

Sixty-ninth
Legislative Assembly
of North Dakota

**SECOND ENGROSSMENT
with Senate Amendments**

REENGROSSED HOUSE BILL NO. 1540

Introduced by

Representatives Koppelman, Hauck, J. Johnson, Marschall, Morton, Rohr, Steiner

Senators Clemens, Cory, Gerhardt, Wobbema, Boehm

1 A BILL for an Act to create and enact a new chapter to title 15.1 of the North Dakota Century
2 Code, relating to an education savings account program for students who are not enrolled in
3 public school or a homeschool program; to provide an appropriation; and to provide an effective
4 date.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new chapter to title 15.1 of the North Dakota Century Code is created and
7 enacted as follows:

8 **Definitions.**

9 As used in this chapter:

- 10 1. "Administrator" means the Bank of North Dakota.
11 2. "Department" means the department of public instruction.
12 3. "Education service provider" means an individual or organization approved to provide
13 qualified education services. The term does not include a participating school.
14 4. "Eligible postsecondary institution" means a community college, an accredited
15 university, or an accredited private postsecondary institution.
16 5. "Eligible student" means an elementary or secondary student who is a resident of this
17 state and is eligible to attend a public school, regardless of household income.
18 6. "Parent" means a resident of this state who is a parent, guardian, custodian, or other
19 person with the authority to act on behalf of the eligible student.
20 7. "Participating school" means any nonpublic school providing education to elementary
21 students, secondary students, or both, which charges tuition and has notified the
22 administrator of the school's intention to participate in the education savings account

program and comply with the education savings account program requirements under this chapter and related administrative rules.

8. "Private tutoring" means professional tutoring services approved by the program manager to receive payment under this chapter.

9. "Program manager" means an organization registered by the secretary of state to do business in North Dakota and designated by the Bank of North Dakota to assist in the implementation of this chapter.

Parent agreement - Qualified expenses.

1. A parent of an eligible student qualifies for an education savings account for the student if the parent signs an agreement with the department promising:

- a. To provide an education for the eligible student in at least the subjects of English language arts, mathematics, social studies, and science;
- b. Not to enroll the parent's eligible student in a public school or supervise home education under chapter 15.1-23 for the eligible student;
- c. To use education savings account program funds solely for qualified expenses under this chapter;
- d. To comply with the requirements outlined in this chapter and any related rules adopted by the Bank of North Dakota; and
- e. If the participating student is a child with a disability, the parent has received information from the department and understands participation in the education savings account program qualifies as a parental placement of the parent's child under the Individuals with Disabilities Education Act [Pub. L. 108-446; 20 U.S.C. 1412(a)(10)(A)].

2. A parent participating in the education savings account program may use the funds deposited in the eligible student's account for any of the following qualifying expenses to educate the eligible student:

- a. Tuition and fees at a participating school;
- b. A textbook required by a participating school;
- c. Payment for private tutoring or to another educational service provider;
- d. Payment for purchase of curriculum;
- e. Tuition or fees for a nonpublic online learning program;

- 1 f. Fees for advanced placement examinations or similar courses, and any
2 examinations related to college or university admission;
- 3 g. Computer hardware, software, or other technological device that is used solely
4 for a student's educational needs and approved by the administrator, provided
5 hardware purchased with education savings account funds may not be resold
6 within three years of purchase;
- 7 h. Reasonable fees for transportation paid to a fee-for-service transportation
8 provider for the student to travel to and from an education service provider;
- 9 i. Tuition and fees at an eligible postsecondary institution; and
- 10 j. A textbook required for college or university courses.
- 11 3. A participating school, private tutor, eligible postsecondary institution, or other
12 education service provider may not refund, rebate, or share a student's grant with a
13 parent or student in any manner. Any refund must be provided to the administrator
14 who shall deposit the funds into the appropriate student's education savings account.
- 15 4. A parent may make a payment for the cost of educational programs and services not
16 covered by the funds in the child's account.

