

## TESTIMONY IN SUPPORT OF SB 2400

Sen. Michelle Axtman

House Education Committee

Tuesday, March 18, 2025

Mr. Chairman and members of the Senate Education Committee-

For the record, I am Senator Michelle Axtman, representing District 7. I am here to present Senate Bill 2400, which establishes a framework for a first of its kind educational savings account program in North Dakota.

I will start by explaining how SB 2400 got here today. In the 68<sup>th</sup> legislative session, we passed HB 1532, commonly known as the "voucher bill". However, Governor Burgum vetoed the bill stating that it "did not go far enough". I can now say, he was most definitely correct. Following his words, I dedicated my time the last year and a half to truly studying what educational opportunities could look like in North Dakota if we really got it right. Thankfully I had lots of examples to study as many states have implemented vast varieties of educational opportunities, allowing me to learn from their first attempts and their growth over the years. I met with educational leaders across our state and considered their inputs and concerns. I analyzed every state's multiple programs from micro grants, to vouchers, to tax credits scholarships, to tax deductions, to educational savings accounts. I found things I liked in each program, things I didn't like in each program, and things I felt were missing in each program. The one thing I kept getting hung up on was that several states prided themselves on a "universal" ESA. However, what that really means is that in their ESA, funds are universal only for those students who first opt out of the public school system. I decided

to work towards a bill that broke the mold, an educational opportunities framework that was for ALL students, truly "universal". Senate Bill 2400 would do just that, making North Dakota the first state to have an ESA program that also supports all public school students.

I would like to now move into the details within SB2400. It would establish an educational savings account program, administered within the department of public instruction. The ESA framework within SB2400 is a tiered program. The tiers are laid out starting on page 4, section 6. The first tier of the program would apply to all public school students, and they would all receive \$500 to be used to select services tailored from an online marketplace to meet their individual needs or interests, to enhance or supplement their public school education. Students do not learn in a one size fits all approach, and that demand has transferred to our school systems, trying to meet these unique individual needs. Having these funds go directly to the individual child allows every family to make the decision in what services can best help their child meet learning goals. I saw how this can play out in micro grants in other states and I saw school leaders create partnerships with contracted services selected by parents to help students make significant learning gains. The second tier of the program would apply to students who are enrolled in a non-public participating school. Students whose families household income is within 300% of the federal poverty level would receive \$3500, students whose families household income is within 500% of the federal poverty level would receive \$2000, and families above the 500% would receive \$500. This means-based tiered structure was chosen to truly give families who are not be able to afford tuition a chance to choose the best environment for their child to learn. In this tier, if a family chooses to use the funds towards a tuition payment, the student would be required to partake in the ND state assessment. The third tier in the program would be for home-education students. They

would receive \$500 in their ESA marketplace to be used to enhance or supplement their home education through maybe an online language course or services from a specialist for speech or dyslexia therapy.

This ESA program would be executed through a high quality online digital wallet and marketplace. This online marketplace would have only educational services that are researched, scrutinized, and individually approved by the department. Parents can log on and shop for either local services or virtual options that best fit their own child's needs. I would like to highlight a few unique items that SB2400 adds as qualifying expenses within the ESA marketplace.

Now I know that so far this session you have heard many arguments both for and against ESAs. I know that again we will hear arguments that our private schools should not take funds because they do not take all students with disabilities. But today, you will also hear from parents at a private school, right here in ND, whose mission is to solely educate students with special educational needs. I think it is time to set that argument aside and instead focus on how we could build a system that collaborates and partners together to best educate these students with unique needs. You may have heard arguments that school choice does not help rural communities; however, SB 2400 was written with rural students in mind. Please look at the list of the array of items that will be on the marketplace. For our rural schools whose students may not have access to certain language courses such as French class, a coding class, or even certain services like an occupational therapist or tutoring, this bill provides funds for a family to not only find it, but also now afford it. You will hear from home educated families who are supportive of ESAs and who feel that this ESA could make a difference in their child's educational outcomes. I have taken the opportunity to speak about this bill with many of my fellow parents across the state, from the public,

private, and homeschool sectors, and not one of them brought up the arguments you may hear today, rather they all were excited about the increased opportunities this offered for their children and the future of our State as a whole. This bill isn't about one educational option over another, this bill is about supporting each and every North Dakota student.

In senate education policy, we heard from Superintendent Baesler regarding the details of the Presidential Executive order on Education Opportunity. I would like to reiterate her comment that the " the Order makes it clear that at the federal level school choice is no longer a question of "if" but "how". I urge you to consider SB 2400 to be that framework of "how".

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO  
SECOND ENGROSSMENT**

**REENGROSSED SENATE BILL NO. 2400**

Introduced by

Senators Axtman, Hogue, Sickler, Myrdal

Representatives Bosch, M. Ruby

(Approved by the Delayed Bills Committee)

- 1 A BILL for an Act to create and enact a new chapter to title 15.1 of the North Dakota Century  
2 Code, relating to the establishment of the education savings account program; to provide a  
3 continuing appropriation; and to provide an appropriation.

