



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:

SB0390 - Provide freedom in school choice (Emrich, Daniel)

Status: As Introduced

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input checked="" type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<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>
Expenditures:				
General Fund	\$185,090	\$86,952,039	\$87,892,899	\$90,813,851
State Special Revenue	\$0	\$184,250	\$187,862	\$190,681
Trust Fund	\$0	\$115,339,932	\$118,796,754	\$121,371,039
Revenue:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$0	\$2,353,876	\$2,424,424	\$2,476,960
Trust Fund	\$0	\$115,339,932	\$118,796,754	\$121,371,039
Net Impact-General Fund Balance:	<u>(\$185,090)</u>	<u>(\$86,952,039)</u>	<u>(\$87,892,899)</u>	<u>(\$90,813,851)</u>

Description of fiscal impact: SB 390 establishes the Equality of Educational Opportunity Act and the Montana Equality of Educational Opportunity Education Savings Account Program. State general fund support required for this program is estimated to be \$87 million for the FY 2025 and succeeding years.

FISCAL ANALYSIS

Assumptions:

- SB 390 establishes the Equality of Educational Opportunity Act.
- The bill also establishes the Montana Equality of Educational Opportunity Education Savings Account Program for qualified students. The definition of a "qualified student" is a student between the ages of 5 and 19 who is not currently enrolled in public school.

3. SB 390 directs the Superintendent of Public Instruction to notify a student’s resident school district of the qualifying ESA student amount the resident district is to distribute to the Montana equality of educational opportunity education savings account on behalf of the qualifying student in one-tenth increments.
4. The ESA student amount is calculated as the sum of:
 - a. Data for achievement payment (Data) under 20-9-306, MCA;
 - b. Indian education for all payment (IEA) under 20-9-306, MCA;
 - c. 140% of the per ANB amounts of the special education instructional (IBG) and related services (RSBG) block grants under 20-9-321, MCA; and
 - d. Per ANB entitlement amount under 20-9-306, MCA multiplied by the ratio of the school district adopted general fund budget to the school district maximum general fund budget in the prior year, rounded to the nearest one hundredth and not to exceed 1.00, in the district where the student is included for ANB purposes under the program.
5. The ESA student amount is estimated as follows:

Elementary Programs									
Fiscal Year	Data	IEA	140% IBG	140% RSBG	Per-ANB	Per-ANB Min	Per-ANB Max	ESA Student Amount Min	ESA Student Amount Max
2023	\$22.29	\$23.28	\$213.46	\$71.15	\$5,962.00	\$4,769.60	\$5,962.00	\$5,099.78	\$6,292.18
2024	\$22.89	\$23.91	\$215.89	\$71.96	\$6,123.00	\$4,898.40	\$6,123.00	\$5,233.05	\$6,457.65
2025	\$23.58	\$24.63	\$222.38	\$74.13	\$6,307.00	\$5,045.60	\$6,307.00	\$5,390.32	\$6,651.72
2026	\$24.29	\$25.37	\$229.05	\$76.36	\$6,496.00	\$5,196.80	\$6,496.00	\$5,551.87	\$6,851.07
2027	\$24.82	\$25.92	\$234.01	\$78.01	\$6,637.00	\$5,309.60	\$6,637.00	\$5,672.36	\$6,999.76

High School Programs									
Fiscal Year	Data	IEA	140% IBG	140% RSBG	Per-ANB	Per-ANB Min	Per-ANB Max	ESA Student Amount t Min	ESA Student Amount Max
2023	\$22.29	\$23.28	\$213.46	\$71.15	\$7,634.00	\$6,107.20	\$7,634.00	\$6,437.38	\$7,964.18
2024	\$22.89	\$23.91	\$215.89	\$71.96	\$7,840.00	\$6,272.00	\$7,840.00	\$6,606.65	\$8,174.65
2025	\$23.58	\$24.63	\$222.38	\$74.13	\$8,075.00	\$6,460.00	\$8,075.00	\$6,804.72	\$8,419.72
2026	\$24.29	\$25.37	\$229.05	\$76.36	\$8,317.00	\$6,653.60	\$8,317.00	\$7,008.67	\$8,672.07
2027	\$24.82	\$25.92	\$234.01	\$78.01	\$8,497.00	\$6,797.60	\$8,497.00	\$7,160.36	\$8,859.76

6. For purposes of this fiscal note, all estimates are calculated on the average of the minimum and maximum ESA student amount and an average is taken between elementary and high school programs.
7. Based on the October 2022 official enrollment count, there are 149,786 students enrolled in public school programs attending 396 operating school districts. Additionally, there are reported 7,663 homeschool students and 8,322 private school students. The home and private school students could enroll in the program immediately in FY 2024 as well as any public-school students who disenroll prior to the beginning of the FY 2024 school year. All of these students would qualify for the Montana equality of educational opportunity education savings account program.