17 **Bank of North Dakota - State treasurer - Duties - Transfer.**

- 18 1. The administrator shall:
- 19 a. Beginning with the 2026-27 school year, annually deposit into each education
20 savings account fifty percent of the statewide average amount distributed per
21 student under subsection 5 of section 15.1-27-04.1 for the previous year.
- 22 b. Qualify a program manager to manage and administer education savings
23 accounts.
- 24 c. Establish the role and responsibilities of a program manager.
- 25 d. Conduct or contract for the auditing of accounts and, at a minimum, conduct
26 random audits of accounts on an annual basis. A program manager may conduct
27 the audits. The administrator may determine a parent of an eligible student is
28 ineligible for the education savings account program if the parent substantially
29 misuses the funds in the account.
- 30 e. Refer cases of substantial misuse of funds to law enforcement for investigation, if
31 evidence of fraudulent use of an account is obtained.

- 1 f. Make deposits into eligible students' education savings accounts on a quarterly
2 basis.
- 3 g. Adopt rules and procedures under chapter 28-32 for the administration of the
4 education savings account program, as necessary.
- 5 h. Upon a participating student's graduation from high school or termination of
6 participation in the education savings account program, close the participating
7 student's account and transfer any remaining money in the account to the
8 general fund in the state treasury.
- 9 2. The administrator may bar a participating school or education service provider from
10 the education savings account program if the administrator determines the
11 participating school or education service provider has:
 - 12 a. Routinely failed to comply with the accountability standards established under
13 this chapter; or
 - 14 b. Failed to provide a participating student with the educational services funded by
15 the education savings account.
- 16 3. If the administrator bars a participating school or education provider from the
17 education savings account program, the program manager shall notify eligible
18 students and parents of the decision as quickly as possible. A parent may appeal a
19 decision of the administrator under chapter 28-32.
- 20 4. The state treasurer annually shall transfer the funds required for education savings
21 accounts from the general fund to the Bank of North Dakota for quarterly deposit in
22 each education savings account.
- 23 5. Funds, not to exceed twenty-five percent of the amount under subsection 1, not
24 expended over the course of a school year may be carried forward for use in the
25 following school year for a child who remains in the education savings account
26 program. If a parent removes a child from the education savings account program
27 before the end of the school year, any remaining funds from that school year must be
28 returned to the state and be allocated to fund other accounts. A student may transfer
29 to another nonpublic school and retain the funds in the education savings account.
- 30 6. Funds deposited in an education savings account do not constitute taxable income to
31 the parent or the education savings account student.

7. The superintendent of public instruction may apply to a federal agency for additional funds to support this program. These funds must provide an additional benefit to each participating student's education savings account. If necessary to become eligible for the receipt of federal funds, the Bank of North Dakota, with consideration of advice provided by the superintendent of public instruction, shall adopt rules that supersede any conflicting law under this chapter.

Participating schools - Department - Accountability standards.

1. A participating school shall:

- a. Comply with all health and safety laws or codes that apply to nonpublic schools.
- b. Obtain certification of approval under section 15.1-06-06.1.
- c. Hold a valid occupancy permit if required by the school's municipality.
- d. Certify the school complies with the nondiscrimination policies under [42 U.S.C. 1981].
- e. Provide a parent with a receipt for all qualifying expenses at the school.
- f. Refund any payment for which a good or service was not provided to the student due to a participating student terminating participation in the education savings account program. A tuition payment must be refunded pro rata determined by the school days remaining in the term for which the tuition was paid. A refund must be paid to the administrator who shall deposit the funds into the appropriate student's education savings account.
- g. Ensure the eligible student takes the state assessments, or other nationally norm-referenced tests, which measure learning gains in mathematics and English language arts, and provide for value-added assessment. If a parent selects the state assessment, the department shall pay associated costs and materials.

h. Ensure the results of the tests are provided to the department.

2. The department, or an organization chosen by the department, shall:

- a. Ensure compliance with all student privacy laws.
- b. Collect all test results.
- c. Provide the test results, associated learning gains, and graduation rates to the public on the department's website after the third year of test and graduation-

1 related data collection. The findings must be aggregated by the student's grade
2 level, gender, family income level, number of years of participation in the
3 education savings account program, and race. Data aggregation related to
4 assessments may be limited to the state assessment, as determined necessary
5 by the department.

