

CHAPTER 136A

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ORGANIZATION, DUTIES

136A 01 HIGHER EDUCATION SERVICES OFFICE

Subdivision 1 **Creation** An office for higher education in the state of Minnesota, to be known as the Minnesota higher education services office or HESO, is created

Subd 2 **Responsibilities** The higher education services office 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) administering the telecommunications council under Laws 1993, First Special Session chapter 2, article 5, section 2, the Learning Network of Minnesota, and the statewide library task force;

(4) negotiating and administering reciprocity agreements;

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

(6) collecting and maintaining student enrollment and financial aid data;

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

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

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

136A.011 HIGHER EDUCATION SERVICES COUNCIL.

Subdivision 1. **Membership.** The higher education services council consists of eight citizens and one student appointed by the governor. In making appointments, the governor shall consider the geographic, gender, and ethnic diversity in the state. No more than five members of the council may belong to the same political party. The student member must be a full-time student enrolled in a Minnesota post-secondary institution at the time of appointment. The student advisory council shall recommend two to four candidates for the student position. The governor is not bound by these recommendations. A nonstudent member of the council may not be an employee of or receive compensation from a public or private post-secondary institution while serving on the council. A student member may receive compensation as a student body officer or may be a recipient of financial aid, including work study, but may not otherwise be employed or compensated by a post-secondary institution while serving on the council.

The term of each citizen member is six years, and that of the student member is two years. As nearly as possible, one-third of the terms of the members must expire every two years. The compensation, removal of voting members, and filling of vacancies among voting members on the council is governed by section 15.0575, subdivisions 3, 4, and 5.

Subd. 2. **Duties.** The council shall:

(1) appoint the director of the higher education services office, as provided in section 136A.03;

(2) provide advice and review regarding the performance of the higher education services office in its duties and in any policies, procedures, or rules the office prescribes to perform its duties; and

(3) communicate with and make recommendations to the governor and the legislature.

History: 1995 c 212 art 3 s 10

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

136A.03 EXECUTIVE OFFICERS; EMPLOYEES.

The director of the higher education services office shall possess the powers and perform the duties as prescribed by the higher education services council and 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 by the higher education services council according to section 15A.0815. The director shall be a person qualified by training or experience in the field of higher education or in financial aid administration. 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 officer or professional employee 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

136A.031 ADVISORY GROUPS.

Subdivision 1. **Appointment.** The higher education services council may appoint advisory task forces as necessary to assist in the administration of the higher education services office responsibilities. The task forces' expiration and the terms, compensation, and removal of members are as provided in section 15.059.

Subd. 2. **Higher education advisory council.** A higher education advisory council (HEAC) is established. The HEAC is composed of the president and the senior vice-president for academic affairs of the University of Minnesota; the chancellor of the Minnesota state colleges and universities; the associate vice-chancellors of the state universities, community colleges, and technical colleges; the commissioner of children, families, and learning; the president of the private college council; and a representative from the Minnesota association of private post-secondary schools. The HEAC shall (1) bring to the attention of the higher education services council any matters that the HEAC deems necessary, and (2) review and comment upon matters before the council. The council shall refer all proposals to the HEAC before submitting recommendations to the governor and the legislature. The council shall provide time for a report from the HEAC at each meeting of the council.

Subd. 3. **Student advisory council.** A student advisory council (SAC) to the higher education services council 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 association of private post-secondary schools. 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.

The higher education services council shall inform the SAC of all matters related to student issues under consideration and shall refer all proposals to the SAC before taking action or sending the proposals to the governor or legislature. The SAC shall report to the higher education services council quarterly and at other times that the SAC considers desirable. The SAC shall determine its meeting times, but it shall also meet with the council within 30 days after the director's request for a meeting.

