

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0350

SENATE BILL NO. 41

Introduced by: The Committee on State Affairs at the request of the Investment Council

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the higher education
2 savings plan.

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

4 Section 1. That § 13-63-11 be amended to read as follows:

5 13-63-11. Account owners may withdraw all or part of the balance from an account ~~on sixty~~
6 ~~days' notice, or a shorter period~~ as may be authorized by the council, by policies, guidelines, or
7 procedures, or under rules promulgated by the council pursuant to chapter 1-26. ~~These rules~~
8 ~~shall include provisions that will generally enable the council or program manager to determine~~
9 ~~if a withdrawal is a nonqualified withdrawal. The rules may require one or more of the following:~~

10 ~~— (1) — Account owners seeking to make a withdrawal other than a nonqualified withdrawal~~
11 ~~shall provide certifications, copies of bills for qualified higher education expenses, or~~
12 ~~other supporting material;~~

13 ~~— (2) — Qualified withdrawals from an account shall be made only by a check payable jointly~~
14 ~~to the designated beneficiary and a higher education institution as designated by the~~
15 ~~account owner, except as expressly otherwise permitted by section 529 of the Internal~~



1 Revenue Code and related regulations;

2 ~~(3) Withdrawals not meeting requirements established by the council shall be treated as~~
3 ~~nonqualified withdrawals by the program manager, and if these withdrawals are not~~
4 ~~nonqualified withdrawals, the account owner must seek refunds of penalties directly~~
5 ~~from the council.~~

6 Section 2. That § 13-63-18 be amended to read as follows:

7 13-63-18. No contributor to, account owner of, or designated beneficiary of, any account
8 may, directly or indirectly, direct the investment of any contributions to an account or the
9 earnings from the account, except to the extent permitted under section 529 of the Internal
10 Revenue Code and related regulations.

11 The council, as trustee, may offer participants a choice of several investment options, some
12 of which may require investment counseling prior to participation. Any investment vehicle
13 offered by the council shall be in accordance with policies of the council adopted pursuant to this
14 chapter and shall be consistent with the investments of a prudent person with similar objectives
15 and shall further be separate from, and not commingled with, other investment programs of the
16 council.

17 Section 3. That § 13-63-21 be amended to read as follows:

18 13-63-21. The council shall adopt policies, guidelines, procedures, or rules pursuant to
19 chapter 1-26 to prevent contributions on behalf of a designated beneficiary in excess of ~~those~~
20 ~~necessary to pay the qualified higher education expenses of the designated beneficiaries and to~~
21 ~~satisfy the safe harbor requirements~~ the maximum amounts permitted under section 529 of the
22 Internal Revenue Code and related regulations.