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UNFUNDED STATE MANDATES AND OTHER EDUCATION REQUIREMENTS

Report to the Joint Standing Committee on Education

**In accordance with
P.L. 2007, Chapter 240, Part XXXX-45
(Department to Conduct Review)**

Submitted by

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February 18, 2009

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INTRODUCTION

The Department is required, under the reorganization law, to conduct a review of unfunded mandates pertaining to school administrative units (SAUs), and to report the findings to the Legislature's Joint Standing Committee on Education, along with recommendations for addressing the findings.

In completing this task, we took a three-tiered approach that meets, and goes beyond, this reporting requirement.

In **PART I**, we report on those unfunded mandates that meet the technical definition of that term under Maine law, and we do that with the help of the office that monitors and tracks legislation. The term "unfunded mandate" is defined in law, which also sets forth relevant dates, amount of funding, and exceptions. While the term "unfunded mandate" is used broadly in reference to unwelcome or burdensome requirements, this first tier of inquiry and reporting will target only those requirements that meet the legal definition of the term. [For laws and Constitutional reference to "unfunded mandates" see Appendix 1]. Part I of this report meets the legal requirement for the Department's report to the Legislature.

In **PART II**, we go beyond our legal charge and report on other education requirements and related costs that create real burdens for SAUs that do not meet the legal definition of "unfunded mandate." This is particularly timely, given the State's current financial situation. In order to identify requirements that might be eliminated or adjusted, we developed an online survey which asked respondents to identify education requirements, where they come from, if they knew (federal or state law or department rule or practice), specifically how those requirements cause a burden, who they impact, and potential solutions. [See Appendix 4 for a copy of the survey.]

All Department team leaders had their staff complete the Education Requirements Survey in January 2009. In addition, our colleagues at the Maine School Superintendents' Association (MSSA), the Maine Principals' Association (MPA), the Maine Education Association (MEA), the Maine Administrators of Services for Children with Disabilities (MADSEC), the Maine Administrators of Career and Technical Education (MACTE), and the Maine Curriculum Leaders' Association (MCLA) assisted in gathering information by distributing the online survey to their constituents. In addition, focus groups were conducted in January and early February 2009 with representatives of each of the groups listed above and the Maine School Boards Association (MSBA), to collect further thoughts through discussion [See Appendix 5 for listing of focus group sessions]. More than 2,700 individuals participated in the survey, with over 750 completing all items. The breakdown of participation in the survey was: teachers (66%); principals/other school administrators/non-instructional school staff (20%); superintendents/business managers/curriculum coordinators/other SAU administrators (9%); and DOE staff (6%) (totals 101% due to rounding).

In **PART III**, we address the barriers school systems face as they work to implement a standards-based system and added flexibility that would help them move toward such a system.

First step of an ongoing discussion

We view this report as a first step of an ongoing discussion – both with the Education Committee and with educators in the field – about education requirements and the financial and resource burdens associated with them.

In Part I, unfunded mandates, we have focused on a few key areas where we feel we can offer substantive information and comment. We did so by first setting aside the private and special laws, and then prioritizing those that remained. Given the scope of the report and our desire to be thorough in our analysis of each item, we wanted to focus on a smaller subset of items we think would be of most interest to the Committee. We seek your input regarding unfunded mandates for which you would like further research and recommendations in the next phase of this discussion.

In Part II, our voluntary solicitation of feedback from educators on “other education requirements” that are not unfunded mandates, we similarly focused on a few areas where we felt we could make meaningful recommendations at this time. There is a tremendous amount of material and we do not have the capacity in the Department to examine and respond to each one. However, we view this as an ongoing conversation, and would welcome the Committee’s request for additional information on specific requirements identified in the survey. We will also continue to examine further, and continue dialogue with educators about these requirements.

