

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Minnesota Legislature
Office of the Revisor of Statutes

700 State Office Building
100 Constitution Avenue
St. Paul, Minnesota 55155-1297

Telephone
(612) 296-2868

December 2, 1987

Rita Desmond
Office of the Attorney General
204 Administration Building
St. Paul, MN 55155

Dear Ms. Desmond:

Enclosed is a copy of Department of Education Rules adopted on November 23, 1987 at 12 State Register, page 1107. They were approved by M. J. Casserly on November 2, 1987.

These rules were erroneously placed in a new chapter 3445, whereas the intent was to place them in existing chapter 3545. After conversations with Bob Buresh of the Department of Education and Rick Sands of the Revisor of Statutes Office, it was determined that the rules could be editorially renumbered to place them in the physical proximity of other rules relating to similar programs.

If you have any questions, please do not hesitate to call me.

Sincerely,

Barbara C. Moehrle
Rules Editing Supervisor
297-2958

BCM/nj
Enclosure

RECEIVED
ATTORNEY GENERAL'S OFFICE
DEC 04 1987
204 ADMINISTRATION BLDG.
50 SHERBURNE AVENUE
ST. PAUL, MN 55155

CHAPTER 3545

STATE BOARD OF EDUCATION

SCHOOL FINANCING

COOPERATIVE SECONDARY FACILITIES GRANTS

NOTE: Parts 3545.3000 to 3545.3024 were adopted as parts 3445.3000 to 3445.3024. These rules have been renumbered after adoption.

3545.3000 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply in parts 3545.3000 to 3545.3024.

Subp. 2. **CSFGA.** "CSFGA" means the Cooperative Secondary Facilities Grant Act, Minnesota Statutes, sections 124.491 to 124.496.

Subp. 3. **Pilot project.** "Pilot project" means a plan for a grant under parts 3545.3000 to 3545.3024 for acquiring, constructing, remodeling, or improving the building or site of cooperative secondary facilities to be financed in part by the grant. "Pilot project" may include equipment for the building, but not books, supplies, and materials.

Subp. 4. **Recipient.** "Recipient" means the applicant joint powers district that receives a grant for cooperative secondary facility construction from the commissioner of education under parts 3545.3000 to 3545.3024.

MS s 169.45

12 SR 1107

3545.3002 APPLICATIONS FOR COOPERATIVE SECONDARY FACILITIES GRANTS.

Subpart 1. **Who may apply.** A group of three or more school districts, with kindergarten to grade 12 enrollments in each district of no more than 1,000 pupils and a combined current school year October 1 enrollment of at least 240 pupils in grades 10 to 12, or 320 pupils in grades 9 to 12, or 480 pupils in grades 7 to 12 may apply for a cooperative secondary facilities grant under parts 3545.3000 to 3545.3024 if they have entered into a joint powers agreement as provided by Minnesota Statutes, section 471.59 to govern the cooperative secondary facilities.

Subp. 2. **Application forms.** An application for a cooperative secondary facilities grant must be made on an application form available from the State Department of Education.

MS s 169.45

12 SR 1107

3545.3004 APPLICATION CONTENTS.

Subpart 1. **Information required.** The application must include the information required in this part.

Subp. 2. **Resolution by joint powers board.** The applicant must provide a copy of the resolution stating the proposed costs of the project, the purpose for which debt is to be incurred,

and an estimate of the dates when the facilities for which the grant is requested will be contracted for and completed.

Subp. 3. **Certificate by clerk and treasurer of joint powers board.** The applicant must provide a copy of the certificate by the clerk and treasurer of the joint powers board showing the current outstanding indebtedness of each member district.

Subp. 4. **Certificate by county auditor.** The applicant must provide a copy of a certificate by the county auditor of each county in which a portion of the joint powers district is located showing the information in the auditor's official records that is required to be used in computing the debt limit of the districts under Minnesota Statutes, section 475.53, subdivision 4. For each member district's outstanding bonds, the certificate shall show the amount originally issued, the purpose for which issued, the date of issue, the amount remaining unpaid as of the date of the resolution required in subpart 2, and the interest rates and due dates and amounts of principal remaining.

Subp. 5. **Review and comment.** The applicant must submit a copy of the review and comment by the commissioner of education for the proposed facilities as provided by Minnesota Statutes, section 121.15 regardless of the amount of capital expenditure required.

Subp. 6. **Pupil enrollment data.** The applicant must provide for each member district a copy of current school year, October 1 enrollment data reported on the Fall Enrollment Report submitted to and audited by the Statistics Section, State Department of Education.

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Subp. 7. **Educational plan.** The applicant must provide a copy of the educational plan for the proposed project. The plan must contain the following information:

A. a description of how the planned secondary facilities will result in the joint powers district meeting the State Board of Education curriculum requirements in parts 3500.2010 and 3500.2110;

B. a description of how the education program to be developed will provide for more learning opportunities and course offerings for pupils than are currently available in any single member districts;

C. evidence that a plan to assess increased levels of student performance is provided;

D. provisions for instruction of any resident students in other districts when distance to the secondary education facilities makes attendance at the facilities unreasonably difficult or impractical;

E. a combined staff seniority list for all member districts as developed by the joint powers board; and

F. evidence that the development of the educational plan has included input from both community and professional staff, parents, and students.

Subp. 8. **Building program.** The applicant must provide a copy of the cooperative secondary facilities building program. The program must contain the following information:

A. the information required for review and comment under Minnesota Statutes, section 121.15, subdivision 7; and

B. a statement of need including reasons why the current secondary facilities are inadequate, unsafe, or inaccessible to the handicapped.

Subp. 9. **Preliminary plans.** The applicant must provide preliminary plans for the project, prepared by a Minnesota registered architect, including a site plan and vicinity maps, subsurface soil analysis, schematic design studies, and outlined specifications.

Subp. 10. **Engineer's report.** When the project is the remodeling of an existing building or expansion of an existing building, the applicant must provide a report by an engineer licensed in Minnesota that evaluates the structural soundness, fire, and safety hazards of the existing building.

Subp. 11. **Architect's certification.** The applicant must provide a certificate from a Minnesota registered architect that the project's facilities are designed to make them accessible to and usable by physically disabled persons as required by Minnesota Statutes, sections 471.465 to 471.469.

Subp. 12. **Budget.** The applicant must provide the project budget including estimated expenditures for site acquisition and preparation, consultant fees, planning costs, and administration costs; contracts for the construction for a new building and expansion or remodeling of an existing building; architectural, engineering, and inspection costs; initial equipment, furniture, utilities, and floor coverings; and moving expenses for existing books, equipment, supplies, and furniture.

Subp. 13. **Evidence of title to land.** The applicant must provide evidence that it holds fee title to the project site including right of access, or that the applicant can complete negotiations for fee title to the site within 30 days of approval of the application.

Subp. 14. **Assurances.** The applicant must give written assurance of compliance with all provisions of the CSFGA and all applicable state laws and rules, including the following:

A. no more than one superintendent shall be employed by the joint powers board as a result of the cooperative secondary facilities agreement;

B. to the extent possible the joint powers board is encouraged to provide for severance pay for early retirement incentives under Minnesota Statutes, section 125.611, for any teacher or administrator who is placed on unrequested leave as a result of the cooperative secondary facilities agreement;

C. the applicant must comply with Minnesota Statutes, sections 177.41 to 177.43, relating to prevailing wage rates;

D. the applicant shall assure that the funds allotted to it will be used only for cooperative secondary facility construction activities in this item. The activities are:

(1) erection costs for new buildings for a cooperative secondary facility;

(2) costs for expansion, remodeling, and alteration of existing buildings for a cooperative secondary facility;

(3) site acquisition, grading, and improvement of land on which the secondary facility is to be located;

(4) architectural, engineering, and inspection expenses incurred after site selection;

(5) moving expenses for existing books, supplies, equipment, and furniture;

(6) expenses related to acquisition and installation of initial equipment including all necessary building fixtures, utilities, and furniture;

(7) services of consultants related to the pilot project; and

(8) expenses other than interest and the carrying charges on bonds related to the acquisition of an existing building or of land on which there is to be construction of new buildings or expansion of existing buidings to be used for cooperative secondary facilities. The expenses must constitute an actual cost or transfer of public funds; and

E. the applicant shall assure that the funds allotted to it as a recipient for cooperative secondary facilities construction are not used for the purchase of books, materials, or other supplies.

Subp. 15. **Additional information.** The State Department of Education may request additional information from the applicant to clarify and evaluate the application. If the additional information requested has not been received at the State Department of Education within ten working days after the request for additional information, the grant application shall be evaluated and approved or disapproved solely on the basis of the information it contains.

MS s 169.45

12 SR 1107

3545.3005 APPLICATION DATES.

For state fiscal year 1988 only, the cooperative secondary facilities grant application must be filed on or before November 16, 1987, for January 1, 1988, grant award consideration, and on or before April 15, 1988, for July 1, 1988, grant award consideration. In subsequent years, applications must be filed on or before November 1 and April 15 for January 1 and July 1 grant award consideration respectively, unless a different date is established by the commissioner of education and published in Education Update, official publication of the State Department of Education, not less than 60 days before the application due date.

MS s 169.45

12 SR 1107

3545.3008 RECEIPT OF APPLICATION.

When an application is received, the State Department of Education shall obtain information from the commissioner of revenue, public utilities commission, or other official records that are required to be used in computing the debt limit of the joint powers district under Minnesota Statutes, section 475.53, subdivision 4. If any joint powers district is found not qualified according to the requirements of CSFGA, it shall be notified promptly by the commissioner of education.

