

136G.05 MINNESOTA OFFICE OF HIGHER EDUCATION.

Subdivision 1. **Responsibilities.** (a) The director shall establish the rules, terms, and conditions for the plan, subject to the requirements of sections 136G.01 to 136G.14.

(b) The director shall prescribe the application forms, procedures, and other requirements that apply to the plan.

[See Note.]

Subd. 2. **Accounts-type plan.** The office must establish the plan and the plan must be operated as an accounts-type plan that permits persons to save for qualified higher education expenses incurred at any eligible educational institution, regardless of whether it is private or public or whether it is located within or outside of the state. A separate account must be maintained for each beneficiary for whom contributions are made.

Subd. 3. **Consultation with State Board of Investment.** In designing and establishing the plan's requirements and in negotiating or entering into contracts with third parties under subdivision 8, the director shall consult with the executive director. The director and the executive director shall establish an annual fee, equal to a percentage of the average daily net assets of the plan, to be imposed on participants to recover the costs of administration, record keeping, and investment management as provided in subdivision 9 and section 136G.07, subdivision 4.

Subd. 4. **Plan to comply with federal law.** The director shall ensure that the plan meets the requirements for a qualified tuition program under section 529(b)(1)(A)(ii) of the Internal Revenue Code. The director may request a private letter ruling or rulings from the Internal Revenue Service or take any other steps to ensure that the plan qualifies under section 529 of the Internal Revenue Code or other relevant provisions of federal law.

Subd. 5. **Nonqualified distributions and matching grants.** There cannot be a nonqualified withdrawal of matching grant funds and any refund of matching grants must be returned to the plan.

Subd. 6. **Three-year period for withdrawal of grants.** A matching grant deposited in a matching grant account based on account owner contributions during calendar years 2001 to 2010 under section 136G.11 may not be withdrawn within three years of the establishment of the account of the beneficiary. In calculating the three-year period, the period held in another account is included, if the account includes a rollover from another account under section 529(c)(3)(C) of the Internal Revenue Code.

[See Note.]

Subd. 7. **Marketing.** The director shall make parents and other interested individuals aware of the availability and advantages of the program as a way to save for higher education costs. The cost of these promotional efforts may not be funded with fees imposed on participants.

Subd. 8. **Administration.** The director shall administer the program, including accepting and processing applications, maintaining account records, making payments, and undertaking any other necessary tasks to administer the program. The office may contract with one or more third parties to carry out some or all of these administrative duties, including providing incentives and marketing the program. The office and the board may jointly contract with third-party providers,

if the office and board determine that it is desirable to contract with the same entity or entities for administration and investment management.

[See Note.]

Subd. 9. **Authority to impose fees.** The office may impose annual fees, as provided in subdivision 3, on participants in the plan to recover the costs of administration. The office must use its best efforts to keep these fees as low as possible, consistent with efficient administration, so that the returns on savings invested in the plan will be as high as possible.

Subd. 10. **Data.** Account owner data, account data, and data on beneficiaries of accounts are private data on individuals or nonpublic data as defined in section 13.02, except that the names and addresses of the beneficiaries of accounts that receive matching grants are public.

History: 1997 c 183 art 2 s 14; 1999 c 214 art 2 s 8; 2001 c 202 s 9; 1Sp2001 c 1 art 3 s 4-9,23; 2003 c 133 art 3 s 8-10; 2005 c 107 art 2 s 37,60; 1Sp2011 c 5 art 2 s 9-11

NOTE: The amendments to subdivisions 1, 6, and 8 by Laws 2011, First Special Session chapter 5, article 2, sections 9 to 11, are effective July 1, 2012. Laws 2011, First Special Session chapter 5, article 2, sections 9 to 11, the effective dates.