

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

SECOND SPECIAL SESSION

September 25, 1981

AND

THIRD SPECIAL SESSION

December 9, 1981

AND

SECOND REGULAR SESSION

January 6, 1982 to April 13, 1982

AND AT THE

FOURTH SPECIAL SESSION

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AND AT THE

FIFTH SPECIAL SESSION

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ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co.
Augusta, Maine
1981

**[DUE TO ITS SIZE, THIS LAW HAS BEEN DIVIDED INTO
THREE ELECTRONIC FILES. THIS IS THE SECOND FILE.]**

CHAPTER 121
MAINE-NEW HAMPSHIRE INTERSTATE
SCHOOL COMPACT
ARTICLE I

GENERAL PROVISIONS

§3601. Enters

The State of Maine enters into the following compact with the state of New Hampshire subject to the terms and conditions stated in this chapter.

§3602. Statement of policy

It is the purpose of this compact to increase the educational opportunities within the states of Maine and New Hampshire by encouraging the formation of interstate school districts which will each be a natural social and economic region with adequate financial resources and a number of pupils sufficient to permit the efficient use of school facilities within the interstate district and to provide improved instruction. The state boards of education of Maine and New Hampshire may formulate and adopt additional standards consistent with this purpose and with these standards; and the formation of any interstate school district and the adoption of its articles of agreement shall be subject to the approval of both state boards as set forth.

§3603. Requirement of congressional approval

This compact shall not become effective until approved by the United States Congress.

§3604. Definitions

The terms used in this compact shall be construed as follows, unless a different meaning is clearly apparent from the language or context:

1. Commissioner. "Commissioner" shall refer to Commissioner of Educational and Cultural Services.

2. Elementary school. "Elementary school" shall mean a school which includes all grades from kindergarten or grade one through not less than grade 6 nor more than grade 8.

3. Interstate board. "Interstate board" shall refer to the board serving an interstate school district.

4. Interstate school district. "Interstate school district" and "interstate district" shall mean a school district composed of one or more school districts located in the State of Maine associated under this compact with one or more school districts located in the state of New Hampshire and may include either the elementary schools, the secondary schools, or both.

5. Joint action. "Joint action" where joint action by both state boards is required, each state board shall deliberate and vote by its own majority, but shall separately reach the same result or take the same action as the other state board.

6. Maine board. "Maine board" shall refer to the Maine State Board of Education.

7. Member school district. "Member school district" and "member district" shall mean a school administrative unit located either in Maine or New Hampshire which is included within the boundaries of a proposed or established interstate school district.

8. New Hampshire board. "New Hampshire board" shall refer to the New Hampshire state board of education.

9. Professional staff personnel. "Professional staff personnel" and "instructional staff personnel" shall include superintendents, assistant superintendents, administrative assistants, principals, guidance counselors, special education personnel, school nurses, therapists, teachers, and other certificated personnel.

10. Secondary school. "Secondary school" shall mean a school which includes all grades beginning no lower than grade 7 and no higher than grade 12.

11. Warrant. "Warrant" or "warning" means the same for both states.

ARTICLE II

PROCEDURE FOR FORMATION OF AN INTERSTATE

SCHOOL DISTRICT

§3605. Creation of planning committee

The Maine and New Hampshire commissioners of education shall have the power, acting jointly to constitute and discharge one or more interstate school district planning com-

mittees. Each such planning committee shall consist of at least 2 voters from each of a group of 2 or more neighboring member districts. One of the representatives from each member district shall be a member of its school board, whose term on the planning committee shall be concurrent with his term as a school board member. The term of each member of a planning committee who is not also a school board member shall expire on June 30th of the 3rd year following his appointment. The existence of any planning committee may be terminated either by vote of a majority of its members or by joint action of the commissioners. In forming and appointing members to an interstate school district planning board, the commissioners shall consider and take into account recommendations and nominations made by school boards of member districts. No member of a planning committee shall be disqualified because he is at the same time a member of another planning board or committee created under this compact or under any other provisions of law. Any existing informal interstate school planning committee may be reconstituted as a formal planning committee in accordance with the provisions hereof, and its previous deliberations adopted and ratified by the reorganized formal planning committee. Vacancies on a planning committee shall be filled by the commissioners acting jointly.

§3606. Operating procedures of planning committee

Each interstate school district planning committee shall meet in the first instance at the call of any member, and shall organize by the election of a chairman and clerk-treasurer, each of whom shall be a resident of a different state. Subsequent meetings may be called by either officer of the committee. The members of the committee shall serve without pay. The member districts shall appropriate money on an equal basis at each annual meeting to meet the expenses of the committee, including the cost of publication and distribution of reports and advertising. From time to time the commissioners may add additional members and additional member districts to the committee, and may remove members and member districts from the committee. An interstate school district planning committee shall act by majority vote of its membership present and voting.

§3607. Duties of interstate school district planning committee

It shall be the duty of an interstate school district planning committee, in consultation with the commissioners and the state departments of education: To study the advisability of establishing an interstate school district in accordance with the standards set forth in section 3602, its

organization, operation and control, and the advisability of constructing, maintaining and operating a school or schools to serve the needs of such interstate district; to estimate the construction and operating costs thereof; to investigate the methods of financing such school or schools, and any other matters pertaining to the organization and operation of an interstate school district; and to submit a report or reports of its findings and recommendations to the several member districts.

§3608. Recommendations and preparation of articles of agreement

An interstate school district planning committee may recommend that an interstate school district composed of all the member districts represented by its membership, or any specified combination of such member districts, be established. If the planning committee does recommend the establishment of an interstate school district, it shall include in its report such recommendation, and shall prepare and include in its report proposed articles of agreement for the proposed interstate school district, which shall be signed by at least a majority of the membership of the planning committee, which set forth the following:

1. Name. The name of the interstate school district.
2. Districts. The member districts which shall be combined to form the proposed interstate school district.
3. Board. The number, composition, method of selection and terms of office of the interstate school board, provided that:
 - A. The interstate school board shall consist of an odd number of members, not less than 5 nor more than 15;
 - B. The terms of office shall not exceed 3 years;
 - C. Each member district shall be entitled to elect at least one member of the interstate school board. Each member district shall either vote separately at the interstate school district meeting by the use of a distinctive ballot, or shall choose its member or members at any other election at which school officials may be chosen;
 - D. The method of election shall provide for the filing of candidacies in advance of election and for the use of a printed nonpartisan ballot;

E. Subject to the foregoing, provision may be made for the election of one or more members at large.

4. Grades. The grades for which the interstate school district shall be responsible.

5. Properties and schools. The specific properties of member districts to be acquired initially by the interstate school district and the general location of any proposed new schools to be initially established or constructed by the interstate school district.

6. Operating expenses. The method of apportioning the operating expenses of the interstate school district among the several member districts, and the time and manner of payments of such shares.

7. Debts. The indebtedness of any member district which the interstate district is to assume.

8. Capital expenses. The method of apportioning the capital expenses of the interstate school district among the several member districts, which need not be the same as the method of apportioning operating expenses, and the time and manner of payment of such shares. Capital expenses shall include the cost of acquiring land and buildings for school purposes; the construction, furnishing and equipping of school buildings and facilities; and the payment of the principal and interest of any indebtedness which is incurred to pay for the same.

9. State aid. The manner in which state aid, available under the laws of either Maine or New Hampshire, shall be allocated, unless otherwise expressly provided in this compact or by the laws making such aid available.

10. Amendments. The method by which the articles of agreement may be amended, which amendments may include the annexation of territory, or an increase or decrease in the number of grades for which the interstate district shall be responsible, provided that no amendment shall be effective until approved by both state boards in the same manner as required for approval of the original articles of agreement.

11. Operating responsibilities. The date of operating responsibility of the proposed interstate school district and a proposed program for the assumption of operating responsibility for education by the proposed interstate school district, and any school construction; which the interstate school district shall have the power to vary by vote as circumstances may require.

12. Other matters. Any other matters, not incompatible with law, which the interstate school district planning committee may consider appropriate to include in the articles of agreement, including, without limitation:

A. The method of allocating the cost of transportation between the interstate district and member districts:

B. The nomination of individual school directors to serve until the first annual meeting of the interstate school district.

§3609. Hearings

If the planning committee recommends the formation of an interstate school district, it shall hold at least one public hearing on its report and the proposed articles of agreement within the proposed interstate school district in Maine, and at least one public hearing thereon within the proposed interstate school district in New Hampshire. The planning committee shall give such notice thereof as it may determine to be reasonable, provided that such notice shall include at least one publication in a newspaper of general circulation within the proposed interstate school district not less than 15 days, not counting the date of publication and not counting the date of the hearing, before the date of the first hearing. Such hearings may be adjourned from time to time and from place to place. The planning committee may revise the proposed articles of agreement after the date of the hearings. It shall not be required to hold further hearings on the revised articles of agreement but may hold one or more further hearings after notice similar to that required for the first hearings if the planning committee in its sole discretion determines that the revisions are so substantial in nature as to require further presentation to the public before submission to the state boards of education.

§3610. Approval by state boards

After the hearings a copy of the proposed articles of agreement, as revised, signed by a majority of the planning committee, shall be submitted by it to each state board. The state boards may if they find that the articles of agreement are in accord with the standards set forth in this compact and in accordance with sound educational policy, approve the same as submitted, or refer them back to the planning committee for further study. The planning committee may make additional revisions to the proposed articles of agreement to conform to the recommendations of the state boards. Further hearings on the proposed articles of agree-

ment shall not be required unless ordered by the state boards in their discretion. In exercising such discretion, the state boards shall take into account whether or not the additional revisions are so substantial in nature as to require further presentation to the public. If both state boards find that the articles of agreement as further revised are in accord with the standards set forth in this compact and in accordance with sound educational policy, they shall approve the same. After approval by both state boards, each state board shall cause the articles of agreement to be submitted to the school boards of the several member districts in each state for acceptance by the member districts as provided in section 3611. At the same time, each state board shall designate the form of warrant, date, time, place, and period of voting for the special meeting of the member district to be held in accordance with the section 3611.

§3611. Adoption by member districts

Upon receipt of written notice from the state board in its state of the approval of the articles of agreement by both state boards, the school board of each member district shall cause the articles of agreement to be filed with the member district clerk. Within 10 days after receipt of such notice, the school board shall issue its warrant for a special meeting of the member district, the warrant to be in the form, and the meeting to be held at the time and place and in the manner prescribed by the state board. No approval of the Superior Court shall be required for such special school district meeting in New Hampshire. Voting shall be with the use of the checklist by a ballot substantially in the following form:

"Shall the school district accept the provisions of the Maine and New Hampshire Interstate School Compact providing for the establishment of an interstate school district, together with the school districts of..... and....., etc., in accordance with the proposed articles of agreement filed with the school district (town, city or incorporated school district) clerk?"

Yes () No ()

If the articles of agreement included the nomination of individual school directors, those nominated from each member district shall be included in the ballot and voted upon, such election to become effective upon the formation of an interstate school district.

If a majority of the voters present and voting in a member district vote in the affirmative, the clerk for such member district shall forthwith send to the state board in its state a certified copy of the warrant, certificate of posting, and minutes of the meeting of the district. If the state boards of both states find that a majority of the voters present and voting in each member district have voted in favor of the establishment of the interstate school district, they shall issue a joint certificate to that effect; and such certificate shall be conclusive evidence of the lawful organization and formation of the interstate school district as of its date of issuance.

§3612. Resubmission

If the proposed articles of agreement are adopted by one or more of the member districts but rejected by one or more of the member districts, the state boards may resubmit them, in the same form as previously submitted, to the rejecting member districts, in which case the school boards thereof shall resubmit them to the voters in accordance with section 3611. An affirmative vote in accordance therewith shall have the same effect as though the articles of agreement had been adopted in the first instance. In the alternative, the state boards may either discharge the planning committee, or refer the articles of agreement back for further consideration to the same or a reconstituted planning committee, which shall have all of the powers and duties as the planning committee as originally constituted.

ARTICLE III

POWERS OF INTERSTATE SCHOOL DISTRICTS

§3613. Powers

1. Powers. Each interstate school district shall be a body corporate and politic, with power to:

A. Acquire, construct, extend, improve, staff, operate, manage and govern public schools within its boundaries;

B. Sue and be sued, subject to the limitations of liability hereinafter set forth;

C. Have a seal and alter the same at pleasure;

D. Adopt, maintain and amend bylaws not inconsistent with this compact, and the laws of the 2 states;

E. Acquire by purchase, condemnation, lease or otherwise, real and personal property for the use of its schools;

F. Enter into contracts and incur debts;

G. Borrow money for the purposes set forth, and to issue its bonds or notes therefor;

H. Make contracts with and accept grants and aid from the United States, the State of Maine, the State of New Hampshire, any agency or municipality thereof, and private corporations and individuals for the construction, maintenance, reconstruction, operation and financing of its schools; and to do any and all things necessary in order to avail itself of such aid and cooperation;

I. Employ such assistants, agents, servants and independent contractors as it shall deem necessary or desirable for its purposes; and

J. Take any other action which is necessary or appropriate in order to exercise any of the foregoing powers.

ARTICLE IV

DISTRICT MEETINGS

§3614. General

Votes of the district shall be taken at a duly warned meeting held at any place in the district, at which all of the eligible legal voters of the member districts shall be entitled to vote, except as otherwise provided with respect to the election of directors.

§3615. Eligibility of voters

Any resident who would be eligible to vote at a meeting of a member district being held at the same time shall be eligible to vote at a meeting of the interstate district. The town clerks in each Maine member district and the supervisors of the checklist of each New Hampshire district shall respectively prepare a checklist of eligible voters for each meeting of the interstate district in the same manner, and they shall have all the same powers and duties with respect to eligibility of voters in their districts as for a meeting of a member district.

§3616. Warning of meetings

A meeting shall be warned by a warrant addressed to the

residents of the interstate school district qualified to vote in district affairs, stating the time and place of the meeting and the subject matter of the business to be acted upon. The warrant shall be signed by the clerk and by a majority of the directors. Upon written application of 10 or more voters in the district, presented to the directors or to one of them, at least 25 days before the day prescribed for an annual meeting, the directors shall insert in their warrant for such meeting any subject matter specified in such application.

§3617. Posting and publication of warrant

The directors shall cause an attested copy of the warrant to be posted at the place of meeting, and a like copy at a public place in each member district at least 20 days, not counting the date of posting and the date of meeting, before the date of the meeting. In addition, the directors shall cause the warrant to be advertised in a newspaper of general circulation on at least one occasion, such publication to occur at least 10 days, not counting the date of publication and not counting the date of the meeting, before the date of the meeting. Although no further notice shall be required, the directors may give such further notice of the meeting as they in their discretion deem appropriate under the circumstances.

§3618. Return of warrant

The warrant with a certificate thereon, verified by oath, stating the time and place when and where copies of the warrant were posted and published, shall be given to the clerk of the interstate school district at or before the time of the meeting, and shall be recorded by him in the records of the interstate school district.

§3619. Organization meeting

The commissioners, acting jointly, shall fix a time and place for a special meeting of the qualified voters within the interstate school district for the purpose of organization, and shall prepare and issue the warrant for the meeting after consultation with the interstate school district planning board and the members-elect, if any, of the interstate school board of directors.. Such meeting shall be held within 60 days after the date of issuance of the certificate of formation, unless the time is further extended by the joint action of the state boards. At the organization meeting the commissioner of education of the state where the meeting is held, or his designate, shall preside in the

first instance, and the following business shall be transacted:

1. Temporary moderator and clerk. A temporary moderator and a temporary clerk shall be elected from among the qualified voters who shall serve until a moderator and clerk respectively have been elected and qualified.

2. Officers. A moderator, a clerk, a treasurer and 3 auditors shall be elected to serve until the next annual meeting and thereafter until their successors are elected and qualified. Unless previously elected, a board of school directors shall be elected to serve until their successors are elected and qualified.

3. Date of annual meeting. The date for the annual meeting shall be established.

4. Expenses. Provision shall be made for the payment of any organizational or other expense incurred on behalf of the district before the organization meeting, including the cost of architects, surveyors, contractors, attorneys and educational or other consultants or experts.

5. Other business. Any other business, the subject matter of which has been included in the warrant, and which the voters would have had power to transact at an annual meeting.

§3620. Annual meetings

An annual meeting of the district shall be held between January 15th and June 1st of each year at such time as the interstate district may by vote determine. Once determined, the date of the annual meeting shall remain fixed until changed by vote of the interstate district at a subsequent annual or special meeting. At each annual meeting the following business shall be transacted:

1. Officers. Necessary officers shall be elected.

2. Appropriation. Money shall be appropriated for the support of the interstate district schools for the fiscal year beginning the following July 1st.

3. Other business. Such other business as may properly come before the meeting.

§3621. Special meetings

A special meeting of the district shall be held when-

ever, in the opinion of the directors, there is occasion therefor, or whenever written application shall have been made by 5% or more of the voters based on the checklists as prepared for the last preceding meeting, setting forth the subject matter upon which such action is desired. A special meeting may appropriate money without compliance with RSA 338 or RSA 197.3 which would otherwise require the approval of the New Hampshire Superior Court.

§3622. Certification of records

The clerk of an interstate school district shall have the power to certify the record of the votes adopted at an interstate school district meeting to the respective commissioners and state boards and, where required, for filing with a secretary of state.

§3623. Method of voting at school district meetings

Voting at meetings of interstate school districts shall take place as follows:

1. School directors. A separate ballot shall be prepared for each member district, listing the candidates for interstate school director to represent such member district; and any candidates for interstate school director at large; and the voters of each member district shall register on a separate ballot their choice for the office of school director or directors. In the alternative, the articles of agreement may provide for the election of school directors by one or more of the member districts at an election otherwise held for the choice of school or other municipal officers.

2. Other votes. Except as otherwise provided in the articles of agreement or this compact, with respect to all other votes, the voters of the interstate school district shall vote as one body irrespective of the member districts in which they are resident, and a simple majority of those present and voting at any duly warned meeting shall carry the vote. Voting for officers to be elected at any meeting, other than school directors, shall be by ballot or voice, as the interstate district may determine, either in its articles of agreement or by a vote of the meeting.

ARTICLE V

OFFICERS

§3624. Officers; general

The officers of an interstate school district shall be

a board of school directors, a chairman of the board, a vice-chairman of the board, a secretary of the board, a moderator, a clerk, a treasurer and 3 auditors. Except as otherwise specifically provided, they shall be eligible to take office immediately following their election; they shall serve until the next annual meeting of the interstate district and until their successors are elected and qualified. Each shall take oath for the faithful performance of his duties before the moderator, or a notary public or a justice of the peace of the state in which the oath is administered. Their compensation shall be fixed by vote of the district. No person shall be eligible to any district office unless he is a voter in the district. A custodian, school teacher, principal, superintendent or other employee of an interstate district acting as such shall not be eligible to hold office as a school director.

§3625. Board of directors

1. How chosen. Each member district shall be represented by at least one resident on the board of school directors of an interstate school district. A member district shall be entitled to such further representation on the interstate board of school directors as provided in the articles of agreement as amended from time to time. The articles of agreement as amended from time to time may provide for school directors at large, as set forth. No person shall be disqualified to serve as a member of an interstate board because he is at the same time a member of the school board of a member district.

2. Term. Interstate school directors shall be elected for terms in accordance with the articles of agreement.

3. Duties of board of directors. The board of school directors of an interstate school district shall have and exercise all of the powers of the district not reserved herein to the voters of the district.

4. Organization. The clerk of the district shall warn a meeting of the board of school directors to be held within 10 days following the date of the annual meeting, for the purpose of organizing the board, including the election of its officers.

§3626. Chairman of the board

The chairman of the board of interstate school directors shall be elected by the interstate board from among its members at its first meeting following the annual meeting. The chairman shall preside at the meetings of the board and

shall perform such other duties as the board may assign to him.

§3627. Vice-chairman of the board of directors

The vice-chairman of the interstate board shall be elected in the same manner as the chairman. He shall represent a member district in a state other than that represented by the chairman. He shall preside in the absence of the chairman and shall perform such other duties as may be assigned to him by the interstate board.

§3628. Secretary of the board

The secretary of the interstate board shall be elected in the same manner as the chairman. Instead of electing one of its members, the interstate board may appoint the interstate district clerk to serve as secretary of the board in addition to his other duties. The secretary of the interstate board, or the interstate district clerk, if so appointed, shall keep the minutes of its meetings, shall certify its records, and perform such other duties as may be assigned to him by the board.

§3629. Moderator

The moderator shall preside at the district meetings, regulate the business thereof, decide questions of order, and make a public declaration of every vote passed. He may prescribe rules of procedure; but such rules may be altered by the district. He may administer oaths to district officers in either state.

§3630. Clerk

The clerk shall keep a true record of all proceedings at each district meeting, shall certify its records, shall make an attested copy of any records of the district for any person upon request and tender of reasonable fees therefor, if so appointed, shall serve as secretary of the board of school directors, and shall perform such other duties as may be required by custom or law.

