

**CHAPTER 136A**  
**OFFICE OF HIGHER EDUCATION**

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**136A.001** MS 2006 [Renumbered 15.001]

### **136A.002 DEFINITIONS.**

Subdivision 1. **Scope.** For purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. **Office of Higher Education or office.** "Office of Higher Education" or "office" means the Minnesota Office of Higher Education.

**History:** 2007 c 144 art 2 s 14

## **ORGANIZATION; DUTIES**

### **136A.01 MINNESOTA OFFICE OF HIGHER EDUCATION.**

Subdivision 1. **Creation.** An office for higher education in the state of Minnesota, to be known as the Minnesota Office of Higher Education, is created with a director appointed by the governor with the advice and consent of the senate and serving at the pleasure of the governor.

Subd. 2. **Responsibilities.** (a) The Minnesota Office of Higher Education is responsible for:

(1) necessary state level administration of financial aid programs, including accounting, auditing, and disbursing state and federal financial aid funds, and reporting on financial aid programs to the governor and the legislature;

(2) approval, registration, licensing, and financial aid eligibility of private collegiate and career schools, under sections 136A.61 to 136A.71 and chapter 141;

(3) negotiating and administering reciprocity agreements;

(4) publishing and distributing financial aid information and materials, and other information and materials under section 136A.87, to students and parents;

(5) collecting and maintaining student enrollment and financial aid data and reporting data on students and postsecondary institutions to develop and implement a process to measure and report on the effectiveness of postsecondary institutions;

(6) administering the federal programs that affect students and institutions on a statewide basis; and

(7) prescribing policies, procedures, and rules under chapter 14 necessary to administer the programs under its supervision.

(b) The office may match individual student data from the student record enrollment database with individual student financial aid data collected and maintained by the office in order to audit or evaluate federal or state supported education programs as permitted by United States Code, title 20, section 1232g(b)(3), and Code of Federal Regulations, title 34, section 99.35. The

office shall not release data that personally identifies parents or students other than to employees and contractors of the office.

**History:** 1965 c 809 s 32 subd 1; 1967 c 615 s 1; 1975 c 271 s 6; 1995 c 212 art 3 s 9; 2003 c 133 art 2 s 3; 2005 c 107 art 2 s 10,60; 2009 c 95 art 2 s 6; 2010 c 364 s 4

**136A.011** [Repealed, 2005 c 107 art 2 s 61]

**136A.02** [Repealed, 1995 c 212 art 3 s 60]

### **136A.03 EXECUTIVE OFFICERS; EMPLOYEES.**

The Minnesota Office of Higher Education shall be under the administrative control of the director. The director shall serve in the unclassified service of the state civil service. The director, or the director's designated representative, on behalf of the office is authorized to sign contracts and execute all instruments necessary or appropriate to carry out the purposes of sections 136A.01 to 136A.178 for the office. The salary of the director shall be established according to section 15A.0815. The director may appoint other professional employees who shall serve in the unclassified service of the state civil service. All other employees shall be in the classified civil service.

An employee appointed by the director to serve in the unclassified service as provided in this section, is a person who has studied higher education or a related field at the graduate level or has similar experience and who is qualified for a career in financial aid and other aspects of higher education and for activities in keeping with the planning and administrative responsibilities of the office and who is appointed to assume responsibility for administration of educational programs or research in matters of higher education.

**History:** 1965 c 809 s 32 subd 6; 1967 c 615 s 1; 1967 c 895 s 3; 1975 c 271 s 6; 1983 c 299 s 21; 1986 c 444; 1995 c 212 art 3 s 11; 1997 c 183 art 3 s 11; 2Sp1997 c 3 s 18; 2003 c 133 art 2 s 5; 2005 c 107 art 2 s 60

### **136A.031 ADVISORY GROUPS.**

Subdivision 1. [Repealed, 2005 c 107 art 2 s 61]

Subd. 2. **Higher Education Advisory Council.** A Higher Education Advisory Council (HEAC) is established. The HEAC is composed of the president of the University of Minnesota or designee; the chancellor of the Minnesota State Colleges and Universities or designee; the commissioner of education; the president of the Private College Council; a representative from the Minnesota Career College Association; and a member appointed by the governor. The HEAC shall bring to the attention of the Minnesota Office of Higher Education any matters that the HEAC deems necessary.

Subd. 3. **Student Advisory Council.** (a) A Student Advisory Council (SAC) to the Minnesota Office of Higher Education is established. The members of SAC shall include: the chair of the University of Minnesota student senate; the state chair of the Minnesota State University Student Association; the president of the Minnesota State College Student Association and an officer of the Minnesota State College Student Association, one in a community college course of study and one in a technical college course of study; the president of the Minnesota Association of Private College Students; and a student who is enrolled in a private vocational school, to be appointed by the Minnesota Career College Association. A member may be represented by a student designee who attends an institution from the same system that the absent

member represents. The SAC shall select one of its members to serve as chair.

(b) The Minnesota Office of Higher Education shall inform the SAC of all matters related to student issues under consideration. The SAC shall report to the Minnesota Office of Higher Education quarterly and at other times that the SAC considers desirable. The SAC shall determine its meeting times, but it shall also meet with the office within 30 days after the director's request for a meeting.

(c) The SAC shall:

(1) bring to the attention of the Minnesota Office of Higher Education any matter that the SAC believes needs the attention of the office;

(2) make recommendations to the Minnesota Office of Higher Education as it finds appropriate; and

(3) approve student appointments by the Minnesota Office of Higher Education for each advisory group as provided in subdivision 4.

Subd. 4. **Student representation.** The director must place at least one student from an affected educational system on any task force created by the office. The director must submit to the SAC the name of any student appointed to an advisory group or task force. The student appointment is not approved if four SAC members vote to disapprove of the appointment. If an appointment is disapproved, the director must submit another student appointment to the SAC in a timely manner.

Subd. 5. **Expiration.** Notwithstanding section 15.059, subdivision 5, the advisory groups established in this section do not expire.

**History:** *1995 c 212 art 3 s 12; 1Sp1995 c 3 art 16 s 13; 1999 c 214 art 2 s 4; 1Sp2001 c 1 art 2 s 7; 2003 c 130 s 12; 2003 c 133 art 2 s 6,7; 2005 c 107 art 2 s 11-14,60; 2007 c 144 art 2 s 15*

**136A.035** [Repealed, 1983 c 299 s 36]

**136A.04** [Repealed, 1995 c 212 art 3 s 60]

**136A.041** [Repealed, 1995 c 212 art 3 s 60]

#### **136A.0411 COLLECTING FEES.**

The office may charge fees for seminars, conferences, workshops, services, and materials. The office may collect fees for registration and licensure of private institutions under sections 136A.61 to 136A.71 and chapter 141. The money is annually appropriated to the office.

**History:** *1990 c 591 art 6 s 2; 1Sp1993 c 2 art 2 s 4; 1995 c 212 art 3 s 59*

**136A.042** [Repealed, 1989 c 293 s 85]

**136A.043** [Repealed, 1996 c 310 s 1]

**136A.044** [Repealed, 1991 c 265 art 11 s 26]

#### **136A.05 COOPERATION OF INSTITUTIONS OF HIGHER EDUCATION.**

Subdivision 1. **Cooperation.** All public institutions of higher education and all state departments and agencies shall cooperate with and supply information requested by the Minnesota Office of Higher Education in order to enable it to carry out and perform its duties. Private postsecondary institutions are requested to cooperate and provide information.

Subd. 2. **Data.** The Minnesota Office of Higher Education and public postsecondary institutions shall provide data, in a manner consistent with state and federal laws governing student records, to and as requested by the Minnesota house of representatives or senate for research projects and studies qualifying under Code of Federal Regulations, title 34, section 99.31(a)(6). Private postsecondary institutions are requested to cooperate and provide data. As a condition of receiving the data, the house of representatives or senate shall enter into an agreement with the office or institutions to ensure that the house of representatives or senate will not disclose any data that identify individuals.

**History:** 1965 c 809 s 32 subd 8; 1967 c 615 s 1; 1975 c 271 s 6; 1975 c 390 s 2; 1987 c 401 s 14; 1989 c 293 s 22; 1990 c 591 art 6 s 3; 1995 c 212 art 3 s 14,59; 2005 c 107 art 2 s 60

### **136A.051 STUDENT RECORDS AND DATA.**

When a nonpublic institution of higher education provides the Office of Higher Education student data or records pursuant to section 136A.05, subdivision 1; 136A.121, subdivision 18; or 136A.1701, subdivision 11, the institution of higher education is not liable for a breach of confidentiality, disclosure, use, retention, or destruction of the student data or records, if the breach, disclosure, use, retention, or destruction results from actions or omissions of:

- (1) the Office of Higher Education; or
- (2) persons provided access to the data or records by the Office of Higher Education.

**History:** 2011 c 93 s 1

### **136A.06 FEDERAL FUNDS.**

The Minnesota Office of Higher Education is designated the state agency to apply for, receive, accept, and disburse to both public and private institutions of higher education all federal funds which are allocated to the state of Minnesota to support higher education programs, construction, or other activities and which require administration by a state higher education agency under the Higher Education Facilities Act of 1963, and any amendments thereof, the Higher Education Act of 1965, and any amendments thereof, and any other law which provides funds for higher education and requires administration by a state higher education agency as enacted or may be enacted by the Congress of the United States; provided that no commitment shall be made that shall bind the legislature to make appropriations beyond current allocations of funds. The office may apply for, receive, accept, and disburse all administrative funds available to the office for administering federal funds to support higher education programs, construction, or other activities. The office also may apply for, receive, accept, and disburse any research, planning, or program funds which are available for purposes consistent with the provisions of this chapter. In making application for and administering federal funds the office may comply with any and all requirements of federal law and federal rules and regulations to enable it to receive and accept such funds. The expenditure of any such funds received shall be governed by the laws of the state, except insofar as federal regulations may otherwise provide. The office may contract with both public and private institutions in administering federal funds, and such contracts shall not be subject to the provisions of chapter 16C. All such money received by the office shall be deposited in the state treasury and, subject to section 3.3005, are hereby appropriated to it annually for the purpose for which such funds are received. None of such moneys shall cancel but shall be available until expended.

**History:** 1965 c 809 s 32 subd 9; 1967 c 615 s 1; 1967 c 895 s 4; 1975 c 271 s 6; 1987 c 384 art 1 s 16; 1995 c 212 art 3 s 59; 1998 c 386 art 2 s 42; 2005 c 107 art 2 s 60; 2009 c 95 art 2 s 7

**136A.07** [Repealed, 2007 c 144 art 2 s 52]

**136A.08 RECIPROCAL AGREEMENTS RELATING TO NONRESIDENT TUITION WITH OTHER STATES OR PROVINCES.**

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

(b) "Province" and "provincial" mean the Canadian province of Manitoba.

(c) "Resident of this state" means a resident student as defined in section 136A.101, subdivision 8.

Subd. 2. **Authorization.** The Minnesota Office of Higher Education, in consultation with the commissioner of management and budget and each affected public postsecondary board, may enter into agreements, on subjects that include remission of nonresident tuition for designated categories of students at public postsecondary institutions, with appropriate state or provincial agencies and public postsecondary institutions in other states or provinces. The agreements shall be for the purpose of the mutual improvement of educational advantages for residents of this state and other states or provinces with whom agreements are made.

Subd. 3. **Wisconsin.** A higher education reciprocity agreement with the state of Wisconsin may include provision for the transfer of funds between Minnesota and Wisconsin. If this provision is included, the amount of funds to be transferred shall be determined according to a formula which is mutually acceptable to the office and a duly designated agency representing Wisconsin. The formula shall recognize differences in tuition rates between the two states and the number of students attending institutions in each state under the agreement. Any payments to Minnesota by Wisconsin shall be deposited by the office in the general fund of the state treasury. The amount required for the payments shall be certified by the director of the office to the commissioner of management and budget annually.

Subd. 4. **North Dakota; South Dakota.** A reciprocity agreement with North Dakota may include provision for the transfer of funds between Minnesota and North Dakota. If provision for transfer of funds between the two states is included, the amount of funds to be transferred shall be determined according to a formula which is mutually acceptable to the office and a duly designated agency representing North Dakota. In adopting a formula, the office shall consider tuition rates in the two states and the number of students attending institutions in each state under the agreement. Any payment to Minnesota by North Dakota shall be deposited by the office in the general fund. The amount required for the payments shall be certified by the director of the office to the commissioner of management and budget annually. All provisions in this subdivision pertaining to North Dakota shall also be applied to South Dakota, and all authority and conditions granted for higher education reciprocity with North Dakota are also granted for higher education reciprocity with South Dakota.

Subd. 5. **Financial aid.** The office may enter into an agreement, with a state or province with which it has negotiated a reciprocity agreement for tuition, to permit students to receive student aid awards from the student's state or province of residence for attending an eligible institution in the other state or province.

Subd. 6. **Approval.** An agreement made by the office under this section is not valid as to a particular institution without the approval of that institution's state or provincial governing board. A valid agreement under this subdivision that incurs additional financial liability to the state or

to any of the Minnesota public postsecondary boards, beyond enrollment funding adjustments, must be submitted to the commissioner of management and budget and to the chairs of the higher education finance divisions of the senate and house of representatives for review. The agreement remains valid unless it is disapproved in law.

Subd. 7. **Reporting.** The Minnesota Office of Higher Education must annually, before the last day in January, submit a report to the committees in the house of representatives and the senate with responsibility for higher education finance on:

- (1) participation in the tuition reciprocity program by Minnesota students and students from other states attending Minnesota postsecondary institutions under a reciprocity agreement;
- (2) reciprocity and resident tuition rates at each institution;
- (3) interstate payments and obligations for each state participating in the tuition reciprocity program in the prior year; and
- (4) summary statistics on number of graduates by institution, degree granted, and year of graduation for reciprocity students who attended Minnesota postsecondary institutions.

Subd. 8. [Repealed, 2007 c 144 art 2 s 52]

Subd. 9. **Appeal; resident status.** A student who does not meet the definition of resident after residing in Minnesota for 12 months may appeal to the director by providing documentation on the student's reasons for residing in Minnesota. The director may grant resident status for the purpose of this section to the student upon determining the documentation establishes that postsecondary education was not the student's principal reason for residing in Minnesota.

**History:** 1967 c 615 s 1; 1967 c 866 s 1; 1971 c 161 s 1; 1974 c 532 s 1; 1975 c 271 s 6; 1975 c 321 s 2; 1975 c 390 s 3; 1977 c 403 s 4,5; 1987 c 258 s 12; 1989 c 293 s 23; 1990 c 591 art 6 s 4; 1Sp1993 c 2 art 2 s 5,6; 1995 c 212 art 3 s 16; 2003 c 133 art 3 s 2; 2005 c 107 art 2 s 15,16,60; 2007 c 144 art 2 s 16; 2009 c 95 art 2 s 8,9; 2009 c 101 art 2 s 109

**136A.09** [Repealed, 1989 c 293 s 85]

## STUDENT GRANTS, AID, AND SCHOLARSHIPS

**136A.095** MS 1969 [Repealed, 1971 c 862 s 6]

### **136A.095 GRANTS-IN-AID; PURPOSE.**

The legislature finds and declares that the identification of men and women of the state who are economically disadvantaged and the encouragement of their educational development in eligible institutions of their choosing are in the best interests of the state and of the students.

**History:** 1971 c 226 s 1; 1971 c 862 s 1; 1Sp1985 c 11 s 28

**136A.10** [Repealed, 1971 c 862 s 6]

### **136A.101 DEFINITIONS.**

Subdivision 1. **Scope.** For purposes of sections 136A.095 to 136A.1311, the terms defined in this section have the meanings ascribed to them.

Subd. 2. **Office.** "Office" means the Minnesota Office of Higher Education.

Subd. 3. **Director.** "Director" means the director of the Minnesota Office of Higher Education.



Subd. 4. **Eligible institution.** "Eligible institution" means an institution that meets the eligibility requirements under section 136A.103.

Subd. 5. **Financial need.** "Financial need" means the demonstrated need of the applicant for financial assistance to meet the recognized costs of attending the eligible institution of choice as determined from financial information on the applicant and, if required, on the applicant's parents, by the federal need analysis.

Subd. 5a. **Assigned family responsibility.** "Assigned family responsibility" means the amount of a family's contribution to a student's cost of attendance, as determined by a federal need analysis. For dependent students, the assigned family responsibility is 96 percent of the parental contribution. For independent students with dependents other than a spouse, the assigned family responsibility is 86 percent of the student contribution. For independent students without dependents other than a spouse, the assigned family responsibility is 68 percent of the student contribution.

Subd. 6. [Repealed, 1989 c 293 s 85]

Subd. 7. **Student.** "Student" means a person who is enrolled for at least three credits per quarter or semester, or the equivalent, in a program or course of study that applies to a degree, diploma, or certificate. Credit equivalencies assigned by an institution that are applicable to federal Pell grant calculations shall be counted as part of a student's credit load.

Subd. 7a. **Full time.** "Full time" means enrollment in a minimum of 15 credits per quarter or semester, or the equivalent.

Subd. 7b. **Half time.** "Half time" means enrollment in a minimum of six credits per quarter or semester, or the equivalent.

Subd. 8. **Resident student.** "Resident student" means a student who meets one of the following conditions:

(1) a student who has resided in Minnesota for purposes other than postsecondary education for at least 12 months without being enrolled at a postsecondary educational institution for more than five credits in any term;

(2) a dependent student whose parent or legal guardian resides in Minnesota at the time the student applies;

(3) a student who graduated from a Minnesota high school, if the student was a resident of Minnesota during the student's period of attendance at the Minnesota high school and the student is physically attending a Minnesota postsecondary educational institution;

(4) a student who, after residing in the state for a minimum of one year, earned a high school equivalency certificate in Minnesota;

(5) a member, spouse, or dependent of a member of the armed forces of the United States stationed in Minnesota on active federal military service as defined in section 190.05, subdivision 5c;

(6) a spouse or dependent of a veteran, as defined in section 197.447, if the veteran is a Minnesota resident;

(7) a person or spouse of a person who relocated to Minnesota from an area that is declared a presidential disaster area within the preceding 12 months if the disaster interrupted the person's postsecondary education; or

(8) a person defined as a refugee under United States Code, title 8, section 1101(a)(42), who, upon arrival in the United States, moved to Minnesota and has continued to reside in Minnesota.

Subd. 9. **Independent student.** "Independent student" has the meaning given it in the Higher Education Act of 1965, United States Code, title 20, section 1070a-6, and applicable regulations.

Subd. 10. **Satisfactory academic progress.** "Satisfactory academic progress" means satisfactory academic progress as defined under Code of Federal Regulations, title 34, sections 668.16(e), 668.32(f), and 668.34.

**History:** 1971 c 862 s 2; 1975 c 271 s 6; 1975 c 390 s 4; 1Sp1985 c 11 s 29; 1987 c 401 s 15; 1989 c 293 s 24-26; 1991 c 356 art 8 s 1-5; 1992 c 513 art 1 s 12; 1Sp1993 c 2 art 2 s 7,8; 1995 c 186 s 119; 1995 c 212 art 3 s 17-21,59; 1996 c 398 s 30; 1997 c 183 art 2 s 3; 1998 c 384 s 7; 1Sp2001 c 1 art 2 s 8,9; 2003 c 133 art 2 s 8; 2005 c 107 art 2 s 60; 2006 c 282 art 8 s 3; 2007 c 144 art 2 s 17,18; 2008 c 298 s 3; 2008 c 363 art 4 s 6; 2009 c 95 art 2 s 10; 2010 c 364 s 5,6

### 136A.103 INSTITUTION ELIGIBILITY REQUIREMENTS.

(a) A postsecondary institution is eligible for state student aid under chapter 136A and sections 197.791 and 299A.45, if the institution is located in this state and:

- (1) is operated by this state or the Board of Regents of the University of Minnesota; or
- (2) is operated privately and, as determined by the office, meets the requirements of paragraph (b).

