 2012. The distribution of loan denials from 2004 through 2011 is shown in Map V.1 (Appendix I), along with tribal reservation boundaries. In 2012, high rates of loan denials were observed in and around tribal reservation boundaries, as shown in Map V.2 (Appendix I) & Map V.1 (Appendix I).

In addition to the geographic variation discussed above, loan denials were seen to vary in their frequency along gender lines, as shown in Table V.4. The denial rate for female applicants was 3.5 percentage points higher than the rate for male applicants overall, and was higher in every year included in the study. In some years, the difference between the two less than 2 percentage points; in other years the gap was much larger, or nearly 5.4 percent in 2006.

Table V.4
Denial Rates by Gender of Applicant

Area of Montana
2004–2012 HMDA Data

Year	Male	Female	Not Available	Not Applicable	Average
2004	18.1%	19.8%	37.3%	.0%	19.0%
2005	18.0%	21.8%	34.9%	.0%	19.4%
2006	18.7%	24.1%	33.4%	.0%	20.4%
2007	21.1%	25.4%	35.0%	100.0%	22.7%
2008	17.6%	20.6%	30.2%	.0%	18.7%
2009	13.5%	16.6%	33.3%	.0%	14.7%
2010	15.5%	20.2%	25.4%	.0%	16.9%
2011	15.8%	17.6%	27.4%	.0%	16.5%
2012	14.2%	16.0%	27.8%	.0%	15.0%
Average	17.5%	21.0%	32.9%	2.8%	18.8%

Finally, denial rates varied considerably by race and ethnicity, as shown in Table V.5. White applicants were denied loans at below the average rate of denials during every year under consideration here, while the rate at which loans were denied to American Indian applicants was well above the yearly average in every year. The same tended to be true of denials to Hispanic applicants, though there were some years in which the rate of loan denials to Hispanic applicants was close to or below the average rate. Overall, 17.7 percent of loan applications from White applicants were denied compared to 33.8 percent for applications from American Indian applicants, as shown in Table V.2. Hispanic applicants were denied 29.2 percent of the time, compared to 17.5 percent for non-Hispanic applicants. Denial rates by racial and ethnic groups are shown in Figure V.2.

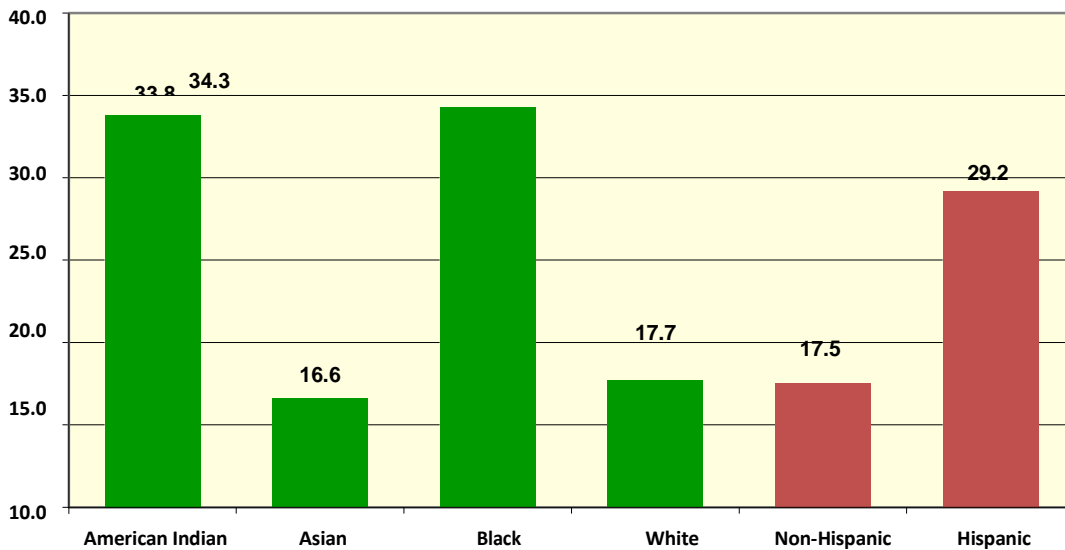
Table V.5
Denial Rates by Race/Ethnicity of Applicant

Area of Montana
2004–2012 HMDA Data

Race/Ethnicity	2004	2005	2006	2007	2008	2009	2010	2011	2012	Average
American Indian	37.9%	38.9%	36.4%	42.8%	32.6%	15.1%	31.1%	34.1%	34.9%	33.8%
Asian	17.1%	13.6%	17.6%	19.2%	17.6%	15.6%	27.8%	7.5%	16.1%	16.6%
Black	40.0%	13.0%	31.3%	47.6%	22.2%	26.7%	42.9%	35.7%	57.1%	34.3%
White	17.4%	18.1%	19.3%	21.5%	18.1%	14.2%	16.2%	15.7%	13.9%	17.7%
Not Available	40.0%	38.3%	36.5%	35.3%	24.6%	27.4%	25.7%	31.2%	28.2%	34.4%
Not Applicable	21.4%	14.3%	.0%	100.0%	.0%	0.0%	0.0%	33.3%	.0%	12.5%
Average	19.0%	19.4%	20.4%	22.7%	18.7%	14.7%	16.9%	16.5%	15.0%	18.8%
Non-Hispanic	17.6%	17.5%	18.9%	21.6%	18.1%	14.2%	16.2%	15.6%	13.4%	17.5%
Hispanic	31.9%	36.9%	34.3%	30.6%	22.3%	14.3%	24.0%	17.1%	27.6%	29.2%

Figure V.2
Denial Rates by Race/Ethnicity of Applicant

Areas of Montana
2004–2012 HMDA Data



Denial rates by race and ethnicity were plotted on several maps to examine the geographic concentration of loan denials to members of different racial and ethnic groups. Data regarding the concentration of denial rates for American Indian applicants in Montana from 2004 to 2011 are presented in Map V.3 (Appendix I). Areas in which loan denials to these applicants was disproportionately high were widespread throughout the state, though there was a tendency for such areas to be located near urban and tribal reservation areas. Note that although denial rates were as high as 100 percent in some Census tracts, no more than 7 loan applications were submitted in any of those tracts between 2004 and 2011. This includes all of the dark blue areas in Map V.3 (Appendix I).

Areas with disproportionately high rates of home loan denials to Hispanic applicants tended to be located relatively close to urban areas in the state, as shown in Map V.4 (Appendix I). An exception to this tendency was the relatively high rates of loan denials observed in large Census tracts in the northern and central part of the state, such as those surrounding Rocky Boy’s Reservation. As had been the case with loan denials to American Indian applicants, denial rates of 100 percent were based on a small number of loan applications; in this case, no more than 4 applications in the eight years from 2004 to 2011. All of the dark blue Census tracts in Map V.4 (Appendix I) were observed to have denial rates of 100 percent.

Data gathered under the HMDA often include information regarding the reason for a loan denial, as noted previously. These data suggest that credit history, debt-to-income ratio, and collateral were the primary factors in most of the loans denied between 2004 and 2012, excluding the “Missing” and “Other” categories, as shown in Table V.6. However, an unfavorable debt-to-income ratio has gradually become the primary factor in more and more loan denials over the time period. In 2005, just over 18 percent of loans were denied primarily for this reason. By 2012, it had become the primary factor in over a quarter of loan denials.

Table V.6
Loan Applications by Reason for Denial

Area of Montana
2004–2012 HMDA Data

Denial Reason	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
Debt-to-Income Ratio	216	223	214	192	191	172	166	177	155	1,706
Employment History	39	47	50	53	34	26	35	52	41	377
Credit History	389	400	334	302	238	168	187	193	219	2,430
Collateral	224	219	230	211	117	143	108	116	86	1,454
Insufficient Cash	62	39	30	19	22	25	14	17	8	236
Unverifiable Information	102	120	79	68	52	29	28	20	33	531
Credit Application Incomplete	145	158	152	125	87	58	80	54	63	922
Mortgage Insurance Denied	1	3	1	0	8	1	4	1	0	19
Other	319	360	473	682	92	38	53	62	57	2,136
Missing	683	912	1,057	890	535	272	274	232	301	5,156
Total	2,180	2,481	2,620	2,542	1,376	932	949	924	963	14,967

Table V.7 shows denial rates by income in the State of Montana. As one might expect, households with lower incomes tended to be denied for loans more often. Households with incomes from \$15,001 to \$30,000 were denied an average of 32.8 percent of the time, while those with incomes above \$75,000 were denied 15.1 percent of the time on average.

As noted previously, minority racial and ethnic applicants often faced much higher loan denial rates than white applicants. This remains true even after correcting for income, as shown in Table V.8. For example, American Indian applicants earning between \$60,000 and \$75,000 per year were denied 24.4 percent of the time, while similarly situated white applicants were denied 13.5 percent of the time.

Table V.7
Denial Rates by Income of Applicant

Area of Montana
2004–2012 HMDA Data

Income	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
\$15,000 or Below	46.0%	56.3%	49.0%	51.3%	53.1%	63.6%	58.8%	51.3%	51.2%	52.4%
\$15,001–\$30,000	28.8%	32.7%	38.6%	39.6%	38.7%	24.9%	32.8%	30.3%	24.3%	32.8%
\$30,001–\$45,000	20.2%	20.1%	23.2%	24.3%	21.1%	16.5%	18.8%	19.6%	17.7%	21.4%
\$45,001–\$60,000	16.7%	18.0%	18.4%	21.7%	17.2%	13.3%	15.1%	13.7%	14.2%	17.9%
\$60,001–\$75,000	14.1%	15.9%	16.8%	19.5%	15.9%	11.1%	13.0%	13.0%	12.5%	15.8%
Above \$75,000	13.3%	14.3%	16.0%	18.7%	12.2%	10.9%	12.0%	12.8%	11.6%	15.1%
Data Missing	26.8%	21.3%	18.9%	20.7%	16.5%	17.0%	20.9%	22.9%	23.0%	18.1%
Total	19.0%	19.4%	20.4%	22.7%	18.7%	14.7%	16.9%	16.5%	15.0%	18.8%

Table V.8
Denial Rates of Loans by Race/Ethnicity and Income of Applicant
 Area of Montana
 2004–2012 HMDA Data

Race	<= \$15K	\$15K–\$30K	\$30K–\$45K	\$45K–\$60K	\$60K–\$75K	Above \$75K	Data Missing	Average
American Indian	71.7%	46.2%	32.5%	33.2%	25.8%	24.4%	31.3%	33.8%
Asian	75.0%	32.1%	17.9%	9.7%	13.5%	15.5%	18.8%	16.6%
Black	100.0%	68.2%	41.7%	31.1%	23.7%	23.3%	16.7%	34.3%
White	49.6%	30.8%	19.3%	16.2%	14.5%	13.5%	19.2%	17.7%
Not Available	71.4%	61.6%	44.5%	31.5%	26.5%	22.5%	44.7%	34.4%
Not Applicable	%	.0%	60.0%	.0%	.0%	17.6%	.0%	12.5%
Average	52.4%	32.8%	21.4%	17.9%	15.8%	15.1%	18.1%	18.8%
Non-Hispanic	50.3%	30.3%	19.0%	16.3%	14.2%	13.5%	18.7%	17.5%
Hispanic	63.6%	43.3%	31.7%	26.8%	31.2%	17.0%	48.7%	29.2%

Predatory Style Lending

In addition to modifications implemented in 2004 to correctly document loan applicants’ race and ethnicity, the HMDA reporting requirements were changed in response to the Predatory Lending Consumer Protection Act of 2002 as well as the Home Owner Equity Protection Act (HOEPA). Consequently, loan originations are now flagged in the data system for three additional attributes:

- If they are HOEPA loans⁶⁰;
- Lien status, such as whether secured by a first lien, a subordinate lien, not secured by a lien, or not applicable (purchased loans); and
- Presence of high annual percentage rate (APR) loans (HALs), defined as more than three percentage points higher than comparable treasury rates for home purchase loans, or five percentage points higher for refinance loans⁶¹.

For the 2014 AI, only originated owner-occupied home purchase loans qualifying as HALs were examined for 2004 through 2012. These high APR loans are considered predatory in nature. Table V.9 shows that between 2004 and 2012, there were 7,462 HALs for owner-occupied homes originated in the State of Montana, representing 11.5 percent of all loans. The number of HALs was highest in 2005 and decreased afterward; by 2010, the rate of HALs had fallen to 2.8 percent, and has remained relatively low since that time.

The geographic distribution of HALs in areas of Montana is presented in Map V.5 (Appendix I). As shown, disproportionately high rates of predatory style lending were observed in Census tracts throughout areas of the state. Note that tracts with HAL rates of 100 percent had very few applications, though the HAL rate of 96 percent in Browning was based on a relatively large number of loan originations. In 2012, predatory loans were observed to be highly concentrated in eastern Census tracts, as shown in Map V.6 (Appendix I).

Table V.9
Originated Owner-Occupied Loans by HAL Status
 Area of Montana
 2004–2012 HMDA Data

Loan Type	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
Other	8,399	8,272	8,120	7,605	5,465	5,032	4,534	4,497	5,321	57,245
HAL	917	2,039	2,079	1,057	534	383	129	170	154	7,462
Total	9,316	10,311	10,199	8,662	5,999	5,415	4,663	4,667	5,475	64,707
Percent HAL	9.8%	19.8%	20.4%	12.2%	8.9%	7.1%	2.8%	3.6%	2.8%	11.5%

The average rate of HALs was 11.5 percent, though it varied widely over the period and was most recently very low. But while HAL figures improved significantly after 2006, they are a measure of the underlying foreclosure risk for recent homeowners in the State of Montana, and it is important to examine characteristics of applicants who received these HALs over the nine- year period and who may still be paying the high rates. As shown in Table V.10, a majority of HALs in the City went to white borrowers, who received 6,803 of these high interest loans. American Indian borrowers received 228 such loans. In terms of ethnicity, Hispanic borrowers took out 132 home purchase HALs during the time period.

Table V.10
HALs Originated by Race of Borrower
 Area of Montana
 2004–2012 HMDA Data

Race	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
American Indian	24	24	32	17	11	89	9	8	14	228
Asian	7	13	8	8	2	2	1	2	0	43
Black	4	6	5	2	3	0	0	0	0	20
White	828	1,887	1,924	972	503	284	116	155	134	6,803
Not Available	51	109	110	58	14	7	2	5	6	362
Not Applicable	3	0	0	0	1	1	1	0	0	6
Total	917	2,039	2,079	1,057	534	383	129	170	154	7,462
Non-Hispanic	785	1,881	1,906	982	499	368	120	165	145	6,851
Hispanic	16	36	41	21	12	2	2	0	2	132

While the highest number of HALs was used by white borrowers, these loans were issued to Americans Indian in relatively high proportions, shown in Table V.11. In total, American Indian borrowers were issued HALs at a rate of 26.8 percent, over twice the rate at which these loans were extended to white borrowers overall. By contrast the rate of HALs to white borrowers was below the average rate in every year, and below the overall average rate of 11.5 percent. In terms of ethnicity, Hispanic borrowers were also issued HALs at a higher rate than non-Hispanic borrowers, or 15.5 to 11.4 percent, respectively, as shown in Figure V.3.

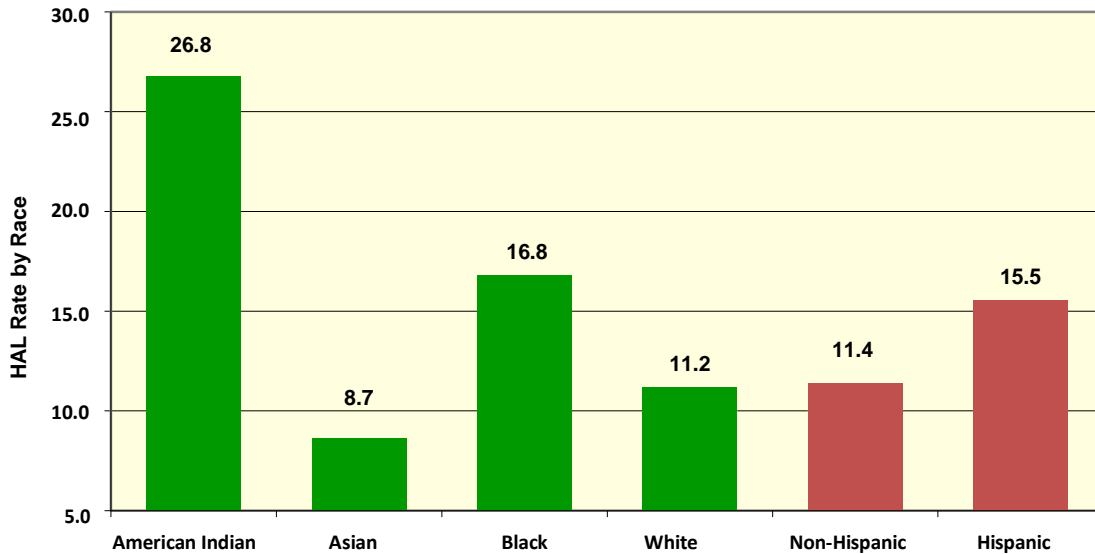
Table V.11
Rate of HALs Originated by Race/Ethnicity of Borrower
 Area of Montana
 2004–2012 HMDA Data

Race	2004	2005	2006	2007	2008	2009	2010	2011	2012	Average
American Indian	22.9%	26.4%	29.1%	15.3%	12.6%	58.6%	12.3%	14.8%	20.3%	26.8%
Asian	10.3%	14.6%	14.3%	13.6%	4.8%	5.3%	3.8%	5.4%	.0%	8.7%
Black	22.2%	30.0%	22.7%	18.2%	21.4%	.0%	.0%	.0%	.0%	16.8%
White	9.5%	19.5%	20.1%	12.1%	9.0%	5.6%	2.6%	3.5%	2.6%	11.2%
Not Available	13.8%	24.4%	25.3%	13.8%	5.7%	5.1%	1.5%	3.6%	2.7%	14.4%
Not Applicable	27.3%	.0%	.0%	%	20.0%	11.1%	25.0%	.0%	.0%	14.0%
Average	9.8%	19.8%	20.4%	12.2%	8.9%	7.1%	2.8%	3.6%	2.8%	11.5%
Non-Hispanic	10.0%	19.6%	19.9%	12.1%	8.9%	7.1%	2.7%	3.7%	2.8%	11.4%
Hispanic	12.9%	24.5%	35.0%	19.3%	11.9%	3.3%	3.5%	.0%	2.8%	15.5%

The geographic concentration of HALs for American Indian applicants is shown in Map V.7 (Appendix I). Tracts with disproportionately high rates of HALs to American Indian applicants were generally located in and around tribal reservation areas. Exceptions to this trend were observed around Glendive and Sidney in the east of the state, where more than 79 percent of loans issued to American Indian residents were predatory in nature. In addition, tracts with disproportionate shares of predatory style lending to American Indian residents were observed in and around Butte and Helena.

In the case of Hispanic borrowers, high rates of HALs were issued in Census tracts in the south and northwest of the state, as shown in Map V.8 (Appendix I). More than a quarter of loans were predatory in nature in Census tracts in and around the Flathead Reservation and Kalispell. High rates of predatory loans were also issued to Hispanic residents in and around Helena, Bozeman, and Roundup, where more than 50 percent of loans issued to Hispanic residents were HALs.

Figure V.3
Rate of HALs Originated by Race/Ethnicity of Borrower
 Areas of Montana 2004–2012 HMDA Data

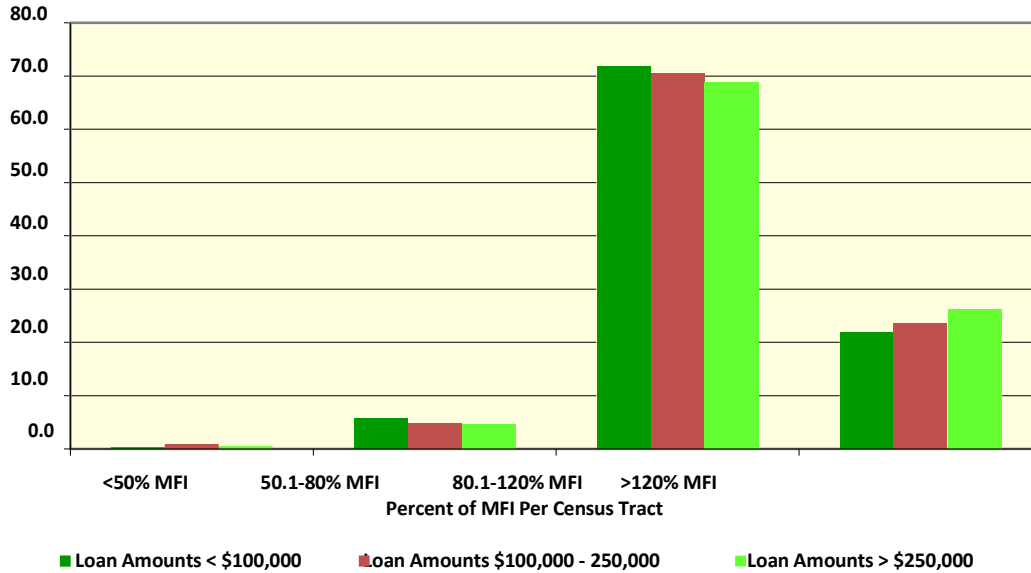


Community Reinvestment Act Data

Economic vitality of neighborhoods can partly be measured through Community Reinvestment Act (CRA) data. According to these data, 307,393 small business loans were extended to businesses in Montana during the period from 2000 to 2012. Of these, 132,071 loans went to businesses with annual revenues of less than \$1 million, and a large majority of all loans, 294,243, were valued under \$100,000. Tables with complete CRA data are presented in Appendix E.

Small business loans were also analyzed to determine the location of funding in relation to median family income (MFI) levels. Figure V.4 presents the distribution of small business loans by value and by percent of MFI by Census tract. As shown, comparatively few loans went to areas with 50 percent or less of the MFI, despite the fact that these loans were designed to aid low- and moderate-income areas.

Figure V.4
Percent of Small Business Loans Originated by Census Tract MFI
 Areas of Montana
 2000 - 2012 Community Reinvestment Act Data



Map V.9 (Appendix I) illustrates the number of loans issued to businesses in Census tracts in areas of the state from 2000 through 2011. During that time period, small business lending was primarily concentrated in and around urban areas of the state. The large Census tract surrounding Bozeman received 9,348 small business loans, which was the greatest number of loans issued in any Census tract in the state. The large rural tract to the north of Bozeman was the next largest recipient of loans, followed by tracts in and around Billings, Kalispell, and Whitefish.

Map V.10 (Appendix I) illustrates the distribution of loan funding for businesses in each Census tract by total amount of loan dollars per tract. As one might expect, the distribution of loan dollars tended to follow the distribution of loans, and tracts in and around Bozeman, Billings, Kalispell, and Whitefish were the largest recipients of loan dollars, along with Missoula. Loans dollars, like the loans themselves, tended to be concentrated in and around urban areas of the state. However, there were some rural areas that received an above-average amount of loan funding, notably in the western part of the state.

B. Fair Housing Complaints

U.S. Department Of Housing and Urban Development

HUD maintains records of complaints that represent alleged violations of federal housing law, as described previously in the Complaint Process Review. Between 2004 and 2013, HUD reported 125 complaints filed in the State of Montana, as shown in Table V.12 (Appendix I)⁶².

Table V.12 (Appendix I) also presents complaint data by basis, or the protected class status of the person allegedly aggrieved in the complaint. Complainants may cite more than one basis, so the number of bases cited can exceed the total number of complaints. As shown, a total of 153 bases were cited in relation to the 125 complaints filed. Disability was the most commonly cited basis, followed by race and family status, which were cited in 76, 24, and 23 complaints, respectively.

Table V.12
Fair Housing Complaints by Basis
 Area of Montana
 2004–2014 HUD Data

Basis	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Total
Disability	18	11	8	8	3	1	6	9	5	7	.	76
Race	4	10	3	1	1	1	1		1	2	.	24
Family Status	1	4	5	1			2	8	2		.	23
Sex		6	2	1					3		.	12
Religion	1	2	2				1	1			.	7
Retaliation	1	3	1					1		1	.	7
National Origin	2	1								1	.	4
Total Bases	27	37	21	11	4	2	10	19	11	11	0	153
Total Complaints	22	27	17	11	4	2	9	15	10	8	.	125

In addition to the basis for discrimination, HUD records the issue, or alleged discriminatory action related to each complaint. These are presented in Table V.13. In the same way that bases are reported, more than one issue may be associated with each complaint. In Montana 262 issues were cited in relation to complaints HUD received, the most frequent issue being failure to make reasonable accommodation, cited in 47 complaints. The next most common complaints alleged discriminatory refusal to rent, discriminatory advertising, statements and notices, and discriminatory terms, conditions, privileges, or services and facilities. A complete version of this table with yearly complaint data is included in Appendix F.

Fair Housing Complaints by Issue

Housing complaints filed with HUD can also be examined by closure status, as shown in Table V.14. Of the 125 total complaints, 48 were issued a “no cause” determination, which means that discrimination was not found during the HUD investigation, while 39 were conciliated. A complete version of this table with yearly complaint data is included in Appendix F.

Table V.13
Fair Housing Complaints by Issue
 Area of Montana
 2004–2014 HUD Data

Issue	Total
Failure to make reasonable accommodation	47
Discriminatory refusal to rent	42
Discriminatory advertising, statements and notices	31
Discriminatory terms, conditions, privileges, or services and facilities	31
Discriminatory acts under Section 818 (coercion, etc.)	26
Discrimination in term, conditions or privileges relating to rental	25
Otherwise deny or make housing available	13
Non-compliance with design and construction requirements (handicap)	8
Failure to permit reasonable modification	7
Discriminatory refusal to sell and negotiate for sale	6
Steering	6
Using ordinances to discriminate in zoning and land use	5
Discriminatory refusal to negotiate for rental	4
False denial or representation of availability - rental	3
Discrimination in terms, conditions, privileges relating to sale	3
Discriminatory advertisement - rental	2
Discriminatory refusal to rent and negotiate for rental	1
Discrimination in making of loans	1
Discrimination in the terms or conditions for making loans	1
Total Issues	262
Total Complaints	125

Table V.14
Fair Housing Complaints by Closure Status
 Area of Montana 2004–2014
 HUD Data

Closure Status	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Total
No Cause	12	18	3	4	3	2	4	2				48
Conciliated / Settled	6	6	5	1			1	12	6	2		39
Complainant Failed to Cooperate	2	3	2	4					1	1		13
Withdrawal Without Resolution			4	1	1				2			8
Withdrawal After Resolution	2		1	1			4					8
Election Made to Go to Court			2					1	1			4
Open										4		4
Lack of Jurisdiction										1		1
Total Complaints	22	27	16	11	4	2	9	15	10	8		125

Table V.15 presents the bases cited for the complaints considered to have been found with cause, many of which were successfully conciliated or settled. There were 56 bases cited in those 47 complaints; again, disability was the most common basis, and was cited in 32 complaints. Family status was the next most common basis, cited in 13 complaints.

