

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1143

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 3-26-85
DATE FOR REVIEW
DATE DUE 4-9-85

Adopted w/a hearing
Adopted w/o hearing
Temporary rule ✓

Approved ____ Disapproved 4-9-85 mjc Returned to Agency ____

Resubmitted 5-31-85 Due 6-(14)-85
Approved 6-14-85 mjc Disapproved ____ Returned to Agency 5/31/85

Date filed w/Secretary of State 6-17-85 Revisor approved 3/28/85 disapproved ____

✓ ✓ Rule as Adopted language is same as previously submitted

✓ Rule as Proposed
incomplete citation to statutory authority - should include MN Laws 84, Ch 654 Art 4 § 3

? ? Order Adopting 3.27.85 5 Date 5.24.85 the statutory authority cited does not authorize emergency rules.

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ ✓ Notice of rulemaking as mailed incomplete citation. Incorrect statement re effectiveness period which is specifically
? ? Sufficiency identifies comment period as 20 days + no statement re submissions to AG notice requirement.

✓ ✓ Affidavit of Mailing Notice or rulemaking limited by MN Laws 84, ch 654
2.11.85, 4.19.85. At least ~~30~~ 25 days prior to ~~hearing~~/adoption

✓ ? Mailing list Certificate dated 1.25.85.

✓ ✓ Publication in State Register
2.11.85 At least ~~30/20~~ 25 25 days prior to ~~hearing~~/adoption
4.29.85 — same problems as Notice as Mailed.

N/A Hearing Examiner's Report

✓ Chief Hearing Examiner's Report(s)
____ Approving H.E.'s Report
____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

✓ Petition for Adoption of a Rule

✓ N/A Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ ✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

? ✓ Notice of Submission to the Attorney General
incorrect address for this office

MINNESOTA
HIGHER EDUCATION
COORDINATING BOARD

SUITE 400
CAPITOL SQUARE
550 CEDAR STREET
SAINT PAUL 55101

(612) 296-3974

MEMORANDUM

TO: MARTHA CASSERLY
SPECIAL ASSISTANT ATTORNEY GENERAL

FROM: ROSE HERRERA HAMERLINCK RHH

RE: HECB EMERGENCY RULES RELATED TO SUPPLEMENTAL LOANS TO POST-SECONDARY STUDENTS

DATE: MAY 23, 1985

Enclosed please find the corrected Notice of Proposed Emergency Rule and the other documents that were re-done.

If you have any questions, please call me at 296-7963.

RHH:kb
Enc.

RECEIVED
MAY 31 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

4-9-85

cf w David Longenecker exdir - HECB (6-9665)

- realbind
  - students won't get/can/college degree
  - emergency
    loans are pending/process now
    counting on sources

- no comments submitted
- potential harm, of insuf notice is by far outweighed by harm to those not graduating

response
- have no choice/no latitude
  → statutory function
  → law is clear & unambiguous

final problems

1. notice to those on list - 20 days instead of 25 days
2. both notices - no notif of submission to AG + oppty to submit comment to AG

3 subst rule - pg 6, line 19 } in the best interest of
pg 12, line 10 } the st educ state loan
prgm -- too vague

1. Does not include submission to A6 -
2. " " " 20/25 - not in notice to rming people

~~3. subd in pg 3, line 29-30~~

4. pg 2, line 32 - in judmt of - is inappl

~~5. pg5, line 30,31 - subd~~

~~6. pg5, line 35 - D - period negotiated w/~~

~~6. pg5, line 35 - see subd 9~~

7. pg6 - "best interest of student educ st loan - too vague
8. pg 12, line 10 " " " " "

To: Marty
Date: 4/3/85
Re: HECB - Supplemental Loans to Post-Secondary Students

Statutory Authority

I cannot find authority for emergency rulemaking in statutes cited in ORDER Adopting OR in any other statute in Ch. 136A.

Notice of Rulemaking as mailed

Incorrectly states comment period as 20 days rather than statutory 25.

Does not include statement re submission to the Attorney General and request for notice thereof.

Mailing List Certificate

Predates date of mailing by 16 days.

Rules As Adopted

p. 2, line 32 — .0011, subpt. 9.

The use of the phrase "in the judgment of the board" implies some discretion will be exercised in determining whether A. and/or B are true. But A and B. are facts which do not seem open to interpretation by the board.

p. 5 line 35 — .0011, subpt. 26, D

This section appears to provide for a variance to the previous A, B + C sections but without any criteria to guide the negotiations of a different period

.0012, subp.2.

p.6, line 19 This section provides for board discretion in terminating an agreement without specific criteria.

p. 12, line 10 .0017 G.

Same problem as above.

1-10-85 mtg w/D. Longrecker / L. Mattson

a) way rule is written cannot disperse $
w/o 2 rule --

~~b) [illegible]~~

b) §176?

c) followed most recent m annual - 1981

d) its violated - violence are not of sig to outweigh
its of appeal

8 students

told them not to count on loans, but expect approval

e) out-of-biz ////

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: DAVID A. LONGANECKER, Executive Director
MN Higher Education Coordinating Board

DATE: 6-14-85

ATTN: LAURA E. MATTSON
Special Assistant Attorney General

FROM: MARTHA J. CASSERLY MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Temporary Rules of the State Higher Education Coordinating Board Governing Student Educational Loan Fund (Minnesota Rules 4850.0010-4850.0018).

The above-referenced rule has been approved as to its legality by the Attorney General on June 14, 1985.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

MJC:sz

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

AG copy

Higher Education Coordinating Board

Adopted Emergency Rules Relating to Supplemental Loans to Post-Secondary Students

Emergency Rules as Adopted

STUDENT EDUCATIONAL LOAN FUND (SELF)

MINNESOTA HIGHER EDUCATION COORDINATING BOARD (MHECB)

SUPPLEMENTAL AND ADDITIONAL LOANS

4850.0010 [Emergency] PURPOSE.

The purpose of parts 4850.0010 to 4850.0018 is to augment Minnesota Statutes, sections 136A.14 to 136A.141, and 136A.15 to 136A.1702, establishing a state program of supplemental loans to post-secondary students by providing standards, criteria, and rules for the program.

4850.0011 [Emergency] DEFINITIONS.

Subpart 1. **Academic year.** "Academic year" means:

A. a period of time, typically eight or nine months, in which a full-time student is expected to complete the equivalent of at least two semesters, two trimesters, or three quarters at an eligible school using credit hours; or

B. at least 900 clock hours of training for a program at an eligible school using clock hours.

Subp. 2. **Anticipated graduation date.** "Anticipated graduation date" means the date indicated by the eligible school at the time the student applies for a SELF loan, as the date that the student will graduate given the enrolled program and normal satisfactory academic progress.

Subp. 3. **Board.** "Board" means the Minnesota Higher Education Coordinating Board.

Subp. 4. **Capitalized interest.** "Capitalized interest" means accrued interest that is added to the outstanding loan principal.

Subp. 5. **Certificate or degree.** "Certificate" or "degree" means a written or printed statement of the fact that the holder

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has met the eligible school's minimum requirements for completion and certifying a minimum mastery of the subject matter for a particular academic or vocational program.

Subp. 6. **Certification.** "Certification" means the statement of an eligible school that verifies and documents the identity, eligible enrollment, satisfactory academic progress, and cost of attendance of the borrower; performs the "maximum effort" test; and calculates the maximum allowable SELF loan eligibility and recommends a specific loan amount. The certification also shall indicate whether or not the student is in default of previous loans through:

A. checking loan history at the school;

B. checking an available financial aid transcript from a school previously attended by a borrower who is a transfer student; and

C. using any other information reasonably available to the school about the student's prior student loan history, written, verbal, or electronic.

Subp. 7. **Correspondence or external degree program.** "Correspondence or external degree program" is one that has no campus-based requirements or that provides the student no face-to-face contact with the financial aid officer.

Subp. 8. **Cost of attendance.** "Cost of attendance" includes:

A. tuition and fees charged for the loan period;

B. room and board charged for the loan period, or a reasonable allowance as determined by the school, for off-campus living; and

C. a reasonable allowance as determined by the school for books, supplies, transportation, and personal expenses.

Subp. ~~8.~~ 9. **Credit worthy cosigner.** "Credit worthy cosigner" means one who, in the judgment of the board has:

A. no credit bureau balances discharged through bankruptcy or garnishments; and

B. no more than five percent of current credit bureau balances past due.

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Subp. ~~9.~~ 10. **Default.** "Default" means the condition that exists if the borrower fails to perform any of the conditions of the promissory note.

Subp. ~~10.~~ 11. **Delinquency.** "Delinquency" means the condition that exists when a borrower's scheduled payment of principal or interest or both is received by the board after the due date.

Subp. ~~11.~~ 12. **Due diligence.** "Due diligence" means the use of practices by the board in making, servicing, and collecting of SELF loans that are at least as extensive and forceful as those generally practiced by financial institutions for consumer loans.

Subp. ~~12.~~ 13. **Eligible school.** "Eligible school" means a school that:

A. has been approved by the United States Department of Education to participate in federal title IV financial aid programs;

B. is located in the United States or its territories; and

C. signs an institutional loan participation agreement with the Minnesota Higher Education Coordinating Board that lists the duties and responsibilities of both the school and the board.

Subp. ~~13.~~ 14. **Eligible student.** "Eligible student" means a student who:

A. is enrolled in an eligible school in Minnesota, or is a Minnesota resident enrolled in an eligible school in another state or United States territory;

B. is enrolled at least half-time in a program (other than a correspondence or external degree program) leading to a certificate, associate, baccalaureate, masters, doctorate, or other professional degree;

C. is making satisfactory academic progress as defined by the school;

D. is not currently in default, as defined by each specific program, of any student educational loan program (GSL,

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FISL, NDSL, HPL, HEAL, ALAS, or other state supplemental loan program) at the current or any previous school;

E. is not currently delinquent in payment of interest or principal on an outstanding loan from the student educational loan fund;

F. has a credit worthy cosigner;

G. demonstrates financial eligibility by meeting the "maximum effort" test; and

H. has an anticipated graduation date no later than November 1, 1992.

Subp. ~~14.~~ 15. **Enrolled student.** "Enrolled student" means a student who has registered for and begun the loan period at the eligible school.

Subp. ~~15.~~ 16. **Financial aid.** "Financial aid" includes all money flowing to the student that is contingent upon the student's enrollment at the eligible school.