(b) A private institution must:

(1) maintain academic standards substantially equivalent to those of comparable institutions operated in this state;

(2) be licensed or registered as a postsecondary institution by the office; and

(3)(i) by July 1, 2010, participate in the federal Pell Grant program under Title IV of the Higher Education Act of 1965, Public Law 89-329, as amended; or

(ii) if an institution was participating in state student aid programs as of June 30, 2010, and the institution did not participate in the federal Pell Grant program by June 30, 2010, the institution must require every student who enrolls to sign a disclosure form, provided by the office, stating that the institution is not participating in the federal Pell Grant program.

(c) An institution that offers only graduate-level degrees or graduate-level nondegree programs, or that offers only degrees or programs that do not meet the required minimum program length to participate in the federal Pell Grant program, is an eligible institution if the institution is licensed or registered as a postsecondary institution by the office.

(d) An eligible institution under paragraph (b), clause (3), item (ii), that changes ownership as defined in section 136A.63, subdivision 2, must participate in the federal Pell Grant program within four calendar years of the first ownership change to continue eligibility.

(e) An institution that loses its eligibility for the federal Pell Grant program is not an eligible institution.

**History:** 2010 c 364 s 7

**136A.11** [Repealed, 1971 c 862 s 6]

**136A.111** [Repealed, 1989 c 293 s 85]

**136A.12** [Repealed, 1971 c 862 s 6]**136A.1201 MINNESOTA PROMISE.**

Subdivision 1. **Financial aid policy.** It is the policy of the legislature to provide sufficient financial aid funding so that tuition and required fees to attend a public two-year college for a student from a low-income family are covered by state financial aid when combined with federal and other sources of aid.

Subd. 2. **Informational materials.** The Office of Higher Education must prepare and distribute materials under section 136A.87 to promote the Minnesota Promise, the availability of financial aid, and the benefits of higher education.

**History:** 2009 c 95 art 2 s 11

**136A.121 GRANTS.**

Subdivision 1. [Repealed, 1989 c 293 s 85]

Subd. 2. **Eligibility for grants.** An applicant is eligible to be considered for a grant, regardless of the applicant's sex, creed, race, color, national origin, or ancestry, under sections 136A.095 to 136A.131 if the office finds that the applicant:

- (1) is a resident of the state of Minnesota;
- (2) is a graduate of a secondary school or its equivalent, or is 17 years of age or over, and has met all requirements for admission as a student to an eligible college or technical college of choice as defined in sections 136A.095 to 136A.131;
- (3) has met the financial need criteria established in Minnesota Rules;
- (4) is not in default, as defined by the office, of any federal or state student educational loan; and
- (5) is not more than 30 days in arrears in court-ordered child support that is collected or enforced by the public authority responsible for child support enforcement or, if the applicant is more than 30 days in arrears in court-ordered child support that is collected or enforced by the public authority responsible for child support enforcement, but is complying with a written payment agreement under section 518A.69 or order for arrearages.

Subd. 3. **Allocation.** Grants must be awarded on a funds available basis to those applicants who meet the office's requirements.

Subd. 4. [Repealed, 1989 c 293 s 85]

Subd. 5. **Grant stipends.** The grant stipend shall be based on a sharing of responsibility for covering the recognized cost of attendance by the applicant, the applicant's family, and the government. The amount of a financial stipend must not exceed a grant applicant's recognized cost of attendance, as defined in subdivision 6, after deducting the following:

- (1) the assigned student responsibility of at least 46 percent of the cost of attending the institution of the applicant's choosing;
- (2) the assigned family responsibility as defined in section 136A.101; and
- (3) the amount of a federal Pell grant award for which the grant applicant is eligible.

The minimum financial stipend is \$100 per academic year.

Subd. 6. **Cost of attendance.** (a) The recognized cost of attendance consists of: (1) an allowance specified in law for living and miscellaneous expenses, and (2) an allowance for tuition and fees equal to the lesser of the average tuition and fees charged by the institution, or a tuition and fee maximum if one is established in law. If no tuition and fee maximum is established in law, the allowance for tuition and fees is equal to the lesser of: (1) the average tuition and fees charged by the institution, and (2) for two-year programs, an amount equal to the highest tuition and fees charged at a public two-year institution, or for four-year programs, an amount equal to the highest tuition and fees charged at a public university.

(b) For a student registering for less than full time, the office shall prorate the cost of attendance to the actual number of credits for which the student is enrolled.

(c) The recognized cost of attendance for a student who is confined to a Minnesota correctional institution shall consist of the tuition and fee component in paragraph (a), with no allowance for living and miscellaneous expenses.

(d) For the purpose of this subdivision, "fees" include only those fees that are mandatory and charged to full-time resident students attending the institution. Fees do not include charges for tools, equipment, computers, or other similar materials where the student retains ownership. Fees include charges for these materials if the institution retains ownership. Fees do not include optional or punitive fees.

Subd. 7. **Insufficient appropriation.** If the amount appropriated is determined by the office to be insufficient to make full awards to applicants under subdivision 5, awards must be reduced by:

(1) adding a surcharge to the applicant's assigned family responsibility, as defined in section 136A.101, subdivision 5a; and

(2) a percentage increase in the applicant's assigned student responsibility, as defined in subdivision 5.

The reduction under clauses (1) and (2) must be equal dollar amounts.

Subd. 7a. **Surplus appropriation.** If the amount appropriated is determined by the office to be more than sufficient to fund projected grant demand in the second year of the biennium, the office may increase the living and miscellaneous expense allowance in the second year of the biennium by up to an amount that retains sufficient appropriations to fund the projected grant demand. The adjustment may be made one or more times. In making the determination that there are more than sufficient funds, the office shall balance the need for sufficient resources to meet the projected demand for grants with the goal of fully allocating the appropriation for state grants. An increase in the living and miscellaneous expense allowance under this subdivision does not carry forward into a subsequent biennium.

Subd. 8. [Repealed, 1Sp1985 c 11 s 81]

Subd. 9. **Awards.** An undergraduate student who meets the office's requirements is eligible to apply for and receive a grant in any year of undergraduate study unless the student has obtained a baccalaureate degree or previously has been enrolled full time or the equivalent for eight semesters or the equivalent, excluding courses taken from a Minnesota school or postsecondary institution which is not participating in the state grant program and from which a student transferred no credit. A student who withdraws from enrollment for active military service, or for a major illness, while under the care of a medical professional, that substantially limits the

student's ability to complete the term is entitled to an additional semester or the equivalent of grant eligibility. A student enrolled in a two-year program at a four-year institution is only eligible for the tuition and fee maximums established by law for two-year institutions.

**[See Note.]**

Subd. 9a. **Full-year grants.** Students may receive state grants for four consecutive quarters or three consecutive semesters during the course of a single fiscal year. In calculating a state grant for the fourth quarter or third semester, the office must use the same calculation as it would for any other term, except that the calculation must subtract any federal Pell grant for which a student would be eligible even if the student has exhausted the Pell grant for that fiscal year.

Subd. 9b. **Onetime grant for high school-to-college developmental transition program.** (a) A student who enrolls in a program under section 135A.61 is eligible for a onetime grant to help pay expenses to attend the program. The amount of the grant must be determined according to subdivision 5, except as modified by paragraph (b). The requirement in subdivision 9a that subtracts a federal Pell Grant award for which a student would be eligible, even if the student has exhausted the federal Pell Grant award, does not apply to a student who receives a grant under this subdivision in the award year in which the grant is received. The maximum grant under this subdivision must be reduced by the average amount a student would earn working in an on-campus work-study position for ten hours per week during a summer term. The office must determine an amount for student earnings in a summer term, using available data about earnings, before determining the amount awarded under this subdivision.

(b) For a student with an expected family contribution of zero, the maximum amount of the grant is the cost of attendance under subdivision 6.

(c) A grant under this subdivision counts as one of the nine semesters of eligibility under subdivision 9. A grant under this subdivision must not be awarded for the same term for which another grant is awarded under this section.

Subd. 10. [Repealed, 1Sp1993 c 2 art 2 s 26]

Subd. 11. **Renewal conditions.** Each grant is renewable, contingent on continued residency in Minnesota, satisfactory academic progress, recommendation of the eligible institution currently attended, and evidence of continued need.

Subd. 12. **Annual application.** To continue to receive a grant, the student must apply for renewal each year.

Subd. 12a. **Free Application for Federal Student Aid (FAFSA) compliance.** All eligible institutions must implement policies and procedures that ensure that applicants are aware that they must annually complete the FAFSA to be eligible for financial aid.

Subd. 13. **Deadline.** The deadline for the office to accept applications for state grants for a term is 30 days after the start of that term.

Subd. 14. [Repealed, 1Sp1985 c 11 s 81]

Subd. 15. [Repealed, 1989 c 293 s 85]

Subd. 16. **How applied; order.** Grants awarded under this section must be applied to educational costs in the following order: tuition, fees, books, supplies, and other expenses. Unpaid portions of the awards revert to the grant account.

Subd. 17. **Independent student information.** The office shall inform students in its financial aid publications about the definition of independent student status and appeals to the financial aid administrator relating to the declaration of the status.

Subd. 18. **Data.** (a) An eligible institution must provide to the office data on student enrollment and federal and state financial aid.

(b) An institution or its agent must provide to the office aggregate and distributional financial or other data as determined by the director that is directly related to the responsibilities of the office under this chapter and chapter 141. The director may only request aggregate and distributional data after establishing and consulting with a data advisory task force to determine the need, content, and detail of the information. Data provided by nonpublic institutions under this paragraph is considered nonpublic data under chapter 13.

Subd. 19. **Reporting.** By November 1 and February 15, the Office of Higher Education must provide, to the committees of the legislature with jurisdiction over higher education finance and policy, updated state grant spending projections taking into account the most current and projected enrollment and tuition and fee information, economic conditions, and other relevant factors. Before submitting state grant spending projections, the Office of Higher Education must meet and consult with representatives of public and private postsecondary institutions, the Department of Management and Budget, the Governor's Office, legislative staff, and financial aid administrators.

**History:** 1971 c 862 s 4; 1975 c 271 s 6; 1975 c 390 s 5; 1977 c 384 s 2; 1977 c 449 s 16; 1979 c 238 s 1-4; 1981 c 359 s 15,16; 1983 c 258 s 42; 1984 c 654 art 4 s 21; 1Sp1985 c 11 s 30-42; 1987 c 258 s 12; 1987 c 401 s 17,18; 1989 c 246 s 2; 1989 c 293 s 27; 1991 c 292 art 5 s 2; 1991 c 356 art 8 s 6-8; 1992 c 513 art 1 s 13; 1993 c 340 s 1; 1Sp1993 c 2 art 2 s 9,10; 1994 c 532 art 2 s 5; 1995 c 212 art 3 s 22-26,59; 1997 c 183 art 2 s 4,5; 1998 c 384 s 8; 1999 c 214 art 2 s 5; 1Sp2001 c 1 art 2 s 10,11; 2002 c 220 art 5 s 5; 2002 c 374 art 5 s 1; 2003 c 133 art 2 s 9-13; 2005 c 107 art 2 s 17-22; 2005 c 164 s 29; 1Sp2005 c 7 s 28; 2007 c 144 art 2 s 19,20; 2008 c 298 s 4; 2008 c 363 art 4 s 7; 2009 c 95 art 2 s 12-14; 2009 c 101 art 2 s 109; 2010 c 215 art 2 s 6; 1Sp2011 c 5 art 2 s 2

**NOTE:** The additional semester or the equivalent of grant eligibility under subdivision 9, as amended by Laws 2005, chapter 107, article 2, section 20, applies to any student who withdrew from enrollment in a postsecondary institution after December 31, 2002, because the student was ordered to active military service as defined in section 190.05, subdivision 5b or 5c. Laws 2005, chapter 107, article 2, section 59.

**136A.1211** [Repealed, 2003 c 133 art 2 s 21]

**136A.122** [Repealed, 2003 c 133 art 2 s 21]

**136A.124** [Repealed, 2003 c 133 art 2 s 21]

### **136A.125 CHILD CARE GRANTS.**

Subdivision 1. **Establishment.** A child care grant program is established under the supervision of the Minnesota Office of Higher Education. The program makes money available to eligible students to reduce the costs of child care while attending an eligible postsecondary institution. The office shall develop policies and adopt rules as necessary to implement and administer the program.

Subd. 2. **Eligible students.** (a) An applicant is eligible for a child care grant if the applicant:

- (1) is a resident of the state of Minnesota;
- (2) has a child 12 years of age or younger, or 14 years of age or younger who is disabled as defined in section 125A.02, and who is receiving or will receive care on a regular basis from a licensed or legal, nonlicensed caregiver;
- (3) is income eligible as determined by the office's policies and rules, but is not a recipient of assistance from the Minnesota family investment program;
- (4) has not earned a baccalaureate degree and has been enrolled full time less than eight semesters or the equivalent;
- (5) is pursuing a nonsectarian program or course of study that applies to an undergraduate degree, diploma, or certificate;
- (6) is enrolled at least half time in an eligible institution; and
- (7) is in good academic standing and making satisfactory academic progress.

(b) A student who withdraws from enrollment for active military service is entitled to an additional semester or the equivalent of grant eligibility and will be considered to be in continuing enrollment status upon return.

***[See Note.]***

Subd. 3. **Eligible institution.** A Minnesota public postsecondary institution, a Minnesota private, baccalaureate degree granting college or university, or a Minnesota nonprofit two-year vocational technical school granting associate degrees is eligible to receive child care funds from the office and disburse them to eligible students.

Subd. 4. **Amount and length of grants.** (a) The amount of a child care grant must be based on:

- (1) the income of the applicant and the applicant's spouse;
- (2) the number in the applicant's family, as defined by the office; and
- (3) the number of eligible children in the applicant's family.

(b) The maximum award to the applicant shall be \$2,600 for each eligible child per academic year, except that the campus financial aid officer may apply to the office for approval to increase grants by up to ten percent to compensate for higher market charges for infant care in a community. The office shall develop policies to determine community market costs and review institutional requests for compensatory grant increases to ensure need and equal treatment. The office shall prepare a chart to show the amount of a grant that will be awarded per child based on the factors in this subdivision. The chart shall include a range of income and family size.

Subd. 4a. **Rates charged.** Child care providers may not charge students receiving grants under this section a rate that is higher than the rate charged to private paying clients.

Subd. 4b. **Additional grants.** An additional child care grant may be awarded to an applicant attending classes outside of the regular academic year who meets the requirements in subdivisions 2 and 4.

Subd. 4c. **Unexpended balance.** Any unexpended appropriation in the child care grant program in the first year of a biennium shall be used to augment the maximum award in subdivision 4 in the second year of the biennium.

Subd. 5. [Repealed, 1995 c 212 art 3 s 60]

Subd. 6. **Yearly allocations to institutions.** The office shall base yearly allocations on the need for funds using relevant factors as determined by the office in consultation with the institutions. Up to five percent of the money spent on students' child care awards, as determined by the office, may be used for an institution's administrative expenses related to the child care grant program. Any money designated, but not used, for this purpose must be reallocated to child care grants. An institution may carry forward or backward ten percent of its annual allocation to be used for awards in the previous or subsequent academic year.

Subd. 7. **Monitoring and reallocation.** The office shall establish procedures to (1) continually monitor the use of funds throughout the year; (2) identify areas of unmet need for grants; and (3) redistribute available funds in a timely manner to meet the needs of eligible recipients.

Subd. 8. **Information.** The office shall develop and provide information about the program to eligible postsecondary institutions, human service agencies, and potential applicants.

Subd. 9. **Report.** Institutions must submit reports, when requested by the office, on program activity including the number of students served, the child care costs, and the number of students on a waiting list for available funds. The reports must also include the institution's method of prioritizing applicants if insufficient funds are available.

**History:** 1989 c 293 s 28; 1991 c 356 art 8 s 9-13; 1994 c 532 art 2 s 6-9; 1994 c 647 art 8 s 26; 1995 c 212 art 3 s 27,28,59; 1997 c 85 art 4 s 4; 1997 c 183 art 2 s 6; 1998 c 397 art 11 s 3; 1999 c 159 s 25; 1999 c 214 art 2 s 7; 2000 c 489 art 11 s 4; 1Sp2001 c 1 art 2 s 13,14; 2003 c 133 art 2 s 14,15; 2005 c 56 s 1; 2005 c 107 art 2 s 23,24,60; 2007 c 144 art 2 s 21,22

**NOTE:** The additional semester or the equivalent of grant eligibility under subdivision 2, as amended by Laws 2005, chapter 107, article 2, section 23, applies to any student who withdrew from enrollment in a postsecondary institution after December 31, 2002, because the student was ordered to active military service as defined in section 190.05, subdivision 5b or 5c. Laws 2005, chapter 107, article 2, section 59.

### 136A.126 INDIAN SCHOLARSHIPS.

Subdivision 1. **Student eligibility.** The director of the Office of Higher Education shall establish procedures for the distribution of scholarships to a Minnesota resident student as defined under section 136A.101, subdivision 8, who:

- (1) is of one-fourth or more Indian ancestry;
- (2) has applied for other existing state and federal scholarship and grant programs;
- (3) is meeting satisfactory academic progress as defined under section 136A.101, subdivision 10;
- (4) is not in default, as defined by the office, of a federal or state student educational loan;
- (5) if enrolled in an undergraduate program, is eligible or would be eligible to receive a federal Pell Grant or a state grant based on the federal needs analysis and is enrolled for nine semester credits per term or more, or the equivalent;
- (6) if enrolled in a graduate program, demonstrates a remaining financial need in the award amount calculation and is enrolled, per term, on a half-time basis or more as defined by the postsecondary institution; and



(7) in the opinion of the director of the Office of Higher Education, based upon postsecondary institution recommendations, has the capabilities to benefit from further education.

Subd. 2. **Eligible programs.** Scholarships must be for accredited degree programs in accredited Minnesota colleges or universities or for courses in accredited Minnesota business, technical, or vocational schools. Scholarships may also be given to students attending Minnesota colleges that are in candidacy status for obtaining full accreditation, and are eligible for and receiving federal financial aid programs. Students are also eligible for scholarships when enrolled as students in Minnesota higher education institutions that have joint programs with other accredited higher education institutions.

Subd. 3. **Cost of attendance.** The total cost of attendance shall include tuition and required fees charged by the institution and the campus-based budget used for federal financial aid for food, housing, books, supplies, transportation, and miscellaneous expenses.