Table V.15
Fair Housing Complaints Found With Cause by Basis

Area of Montana
2004–2014 HUD Data

Basis	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Total
Disability	8	2	3	2			5	7	3	2		32
Family Status	1	3	3					6				13
Retaliation		1	1					1		1		4
Sex			1						3			4
Race			1						1			2
Religion								1				1
Total Bases	9	6	9	2			5	15	7	3		56
Total Complaints	8	6	6	2			5	12	6	2		47

The 47 complaints found to be with cause are separated by issue, or discriminatory action, in Table V.16. The most commonly cited issue in these complaints remained failure to make reasonable accommodation, which was cited in 22 complaints. Discriminatory refusal to rent and discriminatory advertising, statements, and notices were also relatively common issues in complaints found with cause, as they had been in complaints overall. A complete version of this table with yearly complaint data is included in Appendix F.

Table V.16
Fair Housing Complaints Found With Cause by Issue

Area of Montana
2004–2014 HUD Data

Issue	Total
Failure to make reasonable accommodation	22
Discriminatory refusal to rent	17
Discriminatory advertising, statements and notices	15
Discrimination in term, conditions or privileges relating to rental	11
Discriminatory terms, conditions, privileges, or services and facilities	9
Discriminatory acts under Section 818 (coercion, etc.)	9
Otherwise deny or make housing available	6
Failure to permit reasonable modification	5
Steering	4
False denial or representation of availability - rental	3
Discriminatory refusal to sell and negotiate for sale	2
Non-compliance with design and construction requirements (handicap)	2
Discriminatory refusal to negotiate for rental	1
Discriminatory advertisement - rental	1
Discrimination in terms, conditions, privileges relating to sale	1
Using ordinances to discriminate in zoning and land use	1
Total Issues	109
Total Complaints	47

Montana Fair Housing Complaints

Montana Fair Housing also receives complaints from Montana residents who believe that they have been subjected to discrimination in the housing market. Table V.17 presents these complaints by basis. The organization received 216 such complaints from Montana residents from 2004 through 2013. During this time the most common complaint was lodged on the basis of disability, which was cited in 134 complaints. Familial status was the next most common

complaint basis, cited in 48 complaints. A complete version of this table with yearly complaint data is included in Appendix F.

Table V.17
Fair Housing Complaints by Basis
 Area of Montana
 Montana Fair Housing Data 2004 - 2013

Basis	Total
Disability	134
Familial Status	48
Design and Construction	31
National Origin	27
Age	24
Marriage	15
Sex	10
Religion	9
Race	7
Retaliation	2
Sexual Harassment	2
Total Basis	309
Total Complaints	216

In addition to the basis for discrimination, the Human Rights Bureau records the closure status relating to each complaint; these data are presented in Table V.18. In 59 complaints, an investigation by the Bureau turned up no cause to believe that discrimination had occurred; 55 complaints were conciliated and cause was found in 20 complaints. A complete version of this table with yearly complaint data is included in Appendix F.

Table V.18
Fair Housing Complaints by Closure
 Area of Montana
 Montana Fair Housing Data 2004 - 2013

Closure	Total
No Cause Found	59
Conciliated	55
Case Open	33
Cause Found	20
Withdrawn	17
Administrative Closure	16
Settled	4
Missing	4
Consent Order	3
Charged Issued	2
Undisclosed	2
No Jurisdiction	1
Total	216

Table V.19 presents the bases cited for the complaints considered to have been found with cause, many of which were successfully conciliated or settled. As had been the case with complaints to the Bureau in general, disability was the most common basis, cited in 56 complaints. Familial status formed the basis for the second most common complaint, and was cited 25 times. A complete version of this table with complaint data by year is included in Appendix F.

Table V.19
Fair Housing Complaints Found with Cause by Basis
 Area of Montana
 Montana Fair Housing Data 2004 - 2013

Basis	Total
Disability	56
Familial Status	25
Age	14
Marriage	14
Design and Construction	10
Sex	3
Religion	2
Total Basis	124
Total Complaints	81

C. Fair Housing Survey – Private Sector Results

Additional evaluation of fair housing within the State of Montana was conducted via an online survey of stakeholders conducted from May 2014 through November 2014. The purpose of the survey, a relatively qualitative component of the AI, was to gather insight into the knowledge, experiences, opinions, and feelings of stakeholders and interested citizens regarding fair housing. Results and comments related to the questions in the private sector are presented in the following narrative, and additional survey results are discussed in Sections VI and VII.

The 2014 State of Montana Fair Housing Survey was completed by 169 persons and was conducted online. The survey was sent to over 1300 key stakeholders to solicit feedback, these contacts included representatives of housing groups, minority organizations, disability resource groups, real estate and property management associations, banking entities, and other groups involved in the fair housing arena. Most questions in the survey required simple “yes,” “no,” or “don’t know” responses, although many questions allowed the respondent to offer written comments. When many respondents reported that they were aware of questionable practices or barriers, or when multiple narrative responses indicated similar issues, findings suggested likely impediments to fair housing choice.

Numerical tallies of results and summaries of some comment-driven questions are presented in this section. A complete list of written responses is available in Appendix A.

Fair Housing in the Private Sector

In order to address perceptions of fair housing in The State of Montana’s private housing sector, survey respondents were asked to identify their awareness of possible housing discrimination issues in a number of areas within the private housing sector, including the following:

- Rental housing market,
- Real estate industry,
- Mortgage and home lending industry,
- Housing construction or accessible housing design fields,
- Home insurance industry,
- Home appraisal industry, and
- Any other housing services.

If respondents indicated that they were aware of possible discriminatory issues in any of these areas, they were asked to further describe issues in a narrative fashion. Tallies for each question are presented in Table V.20, along with brief

discussions of the responses to each question. Note that percentages reported are based on the number of respondents who answered each question: “Missing” responses have been omitted from calculations of percentages.

Table V.20
Please evaluate the severity of the following impediments to the provision of fair housing opportunities in the Private Sector

State of Montana
 2014 Fair Housing Survey Data

Question	Not an Impediment	Slightly Severe	Moderately Severe	Very Severe	Missing	Total
Insurance agencies or agents refuse to issue policies or limit coverage for person based on their status in a protected class	43	14	13	3	64	137
Inability of prospective home buyers to obtain financing based on their status in a protected class	30	21	18	5	63	137
Real estate appraisers base home values of a neighborhood on the protected classes of the residents	27	22	15	7	66	137
Presence of unfair lending practices such as the promotion of subprime mortgages or predatory lending	29	23	17	5	65	137
Realtors® showing properties only in certain areas to prospective buyers based on their status	32	20	17	5	63	137
New housing units are being constructed that are not accessible for persons with disabilities	25	29	22	4	62	137
Rental unit owners refusing to rent to prospective tenants based on their status in a protected class	17	30	29	7	61	137
Lack of knowledge or understanding regarding fair housing laws	11	18	3	19	60	137
Other	5	1	3	1	127	137

Refusal on the part of insurance agents to issue policies to a person based on the person’s protected class status, or limitations on the coverages offered to that person, was not widely perceived to be an impediment to fair housing choice. Nearly 60 percent of those who responded did not consider this factor to be an impediment, or 43 respondents. Fourteen respondents felt that the problem was slightly severe, 13 felt it was moderately severe, and only 3 felt that the problem was very severe.

Financing

More survey respondents perceived the inability of home buyers to obtain financing based on their status in a protected class to be an impediment, though it was still not widely considered to be a severe impediment. Nearly 60 percent of respondents thought that the impediment was at least slightly severe: twenty-one respondents felt that it was slightly severe, 18 felt it was moderately severe, and 5 felt it was very severe.

Real Estate Appraisal

More than 60 percent of respondents felt that the practice of appraising home values in an area based on the protected class status of residents in the area was an impediment. More than a fifth of respondents felt that it was a moderately severe impediment, while fewer than ten percent felt that it was a very severe impediment.

Unfair Lending Practices

The promotion of subprime mortgages, predatory lending, or other unfair lending practices were less commonly perceived to be an impediment to the provision of fair housing opportunities in Montana. However, more than 30 percent of respondents felt that it was a slightly severe impediment, while approximately 21 percent felt that it was moderately severe and around 7 percent felt that it was very severe.

Steering

Steering is a practice in which a real estate professional will direct prospective homebuyers to certain housing units and areas according to their race, ethnicity, or other consideration prohibited under the FHA. Steering was perceived to be a problem by more than half of respondents. Twenty respondents felt that it was a slightly severe impediment, 17 felt that it was a moderately severe impediment, and 5 considered it to be a very severe impediment.

Accessibility

One third of respondents did not consider the failure to construct accessible rental units to be an impediment; while nearly 40 percent of respondents, or 29 respondents, felt that it was a slightly severe impediment. Nearly 23 percent of respondents found it to be a moderately severe impediment, and 5.3 percent felt that it was a very severe impediment.

Refusal to Rent

A relatively large percentage of respondents found refusal to rent to a tenant based on considerations that are illegal under the FHA (such as their race or religion) to be an impediment to fair housing choice in the State of Montana. However, the majority of these, accounting for 30 respondents, only considered it to be a slightly severe impediment. Twenty-two respondents felt that it was a moderately severe impediment, and seven respondents felt that it was a very severe impediment.

Lack of Knowledge of Fair Housing Laws

Respondents were considerably more likely to consider lack of knowledge or understanding of fair housing laws to be an impediment than any of the other factors discussed above. Only 11 respondents felt that lack of such knowledge was not an impediment in the state, while more than 85 percent of respondents felt that it was at least slightly severe. Twenty-nine respondents, or around 38 percent, felt that the impediment was moderately severe, while approximately one quarter of respondents felt that it was a very severe impediment.

Summary

Private sector data that may suggest the presence of barriers to fair housing choice include those that detail patterns of lending and investment, fair housing complaints, and public perception of conditions in the housing market. Data collected through the Home Mortgage Disclosure Act (HMDA) reveal that 64,707 home purchase loans were originated in Montana from 2004 through 2012, and 14,967 were denied, for an average denial rate of 18.8 percent. However, American Indian residents, Hispanic residents, and women were denied loans at a considerably higher rate; in the case of racial and ethnic minorities, these discrepancies held even when income was taken into account. Similarly, American Indian and Hispanic borrowers were issued higher proportions of loans with high annual percentage rates than white and non-Hispanic borrowers, and higher than the overall average rate of 11.5 percent.

The analysis of private sector factors that have the potential to impact fair housing choice included a consideration of the distribution of small business loans. Data on such loans are collected in accordance with the Community Reinvestment Act (CRA), and give an indication of the economic vitality of areas within the state. Small business loans issued in Census tracts in areas of the state from 2000 to 2011 tended to be concentrated in and around urban areas. As one might expect, the same was largely true of small business loan dollars.

A substantial proportion of Montana residents who lodged housing discrimination complaints with HUD alleged that housing providers had discriminated against them on the basis of disability. Alleged discrimination on this basis was cited in 76 of the 125 complaints lodged with HUD between 2004 and 2014, followed by race and familial status, cited in 24 and 23 complaints, respectively. As one might expect, based on the prevalence of these complaint bases, the

largest share of complainants cited the “failure to make reasonable accommodation” in their complaints. Disability was also the most common complaint basis in complaints lodged with Montana Fair Housing: of the 216 complaints the organization received between 2004 and 2013, 134 were related to disability.

The private sector portion of the 2014 Fair Housing Survey revealed that refusal to rent and lack of knowledge of fair housing laws were the two factors that were most likely to constitute impediments to fair housing choice in the state, according to survey respondents. More than three-quarters of respondents perceived the refusal to rent based on considerations that are prohibited under the FHA to be an impediment. More than 85 percent of respondents felt lack of knowledge of fair housing law to be an impediment, and a majority of those felt that it constituted a moderately severe or very severe impediment.

SECTION VI. FAIR HOUSING IN THE PUBLIC SECTOR

While the previous section presented a review of the status of fair housing in the private sector, this section will focus specifically on fair housing in the public sector. The U.S. Department of Housing and Urban Development (HUD) recommends that the AI investigate a number of housing factors within the public sector, including the placement of public housing as well as access to government services.

A. Public Services

Community features, including public services and facilities, and the location of public and assisted housing are essential parts of good neighborhoods, leading to a more desirable community and more demand for housing in these areas.

Section 8 Programs

Financial assistance in housing is provided to low-income residents of Montana through the Section 8 Program. Funds available to those residents through the program are provided by HUD and administered by the Montana Department of Commerce. There are two principle types of Section 8 funding available to Montana residents: Tenant Based and Project Based. Tenant Based Section 8 (TBS8) Housing Vouchers are provided to the individual or family seeking a home, and can be used to pay rent and utilities costs. These vouchers are portable, meaning that the person or family can use them at any property that accepts them. Project Based Section 8 funding is a type of rental subsidy provided to property owners, which allows them to charge lower rental prices to eligible rental tenants. In both cases, eligibility for the Section 8 program is restricted to families making less than 50 percent of the median family income (MFI) for the county in which the family lives or plans to live. The MFI for a county is defined by HUD, and is updated annually.

Project Based Section 8 Housing Units were scattered throughout the state, as shown in Map VI.1 (Appendix I). However, there was a tendency for these units to be concentrated in the western, more populous, half of the state. In addition, though these units were present in rural areas as well as urban areas of the state, clusters of Project Based Section 8 Units were observed in urban areas such as Butte, Helena, Polson, and Kalispell. There did not appear to be a tendency for these units to be located in high-poverty areas.

Tenant Based Section 8 Housing units were more numerous than Project Based units, as shown in Map VI.2 (Appendix I). Though TBS8 units were distributed throughout areas of the state, they tended to be more highly concentrated in western Census tracts, particularly in urban areas. Clusters of these units were observed in the areas in and around Butte, Bozeman, Helena, Kalispell, and Whitefish, as well as near the entitlement cities of Billings, Great Falls, and Missoula. However, clusters of these units were not limited to urban areas, as several were observed in the area of the Bitterroot Valley and near Rocky Boy's Reservation. As had been the case with Project Based Section 8 units, Tenant Based Section 8 housing was not observed to be heavily concentrated in areas with high concentrations of poverty.

Low-Income Housing Tax Credit Program

The Low-Income Housing Tax Credit (LIHTC) Program, administered by the Montana Department of Commerce, is designed to promote investment in affordable rental housing by providing tax credits to developers of qualified projects. To qualify for the tax credits, housing projects must be residential rental properties in which a proportion of available units are rent-restricted and reserved for low-income families. The exact proportions of units that need to be reserved for low-income families for a project to qualify for LIHTC credits varies according to which threshold the property owner elects to implement: at least 20 percent of housing units must be occupied by families with incomes equal to or less than HUD's median family income (MFI) according to the 20-50 rule, while at least 40 percent of units

must be reserved for families earning less than 60 percent of the area median income if the property owner elects to follow the 40-60 rule. HUD's MFIs are adjusted for household size. Property owners are required to maintain rent and income restrictions for at least thirty years, pursuant to the HUD-mandated minimum affordability period.

The distribution of housing projects participating in the LIHTC program is displayed in Map VI.3 (Appendix I). As was the case with multi-family assisted housing, there was no tendency observed toward the location of these units in areas with disproportionately high rates of poverty. LIHTC units were distributed throughout the state, though there were clusters of these units in and around Helena, Havre, Miles City, Polson, and Kalispell.

Affordable Housing Inventory and Housing Choice

The HUD multi-family assisted housing as well as the low income housing tax credit properties and the Section 8 Voucher Assisted units have been displayed by geographic locale throughout the non-entitled areas of Montana. The housing choices available from the affordable housing stock both inside and outside areas of minority racial and ethnic concentrations of Montana appear to be comparable. However, this is not true in those areas inside American Indian Tribal Lands, areas within which the MDOC has little ability to influence.

B. Fair Housing Survey – Public Sector Results

As mentioned previously, further evaluation of the status of fair housing within the State of Montana was conducted via an online 2014 Fair Housing Survey, which was completed by a large number of stakeholders and citizens. Those solicited for participation included a wide variety of individuals in the fair housing arena. Most questions in the survey required “yes,” “no,” or “don’t know” responses, and many allowed the respondent to offer written comments. While the numerical tallies of results are presented in this section, along with summaries of questions with significant number of responses, a complete list of written responses is available in Appendix A. Other survey results are also discussed in Sections V and VII.

Fair Housing in the Public Sector

Public sector effects on housing can be complex and varied. The questions in this section of the survey asked respondents to think about possible barriers to fair housing choice within very specific areas of the public sector, as follows:

- Land use policies,
- Zoning laws,
- Occupancy standards or health and safety codes,
- Property tax policies,
- Permitting processes,
- Housing construction standards,
- Neighborhood or community development policies,
- Access to government services, and
- Any other public administrative actions or regulations.

If respondents indicated affirmatively that they were aware of possible discriminatory issues in any of these areas, they were asked to further describe issues in a narrative fashion. Tallies for each question are presented in Table VI.1. As had been the case in the private sector portion of the fair housing survey, percentages reported are calculated based on the total number of respondents who answered each question—i.e., the “Total” column minus the “Missing” column.

Table VI.1
Please evaluate the severity of the following impediments to the provision of fair housing opportunities in the Public Sector

State of Montana
 2014 Fair Housing Survey Data

Question	Not an Impediment	Slightly Severe	Moderately Severe	Very Severe	Missing	Total
Lack of knowledge or understanding regarding housing opportunities	13	30	21	12	61	137
Lack of information regarding housing opportunities in languages other than English	29	28	15	5	60	137
Lack of information regarding housing opportunities provided in accessible formats for persons with disabilities	21	28	20	4	64	137
Health and safety codes are enforced differently in certain neighborhoods based on the residents protected class	27	24	14	6	66	137
Lack of mechanisms for identifying and alleviating discrimination	21	22	21	7	66	137
Insufficient monitoring, oversight, or enforcement of fair housing laws	19	25	20	9	55	137
Inadequate access to public transportation	18	22	20	17	43	137
Inadequate access to employment opportunities	20	24	23	8	54	137
New housing units are being constructed that are not accessible for persons with disabilities	27	28	14	3	62	137
Lack of knowledge or understanding regarding fair housing laws	12	23	28	14	46	137
Other	5	1	3	1	126	137

Lack of Knowledge of Housing Opportunities

Lack of knowledge or understanding regarding housing opportunities was regarded as an impediment to the provision of fair housing opportunities by a relatively large proportion of survey respondents. More than eighty-two percent of those who answered this question considered this factor to constitute an impediment. Thirty respondents considered it to be a slightly severe impediment, twenty-one considered it to be moderately severe, and twelve considered it to be very severe.

Information in Other Languages

Fewer respondents considered a lack of translations of housing information to constitute an impediment to fair housing choice in the state. Approximately sixty-two percent of respondents considered it to be an impediment of any level of severity, and just over a quarter felt that it constituted a moderately severe or very severe impediment.

Information in Accessible Formats

The lack of information regarding housing opportunities in formats accessible to persons with disabilities was more commonly considered an impediment. Twenty-eight respondents considered it to be a slightly severe impediment and twenty considered it to be moderately severe, accounting for about sixty-six percent of respondents. However, only four respondents considered it to be a very severe impediment.

Health and Safety Codes

Around sixty-two percent of respondents identified as an impediment the differential enforcement of health and safety codes by neighborhood based on prohibited considerations such as race, national origin, or religion. Around a third of respondents felt that it constituted a slightly severe impediment, around a fifth identified it as a moderately severe impediment, and around eight percent considered it to be a very severe impediment.

Mechanisms to Identify and Alleviate Discrimination

The lack of mechanisms for the identification and alleviation of discrimination was more salient as an impediment among survey respondents. About thirty-one percent of respondents felt that it was a slightly severe impediment; thirty percent felt that it was a moderately severe impediment; and nearly ten percent considered it to be a very severe impediment.

Insufficient Monitoring, Oversight, and Enforcement of Fair Housing Laws

A majority of respondents; over seventy-five percent; perceived insufficient monitoring, oversight, and enforcement of fair housing laws to be an impediment to the provision of fair housing opportunities in the state. Approximately thirty percent of respondents considered it to be a slightly severe impediment; twenty-four percent considered it to be a moderately severe impediment; and eleven percent considered it to be a very severe impediment.

Access to Public Transit

Considerably more survey respondents found inadequate access to public transportation to represent an impediment to the provision of fair housing opportunities in Montana. More than eighty percent of respondents considered it to represent at least a slightly severe impediment, and approximately forty percent of respondents considered the impediment to be moderately severe or very severe.

Employment Opportunities

Around seventy-five percent of respondents also considered inadequate access to employment opportunities to represent an impediment to fair housing choice. However, fewer respondents found this to be a very severe impediment. About twenty-nine percent of respondents considered it to be a slightly severe impediment and just over a quarter found it to be a moderately severe impediment.

Accessible in Design and Construction

Construction of new housing units without accessible features for persons with disabilities was not as widely perceived to be an impediment to fair housing choice in the state. Only sixty-four percent of respondents felt that it was an impediment, and a majority of those who did considered it to be a slightly severe impediment. About nineteen percent considered it to be a moderately severe impediment and four percent considered it to represent a very severe impediment.

Lack of Knowledge or Understanding of Fair Housing Laws

The perceived lack of knowledge or understanding of fair housing laws among members of the public was commonly perceived to represent an impediment to the provision of fair housing in the state. Around eighty-seven percent of respondents identified this lack of knowledge as an impediment, including nearly thirty-one percent who identified it as a moderately severe impediment and fifteen percent who identified it as a very severe impediment.

Summary

Consideration of potential public sector barriers to fair housing choice included an analysis of the geographic distribution of subsidized, multifamily housing units as well as a discussion of selected results from the 2014 State of Montana Fair Housing Survey. Subsidized multifamily units examined in this study were subsidized through Section 8 as well as through Low Income Housing Tax Credits (LIHTC). Project-based Section 8 units, which are units that are directly subsidized through Section 8 funding, are scattered throughout the state and tended to be located on major transportation corridors. Section 8 vouchers, which allow residents to maintain their subsidy as they move from one housing unit to another, tended to be clustered in and around urban areas of the state. Units that were subsidized

through LIHTC were also distributed widely throughout the state along major transportation corridors, though there were some clusters of LIHTC units in and around Butte, Kalispell, Helena, and other urban areas of the state.

Lack of knowledge of housing opportunities and fair housing laws were widely perceived to constitute impediments to the provision of fair housing in the state, along with inadequate access to public transportation. More than three-quarters of respondents who answered questions concerning these factors believed them to constitute impediments to fair housing choice, while approximately seventy-four percent of respondents perceived an impediment in the lack of sufficient monitoring, oversight, or enforcement of fair housing laws.

C. State-Wide Survey

The 2014 Montana AI addressed local unit of government policies and practices in a unique fashion, by calling approximately 25 communities in the State and conducting an information interview about their land-use policies and practices as it may relate to specific fair housing topic areas. The idea is to uncover if a preponderance of local ordinances or practices could collectively be construed to be an impediment to fair housing choice. All twenty-five cities contacted in this effort are presented Table VI.2, as were Chouteau, Lake, Park, Roosevelt and Rosebud Counties. This informal interview was completed with 24 respondents, of which 11 were planners, another a Planner in Training, three were Directors of Public Works, two were Community Development Directors, two more were in the Building/Planning department, one was a Financial Officer, four were City Clerks, one was a Zoning Administrator, and another was the Director of Operations.

Table VI.2
Communities Contacted Regarding the Local land-use policies and practices

State of Montana
State-Wide Table

City or Town	Population	City or Town	Population
Anaconda-Deer Lodge	9,298	Hot Springs	544
Baker	1,741	Kalispell	19,927
Bozeman	37,280	Lewistown	5,901
Choteau	1,684	Libby	2,628
Choteau County	5,813	Miles City	8,410
Ennis	8,38	Red Lodge	2,125
Forsyth	1,777	Roosevelt County	10,425
Glasgow	3,250	Rosebud County	5,242
Glendive	4,935	Roundup	1,788
Hamilton	4,348	Shelby	3,376
Havre	9,310	Sidney	5,191
Helena	28,190	Whitefish	6,357

The results of this are as follows:

- 18 respondents had a definition for dwelling unit, with 9 mentioning the word family.
- 17 respondents had a definition of family with 6 including the phrase related by blood, marriage, or adoption. 7 had a specific limit to the numbers of persons included in a family.
- 17 respondents had guidelines to encourage the development of mixed use housing, but only 5 had any guidelines that encourage the development of affordable housing.
- 13 mentioned complications to the development of low or moderate-income housing, with 5 indicating that NIMBYism played a large role.
- 7 respondents had a special appeals process or specific person to see to request a variance for reasonable accommodations or modification.
- 18 respondents had no policy for the development of senior housing
- 16 respondents did not have any policies to distinguish senior housing from other multi- family residents
- 13 respondents did not have a definition for group home.

- 11 respondents did not have a fair housing ordinance, policy or regulation
- 15 respondents did not have any specific policies to affirmatively further fair housing.

In summary, it would appear that a number of communities throughout the State tend to have incomplete policies and practices, particularly as it relates to defining a family, allowable family size, and dwellings available to and for the disabled. Few seemed to have a mechanism to correct for such challenges. Further, while many seemed sensitive to fair housing, few have any formal or recognized policies or practices for affirmatively furthering fair housing.

SECTION VII. PUBLIC INVOLVEMENT

This section discusses analysis of fair housing in the State of Montana as gathered from various public involvement efforts conducted as part of the AI process. Public involvement feedback is a valuable source of qualitative data about impediments, but, as with any data source, citizen comments alone do not necessarily indicate the existence of statewide impediments to fair housing choice. However, survey and hearing comments that support findings from other parts of the analysis reinforce findings from other data sources concerning impediments to fair housing choice.

A. Fair Housing Survey

As discussed in previous sections, a 2014 Fair Housing Survey comprised a large portion of the public involvement efforts associated with the development of the 2014 AI. While data from the survey regarding policies and practices within the private and public sectors have already been discussed, the remaining survey findings are discussed in this section and accompany this document.

The purpose of the survey, a relatively qualitative component of the AI, was to gather insight into knowledge, experiences, opinions, and feelings of stakeholders and interested citizens regarding fair housing as well as to gauge the ability of informed and interested parties to understand and affirmatively further fair housing. Many organizations throughout the state were solicited to participate.

A total of 169 persons in Montana completed the survey, which was conducted online. The survey was announced to approximately 1,300 people and was available beginning May 2014 through November 2014. A complete list of responses is included in Appendix A. Other survey results are also discussed in Sections V and VI. A complete list of the entities contacted is available in Appendix G of the *2015-2020 State of Montana Consolidated Plan*.

Respondents of the 2014 Fair Housing Survey were asked to identify their primary role within the housing industry. As shown in Table VII.1, 24 respondents identified themselves as service providers, 35 as renter/tenants, 22 as homeowners, 19 as advocate or service providers, and 12 as local government officials.

The next question asked respondents about their familiarity with fair housing laws. Results of this question are presented in Table VII.2. Twenty-nine of the 169 who responded to this question stated that they were not familiar with fair housing laws; while 106 maintained that they were “somewhat” or “very” familiar with these laws.

