

February 10, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

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; to provide an appropriation; and to
3 provide an effective date.

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

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

7 **Definitions.**

8 As used in this chapter:

- 9 1. "Administrator" means an organization registered by the secretary of state to do
10 business in North Dakota and designated by the Bank of North Dakota to
11 implementassist in the implementation of this chapter.
- 12 2. "Department" means the department of public instruction.
- 13 3. "Education service provider" means an individual or organization approved to provide
14 qualified education services. The term does not include a participating school.
- 15 4. "Eligible postsecondary institution" means a community college, an accredited
16 university, or an accredited private postsecondary institution.
- 17 5. "Eligible student" means:
- 18 a. An elementary or secondary student who is a resident of this state and is eligible
19 to attend a public school; or

- 1 b. A student who has received a scholarship under the education savings account
2 program until the student graduates high school or reaches twenty-one years of
3 age, regardless of household income.
- 4 6. "Parent" means a resident of this state who is a parent, guardian, custodian, or other
5 person with the authority to act on behalf of the child.
- 6 7. "Participating school" means any ~~private~~nonpublic school providing education to
7 elementary students, secondary students, or both that has notified the administrator of
8 the school's intention to participate in the education savings account program and
9 comply with the education savings account program requirements under this chapter
10 and related administrative rules.
- 11 8. "Private tutoring" means qualified tutoring services approved to receive payment under
12 this chapter.

13 **Account deposits - Parent agreement - Qualified expenses - Enrollment.**

- 14 1. TheFor the 2026-27 school year, the Bank of North Dakota annually shall deposit into
15 each education savings account forty percent of the dollar amount under subsection 3
16 of section 15.1-27-04.1 for the respective year.
- 17 2. Beginning with the 2027-28 school year, the Bank of North Dakota annually shall
18 deposit into ~~an~~each education savings account eighty percent of the dollar amount
19 under subsection 3 of section 15.1-27-04.1 for the respective year.
- 20 ~~2.3.~~ The department shall give priority access to the education savings account program to
21 the sibling of a student already enrolled in the education savings account program.
- 22 ~~3.4.~~ A parent of an eligible student qualifies for a state grant to the child's education
23 savings account if the parent signs an agreement with the department promising:
- 24 a. To provide an education for the eligible student in at least the subjects of reading,
25 grammar, mathematics, social studies, and science;
- 26 b. Not to enroll the parent's eligible student in a public school or supervise home
27 education under chapter 15.1-23 for the eligible student;
- 28 c. To use education savings account program funds solely for qualified expenses
29 under this chapter;
- 30 d. To comply with the requirements outlined in this chapter and any related rules;

- 1 e. If the participating student is a child with a disability, to acknowledge the parent
2 has received information from the department and understands participation in
3 the education savings account program qualifies as a parental placement of the
4 parent's child under the Individuals with Disabilities Education Act [Pub. L.
5 108-446; 20 U.S.C. 1412(a)(10)(A)]; and
6 f. To notify the department if the parent's student terminates participation in the
7 education savings account program and enrolls in a public school.

8 4.5. A parent participating in the education savings account program shall use the funds
9 deposited in the eligible student's account for the following qualifying expenses to
10 educate the eligible student:

- 11 a. Tuition and fees at a participating school;
12 b. A textbook required by a participating school;
13 c. Payment for private tutoring or to another educational service provider;
14 d. Payment for purchase of curriculum;
15 e. Tuition or fees for a nonpublic online learning program;
16 f. Fees for national norm-referenced examinations, advanced placement
17 examinations or similar courses, and any examinations related to college or
18 university admission;
19 g. Computer hardware, software, or other technological device that is used solely
20 for a student's educational needs and approved by the department or a licensed
21 physician, provided hardware purchased with education savings account funds
22 may not be resold within one year of purchase;
23 h. Reasonable fees for transportation paid to a fee-for-service transportation
24 provider for the student to travel to and from an education service provider;
25 i. Tuition and fees at an eligible postsecondary institution;~~of~~
26 j. A textbook required for college or university courses.

27 5.6. A participating school, private tutor, eligible postsecondary institution, or other
28 education service provider may not refund, rebate, or share a student's grant with a
29 parent or the student in any manner.

30 6.7. A parent may make a payment for the cost of educational programs and services not
31 covered by the funds in the child's account.