§3631. Treasurer

The treasurer shall have custody of all of the moneys belonging to the district and shall pay out the same only upon the order of the interstate board. He shall keep a fair and accurate account of all sums received into and paid from the interstate district treasury, and at the close of

each fiscal year he shall make a report to the interstate district, giving a particular account of all receipts and payments during the year. He shall furnish to the interstate directors, statements from his books and submit his books and vouchers to them and to the district auditors for examination whenever so requested. He shall make all returns called for by laws relating to school districts. Before entering on his duties, the treasurer shall give a bond with sufficient sureties and in such sum as the directors may require. The treasurer's term of office is from July 1st to the following June 30th.

§3632. Auditors

At the organization meeting of the district, 3 auditors shall be chosen, one to serve for a term of one year, one to serve for a term of 2 years and one to serve for a term of 3 years. After the expiration of each original term, the successor shall be chosen for a 3-year term. At least one auditor shall be a resident of Maine, and one auditor shall be a resident of New Hampshire. An interstate district may vote to employ a certified public accountant to assist the auditors in the performance of their duties. The auditors shall carefully examine the accounts of the treasurer and the directors at the close of each fiscal year, and at such other times whenever necessary, and report to the district whether the same are correctly cast and properly vouched.

§3633. Superintendent

The superintendent of schools shall be selected by a majority vote of the board of school directors of the interstate district with the approval of both commissioners.

§3634. Vacancies

Any vacancy among the elected officers of the district shall be filled by the interstate board until the next annual meeting of the district or other election, when a successor shall be elected to serve out the remainder of the unexpired term, if any. Until all vacancies on the interstate board are filled, the remaining members shall have full power to act.

ARTICLE VI

APPROPRIATION AND APPORTIONMENT

§3635. Budget

Before each annual meeting, the interstate board shall

prepare a report of expenditures for the preceding fiscal year, an estimate of expenditures for the current fiscal year, and a budget for the succeeding fiscal year.

§3636. Appropriation

The interstate board of directors shall present the budget report at the annual meeting. The interstate district shall appropriate a sum of money for the support of its schools and for the discharge of its obligations for the ensuing fiscal year.

§3637. Apportionment of appropriation

Subject to the provisions of article VII, the interstate board shall first apply against such appropriation any income to which the interstate district is entitled, and shall then apportion the balance among the member districts in accordance with one of the following formulas as determined by the articles of agreement as amended from time to time:

1. Taxable property. All of such balance to be apportioned on the basis of the ratio that the fair market value of the taxable property in each member district bears to that of the entire interstate district; or

2. Resident membership. All of such balance to be apportioned on the basis that the average daily resident membership for the preceding fiscal year of each member district bears to that of the average daily resident membership of the entire interstate school district; or

3. Combined formula. A formula based on any combination of the foregoing factors. The term "fair market value of taxable property" shall mean the last locally assessed valuation of a member district in New Hampshire, as last equalized by the New Hampshire state tax commission.

The term "fair market value of taxable property" shall mean the equalized grand list of a Maine member district, as determined by the Maine Bureau of Taxation.

Such assessed valuation and grand list may be further adjusted, by elimination of certain types of taxable property from one or the other or otherwise, in accordance with the articles of agreement, in order that the fair market value of taxable property in each state shall be comparable.

"Average daily resident membership" of the interstate district in the first instance shall be the sum of the average

daily resident membership of the member districts in the grades involved for the preceding fiscal year where no students were enrolled in the interstate district schools for such preceding fiscal year.

§3638. Share of Maine member district

The interstate board shall certify the share of a Maine member district of the total appropriation to the school board of each member district which shall add such sum to the amount appropriated by the member district itself for the ensuing year and raise such sum in the same manner as though the appropriation had been voted at a school district meeting of the member district.

§3639. Share of New Hampshire member district

The interstate board shall certify the share of a New Hampshire member district of the total appropriation to the school board of each member district which shall add such sum to the amount appropriated by the member district itself for the ensuing year and raise such sum in the same manner as though the appropriation had been voted at a school district meeting of the member district. The interstate district shall not set up its own capital reserve funds; but a New Hampshire member district may set up a capital reserve fund in accordance with RSA 35, to be turned over to the interstate district in payment of the New Hampshire member district's share of any anticipated obligations.

ARTICLE VII

BORROWING

§3640. Interstate district indebtedness

Indebtedness of an interstate district shall be a general obligation of the district and shall be a joint and several general obligation of each member district, except that such obligations of the district and its member districts shall not be deemed indebtedness of any member district for the purposes of determining its borrowing capacity under Maine or New Hampshire law. A member district which withdraws from an interstate district shall remain liable for indebtedness of the interstate district which is outstanding at the time of withdrawal and shall be responsible for paying its share of such indebtedness to the same extent as though it had not withdrawn.

§3641. Temporary borrowing

The interstate board may authorize the borrowing of

money by the interstate district (1) in anticipation of payments of operating and capital expenses by the member districts to the interstate district and (2) in anticipation of the issue of bonds or notes of the interstate district which have been authorized for the purpose of financing capital projects. Such temporary borrowing shall be evidenced by interest bearing or discounted notes of the interstate district. The amount of notes issued in any fiscal year in anticipation of expense payments shall not exceed the amount of such payments received by the interstate district in the preceding fiscal year. Notes issued under this section shall be payable within one year in the case of notes under clause (1) and 3 years in the case of notes under clause (2) from their respective dates, but the principal of and interest on notes issued for a shorter period may be renewed or paid from time to time by the issue of other notes, provided that the period from the date of an original note to the maturity of any note issued to renew or pay the same debt shall not exceed the maximum period permitted for the original loan.

§3642. Borrowing for capital projects

An interstate district may incur debt and issue its bonds or notes to finance capital projects. Such projects may consist of the acquisition or improvement of land and buildings for school purposes, the construction, reconstruction, alteration or enlargement of school buildings and related school facilities, the acquisition of equipment of a lasting character and the payment of judgments. No interstate district may authorize indebtedness in excess of 10% of the total fair market value of taxable property in its member districts as defined in article VI. The primary obligation of the interstate district to pay indebtedness of member districts shall not be considered indebtedness of the interstate district for the purpose of determining its borrowing capacity under this section. Bonds or notes issued under this section shall mature in equal or diminishing installments of principal payable at least annually commencing no later than 2 years and ending not later than 30 years after their dates.

§3643. Authorization

An interstate district shall authorize the incurring of debts to finance capital projects by a majority vote of the district passed at an annual or special district meeting. Such vote shall be taken by secret ballot after full opportunity for debate, and any such vote shall be subject to reconsideration and further action by the district at the

same meeting or at an adjourned session thereof.

§3644. Sale of bonds and notes

Bonds and notes which have been authorized under this article may be issued from time to time and shall be sold at not less than par and accrued interest at public or private sale by the chairman of the school board and by the treasurer. Interstate district bonds and notes shall be signed by the said officers, except that either one of the 2 required signatures may be a facsimile. Subject to this compact and the authorizing vote, they shall be in such form, bear such rates of interest and mature at such times as the said officers may determine. Bonds shall, but notes need not, bear the seal of the interstate district, or a facsimile of such seal. Any bonds or notes of the interstate district which are properly executed by the said officers shall be valid and binding according to their terms notwithstanding that before the delivery thereof such officers may have ceased to be officers of the interstate district.

§3645. Proceeds of bonds

Any accrued interest received upon delivery of bonds or notes of an interstate district shall be applied to the payment of the first interest which becomes due thereon. The other proceeds of the sale of such bonds or notes, other than temporary notes, including any premiums, may be temporarily invested by the interstate district pending their expenditure; and such proceeds, including any income derived from the temporary investment of such proceeds, shall be used to pay the costs of issuing and marketing the bonds or notes and to meet the operating expenses or capital expenses in accordance with the purposes for which the bonds or notes were issued or, by proceedings taken in the manner required for the authorization of such debt, for other purposes for which such debt could be incurred. No purchaser of any bonds or notes of an interstate district shall be responsible in any way to see to the application of the proceeds thereof.

§3646. State aid programs

As used in this section the term "initial aid" shall include Maine and New Hampshire financial assistance with respect to a capital project, or the means of financing a capital project, which is available in connection with construction costs of a capital project or which is available at the time indebtedness is incurred to finance the project. Without limiting the generality of the foregoing definition, initial aid shall specifically include a New Hampshire state

guarantee under RSA 195-B with respect to bonds or notes and Maine construction aid under Title 20, section 3457. As used in this section, the term "long-term aid" shall include Maine and New Hampshire financial assistance which is payable periodically in relation to capital costs incurred by an interstate district. Without limiting the generality of the foregoing definition, long-term aid shall specifically include New Hampshire school building aid under RSA 198 and Maine school building aid under Title 20, section 3457. For the purpose of applying for, receiving and expending initial aid and long-term aid an interstate district shall be deemed a native school district by each state, subject to the following provisions.

When an interstate district has appropriated money for a capital project, the amount appropriated shall be divided into a Maine share and a New Hampshire share in accordance with the capital expense apportionment formula in the articles of agreement as though the total amount appropriated for the project was a capital expense requiring apportionment in the year the appropriation is made. New Hampshire initial aid shall be available with respect to the amount of the New Hampshire share as though it were authorized indebtedness of a New Hampshire cooperative school district. In the case of a state guarantee of interstate district bonds or notes under RSA 195-B, the interstate district shall be eligible to apply for and receive an unconditional state guarantee with respect to an amount of its bonds or notes which does not exceed 50% of the amount of the New Hampshire share as determined above. Maine aid shall be available with respect to the amount of the Maine share as though it were funds voted by a Maine school district. Payments of Maine aid shall be made to the interstate district, and the amount of any borrowing authorized to meet the appropriation for the capital project shall be reduced accordingly. New Hampshire and Maine long-term aid shall be payable to the interstate district. The amounts of long-term aid in each year shall be based on the New Hampshire and Maine shares of the amount of indebtedness of the interstate district which is payable in that year and which has been apportioned in accordance with the capital expense apportionment formula in the articles of agreement. The New Hampshire aid shall be payable at the rate of 45% if there are 3 or less New Hampshire members in the interstate district, and otherwise it shall be payable as though the New Hampshire members were a New Hampshire cooperative school district. New Hampshire and Maine long-term aid shall be deducted from the total capital expenses for the fiscal year in which the long-term aid is payable, and the balance of such expenses shall be apportioned among the member districts. Notwithstanding the foregoing provisions, New Hamp-

shire and Maine may at any time change their state school aid programs that are in existence when this compact takes effect and may establish new programs, and any legislation for these purposes may specify how such programs shall be applied with respect to interstate districts.

§3647. Tax exemption

Bonds and notes of an interstate school district shall be exempt from local property taxes in both states, and the interest or discount thereon and any profit derived from the disposition thereof shall be exempt from personal income taxes in both states.

ARTICLE VIII

TAKING OVER OF EXISTING PROPERTY

§3648. Power to acquire property of member district

The articles of agreement, or an amendment thereof, may provide for the acquisition by an interstate district from a member district of all or a part of its existing plant and equipment.

§3649. Valuation

The articles of agreement, or the amendment, shall provide for the determination of the value of the property to be acquired in one or more of the following ways:

1. In articles of agreement. A valuation set forth in the articles of agreement or the amendment.

2. Appraisal. By appraisal, in which case, one appraiser shall be appointed by each commissioner, and a third appraiser appointed by the first 2 appraisers.

§3650. Reimbursement to member district

The articles of agreement shall specify the method by which the member district shall be reimbursed by the interstate district for the property taken over, in one or more of the following ways:

1. Lump sum. By one lump sum, appropriated, allocated and raised by the interstate district in the same manner as an appropriation for operating expenses.

2. Installments. In installments over a period of not more than 20 years, each of which is appropriated, allocated

and raised by the interstate district in the same manner as an appropriation for operating expenses.

3. Agreement. By an agreement to assume or reimburse the member district for all principal and interest on any outstanding indebtedness originally incurred by the member district to finance the acquisition and improvement of the property, each such installment to be appropriated, allocated and raised by the interstate district in the same manner as an appropriation for operating expenses.

The member district transferring the property shall have the same obligation to pay to the interstate district its share of the cost of such acquisition, but may offset its right to reimbursement.

ARTICLE IX

AMENDMENTS TO ARTICLES OF AGREEMENT

§3651. Adoption

Amendments to the articles of agreement may be adopted in the same manner provided for the adoption of the original articles of agreement, except that:

1. Planning committee functions. Unless the amendment calls for the addition of a new member district, the functions of the planning committee shall be carried out by the interstate district board of directors.

2. Voting. If the amendment proposes the addition of a new member district, the planning committee shall consist of all of the members of the interstate board and all of the members of the school board of the proposed new member district or districts. In such case the amendment shall be submitted to the voters at an interstate district meeting, at which an affirmative vote of 2/3 of those present and voting shall be required. The articles of agreement together with the proposed amendment shall be submitted to the voters of the proposed new member district at a meeting thereof, at which a simple majority of those present and voting shall be required.

3. As one body. In all cases an amendment may be adopted on the part of an interstate district upon the affirmative vote of voters thereof at a meeting voting as one body. Except where the amendment proposes the admission of a new member district, a simple majority of those present and voting shall be required for adoption.

4. Application. No amendment to the articles of agreement may impair the rights of bond or note holders or the power of the interstate district to procure the means for their payment.

ARTICLE X

APPLICABILITY OF NEW HAMPSHIRE LAWS

§3652. General school laws

With respect to the operation and maintenance of any school of the district located in New Hampshire, New Hampshire law shall apply except as otherwise provided in this compact and except that the powers and duties of the school board shall be exercised and discharged by the interstate board and the powers and duties of the union superintendent shall be exercised and discharged by the interstate district superintendent.

§3653. New Hampshire state aid

A New Hampshire school district shall be entitled to receive an amount of state aid for operating expenditures as though its share of the interstate district's expenses were the expenses of the New Hampshire member district, and as though the New Hampshire member district pupils attending the interstate school were attending a New Hampshire cooperative school district's school. The state aid shall be paid to the New Hampshire member school district to reduce the sums which would otherwise be required to be raised by taxation within the member district.

§3654. Continued existence of New Hampshire member school district

A New Hampshire member school district shall continue in existence, and shall have all of the powers and be subject to all of the obligations imposed by law and not herein delegated to the interstate district. If the interstate district incorporates only a part of the schools in the member school district, then the school board of the member school district shall continue in existence and shall have all of the powers and be subject to all of the obligations imposed by law on it and not herein delegated to the district. However, if all of the schools in the member school district are incorporated into the interstate school district, then the member or members of the interstate board representing the member district shall have all of the powers and be subject to all of the obligations imposed by law on the members of a school board for the member district

and not herein delegated to the interstate district. The New Hampshire member school district shall remain liable on its existing indebtedness; and the interstate school district shall not become liable therefor, unless the indebtedness is specifically assumed in accordance with the articles of agreement. Any trust funds or capital reserve funds and any property not taken over by the interstate district shall be retained by the New Hampshire member district and held or disposed of according to law. If all of the schools in a member district are incorporated into an interstate district, then no annual meeting of the member district shall be required unless the members of the interstate board from the member district shall determine that there is occasion for such an annual meeting.

§3655. Suit and service of process in New Hampshire

The courts of New Hampshire shall have the same jurisdiction over the district as though a New Hampshire member district were a party instead of the interstate district. The service necessary to institute suit in New Hampshire shall be made on the district by leaving a copy of the writ or other proceedings in hand or at the last and usual place of abode of one of the directors who resides in New Hampshire, and by mailing a like copy to the clerk and to one other director by certified mail with return receipt requested.

§3656. Employment

Each employee of an interstate district assigned to a school located in New Hampshire shall be considered an employee of a New Hampshire school district for the purpose of the New Hampshire teachers retirement system, the New Hampshire state employees retirement system, the New Hampshire workmen's compensation law and any other law relating to the regulation of employment or the provision of benefits for employees of New Hampshire school districts except as follows:

1. Teachers in New Hampshire member district. A teacher in a New Hampshire member district may elect to remain a member of the New Hampshire teachers retirement system, even though assigned to teach in an interstate school in Maine.

2. Professional or instructional staff members. Employees of interstate districts designated as professional or instructional staff members, as defined in article 1, may elect to participate in the teachers retirement system of either the State of New Hampshire or the

State of Maine but in no case will they participate in both retirement systems simultaneously.

3. Duties of superintendent. It shall be the duty of the superintendent in an interstate district to:

A. Advise teachers and other professional staff employees contracted for the district about the terms of the contract and the policies and procedures of the retirement systems;

B. See that each teacher or professional staff employee selects the retirement system of his choice at the time his contract is signed;

C. Provide the commissioners of education in New Hampshire and in Maine with the names and other pertinent information regarding each staff member under his jurisdiction so that each may be enrolled in the retirement system of his preference.

ARTICLE XI

APPLICABILITY OF MAINE LAWS

§3657. General school laws

With respect to the operation and maintenance of any school of the district located in Maine, the provisions of Maine law shall apply except as otherwise provided in this compact and except that the powers and duties of the school board shall be exercised and discharged by the interstate board and the powers and duties of the superintendent shall be exercised and discharged by the interstate district superintendent.

§3658. Maine state aid

A Maine school district shall be entitled to receive such amount of state aid for operating expenditures as though its share of the interstate district's expenses were the expense of the Maine member district, and as though the Maine member district pupils attending the interstate schools were attending a Maine unit. Such state aid shall be paid to the Maine member school district to reduce the sums which would otherwise be required to be raised by taxation within the member district.

§3659. Continued existence of Maine school districts

A Maine school district shall continue in existence,

and shall have all of the powers and be subject to all of the obligations imposed by law and not herein delegated to the interstate district. If the interstate district incorporates only a part of the schools in the member school district, then the school board of the member school district shall continue in existence and it shall have all of the powers and be subject to all of the obligations imposed by law on it and not herein delegated to the district. However, if all of the schools in the member school district are incorporated into the interstate school district, then the member or members of the interstate board representing the member district shall have all of the powers and be subject to all of the obligations imposed by law on the members of a school board for the member district and not herein delegated to the interstate district. The Maine member school district shall remain liable on its existing indebtedness; and the interstate school district shall not become liable therefor. Any trust funds and any property not taken over shall be retained by the Maine member school district and held or disposed of according to law.

§3660. Suit and service of process in Maine

The courts of Maine shall have the same jurisdiction over the districts as though a Maine member district were a party instead of the interstate district. The service necessary to institute suit in Maine shall be made on the district by leaving a copy of the writ or other proceedings in hand or at the last and usual place of abode of one of the directors who resides in Maine, and by mailing a like copy to the clerk and to one other director by certified mail with return receipt requested.

§3661. Employment

Each employee of an interstate district assigned to a school located in Maine shall be considered an employee of a Maine school district for the purpose of the State Retirement System, the Maine workmen's compensation law, and any other laws relating to the regulation of employment or the provision of benefits for employees of Maine school districts except as follows:

1. Teachers in Maine member district. A teacher in a Maine member district may elect to remain a member of the State Retirement System of Maine, even though assigned to teach in an interstate school in New Hampshire.

2. Professional or instructional staff members. Employees of interstate districts designated as professional or instructional staff members, as defined in

article 1, may elect to participate in the State Retirement System of the State of Maine or the teachers' retirement system of the State of New Hampshire but in no case will they participate in both retirement systems simultaneously.

3. Duties of superintendent. It shall be the duty of the superintendent in an interstate district to:

A. Advise teachers and other professional staff employees contracted for the district about the terms of the contract and the policies and procedures of the retirement system;

B. See that each teacher or professional staff employee selects the retirement system of his choice at the time his contract is signed;

C. Provide the commissioners of education in New Hampshire and in Maine with the names and other pertinent information regarding each staff member under his jurisdiction so that each may be enrolled in the retirement system of his preference.

ARTICLE XII

MISCELLANEOUS PROVISIONS

§3662. Studies

Insofar as practicable, the studies required by the laws of both states shall be offered in an interstate school district.

§3663. Textbooks

Textbooks and scholar's supplies shall be provided at the expense of the interstate district for pupils attending its schools.

§3664. Transportation

The allocation of the cost of transportation in an interstate school district, as between the interstate district and the member districts, shall be determined by the articles of agreement.

§3665. Location of schoolhouses

In any case where a new schoolhouse or other school facility is to be constructed or acquired, the interstate board shall first determine whether it shall be located in

New Hampshire or in Maine. If it is to be located in New Hampshire, RSA 199, relating to schoolhouses, shall apply. If it is to be located in Maine, the Maine law relating to schoolhouses shall apply.

§3666. Fiscal year

The fiscal year of each interstate district shall begin on July 1st of each year and end on June 30th of the following year.

§3667. Immunity from tort liability

Notwithstanding the fact that an interstate district may derive income from operating profit, fees, rentals, and other services, it shall be immune from suit and from liability for injury to persons or property and for other torts caused by it or its agents, servants or independent contractors, except insofar as it may have undertaken such liability under RSA 221:7 relating to workmen's compensation, or RSA 412:3 relating to the procurement of liability insurance by a governmental agency and except insofar as it may have undertaken such liability under Maine laws relating to workmen's compensation or Maine laws relating to the procurement of liability insurance by a governmental agency.

