



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2025 Biennium

**Bill information:**

HB0190 - Provide for a state government performance and results act (Mercer, Bill )

**Status:** As Introduced

- Significant Local Gov Impact     
 Needs to be included in HB 2     
 Technical Concerns  
 Included in the Executive Budget     
 Significant Long-Term Impacts     
 Dedicated Revenue Form Attached

### FISCAL SUMMARY

	<u>FY 2024 Difference</u>	<u>FY 2025 Difference</u>	<u>FY 2026 Difference</u>	<u>FY 2027 Difference</u>
<b>Expenditures:</b>				
State Appropriated Funds	\$1,265,126	\$230,023	\$1,284,103	\$236,975
<b>Revenue:</b>				
State Appropriated Funds	\$0	\$0	\$0	\$0
<b>Net Impact-State Appropriated Fund</b>	<u>(\$1,265,126)</u>	<u>(\$230,023)</u>	<u>(\$1,284,103)</u>	<u>(\$236,975)</u>

**Description of fiscal impact:** HB 190 is very similar to HB 277 presented to the 2021 Legislature. For purposes of this fiscal note, the Office of Budget and Program Planning solicited analysis from one state agency affected by HB 190, the Department of Natural Resources and Conservation, with the intent of extrapolating the impact to all affected agencies. A primary difference between HB 190 in the 2023 legislative session and HB 277 from the 2021 legislative session is Section 8 of the bill. Section 8 states the departments may use only existing resources to implement the provisions of the bill. However, as this fiscal note indicates, agencies will incur costs to implement the legislation. Those costs are shown on this fiscal note. The extent to which state agencies are required to implement the bill without additional resources, has a one-to-one relationship to existing required agency responsibilities and requirements that will either not be completed or will be delayed.

### FISCAL ANALYSIS

**Assumptions:****All Executive Branch Agencies**

- Agencies will be required to adopt a three-year strategic plan by no later than September 1, 2023, and update the plan by July 1, 2026, and every three years thereafter. The plan would include specific and measurable performance measures.
- Agencies will be required to solicit and consider public comment on the strategic plan, prior to adoption.

3. Agencies will be required to hold at least one public hearing to accept comments on the proposed plan and accept written comments for at least 30 days.
4. Agencies will be required to track outcomes and outputs performance measures and prepare and distribute an annual report no later than December 1, 2024, and no later than October 1 of each year afterward.
5. According to the definition of Department in Section 3 of the bill (referencing list in 2-15-104, MCA), the following agencies would be affected by HB 190: Department of Administration, Department of Military Affairs, Department of Revenue, State Board of Education, Department of Labor and Industry, Department of Commerce, Department of Justice, Department of Public Health and Human Services, Department of Corrections, Department of Transportation, Public Service Commission, Department of Agriculture, Department of Livestock, Department of Natural Resources and Conservation, Department of Fish, Wildlife & Parks, Department of Environmental Quality, Secretary of State's Office, State Auditor's Office, and the Office of Public Instruction.
6. The following agencies are exempt from the requirements of HB 190: Legislative Branch, Judicial Branch, Governor's Office, Commissioner of Political Practices, Montana University System, Montana School for the Deaf & Blind, Montana Arts Council, Montana State Library, Montana State Fund, and the Montana Historical Society.

**Department of Natural Resources and Conservation (DNRC - Baseline Agency)**

7. The DNRC will use contracted services to hire a facilitator to work with DNRC staff to produce the first multi-year strategic plan, as well as in the subsequent years to produce the revised plan.
8. The DNRC will utilize existing staff to perform planning and reporting activities.
9. The DNRC is currently funded for the existing staff which are primarily focused on program management and implementation.
10. It is anticipated that contracted services costs will be \$55,000 in the first year and every third year leading up to subsequent July 1 deadlines, plus \$11,000 in each of the two interim years afterwards.
11. It is anticipated that conducting the hearings, transcription, and publishing notice in the Montana Administrative Register will cost \$5,500 in FY 2024 and leading up to the subsequent July 1 deadlines occurring in FY 2026 (for the July 1, 2026, deadline) and every three years afterwards.
12. The following estimates staff time will be incurred by the agency, but are not included in the fiscal note amounts:
  - a. In FY 2024, it is estimated that planning and reporting efforts will occupy approximately 1,500 staff hours to do the first report due on September 1, 2023.
  - b. In FY 2025, FY 2026 and FY 2027 and every year afterwards, the annual performance report will require additional staff hours estimated to be 300.
  - c. In FY 2026 (for the July 1, 2026, deadline) and every three years afterwards, the plan revisions will require additional staff hours estimated to be 1,500.
13. Diverting current staff will impact the timely delivery of programs and services. These impacts cannot be quantified.
14. Agencies currently have financial and performance audits as well as various annual reports that may provide the information requested.
15. A 1.5% inflation rate has been applied to FY 2026 and FY 2027.

**Other Affected Agencies (listed in assumption 5)**

16. The costs estimated by DNRC have been extrapolated to other state agencies using permanent FTE as a proxy for the complexity and number of programs in each agency. Impacts are shown in the table below. Due to the variability of funding sources in each agency, funding is not broken out by agency at this time.