8. The table below is the calculated maximum amount that could be redirected from public schools to the Montana equality of educational opportunity education savings account program based on 165,771 eligible students multiplied by the statewide average ESA student amount.

FY 2024	FY 2025	FY 2026	FY 2027
\$1,063,832,190	\$1,095,758,095	\$1,128,598,772	\$1,153,055,115

9. If all 165,771 eligible students participated in the equality of educational opportunity education savings account program, the program would transfer approximately \$1.1 billion annually of state funding and local property tax dollars from the local public school districts to the education savings account. It is anticipated, not more than 17,483 students would participate in the education savings accounts program. This is inclusive of 15,985 non-public school students and an additional 1,498 or 1% public-school students that may take advantage of this program.
10. The OPI projects that beginning in FY 2025, approximately \$6,731.90 would be deposited for each qualifying student participating in the Montana equality of educational opportunity education savings account program. That number will grow each year with inflationary and legislative changes to the components making up that number.
11. Section 9 of SB 390 requires 98% of the ESA student amount be deposited in accounts within the Montana equality of educational opportunity education savings trust established in the bill to be used only for purchase of allowable educational resources for qualifying students as defined in the bill. The other 2% of the ESA student amount is to be deposited in the OPI equality of educational opportunity ESA administration account established in the bill. The following table represents the amount of funding that would be deposited in each of these funds for participation of 17,483 students.

	FY 2025	FY 2026	FY 2027
Number of participants	17,483	17,483	17,483
Private Purpose (98 %)	\$115,339,932	\$118,796,754	\$121,371,039
OPI Special Needs Ed Savings (2 %)	\$2,353,876	\$2,424,424	\$2,476,960

12. Participating students’ resident school districts will be required to pay \$117.7 million in FY 2025 to the Montana equality of educational opportunity education savings trust and to the OPI equality of educational opportunity ESA administration account on behalf of the assumed 17,483 students participating in the Montana equality of educational opportunity education saving account program.
13. It is assumed for this fiscal note that each year, all funds going into the Montana equality of educational opportunity education savings trust would be completely expended. It is difficult to anticipate if all the funding would actually be expended.
14. The superintendent is to ensure that the participating student is included in the student’s resident school district’s ANB calculation for funding purposes only pursuant to 20-9-311, MCA, for any year the student remains eligible for inclusion and participates in the Montana equality of educational opportunity education savings account program. No other school district may count the student for ANB purposes, and the participating student is not to be considered to be enrolled in the resident school.
15. Adding 15,985 nonpublic school students statewide to the enrollment counts for funding purposes will cost the state an additional \$87.0 million in FY 2025 and succeeding years.
16. The effective date of SB 390 is on passage and approval of the bill. The reporting for ANB funding purposes is assumed in this fiscal note to first be counted in the 2023-2024 school year for the 2024-2025 (FY 2025) school budgeting process.
17. The average number belonging (ANB) used to determine the general fund budgets for K-12 public schools will be as follows. These estimates are for current year ANB, which is used to calculate the budgeted ANB as determined by 20-9-311(13) and (14), MCA.