The SAC shall:

- (1) bring to the attention of the higher education services council any matter that the SAC believes needs the attention of the council;
- (2) make recommendations to the higher education services council as it finds appropriate;
- (3) appoint student members to the higher education services council advisory groups as provided in subdivision 4; and
- (4) provide any reasonable assistance to the council.

Subd. 4. **Student representation.** If requested by the SAC, the director must place at least one student from an affected educational system on any task force created under subdivision 1. The student member or members shall be appointed by the SAC.

History: 1995 c 212 art 3 s 12; 1Sp1995 c 3 art 16 s 13; 1999 c 214 art 2 s 4

NOTE: See section 15 059, subdivision 5a, for expiration of the higher education advisory council and the student advisory council.

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. All public institutions of higher education and all state departments and agencies shall cooperate with and supply information requested by the higher education services office in order to enable it to carry out and perform its duties. Private post-secondary institutions are requested to cooperate and provide information.

Subd. 2. The higher education services office and public post-secondary institutions shall provide data, in a manner consistent with state and federal laws governing student records, to and as requested by the Minnesota house or senate for research projects and studies qualifying under Code of Federal Regulations, title 34, section 99.31(a)(6). Private post-secondary institutions are requested to cooperate and provide data. As a condition of receiving the data, the house or senate shall enter into an agreement with the office or institutions to ensure that the house 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

136A.06 FEDERAL FUNDS.

The higher education services office 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 administer-

ing 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 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

136A.07 REPORTS.

The higher education services office shall report periodically to the governor and legislature concerning its activities. It shall file a formal report with the governor and legislature each even-numbered year so that the information, including recommendations, may be embodied in the governor's budget message to the legislature.

History: 1965 c 809 s 32 subd 10; 1967 c 615 s 1; 1974 c 406 s 64; 1975 c 271 s 6; 1995 c 212 art 3 s 15

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

Subdivision 1. **Definitions.** For the purposes of this section, the terms "province" and "provincial" mean the Canadian province of Manitoba.

Subd. 2. **Authorization.** The higher education services office, in consultation with the commissioner of finance and each affected public post-secondary board, may enter into agreements, on subjects that include remission of nonresident tuition for designated categories of students at public post-secondary institutions, with appropriate state or provincial agencies and public post-secondary 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 provided that an income tax reciprocity agreement between Minnesota and Wisconsin is in effect for the period of time included under the higher education reciprocity agreement. 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 finance 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 finance 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 post-secondary boards, beyond enrollment funding adjustments, must be submitted to the commissioner of finance and to the chairs of the higher education finance divisions of the senate and house for review. The agreement remains valid unless it is disapproved in law.

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

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

STUDENT GRANTS-IN-AID

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 higher education services office.

Subd. 3. **Director.** "Director" means the director of the Minnesota higher education services office.

Subd. 4. **Eligible institution.** "Eligible institution" means a post-secondary educational institution located in this state or in a state with which the office has entered into a higher education reciprocity agreement on state student aid programs that either (1) is operated by this state, or (2) is operated publicly or privately and, as determined by the office, maintains academic standards substantially equivalent to those of comparable institutions operated in this state.

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 contribution to a student's cost of attendance, as determined by a federal need analysis, except that, beginning for the 1998-1999 academic year, up to \$25,000 in savings and other assets shall be subtracted from the federal calculation of net worth before determining the contribution. For dependent students, the assigned family responsibility is the parental contribution. For independent students with dependents other than a spouse, the assigned family responsibility is the student

contribution. For independent students without dependents other than a spouse, the assigned family responsibility is 80 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) an independent student who has resided in Minnesota for purposes other than post-secondary education for at least 12 months without being enrolled at a post-secondary 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; or

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

(1) by the end of a student's second academic year of attendance at an institution, the student has at least a cumulative grade point average of C or its equivalent, or academic standing consistent with the institution's graduation requirements; and

(2) by the end of the first term of the third and fourth academic year of attendance, the student has a cumulative grade point average of at least a C or its equivalent.

