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2005 HOUSE EDUCATION

HB 1529


2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1529**

House Education Committee

☐ Conference Committee

Hearing Date **14 March 2005**

Tape Number	Side A	Side B	Meter #
1	X		100 - 5600
2	X		1855 - 1950
Committee Clerk Signature 			

Minutes:

Chairman Kelsch opened the hearing of HB 1529, a delayed bill.

Representative Rick Berg, District 45, introduced the bill. I do enjoy coming back to the Education Committee. I want to give you a hand out (**attached**) and then I want to talk about what I think is one of the most powerful savings tools for college that is out there. It's like the 529 program a federal program that has very tight requirements and regulations on it. It allows a parent or any one to put money into an account to be used for educational purposes: tuition, room, books, board. The power of the 529 is money can grow tax free in the program. The genesis of this bill really gets back to some of the core things that we've always felt, and certainly in this committee, what is our #1 asset in the state of ND. We've said it many times that our #1 asset is our youth, our children, the next generation and we've said the path to a better future for them is education. This bill attempts to address both those issues. If this bill is passed, what it would mean, and you have the sheet before you, that the state would match on a

two-to-one basis the initial dollars put into this fund. If a parent put \$100 a month into to their child's account when that child were 18 they would have \$50,000 in an educational fund to be used wherever their passions and wherever their desires took them for educational purposes.

That's really the essence of this bill. We would like for when a child born their parents be notified, be aware of this program and whatever amount they are willing and able to put in, if it's \$200 we would match it with \$100, if it's \$2,000 we would match it with \$1000. From the long-term perspective every dollar you can put in early will mean more dollars down the road. Hopefully like the fable in Rock Soup when we put this little corpus in there that others will add to that child's education fund during their years from birth to 18 and build up an even higher amount in this educational fund. There are several people here that can address the specifics of the fund more closely. We also have a wonderful asset in this state called the Bank of ND. For those that are not aware of it, the Bank of ND several years ago set up a special 529 program. Their program does not charge a fee to open an account and does not charge an annual fee or a management account for the dollars that a ND parent would put into the fund. As it relates to investing there is not a lower cost option for people to invest in a 529 program in ND.

Hopefully these dollars will help to build the fund. The question of where the dollars come from. Currently there is about \$20 - \$26 million in the tobacco settlement that goes into the common schools trust fund. These dollars of the common schools trust fund--the interest and dividends are divided among all students in K-12. In probably the last five years or even the last ten years this amount has been growing at approximately \$300 per student in the common schools trust fund. What this would do would take about a little over \$10%, capped at 3.5 million. If it is not used the money wouldn't be spent. It would take \$3.5 million from the

tobacco money that was dedicated towards education to start an education account. That money would not flow into the common schools trust fund. If every child from kindergarten through high school had \$50,000 in their educational account, what kind of a student would that become whether that were used for two-year or four-year school. Are we not really serving the purposes of K-12 even better by giving children hope that they will have resources to continue their education after high school. There are some technical issues that you may want to address as amendments but that's the gist of the bill.

Rep. Hawken: I certainly agree with your idea of a higher ed savings account. My husband and I are setting up two because we have twin grandchildren. My first question is would be do I qualify for this?

Rep. Berg: No.

Rep. Hawken: Earlier in this session we said we couldn't do child care credits because we did not have the appropriate funding. We decided we could not do a similar kind of thing for people who wanted to do long-term care insurance which down the road would potentially save the state many, many dollars. This would take money away from K-12, maybe not a lot. Since we are not K-12 anywhere close to what we would like to be funding it, why should we do this?

Rep. Berg: If every child in high school has dollars set aside in an account that's growing, I think it will make them a better student in that high school because when they graduate from high school the opportunities that they have for them with the dollars would be much more than without them.

Rep. Hawken: But we didn't do those other things. Why is this a better idea?

Rep. Berg: I don't know how day care whether we fund that or don't give a tax credit for that how that helps teachers teaching students and ensuring that they have a higher level of opportunity. It does relate to priorities and I expect that if this is something the Committee supports, fine. If it's not and there is something you feel there is a higher priority then . .

Rep. Hawken: My major concern is the fact that this is taking that would go directly to schools currently. Not that this is a bad idea. This is something that we are going to do because we feel it's that important. The rationale for not doing the credit on the long-term care was that people were going to do that anyway. I'm not so sure that this is any different from that and it would take money away from schools.

Rep. Berg: I don't want to create an argument with this thing. I do think as I look at the history of ND and within our means the focus that we have put on education that I think it is the #1 priority of the people of the state. We need to take care of all the other issues. The other reason for looking at this now the amount of money that is going per student out of the common schools trust fund has been an increasing amount and so I think this bill will effect it about \$5 per student or something like that in the distribution portion.

Rep. Hanson: Two questions. It's \$100 a month payment. What happens if you miss a month? The second question is can you have a lump sum of \$1200 in one shot.

Rep. Berg: This is very important for grandparents to know. This is not requiring any parent to put in any dollars. The program would only be started with a minimum of \$300. A parent or grandparent would have to put in \$200 and the state would then match that. If the parent or grandparent does not put another dollar in then that \$300 would grow until they wanted to use it for college. There is no requirement except for the minimum. There are federal requirements

and there are others who can address this better than I can. My understanding is someone can put up to \$250,000 into an account for their child. If you did that for a young child they would have way more money than they needed for their college education and what they don't use can go on to another person. There are people who are creating education legacies with the 529 program that are saying to their child we want to insure you have money in this account for your education. We also want to insure that your children and maybe even your grandchildren will be able to access money out of this account.

Rep. Mueller: This appears to a nice piece of legislation but the question I have is if I am to defend scholarships versus the program that you outlined and put \$3.5 million into the scholars program here in the state and move the criteria down or make it based on academic qualifications or financial need. Why would this be a better idea than putting money out there in the form of scholarships?

Rep. Berg: You could certainly do that and spend your \$3 million in scholarships. If we're putting a \$1000 in here for one child and it's turning into \$50,000 in 18 years it's multiplying 50 times and those dollars are going into education. We're talking taking \$3 million times 50 and putting \$150 million into higher education 18 years down the road. I think the impact is much more dramatic down the road and what we are doing is creating a culture of saving for education.

Rep. Norland: When a student turns 18 and at that point had the \$50,000 and then chose not to go to college, could they draw the money out?

