

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1529

Introduced by

Representatives Berg, Brusegaard, Klein, Price

Senators Christmann, Flakoll

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to create and enact a new section to chapter 6-09 of the North Dakota
2 Century Code, relating to higher education savings accounts; to amend and reenact section
3 54-27-25 of the North Dakota Century Code, relating to the tobacco settlement trust fund; to
4 provide an appropriation; to provide an expiration date; and to declare an emergency.

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

6 **SECTION 1.** A new section to chapter 6-09 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Higher education savings account - Matching deposit.**

- 9 1. If a higher education savings account is opened in accordance with rules adopted
10 by the Bank of North Dakota under section 6-09-38, and if the designated
11 beneficiary of the account is a resident of this state born on or after the effective
12 date of this Act, the Bank of North Dakota shall place into the account an amount
13 equal to fifty percent of the initial deposit plus fifty percent of any additional
14 deposits made before the beneficiary's first birthday, up to a maximum of one
15 thousand dollars per beneficiary. The Bank of North Dakota shall make the
16 deposits required of the Bank by this section in the same order that the deposits
17 are made by the participants.
- 18 2. The division of vital records of the state department of health shall forward birth
19 information to the Bank of North Dakota and the Bank shall mail notification of the
20 higher education savings account program to the parent of each potential
21 beneficiary. The written notification must indicate that the program, and the
22 opportunity to receive a fifty percent match for all deposits made before a
23 beneficiary's first birthday, was made possible by the North Dakota legislative

- 1 assembly. For purposes of this subsection, a potential beneficiary is a child who is
2 a resident of this state born on or after the effective date of this Act.
- 3 3. At the time the Bank of North Dakota makes any deposit required by subsection 1,
4 the Bank shall provide notification of the deposit to the person who established the
5 higher education savings account.
- 6 4. Once any moneys appropriated to the Bank of North Dakota for the higher
7 education savings account program are expended in accordance with this section,
8 the Bank is under no further obligation to make the deposits.
- 9 5. The Bank of North Dakota shall adopt rules governing the circumstances under
10 which the Bank of North Dakota's contribution, as provided in subsection 1, must
11 be forfeited. The conditions for forfeiture under this subsection must include a
12 transfer of funds from the account for a nonpermitted purpose, a change of the
13 designated beneficiary, the death of the designated beneficiary, the existence of a
14 physical or mental disability that precludes the beneficiary from participating in
15 higher education, and a nonqualified withdrawal.
- 16 6. The Bank of North Dakota shall administer and maintain the higher education
17 savings account program in compliance with internal revenue service standards for
18 such programs.

19 **SECTION 2. AMENDMENT.** Section 54-27-25 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **54-27-25. Tobacco settlement trust fund - Interest on fund - Uses.** There is
22 created in the state treasury a tobacco settlement trust fund. The fund consists of the tobacco
23 settlement dollars obtained by the state under sections IX (payments) and XI (calculation and
24 disbursement of payments) of the master settlement agreement and consent agreement
25 adopted by the east central judicial district court in its judgment entered December 28, 1998
26 [Civil No. 98-3778]. All moneys received by the state pursuant to the judgment and all moneys
27 received by the state for enforcement of the judgment must be deposited in the fund. Interest
28 earned on the fund must be credited to the fund and deposited in the fund. The principal and
29 interest of the fund must be allocated as follows:

- 30 1. Transfers to a community health trust fund to be administered by the state
31 department of health. The state department of health may use funds as

1 appropriated for community-based public health programs and other public health
2 programs, including programs with emphasis on preventing or reducing tobacco
3 usage in this state. Transfers under this subsection must equal ten percent of total
4 annual transfers from the tobacco settlement trust fund.

5 2. ~~Transfers~~ Except as otherwise provided by law, transfers to the common schools
6 trust fund to become a part of the principal of that fund. Transfers under this
7 subsection must equal forty-five percent of total annual transfers from the tobacco
8 settlement trust fund, less any amount otherwise appropriated by the legislative
9 assembly.

10 3. Transfers to the water development trust fund to be used to address the long-term
11 water development and management needs of the state. Transfers under this
12 subsection must equal forty-five percent of the total annual transfers from the
13 tobacco settlement trust fund.

14 Transfers to the funds under this section must be made within thirty days of receipt by the
15 tobacco settlement trust fund.

16 **SECTION 3. APPROPRIATION.** There is appropriated out of any moneys in the
17 tobacco settlement trust fund in the state treasury the first \$2,500,000 of the amount
18 designated for transfer to the common schools trust fund under subsection 2 of section
19 54-27-25, or so much of the sum as may be necessary, to the Bank of North Dakota for the
20 purpose of providing matching grants equal to fifty percent of any initial and subsequent
21 deposits made to higher education savings accounts during the first year of a beneficiary's life,
22 for the biennium beginning July 1, 2005, and ending June 30, 2007.

23 **SECTION 4. EXPIRATION DATE.** Section 2 of this Act is effective through June 30,
24 2007, and after that date is ineffective.

25 **SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.