As we and the field engage in the exciting and difficult work of transitioning to a standards-based system, we felt it would be most helpful to seek feedback from the field on the barriers and flexibility needed to accomplish this task. Some school systems are already well on their way, and at least one is already moving to a standards-based grading system. This discussion will proceed for some time to come. We have reviewed the feedback in these sections, but primarily in the context of its relation to Part II – education requirements and the burdens they create. The next step, not addressed in this report, will be to incorporate these comments into our ongoing efforts on working with the field to transition to a standards-based system. The information in Part III will also be integral as the Department brings forth to the Legislature legislation on revising chapters 125 and 127, and the recommendations of the High School Diploma Stakeholder Group.

PART I: UNFUNDED MANDATES

Definition of “unfunded mandate”

The term “unfunded mandate” is specifically addressed in Maine law. Maine’s Constitution and state law do not allow the State to require local units of government to expand or modify activities unless the State pays for 90 percent of the additional cost with new State funds. With the votes of 2/3 of the members of both the Maine House and Senate legislation can require a local expenditure as an exception to this requirement.

A “mandate” is defined as “any law, rule or executive order enacted, adopted or issued after November 23, 1992.”

The complete language from Maine’s Constitution and state law regarding state mandates can be found in Appendix 1.

Identifying Unfunded Mandates

Because “unfunded mandates” are defined specifically in Maine law, and because the fiscal impact statements that accompany legislation considered by the State Legislature are monitored, the Department sought the assistance of the Office of Program and Fiscal Review (OFPR) for a listing of State laws, rules or Executive Orders enacted since November 23, 1992 identified as unfunded mandates in accordance with Maine law.

The list in Table 1, below, includes the information required in P.L. 2007, Chapter 240, Part XXXX-45, which requires the preparation of this report [see Appendix 1]. That information includes the origin of each mandate, costs associated with them, a description of the characteristics of each mandate, and recommendations for possible legislation.

Summary and Recommendations

The table below shows all 46 mandates, as identified by the Office of Fiscal and Program Review. The last column indicates the “characteristics” of each mandate. They are chosen from the list of characteristics (or “features”) set forth in the section of the reorganization law that describes the reporting required of the Department. [See Appendix 1].

The list provided by the Office of Fiscal and Program Review contains 46 items, including nine Private and Special laws and five potentially unfunded mandates, in addition to the unfunded mandates and a number of items that are simply listed as unfunded. Overall, the 26 items cited as “Pending Committee guidance for further review” in the table are old enough and broad enough that the unfunded mandate for education could not be found without significant additional research. Some may since have been repealed or superseded in law. Given that the Committee has an extensive array of mandates and requirements before it, both through the listing of unfunded mandates in Table 1 and the results of the statewide survey [Appendix 2], we focused on the 20 unfunded mandates that we know are current requirements in the law. We encourage further direction from the Committee on whether you would like us to continue our research on those other 26.

Following review of the unfunded mandates, with cross reference to the hundreds of submissions by educators, administrators and superintendents via the online survey, we make no further

recommendations with respect to these technically unfunded mandates beyond the comments and characteristics cited in the last column.