§3668. Administrative agreement between commissioners of education

The commissioners of education of New Hampshire and Maine may enter into one or more administrative agreements prescribing the relationship between the interstate districts, member districts, and each of the 2 state departments of education, in which any conflicts between the 2 states in procedure, regulations, and administrative practices may be resolved.

§3669. Amendments

Neither state shall amend its legislation or any agreement authorized thereby without the consent of the other in such manner as to substantially adversely affect the rights of the other state or its people hereunder, or as to substantially impair the rights of the holders of any bonds or notes or other evidences of indebtedness then outstanding or the rights of an interstate school district to procure the means for payment thereof. Subject to the foregoing, any reference herein to other statutes of either state shall refer to such statute as it may be amended or revised from time to time.

§3670. Inconsistency of language

The validity of this compact shall not be affected by any insubstantial differences in its form or language as adopted by the 2 states.

§3671. Separability

If any of the provisions of this compact or legislation enabling the same shall be held invalid or unconstitutional in relation to any of the applications thereof, such invalidity or unconstitutionality shall not affect other applications thereof or other provisions thereof, and to this end the provisions of this compact are declared to be severable.

PART 3ELEMENTARY AND SECONDARY EDUCATIONCHAPTER 201GENERAL PROVISIONS§4001. Facilities

The following provisions shall apply to school facilities.

1. Maintenance and repairs. A school administrative unit shall repair, improve and maintain its facilities with funds from its own budget.

2. Erect buildings. A school administrative unit may raise money to erect and equip school buildings.

3. Lease. A school administrative unit may lease facilities and other property.

A. The term of a lease shall be at least equal to the period during which similar property of the unit is used. A lease may not exceed a term of 10 years.

B. A lease of classroom space shall provide for its exclusive use by the unit. A lease may provide for the nonexclusive use of other property, but that property may be used for housing only in emergencies.

C. Leased property shall be considered property of the unit in all respects.

D. A lease may not be eligible for the state school

subsidy unless it is approved by the commissioner before it is signed.

4. Financing. School administrative units may, with approval of the legislative body, arrange financing for maintenance of plant and minor remodeling.

5. Capital reserve fund. School administrative units may establish a capital reserve fund for maintenance of plant and minor remodeling.

6. Insurance. School administrative units shall carry fire insurance and allied coverage in the amount of the replacement cost of any school construction project. The commissioner may adjust the amount of coverage required if insurance cannot be obtained at a reasonable cost.

§4002. Schoolbooks, apparatus and appliances

The following provisions shall apply to schoolbooks, apparatus and appliances.

1. Free schoolbooks. A school administrative unit shall provide its students with schoolbooks and necessary apparatus and appliances at the expense of the school administrative unit.

2. Purchased textbooks. The parent of a student may buy required textbooks for that student's exclusive use.

3. Rules. A school board may adopt rules for distributing and preserving schoolbooks, apparatus and appliances provided by the unit.

§4003. Water supply

If a school building of a school administrative unit is supplied by a water supply operated by the school administrative unit and which serves only the school buildings under the control of the school board, the water supply shall not be considered a public water supply under Title 22, sections 2651 and 2652. The school board shall ensure that this water supply meets standards set by the Department of Human Services for private water supplies of schools.

§4004. Fencing

Schoolhouse lots and playgrounds that require fencing shall be fenced by the municipality or school administrative unit.

§4005. Gifts

School administrative units may receive and expend gifts for educational purposes.

§4006. Closing schools

Schools may be closed or relocated as follows.

1. Closing or moving. The legislative body of a school administrative unit may, at a regular or special meeting, discontinue or change the location of a school:

A. On the written recommendation of the school board; and

B. With appropriate conditions to preserve the rights and privileges of the residents for whose benefit the school had been established.

2. Temporary closing. A school board may, for a combined period of not more than one year, close a school if there are not enough students for profitable maintenance.

3. Small enrollment. A school with less than an average attendance of 8 students shall close, unless:

A. The school board recommends the school stay open; and

B. The legislative body at a regular or special meeting approved that recommendation.

4. School administrative districts and community school districts. Closing of an elementary school must conform:

A. In a school administrative district, to section 1407; and

B. In a community school district, to section 1751, subsection 5.

§4007. Secret societies prohibited

Secret societies shall be prohibited as follows.

1. Prohibition. Secret fraternities or societies in or associated with public schools shall be prohibited.

2. Enforcement. School boards shall enforce this

section.

3. Penalty. School boards may expel or otherwise discipline any student for failure or refusal to comply with this section.

§4008. Privileged communications

1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Client" means a person who has actively sought or is in the process of seeking professional help from a school counselor.

B. "School counselor" means a person who is employed as a school counselor in a school setting and who:

(1) Is certified as a school counselor by the department; or

(2) Possesses a minimum of a master's degree in an approved program in guidance and counseling.

2. Privileged communication. A school counselor may not be required, except as provided by this section, to divulge or release information gathered during a counseling relation with a client or with the parent or guardian of a minor client. A counseling relation and the information resulting from it shall be kept confidential consistent with the professional obligations of the counselor.

3. Exceptions. This section shall not apply to the extent that disclosure of information is necessary:

A. To comply with Title 22, section 4011; and

B. To report to an appropriate authority or to take appropriate emergency measure when:

(1) The client's condition requires others to assume responsibility for him; or

(2) There is clear and imminent danger to the client or others.

§4009. Civil liability

The following provisions apply to civil liability.

1. Reasonable force. A teacher or other person entrusted with the care or supervision of a person for special or limited purposes may not be held civilly liable for the use of a reasonable degree of force against the person who creates a disturbance if the teacher or other person reasonably believes it is necessary to:

A. Control the disturbing behavior; or

B. Remove the person from the scene of the disturbance.

2. Exceptions. Subsection 1 shall not apply to the intentional or reckless use of force that creates a substantial risk of death, serious bodily injury or extraordinary pain.

3. Effect on civil liability. This section may not be construed to increase the scope of potential civil liability of a teacher or other person entrusted with the care or supervision of a person for special or limited purposes.

4. Emergency medical treatment. Notwithstanding any other provision of any public or private and special law, any nonlicensed agent or employee of a school or school administrative unit who renders first aid, emergency treatment or rescue assistance to a student during a school program may not be held liable for injuries alleged to have been sustained by that student or for the death of that student alleged to have occurred as a result of an act or omission in rendering such aid, treatment or assistance. This subsection does not apply to injuries or death caused willfully, wantonly or recklessly or by gross negligence on the part of the agent or employee.

CHAPTER 203

ELEMENTARY SCHOOLS

SUBCHAPTER I

APPROVAL AND ACCREDITATION

§4201. Approval

Elementary schools shall be approved under rules established by the state board. The commissioner may remove approval for cause following procedures established in accordance with section 3.

§4202. Removal of basic approval

1. Commissioner may remove basic approval. Notwithstanding any other provisions of law, the commissioner may remove basic approval from any elementary school for failure to meet applicable approval requirements.

2. Procedural requirements. Whenever a school fails to meet these requirements the commissioner shall:

A. Give due notice; and

B. Hold a hearing.

3. Hearing. The hearing on removal of basic approval shall be in accordance with the applicable provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, and rules of the State Board of Education adopted pursuant to section 405, subsection 3, paragraph E.

§4203. Nonrenewal of basic approval

The decision of the commissioner on nonrenewal of basic approval of any school applying for renewal shall be in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, and rules adopted by the State Board of Education under section 405, subsection 3, paragraph E.

§4204. Accreditation

The following provisions apply to accreditation.

1. Application. An approved elementary school may apply to the commissioner for accreditation.

2. Standards. The commissioner shall adopt accreditation standards with the approval of the state board. Standards shall include quality of instruction, curriculum and school facilities.

3. Advisory committee. The commissioner shall appoint a committee of professional and lay people to advise him in the adoption of standards.

§4205. Private schools

Private school approval is governed by chapter 117.

CHAPTER 205

SECONDARY SCHOOLS

SUBCHAPTER I

APPROVAL AND ACCREDITATION

§4401. Approval

Secondary schools shall be evaluated by the commissioner for basic approval. A school may not be given basic approval for attendance, tuition or subsidy purposes unless it meets the following requirements.

1. Course of study approved. It maintains a course of study approved by the commissioner.

2. Length of school day. It has a school day of sufficient length to allow the operation of its approved educational program.

3. Certified teachers. It employs only certified teachers.

4. Pupil-teacher ratio. It has a pupil-teacher ratio of not more than 30 to 1.

5. Hygienic facilities and equipment. It has safe and hygienic facilities and adequate equipment and supplies which comply with rules established by the Department of Human Services and the state board.

6. Consecutive grades. It is organized to include not less than 2 consecutive grades from 9 to 12.

7. Records. It has adequate, safely protected records.

8. Size. It meets the following size requirements.

A. If it enrolls fewer than 100 pupils, it may be approved on an emergency or continuing basis only after the school board has presented in detail reasons for the emergency or continuing approval.

B. If the commissioner determines that a school is geographically isolated and if it otherwise meets all the other requirements of this section, it shall receive approval for a 6-year period. The commissioner may terminate that approval because of the school's size only if the school receives at least 5 years' notice of that termination.

§4402. Removal of basic approval

1. Commissioner may remove basic approval. Notwith-

standing any other provisions of law, the commissioner may remove basic approval from any private school for failure to meet applicable approval requirements.

2. Procedural requirements. Whenever a school fails to meet these requirements, the commissioner shall:

A. Give due notice; and

B. Hold a hearing.

3. Hearing. The hearing on removal of basic approval shall be in accordance with the applicable provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, and rules of the State Board of Education adopted pursuant to section 405, subsection 3, paragraph E.

§4403. Nonrenewal of basic approval

The decision of the commissioner on nonrenewal of basic approval of any school applying for renewal shall be in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, and rules adopted by the State Board of Education under section 405, subsection 3, paragraph E.

§4404. Accreditation

For accreditation the following shall be required.

1. Application for accreditation. An approved school may apply to the commissioner for recognition as an accredited school.

2. Requirements. The commissioner, with the approval of the state board, shall establish requirements for accreditation, which shall include nationally recognized standards, including:

A. Quality of instruction;

B. School facilities; and

C. Curriculum content.

3. Advisory committee. The commissioner shall appoint an advisory committee consisting of professional and lay persons to assist in the development of these standards. A school may not be accredited until it has been evaluated by an advisory committee qualified to appraise its functions and program success.

4. Procedure for adoption of accreditation standards. The commissioner shall adopt or amend rules on the requirements and standards for accreditation.

§4405. Private schools

Approval of private schools is governed by chapter 117.

§4406. Junior high school defined

A junior high school means a school which maintains a diversified program of studies approved by the commissioner, for grades or years as he prescribes, throughout the school year. A combination of 2 or more consecutive grades 6 to 9 may be included in a junior high school. A junior high school may be maintained in connection with or as a part of an approved or accredited secondary school.

CHAPTER 207

CURRICULUM

§4601. Basic curriculum

1. Required courses in American and Maine history. The following courses shall be required.

A. American history and civil government, including the Constitution of the United States, the Declaration of Independence, the importance of voting and the privileges and responsibilities of citizenship, shall be taught in and required for graduation from all elementary and secondary schools both public and private.

B. A course in the history, including the Constitution of Maine, Maine geography and the natural and industrial resources of Maine shall be taught in at least one grade from grade 7 to grade 12, in all schools, both public and private.

2. English. Four years of English shall be required for graduation from a secondary school.

3. Required programs in physical education, safety and health. Programs in physical education, safety and health shall be provided and required for all students in public elementary and secondary schools. The commissioner:

A. Shall adopt or amend rules to carry out the programs;

B. May periodically require reports from superintendents; and

C. Shall prescribe courses of studies and plans of lessons and instruction.

4. Courses prescribed by the commissioner. The commissioner shall prescribe by rule the basic curriculum to be taught in public schools.

5. Courses prescribed by school boards or boards of trustees. A school board or board of trustees subject to approval by the commissioner, may prescribe additional studies to be taught in its school administrative unit or school.

6. Exception. A student who has satisfactorily completed the freshman year in a degree-granting institution may receive a secondary school diploma from the school he last attended, even if he did not meet these graduation requirements in subsection 1, paragraph A and subsection 2.

§4602. Languages of instruction

Languages of instruction to be used in all schools shall be as follows.

1. Basic language. The basic language of instruction in all schools, public and private, shall be the English language, except as provided in this section.

2. Foreign language instruction. A school may provide courses in foreign languages that are taught in those languages.

3. Bilingual education. Subject to the annual approval of the commissioner, the school board of an administrative unit having students from non-English-speaking families may provide programs involving bilingual education techniques. These techniques shall be designed to provide students with educational experiences to enhance their learning. Bilingual instructors shall be subject to certification by the state board in both course content and language of instruction.

4. Transitional instruction. A school board may provide transitional instruction programs.

A. "Transitional instruction" means instruction given to a limited English speaking student for the purpose of enabling the student to be instructed in English

within a reasonable length of time. Transitional instruction shall not include bilingual education programs, as defined in (Public Law 90-247, Title VII, United States Code Annotated, Title 20, Section 880b-1,) that is, programs which do not include students of limited English speaking ability.

B. Certified bilingual instructors shall not be required for the provisions of transitional instruction at any grade level.

§4603. Industrial education

Schools may provide courses in industrial arts. The commissioner shall provide technical assistance.

§4604. Driver education

Schools may offer courses in driver education either during regular school hours or outside of regular school hours.

1. School administrative unit fee. A school administrative unit may charge a fee, based on the per student cost, for driver education courses conducted after regular school hours during the school year.

2. Contract authority. A school administrative unit or private school may contract for driver education with any certified person or any commercial driver education school, provided that the instructor for the school shall be certified.

3. Temporary certification. If a certified instructor is not available within a school administrative unit, and if that unit requests it, the commissioner shall grant temporary driver education teacher certification to a person licensed by the Secretary of State to teach driver education. Requests for temporary certification shall be initiated by the administrative unit. A certificate may not be for more than one year.

4. Rules. The commissioner shall adopt or amend rules to carry out this section.

CHAPTER 209

SCHOOL DAYS, HOLIDAYS, SPECIAL OBSERVANCES

§4801. School days

The following provisions shall apply to school days.

1. Number. A school administrative unit shall make provision for the maintenance of all of its schools for at least 180 days a year. At least 175 days shall be used for instruction. In meeting the requirement of a 180-day school year, no more than 5 days may be used for in-service education of teachers, administrative meetings, parent-teacher conferences, records days and similar activities.

A. The commissioner may reduce or waive the minimum number of days required on application from a school board. The application must be supported in writing with a statement of the reasons for the request.

B. Notwithstanding any other section of the statutes, school committees, with the approval of the commissioner, may adopt or amend rules necessary to implement an extended school year at the local level. The commissioner may make appropriate adjustments, not to exceed the allowable subsidy, to insure fair and equitable treatment in the distribution of state aid.

2. Equal terms. A school administrative unit shall operate all its schools so that their regular annual sessions are as equal in length as practicable.

3. Noncompliance. A school administrative unit which fails to comply with this section may not receive its state school subsidy until it provides for future compliance.

§4802. Holidays

The following provisions shall apply to school holidays.

1. Unconditional holidays. Public schools shall close on the following days:

A. Patriot's Day, the 3rd Monday in April;

B. Memorial Day, last Monday in May or May 30th if the Federal Government designates that date;

C. Independence Day, July 4th;

D. Labor Day, the first Monday in September;

E. Columbus Day, the 2nd Monday in October;

F. Veteran's Day, November 11th;

G. Thanksgiving Day, as designated by the Governor; and

H. Christmas Day, December 25th.

2. Conditional holidays. Public schools shall close on the following days unless the school board votes to keep its schools open and observe the day with special exercises as defined in section 4803:

A. New Years Day, January 1st; and

B. Washington's Birthday, the 3rd Monday in February.

§4803. Special observance days

Days marked by special observances shall be established as follows:

1. January 1st. January 1st, if the school board votes to keep schools open;

2. Washington's Birthday. Washington's Birthday, the 3rd Monday in February, if the school board votes to keep schools open. The day shall be observed with appropriate exercises;

3. Lincoln's Birthday. Lincoln's Birthday shall be observed by studying the life and character of Abraham Lincoln during part of the school day;

4. Arbor Day, as designated by the Governor. Arbor Day shall be observed for the purpose designated by the Governor;

5. Temperance Day. Temperance Day, March 1st, shall be observed by studying the history and benefits of temperance laws for at least 45 minutes. The commissioner shall prepare appropriate materials for this observance;

6. John F. Kennedy Day. John F. Kennedy Day, November 2nd, shall be observed by studying the life and character of John F. Kennedy during part of the school day;

7. Martin Luther King Day. Martin Luther King Day, January 15th, as specified in Title 1, section 115;

8. Statehood Day. Statehood Day, March 15th, as specified in Title 1, section 116; and

9. Poetry Day. Poetry Day, October 15th, as specified

in Title 1, section 112.

§4804. Sunday holidays

When a holiday or special observance falls on a Sunday, the following Monday shall be considered the holiday or day of special observance.

§4805. Other special observances

Other special observances shall be as follows.

1. Flag. It shall be the duty of instructors to impress upon the youth by suitable references and observances the significance of the flag, to teach them the cost, the object and principal of our government, the inestimable sacrifices made by the founders of our Nation, the important contribution made by all who have served in the armed services of our country since its inception and to teach them to love, honor and respect the flag of our country that costs so much and is so dear to every true American citizen.

2. Period of silence. The school board of a school administrative unit may require, at the commencement of the first class of each day in all grades in all public schools in their unit, that the teacher in charge of the room in which each class is held shall announce that a period of silence shall be observed for reflection or meditation and during that period silence shall be maintained and no activities engaged in.

3. American History Month. American History Month is the month of February, in accordance with Title 1, section 113.

4. Maine Cultural Heritage Week. Maine Cultural Heritage Week is the week containing March 15th, in accordance with Title 1, section 118.

5. Arbor Week. Arbor Week is the 3rd full week in May, in accordance with Title 1, section 111-A.

CHAPTER 211

ATTENDANCE

SUBCHAPTER I

ATTENDANCE

§5001. Compulsory attendance

The following provisions apply to compulsory attendance.

1. Requirement. Persons 7 years of age or older and under 17 years shall attend a public school during its regular annual session.

2. Exceptions. Compulsory attendance shall not apply to the following:

A. Persons who graduate from high school before their 17th birthday;

B. Persons who have:

(1) Reached the age of 15 or completed the 9th grade;

(2) Permission to leave school from their parent or legal guardian;

(3) Permission to leave school from the school board or its designee; and

(4) Agreed in writing with their parent or legal guardian and the school board or its designee to meet annually until their 17th birthday to review their educational needs;

C. Students who obtain equivalent instruction in an approved private school shall be credited with attendance at a private school only if a certificate showing their names, residence and attendance at the school, signed by the person or persons in charge of the school, has been filed with the school officials of the administrative unit in which the students reside;

D. Equivalent instruction is as follows:

(1) A child shall be excused from attending a public day school if he obtains equivalent instruction in a private school or in any other manner arranged for by the school committee or the board of directors and if the equivalent instruction is approved by the commissioner; and

(2) If any request to be excused is denied by a local school committee or board of directors, an appeal may be filed with the commissioner. The commissioner shall review the request to be excused to determine whether the local school com-

mittee or board of directors has been correct in its finding that no equivalent instruction is available. If the commissioner finds that equivalent instruction is available to the child, he shall approve the request to be excused; or

E. Children shall be credited with attendance at a private school only if a certificate showing their names, residence and attendance at the school, signed by the person or persons in charge of the school, has been filed with the school officials of the administrative unit in which the children reside.

3. Appeal process. Persons who have complied with subsection 2, paragraph B, subparagraphs (1) and (2) may appeal to the commissioner if the school board or its designee denies them permission to leave school.

4. Excusable absence. A person's absence is excused when the absence is for the following reasons:

A. Personal illness;

B. An appointment with a health professional that must be made during the regular school day;

C. Observance of a recognized religious holiday when the observance is required during the regular school day;

D. A family emergency; or

E. A planned absence for a personal or educational purpose which has been approved.

5. Adult responsibility. Any adult having a person subject to subsection 1 under their control shall be responsible for their compliance.

6. Noncompliance. An absence of 1/2 day or more shall be considered noncompliance with subsection 1.

§5002. Alternate programs

The following provisions apply to suitable programs of work, work study or training.

1. Approval. Students subject to section 5001, subsection 1, shall be excused if they:

A. Are 14 years of age or older;

B. Are participating in a suitable program of work, work study or training;

C. Have their parent's or guardian's consent; and

D. The principal approves.

2. Appeal. A parent or guardian may appeal to the school board if the principal refuses to approve under subsection 1.

3. Student involvement. A student requesting to be excused under this section shall be consulted in the selection and formulation of work programs.

