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State of Minnesota
HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. **39**

01/04/2023 Authored by Pelowski, Hortman, Wolgamott, Brand, Newton and others
The bill was read for the first time and referred to the Committee on Higher Education Finance and Policy
04/03/2023 Adoption of Report: Placed on the General Register as Amended
Pursuant to Joint Rule 2.03, re-referred to the Committee on Rules and Legislative Administration

1.1 A bill for an act

1.2 relating to higher education; providing for certain policy changes to postsecondary

1.3 attainment goals, student financial aid, institutional licensure provisions, and

1.4 institutional grant programs; amending Minnesota Statutes 2022, sections 135A.012;

1.5 136A.121, subdivisions 2, 18; 136A.1241, subdivision 5; 136A.1701, subdivision

1.6 11; 136A.62, subdivision 3, by adding a subdivision; 136A.653, by adding a

1.7 subdivision; 136A.833; 136A.91, subdivision 1; repealing Minnesota Rules, parts

1.8 4830.0400, subpart 1; 4880.2500.

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

1.10 Section 1. Minnesota Statutes 2022, section 135A.012, is amended to read:

1.11 **135A.012 HIGHER EDUCATION ATTAINMENT GOAL.**

1.12 Subdivision 1. **Purpose.** This section sets a goal for postsecondary education and

1.13 workforce training credential attainment for Minnesota residents.

1.14 Subd. 2. **Postsecondary credentials.** The number of Minnesota residents ages 25 to 44

1.15 years who hold postsecondary ~~degrees or certificates~~ or industry-recognized credentials

1.16 should be increased to at least 70 percent by 2025.

1.17 Subd. 3. **Rights not created.** The attainment goal in this section is not to the exclusion

1.18 of any other goals and does not confer a right or create a claim for any person.

1.19 Subd. 4. **Data development and analyses.** The Office of Higher Education shall work

1.20 with the state demographer's office to measure progress towards the attainment of the goal

1.21 specified in subdivision 2. The United States Census Bureau data shall be used to calculate

1.22 the number of individuals in the state who hold a postsecondary degree. The Office of

1.23 Higher Education, demographer's office, ~~and~~ the Department of Employment and Economic

1.24 Development, and the Department of Labor and Industry shall develop a methodology to

2.1 estimate the number of individuals that hold a ~~certificate~~ credential awarded by a
2.2 postsecondary institution or recognized by an industry authority as their highest ~~educational~~
2.3 credential using data available at the time that the analysis is completed.

2.4 Subd. 5. **Reporting.** (a) Beginning in 2016 and every year thereafter, the Office of
2.5 Higher Education, in collaboration with the state demographer's office, shall, by October
2.6 15, report to the chairs and ranking minority members of the legislative committees with
2.7 primary jurisdiction over higher education policy and finance on the progress towards
2.8 meeting or exceeding the goal of this section.

2.9 (b) Meeting and maintaining the goal of 70 percent of Minnesota residents ages 25 to
2.10 44 years holding a postsecondary ~~degree or certificate~~ or industry-recognized credential
2.11 will likely be difficult without achieving attainment rates that are comparable across all race
2.12 and ethnicity groups. The Office of Higher Education shall utilize benchmarks of 30 percent
2.13 or higher and 50 percent or higher to report progress by race and ethnicity groups toward
2.14 meeting the educational attainment rate goal of 70 percent.

2.15 Sec. 2. Minnesota Statutes 2022, section 136A.121, subdivision 2, is amended to read:

2.16 Subd. 2. **Eligibility for grants.** (a) An applicant is eligible to be considered for a grant,
2.17 regardless of the applicant's sex, creed, race, color, national origin, or ancestry, under sections
2.18 136A.095 to 136A.131 if the office finds that the applicant:

2.19 (1) is a resident of the state of Minnesota;

2.20 (2) is a graduate of a secondary school or its equivalent, or is 17 years of age or over,
2.21 and has met all requirements for admission as a student to an eligible college or technical
2.22 college of choice as defined in sections 136A.095 to 136A.131;

2.23 (3) has met the financial need criteria established in Minnesota Rules;

2.24 (4) is not in default, as defined by the office, of any federal or state student educational
2.25 loan; ~~and~~

2.26 (5) is not more than 30 days in arrears in court-ordered child support that is collected or
2.27 enforced by the public authority responsible for child support enforcement or, if the applicant
2.28 is more than 30 days in arrears in court-ordered child support that is collected or enforced
2.29 by the public authority responsible for child support enforcement, but is complying with a
2.30 written payment agreement under section 518A.69 or order for arrearages; and

3.1 (6) has not been convicted of or pled nolo contendere or guilty to a crime involving
3.2 fraud in obtaining federal Title IV funds within the meaning of Code of Federal Regulations,
3.3 subtitle B, chapter VI, part 668, subpart C.