Rep. Berg: I think someone from the Bank of ND can address that more clearly but the beneficiary in this program would be a child born in the state of ND. If that person no longer becomes a beneficiary they would need to reimburse the state of ND it's share it put in. If you

take that out of it then my understanding of the program is you can name a different beneficiary.

If you have a child that is not going to use it you could name another child, a niece, a nephew, a cousin, anyone a beneficiary.

Rep. Norland: Would that whole sum stay in there for the beneficiary or would the state's part come out?

Rep. Berg: That's something the Committee will have to look at. The intention is that if the beneficiary changes then the state's share would come out.

Rep. Hunskor: It seems it's a good incentive to get parents involved in the process. I think that's a positive thing. My question has to do with the 8%. Is that a firm figure?

Rep. Berg: It's very difficult to project anything beyond tomorrow. The 529 is not a new program. It's been in for about 4 years. What this is is kind of like an IRA account. The parent can make decisions on if they want to invest more aggressively or more conservatively. If you look at the history the returns range from 15-18% a year to 1-2% a year. Some have even lost. What kind of return a person would earn would be dependent on what would happen over those 18 years. Typically when people look at the market long-term, they look for somewhere between a 7-11% return long-term. Using 8% was just a number. The other point I wanted to make is I think this is more than just for the parents. I think if grandparents are aware that their children are doing this for their grandchildren, they may add to that money if they know it's set up and they could add to it at any time. I think it will be a wonderful thing. My mother did this for her grandchildren. One account went from \$5000 to \$6000 in one year. It was a neat opportunity for young kids to be taught about saving and why this is important and how it's

growing. It doesn't matter where the money comes from and it will create an opportunity for others to invest and know that money is for education.

Rep. Haas: On the appropriations section of the bill it talks about the matching grant would be equal to the 50% of the initial or subsequent deposits made during the first year of the life of the child. Would that mean a unlimited matching amount like \$10,000.

Rep. Berg: The most the state would match is \$1000. The thought would be that if a parent didn't have the resources to put in the \$2000 the minimum is \$300 to get the account going.

Rep. Haas: If you had to redesignate the beneficiary and it became apparent that the fund would not be used for education would be the interest accrual still be tax free?

Rep. Berg: I believe not. I believe there are pretty severe penalties if it's not used for education.

Chairman Kelsch: On the appropriation of the \$3.5 million and it says in here "so much as is necessary." If only \$3 million is used does \$500,000 go into the common school trust fund?

Rep. Berg: That's my understanding. We have approximately 7,000 kids born every year and the \$3.5 million is that 25% of those children were named as beneficiaries in this program.

We're looking at about 1500 - 2000 students. Since the 529 program was started in the Bank of ND there have only been 700 people that got involved in the program. The other important point is that when a child is born in this state they would have this opportunity. The match is not for someone who is 10 years old. That's the essence of the decision this Committee needs to make. Does it make it sense to look at this and give it a try or is it better to have our state aid going from \$300 - \$320 or does it go from \$320 - \$325.

Rep. Wall: What if in the first year a person deposited \$2000, took the state match of \$1000, and never put another dime in. Can they do that?

Rep. Berg: Absolutely. Whatever that \$3000 would grow to in 18 years would be what they had for education.

Speaker of the House Klein testified in favor of this bill. This is forward looking legislation. It's investment in our youth. I expect a serious return on in investment and I look at this as similar to the GI Bill. The government received money back hundreds of times over what they spent on educating returning veterans at the time. Occasionally governments pass magnificent forward looking legislation. In review of major legislation passed out of Washington, historians selected a number of bills. I will briefly mention some. One was the Land Grant Act that developed the West, the second one was the GI Bill that expanded opportunities for the middle class and moved people up to college education, a third one was the Interstate Highway System. If you look at major legislation that affected the country growth and government, those are probably three of the big ones that historians have selected since we've been a country. I think this is some of the most significant legislation that we can pass out of this body, HB 1529 fits that category for ND. So pass this bill out and let's roll.

Senator Tim Flakoll, District 44, testified in favor of the bill. I do think this is a very clever piece of legislation. One of the things to remember is that of the \$50,000 that could be generated will be plunked back into our system. It could be leveraged if you take \$3.5 million in this next biennium that could be \$175 million down the line in terms of our higher education system. Because oftentimes struggle to figure out what should be get for nieces or nephews this bill would allow me to be a better uncle or a better neighbor because we are always looking for

things to help insure the next generation. I think it is a very creative piece of legislation that can leave a legacy for people. The two to one match with the leveraging is a great use of the tobacco funds. One of the other things we need to think of is if a student has money in the bank I think their chance of success is much higher because they will spend much less time working to try to earn money to pay for their education. They will have more time to explore those educational opportunities and they won't be pulled several different ways. You oftentimes hear of students who have to take up to three jobs while still attending an institution with a full complement of classes. This can go a long way to help that out. It will take away from the common schools trust fund approximately \$3 per student per year at the current rate.

Rep. Mueller: In the bill there is no requirement that these young people attend college in ND is there?

Senator Flakoll: No there is not.

Rep. Tom Brusegaard, District 19, testified in favor of the bill. I jumped at the chance to sign on to this bill because I believe in the program and that it's important to ND. This is a nice piece of legislation that provides incentives to access the 529 program already set up in the state. I've spent considerable time thinking of the purpose of higher education in ND and how its mission has changed over the years. I firmly believe the university system was set up to educate ND students at a higher level for the benefit of the state of ND. Over the years we have placed a lot of demands on our higher education system. We assign it an economic development mission.

We use it for job training. We use it for a lot of different things and sometimes we lose focus of the primary purpose of colleges and universities in this state and that is to educate the students of ND beyond K-12. This program will allow the state of ND to work together with parents and

the Bank of ND to provide an opportunity for their children to receive an education beyond that of high school level and I firmly support it. I think that while we all like to put as much money as we can in K-12 education I believe for a very small price we can provide a substantial incentive for parents to invest in non only the first 18 years of their children's life but the first 22-23 years. This is an opportunity for a student to start out his college career knowing that he can get four years paid for without the demand of working part time at the Stop n Go or a pizza delivery man. Maybe we can provide some focus for these students which I believe has been lost. You can see the average time spent at universities as increased from 4 years to 5 years. This will help students get through the university system quickly with their full attention focused on their studies.

Rep. Herbel: I understand that this going to go into effect when it gets signed. So my question is this. Why not amend it to say anybody four years previous to this but they can't draw it until after they graduate from college which will enable them to pay off their bills for those other four years as well.