4. Special work permit. A student between the ages of 15 and 17 years who is unable to be issued a regular work permit may receive a work permit for employment in nonhazardous occupations. This special work permit shall be issued jointly by the commissioner and the Director of the Bureau of Labor.

§5003. Administration

1. School board's responsibility. School boards shall administer this subchapter.

2. Rules. School boards shall adopt rules to carry out this subchapter. They shall file a copy with the commissioner.

3. Commissioner's responsibility. The commissioner shall guide school boards in adopting these rules.

SUBCHAPTER II

HABITUAL TRUANTS

§5051. Habitual truants

1. Definition. A student is a habitual truant if he is:

A. Subject to sections 5001 or 5002; and

B. Absent from school without excuse for the equivalent of 10 full days, or for at least 1/2 day on 7 consecutive school days, within any 6-month period.

2. Procedure. The following provisions apply to procedure when a student is a habitual truant.

A. If a principal of a public school determines that a student is a habitual truant, the principal shall inform the superintendent. The superintendent shall first try to correct the problem informally.

B. If unable to correct the problem informally, the superintendent shall refer the matter to the school board along with the principal's report and any other useful information.

C. The school board shall call a hearing and shall notify the parent or guardian of the following in writing at least 7 days in advance:

(1) Date and time of the hearing;

(2) Purpose of the hearing;

(3) Their right to inspect student's attendance records and principal's reports; and

(4) The necessity of their and student's presence at the hearing.

D. If the school board determines that the student is a habitual truant, it shall either:

(1) Instruct the student to comply with section 5001, subsection 1, and advise the parent or guardian of their responsibility under section 5001, subsection 3; or

(2) Waive the requirements of section 5001, subsection 1, if the student is 14 years of age or older.

E. A parent or guardian may appeal the decision of the school board to the commissioner.

(1) The commissioner shall appoint a fair hearing officer to hear the appeal.

(2) The fair hearing officer shall report to the commissioner on the testimony presented and shall recommend a disposition to the commissioner.

(3) The commissioner shall review the report and shall affirm, modify or reverse the school board's decision.

3. Reports. The following provisions apply to

reports.

A. A superintendent shall submit an annual report to the commissioner before October 1st. The report shall:

(1) Identify the number of habitual truants in the unit in the preceding school year;

(2) Describe the unit's efforts to deal with habitual truancy;

(3) Account for actions brought under this section; and

(4) Include any other information on truancy requested by the commissioner.

B. The commissioner shall submit an annual report to the Governor and the Legislature before January 15th. The report shall aggregate the information provided by superintendents and shall evaluate the effect of state laws on the incidence of truancy.

§5052. Attendance officers

The following provisions apply to attendance officers.

1. Election. The following provisions apply to the election of attendance officers.

A. A school board shall annually elect an attendance officer or officers.

B. The attendance officer shall be elected at the first meeting of the school board after its election.

C. Vacancies shall be filled as they occur.

2. Duties. An attendance officer shall:

A. Investigate all cases of alleged habitual truancy and report to the school board;

B. When directed in writing by the school board or the superintendent, file a complaint under section 5053;

C. When notified by a teacher that a student's attendance is irregular, arrest and take that student to school if that student is truant;

D. When directed in writing by the school board or the

superintendent, visit places of employment in the unit during regular school hours to determine whether any individual under 14 years of age works there and report to the superintendent or the school board; and

E. Upon completing an investigation under paragraph D, report in writing to the Director of the Bureau of Labor any finding that a minor is illegally employed under Title 26, chapter 7.

3. Work permits. On request of an attendance officer acting under subsection 2, paragraph D, the person in charge of a place of employment shall produce all permits required to be kept under Title 26, chapter 7.

4. Compensation. A school board may pay its attendance officer out of funds appropriated for that purpose.

5. Penalties. The following provisions apply to penalties.

A. An attendance officer who fails to perform the duties assigned under this section shall be punished by a fine of not less than \$10 nor more than \$50. All fines shall be paid to the treasurer of the school administrative unit in which the offense was committed for the support of its public schools.

B. A school administrative unit which fails to perform its duties under this section shall be subject to section 6801.

§5053. Enforcement

1. Offenses. Each of the following acts shall constitute a civil violation under this subchapter and subchapter III:

A. Having control of a student who is a habitual truant and being primarily responsible for that truancy;

B. Inducing a student to violate section 5051, subsection 1; or

C. Harboring or concealing a student who is in violation of section 5001.

2. Jurisdiction. The District Court shall have jurisdiction of these offenses.

3. Process. Warrants and legal process issued by a court to enforce this section may be directed to and executed by the attendance officer of the school administrative unit where the offense is alleged to have been committed.

4. Penalties. The following provisions apply to penalties.

A. A person guilty of a civil violation under:

(1) Subsection 1, paragraph A shall be punished by a forfeiture of not more than \$200; and

(2) Subsection 1, paragraphs B and C shall be punished by a forfeiture of not less than \$500.

B. All forfeitures in paragraph A shall be paid to the treasurer of the school administrative unit in which the offense was committed for the support of its public schools.

C. The court may require that the offender undergo counseling by a professional selected by the offender, with the court's approval, or by the court. The counselor shall submit a written report to the court and to the offender.

SUBCHAPTER III

DROPOUTS

§5101. Statement of purpose

School attendance shall be compulsory because education is essential to the preservation of the rights and liberties of the people. To safeguard these rights and liberties further, and to ensure equal access to educational opportunity, the public schools should help those students in need find appropriate alternatives to regular school curricula and should maintain contact with dropouts.

§5102. Definitions

As used in this subchapter, unless the context otherwise indicates, a "dropout" means any person under the age of 17 who has withdrawn or been expelled from school before graduation or completion of a program of studies and who has not enrolled in another educational institution or program.

§5103. Positive action committee

The following provisions apply to the positive action committee.

1. Committee. A superintendent responsible for a grade level from 9 to 12 shall establish a positive action committee.

2. Membership. The positive action committee shall be composed of the following members:

A. A member of the school board selected by that board;

B. A school administrator selected by the superintendent;

C. Two teachers or school guidance counselors selected by the unit's teachers' organization;

D. Two parents of students enrolled in a grade level from 9 to 12, selected by the organized parent group, or, if no organized parent group exists, by the school board;

E. Two students enrolled in a grade level from 9 to 12 selected by the positive action committee members selected in paragraphs A to D;

F. Two recent dropouts selected by the positive action committee members selected in paragraphs A to D; and

G. Two residents of the municipalities within the school administrative unit selected by the positive action committee members selected in paragraphs A to D.

A positive action committee may increase its membership by majority vote.

3. Terms and vacancies. Members shall serve 2-year terms. Members may be reappointed. A vacancy shall be filled as if it were an original appointment.

4. Chairman. The positive action committee shall select a chairman from among its members. A chairman may not serve continuously for more than 2 years.

5. Responsibilities. The following provisions apply to responsibilities of the positive action committee.

A. The positive action committee shall:

- (1) Study the dropout problem;
- (2) Develop a plan for dealing with it; and
- (3) Submit the plan to the school board.

B. The school board shall:

- (1) File its plan with the department; and
- (2) Inform the department what parts of the plan will become policy in the unit.

C. The positive action committee shall consider the following when developing its plan:

- (1) Reasons why students drop out of school;
- (2) Maintenance of continuing contacts with recent dropouts in order to extend opportunities for alternate educational programs, counseling and referral;
- (3) Education of teachers and administrators about the dropout problem;
- (4) Use of human services' programs to help dropouts;
- (5) The school administrative unit's policies on suspension, expulsion and other disciplinary action; and
- (6) Discriminatory practices and attitudes within the school administrative unit.

6. Annual review. The positive action committee shall meet at least annually to review its plan and to make recommendations to the school board. The school board shall inform the department of any changes it adopts.

7. Department assistance. The department shall provide reasonable technical assistance to a positive action committee on request.

§5104. Programs

1. Student involvement. A student being considered for participation in programs for dropouts and truants shall be involved in the selection and formation of those programs.

2. Student count. For state school subsidy purposes, a student enrolled in a program for dropouts and truants shall be counted as 1/10th of a student if the student enrolls in a semester credit course or its equivalent leading to high school graduation. A student may not be counted as more than one student under this Title.

3. Programs outside the school administrative unit. The following provisions apply to programs outside the school administrative unit.

A. If a school administrative unit has no program for dropouts and truants and if the superintendent approves, students in that unit may enroll in programs in another school administrative unit or a private school.

B. The students' school administrative unit shall pay tuition equal to no more than 1/10th of the state school subsidy for each student for each semester course or its equivalent in the students' unit.

C. The commissioner shall adopt rules to administer this subsection.

CHAPTER 213

STUDENT ELIGIBILITY

§5201. Age

The following provisions apply to enrollment in public elementary and secondary schools.

1. Eligibility to enroll. A person 5 years of age or older and under 20 years of age may enroll as a full-time student or, with the consent of the school board, as a part-time student, in the public elementary and secondary schools.

2. Minimum ages. The following are minimum ages necessary for student enrollment in a school administrative unit.

A. A person who will be at least 6 years old on October 15th of the school year may enroll in grade one.

B. A person who will be at least 5 years old on October 15th of the school year may enroll in a one-year kindergarten if it is offered.

C. A person who will be at least 4 years old on October 15th of the school year may enroll in a 2-year childhood education program prior to grade one if it is offered.

3. Exceptions. The following are exceptions to this section.

A. War veterans who have not completed high school before their 18th birthday may enroll in the public schools in the school administrative units where they reside until they graduate or reach the age of 25.

B. A person who has enrolled in a public kindergarten or grade one in another state may enroll in kindergarten or grade one, as the case may be, in the school administrative unit where the parent or guardian become residents.

C. A person who was enrolled in kindergarten in this State under paragraph B, may enroll in grade one upon satisfactory completion of kindergarten.

D. A person who was enrolled in a public kindergarten in another state and was promoted to grade one may enroll in grade one in the school administrative unit where the parent or guardian becomes a resident.

E. The eligibility for exceptional students is governed by section 7001, subsection 2.

4. Rules. A school board may adopt rules to carry out this section.

§5202. Residence

1. Definitions. For the purposes of this section, "parent" means the parent or guardian with legal custody.

2. General rule. A person shall be considered a resident of the school administrative unit where his parent resides. A federal installation shall be considered part of the school administrative unit in which it is located.

§5203. Elementary students right to attend school in another administrative unit

The following provisions govern the right of elementary students to attend school in another school administrative unit other than the one in which they are resident.

1. Units with an elementary school. An elementary student may attend an approved private school or a public elementary school in any school administrative unit with the consent of the receiving school's school board. The student's parent or guardian shall pay the cost of tuition and transportation. The receiving school shall notify the superintendent of the school administrative unit where the student's parents reside of the name and grade of the accepted student.

2. Living remote from public schools in a school administrative unit. Elementary students whose parents live remote from a public school in their school administrative unit may, with the consent of the school board in their unit, attend public school in an adjoining school administrative unit in Maine or a neighboring state if the adjoining unit accepts tuition students. The school administrative unit where the students' parents reside shall pay tuition and transportation.

3. Contract school. Students whose parents reside in a school administrative unit which contracts for school privileges under section 2701 may attend the contract school. The school administrative unit in which their parents reside shall pay the costs of the contract and transportation.

4. Exception; no elementary school. Elementary students whose parents reside in a unit which neither maintains an elementary school nor contracts for elementary school privileges may attend a private school approved for tuition purposes or a public school in an adjoining unit in Maine or in a neighboring state which accepts tuition students. The school administrative unit where the students' parents reside shall pay tuition and transportation.

5. Units with 10 or fewer students. Elementary students whose parents reside in a school administrative unit with a total April 1st resident student count of 10 or less may attend public school as tuition students in a nearby school administrative unit. The school board of the nearby school administrative unit shall accept the students if requested by the school board of the unit in which the students' parents reside. The school board where the students' parents reside shall pay tuition and transportation.

§5204. Secondary students right to attend school in another administrative unit

The following provisions govern the right of secondary students to attend school in another school administrative

unit other than the one in which they are resident.

1. Units with a secondary school. A secondary student may attend an approved private school or a public secondary school in any school administrative unit with the consent of the receiving school's school board. The student's parent or guardian shall pay the cost of tuition and transportation. The receiving school shall notify the superintendent of the school administrative unit where the student's parents reside of the name and grade of the accepted student;

2. Living remote from public schools in a school administrative unit. Secondary students whose parents live remote from a public school in their school administrative unit may, with the consent of the school board in their unit, attend public school in an adjoining school administrative unit in Maine or a neighboring state if the adjoining unit accepts tuition students. The school administrative unit where the students' parents reside shall pay tuition.

3. Contract school. Students whose parents reside in a school administrative unit which contracts for school privileges under section 2701 may attend the contract school. The school administrative unit in which their parents reside shall pay the cost of the contract.

4. No secondary school. Secondary students whose parents reside in a unit which neither maintains a secondary school nor contracts for secondary school privileges may attend a private school approved for tuition purposes, a public school in an adjoining unit which accepts tuition students, or a school approved for tuition purposes in another state or country. The school administrative unit where the students' parents reside shall pay tuition.

5. Units with 10 or fewer students. Secondary students whose parents reside in a school administrative unit with a total April 1st resident student count of 10 or less may attend public school as tuition students in a nearby school administrative unit. The school board of the nearby school administrative unit shall accept the students if requested by the school board of the unit in which the students' parents reside. The school board where the students' parents reside shall pay tuition.

6. Insufficient courses; time limitations. If the secondary school does not offer 2 approved occupational courses of study, a 2-year course in mathematics or science or 2 approved foreign language courses, then its students may attend another secondary school approved for tuition

purposes to take the missing courses of study, provided that:

- A. The receiving school accepts tuition students;
- B. The students meet the qualifications for attending their own secondary school; and
- C. The students have notified their own school administrative unit by April 1st, before the start of each academic year, that they wish to take the course not being offered by their school administrative unit. Their school administrative unit shall notify them on or before July 15th of that year whether the course will be offered in the next academic year.

§5205. Other exceptions to the general residency rules

The following exceptions apply in determining a student's right to attend a school in a school administrative unit other than the one in which the student has permanent residence.

1. State wards. A state ward shall be considered a resident of the unit where placed.

2. Other students not living at home. A student other than a state ward, residing with another person who is not the student's parent, shall be considered a resident of the school administrative unit where the student resides if the superintendent of the unit determines that it is in the best interest of the student because of the following:

A. It is undesirable and impractical for that student to reside with the student's parent, or that other extenuating circumstances exist which justify residence in the unit; and

B. That person is residing in the school administrative unit for other than just education purposes.

The commissioner shall review the superintendent's findings under paragraph B, on the request of that student's parent. The commissioner's decision shall be final and binding.

3. Students placed by state agencies. A student who is placed by a state agency, child placement agency or parent in a nonfamily foster home shall be considered a resident of the school administrative unit where the foster home is located, if:

A. The state agency, child placement agency or parent proves to the school administrative unit's satisfaction that the costs of educating that student will be paid to the school administrative unit in the year they are incurred; and

B. The school administrative unit has agreed to accept tuition students under this Title.

4. Students living at light, fog warning or life stations. A student living at any light, fog warning or lifesaving station shall be considered a resident of the school administrative unit where the student chooses to enroll.

5. Temporary residents. A student who temporarily resides in a school administrative unit shall be considered a resident of that school unit if the student is living with a parent who, because of employment, moves from place to place. This subsection may not be construed to abridge that student's rights in the school administrative unit where the student permanently resides.

6. Transfer students. The following provisions apply to transfers of students from one school administrative unit to another.

A. Two superintendents may approve the transfer of a student from one school administrative unit to another if:

(1) They find that a transfer is in the student's best interest; and

(2) The student's parent approves.

The superintendents shall notify the commissioner of any transfer approved under this paragraph.

B. On the request of the parent of a student requesting transfer under paragraph A, the commissioner shall review the transfer. The commissioner's decision shall be final and binding.

C. The superintendents shall annually review any transfer under this subsection.

D. For purposes of the state school subsidy, a student transferred under this subsection shall be considered a resident of the school administrative unit to which transferred. For purposes of local leeway under

section 15511, subsection 3, a student transferred under this subsection shall be considered a resident of the largest municipality in the school administrative unit to which transferred.

E. A school administrative unit may not charge tuition for a transfer approved under this subsection.

CHAPTER 215

TRANSPORTATION

§5401. Transportation

The transportation of public school students shall be governed as follows.

1. Municipal school units. The superintendent of schools in a municipal school unit shall, with the approval of the school board, provide transportation for elementary school students a part of or the whole distance to and from the nearest suitable elementary school. The municipality may provide transportation for secondary level students.

2. School administrative district. The superintendent of schools in a school administrative district shall, with the approval of the school board, provide transportation for:

A. Elementary school students a part of or the whole distance to and from the nearest suitable school; and

B. Secondary school students a part of or the whole distance to the district's secondary school or to and from the secondary school in the school administrative unit or units with which the district has contracted for secondary school privileges. The school board may provide transportation for secondary school students attending other secondary schools.

3. Community school district. The community school district school committee shall either:

A. Instruct the superintendent of schools to provide transportation for elementary and secondary school students all or a part of the way to and from the nearest suitable school; or

B. Provide transportation in accordance with a written agreement with the member school administrative units.

4. Special education students. Special education students shall be provided transportation:

- A. As provided by chapter 301; or
- B. To and from classes.

5. Secondary school students residing on islands. A school administrative unit shall pay transportation charges over regular transportation lines for secondary school students who reside on islands if those islands are:

- A. Within the school administrative unit;
- B. Without a secondary school; and
- C. Served by regular transportation lines.

The charges shall not exceed regular fares. The transportation line and the school board may by agreement establish school fares for these students at less than the regular fare.

6. Temporary residents and residents on state-owned property. The commissioner shall reimburse a school administrative unit for approved transportation of students who reside on state-owned property located in towns of less than 100 residents or who are temporary residents, if those students reside more than 2 miles from the school.

- A. A superintendent, with the approval of the school board, shall report these students to the commissioner. The report shall include any other information the commissioner requires.
- B. The commissioner may direct the unit to provide transportation or board if transportation is deemed inadvisable.
- C. On receiving a bill of expenses for transportation or board from a school administrative unit, the commissioner shall, in December, reimburse it for those expenses from the department appropriation for that purpose.

7. Remote location. If a student resides in a location remote from and inaccessible to schools or public highways, the student's parents shall be responsible for providing transportation to a public highway or paying board for the student within walking distance of a school. Failure of the parent to provide transportation or board shall be con-

sidered a violation of the truancy law.

8. Adult education. A school administrative unit may provide transportation for adults to and from adult education programs as authorized under section 8611.

9. Vocational education. The following provisions shall apply to transportation for vocational education.

A. The sending school administrative unit shall provide transportation for its students to and from a vocational center or vocational satellite program.

B. The cooperative board shall provide for the transportation of students to and from vocational programs operated by vocational regions, centers or satellites.

(1) Transportation may not be provided outside the vocational region, unless approved by the commissioner.

(2) State aid for transportation shall be computed and paid to the administrative units of the region in the same proportion that the administrative unit contributes to the vocational educational budget of the region.

10. Duration. Transportation shall be provided for the number of weeks that the school is open for instruction.

11. Minimum distances. A school board may establish the distance from a school that students must reside to receive transportation.

12. Safety. Transportation provided shall conserve the comfort, safety and welfare of the students conveyed. A responsible driver shall be in charge of the vehicle and shall have control over the conduct of the students while they are transported.

13. Contract. A superintendent may contract for transportation.

A. A contract may not exceed a period of 5 years.

B. Authorization by the unit's legislative body shall be required for contracts existing beyond one year.

C. In a school administrative district, the superintendent shall execute the contract with the approval of the board of directors.

14. Cost of service and equipment. Transportation services and the purchase of new buses shall be accomplished in the most economical manner consistent with the welfare and safety of students.

15. New bus purchases. School bus purchases, contracts or leases shall be subject to approval by the commissioner.

A. The commissioner may not approve, in one year, more than \$4,000,000 in expenditures for school bus purchases. Annually, the Legislature shall review this limitation.

B. The commissioner shall encourage school administrative units, whenever possible, to purchase school buses from current funds rather than from short-term loans.

C. A school board may obtain a short-term loan to purchase school buses if it is approved by the unit's legislative body. The term of a loan may not exceed 3 years, except in a community school district a loan during the district's first year of operation may not exceed 5 years.

D. Expenditures approved for school bus purchases may not be included in expenditure limitations placed on school administrative units under this Title.

16. Unorganized territories. The commissioner shall pay the transportation or board costs of eligible elementary students from unorganized territories in accordance with section 3252.

CHAPTER 217

BOARD

§5601. Board

1. Elementary students. In place of transportation, the school board may authorize the boarding of a student. That board:

A. Shall not exceed \$40 per week; and

B. Shall be at a suitable place near an established school.

2. Secondary school students in remote school administrative units. Any remote school administrative unit,

including a coastal island which has no highway connection to the mainland, which does not maintain an approved secondary school shall pay for board for a student eligible to attend a secondary school.