3.4 (b) A student is entitled to an additional semester or the equivalent of grant eligibility
3.5 if the student withdraws from enrollment:

3.6 (1) for active military service after December 31, 2002, because the student was ordered
3.7 to active military service as defined in section 190.05, subdivision 5b or 5c;

3.8 (2) for a serious health condition, while under the care of a medical professional, that
3.9 substantially limits the student's ability to complete the term; or

3.10 (3) while providing care that substantially limits the student's ability to complete the
3.11 term to the student's spouse, child, or parent who has a serious health condition.

3.12 Sec. 3. Minnesota Statutes 2022, section 136A.121, subdivision 18, is amended to read:

3.13 Subd. 18. **Data.** (a) An eligible institution whose students are eligible to receive funding
3.14 under sections 136A.095 to 136A.246 must provide to the office data on student enrollment
3.15 and federal and state financial aid.

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

3.22 Sec. 4. Minnesota Statutes 2022, section 136A.1241, subdivision 5, is amended to read:

3.23 Subd. 5. **Foster grant amount; payment; opt-out.** (a) Each student shall be awarded
3.24 a foster grant based on the federal need analysis. Applicants are encouraged to apply for all
3.25 other sources of financial aid. The amount of the foster grant must be equal to the applicant's
3.26 recognized cost of attendance after deducting:

3.27 (1) the student aid index as calculated by the federal need analysis;

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

3.29 (3) the amount of the state grant;

3.30 (4) the Federal Supplemental Educational Opportunity Grant;

4.1 (5) the sum of all Tribal scholarships;

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

4.3 (7) the Education and Training Voucher Program;

4.4 (8) extended foster care benefits under section 260C.451;

4.5 (9) the amount of any private grants or scholarships, excluding grants and scholarships
4.6 provided by the private institution of higher education in which the eligible student is
4.7 enrolled; and

4.8 (10) for public institutions, the sum of all institutional grants, scholarships, tuition
4.9 waivers, and tuition remission amounts.

4.10 (b) The foster grant shall be paid directly to the eligible institution where the student is
4.11 enrolled.

4.12 (c) An eligible private institution may opt out of participating in the foster grant program
4.13 established under this section. To opt out, the institution shall provide notice to the office
4.14 by ~~September~~ March 1 for the next academic year. An institution that opts out of
4.15 participating, but participated in the program in a previous year, must hold harmless currently
4.16 enrolled recipients by continuing to provide the benefit under paragraph (d) as long as the
4.17 student remains eligible.

4.18 (d) An eligible private institution that does not opt out under paragraph (c) and accepts
4.19 the student's application to attend the institution must provide institutional grants,
4.20 scholarships, tuition waivers, or tuition remission in an amount equal to the difference
4.21 between:

4.22 (1) the institution's cost of attendance as calculated under subdivision 4, paragraph (b),
4.23 clause (1); and

4.24 (2) the sum of the foster grant under this subdivision and the sum of the amounts in
4.25 paragraph (a), clauses (1) to (9).

4.26 (e) An undergraduate student who is eligible may apply for and receive a foster grant
4.27 in any year of undergraduate study unless the student has obtained a baccalaureate degree
4.28 ~~or previously has been enrolled full time as defined in section 136A.101, subdivision 7a,~~
4.29 ~~or the equivalent for eight semesters or the equivalent, or received a foster grant for five~~
4.30 ~~years, whichever occurs first. A foster grant must not be awarded to a student for more than~~
4.31 ~~three years for a two-year degree, certificate, or diploma, or five years~~ received foster grant
4.32 funds for a period of ten full-time semesters or the equivalent for a four-year undergraduate

5.1 degree. A foster grant student enrolled in a two-year degree, certificate, or diploma program
5.2 may apply for and receive a foster grant in any year of undergraduate study unless the
5.3 student has obtained a baccalaureate degree or received foster grant funds for a period of
5.4 six full-time semesters or the equivalent.

5.5 (f) Foster grants may be awarded to an eligible student for four quarters, three semesters,
5.6 or the equivalent during the course of a single fiscal year. In calculating the award amount,
5.7 the office must use the same calculation it would for any other term.

