

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED 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 assist in the
11 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 nonpublic school providing education to elementary
7 students, secondary students, or both that has notified the administrator of the
8 school's intention to participate in the education savings account program and comply
9 with the education savings account program requirements under this chapter and
10 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. ~~For~~Beginning with the 2026-27 school year, the Bank of North Dakota annually shall
15 deposit into each education savings account forty percent of the dollar amount under
16 subsection 3 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 each education savings account eighty percent of the dollar amount under~~
19 ~~subsection 3 of section 15.1-27-04.1 for the respective year.~~
- 20 ~~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 4.3. 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 ~~5.4.~~ A parent participating in the education savings account program shall use the funds
9 deposited in the eligible student's account for any of the following qualifying expenses
10 to 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; and
26 j. A textbook required for college or university courses.

27 ~~6.5.~~ 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 ~~7.6.~~ 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 | 8.7. The state treasurer annually shall transfer the funds required for education savings
2 | accounts from the general fund to the Bank of North Dakota for quarterly deposit in
3 | each education savings account.

4 | 9.8. Funds, not to exceed twenty-five percent of the amount under subsection 1, not
5 | expended over the course of a school year may be carried forward for use in the
6 | following school year for a child who remains in the education savings account
7 | program. If a parent removes a child from the education savings account program
8 | before the end of the school year, any remaining funds from that school year must be
9 | returned to the state and be allocated to fund other accounts. A student may transfer
10 | to another nonpublic school or home school and retain the funds in the education
11 | savings account.

12 | 10.9. Funds deposited in an education savings account do not constitute taxable income to
13 | the parent or the education savings account student.

14 | **Bank of North Dakota - Administrator - Administration.**

15 | 1. The Bank of North Dakota shall:

16 | a. Qualify private financial management firms to manage and administer education
17 | savings accounts.

18 | b. Conduct or contract for the auditing of accounts and, at a minimum, conduct
19 | random audits of accounts on an annual basis. The Bank of North Dakota may
20 | make a parent of an eligible student ineligible for the education savings account
21 | program if the parent substantially misuses the funds in the account.

22 | c. Refer cases of substantial misuse of funds to law enforcement for investigation if
23 | evidence of fraudulent use of an account is obtained.

24 | d. Make payments to eligible students' education savings accounts on a quarterly
25 | basis.

26 | e. Adopt rules and procedures as necessary for the administration of the education
27 | savings account program.

28 | f. Upon the student's graduation from high school, the superintendent of public
29 | instruction shall close the student's account and transfer any remaining money in
30 | the account to the general fund in the state treasury.

- 1 2. The administrator shall provide to the parent of a participating student a written
2 explanation of the allowable uses of education saving accounts, the responsibilities of
3 the parent, and the duties of the administrator.

4 **Participating schools - Accountability standards.**

- 5 1. To ensure students are treated fairly and kept safe, each participating nonpublic
6 school shall:
- 7 a. Comply with all health and safety laws or codes that apply to nonpublic schools;
8 b. Obtain certification of approval under section 15.1-06-06.1;
9 c. Hold a valid occupancy permit if required by the school's municipality; and
10 d. Certify the school complies with the nondiscrimination policies under [42 U.S.C.
11 1981].
- 12 2. To ensure funds are spent appropriately, a participating school shall:
- 13 a. Provide a parent with a receipt for all qualifying expenses at the school.
14 b. Demonstrate the school's financial viability, if the school is to receive fifty
15 thousand dollars or more during the school year, by filing with the administrator
16 before the start of the school year:
- 17 (1) A surety bond payable to the state in an amount equal to the aggregate
18 amount of the funds from education savings accounts expected to be paid
19 during the school year from students admitted at the participating school; or
20 (2) Financial information demonstrating the school has the ability to pay an
21 aggregate amount equal to the amount of the funds from education savings
22 accounts expected to be paid during the school year to students admitted to
23 the participating school.
- 24 3. To allow parents and taxpayers to measure the achievements of the education savings
25 account program:
- 26 a. Parents shall ensure:
- 27 (1) The eligible student annually takes the state achievement tests, nationally
28 norm-referenced tests, or equivalent tests that measure learning gains in
29 mathematics and language arts, and provide for value-added assessment. If
30 a parent selects the state achievement test, the department shall pay
31 associated costs and materials;