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

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.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;

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(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 for any child support payments owed to a public agency responsible for child support enforcement or, if the applicant is more than 30 days in arrears, is complying with a written payment agreement or order for arrearages. An agreement must provide for a repayment of arrearages at no less than 20 percent per month of the amount of the monthly child support obligation or no less than \$30 per month if there is no current monthly child support obligation. Compliance means that payments are made by the payment date.

The director and the commissioner of human services shall develop procedures to implement clause (5).

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 allowances specified in law for room and board and miscellaneous expenses, and

(1) for public institutions, tuition and fees charged by the institution; or

(2) for private institutions, an allowance for tuition and fees equal to the lesser of the actual tuition and fees charged by the institution, or the private institution tuition maximums established in law.

(b) For the purpose of paragraph (a), clause (2), the private institution tuition maximum for two- and four-year, private, residential, liberal arts, degree-granting colleges and universities must be the same.

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

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), clause (1) or (2), with no allowance for living expenses.

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, before any award for that year has been disbursed, awards must be reduced by

(1) adding a surcharge to the contribution of the applicant's parents, and

(2) a percentage increase in the applicant's contribution.

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 12 quarters, excluding courses taken from a Minnesota school or post-secondary institution which is not participating in the state grant program and from which a student transferred no credit.

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.

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. 13. **Deadline.** The office shall accept applications for state grants until February 15 and may establish a deadline for the acceptance of applications that is later than February 15.

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.

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

136A.1211 USE OF STATE GRANT SAVINGS.

Savings in the state grant program resulting from an increase in the maximum federal Pell grant from the anticipated level of \$3,125 shall be used by the office to increase the living and miscellaneous expense allowance.

History: 1999 c 214 art 2 s 6

136A.122 STATE UNIVERSITIES; AKITA CAMPUS GRANTS.

The higher education services office may provide grants to Minnesota resident students participating in the Akita program. Grants must be awarded on the same basis as other state grants, except that the cost of attendance must be adjusted to incorporate the state university tuition level and the Akita fee level. An individual grant must not exceed the state grant maximum award for a student at a four-year private college.

History: 1Sp1993 c 2 art 2 s 11; 1995 c 212 art 3 s 59

136A.125 CHILD CARE GRANTS.

Subdivision 1. **Establishment.** A child care grant program is established under the supervision of the higher education services office. The program makes money available to eligible students to reduce the costs of child care while attending an eligible post-secondary institution. The office shall develop policies and adopt rules as necessary to implement and administer the program.

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Subd. 2. **Eligible students.** 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 handicapped 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, 12 quarters, 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.

Subd. 3. **Eligible institution.** A Minnesota public post-secondary 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.** The amount of a child care grant must be based on:

- (1) the income of the applicant and the applicant's spouse, if any;
- (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.

The maximum award to the applicant shall be \$2,000 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 post-secondary 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

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 finance.** Upon proper verification for payment of a grant, the office shall certify to the commissioner of finance 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 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.

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

136A.1311 CASH FLOW.

The higher education services office may ask the commissioner of finance to lend general fund money to the grant account to ease cash flow difficulties. The higher education services office 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 finance for loans to the higher education services office.

History: 1991 c 356 art 8 s 14; 1995 c 212 art 3 s 59

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 circum-

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stances, 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. For purposes of sections 136A.15 to 136A.1702, the terms defined in this section have the meanings ascribed to them.

Subd. 2. "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" means the Minnesota higher education services office.

Subd. 4. "Director" means the director of the Minnesota higher education services office.

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

Subd. 6. "Eligible institution" means a post-secondary educational institution that either (1) is operated or regulated by this state, 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. It also includes any institution chartered in a province.

Subd. 7. "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" 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. "Resident student" means a student who meets the conditions in section 136A.101, subdivision 8.

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

136A.16 POWERS AND DUTIES OF OFFICE.

Subdivision 1. Notwithstanding chapter 16C, the Minnesota higher education services office 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. 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. 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.