Subd. 4. **Award amount.** (a) Each student shall be awarded a scholarship based on the federal need analysis. Applicants are encouraged to apply for all other sources of financial aid. The amount of the award must not exceed the applicant's cost of attendance, as defined in subdivision 3, after deducting:

(1) the expected family contribution as calculated by the federal need analysis;

(2) the amount of a federal Pell Grant award for which the applicant is eligible;

(3) the amount of the state grant;

(4) the sum of all federal Supplemental Educational Opportunity Grant, federal Academic Competitiveness Grant, and federal Science and Mathematics Access to Retain Talent Grant (SMART Grant) awards;

(5) the sum of all institutional grants, scholarships, tuition waivers, and tuition remission amounts;

(6) the sum of all tribal scholarships;

(7) the amount of any other state and federal gift aid; and

(8) the amount of any private grants or scholarships.

(b) The award shall be paid directly to the postsecondary institution where the student receives federal financial aid.

(c) Awards are limited as follows:

(1) the maximum award for an undergraduate is \$4,000 per academic year;

(2) the maximum award for a graduate student is \$6,000 per academic year; and

(3) the minimum award for all students is \$100 per academic year.

(d) Scholarships may not be given to any Indian student for more than three years of study for a two-year degree, certificate, or diploma program or five years of study for a four-year degree program at the undergraduate level and for more than five years at the graduate level. Students may acquire only one degree per level and one terminal graduate degree. Scholarships may not be given to any student for more than ten years including five years of undergraduate study and five years of graduate study.

Subd. 5. **Awarding procedure.** (a) Awards must be made on a first-come, first-served basis in the order complete applications are received. If there are multiple applications with identical

completion dates, those applications are further sorted by application receipt date.

(b) Awards are made to eligible students until the appropriation is expended.

(c) Applicants not receiving a grant and for whom the office has received a completed application are placed on a waiting list in order of application completion date.

**History:** *Ex1959 c 71 art 5 s 36; 1971 c 176 s 1; 1977 c 384 s 1; 1983 c 258 s 28; 1Sp1985 c 11 s 12; 1988 c 629 s 28; 1988 c 718 art 3 s 3; 1993 c 224 art 9 s 32; art 13 s 40; 1993 c 374 s 23; 1997 c 192 s 20; 1998 c 397 art 2 s 107,164; 1998 c 398 art 5 s 55; 2000 c 489 art 3 s 4; 1Sp2001 c 6 art 2 s 49; 1Sp2005 c 5 art 2 s 70; 2007 c 146 art 2 s 28, 47; 2008 c 298 s 5; 2010 c 364 s 8,9*

### **136A.127 ACHIEVE SCHOLARSHIP PROGRAM.**

Subdivision 1. **Establishment.** The achieve scholarship program is established to provide scholarships to eligible students within the limits of appropriations for the program.

Subd. 2. **Definition; qualifying program.** For the purposes of this section, a "qualifying program" means a rigorous secondary school program of study for Minnesota high school graduates recognized by the Secretary of Education for the purposes of determining eligibility for the federal Academic Competitiveness Grant Program under Title IV of the Higher Education Act of 1965, as amended on August 14, 2008. If a qualifying program includes a foreign language requirement, the foreign language requirement is waived for a student whose first language is not English and who attains English language proficiency.

Subd. 3. **Documentation of qualifying programs.** The student shall request a transcript from the high school. The high school shall provide a transcript to the Office of Higher Education or to the eligible institution in which the student is enrolling, documenting the qualifying program. If the transcript is not sufficient to document a qualifying program, the student may be required to submit further documentation that the office deems sufficient.

Subd. 4. **Student eligibility.** To be eligible to receive a scholarship under this section, in addition to the requirements listed under section 136A.121, a student must:

- (1) submit a Free Application for Federal Student Aid (FAFSA);
- (2) complete a qualifying program in a high school or in a home-school setting under section 120A.22, graduate from a Minnesota high school, and graduate with an unweighted grade point average of 2.5 or higher;
- (3) qualify for a federal Pell Grant or state grant under section 136A.121;
- (4) be a United States citizen or eligible noncitizen, as defined in section 484 of the Higher Education Act, United States Code, title 20, sections 1091 et seq., as amended, and Code of Federal Regulations, title 34, section 668.33;
- (5) meet satisfactory academic progress as defined under section 136A.101, subdivision 10;
- (6) be a Minnesota resident, as defined in section 136A.101, subdivision 8; and
- (7) enroll full-time in a degree, diploma, or certificate program during the academic year immediately following high school graduation at an eligible institution as defined under section 136A.101, subdivision 4.

Subd. 5. **Administration.** The achieve scholarship program shall be administered by the Minnesota Office of Higher Education. The director shall develop forms and procedures necessary to administer the program.

Subd. 6. **Application.** A student must complete and submit an application for the achieve scholarship.

Subd. 7. **Deadline.** The deadline for the office to accept applications for achieve scholarships is the same as that used for the state grant in section 136A.121, subdivision 13.

Subd. 8. [Repealed, 2009 c 95 art 2 s 46]

Subd. 9. **Scholarship awards.** The amount of the scholarship is equal to the maximum assigned student responsibility for a four-year program, as defined in section 136A.121, subdivision 5, minus the assigned family responsibility as defined in section 136A.101, subdivision 5a, multiplied by 0.50. The minimum scholarship is \$1,200 per academic year based on the institution's academic calendar and the student's continued eligibility. The scholarship may be used to pay for qualifying expenses at eligible institutions.

Subd. 9b. **Additional award for online course completion.** An eligible student who has completed at least one online course while in high school or in a home-school setting under section 120A.22 may receive an additional award of up to \$150 to be used in conjunction with the award in subdivision 9. The additional award is available to new applicants for terms of enrollment beginning on or after July 1, 2009. The online course must be offered by a provider certified by the Minnesota Department of Education under section 124D.095 or by an eligible postsecondary institution as defined under section 136A.101, subdivision 4. If the official high school transcript is not sufficient to document the completion of the online course, the student may be required to submit further documentation as required by the office.

Subd. 10. **Qualifying expenses.** Qualifying expenses are components included under the cost of attendance used for federal student financial aid programs, as defined in section 472 of the Higher Education Act, United States Code, title 20, sections 1091 et seq., as amended.

Subd. 10a. **Student investment.** A student investment is required in an amount equal to the remainder of the assigned student responsibility as defined in section 136A.121, subdivision 5, after deducting the achieve scholarship.

Subd. 11. **Eligible institutions.** The achieve scholarship may only be used to pay qualifying expenses at an eligible institution as defined under section 136A.101, subdivision 4.

Subd. 12. [Repealed, 2009 c 95 art 2 s 46]

Subd. 13. [Repealed, 2009 c 95 art 2 s 46]

Subd. 14. **Evaluation report.** By January 15 of each odd-numbered year, the Office of Higher Education shall submit a report, to the committees of the legislature with jurisdiction over higher education finance and policy, regarding the program, including, at a minimum, the following information:

- (1) the demographics of individuals participating in the program;
  - (2) the number of scholarship recipients who persisted at a postsecondary institution for a second year;
  - (3) the high schools attended by the program participants;
  - (4) the postsecondary institutions attended by the program participants;
  - (5) the academic performance of the students after enrolling in a postsecondary institution;
- and

(6) other information as determined by the director.

**History:** 2007 c 144 art 2 s 24; 2008 c 277 art 1 s 12; 2008 c 298 s 6; 2009 c 95 art 2 s 15-20; 2009 c 101 art 2 s 109; 2010 c 364 s 10,11

### **136A.128 TEACHER EDUCATION AND COMPENSATION HELPS; EARLY CHILDHOOD TEACHER EDUCATION INCENTIVES.**

Subdivision 1. **TEACH.** The teacher education and compensation helps program (TEACH) is established to provide tuition scholarships and education incentives to early care and education providers. The director shall make a grant with appropriations for this purpose to a nonprofit organization licensed to administer the TEACH early childhood program.

Subd. 2. **Program components.** (a) The nonprofit organization must use the grant for:

(1) tuition scholarships up to \$5,000 per year for courses leading to the nationally recognized child development associate credential or college-level courses leading to an associate's or bachelor's degree in early childhood development and school-age care; and

(2) education incentives of a minimum of \$100 to participants in the tuition scholarship program if they complete a year of working in the early care and education field.

(b) Applicants for the scholarship must be employed by a licensed early childhood or child care program and working directly with children, a licensed family child care provider, or an employee in a school-age program exempt from licensing under section 245A.03, subdivision 2, clause (12). Lower wage earners must be given priority in awarding the tuition scholarships. Scholarship recipients must contribute ten percent of the total scholarship and must be sponsored by their employers, who must also contribute ten percent of the total scholarship. Scholarship recipients who are self-employed must contribute 20 percent of the total scholarship.

Subd. 3. **Advisory committee.** The TEACH early childhood and Minnesota early childhood teacher education incentive programs may have an advisory board as prescribed by the national TEACH organization.

Subd. 4. **Administration.** A nonprofit organization that receives a grant under this section may use five percent of the grant amount to administer the program.

**History:** 2007 c 144 art 2 s 23; 2008 c 298 s 7

**136A.13** [Repealed, 1971 c 862 s 6]

### **136A.131 ACCOUNTING AND RECORDS.**

Subdivision 1. **Accounts.** The office shall establish and maintain appropriate accounts and related records of each recipient of a grant.

Subd. 2. **Rules, payment and accounting.** The office shall provide by rule the method of payment of the grant awarded and prescribe a system of accounting to be kept by the institution selected by a recipient.

Subd. 3. **Certification to commissioner of management and budget.** Upon proper verification for payment of a grant, the office shall certify to the commissioner of management and budget the amount of the current payment to be made to the grant recipient in conformance with the rule of the office governing the method of payment.

Subd. 4. **Recovery of overpayments.** (a) A recipient of a grant must reimburse the office

for overpayment. The amount of reimbursement is the difference between the amount received and the amount of actual entitlement as calculated by the office after it makes its final findings under section 136A.121 and rules implemented under that section. The amount of reimbursement may include any costs or expenses, including reasonable attorney fees, incurred by the agency in collecting the debt. The reimbursement is recoverable from the recipient or the recipient's estate. The agency may institute a civil action, if necessary for recovery.

(b) The recipient must not receive additional awards until the overpayment is recovered or the recipient is making payments under an approved plan. Additional awards for which the recipient is eligible may be used to recover an unreimbursed overpayment.

**History:** 1971 c 862 s 5; 1973 c 492 s 14; 1975 c 271 s 6; 1989 c 293 s 30; 1995 c 212 art 3 s 59; 2009 c 101 art 2 s 109

### **136A.1311 CASH FLOW.**

The Minnesota Office of Higher Education may ask the commissioner of management and budget to lend general fund money to the grant account to ease cash flow difficulties. The Minnesota Office of Higher Education must first certify to the commissioner that there will be adequate refunds to the account to repay the loan. The commissioner shall use the refunds to make repayment to the general fund of the full amount loaned. Money necessary to meet cash flow difficulties in the state grant program is appropriated to the commissioner of management and budget for loans to the Minnesota Office of Higher Education.

**History:** 1991 c 356 art 8 s 14; 1995 c 212 art 3 s 59; 2005 c 107 art 2 s 60; 2009 c 101 art 2 s 109

### **136A.1312 FINANCIAL AID ADMINISTRATOR, PROFESSIONAL JUDGMENT.**

Nothing in this chapter or in the office's rules shall be interpreted as limiting the ability of student financial aid administrators, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected family contribution computations to allow for treatment of individual students with special circumstances, with the exception of the cost of attendance defined under section 136A.121, subdivision 6. In addition, nothing in this chapter or in the office's rules shall be interpreted as limiting the ability of the student financial aid administrator to use supplementary information about the financial status of eligible applicants with special circumstances in selecting recipients of state financial aid and determining the amount of awards. Nothing in this section precludes a financial aid administrator from establishing an appeals process for other extenuating circumstances.

**History:** 1996 c 398 s 31

### **136A.1313 FINANCIAL AID AUDITS.**

Beginning with audits for fiscal year 1996, in place of the audits provided by the office, public institutions that administer state grants under decentralized delivery may arrange for audits of state financial aid awards and tuition reciprocity recipients in conjunction with their audits for federal financial aid. Audits must be conducted in compliance with guidelines and materials prepared by the office. The office shall develop a review process including procedures for responding to audit exceptions. All other institutions under decentralized delivery may arrange for audits under this section beginning with audits for fiscal year 1997.

**History:** 1996 c 398 s 32

- 136A.132** [Repealed, 1991 c 356 art 8 s 24]
- 136A.133** [Repealed, 1984 c 654 art 4 s 30]
- 136A.134** [Repealed, 1Sp1993 c 2 art 2 s 26]
- 136A.1351** [Repealed, 1990 c 591 art 4 s 9; 1991 c 356 art 8 s 24; 1995 c 234 art 8 s 48]
- 136A.1352** [Repealed, 1990 c 591 art 4 s 9; 1995 c 234 art 8 s 48]
- 136A.1353** [Repealed, 1990 c 591 art 4 s 9; 1995 c 234 art 8 s 48]
- 136A.1354** [Repealed, 1990 c 591 art 4 s 9; 1995 c 234 art 8 s 48]
- 136A.1355** [Renumbered 144.1494]
- 136A.1356** [Renumbered 144.1495]
- 136A.1357** [Renumbered 144.1496]
- 136A.1358** [Renumbered 144.1497]
- 136A.1359** [Repealed, 1999 c 214 art 2 s 24]
- 136A.136** [Repealed, 1999 c 214 art 2 s 24]
- 136A.14** [Repealed, 1989 c 293 s 85]
- 136A.141** [Repealed, 1989 c 293 s 85]
- 136A.142** [Repealed, 1989 c 293 s 85]
- 136A.143** [Repealed, 1992 c 513 art 1 s 28]
- 136A.144** [Repealed, 1983 c 258 s 72]
- 136A.145** [Repealed, 1983 c 258 s 72]
- 136A.146** [Repealed, 1983 c 258 s 72]

## STUDENT LOAN PROGRAMS

### 136A.15 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of sections 136A.15 to 136A.1702, the terms defined in this section have the meanings given them.

Subd. 2. **Academic year or its equivalent.** "Academic year or its equivalent" shall be as defined in the federal regulations which govern the administration of the National Vocational Student Loan Insurance Act of 1965 and title IV of the Higher Education Act of 1965.

Subd. 3. **Office.** "Office" means the Minnesota Office of Higher Education.

Subd. 4. **Director.** "Director" means the director of the Minnesota Office of Higher Education.

Subd. 5. **Province.** "Province" means the Canadian province of Manitoba.

Subd. 6. **Eligible institution.** "Eligible institution" means an institution that meets the

eligibility requirements under section 136A.155.

Subd. 7. **Eligible lender.** "Eligible lender" means an eligible institution, an agency or instrumentality of a state, or a financial or credit institution (including an insurance company) which is subject to examination and supervision by an agency of the state of Minnesota or of the United States.

Subd. 8. **Eligible student.** "Eligible student" means a student who is officially registered or accepted for enrollment at an eligible institution in Minnesota or a Minnesota resident who is officially registered as a student or accepted for enrollment at an eligible institution in another state or province. Eligible student, except for purposes of section 136A.1701, includes parents of an eligible student as the term "parent" is defined in the Higher Education Act of 1965, as amended, and applicable regulations. Except for the purposes of section 136A.1701, eligible student also includes students eligible for auxiliary loans as the term "auxiliary" is defined in the Higher Education Act of 1965, as amended, and applicable regulations. An eligible student, for section 136A.1701, means a student who gives informed consent authorizing the disclosure of data specified in section 136A.162, paragraph (b), to a consumer credit reporting agency.

Subd. 9. **Minnesota resident.** "Minnesota resident" means a student who meets one of the following conditions:

(1) a student who has resided in Minnesota for purposes other than postsecondary education for at least 12 months without being enrolled at a postsecondary educational institution for more than five credits in any term;

(2) a dependent student whose parent or legal guardian resides in Minnesota at the time the student applies;

(3) a student who graduated from a Minnesota high school, if the student was a resident of Minnesota during the student's period of attendance at the Minnesota high school and the student is physically attending a Minnesota postsecondary educational institution; or

(4) a student who, after residing in the state for a minimum of one year, earned a high school equivalency certificate in Minnesota.

**History:** 1967 c 615 s 1; 1967 c 894 s 2; 1973 c 605 s 3,4; 1975 c 271 s 6; 1981 c 300 s 2; 1983 c 258 s 46; 1Sp1985 c 11 s 47; 1989 c 293 s 33-35; 1990 c 591 art 6 s 5; 1994 c 532 art 2 s 10; 1995 c 212 art 3 s 32,33,59; 2005 c 107 art 2 s 60; 2006 c 282 art 8 s 4; 2007 c 144 art 2 s 25,26; 2010 c 364 s 12

### 136A.155 ADDITIONAL INSTITUTION ELIGIBILITY REQUIREMENTS.

A postsecondary institution is an eligible institution for purposes of sections 136A.15 to 136A.1702, if the institution:

(1) meets the eligibility requirements under section 136A.103; or

(2) is operated publicly or privately in another state, is approved by the United States Secretary of Education, and, as determined by the office, maintains academic standards substantially equal to those of comparable institutions operated in this state.

**History:** 2010 c 364 s 13

### 136A.16 POWERS AND DUTIES OF OFFICE.

Subdivision 1. **Designation.** Notwithstanding chapter 16C, the Minnesota Office of Higher

Education is designated as the administrative agency for carrying out the purposes and terms of sections 136A.15 to 136A.1702. The office may establish one or more loan programs.

Subd. 2. **Rules.** The office shall adopt policies and prescribe appropriate rules to carry out the purposes of sections 136A.15 to 136A.1702. The policies and rules except as they relate to loans under section 136A.1701 must be compatible with the provisions of the National Vocational Student Loan Insurance Act of 1965 and the provisions of title IV of the Higher Education Act of 1965, and any amendments thereof.

Subd. 3. **Loan amounts.** The office may make loans in amounts not to exceed the maximum amount provided in the Higher Education Act of 1965 and any amendments thereof except that the limitation shall not apply to loans under section 136A.1701. The office may establish procedures determining the loan amounts for which students are eligible.

Subd. 4. **Lenders.** The office may contract with or enter into agreements with eligible lenders for the purpose of making loans to eligible students in accordance with the policies and rules of the office.

Subd. 5. **Agencies.** The office may contract with guarantee agencies, insurance agencies, collection agencies, or any other person, to carry out the purposes of sections 136A.15 to 136A.1702.

Subd. 6. **Insurance.** The office shall be empowered to charge for insurance on each loan a premium, payable each year in advance. The premiums shall not be in an amount in excess of the premium in the federal regulations which govern the vocational and higher education loan program except that the limitation shall not apply to loans under section 136A.1701. Premium fees shall be available to the office without fiscal year limitation for the purposes of making loans and meeting expenses of administering the loan programs.

Subd. 7. **Funds.** The office may apply for, receive, accept, and disburse federal funds, as well as funds from other public and private sources, made available to the state for loans or as administrative moneys to operate student loan programs. In making application for funds, it may comply with all requirements of state and federal law and rules and regulations, and enter into the contracts necessary to enable it to receive, accept, and administer such funds.

Subd. 8. **Investment.** Money made available to the office that is not immediately needed for the purposes of sections 136A.15 to 136A.1702 may be invested by the office. The money must be invested in bonds, certificates of indebtedness, and other fixed income securities, except preferred stocks, which are legal investments for the permanent school fund. The money may also be invested in prime quality commercial paper that is eligible for investment in the state employees retirement fund. All interest and profits from such investments inure to the benefit of the office or may be pledged for security of bonds issued by the office or its predecessors.

