

HOUSE BILL NO. 357

INTRODUCED BY K. HANSEN

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A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MY CHOICE SAVINGS ACCOUNT PROGRAM; PROVIDING DEFINITIONS; ESTABLISHING ELIGIBILITY REQUIREMENTS; PROVIDING RESPONSIBILITIES FOR PARENTS, STUDENTS, THE SUPERINTENDENT OF PUBLIC INSTRUCTION, THE COMMISSIONER OF HIGHER EDUCATION, AND EDUCATION PROVIDERS; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. My choice savings account -- findings and purposes.**

(1) There is a my choice savings account program to be established as described in [this act] by the start of the 2013-2014 school year.

(2) The legislature finds that:

- (a) parents desire education options for their children;
- (b) expanding educational opportunities from kindergarten through postsecondary education within the state is a valid public purpose; and
- (c) creating options that assist parents and encourage students to develop their full educational potential and pursue postsecondary education is vital to the economic competitiveness of the state.

(3) The purposes of [this act] are to:

- (a) enable parents to make short-term and long-term decisions on how best to educate their children in order to prepare them for postsecondary education and how best to save for that purpose; and
- (b) promote the long-term economic competitiveness of the state.

**NEW SECTION. Section 2. Definitions.** As used in this part, the following definitions apply:

(1) (a) "Education provider" means, except as provided in subsection (1)(b), a public school, nonpublic school, accredited virtual school, tutor, or other individual or institution providing education to K-12 students that has notified the superintendent of public instruction of the education provider's intent to participate in the program and comply with the program's requirements.



1 (b) The term does not include a home school.

2 (2) "Eligible postsecondary institution" means an accredited postsecondary institution located in Montana  
3 or an accredited postsecondary institution located outside Montana that offers distance or online courses.

4 (3) "My choice savings account" means an account into which public K-12 per-pupil spending is  
5 deposited for the purpose of purchasing education instruction from an education provider or for payment toward  
6 college tuition, books, or fees.

7 (4) "Resident school district" means the school district in which a student resides.

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9 **NEW SECTION. Section 3. Eligibility.** (1) A student is eligible for a my choice savings account if the  
10 student:

11 (a) was counted during the previous year for purposes of school district ANB funding, was enrolled in  
12 the previous year in a program listed in subsection (2), or is eligible to enter kindergarten;

13 (b) resides in Montana; and

14 (c) has not graduated from high school or reached 19 years of age.

15 (2) A student is not eligible for a my choice savings account while:

16 (a) enrolled in a school operating for the purpose of providing educational services to youth in  
17 department of corrections commitment programs;

18 (b) participating in a virtual school, correspondence school, or distance learning program that receives  
19 state funding pursuant to the student's participation; or

20 (c) enrolled in the Montana school for the deaf and blind.

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22 **NEW SECTION. Section 4. Parent and student my choice savings account options.** Money  
23 deposited in a my choice savings account may be used for any of the following on behalf of the student:

24 (1) payment of tuition and fees to an education provider;

25 (2) textbooks and other instructional requirements of an education provider;

26 (3) educational therapies from a licensed or accredited provider;

27 (4) fees for nationally recognized assessment tests, advanced placement exams, entrance examinations  
28 at an eligible postsecondary institution, or other assessment instruments;

29 (5) services provided by a public school, including classes and extracurricular activities; and

30 (6) payment to an eligible postsecondary institution for tuition, books, online courses, or other fees.

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2           **NEW SECTION. Section 5. Parent and student responsibilities.** (1) A parent shall annually enroll  
3 each child participating in the my choice savings account program with the resident school district and notify the  
4 superintendent of public instruction.

5           (2) If a parent seeks to have the parent's child educated through an education provider, then the parent  
6 shall:

7           (a) select an education provider and apply for admission for the student;

8           (b) inform the resident school district when the parent enrolls the student with an education provider;

9           (c) pay the balance of the education provider's tuition and fees not covered by the my choice savings  
10 account payments; and

11           (d) quarterly submit to the superintendent of public instruction copies of all expense receipts and account  
12 statements related to the my choice savings account.

