

**Amendment - 1st Reading-white - Requested by: Daniel Emrich - (S) Education and Cultural Resources**

- 2023

68th Legislature 2023

Drafter: Pad McCracken, 406-444-3595

SB0390.001.003

1 SENATE BILL NO. 390  
2 INTRODUCED BY D. EMRICH, J. WINDY BOY, S. KERNS, C. KNUDSEN, K. ZOLNIKOV, S. ESSMANN, B.  
3 MITCHELL, P. FIELDER, S. VINTON, L. SHELDON-GALLOWAY, T. MOORE, L. BREWSTER, B. MERCER, J.  
4 HINKLE, B. LER, A. REGIER, K. SEEKINS-CROWE, C. HINKLE, J. READ, M. HOPKINS, J. GILLETTE, G.  
5 PARRY, M. YAKAWICH, T. MANZELLA, B. BROWN, J. FULLER, K. REGIER, B. MOLNAR, S. HINEBAUCH,  
6 T. MCGILLVRAY, B. USHER, M. NOLAND, D. LENZ, D. BARTEL, G. HERTZ, C. FRIEDEL, B. GILLESPIE, C.  
7 GLIMM, K. BOGNER, P. GREEN, T. FALK, D. ZOLNIKOV, J. ETCHART, R. MINER, J. TREBAS, B. PHALEN,  
8 B. BEARD, L. DEMING, L. HELLEGAARD, T. SMITH, T. VERMEIRE, N. DURAM, R. KNUDSEN, N.

9 HASTINGS  
10  
11 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE EQUALITY OF EDUCATIONAL  
12 OPPORTUNITY ACT AND THE MONTANA EQUALITY OF EDUCATIONAL OPPORTUNITY EDUCATION  
13 SAVINGS ACCOUNT PROGRAM; PROVIDING LEGISLATIVE FINDINGS AND PURPOSES; PROVIDING  
14 DEFINITIONS; ESTABLISHING REQUIREMENTS FOR ELIGIBILITY AND ALLOWABLE EXPENSES;  
15 PROVIDING RESPONSIBILITIES FOR PARENTS, SCHOOL DISTRICTS, AND THE SUPERINTENDENT OF  
16 PUBLIC INSTRUCTION; PROVIDING RULEMAKING AUTHORITY; CLARIFYING THE AUTONOMY OF  
17 NONPUBLIC SCHOOLS ~~AND HOME SCHOOLS~~ UNDER THE ACT; PROVIDING FOR FUNDING OF  
18 EQUALITY OF EDUCATIONAL OPPORTUNITY EDUCATION SAVINGS ACCOUNTS; ESTABLISHING THE  
19 EQUALITY OF EDUCATIONAL OPPORTUNITY EDUCATION SAVINGS TRUST; AMENDING SECTION 20-5-  
20 102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
21

22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
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24 NEW SECTION. Section 1. Short title. [Sections 1 through 10] may be cited as the "Equality of  
25 Educational Opportunity Act".  
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27 NEW SECTION. Section 2. Montana equality of educational opportunity education savings

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1 **account program -- findings and purposes.** (1) There is a Montana equality of educational opportunity  
2 education savings account program provided by the legislature as a desirable educational program pursuant to  
3 Article X, section 1(3), of the Montana constitution, which gives authority to the legislature to provide for  
4 educational programs and institutions in addition to a basic system of public schools that will fulfill the goal of  
5 the people to have an overall system of education that offers equal opportunity to each person in the state to  
6 reach each person's full educational potential.

7 (2) The legislature finds that expanding educational opportunities and empowering parental choice  
8 within the state is a valid public purpose to ensure equal educational opportunity for all children.

9 (3) The purposes of [sections 1 through 10] pursuant to Article X, section 1(1), of the Montana  
10 constitution are to ensure that Montana children have access to educational opportunities that will develop each  
11 child's full educational potential.

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13 **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 10], the following definitions  
14 apply:

15 (1) "Eligible postsecondary institution" means an accredited postsecondary institution located in  
16 the state.

