

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

731D0422

## HOUSE ENGROSSED NO. **HB1057** - 2/10/00

Introduced by: Representatives Munson (Donald), Broderick, Clark, Kooistra, Michels, Roe, Smidt, Sutton (Duane), and Volesky and Senators Reedy, Duxbury, Ham, Kleven, Madden, and Moore

1 FOR AN ACT ENTITLED, An Act to create the South Dakota education savings plan.

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

3 Section 1. Terms used in this Act mean:

4 (1) "Account," an account established in accordance with this Act and which meets the  
5 requirements of Section 529 of the Internal Revenue Code, 26 U.S.C.A. § 529, as  
6 amended to January 1, 2000, for qualified state tuition programs;

7 (2) "Board," the Board of Regents;

8 (3) "Contribution," any payment made to an account for the benefit of a designated  
9 beneficiary;

10 (4) "Contributor," any person or organization contributing to and maintaining an account  
11 and having the right to withdraw funds from the account before the account is  
12 disbursed to or for the benefit of the designated beneficiary;

13 (5) "Designated beneficiary," the person who is designated as the beneficiary of the  
14 account at the time the account is established, the person who is designated as the  
15 new beneficiary if the beneficiaries of the account are changed, or the person receiving  
16 the benefits from an account established by a state or local government or an

1 organization as part of a scholarship program operated by such government or  
2 organization;

3 (6) "Distribution," any disbursement from the account;

4 (7) "Eligible institution," any institution of postsecondary education determined by the  
5 executive director to be regularly accredited by a recognized and appropriate  
6 accrediting agency offering postsecondary education, and which has an agreement  
7 with the United States secretary of education to conduct any of the programs  
8 established in Title IV of The Higher Education Act of 1965, as amended to  
9 January 1, 2000;

10 (8) "Executive director," the executive director of the Board of Regents;

11 (9) "Financial institution," any bank, insurance company, or investment company licensed  
12 to do business in South Dakota which may be designated by the board to invest the  
13 funds of the plan;

14 (10) "Nonqualified withdrawal," any withdrawal from an account other than a qualified  
15 withdrawal, any withdrawal made as the result of the death or disability of the  
16 designated beneficiary, or any rollover or change of designated beneficiary;

17 (11) "Plan," the South Dakota education savings plan;

18 (12) "Qualified higher education expenses," expenses such as room, board, tuition, fees,  
19 books, supplies, and equipment as defined in Section 529 of the Internal Revenue  
20 Code, 26 U.S.C.A. § 529, as amended to January 1, 2000, and required for the  
21 enrollment or attendance of a designated beneficiary at an eligible institution; and

22 (13) "Qualified withdrawal," a withdrawal from an account to pay the qualified higher  
23 education expenses of the designated beneficiary in accordance with this Act.

24 Section 2. There is hereby established the South Dakota education savings plan. The plan is  
25 a mechanism through which a contributor may deposit funds into an account on behalf of a

1 designated beneficiary to pay the qualified higher education expenses of the designated  
2 beneficiary incurred while attending an eligible institution. Contributors may establish accounts  
3 through the plan at financial institutions. The Board of Regents, through the executive director,  
4 shall administer the plan or select an administrator in compliance with Section 529 of the Internal  
5 Revenue Code, 26 U.S.C.A. § 529, as amended to January 1, 2000.

6 Section 3. In order to establish and administer the plan, the executive director, on behalf of  
7 the board, may enter into agreements with one or more financial institutions to operate the plan.

8 Section 4. The executive director, on behalf of the board, may enter into participation  
9 agreements with contributors on behalf of designated beneficiaries stipulating the terms and  
10 conditions of the plan in which the contributor makes deposits. The board may promulgate rules,  
11 pursuant to chapter 1-26, to specify contributor and designated beneficiary eligibility  
12 requirements, documentation, maximum and minimum contribution amounts, distribution  
13 procedures, and qualified and nonqualified withdrawal procedures and fees, if any.

14 Section 5. Nothing in this Act may be construed to guarantee that any designated beneficiary  
15 will be admitted to an eligible institution or will be allowed to continue enrollment at or graduate  
16 from an eligible institution, that a designated beneficiary will qualify for resident tuition rates if  
17 attending a state-supported university, or that amounts saved pursuant to the plan will be  
18 sufficient to cover the qualified education expenses of the designated beneficiary.

19 Section 6. Notwithstanding any other provisions of law to the contrary, the designated  
20 beneficiary of any college savings account established pursuant to this Act shall be classified as  
21 a state resident for tuition purposes if, in each of the five years prior to the semester in which the  
22 designated beneficiary first enrolls in classes, the contributor has made additional contributions  
23 meeting or exceeding the minimum contribution amounts specified pursuant to section 4 of this  
24 Act.

1 **BILL HISTORY**

- 2 1/14/00 First read in House and referred to State Affairs. H.J. 45
- 3 1/19/00 Scheduled for Committee hearing on this date.
- 4 1/19/00 Deferred by Chair.
- 5 1/21/00 Scheduled for Committee hearing on this date.
- 6 1/24/00 Scheduled for Committee hearing on this date.
- 7 1/26/00 Scheduled for Committee hearing on this date.
- 8 1/28/00 Scheduled for Committee hearing on this date.
- 9 1/31/00 Scheduled for Committee hearing on this date.
- 10 2/2/00 Scheduled for Committee hearing on this date.
- 11 2/7/00 Scheduled for Committee hearing on this date.
- 12 2/7/00 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 5. H.J. 476
- 13 2/10/00 Motion to Amend, Passed.
- 14 2/10/00 House of Representatives Do Pass Amended, Passed, AYES 54, NAYS 12.