Subp. ~~16.~~ 17. **Forbearance.** "Forbearance" means permitting the temporary halt of payments, allowing an extension of time for making payments, or accepting smaller payments than were scheduled.

Subp. ~~17.~~ 18. **Full-time student.** "Full-time student" means one who is enrolled in an eligible school and who carries a full-time post-secondary level, vocational or academic workload as determined by the eligible school, ending in a certificate or degree.

Subp. ~~18.~~ 19. **Grade level.** "Grade level" means the relative position of an eligible student in a degree or certificate granting program, and corresponds to an academic year. (For example, an eligible student in the second year of a four-year program would be in grade level 02.)

Subp. ~~19.~~ 20. **Graduate student.** "Graduate student" means a student who is pursuing a program, or has a baccalaureate degree and is enrolled in courses which are normally part of a program leading to a graduate or professional degree or certificate at an eligible school, and has successfully completed the equivalent of at least three years of full-time

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study at an eligible school either prior to entrance into the program or as part of the program itself.

Subp. ~~20.~~ 21. **Half-time student.** "Half-time student" means one who is enrolled in an eligible school and carrying a half-time academic workload as determined by the eligible school that amounts to at least one-half the workload of a full-time certificate or degree seeking student. In eligible schools utilizing clock hours, half-time enrollment includes programs requiring at least 300 clock hours.

Subp. ~~21.~~ 22. **In-school period.** "In-school period" means the period that the borrower is enrolled in an eligible school.

Subp. ~~22.~~ 23. **Late charge.** "Late charge" means a charge, not to exceed $20, that is assessed against borrowers each time a payment of principal and/or interest is received by the board more than 15 days after the due date.

Subp. ~~23.~~ 24. **Loan period.** "Loan period" means the period for which the student receives the loan. The period begins on the first day of class and must not exceed 12 months.

Subp. ~~24.~~ 25. **Maximum effort.** To have used "maximum effort" means that the student has applied for and exhausted all eligibility for other forms of financial aid (except work-study and PLUS/ALAS) before applying for a SELF loan. Financial aid administrators must include any financial aid that has been awarded or is expected to be awarded to the student for the loan period.

Subp. ~~25.~~ 26. **Payout period.** "Payout period" means the time period which begins immediately following the transition period and runs to the earliest of:

A. November 1, 2000; or

B. ten years from the date ~~of the end of the transition period~~ the student ceases to be an eligible student; or

C. fifteen years from the date of the first loan check; or

D. a period negotiated with the borrower.

Subp. ~~26.~~ 27. **The bonds.** "The bonds" means the variable

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rate demand bonds series 1984 issued by the Minnesota Higher Education Coordinating Board due December 1, 2000, for purposes of funding the student educational loan fund.

Subp. ~~27.~~ 28. **Transition period.** "Transition period" means a one-year (365 days) period immediately following graduation or termination of enrollment.

Subp. ~~28.~~ 29. **Undergraduate student.** "Undergraduate student" means a student who is not a graduate student.

4850.0012 [Emergency] SCHOOL AGREEMENTS AND STUDENT APPLICATIONS.

Subpart 1. **Institutional loan participation agreement.** The eligible school and the board must sign a loan participation agreement that will:

A. state the eligible school's responsibility for proper certification and delivery of loans to students; and

B. name a representative of the eligible school who is to be responsible for the administration of the agreement.

Subp. 2. **Termination.** The board may terminate the agreement with an eligible school upon determining that continuation of the agreement is not in the best interest of the student educational loan fund. All obligations of the school under the agreement shall continue in full force and effect with respect to all SELF loans then outstanding to students of the school.

Subp. 3. **Application, guarantee, and promissory note.** The student shall complete the SELF application and attached promissory note, and deliver or mail them to the eligible school for certification. The eligible school shall then deliver or mail the application and promissory note to the student who shall deliver or mail them to the cosigner who shall complete his or her portion of the application and promissory note and deliver or mail them to the board. The board will check the application and promissory note for completeness, determine the eligibility of the applicant, and conduct a credit check of the cosigner. If the board approves the loan application, the document file shall be sent to the trustee (or agent) for approval. The trustee (or agent) shall approve the application

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and forward the document file to the servicer or shall reject the application and return the document file to the board. The servicer shall enter the application on the servicing computer system, prepare and mail a disclosure statement to the borrower and cosigner, advise the school of the loan approval, schedule disbursements, deduct and mail the guarantee fee from the loan proceeds to the insurer, and place the document file in permanent storage. If the board rejects the loan application, the applicant and the cosigner must be advised in writing of the decision and the reasons for the rejection.

4850.0014 [Emergency] AMOUNT AND TERMS.

Subpart 1. **Loan amounts.** The minimum loan amount from the student educational loan fund is $1,000.

The maximum loan amounts are:

A. for an under graduate student, $4,000 per 12-month period as long as the loan amount does not exceed the cost of attendance less all other financial aid (including PLUS loans borrowed on the student's behalf); and the cumulative student loan debt (excluding PLUS loans borrowed on the student's behalf) does not exceed the following grade level limitations:

(1) grade level 1, $ 4,000;

(2) grade level 2, $ 8,000;

(3) grade level 3, $12,000;

(4) grade level 4, $16,000; and

(5) grade level 5, $16,000;

B. for a graduate student, $6,000 per 12-month period as long as the loan amount does not exceed the cost of attendance less all other financial aid (including PLUS loans borrowed on the student's behalf); and the cumulative student loan debt of the student (excluding PLUS loans borrowed on the student's behalf) does not exceed $25,000 for both undergraduate and graduate education.

Subp. 2. **Two loans in one year.** A student may borrow twice in the same grade level as long as a total of 11 months elapses from the beginning of the first loan period to the beginning of the second loan period, but the student may not

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exceed the cumulative debt for that grade level.

Subp. 3. **Cosigners.** All borrowers from the student educational loan fund shall have a credit worthy cosigner who is either a United States citizen or a permanent resident. The cosigner is jointly and separately responsible for making loan payments (principal, interest, and other charges). The cosigner is relieved of this financial responsibility only in the event of death or permanent disability of the borrower.

If the cosigner is unemployed, retired, or has no credit history, credit-worthiness shall be determined by the board, by a review of banking references and a review of net worth data with a minimum test requiring that net worth equal or exceed a sum ten times the size of each loan amount requested.

Subp. 4. **Interest rate.** The interest rate on the loan must be fixed by the board at a margin in excess of the "index rate" on the bonds. If the bonds bear interest at more than one rate at any one time, the "index rate" will be the weighted average of the interest rates. The "index rate" may change on Thursday of each week. If the "index rate" increases or decreases, the interest rate on the loan increases or decreases automatically on the same day without notice to the borrower. If the board determines that the margin does not reflect the costs of the SELF program, the board may increase or decrease the margin within the limits of law. The board shall advise borrowers of changes in the margin. Information about how the interest rate is calculated will be available from the board or the financial aid office at the eligible school.

4850.0015 [Emergency] LOAN DISBURSEMENTS.

Subpart 1. **Disbursement scheduling.** Checks must be jointly payable to the borrower and the eligible school. If the loan period covers more than one academic or payment period, the loan must be disbursed in installments during each academic or payment period. (For example, if an eligible school's academic year is divided by quarters, the student's loan amount may be disbursed in three installments, once each quarter.) Disbursements must be made at the beginning of each academic

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term, unless the board requires or the school suggests other more appropriate dates.

Subp. 2. **Disbursement when check arrives before loan period.** A loan check must not be disbursed to the student before the start of the loan period. The school must wait until the student starts the loan period and after having checked enrollment and satisfactory academic progress requirements, must deliver the check to the student for the student's endorsement. The check must then be endorsed by the school. The school must next subtract from the proceeds the amount owed to it for the payment period, and make arrangements with the student for the use of any remaining proceeds. The remaining proceeds may be returned to the student or retained on account at the election of the student. The school may not keep on account any more money than it charges for that payment period without the written permission of the student.

Subp. 3. **Disbursement when check arrives during loan period.** When the check arrives during the loan period, the school, having checked enrollment and satisfactory academic progress, shall endorse the check along with the student, subtract from the proceeds that amount owed to it for the payment period, and make arrangements with the student for the use of any remaining proceeds. The student has the same options for receiving any remaining proceeds as described in subpart 2. If the student is on a school approved leave of absence when the check arrives, the school may hold the check until the student returns. If the student fails to do so, the check must be returned to the board within 30 days from the date on the check.

Subp. 4. **Disbursement when check arrives after loan period.** When the check arrives after the loan period, the school, having checked enrollment and satisfactory academic progress, may endorse the check along with the student within 30 days from the end of the loan period, subtract from the proceeds that amount owed to it for the payment period, and make arrangements with the student for use of any remaining proceeds. The student has the same options for receiving any remaining proceeds as

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described in subpart 3. If the check arrives more than 30 days after the end of the loan period, the school must return the check to the board.

4850.0016 [Emergency] NONENROLLMENT, TRANSFER, AND WITHDRAWAL.

Subpart 1. **Nonenrollment.** A school shall return a check to the board for a student who fails to enroll within 30 days of the date on the check.

Subp. 2. **Withdrawal and transfer to another eligible school.** If the student fails to complete the loan period at the school where the loan application was certified and transfers to another eligible school, additional loan disbursements to the student shall be permitted at the new school as long as the board is notified by the student or the school of the new enrollment. The school must immediately notify the board of any borrower who withdraws for any purpose. Refunds due the student as a result of the process of withdrawing and transferring to another eligible school need not be returned to the board. The new school shall certify the enrollment of the transferring student.

Subp. 3. **Withdrawal.** In the event that a borrower, for any reason, fails to complete a loan period and withdraws at a time when the institution pays a refund of charges to the student, an amount equal to the ratio of the disbursed loan to the total amount of the borrower's financial aid package for the same period is to be subtracted from the institutional refund amount, returned to the board, and applied to the outstanding loan amount.

Subp. 4. **Reduction of enrollment to less than half-time status.** The school shall notify the board immediately when a student reduces enrollment below a half-time status, but remains enrolled. Such a student shall be permitted to remain in an in-school repayment period for no more than six months including normal school vacation periods before the transition period begins.

4850.0017 [Emergency] REPAYMENT PROCEDURES.

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Borrowers shall make payments of principal and interest according to the following schedule:

A. During the school period, the board or its agent shall bill borrowers for accrued interest once during each calendar quarter. Payments are due by the 15th day following the date of the billing.