**TABLE 1
ACTS AND RESOLVES WITH STATE MANDATES
AFFECTING SCHOOL ADMINISTRATIVE UNITS**

#	Session	LD #	TITLE	CHAPTER	FUNDING	COSTS/CHARACTERISTICS
1	116th 1R & 2R	922	An Act to Clarify the Definition of Teacher under the Laws of the Maine State Retirement System	PL Ch 482, Eff 7/14/94	Unfunded Mandate	Pending Committee guidance for further review
2	116th 1R & 2R	1263	An Act to Amend and Improve the Laws Related to Education	PL Ch. 435	Unfunded Mandate	Pending Committee guidance for further review
3	116th 1R & 2R	1560	An Act Requiring Public Schools to Purchase Insurance through a Competitive Bidding Process	PL Ch. 423 Eff. 7/12/93	Unfunded Mandate	Pending Committee guidance for further review
4	116th 1R & 2R	1631	<i>An Act Concerning Level I and Level II Educational Technicians</i>	<i>P&S Ch. 89 Eff 7/14/94</i>	Unfunded Mandate	Pending Committee guidance for further review
5	116th 1R & 2R	1640	<i>An Act to Authorize the Towns of Appleton, Camden, Hope, Lincolnville and Rockport to Form a Community School District</i>	<i>P&S Ch. 64 Eff. 3/10/94</i>	Unfunded Mandate	Pending Committee guidance for further review
6	117th, 1R	556	An Act Concerning the Participation of Teachers of Adult Education in the Maine State Retirement System	PL Ch. 471, Eff. 07/03/95	Unfunded Mandate	Pending Committee guidance for further review
7	117th, 1R	874	Resolve, to Establish Tuition Policy for the Town of Dennysville and Edmunds Township	RES Ch. 33	Unfunded Mandate	Pending Committee guidance for further review
8	117th, 1R	983	<i>An Act to Authorize the Towns of Mechanic Falls, Minot and Poland to Form a Community School District</i>	<i>P&S Ch. 13, Eff. 04/14/95</i>	Unfunded Mandate	Pending Committee guidance for further review
9	117th, 1R	1230	<i>An Act Concerning Educational Technicians</i>	<i>P&S Ch. 35</i>	Unfunded Mandate	Pending Committee guidance for further review
10	117th, 1R	1471	An Act to Protect the Rights of Children Who Have Been Victims of Sexual Abuse	PL Ch. 308	Unfunded Mandate	Pending Committee guidance for further review
11	117th, 1R	1531	Resolve, Establishing a Moratorium on Implementation of the Law Requiring Public Employers to Pay the Costs of Early Retirement Incentives	RES Ch. 39, Eff. 06/28/95	Unfunded Mandate	Pending Committee guidance for further review
12	117th, 1R	1535	<i>An Act Regarding School Construction in School Administrative District No. 49</i>	<i>P&S Ch. 32, Eff. 06/21/95</i>	Unfunded Mandate	Pending Committee guidance for further review
13	117th, 1R	1581	Resolve, to Establish an Education Plan for the Towns of Mechanic Falls, Minot and Poland	RES Ch. 55 07/03/95	Unfunded Mandate	Pending Committee guidance for further review
14	117th, 2R	1640	<i>An Act to Amend the Laws Regarding the Apportionment of Costs of the Mount Desert Island Regional School District among Member Towns</i>	<i>P&S Ch. 54</i>	Unfunded Mandate	Pending Committee guidance for further review