A. Board shall not exceed an amount determined by the administrative unit or a prorated amount for a fraction of a week. It shall be paid only if:

(1) The commissioner determines that it is necessary that the student board away from home to attend a secondary school;

(2) The boarding arrangement is approved by the school board; and

(3) The commissioner approves the boarding arrangement in advance on a form provided for the purpose.

B. The Town of Cumberland may pay the tuition, transportation or board of a student whose parent resides on Chebeague Island for attendance at an approved secondary school.

C. Payment for board shall be made on receipt of a satisfactory attendance record at the end of a period no longer than one month. The payment shall be charged to the secondary school transportation account.

D. The superintendent shall, before September 1st annually, make a return for the preceding school year, under oath, to the commissioner on a form provided to him showing:

(1) The name and residence of each student for which board was paid;

(2) The amount paid; and

(3) The name and location of the school attended.

3. Unorganized territories. The commissioner shall pay the board of students from unorganized territories as provided in section 3252 and 3253.

4. Remote locations. Students residing in remote locations shall be provided board in accordance with section 5401, subsection 7.

5. Temporary residents and residents on state-owned

property. The commissioner shall, in accordance with section 5401, subsection 6, reimburse a school administrative unit for approved board of students who reside on state-owned property located in towns of less than 100 residents.

CHAPTER 219

TUITION

§5801. Acceptance of tuition students

A school board may decide whether schools in its school administrative unit shall accept tuition students whose parents reside in another school administrative unit.

§5802. Residents on state-owned property

The commissioner shall, in accordance with procedures established in section 5401, subsection 6, reimburse a school administrative unit for approved tuition for students who reside on state-owned property.

§5803. Two years' notice

A school administrative unit which receives tuition students shall give at least 2 years' notice to a sending school administrative unit before discontinuing the acceptance of tuition students. The receiving unit shall file a copy of the notice with the commissioner. If the school board of a receiving unit fails to give a proper 2-year notice, the commissioner may authorize withholding school construction aid until that receiving unit complies.

§5804. Elementary school students

Tuition charged for elementary school students shall be as follows:

1. Public schools. The maximum tuition payments shall not exceed the receiving school administrative units per student cost for the preceding year as approved by the commissioner. The school board of the sending unit may vote to pay a higher tuition rate.

2. Private schools. The tuition payment to a private school shall not exceed the average per student cost in all public elementary schools in the State for the previous year as computed by the commissioner.

§5805. Secondary school students; public schools

Tuition charges for secondary school students in public schools shall be governed by the following.

1. Computation of tuition rate. The tuition rate at a public secondary school shall be the sum of all expenditures divided by the number of students. These figures shall be determined as follows.

A. Expenditures shall be all expenditures for public secondary education for the period July 1st to June 30th of the year immediately before the school year for which the tuition charge is computed, except expenditures for:

- (1) Special education;
- (2) Vocational education;
- (3) Community services;
- (4) Major capital outlay;
- (5) Debt retirement; and
- (6) Tuition and transportation.

B. The number of students shall be the average number of public secondary pupils enrolled on October 1st and April 1st of the same year.

C. The figure obtained by using the figures established in paragraphs A and B shall be divided by the average number of secondary students on October 1st and April 1st of the year immediately prior to the year for which the tuition charge is computed.

D. The tuition rate thus determined shall be adjusted by the average change in public secondary education costs for the 2 years immediately before the school year for which the tuition charge is computed. This adjustment shall be limited to a 6% increase.

2. Maximum allowable tuition. The maximum allowable tuition charge by a public secondary school shall be the rate computed under subsection 1 or the state average per public secondary student cost as adjusted, whichever is lower.

§5806. Secondary school students; private schools

Tuition charges for secondary school students in pri-

vate schools shall be governed by the following.

1. Private schools. Tuition rates for a private school shall be computed as provided under section 5805, subsection 1, except that expenditures and number of students shall be based on the expenditures and students of that school.

2. Maximum allowable tuition. The maximum allowable tuition charged to a school administrative unit by a private school shall be the rate established under subsection 1 or the state average per public secondary student cost as adjusted, whichever is lower, plus an insured value factor. The insured value factor shall be computed by dividing 5% of the insured value of school buildings and equipment by the average number of pupils enrolled in the school on October 1st and April 1st of the year immediately before the school year for which the tuition charge is computed. It may not exceed 7.5% of a school's legal tuition rate per student in any one year.

3. Tuition charge above allowable maximum. A private school may charge tuition above the allowable maximum established in subsection 2 in those cases where the student has an alternative choice for attending secondary school at the allowable maximum tuition rate. The amount above the allowable maximum may be paid in whole or in part by the school administrative unit if the legislative body of the administrative unit votes to authorize its school board to pay a higher tuition rate.

§5807. Cost of removing architectural barriers

Notwithstanding the maximum tuition rate established under sections 5805 and 5806, public and private schools may adjust their tuition rate for the express purpose of complying with the requirements of the United States Vocational Rehabilitation Act of 1973, Section 504, Public Law 93-112.

1. Prior approval of the commissioner. Projects, costs to bring the facilities into compliance and the method and time period of financing must receive prior approval of the commissioner.

2. Calculation of adjustment. The cost adjustment for each student shall be calculated by dividing:

A. The lesser of the actual compliance costs or debt retirement payments of the year immediately prior to the year for which the tuition charge is computed by;
and

B. The average number of students attending the school on October 1st and April 1st of the same year.

3. Sunset provisions. The provisions of this subsection shall apply to minor capital projects which have received departmental approval before June 30, 1982.

§5808. Schools outside state

The tuition payment for students educated in whole in another state or country may not exceed the average per pupil cost in all secondary schools of this State. The legislative body of the school unit may vote to authorize its school board to pay a larger tuition rate.

§5809. Students enrolled in vocational educational programs

Schools receiving tuition students who are enrolled in regular school day vocational educational programs at vocational centers, satellites or vocational regions, under chapter 313, may charge a tuition rate not to exceed 2/3 or the maximum tuition rate as computed under sections 5805 or 5806.

§5810. Tuition payments to receiving schools

The following provisions apply to tuition payments.

1. Payment date. Tuition shall be paid within 30 days of the billing date.

2. Nonpayment. If tuition is not paid according to subsection 1, the superintendent of the school administrative unit, or the principal of the private school to whom payment is due, shall inform the commissioner. The commissioner shall pay the tuition due and shall deduct that amount from the state school subsidy to the school administrative unit owing tuition.

§5811. Students in unorganized territories

Tuition for students residing in unorganized territories shall be governed by section 3304.

§5812. Summer school

The tuition charge for students enrolled in public summer schools shall be calculated as provided in section 8802.

§5813. Driver education

Students may be charged a fee for driver education as provided under section 4604.

§5814. Students not residing with parent or guardian

Whenever a student is in the custody of persons other than parents or legal guardians because of broken homes or intolerable home conditions, the unit where the student is placed for school purposes may apply to the commissioner for a determination regarding which unit shall pay the cost of educating such a student. The determination of the commissioner shall be binding upon the administrative units concerned.

CHAPTER 221SCHOOL RECORDS, AUDITS AND REPORTSSUBCHAPTER ISTUDENT RECORDS§6001. Dissemination of information

The United States Family Education Rights and Privacy Act of 1974, Public Law 93-380, as amended by Public Law 93-568, and the United States Education of All Handicapped Children Act, Public Law 94-142, shall govern the dissemination of information about students.

§6002. Record of birth

The following provisions apply to a student's first enrollment.

1. Duty of students. Students who enroll for the first time in a public school shall provide their teachers with official records of birth within 60 days of enrollment.

2. Duty of parent or guardian. The following provisions apply to the duties of a parent or guardian.

A. A parent or guardian of a student who enrolls shall provide that student with an official record of birth.

B. A parent who refuses or unreasonably neglects to comply with paragraph A shall be fined not more than \$5.

3. Duties of teachers, superintendents and other public officials. The following are duties of teachers,

superintendents and other public officials.

A. A teacher shall inform the superintendent of the school administrative unit of the name of any student who has not complied with subsection 1.

B. A superintendent shall inform the State Registrar of Vital Statistics of the name of a student who has not complied with subsection 1 and the name and address of the parent of that student.

C. The State Registrar of Vital Statistics shall file a complaint with the nearest District Court whenever the registrar believes that a parent has not complied with subsection 2.

D. The State Registrar of Vital Statistics shall provide file copies of any relevant records in the registrar's possession on the request of a parent of a student.

§6003. Student attendance records

1. Duty of school board. A school board shall designate one or more persons to maintain accurate records of all students attending public schools in the unit.

2. Contents. The attendance records shall contain the following information on each student:

A. Name;

B. Birth date;

C. Dates of entering and leaving school in the unit;

D. The number of days attended; and

E. The number of times late for school.

3. Access. Attendance records shall be made available to the school board at any time.

4. Duty of record keeper. The record keeper shall provide the school board with the information they request whenever they request it.

§6004. Annual student count

The following provisions apply to the annual counting of students.

1. Duty of superintendent. By April 15th and October 15th the superintendent of each school administrative unit and the principal of each private school shall inform the commissioner of the number of students attending their schools and in the case of public schools the number of students residing in their school administrative unit. This information shall be supplied on forms provided by the commissioner.

2. Student count. Students shall be counted as follows.

A. A student residing in the school administrative unit may be considered in attendance on April 1st only if the student:

(1) Attended school at least 75% of the time between October 1st and April 1st, if enrolled by October 1st; or

(2) Attended school at least 75% of the time between the date of his first enrollment and April 1st, if not enrolled by October 1st.

Excused absences and absences due to illness shall not be considered absences under this subsection.

B. Students who attend school under section 5205, subsections 2, 4, 5 and 6, shall be counted in the school administrative unit in which they attend school.

SUBCHAPTER II

AUDITS

§6051. School administrative unit audits

The following provisions apply to financial records.

1. Audit. A school board shall provide for an annual audit of a school administrative unit's revenues and expenditures.

2. Fiscal year. The fiscal year of an audit shall be from July 1st to June 30th.

3. Auditors. Audits shall be conducted by:

A. The Department of Audit;

B. A qualified public accountant; or

C. A person or firm recognized as competent by training and experience.

4. Report to commissioner. On or before November 1st, the school board shall provide the commissioner with:

A. A copy of the audit; and

B. Assurance that the audit has been conducted, that the records were found to be satisfactory and accurate and that adequate substantiation for expenses and payments were on file.

5. Records. Financial records and accounts shall be kept for 3 years after the end of the fiscal year. They shall be available to authorized persons at all times.

§6052. Federal audits

The following provisions apply to federal audits.

1. A school board of a school administrative unit which accepts federal funds shall hire auditors and pay out of available school funds or from federally allocated sums for any audit of federal programs.

2. Report to commissioner. The auditor shall provide the commissioner with a copy of the audit.

3. Use of audit. The commissioner may use these audits to provide the Federal Government with any information it requires.

SUBCHAPTER III

EMPLOYEE RECORDS

§6101. Record of directory information

The following provisions apply to employee records.

1. Contents. A school administrative unit shall maintain a record of directory information on each employee as follows:

A. Name;

B. Dates of employment;

C. Regular and extracurricular duties, including all courses taught in that school administrative unit;

D. Post-secondary educational institutions attended;

E. Major and minor fields of study recognized by the post-secondary institutions attended; and

F. Degrees received and dates awarded.

2. Access. The following provisions apply to access of employee records.

A. The record of directory information shall be available for inspection and copying by any person.

B. Except as provided in paragraph A, information in any form relating to an employee or applicant for employment, or to the employee's immediate family, shall be kept confidential if it relates to the following:

(1) All information, working papers and examinations used in the examination or evaluation of all applicants for employment;

(2) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(3) Performance evaluations, personal references and other reports and evaluations reflecting on the quality or adequacy of the employee's work or general character;

(4) Credit information;

(5) Except as provided by subsection 1, the personal history, general character or conduct of the employee or any member of the employee's immediate family;

(6) Complaints, charges of misconduct, replies thereto and memoranda and other materials pertaining to disciplinary action; and

(7) Social security number.

C. Any written record of a decision involving disciplinary action taken with respect to an employee by the governing body of the school administrative unit shall not be included within any category of confidential information set forth in paragraph B.

§6102. Employee review

The following provisions apply to employee review of records.

1. Right to review. An employee or former employee of a school administrative unit, or the employee's representative, is entitled to review the employee's personnel file on written request to the superintendent if the superintendent of schools has a personnel file for the employee.

2. Time and place. Review of a personnel file shall take place where the file is kept during normal school hours.

3. Contents. For purposes of this section, a "personnel file" includes, but is not limited to:

A. Formal or informal employee work evaluation; and

B. Reports relating to the employee's character, credit, work habits, compensation and benefits.

SUBCHAPTER IV

MISCELLANEOUS

§6151. Annual report

The following provisions apply to annual reports.

1. Duty of superintendent. The superintendent shall, on or before August 1st, make an annual report to the commissioner under oath. The report shall contain a full and complete return of all educational statistics required to be reported for the year ending June 30th.

2. Penalty. A school administrative unit whose superintendent fails to make the report shall be subject to the penalties of section 6801.

§6152. Rules

The commissioner shall adopt rules to carry out this section which are consistent with federal requirements.

CHAPTER 223

HEALTH, NUTRITION AND SAFETY

SUBCHAPTER I

STUDENT HEALTH

§6301. Student health

The following provisions apply to student health.

1. Duty of teacher. A teacher who believes that a student is so filthy or diseased as to be offensive or dangerous to others, or because they are the bearers of vermin or parasites, or have an infectious or contagious disease of the skin, mouth or eyes, shall inform the superintendent.

2. Duty of superintendent. A superintendent informed by a teacher under subsection 1 shall:

A. Inform the student's parent:

(1) To cleanse the clothing and bodies of their children; and

(2) To furnish their children with the required home or medical treatment for the relief of their trouble so defined in subsection 1; and

B. Exclude the student from the public schools until the student is no longer offensive or dangerous.

3. Duty of parent. A parent informed by a superintendent under subsection 2 shall promptly do what is reasonably necessary to ensure that the student is no longer offensive or dangerous.

4. Penalty. Any parent who fails to comply with subsection 3 shall be fined not more than \$5 for the first offense or \$10 for subsequent offenses.

5. Exclusion. A student showing symptoms of smallpox, scarlet fever, measles, chicken pox, tuberculosis, diphtheria, influenza, tonsillitis, whooping cough, mumps, scabies or trachoma shall be excluded from the public schools as soon as safe and proper transportation is available. The local health officer and the superintendent shall be notified immediately. Exclusions shall conform to the requirements of section 1001, subsection 11.

6. Authority and duties of the Department of Human Services. The Department of Human Services shall have the authority and duties prescribed in Title 22, chapter 251 on communicable diseases.

SUBCHAPTER IIIMMUNIZATION

§6351. Immunization

The following provisions shall apply to immunization.

1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Disease" means poliomyelitis, diphtheria, pertussis, tetanus, measles, mumps and rubella.

B. "School" means a public or private school.

2. Admission to school. A student may not be admitted to school without a certificate or other acceptable evidence of immunization unless:

A. The person in parental relationship to a student:

(1) Agrees in writing to have the student immunized within 90 days;

(2) Consents in writing to the student being immunized by a health officer, physician, nurse or other authorized person in public or private employ; or

(3) States in writing that the student should not be immunized for any of the following reasons:

(i) A physician states in writing that immunization may threaten the student's health;

(ii) A physician states in writing that the student has already had the disease against which immunization is required;

(iii) The parent or guardian holds a sincere religious belief which is contrary to this immunization requirement; or

(iv) The parent or guardian is opposed to immunization for moral, philosophical or other personal reasons; or

B. The student is a female of childbearing age who lacks only an immunization against rubella.

3. Attendance. The following provisions apply to attendance.

A. A student may not attend school if the local health officials and the superintendent find that:

(1) The student has not been immunized; and

(2) The student's presence in school poses a clear danger that disease will spread to others.

B. The superintendent shall inform the person in parental relationship to the student of their finding and the provisions of this subsection.

C. If a student is absent from school under this subsection for more than 10 days, the superintendent shall arrange to provide education for the student until he can return to school.

4. School board duties. For school board duties regarding immunizations and possible epidemics see section 1001, subsection 11.

5. Rubella vaccine, notification of risks. Before immunizing a female student of childbearing age, the student and the person in parental relation to the student shall be provided a description of the risks and benefits of receiving rubella vaccine and the risks related to becoming pregnant within 3 months of receiving rubella vaccine.

6. Annual report of immunization status. By December 15th of the school year, each school shall submit a summary report of the immunization status of the entering children to the Director of the Bureau of Health on forms prescribed by the director.

7. Records. A school administrative unit shall keep standard immunization records on every student. Immunization records shall be part of permanent school records. State and local health personnel shall have access to student immunization records in connection with an emergency as provided for by the United States Family Educational Rights and Privacy Act of 1974, Public Law 93-380, United States Code Title 20, Section 1232g, (b), (1), (1) and regulations adopted thereto.

8. Rules. The commissioner and the Director of the Bureau of Health shall adopt or amend rules to carry out this subchapter. Rules shall include immunization requirements, record keeping and procedures for reporting.

9. Local option. A municipality may enact requirements which are more stringent than this subchapter.

SUBCHAPTER III

SCHOOL HEALTH SERVICES

§6401. School Nurse Coordinator

1. Coordinator within department. There shall be a health professional, acting as a School Nurse Coordinator, within the department. This person must be licensed as a registered nurse in the State and must have education and experience in school health or community nursing and, if possible, a master's degree in nursing.

2. Duties. The coordinator shall have the following duties:

A. To provide orientation for new local school nursing personnel, and to assist them in writing comprehensive job descriptions and implementing local health policies;

B. To assist local school nursing personnel in advocating and planning comprehensive, sequential health education programs for students;

C. To assist the department in establishing certification standards for school nursing personnel;

D. To clarify legal issues, define liability and interpret new legislation to school nursing personnel;

E. To assist school nursing personnel in becoming knowledgeable members of pupil evaluation teams in effecting placement and programs for exceptional students;

F. To instruct school nursing personnel in the organization of health services with minimal disruption to the educational process;

G. To coordinate appropriate educational programs and workshops for school nursing personnel and to work with institutions of higher education to make relevant courses and degree programs available to nurses in all areas of the State;

H. To interpret the role of school nursing personnel to local administrators and educators;

I. To assist in establishing communication between the Department of Human Services and the Department of Educational and Cultural Services and to seek input from local school nursing personnel in formulating guidelines for services to students;

J. To attend courses, workshops and conferences relevant to school nursing and to disseminate current health information of local school nursing personnel on a regular basis;

K. To assure communication and coordination among school nurses, physicians and other resource agencies providing health services;

L. To serve as an official representative and spokesman for the School Nurse Division of the Maine Association for Health, Physical Education, Recreation and Dance, voicing the group's stand on legislation, health topics and educational issues which affect the health of the state's children; and

M. To serve as a resource person to other agencies and organizations, including the State Principal's Association, the Maine Lung Association, the School Health Board of Directors, the Maine State Nurses' Association and the Maine Teachers' Association.

§6402. School physicians

The following provisions apply to school physicians.

1. Appointment. Each school board shall, provided funds have been appropriated, appoint at least one school physician for every 1,000 students in the school administrative unit.

2. Facilities. A school administrative unit shall, provided funds have been appropriated, provide its school physicians with proper facilities.

3. Duties. A school physician shall:

A. Promptly examine and diagnose a student referred to the school physician under this subchapter; and

B. Examine school employees and property if the physician believes it is necessary to protect the health of students.

4. Prohibition. A school physician may not treat a

student examined under this subchapter unless the physician is also the student's personal physician.

§6403. Referral for examination

Except in remote and isolated areas, where a school board may make other arrangements to carry out the purposes of this section, the school board shall refer a student to the school physician for examination or diagnosis if:

1. Lack of certificate of health. The student returns to school without a certificate of health from the local health officer or a personal physician after being absent due to illness;

2. Teacher assessment. The student's teacher believes that the circumstances surrounding the student's absence require a certificate of health; or

3. Student's appearance. The student appears ill or suffering from a contagious disease and remains in school.

SUBCHAPTER IV

HEALTH SCREENING

§6451. Health screening

1. Student right to screening for sight and hearing defects. Each student shall be screened periodically to determine whether they have sight or hearing defects.

2. Commissioner's duties. The commissioner shall:

A. After consultation with the Commissioner of Human Services, adopt rules and provide school administrative units with assistance and materials to carry out this subsection;

B. Furnish to the administrators of the school administrative units the prescribed directions for the tests of sight and hearing; and

C. Furnish test cards, record and report forms and other useful materials for carrying out the purpose of this section.

3. Exempt students. A student whose parent objects in writing to screening on religious grounds shall not be screened unless a sight or hearing defect is reasonably apparent.

§6452. Screening for scoliosis and related spinal abnormalities

1. Intent. The screening program for scoliosis and related spinal abnormalities is intended to alert parents or guardians to potential spinal problems which could affect the physical development of their child. The public schools shall supervise the screening and notify parents or guardians of postural defects which should be investigated further by qualified personnel. The Department of Human Services shall provide consultation, technical assistance and training to the schools or their agents.