13           (3) At any time, a parent may choose to have the student attend full-time classes at the resident school  
14 district, and payments to the my choice savings account must cease. The parent of a student who returns to the  
15 resident school district is responsible for the payment of any outstanding costs to education providers or eligible  
16 postsecondary institutions that were incurred and not covered by the my choice savings account funds.

17           (4) A student who receives funding from a my choice savings account while attending an education  
18 provider shall:

19           (a) remain in attendance unless excused by the education provider for illness or other good cause;

20           (b) comply with the education provider's published policies; and

21           (c) perform the assessment required by the education provider pursuant to [section 7(3)].

22

23           **NEW SECTION. Section 6. Responsibilities of superintendent of public instruction.** (1) The  
24 superintendent of public instruction shall establish procedures implementing the following provisions of [this act]:

25           (a) the verification of student eligibility under [section 3];

26           (b) the maintenance and publication of a registry of education providers;

27           (c) the oversight of education providers under [section 7];

28           (d) the calculation of the amount of the my choice savings account payment under [section 8];

29           (e) the payments to the commissioner of higher education and deductions to a resident school district  
30 as provided in [section 8];

1 (f) a reporting process by which individuals may notify the superintendent of public instruction of any  
2 suspected violation by a parent, education provider, or school district of state laws relating to program  
3 participation; and

4 (g) the development of a cooperative agreement with the commissioner of higher education to assist in  
5 the administration of my choice savings accounts.

6 (2) (a) The superintendent of public instruction may exclude an education provider from participation in  
7 the my choice savings account program if the superintendent establishes that the education provider has:

8 (i) intentionally and substantially misrepresented information required under [section 7];

9 (ii) routinely failed to comply with the accountability standards established in [section 7]; or

10 (iii) operated in this state or another state or jurisdiction in a manner contrary to the health, safety, or  
11 welfare of the public.

12 (b) If the noncompliance is correctable within a reasonable amount of time and the health, safety, or  
13 welfare of students is not threatened, the superintendent shall issue a notice of noncompliance that provides the  
14 education provider with an opportunity to provide evidence of compliance prior to excluding the education provider  
15 from participation in the my choice savings account program.

16 (3) If the superintendent of public instruction excludes an education provider from the my choice savings  
17 account program, the superintendent shall notify eligible students and parents of the decision immediately.  
18 Participating students enrolled with an education provider excluded by the superintendent of public instruction  
19 retain my choice savings account program eligibility and may enroll with another education provider.

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21 **NEW SECTION. Section 7. Accountability standards for education providers.** (1) To ensure that  
22 students are treated fairly and safely, each nonpublic education provider shall:

23 (a) comply with applicable local health and safety regulations;

24 (b) hold a valid occupancy permit if required by the municipality;

25 (c) certify that the education provider complies with the nondiscrimination policies set forth in 42 U.S.C.  
26 1981; and

27 (d) require that any employee who may have unsupervised access to children be subject to a criminal  
28 history background check prior to employment pursuant to and in support of 42 U.S.C. 5119(a) and (c).

29 (2) To ensure that public funds are spent appropriately, all nonpublic education providers shall  
30 demonstrate their financial accountability by:

1 (a) quarterly submitting to the superintendent of public instruction on a form established by the  
2 superintendent a report of receipts and expenditures for services provided to participating students; and

3 (b) if the superintendent of public instruction determines an audit is needed based on reliable information  
4 reporting a misappropriation or mishandling of my choice savings account program funds, submitting to an audit  
5 provided for by the superintendent of public instruction to certify that the report to the superintendent is free of  
6 material misstatements. The audit must be limited in scope to those records that are necessary to complete the  
7 investigation.

8 (3) To ensure adequate academic progress, nonpublic education providers shall participate in annual  
9 state assessment testing or provide other nationally recognized assessment, regularly report to the parent on the  
10 student's progress, and annually report scores to the superintendent of public instruction. The resident school  
11 district may not include these scores in its assessment reports.

12 (4) (a) Except as otherwise provided in [this act], a nonpublic education provider is autonomous and is  
13 not an agent of the state or federal government:

14 (b) Neither the superintendent of public instruction nor any other state agency may regulate the  
15 educational program of a nonpublic education provider that enrolls an eligible student.