1 ~~7. A participating student must be counted in the enrollment figures for the student's~~
2 ~~school district of residence for the purposes of calculating state aid to the school~~
3 ~~district of residence. The funds needed for a grant to an education savings account~~
4 ~~must be subtracted from the state school aid payable to the student's school district of~~
5 ~~residence and forwarded to the Bank of North Dakota for deposit in the education~~
6 ~~savings account. Twenty percent of the dollar amount under subsection 3 of section~~
7 ~~15.1-27-04.1 for the respective year per grant must be paid to the school district of~~
8 ~~residence.~~

9 8. The state treasurer annually shall transfer the funds required for education savings
10 accounts from the general fund to the Bank of North Dakota for quarterly deposit in
11 each education savings account.

12 9. Funds, not to exceed twenty-five percent of the amount under subsection 1, not
13 expended over the course of a school year may be carried forward for use in the
14 following school year for a child who remains in the education savings account
15 program. If a parent removes a child from the education savings account program
16 before the end of the school year, any remaining funds from that school year must be
17 returned to the state and be allocated to fund other accounts. A student may transfer
18 to another nonpublic school or home school and retain the funds in the education
19 savings account.

20 9.10. Funds deposited in an education savings account do not constitute taxable income to
21 the parent or the education savings account student.

22 **Bank of North Dakota - Administrator - Administration.**

23 1. The Bank of North Dakota shall:

- 24 a. Qualify private financial management firms to manage and administer education
25 savings accounts.
- 26 b. Conduct or contract for the auditing of accounts and, at a minimum, conduct
27 random audits of accounts on an annual basis. The Bank of North Dakota may
28 make a parent of an eligible student ineligible for the education savings account
29 program if the parent substantially misuses the funds in the account.
- 30 c. Refer cases of substantial misuse of funds to law enforcement for investigation if
31 evidence of fraudulent use of an account is obtained.

- 1 d. Make payments to eligible students' education savings accounts on a quarterly
2 basis.
- 3 e. Adopt rules and procedures as necessary for the administration of the education
4 savings account program.
- 5 f. Upon the student's graduation from high school, the superintendent of public
6 instruction shall close the student's account and transfer any remaining money in
7 the account to the general fund in the state treasury.
- 8 2. The administrator shall provide to the parent of a participating student a written
9 explanation of the allowable uses of education saving accounts, the responsibilities of
10 the parent, and the duties of the administrator.

11 **Participating schools - Accountability standards.**

- 12 1. To ensure students are treated fairly and kept safe, each participating ~~private~~nonpublic
13 school shall:
- 14 a. Comply with all health and safety laws or codes that apply to ~~private~~nonpublic
15 schools;
- 16 b. Obtain certification of approval under section 15.1-06-06.1;
- 17 c. Hold a valid occupancy permit if required by the school's municipality; and
- 18 ~~e.d.~~ Certify the school complies with the nondiscrimination policies under [42 U.S.C.
19 1981]; and
- 20 ~~d.~~ Conduct criminal background checks on employees. The participating school
21 shall exclude from employment any individual who:
- 22 ~~(1)~~ Is not permitted by state law to work in a private school; and
- 23 ~~(2)~~ Might reasonably pose a threat to the safety of students.
- 24 2. To ensure funds are spent appropriately, a participating school shall:
- 25 a. Provide a parent with a receipt for all qualifying expenses at the school.
- 26 b. Demonstrate the school's financial viability, if the school is to receive fifty
27 thousand dollars or more during the school year, by filing with the administrator
28 before the start of the school year:
- 29 (1) A surety bond payable to the state in an amount equal to the aggregate
30 amount of the funds from education savings accounts expected to be paid
31 during the school year from students admitted at the participating school; or