	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
K-6 ANB	83,565	84,417	85,144	85,785	86,208
7-8 ANB	24,441	24,430	24,750	24,888	25,256
9-12 ANB	<u>45,905</u>	<u>46,573</u>	<u>46,532</u>	<u>46,539</u>	<u>46,287</u>
Total	153,911	155,420	156,426	157,212	157,751

18. The number of FTE (including special education cooperatives) generating the quality educator payment is estimated to be:

	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
School District FTE	13,365.497	13,365.497	13,365.497	13,365.497	13,365.497
Special Ed Coop FTE	165.709	165.709	165.709	165.709	165.709
Total FTE	13,531.206	13,531.206	13,531.206	13,531.206	13,531.206

19. The present law inflation applied to the Basic and Per-ANB Entitlements, the Quality Educator, Indian Education for All, American Indian Achievement Gap, Data-for-Achievement, At Risk, and the Special Education Allowable Cost Payment components (20-9-326, MCA) is 2.70% in FY 2024 and 3.00% in FY 2025. For the present law budget, entitlements and components are set as follows:

<u>Basic Entitlements</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>
Elementary Basic	\$55,741	\$57,246	\$58,963	\$60,732	\$62,050
Middle School Basic	\$111,483	\$114,493	\$117,928	\$121,466	\$124,102
High School Basic	\$334,453	\$343,483	\$353,787	\$364,401	\$372,309

<u>Basic Entitlement Increments</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>
Elementary (each 25 ANB > 250 ANB)	\$2,788	\$2,863	\$2,949	\$3,037	\$3,103
Middle School (each 45 ANB > 450 ANB)	\$5,574	\$5,724	\$5,896	\$6,073	\$6,205
High School (each 80 ANB past 800 ANB)	\$16,723	\$17,175	\$17,690	\$18,221	\$18,616

<u>Per ANB Entitlements</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>
Elementary Per-ANB	\$5,962	\$6,123	\$6,307	\$6,496	\$6,637
High School Per-ANB	\$7,634	\$7,840	\$8,075	\$8,317	\$8,497
Direct State Aid (DSA) Percentage	44.7%	44.7%	44.7%	44.7%	44.7%

<u>Components</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>
Indian Education for All	\$23.28	\$23.91	\$24.63	\$25.37	\$25.92
Indian Achievement Gap	\$229	\$235	\$242	\$249	\$254
Quality Educator	\$3,472	\$3,566	\$3,673	\$3,783	\$3,865
At Risk	\$5,873,777	\$6,032,369	\$6,213,340	\$6,399,740	\$6,538,614
Data for Achievement	\$22.29	\$22.89	\$23.58	\$24.29	\$24.82
Special Education Allowable Cost	\$286.02	\$293.74	\$302.55	\$311.63	\$318.39

20. Present law (20-9-326, MCA) requires the Superintendent of Public Instruction to include inflationary adjustments for the basic and per-ANB entitlements, and the Quality Educator, Indian Education for All, American Indian Achievement Gap, Data for Achievement, At-Risk and Special Education Allowable Cost components in the recommendations presented to the legislature. These present law adjustments result in the following expenditures:

<u>Payment</u>	<u>FY 2024</u>	<u>FY 2025</u>
Direct State Aid	\$522.8 million	\$540.5 million
Guaranteed Tax Base Aid	\$259.9 million	\$290.3 million
County Retirement GTB	\$50.9 million	\$52.9 million
Indian Education for All	\$3.7 million	\$3.9 million
American Indian Achievement Gap	\$4.9 million	\$5.0 million
Quality Educator	\$48.3 million	\$49.7 million
Data for Achievement	\$3.6 million	\$3.7 million
Special Education Allowable Cost	\$45.7 million	\$47.3 million