16 (c) The creation of the my choice savings account program does not expand the regulatory authority of  
17 the state, its officers, or any school district to impose any additional regulation on education providers beyond  
18 those reasonably necessary to enforce the requirements of the my choice savings account program.

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20 **NEW SECTION. Section 8. My choice savings account -- funding and amount.** (1) The amount of  
21 the my choice savings account provided for a single school year must be 65% of the per-pupil average, but not  
22 the per-ANB average, of total school expenditures for the resident school district for the previous school year.  
23 The superintendent of public instruction shall determine this figure. Funds to be included in total school  
24 expenditures must include:

- 25 (a) general fund;  
26 (b) transportation;  
27 (c) bus depreciation;  
28 (d) food services;  
29 (e) tuition;  
30 (f) retirement;

- 1 (g) miscellaneous programs;
- 2 (h) traffic education;
- 3 (i) nonoperating;
- 4 (j) lease-rental agreement;
- 5 (k) compensated absence fund;
- 6 (l) metal mines tax reserve;
- 7 (m) state mining impact;
- 8 (n) impact aid;
- 9 (o) litigation reserve;
- 10 (p) technology acquisition;
- 11 (q) flexibility fund;
- 12 (r) debt service;
- 13 (s) building reserve; and
- 14 (t) interlocal agreement.

15 (2) The resident school district shall continue to include the student in the district's ANB count until the  
16 student has graduated or reached 19 years of age. No other school district may include the student for ANB  
17 purposes.

18 (3) Upon notification by the parent of the student's participation and verification of the student's eligibility  
19 under [section 3], the superintendent of public instruction shall transfer the my choice savings account amount  
20 provided in subsection (1) to the commissioner of higher education in 10 equal payments, payable by the last day  
21 of the month, from August through May of the school year. The superintendent of public instruction may retain  
22 up to 2% of the payment amounts for deposit in the superintendent of public instruction my choice savings  
23 account fund established in subsection (5).

24 (4) The superintendent of public instruction shall deduct the my choice savings account amount provided  
25 in subsection (1) from the resident school district's aid payments in 10 equal deductions from August through May  
26 of the school year.

27 (5) (a) There is a superintendent of public instruction my choice savings account fund, consisting of  
28 money retained by the superintendent of public instruction pursuant to subsection (3). The superintendent of  
29 public instruction shall administer the fund. Money in the fund must be used for the superintendent of public  
30 instruction's costs in administering my choice savings accounts.

1 (b) The superintendent of public instruction may adopt rules and policies necessary for the administration  
2 of my choice savings accounts.

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4 **NEW SECTION. Section 9. Responsibilities of commissioner of higher education.** (1) The  
5 commissioner of higher education shall:

6 (a) manage individual my choice savings accounts and may contract with private financial management  
7 firms to manage my choice savings accounts with the supervision of the commissioner;

8 (b) adopt rules and establish procedures to administer and manage individual my choice savings  
9 accounts;

10 (c) ensure that parents have the freedom to expend account funds for the purposes listed in [section 4];  
11 and

12 (d) develop a cooperative agreement with the superintendent of public instruction to assist in the  
13 administration of [this act].

14 (2) The commissioner of higher education may retain up to 2% of the payment amounts for deposit in  
15 the commissioner of higher education my choice savings account fund established in subsection (3).

16 (3) There is a commissioner of higher education my choice savings account fund, consisting of money  
17 retained by the commissioner of higher education pursuant to subsection (2). The commissioner of higher  
18 education shall administer the fund. Money in the fund must be used for the commissioner of higher education's  
19 costs in administering my choice savings accounts.

20 (4) On a student's 26th birthday, the student's my choice savings account must be closed and any  
21 remaining funds must be returned to the state general fund.

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23 **NEW SECTION. Section 10. Codification instruction.** [Sections 1 through 9] are intended to be  
24 codified as an integral part of Title 20, and the provisions of Title 20 apply to [sections 1 through 9].

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26 **NEW SECTION. Section 11. Severability.** If a part of [this act] is invalid, all valid parts that are  
27 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
28 the part remains in effect in all valid applications that are severable from the invalid applications.

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30 **NEW SECTION. Section 12. Effective date.** [This act] is effective on passage and approval.

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