



April 21, 2023

The Honorable Dennis Johnson
Speaker of the House
North Dakota House of Representatives
State Capitol
Bismarck, ND

Re: House Bill 1532

Dear Speaker Johnson:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed House Bill 1532 and return it to the House.

House Bill 1532 appropriates \$10 million in state-collected tax dollars for the purpose of offsetting tuition costs for students attending nonpublic K-12 schools. These dollars would be paid directly to private schools.

Our administration supports school choice and believes that competition can improve outcomes in the K-12 education system, just as competition forces businesses to continually improve their goods and services in order to survive and thrive in a changing economy.

As North Dakota explores a path toward improved outcomes in our K-12 education system, we commend the sponsors and supporters of HB 1532 for championing change and school choice. North Dakota needs school choice for all parents, regardless of income or geography.

However, in its final amended form, this bill is not the comprehensive solution we need. It falls short of meaningfully enhancing school choice – especially in rural areas far from any existing nonpublic schools – and lacks incentives to expand nontraditional options in K-12 education. The bill also lacks public transparency and accountability standards for the actual use of the proposed tuition offset payments.

Also, this bill as written would not go into effect until July 1, 2024, just six months before the next legislative assembly convenes in regular session. By utilizing the upcoming interim to explore best practices through school choice, competition and innovation in education, we can create a more comprehensive policy that empowers parent choice, improves outcomes for students and provides a greater return on investment of taxpayer dollars. Other states such as Arizona and Iowa have made great strides in passing transformational legislation aimed at

producing better outcomes in education. Senate Bill 2284, still pending in the Legislature, would require such a study.

Finally, our objection to this bill is not related to its cost. The state spends 100 times more per year on public schools than is proposed in this bill for tuition offsets for students who attend nonpublic schools – and our K-12 public school system will receive record levels of state funding in the 2023-2025 biennium.

Simply put, HB 1532 does not go far enough to promote competition and expand choice in K-12 education. If not done correctly now, this bill could impede our ability to expand school choice in a meaningful way in the years ahead.

For the reasons stated above, House Bill 1532 is vetoed.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doug Burgum", with a long horizontal flourish extending to the right.

Doug Burgum
Governor

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1532
(Representatives Cory, Kasper, Kempenich, Lefor, Nathe, Porter, Strinden)
(Senators Beard, Burckhard, Hogue, Meyer, Wobbema)

AN ACT to create and enact chapter 15.1-39 of the North Dakota Century Code, relating to the establishment of an educational reimbursement program; to provide for a legislative management study; to provide for a legislative management report; to provide an appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 15.1-39 of the North Dakota Century Code is created and enacted as follows:

15.1-39-01. Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. "Parent" means a resident of this state who is a parent, conservator, legal guardian, custodian, or other individual with legal authority to act on a program participant's behalf.
2. "Program" means the educational reimbursement program created under this chapter.
3. "Program participant" means an eligible child participating in the program.
4. "Public school" means a public school in this state which serves students in any grade from kindergarten through grade twelve.
5. "Qualified education expenses" means the cost of tuition for a program participant to enroll in or attend a qualified school.
6. "Qualified school" means a nonpublic school in the state which accepts program funds, not including a home school.

15.1-39-02. Educational reimbursement program establishment.

1. The superintendent of public instruction shall establish and administer an educational reimbursement program to reimburse qualified schools for qualified education expenses of program participants.
2. To participate in the program:
 - a. The parent of an eligible child shall request a program form for the school year from a qualified school in which the eligible child is enrolled; and
 - b. Upon receiving the parent's program form, the qualified school shall:
 - (1) Certify to the superintendent of public instruction proof of the eligible child's enrollment at the school; and
 - (2) Request program funds for the eligible child's qualified education expenses.
3. For each eligible school program form received, the superintendent of public instruction shall pay to the qualified school in which the eligible program participant is enrolled a sum equivalent to the qualified education expenses, but not more than thirty percent of the per-student payment rate under subsection 3 of section 15.1-27-04.1.

4. A qualified school that receives funds under this chapter shall use the funds to offset the cost of qualified education expenses the program participant or parent otherwise would be obligated to pay. A qualified school may not use funds received under this chapter for any other purpose.
5. If a program participant is enrolled in a qualified school for less than an entire school year, the qualified school must return to the superintendent of public instruction the funding provided under this chapter for that school year, reduced on a prorated basis, to reflect the shorter enrollment period. The superintendent of public instruction shall deposit with the public school district in which the program participant resides any funds returned under this section.

15.1-39-03. Program participant eligibility.

A child is eligible for the program if the child is:

1. Eligible to attend public school;
2. Enrolled in a qualified school for any grade from kindergarten through grade twelve; and
3. Documented as a child who is a dependent in a family with gross taxable income of less than five hundred percent of the federal poverty level.

15.1-39-04. Superintendent of public instruction duties - Rules.