21. The Natural Resources Development payment is estimated to be \$12.1 million in FY 2024 and \$12.1 million in FY 2025, if all school districts levied to receive the maximum amount of funding. Section 20-9-635, MCA, provides that the appropriation for FY 2024 and beyond be the greater of \$10 million, adjusted for inflation in accordance with section 20-9-326, MCA, or 5% of the oil and natural gas production taxes deposited in the state general fund pursuant to 15-36-331(4), MCA. Additionally, state special revenue is appropriated from the school major maintenance account, established in 20-9-525, MCA. Estimated authority is \$10.3 million general fund and \$5.1 million state special revenue in FY 2024 and \$10.6 million general fund and \$6.5 million state special revenue in FY 2025.
22. Direct State Aid, GTB, and other school district general fund components are computed with the school funding model used by the Office of Public Instruction, the Legislative Fiscal Division, and the Office of Budget and Program Planning using current statutory entitlements, enrollment estimates, and estimated property tax values.
23. Money deposited into a Montana equality of educational opportunity education savings account may be used on behalf of a student for tuition, fees, software, instructional materials, and a wide range of both curricular and extracurricular services. The account can also be used to pay tuition, books, online courses, or other fees for postsecondary institutions.
24. The funds from the Montana equality of educational opportunity education savings account may not be spent on computer hardware, other technological devices, or transportation unless specific to the allowable costs outlined in Section 5 of SB 390.
25. Funds are available to participating students for postsecondary expenses and each student trust is to be made available to the students until the student’s 24th birthday, when the account is to be closed and any remaining funds are returned to the guarantee account.
26. Education cooperative, as used in SB 390, is assumed to be either a multi-district cooperative established under 20-3-363, MCA, or a full-service education cooperative established under 20-7-451, MCA.
27. A parent must notify the Superintendent of Public Instruction in the fall and again in the spring that their child qualifies for the Montana equality of educational opportunity savings account program. The parent must sign a contract with OPI with assurances listed in Section 4 of SB 390.
28. Each parent has the freedom to expend account funds for the purchase of allowable educational services for participating students.
29. The Superintendent of Public Instruction must make information about the program available, conduct audits of accounts, remove parents who do not comply with the contract, and suspend accounts where applicable.
30. The Superintendent of Public Instruction is to collect quarterly reports of services provided to qualified students from qualified schools who enroll students participating in the Montana equality of educational opportunity education savings account program.
31. The Superintendent of Public Instruction is required to establish rules necessary for administering the program limited to:

- a. Establishment of no fewer than two time periods each year during which a student's parent may notify the superintendent of the parent's desire for the student to participate in the program. Each time period must be at least one month long. One period must be between September 1 and January 1, and the other time period must be between March 1 and June 1, based on the Superintendent's determination of district and parent needs.
 - b. Verification of student eligibility pursuant to Section 3 of the bill;
 - c. Creation of a parent contract pursuant to Section 5 of the bill;
 - d. notification of the resident school district of the student's participation in the program;
 - e. calculation of the amount of the district student amount and the statewide average district student amount;
 - f. auditing of expenditures for allowable educational services from a student's account; and
 - g. auditing of payments received by qualified schools under the program.
32. The OPI is required with the passage of SB 390 and before the beginning of the 2023-24 school year to both develop and implement the Montana equality of educational opportunity education savings account program. There are many details related to managing these savings accounts, including consumer financial protections and disclosure regulations, which need to be researched. Application processes and procedures would need to be put in place.
33. OPI expects it would need at least 2.00 FTE with legal, accounting, and financial skills to develop and operate this program at a cost of \$146,000 per year. The operating budget would be \$12,600, and indirect costs would total \$26,490 in FY 2024 and \$25,650 in FY 2025.
34. SB 390 establishes the Office of Public Instruction Equality of Educational Opportunity ESA Administration Account within the state special revenue fund.
35. The OPI will develop the Montana equality of educational opportunity education savings account program during FY 2024 and anticipate participation in the program beginning in FY 2025.

	<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>
<u>Fiscal Impact:</u>				
FTE	2.00	2.00	2.00	2.00
<u>Expenditures:</u>				
Personal Services	\$146,000	\$146,000	\$148,190	\$150,413
Operating Expenses	\$12,600	\$12,600	\$12,789	\$12,981
Indirect Costs	\$26,490	\$25,650	\$26,883	\$27,287
Local Assist (Montana Equality of Educational Opportunity Savings Account Program)	\$0	\$115,339,932	\$118,796,754	\$121,371,039
Local Assist (Direct State Aid)	\$0	\$50,417,313	\$52,362,257	\$53,756,141
Local Assist (Guaranteed Tax Base)	\$0	\$27,114,321	\$26,030,174	\$27,257,769
Local Assist (Special Education)	\$0	\$4,868,030	\$5,046,225	\$5,173,201
Local Assist (Indian Ed for All)	\$0	\$396,024	\$410,872	\$421,626
Local Assist (Data for Achieve)	\$0	\$379,237	\$393,474	\$403,821
Local Assist (Retirement GTB)	\$0	\$3,777,114	\$3,649,897	\$3,801,293
TOTAL Expenditures	\$185,090	\$202,476,221	\$206,877,515	\$212,375,571
<u>Funding of Expenditures:</u>				
General Fund (01)	\$185,090	\$86,952,039	\$87,892,899	\$90,813,851
State Special Revenue (02) OP	\$0	\$184,250	\$187,862	\$190,681
Trust Fund	\$0	\$115,339,932	\$118,796,754	\$121,371,039
TOTAL Funding of Exp.	\$185,090	\$202,476,221	\$206,877,515	\$212,375,571
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$2,353,876	\$2,424,424	\$2,476,960
Trust Fund	\$0	\$115,339,932	\$118,796,754	\$121,371,039
TOTAL Revenues	\$0	\$117,693,808	\$121,221,178	\$123,847,999
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$185,090)	(\$86,952,039)	(\$87,892,899)	(\$90,813,851)
State Special Revenue (02)	\$0	\$2,169,626	\$2,236,562	\$2,286,279
Trust Fund	\$0	\$0	\$0	\$0