5.8 Sec. 5. Minnesota Statutes 2022, section 136A.1701, subdivision 11, is amended to read:

5.9 Subd. 11. **Data.** (a) An eligible institution whose students are eligible to receive funding
5.10 under sections 136A.15 to 136A.1795 and licensed or registered under sections 136A.61
5.11 to 136A.834 must provide to the office data on student enrollment and federal and state
5.12 financial aid.

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

5.19 Sec. 6. Minnesota Statutes 2022, section 136A.62, subdivision 3, is amended to read:

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

5.21 (1) a Tribal college;

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

5.27 ~~(2)~~ (3) any public or private postsecondary educational institution located in another
5.28 state or country which offers or makes available to a Minnesota resident any course, program
5.29 or educational activity which does not require the leaving of the state for its completion; or

5.30 ~~(3)~~ (4) any individual, entity, or postsecondary institution located in another state that
5.31 contracts with any school located within the state of Minnesota for the purpose of providing

6.1 educational programs, training programs, or awarding postsecondary credits or continuing
6.2 education credits to Minnesota residents that may be applied to a degree program.

6.3 Sec. 7. Minnesota Statutes 2022, section 136A.62, is amended by adding a subdivision to
6.4 read:

6.5 Subd. 3a. **Tribal college.** "Tribal college" means an institution of higher education
6.6 located in this state that is formally controlled by or has been formally sanctioned or chartered
6.7 by the governing body of a federally recognized Indian Tribe, or a combination of federally
6.8 recognized Indian Tribes. Tribal college does not include any institution or campus subject
6.9 to the jurisdiction of the Board of Trustees of the Minnesota State Colleges and Universities
6.10 or the Board of Regents of the University of Minnesota.

6.11 Sec. 8. Minnesota Statutes 2022, section 136A.653, is amended by adding a subdivision
6.12 to read:

6.13 Subd. 1b. **Tribal colleges.** A Tribal college is exempted from the provisions of sections
6.14 136A.61 to 136A.71. A Tribal college that is exempt may voluntarily waive its exception
6.15 by registering under section 136A.63. Upon registration, the Tribal college is subject to all
6.16 applicable requirements of sections 136A.61 to 136A.71.

6.17 Sec. 9. Minnesota Statutes 2022, section 136A.833, is amended to read:

6.18 **136A.833 EXEMPTIONS.**

6.19 Subdivision 1. **Application for exemptions.** A school that seeks an exemption from the
6.20 provisions of sections 136A.822 to 136A.834 for the school and all of its programs or some
6.21 of its programs must apply to the office to establish that the school or program meets the
6.22 requirements of an exemption. An exemption for the school or program expires two years
6.23 from the date of approval or when a school adds a new program or makes a modification
6.24 equal to or greater than 25 percent to an existing educational program. If a school is
6.25 reapplying for an exemption, the application must be submitted to the office 90 days before
6.26 the current exemption expires. This exemption shall not extend to any school that uses any
6.27 publication or advertisement that is not truthful and gives any false, fraudulent, deceptive,
6.28 inaccurate, or misleading impressions about the school or its personnel, programs, services,
6.29 or occupational opportunities for its graduates for promotion and student recruitment.
6.30 Exemptions denied under this section are subject to appeal under section ~~136A.65,~~
6.31 ~~subdivision 8, paragraph (c)~~ 136A.829. If an appeal is initiated, the denial of the exemption

7.1 is not effective until the final determination of the appeal, unless immediate effect is ordered
7.2 by the court.

7.3 Subd. 2. **Exemption reasons.** Sections 136A.821 to 136A.832 shall not apply to the
7.4 following:

7.5 (1) public postsecondary institutions;

7.6 (2) postsecondary institutions registered under sections 136A.61 to 136A.71;

7.7 (3) postsecondary institutions exempt from registration under sections 136A.653,
7.8 subdivisions 1b, 2, 3, and 3a; 136A.657; and 136A.658;

7.9 (4) private career schools of nursing accredited by the state Board of Nursing or an
7.10 equivalent public board of another state or foreign country;

7.11 (4)(5) private schools complying with the requirements of section 120A.22, subdivision
7.12 4;

7.13 (5)(6) courses taught to students in a ~~valid~~ an apprenticeship program registered by the
7.14 United States Department of Labor or Minnesota Department of Labor and taught by or
7.15 required by a trade union;