B. During the transition period, the board or its agent shall bill borrowers for accrued interest once during each calendar month. Payments are due by the 15th day following the date of the billing.

C. During the payout period, the board or its agent shall provide borrowers with coupon books annually for repayment of loan principal and interest. The fixed amount of the coupon shall reflect ~~(a)~~ (1) the interest rate in effect on the loan on the date the coupons are prepared (~~assumed~~ actual rate), ~~and-(b)~~ added to a fixed percentage to be determined by the board (assumed rate), (2) the length of the payout period, and (3) the principal balance of the loan plus the amount of any unpaid interest as of the beginning of the year for which coupons are being prepared, assuming all scheduled payments are made. The actual interest rate on the loan ~~will~~ must continue to vary. Payments of interest at the assumed rate exceeding actual interest accrued must be applied to the outstanding loan principal. If interest payments at the assumed rate are less than actual interest accrued, ~~the-difference-must-be-billed annually-by-the-board.--A-minimum-annual-payment-of-$600-of-loan principal-and-accrued-interest-must-be-required-of-all-borrowers including-SELF-loans-to-spouses-during-the-payout-period~~ any unpaid interest not past due must be included in the calculation of the amount of the coupons for the following year. All of a borrower's SELF loans must be combined into one repayment schedule. The borrower must pay a total of at least $600 each year on all of the borrower's SELF loans. If the borrower's spouse also has SELF loans, their combined annual payments on all SELF loans must be at least $600.

D. Late charges must be billed to the borrower on the

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30-day delinquent letter mailed by the board and are due and payable immediately.

E. Interest payments during the in-school period that are delinquent in excess of 120 days from the billing date must be capitalized. Capitalization of past due interest must be limited to two occasions before filing a claim.

F. A prepayment penalty must not be assessed against borrowers who elect to make unscheduled payments of loan principal.

G. The board may grant forbearances at its discretion when such action is considered by the board to be in the best interest of the program.

H. The board shall provide borrowers and cosigners with an annual statement of outstanding principal and interest paid during the previous calendar year.

4850.0018 [Emergency] CLAIMS.

Subpart 1. **When filed.** If after exercising due diligence, and after 120 days from the billing date the board fails to collect a payment from a borrower or the cosigner, a claim must be filed by the board with the program insurer for the outstanding principal of the loan plus accrued interest.

Subp. 2. **When paid.** Claims are paid in four categories:

A. A claim for death of the borrower must be filed by the board upon receipt of a death certificate. The cosigner's obligation to make any further payment of principal and interest or both on a SELF loan is canceled as of the date of death.

B. If the borrower becomes totally and permanently disabled, a claim must be filed by the board upon receipt of proper medical documentation. The cosigner's obligation to make any further payment of principal and interest on a SELF loan is canceled as of the date of medical documentation.

C. If a borrower or cosigner fails to perform any of the conditions of the promissory note, a claim must be filed by the board.

D. If a borrower is adjudicated bankrupt and has liability for the SELF loan discharged, the cosigner remains

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liable for unpaid principal and interest. If the cosigner fails to perform any of the conditions of the promissory note, the board shall file a claim.

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OFFICE OF THE REVISOR OF STATUTES

Certificate of Approval of Adopted Rules

AR0704E

Agency: Higher Education Coordinating Board

Division:

Agency Contact: Dick Leighninger

Minnesota Rules: Parts 4850.0010 to 4850.0018 [Emergency]

Title: Adopted Emergency Rules Relating to Supplemental Loans to Post-Secondary Students

Type of Rules: Emergency

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN 17 1985
Joan Anderson Growe
Secretary of State
9:35 AM

Incorporations by Reference: None

APPROVED AS TO FORM AND LEGALITY
June 14 1985
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M J Casserly
SPECIAL ASSISTANT ATTORNEY GENERAL

Steven C. Cross
Revisor of Statutes

Richard J. Sands
Senior Assistant Revisor
Phone: 296-2798
Date: March 28, 1985

STATE OF MINNESOTA
HIGHER EDUCATION COORDINATING BOARD

In the Matter of the Proposed
Adoption of Temporary Rules of
the State Higher Education
Coordinating Board Governing
Student Educational Loan Fund
(Minnesota Rules 4850.0010-4850.0018)

SUPPLEMENTAL
ORDER ADOPTING
TEMPORARY RULES

The above-entitled matter was published in the State Register on February 11, 1985 and on April 29, 1985, as a proposed temporary rule pursuant to Minnesota Statutes section 14.14, Subdivision 1. After affording interested and affected persons an opportunity to submit written data and views within 25 days of the publication date, reviewing and considering the data and views, and determining that the above-captioned rules are needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that these rules identified as Student Educational Loan Fund are adopted this 24th day of May, 1985, pursuant to authority vested in the Board by Minnesota Statutes Section 136A.111, and Minnesota Laws 1983, Chapter 258, Section 49.

State of Minnesota

DAVID A. LONGANECKER
Executive Director
Minnesota Higher Education
Coordinating Board

MINNESOTA HIGHER EDUCATION
COORDINATING BOARD

In the Matter of the Proposed
Adoption of Emergency Rule of the
Minnesota Higher Education Coordinating
Board Governing the Student Educational
Loan Fund (Minn. Rule 4850.0010-4850.0018)

NOTICE OF PROPOSED
ADOPTION OF
EMERGENCY RULE

Notice is hereby given that the Minnesota Higher Education Coordinating Board proposes to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in Minnesota Statutes, Section 136A.111, Minnesota Laws 1983, Chapter 258, Section 49, and Minnesota Laws 1984, Article 4, Section 3. The agency, in adopting the rule, is following the procedures set forth in Minnesota Statutes, sections 14.29-14.36.

All persons have 25 days after publication to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. Any comments must be submitted to:

Rose Herrera Hamerlinck
Minnesota Higher Education
Coordinating Board
400 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
612/296-7963

The rule proposed for adoption relates to a new supplemental loan program for students attending eligible post-secondary institutions. The rule as proposed appeared in the State Register on February 11, 1985 (9 S.R. 1783-1788).

A free copy of the proposed rule is available by contacting Rose Herrera Hamerlinck at the above address.

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

Upon adoption of the emergency rule by the agency, the rule as adopted and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Rose Herrera Hamerlinck.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for up to a maximum of 180 days.

THIS NOTICE WILL APPEAR
IN THE STATE REGISTER ON
MONDAY, APRIL 29, 1985.

DAVID A. LONGANECKER
Executive Director
Minnesota Higher Education
Coordinating Board

In the Matter of the Proposed
Adoption of Temporary Rules of
the State Higher Education
Coordinating Board Governing
Student Educational Loan Fund

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Rosemary Herrera Hamerlinck, being first duly sworn, deposes and says:

That on the 19th day of April, 1985, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Temporary Rules by depositing in the State of Minnesota Central Mail System for first class mailing a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State Higher Education Coordinating Board for the purpose of receiving notice of the proposed adoption of rules by this agency.

Rosemary Herrera Hamerlinck

Subscribed and sworn to before me this
2nd day of May, 1985.

Judith A. Morgan

Judith A. Morgan
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires Sept. 16, 1989

STATE OF MINNESOTA
COUNTY OF RAMSEY

In the Matter of the Proposed
Adoption of Temporary Rules of
the State Higher Education
Coordinating Board Governing
Student Educational Loan Fund

CERTIFICATE

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. §14.14, Subd. 1, that their names be placed on file with and maintained by the State Higher Education Coordinating Board for the purpose of receiving notice of the proposed adoption of rules by this Higher Education Coordinating Board is accurate and complete as of 4:00 p.m., this 19th day of April, 1985.

Rosemary Henrie Hamerlinck

Subscribed and sworn to before me this
2ND day of May, 1985.

Judith A. Morgan

Judith A. Morgan
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires Sept. 16, 1989

PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Higher Education Coordinating Board

Proposed Emergency Rules Relating to Supplemental Loans to Post-Secondary Students

Notice of Proposed Adoption of Emergency Role (Second Notice)

Notice is hereby given that the Minnesota Higher Education Coordinating Board proposes to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in Minnesota Statutes, Section 136A.111, Minnesota Laws 1983, Chapter 258, Section 49, and Minnesota Laws 1984, Article 4, Section 3. The agency, in adopting the rule, is following the procedures set forth in Minnesota Statutes, sections 14.29-14.36.

All persons have 25 days after publication to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. Any comments must be submitted to:

Rose Herrera Hamerlinck
Minnesota Higher Education Coordinating Board
400 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
612/296-7963

The rule proposed for adoption relates to a new supplemental loan program for students attending eligible post-secondary institutions. The rule as proposed appeared in the *State Register* on February 11, 1985 (9 S.R. 1783-1788).

A free copy of the proposed rule is available by contacting Rose Herrera Hamerlinck at the above address.

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

Upon adoption of the emergency rule by the agency, the rule as adopted and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Rose Herrera Hamerlinck.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for up to a maximum of 180 days.

David A. Longanecker
Executive Director
Minnesota Higher Education Coordinating Board

Housing Finance Agency

Proposed Rules Relating to Innovative Housing Loans

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Housing Finance Agency (''agency'') proposes to adopt the above-entitled rules with-

STATE OF MINNESOTA
HIGHER EDUCATION COORDINATING BOARD

In the Matter of the Proposed
Adoption of Temporary Rules of
the State Higher Education
Coordinating Board Governing
Student Educational Loan Fund
(Minnesota Rules 4850.0010-4850.0018)

STATEMENT OF
COMPLIANCE WITH
RULEMAKING PROCEDURES

I, Laura E. Mattson, Special Assistant Attorney General, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Laura E. Mattson

LAURA E. MATTSON
Special Assistant
Attorney General

Dated: 5-30-85

In the Matter of the Proposed
Adoption of Temporary Rules of
the Minnesota Higher Education
Coordinating Board Governing the
Student Educational Loan Fund
(Minnesota Rules 4850.0010-4850.0018)

AFFIDAVIT OF MAILING
NOTICE OF SUBMISSION TO
THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Rosemary Hemer Hamerlinck, being first duly sworn, deposes and says:

That on the 24th day of May, 1985 in the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Rosemary Hemer Hamerlinck

Subscribed and sworn to before me this
24th day of May, 1985.

