



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2015 Biennium

Bill # HB0390

Title: Provide special education scholarships

Primary Sponsor: McNiven, Jonathan

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 2014 Difference</u>	<u>FY 2015 Difference</u>	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact: HB 390 provides scholarships, for eligible students with disabilities, to receive educational services from an education provider other than the student's resident district. HB 390 does not increase the state cost of ANB funding because these students are already eligible to enroll in public schools. There is no state fiscal impact of HB 390.

FISCAL ANALYSIS

Assumptions:

- HB 390 creates a scholarship program for students with disabilities to receive services from a public school outside of the resident school district, nonpublic school, virtual school, registered tutor, or other education provider providing education, including expenses for education therapies, to K-12 students and that has notified the Superintendent of Public Instruction of the education provider's intent to participate in the program and comply with the program's requirements.
- The district clerk of the resident school district must distribute scholarship payments for an eligible student participating in the special education scholarship program to a financial institution of the district's choice in September, December, March and June.
- The scholarship payment is equal to 90% of the per-pupil average of total school expenditures for the state of Montana for the previous school year by the Office of Public Instruction. The funds that must be included

in the calculation of the per-pupil average include general fund; transportation; bus depreciation; food services; tuition; retirement; miscellaneous programs; traffic education; nonoperating; lease rental agreement; compensated absence fund; metal mines tax reserve; state mining impact; impact aid; litigation reserve; technology acquisition; flexibility fund; debt service; building reserve; and interlocal agreement. For FY 2012, 90% the average per-pupil expenditure for elementary programs was \$8,189 and for high school programs was \$9,630.

4. A resident district continues to include an eligible student who participates in the scholarship program in the district's enrollment count for the purpose of determining ANB. The scholarship amount will be paid from the district general fund with funding received from the state sources and local district taxpayers.
5. The Superintendent of Public Instruction must adopt rules to:
 - a. Verify student eligibility to participate in the Special Education Scholarship Program;
 - b. Maintain and publish a registry of education providers; and
 - c. Calculate the scholarship value for participating students.
6. If the Superintendent of Public Instruction determines that an audit is needed based upon reliable information reporting a misappropriation or mishandling of program funds, the educational provider must submit to an audit provided by the Superintendent of Public Instruction. The Superintendent of Public Instruction would contract for the audit and bill the education provider for the cost of the audit.
7. Section 5(1) requires all non-public participating education providers to comply with local health and safety regulations, hold a valid occupancy permit if required by the municipality, certify that the education provider complies with nondiscrimination policies, and conduct criminal background checks prior to employment.
8. The Superintendent of Public Instruction must maintain a registry of participating education providers.
9. If a student were identified in Kindergarten and received a scholarship, then no longer needed special education services, the student would continue to receive the scholarship until age 19. There is a cost to the state and local taxpayers because the district would be required to expend money for the scholarship for a student who would not otherwise be receiving special education services. However, the magnitude of this cost cannot be reasonably determined.

Secretary of State

10. This bill will have minimal cost for postage and administrative duties related to tribal notifications in Section 34 of the bill. The Office of the Secretary of State does not receive general fund monies for office operations, but has agreed to assume the fiscal responsibility for this bill.

Long-Term Impacts:

1. Because the child must be a child with a disability receiving services under an individualized education program (IEP) to qualify for the scholarship, and the resident district would retain the enrollment, the resident district would be responsible for holding annual IEP meetings to review and revise the child's IEP, and for triennial evaluations to determine the child's continued qualification and need for services. The resident district would bear these costs.

Technical Notes:

1. The definition of "Education Provider" includes "other education provider providing education" and "including expenses for education therapies" but does not define what "providing education" or "education therapies" mean.
2. Only students with disabilities who are enrolled in a public school full-time have an IEP. Home school and private school students who have disabilities, and who receive services, are served under a private school services plan, not an IEP.
3. Under the IDEA, the OPI has a general supervisory responsibility that requires the agency to monitor the provision of special education and related services and to ensure that every Montana student is provided a Free and Appropriate Public Education (FAPE). Under HB 390, because the child remains enrolled in the

resident school district, that district retains the responsibility for FAPE. The resident district cannot provide services to the student, and cannot ensure that the student is receiving FAPE. If the OPI cannot make an assurance that every student is receiving FAPE, Montana’s application for funds under the IDEA cannot be approved, and the state would not receive the approximately \$37 million dollars of IDEA funds annually.

4. The monies that are withheld from a school district for a student that is participating in the special education scholarship program are withheld from the school district general fund. However, there is no mechanism for a school district to replenish the district general fund from other funds of the district even though the amount of money withheld is determined by the level of expenditures from many school district funds.

Sponsor’s Initials

Date

Budget Director’s Initials

Date