

CHAPTER 136G

MINNESOTA COLLEGE SAVINGS PLAN

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136G.01 PLAN ESTABLISHED.

A college savings plan known as the Minnesota college savings plan is established. In establishing this plan, the legislature seeks to encourage individuals to save for postsecondary education by:

- (1) providing a qualified tuition plan 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: 2003 c 133 art 3 s 4

136G.03 DEFINITIONS.

[For text of subs 1 to 4, see M.S.2002]

Subd. 4a. **Application.** "Application" means the form executed by a prospective account owner to enter into a participation agreement and open an account in the plan. The application incorporates by reference the participation agreement.

[For text of subs 5 to 21, see M.S.2002]

Subd. 21a. **Minor trust account.** "Minor trust account" means a Uniform Gift to Minors Act account, a Uniform Transfers to Minors Act account, or a trust instrument naming a minor person as beneficiary, created and operating under the laws of Minnesota or another state.

[For text of subs 22 to 24, see M.S.2002]

Subd. 25. [Repealed, 2003 c 133 art 3 s 28]

[For text of subs 26 to 30, see M.S.2002]

Subd. 31. **Rollover distribution.** "Rollover distribution" means a transfer of funds made:

- (1) from one account to another account within 60 days of a distribution;
- (2) from another qualified state tuition program to an account within 60 days of the distribution; or
- (3) to another qualified state tuition program from an account within 60 days of a distribution.

When there is a change of beneficiary in a rollover distribution, the transfer of funds must be made for the benefit of a new beneficiary who is a member of the family of the prior beneficiary. A rollover distribution from one qualified tuition plan to another once every 12 months without a change of beneficiary is permitted.

[For text of subs 32 to 34, see M.S.2002]

History: 2003 c 133 art 3 s 5-7

136G.05 HIGHER EDUCATION SERVICES OFFICE.

[For text of subs 1 to 3, see M.S.2002]

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

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

[For text of subs 6 to 9, see M.S.2002]

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

History: 2003 c 133 art 3 s 8-10

136G.09 PLAN ACCOUNTS; GENERALLY.

Subdivision 1. **Contributions to an account.** A person may make contributions to an account on behalf of a beneficiary. Contributions to an account made by persons other than the account owner become the property of the account owner. A person does not acquire an interest in an account by making contributions to an account. Contributions to an account must be made by check or other commercially acceptable means as permitted by the United States Internal Revenue Service and other applicable federal and state law and approved by the plan administrator in cooperation with the office and the board.

Subd. 2. **Authority of account owner.** Except as provided for minor trust accounts in section 136G.14, an account owner is the only person entitled to:

- (1) select or change a beneficiary or a contingent account owner; or
- (2) request distributions or rollover distributions from an account.

[For text of subs 3 to 5, see M.S.2002]

Subd. 6. **Change of beneficiary.** Except as provided for minor trust accounts in section 136G.14, an account owner may change the beneficiary of an account to a member of the family of the current beneficiary, at any time without penalty, if the change will not cause the total account balance of all accounts held for the new beneficiary to exceed the maximum account balance limit as provided in subdivision 8. A change of beneficiary other than as permitted in this subdivision is treated as a nonqualified distribution under section 136G.13, subdivision 3.

Subd. 7. **Change of account ownership.** Except as provided for minor trust accounts in section 136G.14, an account owner may transfer ownership of an account to another person eligible to be an account owner. All transfers of ownership are absolute and irrevocable.

Subd. 8. **Maximum account balance limit.** (a) When a contribution is made, the total account balance of all accounts held for the same beneficiary, including matching grant accounts, must not exceed the maximum account balance limit as determined under this subdivision.

(b) The office must establish a maximum account balance limit. The office must adjust the maximum account balance limit, as necessary, on January 1 of each year. The maximum account balance limit must not exceed the amount permitted for the plan to qualify as a qualified tuition program under section 529 of the Internal

Revenue Code. For calendar years 2004 and 2005, the maximum account balance limit is \$235,000.

(c) If the total account balance of all accounts held for a single beneficiary reaches the maximum account balance limit prior to the end of that calendar year, the beneficiary may receive an applicable matching grant for that calendar year.

Subd. 9. **Excess contributions and balances.** A contribution to any account for a beneficiary must be rejected if the contribution would cause the total account balance of all accounts held for the same beneficiary, including the matching grant account, to exceed the maximum account balance limit under section 529 of the Internal Revenue Code as established by the office.

[For text of subds 10 to 12, see M.S.2002]

History: 2003 c 133 art 3 s 11-16

136G.11 MATCHING GRANTS.