Judith A. Morgan

Judith A. Morgan
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires Sept. 16, 1989

STATE OF MINNESOTA
HIGHER EDUCATION COORDINATING BOARD

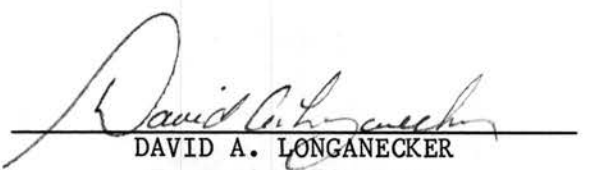
In the Matter of the Proposed
Adoption of Temporary Rules of
the State Higher Education
Coordinating Board Governing
Student Educational Loan Fund
(Minnesota Rules 4850.0010-4850.0018)

NOTICE OF SUBMISSION
TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes Section 14.05:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, May 24, 1985, for review as to form and legality. Pursuant to Minnesota Rules 2000.0400, Subpart 1K, the Attorney General will not approve the rules for at least 10 working days after receipt to allow any person or association time to comment on the legality of the rules, after which that Office will complete its review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, G-25 State Administration Building, 50 Sherburne Avenue, St. Paul, MN 55155, telephone 612/296-7030. Please note that the above-captioned rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

If you are interested in determining what changes, if any, were made in the proposed rules after publication in the State Register and before submission to the Attorney General, you may contact Rose Herrera Hamerlinck, Minnesota Higher Education Coordinating Board, Suite 400, Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101, telephone 612/296-7963.



DAVID A. LONGANECKER
Executive Director
Minnesota Higher Education
Coordinating Board

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : DAVID A. LONGANECKER, Executive Director
Higher Education Coordinating Board

DATE: 4/9/85

ATTN: LAURA E. MATTSON, Special Assistant Attorney General

FROM : MARTHA J. CASSERLY Martha Casserly
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: IN THE MATTER OF THE PROPOSED ADOPTION OF THE STATE HIGHER EDUCATION COORDINATING BOARD EMERGENCY RULE RELATED TO SUPPLEMENTAL AND ADDITIONAL LOANS TO POST-SECONDARY STUDENTS

The above-referenced rule has not been approved by the Attorney General because of two defects in the Notice of the Proposed Emergency Rule and because two subparts of the rule are impermissibly vague.

First, the Notice of Proposed Emergency Rule, which was published in the State Register and mailed to persons on the agency's rulemaking list, does not state that persons would have the right to be informed when the rule is submitted to the Attorney General as required by Minn. Stat. § 14.30 (1984).

Second, the Notice of Proposed Emergency Rule that was mailed to all persons on the rulemaking mailing list stated that there is a 20 day comment period after publication. The 20 day comment period is five days short of the statutory requirement of a minimum 25 day comment period. Minn. Stat. § 14.30 (1984).

To overcome both notice deficiencies, a new and corrected Notice of Proposed Emergency Rule must be published in the State Register and mailed to interested persons followed by a 25 day comment period.

Third, Minn. Rules pt. 4850.0012, subp. 2, provides that the Board may terminate the agreement with an eligible school upon determining that continuation of the agreement is not in the best interest of the student education loan fund (emphasis added). The underscored language is impermissibly vague. It is not a specific criteria so as to specify how one would qualify for the standard and it is unclear as to what circumstances would be considered in the best interest of the Loan Fund to terminate the agreement. As such, the rule poses the risk of unequal application. To overcome this deficiency, the subpart must set forth a more specific criteria or standard or set forth the circumstances by which the Board may terminate the agreement.

Finally, Minn. Rules pt. 4850.0017G provides that the Board may grant forebearances when it is in the best interest of the program (emphasis added). This subpart is deficient for the reason stated in the third problem, above.

After agency action, the rule may be resubmitted to the Attorney General for our review. Upon resubmission, please include the following documents:

1. A copy of the new Notice of Proposed Emergency Rule as published in the State Register;

2. A copy of the new Notice of Proposed Emergency Rule which was mailed to persons on the agency's rulemaking mailing list;

3. A new Affidavit of Mailing the Notice of Proposed Emergency Rule and certificate of mailing list;

4. If the revisions to the rule are substantive or change the meaning of the rule, a new Certificate of Board's Resolution Adopting the revised rule;

5. A new or supplemental Findings of Fact and Conclusions and a new or supplemental Order Adopting Rule;

6. Four copies of the new rule as adopted;

7. A new Certificate of Compliance; and

8. If anyone requested notification of the date of rule submission to the Attorney General, a new Notice of Submission to the Attorney General and corresponding Affidavit of Mailing this Notice.

Also, please include a memorandum specifying that the rule is being resubmitted so that we may obtain our initial file in this matter.

If you have any questions concerning the issues raised in this memorandum, do not hesitate to call me.

MJC:dw

cc: Chief Administrative Law Judge
Office of Administrative Hearings

Executive Director
Legislative Commission to
Review Administrative Rules

Assistant Deputy Revisor for Rules
Revisor of Statutes Office

Emergency Rules as Proposed (all new material)

STUDENT EDUCATIONAL LOAN FUND (SELF)

MINNESOTA HIGHER EDUCATION COORDINATING BOARD (MHECB)

SUPPLEMENTAL AND ADDITIONAL LOANS

4850.0010 [Emergency] PURPOSE.

The purpose of parts 4850.0010 to 4850.0018 is to augment Minnesota Statutes, sections 136A.14 to 136A.141, and 136A.15 to 136A.1702, establishing a state program of supplemental loans to post-secondary students by providing standards, criteria, and rules for the program.

4850.0011 [Emergency] DEFINITIONS.

Subpart 1. **Academic year.** "Academic year" means:

A. a period of time, typically eight or nine months, in which a full-time student is expected to complete the equivalent of at least two semesters, two trimesters, or three quarters at an eligible school using credit hours; or

B. at least 900 clock hours of training for a program at an eligible school using clock hours.

Subp. 2. **Anticipated graduation date.** "Anticipated graduation date" means the date indicated by the eligible school at the time the student applies for a SELF loan, as the date that the student will graduate given the enrolled program and normal satisfactory academic progress.

Subp. 3. **Board.** "Board" means the Minnesota Higher Education Coordinating Board.

Subp. 4. **Capitalized interest.** "Capitalized interest" means accrued interest that is added to the outstanding loan principal.

Subp. 5. **Certificate or degree.** "Certificate" or "degree" means a written or printed statement of the fact that the holder has met the eligible school's minimum requirements for completion and certifying a minimum mastery of the subject matter for a particular academic or vocational program.

Subp. 6. **Certification.** "Certification" means the statement of an eligible school that verifies and documents the

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identity, eligible enrollment, satisfactory academic progress, and cost of attendance of the borrower; performs the "maximum effort" test; and calculates the maximum allowable SELF loan eligibility and recommends a specific loan amount. The certification also shall indicate whether or not the student is in default of previous loans through:

A. checking loan history at the school;

B. checking an available financial aid transcript from a school previously attended by a borrower who is a transfer student; and

C. using any other information reasonably available to the school about the student's prior student loan history, written, verbal, or electronic.

Subp. 7. **Cost of attendance.** "Cost of attendance" includes:

A. tuition and fees charged for the loan period;

B. room and board charged for the loan period, or a reasonable allowance as determined by the school, for off-campus living; and

C. a reasonable allowance as determined by the school for books, supplies, transportation, and personal expenses.

Subp. 8. **Credit worthy cosigner.** "Credit worthy cosigner" means one who, in the judgment of the board has:

A. no credit bureau balances discharged through bankruptcy or garnishments; and

B. no more than five percent of current credit bureau balances past due.

Subp. 9. **Default.** "Default" means the condition that exists if the borrower fails to perform any of the conditions of the promissory note.

Subp. 10. **Delinquency.** "Delinquency" means the condition that exists when a borrower's scheduled payment of principal or interest or both is received by the board after the due date.

Subp. 11. **Due diligence.** "Due diligence" means the use of practices by the board in making, servicing, and collecting of SELF loans that are at least as extensive and forceful as those

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generally practiced by financial institutions for consumer loans.

Subp. 12. **Eligible school.** "Eligible school" means a school that:

A. has been approved by the United States Department of Education to participate in federal title IV financial aid programs;

B. is located in the United States or its territories; and

C. signs an institutional loan participation agreement with the Minnesota Higher Education Coordinating Board that lists the duties and responsibilities of both the school and the board.

Subp. 13. **Eligible student.** "Eligible student" means a student who:

A. is enrolled in an eligible school in Minnesota, or is a Minnesota resident enrolled in an eligible school in another state or United States territory;

B. is enrolled at least half-time in a program leading to a certificate, associate, baccalaureate, masters, doctorate, or other professional degree;

C. is making satisfactory academic progress as defined by the school;

D. is not currently in default, as defined by each specific program, of any student educational loan program (GSL, FISL, NDSL, HPL, HEAL, ALAS, or other state supplemental loan program) at the current or any previous school;

E. is not currently delinquent in payment of interest or principal on an outstanding loan from the student educational loan fund;

F. has a credit worthy cosigner;

G. demonstrates financial eligibility by meeting the "maximum effort" test; and

H. has an anticipated graduation date no later than November 1, 1992.

Subp. 14. **Enrolled student.** "Enrolled student" means a student who has registered for and begun the loan period at the

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OFFICE BY:

eligible school.

Subp. 15. **Financial aid.** "Financial aid" includes all money flowing to the student that is contingent upon the student's enrollment at the eligible school.

Subp. 16. **Forbearance.** "Forbearance" means permitting the temporary halt of payments, allowing an extension of time for making payments, or accepting smaller payments than were scheduled.

Subp. 17. **Full-time student.** "Full-time student" means one who is enrolled in an eligible school and who carries a full-time post-secondary level, vocational or academic workload as determined by the eligible school, ending in a certificate or degree.

Subp. 18. **Grade level.** "Grade level" means the relative position of an eligible student in a degree or certificate granting program, and corresponds to an academic year. (For example, an eligible student in the second year of a four-year program would be in grade level 02.)

Subp. 19. **Graduate student.** "Graduate student" means a student who is pursuing a program, or has a baccalaureate degree and is enrolled in courses which are normally part of a program leading to a graduate or professional degree or certificate at an eligible school, and has successfully completed the equivalent of at least three years of full-time study at an eligible school either prior to entrance into the program or as part of the program itself.

Subp. 20. **Half-time student.** "Half-time student" means one who is enrolled in an eligible school and carrying a half-time academic workload as determined by the eligible school that amounts to at least one-half the workload of a full-time certificate or degree seeking student. In eligible schools utilizing clock hours, half-time enrollment includes programs requiring at least 300 clock hours.

