

Chapter 65
(House Bill 1003)

**An Act to update a reference to the Internal Revenue Code for
purposes of higher education savings plans.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 13-63-1 be AMENDED:

13-63-1. Terms used in this chapter mean:

- (1) "Account," an account established as prescribed in this chapter;
- (2) "Account owner," the person who, under this chapter or rules promulgated by the council pursuant to chapter 1-26, is entitled to select or change the designated beneficiary of an account, to designate any person other than the designated beneficiary to whom funds may be paid from the account, or to receive distributions from the account if no such other person is designated;
- (3) "Cash," currency, bills, and coins in circulation. A negotiable instrument may be converted to cash if properly endorsed and presented to a financial institution for deposit. An automatic transfer, cashier's check, certified check, money order, payroll deposit, traveler's check, personal check, and wire transfer may also be converted to cash if presented to a financial institution for deposit;
- (4) "Contribution," any payment directly allocated to an account for the benefit of a designated beneficiary or used to pay late fees or administrative fees associated with an account, and that portion of any rollover amount treated as a contribution under section 529 of the Internal Revenue Code;
- (5) "Contributor," any person making a contribution to an account;
- (6) "Council," the South Dakota Investment Council;
- (7) "Designated beneficiary," except as provided in § 13-63-25, the individual designated at the time the account is opened as the individual whose higher education expenses are expected to be paid from the account or, if this designated beneficiary is replaced in accordance with § 13-63-12, 13-63-13, or 13-63-14, the replacement beneficiary;
- (8) "Eligible education institution," as defined in section 529(e)(5) of the Internal Revenue Code;
- (9) "Financial institution," any bank, commercial bank, national bank, savings bank, savings and loan association, credit union, an insurance company, brokerage firm, or other similar entity that is authorized to do business in this state;
- (10) "Investment direction," specifying or attempting to specify the particular financial instruments or ownership interests either individually, or within a fund family or other group of financial instruments or ownership interests held as an investment group, into which the contributions or earnings are invested. Selecting an initial type of investment program if more than one program is offered does not constitute an investment direction;
- (11) "Internal Revenue Code," the United States Internal Revenue Code, as amended and in effect on January 1, ~~2023~~ 2024;

- (12) "Member of the family," as defined in section 529(e)(2) of the Internal Revenue Code;
- (13) "Person," an individual, a corporation, a partnership, a trust or estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture, or other unincorporated organization or group;
- (14) "Program," the higher education savings program established under this chapter;
- (15) "Program manager," any financial institution selected by the council to act as the depository and manager for an account;
- (16) "Qualified higher education expenses," as defined in section 529(e)(3) of the Internal Revenue Code;
- (17) "Qualified tuition program," as defined in section 529(b) of the Internal Revenue Code; and
- (18) "Rollover," a disbursement or transfer from an account of a designated beneficiary that is transferred to or deposited within sixty days into an account of the same designated beneficiary or another individual who is a member of the family of the designated beneficiary, if the transferee account was created under this chapter or under a qualified tuition program maintained by another state in accordance with section 529 of the Internal Revenue Code, or any other rollover allowed by section 529 of the Internal Revenue Code.

Signed February 5, 2024