Table VII.3 shows the responses to four questions regarding federal, state, and local fair housing laws. First, respondents were asked if fair housing laws are difficult to understand or follow. A majority of respondents stated that they were not difficult to follow, though 40 respondents felt that they were. Twenty-four respondents stated that fair housing laws should be changed, and when asked to specify the types of changes to fair housing laws that they would wish to see, many respondents cited a need to expand protected class designations to include sexual orientation as a protected class. Fifty-six respondents maintained that fair housing laws are adequately enforced in Montana, 58 respondents felt that they were not, and 15 responded that they didn’t know well enough to weigh in on current levels of enforcement. Those who offered additional commentary in relation to this latter question tended to focus on the need among housing consumers for more information and knowledge of issues and laws pertaining to fair housing. One respondent stated that a need is “education on how to stand up for themselves as a first step toward Enforcement.”

Table VII.1
Role of Respondent

State of Montana
2014 Fair Housing Survey Data

Primary Role	Total
Advocate/Service Provider	19
Appraisal	
Banking/Finance	4
Construction/Development	2
Homeowner	22
Insurance	
Law/Legal Services	
Local Government	12
Elected Official	1
Land Use Planner	7
Public Works	2
Property Management	9
Real Estate	4
Renter/Tenant	35
Service Provider	24
Other Role	26
Missing	2
Total	169

Table VII.2
How familiar are you with Fair Housing Laws?

State of Montana
2014 Fair Housing Survey Data

	Total
Not Familiar	29
Somewhat Familiar	75
Very Familiar	31
Missing	34
Total	169

Table VII.3
Federal, State, and Local Fair Housing Laws

State of Montana
2014 Fair Housing Survey Data

Question	Yes	No	Don't Know	Missing	Total
Are fair housing laws difficult to understand or follow?	50	58	25	36	169
Do you think fair housing laws should be changed?	32	49	53	35	169
Do you think fair housing laws are adequately enforced?	56	56	15	40	169

The next section in the survey related to fair housing activities, including outreach and education and testing and enforcement. As shown in Table VII.4, when asked if there was an educational process available to learn about fair housing laws, fifty-six respondents answered “yes”; thirty-eight respondents also noted that they had participated in fair housing training. A large share of respondents felt that current levels of outreach and education are limited. Relatively few respondents, only fifteen, were aware of fair housing testing, and most respondents felt that current levels of fair housing testing were insufficient or did not know enough about current levels to offer an opinion.

Table VII.4
Fair Housing Activities
 State of Montana
 2014 Fair Housing Survey Data

Question	Yes	No	Don't Know	Missing	Total	
Are you aware of educational activities or training opportunities available to learn about fair housing law?	56	58	15	40	169	
Have you participated in fair housing training?	38	31	3	97	169	
Are you aware of any fair housing testing of any sort in the State?	16	91	22	40	169	
Testing and education	Too Little	Right Amount	Too Much	Don't Know	Missing	Total
Is there sufficient outreach and education activity?	52	27	1	50	39	169
Please assess the current level of fair housing testing in the State	25	11		94	39	169

As part of the process of gauging the impact of housing discrimination among members of the public, respondents were asked to state whether or not they had experienced or witnessed housing discrimination in the state. Fifty-six respondents stated that they had experienced or witnessed discrimination while sixty-eight reported that they had not, as shown in Table VII.5.

Survey respondents were then asked to identify the best description of the person or organization that had discriminated against them, or whose discriminatory behavior they had witnessed. Fifty-six respondents reported that they had experienced or witnessed discrimination on the part of rental property owners and managers. This was by far the most common type of housing provider identified, as shown in Table VII.6. Respondents were also asked to state the basis of the perceived discriminatory action they had suffered or witnessed, and numerical tallies of responses to this question are included in Appendix A. Race, familial status, sexual orientation, age, and disability were the most common discriminatory bases reported by survey respondents: between 30 and 43 respondents reported having suffered or witnessed discrimination on each of these bases.

Table VII.5
Have you ever experienced or witnessed housing discrimination in the state of Montana
 State of Montana
 2014 Fair Housing Survey Data

Familiarity	Total
Yes	56
No	68
Don't know	12
Missing	33
Total	169

The survey also included three questions designed to gauge respondents' awareness of local fair housing policies, as well as geographic areas within the state that are known to have fair housing problems. Responses to these questions are tallied in Table VII.7. Twenty-two respondents were aware of a city or county ordinance, regulation, or plan that includes provisions for fair housing, though a majority of respondents selected either "No" or "Don't know" in response to this question. Fewer still were aware of any policies that affirmatively further fair housing, and twenty-two professed to be aware of geographic areas with housing problems. In all questions, a relatively large share of respondents selected "Don't know".

Respondents were also asked to share any additional comments they may have had concerning fair housing, and some professed to be aware of geographic areas with housing problems. In all questions, a relatively large share of respondents selected "Don't know".

Table VII.6
Which of the following best describes the person or organization that you witnessed engaging in discriminatory behavior?

State of Montana
 2014 Fair Housing Survey Data

Primary Role	Total
Rental property owner/manager	64
Seller of a house, duplex, condominium, or other housing unit	5
Condominium association or homeowner's association	4
Realtor®, appraiser, or other real estate professional	6
Loan officer, mortgage broker, bank or other lender	4
Municipal, county, or other governmental employee	4
Other	4

Respondents were also asked to share any additional comments they may have had concerning fair housing in the state. Only one respondent elected to do so, and his or her comment focused on the difficulties that Spanish-speaking people may face in navigating administrative processes.

Table VII.7
Local Fair Housing

State of Montana
 2014 Fair Housing Survey Data

Question	Yes	No	Don't Know	Missing	Total
Are you aware of any city or county fair housing ordinance, regulation, or plan?	22	42	30	75	169
Are you aware of any policies or practices for "affirmatively furthering fair housing?"	14	49	32	74	169
Are there any specific geographic areas that have fair housing problems?	22	13	59	75	169

B. Fair Housing Hearing

Fair Housing Hearing

The MDOC sent out invitations for participation and reminders via email. Each email was sent out to approximately 1,300 addresses. These addresses included members of the public, city, town and county officials, independent and professional consultants, for-profit entities and businesses, non-profit entities and businesses, state and federal agencies, and various other organizations. These invitations were offered to encourage in-person, webinar, and teleconference participation. All webinars and teleconference capabilities were provided at no cost to attendees. All meeting materials and minutes were made available via the MDOC website. One fair housing hearing was held in Montana as part of the AI process. The hearing was held in Kalispell in June of 2014. The purpose of this discussion was to allow the public to have the chance to learn more about the AI process, including why the AI was conducted, and included a discussion of preliminary findings. The complete minutes of the meeting are presented in Appendix B. The subsequent discussion of issues pertaining to fair housing policy in the state was relatively brief among the topics discussed was the extent and composition of vacant housing in the state and a perceived disconnect "between the office that does the regulations, permitting, and those kinds of things and how that plays out in fair housing."

Summary

Efforts to promote and facilitate public involvement in the AI process included the online 2014 Fair Housing Survey and Fair Housing hearing conducted in Kalispell in July of 2014. Survey responses indicate that opinions on issues pertaining to fair housing can differ considerably, though respondents tended to feel that current levels of fair housing outreach,

education, and testing are not sufficient to meet the needs of Montana residents. In addition, nearly 40 percent of respondents maintained that they had suffered discrimination themselves, or had witnessed discrimination, in the housing market. These respondents experienced or witnessed these acts much more commonly in the rental housing market. The 2014 Fair Housing hearing afforded participants an opportunity to learn more about the AI and fair housing in general, and to offer their perspective on the state of fair housing in Montana. Participants in the hearing discussed challenges associated with vacant housing in the state, as well as a perceived disconnect between regulations and policies, and regulatory agencies, and the manner in which fair housing policies are implemented locally.

SECTION VIII. SUMMARY OF FINDINGS

This AI reviews both the public and private sector contexts for housing markets in non-entitlement areas of the State of Montana in order to determine the effects these forces have on housing choice. As part of that review, analysis of demographic, economic, and housing data provide background context for the environments in which housing choices are made. Demographic data indicate the sizes of racial and ethnic populations and other protected classes; economic and employment data show additional factors in influencing housing choice; and counts of housing by type, tenure, quality, and cost indicate the ability of the housing stock to meet the needs of the state's residents.

Once this contextual background analysis has been performed, detailed review of fair housing laws, cases, studies, complaints, and public involvement data can be better supported by the background information. The structure provided by state and federal fair housing laws shapes the complaint and advocacy processes available in the state, as do the services provided by local, state, and federal agencies. Private sector factors in the homeownership and rental markets, such as home mortgage lending practices, have substantial influence on fair housing choice. In the public sector, policies and codes of local governments and a limited location of affordable rental units can significantly affect the housing available in each area, as well as neighborhood and community development trends. Complaint data and AI public involvement feedback further help define problems and possible impediments to housing choice for persons of protected classes, and confirm suspected findings from the contextual and supporting data.

Alone, findings from any one of the following do not prove the existence of an impediment to fair housing choice. However, when evidence for a specific impediment emerges repeatedly in the analysis of different data sets, it suggests that such impediment may in fact be present in the housing market of areas of Montana.

Socio-Economic Context

The population in areas of Montana grew by an estimated 11.3 percent between 2000 and 2013 and underwent several minor shifts during that time. In both the 2000 and 2010 Censuses, residents aged 35 to 54 years accounted for the largest share of the population; however, this share dropped by around 4 percentage points over the decade and these residents represented 27.1 percent of the population in 2010. The eldest cohort, comprising residents over the age of 65, grew more rapidly than the overall population and came to account for 15 percent of the population by 2010.

The racial and ethnic composition of the state also changed, albeit slightly. White residents accounted for the largest share of residents in both years; though this share slipped by 0.9 percentage points between the two Censuses, white residents still accounted for nearly nine-tenths of all residents in 2010. American Indian residents accounted for 7 percent of the population in both years, and tended to be disproportionately concentrated in and around tribal reservation areas in both years. The Hispanic population grew by 60.4 percent over the decade, and represented 2.5 percent of the population in 2010. Non-Hispanic residents accounted for 97.5 percent of the population in that same year. In 2000 and 2010, Hispanic residents made up an above-average share of the population in Census tracts in the south of the state.

Residents with disabilities accounted for 17.3 percent of the population in 2000. In that year, residents with disabilities were disproportionately concentrated in a large Census tract to the northwest of Missoula. By 2012, 13.2 percent of Montana residents were observed to be living with disabilities, though due to changes in the ACS and Census questionnaires in 2008, it is impossible to conclude with certainty that the share of disabled residents actually declined.

The number of workers employed in areas of Montana grew steadily from 1991 to 2008, with the exception of a brief period from 2000 to 2002. After 2008, the number of workers employed in the state underwent a precipitous decline,

dropping by over 18,000 in 2009. However, this decline reversed in the following year, and the number of employed person slowly began to grow again. However, the unemployment rate continued to climb through 2010 as the growth in the labor force outpaced growth in the number of employed. From 2008 through the beginning of 2014, the unemployment rate was subject to seasonal fluctuation as the unemployment rate peaked in the winter and summer months of each year. Data from the Bureau of Economic Analysis indicated that the total number of full- and part- time jobs grew steadily from 1986 to 2007, fell after 2008, and has recently begun to rise again.

Even as growth in the number of jobs in areas of Montana was steady for two decades after 1986, growth in real average earnings per job was subject to fluctuation. However, between 1998 and 2005 earnings per job rose steadily, though this growth slackened after that year. As had been the case with the employment figures cited above, earnings per job fell in 2009, though this decline was not as pronounced as in the case of employment. After 2009, earnings began to grow rapidly, and stood at \$41,366 in 2012.

A similar pattern was observed in trends in real per capita income (PCI), though growth in real PCI was steadier between the mid-1980s and 2008. Following a brief decline in 2009, real PCI grew by more than \$1,000 per year over the next three years, and stood at \$39,131 in 2012. At the same time, households experienced a shift toward higher incomes over the decade and the poverty rate slipped from 14.5 percent to 14.3 percent.

The composition of the housing stock in areas also shifted as growth in the number of housing units outpaced growth in the population. Though the number of occupied housing units increased by 14 percent these units declined as a share of the overall housing stock as the number of vacant units grew by 36.2 percent. Growth in the number of vacant units dedicated to seasonal, recreational, or occasional use accounted for a substantial portion of the increase in vacant units overall, along with the considerable growth in the number of “other vacant” units.

Households tended to become smaller on average between 2000 and 2010 as the number of one- and two-person households increased by 25.1 and 20.4 percent, respectively. In addition, the shares of single-family, duplex, and apartment units grew between 2000 and 2012, while the share of mobile homes fell sharply. Fewer housing units were overcrowded by 2012, and fewer units had incomplete plumbing facilities. However, the share of units lacking complete kitchen facilities grew from 1.1 to 1.2 percent between 2000 and 2012.

Five-Year ACS estimates from 2012 indicate that tracts with relatively high median contract rent prices tended to be clustered around urban areas of the state; including Kalispell, Helena, Great Falls, Bozeman, and Billings; as well as in the Bitterroot Valley. Tracts with relatively high median home values tended to be concentrated in these same areas.

Additional socio-economic factors related to the costs of land, materials, labor, building codes, city planning rules and regulations, impact fees, and financing barriers are listed as follows:

Costs of land: According to the Montana Department of Revenue, the market value of residential property statewide fell by a 4.6 percent average in 2014, after making big gains in the three previous, six-year reappraisal cycles. The last cycle's base year was 2008, when Montana was still in the peak of the housing bubble. But housing prices soon crashed in much of the state during the recession, especially in parts of western Montana, and are just starting to recover.

The average market value of residential property fell in 16 western and southern counties, with the biggest drops of 20 percent or greater in such smaller counties as Mineral, Lincoln and Madison. Urban counties also saw drops in residential market value, including Flathead County, where the rate fell 12 percent; Gallatin County, falling 8 percent, and Lewis and Clark County, down 7 percent. Cascade County's average residential market values increased 4.5 percent, while most surrounding counties in northcentral Montana had 14 percent gains. Hill County had a 2 percent gain and Fergus County a 1 percent gain. The biggest gains in residential market value occurred in eastern Montana, with at least 34 percent gains in 17 eastern counties, led by Richland County, in the heart of the Bakken oil boom, which saw average residential market gains of 90 percent and commercial property gains of 212 percent.

Costs of materials: Raw material prices declined sharply in the first quarter of 2015, due in part to China's soft economy, the economic crisis in Greece, the strong U.S. dollar, and a stagnant global demand for oil. The cost of construction materials inched up slightly (0.20 percent) in June, but prices for prepared asphalt, tar roofing and siding; steel mill products; concrete products; crude petroleum; and nonferrous wire and cable all continue to drop.

Costs of labor: According to the U.S. Bureau of Labor Statistics, the construction industry employed roughly 1,822,000 workers nationally. After bottoming out in January 2011 — at more than 600,000 fewer workers than its peak — the industry began slowly rebounding. By March this year, that number had only ticked up to 1.41 million, still 400,000 workers shy of the peak. This shortage of labor has driven up wages for production workers in construction faster than inflation, according to an analysis of statistics from the Bureau of Labor Statistics.

Cost of Building Codes and City Planning Rules and Regulations: Land use regulations are a necessary part of ensuring the health and safety of individuals and communities. Zoning and subdivision regulations are meant to efficiently guide development in communities while building codes are designed to ensure that home construction is safe.

The most important aspect of the relationship between land use regulation and housing affordability is the type and form of regulation. Traditional "exclusionary" zoning can limit the supply and accessibility of affordable housing, thereby raising home prices by excluding lower income households. Exclusionary zoning is typically considered zoning that has the effect of keeping certain population groups, or in some cases, additional population of any kind, out of a community or neighborhood. Techniques such as large-lot zoning, high floor area or minimum residential floor area requirements, which increase housing costs, have been challenged for their potential exclusionary effects. Well-crafted land use policies can break the chain of exclusion by incorporating policies that increase housing densities, encourage a mix of housing types, and promote regional fair share housing or other inclusionary housing elements.

Montana has traditionally employed a minimum of land use regulations at the local level; outside of the incorporated communities, most regulation is limited to subdivision regulations which regulate the division of property to create new lots. Some communities have tried to address neighborhood concerns about higher density developments by establishing design standards and more resident-participatory review processes. As of 2015, the only community in Montana that had adopted an enforceable inclusionary housing ordinance is the City of Bozeman. As local Montana communities recognize the need for more affordable housing, each community has to balance the public interest in limiting increased housing costs while protecting the public health, safety, welfare and quality of life through land use regulations.

Impact Fees: The adoption of impact fees is an alternative available to local governments for generating the revenue necessary to accommodate new development. Impact fees were specifically authorized by the Montana Legislature in 2005 to help local governments pay for improvements, land, and equipment necessary to increase or improve the service capacity of public facilities and services (including water, wastewater, transportation, storm water, flood control, police, emergency medical rescue, fire protection, or other public facilities). Several communities in Montana have adopted impact fees for funding one or more facilities or services, including Bozeman, Polson, Hamilton, Belgrade, Bainville, Kalispell, Missoula, Whitefish, Circle, Miles City and Sidney.

Financing Barriers: According to a recent report by Fitch Ratings, borrowers are seeing "a steady easing" of high credit standards by banks and other lenders. On May 22, 2015, the Federal Housing Authority (FHA) released guidelines to clarify requirements for lenders in an effort to increase mortgage access. The proposed changes require lenders to promise to follow specific requirements in the FHA's guidelines rather than certifying to somewhat broad, vague language. On July 21, 2015, the Consumer Financial Protection Bureau (CFPB) issued an amendment to the Know Before You Owe mortgage disclosure rule that requires easier-to-use mortgage disclosure forms that clearly lay out the terms of a mortgage for a homebuyer and gives homebuyers three days to review financial documents to ensure loan terms and fees have not changed at the last minute. In April 2015, Fair Isaac announced that it would be establishing a new credit score that will allow some 15 million previously unscorable consumers to be scored based on alternative data provided FICO by Equifax, Inc. and LexisNexis Risk Solutions. With the new score, consumers who receive a credit card and handle their payments responsibly for at least six months will receive regular FICO scores.

In response to these changes, according to the Federal Senior Loan Officer Opinion Survey on Bank Lending, May 2015 marked the fourth straight quarter of more U.S. lenders easing loan approval standards as compared to the number of banks tightening up. Combined with historically low interest rates and a slowing rate of price increases for homes, the report noted, easier-to-quality-for mortgages “support a more robust 2015 for the U.S. homebuilding and construction sectors.” In addition, Montana residents have access to the Montana Board of Housing loan and mortgage programs with alternatives to conventional loan products.

Sources:

- 1) Montana Department of Revenue
- 2) Sharon O'Malley, “ABC: Construction material costs barely rise as 'crisis economics' define market,” Construction DIVE, Sharon O'Malley July 16, 2015.
- 3) U.S. Bureau of Labor Statistics
- 4) “Creating a Task Force on Regulatory Barriers to Affordable Housing,” U.S. Department of Housing and Urban Development, Office of Policy Development and Research (2007).
- 5) Nelson et al., “The Link Between Growth Management And Housing Affordability: The Academic Evidence,” The Brookings Institution Center on Urban and Metropolitan Policy (February 2002).
- 6) Malpezzi, S. “Housing Prices, Externalities, and Regulation in U.S. Metropolitan Areas” *Journal of Housing Research*, 7,(2)(1996): pp 209-241; Glaeser, E.L. and J Gyourko, “Zoning’s Steep Price,” *Regulation*, 25:3(2002); pp 24-31.
- 7) Esparza, A. and Carruthers, J., “Land Use Planning and Exurbanization in the Rural Mountain West,” *Journal of Planning Education and Research*, Association of Collegiate Schools of Planning, Vol. 20 (2000).
- 8) “Fitch Ratings: US Homebuilders Supported via Credit Standards Easing,” July 29, 2015

Fair Housing Law, Study, and Case Review

Montana residents are protected from discrimination in the housing market by the Federal Fair Housing Act and Montana State Code §49-2-305. Race, color, national origin, religion, sex, familial status, and disability are recognized as protected classes in both laws, while Montana Human Rights Law extends anti-discrimination additional protections on the bases of marital status, age, and creed. In spite of these protections, national fair housing studies demonstrated the persistence of illegal discrimination in the housing market, though they also suggest that discrimination has become more subtle and difficult to identify.

Since 2000 the Department of Justice has lodged five complaints against housing providers in the State of Montana. Three of these cases concerned alleged discrimination on the basis of disability, one on the basis of sex, and one on the basis of familial status. All of these cases have been settled.

Fair Housing Structure

Residents of Montana who believe that they have been subjected to illegal discrimination in the housing market can lodge a complaint with HUD, the Montana Human Rights Bureau, or Montana Fair Housing. HUD conducts investigations of alleged violations of the federal Fair Housing Act, while the Human Rights Bureau investigates alleged violations of Montana Human Rights Law. Both organizations have a similar complaint process, though there are some differences between the two: for example, complaints filed with HUD may be conciliated at any point up until the agency determines whether or not the complaint has cause. Under Montana Human Rights Law, complaints may be resolved voluntarily before a determination of cause is made, but they may also be conciliated after such a determination is made. Though the laws and policies of the HRB are to some degree aligned with those of HUD, the HRB is not a participant in HUD’s Fair Housing Assistance Program.

Montana Fair Housing (MFH) is a non-profit organization that is “dedicated to the elimination of housing discrimination, and the advancement of civil rights.” As a FHIP participant, MFH has been active in complaint intake, investigation, and enforcement throughout the State of Montana, and has been instrumental in bringing actual, potential, and alleged violations of fair housing law to the attention of HUD and the Justice Department. MFH was actively involved in four of the five DOJ cases profiled in Section III of this report.

Fair Housing in the Private Sector

Private sector data that may suggest the presence of barriers to fair housing choice include those that detail patterns of lending and investment, fair housing complaints, and public perception of conditions in the housing market. Data collected through the Home Mortgage Disclosure Act (HMDA) reveal that 64,707 home purchase loans were originated in Montana from 2004 through 2012, and 14,967 were denied, for an average denial rate of 18.8 percent. However, American Indian residents, Hispanic residents, and women were denied loans at a considerably higher rate; in the case of racial and ethnic minorities, these discrepancies held even when income was taken into account. Similarly, American Indian and Hispanic borrowers were issued higher proportions of loans with high annual percentage rates than white and non-Hispanic borrowers, and higher than the overall average rate of 11.5 percent.

The analysis of private sector factors that have the potential to impact fair housing choice included a consideration of the distribution of small business loans. Data on such loans are collected in accordance with the Community Reinvestment Act (CRA), and give an indication of the economic vitality of areas within the state. Small business loans issued in Census tracts in areas of the state from 2000 to 2011 tended to be concentrated in and around urban areas. As one might expect, the same was largely true of small business loan dollars.

A substantial proportion of Montana residents who lodged housing discrimination complaints with HUD alleged that housing providers had discriminated against them on the basis of disability. Alleged discrimination on this basis was cited in 76 of the 125 complaints lodged with HUD between 2004 and 2014, followed by race and familial status, cited in 24 and 23 complaints, respectively. As one might expect, based on the prevalence of these complaint bases, the largest share of complainants cited the “failure to make reasonable accommodation” in their complaints. Disability was also the most common complaint basis in complaints lodged with Montana Fair Housing; of the 216 complaints the organization received between 2004 and 2013, 134 were related to disability.

The private sector portion of the 2014 Fair Housing Survey revealed that refusal to rent and lack of knowledge of fair housing laws were the two factors that were most likely to constitute impediments to fair housing choice in the state, according to survey respondents. More than three-quarters of respondents perceived the refusal to rent based on considerations that are prohibited under the FHA to be an impediment. More than 85 percent of respondents felt lack of knowledge of fair housing law to be an impediment, and a majority of those felt that it constituted a moderately severe or very severe impediment.

Fair Housing in the Public Sector

Consideration of potential public sector barriers to fair housing choice included an analysis of the geographic distribution of subsidized, multifamily housing units as well as a discussion of selected results from the 2014 State of Montana Fair Housing Survey. Subsidized multifamily units examined in this study were subsidized through Section 8 as well as through Low Income Housing Tax Credits (LIHTC). Project-based Section 8 units, which are units that are directly subsidized through Section 8 funding, are scattered throughout the state and tended to be located on major transportation corridors. Section 8 vouchers, which allow residents to maintain their subsidy as they move from one housing unit to another, tended to be clustered in and around urban areas of the state. Units that were subsidized through LIHTC were also distributed widely throughout the state along major transportation corridors, though there were some clusters of LIHTC units in and around Butte, Kalispell, Helena, and other urban areas of the state.

Lack of knowledge of housing opportunities and fair housing laws were widely perceived to constitute impediments to the provision of fair housing in the state, along with inadequate access to public transportation. More than three-quarters of respondents who answered questions concerning these factors believed them to constitute impediments to fair housing choice, while approximately 74 percent of respondents perceived an impediment in the lack of sufficient monitoring, oversight, or enforcement of fair housing laws.

Public Involvement

Efforts to promote and facilitate public involvement in the AI process included the online 2014 Fair Housing Survey and Fair Housing hearing conducted in Kalispell in June of 2014. These responses and comments have been incorporated into this draft document as the responses indicate that opinions on issues pertaining to fair housing can differ considerably, though respondents tended to feel that current levels of fair housing outreach, education, and testing are not sufficient to meet the needs of Montana residents. In addition, over 40 percent of respondents maintained that they had suffered discrimination themselves, or had witnessed discrimination, in the housing market. These respondents experienced or witnessed these acts much more commonly in the rental housing market.

The 2014 Fair Housing hearing afforded participants an opportunity to learn more about the AI and fair housing in general, and to offer their perspective on the state of fair housing in Montana. Participants in the hearing discussed challenges associated with vacant housing in the state, as well as a perceived disconnect between regulations and policies, and regulatory agencies, and the manner in which fair housing policies are implemented locally.

SECTION IX. IMPEDIMENTS AND SUGGESTED ACTIONS

A. Impediments to Fair Housing Choice and Suggested Actions

Private Sector Impediments, Suggested Actions, and Measurable Objectives

Impediment 1: Discriminatory terms and conditions in the rental markets. This impediment was identified through review of the results of the fair housing survey and fair housing studies profiled in the literature review. Perception of discriminatory refusal to rent was relatively common among survey respondents: those who maintained that they had experienced or witnessed discrimination overwhelmingly identified rental housing providers as the perpetrators of that perceived discrimination. In addition, several of the national fair housing studies focus on the persistence of discrimination in the rental housing industry.

Action 1.1: Engage partnerships that support and enhance outreach to and education of landlords and property management companies about fair housing rights.

Measurable Objective 1.1: The number of outreach and educational activities conducted, and number of landlords and other housing providers who have participated in those activities.

Impediment 2: Failure to make reasonable accommodation. This impediment was identified through the review of fair housing complaints submitted to HUD and Montana Fair Housing, as well as the Fair Housing Survey and review of Department of Justice complaints lodged against housing providers in Montana. More than 60 percent of complaints lodged with HUD between 2004 and the beginning of 2014 alleged discrimination on the basis of disability, as did a similar proportion of those who filed complaints with Montana Fair Housing. In addition, survey respondents who maintained that they had experienced or witnessed discrimination identified persons with disabilities as one of the most common victims of that discrimination, and three of the five cases the Department of Justice brought against housing providers in the state since 2000 have involved alleged discrimination on the basis of disability.

Action 2.1: Support efforts that secure services which conduct audit tests on rental units.