#	Session	LD #	TITLE	CHAPTER	FUNDING	COSTS/CHARACTERISTICS
15	117th, 2R	1705	<i>An Act to Establish Educational Services for Grades 7 to 12 in the Towns of Mechanic Falls, Minot and Poland</i>	<i>P&S Ch. 53 Eff. 2/1/96</i>	Unfunded Mandate	Pending Committee guidance for further review
16	117th, 2R	1791	An Act to Initiate Education Reform in Maine	PL Ch. 649	Rules may impose mandates on if funded	Pending Committee guidance for further review
17	117th, 2R	1818	An Act to Require that Public Schools Permit Participation in Curricular, Co-curricular and Extracurricular Activities for Students Enrolled in Approved Equivalent Instruction Programs Description: 20-A MRSA 5021(4) and (5)	PL Ch. 610	Unfunded Mandate	Approximately 5,000 home-schooled children in the state. We do not know how many participate in these activities. Insufficient structure to predict, measure or control local costs
18	118th, 1R & 1S	988	An Act to Exclude Coaches from Participation in the Maine State Retirement System	PL Ch. 355, Eff. 05/31/97	Unfunded Mandate	Pending Committee guidance for further review
19	118th, 1R & 1S	1542	An Act Concerning Time-out Areas Description: 20-A MRSA 4502(5)(M); Individuals with Disabilities Education Act (IDEA)	PL Ch. 428	Unfunded Mandate	Coordination between federal and state Insufficient structure to predict, measure or control local costs
20	118th, 2R & 2S	2252	Implement the Recommendations of the Governor's Commission on School Facilities	PL Ch. 787 Eff. 4/16/98	Unfunded Mandate	Activities contingent upon funding set annually by Legislature
21	119th, 1R	232	An Act to Restrict the Posting on the Internet of Personal Information About Public School Students Description: 20-A MRSA 6001(2); federal Family Educational Rights and Privacy Act (FERPA)	PL Ch. 17, Eff. 9/18/99	Unfunded Mandate	Coordination between federal and state Insufficient structure to predict, measure or control local costs
22	119th, 1R	1348	An Act to Ensure Support Services for Teachers Serving Under a Certification Waiver Description: 20-A MRSA 13011(7)	PL Ch. 238, Eff. 9/18/99	Unfunded Mandate	Me. Dept. of Ed. Reg. 118 does not do this Insufficient structure to predict, measure or control local costs
23	119th, 1R	1798	An Act to Implement the Recommendations of the Commission to Study Providing Educators with More Authority to Remove Violent Students from Educational Settings Description: 20-A MRSA 1001(15) and (16)	PL Ch. 351 Eff. 9/18/99	Unfunded Mandate	Insufficient structure to predict, measure or control local costs See note regarding health and safety requirements below

#	Session	LD #	TITLE	CHAPTER	FUNDING	COSTS/CHARACTERISTICS
24	119th, 2R	1261	An Act to Require the Training of School Personnel Who Administer Medications Description: 20-A MRSA 254(5) Cost: Insufficient structure to predict, measure or control local costs	PL Ch. 669 Eff. 8/11/2000	Unfunded Mandate	The Department provides training in this area
25	119th, 2R	1725	<i>An Act to Allow the Towns of Wells and Ogunquit to Withdraw from Their Community School District</i>	<i>P&S 83, Eff. 8/11/2000</i>	Potential mandate ruled by the President of the Senate not to be a state mandate	Pending Committee guidance for further review
26	119th, 2R	2311	<i>An Act to Authorize School Administrative Units to Utilize Alternative Delivery Methods for a Limited Range and Number of School Construction Projects, Including the use of an Owner's Representative for Certain School Construction Projects</i>	<i>P&S 79 Eff. 8/11/2000</i>	Unfunded Mandate	Pending Committee guidance for further review
27	120th, 1R	269	An Act to Implement the Recommendations Relating to Education Made by the Joint Study Committee to Study Bomb Threats in Maine Schools Description: 20-A MRSA 263	PL Ch. 67 Eff. 5/2/2001	Unfunded Mandate	Requires phone call or email; <i>de minimis</i> cost See note regarding health and safety requirements below
28	120th, 1R	291	An Act to Require Teaching of Maine Native American History and Culture in Maine's Schools Description: 20-A MRSA 4706(2)	PL Ch. 403 Eff. 9/21/2001	Unfunded Potential Mandate	Part of Maine's <i>Learning Results</i> standards, funded through EPS Department social studies content specialist is developing a model unit for schools
29	120th, 1R	1301	An Act to Implement Changes in Cost-sharing Agreements in School Districts Description: 20-A MRSA 1301 and 1704	PL Ch. 375 Eff. 9/21/2001	Unfunded Mandate	Not required; this is an option provided to local SAUs Cost is for hiring a facilitator, if SAUs choose to engage in the process
30	120th, 1R	1760	An Act to Implement Maine's System of Learning Results Description: 20-A MRSA 6201, and 6209(3) and (4); federal No Child Left Behind Act (NCLB)	PL Ch. 454 Eff. 9.21.2001	Unfunded Potential Mandate	Maine's <i>Learning Results</i> now funded through EPS since 2005-06 Coordination between federal and state