- 1 (2) The results of the tests are provided to the department or an organization
2 chosen by the state on an annual basis;
- 3 (3) The student information is reported in a way that allows the department to
4 aggregate data by grade level, gender, family income level, and race; and
- 5 (4) The department, or an organization chosen by the department, is informed
6 of the eligible student's graduation from high school.
- 7 b. The department, or an organization chosen by the department, shall:
- 8 (1) Ensure compliance with all student privacy laws;
- 9 (2) Collect all test results;
- 10 (3) Provide the test results, associated learning gains, and graduation rates to
11 the public on the department's website after the third year of test and
12 graduation-related data collection. The findings must be aggregated by the
13 student's grade level, gender, family income level, number of years of
14 participation in the education savings account program, and race;
- 15 (4) Provide rates for high school graduation, college attendance, and college
16 graduation for participating students to the public on the department's
17 website after the third year of test and test-related data collection; and
- 18 (5) Administer an annual parental satisfaction survey requesting each parent of
19 a student receiving an education savings account program grant indicate
20 the number of years the child has participated in the education savings
21 account program and express the parent's:
- 22 (a) Satisfaction with the education savings account program; and
- 23 (b) Opinions on other topics, items, or issues that may indicate the
24 effectiveness of the education savings account program.
- 25 4. A participating nonpublic school or other education service provider is autonomous
26 and not an agent of the state or federal government and:
- 27 a. The department may not regulate the educational program of a participating
28 nonpublic school or education service provider that accepts funds from an
29 education savings account, except as provided under this chapter and chapter
30 15.1-23;

- 1 b. The creation of the education savings account program does not expand the
2 regulatory authority of the state, its officers, or a school district to impose an
3 additional regulation of nonpublic schools or education service providers beyond
4 the regulations necessary to enforce the requirements of the education savings
5 account program; and
6 c. Participating nonpublic schools and education service providers must have the
7 freedom to provide for the educational needs of the school's students without
8 governmental control.

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

- 10 1. The administrator shall:
11 a. Ensure eligible students and parents are informed annually of the schools that
12 will be participating in the education savings account program.
13 b. Create a standard form a parent of an eligible student may submit to establish a
14 student's eligibility for the education savings account program. The administrator
15 shall ensure the application is readily available to interested families through
16 various sources, including the department's website.
17 c. Accept applications on a year-round basis and shall approve applications in a
18 reasonable time frame.
19 d. Execute a multimedia marketing program targeting eligible families, especially
20 those below the state's median household income, informing the families about
21 the education savings account program and how to apply.
22 e. Establish a web and phone-based support system providing parents with
23 education savings account program application support and ongoing account
24 maintenance support.
25 2. The department may bar a participating school or education service provider from the
26 education savings account program if the department determines the participating
27 school or education provider has:
28 a. Routinely failed to comply with the accountability standards established under
29 this chapter; or
30 b. Failed to provide the eligible student with the educational services funded by the
31 education savings account.

1 3. If the department bars a participating school or education provider from the education
2 savings account program, the department shall notify eligible students and parents of
3 the decision as quickly as possible. A parent may appeal a decision of the department
4 under chapter 28-32.

5 4. The department shall adopt rules and procedures as necessary for the administration
6 of the education savings account program.

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

8 The school district of residence:

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

13 2. May provide transportation for an eligible student to and from the participating school
14 or education provider under the same conditions as the school district of residence is
15 required to provide transportation for other resident students to nonpublic schools. The
16 school district of residence qualifies for state transportation aid for each student
17 transported.

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

19 **ACCOUNT PROGRAM.** There is appropriated out of any moneys in the general fund in the
20 state treasury, not otherwise appropriated, the sum of \$40,000,000, or so much of the sum as
21 may be necessary, to the Bank of North Dakota for the purpose of funding the education
22 savings account program beginning in the school year 2026-27, for the biennium beginning
23 July 1, 2025, and ending June 30, 2027.

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