



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2027 Biennium

Bill#/Title: **HB0209: Prove income tax credit for nonpublic school expenses such as private or homeschool tuition**

Primary Sponsor: Greg Overstreet Status: As Introduced

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

### FISCAL SUMMARY

|                             | <u>FY 2026<br/>Difference</u> | <u>FY 2027<br/>Difference</u> | <u>FY 2028<br/>Difference</u> | <u>FY 2029<br/>Difference</u> |
|-----------------------------|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| <b>Expenditures</b>         |                               |                               |                               |                               |
| General Fund (01)           | \$0                           | \$374,257                     | \$368,457                     | \$186,685                     |
| <b>Revenues</b>             |                               |                               |                               |                               |
| General Fund (01)           | \$0                           | (\$31,756,000)                | (\$32,707,000)                | (\$33,690,000)                |
| <b>Net Impact</b>           | <u>\$0</u>                    | <u>(\$32,130,257)</u>         | <u>(\$33,075,457)</u>         | <u>(\$33,876,685)</u>         |
| <b>General Fund Balance</b> |                               |                               |                               |                               |

#### Description of fiscal impact

HB 209 creates a personal income tax credit for nonpublic school education expenses for qualified students. The proposed credit will reduce general fund revenue by \$31,756,000 in FY 2027, which increases to \$33,690,000 in FY 2029. Department of Revenue expenditures will increase by \$374,257 in FY 2027, \$368,457 in FY 2028 and \$186,685 in FY 2029.

### FISCAL ANALYSIS

#### Assumptions

##### Department of Revenue

- HB 209 creates a personal income tax credit for nonpublic school education expenses for qualified students. The credit is limited to the qualified nonpublic school expenses paid for the student during the year, or 44.7% of the applicable per-ANB maximum rate established in 20-9-306, MCA. The credit is nonrefundable and may not be carried forward or back. The credit is first available tax year (TY) 2026.
- For the credit, the qualifying student must be a dependent of the taxpayer who receives full-time academic instruction in a qualified nonpublic education setting. A "nonpublic education setting" is defined in the bill as any legal education setting in the state that meets the compulsory attendance requirements provided for in 20-5-109, MCA, and excludes traditional public schools, charter schools, or any other educational option paid for by the state.
- The following per-ANB rates assume present law inflation pursuant to section 20-9-326, MCA.

| Per ANB Entitlements              | FY 2025 | FY 2026 | FY 2027 | FY 2028 | FY 2029 |
|-----------------------------------|---------|---------|---------|---------|---------|
| Elementary Per-ANB                | \$6,307 | \$6,496 | \$6,691 | \$6,892 | \$7,099 |
| High School Per-ANB               | \$8,075 | \$8,317 | \$8,567 | \$8,824 | \$9,089 |
| Direct State Aid (DSA) Percentage | 44.70%  | 44.70%  | 44.70%  | 44.70%  | 44.70%  |

4. According to the Office of Public Instruction (OPI), the applicable 44.7% of the per-ANB maximum rate for elementary students is forecasted to be \$2,904 in fiscal year (FY) 2026, \$2,991 in FY 2027, and \$3,081 in FY 2028. For high school students, the maximum rates are forecasted to be \$3,718 in 2026, \$3,829 in 2027, and \$3,944 in 2028.
5. According to OPI, the number of nonpublic school students was 17,108 during the 2023-24 school year. Of these students, 13,121 were in elementary grades, while 3,987 were in high school grades.
6. Over the past four school years, the number of nonpublic school students has not experienced significant growth, with 17,468 students in the 2020-21 school year and 16,002 and 16,372 during the 2021-22 and 2022-23 school years, respectively.
7. It is assumed that the number of nonpublic school students will remain unchanged from the 2023-24 school year numbers for future school years.
8. With 13,121 elementary students, and a maximum credit amount of \$2,904, the maximum number of credits taxpayers with qualified elementary students could claim in TY 2026 is \$38,103,384 (13,121 X \$2,904). With 3,987 high school students, and a maximum credit amount of \$3,718, the total number of credits taxpayers could claim is \$14,823,666 (3,987 X \$3,718) in TY 2026. In total, the maximum number of credits that could be expected to be claimed in TY 2026 is \$52,927,050 (\$38,103,384 + \$14,823,666).
9. Based on the same student estimates and forecasted per-ANB maximum rates for FY 2027 and 2028, the maximum number of credits that could be claimed in TY 2027 and 2028 are estimated to be \$54,511,134 and \$56,150,529, respectively.
10. As the credit is nonrefundable, and limited based on actual qualified spending amounts, not all taxpayers will be able to claim the maximum credit amount.
11. Based on TY 2023 personal income tax returns, all taxpayers with dependents would have enough tax liability to claim up to 52% of the elementary school credits, or 46.5% of the high school credit amounts.
12. Households with students attending private school are also assumed to have higher education expenses relative to homeschooling households.
13. According to the U.S. Department of Education's National Center for Education Statistics, households with students attending private school were less likely to be poor, or near poor.
14. As households with students in private school are more likely to have higher education costs, and higher tax liabilities, it is assumed that 60% of the maximum credit amounts taxpayers could claim each tax year will actually be claimed and used to reduce a taxpayer's tax liability.
15. With a utilization rate of 60%, and \$52,927,050 in total possible credits, it is assumed that \$31,756,000 (\$52,927,050 X 60%) credits will be claimed, and used, in TY 2026. For TY 2027, \$32,707,000 credits will be claimed. In TY 2028, \$33,690,000 in credits will be claimed.
16. It is assumed that the credits claimed each TY will reduce general fund revenue the following FY.
17. With no changing in timing, HB 209 will reduce general fund revenue by \$31,756,000 in FY 2027, \$32,707,000 in FY 2028 and \$33,690,000 in FY 2029.
18. With 17,000 students, and the number of possible expenditures that will need to be reviewed, the department will require 4.00 additional FTE in FY 2027 and 2028. In FY 2029, the number of required FTE is reduced to 2.00, due to expected better compliance and taxpayer education about the credit. The additional FTE will increase department expenditures by \$374,257 in FY 2027, \$368,457 in FY 2028 and \$186,685 in FY 2029.

