



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2027 Biennium

Bill#/Title: **HB0320.02 (003): Establish the Montana's academic prosperity program for scholars act**

Primary Sponsor: Lee Deming Status: As Amended in House Committee

☐ 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</u> <u>Difference</u> | <u>FY 2027</u> <u>Difference</u> | <u>FY 2028</u> <u>Difference</u> | <u>FY 2029</u> <u>Difference</u> |
|-----------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| Expenditures | | | | |
| General Fund (01) | \$191,114 | \$361,706 | \$360,819 | \$364,160 |
| Revenues | | | | |
| General Fund (01) | \$0 | (\$7,200,000) | (\$9,444,000) | (\$11,328,000) |
| Net Impact | <u>(\$191,114)</u> | <u>(\$7,561,706)</u> | <u>(\$9,804,819)</u> | <u>(\$11,692,160)</u> |
| General Fund Balance | | | | |

Description of fiscal impact

HB 320 creates a new program, called "Montana's academic prosperity program for scholars" (MAPPS). This program includes two income tax credits associated with qualified education spending and donations to a MAPPS account. The proposed credits will reduce general fund revenue by \$7.2 million in FY 2027, increasing to \$11.3 million by FY 2029. The proposed bill will require 3 new FTE and will increase general fund expenditures by about \$360,000 per year from FY 2027 – FY 2029.

FISCAL ANALYSIS

Assumptions

Department of Administration

1. The MAPPS Council is administratively attached to the Department of Administration (DOA) as provided in 2-15-121, MCA. The department to which an agency is allocated for administrative purposes is required to: "(a) direct and supervise the budgeting, recordkeeping, reporting, and related administrative and clerical functions of the agency; (b) include the agency's budgetary requests in the departmental budget; (c) collect all revenues for the agency and deposit them in the proper fund or account . . . ; (d) provide staff for the agency . . . ; (e) print and disseminate for the agency any required notices, rules, or orders adopted, amended, or repealed by the agency. 2-15-121(2), MCA. The department anticipates it will need 1.0 FTE to perform these functions as well as managing contracted services, including the program manager and auditor contracts.
2. The 1.00 FTE is calculated by taking the midpoint salary of an Accountant 2 position which comes out to a \$34.70 hourly rate, or \$72,181 annually excluding benefits. When factoring in benefits which are approximately 26.5% of the total annual cost, this comes out to be an annual cost of \$98,514 for FY 2026 and FY 2027. When factoring in the 1.5% increase for inflation for FY 2028 and FY 2029, the annual cost comes to \$100,375 and \$101,103, respectively. With this new employee an additional \$2,800 is used to