Subp. 21. **In-school period.** "In-school period" means the period that the borrower is enrolled in an eligible school.

Subp. 22. Late charge. "Late charge" means a charge, not

to exceed $20, that is assessed against borrowers each time a payment of principal and/or interest is received by the board more than 15 days after the due date.

Subp. 23. **Loan period.** "Loan period" means the period for which the student receives the loan. The period begins on the first day of class and must not exceed 12 months.

Subp. 24. **Maximum effort.** To have used "maximum effort" means that the student has applied for and exhausted all eligibility for other forms of financial aid (except work-study and PLUS/ALAS) before applying for a SELF loan. Financial aid administrators must include any financial aid that has been awarded or is expected to be awarded to the student for the loan period.

Subp. 25. **Payout period.** "Payout period" means the time period which begins immediately following the transition period and runs to the earliest of:

A. November 1, 2000; or

B. ten years from the date of the end of the transition period; or

C. a period negotiated with the borrower.

Subp. 26. **The bonds.** "The bonds" means the variable rate demand bonds series 1984 issued by the Minnesota Higher Education Coordinating Board due December 1, 2000, for purposes of funding the student educational loan fund.

Subp. 27. **Transition period.** "Transition period" means a one-year (365 days) period immediately following graduation or termination of enrollment.

Subp. 28. **Undergraduate student.** "Undergraduate student" means a student who is not a graduate student.

4850.0012 [Emergency] SCHOOL AGREEMENTS AND STUDENT APPLICATIONS.

Subpart 1. **Institutional loan participation agreement.** The eligible school and the board must sign a loan participation agreement that will:

A. state the eligible school's responsibility for proper certification and delivery of loans to students; and

B. name a representative of the eligible school who

is to be responsible for the administration of the agreement.

Subp. 2. Termination. The board may terminate the agreement with an eligible school upon determining that continuation of the agreement is not in the best interest of the student educational loan fund. All obligations of the school under the agreement shall continue in full force and effect with respect to all SELF loans then outstanding to students of the school.

Subp. 3. Application, guarantee, and promissory note. The student shall complete the SELF application and attached promissory note, and deliver or mail them to the eligible school for certification. The eligible school shall then deliver or mail the application and promissory note to the student who shall deliver or mail them to the cosigner who shall complete his or her portion of the application and promissory note and deliver or mail them to the board. The board will check the application and promissory note for completeness, determine the eligibility of the applicant, and conduct a credit check of the cosigner. If the board approves the loan application, the document file shall be sent to the trustee (or agent) for approval. The trustee (or agent) shall approve the application and forward the document file to the servicer or shall reject the application and return the document file to the board. The servicer shall enter the application on the servicing computer system, prepare and mail a disclosure statement to the borrower and cosigner, advise the school of the loan approval, schedule disbursements, deduct and mail the guarantee fee from the loan proceeds to the insurer, and place the document file in permanent storage. If the board rejects the loan application, the applicant and the cosigner must be advised in writing of the decision and the reasons for the rejection.

4850.0014 [Emergency] AMOUNT AND TERMS.

Subpart 1. Loan amounts. The minimum loan amount from the student educational loan fund is $1,000.

The maximum loan amounts are:

A. for an under graduate student, $4,000 per 12-month

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period as long as the loan amount does not exceed the cost of attendance less all other financial aid (including PLUS loans borrowed on the student's behalf); and the cumulative student loan debt (excluding PLUS loans borrowed on the student's behalf) does not exceed the following grade level limitations:

(1) grade level 1, $ 4,000;

(2) grade level 2, $ 8,000;

(3) grade level 3, $12,000;

(4) grade level 4, $16,000; and

(5) grade level 5, $16,000;

B. for a graduate student, $6,000 per 12-month period as long as the loan amount does not exceed the cost of attendance less all other financial aid (including PLUS loans borrowed on the student's behalf); and the cumulative student loan debt of the student (excluding PLUS loans borrowed on the student's behalf) does not exceed $25,000 for both undergraduate and graduate education.

Subp. 2. **Two loans in one year.** A student may borrow twice in the same grade level as long as a total of 11 months elapses from the beginning of the first loan period to the beginning of the second loan period, but the student may not exceed the cumulative debt for that grade level.

Subp. 3. **Cosigners.** All borrowers from the student educational loan fund shall have a credit worthy cosigner who is either a United States citizen or a permanent resident. The cosigner is jointly and separately responsible for making loan payments (principal, interest, and other charges). The cosigner is relieved of this financial responsibility only in the event of death or permanent disability of the borrower.

If the cosigner is unemployed, retired, or has no credit history, credit-worthiness shall be determined by the board, by a review of banking references and a review of net worth data with a minimum test requiring that net worth equal or exceed a sum ten times the size of each loan amount requested.

Subp. 4. **Interest rate.** The interest rate on the loan must be fixed by the board at a margin in excess of the "index

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rate" on the bonds. If the bonds bear interest at more than one rate at any one time, the "index rate" will be the weighted average of the interest rates. The "index rate" may change on Thursday of each week. If the "index rate" increases or decreases, the interest rate on the loan increases or decreases automatically on the same day without notice to the borrower. If the board determines that the margin does not reflect the costs of the SELF program, the board may increase or decrease the margin within the limits of law. The board shall advise borrowers of changes in the margin. Information about how the interest rate is calculated will be available from the board or the financial aid office at the eligible school.

4850.0015 [Emergency] LOAN DISBURSEMENTS.

Subpart 1. **Disbursement scheduling.** Checks must be jointly payable to the borrower and the eligible school. If the loan period covers more than one academic or payment period, the loan must be disbursed in installments during each academic or payment period. (For example, if an eligible school's academic year is divided by quarters, the student's loan amount may be disbursed in three installments, once each quarter.) Disbursements must be made at the beginning of each academic term, unless the board requires or the school suggests other more appropriate dates.

Subp. 2. **Disbursement when check arrives before loan period.** A loan check must not be disbursed to the student before the start of the loan period. The school must wait until the student starts the loan period and after having checked enrollment and satisfactory academic progress requirements, must deliver the check to the student for the student's endorsement. The check must then be endorsed by the school. The school must next subtract from the proceeds the amount owed to it for the payment period, and make arrangements with the student for the use of any remaining proceeds. The remaining proceeds may be returned to the student or retained on account at the election of the student. The school may not keep on account any more money than it charges for that payment period without the

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written permission of the student.

Subp. 3. **Disbursement when check arrives during loan period.** When the check arrives during the loan period, the school, having checked enrollment and satisfactory academic progress, shall endorse the check along with the student, subtract from the proceeds that amount owed to it for the payment period, and make arrangements with the student for the use of any remaining proceeds. The student has the same options for receiving any remaining proceeds as described in subpart 2. If the student is on a school approved leave of absence when the check arrives, the school may hold the check until the student returns. If the student fails to do so, the check must be returned to the board within 30 days from the date on the check.

Subp. 4. **Disbursement when check arrives after loan period.** When the check arrives after the loan period, the school, having checked enrollment and satisfactory academic progress, may endorse the check along with the student within 30 days from the end of the loan period, subtract from the proceeds that amount owed to it for the payment period, and make arrangements with the student for use of any remaining proceeds. The student has the same options for receiving any remaining proceeds as described in subpart 3. If the check arrives more than 30 days after the end of the loan period, the school must return the check to the board.

4850.0016 [Emergency] NONENROLLMENT, TRANSFER, AND WITHDRAWAL.

Subpart 1. **Nonenrollment.** A school shall return a check to the board for a student who fails to enroll within 30 days of the date on the check.

Subp. 2. **Withdrawal and transfer to another eligible school.** If the student fails to complete the loan period at the school where the loan application was certified and transfers to another eligible school, additional loan disbursements to the student shall be permitted at the new school as long as the board is notified by the student or the school of the new enrollment. The school must immediately notify the board of any borrower who withdraws for any purpose. Refunds due the student

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as a result of the process of withdrawing and transferring to another eligible school need not be returned to the board. The new school shall certify the enrollment of the transferring student.

Subp. 3. Withdrawal. In the event that a borrower, for any reason, fails to complete a loan period and withdraws at a time when the institution pays a refund of charges to the student, an amount equal to the ratio of the disbursed loan to the total amount of the borrower's financial aid package for the same period is to be subtracted from the institutional refund amount, returned to the board, and applied to the outstanding loan amount.

Subp. 4. **Reduction of enrollment to less than half-time status.** The school shall notify the board immediately when a student reduces enrollment below a half-time status, but remains enrolled. Such a student shall be permitted to remain in an in-school repayment period for no more than six months including normal school vacation periods before the transition period begins.

4850.0017 [Emergency] REPAYMENT PROCEDURES.

Borrowers shall make payments of principal and interest according to the following schedule:

A. During the school period, the board or its agent shall bill borrowers for accrued interest once during each calendar quarter. Payments are due by the 15th day following the date of the billing.

B. During the transition period, the board or its agent shall bill borrowers for accrued interest once during each calendar month. Payments are due by the 15th day following the date of the billing.

C. During the payout period, the board or its agent shall provide borrowers with coupon books annually for repayment of loan principal and interest. The fixed amount of the coupon shall reflect (a) the interest rate in effect on the date the coupons are prepared (assumed rate), and (b) the length of the payout period. The actual interest rate on the loan will

continue to vary. Payments of interest at the assumed rate exceeding actual interest accrued must be applied to the outstanding loan principal. If interest payments at the assumed rate are less than interest accrued, the difference must be billed annually by the board. A minimum annual payment of $600 of loan principal and accrued interest must be required of all borrowers including SELF loans to spouses during the payout period.

D. Late charges must be billed to the borrower on the 30-day delinquent letter mailed by the board and are due and payable immediately.

E. Interest payments during the in-school period that are delinquent in excess of 120 days from the billing date must be capitalized. Capitalization of past due interest must be limited to two occasions before filing a claim.

F. A prepayment penalty must not be assessed against borrowers who elect to make unscheduled payments of loan principal.

G. The board may grant forbearances at its discretion when such action is considered by the board to be in the best interest of the program.

H. The board shall provide borrowers and cosigners with an annual statement of outstanding principal and interest paid during the previous calendar year.

4850.0018 [Emergency] CLAIMS.