In administering the program, the superintendent of public instruction:

1. Shall develop procedures and forms necessary to implement the program.
2. Shall use a standardized enrollment form to determine a qualified school's and child's eligibility for the program and make the form readily available to the public.

15.1-39-05. Program suspension.

The superintendent of public instruction shall suspend a qualified school from the program for failure to comply with applicable law or the program's requirements. The superintendent of public instruction shall notify the school in writing that the school's participation in the program is suspended. The notification must specify the grounds for the suspension and state the school has ten business days to respond and take any corrective action ordered by the superintendent of public instruction. Following the expiration of the ten-day period, the superintendent of public instruction shall:

1. Declare the school ineligible for the program;
2. Order temporary reinstatement of the school's participation in the program, conditioned on the performance of specified action by the school; or
3. Order full reinstatement of the school's participation in the program.

15.1-39-06. Fraudulent use of funds - Referral to attorney general.

If the superintendent of public instruction obtains evidence of fraudulent use of program funds, the superintendent shall refer the matter to the attorney general for investigation and prosecution.

15.1-39-07. Limitation on regulation of qualified schools.

1. The program does not expand the regulatory authority of the superintendent of public instruction, a school district, or any other government agency to impose additional regulations on a qualified school under the program beyond what is necessary by the superintendent of public instruction to enforce the program's financial and administrative requirements. The superintendent of public instruction or a school district may not regulate a qualified school's educational program under the program.

2. A qualified school may not be required to alter the school's creed, practices, admissions policy, or curriculum to receive reimbursement for qualified education expenses.
3. The state auditor shall audit program funds disbursed to a qualified school.

15.1-39-08. Educational reimbursement program expenditures - Report.

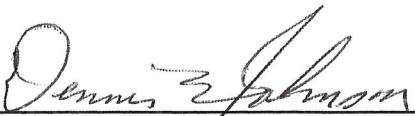
On or before September 25, 2025, and annually each year thereafter, the superintendent of public instruction shall report to the legislative management any educational reimbursement program expenditures and supporting data.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - FUNDING OF NONPUBLIC SCHOOLS.

1. During the 2023-24 interim, the legislative management shall study the funding of nonpublic schools. The study must include:
 - a. An evaluation of how other states fund nonpublic schools, including accountability and oversight methods;
 - b. A comparison of funding based on need versus funding every student;
 - c. An evaluation of the impact funding nonpublic schools would have on equity related to rural schools and students affected by federal education regulations;
 - d. A review of the number of students denied admission or attendance by nonpublic schools;
 - e. An evaluation of the impact funding nonpublic schools would have on constitutionally obligated budgets;
 - f. A review of the impacts and benefits of enrolling qualified nonpublic teachers and administrators into the teachers' fund for retirement, including an actuarial study and fund impact; and
 - g. Methods of providing school choice options for any family, including families in rural communities, by identifying underlying challenges and options for collaboration across school types and collecting data to identify trends in school choice by geography.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

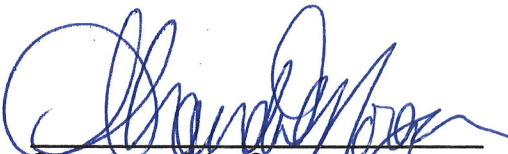
SECTION 3. APPROPRIATION - DEPARTMENT OF PUBLIC INSTRUCTION - EDUCATIONAL REIMBURSEMENT PROGRAM. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$10,000,000, or so much of the sum as may be necessary, to the department of public instruction for the purpose of establishing an educational reimbursement program, for the biennium beginning July 1, 2023, and ending June 30, 2025.

SECTION 4. EFFECTIVE DATE. Section 1 of this Act becomes effective on July 1, 2024.


Speaker of the House


President of the Senate


Chief Clerk of the House


Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1532.

House Vote: Yeas 51 Nays 41 Absent 2

Senate Vote: Yeas 27 Nays 19 Absent 1


Chief Clerk of the House

Received by the Governor at 4:36 P.M. on April 17, 2023.

Approved at _____ M. on _____, 2023.

Governor

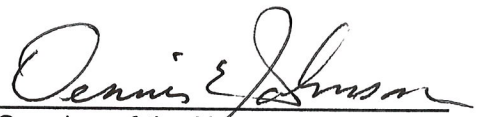
Filed in this office this 28 day of April, 2023,
at 1:55 o'clock P M.


Secretary of State

Honorable Michael Howe
Secretary of State
Bismarck, North Dakota

I certify this Act, House Bill No. 1532, together with the objections of Governor Burgum, was returned to the House, being the body in which it originated, on April 21, 2023; that the objections of the Governor were read at length on April 25, 2023, and entered upon the Journal; that the Bill was taken up for reconsideration; that the motion for reconsideration failed on April 25, 2023, at 12:45 p.m.; and the roll was called and the Bill failed to pass, with less than two-thirds of the members-elect voting in the affirmative.

Vote:	Yeas	52
	Nays	41
	Absent and not voting	1


Speaker of the House


Chief Clerk of the House