



2023 South Dakota Legislature

House Bill 1004

Introduced by: The Committee on State Affairs at the request of the Department of Revenue

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

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

4 **Section 1. That § 13-63-1 be AMENDED:**

5 **13-63-1.** Terms used in this chapter mean:

- 6 (1) "Account," an account established as prescribed in this chapter;
- 7 (2) "Account owner," the person who, under this chapter or rules promulgated by the
 8 council pursuant to chapter 1-26, is entitled to select or change the designated
 9 beneficiary of an account, to designate any person other than the designated
 10 beneficiary to whom funds may be paid from the account, or to receive distributions
 11 from the account if no such other person is designated;
- 12 (3) "Cash," currency, bills, and coins in circulation. A negotiable instrument may be
 13 converted to cash if properly endorsed and presented to a financial institution for
 14 deposit. An automatic transfer, cashier's check, certified check, money order,
 15 payroll deposit, traveler's check, personal check, and wire transfer may also be
 16 converted to cash if presented to a financial institution for deposit;
- 17 (4) "Contribution," any payment directly allocated to an account for the benefit of a
 18 designated beneficiary or used to pay late fees or administrative fees associated
 19 with an account, and that portion of any rollover amount treated as a contribution
 20 under section 529 of the Internal Revenue Code;
- 21 (5) "Contributor," any person making a contribution to an account;
- 22 (6) "Council," the South Dakota Investment Council;
- 23 (7) "Designated beneficiary," except as provided in § 13-63-25, the individual
 24 designated at the time the account is opened as the individual whose higher
 25 education expenses are expected to be paid from the account or, if this designated

- 1 beneficiary is replaced in accordance with § 13-63-12, 13-63-13, or 13-63-14, the
2 replacement beneficiary;
- 3 (8) "Eligible education institution," as defined in section 529(e)(5) of the Internal
4 Revenue Code;
- 5 (9) "Financial institution," any bank, commercial bank, national bank, savings bank,
6 savings and loan association, credit union, an insurance company, brokerage firm,
7 or other similar entity that is authorized to do business in this state;
- 8 (10) "Investment direction," specifying or attempting to specify the particular financial
9 instruments or ownership interests either individually, or within a fund family or
10 other group of financial instruments or ownership interests held as an investment
11 group, into which the contributions or earnings are invested. Selecting an initial
12 type of investment program if more than one program is offered does not constitute
13 an investment direction;
- 14 (11) "Internal Revenue Code," the United States Internal Revenue Code as amended and
15 in effect on January 1, ~~2022~~2023;
- 16 (12) "Member of the family," as defined in section 529(e)(2) of the Internal Revenue
17 Code;
- 18 (13) "Person," an individual, a corporation, a partnership, a trust or estate, a joint-stock
19 company, an association, or a syndicate, group, pool, joint venture, or other
20 unincorporated organization or group;
- 21 (14) "Program," the higher education savings program established under this chapter;
- 22 (15) "Program manager," any financial institution selected by the council to act as the
23 depository and manager for an account;
- 24 (16) "Qualified higher education expenses," as defined in section 529(e)(3) of the
25 Internal Revenue Code;
- 26 (17) "Qualified tuition program," as defined in section 529(b) of the Internal Revenue
27 Code;
- 28 (18) "Rollover," a disbursement or transfer from an account of a designated beneficiary
29 that is transferred to or deposited within sixty days into an account of the same
30 designated beneficiary or another individual who is a member of the family of the
31 designated beneficiary, if the transferee account was created under this chapter or
32 under a qualified tuition program maintained by another state in accordance with
33 section 529 of the Internal Revenue Code, or any other rollover allowed by section
34 529 of the Internal Revenue Code.