

**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 for students who are not enrolled in  
3 public school or a homeschool program; to provide an appropriation; and to provide an effective  
4 date.

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

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

8 **Definitions.**

9 As used in this chapter:

- 10 1. "Administrator" means the Bank of North Dakota.  
11 2. "Department" means the department of public instruction.  
12 3. "Education service provider" means an individual or organization approved to provide  
13 qualified education services. The term does not include a participating school.  
14 4. "Eligible postsecondary institution" means a community college, an accredited  
15 university, or an accredited private postsecondary institution.  
16 5. "Eligible student" means an elementary or secondary student who is a resident of this  
17 state and is eligible to attend a public school, regardless of household income.  
18 6. "Parent" means a resident of this state who is a parent, guardian, custodian, or other  
19 person with the authority to act on behalf of the eligible student.  
20 7. "Participating school" means any nonpublic school providing education to elementary  
21 students, secondary students, or both, which charges tuition and has notified the  
22 administrator of the school's intention to participate in the education savings account

1           program and comply with the education savings account program requirements under  
2           this chapter and related administrative rules.

3       8. "Private tutoring" means professional tutoring services approved by the program  
4           manager to receive payment under this chapter.

5       9. "Program manager" means an organization registered by the secretary of state to do  
6           business in North Dakota and designated by the Bank of North Dakota to assist in the  
7           implementation of this chapter.

8       **Parent agreement - Qualified expenses.**

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

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

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

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

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

19           e. If the participating student is a child with a disability, the parent has received  
20           information from the department and understands participation in the education  
21           savings account program qualifies as a parental placement of the parent's child  
22           under the Individuals with Disabilities Education Act [Pub. L. 108-446; 20 U.S.C.  
23           1412(a)(10)(A)].

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

27           a. Tuition and fees at a participating school;

28           b. A textbook required by a participating school;

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

30           d. Payment for purchase of curriculum;

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

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

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

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

- 1           f. Make deposits into eligible students' education savings accounts on a quarterly  
2           basis.
- 3           g. Adopt rules and procedures under chapter 28-32 for the administration of the  
4           education savings account program, as necessary.
- 5           h. Upon a participating student's graduation from high school or termination of  
6           participation in the education savings account program, close the participating  
7           student's account and transfer any remaining money in the account to the  
8           general fund in the state treasury.
- 9           2. The administrator may bar a participating school or education service provider from  
10          the education savings account program if the administrator determines the  
11          participating school or education service provider has:
- 12          a. Routinely failed to comply with the accountability standards established under  
13          this chapter; or
- 14          b. Failed to provide a participating student with the educational services funded by  
15          the education savings account.
- 16          3. If the administrator bars a participating school or education provider from the  
17          education savings account program, the program manager shall notify eligible  
18          students and parents of the decision as quickly as possible. A parent may appeal a  
19          decision of the administrator under chapter 28-32.
- 20          4. The state treasurer annually shall transfer the funds required for education savings  
21          accounts from the general fund to the Bank of North Dakota for quarterly deposit in  
22          each education savings account.
- 23          5. Funds, not to exceed twenty-five percent of the amount under subsection 1, not  
24          expended over the course of a school year may be carried forward for use in the  
25          following school year for a child who remains in the education savings account  
26          program. If a parent removes a child from the education savings account program  
27          before the end of the school year, any remaining funds from that school year must be  
28          returned to the state and be allocated to fund other accounts. A student may transfer  
29          to another nonpublic school and retain the funds in the education savings account.
- 30          6. Funds deposited in an education savings account do not constitute taxable income to  
31          the parent or the education savings account student.

1       7. The superintendent of public instruction may apply to a federal agency for additional  
2       funds to support this program. These funds must provide an additional benefit to each  
3       participating student's education savings account. If necessary to become eligible for  
4       the receipt of federal funds, the Bank of North Dakota, with consideration of advice  
5       provided by the superintendent of public instruction, shall adopt rules that supersede  
6       any conflicting law under this chapter.

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

8       1. A participating school shall:

- 9       a. Comply with all health and safety laws or codes that apply to nonpublic schools.  
10      b. Obtain certification of approval under section 15.1-06-06.1.  
11      c. Hold a valid occupancy permit if required by the school's municipality.  
12      d. Certify the school complies with the nondiscrimination policies under [42 U.S.C.  
13         1981].  
14      e. Provide a parent with a receipt for all qualifying expenses at the school.  
15      f. Refund any payment for which a good or service was not provided to the student  
16         due to a participating student terminating participation in the education savings  
17         account program. A tuition payment must be refunded pro rata determined by the  
18         school days remaining in the term for which the tuition was paid. A refund must  
19         be paid to the administrator who shall deposit the funds into the appropriate  
20         student's education savings account.  
21      g. Ensure the eligible student takes the state assessments, or other nationally  
22         norm-referenced tests, which measure learning gains in mathematics and  
23         English language arts, and provide for value-added assessment. If a parent  
24         selects the state assessment, the department shall pay associated costs and  
25         materials.  
26      h. Ensure the results of the tests are provided to the department.