7.16 (6)(7) private career schools exclusively engaged in training physically or mentally
7.17 disabled persons for the state of Minnesota;

7.18 (7)(8) private career schools licensed by boards authorized under Minnesota law to
7.19 issue licenses for training programs except private career schools required to obtain a private
7.20 career school license due to the use of "academy," "institute," "college," or "university" in
7.21 their names;

7.22 (8)(9) private career schools and educational programs, or training programs, contracted
7.23 for by persons, firms, corporations, government agencies, or associations, for the training
7.24 of their own employees, for which no fee is charged the employee;

7.25 (9)(10) private career schools engaged exclusively in the teaching of purely avocational,
7.26 recreational, or remedial subjects, including adult basic education, as determined by the
7.27 office except private career schools required to obtain a private career school license due
7.28 to the use of "academy," "institute," "college," or "university" in their names unless the
7.29 private career school used "academy" or "institute" in its name prior to August 1, 2008;

7.30 (10)(11) classes, courses, or programs conducted by a bona fide trade, professional, or
7.31 fraternal organization, solely for that organization's membership;

8.1 ~~(11)~~ (12) programs in the fine arts provided by organizations exempt from taxation under
8.2 section 290.05 and registered with the attorney general under chapter 309. For the purposes
8.3 of this clause, "fine arts" means activities resulting in artistic creation or artistic performance
8.4 of works of the imagination which are engaged in for the primary purpose of creative
8.5 expression rather than commercial sale or employment. In making this determination the
8.6 office may seek the advice and recommendation of the Minnesota Board of the Arts;

8.7 ~~(12)~~ (13) classes, courses, or programs intended to fulfill the continuing education
8.8 requirements for licensure or certification in a profession, that have been approved by a
8.9 legislatively or judicially established board or agency responsible for regulating the practice
8.10 of the profession or by an industry-specific certification entity, and that are offered
8.11 exclusively to ~~an individual practicing the profession~~ individuals with the professional
8.12 licensure or certification;

8.13 ~~(13)~~ (14) classes, courses, or programs intended to prepare students to sit for
8.14 undergraduate, graduate, postgraduate, or occupational licensing ~~and occupational,~~
8.15 certification, or entrance examinations;

8.16 ~~(14)~~ (15) classes, courses, or programs providing 16 or fewer clock hours of instruction
8.17 ~~that are not part of the curriculum for an occupation or entry level employment except~~
8.18 ~~private career schools required to obtain a private career school license due to the use of~~
8.19 ~~"academy," "institute," "college," or "university" in their names~~;

8.20 ~~(15)~~ (16) classes, courses, or programs providing instruction in personal development,
8.21 modeling, or acting;

8.22 ~~(16) training or instructional programs, in which one instructor teaches an individual~~
8.23 ~~student, that are not part of the curriculum for an occupation or are not intended to prepare~~
8.24 ~~a person for entry level employment~~;

8.25 (17) private career schools with no physical presence in Minnesota, as determined by
8.26 the office, engaged exclusively in offering distance instruction that are located in and
8.27 regulated by other states or jurisdictions if the distance education instruction does not include
8.28 internships, externships, field placements, or clinical placements for residents of Minnesota;
8.29 and

8.30 (18) private career schools providing exclusively training, instructional programs, or
8.31 courses where tuition, fees, and any other charges for a student to participate do not exceed
8.32 \$100.

9.1 Sec. 10. Minnesota Statutes 2022, section 136A.91, subdivision 1, is amended to read:

9.2 Subdivision 1. **Grants.** (a) The Office of Higher Education must establish a competitive
9.3 grant program for postsecondary institutions to expand concurrent enrollment opportunities.
9.4 To the extent that there are qualified applicants, the commissioner of the Office of Higher
9.5 Education shall distribute grant funds to ensure:

9.6 (1) eligible students throughout the state have access to concurrent enrollment programs;
9.7 and

9.8 (2) preference for grants that expand programs is given to programs already at capacity.