Rep. Brusegard: It sounds like you have four year old grand kids. You would have to ask someone at the Bank of ND about the opportunity to draw after graduation to pay off student loans. I'm not sure that possible under the 529 program. My intent with that \$3.5 million is to cover as many newborn children as we can with the match.

Chairman Kelsch: I'm being lobbied very heavily by my seat mate to change the effective date to April 1 because he's expecting a baby in April or May and would like to get in on this.

Rep. Brusegard: You can clear out the effective dates and include as many kids in as you want as long as you understand that as we do that we are increasing the price tag or decreasing the amount of the incentive.

Eric Hardmeyer, president of the Bank of ND, testified in favor of the bill. **(Testimony attached.)** His testimony included a suggested amendment that would address forfeiture and compliance with IRS rules.

Rep. Hanson: If after 18 years you want to draw out in one lump sum, would that student be required to pay the income tax right off the top then?

Hardmeyer: One thing you have to keep in mind is that there eligible uses for the savings plan and that includes books, tuition, room and board. If the withdrawals that you talking about is outside of those then there are tax implications on those dollars.

Rep. Hanson: If you take it in four payments each year of college you would not pay taxes on those eligible expenses you mentioned?

Hardmeyer: Those would be eligible expenses: books, tuition, room, board and would not be taxable items. Anything above and beyond those would be subject to tax.

It's not a reimbursement type thing. You can draw it out and use it.

Rep. Meier: What happens if a family moves would they still be able to invest in that child's fund?

Hardmeyer: That would have to be one the decisions you make as legislators if that's a forfeiture or not.

Chairman Kelsch: In other words if they move from Bismarck to Minneapolis it would be a decision we would have to make as to whether we believe that \$1000 state match needs to come back. That would be a policy decision.

Rep. Sitte: What if a student registers for classes, has everything paid out of this fund, and then drops out and really applies the money on a new car. Will it be like student loans in that you have the ability to track that.

Hardmeyer: You are now approaching the area where I run out of answers. I will have Shirley Glass come up and answer your technical Questions.

Shirley Glass, associate director of student loans, Bank of ND: What we found in researching what some of the other states have done is that they are making payments from the matching grants directly to the institution to assure that those funds are used for higher education expenses.

Rep. Mueller: Can you tell us what we currently have at the bank that speaks to the purpose of this bill but also speaks to the 529 specifically and how that works. What kinds of matches are there if any?

Glass: How the 529 works in a nutshell is that it allows any individual to contribute moneys toward higher education. The minimum amount to establish an account for ND is \$25. You have to contribute \$300 within the first year. Beyond that there are no additional contribution requirements. You can currently contribute up to \$269,000. Those funds grow tax free and as long as the funds are used for qualified higher education purposes there are no taxes as the funds are withdrawn. If for any reason funds are taken out for non-qualified purposes the person withdrawing those funds is taxed on the earnings portion of the withdrawal. Funds can be used

to attend any higher educational institution in the United States or abroad as long as they are accredited by the Department of Education.

Rep. Mueller: The nature of the investments, would you talk to us about that. Are we involved with the stock market, federal bonds or where does that anticipated 8% come from.

Glass: Currently there are a number of different investment selections that the participant can make at they establish the account. It can be a conservative, moderate, or an aggressive investment. They can change selections annually or any time you change the beneficiary. We are also looking at offering a guaranteed option in the future.

Rep. Mueller: Should we pass this bill and it gets through the system, would be the investment system be the same for this bill.

Rep. Glass: In reviewing what other states allow, some allow the participant to choose the investments on the matching funds. Other states are requiring that those go into a particular guaranteed type option. There is some flexibility on how you choose to move forward with that.

Rep. Hunsakor: You indicated that the money is paid directly to the institution. What about unused funds are they returned to the state?

Glass: My testimony about making payments directly to the institution has to do with what some of the other states are doing in the course of matching funds.

Rep. Hunsakor: If a student drops out half way through the session and there are unused funds there, what happens with that?

Glass: That goes to the amendment that Mr. Hardmeyer spoke about in that if they are not used for qualified higher education and there's a change in beneficiary that it would require either a partial or full forfeiture of the matching dollars.

Rep. Haas: How do you verify withdrawals are used for college expenses?

Glass: Prior to the 529 there was required documentation. Those requirements have been relaxed and there is a self certifying statement anytime a withdrawal is requested. I do believe that's why some of the states have more stringent requirements for their matching funds than they have for the typical 529 funds.

Bev Nielson, ND School Boards Association, testified in favor of the concept but expressed concern about the source of funds. On the bottom of page 2, starting on line 29, that last phrase that says "less any amount otherwise appropriated by the legislative assembly." We have a concern that those funds are no longer protected to go to the schools trust fund. It's a "crack in the dam." It establishes a precedence we feel could cause a myriad of groups asking for other good, worthy programs every session to try to tap into the school's portion of the tobacco settlement. If you remember when that money came to us there were 100 different bills and groups and ideas and programs that wanted to tap into the money. We believe that money serves us well in the trust fund and we have some concern that this might happen every two years. Right now the bill has a two-year sunset on it. The way I read that we are only going to do this for two years and people who get in to it in those first two years it's for them and then the program won't be there for any other new participants. If that isn't the case we're going to be back every two years for another \$3 million and another \$3 million. When you remove the \$3.5 million from the school trust it might only be \$5-6 for that year but what happens is that money is lost from being investing and growing. That's what grows our fund. Perhaps you could look to the higher ed budget or surpluses that are someplace else for these funds.

Chairman Kelsch: You are saying you are against the bill.

Nielson: We were talking about that but with the esteemed sponsors of the bill and everyone favoring the concept, which we do as well, we didn't want to appear to say that we think education savings plans are a bad idea. We do object to the source of the money and would like you to look elsewhere for it.

Doug Johnson, ND Council of Educational Leaders, testified in support of the concept. The need to have a savings plan in place is important. We do have concerns about where the dollars come from. K-12 education funds are short and this is \$3.5 million that goes out in appropriations that would be lost to our school districts. We do have those concerns. We would like you to look at other sources. Perhaps with a sunset clause in this bill it would be an ideal opportunity to look at the surplus that is currently in place as forecasted in March. That way you could have the \$3.5 million and if this works look at some other alternatives to get that funding rather than take it from K-12 education.

Rep. Hunskor: You indicated that since we have a little excess money to tap that but isn't that also in turn going to take away from other needy areas?

Johnson: That is true. We do know that at this point this would take it from elementary and secondary education. I think we need to look at the whole picture and the other avenues that are there.