2. Screening program; rules. A screening program shall be instituted according to the following provisions.

A. The school board of school administrative units shall require that students in the public schools be screened to determine if any student has a postural defect. The screening shall be performed by personnel who are approved by the Commissioner of Human Services for this purpose. Screening for postural defects shall be performed at least once annually in grades 5 to 8.

B. The Commissioner of Human Services shall, after consultation with the Commissioner of Educational and Cultural Services and the Bureau of Health, promulgate rules in accordance with section 3, for the screening test and shall furnish the rules to the administrative officers of the school administrative units. These rules shall include the frequency of the tests, the manner in which the schools or their agents conduct the tests, the qualifications of personnel conducting the screening, the method by which prior notice of the screening or the notice of any defect or possible defect detected shall be sent to the parent or guardian of the student and that the notation of the screening and any follow-up activity shall be kept with the student's school health records.

3. Exceptions. This section shall not apply to any student whose parent or guardian demonstrates by a written statement a religious, moral, philosophical or other personal objection.

4. Effective date. The Commissioner of Human Services shall promulgate the directions for implementation of this section no later than 30 days after the effective date of this section. School boards of administrative units shall have postural screening programs in effect by the start of the school year 1984-85.

5.. Funding. In the event federal funds are not available for this program, the State or municipalities shall be under no obligation to utilize any state or municipal funds to carry out the purposes of this section.

§6453. Notice to parents of result of screening

The school board shall inform the parent of a student suffering from a disease or defect.

SUBCHAPTER V

SANITARY FACILITIES

§6501. Sanitary facilities

Sanitary facilities shall be provided as follows.

1. Toilets. A school administrative unit shall provide clean toilets in all school buildings, which shall be:

A. Of the flush water closet type and connected to a sewer, filter bed or septic tank, or of another design approved by the Department of Human Services;

B. Separated according to sex and accessible only by separate entrances and exits;

C. Installed so that privacy, cleanliness and supervision are assured; and

D. Free from all obscene markings.

2. Maintenance. Each school administrative unit shall provide for the cleaning and repair of its toilet facilities.

3. Inspection. The school board shall annually cause an inspection of the sanitary conditions of the school administrative unit's school buildings to insure compliance with this section.

4. Rules. The state board may adopt or amend rules to implement this section.

5. Penalty. Failure to comply with this section shall be subject to penalties under section 6801.

SUBCHAPTER VI

SAFETY

§6551. Tuberculosis controls

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Infectious tuberculosis" means a disease demonstrated by symptoms which lead to a medical diagnosis of active tuberculosis.

B. A person remains "infectious" until:

(1) Tuberculosis has been eliminated as the cause of the symptoms; or

(2) Tuberculosis has been made "inactive" as defined by the American Thoracic Society.

2. Exclusion from employment. A person with infectious tuberculosis may not be employed by a school administrative unit if the person would be exposed to students or would be regularly required to be present within school buildings.

3. Current employees. Current employees excluded from employment under subsection 2 may use sick leave and shall retain the rights and privileges earned while employed.

4. New employees. The following provisions apply to new employees.

A. A person who has had infectious tuberculosis may not begin work in the public schools until the person files a certificate with the school board.

B. The certificate shall:

(1) State:

(a) That within 90 days of the first day of work that person has had a standard tuberculosis skin test and that the results were negative; or

(b) If the results of a skin test were positive, the results of a standard full-chest x-ray taken within 90 days were negative; and

(2) Be signed by either a physician, a registered nurse or other person approved by the Department of Human Services to administer and interpret

tuberculosis tests.

C. In unusual cases or emergencies, a person may be employed in the public schools up to 30 days without complying with paragraph A if:

(1) That person is apparently healthy according to the school nurse or school physician;

(2) Tuberculosis tests are administered within 30 days after the first day of work; and

(3) The Department of Human Services has been informed in writing of the person's employment within 3 days after the first day of work.

D. Negative results from an x-ray or other evidence satisfactory to the Commissioner of Human Services may be substituted for negative skin test results if there are medical reasons why a skin test should not be performed.

5. Retesting. The following provisions apply to retesting.

A. A person who has had infectious tuberculosis and who works in the public schools shall file a certificate with the school board on or before December 1st, biennially.

B. The certificate shall:

(1) State:

(a) That within the preceding 90 days that person has had a standard tuberculosis skin test and that the results were negative; or

(b) If the results of the skin test were positive, the results of a standard full-size chest x-ray taken within 90 days were negative; and

(2) Be signed by either a physician, registered nurse or other person approved by the Department of Human Services to administer and interpret tuberculosis tests.

C. School employees who complete a preventive drug program approved by the Department of Human Services shall not be required to get a chest x-ray.

6. Modifications. The Commissioner of Human Services may alter the requirements of this section wherever that alteration would not pose a threat to public health or wherever more frequent testing is necessary to protect public health. Modifications under this subsection may not extend beyond 4 years. They may not be renewed unless in writing.

7. State assistance. The Department of Human Services shall help provide medical services to comply with this section. The department may:

A. Provide medicine for preventive drug programs for school employees; and

B. Pay for x-rays required in preventive drug programs for school employees.

8. Duty of administrative units. Each school administrative unit shall provide tuberculosis testing data to the Department of Human Services on the department's request.

9. Rules. The Department of Human Services may adopt rules to carry out this section.

10. Penalties. A person who fails to comply with this section shall be fined not less than \$20 nor more than \$200. Each day of noncompliance shall be considered a separate offense.

11. Department of Human Services. In addition to the authority prescribed in subsection 9, the Department of Human Services shall have the authority and duties prescribed in Title 22, chapter 251 on Communicable Diseases.

§6552. Firearms

1. Prohibition. A person may not possess a loaded firearm on public school property or discharge a firearm within 500 feet of school property.

2. Exception. Subsection 1 shall not apply to:

A. Law enforcement officials; or

B. A supervised educational program.

3. Penalty. A person who violates this section is guilty of a Class E crime.

SUBCHAPTER VII
SCHOOL LUNCH AND MILK PROGRAM

§6601. Acceptance of federal law

The State shall comply with the following laws in consideration of the receipt of benefits under them:

1. The National School Lunch Program Act. The National School Lunch Program Act, enacted June 4, 1946, and applicable amendments; and

2. The Child Nutrition Act. The Child Nutrition Act, enacted October 11, 1966, and applicable amendments.

§6602. School food service programs

Public schools shall provide nonprofit school food service programs as follows.

1. Participation. A public school shall participate in the National School Lunch Program. It shall provide Type A meals as determined by the United States Department of Agriculture.

2. Exceptions. The following shall be exempt from subsection 1:

A. All secondary schools limited to students in grades 9, 10, 11 and 12; and

B. A school administrative unit authorized by the commissioner under subsection 9 to postpone the establishment of the program.

3. Administration. The school board shall administer and operate the food service programs. The school board:

A. Shall make all contracts to provide material, personnel and equipment necessary to carry out section 6601; and

B. Shall hire the necessary employees to manage and operate their school food service programs.

4. Funds. The following shall be used to pay for the administration and operation of food service programs:

A. State funds, gifts and appropriations for school food service programs; and

B. Receipts from the sale of meals under food service

programs.

5. Rules. The commissioner shall adopt or amend, with the state board's approval, rules under this subchapter, including rules about the qualifications of food service programs personnel.

6. Nutrition report. The commissioner may assess the nutritional benefits of school lunch programs and report to the state board.

7. Technical assistance. The commissioner may give technical assistance to a school board concerning a food service program and may assist in training food service program personnel.

8. Application for postponement. A school administrative unit which has been granted a postponement of 3 years may apply to the commissioner every 3 years for an additional 3-year postponement. The commissioner, with the approval of the state board, may grant a postponement if:

A. The school board has held a public hearing on its proposed application; and

B. One of the following conditions are met:

(1) It has been documented to the commissioner's satisfaction that the administrative unit lacks space for the program and there is no appropriate alternative source of meals for the students;

(2) It is impossible for the administrative unit to contract for or to otherwise procure Type A meals for its students; or

(3) The lack of need for the program, as determined by the school board is documented to the commissioner's satisfaction and was evident at the public hearing.

9. Annual review of postponement. The commissioner shall annually review the conditions in the school administrative units which have been granted a postponement. On finding that the conditions in a unit have changed so that a postponement is no longer warranted, the commissioner may require that the unit establish a National School Lunch Program at the start of the next school year.

10. Petition by 1% of residential unit. Whenever petitioned by 1% of the residents of a unit, the commis-

sioner shall call a public hearing on the postponement prior to the next annual review.

§6603. Federal funds

The Treasurer of State shall receive and disburse all federal funds received under this subchapter.

CHAPTER 225

PENALTIES

§6801. Compliance

The procedures for dealing with school administrative units which are allegedly in noncompliance with the reporting and program requirements of this Title shall be as follows.

1. Commissioner's authority to withhold state aid. If, after giving due notice, the commissioner finds that a school administrative unit is not complying with the reporting requirements prescribed in this Title, the commissioner may withhold state aid from that unit. The withholding may only continue for so long as necessary to achieve compliance. If compliance cannot be achieved by withholding state aid, the commissioner may refer the matter to the Attorney General. The Attorney General shall take the action deemed necessary to achieve compliance.

2. Complaint process. A complaint that alleges that a school administrative unit is not in compliance with the program requirements of this Title or of rules adopted by the department shall be filed pursuant to the requirements for a petition under section 258.

A. If the commissioner receives a complaint and finds that probable cause for it exists, the complaint shall be referred to the state board for a public hearing. The commissioner shall, on behalf of the board, give notice and cause an adjudicatory hearing to be held.

B. The state board or its designee shall make findings of fact on the specific charges in the complaint and shall decide whether there are reasonable grounds to believe that a unit is in noncompliance.

C. If the state board decides there are reasonable grounds to believe that a unit is in noncompliance, the commissioner shall refer the matter to the Attorney General. The Attorney General shall take the action

deemed necessary to achieve compliance.

3. Rules. This section shall apply only to rules adopted or amended by the department as authorized under this Title in the manner required under section 3.

4. Governor's authority. When the Governor has reason to believe a school administrative unit is not in compliance with the requirements of this Title, the Governor shall direct the Treasurer of State to withhold all or part of the state funds from that unit.

A. If, within the school year for which the funds were appropriated, the school unit satisfies the Governor that they are in compliance with the requirements of this Title, the Governor shall release the funds.

B. If the unit fails to satisfy the Governor that it is in compliance, the funds withheld shall be forfeited and revert to the General Fund.

§6802. Forfeiture

A forfeiture under this Title may be recovered in a civil action. Unless specifically provided for, it shall be disbursed as follows.

1. School purposes. It shall be paid into the treasury of the school administrative unit where the offense occurred, for use for school purposes.

2. Prosecution costs. An amount equal to the cost of prosecution shall be paid into the county treasury.

3. Forfeiture. A school administrative unit shall forfeit the money it received to a person bringing civil suit, if the unit has not expended that money within one year of receiving it.

§6803. Fraud

A school officer or teacher who is convicted of defrauding the State by filing fraudulent reports under section 1055, subsection 9, shall be guilty of a Class D crime.

§6804. Disturbing schools

A person who enters a public or private school building or another place of instruction during or out of school hours, while the teacher or student is present, and

willfully interrupts or disturbs the teacher or student by loud speaking, rude or indecent behavior, signs or gestures, or willfully interrupts a school by prowling about the building, making noises, throwing missiles at the schoolhouse or disturbing the school, shall commit a civil offense and shall forfeit not less than \$2 nor more than \$20.

§6805. Injuries by minor; damages

If a minor injures or aids in injuring a schoolhouse or school outbuildings, utensils or appurtenances; defaces the walls, benches, seats or other parts of school buildings by marks, cuts or otherwise; or injures or destroys school property belonging to a school administrative unit, the unit may recover from the minor's parent, in a civil action, double the damage.

§6806. Defacing schoolhouses; outbuildings

A person who defaces the walls, benches, seats, blackboards or other parts of a schoolhouse or school outbuildings, by obscene pictures, language, marks or descriptions, commits a civil offense and shall pay a fine of not more than \$10.

§6807. Liability for injury to books or appliances

If a public school student loses, destroys or unnecessarily injures a schoolbook or appliance furnished to him at the expense of the school administrative unit, his parent shall be notified. If the loss or damage is not made good to the satisfaction of the school board within a reasonable time, they shall report the case to the assessors of the municipality in which the student resides. The municipal assessors shall include in the next municipal tax of the delinquent parent the value of the book or appliance, to be assessed and collected as other municipal taxes.

§6808. Misappropriation of funds; penalty

If any part of the money raised by a school administrative unit, or paid to them by the State for superintendence, is expended for any other purposes, then each person misappropriating that money shall forfeit double the sum so misapplied. The money may be recovered in a civil action in the name and to the use of the school administrative unit by any of its residents. A school administrative unit or school union may not receive further aid from the State for superintendence until the amount so misapplied has been raised and expended for superintendence by that unit or school union.

§6809. Excessive expenditures

After providing an opportunity for a hearing, the commissioner may adjust the state subsidy to an administrative unit when the expenditures for education in such unit show evidence of manipulation to gain an unfair advantage or are adjudged excessive. Any interested party aggrieved by a decision of the commissioner may appeal to the state board pursuant to section 3.

§6810 Truancy

The penalty for truancy is outlined in section 5053.

PART 4

SPECIFIC EDUCATION PROGRAMS

SUBPART 1

SPECIAL EDUCATION

CHAPTER 301

GENERAL PROVISIONS

§7001. Definitions

As used in this subpart, unless the context otherwise indicates, the following terms have the following meanings.

1. Agency. "Agency" means an agency, school, organization, facility or institution.

2. Exceptional student. "Exceptional student" is an individual who:

A. Has reached 5 years of age on or before October 15th;

B. Has not reached 20 years of age at the start of the school year; and

C. Requires special education because of an impairment in one or more of the following:

(1) Vision;

(2) Hearing;

(3) Speech and language;

(4) Cerebral or perceptual functions;

(5) Physical mobility functions;

(6) Behavior; or

(7) Mental development or maturation.

3. Mentally retarded. "Mentally retarded" means hand-
icapped in mental development or maturation.

4. Preschool handicapped child. "Preschool handi-
capped child" means a person who:

A. Has reached 3 years of age;

B. Has not reached 5 years of age on or before October
15th;

C. Requires special services because of impairment in
one or more of the following:

(1) Vision;

(2) Hearing;

(3) Speech and language;

(4) Cerebral or perceptual functions;

(5) Physical mobility functions;

(6) Behavior; or

(7) Mental development or maturation.

5. Special education. "Special education" means
classroom, home, hospital, institutional or other instruc-
tion; educational diagnosis and evaluation; transportation
and other supportive assistance, services, activities or
programs, as defined by the commissioner, required by excep-
tional students.

6. Special education facility. "Special education
facility" means a public or private school, or portion
thereof, intended for use in meeting the educational and
related needs of exceptional students.

7. State licensed agency. "State licensed agency"
means an institution or facility licensed by the State to
provide education, emotional or mental health services,

alcohol or drug rehabilitation, boarding care or other child care services to a person between the ages of 5 and 20 years. It includes:

A. Facilities under Title 22, chapter 1661;

B. Community mental health centers under Title 34, chapter 183;

C. Alcohol treatment facilities approved under Title 22, chapter 1601; and

D. Residential drug abuse treatment facilities under Title 22, chapter 1601.

8. Residential child care facility. "Residential child care facility" is a facility defined in Title 22, section 8101, subsection 4.

§7002. Cooperation with federal programs

The department shall be the agency for cooperation with the Federal Government in any program for the education of exceptional students.

§7003. Rules

The commissioner is authorized to make rules necessary for the administration of this chapter and chapters 303 and 305.

CHAPTER 303

EXCEPTIONAL STUDENT

SUBCHAPTER I

GENERAL PROVISIONS

§7201. Policy and purpose

The policy of the State for the education of exceptional students is as follows.

1. Equal educational opportunities. All students shall be provided with equal educational opportunities and all school administrative units shall provide equal educational opportunities for all exceptional students.

2. Least restrictive education alternative. An exceptional student shall be educated with students in regular

programs to the maximum extent possible.

A. Educational opportunities for an exceptional student shall be provided by means of the addition of appropriate supportive assistance to regular educational programs.

B. Removal of an exceptional student from the regular educational environment shall occur only if the nature or severity of the exceptionality is such that the student's education cannot be satisfactorily accomplished in:

(1) Regular classes with the use of supplemental aids and services; or

(2) Self-contained classes within the regular school programs.

C. An exceptional student may be placed in a residential school or institution, or in a private day school or program, only after supporting evaluative data justifying the placement have been submitted to and approved by the commissioner.

3. Deaf exceptional students. An exceptional student, diagnosed as deaf, shall be educated with regular students whenever possible and shall be educated under the principle of the least restrictive educational alternative as set forth in state laws and rules and federal laws and regulations.

4. Parent's right to be a member of the team. Parents, surrogate parents or guardians have the right to be a member of the team which will carry out duties and responsibilities in accordance with rules established by the commissioner.

§7202. Duties of school administrative units

Each school administrative unit operating schools shall:

1. Identification. Identify all children within its jurisdiction who require special education;

2. Records. Make and keep current records of exceptional students, as required by rules established by the commissioner, and institute procedures which guarantee the confidentiality of these records in accordance with state and federal law;

3. Diagnosis and evaluation. Provide educational diagnosis and evaluation necessary to plan and implement a special education program for exceptional students within its jurisdiction;

4. Plan. Submit a plan for its special education programs to the commissioner for approval in accordance with rules established by the commissioner;

5. Special education. Provide special education for each exceptional student within its jurisdiction;

6. Compliance. Provide the commissioner with the information he may require to determine compliance with this chapter;

7. Parent's right to be a member of the team. Notify in writing the exceptional student's parent, surrogate parent or guardian of their right to be a member of the team and place a copy of the notice in the exceptional student's permanent records; and

8. Facility construction, renovation and repair. Seek approval in advance from the commissioner for construction, renovation or repair, with or aided by public funds, of facilities intended for the education of exceptional students; or give assurances that other facilities in the school administrative unit are adequate to meet the needs of those students.

§7203. Medical examination or treatment

This chapter may not authorize or require physical examination or medical treatment of a child whose parent objects to it on the grounds that the parent relies solely upon nonmedical remedial care and treatment in accordance with a recognized religious method of healing.

§7204. Duties of the commissioner

The commissioner:

1. Supportive services. Shall provide, or cause to be provided by administrative units operating schools, all supportive assistance and services, as defined in rules the commissioner establishes, required by an exceptional student so that the student may benefit from equal educational opportunities;

2. State plan. Shall make and annually review a state

plan for education of all exceptional students in the State. The plan shall be available to the public on request;

3. School year. May approve special education programs for:

- A. The usual public school year as defined in section 4801, subsection 1;
- B. An extended school year; or
- C. Other periods he determines appropriate;

4. Program approval. Shall approve plans for all special education programs. The criteria for approval shall include:

- A. Requirements for admission;
- B. Qualification or certification of staff;
- C. Plan of instruction;
- D. Adequacy of facilities;
- E. Adequacy of supportive services;
- F. Professional supervision; and
- G. Teacher-student ratio.

5. Due process. Shall:

- A. Adopt or amend rules to assure and protect the rights of due process for exceptional students; and
- B. Inform and train each school administrative unit on exceptional students' rights to due process under state laws and rules and federal law and regulations; and

6. Technical assistance. May, on the request of a school administrative unit, provide technical assistance in the formulation of a plan or subsequent report required of all administrative units. Assistance shall not be designed to transfer the responsibility for or actual development of the plan or report.

§7205. Review and assistance

It is the intent of the Legislature that a representative of the commissioner visit each special education program each year for the purpose of review and assistance.

§7206. Investigation of noncompliance

The following provisions apply to an investigation of noncompliance with this chapter.

1. Complaint. An interested party may file with the commissioner a written complaint alleging that a school administrative unit is not in compliance with this chapter.

2. Investigation. The commissioner shall initiate, and complete within 30 days, an investigation:

A. On receipt of a complaint; or

B. If the commissioner has reason to believe that a unit is not in compliance with this chapter.

3. Post-investigation procedure. Within 10 days after completion of the investigation in subsection 2, the commissioner shall determine whether probable cause exists to believe that the unit is not in compliance with this chapter.

A. Upon determination that probable cause exists, the commissioner shall resolve the matter to the satisfaction of the interested parties through mediation and consultation. The commissioner shall write a report of these efforts and notify all interested parties that the report has been written.

B. If conciliation has not been achieved within 45 days after the determination of probable cause, the commissioner shall notify all interested parties of the time and place of a local hearing to be held to determine whether the school administrative unit is in violation of this chapter.

C. If a local hearing is scheduled, the commissioner shall:

(1) Conduct the hearing in accordance with the due process rules adopted pursuant to requirements of section 7204, subsection 5;

(2) Close the hearing if a parent, surrogate parent or guardian requests that it be closed to the public; and

(3) Make written findings of fact and conclusions of law and send them to all interested parties within 10 days of the hearing's conclusion.