#	Session	LD #	TITLE	CHAPTER	FUNDING	COSTS/CHARACTERISTICS
31	120th, 2R	1975	An Act Concerning Student Threats Description: 20-A MRSA 1001(15); IDEA Cost: Insufficient structure to predict, measure or control local costs	PL Ch. 644 Eff. 7/25/02	Unfunded Mandate	Coordination between federal and state Requires school boards to adopt codes of conduct; Maine School Management Association developed a model policy; additional support from the Department, including website with relevant information <i>De minimis costs</i>
32	120th, 2R	2124	Resolve, Regarding Legislative Review of Portions of Chapter 126: Immunization Requirements for School Children, a Rule of the Department of Human Services, and Portions of Chapter 261: Immunization Requirements for School Children, a Rule of the Department of Education, Major Substantive Rules Jointly Adopted by the Department of Human Services and the Department of Education Description: Me. Dept. of Ed. Reg. 126 (Immunization Requirements for School Children) Cost: Insufficient structure to predict, measure or control local costs	Res. 117 Eff. 4/11/02	Unfunded Mandate	See note regarding health and safety requirements below Funding for immunization is included in EPS, funding for school nurses
33	120th, 2R	2136	Resolve, Regarding Legislative Review of Amendments to Chapter 127, Instructional Program, Assessment and Diploma Requirements, a Major Substantive Rule of the Department of Education Description: Me. Dept. of Ed. Reg. 127 (Instructional Program, Assessment and Diploma Requirements); federal NCLB	Res. 107 Eff. 7/25/02	Unfunded Potential Mandate	EPS now directly supports these items
34	121st 1R	262	An Act To Require That Disciplinary, Attendance and Health Records Be Included in the Records That Follow a Student Who Transfers to Another School Description: 20-A MRSA 6001-B(2); federal Family Educational Rights and Privacy Act (FERPA)	PL Ch 472 Eff. 9/13/03	Unfunded Mandate	Insufficient structure to predict, measure or control local costs See note regarding health and safety requirements below
35	121st 1R	1577	An Act To Amend and Improve the Education Laws	PL Ch 477 Eff. 9/13/2003	Unfunded	Pending Committee guidance for further review

#	Session	LD #	TITLE	CHAPTER	FUNDING	COSTS/CHARACTERISTICS
36	121st 2R	1768	An Act To Authorize Certain School Children To Carry Emergency Medication on Their Persons Description: 20-A MRSA 254(5)(C) Cost: Insufficient structure to predict, measure or control local costs	PL Ch. 531 Eff. 7/30/04	Unfunded Mandate	Insufficient structure to predict, measure or control local costs See note regarding health and safety requirements below
37	121st 2R	1946	An Act To Facilitate Summer Employment for Youths	PL Ch. 617 Eff. 7/30/04	Unfunded Mandate	Pending Committee guidance for further review
38	122nd 1R 1&2S	564	An Act To Amend the Laws Governing the Student Code of Conduct Description: 20-A MRSA 1001(15)(H)	PL Ch. 307 Eff. 9/17/05	Unfunded Mandate	Maine School Management provided model; Department offers training and guidance; Attorney General's Office offers training Insufficient structure to predict, measure or control local costs
39	122nd 1R 1&2S	796	An Act To Implement the Recommendations of the Commission To Study Public Health That Concern Schools, Children and Nutrition	PL Ch. 435 Eff. 9/17/05	Unfunded	Pending Committee guidance for further review
40	122nd 2R	1381	Update Teachers' Minimum Salaries Description: 20-A MRSA 13405 and 13406	PL Ch 635 Eff 5/9/06	Unfunded	Costs built into EPS
41	122nd 2R	1952	Prevent the Use of Performance-Enhancing Substances by Maine's Student Athletes Description: 20-A MRSA 6621-6624	PL Ch 675 Eff 6/1/06	Unfunded Mandate	Requires distribution of information regarding updated policies <i>De minimis</i> costs
42	123rd, 1st R	222	An Act to Ensure the Integrity of School Crisis Response Plans Description: 20-A MRSA 1001(16)	PL Ch 408	Unfunded	See note regarding health and safety requirements below Insufficient structure to predict, measure or control local costs
43	123rd, 1st R	499	An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2008 and June 30, 2009	PL Ch 240	Unfunded Mandate	Costs are due to conducting budget validation referendum (reorganization law)
44	123rd, 1st R	1040	An Act to Increase College Attainment	RES 122	Unfunded Potential Mandate	Pending Committee guidance for further review