Subdivision 1. **Matching grant qualification.** By June 30 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.** (a) 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 or legal guardians as reported on the federal tax return or returns for the calendar year in which contributions were made. If the beneficiary's parents are divorced, the income of the parent claiming the beneficiary as a dependent on the federal individual income tax return and the income of that parent's spouse, if any, is used to determine family income; or

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

(b) For a parent or legal guardian of beneficiaries under age 25 and for beneficiaries age 25 or older who resided in Minnesota and filed a federal individual income tax return, the matching grant must be based on family income from the calendar year in which contributions were made.

Subd. 3. **Residency requirement.** (a) If the beneficiary is under age 25, the beneficiary's parents or legal guardians must be Minnesota residents to qualify for a matching grant. If the beneficiary is age 25 or older, the beneficiary must be a Minnesota resident to qualify for a matching grant.

(b) To meet the residency requirements, the parent or legal guardian of beneficiaries under age 25 must have filed a Minnesota individual income tax return as a Minnesota resident and claimed the beneficiary as a dependent on the parent or legal guardian's federal tax return for the calendar year in which contributions were made. For beneficiaries age 25 or older, the beneficiary, and a spouse, if any, must have filed a Minnesota and a federal individual income tax return as a Minnesota resident for the calendar year in which contributions were made.

(c) A parent of beneficiaries under age 25 and beneficiaries age 25 or older who did not reside in Minnesota in the calendar year in which contributions were made are not eligible for a matching grant.

[For text of subds 4 to 8, see M.S.2002]

Subd. 9. **Annual application.** An account owner must submit an application form for a matching grant on an annual basis. The application must be postmarked by May 1

of the year in which the matching grant would be awarded if the applicant qualifies for a matching grant.

[For text of subs 10 to 12, see M.S.2002]

Subd. 13. **Forfeiture of matching grants.** (a) Matching grants are forfeited if:

(1) the account owner transfers the total account balance of an account to another account or to another qualified tuition program;

(2) the beneficiary receives a full tuition scholarship or admission to a United States service academy;

(3) the beneficiary dies or becomes disabled;

(4) the account owner changes the beneficiary of the account; or

(5) the account owner closes the account with a nonqualified withdrawal.

(b) Matching grants must be proportionally forfeited if:

(1) the account owner transfers a portion of an account to another account or to another qualified tuition program;

(2) the beneficiary receives a scholarship covering a portion of qualified higher education expenses; or

(3) the account owner makes a partial nonqualified withdrawal.

(c) If the account owner makes a misrepresentation in a participation agreement or an application for a matching grant that results in a matching grant, the matching grant associated with the misrepresentation is forfeited. The office and the board must instruct the plan administrator as to the amount to be forfeited from the matching grant account. The office and the board must withdraw the matching grant or the proportion of the matching grant that is related to the misrepresentation.

History: 2003 c 133 art 3 s 17-21

136G.13 ACCOUNT DISTRIBUTIONS.

Subdivision 1. **Qualified distribution methods.** (a) Qualified distributions may be made:

(1) directly to participating eligible educational institutions on behalf of the beneficiary; or

(2) in the form of a check payable to both the beneficiary and the eligible educational institution.

(b) Qualified distributions must be withdrawn proportionally from contributions and earnings in an account owner's account on the date of distribution as provided in section 529 of the Internal Revenue Code.

[For text of subd 2, see M.S.2002]

Subd. 3. **Nonqualified distribution.** An account owner may request a nonqualified distribution from an account at any time. Nonqualified distributions are based on the total account balances in an account owner's account and must be withdrawn proportionally from contributions and earnings as provided in section 529 of the Internal Revenue Code. The earnings portion of a nonqualified distribution is subject to a federal additional tax pursuant to section 529 of the Internal Revenue Code. For purposes of this subdivision, "earnings portion" means the ratio of the earnings in the account to the total account balance, immediately prior to the distribution, multiplied by the distribution.

[For text of subs 4 and 5, see M.S.2002]

History: 2003 c 133 art 3 s 22,23

136G.14 MINOR TRUST ACCOUNTS.

(a) This section applies to a plan account in which funds of a minor trust account are invested.

(b) The account owner may not be changed to any person other than a successor custodian or the beneficiary unless a court order directing the change of ownership is provided to the plan administrator. The custodian must sign all forms and requests submitted to the plan administrator in the custodian's representative capacity. The custodian must notify the plan administrator in writing when the beneficiary becomes legally entitled to be the account owner. An account owner under this section may not select a contingent account owner.

(c) The beneficiary of an account under this section may not be changed. If the beneficiary dies, assets in a plan account become the property of the beneficiary's estate. Funds in an account must not be transferred or rolled over to another account owner or to an account for another beneficiary. A nonqualified distribution from an account, or a distribution due to the disability or scholarship award to the beneficiary, must be used for the benefit of the beneficiary.

History: 2003 c 133 art 3 s 24