	FY 2023 FTE	FY 2024	FY 2025	FY 2026	FY 2027
32010 Secretary of State	54.50	5,767	1,049	5,853	1,080
34010 State Auditor	72.50	7,671	1,395	7,787	1,437
35010 Office of Public Instruction	180.80	19,131	3,478	19,418	3,584
41100 Dept of Justice	839.65	88,846	16,154	90,179	16,642
42010 Public Service Commission	36.00	3,809	693	3,866	714
52010 Dept of Fish, Wildlife & Parks	784.24	82,983	15,088	84,228	15,544
53010 Dept of Environmental Quality	421.54	44,605	8,110	45,274	8,355
54010 Dept of Transportation	2150.77	227,581	41,378	230,994	42,629
56030 Dept of Livestock	137.62	14,562	2,648	14,781	2,728
57060 Dept of Natural Resources & Cons	571.76	60,500	11,000	61,408	11,332
58010 Dept of Revenue	664.67	70,331	12,787	71,386	13,174
61010 Dept of Administration	531.48	56,238	10,225	57,081	10,534
62010 Dept of Agriculture	123.44	13,062	2,375	13,258	2,447
64010 Dept of Corrections	1352.18	143,079	26,014	145,225	26,801
65010 Dept of Commerce	208.38	22,049	4,009	22,380	4,130
66020 Dept of Labor & Industry	762.84	80,719	14,676	81,930	15,120
67010 Dept of Military Affairs	227.78	24,102	4,382	24,464	4,515
69010 Dept of Public Health & Human Services	2836.02	300,090	54,562	304,591	56,211
<b>TOTAL</b>		\$ 1,265,126	\$ 230,023	\$ 1,284,103	\$ 236,975

17. Using the current employee hours estimated in assumption 12 for DNRC, and using permanent FTE as a proxy for a similar level of work performed in other agencies, the table below shows the number of hours and FTE that will be redirected to accomplish the work required by HB 190. These hours will not be available to the agencies to accomplish the normal work duties of the agencies.

	FY 2024 Hours/FTE		FY 2025 Hours/FTE		FY 2026 Hours/FTE		FY 2027 Hours/FTE	
32010 Secretary of State	143	0.07	29	0.01	143	0.07	29	0.01
34010 State Auditor	190	0.09	38	0.02	190	0.09	38	0.02
35010 Office of Public Instruction	474	0.23	95	0.05	474	0.23	95	0.05
41100 Dept of Justice	2,203	1.06	441	0.21	2,203	1.06	441	0.21
42010 Public Service Commission	94	0.05	19	0.01	94	0.05	19	0.01
52010 Dept of Fish, Wildlife & Parks	2,057	0.99	411	0.20	2,057	0.99	411	0.20
53010 Dept of Environmental Quality	1,106	0.53	221	0.11	1,106	0.53	221	0.11
54010 Dept of Transportation	5,642	2.71	1,128	0.54	5,642	2.71	1,128	0.54
56030 Dept of Livestock	361	0.17	72	0.03	361	0.17	72	0.03
57060 Dept of Natural Resources & Cons	1,500	0.72	300	0.14	1,500	0.72	300	0.14
58010 Dept of Revenue	1,744	0.84	349	0.17	1,744	0.84	349	0.17
61010 Dept of Administration	1,394	0.67	279	0.13	1,394	0.67	279	0.13
62010 Dept of Agriculture	324	0.16	65	0.03	324	0.16	65	0.03
64010 Dept of Corrections	3,547	1.71	709	0.34	3,547	1.71	709	0.34
65010 Dept of Commerce	547	0.26	109	0.05	547	0.26	109	0.05
66020 Dept of Labor & Industry	2,001	0.96	400	0.19	2,001	0.96	400	0.19
67010 Dept of Military Affairs	598	0.29	120	0.06	598	0.29	120	0.06
69010 Dept of Public Health & Human Services	7,440	3.58	1,488	0.72	7,440	3.58	1,488	0.72
<b>TOTAL</b>	<b>31,367</b>	<b>15.08</b>	<b>6,273</b>	<b>3.02</b>	<b>31,367</b>	<b>15.08</b>	<b>6,273</b>	<b>3.02</b>

	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
<b><u>Fiscal Impact:</u></b>				
<b><u>Expenditures:</u></b>				
Operating Expenses	<u>\$1,265,126</u>	<u>\$230,023</u>	<u>\$1,284,103</u>	<u>\$236,975</u>
<b>TOTAL Expenditures</b>	<b><u>\$1,265,126</u></b>	<b><u>\$230,023</u></b>	<b><u>\$1,284,103</u></b>	<b><u>\$236,975</u></b>
<b><u>Funding of Expenditures:</u></b>				
State Appropriated Funds	<u>\$1,265,126</u>	<u>\$230,023</u>	<u>\$1,284,103</u>	<u>\$236,975</u>
<b>TOTAL Funding of Exp.</b>	<b><u>\$1,265,126</u></b>	<b><u>\$230,023</u></b>	<b><u>\$1,284,103</u></b>	<b><u>\$236,975</u></b>
<b><u>Revenues:</u></b>				
State Appropriated Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<b>TOTAL Revenues</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
State Appropriated Funds	(\$1,265,126)	(\$230,023)	(\$1,284,103)	(\$236,975)

**Technical Notes:**

1. HB 190 excludes the strategic planning and performance measures process from the definition of a “rule” under the Montana Administrative Procedures Act (MAPA – Section 9). However, the bill outlines an entire process for public notice, holding hearings, gathering public comment, and finalizing the plans (Section 4). The new process will likely take similar or more resources than the MAPA process.
2. The timelines in NEW SECTION 4 requiring that “no later than September 1, 2023, each department shall adopt a long-range strategic plan” may pose barriers to the state agencies achieving meaningful stakeholder input beyond public hearing and public comment.
3. In addition, many stakeholders, or stakeholder groups, will likely be involved in the strategic planning of multiple programs and/or agencies, which may delay meeting this deadline.

<i>Sponsor’s Initials</i>	<i>Date</i>	 <i>Budget Director’s Initials</i>	<i>1-12-23</i> <i>Date</i>
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