6 d. Provide rates for high school graduation for participating students to the public on
7 the department's website after the third year of test and test-related data
8 collection.

9 3. A participating nonpublic school or other education service provider is autonomous
10 and not an agent of the state or federal government and, except as provided under
11 this chapter and in related rules, the:

12 a. Department may not regulate the educational program of a participating
13 nonpublic school or education service provider that accepts funds from an
14 education savings account;

15 b. Creation of the education savings account program does not expand the
16 regulatory authority of the state, its officers, or a school district to impose an
17 additional regulation of nonpublic schools or education service providers beyond
18 the regulations necessary to enforce the requirements of the education savings
19 account program; and

20 c. Participating nonpublic schools and education service providers must have the
21 freedom to provide for the educational needs of the school's students without
22 governmental control.

23 **Program manager - Duties.**

24 The program manager shall:

- 25 1. Ensure eligible students and parents are informed annually of the schools that will be
26 participating in the education savings account program.
27 2. Create a standard form a parent of an eligible student may submit to establish a
28 student's eligibility for the education savings account program. The program manager
29 shall ensure the application is readily available to interested families through various
30 sources, including the department's website.

- 1 3. Accept and approve applications in a reasonable time frame, granting preference to
2 applications of students:
 - 3 a. Whose family's household income is less than four hundred percent of the
4 poverty guidelines updated periodically in the federal register by the United
5 States department of health and human services under 42 U.S.C. 9902(2); or
6 b. Who received a payment in an education savings account under this chapter in
7 the immediately preceding year.
- 8 4. Execute a multimedia marketing program targeting eligible families, especially those
9 below the state's median household income, informing the families about the
10 education savings account program and how to apply.
- 11 5. Establish a web and phone-based support system providing parents with education
12 savings account program application support and ongoing account maintenance
13 support.
- 14 6. Provide to the parent of a participating student a written explanation of the allowable
15 uses of education savings accounts, the responsibilities of the parent, and the duties
16 of the program manager.
- 17 7. Ensure the department is informed of a participating student's graduation from high
18 school or a participating student's termination of participation in the education savings
19 account program.
- 20 8. Coordinate with the Bank of North Dakota to develop procedures to implement the
21 program in accordance with this chapter and related rules.
- 22 9. Upon request, determine whether an expense is allowable.
- 23 10. Establish a procedure for a participating school to provide data to the department as
24 required under this chapter.
- 25 11. Administer an annual parental satisfaction survey requesting each parent of a student
26 receiving an education savings account program grant indicate the number of years
27 the child has participated in the education savings account program and express the
28 parent's:
 - 29 a. Satisfaction with the education savings account program; and
30 b. Opinions on other topics, items, or issues that may indicate the effectiveness of
31 the education savings account program.

1 **School districts of residence - Duties.**

2 The school district of residence:

3 1. Shall provide a participating school or education service provider that has admitted an
4 eligible student under this chapter with a complete copy of the student's school
5 records, while complying with the Family Educational Rights and Privacy Act of 1974
6 [20 U.S.C. Section 1232(g)].

7 2. May provide transportation for an eligible student to and from the participating school
8 or education service provider under the same conditions as the school district of
9 residence is required to provide transportation for other resident students to nonpublic
10 schools. The school district of residence qualifies for state transportation aid for each
11 student transported.

12 **SECTION 2. APPROPRIATION - BANK OF NORTH DAKOTA - EDUCATION SAVINGS**

13 **ACCOUNT PROGRAM.** There is appropriated out of any moneys in the general fund in the
14 state treasury, not otherwise appropriated, the sum of \$21,700,000, or so much of the sum as
15 may be necessary, to the Bank of North Dakota for the purpose of implementing the education
16 savings account program and funding education savings accounts beginning in the school year
17 2026-27, for the biennium beginning July 1, 2025, and ending June 30, 2027. The Bank of North
18 Dakota may use up to \$3,000,000 of the amount appropriated under this section for
19 administration of the program.

20 **SECTION 3. EFFECTIVE DATE.** Section 1 of this Act becomes effective on July 1, 2026.