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Subd. 4. 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. 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. 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. 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. 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 predecessor, the Minnesota higher education coordinating board.

Subd. 9. 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. 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. The office shall establish and maintain appropriate accounting and related records.

Subd. 13. The office may sue and be sued.

Subd. 14. 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, the Minnesota higher education coordinating board.

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

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

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

136A.162 CLASSIFICATION OF DATA.

All data on applicants for financial assistance collected and used by the higher education services office for student financial aid programs administered by that office

shall be classified as private data on individuals under section 13.02, subdivision 12. Exceptions to this classification are that:

(a) the names and addresses of program recipients or participants are public data;
(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); and

(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

136A.17 PROVISIONS FOR FEDERAL PROGRAMS.

Subdivision 1. 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. The student loan programs shall be administered in compliance with title VI of the Civil Rights Act of 1964.

Subd. 3. 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. 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. 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. 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. 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.

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Subd. 8. 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. 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. 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. 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 higher education services office 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 post-secondary 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.** The office may loan money upon such terms and conditions as the office may prescribe. The principal amount of a loan to an undergraduate student for a single academic year shall not exceed \$6,000. The aggregate principal amount of all loans made under this section to an undergraduate student shall not exceed \$25,000. 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 under this section to a student as a graduate student shall not exceed \$40,000.

Subd. 5. **Maximum loans for students.** Loans made under this section or sections 136A.15 to 136A.1702 to an individual eligible student for vocational study may be made for a maximum of three academic years or their equivalent and loans made to any other individual eligible student may be made for a maximum of eight academic years or their equivalent.

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.** The office shall establish repayment procedures for loans made under this section, but in no event shall the period of permitted repayment exceed ten years from the eligible student's termination of the student's post-secondary

academic or vocational program, or 15 years from the date of the student's first loan under this section, whichever is less.

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.** 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.

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

136A.1702 COMMISSION APPROVAL.

The office shall obtain approval from the legislative advisory commission prior to taking the following actions with regard to student loan programs described in Laws 1983, chapter 258:

(1) implementing a loan program for parents and students eligible for auxiliary loans as defined in section 136A.15, subdivision 7;

(2) acquiring student loans from other lenders to facilitate student loan programs provided for in section 136A.17; and

(3) providing for programs of supplemental and additional loans as defined in section 136A.1701.

History: 1983 c 258 s 50; 1995 c 212 art 3 s 59

136A.171 REVENUE BONDS; ISSUANCE; PROCEEDS.

The higher education services office 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 \$550,000,000. 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

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. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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 subdivi-

sions, 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.179 [Repealed, 1996 c 310 s 1]

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; POST-SECONDARY 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 higher education services office shall develop and administer a work-study program. The office shall enter into agreements with institutions of post-secondary education.

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

136A.233 WORK-STUDY GRANTS.

Subdivision 1. **Allocation to institutions.** The higher education services office shall allocate work-study money to eligible post-secondary institutions according to the resident full-time equivalent enrollment of all eligible post-secondary 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 post-secondary 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 post-secondary institution as determined by a post-secondary institution according to guidelines established by the higher education services office.

(d) "Eligible employer" means any eligible post-secondary institution, any nonprofit, nonsectarian agency or state institution located in the state of Minnesota, a handicapped 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 post-secondary institution" means any post-secondary 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 post-secondary institutions as provided in this subdivision.

(a) Students shall be selected for participation in the program by the post-secondary 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.

(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 post-secondary 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

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]

EDVEST SAVINGS PROGRAM

136A.241 EDVEST PROGRAM ESTABLISHED.

An Edvest savings program is established. In establishing this program, the legislature seeks to encourage individuals to save for post-secondary education by:

- (1) providing a qualified state tuition program under federal tax law;
- (2) providing matching grants for contributions to the program by low- and middle-income families; and
- (3) by encouraging individuals, foundations, and businesses to provide additional grants to participating students.