- factor in the new employee office package. Costs for a desk, chair, file cabinet, and side chair total \$1,600. New computer equipment is estimated to cost an additional \$1,200.
3. Section 4: There is no provision for reimbursement of MAPPS Council members in Section 4 or under 2-15-121(2), MCA. While Section 4 provides that members may be reimbursed for expenses as provided in the Council bylaws, this reimbursement would come from donated and separately appropriated funds. Thus, no expenditures are included for MAPPS Council reimbursement.
 4. Section 4: While “appointed members of boards, commissions, or councils . . . must be reimbursed for meals and lodging while . . . engaged in state business” as provided in 2-18-501(1), MCA, it is not clear whether Council members would be required to travel. Any reimbursement for travel will come from donated and separately appropriated funds.
 5. Section 5: The initial contract term for the program manager contract will be 5 years. Therefore, no expenses related to reviewing the program manager contractor’s performance will be incurred within FY 2026-2029.
 6. Section 5: The initial cost of procuring a program manager contract will be \$4,000. This is based on standard rates for a contract officer and legal counsel (including benefits) and approximately 80 hours of work to prepare and evaluate an RFP, develop a draft contract, negotiate with the successful offeror, and complete contractor onboarding (insurance and financial requirements).
 - a. While the bill contemplates the possibility of early termination of the program manager contract, the contract is assumed to not be terminated prior to the end of the five-year term specified in the bill. State contracts are rarely terminated by the state prior to their planned expiration date.
 - b. Prior to contract execution, donations contributed will be sufficient to cover contract costs for the initial contract term, and the council will have an appropriation to spend the collected funds for the duration of the contract.
 7. Section 9: DOA anticipates the cost of developing, hosting, and maintaining the website and linking it to enterprise information technology resources will be \$40,000 with an annual ongoing cost of \$20,000.
 8. Section 12: The annual fiscal review report will be prepared by the program manager from donated and separately appropriated funds. DOA’s cost of assisting with reviewing and reporting information is included in the work performed by the additional FTE as described in Assumption 1.
 9. Section 13: Program manager review and termination costs associated with this section are undetermined but may be significant. DOA recommends that to save costs and reduce time, the administrative procedures set forth in Section 13 be replaced by contract management and termination provisions in the program manager contract.
 10. Section 14: As noted in Assumption 1, DOA is obligated to provide financial and accounting services to attached agencies, including the MAPPS Council. DOA assumes the program manager will prepare its own financial reports for the program and DOA’s review of those reports will be provided by the additional FTE indicated in Assumption 1. Because the MAPPS Council is likely deemed part of the state for financial reporting purposes under Governmental Accounting Standards Board (GASB), the financial statements would be included in the state’s Annual Comprehensive Financial Report (ACFR). DOA would not be permitted to audit and the Council’s finances would be audited by the Legislative Audit Division as part of the statewide audit. If not determined part of the state under GASB, an independent auditor may need to be procured. Based on DOA’s knowledge of costs associated with audits of nonprofit entities an annual audit could be at a minimum \$9,000. No fiscal impact is shown for contracts to prepare financial statements or for independent audits, because, if these are necessary it is assumed that the cost will be paid by donations and arranged and paid for by the program manager.
 11. Section 17: Legal actions against the state of Montana are contemplated in this section. Boards and councils receive legal support from their attached agencies when a legal action is brought against the state. The agency does not have an available FTE to perform the legal support required by Section 17. Therefore, it is anticipated that the agency will contract with outside counsel to provide a defense as needed. The number and complexity of legal actions that may arise because of this section are unknown. For the sake of determining a fiscal impact, DOA assumes outside counsel will bill at a rate between \$200-\$225 per hour

and that there will be four cases brought against the state under Section 17 per fiscal year, with each case requiring 50 hours to prepare and defend due to the complexity of tax and education policy. The total cost is estimated to be \$45,000.

12. The House Education Committee amended Section 5 to add rulemaking from the DOA to implement the MAPPS program. Rule adoption requires preparation of a proposal notice, review and approval from the MAPPS Council, editing the proposal notice, publication of the proposal notice, a hearing, review of comments, preparation of an adoption notice, review and approval from the MAPPS Council, and publication of the adoption notice. DOA anticipates this will occur one time each fiscal year as rules are initially adopted and adjusted. Each rulemaking will require 12 hours of administrative time and 4 hours of legal time in addition to filing fees for an estimated total cost of \$800 annually.