Effect on County or Other Local Revenues or Expenditures:

1. Resident school districts are allowed to count participating students for budgeting purposes thus increasing statewide school funding budgets. Local property taxpayers will pay an additional \$14 million in property taxes statewide for the additional 15,983 students not currently counted for funding purposes each year beginning in FY 2025.
2. For every student in this program, a resident district would be required to contribute approximately \$6,750 per participating student beginning in FY 2025.

Technical Notes:

1. Article X, section 6 of the Montana Constitution prohibits aid to sectarian schools. Specifically, “The legislature, counties, cities, towns, school districts, and public corporations shall not make any direct or indirect appropriation or payment from any public fund or monies, or any grant of lands or other property for any sectarian purpose or to aid any church, school, academy, seminary, college, university, or other literary or scientific institution, controlled in whole or in part by any church, sect, or denomination.” The provisions of SB 390 may violate this section of the Montana Constitution.
2. The earliest that the program would become operational is the 2024-25 school year. Language should be added to the bill to recognize that the details of setting up the education savings account program will take planning and development time.
3. The bill does not appropriate funds from either fund established in SB 390. No funds could be expended without appropriation authority. See Legal Review not on the LAWS system related to SB 390.
4. SB 390 makes no mention of how federal programs will need to be addressed for participating students since these students will be counted in the state funding formula and potentially be the responsibility of the resident school district to provide services related to the Individuals with Disabilities Act (IDEA) and Title programs.
5. Schools receive state special education monies to serve students in the district. If a substantial portion of these state special education monies follow students to a nonpublic school, the state could have difficulty meeting federal maintenance of effort requirements.
6. The district student amount and the statewide average district student amount are not finalized until early November. The withholdings from BASE aid payments would be estimates in August through October.
7. SB 390 states in Section 9(3)(b), that the funding paid by a school district for participating students “may not include revenue from the guarantee account described in 20-9-622”, MCA. School districts have no way to identify whether the funding is guarantee account funding.

NO SPONSOR SIGNATURE

Sponsor's Initials

2/24/23
Date


Budget Director's Initials

2-24-23
Date



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Dedication of Revenue 2025 Biennium

17-1-507, MCA.

**State Special Revenue – Office of Public Instruction Equality of Educational Opportunity ESA
Administration Account**

- a) **Are there persons or entities that benefit from this dedicated revenue that do not pay? (please explain)**

Yes, the Office of Public Instruction receives the funding to offset costs of administering the Montana equality of educational opportunity education savings account program for nonpublic school students. The funds are state funds and local property tax levies collected by public schools and distributed, in part, to this fund.

- b) **What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?**

Ease of accounting for the revenue and expenditures.

- c) **Is the source of revenue relevant to current use of the funds and adequate to fund the program activity that is intended? Yes / No (if no, explain)**

No, funds for paid to public schools are being directed from the public schools to the account for administration of funding for nonpublic students.

- d) **Does the need for this state special revenue provision still exist? Yes No (Explain)**

Yes, for ease of identifying and accounting for the funding.

- e) **Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please Explain)**

Yes, this dedicated revenue allows for more accurate scrutinizing of the funds.

- f) **Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please Explain)**

Yes, the dedicated revenue fulfills the legislature's ability to review the administrative costs of the Montana equality of educational opportunity education savings account program.

- g) **How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please Explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)**

The dedicated revenue accounting is very distinctly available using this account. If the program was within the general fund, it would require additional coding to identify revenue and expenditures.