D. If the commissioner finds that the school administrative unit is in violation of this chapter, then the commissioner shall specify in writing the steps necessary to achieve compliance. The commissioner shall order the school administrative unit to take these steps by a certain date.

4. Appeal. An interested party may appeal the commissioner's order to the Superior Court under the Maine Rules of Civil Procedure, Rule 80B.

5. Enforcement. If the unit fails to comply with the commissioner's order, the commissioner:

A. May withhold financial aid from the school administrative unit until it complies with his order; and

B. Shall refer the matter to the Attorney General, who shall take appropriate action to bring the school administrative unit into compliance.

6. Additional remedies. The remedies provided in this section are in addition to any other remedy in law or equity.

§7207. Hearing procedures

The following provisions shall apply to hearings.

1. Rules. The commissioner shall adopt or amend rules to determine:

A. When a surrogate parent is needed and the criteria for selection; and

B. The maximum period within which a parent, surrogate parent, guardian or administrative unit may exercise the rights listed in subsection 2.

2. Request for hearing. A parent, surrogate parent, guardian or administrative unit may:

A. Request the commissioner to appoint an impartial hearing officer who shall conduct a hearing on behalf of the department regarding the identification, evaluation and educational placement of the student; and to issue a decision based upon the findings of fact made by the hearing officer; and

B. Appeal the decision of the commissioner to the Superior Court or to a United States District Court.

3. Hearing official. The State shall train impartial hearing officers.

§7208. Savings provision

Nothing contained in this chapter shall be construed to prevent or impair the administration or enforcement of any other law of the State.

SUBCHAPTER II

PROGRAMS

§7251. Local programs

A school administrative unit may establish an appropriate program of special education.

§7252. Contractual programs; approval

A school administrative unit may arrange with or tuition to another school administrative unit or a public or private agency for the education of exceptional students. The program shall be described in a contract which shall be subject to approval in advance by the commissioner and meet the requirements set forth in section 7204, subsection 4.

§7253. Regional programs; approval

Two or more school administrative units may enter into cooperative agreement to provide regional special education programs and support services.

1. General criteria. Programs and services established through this agreement shall meet the requirements set forth in section 7204, subsection 4.

2. Special provisions. A program shall specify that:

A. One of the school administrative units shall serve as fiscal agent;

B. No requirement exists for separate budget approval and taxation; and

C. School construction may not be proposed for special education purposes.

3. Plan. A plan for a regional program shall be subject to approval by the commissioner prior to its implementation. The plan shall specify:

A. The objectives and functions to be performed by the regional program;

B. The method of fiscal operation and cost sharing;

C. The method of entering into and withdrawing from the agreement;

D. The method of administering the regional program;

E. The method of involving parent and community participation; and

F. The school administrative unit that shall act as fiscal agent for the regional program.

4. Funding. The regional program shall be supported by funds included in the special education appropriations of each of the member school administrative units.

§7254. Contractual programs for nonresident children

Another state, subdivision or private person, firm or agency may contract with a private school in this State to provide special education for children who are not residents of this State. A program for these nonresident children shall be subject to approval by the commissioner only with respect to the requirements of section 7204, subsection 4.

§7255. Other programs

In addition to, or in place of, those methods listed in this chapter, a school administrative unit may make other provisions, subject to approval in advance by the commissioner, to ensure the education of all exceptional students.

§7256. State licensed agencies

A special education facility may be operated in conjunction with or as a part of a state licensed agency.

SUBCHAPTER III

FINANCES

§7301. State aid

1. State aid. The State shall provide financial aid to school administrative units for special education programs.

2. Contributions. The commissioner may receive contributions and donations to be used with appropriations to carry out this chapter.

§7302. Tuition rates

Tuition rates for school administrative units, private special education programs, private general purpose facilities and nonresident children shall be as follows.

1. School administrative units. A school administrative unit operating a full-time special education program and accepting students on a tuition basis shall compute a tuition rate. The tuition rate shall not exceed the actual per student cost incurred in operation of the special education program. The commissioner shall adopt or amend rules to define allowable expenditures used to determine the per student cost.

2. Private special education facilities. Private agencies that operate facilities which exclusively serve exceptional students shall comply with the following in computing tuition rates.

A. All tuition rates shall be subject to approval by the commissioner.

B. The tuition rates shall not exceed the actual per student cost incurred in the operation during the preceding school year.

C. The commissioner shall adopt or amend rules to define allowable expenditures used to determine per student costs.

D. An agency shall file an annual financial report detailing the allowable expenditures and the computation of the tuition rate by July 15th in the form the commissioner may require.

E. Increases in the tuition rate from one year to the next may not exceed 15% unless evidence is presented to the commissioner that a hardship will exist if a higher rate of increase is not approved, and this evidence is deemed sufficient by the commissioner.

F. The commissioner shall establish a tuition rate for new special education programs in special purpose private schools based on the estimated allowable costs of these schools.

3. Private general purpose facilities. General purpose private agencies that receive state aid for special education programs shall comply with the following tuition rates.

A. The tuition rate charged shall not exceed the state elementary or secondary per student tuition rates as computed under sections 5804 and 5806.

B. Private schools that have an exclusive contract with a school administrative unit for the provision of secondary education are exempted from the provision of paragraph A and shall be treated as public schools for the computation of special education tuition rates.

4. Exempted private agencies. This section shall not apply to and the commissioner shall have no authority over tuition rates charged for special education programs by private agencies where the tuition is not paid, reimbursed or otherwise funded in whole or in part by this State.

CHAPTER 305

PRIVATE AND STATE OPERATED SCHOOLS

§7501. Private schools

The commissioner may require that special education programs in an approved private school or agency receiving state funds comply with rules for the conduct of programs within public schools.

§7502. State institutions

The director of a state institution for the mentally ill or mentally retarded shall apply to the superintendent of the school administrative unit in which the institution is located, or in any adjoining unit, for children in the institution to attend that unit's schools. These exceptional students shall attend under the same conditions as apply to students residing in the school administrative unit and under the rules of the department relating to special education.

§7503. Governor Baxter School for the Deaf

1. Authority to establish. The Governor Baxter School for the Deaf, established by Private and Special Law 1897, chapter 446, and by Private and Special Law 1953, chapter 44, shall be devoted to the education and instruction of deaf exceptional students.

2. Location. The school shall be located in Cumberland County.

3. Responsibility for maintaining the school. The State shall have the responsibility and expense of maintaining the school.

4. Governance. The commissioner shall govern the school and:

A. May employ officers, teachers and other employees, subject to the Personnel Law; and

B. May prescribe the system of education and course of study to be pursued in the school.

5. Annual evaluations. The Governor Baxter School for the Deaf shall provide annual evaluations of all students enrolled in the school. These evaluations shall be sent to the superintendents of the school administrative units from which the students are enrolled.

6. Technical assistance. A school administrative unit may request technical assistance from the Governor Baxter School for the Deaf in matters relating to the education of deaf students in accordance with departmental rules.

7. Superintendent's authority to enroll students. The superintendent of the school administrative unit in which that student resides, with the consent of the student's parent or legal guardian and in accordance with the limitations in section 5051 may enroll a deaf student in the Governor Baxter School for the Deaf. The sums necessary for the support of the student while attending the school shall be paid by the department.

§7504. Residential child care facilities

"Residential child care facilities" shall be licensed in accordance with Title 22, section 8104.

CHAPTER 307

PRESCHOOL HANDICAPPED CHILDREN

§7701. Purpose

The purpose of this chapter is to maintain coordinated delivery systems for preschool handicapped children based on the models developed through pilot projects.

§7702. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Services. "Services" means those activities undertaken to screen, evaluate and provide special education and related services to preschool handicapped children.

§7703. Authorization for expenditure of funds

The commissioner may, from funds authorized to the department, make grants to agencies and school administrative units to establish local coordinated delivery systems to serve preschool handicapped children.

1. Grants. Grants shall be made on a competitive basis, according to rules adopted or amended by the commissioner.

2. Rules. The rules shall assure participation at the local level by agencies currently serving preschool handicapped children. They shall require that existing resources for providing services to preschool handicapped children be exhausted prior to using grant funds to provide services.

§7704. Interdepartmental coordination

An Interdepartmental Coordinating Committee for Preschool Handicapped Children representing the department, the Department of Human Services, the Department of Mental Health and Mental Retardation and the public, shall be appointed by the 3 commissioners to work with the department to establish guidelines, including continuation applications, to monitor grants and to evaluate the performance of programs developed through the grants.

§7705. Early childhood consultant

The position of early childhood consultant to the Division of Special Education shall be established to direct the department's participation in the coordinated delivery system for preschool handicapped children.

§7706. Additional program

In addition to the programs authorized in this chapter, the commissioner may authorize expenditures to institutions and organizations for speech and language education of hearing and language impaired children who have not reached compulsory school age.

CHAPTER 309MENTAL RETARDATION§7901. Teacher education programs

The following provisions shall apply to teacher education programs.

1. Education of teachers and school personnel. A school administrative unit may raise and appropriate money for the education of teachers and other school personnel to meet the educational needs of mentally retarded students.

2. Matching basis. The appropriation shall be expended on a matching basis with any funds made available by the department for the same purpose.

3. Programs. Teachers and other school personnel who are trained may be reimbursed through funds of the department on a matching basis for expenditures for that training if it has been approved in advance by the commissioner.

§7902. Facilities

The following provisions shall apply to facilities.

1. Construction of acquisition. The county commissioners may construct or acquire buildings for state subsidized and approved educational programs for mentally retarded students.

2. Disposal of buildings. If these county buildings are sold, the proceeds shall be expended on services and programs for mentally retarded students.

3. Limit on county responsibility. This section does not authorize counties to operate these programs.

CHAPTER 311GIFTED AND TALENTED STUDENTS§8101. Purpose

The Legislature recognizes that gifted and talented students, who comprise approximately 3% to 5% of Maine's students, require differentiated education programs and services beyond those normally provided by the regular school program in order to realize their educational potential and contribution to themselves and to society.

§8102. Grants to school administrative units

The department may, from funds available to it, grant funds to a school administrative unit to undertake gifted education programs. A grant shall be made on the basis of \$2 of state matching funds for each \$1 of funds appropriated by the school administrative unit.

1. Guidelines for the identification of gifted and talented students. The commissioner shall adopt or amend rules for the identification of gifted and talented students and for gifted and talented education programs.

2. Programs for gifted and talented students. A school administrative unit requesting funds to undertake a gifted and talented education program shall develop a proposed program of identification and education in accordance with guidelines established by the commissioner.

3. Time limits. The following limits shall apply.

A. On or before February 1st, the school administrative unit shall submit to the department its proposed program.

B. By May 15th, the commissioner shall notify the school administrative unit whether the proposal has been funded for the following fiscal year.

4. Technical assistance. The commissioner may provide technical assistance to a school administrative unit for planning for gifted and talented education programs.

§8103. Available funds

Funds made available to the department for gifted and talented education programs from state, federal or other sources shall not lapse at the end of a fiscal year, but shall be carried forward to the next fiscal year for a period of 90 days to be used for the purposes set forth in this chapter.

SUBPART 2

VOCATIONAL EDUCATION

CHAPTER 313

SECONDARY VOCATIONAL EDUCATION

SUBCHAPTER I

GENERAL PROVISIONS

§8301. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Budget failure. "Budget failure" means a budget that is less than the sum of the state allocations for vocational education to the member administrative units in the region.

2. Representative grouping. "Representative grouping" means a representative group to which each administrative unit is assigned to provide for equitable representation on a cooperative board. A representative grouping may consist of one administrative unit or several small units within the vocational region.

3. Vocational center. "Vocational center" means facilities providing vocational education to secondary students. A center shall be governed by a single school administrative unit. It may serve students from other affiliated school administrative units. It may include satellite center facilities and programs.

4. Vocational education. "Vocational education" means education to create or improve job-related skills, which is part of a secondary school curriculum.

5. Vocational region. "Vocational region" means facilities or programs providing vocational education to secondary school students. A region shall be governed by a cooperative board formed in accordance with section 8452.

6. Vocational satellite program. "Vocational satellite program" means a facility or program providing vocational education to secondary students, which is administered by a school administrative unit affiliated with a vocational center.

§8302. Acceptance and compliance with federal law

The State shall comply with the following Acts of Congress and any amendments or supplements thereto:

1. The Smith-Hughes Act. The Smith-Hughes Vocational Education Act of 1917, chapter 114, 39 STAT. 929;

2. The George-Barden Act. The following portions of the George-Barden Act:

A. The United States Vocational Education Act of 1946, chapter 725, 60 STAT. 775, which may be cited as Title I of the George-Barden Act; and

B. Title III of the United States Health Amendments Act of 1956, chapter 871, 70 STAT. 923, which may be cited as Title II of the George-Barden Act; and

3. The Vocational Education Act of 1963. The United States Vocational Education Act of 1963, Public Law 88-210, 77 STAT. 403, as amended by the United States Education Amendment of 1976, Public Law 94-482, 90 STAT. 2169.

§8303. Federal funds

Federal moneys for vocational education shall be received under the following provisions.

1. Source of federal funds. Federal moneys for vocational education shall include moneys received by the State from:

A. The Federal Government under the Acts cited in section 8302;

B. The Federal Government for the vocational rehabilitation of persons disabled in industry or otherwise; and

C. The Federal Government for vocational training.

2. Treasurer of State. The Treasurer of State may:

A. Receive and provide for the proper custody of federal moneys for vocational education; and

B. Disburse those funds under direction of the state board, its executive officer or other legal authority.

§8304. Role of the state board in federal programs

The state board is:

1. Cooperation with the United States Department of Education. Authorized to cooperate with the United States Department of Education for the administration of the federal Acts cited in section 8302; and

2. Administration of the United States Vocational Education Act of 1963. Authorized as the state agency responsible to administer programs of the United States Vocational

Education Act of 1963, Public Law 88-210, 77 STAT. 403, as amended by the Education Amendment of 1976, Public Law 94-482, 90 STAT. 2169.

§8305. Eligibility requirements

The following provisions shall apply to the eligibility of students entering a vocational center or vocational region program.

1. General right. A person entitled to receive free public secondary education, or seeking to attend full-time courses in grade levels 13 and 14, where offered, either free or subject to tuition:

A. May attend a vocational center or vocational region which serves the person's area; or

B. May attend a vocational center outside the person's area subject to the approval of the commissioner, if the governing body of the sending and receiving centers or regions agree to make the necessary arrangements for the person to attend.

2. Special qualifications. A vocational center or vocational region shall determine, by admission standards which apply to all students, whether an applicant is qualified to profit from the vocational education and whether the school can accommodate the applicant.

3. Requirements. Vocational centers shall:

A. Provide programs for persons:

(1) Who have graduated from a secondary school; or

(2) Who are qualified persons over 16 years of age who have left school prior to graduation;

B. Offer programs to students at grades 11 and 12; and

C. Offer programs to students below grade 11, if approved by the commissioner.

§8306. Powers and duties of State Board of Education

1. State plan. The State Board of Education shall approve or disapprove the state plans for vocational education.

2. Center and region plans. The board shall approve center and region plans for vocational education. The plans shall include:

- A. A survey of the educational needs;
- B. A survey of employment opportunities;
- C. A description of the programs to be offered; and
- D. A description of the areas and locations to be served.

3. Plans for vocational satellite programs. The state board may approve plans for a vocational satellite program if:

- A. A vocational center requests a vocational satellite program;
- B. The school board operating the vocational center approves the plan and supplies information documenting the need for a vocational satellite program; and
- C. The request includes the commissioner's approval.

4. Boundaries of centers and regions. The board:

- A. Shall have the final authority to define the boundaries of vocational regions and centers; and
- B. May, in accordance with the procedures established in section 8307, approve:

- (1) Changes in existing boundaries;
- (2) Changes in the status of a center to a region or a region to a center;
- (3) Dissolution of existing regions and centers;
- (4) Creation of new regions or centers; or
- (5) Creation of alternative methods of delivering vocational education.

§8307. Procedures; development of a plan

The governing body of one or more school administrative units, or the commissioner, may prepare a plan for reorganizing the delivery of vocational education in an existing

vocational region or an area served by a vocational center.

1. Plan. The plan shall:

A. Describe the problem with the existing method of delivering vocational education in the region or vocational area;

B. Present an alternative method of delivering vocational education;

C. Present a method for the disposal of any joint property and indebtedness;

D. Provide, through the governing body responsible for the delivery of vocational education, for a minimum of 2 public hearings; and

E. Provide any other information requested by the board.

2. State Board of Education approval. The board:

A. Shall request the commissioner to:

(1) Assess the impact of the plan on the delivery of vocational education in the vocational region or center area involved;

(2) Assess the fiscal impact on the State; and

(3) Submit a written report of findings to the board. In the report, the commissioner may suggest revisions to the plan or an alternative plan; and

B. May request additional information from the region or center involved or individual school administrative units within these regions or center areas.

3. Approval of plan; public hearing. If the plan is approved by the board, the school administrative unit or units requesting the change shall hold a public hearing in their unit or units to present the plan. The vocational director and the cooperative board of a vocational region, or the vocational director, advisory committee and governing body of a vocational center, shall be invited to participate at the public hearing or hearings.

4. Referendum. After the public hearing, the school board of the school administrative unit or units requesting

a change shall submit the proposal to the voters in their school administrative unit or units in accordance with the relevant provisions for holding elections in sections 1351 to 1354 and in Titles 21 and 30.

5. Voter approval; certificate of approval. If approved by a 2/3 vote of the votes cast in each school administrative unit requesting the change, the board shall issue a certificate of approval.

SUBCHAPTER II

FINANCING

§8351. State aid for vocational centers and vocational regions

State aid for vocational centers and vocational regions shall be in accordance with chapter 605 and Title 20, section 3457.

§8352. Department budget estimates

1. Budget estimate. Before each regular session of the Legislature, the state board shall estimate the amounts necessary to carry out the purposes of sections 8351, 8354 and 8401 to 8405. It shall include these amounts in its request to the Legislature for appropriations from the General Fund.

2. Budget limitation. This section shall not apply to construction grants made under Title 20, section 3460.

§8353. Tuition for students sent out of state

If a school administrative unit determines that a student would be better served by attending, on a tuition basis, an out-of-state secondary level vocational school which is closer than a Maine vocational center or region program available to that student, the State shall reimburse that school administrative unit the same amount for each student as would have been incurred by a vocational center or vocational region.

§8354. Tuition for out-of-state students

The tuition charge for each nonresident student shall be determined as follows.

1. Primary method. The per student cost shall be determined by:

A. Adding the amounts paid for:

- (1) Teacher's salaries;
- (2) Fuel;
- (3) Janitorial services;
- (4) Textbooks;
- (5) Reference books;
- (6) School supplies for desk and laboratory use;
- (7) Public utility services;
- (8) Replacement of instructional equipment;
- (9) Fire insurance; and
- (10) Compensation for the director and his assistants;

B. Adjusting the amounts in paragraph A by the allowable percentages set forth in section 5805, subsection 1, paragraph D; and

C. Dividing this sum by the average daily attendance of all regularly enrolled students in the vocational center or vocational region.

2. Alternate method. When the cost of fuel, janitorial services, public utility services or insurance for the vocational education facilities cannot be separated from similar costs for other facilities, these costs shall be prorated on the basis of the square footage of floor space in the vocational education sections in relation to the total floor space to which those expenditures apply.

SUBCHAPTER IIIVOCATIONAL CENTERS§8401. Vocational centers

The vocational centers shall operate at Augusta; Bath; Biddeford; School Administrative District No. 61, (Bridgton); Caribou; School Administrative District No. 46, (Dexter); School Administrative District No. 9, (Farmington); Lewiston; Portland; School Administrative District No. 1, (Presque Isle); School Administrative District

No. 54, (Skowhegan); Waterville; and Westbrook.

§8402. Programs

A vocational center shall provide programs of education and training in trade, industrial, agricultural, business, distributive and service occupations.

§8403. Vocational satellite programs

The following provisions shall apply to vocational satellite programs.

1. Financial responsibility for vocational satellite program. The school board responsible for operating the vocational satellite program shall assume full financial responsibility for paying the operating costs of that program. It shall receive the state subsidy for the program and tuition income. These programs shall be financed through available funds.

2. Programs' facilities and equipment; school construction aid. The school board, where the vocational satellite program is operated shall:

A. Furnish the necessary facilities and equipment; and

B. Be eligible for school construction aid if new facilities are required and approved.

3. Nomination of operating personnel. The superintendent operating the vocational satellite program, in consultation with the director of the vocational center, shall nominate personnel to operate the programs. The nominations shall be approved by the school board operating the satellite program.

4. Supervision. The school principal and the director of the vocational center shall jointly make recommendations to the local superintendents and shall supervise personnel working in the vocational satellite program.

5. Center operated vocational satellite programs. Vocational centers may operate vocational satellite programs in municipalities served by the center when the programs require only part-time instruction and are approved by the commissioner.