MS s 169.45

12 SR 1107

3545.3010 MAXIMUM GRANT.

Grant funds provided under this program may constitute up to 75 percent of the approved construction costs of the cooperative secondary education facilities. To the extent money is available, the commissioner of education may approve not more than two pilot projects from the applications submitted under this chapter.

MS s 169.45

12 SR 1107

3545.3014 APPLICATION RATING.

To measure relative need, all applications must be rated in part by State Department of Education staff. The rating results and application materials must be forwarded under part 3545.3018 to the commissioner of education.

A. A numerical rating must be determined for each pilot project based on the number of school districts in the joint powers district and their combined current secondary grade enrollment. Pilot projects will be awarded points as follows:

(1) pilot projects where the joint powers district contains three member school districts, eight points, and three points for each additional member school district up to six districts; and

(2) pilot projects where the most recent October 1 student enrollment of the joint powers district in the secondary grades to be contained in the cooperative facilities averages 80 or more students per grade, eight points.

B. A numerical rating for the adequacy of each of the member district's secondary (grades seven through 12 inclusive) facilities must be determined based on the age of the secondary facilities currently used. Pilot projects will be awarded points as follows:

(1) where 50 percent or more of the total secondary square footage was occupied for school use during or before 1920, five points;

(2) where 50 percent or more of the total secondary square footage was occupied for school use during or before 1945, three points;

(3) where 50 percent or more of the total secondary square footage was occupied for school use during or before 1970, one point; and

(4) where a member district does not currently provide its own secondary facilities for 50 percent or more of its students on a full-time basis, three points.

C. A numerical rating based on the adequacy of the educational plan submitted by the joint powers district shall be assigned to each pilot project as follows:

(1) additional, specific learning outcomes provided through more learning opportunities and course offerings for students than currently available in any member district, and a plan to assess the learning outcomes and increased levels of student performance, up to 18 points;

(2) evidence of input in the development of the educational plan by professional staff, up to eight points;

(3) evidence of input in the development of the educational plan by community members, parents, and students, up to eight points;

(4) evidence of meeting the State Board of Education curriculum requirements, eight points; and

(5) a plan for more efficient use of staff than currently available in any member district, up to eight points.

D. A numerical rating based on the adequacy of the provisions for instruction of any resident students in other districts when distance to the secondary education facilities makes attendance at the facilities unreasonably difficult or impractical, up to ten points.

E. A numerical rating must be determined for each pilot project based upon the school tax burden of the joint powers district. The weighted average auditor mill rate must be calculated for each joint powers district. Pilot projects must be awarded points as follows:

(1) if the weighted average auditor mill rate is in the 75th percentile or above among Minnesota school districts, ten points;

(2) if the weighted average auditor mill rate is at or above the 50th percentile but below the 75th percentile among Minnesota school districts, five points;

(3) if the weighted average auditor mill rate is below the 50th percentile among Minnesota school districts, zero points.

MS s 169.45

12 SR 1107

3545.3018 APPROVAL OF PILOT PROJECTS.

State Department of Education staff shall advise the commissioner of education of applications meeting the requirements of parts 3545.3000 to 3545.3024 and the results of the application rating performed in part 3545.3014. An application must receive a minimum of 75 application rating points under part 3545.3014 in order to receive consideration for a grant award by the commissioner of education. The commissioner of education shall award grants based on the total points assigned in the application rating and total grant funds available. The commissioner shall use state geographic balance as a deciding factor if application ratings are within ten points of each other.

The commissioner of education must not approve an application for a grant unless the facility receives a favorable review and comment as provided in Minnesota Statutes, section 121.15 and the requirements under parts 3545.3000 to 3545.3024 are fully complied with. The commissioner shall promptly certify to each qualified joint powers district the amount, if any, of the grant awarded.

MS s 169.45

12 SR 1107

3545.3020 REFERENDUM; BOND ISSUE.

Within 90 days after being awarded a grant under part 3545.3018, the joint powers board shall submit the question of authorizing the borrowing of funds for the cooperative secondary facilities to the voters of the member districts at a special election. The question submitted shall state the total amount of funding needed from all sources. A majority of those voting in the affirmative on the question is sufficient to authorize the joint powers board to issue the bonds on public sale in accordance with Minnesota Statutes, chapter 475. The clerk of the joint powers board must certify the vote of the bond election to the State Department of Education. If the bonds are authorized by the voters, the State Department of Education shall notify the county auditor of each county in which a member district is located that the grant amount certified in part 3545.3018 is available and appropriated for payment of principal and interest on the bonds issued under this part, and the auditor shall reduce the joint power district's debt service levies accordingly. If a majority of those voting on the question do not vote in the affirmative, the grant must be canceled.

MS s 169.45

12 SR 1107

3545.3022 COOPERATIVE SECONDARY FACILITIES GRANT CONTRACT.

Each grant must be evidenced by a contract between the joint powers board and the state acting through the commissioner of education. A contract must be entered into within 15 months after each grant is awarded. It obligates the joint powers board and the state acting through the commissioner of education. It obligates the state to pay to the joint powers board an amount computed under part 3545.3018, upon receipt by the State Department of Education of a certified resolution of the joint powers board estimating the costs, and verifying that contracts have been entered into for construction or remodeling of the facilities for which the grant is awarded and that bonds of the joint powers district have been issued and sold in the amount necessary to pay all pilot project costs in excess of the amount of the grant.

MS s 169.45

12 SR 1107

3545.3024 RETURN OF GRANT FUNDS.

If a project is completed for an amount lower than the amount in the project budget in the application, or if the recipient is unable to complete the pilot project, the recipient shall amend its grant contract and return any unexpended funds to the State Department of Education. The grant amount must be reduced by the same percentage as the total project budget has been reduced. The commissioner of education shall offer those returned funds to the other grant recipient under part 3545.3018, if that grant recipient's pilot project was funded at less than the requested amount. That recipient shall have 60 days to modify its project to the satisfaction of the State Department of Education to expend an increased grant amount up to the amount in its application.

MS s 169.45

12 SR 1107

RULE REVIEW CHECKLIST

File No. 1410 | Docket No. 05.0009.0020

DATE RECEIVED 10/15/87 | ADOPTED W/O HEARING X

REVIEW DATE 10/24/87 | EMERGENCY RULE

DUE DATE 10/29/87

REVISOR APPROVED

APPROVED ✓ 10/28/87 JA2 | REVISOR DISAPPROVED

DISAPPROVED | FILED W/SEC.STATE

WITHDRAWN | RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

~~Notice to Solicit Outside Information/Opinion~~

~~Date published in State Register~~

~~Comments~~

~~Petition for Adoption of a Rule~~

~~Board's Authorizing Resolution~~

✓ Proposed rule

yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule

~~116J.035 subd 2~~ as amended by laws of Mn. 1987 ch 312, Art. 1, § 8 subd 3. Statutory Authority

NO Small Business Statement

ND Expenditure of public money statement

yes Signature

✓ Statement of Need and Reasonableness

yes Small Business Statement

NO Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

8/11/87 Date 30/(25) days before adoption

✓ Publication in State Register

10/8/87 Date 30/(25) days before adoption

~~Resolution Adopting~~

✓ Findings of Fact, Conclusions & Order Adopting

10/8/87 Date

~~Written requests, submissions or comments~~

✓ Declaration of attorney

Christopher Sandberg Name of SAAG representing agency

~~Notice of Submission to Attorney General~~

~~Affidavit of Mailing Notice to Attorney General~~

6-2899

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : November 5, 1987

TO : BOB BURESH
Department of Education

FROM : MARTHA CASSERLY
Special Assistant
Attorney General

PHONE : 6-6204

SUBJECT : In the Matter of the Adopted Rule Relating to Cooperative Secondary Facilities Grants

The above-referenced rule has been approved as to its legality by the Attorney General on November 2, 1987.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth 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:nah
Enclosures

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

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

AG Copy

Department of Education

Adopted Permanent Rules Relating to Cooperative Secondary Facilities Grants

Rules as Adopted

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Subpart 1. **Scope.** The definitions in this part apply in parts 3445.3000 to 3445.3024.

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(3) site acquisition, grading, and improvement of land on which the secondary facility is to be located;

(4) architectural, engineering, and inspection expenses incurred after site selection;

(5) moving expenses for existing books, supplies, equipment, and furniture;

(6) expenses related to acquisition and installation of initial equipment including all necessary building fixtures, utilities, and furniture;

(7) services of consultants related to the pilot project; and

(8) expenses other than interest and the carrying charges on bonds related to the acquisition of an existing building or of land on which there is to be construction of new buildings or expansion of existing buidings to be used for cooperative secondary facilities. The expenses must constitute an actual cost or transfer of public funds; and

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(1) if the weighted average auditor mill rate is in the 75th percentile or above among Minnesota school districts, ten points;

(2) if the weighted average auditor mill rate is at or above the 50th percentile but below the 75th percentile among Minnesota school districts, five points;

(3) if the weighted average auditor mill rate is below the 50th percentile among Minnesota school districts, zero points.

3445.3018 APPROVAL OF PILOT PROJECTS.

State Department of Education staff shall advise the commissioner of education of applications meeting the requirements of parts 3445.3000 to 3445.3024 and the results of the application rating performed in part 3445.3014. An application must receive a minimum of 75 application rating points under part 3445.3014 in order to receive consideration for a grant award by the commissioner of education. The commissioner of education shall award grants based on the total points assigned in the application rating and total grant funds available. The commissioner shall use state geographic balance as a deciding factor if application ratings are within ten points of each other.