Subd. 9. **Staff.** The office may employ the professional and clerical staff the director deems necessary for the proper administration of the loan programs established and defined by sections 136A.15 to 136A.1702.

Subd. 10. **Director.** Subject to its directives and review, the office may delegate to the director the responsibility for issuance of public information concerning provisions of sections 136A.15 to 136A.1702, for design of loan application forms, and for prescribing procedures for submission of applications for loans.

Subd. 11. [Repealed, 1995 c 212 art 2 s 22]



Subd. 12. **Records.** The office shall establish and maintain appropriate accounting and related records.

Subd. 13. **Subject to suit.** The office may sue and be sued.

Subd. 14. **Notes.** The office may sell at public or private sale, at the price or prices determined by the office, any note or other instrument or obligation evidencing or securing a loan made by the office or its predecessor, including the Minnesota Higher Education Coordinating Board and the Minnesota Higher Education Services Office.

Subd. 15. **Letters of credit; surety.** The office may obtain municipal bond insurance, letters of credit, surety obligations, or similar agreements from financial institutions.

Subd. 16. **Interest rate swaps and other agreements.** (a) The office may enter into interest rate exchange or swap agreements, hedges, forward purchase or sale agreements, or other comparable interest rate protection agreements with a third party in connection with the issuance or proposed issuance of bonds, outstanding bonds or notes, or existing comparable interest rate protection agreements.

(b) The agreements authorized by this subdivision include without limitation master agreements, options, or contracts to enter into those agreements in the future and related agreements, including, without limitation, agreements to provide credit enhancement, liquidity, or remarketing.

(c) The agreements authorized by this subdivision may be entered into on the basis of negotiation with a qualified third party or through a competitive proposal process on terms and conditions as and with covenants and provisions approved by the office and may include, without limitation:

- (1) provisions establishing reserves;
- (2) pledging assets or revenues of the office for current or other payments or termination payments;
- (3) contracting with the other parties to the agreements to provide for the custody, collection, securement, investment, and payment of money of the office or money held in trust; or
- (4) requiring the issuance of bonds or other agreements authorized by this section in the future.

(d) With respect to bonds or notes outstanding or proposed to be issued bearing interest at a variable rate, the office may agree to pay sums equal to interest at a fixed rate or at a different variable rate determined in accordance with a formula set out in the agreement on an amount not exceeding the outstanding principal amount of the bonds or notes at the time of payment in exchange for an agreement by the third party to pay sums equal to interest on a like amount at a variable rate determined according to a formula set out in the agreement.

(e) With respect to bonds or notes outstanding or proposed to be issued bearing interest at a fixed rate or rates, the office may agree to pay sums equal to interest at a variable rate determined in accordance with a formula set out in the agreement on an amount not exceeding the outstanding principal amount of the bonds or notes at the time of payment in exchange for an agreement by the third party to pay sums equal to interest on a like amount at a fixed rate or rates determined according to a formula set in the agreement.

(f) Subject to any applicable covenants of the office, payments required to be made by the office under the agreement, including termination payments, may be made from amounts pledged

or available to pay debt service on the bonds or notes with respect to which the agreement was made or from assets of the loan capital fund of the office. The office may issue bonds or notes to provide for any payments, including, without limitation, a termination payment due or to become due under an agreement authorized under this section.

(g) The authority of the office to enter into interest rate protection agreements under this section is limited to agreements related to bonds and notes with an aggregate value of no more than \$20,000,000.

**History:** *1967 c 615 s 1; 1967 c 894 s 3; 1969 c 6 s 23; 1973 c 605 s 5,6; 1975 c 271 s 6; 1977 c 384 s 4-7; 1981 c 300 s 3-5; 1983 c 258 s 47; 1985 c 248 s 70; 1989 c 293 s 36-41; 1995 c 212 art 3 s 34,59; 1997 c 183 art 3 s 12-15; 1998 c 386 art 2 s 43; 2005 c 107 art 2 s 60; 2007 c 144 art 2 s 27,28; 2010 c 364 s 14*

**136A.161** [Repealed, 1983 c 258 s 72]

### **136A.162 CLASSIFICATION OF DATA.**

(a) Except as provided in paragraphs (b) and (c), data on applicants for financial assistance collected and used by the Minnesota Office of Higher Education for student financial aid programs administered by that office are private data on individuals as defined in section 13.02, subdivision 12.

(b) Data on applicants may be disclosed to the commissioner of human services to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5).

(c) The following data collected in the Minnesota supplemental loan program under section 136A.1701 may be disclosed to a consumer credit reporting agency only if the borrower and the cosigner give informed consent, according to section 13.05, subdivision 4, at the time of application for a loan:

- (1) the lender-assigned borrower identification number;
- (2) the name and address of borrower;
- (3) the name and address of cosigner;
- (4) the date the account is opened;
- (5) the outstanding account balance;
- (6) the dollar amount past due;
- (7) the number of payments past due;
- (8) the number of late payments in previous 12 months;
- (9) the type of account;
- (10) the responsibility for the account; and
- (11) the status or remarks code.

**History:** *1977 c 384 s 8; 1979 c 238 s 5; 1981 c 311 s 39; 1982 c 545 s 24; 1Sp1985 c 11 s 48; 1989 c 293 s 42; 1991 c 292 art 5 s 3; 1995 c 212 art 3 s 59; 2005 c 107 art 2 s 60; 2006 c 253 s 6*

### **136A.17 PROVISIONS FOR FEDERAL PROGRAMS.**

Subdivision 1. **Eligibility.** A student is eligible to apply for a loan under sections 136A.15 to 136A.1702 if the office finds that the student is an eligible student as defined in those sections

and is eligible for a loan under federal laws and regulations governing the federal guaranteed student loan programs.

Subd. 2. **Compliance.** The student loan programs shall be administered in compliance with title VI of the Civil Rights Act of 1964.

Subd. 3. **Terms and conditions of loans.** The office may loan money upon such terms and conditions as the office may prescribe and it may acquire student loans from other lenders to facilitate the student loan programs provided for in this section.

Subd. 4. **Maximum loans for students.** No loan shall be made in excess of the maximum provided by pertinent federal laws and regulations. The aggregate unpaid principal amount of loans to any individual student shall not exceed the maximum provided in pertinent federal laws and regulations.

Subd. 5. **Vocational study.** The office may make loans for vocational study to an individual student for a maximum of three academic years or their equivalent and loans for higher education to an individual student for a maximum of eight academic years of study or their equivalent.

Subd. 6. **Maximum rate of interest.** No loans made by the office shall be made at an annual rate of interest in excess of the maximum prescribed in the National Vocational Student Loan Insurance Act of 1965 and the Higher Education Act of 1965, and any amendments thereof.

Subd. 7. **Student's family income.** The benefits of the loan programs will not be denied any student because of the student's family income or lack of need if the student's adjusted annual family income at the time the note is executed is less than the maximum prescribed in the applicable federal regulations.

Subd. 8. **Repayment of loans.** The repayment procedures applicable for loans made by the office shall be consistent with federal regulations governing interest payments under the National Vocational Student Loan Insurance Act of 1965 and the Higher Education Act of 1965.

Subd. 9. **Office powers.** The office may take, hold, and administer for any of its purposes, real property, personal property and moneys, or any interest therein, and the income therefrom, either absolutely or in trust, for any purposes of the office. The office may acquire property or moneys for such purposes by purchase or lease and by the acceptance of gifts, grants, bequests, devises or loans; and may enter into contracts with other nonprofit corporations or institutions with the same or similar purposes as will benefit and improve the operation of the office and its loan programs.

Subd. 10. **Variable repayment.** The office may establish variable repayment schedules consistent with the need and anticipated income streams of borrowers. The repayment schedules shall not violate the federal laws and regulations governing federal guaranteed student loan programs.

Subd. 11. **Prohibition on use of state money.** No moneys originating from state sources in the state treasury shall be made available for student loans and all student loans shall be made from moneys originating from nonstate sources.

**History:** 1967 c 894 s 4; 1973 c 605 s 7-10; 1975 c 271 s 6; 1977 c 384 s 9-14; 1978 c 706 s 52; 1981 c 300 s 6-8; 1983 c 258 s 48; 1986 c 444; 1989 c 293 s 43; 1995 c 212 art 3 s 59

**136A.1701 SUPPLEMENTAL AND ADDITIONAL LOANS.**

Subdivision 1. **Establishment of program.** The Minnesota Office of Higher Education may provide for programs of loans which may be made in lieu of or in addition to loans authorized under sections 136A.15 to 136A.1702 and applicable provisions of federal law as provided in this section.

Subd. 2. **Purpose of program.** The purpose of the loan programs under this section is to provide financial assistance for the postsecondary education of students who are eligible students whether or not such students qualify for a loan or loans under other provisions of sections 136A.15 to 136A.1702.

Loans granted to students may be used solely for educational purposes.

Subd. 3. **Compliance with Civil Rights Act.** The student loan programs shall be administered in compliance with title VI of the Civil Rights Act of 1964.

Subd. 4. **Terms and conditions of loans.** (a) The office may loan money upon such terms and conditions as the office may prescribe. Under the SELF IV program, the principal amount of a loan to an undergraduate student for a single academic year shall not exceed \$7,500 per grade level. The aggregate principal amount of all loans made subject to this paragraph to an undergraduate student shall not exceed \$37,500. The principal amount of a loan to a graduate student for a single academic year shall not exceed \$9,000. The aggregate principal amount of all loans made subject to this paragraph to a student as an undergraduate and graduate student shall not exceed \$55,500. The amount of the loan may not exceed the cost of attendance less all other financial aid, including PLUS loans or other similar parent loans borrowed on the student's behalf. The cumulative SELF loan debt must not exceed the borrowing maximums in paragraph (b).

(b) The cumulative undergraduate borrowing maximums for SELF IV loans are:

- (1) grade level 1, \$7,500;
- (2) grade level 2, \$15,000;
- (3) grade level 3, \$22,500;
- (4) grade level 4, \$30,000; and
- (5) grade level 5, \$37,500.

(c) The principal amount of a SELF V or subsequent phase loan to students enrolled in a bachelor's degree program, postbaccalaureate, or graduate program must not exceed \$10,000 per grade level. For all other eligible students, the principal amount of the loan must not exceed \$7,500 per grade level. The aggregate principal amount of all loans made subject to this paragraph to a student as an undergraduate and graduate student must not exceed \$70,000. The amount of the loan must not exceed the cost of attendance less all other financial aid, including PLUS loans or other similar parent loans borrowed on the student's behalf. The cumulative SELF loan debt must not exceed the borrowing maximums in paragraph (d).

(d)(1) The cumulative borrowing maximums for SELF V loans and subsequent phases for students enrolled in a bachelor's degree program or postbaccalaureate program are:

- (i) grade level 1, \$10,000;
- (ii) grade level 2, \$20,000;
- (iii) grade level 3, \$30,000;

(iv) grade level 4, \$40,000; and

(v) grade level 5, \$50,000.

(2) For graduate level students, the borrowing limit is \$10,000 per nine-month academic year, with a cumulative maximum for all SELF debt of \$70,000.

(3) For all other eligible students, the cumulative borrowing maximums for SELF V loans and subsequent phases are:

(i) grade level 1, \$7,500;

(ii) grade level 2, \$15,000;

(iii) grade level 3, \$22,500;

(iv) grade level 4, \$30,000; and

(v) grade level 5, \$37,500.

Subd. 5. [Repealed, 2010 c 215 art 2 s 21]

Subd. 6. **Rate of interest.** The office shall determine the rate of interest to be charged on loans. The rate of interest on student loans however computed, shall not be subject to any provision of state law limiting the rate of interest to be charged for a loan of money.

Subd. 7. **Repayment of loans.** (a) The office shall establish repayment procedures for loans made under this section, but in no event shall the period of permitted repayment for SELF II or SELF III loans exceed ten years from the eligible student's termination of the student's postsecondary academic or vocational program, or 15 years from the date of the student's first loan under this section, whichever is less.

(b) For SELF IV loans, eligible students with aggregate principal loan balances from all SELF phases that are less than \$18,750 shall have a repayment period not exceeding ten years from the eligible student's graduation or termination date. For SELF IV loans, eligible students with aggregate principal loan balances from all SELF phases of \$18,750 or greater shall have a repayment period not exceeding 15 years from the eligible student's graduation or termination date. For SELF IV loans, the loans shall enter repayment no later than seven years after the first disbursement date on the loan.

(c) For SELF loans from phases after SELF IV, eligible students with aggregate principal loan balances from all SELF phases that are:

(1) less than \$20,000, must have a repayment period not exceeding ten years from the eligible student's graduation or termination date;

(2) \$20,000 up to \$40,000, must have a repayment period not exceeding 15 years from the eligible student's graduation or termination date; and

(3) \$40,000 or greater, must have a repayment period not exceeding 20 years from the eligible student's graduation or termination date. For SELF loans from phases after SELF IV, the loans must enter repayment no later than nine years after the first disbursement date of the loan.

Subd. 8. **Office powers.** The office may take, hold, and administer for any of its purposes, real or personal property and money, or any interest therein, and the income therefrom, either absolutely or in trust, for any purposes of the office. The office may acquire real or personal property or money for its purposes by purchase or lease and by gift, grant, bequest, devise, or loan, and may enter into contracts with profit or nonprofit corporations or institutions with the same or

similar purposes as will benefit and improve the operation of the office and its loan programs.

Subd. 9. **Variable repayment schedules.** The office may establish variable loan repayment schedules consistent with the need and anticipated income streams of borrowers.

Subd. 9a. **Appeals.** The office shall develop an appeals process for recipients of loans made under this section who believe there is an unresolved error in the servicing of the loan. The office shall provide recipients with a description of the appeals process.

Subd. 10. **Prohibition on use of state money.** Except as provided in section 136A.1787, paragraph (a), no money originating from state sources in the state treasury shall be made available for student loans under this section and all student loans shall be made from money originating from nonstate sources.

Subd. 11. **Data.** (a) An eligible institution must provide to the office data on student enrollment and federal and state financial aid.

(b) An institution or its agent must provide to the office aggregate and distributional financial or other data as determined by the director that is directly related to the responsibilities of the office under this chapter and chapter 141. The director may only request aggregate and distributional data after establishing and consulting with a data advisory task force to determine the need, content, and detail of the information. Data provided by nonpublic institutions under this paragraph is considered nonpublic data under chapter 13.

Subd. 12. **Eligible student.** "Eligible student" means a student who is a Minnesota resident who is enrolled or accepted for enrollment at an eligible institution in Minnesota or in another state or province. Non-Minnesota residents are eligible students if they are enrolled or accepted for enrollment in a minimum of one course of at least 30 days in length during the academic year that requires physical attendance at an eligible institution located in Minnesota. Non-Minnesota resident students enrolled exclusively during the academic year in correspondence courses or courses offered over the Internet are not eligible students. Non-Minnesota resident students not physically attending classes in Minnesota due to enrollment in a study abroad program for 12 months or less are eligible students. Non-Minnesota residents enrolled in study abroad programs exceeding 12 months are not eligible students. For purposes of this section, an "eligible student" must also meet the eligibility requirements of section 136A.15, subdivision 8.

**History:** 1983 c 258 s 49; 1986 c 444; 1989 c 293 s 44-46; 1Sp1993 c 2 art 2 s 15,16; 1995 c 212 art 3 s 59; 2005 c 107 art 2 s 25,26,60; 2006 c 282 art 8 s 5,6; 2009 c 95 art 2 s 21; 2010 c 215 art 2 s 7,8

### **136A.1702 LEGISLATIVE OVERSIGHT.**

The office shall notify the chairs of the legislative committees with primary jurisdiction over higher education finance of any proposed material change to any of its student loan programs prior to making the change.

**History:** 1983 c 258 s 50; 1995 c 212 art 3 s 59; 2007 c 144 art 2 s 29

### **136A.1703 INCOME-CONTINGENT LOANS.**

The office shall administer an income-contingent loan repayment program to assist graduates of Minnesota schools in medicine, dentistry, pharmacy, chiropractic medicine, public health, and veterinary medicine, and Minnesota residents graduating from optometry and osteopathy programs. Applicant data collected by the office for this program may be disclosed

to a consumer credit reporting agency under the same conditions as those that apply to the supplemental loan program under section 136A.162. No new applicants may be accepted after June 30, 1995.

**History:** 2005 c 107 art 2 s 27

### **136A.171 REVENUE BONDS; ISSUANCE; PROCEEDS.**

The Minnesota Office of Higher Education may issue revenue bonds to obtain funds for loans made in accordance with the provisions of this chapter. The aggregate amount of revenue bonds, issued directly by the office, outstanding at any one time, not including refunded bonds or otherwise defeased or discharged bonds, shall not exceed \$850,000,000. Proceeds from the issuance of bonds may be held and invested by the office pending disbursement in the form of loans. All interest and profits from the investments shall inure to the benefit of the office and shall be available to the office for the same purposes as the proceeds from the sale of revenue bonds including, but not limited to, costs incurred in administering loans under this chapter and loan reserve funds.

**History:** 1973 c 605 s 12; 1975 c 271 s 6; 1975 c 390 s 6; 1977 c 384 s 15; 1979 c 238 s 6; 1980 c 537 s 1; 1981 c 300 s 9; 1995 c 212 art 3 s 59; 1997 c 183 art 3 s 16; 2003 c 133 art 3 s 3; 2005 c 107 art 2 s 60

### **136A.172 NEGOTIABLE NOTES; ISSUANCE; CONDITIONS.**

The office may from time to time issue negotiable notes for the purpose of sections 136A.15 to 136A.178 and may from time to time renew any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The office may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. The notes may be authorized, sold, executed, and delivered in the same manner as bonds. Any resolution or resolutions authorizing notes of the office or any issue thereof may contain any provisions which the office is authorized to include in any resolution or resolutions authorizing revenue bonds of the office or any issue thereof, and the office may include in any notes any terms, covenants, or conditions which it is authorized to include in any bonds. All such notes shall be payable solely from the revenue of the office, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding.

**History:** 1973 c 605 s 13; 1975 c 271 s 6; 1978 c 706 s 53; 1989 c 293 s 47; 1995 c 212 art 3 s 59; 1997 c 7 art 1 s 73

### **136A.173 NEGOTIABILITY; BOND ANTICIPATION NOTES; PAYMENT; CONDITIONS.**

Subdivision 1. **Revenue bonds and notes.** The office may from time to time issue revenue bonds for purposes of sections 136A.15 to 136A.178 and all such revenue bonds, notes, bond anticipation notes, or other obligations of the office issued pursuant to sections 136A.15 to 136A.178 shall be and are hereby declared to be negotiable for all purposes notwithstanding their payment from a limited source and without regard to any other law or laws. In anticipation of the sale of such revenue bonds, the office may issue negotiable bond anticipation notes and may renew the same from time to time, but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of the original note. Such notes shall be paid from any revenues of the office available therefor and not otherwise pledged, or from the proceeds of sale of the revenue bonds of the office in anticipation of which they were issued.

The notes shall be issued in the same manner as the revenue bonds. Such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions, or limitations which a bond resolution or the office may contain.

**Subd. 2. Payment of bonds and notes.** The revenue bonds and notes of every issue shall be payable solely out of revenues of the office, subject only to any agreements with the holders of particular revenue bonds or notes pledging any particular revenues. Notwithstanding that revenue bonds and notes may be payable from a special fund, they shall be and be deemed to be, for all purposes, negotiable instruments, subject only to the provisions of the revenue bonds.