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

5 **SECTION 1.** A new chapter to title 15.1 of the North Dakota Century Code is created and  
6 enacted as follows:

7 **Definitions.**

8 As used in this chapter:

- 9 1. "Education service provider" means a person approved to provide qualified education  
10 services. The term does not include a participating school.  
11 2. "Eligible student" means an elementary or secondary student who is a resident of this  
12 state and eligible to attend a public school, including a student who has received a  
13 scholarship under the education savings account program, if the student has not  
14 graduated from high school or reached twenty-one years of age.  
15 3. "Parent" means parent or legal guardian.  
16 4. "Participating school" means a nonpublic school providing education to elementary  
17 students, secondary students, or both, which has notified the administrator of the  
18 school's intention to participate in the education savings account program and comply  
19 with the education savings account program requirements.  
20 5. "Qualified educational expenses" means:

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- 1           a. Tuition and fees at a nonpublic school;
- 2           b. Textbooks, fees, or payments for educational therapies, including tutoring or
- 3                 cognitive skills training;
- 4           c. Curriculum fees, software, and materials for a course of study for a specific
- 5                 subject matter or grade level;
- 6           d. Tuition or fees for nonpublic online education programs;
- 7           e. Tuition for vocational and life skills education approved by the superintendent of
- 8                 education;
- 9           f. Education materials and services for students with disabilities from an accredited
- 10                 provider, including the cost of paraprofessionals and assistants who are trained in
- 11                 accordance with state law;
- 12           g. Standardized test fees and advanced placement examinations or examinations
- 13                 related to postsecondary education admission or credentialing;
- 14           h. Tuition or fees for dual-credit courses;
- 15           i. Meals served to students in school buildings;
- 16           j. Mental health assistance;
- 17           k. Medical appointments necessary for educational benefit;
- 18           l. Educational camps; and
- 19           m. Qualified expenses as adopted by the superintendent of public instruction in
- 20                 administrative rules.

21           **Education savings account fund - Establishment - Continuing appropriation.**

22           There is created in the state treasury an education savings account fund. The fund consists  
23 of moneys appropriated to the superintendent of public instruction for the education savings  
24 account program. Moneys in the fund are appropriated on a continuing basis for education  
25 savings accounts.

26           **Superintendent of public instruction - Administrator - Duties.**

- 27           1. The superintendent of public instruction is the education savings account program
- 28                 administrator, and shall:
- 29                 a. Annually inform eligible students and parents of the schools participating in the
- 30                         education savings account program;

- 1           b. Create a standard application form a parent of an eligible student may submit to  
2           establish the student's eligibility for the education savings account program. The  
3           superintendent shall ensure the application is readily available to interested  
4           families through various sources, including the department's website;
- 5           c. Execute a multimedia marketing program targeting eligible families, particularly  
6           families below the state's median household income, informing the families about  
7           the education savings account program and how to apply;
- 8           d. Establish a web and phone-based support system providing parents with  
9           education savings account program application support and ongoing account  
10          maintenance support;
- 11          e. Reduce potential waste, fraud, and abuse, and ensure that any technology  
12          platform used for the program meets the state's highest security requirements,  
13          including compliance; and
- 14          f. Adopt rules to implement this chapter.
- 15        2. The superintendent of public instruction may:
  - 16          a. Make and enter a contract with a third-party entity to administer and audit the  
17          program, including allocating funds from each eligible student's account for the  
18          payment of qualified educational expenses by the eligible student's parent;
  - 19          b. Conduct audits or other reviews necessary to properly administer the program;  
20          and
  - 21          c. Bar a participating school or education service provider from the education  
22          savings account program, if the superintendent determines the participating  
23          school or education provider has:
    - 24               (1) Routinely failed to comply with the accountability standards established  
25               under this chapter; or
    - 26               (2) Failed to provide the eligible student with the educational services funded by  
27               the education savings account.

**Enrollment - Account deposits.**

- 29        1. From January first to June thirtieth immediately preceding the school year for which  
30        the education savings account payment is requested, the parent of an eligible student

- 1           may request an education savings account payment by submitting an application to  
2           the superintendent of public instruction.
- 3           2. Within thirty days of submission of an application, the superintendent of public  
4           instruction or third-party entity shall notify the parent whether the eligible student is  
5           approved for the following school year and specify the amount of the education  
6           savings account payment for the eligible student, if known at the time of the notice.
- 7           3. For an eligible student approved for an education savings account payment, the  
8           superintendent of public instruction or third-party entity shall establish an individual  
9           account for the eligible student in the education savings account fund and deposit the  
10           payment into the eligible student's individual account within thirty days following  
11           submission of the application, but in any case no later than July fifteenth. The funds  
12           must be available immediately for the payment of qualified educational expenses  
13           incurred by the parent for the eligible student during the fiscal year.
- 14           4. A nonpublic school or other provider of qualified educational expenses accepting  
15           payment from a parent using funds from an eligible student's individual account in the  
16           fund may not refund, rebate, or share any portion of the payment with the parent or  
17           eligible student.
- 18           5. Moneys remaining in an eligible student's individual account upon conclusion of the  
19           fiscal year must be returned to the education savings account fund.
- 20           6. Beginning with the school budget year beginning July 1, 2026, for each school year,  
21           an eligible student who:
- 22           a. Attends a public school is eligible to receive an education savings account  
23           payment of five hundred dollars.
- 24           b. Is enrolled in and attends a nonpublic participating school is eligible to receive an  
25           education savings account payment of:
- 26           (1) Three thousand five hundred dollars, if the eligible student's household has  
27           an annual income less than or equal to three hundred percent of the most  
28           recently revised poverty income guidelines published by the United States  
29           department of health and human services.
- 30           (2) Two thousand dollars, if the eligible student's household has an annual  
31           income greater than three hundred percent and less than or equal to five



1                    hundred percent of the most recently revised poverty income guidelines  
2                    published by the United States department of health and human services.

