

February 10, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2400

Introduced by

Senators Axtman, Hogue, Sickler, Myrdal

Representatives Bosch, M. Ruby

(Approved by the Delayed Bills Committee)

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 the establishment of the education savings account program; to provide a
3 continuing appropriation; and to provide an appropriation.

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. "Education service provider" means a person approved to provide qualified education
10 services. The term does not include a participating school.
- 11 2. "Eligible student" means an elementary or secondary student who is a resident of this
12 state and eligible to attend a public school, including a student who has received a
13 scholarship under the education savings account program, if the student has not
14 graduated from high school or reached twenty-one years of age.
- 15 3. "Parent" means parent or legal guardian.
- 16 4. "Participating school" means a nonpublic school providing education to elementary
17 students, secondary students, or both, which has notified the administrator of the
18 school's intention to participate in the education savings account program and comply
19 with the education savings account program requirements.
- 20 5. "Qualified educational expenses" means:

- 1 a. Tuition and fees at a nonpublic school:
- 2 b. Textbooks, fees, or payments for educational therapies, including tutoring or
- 3 cognitive skills training;
- 4 c. Curriculum fees, software, and materials for a course of study for a specific
- 5 subject matter or grade level;
- 6 d. Tuition or fees for nonpublic online education programs;
- 7 e. Tuition for vocational and life skills education approved by the superintendent of
- 8 education;
- 9 f. Education materials and services for students with disabilities from an accredited
- 10 provider, including the cost of paraprofessionals and assistants who are trained in
- 11 accordance with state law;
- 12 g. Standardized test fees and advanced placement examinations or examinations
- 13 related to postsecondary education admission or credentialing;
- 14 h. Tuition or fees for dual-credit courses;
- 15 i. Meals served to students in school buildings;
- 16 j. Mental health assistance;
- 17 k. Medical appointments necessary for educational benefit;
- 18 l. Educational camps; and
- 19 m. Qualified expenses as adopted by the superintendent of public instruction in
- 20 administrative rules.

21 **Education savings account fund - Establishment - Continuing appropriation.**

22 There is created in the state treasury an education savings account fund. The fund consists

23 of moneys appropriated to the superintendent of public instruction for the education savings

24 account program. Moneys in the fund are appropriated on a continuing basis for education

25 savings accounts.

26 **Superintendent of public instruction - Administrator - Duties.**

- 27 1. The superintendent of public instruction is the education savings account program
- 28 administrator, and shall:
- 29 a. Annually inform eligible students and parents of the schools participating in the
- 30 education savings account program;

- 1 b. Create a standard application form a parent of an eligible student may submit to
- 2 establish the student's eligibility for the education savings account program. The
- 3 superintendent shall ensure the application is readily available to interested
- 4 families through various sources, including the department's website;
- 5 c. Execute a multimedia marketing program targeting eligible families, particularly
- 6 families below the state's median household income, informing the families about
- 7 the education savings account program and how to apply;
- 8 d. Establish a web and phone-based support system providing parents with
- 9 education savings account program application support and ongoing account
- 10 maintenance support;
- 11 e. Reduce potential waste, fraud, and abuse, and ensure that any technology
- 12 platform used for the program meets the state's highest security requirements,
- 13 including compliance; and
- 14 f. Adopt rules to implement this chapter.
- 15 2. The superintendent of public instruction may:
- 16 a. Make and enter a contract with a third-party entity to administer and audit the
- 17 program, including allocating funds from each eligible student's account for the
- 18 payment of qualified educational expenses by the eligible student's parent;
- 19 b. Conduct audits or other reviews necessary to properly administer the program;
- 20 and
- 21 c. Bar a participating school or education service provider from the education
- 22 savings account program, if the superintendent determines the participating
- 23 school or education provider has:
- 24 (1) Routinely failed to comply with the accountability standards established
- 25 under this chapter; or
- 26 (2) Failed to provide the eligible student with the educational services funded by
- 27 the education savings account.

Enrollment - Account deposits.