Subpart 1. **When filed.** If after exercising due diligence, and after 120 days from the billing date the board fails to collect a payment from a borrower or the cosigner, a claim must be filed by the board with the program insurer for the outstanding principal of the loan plus accrued interest.

Subp. 2. **When paid.** Claims are paid in four categories:

A. A claim for death of the borrower must be filed by the board upon receipt of a death certificate. The cosigner's obligation to make any further payment of principal and interest or both on a SELF loan is canceled as of the date of death.

B. If the borrower becomes totally and permanently

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

disabled, a claim must be filed by the board upon receipt of proper medical documentation. The cosigner's obligation to make any further payment of principal and interest on a SELF loan is canceled as of the date of medical documentation.

C. If a borrower or cosigner fails to perform any of the conditions of the promissory note, a claim must be filed by the board.

D. If a borrower is adjudicated bankrupt and has liability for the SELF loan discharged, the cosigner remains liable for unpaid principal and interest. If the cosigner fails to perform any of the conditions of the promissory note, the board shall file a claim.

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD704E

Agency: Higher Education Coordinating Board

Division:

Agency Contact: Dick Leighninger

Minnesota Rules: Parts 4850.0010 to 4850.0018 [Emergency]

Title: Proposed Emergency Rules Relating to Supplemental Loans to Post-Secondary Students

Type of Rules: Emergency

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

Richard J. Sands
Senior Assistant Revisor
Phone: 296-2798
Date: January 25, 1985

STATE OF MINNESOTA
HIGHER EDUCATION COORDINATING BOARD

In the Matter of the Proposed Adoption of Rules of the State Higher Education Coordinating Board Governing Student Educational Loan Fund (Minnesota Rules 4850.0010 - 4850.0018)

ORDER ADOPTING TEMPORARY RULES

The above-entitled matter was published in the State Register on February 11, 1985, as a proposed temporary rule pursuant to Minnesota Statutes section 14.14, subdivision 1. After affording interested and affected persons an opportunity to submit written data and views within 25 days of the publication date, reviewing and considering the data and views, and determining that the above-captioned rules are needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that these rules identified as Student Educational Loan Fund are adopted this 21st day of March, 1985 pursuant to authority vested in the Board by Minnesota Statutes section 136A.111, and MN Laws 1983, Chapter 258, Section 49.

State of Minnesota

David A. Longanecker

Executive Director
Minnesota Higher Education
Coordinating Board

STATE OF MINNESOTA

HIGHER EDUCATION COORDINATING BOARD

In the Matter of the Proposed Adoption of Temporary Rules of the State Higher Education Coordinating Board Governing Student Educational Loan Fund

ORDER FOR PUBLICATION OF TEMPORARY RULES

IT IS ORDERED this 17th day of January, 1985, that the proposed temporary rules in the above-entitled matter be published in the State Register.

STATE OF MINNESOTA

David A. Longanecker

DAVID A. LONGANECKER
Executive Director
Higher Education Coordinating Board

CERTIFICATE OF BOARD'S
AUTHORIZING RESOLUTION

I, Carol Kamper, do hereby certify that I am a member and the President of the Higher Education Coordinating Board of the state of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted at a meeting of the Higher Education Coordinating Board, duly and properly called and held on the 17 day of January, 1985, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

"RESOLVED, that David A. Longanecker, Executive Director of the Higher Education Coordinating Board, be and he hereby is granted the authority and directed to sign an Order of the Board of the Higher Education Coordinating Board directing the publication in the State Register of proposed temporary rules governing the Student Educational Loan Fund as well as perform any and all acts incidental thereto."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 17 day of January, 1985.

Carol Kamper
President of the Board

Attest by one other Board Member

appear on SR on 2/11/85

MINNESOTA HIGHER EDUCATION COORDINATING BOARD

Proposed Temporary Rule Governing Student Educational Loan Fund

Request for Public Comment

Notice is hereby given that the Minnesota Higher Education Coordinating Board has proposed the following temporary rule for the Student Educational Loan Fund pursuant to Minnesota Laws 1983, Chapter 258, Section 49. All interested persons are hereby afforded the opportunity to submit written comments on the proposed temporary rule for 20 days immediately following publication of this material in the State Register by writing to:

Dick Leighninger
Minnesota Higher Education
Coordinating Board
400 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101

Authority for the adoption of this rule is contained in Laws 1983, Chapter 258, Section 49, and Minnesota Statutes §136A.111. The proposed temporary rule may be revised on the basis of the comments received. Any written material received will become part of the record in the final adoption of the temporary rule. This temporary rule will be effective for not more than 180 days upon approval by the Attorney General.

A copy of the proposed temporary rule is attached to this notice.

DAVID A. LONGANECKER
Executive Director

Department of Commerce

Proposed Rules Relating to Unfair Practices in Franchise Agreements (Notice Extension)

Notice Concerning the Impact on Small Businesses of the Previously Published Proposed Rules Relating to Unfair Practices in Franchise Agreements

The Department of Commerce recently published rules relating to Unfair Practices in Franchise Agreements in the *State Register* on January 28, 1985 (9 SR 1679). The rules in question have been determined to have an impact on small businesses. The impact of the rules is discussed in the Statement of Need and Reasonableness. As previously noted in the Notice of Intent to Adopt Rules without a hearing, said Statement of Need and Reasonableness is available upon request. The comment period pertaining to said rules would have expired o . February 28, 1985. This notification hereby extends that comment period an additional 30 days from the date of this notification.

Copies of this notice and Statement of Need and Reasonableness are available and may be obtained by contacting Richard G. Gomsrud, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 Telephone (612) 296-6589.

Michael A. Hatch
Commissioner of Commerce

Higher Education Coordinating Board

Proposed Emergency Rules Relating to Supplemental Loans to Post-Secondary Students

Request for Public Comment

Notice is hereby given that the Minnesota Higher Education Coordinating Board has proposed the following temporary rule for the Student Educational Loan Fund pursuant to Minnesota Laws 1983, Chapter 258, Section 59. All interested persons are hereby afforded the opportunity to submit written comments on the proposed temporary rule for 25 days immediately following publication of this material in the *State Register* by writing to:

Dick Leighninger
Minnesota Higher Education Coordinating Board
400 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101

Authority for the adoption of this rule is contained in Laws 1983, Chapter 258, Section 49, and Minnesota Statutes § 136A.111. The proposed temporary rule may be revised on the basis of the comments received. Any written material received will become part of the record in the final adoption of the temporary rule. This temporary rule will be effective for not more than 180 days upon approval by the Attorney General.

A copy of the proposed temporary rule is attached to this notice.

David A. Longanecker
Executive Director

Emergency Rules as Proposed (all new material)

STUDENT EDUCATIONAL LOAN FUND (SELF)
MINNESOTA HIGHER EDUCATION COORDINATING BOARD (MHECB)
SUPPLEMENTAL AND ADDITIONAL LOANS

4850.0010 [Emergency] PURPOSE.

The purpose of parts 4850.0010 to 4850.0018 is to augment Minnesota Statutes, sections 136A.14 to 136A.141, and 136A.15 to

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

136A.1702, establishing a state program of supplemental loans to post-secondary students by providing standards, criteria, and rules for the program.

4850.0011 [Emergency] DEFINITIONS.

Subpart 1. Academic year. "Academic year" means:

A. a period of time, typically eight or nine months, in which a full-time student is expected to complete the equivalent of at least two semesters, two trimesters, or three quarters at an eligible school using credit hours; or

B. at least 900 clock hours of training for a program at an eligible school using clock hours.

Subp. 2. Anticipated graduation date. "Anticipated graduation date" means the date indicated by the eligible school at the time the student applies for a SELF loan, as the date that the student will graduate given the enrolled program and normal satisfactory academic progress.

Subp. 3. Board. "Board" means the Minnesota Higher Education Coordinating Board.

Subp. 4. Capitalized interest. "Capitalized interest" means accrued interest that is added to the outstanding loan principal.

Subp. 5. Certificate or degree. "Certificate" or "degree" means a written or printed statement of the fact that the holder has met the eligible school's minimum requirements for completion and certifying a minimum mastery of the subject matter for a particular academic or vocational program.

Subp. 6. Certification. "Certification" means the statement of an eligible school that verifies and documents the identity, eligible enrollment, satisfactory academic progress, and cost of attendance of the borrower; performs the "maximum effort" test; and calculates the maximum allowable SELF loan eligibility and recommends a specific loan amount. The certification also shall indicate whether or not the student is in default of previous loans through:

A. checking loan history at the school;

B. checking an available financial aid transcript from a school previously attended by a borrower who is a transfer student; and

C. using any other information reasonably available to the school about the student's prior student loan history, written, verbal, or electronic.

Subp. 7. Cost of attendance. "Cost of attendance" includes:

A. tuition and fees charged for the loan period;

B. room and board charged for the loan period, or a reasonable allowance as determined by the school, for off-campus living; and

C. a reasonable allowance as determined by the school for books, supplies, transportation, and personal expenses.

Subp. 8. Credit worthy cosigner. "Credit worthy cosigner" means one who, in the judgment of the board has:

A. no credit bureau balances discharged through bankruptcy or garnishments; and

B. no more than five percent of current credit bureau balances past due.

Subp. 9. Default. "Default" means the condition that exists if the borrower fails to perform any of the conditions of the promissory note.

Subp. 10. Delinquency. "Delinquency" means the condition that exists when a borrower's scheduled payment of principal or interest or both is received by the board after the due date.

Subp. 11. Due diligence. "Due diligence" means the use of practices by the board in making, servicing, and collecting of SELF loans that are at least as extensive and forceful as those generally practiced by financial institutions for consumer loans.

Subp. 12. Eligible school. "Eligible school" means a school that:

A. has been approved by the United States Department of Education to participate in federal title IV financial aid programs;

B. is located in the United States or its territories; and

C. signs an institutional loan participation agreement with the Minnesota Higher Education Coordinating Board that lists the duties and responsibilities of both the school and the board.

Subp. 13. Eligible student. "Eligible student" means a student who:

A. is enrolled in an eligible school in Minnesota, or is a Minnesota resident enrolled in an eligible school in another state or United States territory;

B. is enrolled at least half-time in a program leading to a certificate, associate, baccalaureate, masters, doctorate, or other professional degree;

C. is making satisfactory academic progress as defined by the school;

D. is not currently in default, as defined by each specific program, of any student educational loan program (GSL, FISL, NDSL, HPL, HEAL, ALAS, or other state supplemental loan program) at the current or any previous school;

E. is not currently delinquent in payment of interest or principal on an outstanding loan from the student educational loan fund;

F. has a credit worthy cosigner;

G. demonstrates financial eligibility by meeting the "maximum effort" test; and

H. has an anticipated graduation date no later than November 1, 1992.

Subp. 14. Enrolled student. "Enrolled student" means a student who has registered for and begun the loan period at the eligible school.