History: 1997 c 183 art 2 s 12

136A.242 DEFINITIONS.

Subdivision 1. **General.** For purposes of sections 136A.241 to 136A.245, the following terms have the meanings given.

Subd. 2. **Adjusted gross income.** "Adjusted gross income" means adjusted gross income as defined in section 62 of the Internal Revenue Code.

Subd. 3. **Beneficiary.** "Beneficiary" means the designated beneficiary for the account, as defined in section 529(e)(1) of the Internal Revenue Code.

Subd. 4. **Board.** "Board" means the state board of investment.

Subd. 5. **Director.** "Director" means the director of the higher education services office.

Subd. 6. **Executive director.** "Executive director" means the executive director of the state board of investment.

Subd. 7. **Internal revenue code.** "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended.

Subd. 8. **Office.** "Office" means the higher education services office.

Subd. 9. **Program.** "Program" or "Edvest" refers to the program established under sections 136A.241 to 136A.245.

History: 1997 c 183 art 2 s 13

136A.243 HIGHER EDUCATION SERVICES OFFICE.

Subdivision 1. **Responsibilities.** (a) The director shall establish the rules, terms, and conditions for the program, subject to the requirements of sections 136A.241 to 136A.245.

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

Subd. 2. **Accounts-type program.** The office must establish the program and the program must be operated as an accounts-type program that permits individuals to save for qualified higher education costs incurred at any institution, regardless of whether it is private or public or whether it is located within or outside of this 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 program's requirements and in negotiating or entering contracts with third parties under subdivision 8, the director shall consult with the executive director.

Subd. 4. **Program to comply with federal law.** The director shall take steps to ensure that the program meets the requirements for a qualified state tuition program under section 529 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 program qualifies under section 529 of the Internal Revenue Code or other relevant provisions of federal law.

Subd. 5. **Minimum penalty.** In establishing the terms of the program, the office must provide that refunds of amounts in an account are subject to a minimum penalty, as required by section 529(b)(3) of the Internal Revenue Code. If the refunds or payments are not used for qualified higher education expenses of the designated beneficiary, this penalty must equal, at least, the proportionate amount of any matching grants deposited in the account under section 136A.245 and the investment return on the grants, plus an additional penalty that meets the requirement of federal law.

Subd. 6. **Three-year period for withdrawal of grants.** A matching grant deposited in the account under section 136A.245 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.

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, making matching grants under section 136A.245, 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 promotion and marketing of 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.

Subd. 9. **Authority to impose fees.** The office may impose fees on participants in the program 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 program will be as high as possible.

History: 1997 c 183 art 2 s 14; 1999 c 214 art 2 s 8

136A.244 INVESTMENT OF ACCOUNTS.

Subdivision 1. **State board to invest.** The state board of investment shall invest the money deposited in accounts in the program.

Subd. 2. **Permitted investments.** The board may invest the accounts in any permitted investment under section 11A.24, except that the accounts may be invested without limit in investment options from open-ended investment companies registered under the federal Investment Company Act of 1940, United States Code, title 15, sections 80a-1 to 80a-64.

Subd. 3. **Contracting authority.** The board may contract with one or more third parties for investment management, recordkeeping, or other services in connection with investing the accounts. The board and office 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.

Subd. 4. **Fees.** The board may impose fees on participants in the program to recover the cost of investment management and related tasks for the program. The board must use its best efforts to keep these fees as low as possible, consistent with high quality investment management, so that the returns on savings invested in the program will be as high as possible.

History: 1997 c 183 art 2 s 15; 1999 c 214 art 2 s 9

136A.245 MATCHING GRANTS.

Subdivision 1. **Matching grant qualification.** By March 1 of each year, a state matching grant must be added to each account established under the program if the following conditions are met:

(1) the contributor applies, in writing in a form prescribed by the director, for a matching grant;

(2) a minimum contribution of \$200 was made during the preceding calendar year; and

(3) the family income of the beneficiary did not exceed \$80,000.