Nancy Sand, ND Education Association, we were trying to decide if we were for or against this bill. We truly are for parents saving for their child's education. Of course our concern is the source of this funding. We believe that the common schools trust fund provides a valuable portion of support for public school education in this state and we believe the source of funds for this particular bill would affect the ability to continue providing from that fund what we have

been. The settlement money is not going to come forever and ever. There is going to be an end to it. If you continue to tap out of that fund you continue to deplete the possible funds to continue the level of tuition apportionment money that comes from that fund.

Dean Bard, Small Organized Schools, spoke in opposition to the bill. The concept is laudable and I can't say anything against anything that helps kids go to college. We oppose this bill simply because of where it proposes to take the funding. We are concerned if you open the dam a little bit there might be a flood that would ensue and later on we're going to see other efforts to divert those moneys. There have already been some this session. We don't think that's an appropriate use of the money. K-12 needs the funds and that's why we would urge, while this an excellent concept, let's hope there is some other way to fund it.

Sophia Preszler, District 35, testified in opposition to the bill. As I sit and listen here and many other committees, I sense an encroachment of the private sector here. I think that's very dangerous. The state may not act as the private sector. I urge a "no" vote on this.

Chairman Kelsch closed the hearing on HB 1529.

March 14, 2005 **Afternoon**. Chairman Kelsch opened discussion of the bill. She appointed a study committee of **Kelsch, Meier, and Hunsakor** to study the issue and bring back recommendations and possible amendments to the full Committee.

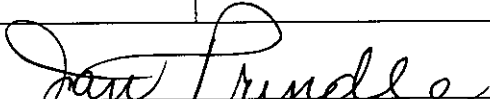
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1529**

House Education Committee

☐ Conference Committee

Hearing Date **15 March 2005**

Tape Number	Side A	Side B	Meter #
1	X		2900 - 4070
Committee Clerk Signature 			

Minutes:

Chairman Kelsch opened discussion of HB 1559. There are technical problems with the bill and it is up to us to make decisions on those. I talked to Rep. Berg and he will have to give us an extra day to get this to Appropriations.

Rep. Sitte: One of the things said yesterday in testimony has really been echoing in my mind. That is that they anticipate that only 25% of the parents would take advantage of this. I got to thinking back to the time period when we had our children and there was absolutely no way that we would have had money to stick away. I think of so many young families at that particular time in their lives when they have their children it's probably the tightest time of their lives. I'm thinking this is almost a subsidy for the rich. Seventy-five percent of the people of ND won't be able to take advantage of it and they're the people who really need it most. I feel like Rep. Mueller who said this money would be better spent for scholarships for the needy.

Chairman Kelsch: I was thinking about that when Rep. Mueller was talking about the scholarship yesterday. There again, you're not necessarily getting the needy students you're getting a lot of times the brightest students who not only get one scholarship but they get multiple scholarship. Once again you are limiting it to the number of people that can get it. I also thought about the same thing that you did. What we received when the kids were born were a lot of savings bonds for those kids. I think as this bill becomes more public, if it should pass, the money you receive could go into this fund. If you put only \$300 in that's a better start than nothing. As you can afford it down the road, you could still be putting some money away. One of the issues they are looking at is their 529 program and seeing only 25% of the students are involved in that. I think is a little bit different. I think more people will take advantage of this. If this is publicized more people will take advantage of this program than the 529 program. This opens it up to more opportunities for more kids. I don't know if this is going to work or not. I listen to people like Rep. Hawken who says she can't use it because her grand babies are not in North Dakota. She can do the 529 program. This one is more limited and is only for instate kids.

Rep. Mueller: As is often the case, I agree with Rep. Sitte on this issue. Maybe you can help me understand this better. I'm a bit unclear as to how the \$3.5 million eventually comes out of the common schools trust fund. Does it come out the tobacco settlement money up front. Does it go through the trust fund.

Chairman Kelsch: It will come out of the tobacco funds but it is money that is designated to go into the trust fund. I have talked to a couple of people since the hearing and the tobacco trust fund money is probably going away. It really wasn't the school's money to begin with. It was

money from the tobacco settlement and everyone was in this nice long line to get this money. It is just so happened that we were able to designate some of it to go into the common schools trust fund, some of it went to human services and some of it went water projects. Technically it wasn't there to begin with and so it's not like we are robbing from the schools. If we pass this, I want to make sure that left over money goes into the common school trust fund. The other issue I have is this a continuing appropriation? Are we doing it one time? Are we doing it two times? Section 2 is sunsetted. Is that sunsetting the tobacco trust fund. This seems to sunset that whole section. Those are some of the technical questions that I have questions about.

Rep. Mueller: On the last page of the bill it's specific about how that tobacco trust fund is designated for the commons schools trust fund. I think there is a constitutional issue here. The bill says we take \$3.5 million out of the tobacco funds or as much as we need to do this. I'm not sure we can technically do that. Before it gets into the trust fund we can do what we want and after it gets there we can't touch it.

Chairman Kelsch: What I want to make sure is if they only \$2.5 million that that other million does go back into the trust fund.

Rep. Hawken: Since this is a trial, I would say \$3.5 million is a pretty hefty amount. These are individuals. I would be much more comfortable with trying this creative idea at a lower dollar amount. I find this excessive.

Chairman Kelsch: They said they weren't sure if the \$3.5 was the right dollar amount.

Rep. Norland: I don't think this is actually going to cost the state a dime because I'm going to put in a set of amendments that says that because it comes out of the tobacco fund it is tobacco money and if you are caught smoking before age 18 you forfeit your fund.

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House Education Committee

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Rep. Hunsakor: It seems like we are taking money that is sorely needed in other areas of education and most of these people who are going to take advantage of this can well afford the \$1000. We're taking money away from places where it's needed and letting people who can well afford the \$1000 use it. I don't think I can support this.

Chairman Kelsch: Anita Thomas is coming down and we'll work on an amendment.

Discussion closed.

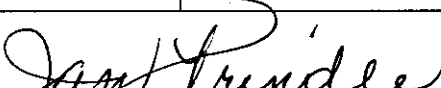
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1529**

House Education Committee

☐ Conference Committee

Hearing Date **16 March 2005**

Tape Number	Side A	Side B	Meter #
1	X		3400 - 4600
Committee Clerk Signature 			

Minutes:

Chairman Kelsch opened the hearing of HB 1539.

An amendment to the bill was distributed.

Rep. Meier: I move the amendments.