Subp. 15. Financial aid. "Financial aid" includes all money flowing to the student that is contingent upon the student's enrollment at the eligible school.

Subp. 16. Forbearance. "Forbearance" means permitting the temporary halt of payments, allowing an extension of time for making payments, or accepting smaller payments than were scheduled.

Subp. 17. Full-time student. "Full-time student" means one who is enrolled in an eligible school and who carries a full-time post-secondary level, vocational or academic workload as determined by the eligible school, ending in a certificate or degree.

Subp. 18. Grade level. "Grade level" means the relative position of an eligible student in a degree or certificate granting program, and corresponds to an academic year. (For example, an eligible student in the second year of a four-year program would be in a grade level 02.)

Subp. 19. Graduate student. "Graduate student" means a student who is pursuing a program, or has a baccalaureate degree and is enrolled in courses which are normally part of a program leading to a graduate or professional degree or certificate at an eligible school, and has successfully completed the equivalent of at least three years of full-time study at an eligible school either prior to entrance into the program or as part of the program itself.

Subp. 20. Half-time student. "Half-time student" means one who is enrolled in an eligible school and carrying a half-time academic workload as determined by the eligible school that amounts to at least one-half the workload of a full-time certificate or degree seeking student. In eligible schools utilizing clock hours, half-time enrollment includes programs requiring at least 300 clock hours.

Subp. 21. In-school period. "In-school period" means the period that the borrower is enrolled in an eligible school.

Subp. 22. Late charge. "Late charge" means a charge, not to exceed $20, that is assessed against borrowers each time a payment of principal and/or interest is received by the board more than 15 days after the due date.

Subp. 23. Loan period. "Loan period" means the period for which the student receives the loan. The period begins on the first day of class and must not exceed 12 months.

Subp. 24. Maximum effort. To have used "maximum effort" means that the student has applied for and exhausted all eligibility for other forms of financial aid (except work-study and PLUS/ALAS) before applying for a SELF loan. Financial aid administrators must include any financial aid that has been awarded or is expected to be awarded to the student for the loan period.

Subp. 25. Payout period. "Payout period" means the time period which begins immediately following the transition period and runs to the earliest of:

A. November 1, 2000; or

B. ten years from the date of the end of the transition period; or

C. a period negotiated with the borrower.

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Subp. 26. The bonds. "The bonds" means the variable rate demand bonds series 1984 issued by the Minnesota Higher Education Coordinating Board due December 1, 2000, for purposes of funding the student educational loan fund.

Subp. 27. Transition period. "Transition period" means a one-year (365 days) period immediately following graduation or termination of enrollment.

Subp. 28. Undergraduate student. "Undergraduate student" means a student who is not a graduate student.

4850.0012 [Emergency] SCHOOL AGREEMENTS AND STUDENT APPLICATIONS.

Subpart 1. Institutional loan participation agreement. The eligible school and the board must sign a loan participation agreement that will:

A. state the eligible school's responsibility for proper certification and delivery of loans to students; and

B. name a representative of the eligible school who is to be responsible for the administration of the agreement.

Subp. 2. Termination. The board may terminate the agreement with an eligible school upon determining that continuation of the agreement is not in the best interest of the student educational loan fund. All obligations of the school under the agreement shall continue in full force and effect with respect to all SELF loans then outstanding to students of the school.

Subp. 3. Application, guarantee, and promissory note. The student shall complete the SELF application and attached promissory note, and deliver or mail them to the eligible school for certification. The eligible school shall then deliver or mail the application and promissory note to the student who shall deliver or mail them to the cosigner who shall complete his or her portion of the application and promissory note and deliver or mail them to the board. The board will check the application and promissory note for completeness, determine the eligibility of the applicant, and conduct a credit check of the cosigner. If the board approves the loan application, the document file shall be sent to the trustee (or agent) for approval. The trustee (or agent) shall approve the application and forward the document file to the servicer or shall reject the application and return the document file to the board. The servicer shall enter the application on the servicing computer system, prepare and mail a disclosure statement to the borrower and cosigner, advise the school of the loan approval, schedule disbursements, deduct and mail the guarantee fee from the loan proceeds to the insurer, and place the document file in permanent storage. If the board rejects the loan application, the applicant and the cosigner must be advised in writing of the decision and the reasons for the rejection.

4850.0014 [Emergency] AMOUNT AND TERMS.

Subpart 1. Loan amounts. The minimum loan amount from the student educational loan fund is $1,000.

The maximum loan amounts are:

A. for an under graduate student, $4,000 per 12-month period as long as the loan amount does not exceed the cost of attendance less all other financial aid (including PLUS loans borrowed on the student's behalf), and the cumulative student loan debt (excluding PLUS loans borrowed on the student's behalf) does not exceed the following grade level limitations:

~~(1) grade level 1, $ 4,000;~~

(2) grade level 2, $ 8,000;

(3) grade level 3, $12,000;

(4) grade level 4, $16,000; and

(5) grade level 5, $16,000;

B. for a graduate student, $6,000 per 12-month period as long as the loan amount does not exceed the cost of attendance less all other financial aid (including PLUS loans borrowed on the student's behalf); and the cumulative student loan debt of the student (excluding PLUS loans borrowed on the student's behalf) does not exceed $25,000 for both undergraduate and graduate education.

Subp. 2. Two loans in one year. A student may borrow twice in the same grade level as long as a total of 11 months elapses from the beginning of the first loan period to the beginning of the second loan period, but the student may not exceed the cumulative debt for that grade level.

Subp. 3. Cosigners. All borrowers from the student educational loan fund shall have a credit worthy cosigner who is either a United States citizen or a permanent resident. The cosigner is jointly and separately responsible for making loan payments (principal, interest, and other charges). The cosigner is relieved of this financial responsibility only in the event of death or permanent disability of the borrower.

If the cosigner is unemployed, retired, or has no credit history, credit-worthiness shall be determined by the board, by a review of banking references and a review of net worth data with a minimum test requiring that net worth equal or exceed a sum ten times the size of each loan amount requested.

Subp. 4. Interest rate. The interest rate on the loan must be fixed by the board at a margin in excess of the "index rate" on the

bonds. If the bonds bear interest at more than one rate at any one time, the "index rate" will be the weighted average of the interest rates. The "index rate" may change on Thursday of each week. If the "index rate" increases or decreases, the interest rate on the loan increases or decreases automatically on the same day without notice to the borrower. If the board determines that the margin does not reflect the costs of the SELF program, the board may increase or decrease the margin within the limits of law. The board shall advise borrowers of changes in the margin. Information about how the interest rate is calculated will be available from the board or the financial aid office at the eligible school.

4850.0015 [Emergency] LOAN DISBURSEMENTS.

Subpart 1. Disbursement scheduling. Checks must be jointly payable to the borrower and the eligible school. If the loan period covers more than one academic or payment period, the loan must be disbursed in installments during each academic or payment period. (For example, if an eligible school's academic year is divided by quarters, the student's loan amount may be disbursed in three installments, once each quarter.) Disbursements must be made at the beginning of each academic term, unless the board requires or the school suggests other more appropriate dates.

Subp. 2. Disbursement when check arrives before loan period. A loan check must not be disbursed to the student before the start of the loan period. The school must wait until the student starts the loan period and after having checked enrollment and satisfactory academic progress requirements, must deliver the check to the student for the student's endorsement. The check must them be endorsed by the school. The school must next subtract from the proceeds the amount owed to it for the payment period, and make arrangements with the student for the use of any remaining proceeds. The remaining proceeds may be returned to the student or retained on account at the election of the student. The school may not keep on account any more money than it charges for that payment period without the written permission of the student.

Subp. 3. Disbursement when check arrives during the loan period. When the check arrives during the loan period, the school, having checked enrollment and satisfactory academic progress, shall endorse the check along with the student, subtract from the proceeds that amount owed to it for the payment period, and make arrangements with the student for the use of any remaining proceeds. The student has the same options for receiving any remaining proceeds as described in subpart 2. If the student is on a school approved leave of absence when the check arrives, the school may hold the check until the student returns. If the student fails to do so, the check must be returned to the board within 30 days from the date on the check.

Subp. 4. Disbursement when check arrives after loan period. When the check arrives after the loan period, the school, having checked enrollment and satisfactory academic progress, may endorse the check along with the student within 30 days from the end of the loan period, subtract from the proceeds that amount owed to it for the payment period, and make arrangements with the student for use of any remaining proceeds. The student has the same options for receiving any remaining proceeds as described in subpart 3. If the check arrives more than 30 days after the end of the loan period, the school must return the check to the board.

4850.0016 [Emergency] NONENROLLMENT, TRANSFER, AND WITHDRAWAL.

Subpart 1. Nonenrollment. A school shall return a check to the board for a student who fails to enroll within 30 days of the date on the check.

Subp. 2. Withdrawal and transfer to another eligible school. If the student fails to complete the loan period at the school where the loan application was certified and transfers to another eligible school, additional loan disbursements to the student shall be permitted at the new school as long as the board is notified by the student or the school of the new enrollment. The school must immediately notify the board of any borrower who withdraws for any purpose. Refunds due the student as a result of the process of withdrawing and transferring to another eligible school need not be returned to the board. The new school shall certify the enrollment of the transferring student.

Subp. 3. Withdrawal. In the event that a borrower, for any reason, fails to complete a loan period and withdraws at a time when the institution pays a refund of charges to the student, an amount equal to the ratio of the disbursed loan to the total amount of the borrower's financial aid package for the same period is to be subtracted from the institutional refund amount, returned to the board, and applied to the outstanding loan amount.

Subp. 4. Reduction of enrollment to less than half-time status. The school shall notify the board immediately when a student reduces enrollment below a half-time status, but remains enrolled. Such a student shall be permitted to remain in an in-school repayment period for no more than six months including normal school vacation periods before the transition period begins.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

4850.0017 [Emergency] REPAYMENT PROCEDURES.