Subd. 2. **Family income.** For purposes of this section, "family income" means:

(1) if the beneficiary is under age 25, the combined adjusted gross income of the beneficiary's parents as reported on the federal tax return or returns for the most recently available tax year; or

(2) if the beneficiary is age 25 or older, the combined adjusted gross income of the beneficiary and spouse, if any.

Subd. 3. **Amount of matching grant.** The amount of the matching grant for a beneficiary equals:

(1) if the beneficiary's family income is \$50,000 or less, 15 percent of the sum of the contributions made to the beneficiary's account during the calendar year, not to exceed \$300; and

(2) if the beneficiary's family income is more than \$50,000 but not more than \$80,000, five percent of the sum of the contributions made to the beneficiary's account during the calendar year, not to exceed \$300.

Subd. 4. **Budget limit.** If the total amount of matching grants determined under subdivision 3 exceeds the amount of the appropriation for the fiscal year, the director shall proportionately reduce each grant so that the total equals the available appropriation.

Subd. 5. **Coordination with department of revenue.** In administering matching grants, the director may require that applicants submit sufficient information to determine whether the beneficiary qualifies for a grant, including the social security numbers, family income information, and any other information the director determines necessary. The applicant or applicants may authorize the director to request information from the commissioner of revenue to verify eligibility for a grant from tax information on file with the commissioner or obtained from the Internal Revenue Service. If this method is used and the taxpayer has authorized a release of the information to the director, the commissioner of revenue may verify that the beneficiary is eligible for a grant at a specified rate and maximum and disclose that information to the director, notwithstanding the provisions of chapter 270B.

Subd. 6. **Private contributions.** (a) The office may solicit and accept contributions from private corporations, other businesses, foundations, employers, or individuals to provide:

(1) matching grants under this section in addition to those funded with direct appropriations;

(2) grants to students who withdraw money from accounts established under the program; or

(3) contributions to an account on behalf of a beneficiary.

(b) Amounts contributed may only be used for those purposes. Amounts contributed are appropriated to the director for the purposes of this subdivision.

(c) Contributors may designate a specific field of study, geographic area, or other criteria that govern use of the grants funded with their contributions, but may not discriminate on the basis of race, ethnicity, or gender. The office may refuse contributions that are subject, in the judgment of the director, to unacceptable conditions on their use.

History: 1997 c 183 art 2 s 16; 1999 c 214 art 2 s 10

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 higher education services office.

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

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representative of the higher education services office, 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

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. 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" means the higher education facilities authority created by sections 136A.25 to 136A.42.

Subd. 3. "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," 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," 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" 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" 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. 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. 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. 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 higher education services office participate.

Subd. 4. By mutual agreement between the authority and the higher education services office, 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 higher education services office, and said employees may make use of equipment, supplies, and office space, provided that the authority fully reimburses the higher education services office for salaries and for space, equipment, supplies, and materials used. In the absence of such mutual agreement between the authority and the higher education services office, the authority may maintain an office at such place or places as it may designate.

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

Subd. 6. 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

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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. 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. 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. The authority is authorized and empowered to issue revenue bonds whose aggregate principal amount at any time shall not exceed \$650,000,000 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. 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. 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. 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. The authority is authorized and empowered to pledge, assign, hypothecate, or otherwise encumber as security for the bonds, the rentals, revenues, and other

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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. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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

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. 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. 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. 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. 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:

(a) 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;

(b) 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;

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

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

(e) 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;

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

(g) 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;

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

(i) 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;

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

Subd. 5. 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. 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. 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. 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. 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. 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. 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. 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:

(a) 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;

(b) 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.

(c) 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 higher education services office.