#	Session	LD #	TITLE	CHAPTER	FUNDING	COSTS/CHARACTERISTICS
45	123rd, 1st R	1822	An Act To Implement the Recommendations of the Right to Know Advisory Committee	PL Ch 349	Unfunded Mandate	Pending Committee guidance for further review
46	123rd, 1st R	1860	An Act to Implement the Recommendations of the Task Force To Engage Maine's Youth Regarding Successful School Completion Description: 20-A MRSA 5151-5162, and 6001-B(1)	PL Ch 451	Unfunded Mandate	Requirements for state diploma; two individuals have so far received state diplomas in the first two years of the program

Source: Office of Fiscal and Program Review

NOTES:

This chart is a slightly modified version of a list provided by the Office of Fiscal and Policy Review (OFPR) on February 11, 2009. For purposes of this report and for ease of understanding, the Department has used the term "Unfunded Mandate" in this chart (under "**FUNDING**") instead of the OFPR's term "Exempted".

Private and Special Laws on this chart are in italics.

DEFINITIONS:

Unfunded Mandate – bill passed with mandate preamble and received 2/3 vote.

Unfunded Potential Mandate – bill passed but did not receive 2/3 vote; not clear at the time if it would be an unfunded mandate.

Unfunded – bill passed without mandate preamble and did not receive 2/3 vote

Note regarding Health and Safety: In the area of health and safety, we have refrained from making recommendations to remove requirements without first consulting and coordinating with relevant agencies. We are not prepared to make any recommendations that could compromise health and safety standards that are already in place.

PART II: OTHER EDUCATION REQUIREMENTS

The recommendations in Part II are derived from a thorough review of the concerns raised in the survey, which include responses from Department staff and the field. The comprehensive listing of the responses, organized by categories, along with an explanation of the process used in preparing the listing and how to read it, can be found in Appendix 2.

It should be noted that while some of the survey responses deal with federal issues, over which neither the Department nor the Legislature has control, we have chosen to address them, as well. We have the opportunity to engage our congressional delegation, as well as the U.S. Department of Education (USDE), in conversations about federal requirements that may be unnecessarily burdensome. With the recent change of administration in Washington, D.C., this is an opportune time to engage in discussions with the USDE, as it may be especially open to hearing from the states on these matters.

Summary and Recommendations

The online survey provided a vehicle that helped get at the most common requirements that are perceived by those in the field to cause financial and resource burdens. The items in Appendix 2 are numerous and varied and a number of them, while worthy of discussion in other contexts, do not lend themselves to comment or recommendation in this report as they are not related to financial or resource burdens, but rather pertain to the respondents' opinions of education policies approved by the Legislature and implemented by the Department.

In a number of cases, respondents made suggestions for *adding* requirements. For example, there were suggestions to require a uniform statewide school calendar. We have generally avoided making recommendations to add new requirements, given that this report is aimed at *reducing* financial and resource burdens, but we will use the suggestions as part of our continued discussion of educational policy.

Finally, some of the items cited are essential services that we cannot recommend eliminating or reducing, such as: providing special education to age 20 and health and safety requirements. Because these have been thoroughly debated by the Legislature over years and the Legislature has reaffirmed its positions on these requirements, we generally avoid raising them again. Where survey comments and suggested solutions refer to *how* these requirements are implemented we consider these for comment in this report.

