

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 4340

(SENATE AUTHORS: KUPEC, Oumou Verbeten, Fateh, Frentz and Murphy)		
DATE	D-PG	OFFICIAL STATUS
02/29/2024	11838	Introduction and first reading
		Referred to Higher Education
03/18/2024	12418	Author added Murphy

1.1

A bill for an act

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relating to higher education; imposing requirements related to higher education

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institution contracts with online program management companies; proposing

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coding for new law in Minnesota Statutes, chapter 135A.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

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Section 1. [135A.195] REQUIREMENTS RELATED TO ONLINE PROGRAM

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MANAGEMENT COMPANIES.

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Subdivision 1. Definitions. (a) For the purposes of this section, the following terms have

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the meanings given.

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(b) "Commissioner" means the commissioner of the Office of Higher Education.

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(c) "Contract" means an agreement entered into by an institution of higher education

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with an online program management company.

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(d) "Incentive compensation" means a commission or bonus from an institution of higher

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education to third-party entities based on securing enrollment or financial aid. Incentive

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compensation includes tuition sharing, which is a payment from an institution to the third

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party that is equal to a percentage of the institution's tuition for services provided or payment

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based directly or indirectly on securing enrollments or financial aid.

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(e) "Institution of higher education" means a public postsecondary educational institution

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operated by this state and the Board of Regents of the University of Minnesota. The Board

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of Regents of the University of Minnesota is requested to comply with this section.

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(f) "Online program management company" means a third-party entity that enters into

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a contract with an institution of higher education to provide one or more of the following

services on behalf of the institution in exchange for financial compensation: advertising and marketing services; recruiting, admissions, and financial services; instruction services; student support services; technology resources and support services; and curriculum development services.

Subd. 2. **Contract stipulations.** A contract between an institution of higher education and an online program management company must not contain a provision that:

(1) allows incentive compensation as payment for recruitment services, including when bundled with other services rendered by the online program management company;

(2) allows online program management to be involved in institutional governance, curriculum development, or implementation of existing or new online programs. The institution shall maintain control of the programs and any associated instruction, assessment, or curricular design; or

(3) interferes with, modifies, or relinquishes any or all intellectual property rights or patentable discoveries or inventions of faculty members of an institution of higher education.

Subd. 3. **Mandatory contract review and approval.** Contracts and amendments to contracts between an institution of higher education and an online project management company must be reviewed and approved by the Board of Regents for the University of Minnesota system and the Board of Trustees for the Minnesota State system. The review requires a first and second reading of contract details or amendments prior to approval by the respective board.

Subd. 4. **Reporting requirements.** (a) Each institution of higher education that contracts with an online program management company shall submit an annual expenditure report to the commissioner concerning the spending activities of the online program management company. At a minimum, the annual expenditure report shall include:

(1) the information provided by the online program management company under paragraph (b);

(2) the total payments made by the institution to the online program management company during each semester of the prior academic year; and

(3) the number of students who received state financial assistance during the prior academic year and were enrolled in each academic program for which the online program management company provided services.

(b) An online program management company that enters into a contract with an institution of higher education shall submit an annual report to the institution's chief financial officer

3.1 detailing all expenditures made on behalf of the institution during the prior academic year.
3.2 In addition to any other information required by the commissioner, the annual report shall
3.3 specify the amounts expended by the online program management company on each of the
3.4 following categories of expenditure:

3.5 (1) advertising and marketing services;

3.6 (2) admissions and financial services;

3.7 (3) instruction services;

3.8 (4) student support services;

3.9 (5) technology resources and support services; and

3.10 (6) curriculum development materials.

3.11 (c) The commissioner shall publish each annual expenditure report received under this
3.12 section on the website of the Office of Higher Education.

3.13 (d) Each institution of higher education that contracts with an online program management
3.14 company shall submit a copy of the contract to the commissioner within 60 days following:

3.15 (1) the execution of a new contract;

3.16 (2) an amendment to or substantive change in the terms of a contract;

3.17 (3) the renewal of a contract; and

3.18 (4) the effective date of this section, in the case of a contract in effect on the effective
3.19 date of this section.

3.20 (e) Any information filed with the commissioner under this section may be disclosed in
3.21 accordance with chapter 13, except that confidential information shall not be disclosed by
3.22 the commissioner to any person other than employees and representatives of the Office of
3.23 Higher Education.

3.24 Subd. 5. **Marketing requirements.** (a) An institution of higher education that retains
3.25 an online program management company to provide marketing services for its academic
3.26 degree programs shall require that:

3.27 (1) the online program management company self-identifies as a third-party entity that
3.28 is separate from the institution at the beginning of any communication with a prospective
3.29 student; and

4.1 (2) any digital or print advertising provided by the online program management company
4.2 for an academic program of the institution includes a clear disclosure of the third-party
4.3 relationship between the online program management company and the institution.

4.4 (b) An institution of higher education that contracts with an online program management
4.5 company shall make publicly available on its website the following information on the
4.6 online programs that are supported by the online program management company:

4.7 (1) the name of the online program management company contracted by the institution;

4.8 (2) the admission requirements;

4.9 (3) the online program's tuition costs compared to on-campus program tuition costs;

4.10 (4) the average financial aid amount provided to students in the online program; and

4.11 (5) the percentage of students in the online program that receive financial aid.

4.12 **EFFECTIVE DATE.** This section is effective for contracts entered into on or after July
4.13 1, 2024.