Department of Revenue

13. As amended, HB 320 establishes a new program, called "Montana's academic prosperity program for scholars" (MAPPS). This program includes two income tax credits that are first available TY 2026.
14. The first credit is for the "qualified education expenses" of a student participating in MAPPS. Parents of the student can claim a credit equal to the qualified education expenses for the participating student during the tax year (TY). The credit for each taxpayer is limited to the "annual educational assistance maximum" amount. The credit is nonrefundable but can be carried forward for up to three years. As amended, taxpayers are required to have a reasonable expectation of having a tax liability necessary to claim the credit requested by the taxpayer. It is also only available to individual income tax filers.
15. The second credit is for qualified donations into the MAPPS account. The credit is available to individual income taxpayers, estates, trusts, and corporate income taxpayers. The credit is equal to the donations made by the taxpayer into the MAPPS account. However, the credit is limited to \$200,000 for each donor in a single tax year. This credit is also nonrefundable but can be carried forward for up to 3 years.
16. Each credit is limited to \$4 million in aggregate credits in TY 2026. The aggregate credit cap is to be increased by 20% each year if 80% of the previous year's cap were claimed for both credits. If the maximum credit amount for both credits is reached each tax year, the cap for each credit will be \$4.8 million (\$4,000,000 X 1.2) in TY 2027 and \$5.76 million (\$4,800,000 X 1.2) in TY 2028.
17. HB 320 defines "qualified education expense" as the "expenditure for a participating student's educational needs consistent with 20-1-102 and approved by the MAPPS council." As the definition can change depending on the actions of the MAPPS council, the exact expenses that qualify for the credit are unknown at this time. As amended, the MAPPS council is required to provide the department a list of qualified expenses each January. While the exact expenditures for each tax year are unknown at this time, the bill does say the expenses may include:
 - a. Tuition and fees at a nonpublic primary or secondary school, institution of higher education, summer education program, specialized after-school education program, or career or technical courses
 - b. Textbooks, curriculum, or other instructional materials
 - c. Fees for assessments and examinations
 - d. Educational services and therapies
 - e. Tutoring services
 - f. Educational software and multimedia materials
 - g. Transportation to and from the qualified education provider for the purpose of accessing a qualified education expense
18. It is assumed that the expenses listed in the bill as possible expenses will qualify for the credit during TY 2026, 2027, and 2028.
19. The bill defines "annual educational assistance maximum" as the "statewide total of direct state aid for all school districts divided by the statewide budget limitation ANB, on which the direct state aid is based." According to the Office of Public Instruction (OPI), the forecasted amounts for this maximum amount will be \$3,569 in 2026, \$3,679 in 2027, and \$3,795 in 2028.
20. The average private school tuition in Montana typically exceeds \$4,000 for each student each school year. With a maximum credit amount \$3,569 in TY 2026, \$3,679 in TY 2027 and \$3,795 in TY 2028, it is