Our focus in Part II is to begin the work of addressing areas where we believe we can ease burdens on school systems that are caused by requirements of state law or Department rule, or where we can create added value that will benefit SAUs.

At the conclusion of each recommendation and comment below, we cite in brackets [] one or more of the relevant entries from Appendix 2. We do not attempt to cite every relevant entry.

Recommendations to Address State Education Requirements

- **Recommendation 1: Transfer Certified Nursing Assistants (CNA) training and program approval to the Department of Health and Human Services**

A Department bill recommending this transfer is already in process and will come before the Legislature this session. [A1]

- **Recommendation 2: Remove requirement for SAUs to report their use of green cleaning products and instead require that they self-report their progress in “going green.”**

P.L. 2007, Chapter 32 (Resolve) requires the Department to compile and maintain a list of “green chemicals” and to share information about “going green” with SAUs. We recommend continuing this requirement. The resolve also requires the Department to maintain and make public a list of SAUs “going green.” To do so, the Department must require SAUs to report their usage of chemicals. We recommend amending the law to remove this requirement. [D1]

- **Recommendation 3: Department to investigate potential liability concerns for school systems with regard to hiring a school physician.**

Schools must hire a physician even though school nurses are the ones on duty on a daily basis. There are liability insurance concerns. If, after review, these are found not to be an issue for schools, we would be open to consideration of removing the requirement. [D5]

- **Recommendation 4: Delay RTI implementation.**

The Department supports postponing RTI implementation to 2012 and will propose changes in Chapter 101. This is major and substantive rulemaking and will come before the Legislature. [F1]

Note regarding standards-based education: The 123rd Legislature charged the Department of Education with the creation of a stakeholder group to provide recommendations for awarding a High School diploma, Chapter 125 (Basic School Approval) and Chapter 127 (Standards, Instruction and Assessment). As the committee developed its recommendations the Commissioner asked the stakeholders to define what educators would need to build the capacity to respond to the recommendations. The following recommendation is in response to their request. A bill will be presented this legislative session by the Department that reflects the recommendations of the stakeholder members.

- **Recommendation 5: Department to develop a model of standards-based curricula and units of instruction, as well as rubrics for measuring achievement of standards.**

The Department will develop model state curricula and units of instruction to be shared on the state website for use by school administrative units. Discussions are underway with several providers to create a system where teachers may select from units of study developed nationally by teachers. Maine teachers will be able to contribute to the data system to enhance the options available for Maine teachers. The Department will involve

educators in each of the content areas to create model curricula. Curricula will be collected from SAUs to provide these models. [G 5, Barriers #6 and #25]

➤ **Recommendation 6: Examine possible amendments to state law and Chapter 125 regarding school calendar.**

The Legislature is currently engaged in this review of legislation that would allow schools to meet the requirement for instructional time by meeting a minimum number of hours, rather than a minimum number of school day or allowing SAUs to implement four-day school weeks. The Department has testified neither for nor against these measures. We continue to support efforts to examine ways to reduce expenses, particularly on heating fuel and transportation, by reducing the number of school days as well as implementing variable learning time in a standards based system. Local communities will need to have open conversations as they consider changing a traditional calendar. Another critical issue that will need to be resolved is the alignment of all districts' calendars in a CTE region or center attendance area. [A2, G5, G8, H3, I10]

➤ **Recommendation 7: Review of reporting forms and processes required by the Department.**

There are numerous reporting forms required of SAUs and individual schools by the Department. Many are to ensure compliance with state laws on health and safety, curriculum and instruction, etc., and with federal laws regarding accountability under the NCLB Act or IDEA.

Often, compliance with these reporting requirements is not only necessary to the continued success of the unit completing the report, but affects other school systems as well. For example, the Department cannot provide state subsidy printouts to school systems if it does not have all the necessary data from all school units.