The commissioner of education must not approve an application for a grant unless the facility receives a favorable review and comment as provided in Minnesota Statutes, section 121.15 and the requirements under parts 3445.3000 to 3445.3024 are fully complied with. The commissioner shall promptly certify to each qualified joint powers district the amount, if any, of the grant awarded.

3445.3020 REFERENDUM; BOND ISSUE.

Within 90 days after being awarded a grant under part 3445.3018, the joint powers board shall submit the question of authorizing the borrowing of funds for the cooperative secondary facilities to the voters of the member districts at a special election. The question submitted shall state the total amount of funding needed from all sources. A majority of those voting in the affirmative on the question is sufficient to authorize the joint powers board to issue the bonds on public sale in accordance with Minnesota Statutes, chapter 475. The clerk of the joint powers board must certify the vote of the bond election to the State Department of Education. If the bonds are authorized by the voters, the State Department of Education shall notify the county auditor of each county in which a member district is located that the grant amount certified in part

3445.3018 is available and appropriated for payment of principal and interest on the bonds issued under this part, and the auditor shall reduce the joint power district's debt service levies accordingly. If a majority of those voting on the question do not vote in the affirmative, the grant must be canceled.

3445.3022 COOPERATIVE SECONDARY FACILITIES GRANT CONTRACT.

Each grant must be evidenced by a contract between the joint powers board and the state acting through the commissioner of education. A contract must be entered into within 15 months after each grant is awarded. It obligates the joint powers board and the state acting through the commissioner of education. It obligates the state to pay to the joint powers board an amount computed under part 3445.3018, upon receipt by the State Department of Education of a certified resolution of the joint powers board estimating the costs, and verifying that contracts have been entered into for construction or remodeling of the facilities for which the grant is awarded and that bonds of the joint powers district have been issued and sold in the amount necessary to pay all pilot project costs in excess of the amount of the grant.

3445.3024 RETURN OF GRANT FUNDS.

If a project is completed for an amount lower than the amount in the project budget in the application, or if the recipient is unable to complete the pilot project, the recipient shall amend its grant contract and return any unexpended funds to the State Department of Education. The grant amount must be reduced by the same percentage as the total project budget has been reduced. The commissioner of education shall offer those returned funds to the other grant recipient under part 3445.3018, if that grant recipient's pilot project was funded at less than the requested amount. That recipient shall have 60 days to modify its project to the satisfaction of the State Department of Education to expend an increased grant amount up to the amount in its application.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
NOV - 3 1987
Joan Anderson Growe
Secretary of State
11:05 AM

APPROVED AS TO FORM AND LEGALITY
Nov 2 1987
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M J Carpenter
SPECIAL ASSISTANT ATTORNEY GENERAL

Minnesota Department of Education

Capitol Square 550 Cedar Street Saint Paul, Minnesota 55101 Phone:

THE STATE BOARD OF EDUCATION'S

AUTHORIZING RESOLUTION

"RESOLVED, that Ruth E. Randall, secretary of the State Board of Education, is hereby granted the authority and directed to sign the Notice of the Board's Intent to Adopt A Rule Without a Public Hearing governing Cooperative Secondary Facilities Grants Minnesota Rules, parts 3445.3000 to 3445.3024, to all persons who have registered their names with the Board for that purpose and publish the Notice and rule in the State Register, and to perform any and all acts incidental thereto."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 11th day of August, 1987.

Ruth E. Randall

Ruth E. Randall
Secretary, State Board of Education

Marjorie L. Johnson

Attest by one Board member

Minnesota Department of Education

Capitol Square 550 Cedar Street Saint Paul, Minnesota 55101 Phone:

CERTIFICATE OF THE STATE BOARD

OF EDUCATION'S AUTHORIZING RESOLUTION

I, Ruth Randall, do hereby certify that I am the secretary of the State Board of Education, 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 State Board of Education duly and properly called and held on the 11th day of August, 1987, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

"Resolved, that Ruth E. Randall, secretary of the State Board of Education, is hereby granted the authority and directed to sign the Notice of the Board's Intent to Adopt A Rule Without a Public Hearing governing Cooperative Secondary Facilities Grants Minnesota Rules, parts 3445.30000 to 3445.3024, to all persons who have registered their names with the Board for that purpose and publish the Notice and rule in the State Register, and to perform any and all acts incidental thereto."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 11th day of August, 1987.

Ruth E. Randall

Ruth E. Randall
Secretary, State Board of Education

Marjorie L. Johnson

Attest by one Board member

Department of Education

Proposed Permanent Rules Relating to Cooperative Secondary Facilities Grants

Rules as Proposed (all new material)

3445.3000 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply in parts 3445.3000 to 3445.3024.

Subp. 2. **CSFGA.** "CSFGA" means the Cooperative Secondary Facilities Grant Act, Minnesota Statutes, sections 124.491 to 124.496.

Subp. 3. **Pilot project.** "Pilot project" means a plan for a grant under parts 3445.3000 to 3445.3024 for acquiring, constructing, remodeling, or improving the building or site of cooperative secondary facilities to be financed in part by the grant. "Pilot project" may include equipment for the building, but not books, supplies, and materials.

Subp. 4. **Recipient.** "Recipient" means the applicant joint powers district that receives a grant for cooperative secondary facility construction from the commissioner of education under parts 3445.3000 to 3445.3024.

3445.3002 APPLICATIONS FOR COOPERATIVE SECONDARY FACILITIES GRANTS.

Subpart 1. **Who may apply.** A group of three or more school districts, with kindergarten to grade 12 enrollments in each district of no more than 1,000 pupils and a combined current school year October 1 enrollment of at least 240 pupils in grades 10 to 12, or 320 pupils in grades 9 to 12, or 480 pupils in grades 7 to 12 may apply for a cooperative secondary facilities grant under parts 3445.3000 to 3445.3024 if they have entered into a joint powers agreement as provided by Minnesota Statutes, section 471.59 to govern the cooperative secondary facilities.

Subp. 2. **Application forms.** An application for a

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cooperative secondary facilities grant must be made on an application form available from the State Department of Education.

3445.3004 APPLICATION CONTENTS.

Subpart 1. **Information required.** The application must include the information required in this part.

Subp. 2. **Resolution by joint powers board.** The applicant must provide a copy of the resolution stating the proposed costs of the project, the purpose for which debt is to be incurred, and an estimate of the dates when the facilities for which the grant is requested will be contracted for and completed.

Subp. 3. **Certificate by clerk and treasurer of joint powers board.** The applicant must provide a copy of the certificate by the clerk and treasurer of the joint powers board showing the current outstanding indebtedness of each member district.

Subp. 4. **Certificate by county auditor.** The applicant must provide a copy of a certificate by the county auditor of each county in which a portion of the joint powers district is located showing the information in the auditor's official records that is required to be used in computing the debt limit of the districts under Minnesota Statutes, section 475.53, subdivision 4. For each member district's outstanding bonds, the certificate shall show the amount originally issued, the purpose for which issued, the date of issue, the amount remaining unpaid as of the date of the resolution required in subpart 2, and the interest rates and due dates and amounts of principal remaining.

Subp. 5. **Review and comment.** The applicant must submit a copy of the review and comment by the commissioner of education for the proposed facilities as provided by Minnesota Statutes, section 121.15 regardless of the amount of capital expenditure required.

Subp. 6. **Pupil enrollment data.** The applicant must provide for each member district a copy of current school year,

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October 1 enrollment data reported on the Fall Enrollment Report submitted to and audited by the Statistics Section, State Department of Education.

The applicant must also prepare and submit a report based on the current pupil enrollment data, broken down by grades kindergarten through grade 12 for all member districts combined.

Subp. 7. **Educational plan.** The applicant must provide a copy of the educational plan for the proposed project. The plan must contain the following information:

A. a description of how the planned secondary facilities will result in the joint powers district meeting the State Board of Education curriculum requirements in parts 3500.2010 and 3500.2110;

B. a description of how the education program to be developed will provide for more learning opportunities and course offerings for pupils than are currently available in any single member districts;

C. evidence that a plan to assess increased levels of student performance is provided;

D. provisions for instruction of any resident students in other districts when distance to the secondary education facilities makes attendance at the facilities unreasonably difficult or impractical;

E. a combined staff seniority list for all member districts as developed by the joint powers board; and

F. evidence that the development of the educational plan has included input from both community and professional staff, parents, and students.

Subp. 8. **Building program.** The applicant must provide a copy of the cooperative secondary facilities building program. The program must contain the following information:

A. the information required for review and comment under Minnesota Statutes, section 121.15, subdivision 7; and

B. a statement of need including reasons why the current secondary facilities are inadequate, unsafe, or inaccessible to the handicapped.

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Subp. 9. **Preliminary plans.** The applicant must provide preliminary plans for the project, prepared by a Minnesota registered architect, including a site plan and vicinity maps, subsurface soil analysis, schematic design studies, and outlined specifications.

Subp. 10. **Engineer's report.** When the project is the remodeling of an existing building or expansion of an existing building, the applicant must provide a report by an engineer licensed in Minnesota that evaluates the structural soundness, fire, and safety hazards of the existing building.

Subp. 11. **Architect's certification.** The applicant must provide a certificate from a Minnesota registered architect that the project's facilities are designed to make them accessible to and usable by physically disabled persons as required by Minnesota Statutes, sections 471.465 to 471.469.