- assumed that the maximum credit amount claimed by taxpayers will be determined by either their tax liability or the maximum credit amount defined by the “annual educational assistance maximum.”
21. The average tax liability after non-refundable credits of taxpayers with at least one dependent in TY 2023 was \$4,780. Based on the maximum credit amount for TY 2026 of \$3,569, and their reported tax liability in TY 2023, the average number of credits taxpayers will be able to use is \$2,800.
 22. OPI reports 8,584 private school students during the 2023-24 school year.
 23. It is assumed that the number of private students in Montana remains unchanged from their 2023 levels.
 24. With nearly 8,600 private school students, and an estimated average usable credit amount of \$2,800, more than \$24 million in credits could be claimed each tax year.
 25. Based on the amount of education spending that could qualify for the credit, and the potential tax liability of qualified taxpayers, it is assumed that the entire \$4 million in tax credits will be claimed in TY 2026.
 26. Under current law, personal and corporate taxpayers who donate to a Student Scholarship Organization (SSO) can claim a tax credit equal to their donation. Like the MAPPS account donation credit proposed by this bill, the SSO credit has a maximum credit amount of \$200,000 per taxpayer and is non-refundable with a three-year carryforward period. The credit is also for donations to an organization that provides non-public school education funding for students. Finally, the credit also has an aggregate credit limit of \$6 million in TY 2025.
 27. Based on the similarities between the SSO tax credit and the proposed MAPPS donation credit, it is assumed that credit usage for both credits will be similar.
 28. In TY 2025, the entire \$6 million in aggregate SSO credits were claimed by taxpayers in less than 10 minutes after the credit application portal was opened.
 29. Based on the high demand for the SSO credits in TY 2025, it is assumed that the entire \$4 million in MAPPS donation credits will be claimed in TY 2026.
 30. As both credits are assumed to reach their maximum amounts in TY 2024, it is assumed that both credits will increase to \$4.8 million in TY 2027 and \$5.76 million in TY 2028.
 31. With both credits assumed to reach their credit cap each year, the total number of credits claimed is assumed to be \$8 million in TY 2026, \$9.6 million in TY 2027 and \$11.52 million in TY 2028.
 32. As the number of credits claimed can change depending on either education expenditures or donations, it is assumed that taxpayers will not change their withholding or estimated payment amounts as a result of the credits. With no changes in withholding or estimated payments, the credits will reduce income tax revenue the following year when taxpayers file their returns.
 33. As the amended bill now limits the education spending credit to the taxpayer's expected tax liability, it is assumed that all of the education spending credits will be claimed each tax year.
 34. Based on tax returns for TY 2023, approximately 20% of SSO credits claimed were unusable, due to a lack of tax liability and had to be carried forward. It is assumed that 20% of the credits claimed for donations to a MAPPS account will be carried forward to the following tax year.
 35. With \$8 million in total credits in TY 2026 and a 10% carryforward rate, the amended bill will reduce general fund revenue by \$7.2 million ($\$8,000,000 \times 90\%$) in FY 2027. For FY 2028, the proposed bill will reduce general fund revenue by \$9.444 million ($\$4,800,000 + (\$4,800,000 \times 80\%) + (\$4,000,000 \times 20\%)$). In FY 2029, the reduction in general fund revenue will be \$11.328 million.
 36. Under the amended bill, the Department of Revenue will be responsible for tracking the credits claimed for qualified education expenses reported by parents and ensuring any taxpayer getting invoices paid from an educational assistance account and claiming the credit do not exceed the annual educational assistance maximum. Verification of expenses and credits will require 2 additional FTE. The cost of the additional FTE will be \$197,392 in FY 2027, \$194,644 in FY 2028 and \$197,257 in FY 2029.

Office of Public Instruction

37. New Section 3, a definitions section, directs the OPI to calculate the Educational Assistance Maximum. HB 320 defines this calculation as the amount of money calculated by dividing the statewide total of direct state aid for all school districts divided by the statewide budget limitation ANB, on which the direct state aid is based. The office of public instruction shall determine this calculation for the current school fiscal year

Fiscal Note Request - As Amended in House Committee

(continued)

annually no later than October 1 and provide the amount to the program manager. The calculation must apply to the ensuing tax year.

38. The OPI is directed determine this calculation annually, no later than October 1 and provide the amount to the program manager.

| | FY 2026 | FY 2027 | FY 2028 | FY 2029 |
|-------------------------------------|-------------|-------------|-------------|-------------|
| Statewide Budget Limit ANB | 153,635 | 152,711 | 152,549 | 152,548 |
| Statewide Direct State Aid | 548,288,179 | 561,752,664 | 578,874,155 | 596,534,295 |
| Annual education assistance maximum | 3,569 | 3,679 | 3,795 | 3,910 |