History: 1971 c 868 s 18; 1975 c 271 s 6; 1983 c 258 s 55; 1995 c 212 art 3 s 38

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]

REGISTRATION OF PRIVATE AND OUT-OF-STATE PUBLIC INSTITUTIONS

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 institutions of post-secondary 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 post-secondary education institutions and programs. The legislature has also found and declares that this same policy applies to any public post-secondary 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

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 higher education services office.

Subd. 3. **School.** "School" means any individual, partnership, company, firm, society, trust, association, corporation, or any combination thereof, which (a) is, owns, or operates a private, nonprofit post-secondary education institution; (b) provides a post-secondary instructional program or course leading to a degree whether or not for profit; (c) is, owns, or operates a private, post-secondary education institution which uses the term "college", "academy", "institute" or "university" in its name; or (d) operates for profit and provides programs or courses which are intended to allow an individual to fulfill in part or totally the requirements necessary to maintain a license to practice an occupation. School shall also mean any public post-secondary 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.

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

136A.63 REGISTRATION.

All schools located within Minnesota and all schools located outside Minnesota which offer programs or courses within Minnesota shall register annually with the office.

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

136A.64 INFORMATION.

Subdivision 1. 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, requirements for admission, enrollments, tuition charge, refund policies, curriculum, degrees granted, and faculty employed. The office shall have the authority to verify the accuracy of the information submitted to it by inspection or any other means it deems necessary.

Subd. 2. The office shall not disclose financial records 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

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granting of degrees or the use of a name by the school. Section 15.17, subdivision 4, shall not apply to such records.

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

136A.65 APPROVAL OF DEGREES AND NAME.

Subdivision 1. No school subject to registration shall grant a degree unless such degree is approved by the office, nor shall any school subject to registration use the name "college," "academy," "institute" or "university" in its name without approval by the office.

Subd. 2. 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. A school subject to registration shall be granted approval to use the term "college," "academy," "institute" or "university" in its name whether or not it offers a program leading to a degree, if it was organized, operating and using such term in its name on or before August 1, 1975, and if it meets the other policies and standards for approval established by the office.

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

136A.653 EXEMPTIONS.

Subdivision 1. 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 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 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. 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. 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. 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. 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.

History: 1978 c 603 s 7; 1995 c 212 art 3 s 59

136A.66 LIST.

The office shall maintain a list of schools authorized to grant degrees and schools authorized to use the name "college," "academy," "institute" 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

136A.67 UNAUTHORIZED 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 state of Minnesota except that any school which is duly registered with the office, or any of its officials or employees, may represent that the school is registered with the office.

History: 1975 c 201 s 7; 1975 c 271 s 6; 1995 c 212 art 3 s 59

136A.68 RECORDS.

After August 1, 1975, all schools located in this state must maintain permanent records of all students enrolled therein at any time. The office may require schools to provide a plan acceptable to the office for preserving all such records for at least ten years. The office may require that such plan include the filing of a continuous surety bond or a deposit of funds in trust in an amount not to exceed \$20,000 for the purpose of preserving records after such school ceases to exist.

History: 1975 c 201 s 8; 1975 c 271 s 6; 1995 c 212 art 3 s 59

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.

The office shall collect reasonable registration fees that are sufficient to recover, but do not exceed, its costs of administering the registration program.

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

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

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.87 PLANNING INFORMATION.

The office shall make available to all residents from 8th grade through adulthood information about planning and preparing for post-secondary opportunities. Information must be provided to all 8th grade students and their parents by January 1 of each year about the need to plan for their post-secondary 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 post-secondary education;
- (5) encouragement to involve parents actively in planning for all phases of education;
- (6) information about post-high school 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 post-secondary institutions;
- (8) the process of transferring credits among Minnesota post-secondary institutions and systems;
- (9) the costs of post-secondary education and the availability of financial assistance in meeting these costs;
- (10) the interrelationship of assistance from student financial aid, public assistance, and job training programs; and
- (11) financial planning for education beyond high school.

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

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