17 (2) "ESA student amount" means the sum of:

18 (a) the data-for-achievement payment rate under 20-9-306;

19 (b) the Indian education for all payment rate under 20-9-306;

20 (c) 140% of the per-ANB amounts of the special education instructional block grant and the special  
21 education-related services block grant under 20-9-321; and

22 (d) the applicable per-ANB maximum rate established in 20-9-306 for the student multiplied by the  
23 ratio of adopted general fund budget to maximum general fund budget in the prior year, rounded to the nearest  
24 one hundredth and not to exceed 1.00, in the district in which the student is included for ANB purposes under  
25 the program.

26 (3) "Montana equality of educational opportunity education savings account" or "account" means  
27 an account within the trust established in [section 10] in which a payment under [section 9] is deposited on

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1 behalf of a qualified student for the purpose of reimbursement for the purchase of allowable educational  
2 resources pursuant to [section 4] for qualified students.

3 (4) "Parent" means a biological parent, adoptive parent, legal guardian, custodian, or other person  
4 with legal authority to act on behalf of a qualified student and whose parental rights have not been terminated.

5 (5) "Program" means the Montana equality of educational opportunity education savings account  
6 program established in [section 2].

7 (6) "Qualified school" means a nonpublic school ~~or home school~~ serving any combination of  
8 grades kindergarten through 12 that meets the requirements for Montana nonpublic schools under 20-5-109.

9 (7) "Qualified student" means a resident of the state who in the current school year is between the  
10 ages of 5 and 19 on September 10 and who:

11 (a) is not currently enrolled in a public school; and

12 (b) was counted during the previous school year for purposes of school district ANB funding.

13 (8) "Resident school district" means the school district in which a student resides.

14  
15 **NEW SECTION. Section 4. Use of Montana equality of educational opportunity education**  
16 **savings account -- allowable educational resources.** (1) Money deposited in a Montana equality of  
17 educational opportunity education savings account may be used for any of the following on behalf of the  
18 participating qualified student:

19 (a) qualified school tuition, fees, textbooks, software, or other instructional materials or services;

20 (b) an educational program or course using electronic or offsite delivery methods, including but not  
21 limited to tutoring, distance learning programs, online programs, and technology delivered learning programs;

22 (c) curriculum, including supplemental materials necessary for or in addition to the curriculum;

23 (d) tutoring;

24 (e) educational therapies or services, including but not limited to occupational, behavioral,  
25 physical, speech-language, and audiology therapies from licensed or certified practitioners or providers,  
26 including licensed or certified paraprofessionals or educational aides;

27 (f) state or nationally recognized assessment tests, advanced placement exams, entrance

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**Section 11.** Section 20-5-102, MCA, is amended to read:

**"20-5-102. Compulsory enrollment and excuses.** (1) Except as provided in subsection (2), any parent, guardian, or other person who is responsible for the care of any child who is 7 years of age or older prior to the first day of school in any school fiscal year shall cause the child to be instructed in the program prescribed by the board of public education pursuant to 20-7-111 until the later of the following dates:

- (a) the child's 16th birthday; or
- (b) the date of completion of the work of the 8th grade.

(2) A parent, guardian, or other person shall enroll the child in the school assigned by the trustees of the district within the first week of the school term or when the parent, guardian, or person establishes residence in the district unless the child is any of the following:

- (a) enrolled in a school of another district or state under any of the tuition provisions of this title;
- (b) provided with supervised correspondence study or supervised home study under the transportation provisions of this title;
- (c) excused from compulsory school attendance upon a determination by a district judge that attendance is not in the best interest of the child;
- (d) excused by the board of trustees upon a determination that attendance by a child who has attained the age of 16 is not in the best interest of the child and the school; ~~or~~
- (e) enrolled in a nonpublic or home school that complies with the provisions of 20-5-109. For the purposes of this subsection (2)(e), a home school is the instruction by a parent of the parent's child, stepchild, or ward in the parent's residence and a nonpublic school includes a parochial, church, religious, or private school.
- (f) participating in the Montana equality of educational opportunity education savings account program pursuant to [sections 1 through 10]."

NEW SECTION. **Section 12. Transition.** The legislature intends that this program be operational for the 2023-2024 school year and that the office of public instruction promptly develop all necessary components