



## 2024 South Dakota Legislature

# House Bill 1253

Introduced by: **Representative May**

1 **An Act to permit nonaccredited schools to participate in the partners in education**  
 2 **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:**

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  
 9 awarded by a scholarship granting organization may not exceed eighty-two and  
 10 five-tenths percent of the state's share of the per student equivalent, as defined in  
 11 § 13-13-10.1;
- 12 (3) "Eligible student," any student entering kindergarten through twelfth grade who  
 13 resides in South Dakota while receiving the educational scholarship and:
- 14 (a) Is a member of a household whose total annual income, the year before the  
 15 student enters the program, did not exceed one hundred fifty percent of the  
 16 income standard used to qualify for a free or reduced-price lunch under the  
 17 national free or reduced-price lunch program. If sufficient funding is  
 18 available, once a student meets the initial income eligibility requirement,  
 19 the student remains income eligible for three years or if the student is  
 20 entering high school, until the student graduates high school regardless of  
 21 household income. After the initial period of income eligibility, a student  
 22 remains eligible if the student is a member of a household whose total  
 23 annual income in the prior year did not exceed two hundred percent of the  
 24 income standard used to qualify for a free or reduced-price lunch; or  
 25 (b) Is in foster care;

- 1 (4) "Low-income eligible student," any student who is a member of a household whose  
 2 total annual income, the year before the student enters the program, did not  
 3 exceed one hundred percent of the income standard used to qualify for a free or  
 4 reduced-price lunch under the national free or reduced-price lunch program;
- 5 (5) "Parent," any guardian, custodian, or other person with authority to act in place of  
 6 a parent for the child;
- 7 (6) "Program," the partners in education tax credit program established pursuant to  
 8 this chapter;
- 9 (7) "Qualifying school," any nonpublic school that operates within the boundaries of  
 10 South Dakota or any tribally controlled school on a federally recognized Indian  
 11 reservation that operates within the boundaries of South Dakota, ~~is accredited by~~  
 12 ~~the Department of Education,~~ provides education to elementary or secondary  
 13 students, and has notified a scholarship granting organization of its intention to  
 14 participate in the program and comply with the program requirements. This term  
 15 excludes any school that receives a majority of its revenues from public funds; and
- 16 (8) "Scholarship granting organization," a nonprofit organization that complies with the  
 17 requirements of the program and provides educational scholarships to students.

18 **Section 2. That § 13-65-4 be AMENDED:**

- 19 **13-65-4.** Each scholarship granting organization shall:
- 20 (1) Annually notify the division of its intent to provide educational scholarships to  
 21 eligible students attending qualifying schools;
- 22 (2) Demonstrate to the division that it has been granted exemption from the federal  
 23 income tax pursuant to section 501(c)(3) of the Internal Revenue Code;
- 24 (3) Distribute periodic scholarship payments from the educational scholarship fund  
 25 account as checks made out to an eligible student's parent and mailed to the  
 26 qualifying school where the eligible student is enrolled. The parent shall endorse  
 27 the check before it may be deposited;
- 28 (4) ~~Annually collect written documentation, from each qualifying school that accepts~~  
 29 ~~educational scholarship payments, verifying the school is accredited by the~~  
 30 ~~Department of Education;~~
- 31 (5) Provide a ~~division approved~~ division-approved receipt to companies for  
 32 contributions made to the scholarship granting organization;

- 1       ~~(6)~~(5) Ensure that at least ninety percent of its revenue from contributions is spent on  
 2           educational scholarships, and that all revenue from interest or investments is spent  
 3           on scholarships;
- 4       ~~(7)~~(6) Carry forward no more than twenty-five percent of its revenue from contributions  
 5           in the educational scholarship fund account from the fiscal year in which they were  
 6           received to the next fiscal year. Contributions that are not carried forward~~shall~~  
 7           must be remitted to the division;
- 8       ~~(8)~~(7) Submit to the division the names and addresses of all board members and  
 9           documentation validating that criminal background checks have been conducted  
 10          on all of its employees and board members, and exclude any employee or board  
 11          member from employment or governance who might reasonably pose a risk to the  
 12          appropriate use of contributed funds;
- 13       ~~(9)~~(8) Ensure that scholarships are portable during the school year and can be used at  
 14          any qualifying school to which the scholarship granting organization grants  
 15          scholarships and that accepts the eligible student according to a parent's wishes.  
 16          If a student moves to a new qualifying school during a school year, the scholarship  
 17          amount may be prorated;~~and~~
- 18       ~~(10)~~(9) Report to the division by June first of each year the following information,  
 19          prepared by a certified public accountant, regarding its contributions in the  
 20          previous calendar year and the scholarship awards in the current fiscal year:
- 21          (a) The name and address of each contributing company;
- 22          (b) The total number and total dollar amount of contributions received from  
 23              each company; and
- 24          (c) The total number and total dollar amount of educational scholarships  
 25              awarded to eligible students, the total number and total dollar amount of  
 26              educational scholarships awarded to low-income eligible students, and the  
 27              percentage of first-time recipients of educational scholarships who were  
 28              enrolled in a public school in the prior school year; and
- 29       ~~(11)~~(10) Any donation received that is not awarded a tax credit pursuant to § 13-65-2  
 30          is not subject to subdivisions ~~(5)~~(4) to ~~(7)~~(6), inclusive, of this section.