Subp. 12. **Budget.** The applicant must provide the project budget including estimated expenditures for site acquisition and preparation, consultant fees, planning costs, and administration costs; contracts for the construction for a new building and expansion or remodeling of an existing building; architectural, engineering, and inspection costs; initial equipment, furniture, utilities, and floor coverings; and moving expenses for existing books, equipment, supplies, and furniture.

Subp. 13. **Evidence of title to land.** The applicant must provide evidence that it holds fee title to the project site including right of access, or that the applicant can complete negotiations for fee title to the site within 30 days of approval of the application.

Subp. 14. **Assurances.** The applicant must give written assurance of compliance with all provisions of the CSFGA and all applicable state laws and rules, including the following:

A. no more than one superintendent shall be employed by the joint powers board as a result of the cooperative secondary facilities agreement;

B. to the extent possible the joint powers board is encouraged to provide for severance pay for early retirement

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incentives under Minnesota Statutes, section 125.611, for any teacher or administrator who is placed on unrequested leave as a result of the cooperative secondary facilities agreement;

C. the applicant must comply with Minnesota Statutes, sections 177.41 to 177.43, relating to prevailing wage rates;

D. the applicant shall assure that the funds allotted to it will be used only for cooperative secondary facility construction activities in this item. The activities are:

(1) erection costs for new buildings for a cooperative secondary facility;

(2) costs for expansion, remodeling, and alteration of existing buildings for a cooperative secondary facility;

(3) site acquisition, grading, and improvement of land on which the secondary facility is to be located;

(4) architectural, engineering, and inspection expenses incurred after site selection;

(5) moving expenses for existing books, supplies, equipment, and furniture;

(6) expenses related to acquisition and installation of initial equipment including all necessary building fixtures, utilities, and furniture;

(7) services of consultants related to the pilot project; and

(8) expenses other than interest and the carrying charges on bonds related to the acquisition of an existing building or of land on which there is to be construction of new buildings or expansion of existing buidings to be used for cooperative secondary facilities. The expenses must constitute an actual cost or transfer of public funds; and

E. the applicant shall assure that the funds allotted to it as a recipient for cooperative secondary facilities construction are not used for the purchase of books, materials, or other supplies.

Subp. 15. **Additional information.** The State Department of Education may request additional information from the applicant

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to clarify and evaluate the application. If the additional information requested has not been received at the State Department of Education within ten working days after the request for additional information, the grant application shall be evaluated and approved or disapproved solely on the basis of the information it contains.

3445.3005 APPLICATION DATES.

For state fiscal year 1988 only, the cooperative secondary facilities grant application must be filed on or before November 16, 1987, for January 1, 1988, grant award consideration, and on or before April 15, 1988, for July 1, 1988, grant award consideration. In subsequent years, applications must be filed on or before November 1 and April 15 for January 1 and July 1 grant award consideration respectively, unless a different date is established by the commissioner of education and published in Education Update, official publication of the State Department of Education, not less than 60 days before the application due date.

3445.3008 RECEIPT OF APPLICATION.

When an application is received, the State Department of Education shall obtain information from the commissioner of revenue, public utilities commission, or other official records that are required to be used in computing the debt limit of the joint powers district under Minnesota Statutes, section 475.53, subdivision 4. If any joint powers district is found not qualified according to the requirements of CSFGA, it shall be notified promptly by the commissioner of education.

3445.3010 MAXIMUM GRANT.

Grant funds provided under this program may constitute up to 75 percent of the approved construction costs of the cooperative secondary education facilities. To the extent money is available, the commissioner of education may approve not more than two pilot projects from the applications submitted under this chapter.

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3445.3014 APPLICATION RATING.

To measure relative need, all applications must be rated in part by State Department of Education staff. The rating results and application materials must be forwarded under part 3445.3018 to the commissioner of education.

A. A numerical rating must be determined for each pilot project based on the number of school districts in the joint powers district and their combined current secondary grade enrollment. Pilot projects will be awarded points as follows:

(1) pilot projects where the joint powers district contains three member school districts, eight points, and three points for each additional member school district up to six districts; and

(2) pilot projects where the most recent October 1 student enrollment of the joint powers district in the secondary grades to be contained in the cooperative facilities averages 80 or more students per grade, eight points.

B. A numerical rating for the adequacy of each of the member district's secondary (grades seven through 12 inclusive) facilities must be determined based on the age of the secondary facilities currently used. Pilot projects will be awarded points as follows:

(1) where 50 percent or more of the total secondary square footage was occupied for school use during or before 1920, five points;

(2) where 50 percent or more of the total secondary square footage was occupied for school use during or before 1945, three points;

(3) where 50 percent or more of the total secondary square footage was occupied for school use during or before 1970, one point; and

(4) where a member district does not currently provide its own secondary facilities for 50 percent or more of its students on a full-time basis, three points.

C. A numerical rating based on the adequacy of the

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educational plan submitted by the joint powers district shall be assigned to each pilot project as follows:

(1) additional, specific learning outcomes provided through more learning opportunities and course offerings for students than currently available in any member district, and a plan to assess the learning outcomes and increased levels of student performance, up to 18 points;

(2) evidence of input in the development of the educational plan by professional staff, up to eight points;

(3) evidence of input in the development of the educational plan by community members, parents, and students, up to eight points;

(4) evidence of meeting the State Board of Education curriculum requirements, eight points; and

(5) a plan for more efficient use of staff than currently available in any member district, up to eight points.

D. A numerical rating based on the adequacy of the provisions for instruction of any resident students in other districts when distance to the secondary education facilities makes attendance at the facilities unreasonably difficult or impractical, up to ten points.

E. A numerical rating must be determined for each pilot project based upon the school tax burden of the joint powers district. The weighted average auditor mill rate must be calculated for each joint powers district. Pilot projects must be awarded points as follows:

(1) if the weighted average auditor mill rate is in the 75th percentile or above among Minnesota school districts, ten points;

(2) if the weighted average auditor mill rate is at or above the 50th percentile but below the 75th percentile among Minnesota school districts, five points;

(3) if the weighted average auditor mill rate is below the 50th percentile among Minnesota school districts, zero points.

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3445.3018 APPROVAL OF PILOT PROJECTS.

State Department of Education staff shall advise the commissioner of education of applications meeting the requirements of parts 3445.3000 to 3445.3024 and the results of the application rating performed in part 3445.3014. An application must receive a minimum of 75 application rating points under part 3445.3014 in order to receive consideration for a grant award by the commissioner of education. The commissioner of education shall award grants based on the total points assigned in the application rating and total grant funds available. The commissioner shall use state geographic balance as a deciding factor if application ratings are within ten points of each other.

The commissioner of education must not approve an application for a grant unless the facility receives a favorable review and comment as provided in Minnesota Statutes, section 121.15 and the requirements under parts 3445.3000 to 3445.3024 are fully complied with. The commissioner shall promptly certify to each qualified joint powers district the amount, if any, of the grant awarded.

3445.3020 REFERENDUM; BOND ISSUE.

Within 90 days after being awarded a grant under part 3445.3018, the joint powers board shall submit the question of authorizing the borrowing of funds for the cooperative secondary facilities to the voters of the member districts at a special election. The question submitted shall state the total amount of funding needed from all sources. A majority of those voting in the affirmative on the question is sufficient to authorize the joint powers board to issue the bonds on public sale in accordance with Minnesota Statutes, chapter 475. The clerk of the joint powers board must certify the vote of the bond election to the State Department of Education. If the bonds are authorized by the voters, the State Department of Education shall notify the county auditor of each county in which a member district is located that the grant amount certified in part

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3445.3018 is available and appropriated for payment of principal and interest on the bonds issued under this part, and the auditor shall reduce the joint power district's debt service levies accordingly. If a majority of those voting on the question do not vote in the affirmative, the grant must be canceled.

3445.3022 COOPERATIVE SECONDARY FACILITIES GRANT CONTRACT.

Each grant must be evidenced by a contract between the joint powers board and the state acting through the commissioner of education. A contract must be entered into within 15 months after each grant is awarded. It obligates the joint powers board and the state acting through the commissioner of education. It obligates the state to pay to the joint powers board an amount computed under part 3445.3018, upon receipt by the State Department of Education of a certified resolution of the joint powers board estimating the costs, and verifying that contracts have been entered into for construction or remodeling of the facilities for which the grant is awarded and that bonds of the joint powers district have been issued and sold in the amount necessary to pay all pilot project costs in excess of the amount of the grant.

3445.3024 RETURN OF GRANT FUNDS.

If a project is completed for an amount lower than the amount in the project budget in the application, or if the recipient is unable to complete the pilot project, the recipient shall amend its grant contract and return any unexpended funds to the State Department of Education. The grant amount must be reduced by the same percentage as the total project budget has been reduced. The commissioner of education shall offer those returned funds to the other grant recipient under part 3445.3018, if that grant recipient's pilot project was funded at less than the requested amount. That recipient shall have 60 days to modify its project to the satisfaction of the State Department of Education to expend an increased grant amount up to the amount in its application.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Cooperative Secondary Facilities Grants

AGENCY: Department of Education

MINNESOTA RULES: Chapter 3445

The attached rules are approved for publication in the State Register

Richard J. Sands
Senior Assistant Revisor

Minnesota Department of Education

Capitol Square 550 Cedar Street Saint Paul, Minnesota 55101 Phone:

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

State Board of Education
Department of Education

In the Matter of the Proposed Adoption of the Rule of the State Board of Education Governing Cooperative Secondary Facilities Grants Minnesota Rules, parts 3445.3000 to 3445.3024.

