

State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

767Z0624

SENATE BILL NO. 117

Introduced by: Senators Stalzer, Jensen (Phil), Klumb, Kolbeck, Monroe, Nelson, Netherton, Novstrup, Otten (Ernie), Rusch, Solano, and Wiik and Representatives Heinemann, Barthel, Brunner, Clark, DiSanto, Haugaard, Holmes, Howard, Latterell, Mills, Pischke, Qualm, Rhoden, Ring, Rounds, Schoenfish, Turbiville, Wiese, and Zikmund

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the partners in
2 education tax credit program.

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

4 Section 1. That § 13-65-1 be amended to read:

5 13-65-1. Terms, as used in this chapter, mean:

6 (1) "Division," the Division of Insurance in the Department of Labor and Regulation;

7 (2) "Educational scholarship," a grant to an eligible student to cover all or part of the
8 tuition and fees at a qualifying school. The average value of all scholarships awarded
9 by a scholarship granting organization may not exceed eighty-two and five-tenths
10 percent of the state's share of the per student equivalent, as defined in § 13-13-10.1:
11 ~~One half of the scholarship amount shall be paid by the scholarship granting~~
12 ~~organization at the beginning of the first semester, and one half shall be paid at the~~
13 ~~beginning of the second semester;~~



- 1 (3) "Eligible student," any student who:
- 2 (a) Is a member of a household whose total annual income, the year before the
- 3 student enters the program, did not exceed one hundred fifty percent of the
- 4 income standard used to qualify for a free or reduced-price lunch under the
- 5 national free or reduced-price lunch program ~~established under 42 U.S.C.~~
- 6 ~~section 1751, et seq. as of January 1, 2016.~~ If sufficient funding is available,
- 7 once a student meets the initial income eligibility requirement, the student
- 8 remains income eligible for three years or if the student is entering high
- 9 school, until the student graduates high school regardless of household
- 10 income. After the initial period of income eligibility, a student remains eligible
- 11 if the student is a member of a household whose total annual income in the
- 12 prior year did not exceed two hundred percent of the income standard used to
- 13 qualify for a free or reduced-price lunch;
- 14 (b) Received an educational scholarship under this program the preceding
- 15 semester, attended a public school the preceding semester, is starting at a K-12
- 16 school in South Dakota for the first time, or is entering kindergarten, first
- 17 grade, or ninth grade; and
- 18 (c) Resides in South Dakota while receiving the educational scholarship;
- 19 (4) "Low-income eligible student," any student who is a member of a household whose
- 20 total annual income, the year before the student enters the program, did not exceed
- 21 one hundred percent of the income standard used to qualify for a free or reduced-
- 22 price lunch under the national free or reduced-price lunch program ~~established under~~
- 23 ~~42 U.S.C. section 1751, et seq. as of January 1, 2016.;~~
- 24 (5) "Parent," any guardian, custodian, or other person with authority to act in place of a

1 parent for the child;

2 (6) "Program," the partners in education tax credit program established pursuant to this
3 chapter;

4 (7) "Qualifying school," any nonpublic school that operates within the boundaries of
5 South Dakota, is accredited by the Department of Education, provides education to
6 elementary or secondary students, and has notified a scholarship granting
7 organization of its intention to participate in the program and comply with the
8 program requirements. This definition excludes any school that receives a majority
9 of its revenues from public funds;

10 (8) "Scholarship granting organization," a nonprofit organization that complies with the
11 requirements of the program and provides educational scholarships to students.

12 Section 2. That § 13-65-4 be amended to read:

13 13-65-4. Each scholarship granting organization shall:

14 (1) Annually notify the division of its intent to provide educational scholarships to
15 eligible students attending qualifying schools;

16 (2) Demonstrate to the division that it has been granted exemption from the federal
17 income tax pursuant to section 501(c)(3) of the Internal Revenue Code;

18 (3) Distribute periodic scholarship payments from the educational scholarship fund
19 account as checks made out to an eligible student's parent and mailed to the
20 qualifying school where the eligible student is enrolled. The parent shall endorse the
21 check before it may be deposited;

22 (4) Annually collect written documentation, from each qualifying school that accepts
23 educational scholarship payments, verifying the school is accredited by the
24 Department of Education;

- 1 (5) Provide a division approved receipt to companies for contributions made to the
2 scholarship granting organization;
- 3 (6) Ensure that at least ninety percent of its revenue from contributions is spent on
4 educational scholarships, and that all revenue from interest or investments is spent
5 on scholarships;
- 6 (7) Carry forward no more than twenty-five percent of its revenue from contributions in
7 the educational scholarship fund account from the fiscal year in which they were
8 received to the next fiscal year. Contributions that are not carried forward shall be
9 remitted to the division;
- 10 (8) Submit to the division the names and addresses of all board members and
11 documentation validating that criminal background checks have been conducted on
12 all of its employees and board members, and exclude any employee or board member
13 from employment or governance who might reasonably pose a risk to the appropriate
14 use of contributed funds;
- 15 (9) Ensure that scholarships are portable during the school year and can be used at any
16 qualifying school to which the scholarship granting organization grants scholarships
17 and that accepts the eligible student according to a parent's wishes. If a student moves
18 to a new qualifying school during a school year, the scholarship amount may be
19 prorated; and
- 20 (10) Report to the division by ~~March~~ June first of each year the following information,
21 prepared by a certified public accountant regarding its contributions in the previous
22 calendar year and the scholarship awards in the current fiscal year:
 - 23 (a) The name and address of each contributing company;
 - 24 (b) The total number and total dollar amount of contributions received from each

1 company; and

2 (c) The total number and total dollar amount of educational scholarships awarded
3 to eligible students, the total number and total dollar amount of educational
4 scholarships awarded to low-income eligible students, and the percentage of
5 first-time recipients of educational scholarships who were enrolled in a public
6 school in the prior school year;

7 (11) Any donation received that is not awarded a tax credit pursuant to § 13-65-2 is not
8 subject to subdivisions (5) to (7), inclusive, of this section.