Borrowers shall make payments of principal and interest according to the following schedule:

A. During the school period, the board or its agent shall bill borrowers for accrued interest once during each calendar quarter. Payments are due by the 15th day following the date of the billing.

B. During the transition period, the board or its agent shall bill borrowers for accrued interest once during each calendar month. Payments are due by the 15th day following the date of the billing.

C. During the payout period, the board or its agent shall provide borrowers with coupon books annually for the repayment of loan principal and interest. The fixed amount of the coupon shall reflect (a) the interest rate in effect on the date the coupons are prepared (assumed rate), and (b) the length of the payout period. The actual interest rate on the loan will continue to vary. Payments of interest at the assumed rate exceeding actual interest accrued must be applied to the outstanding loan principal. If interest payments at the assumed rates are less than interest accrued, the difference must be billed annually by the board. A minimum annual payment of $600 of loan principal and accrued interest must be required of all borrowers including SELF loans to spouses during the payout period.

D. Late charges must be billed to the borrower on the 30-day delinquent letter mailed by the board and are due and payable immediately.

E. Interest payments during the in-school period that are delinquent in excess of 120 days from the billing date must be capitalized. Capitalization of past due interest must be limited to two occasions before filing a claim.

F. A prepayment penalty must not be assessed against borrowers who elect to make unscheduled payments of loan principal.

G. The board may grant forbearances at its discretion when such action is considered by the board to be in the best interest of the program.

H. The board shall provide borrowers and cosigners with an annual statement of outstanding principal and interest paid during the previous calendar year.

4850.0018 [Emergency] CLAIMS.

Subpart 1. When filed. If after exercising due diligence, and after 120 days from the billing date the board fails to collect a payment from a borrower or the cosigner, a claim must be filed by the board with the program insurer for the outstanding principal of the loan plus accrued interest.

Subp. 2. When paid. Claims are paid in four categories:

A. A claim for death of the borrower must be filed by the board upon receipt of a death certificate. The cosigner's obligation to make any further payment of principal and interest or both on a SELF loan is canceled as of the date of death.

B. If the borrower becomes totally and permanently disabled, a claim must be filed by the board upon receipt of proper medical documentation. The cosigner's obligation to make any further payment of principal and interest on a SELF loan is canceled as of the date of medical documentation.

C. If a borrower or cosigner fails to perform any of the conditions of the promissory note, a claim must be filed by the board.

D. If a borrower is adjudicated bankrupt and has liability for the SELF loan discharged, the cosigner remains liable for unpaid principal and interest. If the cosigner fails to perform any of the conditions of the promissory note, the board shall file a claim.

Department of Human Services

Proposed Emergency Rules Relating to Medical Assistance for Home and Community-Based Services for the Mentally Retarded

Notice of Intent to Adopt Temporary Rules

The State Department of Human Services proposes to adopt the above-entitled temporary amendments to rules to amend in accordance with Laws of Minnesota 1984, Chapter 640, Section 28 the temporary rules author.zed by Laws of Minnesota 1983, Chapter 312.

Persons interested in these temporary amendments have until 4:30 p.m., March 8, 1985, to submit written comments. The pro-

In the Matter of the Proposed
Adoption of Temporary Rules of
the State Higher Education
Coordinating Board Governing
Student Educational Loan Fund

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Leslie Vitcak, being first duly sworn, deposes and says:

Than on the 11th day of February, 1985, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Temporary Rules by depositing in the State of Minnesota Central Mail System for first class mailing a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State Higher Education Coordinating Board for the purpose of receiving notice of the proposed adoption of rules by this agency.

Leslie Vitcak

Subscribed and sworn to before me
this 7th day of March, 1985.

Katherine A Fisch

KATHERINE A. FISCH
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
MY COMM. EXPIRES NOV. 21, 1988

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed
Adoption of Temporary Rules of
the State Higher Education
Coordinating Board Governing
Student Educational Loan Fund

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. §14.14, subd. 1, that their names be placed on file with and maintained by the State Higher Education Coordinating Board for the purpose of receiving notice of the proposed adoption of rules by this Higher Education Coordinating Board is accurate and complete as of 4:00 p.m., this 25th day of January, 1985.

Rosemary Herrera Hamerlinck

Subscribed and sworn to before me
this 7th day of March, 1985.

Judith A. Morgan

Judith A. Morgan
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires Sept. 16, 1989

STATE OF MINNESOTA
HIGHER EDUCATION COORDINATING BOARD

In the Matter of the Proposed
Adoption of Temporary Rules of
the Minnesota Higher Education
Coordinating Board Governing Student
Educational Loan Fund (Minnesota
Rules 4850.0010-4850.0018)

FINDINGS OF FACTS
AND CONCLUSIONS

FINDINGS OF FACT

1. At its meeting on January 17, 1985, the Minnesota Higher Education Coordinating Board (hereinafter the "Board") proposed that the above entitled rules be adopted after compliance with the procedure which authorizes an agency to propose and adopt temporary rules.

2. Pursuant thereto, the Request for Comment was published in the State Register on February 11, 1985, together with a copy of the proposed temporary rules (9 S.R. 1783-1788).

3. The Board's authority to promulgate the proposed temporary rules is contained in Minnesota Statutes 136A.111, and Minnesota Laws 1983, Chapter 258, Section 49.

4. Copies of the Request for Comment and of the proposed temporary rules were mailed to names appearing on the Board's mailing list which includes all presidents and executive directors of private and public post-secondary institutions.

5. No oral or written comments were received concerning Minnesota Rules 4850.0010-4850.0018, within the comment period.

6. Several facts have become evident which necessitated amendments to the Rule as Proposed. The following findings were made, as suggested by staff and an advisory committee:
   A. Correspondence schools do not participate in the Minnesota State Student Loan Program.
   B. Rule as Proposed was not clear in complying with the authorizing legislation.
   C. Rule as Proposed was not clear in properly defining the terms of a loan.
   D. Rule as Proposed contained unclear and poor operational procedures for repayment of a loan.

CONCLUSIONS

1. The Board gave due, timely and adequate legal notice of its intent to adopt temporary rules.

2. No one submitted oral or written comment concerning Minnesota Rules 4850.0010-4850.0018.

3. Several changes were made between the Temporary Rule as Proposed and the Rule as Adopted, as suggested by staff in conjunction with an advisory committee:
   A. Correspondence schools (4850.0011, Subpart 7, Subdivision 14) will be excluded from participation in the Student Educational Loan Fund program, except for those that have campus-based requirements or have face-to-face counseling available to students. The intent of this amendment is to help maintain the integrity of the SELF program in that the program is very detailed and will require fairly extensive explanation and counseling.
   B. The amendment to 4850.0011, Subpart 26, Item B-C, more clearly defines compliance with the authorizing legislation.
   C. The amendment to 4850.0017, Item C, describes "assumed rate" and "actual rate" and adds a third element required of the payout.
   D. An additional amendment to 4850.0017, Item C, includes a change to a mechanical procedure mentioned in the Rule as Proposed. Initially, the program intended to bill the borrower for amounts due as a result of the unlikely circumstance of the actual rate rising above the assumed rate. The amendment would add the amount due to the unpaid balance after calculating the interest for the next year's coupon book. This makes the procedure parallel to the procedure which would be followed in the opposite circumstance, i.e., where the assumed rate stays above the actual rate, and the borrower pays more than actual interest accrued.

      The amendments to this item do not change the intent of the program, but were made in order to make the rule clearer, and more consistent with rational operational procedures.

4. The Board has the statutory authority to promulgate the proposed temporary rule.

5. The Board has fulfilled all relevant, substantive and procedural requirements of law or rule.

Dated this 21st day of March, 1985.

Carol J. Kampen
President
Minnesota Higher Education
Coordinating Board

Attest by one other Board Member

CERTIFICATE OF BOARD'S
RESOLUTION ADOPTING RULES

I, Carol Kamper, do hereby certify that I am a member and the president of the Board of the Higher Education Coordinating Board, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board of the Higher Education Coordinating Board, duly and properly called and held on the 21st day of March, 1985, that a quorum was present at said meeting, that a majority of those present voted for the resolution, and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

"RESOLVED, that the temporary rules relating to Student - Educational Loan Fund be and they hereby are approved and adopted, pursuant to authority vested in us by Minnesota Statutes 136A.111, and MN Laws 1983, Chapter 258, Section 49, and that David A. Longanecker, executive director of the Board of the Higher Education Coordinating Board, be and hereby is authorized to sign and order adopting these temporary rules and further is authorized to perform the necessary acts to provide that these rules shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 21st day of March, 1985.

Carol J. Kamper
President of the Board

Attest by one other Board member

STATE OF MINNESOTA

HIGHER EDUCATION COORDINATING BOARD

In the Matter of the Proposed Adoption of Rules of the State Higher Education Coordinating Board Governing Student Educational Loan Fund

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, (Special Assistant Attorney General) Laura E. Mattson, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Laura E. Mattson

Special Assistant Attorney General

Dated: March 25, 1985

In the Matter of the Proposed Adoption of Temporary Rules of the Minnesota Higher Education Coordinating Board Governing the Student Educational Loan Fund

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Rosemary Herrera Hamerlinck, being first duly sworn, deposes and says:

That on the 25th day of March, 1985, in the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Rosemary Herrera Hamerlinck

Subscribed and sworn to before me this 25th day of March, 1985.

Judith A. Morgan

Judith A. Morgan
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires Sept. 16, 1989

STATE OF MINNESOTA
HIGHER EDUCATION COORDINATING BOARD

In the Matter of the Proposed
Adoption of Temporary Rules of
the Minnesota Higher Education
Coordinating Board Governing the
Student Educational Loan Fund
(MN Rules 4850.0010-4850.0018)

NOTICE OF SUBMISSION
TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes section 15.0412:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, March 25th 1985, for review as to form and legality. Pursuant to 1MCAR S 1.206B., the Attorney General will not approve the rules for at least 10 working days after receipt to allow any person or association time to comment on the legality of the rules, after which that Office will complete its review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, G-25 State Administration Building, 50 Sherburne Avenue, St. Paul, MN 55155, telephone 612/296-7030. Please note that the above-captioned rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

If you are interested in determining what changes, if any, were made in the proposed rules after publication in the State Register and before submission to the Attorney General, you may contact Rose Herrera Hamerlinck, Minnesota Higher Education Coordinating Board, Suite 400, Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101, telephone 612/296-7963.

DAVID A. LONGANECKER
Executive Director
Minnesota Higher Education
Coordinating Board