

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 fortyfifty percent of the dollarstatewide  
16           average amount distributed per student under subsection 35 of section 15.1-27-04.1  
17           for the respectiveprevious year.
- 18       2. ~~Beginning with the 2027-28 school year, the Bank of North Dakota annually shall~~  
19           deposit into each education savings account eighty percent of the dollar amount under  
20           subsection 3 of section 15.1-27-04.1 for the respective year.
- 21       ~~3.~~ The department shall give priority access to the education savings account program to  
22           the sibling of a student already enrolled in the education savings account program.
- 23       4.3. A parent of an eligible student qualifies for a state grant to the child's education  
24           savings account if the parent signs an agreement with the department promising:
- 25           a. To provide an education for the eligible student in at least the subjects of reading,  
26                     grammar, mathematics, social studies, and science;
- 27           b. Not to enroll the parent's eligible student in a public school or supervise home  
28                     education under chapter 15.1-23 for the eligible student;
- 29           c. To use education savings account program funds solely for qualified expenses  
30                     under this chapter;
- 31           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.