**Subd. 3. Issuance, terms, redemption.** The revenue bonds may be issued as serial bonds or as term bonds, or the office, in its discretion, may issue bonds of both types. The revenue bonds shall be authorized by resolution of the director of the office and shall bear such date or dates, mature at such time or times, not exceeding 50 years from their respective dates, bear interest at such rate or rates, payable at such time or times, be in denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The revenue bonds or notes may be sold at public or private sale for such price or prices as the office shall determine. Pending preparation of the definitive bonds, the office may issue interim receipts or certificates which shall be exchanged for such definite bonds.

**Subd. 4. Provisions of resolution authorizing bonds.** Any resolution or resolutions authorizing any revenue bonds or any issue of revenue bonds may contain provisions which shall be part of the contract with the holders of the revenue bonds to be authorized as to:

- (a) The setting aside of reserves or sinking funds, and the regulation and disposition thereof;
- (b) Limitations on the purpose to which the proceeds of sale of any issue of revenue bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the revenue bonds or any issue of the revenue bonds;
- (c) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds;
- (d) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;
- (e) Defining the acts or omissions to act which shall constitute a default in the duties of the office to holders of its obligations and providing the rights and remedies of such holders in the event of a default.

**Subd. 5. Liability.** Neither the members of the office nor any person executing the revenue bonds or notes shall be liable personally on the revenue bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

**Subd. 6. Other powers.** The office shall have power out of any funds available therefor to purchase its bonds or notes. The office may hold, pledge, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

**History:** 1973 c 605 s 14; 1975 c 271 s 6; 1978 c 706 s 54; 1989 c 293 s 48; 1995 c 212 art 3 s 59; 1997 c 7 art 1 s 73; 1997 c 183 art 3 s 17



**136A.174 SECURITY FOR BONDS.**

In the discretion of the office any revenue bonds issued under the provisions of sections 136A.15 to 136A.178 may be secured by a trust agreement by and between the office and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within the state. Such trust agreement or the resolution providing for the issuance of such revenue bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged or any portion thereof. Such trust agreement or resolution providing for the issuance of such revenue bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of laws, including particularly such provisions as have hereinabove been specifically authorized to be included in any resolution or resolutions of the office authorizing revenue bonds thereof. Any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or of revenues or other moneys may furnish such indemnifying bonds or pledges such securities as may be required by the office. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the office may deem reasonable and proper for the security of the bondholders.

**History:** 1973 c 605 s 15; 1975 c 271 s 6; 1978 c 706 s 55; 1989 c 293 s 49; 1995 c 212 art 3 s 59; 1997 c 7 art 1 s 73

**136A.175 REFUNDING REVENUE BONDS; PROCEEDS; INVESTMENTS.**

Subdivision 1. **Authorization.** The office is hereby authorized to provide for the issuance of revenue bonds of the office for the purpose of refunding any revenue bonds of the office then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase or maturity of such revenue bonds.

Subd. 2. **Proceeds.** The proceeds of any such revenue bonds issued for the purpose of refunding outstanding revenue bonds may, in the discretion of the office, be applied to the purchase or retirement at maturity or redemption of such outstanding revenue bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof and may, pending such application be placed in escrow to such purchase or retirement at maturity or redemption on such date as may be determined by the office.

Subd. 3. **Investment.** Any such escrowed proceeds, pending such use, may be invested and reinvested in direct obligations of the United States of America, or in certificates of deposit or time deposits secured by direct obligations of the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest and redemption premium, if any, of the outstanding revenue bonds to be so refunded. The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding revenue bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income and profits, if any, earned or realized on the investments thereof may be returned to the office for use by it in any lawful manner.

Subd. 4. **Relation to other laws.** All such revenue bonds shall be subject to the provisions of sections 136A.15 to 136A.178 in the same manner and to the same extent as other revenue

bonds issued pursuant to sections 136A.15 to 136A.178.

**History:** 1973 c 605 s 16; 1975 c 271 s 6; 1978 c 706 s 56; 1989 c 293 s 50; 1995 c 212 art 3 s 59; 1997 c 7 art 1 s 73

### **136A.176 BONDS NOT STATE OBLIGATIONS.**

Bonds issued under authority of sections 136A.15 to 136A.178 do not, and shall state that they do not, represent or constitute a debt or pledge of the faith and credit of the state, grant to the owners or holders thereof any right to have the state levy any taxes or appropriate any funds for the payment of the principal thereof or interest thereon. Such bonds are payable and shall state that they are payable solely from the rentals, revenues, and other income, charges, and moneys as are pledged for their payment in accordance with the bond proceedings. The legislature intends not to appropriate money from the general fund to pay for these bonds.

**History:** 1973 c 605 s 17; 1978 c 706 s 57; 1989 c 293 s 51; 1990 c 610 art 2 s 4; 1997 c 7 art 1 s 73

### **136A.177 RIGHTS OF BONDHOLDERS.**

Any holder of revenue bonds issued under the provisions of sections 136A.15 to 136A.178 or any of the coupons appertaining thereto, and the trustee or trustees under any trust agreement, except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or any such trust agreement securing, such bonds, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by sections 136A.15 to 136A.178 or by such resolution or trust agreement to be performed by the office or by any officer, employee or agent thereof, including the fixing, charging and collecting of the rates, rents, fees and charges herein authorized and required by the provisions of such resolution or trust agreement to be fixed, established and collected.

**History:** 1973 c 605 s 18; 1975 c 271 s 6; 1978 c 706 s 58; 1989 c 293 s 52; 1995 c 212 art 3 s 59; 1997 c 7 art 1 s 73

### **136A.178 LEGAL INVESTMENTS; AUTHORIZED SECURITIES.**

Bonds issued by authority under the provisions of sections 136A.15 to 136A.178 are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them; it being the purpose of this section to authorize the investment in such bonds of all sinking, insurance, retirement, compensation, pension and trust funds, whether owned or controlled by private or public persons or officers; provided, however, that nothing contained in this section may be construed as relieving any person, firm, or corporation from any duty of exercising due care in selecting securities for purchase or investment; and provided further, that in no event shall assets of pension funds of public employees of the state of Minnesota or any of its agencies, board or subdivisions, whether publicly or privately administered, be invested in bonds issued under the provisions of sections 136A.15 to 136A.178. Such bonds are hereby constituted "authorized securities" within the meaning and for the purposes of section 50.14. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any

agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state now or may hereafter be authorized by law.

**History:** 1973 c 605 s 19; 1978 c 706 s 59; 1989 c 293 s 53; 1997 c 7 art 1 s 73

#### **136A.1785 LOAN CAPITAL FUND.**

The office may deposit and hold assets derived from the operation of its student loan programs authorized by this chapter in a fund known as the loan capital fund. Assets in the loan capital fund are available to the office solely for carrying out the purposes and terms of sections 136A.15 to 136A.1703, including, but not limited to, making student loans authorized by this chapter, paying administrative expenses associated with the operation of its student loan programs, repurchasing defaulted student loans, and paying expenses in connection with the issuance of revenue bonds authorized under this chapter. Assets in the loan capital fund may be invested as provided in sections 11A.24 and 136A.16, subdivision 8. All interest and earnings from the investment of the loan capital fund inure to the benefit of the fund and are deposited into the fund.

**History:** 2005 c 107 art 2 s 28

#### **136A.1787 SELF LOAN REVENUE BONDS ANNUAL CERTIFICATE OF NEED.**

(a) In order to ensure the payment of the principal of and interest on bonds and notes of the office and the continued maintenance of the loan capital fund under section 136A.1785, the office shall annually determine and certify to the governor, on or before December 1, the amount, if any:

(1) needed to restore the loan capital fund to the minimum amount required by a resolution or indenture relating to any bonds or notes of the office, not exceeding the maximum amount of principal and interest to become due and payable in any subsequent year on all bonds or notes which are then outstanding;

(2) determined by the office to be needed in the current or immediately following fiscal year, with other funds pledged and estimated to be received during that year, for the payment of the principal and interest due and payable in that year on all outstanding bonds and notes; and

(3) needed to restore any debt service reserve fund securing any outstanding bonds or notes of the office to the amount required in a resolution or indenture relating to such outstanding bonds or notes.

(b) If the office determines the need under paragraph (a), clause (2), to be for the immediately following fiscal year, the governor shall include and submit the amounts certified by the office in accordance with this section to the legislature in the governor's budget for the immediately following fiscal year. If the office determines the need under paragraph (a), clause (1), (2), or (3), to be for the current fiscal year, the governor shall include and submit the amounts certified in a governor's supplemental budget if the regular budget for that year has previously been enacted.

**History:** 2009 c 95 art 2 s 22; 1Sp2011 c 5 art 2 s 3

**136A.179** [Repealed, 1996 c 310 s 1]

#### **136A.1795 LARGE ANIMAL VETERINARIAN LOAN FORGIVENESS PROGRAM.**

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

(b) "Veterinarian" means an individual who has been awarded a doctor of veterinary medicine degree from the College of Veterinary Medicine, University of Minnesota.

(c) "Designated rural area" means an area in Minnesota outside the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, excluding the cities of Duluth, Mankato, Moorhead, Rochester, and St. Cloud.

(d) "Emergency circumstances" means those conditions that make it impossible for the participant to fulfill the service commitment, including death, total and permanent disability, or temporary disability lasting more than two years.

(e) "Qualified educational loan" means a government, commercial, or foundation loan for actual costs paid for tuition, reasonable education expenses, and reasonable living expenses related to the education of a veterinarian.

**Subd. 2. Establishment; administration.** (a) The director of the Minnesota Office of Higher Education shall establish and administer a loan forgiveness program for large animal veterinarians who:

- (1) agree to practice in designated rural areas that are considered underserved; and
- (2) work full time in a practice that is at least 50 percent involved with the care of food animals.

(b) Appropriations made to the program do not cancel and are available until expended.

**Subd. 3. Eligibility.** (a) To be eligible to participate in the loan forgiveness program, an individual must:

(1) be a veterinarian who has been awarded a veterinary medicine degree within three years of submitting an application under this section, or be enrolled in the veterinarian degree program and making satisfactory progress in the College of Veterinary Medicine, University of Minnesota; and

(2) submit an application to the director of the Minnesota Office of Higher Education in the form and manner prescribed by the director.

(b) An applicant selected to participate must sign a contract agreeing to complete a five-year service obligation to practice as required under subdivision 2, paragraph (a).

**Subd. 4. Loan forgiveness.** (a) The director of the Minnesota Office of Higher Education may select a maximum of five applicants each year for participation in the loan forgiveness program, within the limits of available funding. Applicants are responsible for securing their own qualified educational loans.

(b) The director must select participants based on their suitability for practice serving the designated rural area, as indicated by experience or training. The director must give preference to applicants closest to completing their training.

(c) The director must make annual disbursements directly to the participant of \$15,000 or the balance of the participant's qualifying educational loans, whichever is less, for each year that a participant meets the service obligation required under subdivision 3, paragraph (b), up to a maximum of five years.

(d) Before receiving loan repayment disbursements and as requested, the participant must complete and return to the director an affidavit of practice form provided by the director verifying that the participant is practicing as required under subdivision 2, paragraph (a). The

participant must provide the director with verification that the full amount of loan repayment disbursement received by the participant has been applied toward the designated loans. After each disbursement, verification must be received by the director and approved before the next loan repayment disbursement is made.

(e) Participants who move their practice remain eligible for loan repayment as long as they practice as required under subdivision 2, paragraph (a).

Subd. 5. **Penalty for nonfulfillment.** If a participant does not fulfill the required minimum commitment of service required under subdivision 3, paragraph (b), the director of the Minnesota Office of Higher Education must collect from the participant the total amount paid to the participant under the loan forgiveness program plus interest at a rate established according to section 270C.40. The director must deposit the money collected in the state general fund. The director must allow waivers of all or part of the money owed the director as a result of a nonfulfillment penalty if emergency circumstances prevented fulfillment of the service obligation.

Subd. 6. **Rules.** The director may adopt rules to implement this section.

**History:** 2009 c 95 art 2 s 23

## PRIVATE COLLEGES

### 136A.18 LEGISLATIVE FINDING, DECLARATION, AND DIRECTIVE.

The legislature has found and hereby declares that private colleges in Minnesota have the capacity for educating significant numbers of Minnesota residents and that providing for the education of Minnesota residents in private colleges, rather than in state institutions of higher education, results in a savings of tax money. The Minnesota private colleges are encouraged to facilitate the education of significant numbers of Minnesota residents in private colleges located in Minnesota.

**History:** 1971 c 850 s 1; 1983 c 258 s 51

**136A.19** [Repealed, 1983 c 258 s 72]

**136A.20** [Repealed, 1983 c 258 s 72]

**136A.21** [Repealed, 1983 c 258 s 72]

**136A.22** [Repealed, 1983 c 258 s 72]

**136A.225** [Repealed, 1989 c 293 s 85]

## COLLEGE POWERS

### 136A.23 TRUSTEES OF INCORPORATED COLLEGES MAY PRESCRIBE COURSE OF STUDY; ANNUAL REPORT.

The trustees of any incorporated college or seminary, in addition to their other powers, may prescribe its course of study and discipline, grant such literary honors and degrees as are usually granted by similar institutions, and give suitable diplomas in evidence thereof. They may make all rules, ordinances, and bylaws necessary and proper to carry into effect its powers. They may require the treasurer and other officers and agents to give bonds. Every such college shall be

subject to visitation and examination by the office, and shall annually report such information as the office deems necessary.

**History:** 1975 c 90 s 1; 1975 c 271 s 6; 1995 c 212 art 3 s 59

### WORK-STUDY PROGRAMS

#### 136A.231 EDUCATION; POSTSECONDARY STUDENTS; WORK-STUDY PROGRAMS.

The legislature has found and hereby declares that a state work-study program is in the best interests of the state in that such a program can (1) assist in meeting the financial needs of students (2) provide the opportunity for students to obtain valuable learning service experiences and (3) assist governmental and nonprofit service agencies by providing student assistance at low cost.

**History:** 1973 c 682 s 1; 1975 c 430 s 1

#### 136A.232 ADMINISTRATION; AGREEMENTS WITH EDUCATIONAL FACILITIES.

The Minnesota Office of Higher Education shall develop and administer a work-study program. The office shall enter into agreements with institutions of postsecondary education.

**History:** 1973 c 682 s 2; 1975 c 271 s 6; 1975 c 430 s 2; 1995 c 212 art 3 s 59; 2005 c 107 art 2 s 60

#### 136A.233 WORK-STUDY GRANTS.

Subdivision 1. **Allocation to institutions.** The Minnesota Office of Higher Education shall allocate work-study money to eligible postsecondary institutions according to the resident full-time equivalent enrollment of all eligible postsecondary institutions that apply to participate in the program, and the amount of the allocation that an institution spent during the previous academic year. Each institution wishing to participate in the work-study program must submit, in accordance with policies and procedures established by the office, an estimate of the amount of funds needed by the institution. Any funds allocated to an institution that exceed the actual need of the institution shall be reallocated by the office to other institutions. An institution may carry forward or backward the same percentage of its initial allocation that is authorized under federal work-study provisions.

Subd. 2. **Definitions.** For purposes of sections 136A.231 to 136A.233, the words defined in this subdivision have the meanings ascribed to them.

(a) "Eligible student" means a Minnesota resident enrolled or intending to enroll at least half time in a degree, diploma, or certificate program in a Minnesota postsecondary institution.

(b) "Minnesota resident" means a student who meets the conditions in section 136A.101, subdivision 8.

(c) "Financial need" means the need for financial assistance in order to attend a postsecondary institution as determined by a postsecondary institution according to guidelines established by the Minnesota Office of Higher Education.

(d) "Eligible employer" means any eligible postsecondary institution, any nonprofit, nonsectarian agency or state institution located in the state of Minnesota, a disabled person or a person over 65 who employs a student to provide personal services in or about the person's residence, or a private, for-profit employer employing a student as an intern in a position directly related to the student's field of study that will enhance the student's knowledge and skills in that field.

(e) "Eligible postsecondary institution" means any postsecondary institution eligible for participation in the Minnesota state grant program as specified in section 136A.101, subdivision 4.

(f) "Independent student" has the meaning given it in the Higher Education Act of 1965, United States Code, title 20, section 1070a-6, and applicable regulations.

(g) "Half time" for undergraduates has the meaning given in section 136A.101, subdivision 7b, and for graduate students is defined by the institution.

Subd. 3. **Payments.** Work-study payments shall be made to eligible students by postsecondary institutions as provided in this subdivision.

(a) Students shall be selected for participation in the program by the postsecondary institution on the basis of student financial need.

(b) In selecting students for participation, priority must be given to students enrolled for at least 12 credits. In each academic year, a student may be awarded work-study payments for one period of nonenrollment or less than half-time enrollment if the student will enroll on at least a half-time basis during the following academic term.

(c) Students will be paid for hours actually worked and the maximum hourly rate of pay shall not exceed the maximum hourly rate of pay permitted under the federal college work-study program.

(d) Minimum pay rates will be determined by an applicable federal or state law.

(e) The office shall annually establish a minimum percentage rate of student compensation to be paid by an eligible employer.

(f) Each postsecondary institution receiving money for state work-study grants shall make a reasonable effort to place work-study students in employment with eligible employers outside the institution. However, a public employer other than the institution may not terminate, lay off, or reduce the working hours of a permanent employee for the purpose of hiring a work-study student, or replace a permanent employee who is on layoff from the same or substantially the same job by hiring a work-study student.

(g) The percent of the institution's work-study allocation provided to graduate students shall not exceed the percent of graduate student enrollment at the participating institution.

(h) An institution may use up to 30 percent of its allocation for student internships with private, for-profit employers.

Subd. 4. **Cooperation with local schools.** Each campus using the state work study program is encouraged to cooperate with its local public elementary and secondary schools to place college work study students in activities in the schools, such as tutoring. Students must be placed in meaningful activities that directly assist students in kindergarten through grade 12 in meeting graduation standards including the profiles of learning. College students shall work under direct supervision; therefore, school hiring authorities are not required to request criminal background checks on these students under section 123B.03.

**History:** 1973 c 682 s 3; 1975 c 271 s 6; 1975 c 430 s 3; 1976 c 239 s 50; 1977 c 384 s 16; 1981 c 65 s 1; 1Sp1985 c 11 s 49; 1986 c 444; 1987 c 384 art 2 s 1; 1987 c 401 s 22,23; 1989 c 293 s 55; 1991 c 356 art 8 s 21; 1Sp1993 c 2 art 2 s 17; 1994 c 532 art 2 s 11,12; 1995 c 212 art 3 s 35,59; 1997 c 183 art 2 s 9-11; 1998 c 397 art 11 s 3; 2005 c 56 s 1; 2005 c 107 art 2 s 60; 2007 c 144 art 2 s 30

**136A.234** [Repealed, 1Sp1993 c 2 art 2 s 26]

**136A.235** [Repealed, 1983 c 15 s 33]

**136A.236** [Repealed, 1983 c 258 s 72]

**136A.237** [Repealed, 1983 c 258 s 72]

**136A.241** [Renumbered 136G.01]

**136A.242** Subdivision 1. [Renumbered 136G.03, subdivision 1]

Subd. 2. [Renumbered 136G.03, subd 4]

Subd. 3. [Renumbered 136G.03, subd 5]

Subd. 4. [Renumbered 136G.03, subd 6]

Subd. 5. [Renumbered 136G.03, subd 9]

Subd. 6. [Renumbered 136G.03, subd 15]

Subd. 7. [Renumbered 136G.03, subd 16]

Subd. 8. [Renumbered 136G.03, subd 23]

Subd. 9. [Renumbered 136G.03, subd 27]

**136A.243** [Renumbered 136G.05]

**136A.244** [Renumbered 136G.07]

**136A.245** Subdivision 1. [Renumbered 136G.11, subdivision 1]

Subd. 2. [Renumbered 136G.11, subd 2]

Subd. 3. [Renumbered 136G.11, subd 5]

Subd. 4. [Renumbered 136G.11, subd 6]

Subd. 5. [Renumbered 136G.11, subd 7]

Subd. 6. [Renumbered 136G.11, subd 8]

## FACILITIES AUTHORITY

### **136A.25 CREATION.**

A state agency known as the Minnesota Higher Education Facilities Authority is hereby created.