Measurable Objective 2.1: Consult with Montana Fair Housing and other fair housing testing entities as part of the monitoring and site visits that are conducted for funded rental projects.

Impediment 3: Lack of understanding of fair housing laws. This impediment was identified in the results of the 2014 Fair Housing Survey. Lack of knowledge of fair housing laws was the most frequently identified impediment to fair housing choice by all survey respondents, in both public and private housing market contexts.

Action 3.1: Support annual public meetings and other activities pertaining to affirmatively furthering fair housing, and broadcast programmatic statewide meetings using technology meeting software.

Measurable Objective 3.1: Maintain records of the meetings, including agendas and attendance; presentation materials for the meetings; and marketing materials used to publicize those meetings.

Action 3.2: Support the creation and distribution of fair housing informational flyers or brochures to grantees, applicants, and the general public.

Measurable Objective 3.2: Maintain a record of the number of such materials printed or purchased and distributed.

Impediment 4: Higher denial rates for American Indian loan applicants. This impediment was identified through a review of home loan data gathered under the HMDA. Nearly 34 percent of home loan applications from American Indian residents were turned down over the period from 2004 to 2012, and denial rates remained high even when the income of the applicant was taken into account.

Action 4.1: Support partnerships that enhance outreach and education for American Indian homebuyers through educational forums, credit counseling and home purchase training.

Measurable Objective 4.1: Maintain a record of the number of outreach and educational activities conducted, and number of clients who have participated in those activities.

Impediment 5: Higher incidence of predatory style loans for American Indian borrowers. Just as American Indian loan applicants were turned down more frequently for home purchase loans, American Indian borrowers were issued predatory style loans at a rate of 26.8 percent from 2004 through 2012, well above the average rate of 11.5 percent.

Action 5.1: Support partnerships that enhance outreach and education for American Indian homebuyers through educational forums, credit counseling and home purchase training.

Measurable Objective 5.1: Maintain a record of the number of outreach and educational activities conducted, and number of clients who have participated in those activities.

Public Sector Impediments, Suggested Actions, and Measurable Objectives

Impediment 1: Limited knowledge of the fair housing infrastructure. Few survey respondents were aware of the entities that make up the fair housing infrastructure in the state and the fair housing testing being completed in the state. When asked to assess current levels of fair housing testing most responded that there was too little or professed to not know well enough to respond. Others in the survey indicated that there were no local entities to which they could turn for fair housing assistance.

Action 1.1: Encourage partnerships to support the fair housing infrastructure through a network of organizations knowledgeable of local fair housing barriers in Montana and to encourage creation of an additional Fair Housing participant specific to Native Programs.

Measurable Objective 1.1: Maintain a record of correspondence with partners regarding the availability of fair housing organizations in the state.

Action 1.2: Support the identification of, and analysis of, the relationship between funded projects and identified impediments.

Measurable Objective 1.2: Create a qualitative and quantitative analysis of sub-grantees within program application guidelines and final closeout reviews of funded projects to obligate sub-grantees to review proposed projects in the context of the AI.

Impediment 2: Insufficient outreach and education. As noted previously, survey respondents identified lack of knowledge or understanding of fair housing law as the most prevalent impediment to fair housing choice in both private and public sector housing contexts. In addition, 41.3 percent of survey respondents were unaware of any educational or training opportunities to learn about fair housing laws, and 40 percent of respondents felt that current levels of fair housing outreach and education are insufficient.

Action 2.1: Support partnerships that hold annual public meetings and other outreach events pertaining to fair housing and affirmatively furthering fair housing, and broadcast meetings statewide using internet/online, digital, and phone capabilities for events.

Measurable Objective 2.1: Maintain a record of the meetings, presentation materials for the meetings, and marketing materials used to publicize those meetings.

Action 2.2: Support the creation and distribution of fair housing flyers and informational brochures to grantees, applicants, and the general public.

Measurable Objective 2.2: Maintain a record of the number of such materials printed and/or distributed.

Action 3.2: Support the identification of, and analysis of, the relationship between funded projects and identified impediments.

Measurable Objective 3.2: Create a qualitative and quantitative analysis of sub-grantees within program application guidelines and final closeout reviews of funded projects to obligate sub-grantees to review proposed projects in the context of the AI.

Impediment 3: Presence of NIMBYism: This impediment was identified through review of the Fair Housing hearing, the Land Use Survey and 2014 Fair Housing Survey. This is a method to discourage certain types of housing to be developed in a locale.

Action 3.1: Support public meetings and other outreach activities pertaining to affirmatively furthering fair housing, and broadcast these statewide using internet and phone capabilities for meetings.

Measurable Objective 3.1: Maintain a record of the meetings, presentation materials for the meetings, and marketing materials used to publicize those meetings.

Action 3.2: Engage and support partnerships that provide outreach to and train prospective grantees and units of local government on how to affirmatively further fair housing.

Measurable Objective 3.2: Maintain a record of the meetings and trainings, presentation materials for the meetings, and recruitment materials used to solicit participation in the trainings and meetings.

Impediment 4: Some units of local government lack sufficient understanding of the responsibilities to affirmatively further fair housing. This particular impediment was identified in the 2014 Fair Housing Survey, the Land Use Survey, and from input at the fair housing hearing. It represents a composite of several inefficiencies in the public sector of Montana's communities.

Action 4.1: Support efforts to reach out and to educate prospective grantees about fair housing and the responsibilities to affirmatively further fair housing.

Measurable Objective 4.1: Maintain a record of the number of outreach and education actions taken throughout the year.

Action 4.2: Sponsor or co-sponsor events during Fair Housing Month and throughout the year.

Action 4.3: Support the creation of fair housing practices that are considered to be 'best practice' for distribution to grantees and units of local government.

Measurable Objective 4.2: Distribute recommended list of best practices and a list of the entities to which the document was provided.

Action 4.4: Support the identification of, and analysis of, the relationship between funded projects and identified impediments.

Measurable Objective 4.3: Create a qualitative and quantitative analysis of sub-grantees within program application guidelines and final closeout reviews of funded projects to obligate sub-grantees to review proposed projects in the context of the AI.

APPENDICES

The following sections present additional data prepared in development of the State of Montana Analysis of Impediments to Fair Housing Choice.

Appendix A: Fair Housing Survey

During the development of the Analysis of Impediments and the Consolidated Plan, Commerce conducted a Fair Housing Survey and a Housing and Community Development Survey. The survey responses are provided at the website below. The information provided is a tally of all responses and a verbatim record of the comments provided for each the survey.

<http://housingcdd.mt.gov/CP/cpdocuments.mcpx>

Appendix B: Fair Housing Development Public Hearing Transcripts

During the development of the Analysis of Impediments and Consolidated Plan, Commerce conducted three public meetings to obtain specific input on the development of the Consolidated Plan and the Analysis of Impediments to Fair Housing Choice in Montana. Two public input meetings on the development of the Consolidated plan were held May 22, 2014 and July 15, 2014. One public meeting on the development of the Analysis of Impediments to Fair Housing Choice in Montana was held July 16, 2014; a copy of the transcript is provided (Appendix B.1). Each public hearing was transcribed by a court reporter and has been made available at the website below.

<http://housingcdd.mt.gov/CP/cpdocuments.mcp>

Appendix C: 2015-2020 AI Public Comments and Agency Response

The drafts of the *2015-2020 Consolidated Plan*, *2015 Annual Action Plan*, and the *2015-2020 Analysis of Impediments to Fair Housing* were made available on July 13, 2015 for a 30 day public comment period ending August 12, 2015. Once the public comment period ended a record of the public hearing transcript was made available at the website below. These comments were considered and responses provided in Appendix C of this document.

After the release of the draft Consolidated Plan documents specifically the *2015-2020 Montana Consolidated Plan for Housing and Community Development*, *2015 Annual Action Plan*, and the *2015-2020 Analysis of Impediments to Fair Housing* Commerce received public comments beginning July 13, 2015 for a 30 day public comment period ending August 12, 2015. All comment received were recorded in this appendix and responses provided before final submission to HUD. This appendix is made available at the website below.

<http://housingcdd.mt.gov/CP/cpdocuments.mcp>

Summary of Comments Received on the 2015-2020 Analysis of Impediments

Montana Fair Housing (MFH)

Pam Bean, Director

Comment:

1. MFH encourages Commerce to proof carefully.

Agency Response:

Thank you for the comment. The final version of the Analysis of Impediments has corrected grammatical and formatting issues.

Comment:

2. MFH participated in significant ways in the following fair housing cases: US vs. Tamarack, et. al.; MFH vs. Jim and Julie Betty; and MFH vs. Jaclyn Katz and ARESM.

Agency Response:

Thank you for the comment. The Analysis of Impediments to Fair Housing Choice in Montana has been updated to include the additional information about significant ways in which MFH has promoted compliance by participating in the legal process to bring awareness to the issue of discriminatory housing practices.

Comment:

3. MFH received a Fair Housing award of \$205,838 for each year: 2015, 2016, & 2017.

Agency Response:

Thank you for the comment. The Analysis of Impediments to Fair Housing Choice in Montana has been updated to include the additional information.

Comment:

4. MFH has a new physical and mailing address: 501 E. Front St, Ste. 504, Butte MT 59701.

Agency Response:

Thank you for the comment. The Analysis of Impediments to Fair Housing Choice in Montana has been updated to include the additional information.

Comment

5. MFH contends that the State fails to understand HUD's intent to correct systemic actions that perpetuate discrimination and that the State's policies and practices also perpetuate discrimination.

Agency Response:

Thank you for the comment. The Analysis of Impediments to Fair Housing Choice in Montana establishes goals and objectives intended to correct barriers to fair housing choice. One of the State's goals is to increase coordination and collaboration with all interested parties. With this goal in mind, the State encourages communication that will provide greater detail as to specific State policies, goals, or objectives that are a concern in order for these to be discussed in the future.

Comment

6. MFH works with State departments, providing training to further Fair Housing, but contends that actions on the part of state agencies have conflicted with MFH events; the Board of Realty Regulation refuses to approve credits for the MFH annual conference; and State agencies will not reimburse travel costs for MFH presentations at State events.

Agency Response:

Thank you for the comment. The State of Montana considers MFH a strong partner in promoting Fair Housing and providing Fair Housing training and will consider these comments as opportunities arise and through the State's goal of increasing coordination and collaboration with all interested parties.

Comment:

7. The State, by encouraging the establishment of local fair Housing offices, may divert sources away from enforcement activities despite current threats to fair housing funds and in so doing, may create conflicts of interest and a limited ability to address systemic violations.

Agency Response:

Thank you for the comment. The State is unaware of any instances where it has encouraged the establishment of local fair housing offices. Additionally, the Analysis of Impediments to Fair Housing Choice in Montana Action 1.1 discussed working with fair housing organizations as part of the fair housing infrastructure. This Action item has been updated to clarify Action 1.1.

Comment

8. MFH contends that the State's method focuses almost solely on outreach and education, but should address and correct systemic violations to Affirmatively Further Fair Housing Policies and procedures should be evaluated.

Agency Response:

Thank you for the comment. The State's efforts to educate the public and housing stakeholders are an effort to prevent housing discrimination before it happens. Additionally, the Analysis of Impediments to Fair Housing Choice in Montana included an objective to establish qualitative and quantitative analysis. Without greater detail on the 'systemic violations', it is difficult to determine what policies and procedures are problematic. The State has also established goals and objectives intended to correct barriers to fair housing choice. One of the State's goals is to increase coordination and collaboration with all interested parties. With this goal in mind, the State encourages communication that will provide greater detail as to specific State policies, goals, or objectives that are a concern in order for these to be discussed in the future.

AWARE

Michael O'Neill, Program Officer

Comment:

1. A number of tables in the Analysis of Impediments online have data that is illegible.

Agency Response:

Thank you for the comment. The Analysis of Impediments to Fair Housing Choice in Montana has been updated to remedy this comment.

Comment

2. AWARE has reports of landlords putting the responsibility for disability accommodation on the tenant with the disabling condition. Is there a section in the AI on issue of reasonable accommodations and reasonable modifications for people with disabilities, particularly with therapeutic animals and support animals?

Agency Response:

Thank you for the comment. The failure by property owners and managers to provide reasonable accommodations is discussed throughout the Analysis of Impediments, and is identified as one of the primary impediments to Fair Housing choice. While a specific discussion on therapeutic animals or support animals was not included as part of the Analysis of Impediments to Fair Housing Choice in Montana document, the State has established goals and objectives intended to correct barriers to fair housing choice through increased coordination and collaboration with all interested parties. With this goal in mind, the State encourages communication that will impact data and information as the goals and objectives are implemented in the future.

District XI Human Resource Council (Dist. XI HRC)

Jim Morton, Executive Director

Comment:

1. Did the State include any reference to disparate impact, such as the kinds of impact that some property managers have had on applicants using different pieces of information like credit scores, which then sometimes eliminates people of lower income status, persons with a disability, or minorities?

Agency Response:

Thank you for the comment. The potentially disparate impact to minorities and women from the use of a person's credit score as a measure of lending risk is discussed. The Analysis of Impediments to Fair Housing Choice in Montana included an objective to establish qualitative and quantitative analysis as well as increased coordination and collaboration with all interested parties. With these goals in mind, the State encourages communication that will impact the implementation of the goals and objectives established by the State.

Comment:

2. Dist. XI HRC requests the Department provide educational opportunities about disparate impact.

Agency Response:

Thank you for the comment. The Analysis of Impediments to Fair Housing Choice in Montana included a goal to support and conduct fair Housing education and training opportunities. The State will consider these comments as opportunities arise and information specific to disparate impact becomes available.

North Central Independent Living Services (NCILS)
Shyla Patera, Specialist

Comment:

1. NCILS encourages Commerce to include policies that combat housing discrimination.

Agency Response:

Thank you for the comment. The Analysis of Impediments to Fair Housing Choice in Montana included an objective to establish qualitative and quantitative analysis as well as increased coordination and collaboration with all interested parties. With these goals in mind, the State encourages communication that will impact the implementation of the goals and objectives established by the State.

Anders Lewendal Construction, Inc.
Anders Lewendal, Owner

Comment:

[Mr. Lewendal] requests discussion about the costs of land, materials, building codes, planning rules and regulations, impact fees, financing barriers, and other issues to bringing project to market.

Agency Response:

Thank you for the comment. Although the comment did not provide specific information, a discussion about the costs of land, materials, labor, building codes, city planning rules and regulations, impact fees, and financing barriers has been added to the Analysis of Impediments to Fair Housing Choice and the Consolidated Plan.

Appendix D: 2015-2020 AI Draft Document Public Hearing Transcript

After the release of the draft Consolidated Plan documents specifically the *2015-2020 Montana Consolidated Plan for Housing and Community Development*, *2015 Annual Action Plan*, and the *2015-2020 Analysis of Impediments to Fair Housing* Commerce conducted two public meetings to obtain specific input on the draft document. The first public hearing was held on July 29, 2015 at 11:30 a.m. regarding the *2015-2020 Analysis of Impediments to Fair Housing*; the second public hearing regarding the *2015-2020 Montana Consolidated Plan for Housing and Community Development* and *2015 Annual Action Plan* on July 29, 2015 at 1:00 p.m., both held in room 266 & 228 at 301 South Park Ave, Helena MT, 59602. Each public hearing was available via webinar and conference call to encourage public participation. Each public hearing was transcribed by a court reporter and is available at the website below.

<http://housingcdd.mt.gov/CP/cpdocuments.mcp>

Appendix E: Community Reinvestment Act Data

Table E.1
Small Business Loans Originated: \$100,000 or Less by Tract MFI

Area of Montana
 2000–2012 CRA Data

Year	<50% MFI	50.1-80% MFI	80.1-120% MFI	>120% MFI	Missing MFI	Total
Number of Loans						
2000	234	1,096	10,062	1,734	0	13,126
2001	229	1,291	10,841	1,855	0	14,216
2002	330	1,822	15,591	3,321	0	21,064
2003	0	1,219	18,068	5,586	0	24,873
2004	2	1,316	17,828	5,829	0	24,975
2005	2	994	15,624	4,733	0	21,353
2006	3	1,820	27,742	8,667	0	38,232
2007	7	1,939	30,366	10,278	0	42,590
2008	5	1,636	24,649	8,872	0	35,162
2009	3	624	9,570	3,485	0	13,682
2010	1	601	9,041	2,958	0	12,601
2011	2	710	11,556	3,587	0	15,855
2012	82	2,138	10,644	3,650	0	16,514
Total	900	17,206	211,582	64,555	0	294,243
Loan Amount (\$1,000s)						
2000	4,588	14,688	128,816	22,615	0	170,707
2001	4,215	12,290	135,221	22,120	0	173,846
2002	4,936	19,605	179,244	47,260	0	251,045
2003	0	10,923	193,843	70,942	0	275,708
2004	18	14,289	197,813	78,787	0	290,907
2005	20	11,682	170,562	52,937	0	235,201
2006	16	15,372	230,672	76,013	0	322,073
2007	52	18,976	302,144	108,604	0	429,776
2008	57	16,835	258,413	96,843	0	372,148
2009	17	7,890	128,388	44,565	0	180,860
2010	9	8,140	134,481	38,588	0	181,218
2011	57	9,801	166,574	45,010	0	221,442
2012	919	27,119	125,583	41,251	0	194,872
Total	14,904	187,610	2,351,754	745,535	0	3,299,803

Table E.2
Small Business Loans Originated: \$100,001 to \$250,000 by Tract MFI
 Area of Montana
 2000–2012 CRA Data

Year	<50% MFI	50.1-80% MFI	80.1-120% MFI	>120% MFI	Missing MFI	Total
Number of Loans						
2000	23	54	364	76	0	517
2001	19	32	419	119	0	589
2002	26	39	616	195	0	876
2003	0	27	541	272	0	840
2004	0	32	544	297	0	873
2005	0	14	320	108	0	442
2006	0	12	349	126	0	487
2007	0	17	390	113	0	520
2008	0	17	405	123	0	545
2009	0	11	275	92	0	378
2010	0	18	407	98	0	523
2011	0	18	435	84	0	537
2012	5	85	379	127	0	596
Total	73	376	5,444	1,830	0	7,723
Loan Amount (\$1,000s)						
2000	3,989	9,346	60,379	13,149	0	86,863
2001	3,115	5,179	69,214	19,843	0	97,351
2002	4,989	6,124	102,849	32,324	0	146,286
2003	0	4,314	89,884	46,093	0	140,291
2004	0	5,243	90,846	50,671	0	146,760
2005	0	2,551	55,291	18,758	0	76,600
2006	0	2,181	57,810	21,728	0	81,719
2007	0	3,052	66,695	19,582	0	89,329
2008	0	2,720	69,113	21,284	0	93,117
2009	0	1,839	46,218	16,189	0	64,246
2010	0	3,523	71,429	17,797	0	92,749
2011	0	3,059	75,292	15,670	0	94,021
2012	776	14,965	66,676	22,059	0	104,476
Total	12,869	64,096	921,696	315,147	0	1,313,808

Table E.3
Small Business Loans Originated: More than \$250,000 by Tract MFI

Area of Montana
2000–2012 CRA Data

Year	<50% MFI	50.1-80% MFI	80.1-120% MFI	>120% MFI	Missing MFI	Total
Number of Loans						
2000	5	25	189	41	0	260
2001	11	11	242	70	1	335
2002	12	24	349	133	1	519
2003	0	16	389	186	0	591
2004	0	16	382	242	0	640
2005	0	12	207	82	0	301
2006	0	13	229	94	0	336
2007	0	12	256	99	0	367
2008	0	9	303	116	0	428
2009	0	10	235	84	0	329
2010	0	15	280	84	0	379
2011	0	11	339	98	0	448
2012	0	75	330	89	0	494
Total	28	249	3,730	1,418	2	5,427
Loan Amount (\$1,000s)						
2000	2,209	11,226	91,213	16,869	0	121,517
2001	4,273	5,519	112,125	34,311	600	156,828
2002	5,450	11,989	166,959	68,251	600	253,249
2003	0	7,626	182,826	92,077	0	282,529
2004	0	7,086	189,800	124,514	0	321,400
2005	0	6,248	100,374	41,618	0	148,240
2006	0	7,211	109,734	45,322	0	162,267
2007	0	5,824	129,891	50,739	0	186,454
2008	0	4,296	148,038	58,764	0	211,098
2009	0	5,814	119,022	43,666	0	168,502
2010	0	7,762	144,974	45,667	0	198,403
2011	0	5,325	172,742	50,100	0	228,167
2012	0	38,860	171,771	44,601	0	255,232
Total	11,932	124,786	1,839,469	716,499	1,200	2,693,886

Table E.4
Small Business Loans to Businesses with Gross Annual Revenues of Less Than
\$1 Million by Tract MFI

Area of Montana
2000–2012 CRA Data

Year	<50% MFI	50.1-80% MFI	80.1-120% MFI	>120% MFI	Missing MFI	Total
Number of Loans						
2000	172	671	5,860	963	0	7,666
2001	162	615	5,836	1,014	0	7,627
2002	141	805	6,933	1,638	0	9,517
2003	0	565	8,373	2,790	0	11,728
2004	1	592	8,461	3,002	0	12,056
2005	0	564	8,766	2,643	0	11,973
2006	0	701	10,202	3,347	0	14,250
2007	1	753	11,484	3,751	0	15,989
2008	0	551	7,994	2,602	0	11,147
2009	0	285	4,071	1,421	0	5,777
2010	0	287	4,530	1,313	0	6,130
2011	1	414	7,044	1,988	0	9,447
2012	43	1,181	5,774	1,766	0	8,764
Total	521	7,984	95,328	28,238	0	132,071
Loan Amount (\$1,000s)						
2000	7,782	26,846	188,796	33,779	0	257,203
2001	9,706	14,140	214,273	52,242	0	290,361
2002	9,690	23,468	294,754	106,241	0	434,153
2003	0	14,111	284,666	133,695	0	432,472
2004	5	17,743	275,597	137,630	0	430,975
2005	0	11,506	180,415	61,512	0	253,433
2006	0	15,595	218,540	74,484	0	308,619
2007	13	13,364	245,179	81,914	0	340,470
2008	0	9,560	217,613	70,789	0	297,962
2009	0	6,980	142,789	54,708	0	204,477
2010	0	7,645	178,104	46,538	0	232,287
2011	53	9,672	221,284	59,092	0	290,101
2012	876	41,746	174,892	48,347	0	265,861
Total	28,125	212,376	2,836,902	960,971	0	4,038,374

Appendix F: Additional Tables

HOUSING PROBLEMS

Table F.1
Cost Burden and Severe Cost Burden by Tenure
 Area of Montana
 2000 Census & 2012 Five-Year ACS Data

Data Source	Less Than 30%		31%-50%		Above 50%		Not Computed		Total
	Households	% of Total	Households	% of Total	Households	% of Total	Households	% of Total	
Owner With a Mortgage									
2000 Census	53,960	70.8%	14,367	18.8%	7,593	10.0%	300	.4%	76,220
2011 Five-Year ACS	79,159	64.1%	26,347	21.3%	17,347	14.1%	611	0.5%	123,464
Owner Without a Mortgage									
2000 Census	41,253	89.4%	2,586	5.6%	1,662	3.6%	650	1.4%	46,151
2011 Five-Year ACS	83,361	86.5%	7,419	7.7%	4,856	5.0%	789	.8%	96,425
Renter									
2000 Census	38,501	54.0%	12,574	17.6%	10,128	14.2%	10,113	14.2%	71,316
2011 Five-Year ACS	42,351	48.2%	17,595	20.0%	15,326	17.4%	12,602	14.3%	87,874
Total									
2000 Census	133,714	69.0%	29,527	15.2%	19,383	10.0%	11,063	5.7%	193,687
2011 Five-Year ACS	204,871	66.6%	51,361	16.7%	37,529	12.2%	14,002	4.5%	307,763

HUD COMPLAINTS

Table F.2
Fair Housing Complaints by Issue Area

State of Montana
2004–2014 HUD Data

Issue	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Total
Failure to make reasonable accommodation	4	4	6	7	2	1	4	9	3	7		47
Discriminatory refusal to rent	7	12	7	3	1	1	2	6	2	1		42
Discriminatory advertising, statements and notices		2	8	2			3	9	3	4		31
Discriminatory terms, conditions, privileges, or services and facilities	3	7	1	1	1		1	3	8	6		31
Discriminatory acts under Section 818 (coercion, etc.)	2	10	3	1			1	1	4	4		26
Discrimination in term, conditions or privileges relating to rental	5	6	7	2		1		3	1			25
Otherwise deny or make housing available							1	2	6	4		13
Non-compliance with design and construction requirements (handicap)	7								1			8
Failure to permit reasonable modification		1		2			2		1	1		7
Discriminatory refusal to sell and negotiate for sale	1	1						4				6
Steering							1	5				6
Using ordinances to discriminate in zoning and land use				1	1		1			2		5
Discriminatory refusal to negotiate for rental	2	1	1									4
False denial or representation of availability - rental			2					1				3
Discrimination in terms, conditions, privileges relating to sale								3				3
Discriminatory advertisement - rental			2									2
Discriminatory refusal to rent and negotiate for rental			1									1
Discrimination in making of loans			1									1
Discrimination in the terms or conditions for making loans			1									1
Total Issues	31	44	40	19	5	3	16	46	29	29	0	262
Total Complaints	22	27	17	11	4	2	9	15	10	8		125

Table F.3
Fair Housing Complaints Found With Cause by Issue

Area of Montana
2004–2014 HUD Data

Issue	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Total
Failure to make reasonable accommodation	2	1	3	2			3	6	3	2		22
Discriminatory refusal to rent	4	2	3					5	2	1		17
Discriminatory advertising, statements and notices												
Discrimination in term, conditions or privileges relating to rental	3	2	2					3	1			11
Discriminatory terms, conditions, privileges, or services and facilities			1					3	4	1		9
Discriminatory acts under Section 818 (coercion, etc.)	1	1	2				1	1	2	1		9
Otherwise deny or make housing available								2	4			6
Failure to permit reasonable modification		1		1			2			1		5
Steering							1	3				4
False denial or representation of availability - rental			2					1				3
Discriminatory refusal to sell and negotiate for sale								2				2
Non-compliance with design and construction requirements (handicap)	2											2
Discriminatory refusal to negotiate for rental		1										1
Discriminatory advertisement - rental			1									1
Discrimination in terms, conditions, privileges relating to sale								1				1
Using ordinances to discriminate in zoning and land use							1					1
Total Issues	12	9	17	3	0	0	10	34	18	6	0	109
Total Complaints	8	6	6	2			5	12	6	2		47

MONTANA FAIR HOUSING COMPLAINTS

Table F.4
Fair Housing Complaints by Basis
 Area of Montana

Montana Fair Housing Data 2004 - 2013

Basis	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Disability	33	17	8	7	3	13	26	9	7	11	134
Familial Status	8	6	4	3	2	9	1	4	4	7	48
Design and Construction	19					9			2	1	31
National Origin	1	9		1	2		6		1	7	27
Age		1		2		9	4			8	24
Marriage						9			4	2	15
Sex	2	2	2		2	0				2	10
Religion	1	2	5		1						9
Race	4		1		2						7
Retaliation	1									1	2
Sexual Harassment	1				1						2
Total Basis	70	37	20	13	13	49	37	13	18	39	309
Total Complaints	48	33	18	11	9	22	30	9	14	22	216

Table F.5
Fair Housing Complaints by Closure
 Area of Montana

Montana Fair Housing Data 2004 - 2013

Closure	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Administrative Closure	3	8	2	1					1	1	16
Cause Found		6	2			8	2			2	20
Charged Issued								1	1		2
Conciliated	11	6	8	1	5	7	5		8	4	55
Consent Order	1					1			1		3
No Jurisdiction	1										1
No Cause Found	9	7	2		4	6	18	4	1	8	59
Settled	2			1						1	4
Undisclosed	2										2
Withrawn	9	2	3	1					2		17
Missing	2						2				4
Case Open	8	4	1	7			3	4		6	33
Total	48	33	18	11	9	22	30	9	14	22	216

Table F.6
Fair Housing
Complaints Found
with Cause by Basis

Area of Montana

Fair Housing Data 2004 – 2013

Basis	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Disability	13	9	4	1	3	12	6	1	5	2	56
Familial Status		3	4	1	2	9	1		2	3	25
Age				1		8	1			4	14
Marriage						8			4	2	14
Design and Construction	7					2			1		10
Sex					1	0				2	3
Religion			2								2
Total Basis	20	12	10	3	6	39	8	1	12	13	124
Total Complaints	13	12	10	2	5	15	7	1	9	7	81

Appendix G: Glossary

Accessible housing: Housing designed to allow easier access for physically disabled or vision impaired persons.