Rep. Hunskor: I second.

Rep. Meier: What you have before you is two amendments. The first one Eric Hardmeyer brought before us and explains just in case if there is a death of a student there should be a transfer of funds. The second one talks of compliance with the IRS standards.

Chairman Kelsch: When the bank brought in their amendment for forfeiture and said death or disability would be grounds for forfeiture. I felt that was inappropriate because there are people with disabilities that are still able to go to college. We set up three conditions that could be used as forfeiture. We do not want the Bank of ND to have this administrative nightmare where they are going after all these people. The conditions are: using the funds for a non permitted

purpose, the death of the designated beneficiary, a change of the beneficiary, the existence of a physical or mental disability that precludes the beneficiary from participating in higher education.

We also lowered the amount from \$3.5 million to \$2.5 million.

Rep. Herbel: How does this effect somebody that lives in ND for 16 years and then leaves?

Chairman Kelsch: We felt that if that child has lived here and they leave, taking the \$1000 away is not worth it. It's an administrative nightmare. How is the Bank of ND going to patrol that? We laid out what we thought the important forfeiture reasons were otherwise that money could just as well stay with that child.

Rep. Hawken: I realize we are going to look at this again in two years, but say this is ongoing. Someone has a child this August and they put the money in and for some reason something happens to that child and they have another child two years later so they change the beneficiary to that child. Is there leeway in here for common sense?

Chairman Kelsch: I think there would be. That could be worked out with the bank. I think they are using common sense with other programs.

A voice vote was taken. Motion Carried.

Chairman Kelsch: We now have amended HB 1529 before us.

Rep. Meier: I move **Do Pass as Amended and referrer to Appropriations.**

Rep. Haas: I second.

Rep. Sitte: I'm still going to oppose this bill. I hope that all the young people in this audience realize that there is a wonderful benefit for them out there called the College Savings 529 Plan. Their parents can put money aside for them tax free that they will be able to use for tuition and expenses for college. As we heard in testimony, I really object to point that the state would be

giving a \$1000 probably to the richest 25% of our citizens. I think the money would be far better spent for scholarships for the needy.

Rep. Mueller: I have to resist this bill. I do have a concern about moving into the tuition apportionment money that we have all come to rely on in our school districts. I think if we want to do these efforts, I would rather put it in the state scholarship system. It addresses those that are in need and that have the academic qualifications and those that we know want to go to college. Just because you have a child doesn't necessarily mean that child is destined for college and down the road it creates some issues so I cannot support this.

A roll call vote was taken on the do pass as amended and referrer to appropriations.

Yes: 10 No: 5 Absent: 0

Rep. Meier will carry the bill.

FISCAL NOTE
Requested by Legislative Council
03/17/2005

Amendment to: HB 1529

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$63,810	\$0	\$0
Appropriations	\$0	\$0	\$0	\$2,500,000	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

N/A

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Notification to new parents:
(16,000 @ .40 each) = \$6,000

Notification on each contribution:
(1,500 participants averaging 6 payments each @ .40) = \$3,600

.75 FTE = \$54,210

Total = \$63,810

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

\$2,500,000 from the Tobacco Settlement Trust Fund designated for transfer to the Common Schools Trust Fund.

Name:	Shirley Glass	Agency:	Bank Of North Dakota
Phone Number:	328-5792	Date Prepared:	03/18/2005

FISCAL NOTE
Requested by Legislative Council
03/09/2005

Bill/Resolution No.: HB 1529

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$63,810	\$0	\$0
Appropriations	\$0	\$0	\$0	\$3,500,000	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

N/A

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Notification to new parents:
(16,000 @ .40 each) = \$6,000

Notification on each contribution:
(1,500 participants averaging 6 payments each @ .40) = \$3,600

.75 FTE = \$54,210

Total = \$63,810

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

\$3,500,000 from the Tobacco Settlement Trust Fund designated for transfer to the Common Schools Trust Fund.

Name:	Shirley Glass	Agency:	Bank of North Dakota
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Phone Number: 328-5792

Date Prepared: 03/11/2005

House Amendments to HB 1529 - Education Committee 03/16/2005

Page 2, after line 8, insert:

- "5. The Bank of North Dakota shall adopt rules governing the circumstances under which the Bank of North Dakota's contribution, as provided in subsection 1, must be forfeited. The conditions for forfeiture under this subsection must include a transfer of funds from the account for a nonpermitted purpose, a change of the designated beneficiary, the death of the designated beneficiary, the existence of a physical or mental disability that precludes the beneficiary from participating in higher education, and a nonqualified withdrawal.
6. The Bank of North Dakota shall administer and maintain the higher education savings account program in compliance with internal revenue service standards for such programs."

House Amendments to HB 1529 - Education Committee 03/16/2005

Page 3, line 8, replace "\$3,500,000" with "\$2,500,000"

Renumber accordingly

Date: _____
Roll Call Vote #: _____

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1529

House Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50843.0401

Action Taken Amend as above

Motion Made By Meier Seconded By Hunskor

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch			Rep. Hanson		
Vice Chairman Johnson			Rep. Hunskor		
Rep. Haas			Rep. Mueller		
Rep. Hawken			Rep. Solberg		
Rep. Herbel					
Rep. Horter					
Rep. Meier					
Rep. Norland					
Rep. Sitte					
Rep. Wall					

Total (Yes) _____ No _____

Absent _____

Floor Assignment Carries

If the vote is on an amendment, briefly indicate intent:

Date: 16 Mar
Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1529

House Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50843.0401

Action Taken Do pass as amended refer to Appropriations

Motion Made By Meier Seconded By Haas

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓		Rep. Hanson	✓	
Vice Chairman Johnson		✓	Rep. Hunskor	✓	
Rep. Haas	✓		Rep. Mueller		✓
Rep. Hawken	✓		Rep. Solberg	✓	✓
Rep. Herbel		✓			
Rep. Horter	✓				
Rep. Meier	✓				
Rep. Norland	✓				
Rep. Sitte		✓			
Rep. Wall	✓				

Total (Yes) 10 No 5

Absent 0

Floor Assignment Meier

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1529: Education Committee (Rep. R. Kelsch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (10 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1529 was placed on the Sixth order on the calendar.