§8404. Vocational center advisory committee

There shall be an advisory committee responsible for

coordinating vocational education in each vocational center.

1. Membership. Membership on the advisory committee shall consist of:

A. The superintendents of the participating secondary schools or the superintendents' representatives; and

B. One board member chosen from each participating school board by its membership.

2. Meetings. The advisory committee shall meet at least quarterly.

3. Duties. The committee:

A. Shall prepare and submit an annual report on the vocational center and vocational satellite programs, to the state board and to each municipality served by the center; and

B. May develop a cooperative agreement which shall delineate the duties and powers of the advisory committee and devise a formula for sharing costs. The agreement is subject to ratification by all of the school boards of the participating administrative units. This agreement shall be reviewed annually, with a copy being submitted to the commissioner. The cost-sharing formula shall pertain to the cost of vocational educational programs which exceed expenditures made for those programs in the base year.

§8405. Local director

A school administrative unit operating a vocational center shall employ on the staff of the center a local director of vocational education.

1. Qualifications. The director shall meet the qualifications prescribed by the state board.

2. Administrative status. The director shall serve as chief administrative officer of the center and its satellites and have all the authority and obligations of a secondary school principal in the school administrative unit operating the center.

SUBCHAPTER IV
VOCATIONAL REGIONS

§8451. Vocational regions

1. Legislative intent. It is the intent of the Legis-

lature that the vocational regions shall deliver vocational education to their respective areas in accordance with this chapter, and they shall function as extensions of the secondary schools within their region.

2. Boundaries. The vocational regions shall have boundaries as follows.

A. Region 1. NORTHERN AROOSTOOK COUNTY. Units located in this area shall include: Madawaska; School Administrative District No. 10-Allagash; School Administrative District No. 24-Van Buren, Cyr Plantation, Grand Isle and Hamlin Plantation; School Administrative District No. 27-Eagle Lake, Fort Kent, New Canada Plantation, St. Francis Plantation, St. John Plantation, Wallagrass Plantation and Winterville Plantation; School Administrative District No. 33-Frenchville and St. Agatha.

B. Region 2. SOUTHERN AROOSTOOK COUNTY. Units located in this area shall include: Bancroft; Benedicta; Crystal; Dyer Brook; Hersey; Island Falls; Linneus; Ludlow; Merrill; Moro Plantation; New Limerick; Oakfield; Orient; Smyrna; School Administrative District No. 14-Danforth and Weston; School Administrative District No. 25-Mt. Chase Plantation, Patten, Sherman and Stacyville; School Administrative District No. 29-Hammond Plantation, Houlton, Littleton and Monticello; School Administrative District No. 70-Amity, Cary Plantation, Haynesville and Hodgdon.

C. Region 3. NORTHERN PENOBSCOT COUNTY. Units located in this area shall include: Carroll Plantation; Codyville; Drew Plantation; East Millinocket; Glenwood Plantation; Lakeville Plantation; Macwahoc Plantation; Medway; Millinocket; Reed Plantation; Topsisfield; Vanceboro; Woodville; School Administrative District No. 30-Lee, Prentiss Plantation, Springfield, Webster Plantation and Winn; School Administrative District No. 31-Burlington, Edinburg, Enfield, Howland, Lowell, Maxfield, Passadumkeag and Seboeis Plantation; School Administrative District No. 67-Chester, Lincoln and Mattawamkeag.

D. Region 4. SOUTHERN PENOBSCOT COUNTY. Units located in this area shall include: Alton; Amherst; Aurora; Bangor; Bradley; Brewer; Dedham; Glenburn; Great Pond Plantation; Greenbush; Greenfield; Hermon; Milford; Old Town; Orono; Orrington; Osborn Plantation; Veazie; School Administrative District No. 22-Hampden,

Newburgh and Winterport; School Administrative District No. 23-Carmel and Levant; School Administrative District No. 38-Dixmont and Etna; School Administrative District No. 63-Clifton, Eddington and Holden; School Administrative District No. 64-Bradford, Corinth, Hudson, Kenduskeag and Stetson.

E. Region 6. WASHINGTON COUNTY. Units located in this area shall include: Alexander; Baileyville; Baring Plantation; Beals; Beddington; Calais; Centerville; Charlotte; Cooper; Crawford; Deblois; Dennysville; Eastport; Grand Lake Stream Plantation; Jonesboro; Jonesport; Machias; Marshfield; Meddybemps; Northfield; No. 14 Plantation; No. 21 Plantation; Pembroke; Perry; Princeton; Robinston; Roque Bluffs; Talmadge; Waite; Wesley; Whitneyville; School Administrative District No. 37-Addison, Cherryfield, Columbia, Columbia Falls, Harrington and Milbridge; School Administrative District No. 19-Lubec; School Administrative District No. 77-Cutler, East Machias, Machiasport and Whiting.

F. Region 7. WALDO COUNTY. Units located in this area shall include: School Administrative District No. 3-Brooks, Freedom, Jackson, Knox, Liberty, Monroe, Montville, Thorndike, Troy, Unity and Waldo; School Administrative District No. 34-Belfast, Belmont, Morrill, Northport, Searsmont and Swanville; School Administrative District No. 56-Frankfort, Searsport and Stockton Springs.

G. Region 8. KNOX COUNTY. Units located in this area shall include: Appleton; Hope; Islesboro; Lincolnville; School Administrative District No. 5-Owls Head, Rockland and South Thomaston; School Administrative District No. 7-North Haven; School Administrative District No. 8-Vinalhaven; School Administrative District No. 28-Camden and Rockport; School Administrative District No. 40-Friendship, Union, Waldoboro, Warren and Washington; School Administrative District No. 50-Cushing, St. George and Thomaston.

H. Region 9. NORTHERN OXFORD COUNTY. Units located in this area shall include: Hanover; Peru; Rumford; School Administrative District No. 21-Canton, Carthage and Dixfield; School Administrative District No. 43-Byron, Mexico and Roxbury; School Administrative District No. 44-Andover, Bethel, Greenwood, Newry and Woodstock.

I. Region 10. EASTERN CUMBERLAND-SAGADAHOC

COUNTY. Units located in this area shall include: Brunswick; Freeport; School Administrative District No. 75-Bowdoin, Bowdoinham, Harpswell and Topsham. This region and the vocational center at Bath shall coordinate programs and activities.

J. Region 11. SOUTHERN OXFORD COUNTY. Units located in this area shall include: School Administrative District No. 17-Harrison, Hebron, Norway, Otisfield, Oxford, Paris, Waterford and West Paris; School Administrative District No. 39-Buckfield, Hartford and Sumner. This region and the vocational center at School Administrative District No. 61 (Bridgton) shall coordinate programs and activities.

3. Central Aroostook County. Central Aroostook County shall also be a vocational region.

A. Public secondary schools located at: Ashland; Caribou; Easton; Fort Fairfield; Limestone; Mars Hill; Presque Isle; and Washburn shall be served by regional vocational centers located in Presque Isle and Caribou.

B. Notwithstanding provisions of sections 8452 to 8459, these regional centers shall be governed by their respective school boards but shall have an advisory committee responsible for coordinating vocational education for the Central Aroostook County area as defined in section 8404.

4. Validation. Each vocational region authorized and organized under Public Law 1973, chapter 605, is hereby validated, confirmed, approved and declared legal in all respects, notwithstanding any defect or irregularity which may have occurred in the organization of the region or in the selection of the cooperative board of that region.

§8452. Cooperative board; formation

The vocational regions shall be administered by a cooperative board organized as follows.

1. Creation. The school boards of the school administrative units, at a joint meeting called by the commissioner, shall determine by majority vote:

A. The size of the cooperative board;

B. The number to serve from each unit or group of units;

C. The method of selecting representatives from each unit;

D. The method of sharing costs; and

E. The number of units to be jointly represented by a cooperative board member.

2. Role of municipal officers. The municipal officers of each school administrative unit within the region shall be invited to the joint meeting to present testimony on cooperative board membership and the methods of sharing costs among the units.

3. Voting. Each school board shall caucus with the municipal officers within that unit. In the joint meeting, the school board shall cast their votes on the issues in accordance with the majority vote of the caucus of their school board and municipal officers.

4. Process of appeal. A school board may appeal decisions on the method of sharing cost and the method of apportioning representatives on the cooperative board to the state board. The state board decision shall be final and binding on the school administrative units within the region.

5. First meeting. When the member school administrative units of a cooperative board have determined the representation and the method of sharing costs, the superintendents in the region shall call meetings of the school boards. The school boards shall appoint their authorized number of representatives to the cooperative board.

6. Organization of the cooperative board. The organization of the cooperative board shall occur as follows.

A. The superintendents shall call a meeting of the cooperative board members to organize.

B. The board shall:

(1) Elect a chairman and vice-chairman;

(2) Elect a secretary who does not have to be a member of the board;

(3) Adopt a constitution or bylaws for the calling of and conducting of board meetings; and

(4) Elect a treasurer. The treasurer shall give

a bond to the board with the sum and sureties established by the board. This bond shall be deposited with the chairman. The expenses of the bonds shall be paid by the cooperative board. The treasurer does not have to be a member of the cooperative board.

7. Return and certificate. The secretary shall immediately file a return with the state board listing the names of the officers of the board and certifying that the board has been properly organized.

8. Issuance of certificate. The state board may issue a certificate of organization or reorganization for each vocational region. The issuance of the certificate shall be conclusive evidence of lawful organization. The original certificate shall be kept on file by the secretary of each region, and copies shall be placed on file in the office of the commissioner.

§8453. Membership on cooperative board

Membership of the cooperative board shall consist of residents from each school administrative unit in proportion to the population of that unit to the whole region.

1. Member of school board. At least one person in a representative grouping within a vocational region shall be a member of a school board of a school administrative unit within the representative grouping.

2. Conflict of interest. Residents who, by holding another office, have duties conflicting with those of the cooperative board may not be selected.

§8454. Oath of office

Cooperative board members shall take an oath or affirmation in the same form as prescribed in section 1251 for directors of school administrative districts. A certificate of the oath or affirmation shall be on file in the office of the cooperative board.

§8455. Vocational region considered a political subdivision

A vocational region shall be a political subdivision within the meaning of Title 5, section 1222, subsection 6 and a quasi-municipal corporation within the meaning of Title 30, section 5053, and all the provisions of that section shall be applicable to them.

§8456. Voter approval of cooperative board articles

Vocational regions may vote on articles submitted by the cooperative board using the procedures set forth in sections 1351 to 1354.

§8457. Cooperative board authority

1. Duties. A cooperative board shall have all the rights and duties of a school board as provided in section 1001, subsections 1 to 8, 11 and 12; section 1002; section 1256, subsections 1, 2 and 4 to 7; section 1257; sections 1313 to 1315; section 2501; section 4801; and section 13202.

2. Review of agreement. The cooperative board, with the superintendents' advisory committee, shall annually review the cooperative agreement. It may amend the agreement with respect to the administration of vocational education in the region. A revision of the agreement shall be subject to approval by a majority vote of the school boards of the region in accordance with the one-man vote principle. A copy of the cooperative agreement and amendments shall be filed with the commissioner.

3. Authority. A cooperative board may:

A. Borrow funds in anticipation of the member unit's payment of its share of the vocational regional budget.
Loans:

(1) Shall be repaid within one year; and

(2) May not at any time exceed 3/4 of the budget approved by the member units of the region;

B. May expend available revenue to meet debt service and security and maintenance of property costs; and

C. Accept and expend special grants from state and federal sources.

4. Compensation. Cooperative board members may be paid up to \$10 for each meeting attended.

§8458. Vocational director

1. Employment. The cooperative board shall employ a certified vocational director. The board may appoint the director to serve as the:

A. Administrative officer of the region; and

B. Treasurer and secretary to the board.

2. Duties. The administrative officer may nominate teachers and shall perform other duties as assigned by the board.

3. Ex officio administrative officer. If the cooperative board does not designate the vocational director to serve as administrative officer, the board may enter into an agreement with a superintendent within the region to serve as ex officio administrative officer for the region with the duties under subsection 2.

§8459. Superintendents' advisory committee

The superintendents within each region shall serve as an advisory committee to the cooperative board. This committee shall:

1. Right to attend cooperative board meetings. Be invited to attend and receive notice of all meetings held by the cooperative board; and

2. Meeting with vocational director. Meet with the vocational director at least 4 times each year to review proposed programs, budgets and issues relating to vocational education.

§8460. Budget

The vocational region budget shall be prepared and approved as follows:

1. Duties of the cooperative board. The cooperative board shall:

A. Prepare and approve a budget for the vocational region;

B. Hold 2 public hearings in the region, prior to submitting the budget for adoption in accordance with one of the methods of voting set forth in subsection 2;

C. Prepare 2 articles, or 2 orders for municipal council meetings, in substantially the following form:

(1) "Shall the regional vocational operating budget as approved by the cooperative board for the year _____ be approved in the amount of \$ _____?"; and

(2) "Shall the vocational region approve a budget

for adult education in the amount of \$ _____
for the year _____?";

D. Select the method of submitting the articles or
orders for budget adoption from those outlined in sub-
section 2; and

E. Select the date of the budget vote if the regional
budget meeting method is used.

2. Methods of budget adoption. The cooperative board
shall submit the final budget as follows:

A. The articles, or orders, for the operating and
adult education portions of the budget shall be submit-
ted for adoption by one of the following methods prior
to July 1st:

(1) The school administrative unit method out-
lined in section 8461;

(2) The referendum method outlined in sections
1351 to 1354; and

(3) The regional budget meeting method outlined
in section 8462; and

B. For the purpose of approving money to repay bonds,
each school administrative unit within a region shall
include as part of the debt service portion of its
regular school budget an amount sufficient to cover
that school administrative unit's share of the region's
debt service.

3. Budget reconsideration. If the articles or orders
are not adopted pursuant to subsection 2, the cooperative
board shall:

A. Prepare a revised budget and budget articles; and

B. Submit the revised budget articles for voter
approval under the regional budget meeting method
before August 1st.

§8461. School administrative unit method

1. Role of the school administrative unit. The legis-
lative body of each school administrative unit in the
region shall vote on the articles submitted by the
cooperative board.

A. The vote of the budget shall be completed at the

same time as the regular school budget.

B. The vote of the legislative body shall be to accept or reject each article in the budget warrant. No portion of a warrant may be amended.

C. Following the annual budget meeting of a school administrative unit, the clerk of that unit shall notify, in writing, the member or members of the cooperative board which represent that unit of the results of the vote.

2. Role of the cooperative board. The role of the cooperative board is as follows:

A. Within 5 days after the last unit has acted on the budget, the chairman of the board shall call a meeting of the board to tally the results of the vote.

B. The cooperative board members shall report in writing and shall cast their ballots in the affirmative or in the negative in accordance with the majority vote of the school administrative units represented.

C. The chairman shall add these votes and the cooperative board shall make a finding of fact and enter in its records the total vote in the affirmative and in the negative.

(1) If the total affirmative votes exceed the total negative votes, the cooperative board shall declare that the budget has been approved.

(2) If any article within the budget fails to pass, or if a special budget meeting is called after the board has declared an emergency exists, the board may prepare a new budget or special budget and submit the necessary articles to a budget meeting of the vocational region called in the manner set forth in section 8462.

3. School administrative districts and community school districts. A municipality which is a member of a secondary community school district or a school administrative district shall appropriate the costs of vocational education as part of the secondary school budget.

§8462. Regional budget meeting approval method

1. Method of notice. A regional budget meeting shall be called by a warrant. The warrant shall be signed by a

majority of the cooperative board membership. The following procedures shall apply.

A. The warrant shall specify the time and place of the meeting.

B. The warrant shall be directed to any resident living within the vocational region by name ordering him to notify all voters within the region to assemble at the time and place appointed.

C. The warrant shall include the articles the cooperative board considers necessary to place before the voters and the authorization to expend funds of the region for the fiscal year.

D. An attested copy of the warrant shall be posted by the person to whom it is directed in some conspicuous public place in each of the municipalities within the vocational region at least 7 days before the meeting,

E. The person who gives notice of the meeting by posting the warrant shall complete the return on the warrant stating the manner of notice, location and time of posting in each community.

F. A detailed supportive budget document shall be available to the legislative body which has responsibility for final budget approval. The supportive document shall contain a summary of anticipated revenues and estimated expenditures for the fiscal year.

2. Procedure. The procedure at a regional budget meeting shall be as follows.

A. The cooperative board shall appoint a resident of the region to act as the registration clerk.

B. The registration clerk shall make and keep a voting list of all residents in the region eligible to vote. The clerk shall compile the voting list from the voting lists of all the municipalities within the region.

C. Each municipal clerk within the region shall deliver to the registration clerk, 5 business days prior to the budget meeting, a certified corrected copy of the voting list of the member municipality. Additions or deletions may not be made during the 5 business days prior to the meeting. Only the citizens whose names appear on the voting list may vote on the budget presented by the cooperative board.

D. The chairman of the cooperative board, or if absent the chairman's designee, shall open the budget meeting by calling for the election of a moderator, by receiving and counting the votes and by swearing in the nominee receiving a plurality of the votes.

E. The moderator shall preside over the meeting.

F. The vocational budget may be adopted only by a majority vote of those present and voting.

G. The moderator shall appoint from the certified lists as many ballot clerks as necessary for the efficient operation of the meeting. The ballot clerks shall be sworn in by the moderator.

H. The secretary of the cooperative board, or in his absence his designee, shall record accurately all the votes of the meeting.

I. The cooperative board shall, immediately upon the adoption of a budget, compute the share to be paid by each municipality within the region and shall notify the school officials to include their share in the school administrative unit's annual school budget. A budget shall be adopted on or before August 1st.

J. The school officials shall place on the school warrant for payment the first of each month a sum equal to 1/12 of the school administrative unit's share of the vocational school budget.

§8463. Appropriation of local funds

Local funds shall be appropriated as follows.

1. Operating and debt service costs. Each region shall, in accordance with the region's agreement for sharing costs, appropriate the necessary local funds to pay the operating and construction costs for vocational region programs as may be required by this subsection and sections 8460 and 8465.

2. Federal grants. Anticipated grants from federal sources to be received by the regional cooperative board shall be deducted from the gross budget before making the assessments to the individual municipalities within the region.

§8464. Budget failure

The following provisions apply in the event of a budget failure as defined in section 8301.

1. Submission of a contingency plan. If a budget failure exists after August 1st, the cooperative board shall submit to the state board a financial statement with an operational plan indicating how the program will be phased out or reorganized.

2. Payment of the state's share to the cooperative board. When a budget failure exists, the State shall pay directly to the cooperative board the sum of each unit's state share of the vocational education allocation of the units within the region.

3. Available funds. If a budget failure exists after June 30th, the cooperative board may expend balances and available revenues.

4. Borrowing. The cooperative board may borrow funds not to exceed 50% of the anticipated state allocation. Such borrowing shall be repaid within the same fiscal year.

§8465. Bonding authority

Bonds and notes for school construction purposes may only be issued under the following provisions.

1. Regional referendum. If the cooperative board decides to issue bonds or notes of the region for school construction purposes:

A. The board shall call a regional referendum using the procedures set forth in sections 1351 to 1354;

B. The results of the referendum vote in each municipality shall be reported immediately to the secretary of the cooperative board; and

C. The board shall meet and make an appropriate finding of fact as required in section 1353, subsection 2.

2. Bond resolutions. If the cooperative board determines from the vote that bonds or notes shall be issued, then the following shall apply.

A. The board shall pass a resolution to that effect setting forth the amount of the proposal and the purposes for which the proceeds were authorized.

B. Bonds or notes shall be issued in the manner de-

scribed in section 1311, except that any reference therein to "school administrative district" or "board of school directors" shall mean vocational region or cooperative board, respectively.

C. Indebtedness shall not exceed 4% of the total state valuation of all the municipalities comprising the region. That indebtedness shall be outside the debt limitations of the individual municipalities of the region.

3. Prior bonds and notes. All actions taken in connection with bonds and notes for school construction purposes by vocational regions and their officers prior to October 1, 1975 shall continue to be valid.

§8466. Transfer of school property

The following shall apply to transfer of school property to a vocational region.

1. Authority. A school board of a school administrative unit within a vocational region may transfer or lease unused school property owned by the unit to the vocational region for vocational education purposes.

2. Definitions. For the purposes of this section a special school district shall be considered to be a school administrative unit.

§8467. Sale of vocational region capital assets

The following provisions apply to the sale of vocational region capital assets.

1. Selling buildings and equipment. Vocational regions may, in case of a shutdown, sell buildings and equipment owned by the vocational regions when the sale is approved by the state board.

2. Using proceeds of sale. The funds raised by the sale in subsection 1 shall be used as follows:

A. The proceeds of the sale shall first be used to reduce any outstanding indebtedness;

B. Any remaining receipts shall be used to meet outstanding obligations; and

C. Any remaining surplus shall be returned to the department.

**[DUE TO ITS SIZE, THIS LAW HAS BEEN DIVIDED INTO
THREE ELECTRONIC FILES. FOR THE REMAINDER OF THE
CHAPTER, SEE THE THIRD FILE.]**