



## 2025 South Dakota Legislature

# House Bill 1020

Introduced by: **Representative** Odenbach

1 **An Act to establish education savings accounts.**

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

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

4 Terms used in this chapter mean:

5 (1) "Curriculum," a course of study for a specific content area or grade level, which is  
6 approved by the Department of Education;

7 (2) "Eligible student," a child who:

8 (a) Has not reached the age of nineteen prior to July first of the current school  
9 year;

10 (b) Is, or during the applicable school year will be, in any educational grade  
11 level from kindergarten through twelve;

12 (c) Is a United States citizen or an alien who has permanent resident status;

13 (d) Is a resident of this state; and

14 (e) Is not and will not, during the applicable school year, be enrolled full-time  
15 in a school district in this state;

16 (3) "Microschool," an educational entity that:

17 (a) Is registered with the secretary of state;

18 (b) Is located within this state;

19 (c) Provides educational services to students who receive alternative  
20 instruction in accordance with chapter 13-27; and

21 (d) Requires enrollment and the payment of tuition;

22 (4) "Parent," a biological or adoptive parent, stepparent, legal guardian, or custodian  
23 of an eligible student; and

24 (5) "Qualifying school,":

25 (a) An accredited nonpublic school located in this state;

26 (b) A microschool;

- 1           (c) A provider that offers virtual coursework approved by the Department of  
2           Education, but not on behalf of a school district; or  
3           (d) A provider of alternative instruction, in accordance with § 13-27-3.

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

5           Upon submission of an initial application by a parent, and approval by the  
6           Department of Education, the department shall establish and provide the parent access to  
7           an education savings account. Moneys in the account may be expended only for the  
8           following:

9           (1) Tuition and fees required for:

10           (a) Enrollment at an accredited nonpublic school located within this state;

11           (b) Enrollment at a microschool;

12           (c) Virtual coursework approved by the department and offered by a provider,  
13           but not on behalf of a school district;

14           (2) The purchase of curricula and associated instructional materials or supplies;

15           (3) The purchase of educationally related technological devices and associated  
16           hardware and services; and

17           (4) The fee for any standardized college or university entrance examination approved  
18           by the department.

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

20           The Department of Education shall consider each initial and renewal application in  
21           the order it is received.

22           The department may not approve more applications than those for which moneys  
23           have been appropriated.

24           For the second and any subsequent year of continuous participation, the parent  
25           shall submit a renewal application to the department.

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

27           If the number of applications exceeds the moneys that have been appropriated for  
28           the purposes of this Act, the Department of Education shall prioritize the approval of the  
29           applications as follows:

30           (1) Renewal applications;

1       (2) Applications in which the household income is less than one hundred and fifty  
2       percent of eligibility for reduced price meals through the National School Lunch  
3       Program, as defined in 42 U.S.C. § 1751 et seq. (January 1, 2025);

4       (3) Applications in which the household income is at least one hundred and fifty percent  
5       but no greater than two hundred percent of eligibility for reduced price meals  
6       through the National School Lunch Program, as defined in 42 U.S.C. § 1751 et seq.  
7       (January 1, 2025); and

8       (4) Any remaining applications.

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

10       Upon approval of an initial or a renewal application, the department shall deposit  
11       into an education savings account an amount equal to forty percent of the per student  
12       equivalent, as defined in § 13-13-10.1. The number of students eligible to receive an  
13       education savings account is determined, each year, in accordance with the amount  
14       appropriated for that purpose.

15       If an eligible student is enrolled in a school district for a portion of the instructional  
16       day, the department must pro rate the amount to be deposited.

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

18       Any moneys that remain unexpended, in an account, as of each June thirtieth,  
19       revert to the state.

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

21       The Department of Education shall conduct random compliance audits of education  
22       savings accounts and shall refer any cases of suspected fraud to the attorney general for  
23       an investigation and if applicable, a civil action for the recovery of moneys.

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

25       The right of a parent to appeal any determination by the Department of Education  
26       must occur in accordance with chapter 1-26 and is limited to matters regarding the  
27       eligibility of a student.

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

1           The Department of Education shall transmit information regarding a student's  
2           education savings account to the partners in education tax credit program, as established  
3           in chapter 13-65.

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

5           The Department of Education shall develop and make available on its website a  
6           handbook regarding the education savings account program, as established in this Act.

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

8           The Department of Education shall promulgate rules in accordance with chapter 1-  
9           26, to:

- 10           (1) Develop forms to be used when initially applying for and renewing an education  
11           savings account;  
12           (2) Establish a process for and the criteria by which initial and renewal applications  
13           must be evaluated;  
14           (3) Establish a process for and the criteria by which the department must verify, for  
15           purposes of an authorized expenditure from an education savings account, tuition  
16           and fees required for:  
17           (a) Enrollment at an accredited nonpublic school located within this state;  
18           (b) Enrollment at a microschool; and  
19           (c) Virtual coursework approved by the department and offered by a provider,  
20           but not on behalf of a school district;  
21           (4) Establish a process for and the criteria by which the department must evaluate, for  
22           purposes of an authorized expenditure from an education savings account:  
23           (a) Curricula and associated instructional materials or supplies;  
24           (b) Educationally related technological devices and associated hardware and  
25           services;  
26           (c) Virtual coursework; and  
27           (d) Standardized college or university entrance examinations;  
28           (5) Establish a process for and the criteria by which the department may terminate an  
29           education savings account;  
30           (6) Establish criteria for random compliance audits of education savings accounts; and  
31           (7) Establish a process for and the criteria by which expenditures from education  
32           savings accounts may occur.

1 **Section 12. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

2 Nothing in this Act limits the independence or autonomy of a qualifying school. A  
3 qualifying school is entitled to all freedoms and flexibilities necessary for the provision of  
4 education to its students, without governmental control.

5 Nothing in this Act requires a qualifying school to alter its admissions policy, beliefs,  
6 creed, curriculum, employment practices, or any other policy or practice, in order to accept  
7 eligible students.

8 Nothing in this Act requires the disclosure of household income, unless  
9 prioritization of the application is pursued in accordance with section 4 of this Act.

10 Nothing in this Act expands the regulatory authority of this state, its officers, or  
11 any school district, with respect to the imposition of any additional requirements or  
12 restrictions on qualifying schools, beyond those necessary to enforce the requirements of  
13 this program.

14 Nothing in this Act imposes or authorizes the imposition of any additional  
15 requirements or restrictions on any parent or other provider of alternative instruction to  
16 the parent's child, as a result of the parent's decision not to apply for an education savings  
17 account.

18

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

20 Nothing in this Act authorizes a qualifying school to impose upon a student who  
21 utilizes an education savings account, a higher tuition charge or fee than that imposed  
22 upon a student who does not utilize an account.