ACS: American Community Survey

AI: Analysis of Impediments to Fair Housing Choice

AMI: Area median income

BEA: Bureau of Economic Analysis

BLS: Bureau of Labor Statistics

CDBG: Community Development Block Grant

Census tract: Census tract boundaries are updated with each decennial census. They are drawn based on population size and ideally represent approximately the same number of persons for each tract.

Consolidated Plan: Consolidated Plan for Housing and Community Development

Cost burden: Occurs when a household has gross housing costs that range from 30.1 to 50 percent of gross household income.

CRA: Community Reinvestment Act

Disability: A lasting physical, mental, or emotional condition that makes it difficult for a person to conduct daily activities of living or impedes him or her from being able to go outside the home alone or to work.

Disproportionate share: Exists when the percentage of a population is 10 percentage points or more above the study area average.

DOJ: U.S. Department of Justice

ESG: Emergency Shelter Grants program

Family: A family is a group of two people or more related by birth, marriage, or adoption and residing together.

FFIEC: Federal Financial Institutions Examination Council

FHAP: Fair Housing Assistance Program **FHEO:** Fair Housing and Equal Opportunity **FHIP:** Fair Housing Initiative Program

Floor area ratio: The ratio of the total floor area of a building to the land on which it is situated, or the limit imposed on such a ratio.

Freddie Mac and Fannie Mae: Federal Home Loan Mortgage Corporation (FHLMC), a government-sponsored enterprise that purchases mortgages from lenders and repackages them as mortgage-backed securities for investors.

GAO: U.S. General Accounting Office

Gross housing costs: For homeowners, gross housing costs include property taxes, insurance, energy payments, water and sewer service, and refuse collection. If the homeowner has a mortgage, the determination also includes principal and interest payments on the mortgage loan. For renters, this figure represents monthly rent and electricity or natural gas energy charges.

HAL: High annual percentage rate (APR) loan, defined as more than three percentage points higher than comparable treasury rates for home purchase loans, or five percentage points higher for refinance loans.⁶³

HMDA: Home Mortgage Disclosure Act

HOME: HOME Investment Partnerships Program

HOPWA: Housing Opportunities for Persons with AIDS

Household: A household consists of all the people who occupy a housing unit. A house, an apartment or other group of rooms, or a single room, is regarded as a housing unit when it is occupied or intended for occupancy as separate living quarters; that is, when the occupants do not live with any other persons in the structure and there is direct access from the outside or through a common hall.

Housing problems: Overcrowding, incomplete plumbing or kitchen facilities, or cost burdens

HUD: U.S. Department of Housing and Urban Development

Incomplete kitchen facilities: A housing unit is classified as lacking complete kitchen facilities when any of the following are not present: a sink with piped hot and cold water, a range or cook top and oven, and a refrigerator.

Incomplete plumbing facilities: A housing unit is classified as lacking complete plumbing facilities when any of the following are not present: piped hot and cold water, a flush toilet, and a bathtub or shower.

Labor force: The total number of persons working or looking for work

MFI: Median family income

Mixed-use development: The use of a building, set of buildings, or neighborhood for more than one purpose.

MSA: Metropolitan Statistical Area

NIMBYism: "Not in my backyard" mentality among community members, often in protest of affordable or multi-family housing.

Other vacant units: Housing units that are not for sale or rent

Overcrowding: Overcrowding occurs when a housing unit has more than one to 1.5 persons per room.

Poverty: The Census Bureau uses a set of money income thresholds that vary by family size and composition to determine who is in poverty. If a family's total income is less than the family's threshold, then that family and every individual in it is considered in poverty. The official poverty thresholds do not vary geographically, but they are updated for inflation using Consumer Price Index (CPI-U). The official poverty definition uses money income before taxes and does not include capital gains or noncash benefits (such as public housing, Medicaid, and food stamps).

Predatory loans: As defined by the Predatory Lending Consumer Protection Act of 2002 as well as the Home Owner Equity Protection Act (HOEPA), loans are considered predatory based on:

- If they are HOEPA loans; 102F113f
- Lien status, such as whether secured by a first lien, a subordinate lien, not secured by a lien, or not applicable (purchased loans); and
- Presence of HALs. For full definition, see HAL.

These loans are referred to in this report as "predatory style loans", or loans that are "predatory in nature".

Protected Class: Group of people protected from discrimination and harassment. Montana residents are protected from housing discrimination based on age, familial status, marital status, national origin, physical or mental disability, political beliefs or ideas, race/color, religion/creed, and sex.

Public housing: Public housing was established to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities.

RDA: Redevelopment agency

Severe cost burden: Occurs when gross housing costs represent 50.1 percent or more of gross household income.

Severe overcrowding: Occurs when a housing unit has more than 1.5 persons per room.

Steering: Actions of real estate agents or landlords to discourage a prospective buyer or tenant from seeing or selecting properties in certain areas due to their racial or ethnic composition.

Tenure: The status by which a housing unit is held. A housing unit is "owned" if the owner or co-owner lives in the unit, even if it is mortgaged or not fully paid for. A cooperative or condominium unit is "owned" only if the owner or co-owner lives in it. All other occupied units are classified as "rented," including units rented for cash rent and those occupied without payment of cash rent.

Appendix H: Citations

¹ U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity. Fair Housing Planning Guide. Vol. 1, p 2-8. http://www.hud.gov/offices/cpd/about/conplan/fairhousingex/Module5_TopSevenAFFH.pdf

² Montana Code §49-2-305(c)

³ Note that because Montana Fair Housing coordinates with HUD on Fair Housing matters, a single complaint may appear in both datasets.

⁴ The Emergency Shelter Grants program was renamed the Emergency Solutions Grants program in 2011.

⁵ Fair Housing Planning Guide.

⁶ Montana Code §49-2-305

⁷ Fair Housing Planning Guide, p. 1-3

⁸ “Not In My Backyard” mentality.

⁹ U.S. Census Bureau, “American FactFinder”, <http://factfinder2.census.gov>; (2 July 2014).

¹⁰ Data are derived in part from administrative records. Thus, a person working more than one job can be counted more than once. Note that BEA data are only available by county. Accordingly, data from entitlement cities were not excluded and this table describes trends in full employment in all areas of the state, not just areas.

¹¹ Earnings are presented in real dollars, which are current earnings adjusted for inflation.

¹² Summary File 3 (SF3), as defined by the U.S. Census Bureau, “consists of 813 detailed tables of [the 2000 Census’] social, economic, and housing characteristics compiled from a sample of approximately 19 million housing units (about one in six households) that received the 2000 Census long-form questionnaire <http://www.census.gov/census2000/sumfile3.html>. These sample data include sampling error and may not sum precisely to the 100 percent sample typically presented in the 2000 Census.

¹³ “HUD Fair Housing Laws and Presidential Executive Orders.”

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FHLaws

¹⁴ “Title VIII: Fair Housing and Equal Opportunity.”

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/progdesc/title8

¹⁵ “HUD Fair Housing Laws and Presidential Executive Orders.”

¹⁶ “Discrimination in Metropolitan Housing Markets: National Results from Phase 1, Phase 2, and Phase 3 of the Housing Discrimination Study (HDS).” <http://www.huduser.org/portal/publications/hsgfin/hds.html>

¹⁷ U.S. Department of Housing and Urban Development, Office of Policy Development and Research. *How Much Do We Know?: Public Awareness of the Nation’s Fair Housing Laws*. April 2002.

<http://www.huduser.org/portal/publications/fairhsg/hmwk.html>

¹⁸ U.S. Department of Housing and Urban Development, Office of Policy Development and Research. *Do We Know More Now?: Trends in Public Knowledge, Support and Use of Fair Housing Law*. February 2006.

<http://www.huduser.org/portal/publications/hsgfin/FairHsngSurvey.html>

¹⁹ U.S. General Accounting Office. “Fair Housing: Opportunities to Improve HUD’s Oversight and Management of the Enforcement Process.” April 2004. <http://gao.gov/products/GAO-04-463>

²⁰ Carpusor, Adrian and William Loges. “Rental Discrimination and Ethnicity in Names.” *Journal of Applied Social Psychology* 36(4).

²¹ U.S. Housing Scholars and Research and Advocacy Organizations. *Residential Segregation and Housing Discrimination in the United States*. January 2008. <http://prrac.org/pdf/FinalCERDHOusingDiscriminationReport.pdf>

²² National Fair Housing Alliance. *For Rent: No Kids!: How Internet Housing Advertisements Perpetuate Discrimination*. August 2009.

<http://www.nationalfairhousing.org/LinkClick.aspx?fileticket=zgbukJP2rMM%3D&tabid=2510&mid=8347>

²³ National Fair Housing Alliance. *A Step in the Right Direction: 2010 Fair Housing Trends Report*. May 2010.

<http://www.nationalfairhousing.org/Portals/33/Fair%20Housing%20Trends%20Report%202010.pdf>

²⁴ *The Big Picture: How Fair Housing Organizations Challenge Systemic and Institutionalized Discrimination*. National Fair Housing Alliance 2011 Fair Housing Trends Report. 29 April 2011.

<http://www.nationalfairhousing.org/LinkClick.aspx?fileticket=SbZH3pTEZhs%3d&tabid=3917&mid=5321>

²⁵ <http://www.nationalfairhousing.org/LinkClick.aspx?fileticket=GBv0ZVJp6Gg%3d&tabid=3917&mid=5321>

²⁶ *Ibid.*

²⁷ U.S. HUD. *39 Steps Toward Fair Housing*. <http://www.hud.gov/offices/fheo/39steps.pdf>

²⁸ Orfield, Myron. “Racial Integration and Community Revitalization: Applying the Fair Housing Act to the Low Income Housing Tax Credit.” *Vanderbilt Law Review*, November 2005.

²⁹ <http://www.hud.gov/content/releases/settlement-westchester.pdf>

³⁰ *United States v Westchester County* 712 F.3d 761 2013 U.S. App.

³¹ <http://www.reلمانlaw.com/docs/FinalConciliationAgreementTexas.pdf> ³¹ “The Fair

Housing Act.” The United States Department of Justice.

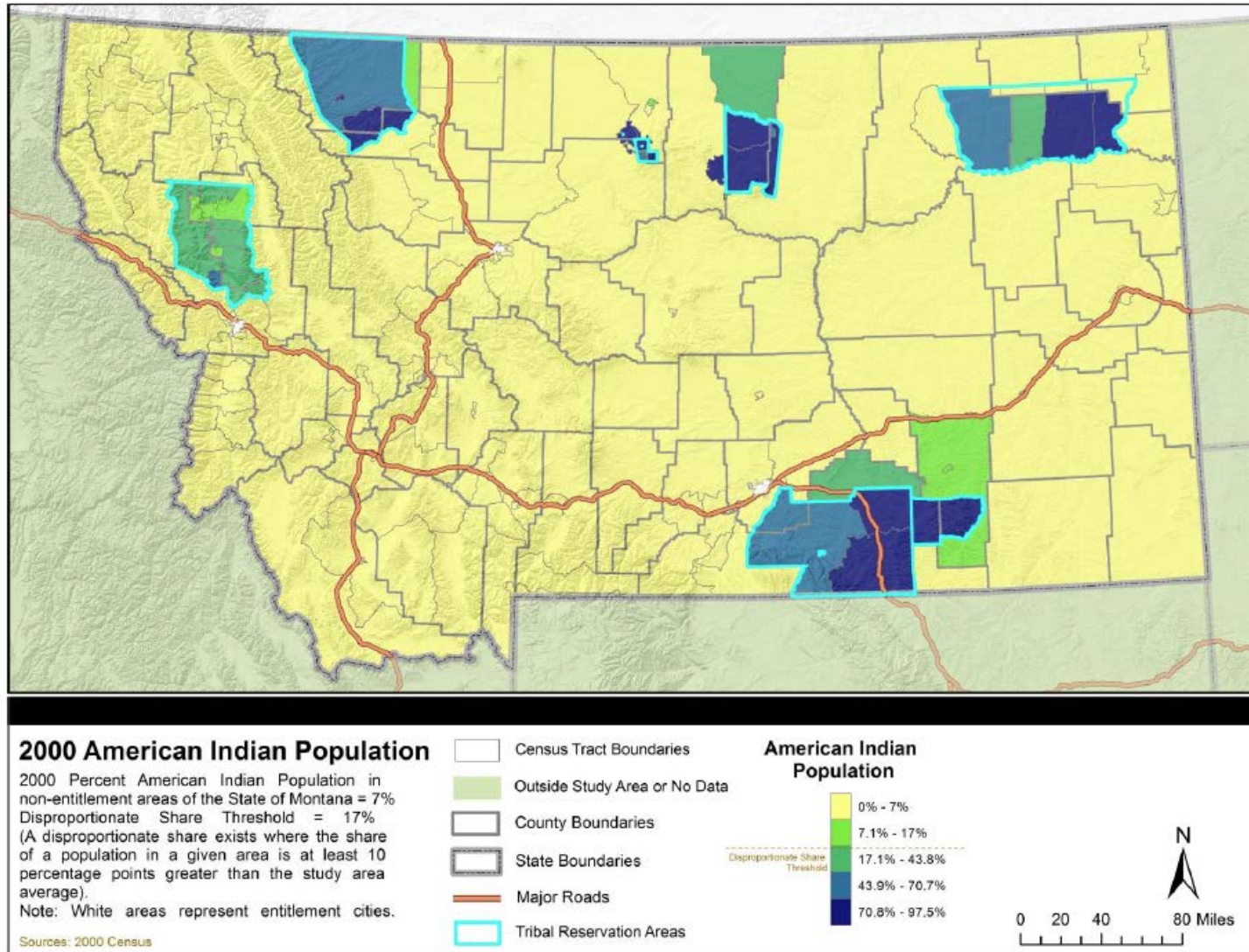
http://www.justice.gov/crt/about/hce/housing_coverage.php

- ³³ *United States v. Bedford*, 2008.
- ³⁴ Department of Justice. "Housing and Civil Enforcement Cases." Department of Justice website. 7 July 2014. <http://www.justice.gov/crt/about/hce/caselist.php>
- ³⁵ *United States v. Boote*, 2013.
- ³⁶ Department of Justice. "Housing and Civil Enforcement Cases." Department of Justice website. 7 July 2014. <http://www.justice.gov/crt/about/hce/caselist.php>
- ³⁷ *United States v. Nistler*, 2013.
- ³⁸ *United States v. Schaberg*, 2003
- ³⁹ Department of Justice. "Housing and Civil Enforcement Cases." Department of Justice website. 7 July 2014. <http://www.justice.gov/crt/about/hce/caselist.php>
- ⁴⁰ *United States v. Schaberg*, 2003.
- ⁴¹ Department of Justice. "Housing and Civil Enforcement Cases." Department of Justice website. 7 July 2014. <http://www.justice.gov/crt/about/hce/caselist.php>
- ⁴² *United States v. Tamarack Property Management Co., et al.*, 2002.
- ⁴³ *United States v. Tamarack Property Management Co., et al.*, 2003.
- ⁴⁴ "Fair Housing Regional Offices."
http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/aboutftheo/fhhubs#hdwest2
- ⁴⁵ Though there are four initiatives included in the FHIP, no funds are currently available through the Administrative Enforcement Initiative.
- ⁴⁶ HUD. "Press Releases". HUD Press Releases web page. 7 July 2014. http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories.
- ⁴⁷ Montana Fair Housing. "Home Page". Montana Fair Housing website. 7 July 2014. <http://www.montanafairhousing.org/>
- ⁴⁸ "HUD's Title VIII Fair Housing Complaint Process." <http://www.hud.gov/offices/ftheo/complaint-process.cfm>
- ⁴⁹ "Fair Housing—It's Your Right." <http://www.hud.gov/offices/ftheo/FHLaws/yourrights.cfm>
- ⁵⁰ "HUD's Title VIII Fair Housing Complaint Process." <http://www.hud.gov/offices/ftheo/complaint-process.cfm>
- ⁵¹ "Filing a Complaint", Montana Department of Labor and Industry. Website. Accessed May 29, 214. <http://erd.dli.mt.gov/complaint-process.html>
- ⁵² MCA §49-2-501
- ⁵³ MCA §49-2-504.
- ⁵⁴ "Filing a Complaint", Montana Department of Labor and Industry. Website. Accessed May 29, 214. <http://erd.dli.mt.gov/complaint-process.html>
- ⁵⁵ MCA §49-2-505 The complainant may also elect to bring a civil action against the respondents, at which point the administrative process would end (§49-2-510).
- ⁵⁶ MCA §49-2-505, 506
- ⁵⁷ MCA §49-2-510
- ⁵⁸ Data are considered "raw" because they contain entry errors and incomplete loan applications. Starting in 2004, the HMDA data made significant changes in reporting, particularly regarding ethnicity data, loan interest rates, and the multi-family loan applications
- ⁵⁹ Each December, the Federal Reserve announces the threshold for the following year. The asset threshold may change from year to year based on changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers.
- ⁶⁰ Loans are subject to the HOEPA if they impose rates or fees above a certain threshold set by the Federal Reserve Board. "HMDA Glossary." <http://www.ffiec.gov/hmda/glossary.htm#H>
- ⁶¹ 12 CFR Part 203, http://www.ffiec.gov/hmda/pdf/regc_020702.pdf
- ⁶² Data were provided by HUD's Denver Regional Office.

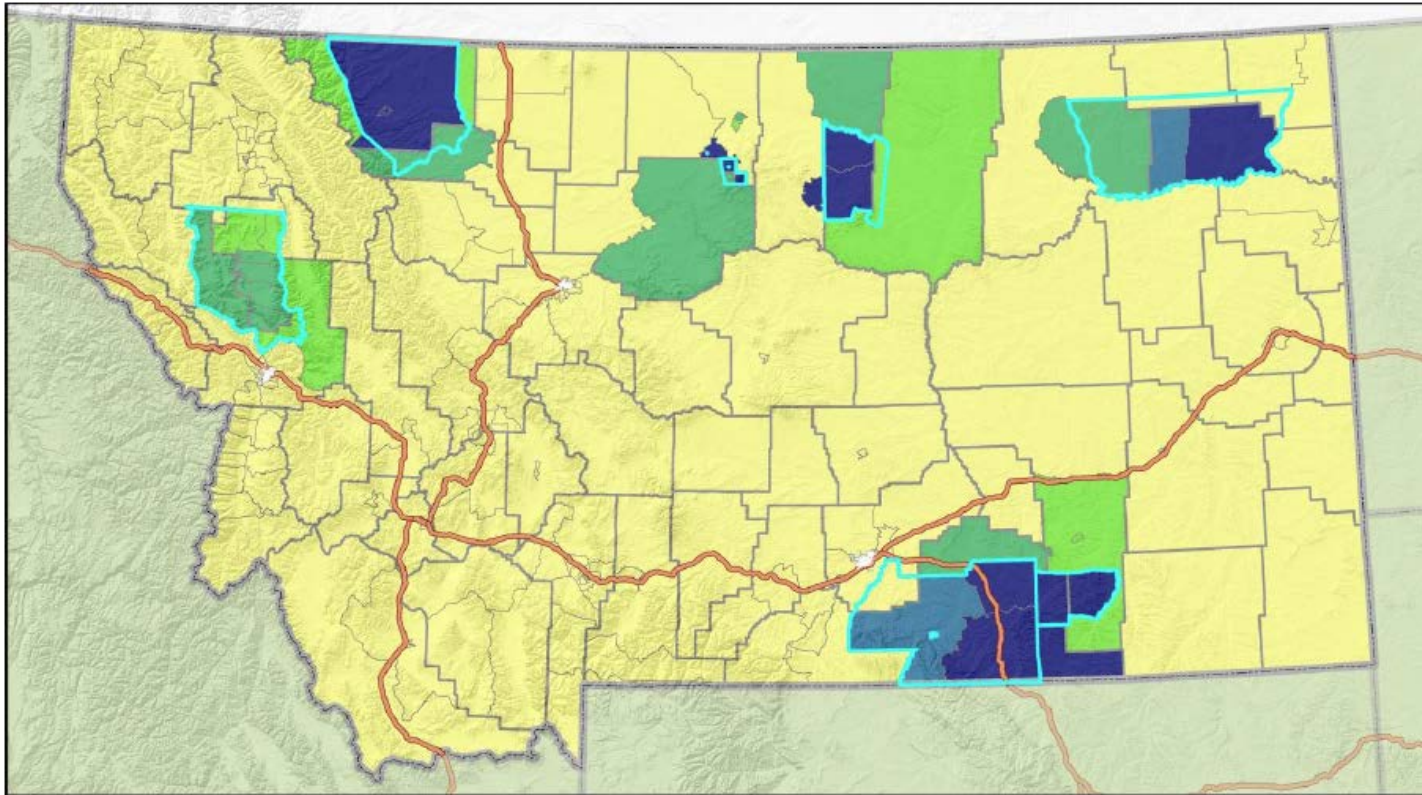
Map I.1
Montana Study Area
Areas of Montana 2010 Census Bureau Data



Map II.1
2000 American Indian Population
 Areas of Montana
 Census Bureau 2000



Map II.2
2010 American Indian Population
 Areas of Montana
 Census Bureau 2010



2010 American Indian Population

2010 Percent American Indian population in non-entitlement areas of the State of Montana = 7%
 Disproportionate Share Threshold = 17%
 (A disproportionate share exists where the share of a population in a given area is at least 10 percentage points greater than the study area average).

Note: White areas represent entitlement cities.

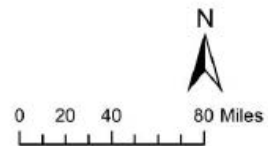
Sources: 2010 Census

- Census Tract Boundaries
- Outside Study Area or No Data
- County Boundaries
- State Boundaries
- Major Roads
- Tribal Reservation Areas

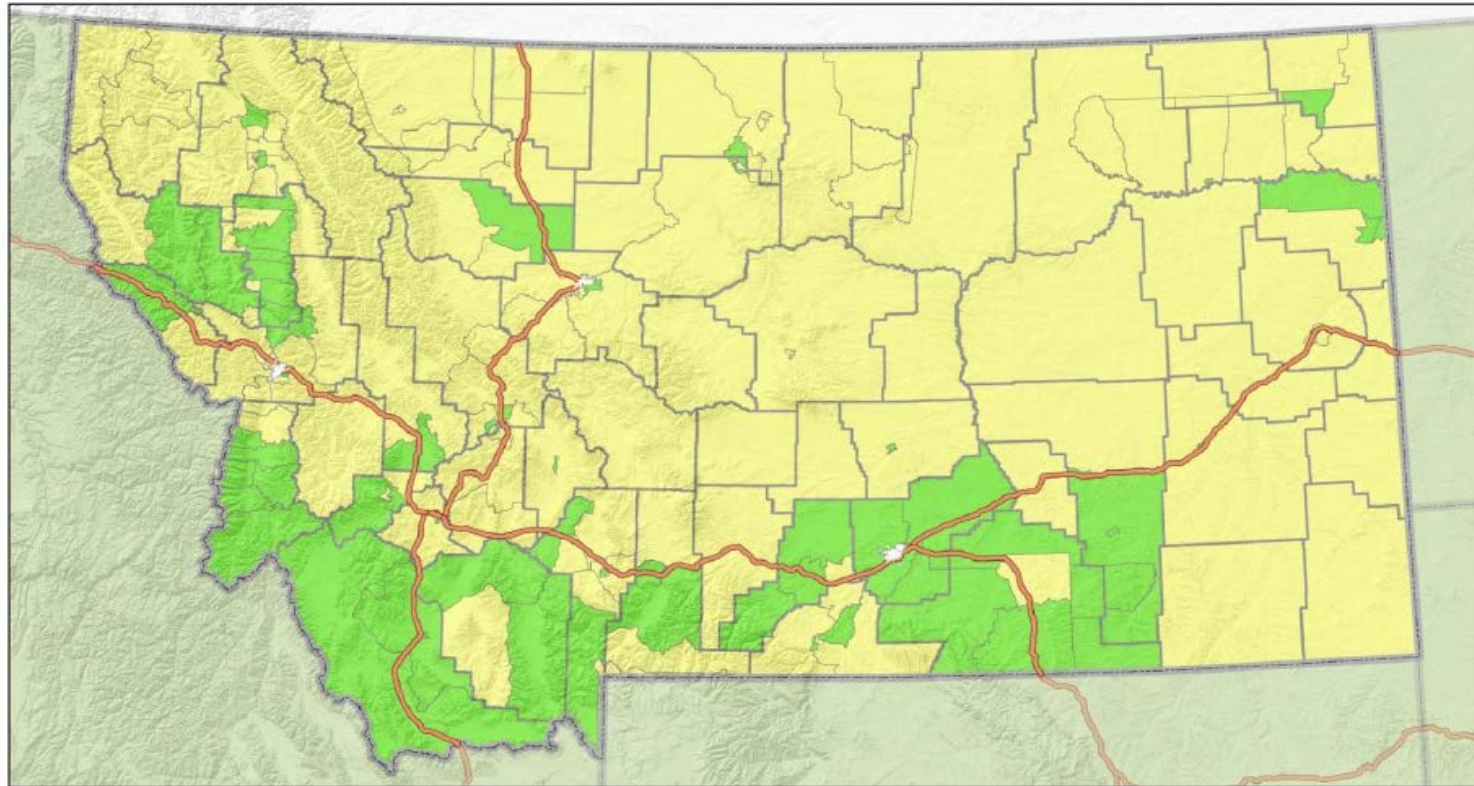
American Indian Population

- 0% - 7%
- 7.1% - 17%
- 17.1% - 43.5%
- 43.6% - 70%
- 70.1% - 96.6%

Disproportionate Share Threshold



Map II.3
2000 Hispanic Population
 Areas of Montana
 Census Bureau 2000



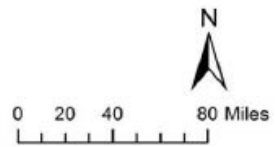
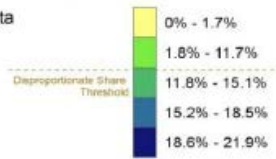
2000 Hispanic Population

2000 Percent Hispanic Population in non-entitlement areas of the State of Montana = 1.7%
 Disproportionate Share Threshold = 11.7%
 (A disproportionate share exists where the share of a population in a given area is at least 10 percentage points greater than the study area average).
 Note: White areas represent entitlement cities.