## Fiscal Analysis Table

| Department of Revenue  |                                     |                                     |                                     |                                     |
|--|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
|  | <u>FY 2026</u><br><u>Difference</u> | <u>FY 2027</u><br><u>Difference</u> | <u>FY 2028</u><br><u>Difference</u> | <u>FY 2029</u><br><u>Difference</u> |
| <b><u>Fiscal Impact</u></b>  |                                     |                                     |                                     |                                     |
| FTE  | 0.00                                | 4.00                                | 4.00                                | 2.00                                |
| <b>TOTAL Fiscal Impact</b>   | <b>0.00</b>                         | <b>4.00</b>                         | <b>4.00</b>                         | <b>2.00</b>                         |
| <b><u>Expenditures</u></b>   |                                     |                                     |                                     |                                     |
| Personal Services  | \$0                                 | \$325,813                           | \$329,941                           | \$167,065                           |
| Operating Expenses   | \$0                                 | \$36,612                            | \$38,516                            | \$19,620                            |
| Equipment  | \$0                                 | \$11,832                            | \$0                                 | \$0                                 |
| <b>TOTAL Expenditures</b>  | <b>\$0</b>                          | <b>\$374,257</b>                    | <b>\$368,457</b>                    | <b>\$186,685</b>                    |
| <b><u>Funding of Expenditures</u></b>  |                                     |                                     |                                     |                                     |
| General Fund (01)  | \$0                                 | \$374,257                           | \$368,457                           | \$186,685                           |
| <b>TOTAL Funding of Expenditures</b>   | <b>\$0</b>                          | <b>\$374,257</b>                    | <b>\$368,457</b>                    | <b>\$186,685</b>                    |
| <b><u>Revenues</u></b>   |                                     |                                     |                                     |                                     |
| General Fund (01)  | \$0                                 | (\$31,756,000)                      | (\$32,707,000)                      | (\$33,690,000)                      |
| <b>TOTAL Revenues</b>  | <b>\$0</b>                          | <b>(\$31,756,000)</b>               | <b>(\$32,707,000)</b>               | <b>(\$33,690,000)</b>               |
| <b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures)</u></b> |                                     |                                     |                                     |                                     |
| General Fund (01)  | \$0                                 | (\$32,130,257)                      | (\$33,075,457)                      | (\$33,876,685)                      |

**Technical Concerns****Department of Revenue**

1. The credit in this bill is limited to 44.7% of the applicable per-ANB maximum rate established in 20-9-306, MCA. This amount is set each fiscal year. However, the credit is also limited based on the nonpublic school expenditures paid by the taxpayer in a given tax year. The use of both fiscal year and tax year to determine the maximum credit amount creates uncertainty about which figure applies to which expenses. In addition, as the per-ANB amount varies based on the grade the student is in (elementary or high school), there is uncertainty as to which amount to use if a student is in the 8<sup>th</sup> grade at the start of a tax year, but 9<sup>th</sup> grade at the end of the same tax year.
2. The bill does not stipulate that a taxpayer claiming the credit must be a resident of the state. While the bill does require the student to be attending a "nonpublic education setting" in the state, the lack of residency requirement to claim the credit could cause issues for verifying and administering the credit.

G.O.

Sponsor's Initials

1/22/2025  
Date

RD

Budget Director's Initials

1/20/2025

Date