Fiscal Analysis Table**Department of Administration**

| | <u>FY 2026 Difference</u> | <u>FY 2027 Difference</u> | <u>FY 2028 Difference</u> | <u>FY 2029 Difference</u> |
|--|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| <u>Fiscal Impact</u> | | | | |
| FTE | 1.00 | 1.00 | 1.00 | 1.00 |
| TOTAL Fiscal Impact | 1.00 | 1.00 | 1.00 | 1.00 |
| <u>Expenditures</u> | | | | |
| Personal Services | \$98,514 | \$98,514 | \$100,375 | \$101,103 |
| Operating Expenses | \$92,600 | \$65,800 | \$65,800 | \$65,800 |
| TOTAL Expenditures | \$191,114 | \$164,314 | \$166,175 | \$166,903 |
| <u>Funding of Expenditures</u> | | | | |
| General Fund (01) | \$191,114 | \$164,314 | \$166,175 | \$166,903 |
| TOTAL Funding of Expenditures | \$191,114 | \$164,314 | \$166,175 | \$166,903 |
| <u>Revenues</u> | | | | |
| <u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures)</u> | | | | |
| General Fund (01) | (\$191,114) | (\$164,314) | (\$166,175) | (\$166,903) |
| FTE | 0.00 | 2.00 | 2.00 | 2.00 |
| TOTAL Fiscal Impact | 0.00 | 2.00 | 2.00 | 2.00 |
| Personal Services | \$0 | \$173,170 | \$175,386 | \$177,637 |
| Operating Expenses | \$0 | \$18,306 | \$19,258 | \$19,620 |
| Equipment | \$0 | \$5,916 | \$0 | \$0 |
| TOTAL Expenditures | \$0 | \$197,392 | \$194,644 | \$197,257 |
| General Fund (01) | \$0 | \$197,392 | \$194,644 | \$197,257 |
| TOTAL Funding of Expenditures | \$0 | \$197,392 | \$194,644 | \$197,257 |
| General Fund (01) | \$0 | (\$7,200,000) | (\$9,444,000) | (\$11,328,000) |
| TOTAL Revenues | \$0 | (\$7,200,000) | (\$9,444,000) | (\$11,328,000) |
| <u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures)</u> | | | | |
| General Fund (01) | \$0 | (\$7,397,392) | (\$9,638,644) | (\$11,525,257) |

STATEWIDE SUMMARY

| | FY 2026 Difference | FY 2027 Difference | FY 2028 Difference | FY 2029 Difference |
|--|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| <u>Fiscal Impact</u> | | | | |
| FTE | 1.00 | 3.00 | 3.00 | 3.00 |
| TOTAL Fiscal Impact | 1.00 | 3.00 | 3.00 | 3.00 |
| <u>Expenditures</u> | | | | |
| Personal Services | \$98,514 | \$271,684 | \$275,761 | \$278,740 |
| Operating Expenses | \$92,600 | \$84,106 | \$85,058 | \$85,420 |
| Equipment | \$0 | \$5,916 | \$0 | \$0 |
| TOTAL Expenditures | \$191,114 | \$361,706 | \$360,819 | \$364,160 |
| <u>Funding of Expenditures</u> | | | | |
| General Fund (01) | \$191,114 | \$361,706 | \$360,819 | \$364,160 |
| TOTAL Funding of Expenditures | \$191,114 | \$361,706 | \$360,819 | \$364,160 |
| <u>Revenues</u> | | | | |
| General Fund (01) | \$0 | (\$7,200,000) | (\$9,444,000) | (\$11,328,000) |
| TOTAL Revenues | \$0 | (\$7,200,000) | (\$9,444,000) | (\$11,328,000) |
| <u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures)</u> | | | | |
| General Fund (01) | (\$191,114) | (\$7,561,706) | (\$9,804,819) | (\$11,692,160) |

Technical Concerns**Department of Administration**

1. Most costs are intended to be covered by privately collected donations; however, there does not appear to be an appropriation to allow expenditures from donated funds to cover state agency administrative costs. Costs shown are not those of the program in its entirety, but only the costs state agencies anticipate incurring to support the program and comply with the requirements of the bill.
2. Section 13: Program manager review and termination costs associated with this section are undetermined but may be significant. The administrative procedures set forth in Section 13 could be replaced by contract management and termination provisions in the program manager contract.

Department of Revenue

1. As amended, this bill requires the department to preapprove an education tax credit subject to the parent's attestation of anticipated earned income for the year the parent is requesting the credit. It is unclear how the department will evaluate the attestation of earned income for being approved for the credit.

NOT SIGNED BY SPONSOR

Sponsor's Initials

Date

2/11/25

Budget Director's Initials

2/10/2025

Date

