

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; 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 an elementary or secondary student who is a resident of this
18 state and is eligible to attend a public school, regardless of household income.
- 19 6. "Parent" means a resident of this state who is a parent, guardian, custodian, or other
20 person with the authority to act on behalf of the child.
- 21 7. "Participating school" means any nonpublic school providing education to elementary
22 students, secondary students, or both, which charges tuition and has notified the

1 administrator of the school's intention to participate in the education savings account
2 program and comply with the education savings account program requirements under
3 this chapter and related administrative rules.

4 8. "Private tutoring" means professional tutoring services approved by the administrator
5 to receive payment under this chapter.

6 **Parent agreement - Qualified expenses.**

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

9 a. To provide an education for the eligible student in at least the subjects of English
10 language arts, mathematics, social studies, and science;

11 b. Not to enroll the parent's eligible student in a public school or supervise home
12 education under chapter 15.1-23 for the eligible student;

13 c. To use education savings account program funds solely for qualified expenses
14 under this chapter;

15 d. To comply with the requirements outlined in this chapter and any related rules
16 adopted by the Bank of North Dakota; and

17 e. If the participating student is a child with a disability, the parent has received
18 information from the department and understands participation in the education
19 savings account program qualifies as a parental placement of the parent's child
20 under the Individuals with Disabilities Education Act [Pub. L. 108-446; 20 U.S.C.
21 1412(a)(10)(A)].

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

25 a. Tuition and fees at a participating school;

26 b. A textbook required by a participating school;

27 c. Payment for private tutoring or to another educational service provider;

28 d. Payment for purchase of curriculum;

29 e. Tuition or fees for a nonpublic online learning program;

30 f. Fees for advanced placement examinations or similar courses, and any
31 examinations related to college or university admission;

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

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

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

1 g. Adopt rules and procedures under chapter 28-32 for the administration of the
2 education savings account program, as necessary.

3 h. Upon a participating student's graduation from high school or termination of
4 participation in the education savings account program, close the participating
5 student's account and transfer any remaining money in the account to the
6 general fund in the state treasury.

7 2. The Bank of North Dakota may bar a participating school or education service provider
8 from the education savings account program if the administrator determines the
9 participating school or education service provider has:

10 a. Routinely failed to comply with the accountability standards established under
11 this chapter; or

12 b. Failed to provide a participating student with the educational services funded by
13 the education savings account.

14 3. If the Bank of North Dakota bars a participating school or education provider from the
15 education savings account program, the administrator shall notify eligible students and
16 parents of the decision as quickly as possible. A parent may appeal a decision of the
17 Bank of North Dakota under chapter 28-32.

18 4. The state treasurer annually shall transfer the funds required for education savings
19 accounts from the general fund to the Bank of North Dakota for quarterly deposit in
20 each education savings account.

21 5. Funds, not to exceed twenty-five percent of the amount under subsection 1, not
22 expended over the course of a school year may be carried forward for use in the
23 following school year for a child who remains in the education savings account
24 program. If a parent removes a child from the education savings account program
25 before the end of the school year, any remaining funds from that school year must be
26 returned to the state and be allocated to fund other accounts. A student may transfer
27 to another nonpublic school and retain the funds in the education savings account.

28 6. Funds deposited in an education savings account do not constitute taxable income to
29 the parent or the education savings account student.

30 7. The superintendent of public instruction may apply to a federal agency for additional
31 funds to support this program. These funds must provide an additional benefit to each

1 participating student's education savings account. If necessary to become eligible for
2 the receipt of federal funds, the Bank of North Dakota, with consideration of advice
3 provided by the superintendent of public instruction, shall adopt rules that supersede
4 any conflicting law under this chapter.

5 **Participating schools - Department - Accountability standards.**

6 1. A participating 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.
10 d. Certify the school complies with the nondiscrimination policies under [42 U.S.C.
11 1981].
12 e. Provide a parent with a receipt for all qualifying expenses at the school.
13 f. Refund any payment for which a good or service was not provided to the student
14 due to a participating student terminating participation in the education savings
15 account program. A tuition payment must be refunded pro rata determined by the
16 school days remaining in the term for which the tuition was paid. A refund must
17 be paid to the administrator who shall deposit the funds into the appropriate
18 student's education savings account.
19 g. Ensure the eligible student takes the state assessments, or other nationally
20 norm-referenced tests, which measure learning gains in mathematics and
21 English language arts, and provide for value-added assessment. If a parent
22 selects the state assessment, the department shall pay the associated costs and
23 materials.
24 h. Ensure the results of the tests are provided to the department.

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

- 26 a. Ensure compliance with all student privacy laws.
27 b. Collect all test results.
28 c. Provide the test results, associated learning gains, and graduation rates to the
29 public on the department's website after the third year of test and graduation-
30 related data collection. The findings must be aggregated by the student's grade
31 level, gender, family income level, number of years of participation in the

1 education savings account program, and race. Data aggregation related to
2 assessments may be limited to the state assessment, as determined necessary
3 by the department.

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

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

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

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

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

21 **Administrator - Duties.**

22 The administrator shall:

23 1. Ensure eligible students and parents are informed annually of the schools that will be
24 participating in the education savings account program.

25 2. Create a standard form a parent of an eligible student may submit to establish a
26 student's eligibility for the education savings account program. The administrator shall
27 ensure the application is readily available to interested families through various
28 sources, including the department's website.

29 3. Accept applications on a year-round basis and shall approve applications in a
30 reasonable time frame.

- 1 4. Execute a multimedia marketing program targeting eligible families, especially those
2 below the state's median household income, informing the families about the
3 education savings account program and how to apply.
- 4 5. Establish a web and phone-based support system providing parents with education
5 savings account program application support and ongoing account maintenance
6 support.
- 7 6. Provide to the parent of a participating student a written explanation of the allowable
8 uses of education savings accounts, the responsibilities of the parent, and the duties
9 of the administrator.
- 10 7. Ensure the department is informed of a participating student's graduation from high
11 school or a participating student's termination of participation in the education savings
12 account program.
- 13 8. Coordinate with the Bank of North Dakota to develop procedures to implement the
14 program in accordance with this chapter and related rules.
- 15 9. Upon request, determine whether an expense is allowable.
- 16 10. Establish a procedure for a participating school to provide data to the department as
17 required under this chapter.
- 18 11. Administer an annual parental satisfaction survey requesting each parent of a student
19 receiving an education savings account program grant indicate the number of years
20 the child has participated in the education savings account program and express the
21 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 effectiveness of
24 the education savings account program.

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

26 The school district of residence:

- 27 1. Shall provide a participating school or education service provider that has admitted an
28 eligible student under this chapter with a complete copy of the student's school
29 records, while complying with the Family Educational Rights and Privacy Act of 1974
30 [20 U.S.C. Section 1232(g)].

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

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

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

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