9.9 (b) The commissioner may award grants under this section to postsecondary institutions
9.10 for any of the following purposes:

9.11 (1) to develop new concurrent enrollment courses under section 124D.09, subdivision
9.12 10, that satisfy the elective standard for career and technical education; or

9.13 (2) to expand the existing concurrent enrollment programs already offered by the
9.14 postsecondary institution and support the preparation, recruitment, and success of students
9.15 who are underrepresented in concurrent enrollment classrooms by:

9.16 (i) creating new sections within the same high school; or

9.17 (ii) offering the existing course in new high schools; ~~or~~

9.18 ~~(iii) supporting the preparation, recruitment, and success of students who are~~
9.19 ~~underrepresented in concurrent enrollment classrooms.~~

9.20 Sec. 11. **REPEALER.**

9.21 Minnesota Rules, parts 4830.0400, subpart 1; and 4880.2500, are repealed.

4830.0400 APPLICATION DATES AND STUDENT ELIGIBILITY.

Subpart 1. **Date.** Annually the office shall adopt by resolution a date after February 14, by which all applications must be filed to receive an award.

4880.2500 CATEGORIES OF CHAPTER 141 SCHOOLS.

Subpart 1. **Definitions.** For purposes of this part, the following terms have the meanings given.

A. "Examination" means an examination administered by a national or state testing body, the state of Minnesota, or the federal government for licensure or other certification in a profession or occupation.

B. "Graduate" means an individual who has received a degree, diploma, or certificate for completion of a program during the most recent 12-month period that ended June 30 for which data are available.

C. "Passing rate" means the number of the school's graduates who passed the examination, as reported by the testing agency, as a percent of the number of the school's graduates who took the examination during the most recent 12-month period ending June 30 for which data are available.

D. "Placement" means a graduate who, within 12 months after graduation, has obtained a paid position of employment and the position is in an occupation related to the educational program, as reported by the graduate, the graduate's parent or guardian, spouse or domestic partner, adult sibling, employer, or instructional staff at the school.

E. "Placement rate" means the number of graduates in a cohort who obtained employment related to their education program as a percent of the total number of graduates in the cohort. For purposes of this item, a "cohort" is a class or group of students of the school that graduate in the same year.

F. "Program" means a vocational or professional program preparing students for an occupation which requires licensure or other certification by examination for entry into the occupation in Minnesota and completion of the program is required for admission to the examination. This definition applies only to a category C school under subpart 2, item C, subitem (3).

Subp. 2. **Categories of schools.** Schools licensed under Minnesota Statutes, chapter 141, must qualify under one of the two following categories of schools:

A. A category A school must, for reporting purposes, satisfy all of the licensure requirements under parts 4880.1500 to 4880.2800 and Minnesota Statutes, chapter 141.

B. A category B school must, for reporting purposes, satisfy all of the licensure requirements under parts 4880.1500 to 4880.2800, Minnesota Statutes, chapter 141, and meet all of the following applicable performance indicators:

(1) the school must verify that it has achieved full institutional reaccreditation with an accreditation agency recognized by the United States Department of Education;

(2) the school must have a cohort default rate equal to or less than an average of 15 percent for the previous three consecutive years, as calculated by the United States Department of Education;

(3) the passing rate of the school's graduates on licensure or other certification examinations must be equal to or greater than 85 percent of the national or state passing rate, based on a minimum of ten graduates sitting for the examination in any one year;

(4) the school must have a placement rate equal to or greater than 70 percent, based on a minimum of ten graduates from the school in any one year;

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(5) the school's withdrawal rate for the three most recent consecutive years, as established by the Code of Federal Regulations, title 34, section 668.16, paragraph (1), must not exceed 33 percent;

(6) the school must receive a satisfactory audit by the office for the three most recent consecutive years. The school must provide evidence that it has adhered to:

(a) the refund policy as specified in Minnesota Statutes, section 136A.827, or that any discrepancies noted by each audit report have been corrected within 90 days of issuance of the report to the school; and

(b) the requirement for student records pursuant to Minnesota Statutes, chapter 141, including acceptable academic transcripts and student financial account records, or that any discrepancies noted in an audit report have been corrected within 90 days of issuance of the report to the school;

(7) the school must provide evidence that there has been no determination of limitation, suspension, or termination by the United States Department of Education during the past five years; and

(8) the school must verify annually there have been no unresolved student complaints related to Minnesota Statutes, chapter 141, or its attendant rules during the preceding 12 months immediately prior to the relicensure notification from the office. The office will notify a school in writing when the office has determined that a student complaint has been resolved.

Subp. 3. **Relicensure report.** Schools that meet the requirements of subpart 2, item A, are required to submit a full licensure report every year. Schools that meet the requirements of subpart 2, items B and C, are required to submit a full relicensure report once every four years and in the interim years will be exempt from the requirements of parts 4880.1700, subpart 6, and 4880.2100, subpart 4; and Minnesota Statutes, section 136A.822, subdivision 4, clauses (4), (5), and (8).