3                    (3) Five hundred dollars, if the eligible student does not qualify under  
4                    paragraph 1 or 2.

5                    c. Participates in a home education program in accordance with chapter 15.1-23, is  
6                    eligible to receive an education savings account payment of five hundred dollars.

7                    This chapter and related rules do not apply to a home education student who is  
8                    not participating in the program under this chapter.

9                    d. Attends a nonpublic school that is not a participating school is eligible to receive  
10                    an education savings account payment of five hundred dollars.

11                    7. Education savings account payments may be approved for one school year and  
12                    applications must be submitted annually for payments in subsequent school years.

13                    8. Funds deposited in an education savings account are not taxable income to the parent  
14                    or eligible student.

15                    **Participating schools - Accountability standards - Autonomy.**

16                    1. A participating school shall:

17                    a. ~~Comply with all health and safety laws or codes that apply to nonpublic~~  
18                    ~~schools~~Obtain approval to operate under section 15.1-06-06.1.

19                    b. ~~Hold a valid occupancy permit if required by the city in which the school is~~  
20                    ~~located.~~

21                    ~~c. Certify the school complies with the nondiscrimination policies under 42 U.S.C.~~  
22                    ~~1981.~~

23                    ~~d. Conduct criminal background checks on employees.~~

24                    ~~e. Exclude from employment any individual who:~~

25                    ~~(1) Is not permitted by state law to work in a nonpublic school; or~~

26                    ~~(2) Might reasonably pose a threat to the safety of eligible students.~~

27                    ~~f.c. Provide a parent with a receipt for all qualifying expenses at the school.~~

28                    ~~g.d. Demonstrate the school's financial viability, if the school will receive fifty thousand~~  
29                    ~~dollars or more during the school year, by filing with the superintendent of public~~  
30                    ~~instruction before the start of the school year.~~

- 1                   (1) A surety bond payable to the state in an amount equal to the aggregate  
2                   amount of funds from education savings accounts the participating school  
3                   expects to receive; or  
4                   (2) Financial information demonstrating the school is able to pay an aggregate  
5                   amount equal to the amount of the funds from education savings accounts  
6                   the participating school expects to receive.

7                   e. Administer state tests and assessments and comply with requirements in  
8                   accordance with sections 15.1-21-08, 15.1-21-09, and 15.1-21-10.

9                   2. ~~a.~~ An eligible student using education savings account program funds for tuition  
10                   payments at a participating school shall take required state tests and assessments in  
11                   accordance with section 15.1-21-08.

12                   ~~b.3.~~ The superintendent of public instruction shall:

13                   a. Shall compile and publish assessment results in accordance with sections  
14                   15.1-21-09 and 15.1-21-10.

15                   ~~c.~~ The superintendent of public instruction shall

16                   b. Shall administer an annual parental satisfaction survey requesting each parent of  
17                   an eligible student receiving an education savings account program payment to  
18                   indicate the number of years the child has participated in the education savings  
19                   account program and express the parent's:

20                   (1) Satisfaction with the education savings account program; and

21                   (2) Opinions on other topics, items, or issues that may indicate the  
22                   effectiveness of the education savings account program.

23                   c. May apply to a federal agency for supplemental funds for this program and may  
24                   create other education savings account programs in accordance with  
25                   requirements identified in a federal grant. The department of public instruction  
26                   may adopt rules to implement this subdivision. If there is a conflict between a  
27                   provision of this chapter and rules adopted to receive a federal grant under this  
28                   subdivision, the rules supersede this chapter.

29                   3.4. A participating school or education service provider is autonomous and not an agent of  
30                   the state or federal government. The superintendent may not regulate the educational  
31                   program of a participating school or education service provider that accepts funds from

1           an education savings account. The creation of the education savings account program  
2           does not expand the regulatory authority of the state, its officers, or a school district  
3           beyond the regulations necessary to enforce the requirements of the education  
4           savings account program.

5           **SECTION 2. APPROPRIATION - SUPERINTENDENT OF PUBLIC INSTRUCTION -**  
6           **EDUCATION SAVINGS ACCOUNT PROGRAM.** There is appropriated out of any moneys in  
7           the general fund in the state treasury, not otherwise appropriated, the sum of \$3,000,000, or so  
8           much of the sum as may be necessary, to the superintendent of public instruction for the  
9           purpose of administering the education savings account program, for the biennium beginning  
10          July 1, 2025, and ending June 30, 2027.