**History:** *1971 c 868 s 1*

### **136A.26 MEMBERSHIPS; OFFICERS; COMPENSATION; REMOVAL.**

Subdivision 1. **Membership.** The Minnesota Higher Education Facilities Authority shall consist of eight members appointed by the governor with the advice and consent of the senate, and a representative of the Minnesota Office of Higher Education.



All members to be appointed by the governor shall be residents of the state. At least two members must reside outside the metropolitan area as defined in section 473.121, subdivision 2. At least one of the members shall be a person having a favorable reputation for skill, knowledge, and experience in the field of state and municipal finance; and at least one shall be a person having a favorable reputation for skill, knowledge, and experience in the building construction field; and at least one of the members shall be a trustee, director, officer, or employee of an institution of higher education.

Subd. 1a. **Private College Council member.** The president of the Minnesota Private College Council, or the president's designee, shall serve without compensation as an advisory, nonvoting member of the authority.

Subd. 2. **Term; compensation; removal.** The membership terms, compensation, removal of members, and filling of vacancies for authority members other than the representative of the Minnesota Office of Higher Education, and the president of the Private College Council, shall be as provided in section 15.0575.

**History:** 1971 c 868 s 2; 1973 c 758 s 1; 1975 c 271 s 6; 1976 c 134 s 40; 1983 c 258 s 52; 1984 c 654 art 4 s 22; 1989 c 293 s 56; 1995 c 212 art 3 s 36,37; 2005 c 107 art 2 s 60

### 136A.27 POLICY.

It is hereby declared that for the benefit of the people of the state, the increase of their commerce, welfare and prosperity and the improvement of their health and living conditions it is essential that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual and mental capacities; that it is essential that institutions of higher education within the state be provided with appropriate additional means to assist such youth in achieving the required levels of learning and development of their intellectual and mental capacities and be enabled to refinance outstanding indebtedness incurred to provide existing facilities used for such purposes in order to preserve and enhance the utilization of facilities for purposes of higher education, to extend or adjust maturities in relation to the resources available for their payment, and to save interest costs and thereby reduce tuition, fees and charges; and that it is the purpose of sections 136A.25 to 136A.42 to provide a measure of assistance and an alternative method to enable institutions of higher education in the state to provide the facilities and structures which are sorely needed to accomplish the purposes of sections 136A.25 to 136A.42, all to the public benefit and good, to the extent and manner provided herein.

**History:** 1971 c 868 s 3; 1973 c 758 s 2

### 136A.28 DEFINITIONS.

Subdivision 1. **Scope.** In sections 136A.25 to 136A.42, the following words and terms shall, unless the context otherwise requires, have the meanings ascribed to them.

Subd. 2. **Authority.** "Authority" means the Higher Education Facilities Authority created by sections 136A.25 to 136A.42.

Subd. 3. **Project.** "Project" means a structure or structures available for use as a dormitory or other student housing facility, a dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, child care facility, and maintenance, storage, or utility facility and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution of higher education, whether proposed, under construction, or

completed, including parking and other facilities or structures essential or convenient for the orderly conduct of such institution for higher education, and shall also include landscaping, site preparation, furniture, equipment and machinery, and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended but shall not include such items as books, fuel, supplies, or other items the costs of which are customarily deemed to result in a current operating charge, and shall not include any facility used or to be used for sectarian instruction or as a place of religious worship nor any facility which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination.

Subd. 4. **Cost.** "Cost," as applied to a project or any portion thereof financed under the provisions of sections 136A.25 to 136A.42, means all or any part of the cost of construction, acquisition, alteration, enlargement, reconstruction and remodeling of a project including all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interests acquired or used for or in connection with a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during and for a period after completion of such construction and acquisition, provisions for reserves for principal and interest and for extensions, enlargements, additions and improvements, the cost of architectural, engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing the project and such other expenses as may be necessary or incident to the construction and acquisition of the project, the financing of such construction and acquisition and the placing of the project in operation.

Subd. 5. **Bonds.** "Bonds," or "revenue bonds" means revenue bonds of the authority issued under the provisions of sections 136A.25 to 136A.42, including revenue refunding bonds, notwithstanding that the same may be secured by mortgage or the full faith and credit of a participating institution for higher education or any other lawfully pledged security of a participating institution for higher education.

Subd. 6. **Institution of higher education.** "Institution of higher education" means a nonprofit educational institution within the state authorized to provide a program of education beyond the high school level.

Subd. 7. **Participating institution of higher education.** "Participating institution of higher education" means an institution of higher education that, under the provisions of sections 136A.25 to 136A.42, undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of obligations or of a mortgage or of advances as provided in sections 136A.25 to 136A.42. Community colleges and technical colleges may be considered participating institutions of higher education for the purpose of financing and constructing child care facilities and parking facilities.

**History:** 1971 c 868 s 4; 1978 c 706 s 61; 1990 c 610 art 1 s 47,48; 1Sp1995 c 2 art 1 s 38

## **136A.29 POWERS; DUTIES.**

Subdivision 1. **Purpose.** The purpose of the authority shall be to assist institutions of higher education in the construction, financing, and refinancing of projects. The exercise by the authority of the powers conferred by sections 136A.25 to 136A.42, shall be deemed and held to be the

performance of an essential public function. For the purpose of sections 136A.25 to 136A.42, the authority shall have the powers and duties set forth in subdivisions 2 to 23.

Subd. 2. **Election of officers.** The authority shall annually elect one of its members as chair, one as vice-chair, and one as secretary, as well as elect additional officers deemed necessary by the authority.

Subd. 3. **Employees.** The authority is authorized and empowered to appoint and employ employees as it may deem necessary to carry out its duties, determine the title of the employees so employed, and fix the salary of said employees. Employees of the authority shall participate in retirement and other benefits in the same manner that employees in the unclassified service of the Minnesota Office of Higher Education participate.

Subd. 4. **Mutual agreement; staff, equipment, office space.** By mutual agreement between the authority and the Minnesota Office of Higher Education, authority staff employees may also be members of the office staff. By mutual agreement, authority employees may be provided office space in the office of the Minnesota Office of Higher Education, and said employees may make use of equipment, supplies, and office space, provided that the authority fully reimburses the Minnesota Office of Higher Education for salaries and for space, equipment, supplies, and materials used. In the absence of such mutual agreement between the authority and the Minnesota Office of Higher Education, the authority may maintain an office at such place or places as it may designate.

Subd. 5. **Rules.** The authority is authorized and empowered to adopt rules for the conduct of its business.

Subd. 6. **Projects; generally.** The authority is authorized and empowered to determine the location and character of any project to be financed under the provisions of sections 136A.25 to 136A.42, and to construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as lessee or lessor, and regulate the same, to enter into contracts for any or all of such purposes, to enter into contracts for the management and operation of a project, and to designate a participating institution of higher education as its agent to determine the location and character of a project undertaken by such participating institution of higher education under the provisions of sections 136A.25 to 136A.42 and as the agent of the authority, to construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as lessee or lessor, and regulate the same, and as the agent of the authority, to enter into contracts for any or all of such purposes, including contracts for the management and operation of such project. Contracts of the authority or of a participating institution of higher education to acquire or to construct, reconstruct, remodel, maintain, enlarge, alter, add to, or repair projects shall not be subject to the provisions of chapter 16C or section 574.26, or any other public contract or competitive bid law.

Subd. 7. **Property.** The authority is authorized and empowered to acquire by gift or purchase and hold and mortgage real estate and interests therein and personal property to be used as a project or a part thereof.

Subd. 8. **Projects; other powers.** The authority is authorized and empowered to purchase, construct, reconstruct, enlarge, improve, furnish and equip and lease, sell, exchange, and otherwise dispose of projects or parts thereof.

Subd. 9. **Revenue bonds; limit.** The authority is authorized and empowered to issue revenue bonds whose aggregate principal amount at any time shall not exceed \$1,300,000,000

and to issue notes, bond anticipation notes, and revenue refunding bonds of the authority under the provisions of sections 136A.25 to 136A.42, to provide funds for acquiring, constructing, reconstructing, enlarging, remodeling, renovating, improving, furnishing, or equipping one or more projects or parts thereof.

Subd. 10. **Revenue bonds; issuance, purpose, conditions.** The authority is authorized and empowered to issue revenue bonds to acquire projects from or to make loans to participating institutions of higher education and thereby refinance outstanding indebtedness incurred by participating institutions of higher education to provide funds for the acquisition, construction or improvement of a facility before or after the enactment of sections 136A.25 to 136A.42, but otherwise eligible to be and being a project thereunder, whenever the authority finds that such refinancing will enhance or preserve such participating institutions and such facilities or utilization thereof for educational purposes or extend or adjust maturities to correspond to the resources available for their payment, or reduce the tuition, charges or fees imposed on students for the use of the facilities of such participating institutions of higher education or costs met by federal or state public funds, or enhance or preserve educational programs and research or the acquisition or improvement of other facilities eligible to be a project or part thereof by the participating institution of higher education. The amount of revenue bonds to be issued to refinance outstanding indebtedness of a participating institution of higher education shall not exceed the lesser of (a) the fair value of the project to be acquired by the authority from the institution or mortgaged to the authority by the institution or (b) the amount of the outstanding indebtedness including any premium thereon and any interest accrued or to accrue to the date of redemption and any legal, fiscal and related costs in connection with such refinancing and reasonable reserves, as determined by the authority. The provisions of this subdivision do not prohibit the authority from issuing revenue bonds within and charged against the limitations provided in subdivision 9 to provide funds for improvements, alteration, renovation, or extension of the project refinanced.

Subd. 11. **Contracts.** The authority is authorized and empowered to enter into contracts and execute all instruments necessary or appropriate to carry out the purposes of sections 136A.25 to 136A.42.

Subd. 12. **Rents, fees, and charges.** The authority is authorized and empowered generally, to fix and revise from time to time and charge and collect rates, rents, fees and charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and to contract with any person, partnership, association or corporation or other body public or private in respect thereof.

Subd. 13. **Pledge.** The authority is authorized and empowered to pledge, assign, hypothecate, or otherwise encumber as security for the bonds, the rentals, revenues, and other income, charges, and moneys realized from the use, lease, sale, or other disposition of one or more projects or parts thereof as may be designated in the bond proceedings and enter into trust agreements or indentures of mortgage for the benefit of bondholders.

Subd. 14. **Rules for use of projects.** The authority is authorized and empowered to establish rules for the use of a project or any portion thereof and to designate a participating institution of higher education as its agent to establish rules for the use of a project undertaken for such participating institution of higher education.

Subd. 15. **Consultants.** The authority is authorized and empowered to employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents,

managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation.

Subd. 16. **Acceptance of loans, grants, and aid.** The authority is authorized and empowered to receive and accept from any public agency loans or grants for or in aid of the acquisition, construction, or refinancing of a project or any portion thereof, and to receive and accept loans, grants, aid or contributions from any source of either money, property, labor or other things of value to be held, used and applied only for the purposes for which such loans, grants, aid and contributions are made.

Subd. 17. **Agreements with units of government.** The authority is authorized and empowered to enter into appropriate arrangements with any federal or state department or agency, county, township, municipal corporation, or other political subdivision, taxing district, or public body or agency for the planning and installation of streets, roads, alleys, water supply and distribution facilities, storm and sanitary sewage collection and disposal facilities, and other necessary appurtenances to a project.

Subd. 18. **Insurance.** The authority is authorized and empowered to purchase fire and extended coverage and liability insurance for a project, and any other insurance the authority may agree to provide under the bond proceedings. The authority is not a municipality subject to the provisions of sections 466.01 to 466.15.

Subd. 19. **Surety.** Before the issuance of any revenue bonds under the provisions of sections 136A.25 to 136A.42, any member or officer of the authority authorized by resolution of the authority to handle funds or sign checks of the authority shall be covered under a surety or fidelity bond in an amount to be determined by the authority. Each such bond shall be conditioned upon the faithful performance of the duties of the office of the member or officer, shall be executed by a surety company authorized to transact business in the state of Minnesota as surety. The cost of each such bond shall be paid by the authority.

Subd. 20. **Sale, lease, and disposal of property.** The authority is authorized and empowered to sell, lease, release or otherwise dispose of real and personal property or interests therein, or a combination thereof, acquired by the authority under authority of sections 136A.25 to 136A.42 and no longer needed for the purposes of such chapter or of the authority, and grant such easements and other rights in, over, under, or across a project as will not interfere with its use of such property. Such sale, lease, release, disposition, or grant may be made without competitive bidding and in such manner for such consideration as the authority in its judgment deems appropriate.

Subd. 21. **Loans.** The authority is authorized and empowered to make loans to any participating institution of higher education for the cost of a project in accordance with an agreement between the authority and the participating institution of higher education; provided that no such loan shall exceed the total cost of the project as determined by the participating institution of higher education and approved by the authority.

Subd. 22. **Costs, expenses, and other charges.** The authority is authorized and empowered to charge to and apportion among participating institutions of higher education its administrative costs and expenses incurred in the exercise of the powers and duties conferred by sections 136A.25 to 136A.42.

Subd. 23. **Other powers.** The authority is authorized and empowered to do all things

necessary or convenient to carry out the purposes of sections 136A.25 to 136A.42.

**History:** 1971 c 868 s 5; 1973 c 758 s 3; 1975 c 271 s 6; 1978 c 793 s 63; 1983 c 258 s 53,54; 1984 c 544 s 89; 1985 c 248 s 70; 1986 c 444; 1989 c 293 s 57; 1992 c 513 art 1 s 16; 1992 c 545 art 1 s 1; 1995 c 212 art 3 s 59; 1997 c 183 art 3 s 18; 1998 c 386 art 2 s 44; 2000 c 260 s 20; 2000 c 386 s 1; 2003 c 133 art 2 s 16; 2005 c 107 art 2 s 60; 2007 c 144 art 2 s 31; 2010 c 215 art 2 s 9

### **136A.30 SOURCE OF PAYMENT OF EXPENSES.**

All expenses incurred in carrying out the provisions of sections 136A.25 to 136A.42, shall be payable solely from funds provided under the authority of sections 136A.25 to 136A.42, and no liability shall be incurred by the authority hereunder beyond the extent to which money shall have been provided under the provisions of sections 136A.25 to 136A.42.

**History:** 1971 c 868 s 6

### **136A.31 NOTES OF THE AUTHORITY.**

The authority may from time to time issue negotiable notes for the purpose of sections 136A.25 to 136A.42, and may from time to time renew any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. The notes may be authorized, sold, executed and delivered in the same manner as bonds. Any resolution or resolutions authorizing notes of the authority or any issue thereof may contain any provisions which the authority is authorized to include in any resolution or resolutions authorizing revenue bonds of the authority or any issue thereof, and the authority may include in any notes any terms, covenants or conditions which it is authorized to include in any bonds. All such notes shall be payable solely from the revenue of the authority, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding.

**History:** 1971 c 868 s 7

### **136A.32 BONDS OF THE AUTHORITY.**

Subdivision 1. **Bonds; generally.** The authority may from time to time issue revenue bonds for purposes of sections 136A.25 to 136A.42, and all such revenue bonds, notes, bond anticipation notes or other obligations of the authority issued pursuant to sections 136A.25 to 136A.42 shall be and are hereby declared to be negotiable for all purposes notwithstanding their payment from a limited source and without regard to any other law or laws. In anticipation of the sale of such revenue bonds, the authority may issue negotiable bond anticipation notes and may renew the same from time to time, but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of the original note. Such notes shall be paid from any revenues of the authority available therefor and not otherwise pledged, or from the proceeds of sale of the revenue bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the revenue bonds. Such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which a bond resolution or the authority may contain.

Subd. 2. **Payment of bonds and notes.** The revenue bonds and notes of every issue shall be payable solely out of revenues of the authority, subject only to any agreements with the holders of particular revenue bonds or notes pledging any particular revenues. Notwithstanding that revenue bonds and notes may be payable from a special fund, they shall be and be deemed to be, for all

purposes, negotiable instruments, subject only to the provisions of the revenue bonds.

Subd. 3. **Issuance, conditions, sale.** The revenue bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The revenue bonds shall be authorized by resolution of the members of the authority and shall bear such date or dates, mature at such time or times, not exceeding 50 years from their respective dates, bear interest at such rate or rates, payable at such time or times, be in denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The revenue bonds or notes may be sold at public or private sale for such price or prices as the authority shall determine. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates which shall be exchanged for such definite bonds. Bonds or notes may be executed by the manual or facsimile signatures of two officers of the authority, and the facsimile of any seal adopted by the authority may be imprinted thereon, so long as the signature of either one such officer is a manual signature or as the bonds are authenticated by the manual signature of an authorized officer of a corporate trustee appointed to authenticate the bonds under a trust agreement with the authority.

Subd. 4. **Provisions of resolution authorizing bonds.** Any resolution or resolutions authorizing any revenue bonds or any issue of revenue bonds may contain provisions, which shall be a part of the contract with the holders of the revenue bonds to be authorized, as to:

(1) pledging all or any part of the revenues of a project or projects, any revenue producing contract or contracts made by the authority with any individual partnership, corporation or association or other body, public or private, to secure the payment of the revenue bonds or of any particular issue of revenue bonds, subject to such agreements with bondholders as may then exist;

(2) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(3) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(4) limitations on the right of the authority or its agent to restrict and regulate the use of the project;

(5) limitations on the purpose to which the proceeds of sale of any issue of revenue bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the revenue bonds or any issue of the revenue bonds;

(6) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds;

(7) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(8) limitations on the amount of moneys derived from the project to be expended for operating, administrative or other expenses of the authority;

(9) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default;

(10) the mortgaging of a project and the site thereof for the purpose of securing the bondholders.

Subd. 5. **Liability.** Neither the members of the authority nor any person executing the revenue bonds or notes shall be liable personally on the revenue bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

Subd. 6. **Other powers.** The authority shall have power out of any funds available therefor to purchase its bonds or notes. The authority may hold, pledge, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

Subd. 7. **Investment.** The authority may invest any bond proceeds, sinking funds or reserves in any securities authorized for investment of funds of municipalities pursuant to sections 118A.04 and 118A.05, including securities described in section 475.67, subdivision 8. In addition, such bond proceeds, sinking funds and reserves may be:

(1) deposited in time deposits of any state or national bank subject to the limitations and requirements of chapter 118A; or

(2) invested in repurchase agreements with, providing for the repurchase of securities described in the preceding sentence by, a bank qualified as a depository of money of the authority, a national or state bank in the United States that is a member of the Federal Reserve System and whose combined capital and surplus equals or exceeds \$10,000,000, or a reporting dealer to the Federal Reserve Bank of New York. Power to make any such investment or deposit is subject to the provisions of any applicable covenant or restriction in a resolution or trust agreement of the authority.