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

Notice is hereby given that the State Board of Education intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statute 169.45.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written reqests for a public hearing must be submitted to:

Mildred K. Mueller, Ed.D.
Education Statistics
737 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101

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

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

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Mildred Mueller upon request.

The State Board of Education estimates that there will be no cost to small business or to local school districts in the state in order to implement the proposed rule.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the 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 a written request to Mildred Mueller.

State Of Minnesota

State Board of Education

8-11-87

Date

Ruth E. Randall

Ruth E. Randall

Secretary, State Board of Education

State of Minnesota
State Board of Education

Department of Education
Management Effectiveness Division

STATEMENT OF NEED AND REASONABLENESS FOR PROPOSED MINNESOTA RULE PARTS 3445.3000 TO 3445.3024 COOPERATIVE SECONDARY FACILITIES GRANTS

BACKGROUND

Minnesota Statutes, section 124.493, subdivision 1 authorizes the commissioner of education to make two pilot project grants for construction or remodeling of cooperative secondary facilities to the extent money is available for this purpose. Within the State Department of Education, grant programs are administered by the Division of Management Effectiveness.

AUTHORITY

The State Board of Education's authority to promulgate the proposed rule is contained in Minn. Laws 1987, Ch. 400, Section 35, to be codified as Minnesota Statutes Section 124.493, subdivision 2 (1987).

GRANT APPLICATION PROCEDURES

Part 3445.3000 defines three terms used in part 3445.3000 to 3445.3024. "CSFGA" is the Cooperative Secondary Facilities Grant Act of 1987. Section 124.495 of the CSFGA authorizes the issuance and sale of bonds of the state to provide money for the cooperative secondary facilities grant program. "Pilot Project" is defined to include all eligible uses of funds established in CSFGA including acquiring, constructing, remodeling, or improving the building or site of cooperative secondary facilities. The pilot project also may include the cost of acquiring the initial equipment for the building. "Recipient" is the applicant joint powers district that receives a grant for cooperative secondary facilities construction.

Part 3445.3002 subpart 1, establishes that a group of three or more school districts with kindergarten to grade 12 enrollments in each district of no more than 1,000 pupils and at least 240 pupils in grades 10 to 12, or 320 pupils in grades 9 to 12, or 480 pupils in grades 7 to 12 may apply for a grant, provided they have entered into a joint powers agreement under Minnesota Statutes, section 471.59 to govern the cooperative secondary facilities. This criterion is needed to ensure that the cooperative secondary facilities grant program complements the state's efforts to encourage interdistrict cooperation among and between school districts. Minnesota Statutes, section 122.41 establishes the state policy encouraging organization of districts into units that provide better educational opportunities and are more economical and efficient. These criterion are also mandated by the enabling legislation (CSFGA).

Part 3445.3002, subpart 2, requires applications to be on forms supplied by the State Department of Education. This is necessary to ensure that consistent and comparable information is provided for each pilot project.

Part 3445.3004 establishes the contents of applications. Part 3445.3004 subpart 1, requires each applicant to provide the information specified in each subpart.

Part 3445.3004, subpart 2, requires a resolution passed by the applicant's joint powers board stating the proposed costs of the project, the purpose for which the debt is to be incurred, and an estimate of the dates when the facilities for which the grant is requested will be contracted for and completed. These criterion are required by CSFGA.

Part 3445.3004, subpart 3 requires that the applicant must provide a copy of the certificate by the clerk and treasurer of the joint powers board showing the current outstanding indebtedness of each member district. Subpart 4 requires that the applicant must provide a copy of a certificate by the county auditor of each county in which a portion of the joint powers district is located showing the information in the auditor's official records. For each member district's outstanding bonds, the certificate shall show the amount originally issued, the purpose for which issued, the date of issue, the amount remaining unpaid as of the date of the resolution required in subpart 2, and the interest rates and due dates and amount of principal remaining. These provisions ensure that the applicant provides the information that is required to be used in computing the debt limit of the districts under Minnesota Statutes, section 475.53, subdivision 4. They are also required by CSFGA.

Part 3445.3004, subpart 5 requires that the applicant must submit a copy of the review and comment by the commissioner of education for the proposed facilities as provided by Minnesota Statutes, section 121.15 regardless of the amount of capital expenditure required. This provision ensures that the applicant has received a favorable review and comment, which is required by CSFGA.

Part 3445.3004, subpart 6 requires that the applicant must provide for each member district a copy of current school year, October 1 enrollment data reported on the Fall Enrollment Report submitted to and audited by the Statistics Section, State Department of Education. The applicant must prepare and submit a report based on the pupil enrollment data, broken down by grades kindergarten through grade 12 for all member districts combined. The information required in this provision is reasonable and necessary to ensure that the applicant is eligible to apply under part 3445.3002, subpart 1.

Part 3445.3004, subpart 7 and its subdivisions establish requirements for the cooperative secondary facilities educational plan. The cooperative secondary facilities educational plan is a written document which describes how the facilities will provide better educational opportunities. Item A requires a description of how the planned secondary facilities will result in the joint powers district meeting the State Board of Education curriculum requirements in parts 3500.2010 and 3500.2110; item B requires a description of how the education program to be developed will provide for more learning opportunities and course offerings for pupils than are currently available in any single member districts; item C requires evidence that a plan to assess increased levels of student performance is provided; item D requires provisions for instruction of any resident students in other districts when distance to the secondary education facilities make attendance at the facilities unreasonably difficult or impractical; item E requires development of a combined staff seniority list for all member districts as developed by the joint powers board; and item F requires evidence that the development of the educational plan has included input from both community, professional staff, parents, and students. This provision is reasonable and necessary to ensure that grant funds will be used for pilot projects which have an educational plan to meet the needs described above, and virtually every item is required by CSFGA.

Part 3445.3004, subpart 8 and its subdivisions requires submission of information which is part of the cooperative secondary facilities building program. The building program must contain the information required for review and comment under Minnesota Statutes, section 121.15, subdivison 7; and a statement of need including reasons why the current secondary facilities are inadequate, unsafe, or inaccessible to the handicapped. This provision ensures that the need for a cooperative secondary facility exists as required under part 3445.3012, subpart 3.

Part 3445.3004, subpart 9, requires that the applicant provide preliminary plans for the pilot project, prepared by a Minnesota registered architect, and including a site plan and vicinity maps, subsurface soil analysis, schematic design studies and outlined specifications. This is necessary and reasonable because it ensures that the project can be evaluated under the review and comment requirements of Minnesota Statutes Section 121.15.

Part 3445.3004, subpart 10 requires that a report of an engineer licensed in Minnesota be included for a pilot project to remodel an existing building or construct an addition to an existing building. The report is to evaluate structural soundness and fire and safety hazards. This provision is necessary and reasonable to ensure that grant funds will be used for pilot projects resulting in buildings that are structurally sound and that are free of fire and safety hazards.

Part 3445.3004, subpart 11, requires certification by a Minnesota registered architect that the pilot project meets state requirements for accessibility and usability by physically disabled persons. This is necessary and reasonable to ensure that a professional, licensed architect has determined that the building meets state code requirements for handicapped accessibility.

Part 3445.3004, subpart 12 requires that the application include a pilot project budget. The pilot project budget is necessary and reasonable so that total estimated cost of the pilot project is known, and the dollar amount for which the pilot project is eligible to apply under part 3445.3010 can be calculated. Categories of budget expenditure are the major expenses in a construction project and are the categories for which a recipient would generally have separate contracts.

Part 3445.3004, subpart 13, requires evidence to be submitted of title to the pilot project site or evidence that title can be acquired within 30 days of approval of the application. This is a prequisite for receiving state construction funds because a pilot project cannot proceed unless the recipient holds title to the pilot project site.

Part 3445.3004, subpart 14 and its subdivisions states the assurances which an applicant must provide to comply with all provisions of the CSFGA and applicable state laws and rules.

Item A requires that no more than one superintendent shall be employed by the joint powers board as a result of the cooperative secondary facilities agreement. This is required by CSFGA. Item B encourages the joint powers board to provide for severance pay for early retirement incentives under Minnesota Statutes, section 125.611, for any teacher or administrator who is placed on unrequested leave as a result of the cooperative secondary facilities agreement. These provisions in part ensure economical and efficient school district operations and the use of staff, and are encouraged by CSFGA.

Part 3445.3004, subpart 14 item C requires compliance with Minnesota Statutes sections 177.41 to 177.43 relating to prevailing wage rates. This statute applies to construction of public buildings, and item C is therefore necessary to ensure such compliance.

Part 3445.3004, subpart 14, item D establishes eligible categories of pilot project expenditures. These categories are based on Section 124.493 Subd. 1 of CSFGA, but are more specifically detailed in subitems (1) through (8) so that applicants will know specifically the pilot project costs for which they may use the state funds. Item E assures that funds will not be used to purchase books, supplies, and materials. These are operating expenses rather than capital outlay.

Part 3445.3004, subpart 15 establishes a process for the State Department of Education to request additional information from the applicants. This is a necessary and reasonable provision because information may be needed for clarification so that the application can be evaluated. The applicant has ten working days to provide the information, and if the information is not provided, the application will be evaluated on the basis of the information it contains. To allow more than ten working days for the additional information to be provided would subject other applicants to an undue delay in a handling all applications.