- 28
- 29 1. From January first to June thirtieth immediately preceding the school year for which
- 30 the education savings account payment is requested, the parent of an eligible student

- 1 may request an education savings account payment by submitting an application to
2 the superintendent of public instruction.
- 3 2. Within thirty days of submission of an application, the superintendent of public
4 instruction or third-party entity shall notify the parent whether the eligible student is
5 approved for the following school year and specify the amount of the education
6 savings account payment for the eligible student, if known at the time of the notice.
- 7 3. For an eligible student approved for an education savings account payment, the
8 superintendent of public instruction or third-party entity shall establish an individual
9 account for the eligible student in the education savings account fund and deposit the
10 payment into the eligible student's individual account within thirty days following
11 submission of the application, but in any case no later than July fifteenth. The funds
12 must be available immediately for the payment of qualified educational expenses
13 incurred by the parent for the eligible student during the fiscal year.
- 14 4. A nonpublic school or other provider of qualified educational expenses accepting
15 payment from a parent using funds from an eligible student's individual account in the
16 fund may not refund, rebate, or share any portion of the payment with the parent or
17 eligible student.
- 18 5. Moneys remaining in an eligible student's individual account upon conclusion of the
19 fiscal year must be returned to the education savings account fund.
- 20 6. Beginning with the school budget year beginning July 1, 2026, for each school year,
21 an eligible student who:
- 22 a. Attends a public school is eligible to receive an education savings account
23 payment of one thousand dollars.
- 24 b. Is enrolled in and attends a nonpublic participating school is eligible to receive an
25 education savings account payment of:
- 26 (1) Four thousand dollars, if the eligible student's household has an annual
27 income less than or equal to ~~two~~three hundred percent of the most recently
28 revised poverty income guidelines published by the United States
29 department of health and human services.
- 30 (2) Two thousand five hundred dollars, if the eligible student's household has
31 an annual income less than or equal to ~~four~~five hundred percent of the most

- 1 recently revised poverty income guidelines published by the United States
2 department of health and human services.
3 (3) One thousand dollars, if the eligible student does not qualify under
4 paragraph 1 or 2.
5 c. Participates in a home education program in accordance with chapter 15.1-23, is
6 eligible to receive an education savings account payment of one thousand
7 dollars.
8 7. Education savings account payments may be approved for one school year and
9 applications must be submitted annually for payments in subsequent school years.
10 8. Funds deposited in an education savings account are not taxable income to the parent
11 or eligible student.

12 **Participating schools - Accountability standards.**

- 13 1. A participating school shall:
14 a. Comply with all health and safety laws or codes that apply to nonpublic schools.
15 b. Hold a valid occupancy permit if required by the city in which the school is
16 located.
17 c. Certify the school complies with the nondiscrimination policies under 42 U.S.C.
18 1981.
19 d. Conduct criminal background checks on employees.
20 e. Exclude from employment any individual who:
21 (1) Is not permitted by state law to work in a nonpublic school; or
22 (2) Might reasonably pose a threat to the safety of eligible students.
23 f. Provide a parent with a receipt for all qualifying expenses at the school.
24 g. Demonstrate the school's financial viability, if the school will receive fifty thousand
25 dollars or more during the school year, by filing with the superintendent of public
26 instruction before the start of the school year:
27 (1) A surety bond payable to the state in an amount equal to the aggregate
28 amount of funds from education savings accounts the participating school
29 expects to receive; or

1 (2) Financial information demonstrating the school is able to pay an aggregate
2 amount equal to the amount of the funds from education savings accounts
3 the participating school expects to receive.

4 2. a. An eligible student using education savings account program funds for tuition
5 payments at a participating school shall take required state tests and
6 assessments in accordance with section 15.1-21-08.

7 b. The superintendent of public instruction shall compile and publish assessment
8 results in accordance with sections 15.1-21-09 and 15.1-21-10.

9 c. The superintendent of public instruction shall administer an annual parental
10 satisfaction survey requesting each parent of an eligible student receiving an
11 education savings account program payment to indicate the number of years the
12 child has participated in the education savings account program and express the
13 parent's:

14 (1) Satisfaction with the education savings account program; and

15 (2) Opinions on other topics, items, or issues that may indicate the
16 effectiveness of the education savings account program.

17 3. A participating school or education service provider is autonomous and not an agent of
18 the state or federal government. The superintendent may not regulate the educational
19 program of a participating school or education service provider that accepts funds from
20 an education savings account. The creation of the education savings account program
21 does not expand the regulatory authority of the state, its officers, or a school district
22 beyond the regulations necessary to enforce the requirements of the education
23 savings account program.

24 **SECTION 2. APPROPRIATION - SUPERINTENDENT OF PUBLIC INSTRUCTION -**

25 **EDUCATION SAVINGS ACCOUNT PROGRAM.** There is appropriated out of any moneys in
26 the general fund in the state treasury, not otherwise appropriated, the sum of \$3,000,000, or so
27 much of the sum as may be necessary, to the superintendent of public instruction for the
28 purpose of administering the education savings account program, for the biennium beginning
29 July 1, 2025, and ending June 30, 2027.