

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO  
SECOND ENGROSSMENT**

**REENGROSSED 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 penalty; to provide ~~a continuing~~ appropriation; and to provide ~~ana continuing~~ 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;

- b. Create a standard application form a parent of an eligible student may submit to establish the student's eligibility for the education savings account program. The superintendent shall ensure the application is readily available to interested families through various sources, including the department's website;
- c. Execute a multimedia marketing program targeting eligible families, particularly families below the state's median household income, informing the families about the education savings account program and how to apply;
- d. Establish a web and phone-based support system providing parents with education savings account program application support and ongoing account maintenance support;
- e. Reduce potential waste, fraud, and abuse, and ensure that any technology platform used for the program meets the state's highest security requirements, including compliance; ~~and~~
- f. Report evidence of the misuse of education savings account funds to law enforcement;
- g. Inform the parent of a student with a disability under the Individuals with Disabilities Education Act of 1990 [Pub. L. 91-230; 84 Stat. 121; 20 U.S.C. 1400 et seq.] if the parent spends the funds in the student's education savings account on tuition or fees at a nonpublic school, the services received from the nonpublic school constitute a parental placement and the protections under the Individuals with Disabilities Education Act of 1990 no longer apply to the student; and
- h. Adopt rules to implement this chapter.

2. The superintendent of public instruction may:

- a. Make and enter a contract with a third-party entity to administer and audit the program, including allocating funds from each eligible student's account for the payment of qualified educational expenses by the eligible student's parent;
- b. Conduct audits or other reviews necessary to properly administer the program;  
and
- c. Bar a participating school or education service provider from the education savings account program, if the superintendent determines the participating school or education provider has:

- 1                   (1) Routinely failed to comply with the accountability standards established  
2                                   under this chapter; or  
3                   (2) Failed to provide the eligible student with the educational services funded by  
4                                   the education savings account.

5                   **Misuse of education savings account funds prohibited - Penalty.**

6                   1. A person is guilty of an offense under this section if the person:

7                   a. Spends the funds in an education savings account for an expense the person  
8                                   knows is not a qualified education expense; or

9                   b. Intentionally fails to provide an eligible student with the educational services  
10                                   funded by the education savings account.

11                   2. An offense under this section is:

12                   a. A class A felony if the value of the funds spent or the educational services not  
13                                   provided exceeds fifty thousand dollars;

14                   b. A class B felony if the value of the funds spent or the educational services not  
15                                   provided exceeds ten thousand dollars but does not exceed fifty thousand  
16                                   dollars;

17                   c. A class C felony if the value of the funds spent or the educational services not  
18                                   provided exceeds one thousand dollars but does not exceed ten thousand  
19                                   dollars;

20                   d. A class A misdemeanor if the value of the funds spent or the educational services  
21                                   not provided exceeds five hundred dollars but does not exceed one thousand  
22                                   dollars; or

23                   e. A class B misdemeanor in all other cases.

24                   **Enrollment - Account deposits.**

25                   1. From January first to June thirtieth immediately preceding the school year for which  
26                                   the education savings account payment is requested, the parent of an eligible student  
27                                   may request an education savings account payment by submitting an application to  
28                                   the superintendent of public instruction.

29                   2. Within thirty days of submission of an application, the superintendent of public  
30                                   instruction or third-party entity shall notify the parent whether the eligible student is

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

- 1           c. Participates in a home education program in accordance with chapter 15.1-23, is  
2           eligible to receive an education savings account payment of ~~five hundred one~~  
3           thousand dollars.
- 4           7. Education savings account payments may be approved for one school year and  
5           applications must be submitted annually for payments in subsequent school years.
- 6           8. Funds deposited in an education savings account are not taxable income to the parent  
7           or eligible student.

8           **Participating schools - Accountability standards.**

- 9           1. A participating school shall:
- 10           a. Comply with all health and safety laws or codes that apply to nonpublic schools.
- 11           b. Hold a valid occupancy permit if required by the city in which the school is  
12           located.
- 13           c. Certify the school complies with the nondiscrimination policies under 42 U.S.C.  
14           1981.
- 15           d. Conduct criminal background checks on employees.
- 16           e. Exclude from employment any individual who:
- 17           (1) Is not permitted by state law to work in a nonpublic school; or
- 18           (2) Might reasonably pose a threat to the safety of eligible students.
- 19           f. Provide a parent with a receipt for all qualifying expenses at the school.
- 20           g. Demonstrate the school's financial viability, if the school will receive fifty thousand  
21           dollars or more during the school year, by filing with the superintendent of public  
22           instruction before the start of the school year:
- 23           (1) A surety bond payable to the state in an amount equal to the aggregate  
24           amount of funds from education savings accounts the participating school  
25           expects to receive; or
- 26           (2) Financial information demonstrating the school is able to pay an aggregate  
27           amount equal to the amount of the funds from education savings accounts  
28           the participating school expects to receive.
- 29           2. a. An eligible student using education savings account program funds for tuition  
30           payments at a participating school shall take required state tests and  
31           assessments in accordance with section 15.1-21-08.

- 1           b. The superintendent of public instruction shall compile and publish assessment  
2           results in accordance with sections 15.1-21-09 and 15.1-21-10.
- 3           c. The superintendent of public instruction shall administer an annual parental  
4           satisfaction survey requesting each parent of an eligible student receiving an  
5           education savings account program payment to indicate the number of years the  
6           child has participated in the education savings account program and express the  
7           parent's:
- 8           (1) Satisfaction with the education savings account program; and  
9           (2) Opinions on other topics, items, or issues that may indicate the  
10           effectiveness of the education savings account program.
- 11        3. A participating school or education service provider is autonomous and not an agent of  
12        the state or federal government. The superintendent may not regulate the educational  
13        program of a participating school or education service provider that accepts funds from  
14        an education savings account. The creation of the education savings account program  
15        does not expand the regulatory authority of the state, its officers, or a school district  
16        beyond the regulations necessary to enforce the requirements of the education  
17        savings account program.

18           **SECTION 2. APPROPRIATION - SUPERINTENDENT OF PUBLIC INSTRUCTION -**  
19        **EDUCATION SAVINGS ACCOUNT PROGRAM.** There is appropriated out of any moneys in  
20        the general fund in the state treasury, not otherwise appropriated, the sum of \$3,000,000, or so  
21        much of the sum as may be necessary, to the superintendent of public instruction for the  
22        purpose of administering the education savings account program, for the biennium beginning  
23        July 1, 2025, and ending June 30, 2027.