

## 2025 South Dakota Legislature

**House Bill 1009****AMENDMENT 1009A  
FOR THE INTRODUCED BILL**

1 **An Act to provide for the creation and use of South Dakota educational**  
2 **empowerment accounts.**

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

4 **Section 1. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

5 Terms used in this chapter mean:

- 6 (1) "Institution of higher education," an institution under the control of the Board of  
7 Regents or the South Dakota Board of Technical Education, or an accredited,  
8 private postsecondary institution in this state;  
9 (2) "Parent" a resident of this state who is the parent, stepparent, legal guardian, or  
10 other custodian of a student; and  
11 (3) "Student," a resident of this state who is eligible to enroll in a school district in this  
12 state.

13 **Section 2. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

14 To open a South Dakota educational empowerment account, the parent of a  
15 student ~~who will, during the ensuing school year, attend a nonpublic elementary or~~  
16 ~~secondary school,~~ must file a request with the Department of Education. The request must  
17 be on a form developed by the department and made available on the department's  
18 website. The form must be signed by the parent and contain an acknowledgement that:

- 19 (1) As a condition of being able to access money in the account, the student may not  
20 during the ensuing school year:  
21 (a) Enroll in a school district in this state; or  
22 (b) Have on file a current notice of alternative instruction, pursuant to § 13-27-  
23 3;  
24 (2) Any money in the account may be used only for the purposes permitted under  
25 section 3 of this Act; and

- 1        (3) Upon the student's graduation from high school, the department shall:  
 2                (a) Close the student's account; and  
 3                (b) Transfer any money remaining in the account to the general fund in the  
 4                        state treasury.

5        **Section 3. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

6                Money available in a student's South Dakota educational empowerment account  
 7        may be used only for:

- 8                (1) Tuition fees;  
 9                (2) Fees for sports programs and fine arts programs;  
 10                (3) Textbooks, curricula, or other instructional materials and supplies;  
 11                (4) Tutoring services;  
 12                (5) Educational therapies;  
 13                ~~(5)~~(6) Registration fees for:  
 14                        (a) A nationally standardized achievement test;  
 15                        (b) An advanced placement examination; or  
 16                        (c) Any other test or examination related to postsecondary admission;  
 17                (7) Transportation services between the student's residence and:  
 18                        (a) The nonpublic school in which the student is enrolled;  
 19                        (b) The institution of higher education at which the student is enrolled; or  
 20                        (c) A location or program related to the education of the student; and  
 21                (8) Technological devices, instruments, and equipment necessary for the student to  
 22                        participate in any form of educational pursuit listed in this section.

23        **Section 4. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

24                Upon receipt of the signed form described in section 2 of this Act, the Department  
 25        of Education must transfer into the student's South Dakota educational empowerment  
 26        account, the per student equivalent amount, as calculated in accordance with § 13-13-  
 27        10.1. The department shall forward to the parent a debit card for use in accordance with  
 28        section 3 of this Act.

29                The funding required under this section must be budgeted and expended through  
 30        the General Appropriations Act, pursuant to chapter 4-7.

31        **Section 5. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

1 If a parent elects to utilize the South Dakota educational empowerment account  
2 for a second or subsequent year, the parent must notify the Department of Education by  
3 completing the renewal form developed by the department and published on the  
4 department's website. The renewal form must be signed by the parent and must contain  
5 the same acknowledgements required on the initial request form under section 2 of this  
6 Act.

7 Upon receipt of the renewal form, the department must transfer into the student's  
8 South Dakota educational empowerment account, the per student equivalent amount, as  
9 calculated in accordance with § 13-13-10.1. The funding required under this section must  
10 be budgeted and expended through the General Appropriations Act, pursuant to chapter  
11 4-7.

12 If a parent fails to return a renewal form to the department prior to September  
13 first, the department must provide a reminder notice to the parent, using the parent's last  
14 known email address. If a parent fails to return a renewal form to the department by  
15 October first, the department must:

- 16 (1) Transfer, to the general fund, any money remaining in the student's account for  
17 which the parent has not requested renewal; and  
18 (2) Close the student's account.

19 **Section 6. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

20 If any goods are purchased with money from a student's South Dakota educational  
21 empowerment account and returned for a refund, or if any contracted or purchased  
22 services are voided and a refund is required, the refund must be credited to the student's  
23 account.

24 A violation of this section is a Class 1 misdemeanor.

25 **Section 7. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

26 The Department of Education shall conduct random audits of South Dakota  
27 educational empowerment accounts to ensure compliance with sections 2 of this Act.

28 Any parent or student who is convicted in a court of law for fraud in connection  
29 with the student's South Dakota educational empowerment account may not participate  
30 in the program.

31 Upon a finding of ineligibility under this section, the student's account must be  
32 closed, and no other transactions may be allowed, or disbursements made. The  
33 department shall transfer, to the general fund, any money remaining in the account.

1           The department may forward any evidence of misuse or fraud to the attorney  
2           general for the purpose of collection and for the purpose of criminal investigation.

3           **Section 8. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

4           The Department of Education shall develop and post on ~~its~~ the department's  
5           website a participant handbook that includes information relating to the implementation  
6           and use of South Dakota educational empowerment accounts.

7           **Section 9. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

8           The Department of Education shall develop and publish on the department's  
9           website a form for withdrawing an alternative instruction notification provided pursuant to  
10          § 13-27-3.

11          **Section 10. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

12          A form that requests the opening of a South Dakota educational empowerment  
13          account or the renewal of an existing account constitutes compliance with any school  
14          attendance notifications otherwise required in chapter 13-27, if the form is:  
15          (1) Signed by a parent in accordance with sections 2 or 5 of this Act; and  
16          (2) Submitted to the Department of Education.

17          **Section 11. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

18          Nothing in this Act authorizes the Department of Education or any school district  
19          in this state to exercise any additional control or supervision, other than that set forth in  
20          this title, or to impose any additional requirements or restrictions, other than those set  
21          forth in this title, over any nonpublic school, nonpublic school student, or parent of any  
22          nonpublic school student, or any parent providing or student receiving alternative  
23          instruction.