Page 2, after line 8, insert:

- "5. The Bank of North Dakota shall adopt rules governing the circumstances under which the Bank of North Dakota's contribution, as provided in subsection 1, must be forfeited. The conditions for forfeiture under this subsection must include a transfer of funds from the account for a nonpermitted purpose, a change of the designated beneficiary, the death of the designated beneficiary, the existence of a physical or mental disability that precludes the beneficiary from participating in higher education, and a nonqualified withdrawal.
6. The Bank of North Dakota shall administer and maintain the higher education savings account program in compliance with internal revenue service standards for such programs."

Page 3, line 8, replace "\$3,500,000" with "\$2,500,000"

Renumber accordingly

2005 HOUSE APPROPRIATIONS

HB 1529

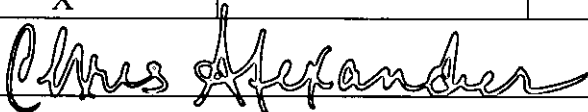
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1529
Higher Education Savings Account

House Appropriations Full Committee

☐ Conference Committee

Hearing Date March 21, 2005

Tape Number	Side A	Side B	Meter #
1		X	#12.6 - #50.0
2	X		#32.3 - #48.4
Committee Clerk Signature 			

Minutes:

Rep. Ken Svedjan, Chairman opened the discussion on HB1529.

Rep Rick Berg distributed handout #51-1 (attached) and explained that the federal 529 program is an individual educational account owned by an individual for the benefit of a child. This account goes tax free and can only be used for educational purposes. The essence of this bill is that this is a direct impact for the children of North Dakota. Any parent of a new child after this bill is enacted can put money into this account and the state would match it. If a parent could afford \$2 then the state would match it at \$1. The state commitment is capped at \$1000. The individual gets to choose the risk level of the investments in this account. The state is creating an incentive for people to put money aside for the future educational needs of the children. The decision was made that 45% of the tobacco settlement was to be spent on education. The return on the common schools trust fund has ranged from 2%-8%. If we took the \$3.5 million needed to fund this 529 program out of the common schools trust fund, we would lower the amount we

distribute out of this fund by \$1 - \$1.5. In 18 years we would potentially have 1700 kids that would have potentially \$50,000 in their account to be used for their extended education versus lowering the increase that goes out of the common schools trust fund, which is approximately \$300 per student, by about a\$1 per year.

Rep. Mike Timm, Vice Chairman commented that he already had accounts for his grandchildren and asked if he, or other interested people, would have to start a new account in this program.

Rep Berg answered that if it is a 529 account, it is movable anywhere. 529 is a special federal savings program that every brokerage house has and promotes. The Bank of North Dakota because of its unique status provides for residents of North Dakota a 529 program with no initial or annual fee. They can do this because they are also a clearinghouse for other brokerage firms. They charge other brokerage firms up front and ongoing fees. This program is for new children who are born after this bill is enacted.

Rep. Ken Svedjan, Chairman asked Rep Berg to address the amendments put on this bill by the education committee.

Rep Berg explained the forfeiture piece of the amendment was if a child died and did not use the money that was in the account, the money would be returned to the state. The 529 program has been in place at the Bank of North Dakota for 4 years. To date there are only 700 accounts in there. The 3.5 was based on 1700 children or 25 % of the new children who are born over the next two years. The committee could look at the numbers and anticipate what the need would be.

Rep. Mike Timm, Vice Chairman if this is for children who are not born yet, but for the people who would switch into this account without the match and so forth, could you still get the 8% interest rate.

Rep Berg answered that there are about 15 different choices within the 529 program. You can have it managed aggressively for a younger child. The returns range from 17% on the high side to 1-2% on the low side. The program allows the individual setting up the account to choose their own investment choices. The way this would work is when vital statistics gets the information for a birth certificate they would notify the Bank of North Dakota who would then send out a notice to the new parents saying that they have the opportunity to participate in this new savings program, all you have to do is call to set this up. The new parent would have a year to put money in this account and as they put money in the account the Bank of North Dakota would put \$1 in for every \$2 put in by the parent.

Rep. Bob Skarphol asked for clarification regarding eligibility for this match. The child has to be born in North Dakota after the date of the enactment of this law. Do they need to remain in this state? (meter Tape #1, side B, #21.6)

Rep Berg answered that the state is involved in the match for the first 12 months. There is no requirement that this child would have to remain in the state or go to an institution of this state. They can do what they wish.

Rep. Al Carlson commented that the 529 account is already in place and asked why, if it is such a good idea for a parent to put money aside for their children's education, why does the state needed to be involved in this.

Rep Berg answered that the state match might entice families that would otherwise not participate in this.

Rep. Al Carlson commented that it has always been the sacred trust of the state not to address any funds that go into the common schools trust fund. We have always allowed that money to build and use the interest from it to send it back to our schools for the education of our children, so this is a whole new concept to use this fund, even if its just shortchanging the fund by taking the moneys out before it gets to the fund. The citizen should be responsible for the education of their kids without having to incentivize this by the state. How do you justify using this fund for this program.

Rep Berg answered that the state puts money into education through state agencies, but this would put money into the hands of the child to use for education at their own discretion. This would give the responsibility for these funds to the individual child. This would be a shift in governmental funding that would be funding the individual rather than agency after agency. Also, in the end this program would leverage the common school trust fund money even further.

Rep. Al Carlson commented that it is good to educate kids but we also say we want to lower property tax. We could also use this fund to give money back to the schools so that we could reduce property taxes. Once we talk about taking money out of this fund, how do we stop coming up with worthy ideas to use this fund and in the end, depleting this fund?

Rep Berg answered that we are giving a small amount to an individual and they in fact are making that decision.

Rep. Francis J. Wald commented that it seems to him that there is a prohibition in our constitution about giving individuals money for whatever reason. Are we sure that this is

constitutional? Also, why wouldn't a rollover from an existing 529 be allowed in this program and forgo the match. (meter Tape #1, side B, #28.1)

Rep Berg answered that he would check on the constitutionality of this There is no prohibition for a 529 to be rolled over from any other 529 account and if you live in North Dakota, there would be no fee.

Rep. Ole Aarsvold commented that this would target a group of people who already have the resources to pay for their children's education. The state should fund education for those children who do not have these resources.

Rep Berg answered that you could put a cap on this based on income if you want.

Rep. Ken Svedjan, Chairman asked if this applied only to children who are not yet born

Rep Berg answered that this program is for new children born after the enactment date.

Rep. Jeff Delzer commented that he was concerned about the bill because to be eligible, you have to be born after the date of the bill, and you had to be born in North Dakota. Does this mean that if you are a resident of the state but were not born here you would not be eligible.

Rep Berg answered that you only have to be a resident of North Dakota, flexibility could be granted.