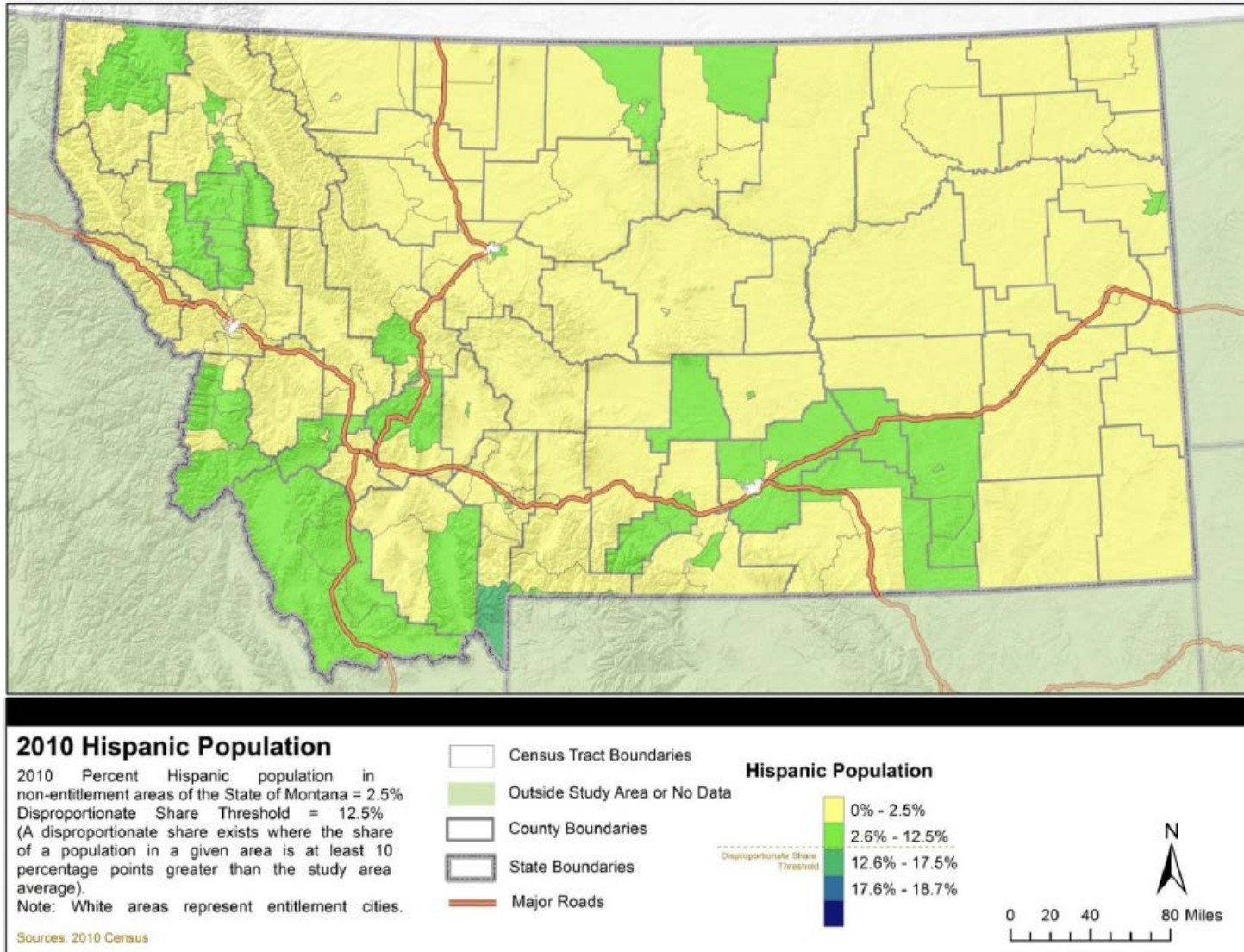
Sources: 2000 Census

-  Census Tract Boundaries
-  Outside Study Area or No Data
-  County Boundaries
-  State Boundaries
-  Major Roads

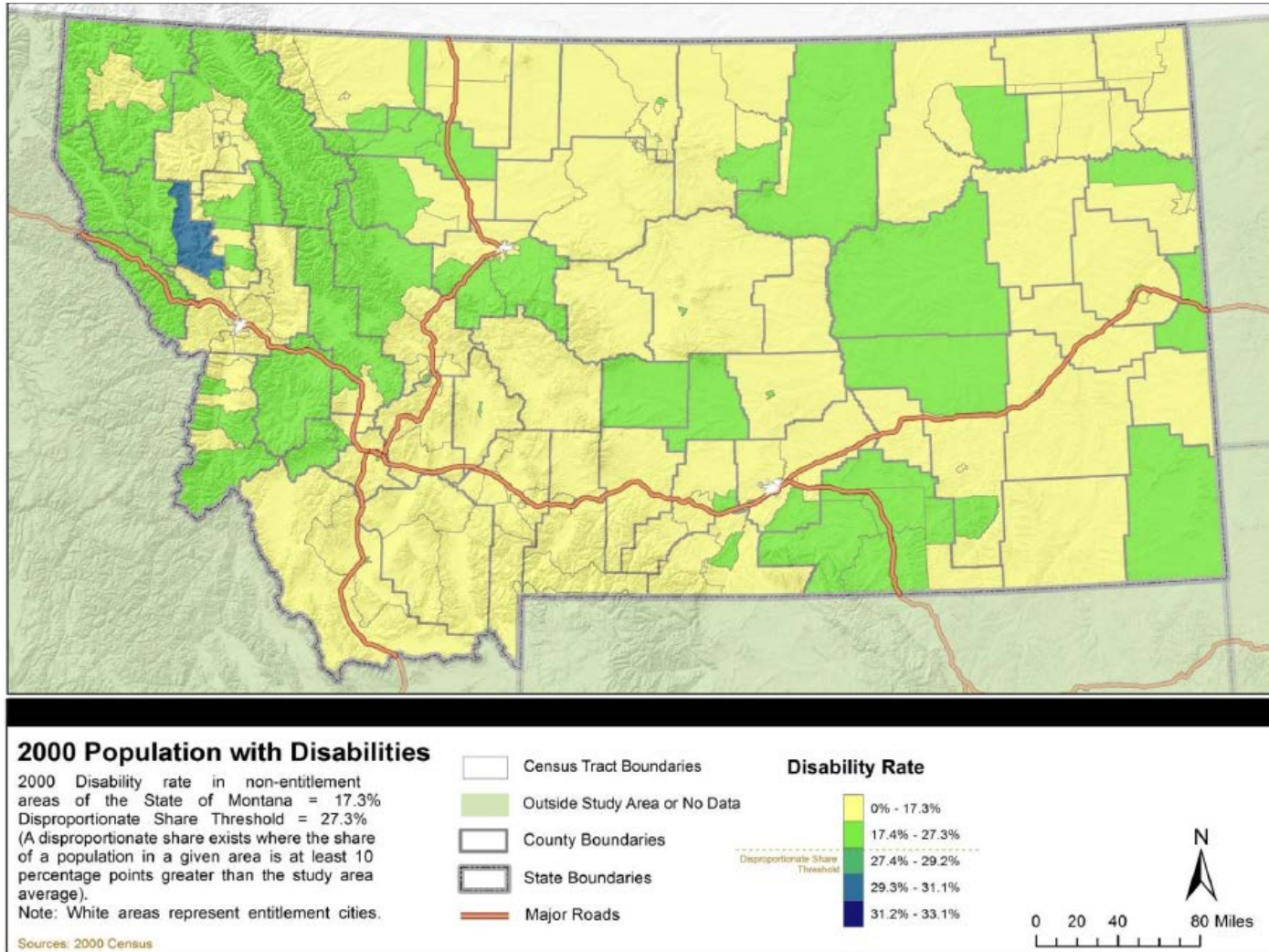
Hispanic Population



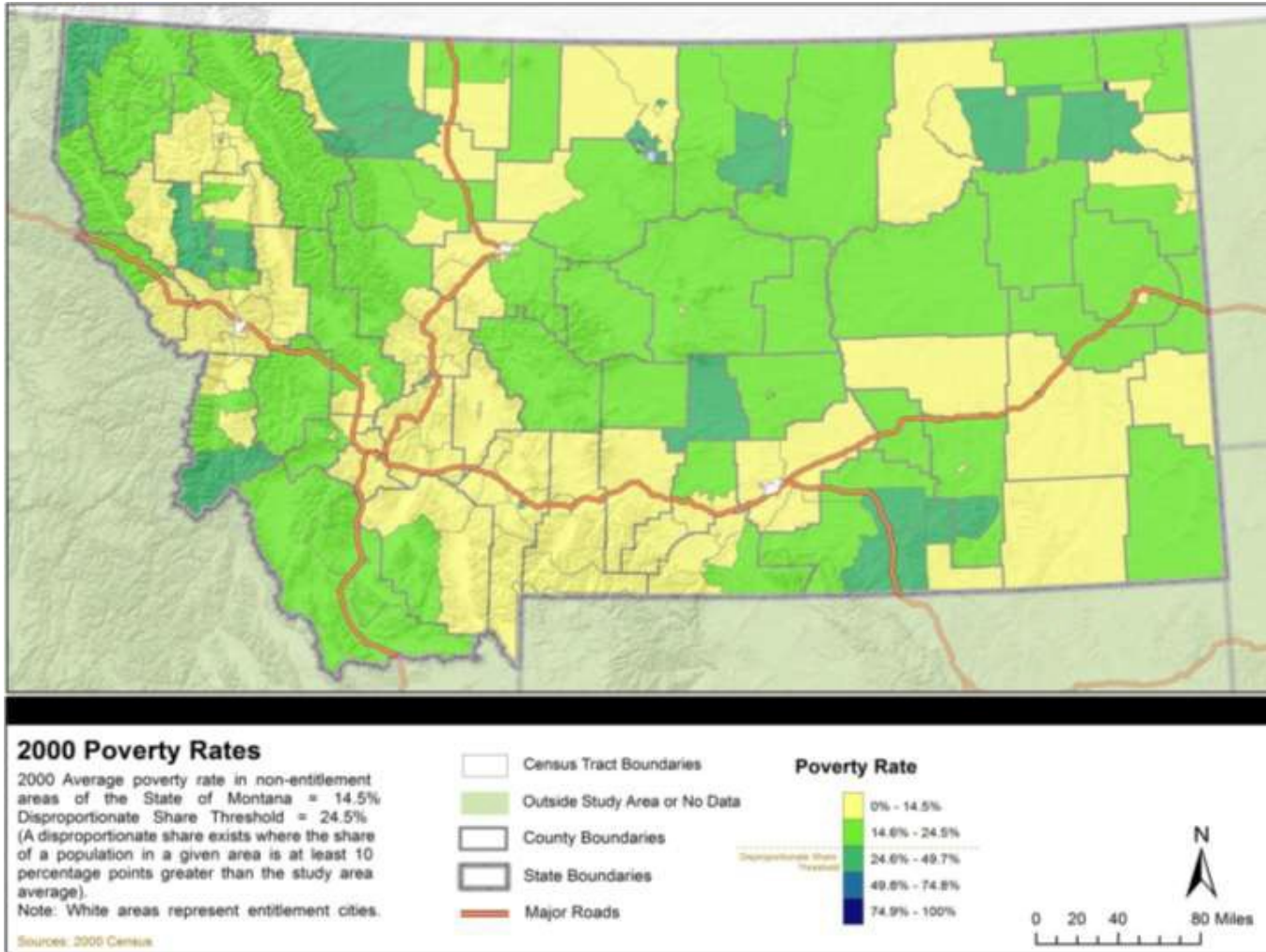
Map II.4
2010 Hispanic Population
 Areas of Montana
 Census Bureau 2010



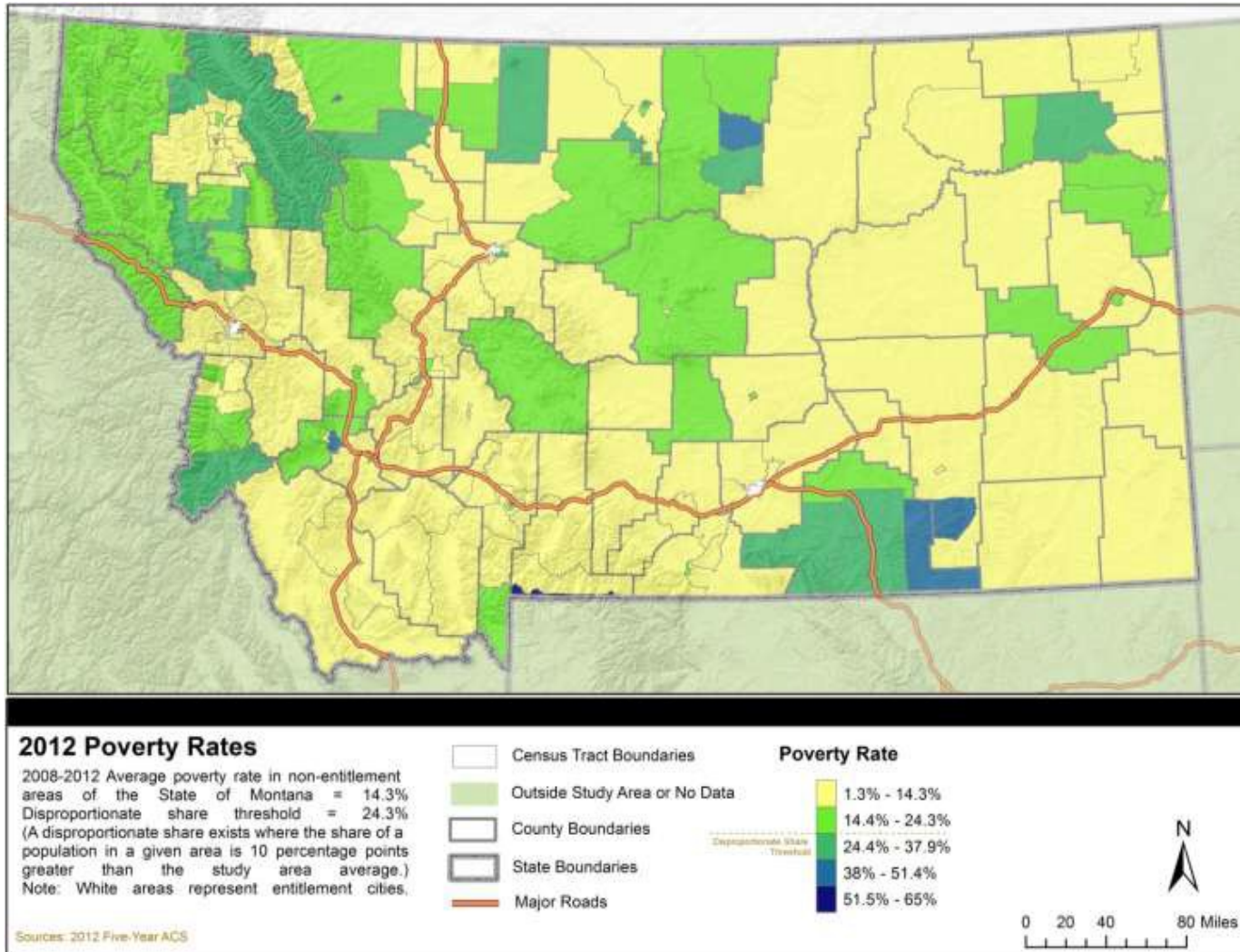
Map II.5
2000 Population with Disabilities
 Areas of Montana
 Census Bureau 2000



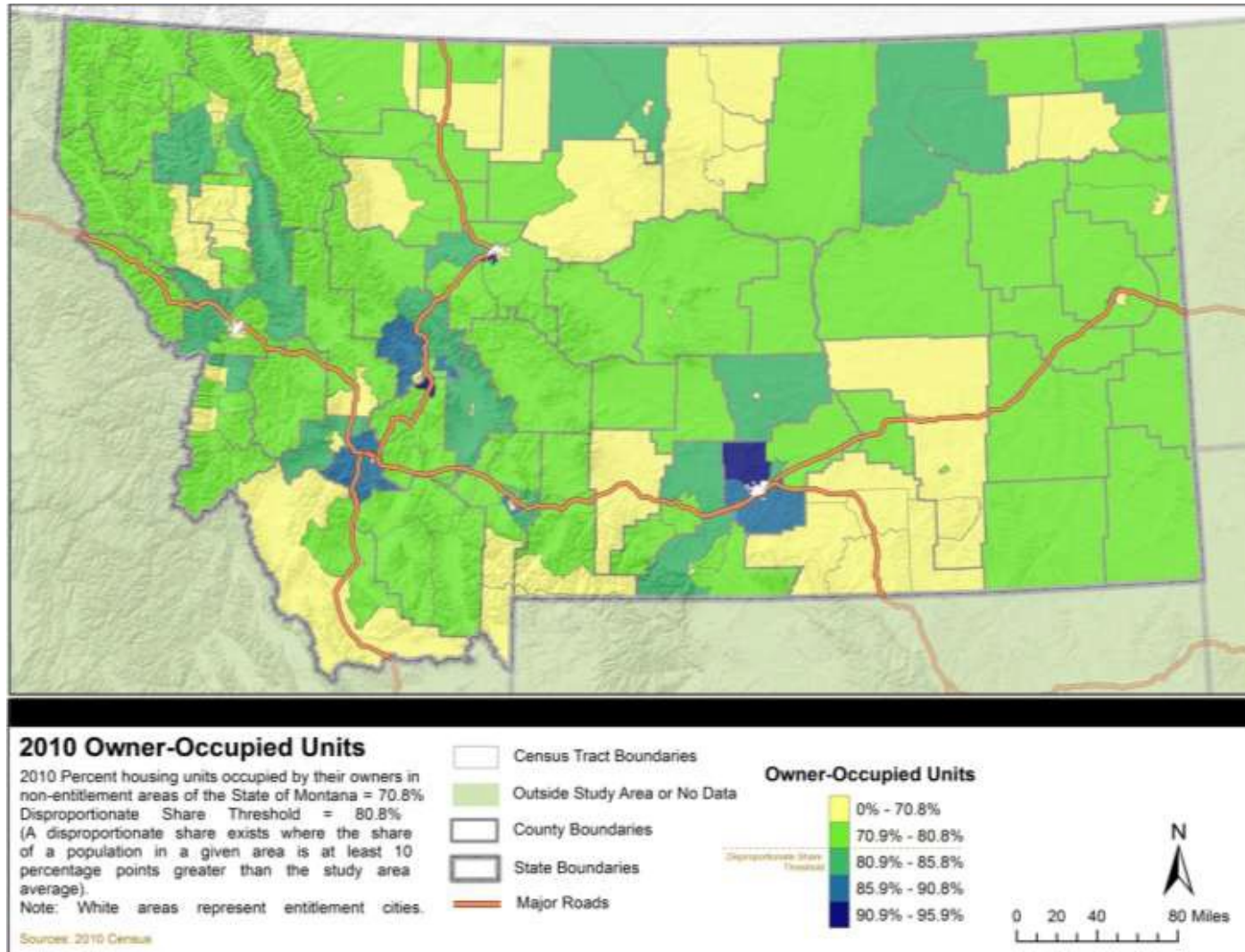
Map II.6
Poverty Rate by Census Tract
 Areas of Montana
 2000 Census Data



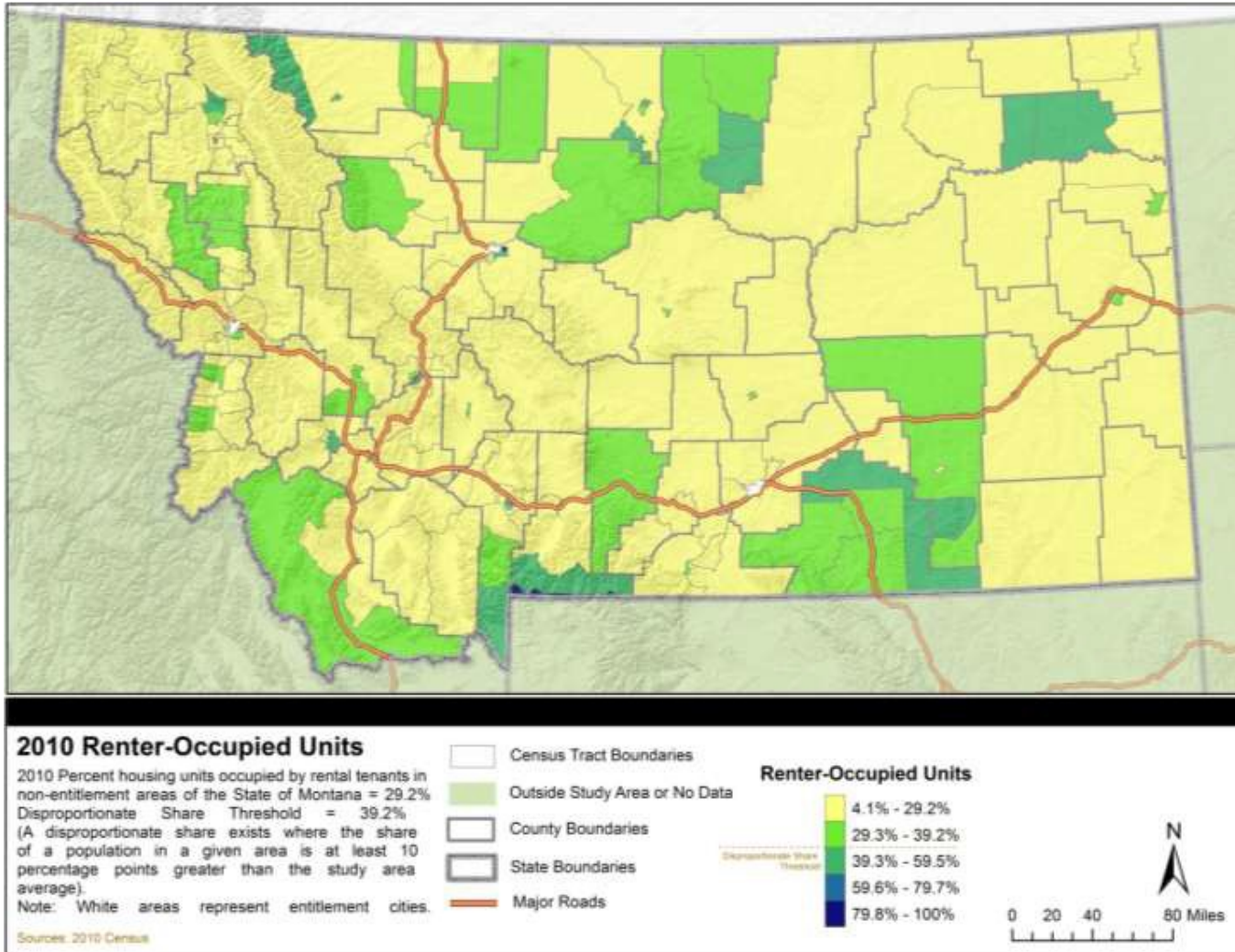
Map II.7
Poverty Rate by Census Tract
 Areas of Montana
 2012 Five-Year ACS Data



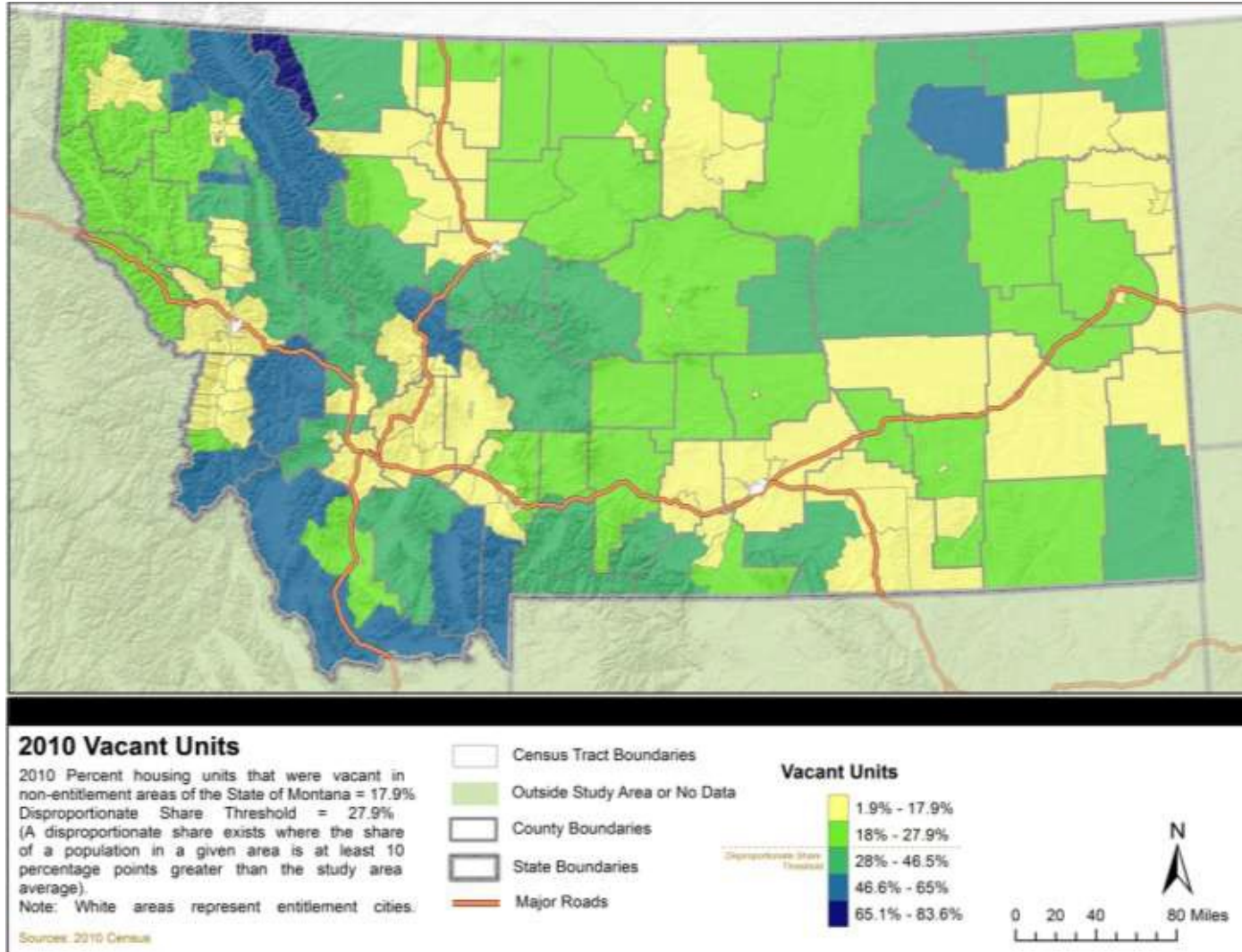
Map II.8
Owner-Occupied Housing Units
 Areas of Montana
 2010 Census Data