Part 3445.3005 establishes application due dates. The date for January 1, 1988 grant award consideration is established for November 16, 1987. This is necessary and reasonable because it is projected that this rule will not be final until November, 1987. The date cannot be later because the commissioner must make a determination by January 1, 1988, on all applications which have been on file for more than thirty days, and because of the requirements for review by the State Department staff under parts 3445.3014 and 3445.3018. For subsequent grant award consideration applications must be filed on or before April 15 and November 1 for July 1 and January 1 grant award consideration respectively, unless a different date is established by the commissioner of education and published in Education Update, official publication of the State Department of Education, not less than 60 days before the application due date. Education Update is published monthly during the school year and is mailed to all Minnesota school districts. Flexibility in establishing an alternative application due date is necessary and reasonable because of the different times in which state funds may be provided through the appropriations process and the dates of the sale of state bonds under Minnesota Statutes, section 124.495.

Part 3445.3008 provides that when an application is received, the State Department of Education shall obtain information from the commissioner of revenue, public utilities commission, or other official records that are required to be used in computing the debt limit of the joint powers district under Minnesota Statutes, section 457.53, subdivision 4. If any joint powers district is found not qualified according to the requirements of CSFGA, it shall be notified promptly by the commissioner of education. This part ensures timely notification of joint powers districts not qualified according to the requirements of CSFGA.

MAXIMUM GRANT

Part 3445.3010 establishes that grant funds provided under this program may constitute up to 75 percent of the approved construction costs of the cooperative secondary education facilities. To the extent money is available, the commissioner of education may approve not more than two pilot projects from the applications submitted under this chapter. This provision is required by CSFGA.

APPLICATION RATING

A mechanism is needed to rate all applications meeting the application requirements in order to determine which pilot projects will receive grants. Part 3445.3014 establishes five rating scales on which pilot projects will be measured, and which are reasonably related to an objective comparison of applications submitted.

Subpart A establishes a numerical rating for each pilot project based on the number of school districts in the joint powers district and their combined secondary grade enrollment. The most recent school district Fall Enrollment Report data, the basis for many state and federal reports where pupil enrollment data is required, is used to determine current pupils enrollments. The rating scale awards eight points where the joint powers district contains three member school districts and three points for each additional member school district, up to six districts. Additional points are awarded for the participation of more school districts because state policy encourages expanded educational opportunities for students and more economical and efficient school operations through reorganization whenever possible. Where the most recent October 1 pupil enrollment of the joint powers district in the secondary grades to be contained in the cooperative facilities averages between 80 or more pupils per grade, eight points are awarded.

Subpart B establishes a rating based on the age of the existing secondary facilities in each of the member districts. A predominately older secondary facility is likey to be inadequate in size, inaccessible to the physically disabled, inefficient in use of energy due to antiquated mechanical systems, and greatly in need of replacement. Therefore, a rating scale is established beginning with five points where 50 percent or more of the total secondary square footage was occupied for school use during or before 1920, descending to one point where 50 percent or more of the total secondary square footage was occupied for school use during or before 1970. An additional three points are awarded where a member district does not currently provide its own secondary facilities for 50 percent or more of its students on a full-time basis. This would include sending students to other school districts or leasing school space. These points are awarded because such districts lack adequate secondary spaces of their own at present and leasing space, or sending students to another district most often is a temporary, inadequate solution.

Subpart C establishes a rating based on the adequacy of the educational plan submitted by the joint powers district. Where more learning outcomes are provided through more learning opportunities and course offerings for students than currently available in any member district, and a plan to assess such learning outcomes and increased levels of student performance is also provided, up to eighteen points may be awarded in subitem 1. A plan to assess learning outcomes and increased levels of student performance will

greatly assist the joint powers district in determining the educational results of their cooperative venture. Where there is evidence of input in the development of the educational plan by professional staff, subitem 2 provides that up to eight points may be awarded. Where there is evidence of input in the development of the educational plan by community members, parents, and students, subitem 3 provides that up to eight points may be awarded. Where there is evidence that the State Board of Education curriculum requirements will be met, subitem 4 provides that up to eight points may be awarded. Lastly, where there is evidence of more efficient utilization of staff than currently available in any member district, subitem 5 provides that up to eight points may be awarded. Subitems 2 through 5 are required by CSFGA; awards of additional points will be made when an applicant exceeds the minimal requirements of any subitem.

Subpart D establishes a rating based on the adequacy of the provisions for instruction of any resident students in other districts when distance to the secondary education facilities makes attendance at the facilities unreasonably difficult or impractical. This is a threshold requirement of CSFGA. Plans that exceed the minimal requirement may be awarded up to ten points.

Subpart E establishes a rating for each pilot project based upon the school tax burden of the joint powers district. The measure of the school tax burden is the weighted average auditor mill rate for each joint powers district. The auditor mill rate is a common measure of the tax burden of a school district. Additional points are awarded because a higher tax rate indicates more willingness to support education and/or a lack of ability to fund school operations locally because of low property valuations. Where the weighted average auditor mill rate is in the 75th percentile or above among Minnesota school districts, ten points are awarded. Where the weighted average auditor mill rate is at or above the 50th percentile but below the 75th percentile among Minnesota school districts, five points are awarded, and where the weighted average auditor mill rate is below the 50th percentile among Minnesota school districts, zero points are awarded.

APPROVAL OF PILOT PROJECTS

Part 3445.3018 establishes the method to be used by the commissioner of education to award grants. Grants may be awarded to pilot projects which meet all application requirements and receive a minimum of 75 application rating points. This part ensures that the two grant awards will go to applicants who develop a quality pilot project proposal, as 75 points requires a proposal to receive a substantial number of application rating points. The commissioner shall consider total points assigned in the application rating, total grant funds available, and if application ratings are within ten points, the location of each project. Diverse geographic locations of pilot projects which are of nearly equal quality is desirable so that, if possible, several parts of the state may benefit from the grant awards. The commissioner shall promptly certify to each qualified joint powers district the amount, if any, of the grant award. In this way, the joint powers district will quickly be able to determine the additional amount of dollars needed through a bond issue to finance the cooperative secondary facilities pilot project. This provision is needed so that grant applications are measured objectively. Two total pilot projects shall be funded up to the total dollar amounts available.

IMPACT ON SMALL BUSINESS

It is not anticipated that this rule will have any impact on small business.

FISCAL NOTICE

These rules do not automatically require the expenditure of public moneys by local school districts. Only in the event that school districts through a joint powers board apply for a grant under these rules, and because local voters must further approve any borrowing and expenditure of additional funds, the provisions of Minnesota Statutes section 14.11, subdivision 1 do not apply.

RB:pltST3-14
08-20-87

REFERENDUM; BOND ISSUE

Part 3445.3020 establishes the requirement of local voter approval for the borrowing of funds and issuance of bonds to help finance the cooperative secondary facilities pilot project. Within 90 days after being awarded a grant the joint powers board must then submit the question of authorizing the borrowing of funds for the cooperative secondary facilities to the voters of the member districts at the special election. The question submitted shall state the total amount of funding needed from all sources. A majority of those voting in the affirmative on the question is sufficient to authorize the joint powers board to issue the bonds on public sale in accordance with Minnesota Statutes, chapter 475. The clerk of the joint powers board must certify the vote of the bond election to the State Department of Education. If the bonds are authorized by the voters, the State Department of Education shall notify the county auditors of each county in which a member district is located that the grant amount certified in part 3445.3018 is available and appropriated for payment of principal and interest on the bonds issued under this part, and the auditor shall reduce the joint power district's debt service levies accordingly. If a majority of those voting on the question do not vote in the affirmative, the grant must be canceled. This part ensures that pilot project funds will be promptly made available to school districts pending voter approval, or if not approved by voters in a joint powers district, to another qualified applicant. It is also required by CSFGA.

GRANT CONTRACT

Part 3445.3022 establishes that each grant must be evidenced by a contract between the joint powers board and the state acting through the commissioner of education. The contracts must be entered into within 15 months after the date on which each grant is awarded. It obligates the joint powers board and the state acting through the commissioner of education. It obligates the state to pay to the joint powers board an amount computed under part 3445.3018, upon receipt by the State Department of Education of a certified resolution of the joint powers board estimating the costs, and verifying that contracts have been entered into for construction or remodeling of the facilities for which the grant is awarded and that bonds of the joint powers district have been issued and sold in the amount necessary to pay all pilot project costs in excess of the amount of the grant. The contract is needed to ensure adequate reporting and monitoring of the pilot project as required in state regulations. It is also required by CSFGA.

RETURN OF GRANT FUNDS

Part 3445.3024 establishes a procedure for return of grant funds when a pilot project is completed for a cost lower than the pilot project budget which was the basis for the grant award, or if the recipient is unable to complete the pilot project. The grant amount is reduced by the same percentage as the pilot project budget is reduced. This is needed because experience in administering facilities projects demonstrates that projects are at times completed at less than the amounts budgeted for the project, or at times not completed. The percentage reduction is needed and reasonable in order to maintain the maximum grant share of 75 percent of total pilot project cost established in part 3445.3010. Returned funds are offered to the other grant recipients under part 3445.3018 if that grant recipient's pilot project was funded at less than the requested amount. Recipients of the returned funds have 60 days to modify pilot projects and to increase the pilot project budget.

Minnesota State Board of Education

705 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101 (612) 297-1925

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING OR AN EMERGENCY RULE AND CERTIFICATE OF MAILING LIST.

In the Matter of the Proposed Adoption
of the Rule of the State Board of
Education Governing Cooperative Secondary Facilities Grants

STATE OF MINNESOTA
COUNTY OF RAMSEY

Ted Suss, being sworn says: I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the State Board of Education rulemaking mailing list is accurate, complete, and current as of this August, 1987.