Rep. Jeff Delzer asked commented that the expiration date is in section 2 of the bill but this is not on the money, so money would sit there even if no one uses it.

Rep Berg answered that he had no problem if this committee wanted to put an expiration date on the money part as well

Rep. Eliot Glassheim asked if there were approximately 700 newborns every year in North Dakota.

Rep Berg answered that there were approximately 7000 newborns per year and explained but in the past four years of this 529 program there are only 700 participating. This means that out of 28,000 children eligible, only 700 are participating. We got the \$3.5 million originally from the thought that 25% of the eligible families in North Dakota would participate and now it has been reduced to \$2.5 million.

Rep. Eliot Glassheim asked if this program would stop once we reached the \$2.5 million

Rep Berg answered that this is based on 1700 children for a biennium. This bill sunsets in two years. Parents don't have to put in any required amount.

Rep. Mike Timm, Vice Chairman asked if parent were limited in the amount that they invested.

Rep Berg answered that some people are putting \$100,000 in these accounts that sets a legacy for generations of children. You could make this an ongoing education fund.

Rep. Ole Aarsvold commented that it was his understanding from the tobacco settlement distribution that in the event that water resource bonds demand the entire proceeds of the settlement for any biennium, that there would be no distribution to any of the other funds. In the event that this would happen, how would the appropriation here work.

Rep Berg answered that it is unimportant how this is funded, this committee can decide how to fund it, but in the event that this would happen and the money is not available then the program would be over.

Rep. Jeff Delzer explained that this was originally done. Last session we changed the language so that the common schools trust fund was solid. The 45% that was going to water resources and the language that said that they could access the common schools trust fund, we took that out.

Rep. Ole Aarsvold asked if this meant that the 45% is always going to be available from the common schools trust fund regardless of the demands on the water resource funds.

Rep. Jeff Delzer answered that this was correct

Rep. Francis J. Wald commented that the Attorney General is researching this and we should hold the bill until they can make a determination.

Ms Sandy Tabor, Deputy Attorney General, that they are researching this and someone will come down to answer questions.

Mr. Eric Hardmeier of the Bank of North Dakota commented that there are 50 college state programs. 26 states have some kind of incentive program. 3 states have a match similar to what is proposed here. We think this is a good program and puts the Bank of North Dakota in a good position to be competitive with other state's programs.

Rep. Ken Svedjan, Chairman asked if the bank was concerned with any constitutionality issues concerning this bill.

Mr. Hardmeier answered that the bank asked the Attorney General's office about the gifting clause and they said there was no problem there.

Rep. Al Carlson asked how this would be in competition with the other states when this program only applies to North Dakota born children and North Dakota residents.

Mr. Hardmeier explained that a resident of North Dakota can use another state's plan, they wouldn't get the incentive but they could participate in the plan. This program would be an incentive to use the North Dakota plan.

Rep. Bob Martinson commented that any bonuses being paid to the military would have to be approved by voters. (meter Tape #1, side B, #41.8)

Rep. Jeff Delzer asked if there were 700 people currently participating in this program, and if they were aware of anyone using the programs in other states, and is there information available concerning the income level of the families participating in this program.

Mr. Hardmeier answered yes, people are using other state's plans, but not necessarily through banks but with brokerage firms. Our program is with Morgan Stanley. Concerning the income levels of the participating families, we do not track those numbers.

Rep. Earl Rennerfeldt asked what the interest rate was on this program

Mr. Hardmeier answered that the interest rate is determined by how risky the funds are that you choose to invest in.

Rep. Francis J. Wald asked how this program gets around the fees charged from the brokers

Mr. Hardmeier answered that they have a negotiated plan with Morgan Stanley for in-state investors to have a waiver of these fees even if you go directly to Morgan Stanley to set up the account.

Ms Sandy Tabor commented that Scott Miller from the Attorney General's office will come to testify as soon as he can.

Rep. Ken Svedjan, Chairman noted that this bill will be set aside until Mr. Miller can be here.

Rep. Ken Svedjan, Chairman renewed the discussion on HB1529. (meter Tape #2, side A, #32.3)

Rep. Francis J. Wald asked if there is the gift clause in the constitution that would conflict with the \$1000 initial gift match in this 529 program.

Mr. Scott Miller from the Attorney General's office, answered that there is no problem with the gift clause. Mr. Miller read the code and said that they can make donations if there is a public purpose.

Rep. Francis J. Wald asked how, two biennia ago, he was told he could not give moneys under these same circumstances.

Mr. Miller answered that he was not familiar with this other bill, but answered that as long as there is a public purpose this would be permissible.

Rep. Bob Martinson commented that the money to members of the armed services has to voted on by the people.

Mr. Miller answered that he was not familiar with this.

Rep. Jeff Delzer asked what the constitutionality would be that this fund is only available to children born after a certain date instead of also being available to those children who are currently under the age of 18.

Mr. Miller answered that this would be an equal protection analysis that has not been done, but there may be people out there who would question why their child would not be included simply because of the date of their birth. (meter Tape #2, side A, #38.1).

Rep. Al Carlson asked what "public purpose" meant. How is giving money to a private citizen over other private citizens a public purpose.

Mr. Miller answered that public purpose meant anything that benefits society as a whole like educating children. Limiting this to a small group of children is more related to the economic realities of the state.

Rep. Ken Svedjan, Chairman commented that doing this is a starting point and we will have the chance to review this program in 2 years and see how it is doing.

Rep. Jeff Delzer commented that only section 2 concerning the funding source sunsets after two years. The rest of the legislation is indefinite. Rep Delzer continued by stating his objections to the bill. Section 2 is really scary because the funding is coming from the common school trust fund and when you start using this fund, the fund will soon be gone. And this bill targets a group of people and helps people who already have the means to educate their children. Rep Delzer suggested deleting section 2 from the bill and changing the funding source to the community health trust fund and change the appropriation to \$1.5 million, but if the committee prefers we can simply move a Do Not Pass on HB1529.

Rep. Al Carlson seconded

Rep. Francis J. Wald asked why there was an emergency clause on this bill

Ms Roxanne Woeste answered that page one, subsection 1, explains that it is so this could be for the children born of the date of enactment. (meter Tape #2, side A, #46.4)

Rep. Ken Svedjan, Chairman clarifies that the emergency clause allows for this program to become effective when the bill is signed into law.

