



SENATE BILL 101: Protect Certain Tax-Advantaged Accounts.

2025-2026 General Assembly

Committee:	Senate Finance. If favorable, re-refer to Judiciary. If favorable, re-refer to Rules and Operations of the Senate	Date:	March 25, 2025
Introduced by:	Sens. Jones, P. Newton, Lee	Prepared by:	Nicholas Giddings
Analysis of:	First Edition		Staff Attorney

OVERVIEW: *Senate Bill 101 would increase protections for funds held in qualified tuition programs (529 Plans) and ABLE accounts from claims of creditors and other judgments.*

CURRENT LAW:

North Carolina Education Savings and Investment Plan Accounts

Section 529 of the Internal Revenue Code establishes qualified tuition programs, which include programs established and maintained by a state, agency, or instrumentality thereof, allowing individuals to contribute to an account established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account. Qualified higher education expenses include tuition for an elementary or secondary public, private, or religious school. Contributions are not deductible, but earnings on a 529 Plan are exempt from federal taxation when used for qualified higher education expenses.

G.S. 116-209.25 establishes the framework for North Carolina's 529 Plans (NC 529 Plans), consistent with section 529 of the Internal Revenue Code. NC 529 Plans are administered by the State Education Assistance Authority (SEAA) in order to enable parents and other interested parties to save funds to meet the costs of education expenses of eligible students. NC 529 Plan funds are held in accounts within the State's Parental Savings Trust Fund.

For individuals who are residents of North Carolina, G.S. 1C-1601(a)(10) exempts funds in a college savings plan, which could include an NC 529 Plan or a 529 Plan created by another entity, from the enforcement of claims of creditors (up to \$25,000). The exemption does not apply to certain enumerated claims under G.S. 1C-1601(e) or to funds placed in a college savings plan within the preceding 12 months unless contributions were made in the ordinary course of the debtor's financial affairs and were consistent with the debtor's past pattern of contributions. Additionally, the exemption only applies to the extent that the funds are for a child of the debtor and will actually be used for the child's college or university expenses.

ABLE Accounts

Federal law recognizes qualified ABLE programs which are established by states, agencies, or instrumentalities thereof, allowing individuals to contribute to an account established for the purpose of meeting the qualified disability expenses of the designated beneficiary of the account. See 26 U.S.C. § 529A. Article 6F of Chapter 147 of the General Statutes establishes the parameters for ABLE accounts in North Carolina.

BILL ANALYSIS: Senate Bill 101 would exempt the following from liens, attachment, garnishment, levy, seizure, any involuntary sale or assignment by operation or execution of law, or the enforcement of

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any other judgment or claim to pay any debt or liability of any account owner, beneficiary, or contributor to the account:

- Funds located in a 529 Plan or withdrawn from a 529 Plan and used for purposes permitted by section 529 of the Internal Revenue Code.
- Funds located in an ABLE account or withdrawn from the account and used for purposes permitted under section 529A of the Internal Revenue Code.

The protections provided under Senate Bill 101 would not apply to the following:

- Any state claims, following the death of the ABLE account owner, to reimburse the state's Medicaid program for benefits received by the participant after the establishment of the ABLE account.
- Funds that were not used for a qualifying purpose.
- Funds deposited into a qualifying 529 Plan or ABLE account as a result of fraud, intentional wrongdoing, or other violation of law.

Lastly, Senate Bill 101 would repeal G.S. 1C-1601(a)(10) as it would no longer be needed due to the increased protections provided to 529 Plans in the bill.

EFFECTIVE DATE: Senate Bill 101 would become effective September 1, 2025, and apply to actions filed on or after that date.

Brian Gwyn, Staff Attorney in the Legislative Analysis Division, substantially contributed to this summary.