

## S.F. No. 1525 – Education Savings Accounts – (As Amended)

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### Section 1. Education Savings Accounts for Students Act.

**Subdivision 1. Title.** Establishes the act as the “Education Savings Accounts for Students Act.”

**Subd. 2. Definitions.** (b) Defines “commissioner” as the commissioner of education.

(c) Defines “department” as the Department of Education.

(d) Defines “educational service provider” as an eligible school, tutor, or other person or organization that provides education-related services and products to participating students. Excludes the eligible student’s parents from being an educational service provider for that student.

(e) Defines “eligible school” as a nonpublic school that is recognized by the commissioner or accredited by an accrediting agency recognized by the Minnesota Nonpublic Education Council. Excludes a home school.

(f) Defines “eligible student” as a student who resides in Minnesota and who attended a public school or charter school during the semester preceding participation in the program.

(g) Defines “parent” as a resident of the state who is a parent, legal guardian, custodian, or other person with the authority to act on behalf of the eligible student.

(h) Defines “postsecondary institution” as a college or university accredited by a state, regional, or national accrediting organization.

(i) Defines “program” as a program to implement education savings accounts (ESAs).

(j) Defines “tutor” as a person who (1) is certified or licensed by a state, regional, or national certification or licensing organization to teach, (2) has earned a valid teacher’s license, or (3) has experience teaching at a postsecondary institution

**Subd. 3. Education savings account (ESA) program.** (a) An eligible student qualifies to participate in the program if their parent agrees to the following:

- (1) to arrange for the provision of organized, appropriated educational services with measurable goals to the participating student in the subjects of reading, writing, mathematics, social studies, and science; and
- (2) to not enroll the participating student in a public school or charter school and to acknowledge that the student has no individual entitlement to a free appropriate public education from the student’s resident school district.

(b) Requires a parent to use the ESA funds for any of the following qualifying expenses that meet the requirement in paragraph (a), clause (1):

- (1) tuition and fees at an eligible school;
- (2) payment to a tutor;
- (3) payment for purchase of curriculum, including textbooks and supplemental materials;
- (4) fees for transportation to and from an educational service provider paid to a fee-for-service transportation provider;
- (5) tuition and fees for online learning programs or courses;
- (6) fees for national standardized norm-referenced achievement tests, and fees for advanced placement exams or similar courses and any exams related to college or university admission;
- (7) educational services or therapies from a licensed or certified practitioner or provider;
- (8) services provided by a public school;
- (9) tuition, fees, and textbooks at a postsecondary institution;
- (10) no more than \$300 in annual consumable school supplies necessary for the student’s education; or
- (11) computer hardware and software and other technological devices if an eligible school, tutor, educational service provider, or licensed medical professional verifies in writing that these items are necessary for the student to meet annual, measurable goals.

(c) Prohibits a participating student or anyone on their behalf from receiving cash or cash-equivalent items from refunds or rebates from a provider of services or products in this program. Requires the rebates or refunds to be credited directly to the student’s ESA.

- (d) Payment for educational services through an ESA does not preclude a parent from paying for educational services using non-ESA funds.
- (e) A student that enrolls in the program remains eligible to receive monthly ESA payments until the student returns to a public school, graduates from high school, or completes the school year in which the student reaches the age of 21, whichever occurs first.
- (f) Allows ESA funds remaining after the student's graduation to be used to attend or take courses from a postsecondary institution.
- (g) Requires a participating student's ESA to be closed and remaining funds returned to the state general fund if the student graduates from a postsecondary institution or after four consecutive years after high school graduation that the student is not enrolled in a postsecondary institution.
- (h) Allows a participating student to return to the resident school district at any time after enrolling in the program. The student's ESA account must be closed and remaining funds returned to the state general fund.
- (i) Requires the commissioner to accept applications for the program on July 1, 2022.

**Subd. 4. Funding.** Directs the commissioner to determine the amount deposited in each student's ESA on a first-come, first-served basis. The amount is calculated based on:

- (1) the statewide average general education revenue per adjusted pupil unit; and
- (2) necessary aid attributable to the student during the student's public school enrollment for special education services and instruction.

**Subd. 5. Administration.** (a) Directs the commissioner to create a form that parents may submit to establish the student's eligibility for an ESA.

- (b) Requires the commissioner to provide parents of participating students with a written explanation of the allowable uses of ESAs, the responsibilities of parents, and the duties of the commissioner.
- (c) Requires the commissioner to notify all students who are eligible to participate of the existence of the program and to ensure that low-income families are made aware of their potential eligibility.
- (d) Allows the commissioner to deduct up to six percent from appropriations made to fund ESAs to cover the costs of overseeing and administering the program.
- (e) Requires the commissioner to make monthly payments to ESAs unless there's evidence of misuse of the ESA.
- (f) Requires the commissioner to determine of eligibility and approve applications within 21 business days.

**Subd. 6. ESA establishment.** (a) Directs the commissioner to adopt rules and policies necessary for the administration of the program, including necessary audits of ESAs.

(b) Directs the commissioner to issue ESA cards to parents making expenditures on behalf of a participating student.

(c) Directs the commissioner to use merchant category classification (MCC) codes to identify categories of providers. The list of blocked and unblocked MCC codes must be publicly available.

(d) Directs the commissioner to adopt a process to remove educational service providers that defraud parents.

(e) Directs the commissioner to establish an online, anonymous fraud-reporting service and an anonymous telephone hotline for fraud reporting.

(f) Directs the commissioner to adopt rules implementing policies on misspending of ESA funds.

(g) Allows for temporary suspension of ESA card for any amount not spent in the allowable categories.

(h) Allows the commissioner to remove a participant and seek to recover misspent funds using administrative measures.

(i) Provides for the offense to be recorded and held in a parent's file if a parent repays the funds within the requested time frame.

(j) Disqualifies the student from the ESA program if there are three offenses within a three-year period.

(k) Requires the commissioner to suspend a student's participation in the ESA if their parent fails to comply with the terms of the agreement in subdivision 3.

(l) Allows the commissioner to remove the student from the program if the parent fails to respond to the commissioner or make a report required for reinstatement within a 21-day period.

(m) Allows the commissioner's decisions to be subject to judicial review.

(n) Requires the commissioner to refer cases of substantial misuse of funds to law enforcement agencies.

**Subd. 7. Scope.** States that an eligible nonpublic school is autonomous and:

(1) the commissioner, department, or any other government agency is prohibited from regulating the educational program of a nonpublic school or educational service provider that accepts ESA funds;

- (2) creation of the program does not expand the regulatory authority of the state to impose any additional regulation of nonpublic schools or educational service providers beyond those necessary to enforce the requirements of the program;
- (3) eligible schools and educational service providers are given the maximum freedom to provide for the educational needs of their students without governmental control.

**Subd. 8. Severability.** States that if any provision of this law is found unconstitutional and void, that the remaining provisions that can be given effect without the invalid provision are valid.

**Effective Date:** Makes the section effective immediately.

**Section 2. Appropriations.** Appropriates blank amounts for fiscal years 2022 and 2023.