That on the 20th of August, 1987, at the city of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt (A Rule without a Public Hearing) ~~(an Emergency Rule)~~ by depositing in the (state of Minnesota Central Mail System for United States mailing) a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Ted Suss
Administrator to the State Board
of Education

Hollis Dee Britz-Mitchell
HOLLIS DEE BRITZ - MITCHELL
NOTARY PUBLIC - MINNESOTA
CHISAGO COUNTY
MY COMMISSION EXPIRES OCTOBER 4, 1990
October 15, 1987

TLS:lmpSB16-36
09/28/87

Rules as Proposed (all new material)

3445.3000 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply in parts 3445.3000 to 3445.3024.

Subp. 2. **CSFGA.** "CSFGA" means the Cooperative Secondary Facilities Grant Act, Minnesota Statutes, sections 124.491 to 124.496.

Subp. 3. **Pilot project.** "Pilot project" means a plan for a grant under parts 3445.3000 to 3445.3024 for acquiring, constructing, remodeling, or improving the building or site of cooperative secondary facilities to be financed in part by the grant. "Pilot project" may include equipment for the building, but not books, supplies, and materials.

Subp. 4. **Recipient.** "Recipient" means the applicant joint powers district that receives a grant for cooperative secondary facility construction from the commissioner of education under parts 3445.3000 to 3445.3024.

3445.3002 APPLICATIONS FOR COOPERATIVE SECONDARY FACILITIES GRANTS.

Subpart 1. **Who may apply.** A group of three or more school districts, with kindergarten to grade 12 enrollments in each district of no more than 1,000 pupils and a combined current school year October 1 enrollment of at least 240 pupils in grades 10 to 12, or 320 pupils in grades 9 to 12, or 480 pupils in grades 7 to 12 may apply for a cooperative secondary facilities grant under parts 3445.3000 to 3445.3024 if they have entered into a joint powers agreement as provided by Minnesota Statutes, section 471.59 to govern the cooperative secondary facilities.

Subp. 2. **Application forms.** An application for a cooperative secondary facilities grant must be made on an application form available from the State Department of Education.

3445.3004 APPLICATION CONTENTS.

Subpart 1. **Information required.** The application must include the information required in this part.

Subp. 2. **Resolution by joint powers board.** The applicant must provide a copy of the resolution stating the proposed costs of the project, the purpose for which debt is to be incurred, and an estimate of the dates when the facilities for which the grant is requested will be contracted for and completed.

Subp. 3. **Certificate by clerk and treasurer of joint powers board.** The applicant must provide a copy of the certificate by the clerk and treasurer of the joint powers board showing the current outstanding indebtedness of each member district.

Subp. 4. **Certificate by county auditor.** The applicant must provide a copy of a certificate by the county auditor of each county in which a portion of the joint powers district is located showing the information in the auditor's official records that is required to be used in computing the debt limit of the districts under Minnesota Statutes, section 475.53, subdivision 4. For each member district's outstanding bonds, the certificate shall show the amount originally issued, the purpose for which issued, the date of issue, the amount remaining unpaid as of the date of the resolution required in subpart 2, and the interest rates and due dates and amounts of principal remaining.

Subp. 5. **Review and comment.** The applicant must submit a copy of the review and comment by the commissioner of education for the proposed facilities as provided by Minnesota Statutes, section 121.15 regardless of the amount of capital expenditure required.

Subp. 6. **Pupil enrollment data.** The applicant must provide for each member district a copy of current school year, October 1 enrollment data reported on the Fall Enrollment Report submitted to and audited by the Statistics Section, State Department of Education.

The applicant must also prepare and submit a report based on the current pupil enrollment data, broken down by grades kindergarten through grade 12 for all member districts combined.

Subp. 7. **Educational plan.** The applicant must provide a copy of the educational plan for the proposed project. The plan must contain the following information:

A. a description of how the planned secondary facilities will result in the joint powers district meeting the State Board of Education curriculum requirements in parts 3500.2010 and 3500.2110;

B. a description of how the education program to be developed will provide for more learning opportunities and course offerings for pupils than are currently available in any single member districts;

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.

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.

Department of Education

Proposed Permanent Rules Relating to Cooperative Secondary Facilities Grants

Proposed Rules

Notice of Intent to Adopt a Rule Without a Public Hearing

Notice is hereby given that the State Board of Education intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* 169.45.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Mildred K. Mueller, Ed.D.
Education Statistics
737 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101

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

A copy of the proposed rule is attached to this notice. A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Mildred Mueller upon request.

The State Board of Education estimates that there will be no cost to small business or to local school districts in the state in order to implement the proposed rule.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the 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 a written request to Mildred Mueller.

Dated: 11 August 1987

Ruth E. Randall, Secretary
State Board of Education

Subp. 15. **Additional information.** The State Department of Education may request additional information from the applicant to clarify and evaluate the application. If the additional information requested has not been received at the State Department of Education within ten working days after the request for additional information, the grant application shall be evaluated and approved or disapproved solely on the basis of the information it contains.

3445.3005 APPLICATION DATES.

For state fiscal year 1988 only, the cooperative secondary facilities grant application must be filed on or before November 16, 1987, for January 1, 1988, grant award consideration, and on or before April 15, 1988, for July 1, 1988, grant award consideration. In subsequent years, applications must be filed on or before November 1 and April 15 for January 1 and July 1 grant award consideration respectively, unless a different date is established by the commissioner of education and published in Education Update, official publication of the State Department of Education, not less than 60 days before the application due date.

3445.3008 RECEIPT OF APPLICATION.

When an application is received, the State Department of Education shall obtain information from the commissioner of revenue, public utilities commission, or other official records that are required to be used in computing the debt limit of the joint powers district under Minnesota Statutes, section 475.53, subdivision 4. If any joint powers district is found not qualified according to the requirements of CSFGA, it shall be notified promptly by the commissioner of education.

3445.3010 MAXIMUM GRANT.

Grant funds provided under this program may constitute up to 75 percent of the approved construction costs of the cooperative secondary education facilities. To the extent money is available, the commissioner of education may approve not more than two pilot projects from the applications submitted under this chapter.

3445.3014 APPLICATION RATING.

To measure relative need, all applications must be rated in part by State Department of Education staff. The rating results and application materials must be forwarded under part 3445.3018 to the commissioner of education.

A. A numerical rating must be determined for each pilot project based on the number of school districts in the joint powers district and their combined current secondary grade enrollment. Pilot projects will be awarded points as follows:

(1) pilot projects where the joint powers district contains three member school districts, eight points, and three points for each additional member school district up to six districts; and

(2) pilot projects where the most recent October 1 student enrollment of the joint powers district in the secondary grades to be contained in the cooperative facilities averages 80 or more students per grade, eight points.

B. A numerical rating for the adequacy of each of the member district's secondary (grades seven through 12 inclusive) facilities must be determined based on the age of the secondary facilities currently used. Pilot projects will be awarded points as follows:

(1) where 50 percent or more of the total secondary square footage was occupied for school use during or before 1920, five points;

(2) where 50 percent or more of the total secondary square footage was occupied for school use during or before 1945, three points;

(3) where 50 percent or more of the total secondary square footage was occupied for school use during or before 1970, one point; and

(4) where a member district does not currently provide its own secondary facilities for 50 percent or more of its students on a full-time basis, three points.

C. A numerical rating based on the adequacy of the educational plan submitted by the joint powers district shall be assigned to each pilot project as follows:

(1) additional, specific learning outcomes provided through more learning opportunities and course offerings for students than currently available in any member district, and a plan to assess the learning outcomes and increased levels of student performance, up to 18 points;

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.

C. evidence that a plan to assess increased levels of student performance is provided;

D. provisions for instruction of any resident students in other districts when distance to the secondary education facilities makes attendance at the facilities unreasonably difficult or impractical;

E. a combined staff seniority list for all member districts as developed by the joint powers board; and

F. evidence that the development of the educational plan has included input from both community and professional staff, parents, and students.

Subp. 8. **Building program.** The applicant must provide a copy of the cooperative secondary facilities building program. The program must contain the following information:

A. the information required for review and comment under Minnesota Statutes, section 121.15, subdivision 7; and

B. a statement of need including reasons why the current secondary facilities are inadequate, unsafe, or inaccessible to the handicapped.

Subp. 9. **Preliminary plans.** The applicant must provide preliminary plans for the project, prepared by a Minnesota registered architect, including a site plan and vicinity maps, subsurface soil analysis, schematic design studies, and outlined specifications.

Subp. 10. **Engineer's report.** When the project is the remodeling of an existing building or expansion of an existing building, the applicant must provide a report by an engineer licensed in Minnesota that evaluates the structural soundness, fire, and safety hazards of the existing building.

Subp. 11. **Architect's certification.** The applicant must provide a certificate from a Minnesota registered architect that the project's facilities are designed to make them accessible to and usable by physically disabled persons as required by Minnesota Statutes, sections 471.465 to 471.469.

Subp. 12. **Budget.** The applicant must provide the project budget including estimated expenditures for site acquisition and preparation, consultant fees, planning costs, and administration costs; contracts for the construction for a new building and expansion or remodeling of an existing building; architectural, engineering, and inspection costs; initial equipment, furniture, utilities, and floor coverings; and moving expenses for existing books, equipment, supplies, and furniture.

Subp. 13. **Evidence of title to land.** The applicant must provide evidence that it holds fee title to the project site including right of access, or that the applicant can complete negotiations for fee title to the site within 30 days of approval of the application.