- 1 (2) Financial information demonstrating the school has the ability to pay an
2 aggregate amount equal to the amount of the funds from education savings
3 accounts expected to be paid during the school year to students admitted to
4 the participating school.
- 5 3. To allow parents and taxpayers to measure the achievements of the education savings
6 account program:
- 7 a. Parents shall ensure:
- 8 (1) The eligible student annually takes the state achievement tests, nationally
9 norm-referenced tests, or equivalent tests that measure learning gains in
10 mathematics and language arts, and provide for value-added assessment. If
11 a parent selects the state achievement test, the department shall pay
12 associated costs and materials;
- 13 (2) The results of the tests are provided to the department or an organization
14 chosen by the state on an annual basis;
- 15 (3) The student information is reported in a way that allows the department to
16 aggregate data by grade level, gender, family income level, and race; and
- 17 (4) The department, or an organization chosen by the department, is informed
18 of the eligible student's graduation from high school.
- 19 b. The department, or an organization chosen by the department, shall:
- 20 (1) Ensure compliance with all student privacy laws;
- 21 (2) Collect all test results;
- 22 (3) Provide the test results, associated learning gains, and graduation rates to
23 the public on the department's website after the third year of test and
24 graduation-related data collection. The findings must be aggregated by the
25 student's grade level, gender, family income level, number of years of
26 participation in the education savings account program, and race;
- 27 (4) Provide rates for high school graduation, college attendance, and college
28 graduation for participating students to the public on the department's
29 website after the third year of test and test-related data collection; and
- 30 (5) Administer an annual parental satisfaction survey requesting each parent of
31 a student receiving an education savings account program grant indicate

1 the number of years the child has participated in the education savings
2 account program and express the parent's:
3 (a) Satisfaction with the education savings account program; and
4 (b) Opinions on other topics, items, or issues that may indicate the
5 effectiveness of the education savings account program.

6 4. A participating ~~private~~~~nonpublic~~ school or other education service provider is
7 autonomous and not an agent of the state or federal government and:

- 8 a. The department may not regulate the educational program of a participating
9 ~~private~~~~nonpublic~~ school or education service provider that accepts funds from an
10 education savings account, except as ~~otherwise~~ provided ~~by law~~ under this
11 chapter and chapter 15.1-23;
12 b. The creation of the education savings account program does not expand the
13 regulatory authority of the state, its officers, or a school district to impose an
14 additional regulation of ~~private~~~~nonpublic~~ schools or education service providers
15 beyond the regulations necessary to enforce the requirements of the education
16 savings account program; and
17 c. Participating ~~private~~~~nonpublic~~ schools and education service providers must have
18 the freedom to provide for the educational needs of the school's students without
19 governmental control.

20 **Department of public instruction - Administrator - Duties.**

- 21 1. The administrator shall:
22 a. Ensure eligible students and parents are informed annually of the schools that
23 will be participating in the education savings account program.
24 b. Create a standard form a parent of an eligible student may submit to establish a
25 student's eligibility for the education savings account program. The administrator
26 shall ensure the application is readily available to interested families through
27 various sources, including the department's website.
28 c. Accept applications on a year-round basis and shall approve applications in a
29 reasonable time frame.

- 1 d. Execute a multimedia marketing program targeting eligible families, especially
2 those below the state's median household income, informing the families about
3 the education savings account program and how to apply.
4 e. Establish a web and phone-based support system providing parents with
5 education savings account program application support and ongoing account
6 maintenance support.
7 2. The department may bar a participating school or education service provider from the
8 education savings account program if the department determines the participating
9 school or education provider has:
10 a. Routinely failed to comply with the accountability standards established under
11 this chapter; or
12 b. Failed to provide the eligible student with the educational services funded by the
13 education savings account.
14 3. If the department bars a participating school or education provider from the education
15 savings account program, the department shall notify eligible students and parents of
16 the decision as quickly as possible. A parent may appeal a decision of the department
17 under chapter 28-32.
18 4. The department shall adopt rules and procedures as necessary for the administration
19 of the education savings account program.

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

21 The school district of residence:

- 22 1. Shall provide a participating school or education provider that has admitted an eligible
23 student under this chapter with a complete copy of the student's school records, while
24 complying with the Family Educational Rights and Privacy Act of 1974 [20 U.S.C.
25 Section 1232(g)].
26 2. May provide transportation for an eligible student to and from the participating school
27 or education provider under the same conditions as the school district of residence is
28 required to provide transportation for other resident students to ~~private~~nonpublic
29 schools. The school district of residence qualifies for state transportation aid for each
30 student transported.

- 1 | **SECTION 2. APPROPRIATION - BANK OF NORTH DAKOTA - EDUCATION SAVINGS**
2 | **ACCOUNT PROGRAM.** There is appropriated out of any moneys in the general fund in the
3 | state treasury, not otherwise appropriated, the sum of \$40,000,000, or so much of the sum as
4 | may be necessary, to the Bank of North Dakota for the purpose of funding the education
5 | savings account program beginning in the school year 2026-27, for the biennium beginning
6 | July 1, 2025, and ending June 30, 2027.
7 | **SECTION 3. EFFECTIVE DATE.** Section 1 of this Act becomes effective on July 1, 2026.