**History:** 1971 c 868 s 8; 1973 c 758 s 4,5; 1984 c 654 art 4 s 23; 1996 c 399 art 2 s 3; 1997 c 219 s 2

### **136A.33 TRUST AGREEMENT.**

In the discretion of the authority any revenue bonds issued under the provisions of sections 136A.25 to 136A.42, may be secured by a trust agreement by and between the authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within the state. Such trust agreement or the resolution providing for the issuance of such revenue bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or any portion thereof. Such trust agreement or resolution providing for the issuance of such revenue bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of laws, including particularly such provisions as have hereinabove been specifically authorized to be included in any resolution or resolutions of the authority authorizing revenue bonds thereof. Any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or of revenues or other moneys may furnish such indemnifying bonds or pledges such securities as may be required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of a project.

**History:** 1971 c 868 s 9



**136A.34 REVENUE REFUNDING BONDS.**

Subdivision 1. **Bonds; generally.** The authority is hereby authorized to provide for the issuance of revenue bonds of the authority for the purpose of refunding any revenue bonds of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase or maturity of such revenue bonds, and, if deemed advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a project or any portion thereof.

Subd. 2. **Proceeds.** The proceeds of any such revenue bonds issued for the purpose of refunding outstanding revenue bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of such outstanding revenue bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof and may, pending such application be placed in escrow to such purchase or retirement at maturity or redemption on such date as may be determined by the authority.

Subd. 3. **Investment.** Any such escrowed proceeds, pending such use, may be invested and reinvested in direct obligations of the United States of America, or in certificates of deposit or time deposits secured by direct obligations of the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest and redemption premium, if any, of the outstanding revenue bonds to be so refunded. The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding revenue bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner.

Subd. 4. **Additional purpose; improvements.** The portion of the proceeds of any such revenue bonds issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a project may be invested or deposited in time deposits as provided in section 136A.32, subdivision 7.

Subd. 5. **Relation to other laws.** All such revenue bonds shall be subject to the provisions of sections 136A.25 to 136A.42, in the same manner and to the same extent as other revenue bonds issued pursuant to sections 136A.25 to 136A.42.

**History:** 1971 c 868 s 10; 1973 c 758 s 6

**136A.35 BONDS ARE NOT STATE OBLIGATION.**

Bonds issued under authority of sections 136A.25 to 136A.42 do not, and shall state that they do not, represent or constitute a debt or pledge of the faith and credit of the state, grant to the owners or holders thereof any right to have the state levy any taxes or appropriate any funds for the payment of the principal thereof or interest thereon. Such bonds are payable and shall state that they are payable solely from the rentals, revenues, and other income, charges, and moneys as are pledged for their payment in accordance with the bond proceedings. The legislature intends not to appropriate money from the general fund to pay for these bonds.

**History:** 1971 c 868 s 11; 1990 c 610 art 2 s 5

**136A.36 REVENUES.**

The authority may fix, revise, charge and collect rates, rents, fees and charges for the use of and for the services furnished or to be furnished by each project and to contract with any person, partnership, association or corporation, or other body, public or private, in respect thereof. Such rates, rents, fees and charges shall be fixed and adjusted in respect of the aggregate of rates, rents, fees and charges from such project so as to provide funds sufficient with other revenues, if any:

(1) to pay the cost of maintaining, repairing and operating the project and each and every portion thereof, to the extent that the payment of such cost has not otherwise been adequately provided for;

(2) to pay the principal of and the interest on outstanding revenue bonds of the authority issued in respect of such project as the same shall become due and payable; and

(3) to create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, such revenue bonds of the authority. Such rates, rents, fees and charges shall not be subject to supervision or regulation by any department, commission, board, body, bureau or agency of this state other than the authority. A sufficient amount of the revenues derived in respect of a project, except such part of such revenues as may be necessary to pay the cost of maintenance, repair and operation and to provide reserves and for renewals, replacements, extensions, enlargements and improvements as may be provided for in the resolution authorizing the issuance of any revenue bonds of the authority or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or trust agreement in a sinking or other similar fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such revenue bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the rates, rents, fees and charges and other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking or other similar fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking or other similar fund shall be a fund for all such revenue bonds issued to finance a project or projects at one or more participating institutions of higher education without distinction or priority of one over another; provided the authority in any such resolution or trust agreement may provide that such sinking or other similar fund shall be the fund for a particular project at an institution of higher education and for the revenue bonds issued to finance a particular project and may, additionally, permit and provide for the issuance of revenue bonds having a subordinate lien in respect of the security herein authorized to other revenue bonds of the authority and, in such case, the authority may create separate or other similar funds in respect of such subordinate lien bonds.

**History:** 1971 c 868 s 12

**136A.37 REMEDIES OF BONDHOLDERS AND TRUSTEES.**

Any holder of revenue bonds issued under the provisions of sections 136A.25 to 136A.42, or any of the coupons appertaining thereto, and the trustee or trustees under any trust agreement,

except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or any such trust agreement securing, such bonds, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by sections 136A.25 to 136A.42, or by such resolution or trust agreement to be performed by the authority or by any officer, employee or agent thereof, including the fixing, charging and collecting of the rates, rents, fees and charges herein authorized and required by the provisions of such resolution or trust agreement to be fixed, established and collected.

**History:** *1971 c 868 s 13*

### **136A.38 BONDS ELIGIBLE FOR INVESTMENT.**

Bonds issued by authority under the provisions of sections 136A.25 to 136A.42, are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them; it being the purpose of this section to authorize the investment in such bonds of all sinking, insurance, retirement, compensation, pension and trust funds, whether owned or controlled by private or public persons or officers; provided, however, that nothing contained in this section may be construed as relieving any person, firm, or corporation from any duty of exercising due care in selecting securities for purchase or investment; and provide further, that in no event shall assets of pension funds of public employees of the state of Minnesota or any of its agencies, boards or subdivisions, whether publicly or privately administered, be invested in bonds issued under the provisions of sections 136A.25 to 136A.42. Such bonds are hereby constituted "authorized securities" within the meaning and for the purposes of Minnesota Statutes 1969, section 50.14. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state now or may hereafter be authorized by law.

**History:** *1971 c 868 s 14*

### **136A.39 EXEMPTION FROM TAXES AND OTHER RESTRICTIONS.**

The exercise of the powers granted by sections 136A.25 to 136A.42, will be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of a project by the authority or its agent will constitute the performance of an essential public function, neither the authority nor its agent shall be required to pay any taxes or assessments upon or in respect of a project or any property acquired or used by the authority or its agent under the provisions of sections 136A.25 to 136A.42, or upon the income therefrom.

**History:** *1971 c 868 s 15; 1983 c 213 s 8*

### **136A.40 ADMINISTRATION.**

The administration of sections 136A.25 to 136A.42, shall be under the authority independent of other departments and agencies and notwithstanding chapter 16C. The authority

shall not be subject to the provisions of chapter 14, including section 14.386 in connection with the adoption of any rules, rents, fees or charges or with the exercise of any other powers or duties.

**History:** *1971 c 868 s 16; 1973 c 758 s 7; 1982 c 424 s 130; 1985 c 248 s 70; 1995 c 186 s 41; 1995 c 233 art 2 s 56; 1997 c 187 art 5 s 18; 1998 c 386 art 2 s 45*

#### **136A.41 CONFLICT OF INTEREST.**

Notwithstanding any other law to the contrary it shall not be or constitute a conflict of interest for a trustee, director, officer or employee of any participating institution of higher education, financial institution, investment banking firm, brokerage firm, commercial bank or trust company, architecture firm, insurance company, construction company, or any other firm, person or corporation to serve as a member of the authority, provided such trustee, director, officer or employee shall abstain from deliberation, action and vote by the authority in each instance where the business affiliation of any such trustee, director, officer or employee is involved.

**History:** *1971 c 868 s 17; 1973 c 758 s 8*

#### **136A.42 ANNUAL REPORT.**

The authority shall keep an accurate account of all of its activities and all of its receipts and expenditures and shall annually report to the Minnesota Office of Higher Education.

**History:** *1971 c 868 s 18; 1975 c 271 s 6; 1983 c 258 s 55; 1995 c 212 art 3 s 38; 2005 c 107 art 2 s 60*

**136A.51** [Repealed, 1989 c 293 s 85]

**136A.52** [Repealed, 1989 c 293 s 85]

**136A.53** [Repealed, 1989 c 293 s 85]

**136A.55** [Repealed, 1989 c 293 s 85]

### **MINNESOTA PRIVATE AND OUT-OF-STATE PUBLIC POSTSECONDARY EDUCATION ACT**

#### **136A.61 POLICY.**

The legislature has found and hereby declares that the availability of legitimate courses and programs leading to academic degrees offered by responsible private not-for-profit and for-profit institutions of postsecondary education and the existence of legitimate private colleges and universities are in the best interests of the people of this state. The legislature has found and declares that the state can provide assistance and protection for persons choosing private institutions and programs, by establishing policies and procedures to assure the authenticity and legitimacy of private postsecondary education institutions and programs. The legislature has also found and declares that this same policy applies to any private and public postsecondary educational institution located in another state or country which offers or makes available to a Minnesota resident any course, program or educational activity which does not require the leaving of the state for its completion.

**History:** *1975 c 201 s 1; 1978 c 603 s 1; 2007 c 144 art 3 s 1*

**136A.615 CITATION.**

Sections 136A.61 to 136A.71 may be cited as the "Minnesota Private and Out-of-State Public Postsecondary Education Act."

**History:** 2007 c 144 art 3 s 2

**136A.62 DEFINITIONS.**

Subdivision 1. **Words, terms, and phrases.** The following words, terms, and phrases shall have the meanings ascribed to them in this section for the purposes of sections 136A.61 to 136A.71.

Subd. 2. **Office.** "Office" means the Minnesota Office of Higher Education.

Subd. 3. **School.** "School" means:

(1) any partnership, company, firm, society, trust, association, corporation, or any combination thereof, which (i) is, owns, or operates a private, nonprofit postsecondary education institution; (ii) is, owns, or operates a private, for-profit postsecondary education institution; or (iii) provides a postsecondary instructional program or course leading to a degree whether or not for profit;

(2) any public or private postsecondary educational institution located in another state or country which offers or makes available to a Minnesota resident any course, program or educational activity which does not require the leaving of the state for its completion; or

(3) any individual, entity, or postsecondary institution located in another state that contracts with any school located within the state of Minnesota for the purpose of providing educational programs, training programs, or awarding postsecondary credits or continuing education credits to Minnesota residents that may be applied to a degree program.

Subd. 4. **Degree.** "Degree" means any award given by a school for completion of a program or course which is designated by the term degree, associate, bachelor, baccalaureate, masters, or doctorate, or any other award which the office shall include by rule.

Subd. 5. **Records.** "Records" means those school documents and files containing student data relating to academic credits, grades, degrees awarded, periods of attendance, and such other matters as the office shall determine by rule.

**History:** 1975 c 201 s 2; 1975 c 271 s 6; 1978 c 603 s 2; 1985 c 248 s 70; 1995 c 212 art 3 s 39,59; 2005 c 107 art 2 s 60; 2007 c 144 art 3 s 3; 2010 c 364 s 15

**136A.63 REGISTRATION.**

Subdivision 1. **Annual registration.** All schools located within Minnesota and all schools located outside Minnesota which offer degree programs or courses within Minnesota shall register annually with the office.

Subd. 2. **Sale of an institution.** Within 30 days of a change of its ownership a school must submit a registration renewal application, all usual and ordinary information and materials for an initial registration, and applicable registration fees for a new institution. For purposes of this subdivision, "change of ownership" means a merger or consolidation with a corporation; a sale, lease, exchange, or other disposition of all or substantially all of the assets of a school; the transfer of a controlling interest of at least 51 percent of the school's stock; or a change in the

not-for-profit or for-profit status of a school.

**History:** 1975 c 201 s 3; 1975 c 271 s 6; 1978 c 603 s 3; 1995 c 212 art 3 s 59; 2007 c 144 art 3 s 4

### **136A.64 INFORMATION REQUIRED FOR REGISTRATION.**

Subdivision 1. **Schools to provide information.** As a basis for registration, schools shall provide the office with such information as the office needs to determine the nature and activities of the school, including but not limited to the following which shall be accompanied by an affidavit attesting to its accuracy and truthfulness:

- (1) articles of incorporation, constitution, bylaws, or other operating documents;
- (2) a duly adopted statement of the school's mission and goals;
- (3) evidence of current school or program licenses granted by departments or agencies of any state;
- (4) a fiscal balance sheet on an accrual basis, or a certified audit of the immediate past fiscal year including any management letters provided by the independent auditor or, if the school is a public institution outside Minnesota, an income statement for the immediate past fiscal year;
- (5) all current promotional and recruitment materials and advertisements; and
- (6) the current school catalog and, if not contained in the catalog:
  - (i) the members of the board of trustees or directors, if any;
  - (ii) the current institutional officers;
  - (iii) current full-time and part-time faculty with degrees held or applicable experience;
  - (iv) a description of all school facilities;
  - (v) a description of all current course offerings;
  - (vi) all requirements for satisfactory completion of courses, programs, and degrees;
  - (vii) the school's policy about freedom or limitation of expression and inquiry;
  - (viii) a current schedule of fees, charges for tuition, required supplies, student activities, housing, and all other standard charges;
  - (ix) the school's policy about refunds and adjustments;
  - (x) the school's policy about granting credit for prior education, training, and experience; and
  - (xi) the school's policies about student admission, evaluation, suspension, and dismissal.

Subd. 2. **Financial records.** The office shall not disclose financial records or accreditation reports provided to it by a school pursuant to this section except for the purpose of defending, at hearings pursuant to chapter 14, or other appeal proceedings, its decision to approve or not to approve the granting of degrees or the use of a name by the school. Section 15.17, subdivision 4, shall not apply to such records.

Subd. 3. **Additional information.** If the office is unable to determine the nature and activities of a school on the basis of the information in subdivision 1, the office shall notify the school of additional information needed.

Subd. 4. **Verification of information.** The office may verify the accuracy of submitted

information by inspection, visitation, or any other means it considers necessary.

Subd. 5. **Public information.** All information submitted to the office is public information except financial and accreditation records and information. The office may disclose financial records or information to defend its decision to approve or disapprove granting of degrees or the use of a name or its decisions to revoke the approval at a hearing under chapter 14 or other legal proceedings.

Subd. 6. **Late registration penalty.** Applications for renewal for any registration received after the deadline date specified in the renewal materials provided by the office are subject to a late fee equal to 20 percent of the annual registration renewal fee.

Subd. 7. **Out-of-state expenses.** A school shall reimburse the office for actual costs associated with a site evaluation visit outside Minnesota if the visit is necessary under subdivision 1 or 3.

**History:** 1975 c 201 s 4; 1975 c 271 s 6; 1978 c 603 s 4; 1982 c 424 s 130; 1995 c 212 art 3 s 59; 2007 c 144 art 3 s 5

### 136A.645 SCHOOL CLOSURE.

(a) When a school decides to cease postsecondary education operations, it must cooperate with the office in assisting students to find alternative means to complete their studies with a minimum of disruption, and inform the office of the following:

- (1) the planned date for termination of postsecondary education operations;
- (2) the planned date for the transfer of the student records;
- (3) confirmation of the name and address of the organization to receive and hold the student records; and
- (4) the official at the organization receiving the student records who is designated to provide official copies of records or transcripts upon request.

(b) Upon notice from a school of its intention to cease operations, the office shall notify the school of the date on which it must cease the enrollment of students and all postsecondary educational operations.

Without limitation as to other circumstance, a school shall be deemed to have ceased operations when the school:

- (1) has an unscheduled nonemergency closure or cancellation of classes for more than 24 hours without prior notice to the office;
- (2) announces it is closed or closing; or
- (3) files for bankruptcy.

**History:** 2007 c 144 art 3 s 6; 2010 c 364 s 16

### 136A.646 ADDITIONAL SECURITY.

(a) In the event any registered institution is notified by the United States Department of Education that it has fallen below minimum financial standards and that its continued participation in Title IV will be conditioned upon its satisfying either the Zone Alternative, Code of Federal Regulations, title 34, section 668.175, paragraph (f), or a Letter of Credit Alternative, Code of Federal Regulations, title 34, section 668.175, paragraph (c), the institution shall provide a surety bond conditioned upon the faithful performance of all contracts and agreements with students

in a sum equal to the "letter of credit" required by the United States Department of Education in the Letter of Credit Alternative, but in no event shall such bond be less than \$10,000 nor more than \$250,000.

(b) In lieu of a bond, the applicant may deposit with the commissioner of management and budget:

(1) a sum equal to the amount of the required surety bond in cash; or

(2) securities, as may be legally purchased by savings banks or for trust funds, in an aggregate market value equal to the amount of the required surety bond.

**History:** 2007 c 144 art 3 s 7; 2010 c 364 s 17

### 136A.65 APPROVAL OF DEGREES AND NAME.

Subdivision 1. **Prohibition.** No school subject to registration shall grant a degree unless such degree and its underlying curriculum are approved by the office, nor shall any school subject to registration use the name "college" or "university" in its name without approval by the office.

Subd. 1a. **Accreditation; requirement.** A school must not be registered or authorized to offer any degree at any level unless the school is accredited by an agency recognized by the United States Department of Education for purposes of eligibility to participate in Title IV federal financial aid programs. Any registered school undergoing institutional accreditation shall inform the office of site visits by the accrediting agency and provide office staff the opportunity to attend the visits, including any exit interviews. The institution must provide the office with a copy of the final report upon receipt.

Subd. 2. **Procedures.** The office shall establish procedures for approval, including notice and an opportunity for a hearing pursuant to chapter 14 if such approval is not granted. If a hearing is requested, no disapproval shall take effect until after such hearing.

Subd. 3. **Application.** A school subject to registration shall be granted approval to use the term "college" or "university" in its name if it was organized, operating, and using such term in its name on or before August 1, 2007, and if it meets the other policies and standards for approval established by the office.

Subd. 4. **Criteria for approval.** (a) A school applying to be registered and to have its degree or degrees and name approved must substantially meet the following criteria:

(1) the school has an organizational framework with administrative and teaching personnel to provide the educational programs offered;

(2) the school has financial resources sufficient to meet the school's financial obligations, including refunding tuition and other charges consistent with its stated policy if the institution is dissolved, or if claims for refunds are made, to provide service to the students as promised, and to provide educational programs leading to degrees as offered;

(3) the school operates in conformity with generally accepted budgeting and accounting principles;

(4) the school provides an educational program leading to the degree it offers;

(5) the school provides appropriate and accessible library, laboratory, and other physical facilities to support the educational program offered;



(6) the school has a policy on freedom or limitation of expression and inquiry for faculty and students which is published or available on request;

(7) the school uses only publications and advertisements which are truthful and do not give any false, fraudulent, deceptive, inaccurate, or misleading impressions about the school, its personnel, programs, services, or occupational opportunities for its graduates for promotion and student recruitment;

(8) the school's compensated recruiting agents who are operating in Minnesota identify themselves as agents of the school when talking to or corresponding with students and prospective students; and

(9) the school provides information to students and prospective students concerning:

(i) comprehensive and accurate policies relating to student admission, evaluation, suspension, and dismissal;

(ii) clear and accurate policies relating to granting credit for prior education, training, and experience and for courses offered by the school;

(iii) current schedules of fees, charges for tuition, required supplies, student activities, housing, and all other standard charges;

(iv) policies regarding refunds and adjustments for withdrawal or modification of enrollment status; and

(v) procedures and standards used for selection of recipients and the terms of payment and repayment for any financial aid program.