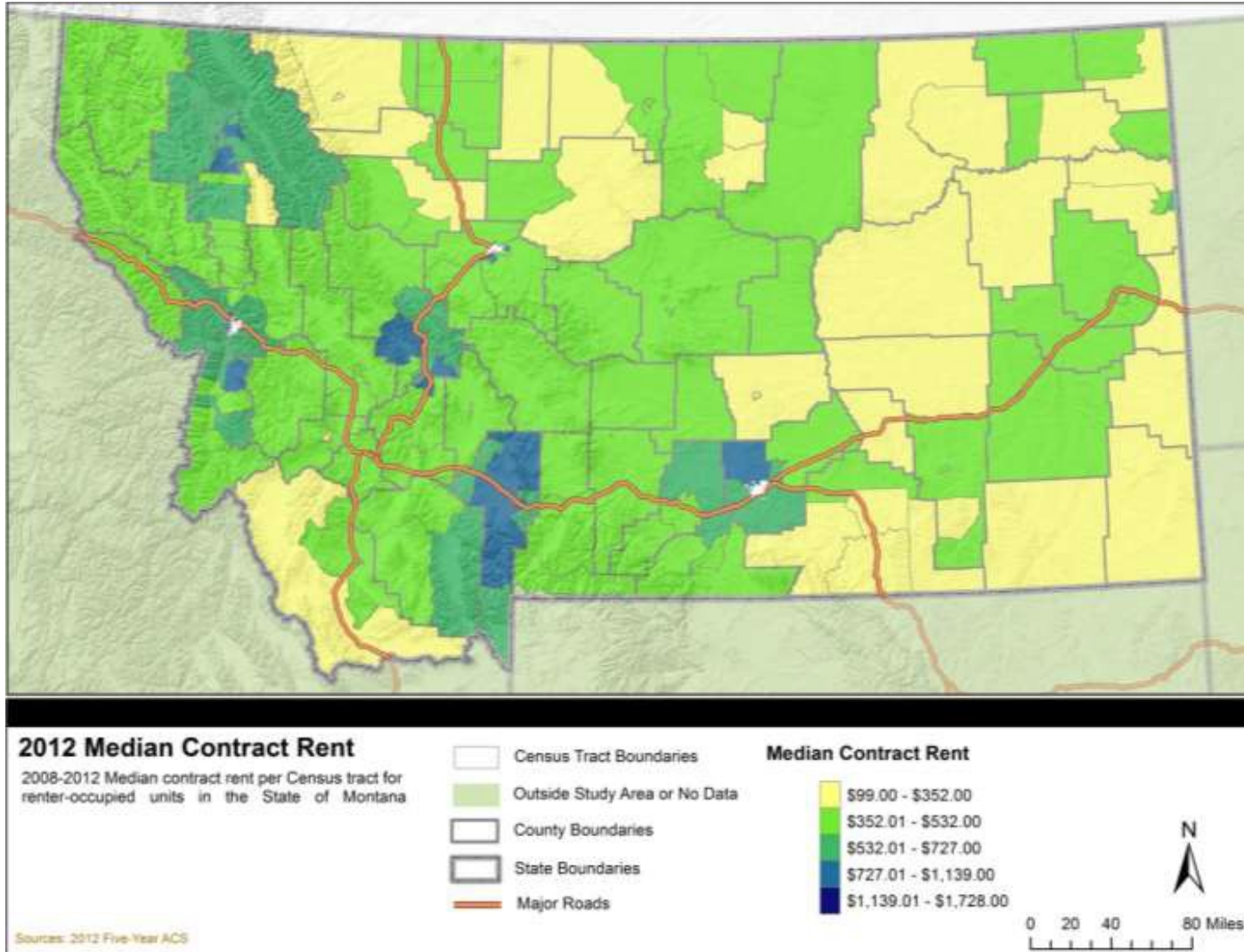
Map II.9
Renter-Occupied Housing Units
 Areas of Montana
 2010 Census Data



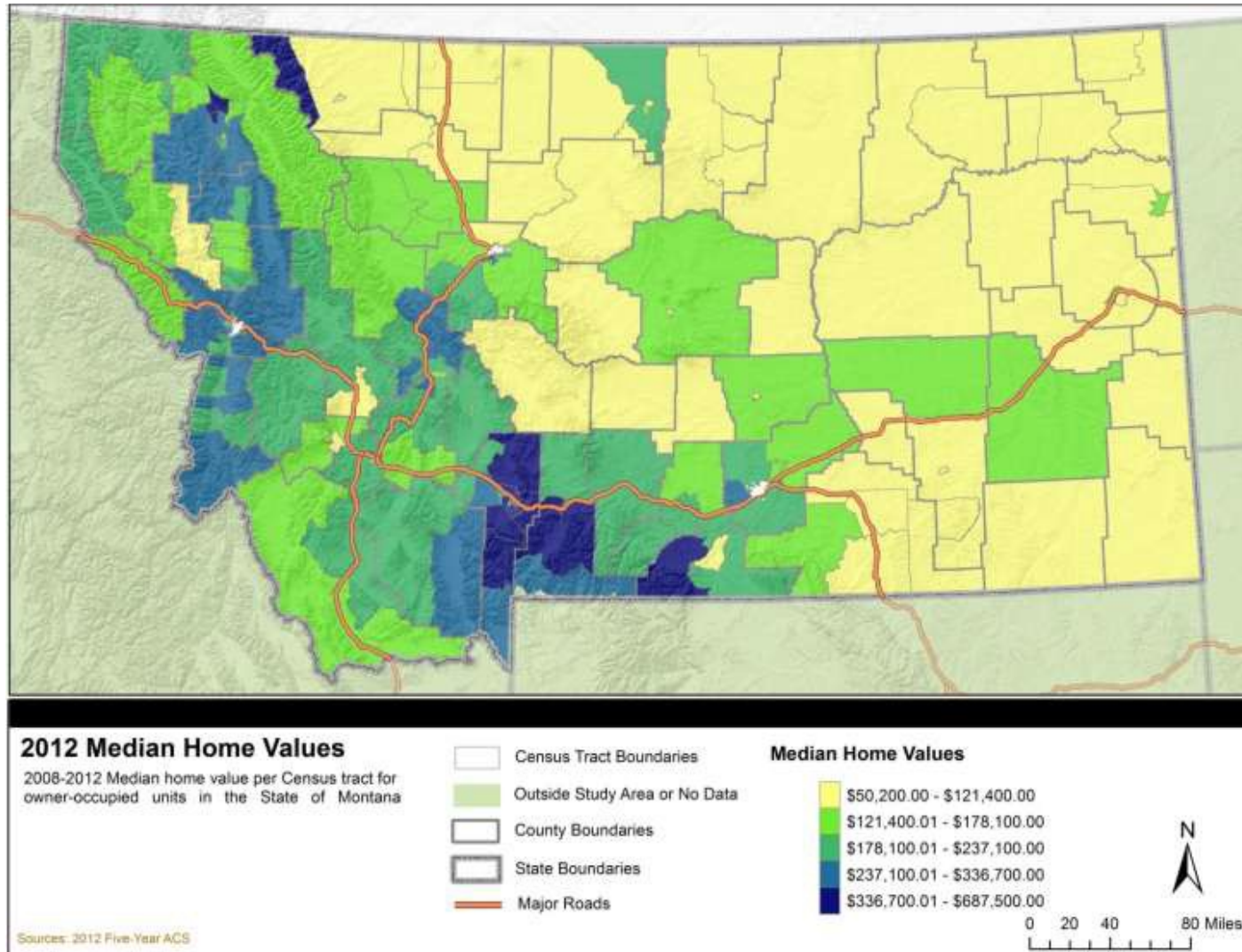
Map II.10
Vacant Housing Units
 Areas of Montana
 2010 Census Data



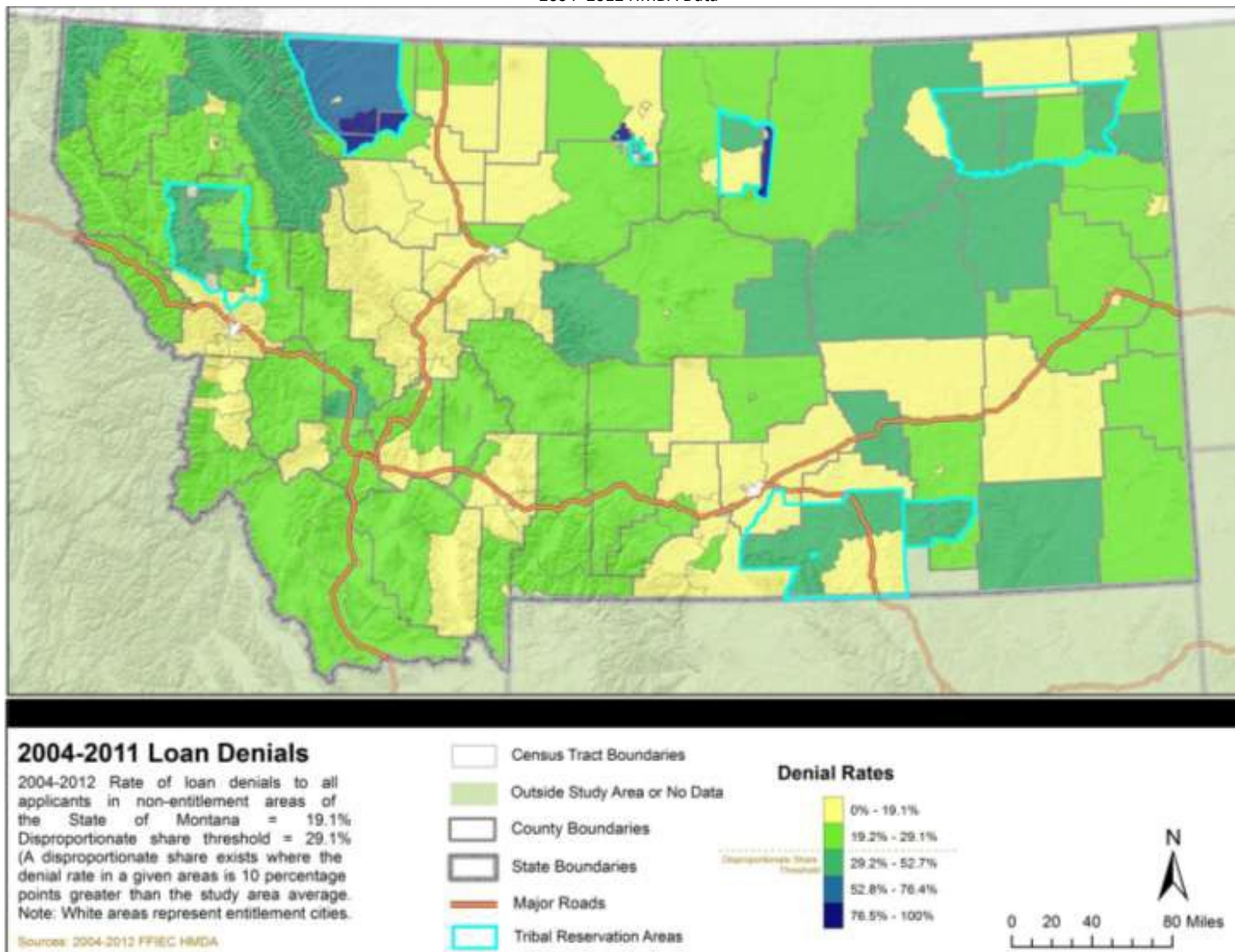
Map II.11
Median Contract Rent
 Areas of Montana
 2012 Five-Year ACS Data



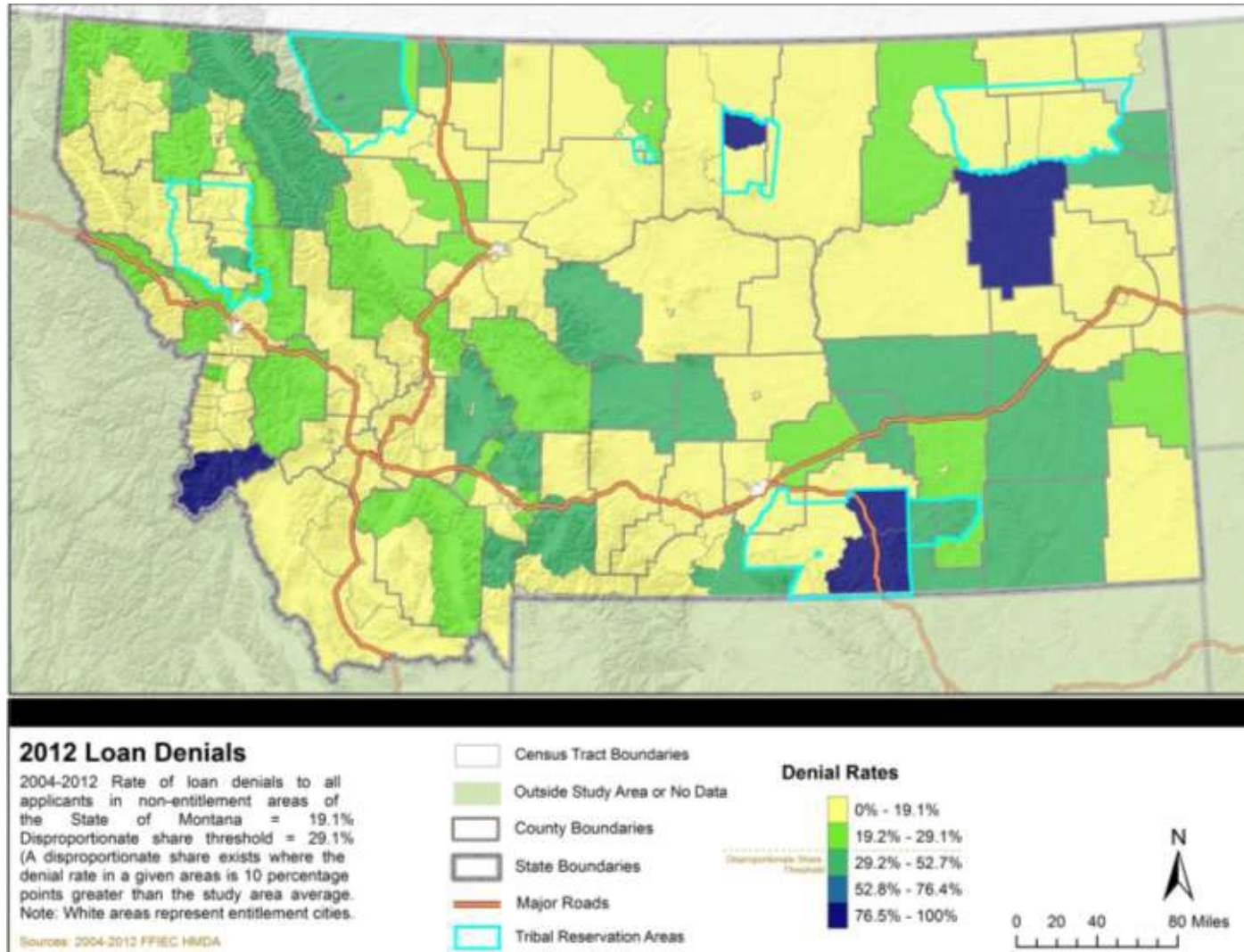
Map II.12
Median Home Value
 Areas of Montana
 2012 Five-Year ACS Data



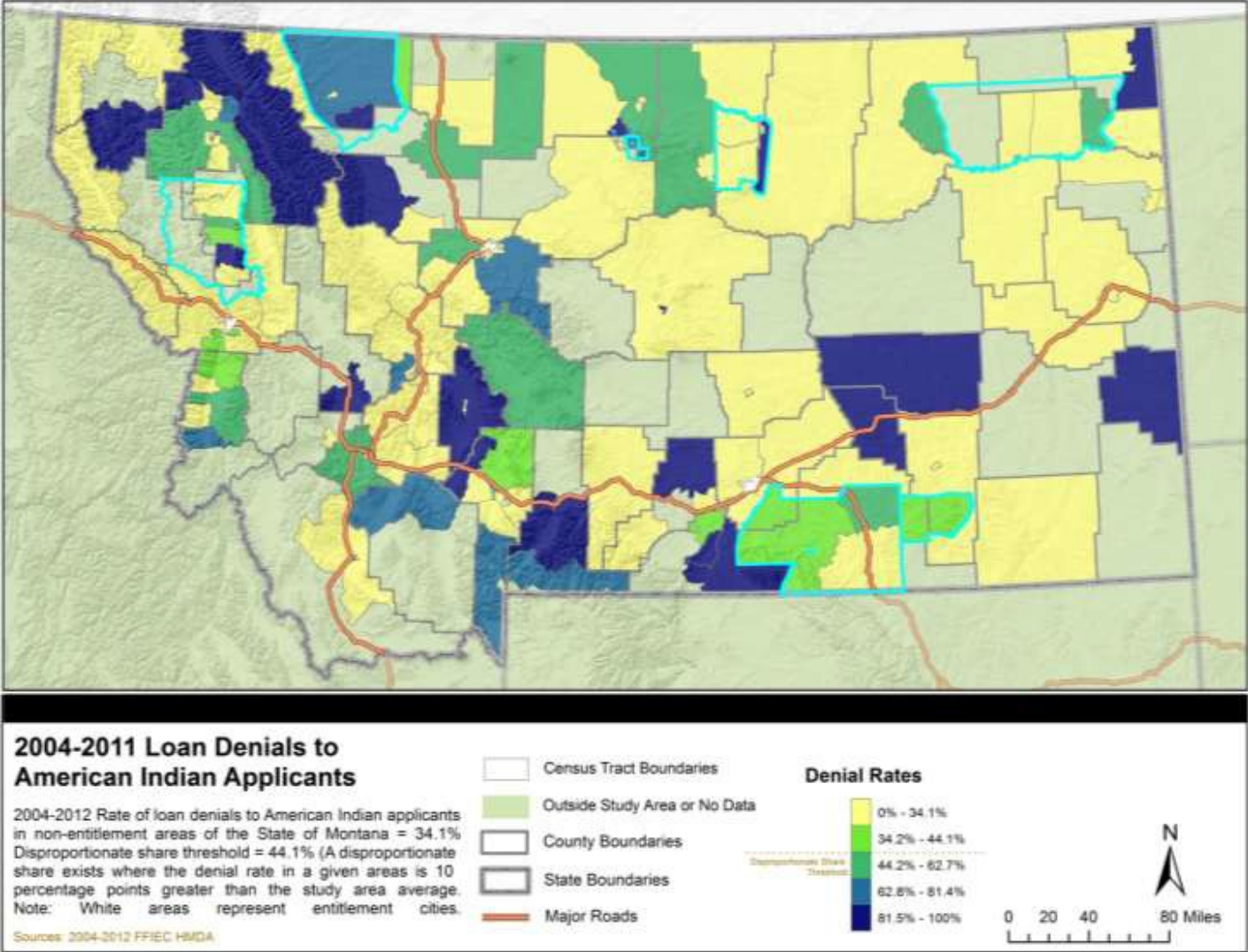
Map V.1
Denial Rates by Census Tract, 2004-2011
 Areas of Montana
 2004-2012 HMDA Data



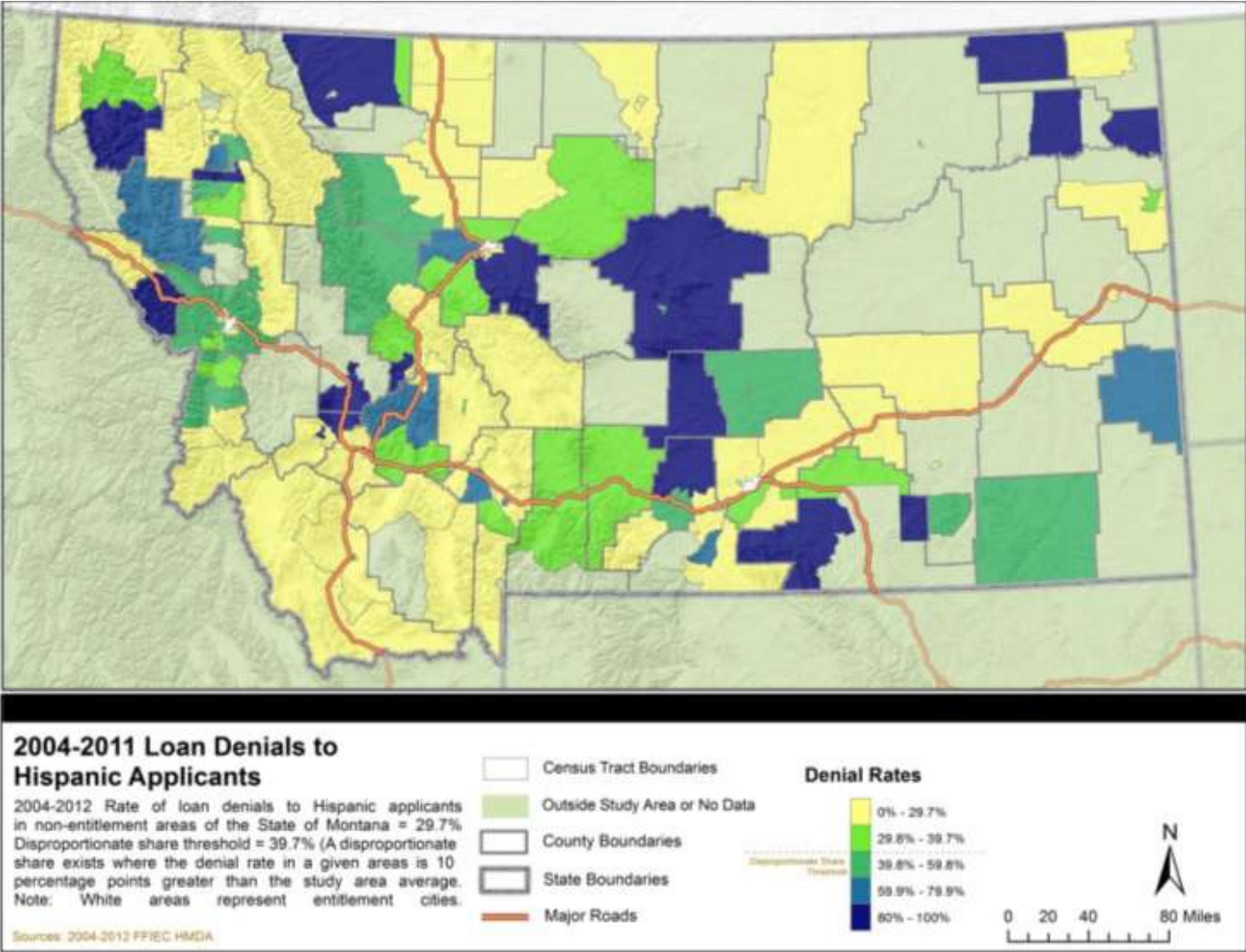
Map V.2
Denial Rates by Census Tract, 2012
 Areas of Montana
 2004-2012 HMDA Data



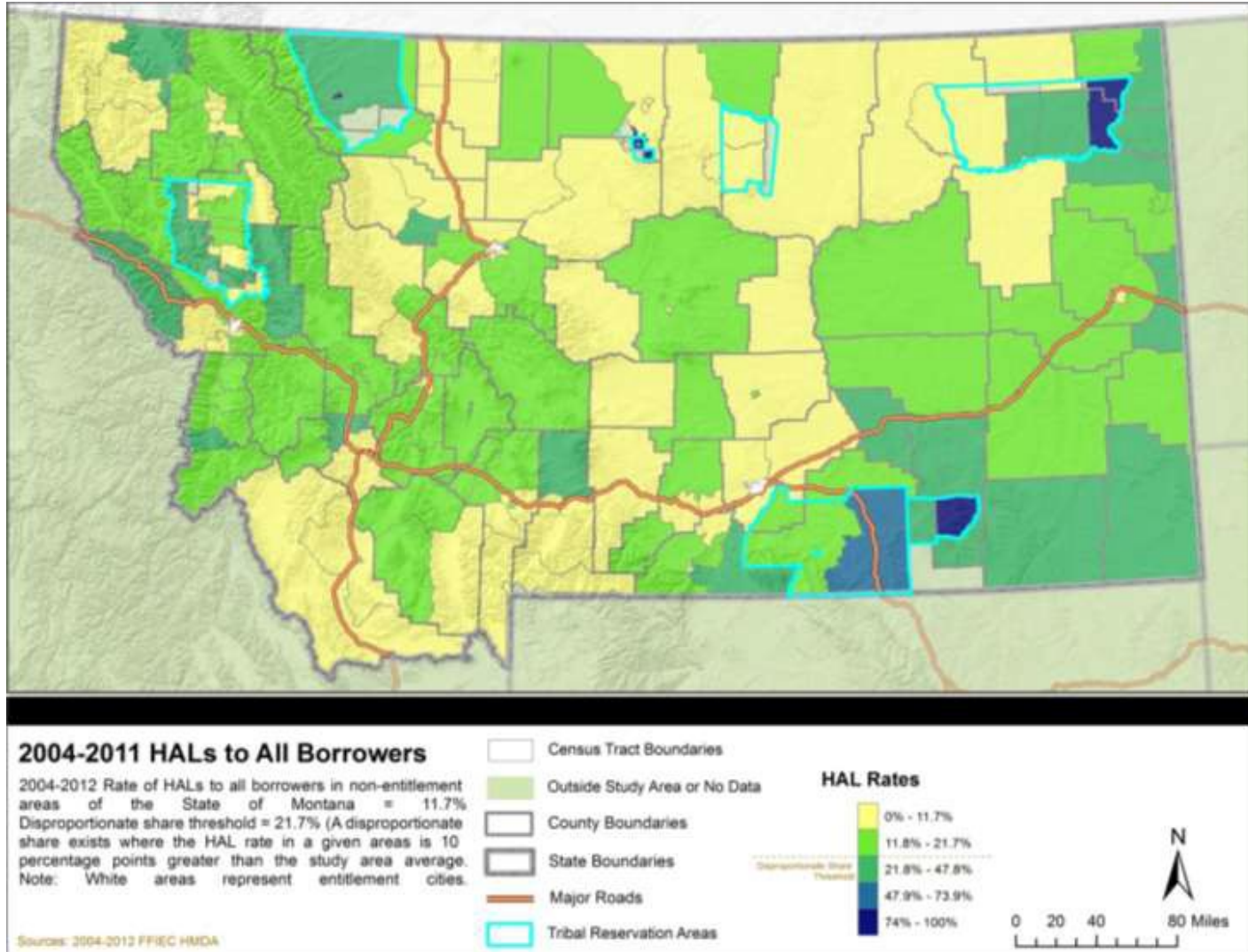
Map V.3
Denial Rates for American Indian Applicants by Census Tract, 2004-2011
 Areas of Montana
 2004-2012 HMDA Data