Rep. Ken Svedjan, Chairman called for a roll call vote on the Do Not Pass motion for HB1529. Motion carried with a vote of 20 yeas, 2 nays and 1 absence. Rep Delzer will carry the bill to the house floor.

Rep. Ken Svedjan, Chairman closed the discussion on HB1529.

Date: March 21, 2005
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1529

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken **DO NOT PASS**

Motion Made By **Rep Delzer** Seconded By **Rep Carlson**

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman		X	Rep. Bob Skarphol	X	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson	X		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard	AB		Rep. Jeff Delzer	X	
Rep. Earl Rennerfeldt	X		Rep. Chet Pollert	X	
Rep. Francis J. Wald	X		Rep. Larry Bellew	X	
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland		X
Rep. Pam Gulleeson	X		Rep. James Kerzman	X	
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	X	
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson	X				

Total Yes **20** No **2**

Absent **1**

Floor Assignment **Rep Delzer**

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 22, 2005 8:35 a.m.

Module No: HR-52-5667
Carrier: Delzer
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1529, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)
recommends **DO NOT PASS** (20 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed HB 1529 was placed on the Eleventh order on the calendar.

2005 TESTIMONY

HB 1529

Higher Education Savings Account Match Program

HB 1529
14 Mar 05

from Rick Berg

Year	Deposits	State Match	Interest earned	Account Balance
1	\$2,000	\$1,000	\$0	\$3,000
2	\$1,200	0	\$240.00	\$4,440.00
3	\$1,200	0	\$355.20	\$5,995.20
4	\$1,200	0	\$479.62	\$7,674.82
5	\$1,200	0	\$613.99	\$9,488.80
6	\$1,200	0	\$759.10	\$11,447.91
7	\$1,200	0	\$915.83	\$13,563.74
8	\$1,200	0	\$1,085.10	\$15,848.84
9	\$1,200	0	\$1,267.91	\$18,316.74
10	\$1,200	0	\$1,465.34	\$20,982.08
11	\$1,200	0	\$1,678.57	\$23,860.65
12	\$1,200	0	\$1,908.85	\$26,969.50
13	\$1,200	0	\$2,157.56	\$30,327.06
14	\$1,200	0	\$2,426.16	\$33,953.23
15	\$1,200	0	\$2,716.26	\$37,869.49
16	\$1,200	0	\$3,029.56	\$42,099.04
17	\$1,200	0	\$3,367.92	\$46,666.97
18	\$1,200	0	\$3,733.36	\$51,600.32

Total \$22,400 \$1,000 \$28,200.32 \$51,600.32

Assumptions:

- Family/friends deposit \$2,000 the first year and \$100 a month until their 18th birthday
- 8% interest earned each year

HB 1529
14 March 2005

**TESTIMONY TO THE
HOUSE EDUCATION COMMITTEE**

MARCH 14, 2005

HOUSE BILL 1529

Good Morning Madam Chair and members of the Education Committee. My name is Eric Hardmeyer and I am the President of Bank of North Dakota (BND). I am appearing today in support of HB 1529.

After reviewing HB 1529, we believe that additional language should be added that would identify circumstances in which matching deposits may need to be forfeited. Examples where matching deposits could be forfeited include: 1) Transfer of funds from the Account or a change in Beneficiary; 2) the death or disability of the Beneficiary; 3) a Non-Qualified withdrawal.

Adding some type of forfeiture clause in HB 1529 will help to ensure that the matching deposits are used as intended by the North Dakota Legislative Assembly.

Secondly, language should be added that allows for the identification and segregation of all matching deposits to allow for IRS compliance.

Thank you for your consideration of BND's comments on HB 1529. I would be happy to respond to any questions the Committee may have.

Suggested Amendments to HB 1529

Section 1

- 5) Bank of North Dakota shall identify conditions where matching deposits must be fully or partially forfeited and assure funds are returned to the state when applicable.

- 6) Bank of North Dakota shall administer the matching deposit program in accordance with IRS regulations and recommendations, including the identification, segregation, and funding of the matching deposits.

The Education Strategies Group of
Morgan Stanley Investment Management

North Dakota College SAVE Plan Monthly Report
For Month Ending February 28, 2005

	Accounts			Gross Sales			Redemptions		AUM
	MTD	YTD	*LTD	MTD	YTD	LTD	MTD	LTD	LTD
North Dakota	10	23	775	\$71,510.36	\$194,510.96	\$7,105,907.50	\$36,847.91	N/A	\$5,014,586.62
Direct-sold	6	13	238	\$25,011.26	\$84,459.76	\$3,066,394.97	\$32,032.26	N/A	\$1,766,045.06
Advisor-sold	1	3	361	\$27,790.00	\$78,842.10	\$3,111,682.49	\$4,815.65	N/A	\$2,644,685.76
ICA/Eagle One Inv	3	7	176	\$18,709.10	\$31,209.10	\$927,830.04	\$0.00	N/A	\$603,855.80
Other Ind. Dist.	0	0	0	\$0.00	\$0.00	\$0.00			
Other States	241	521	20,857	\$5,417,421.66	\$10,935,058.18	\$379,916,943.09	\$2,026,443.27	N/A	\$248,430,262.23
Direct-sold	1	1	67	\$2,432.00	\$6,486.00	\$941,858.85	\$1,285.00	N/A	\$662,610.57
Advisor-sold	240	520	20,790	\$5,414,989.66	\$10,928,572.18	\$378,975,084.24	\$2,025,158.27	N/A	\$247,767,651.66
Total	251	544	21,632	\$5,488,932.02	\$11,129,569.14	\$387,027,850.59	\$2,063,291.18	\$29,534,042.08	\$253,444,848.85

* Excluding test accounts

	Accounts			Total Assets Distributed		
	MTD	YTD	LTD	MTD	YTD	LTD
Withdrawals						
Accts. Terminated	143	256	2,267	\$1,809,269.04	\$3,161,977.92	N/A
Rollovers	101	189	N/A	\$1,372,763.37	\$2,487,411.06	N/A
Beneficiary	33	78	N/A	\$352,650.34	\$427,428.61	N/A
Participant	52	123	N/A	\$337,877.47	\$632,996.90	N/A
Other						
Total	186	390	3,498	\$2,063,291.18	\$3,547,836.57	\$29,534,042.08

	MTD	LTD
Total Plan Inquiries to College SAVE Call Center:	1,165	65,086
Total Accounts Not Funded:	129	245

Note: Includes accounts pending Automated Funds Transfer

Note: Terminations include Rollovers, Beneficiary and Participant Distributions.

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