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

- 28      a. Ensure compliance with all student privacy laws.  
29      b. Collect all test results.  
30      c. Provide the test results, associated learning gains, and graduation rates to the  
31         public on the department's website after the third year of test and graduation-

- 1           related data collection. The findings must be aggregated by the student's grade  
2           level, gender, family income level, number of years of participation in the  
3           education savings account program, and race. Data aggregation related to  
4           assessments may be limited to the state assessment, as determined necessary  
5           by the department.
- 6           d. Provide rates for high school graduation for participating students to the public on  
7           the department's website after the third year of test and test-related data  
8           collection.
- 9           3. A participating nonpublic school or other education service provider is autonomous  
10           and not an agent of the state or federal government and, except as provided under  
11           this chapter and in related rules, the:
- 12           a. Department may not regulate the educational program of a participating  
13           nonpublic school or education service provider that accepts funds from an  
14           education savings account;
- 15           b. Creation of the education savings account program does not expand the  
16           regulatory authority of the state, its officers, or a school district to impose an  
17           additional regulation of nonpublic schools or education service providers beyond  
18           the regulations necessary to enforce the requirements of the education savings  
19           account program; and
- 20           c. Participating nonpublic schools and education service providers must have the  
21           freedom to provide for the educational needs of the school's students without  
22           governmental control.

23           **Program manager - Duties.**

24           The program manager shall:

- 25           1. Ensure eligible students and parents are informed annually of the schools that will be  
26           participating in the education savings account program.
- 27           2. Create a standard form a parent of an eligible student may submit to establish a  
28           student's eligibility for the education savings account program. The program manager  
29           shall ensure the application is readily available to interested families through various  
30           sources, including the department's website.

- 1       3. Accept and approve applications in a reasonable time frame, granting preference to  
2       applications of students:
  - 3       a. Whose family's household income is less than four hundred percent of the  
4       poverty guidelines updated periodically in the federal register by the United  
5       States department of health and human services under 42 U.S.C. 9902(2); or  
6       b. Who received a payment in an education savings account under this chapter in  
7       the immediately preceding year.
- 8       4. Execute a multimedia marketing program targeting eligible families, especially those  
9       below the state's median household income, informing the families about the  
10       education savings account program and how to apply.
- 11       5. Establish a web and phone-based support system providing parents with education  
12       savings account program application support and ongoing account maintenance  
13       support.
- 14       6. Provide to the parent of a participating student a written explanation of the allowable  
15       uses of education savings accounts, the responsibilities of the parent, and the duties  
16       of the program manager.
- 17       7. Ensure the department is informed of a participating student's graduation from high  
18       school or a participating student's termination of participation in the education savings  
19       account program.
- 20       8. Coordinate with the Bank of North Dakota to develop procedures to implement the  
21       program in accordance with this chapter and related rules.
- 22       9. Upon request, determine whether an expense is allowable.
- 23       10. Establish a procedure for a participating school to provide data to the department as  
24       required under this chapter.
- 25       11. Administer an annual parental satisfaction survey requesting each parent of a student  
26       receiving an education savings account program grant indicate the number of years  
27       the child has participated in the education savings account program and express the  
28       parent's:
  - 29       a. Satisfaction with the education savings account program; and  
30       b. Opinions on other topics, items, or issues that may indicate the effectiveness of  
31       the education savings account program.

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

2        The school district of residence:

3        1.    Shall provide a participating school or education service provider that has admitted an  
4            eligible student under this chapter with a complete copy of the student's school  
5            records, while complying with the Family Educational Rights and Privacy Act of 1974  
6            [20 U.S.C. Section 1232(g)].

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

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

13        **ACCOUNT PROGRAM.** There is appropriated out of any moneys in the general fund in the  
14        state treasury, not otherwise appropriated, the sum of \$21,700,000, or so much of the sum as  
15        may be necessary, to the Bank of North Dakota for the purpose of implementing the education  
16        savings account program and funding education savings accounts beginning in the school year  
17        2026-27, for the biennium beginning July 1, 2025, and ending June 30, 2027. The Bank of North  
18        Dakota may use up to \$3,000,000 of the amount appropriated under this section for  
19        administration of the program.

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