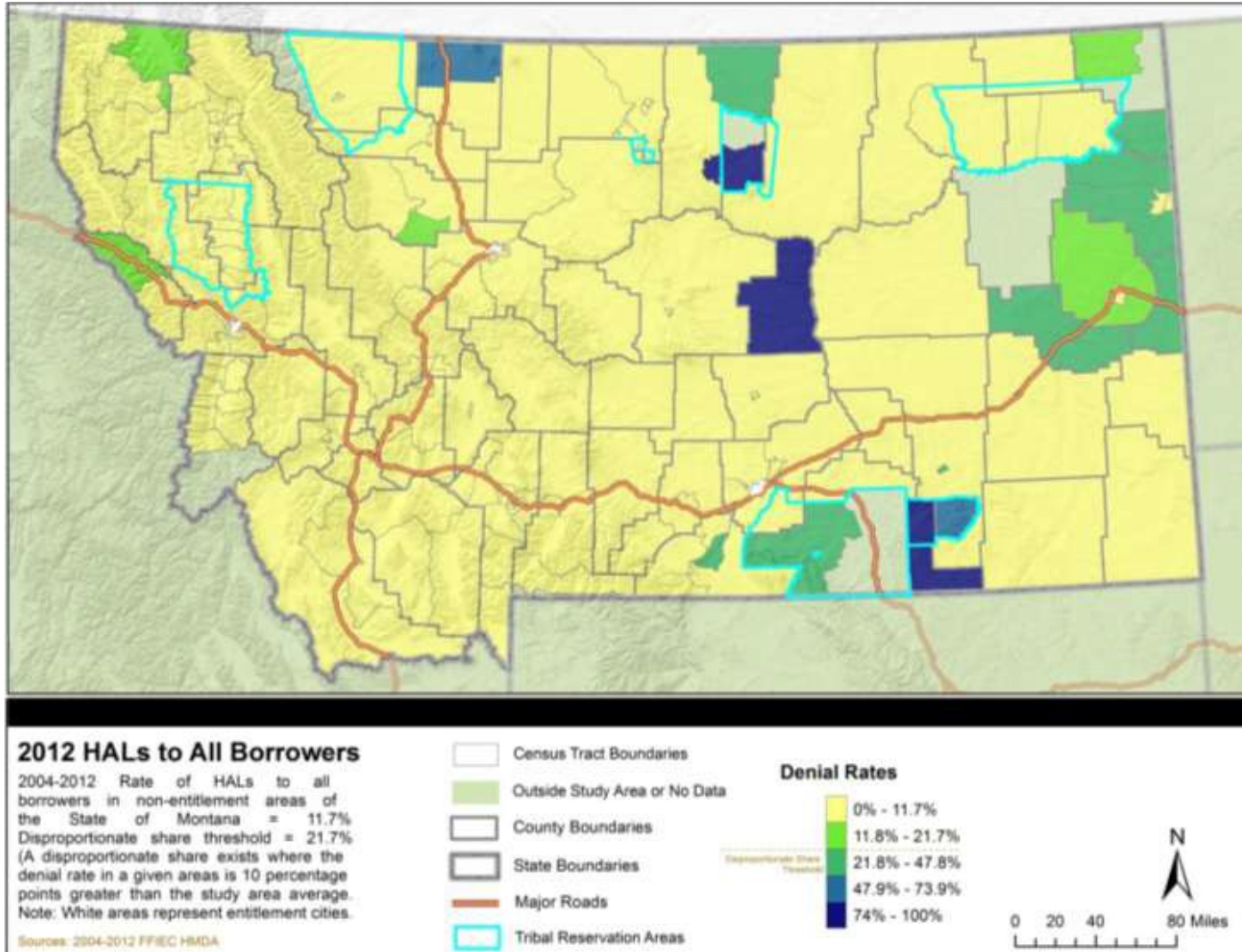
Map V.4
Denial Rates for Hispanic Applicants by Census Tract, 2004-2011
 Areas of Montana
 2004-2012 HMDA Data



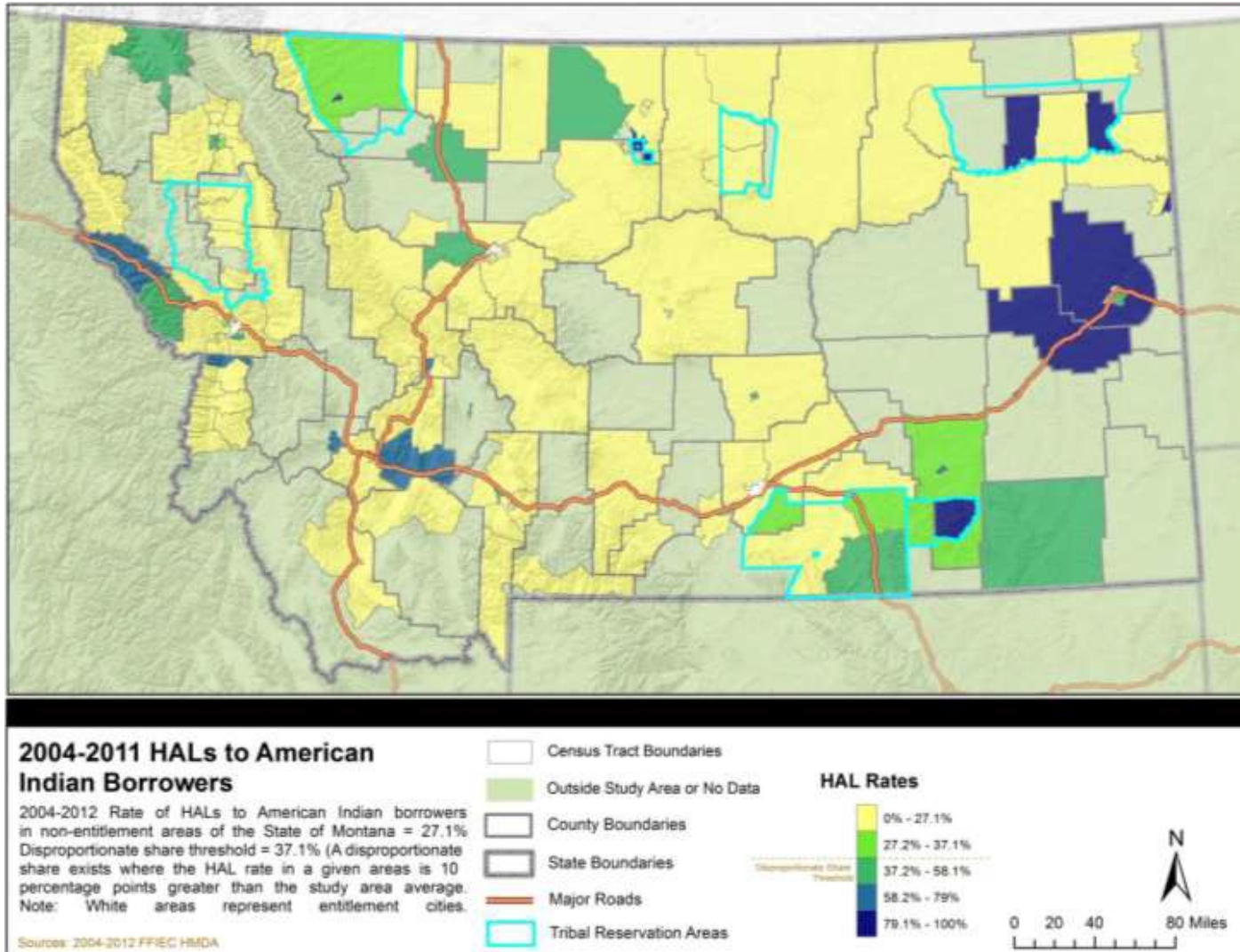
Map V.5
Predatory Style Loans (HALs) to All Borrowers, 2004-2011
 Areas of Montana
 2004-2012 HMDA Data



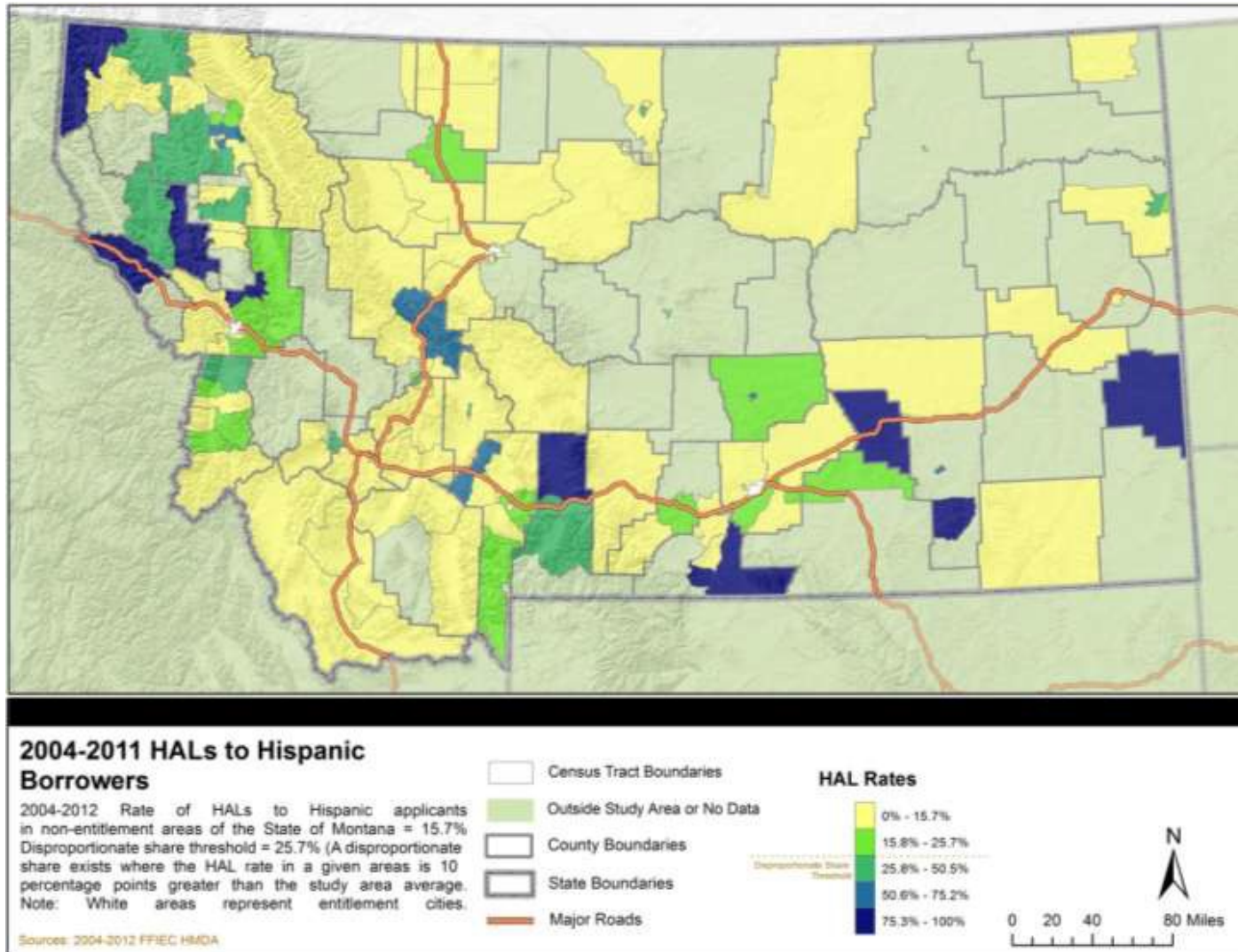
Map V.6
Predatory Style Loans (HALs) to All Borrowers, 2012
 Areas of Montana
 2004–2012 HMDA Data



Map V.7
Rate of HALs to American Indian Residents by Census Tract, 2004-2011
 Areas of Montana
 2004-2012 HMDA Data

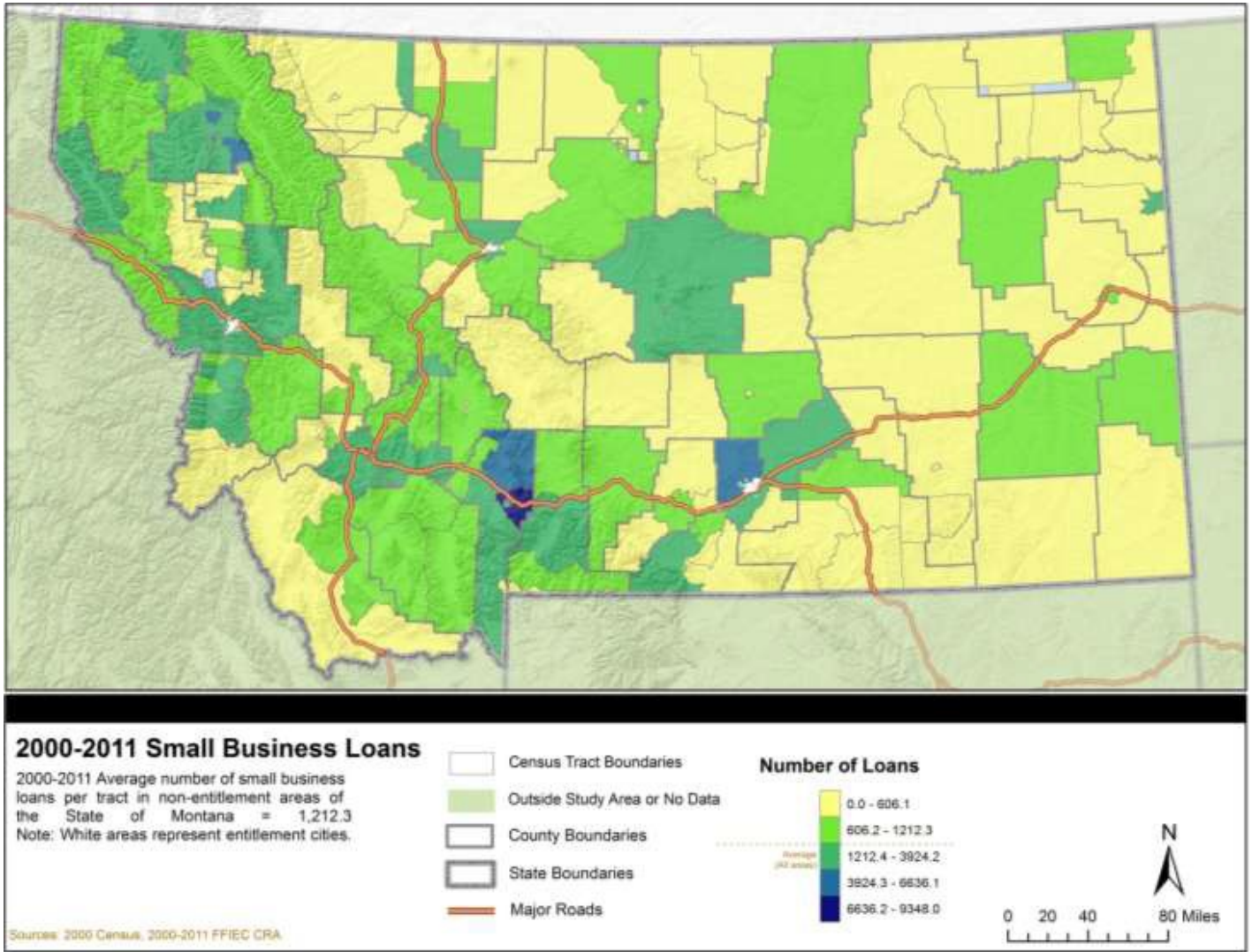


Map V.8
HALs to Hispanic Applicants by Census Tract, 2004-2011
 Areas of Montana
 2004-2012 HMDA Data

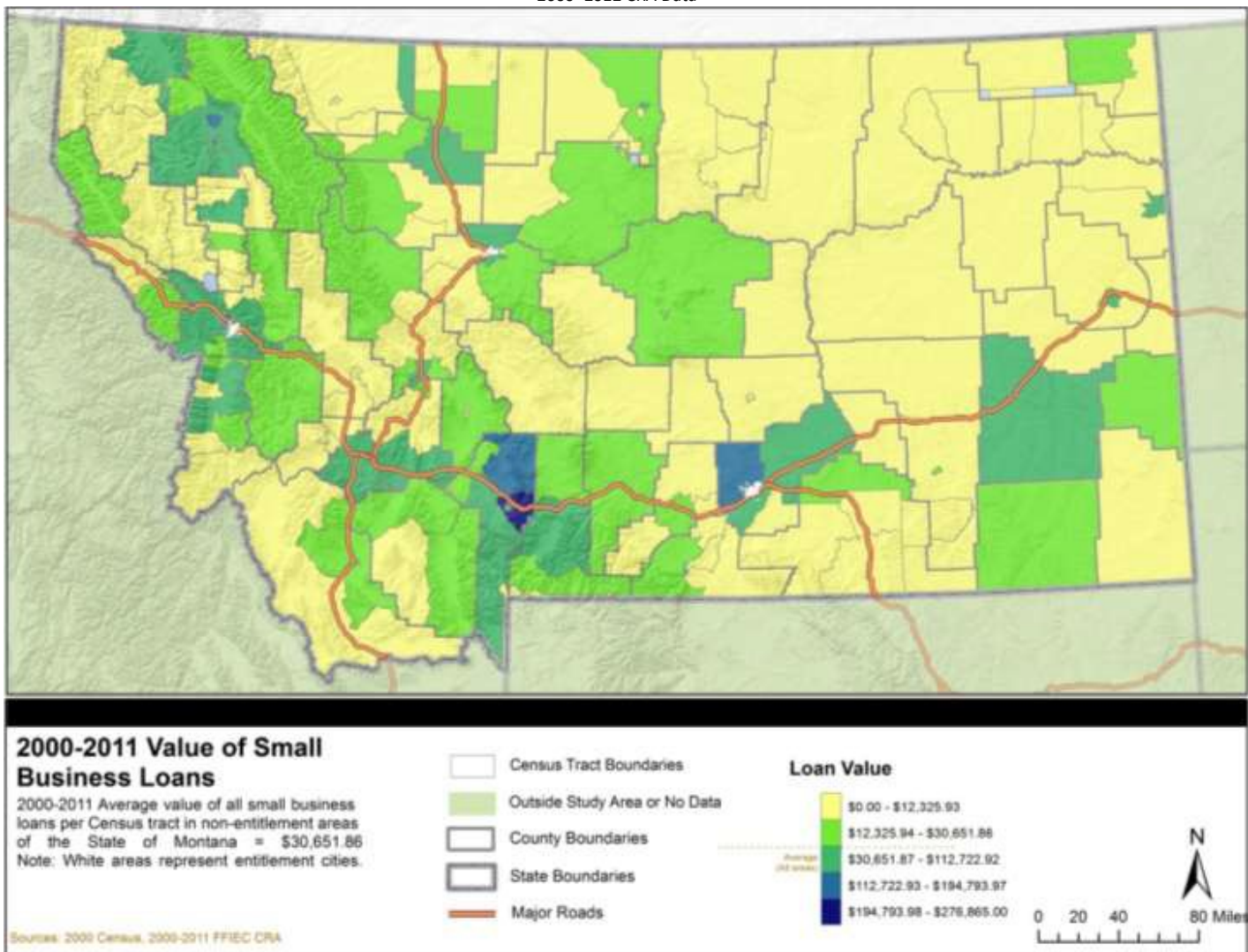


Map V.9
Number of Small Business Loans

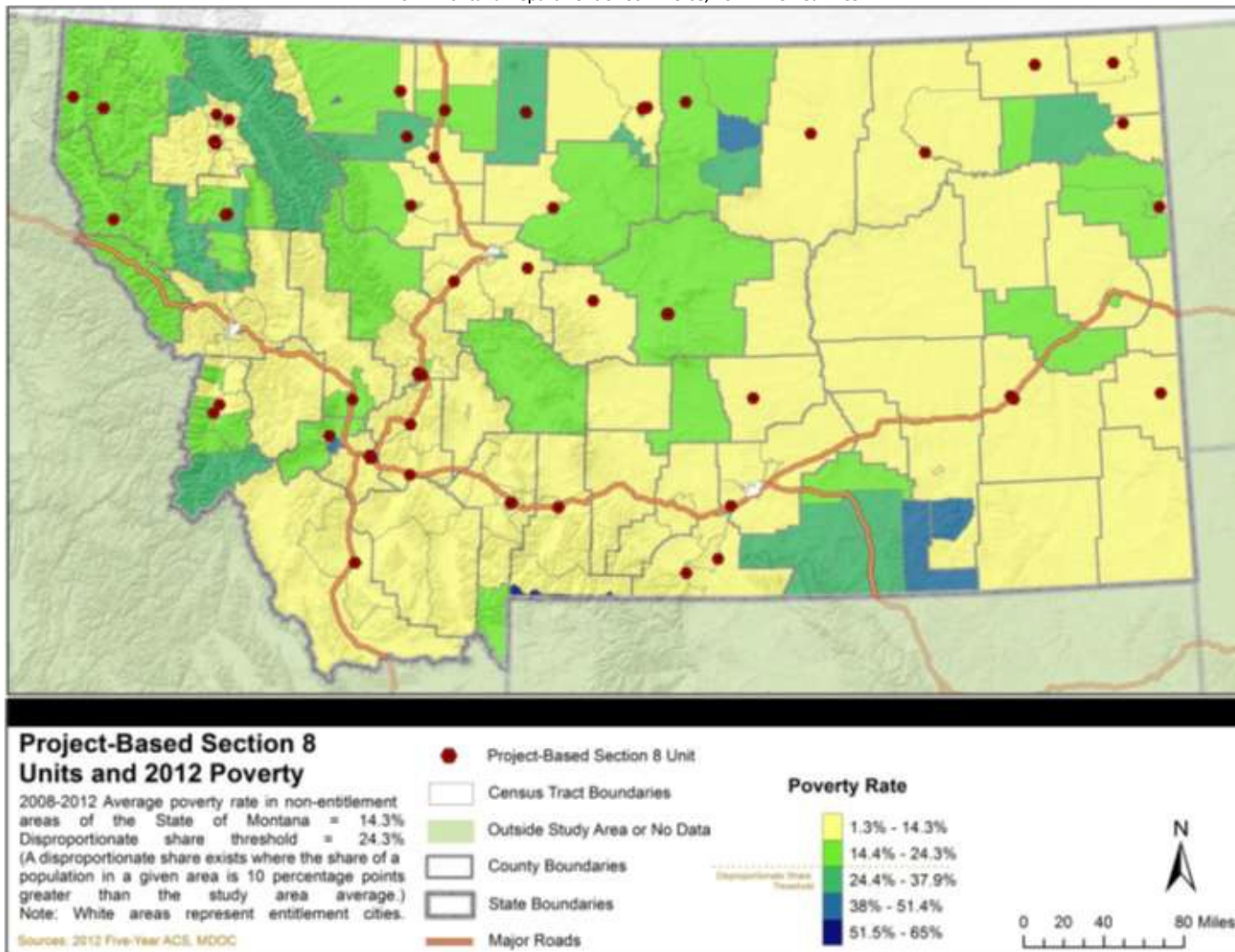
Areas of Montana
 2000-2012 CRA Data



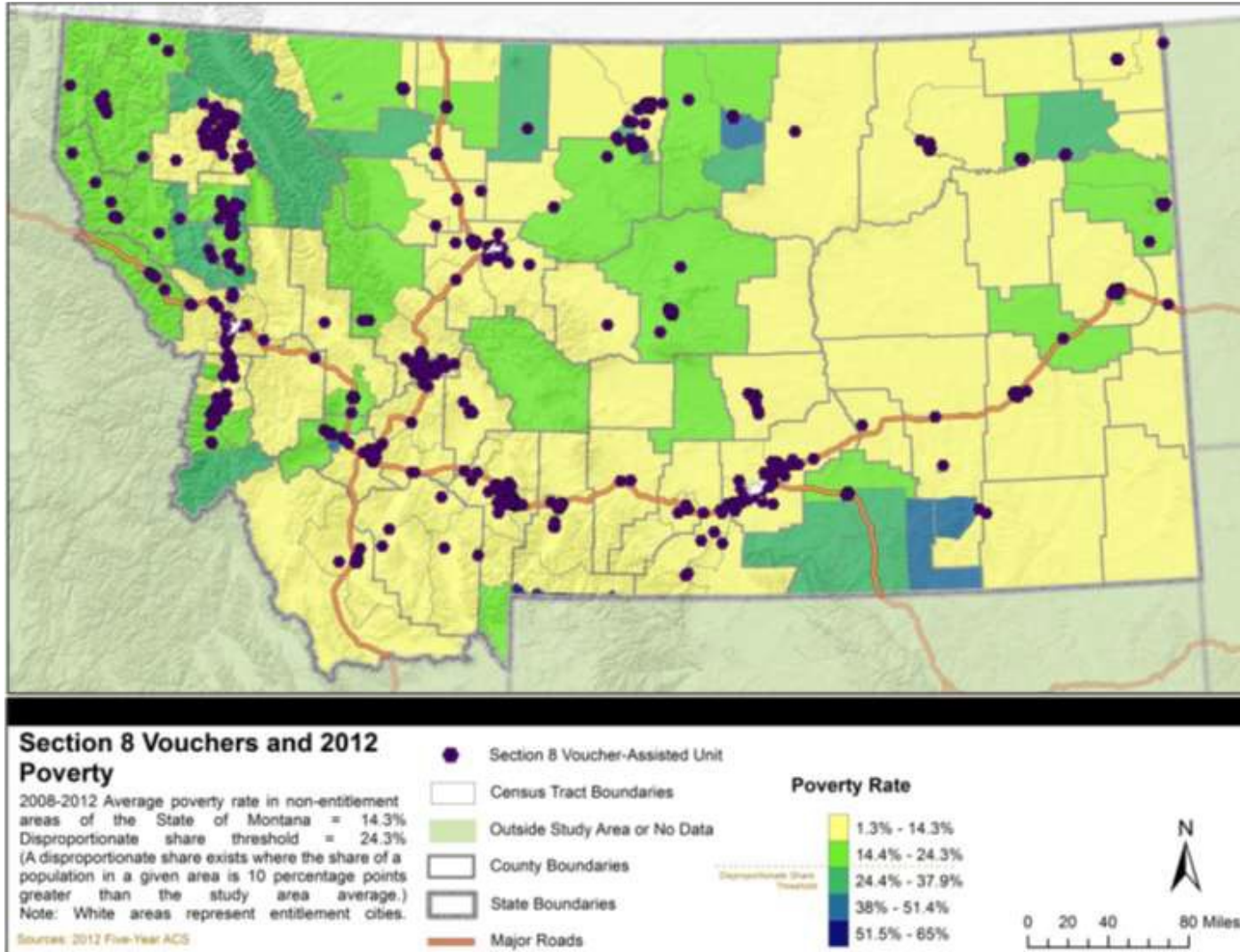
Map V.10
Amount of Small Business Loan Dollars
 Areas of Montana
 2000–2012 CRA Data



Map VI.1
Project-Based Section 8 Assisted Units and 2012 Poverty
 Areas of Montana
 2014 Montana Department of Commerce, 2012 Five-Year ACS



Map VI.2
Section 8 Voucher Assisted Units and 2012 Poverty
 Areas of Montana
 2014 Montana Department of Commerce, 2012 Five-Year ACS



Map VI.3
Low Income Housing Tax Credit (LIHTC) Assisted Units and 2012 Poverty
 Areas of Montana
 2014 Montana Department of Commerce, 2012 Five-Year ACS