(b) An application for degree approval must also include:

(i) title of degree and formal recognition awarded;

(ii) location where such degree will be offered;

(iii) proposed implementation date of the degree;

(iv) admissions requirements for the degree;

(v) length of the degree;

(vi) projected enrollment for a period of five years;

(vii) the curriculum required for the degree, including course syllabi or outlines;

(viii) statement of academic and administrative mechanisms planned for monitoring the quality of the proposed degree;

(ix) statement of satisfaction of professional licensure criteria, if applicable;

(x) documentation of the availability of clinical, internship, externship, or practicum sites, if applicable; and

(xi) statement of how the degree fulfills the institution's mission and goals, complements existing degrees, and contributes to the school's viability.

**Subd. 5. Requirements for degree and nondegree program approval.** For each degree and nondegree program a school offers to a student, where the student does not leave Minnesota for the major portion of the program or course leading to the degree or nondegree award, the school must have:

(1) for degree programs:

- (i) qualified teaching personnel to provide the educational programs for each degree for which approval is sought;
- (ii) appropriate educational programs leading to each degree for which approval is sought;
- (iii) appropriate and accessible library, laboratory, and other physical facilities to support the educational program for each degree for which approval is sought; and
- (iv) a rationale showing that degree programs are consistent with the school's mission and goals; and

(2) for nondegree programs:

- (i) qualified teaching personnel to provide the educational programs for which approval is sought;
- (ii) appropriate educational programs leading to each award for which approval is sought;
- (iii) appropriate and accessible library, laboratory, and other physical facilities to support the educational program for which approval is sought; and
- (iv) a rationale showing that programs are consistent with the school's mission and goals.

Nondegree programs that are a part of an approved degree shall not require additional review or approval; they shall be considered approved as a part of the degree approval. Any nondegree program offered by a degree-granting school that is not a part of an approved degree shall be subject to clause (2), items (i) to (iv).

Subd. 6. **Name.** A degree-granting school may use the term "academy" or "institute" in its name without meeting any additional requirements. A school may use the term "college" in its name if it offers at least one program leading to an associate degree. A school may use the term "university" in its name if it offers at least one program leading to a master's or doctorate degree.

Subd. 7. **Conditional approval.** The office may grant conditional approval for a degree or use of a term in its name for a period of less than one year if doing so would be in the best interests of currently enrolled students or prospective students. New schools may be granted conditional approval for degrees or names annually for a period not to exceed five years to allow them the opportunity to apply for and receive accreditation as required in subdivision 1a.

Subd. 8. **Disapproval of registration appeal.** (a) If a school's degree or use of a term in its name is disapproved by the office, the school may request a hearing under chapter 14. The request must be in writing and made to the office within 30 days of the date the school is notified of the disapproval.

(b) The office may refuse to renew, revoke, or suspend registration, approval of a school's degree, or use of a regulated term in its name by giving written notice and reasons to the school. The school may request a hearing under chapter 14. If a hearing is requested, no revocation or suspension shall take effect until after the hearing.

(c) Reasons for revocation or suspension of registration or approval may be for one or more of the following reasons:

- (1) violating the provisions of sections 136A.61 to 136A.71;
- (2) providing false, misleading, or incomplete information to the office;
- (3) presenting information about the school which is false, fraudulent, misleading, deceptive, or inaccurate in a material respect to students or prospective students; or

(4) refusing to allow reasonable inspection or to supply reasonable information after a written request by the office has been received.

**History:** 1975 c 201 s 5; 1975 c 271 s 6; 1978 c 603 s 5; 1982 c 424 s 130; 1995 c 212 art 3 s 59; 2007 c 144 art 3 s 8; 2008 c 298 s 8-12

### 136A.653 EXEMPTIONS.

Subdivision 1. **Exemption.** A school that is subject to licensing by the office under chapter 141, is exempt from the provisions of sections 136A.61 to 136A.71. The determination of the office as to whether a particular school is subject to regulation under chapter 141 is final for the purposes of this exemption.

Subd. 2. **Educational program; nonprofit organizations.** Educational programs which are sponsored by a bona fide and nonprofit trade, labor, business, professional or fraternal organization, which programs are conducted solely for that organization's membership or for the members of the particular industries or professions served by that organization, and which are not available to the public on a fee basis, are exempted from the provisions of sections 136A.61 to 136A.71.

Subd. 3. **Educational program; business firms.** Educational programs which are sponsored by a business firm for the training of its employees or the employees of other business firms with which it has contracted to provide educational services at no cost to the employees are exempted from the provisions of sections 136A.61 to 136A.71.

Subd. 4. **Voluntary submission.** Any school or program exempted from the provisions of sections 136A.61 to 136A.71 by the provisions of this section may voluntarily submit to the provisions of those sections.

**History:** 1978 c 603 s 6; 1Sp1993 c 2 art 2 s 18; 1995 c 212 art 3 s 59

### 136A.657 EXEMPTION; RELIGIOUS SCHOOLS.

Subdivision 1. **Exemption.** Any school or any department or branch of a school (a) which is substantially owned, operated or supported by a bona fide church or religious organization; (b) whose programs are primarily designed for, aimed at and attended by persons who sincerely hold or seek to learn the particular religious faith or beliefs of that church or religious organization; and (c) whose programs are primarily intended to prepare its students to become ministers of, to enter into some other vocation closely related to, or to conduct their lives in consonance with, the particular faith of that church or religious organization, is exempt from the provisions of sections 136A.61 to 136A.71.

Subd. 2. **Limitation.** This exemption shall not extend to any school or to any department or branch of a school which through advertisements or solicitations represents to any students or prospective students that the school, its aims, goals, missions or purposes or its programs are different from those described in subdivision 1. This exemption shall not extend to any school which represents to any student or prospective student that the major purpose of its programs is to prepare the student for a vocation not closely related to that particular religious faith, or to provide the student with a general educational program recognized by other schools or the broader educational, business or social community as being substantially equivalent to the educational programs offered by schools or departments or branches of schools which are not exempt from sections 136A.61 to 136A.71, and rules adopted pursuant thereto.

Subd. 3. **Scope.** Nothing in sections 136A.61 to 136A.71, or the rules adopted pursuant thereto, shall be interpreted as permitting the office to determine the truth or falsity of any particular set of religious beliefs.

Subd. 4. **Statement required; religious nature.** Any degree awarded upon completion of a religiously exempt program shall include descriptive language to make the religious nature of the award clear.

**History:** *1978 c 603 s 7; 1995 c 212 art 3 s 59; 2007 c 144 art 3 s 9*

#### **136A.66 LIST OF REGISTERED INSTITUTIONS.**

The office shall maintain a list of registered institutions authorized to grant degrees and schools authorized to use the name "college" or "university" and shall make such list available to the public.

**History:** *1975 c 201 s 6; 1975 c 271 s 6; 1995 c 212 art 3 s 59; 2007 c 144 art 3 s 10; 2008 c 298 s 13*

#### **136A.67 REGISTRATION REPRESENTATIONS.**

No school and none of its officials or employees shall advertise or represent in any manner that such school is approved or accredited by the office or the state of Minnesota, except a school which is duly registered with the office, or any of its officials or employees, may represent in advertising and shall disclose in catalogues, applications, and enrollment materials that the school is registered with the office by prominently displaying the following statement: "(Name of school) is registered as a private institution with the Minnesota Office of Higher Education pursuant to sections 136A.61 to 136A.71. Registration is not an endorsement of the institution. Credits earned at the institution may not transfer to all other institutions."

**History:** *1975 c 201 s 7; 1975 c 271 s 6; 1995 c 212 art 3 s 59; 2007 c 144 art 3 s 11; 2008 c 298 s 14*

#### **136A.675 RISK ANALYSIS.**

The office shall develop a set of financial and programmatic evaluation metrics to aid in the detection of the failure or potential failure of a school to meet the standards established under sections 136A.61 to 136A.71. These metrics shall include indicators of financial stability, changes in the senior management or the financial aid and senior administrative staff of an institution, changes in enrollment, changes in program offerings, and changes in faculty staffing patterns. The development of financial standards shall use industry standards as benchmarks. The development of the nonfinancial standards shall include a measure of trends and dramatic changes in trends or practice. The agency must specify the metrics and standards for each area and provide a copy to each registered institution and post them on the agency Web site. The agency shall use regularly reported data submitted to the federal government or other regulatory or accreditation agencies wherever possible. The agency may require more frequent data reporting by an institution to ascertain whether the standards are being met.

**History:** *2007 c 144 art 3 s 12*

#### **136A.68 RECORDS.**

A registered school shall maintain a permanent record for each student for 50 years from the last date of the student's attendance. A registered school offering distance instruction to a student located in Minnesota shall maintain a permanent record for each Minnesota student

for 50 years from the last date of the student's attendance. Records include a student's academic transcript, documents, and files containing student data about academic credits earned, courses completed, grades awarded, degrees awarded, and periods of attendance. To preserve permanent records, a school shall submit a plan that meets the following requirements:

(1) at least one copy of the records must be held in a secure, fireproof depository or duplicate records must be maintained off site in a secure location and in a manner approved by the office;

(2) an appropriate official must be designated to provide a student with copies of records or a transcript upon request;

(3) an alternative method approved by the office of complying with clauses (1) and (2) must be established if the school ceases to exist; and

(4) if the school has no binding agreement approved by the office for preserving student records, a continuous surety bond must be filed with the office in an amount not to exceed \$20,000. The bond shall run to the state of Minnesota.

**History:** 1975 c 201 s 8; 1975 c 271 s 6; 1995 c 212 art 3 s 59; 2007 c 144 art 3 s 13

### **136A.685 PRIVATE INSTITUTIONS; ADJUDICATION OF FRAUD OR MISREPRESENTATION.**

The office shall not provide registration or degree or name approval to a school if there has been a criminal, civil, or administrative adjudication of fraud or misrepresentation in Minnesota or in another state or jurisdiction against the school or its owner, officers, agents, or sponsoring organization. Such an adjudication of fraud or misrepresentation shall be sufficient cause for the office to determine that a school:

(1) does not qualify for exemption under section 136A.657; or

(2) is not approved to grant degrees or to use the term "academy," "institute," or "university" in its name.

**History:** 1995 c 212 art 3 s 40; 1996 c 366 s 1

### **136A.69 FEES.**

Subdivision 1. **Registration fees.** (a) The office shall collect reasonable registration fees that are sufficient to recover, but do not exceed, its costs of administering the registration program. The office shall charge the fees listed in paragraphs (b) and (c) for new registrations.

(b) A new school offering no more than one degree at each level during its first year must pay registration fees for each applicable level in the following amounts:

associate degree	\$2,000
baccalaureate degree	\$2,500
master's degree	\$3,000
doctorate degree	\$3,500

(c) A new school that will offer more than one degree per level during its first year must pay registration fees in an amount equal to the fee for the first degree at each degree level under paragraph (b), plus fees for each additional nondegree program or degree as follows:

nondegree program	\$250
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additional associate degree	\$250
additional baccalaureate degree	\$500
additional master's degree	\$750
additional doctorate degree	\$1,000

(d) The annual renewal registration fee is \$1,200.

Subd. 2. [Repealed, 2010 c 215 art 2 s 21]

Subd. 3. **Degree or nondegree program addition fee.** The office processing fees for adding a degree or nondegree program are as follows:

nondegree program that is part of existing degree	-0-
nondegree program that is not a part of an existing degree	\$250 each
majors, specializations, emphasis areas, concentrations, and other similar areas of emphasis	\$250 each
associate degrees	\$500 each
baccalaureate degrees	\$500 each
master's degrees	\$750 each
doctorate degrees	\$2,000 each

Subd. 4. **Visit or consulting fee.** If the office determines that a fact-finding visit or outside consultant is necessary to review or evaluate any new or revised degree or nondegree program, the office shall be reimbursed for the expenses incurred related to the review as follows:

(1) \$400 for the team base fee or for a paper review conducted by a consultant if the office determines that a fact-finding visit is not required;

(2) \$300 for each day or part thereof on site per team member; and

(3) the actual cost of customary meals, lodging, and related travel expenses incurred by team members.

Subd. 5. **Modification fee.** The fee for modification of any existing degree or nondegree program is \$100 and is due if there is:

(1) an increase or decrease of 25 percent or more from the original date of program approval, in clock hours, credit hours, or calendar length of an existing degree or nondegree program;

(2) a change in academic measurement from clock hours to credit hours or vice versa; or

(3) an addition or alteration of courses that represent a 25 percent change or more in the objectives, content, or methods of delivery.

**History:** 1975 c 201 s 9; 1975 c 271 s 6; 1989 c 293 s 58; 1Sp1993 c 2 art 2 s 19; 1995 c 212 art 3 s 41; 2003 c 133 art 2 s 17; 2007 c 144 art 3 s 14; 2008 c 298 s 15; 2010 c 215 art 2 s 10-12

**136A.70** [Repealed, 1Sp1993 c 2 art 2 s 26]

**136A.705 PENALTY.**

The director may assess fines for violations of a provision of sections 136A.61 to 136A.71. Each day's failure to comply with a provision of sections 136A.61 to 136A.71 shall be a separate violation and fines shall not exceed \$500 per day per violation. Amounts received under this section must be deposited in the special revenue fund and are appropriated to the Office of Higher Education for the purposes in sections 136A.61 to 136A.71.

**History:** 2007 c 144 art 3 s 15

**136A.71 INJUNCTION.**

Upon application of the attorney general the district courts shall have jurisdiction to enjoin any violations of sections 136A.61 to 136A.71.

**History:** 1975 c 201 s 11

**136A.80** [Renumbered 135A.51]

**136A.81** [Renumbered 135A.52]

**POST-HIGH SCHOOL PLANNING PROGRAM**

**136A.85** [Repealed, 1995 c 212 art 3 s 60]

**136A.86** [Repealed, 1995 c 212 art 3 s 60]

**136A.861 INTERVENTION FOR COLLEGE ATTENDANCE PROGRAM GRANTS.**

Subdivision 1. **Grants.** (a) The director of the Minnesota Office of Higher Education shall award grants to foster postsecondary attendance and retention by providing outreach services to historically underserved students in grades six through 12 and historically underrepresented college students. Grants must be awarded to programs that provide precollege services, including, but not limited to:

- (1) academic counseling;
- (2) mentoring;
- (3) fostering and improving parental involvement in planning for and facilitating a college education;
- (4) services for students with English as a second language;
- (5) academic enrichment activities;
- (6) tutoring;
- (7) career awareness and exploration;
- (8) orientation to college life;
- (9) assistance with high school course selection and information about college admission requirements; and
- (10) financial aid counseling.

(b) Grants shall be awarded to postsecondary institutions, professional organizations, community-based organizations, or others deemed appropriate by the director.

(c) Grants shall be awarded for one year and may be renewed for a second year with documentation to the Minnesota Office of Higher Education of successful program outcomes.

Subd. 2. **Eligible students.** (a) Eligible students include students in grades six through 12 who meet one or more of the following criteria:

(1) are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (Title I);

(2) are eligible for free or reduced-price lunch under the National School Lunch Act;

(3) receive assistance under the Temporary Assistance for Needy Families Law (Title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996); or

(4) are a member of a group traditionally underrepresented in higher education.

(b) Eligible undergraduate students include those who met the student eligibility criteria as 6th through 12th graders.

Subd. 3. **Application process.** (a) The director of the Minnesota Office of Higher Education shall develop a grant application process. The director shall attempt to support projects in a manner that ensures that eligible students throughout the state have access to program services.

(b) The grant application must include, at a minimum, the following information:

(1) a description of the characteristics of the students to be served reflective of the need for services listed in subdivision 1;

(2) a description of the services to be provided and a timeline for implementation of the activities;

(3) a description of how the services provided will foster postsecondary attendance and support postsecondary retention;

(4) a description of how the services will be evaluated to determine whether the program goals were met; and

(5) other information as identified by the director.

Grant recipients must specify both program and student outcome goals, and performance measures for each goal.

Subd. 4. **Match required.** Applicants are required to match the grant amount dollar-for-dollar. The match may be in cash or an in-kind contribution.

Subd. 5. **Review committee.** The director must establish and convene a grant selection committee to review applications and award grants. The members of the committee may include representatives of postsecondary institutions, school districts, organizations providing precollege outreach services, and others deemed appropriate by the director.

Subd. 6. **Program evaluation.** Each grant recipient must annually submit a report to the Minnesota Office of Higher Education delineating its program and student outcome goals, and activities implemented to achieve the stated outcomes. The goals must be clearly stated and measurable. Grant recipients are required to collect, analyze, and report on participation and outcome data that enable the office to verify that the program goals were met. The office shall maintain:



(1) information about successful precollege program and undergraduate student retention program activities for dissemination to individuals throughout the state interested in adopting or replicating successful program practices; and

(2) data on the success of the funded projects in increasing the high school graduation, college participation, and college graduation rates of students served by the grant recipients. The office may convene meetings of the grant recipients, as needed, to discuss issues pertaining to the implementation of precollege services and undergraduate retention programs.

Subd. 7. **Report.** By January 15 of each odd-numbered year, the office shall submit a report to the committees in the legislature with jurisdiction over higher education finance regarding the grant recipients and their activities. The report shall include information about the students served, the organizations providing services, program activities, program goals and outcomes, and program revenue sources and funding levels.

**History:** 2005 c 107 art 2 s 29,60; 2007 c 144 art 2 s 32-35

### 136A.87 PLANNING INFORMATION FOR POSTSECONDARY EDUCATION.

The office shall make available to all residents beginning in 7th grade through adulthood information about planning and preparing for postsecondary opportunities. Information must be provided to all 7th grade students and their parents annually by September 30 about planning for their postsecondary education. The office may also provide information to high school students and their parents, to adults, and to out-of-school youth. The information provided may include the following:

- (1) the need to start planning early;
- (2) the availability of assistance in educational planning from educational institutions and other organizations;
- (3) suggestions for studying effectively during high school;
- (4) high school courses necessary to be adequately prepared for postsecondary education;
- (5) encouragement to involve parents actively in planning for all phases of education;
- (6) information about postsecondary education and training opportunities existing in the state, their respective missions and expectations for students, their preparation requirements, admission requirements, and student placement;
- (7) ways to evaluate and select postsecondary institutions;
- (8) the process of transferring credits among Minnesota postsecondary institutions and systems;
- (9) the costs of postsecondary education and the availability of financial assistance in meeting these costs, including specific information about the Minnesota Promise and achieve scholarship program;
- (10) the interrelationship of assistance from student financial aid, public assistance, and job training programs; and
- (11) financial planning for postsecondary education.

**History:** 1978 c 782 s 3; 1987 c 401 s 27; 1Sp1993 c 2 art 2 s 20; 1995 c 212 art 3 s 59; 2009 c 95 art 2 s 24

**136A.88** [Repealed, 1995 c 212 art 3 s 60]