Subp. 14. **Assurances.** The applicant must give written assurance of compliance with all provisions of the CSFGA and all applicable state laws and rules, including the following:

A. no more than one superintendent shall be employed by the joint powers board as a result of the cooperative secondary facilities agreement;

B. to the extent possible the joint powers board is encouraged to provide for severance pay for early retirement incentives under Minnesota Statutes, section 125.611, for any teacher or administrator who is placed on unrequested leave as a result of the cooperative secondary facilities agreement;

C. the applicant must comply with Minnesota Statutes, sections 177.41 to 177.43, relating to prevailing wage rates;

D. the applicant shall assure that the funds allotted to it will be used only for cooperative secondary facility construction activities in this item. The activities are:

(1) erection costs for new buildings for a cooperative secondary facility;

(2) costs for expansion, remodeling, and alteration of existing buildings for a cooperative secondary facility;

(3) site acquisition, grading, and improvement of land on which the secondary facility is to be located;

(4) architectural, engineering, and inspection expenses incurred after site selection;

(5) moving expenses for existing books, supplies, equipment, and furniture;

(6) expenses related to acquisition and installation of initial equipment including all necessary building fixtures, utilities, and furniture;

(7) services of consultants related to the pilot project; and

(8) expenses other than interest and the carrying charges on bonds related to the acquisition of an existing building or of land on which there is to be construction of new buildings or expansion of existing buidings to be used for cooperative secondary facilities. The expenses must constitute an actual cost or transfer of public funds; and

E. the applicant shall assure that the funds allotted to it as a recipient for cooperative secondary facilities construction are not used for the purchase of books, materials, or other supplies.

(2) evidence of input in the development of the educational plan by professional staff, up to eight points;

(3) evidence of input in the development of the educational plan by community members, parents, and students, up to eight points;

(4) evidence of meeting the State Board of Education curriculum requirements, eight points; and

(5) a plan for more efficient use of staff than currently available in any member district, up to eight points.

D. A numerical rating based on the adequacy of the provisions for instruction of any resident students in other districts when distance to the secondary education facilities makes attendance at the facilities unreasonably difficult or impractical, up to ten points.

E. A numerical rating must be determined for each pilot project based upon the school tax burden of the joint powers district. The weighted average auditor mill rate must be calculated for each joint powers district. Pilot projects must be awarded points as follows:

(1) if the weighted average auditor mill rate is in the 75th percentile or above among Minnesota school districts, ten points;

(2) if the weighted average auditor mill rate is at or above the 50th percentile but below the 75th percentile among Minnesota school districts, five points;

(3) if the weighted average auditor mill rate is below the 50th percentile among Minnesota school districts, zero points.

3445.3018 APPROVAL OF PILOT PROJECTS.

State Department of Education staff shall advise the commissioner of education of applications meeting the requirements of parts 3445.3000 to 3445.3024 and the results of the application rating performed in part 3445.3014. An application must receive a minimum of 75 application rating points under part 3445.3014 in order to receive consideration for a grant award by the commissioner of education. The commissioner of education shall award grants based on the total points assigned in the application rating and total grant funds available. The commissioner shall use state geographic balance as a deciding factor if application ratings are within ten points of each other.

The commissioner of education must not approve an application for a grant unless the facility receives a favorable review and comment as provided in Minnesota Statutes, section 121.15 and the requirements under parts 3445.3000 to 3445.3024 are fully complied with. The commissioner shall promptly certify to each qualified joint powers district the amount, if any, of the grant awarded.

3445.3020 REFERENDUM; BOND ISSUE.

Within 90 days after being awarded a grant under part 3445.3018, the joint powers board shall submit the question of authorizing the borrowing of funds for the cooperative secondary facilities to the voters of the member districts at a special election. The question submitted shall state the total amount of funding needed from all sources. A majority of those voting in the affirmative on the question is sufficient to authorize the joint powers board to issue the bonds on public sale in accordance with Minnesota Statutes, chapter 475. The clerk of the joint powers board must certify the vote of the bond election to the State Department of Education. If the bonds are authorized by the voters, the State Department of Education shall notify the county auditor of each county in which a member district is located that the grant amount certified in part 3445.3018 is available and appropriated for payment of principal and interest on the bonds issued under this part, and the auditor shall reduce the joint power district's debt service levies accordingly. If a majority of those voting on the question do not vote in the affirmative, the grant must be canceled.

3445.3022 COOPERATIVE SECONDARY FACILITIES GRANT CONTRACT.

Each grant must be evidenced by a contract between the joint powers board and the state acting through the commissioner of education. A contract must be entered into within 15 months after each grant is awarded. It obligates the joint powers board and the state acting through the commissioner of education. It obligates the state to pay to the joint powers board an amount computed under part 3445.3018, upon receipt by the State Department of Education of a certified resolution of the joint powers board estimating the costs, and verifying that contracts have been entered into for construction or remodeling of the facilities for which the grant is awarded and that bonds of the joint powers district have been issued and sold in the amount necessary to pay all pilot project costs in excess of the amount of the grant.

3445.3024 RETURN OF GRANT FUNDS.

If a project is completed for an amount lower than the amount in the project budget in the application, or if the recipient is unable to complete the pilot project, the recipient shall amend its grant contract and return any unexpended funds to the State Department of Education. The grant amount must be reduced by the same percentage as the total project budget has been reduced. The commissioner of education shall offer those returned funds to the other grant recipient under part 3445.3018, if that grant recipient's pilot project was funded at less than the requested amount. That recipient shall have 60 days to modify its project to the satisfaction of the State Department of Education to expend an increased grant amount up to the amount in its application.

Minnesota Department of Education

Capitol Square 550 Cedar Street Saint Paul, Minnesota 55101 Phone:

STATE OF MINNESOTA
DEPARTMENT OF EDUCATION

In the Matter of the Proposed Adoption of the Rule of the State Board of Education Governing Cooperative Secondary Facilities Grants, Minnesota Rules, parts 3445.3000 to 3445.3024.

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

FINDINGS OF FACT

1. Notice of the State Board of Education's intent to adopt the above-entitled rule without a public hearing was published in the State Register on August 31, 1987 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes sections 14.14 subdivision 1a and 14.22 (1986) on August 20, 1987. The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

2. All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking.

3. No submissions or comments on the rule were received by the agency. No requests for notice of submission to the attorney general were received by the agency.

Based on the comments and evidence in the record before the agency, the Board makes the following:

CONCLUSIONS OF LAW

1. Proper notice of intent to adopt the proposed rule without a public hearing was given.

2. The Board has fulfilled all the procedural requirements of Minnesota Statutes section 14.14 (1986) and all other procedural requirements of law or rule.

3. The Board has documented its statutory authority to adopt the proposed rule and has fulfilled all substantive requirements of law or rule.

4. The Board has demonstrated the need for and reasonableness of the proposed rule.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Cooperative Secondary Facilities Grants, Minnesota Rules, parts 3445.3000 to 3445.3024 is adopted this 13th day of October, 1987, pursuant to authority vested in the Board by Minnesota Statutes section 121.11 subdivsion 12 (1986).

10-14-87
Date

Ruth E. Randall
Secretary, State Board of Education

In the Matter of the Adoption
of the Rule of the State Board
of Education Governing Cooperative
Secondary Facilities Grants, Minnesota
Rules, Parts 3445.3000 to 3445.3024

DECLARATION OF
COUNSEL

I, Cindy L. Lavorato, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0020.

Dated: October 15, 1987.

Cindy L. Lavorato

CINDY L. LAVORATO
Special Assistant
Attorney General

Minnesota Department of Education

Capitol Square 550 Cedar Street Saint Paul, Minnesota 55101 Phone:

CERTIFICATE OF THE
STATE BOARD OF EDUCATION

RESOLUTION ADOPTING THE RULE

I, Ruth E. Randall, do hereby certify that I am Secretary of the State Board of Education 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 State Board of Education, duly and properly called and held on the 13th day of October, 1987, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

> "RESOLVED, that the rule governing Cooperative Secondary Facilties Grants Minnesota Rules, parts 3445.3000 to 3445.3024, is approved and adopted pursuant to authority vested in the State Board of Education by Minnesota Statutes section 121.11 subdivision 12 (1986). Ruth E. Randall, Secretary of the State Board of Education, is authorized to sign the Findings of Fact, Conclusions, and Order adopting the rule and further is authorized to modify the rule if necessary to obtain the approval of the rule by the attorney general or to perform other necessary acts to provide that the rule shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 13th day of October, 1987.

Ruth E. Randall

Ruth E. Randall
Secretary, State Board of Education

Marjorie L. Johnson

Attest by one Board member

Authority

169.45 : This statute deals with School busses, not grants

Rule

pg Line 11 : What is the commissioner looking at when using a "geographic balance" "as a deciding factor"?

Office of the Revisor of Statutes
Administrative Rules

Richard J. Sands
Senior Assistant Revisor
296-2798



700 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1297

September 1, 1987

Mr. Bob Buresh
Department of Education
938 Capitol Square
Saint Paul, Minnesota 55101

RE: Cooperative Secondary Facility Grants

Dear Mr. Buresh:

Enclosed is a stripped copy of your proposed rules as published in the State Register. The copy shows the text of the rules as you proposed them with the stricken text deleted and the underscoring removed.

If your proposed emergency rules or proposed rules adopted without public hearing are adopted without modification, please submit the required number of copies of this document to the Attorney General for final approval. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will then input the changes, approve the document as to form, and provide you with copies to submit to the Attorney General.

If your proposed rules are adopted after public hearing without modification, please submit one copy of this document to our office for final approval as to form. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will input the changes, approve the document as to form, and provide you with copies.

Very truly yours,

RJS/ss

Richard J. Sands

RJS/ss
Encl.