The conversion to Infinite Campus, when completed, despite some technical issues during the transition, will make it possible for most forms to be completed online and for much of the information in these forms to be populated automatically, without the need for multiple people in each district to find and re-enter the same information for their specific forms.

The Department also announced just this week that the initial certification application for teachers, educational specialists and administrators is now available online.

Department staff will review all reporting forms and processes used by the Department to see: which might be eliminated; which could be simplified or shortened; which could be required less often. [G9, G11, H1, I8]

➤ **Recommendation 8: Investigate a State process for providing Accreditation to High Schools in partnership or separate from NEASC.**

The New England Association of Schools and Colleges (NEASC) accreditation process is very expensive – in the neighborhood of \$15,000 per school, according to respondents. Some superintendents and others have asked if the state could create its own accreditation program. State law contains a provision allowing for that and some superintendents have

expressed interest in pursuing the option for schools to attain state accreditation in place of NEASC. The Department is working with NEASC to set up a meeting to see how we can work together. NEASC is interested in working together and is doing something similar in Rhode Island. The Department is open to re-establishing a state accreditation process. To do so would require the addition of two new staff members, including provisions for reimbursement for substitute teachers and mileage for individuals to participate in the review of school districts. [G14]

- **Recommendation 9: Investigate the possible elimination of requirement that a copy of bus drivers' initial physical be sent to the Department.**

Physicians are qualified to conduct physical exams and the Department is not qualified to review them. As with subsequent physical exams, the paperwork from the initial exam should go to the hiring SAU, which should be responsible for verifying and filing it. [H2]

- **Recommendation 10: Use of technology for improved access to Professional Development.**

The Department is exploring a number of opportunities to provide professional development via internet to avoid the costs and time of travel for educators. For example, the MLTI professional development team developed a four-week teacher leadership workshop to be held online asynchronously through the MLTI Studywiz Online Learning platform. Teachers will be able to participate at anytime. In addition, the Department is developing an online teacher conference that will be hosted by Premier Conferencing's Adobe Connect online webinar tool. The workshops will be conducted live after school hours, allowing for participation without the need for substitutes. Participants will be able to interact, and the presentations will be recorded, making them available in the future to those who could not attend live.

- **Recommendation 11: Amend the requirement for a Budget Validation Referendum in the case of special budgets for the purpose of appropriating additional funds during the middle of a school year.**

The BVR language in law requires all budget votes to go to the voters first in a budget meeting and then on a ballot. The Department supports eliminating the requirement for special budget appropriations made mid-year. As a reminder, citizens have the option to remove the BVR entirely after the first three years. [I3]

***Note regarding Health and Safety:** In the area of health and safety, we have refrained from making recommendations to remove requirements without first consulting and coordinating with relevant agencies. We are not prepared to make any recommendations that could compromise health and safety standards that are already in place.*

Recommendations Not Related to Requirements of SAUs

➤ Recommendation 12: Improve communications with the field and the public regarding key Department initiatives and requirements.

The Department routinely makes significant efforts to reach out to educators and the public on a variety of policy and education issues. In the past two years we have held informational meetings on high school reform and proposed high school diploma requirements, state assessment, and RTI, to name a few. Informational Letters and Administrative Letters are sent to superintendents several times each week, as well as to targeted audiences. Regional representatives meet monthly with regional superintendents' and curriculum groups at a minimum. The Department holds information sessions on various topics in all areas but these meetings tend to be held with targeted audiences resulting in some educators such as curriculum coordinators feeling that they are missing information. And we have begun limited work on revamping the Department website, providing extensive materials especially in the reorganization section of the website.

Still, it is clear that many in the field continue to feel a lack of clear communication and clear direction on the work that we are doing. This is especially critical in the area of standards, instruction and assessment. Once information is released many believe that it is already in effect, and in the case of the sharing of the stakeholders' report there was a belief that it was still a draft. Each of the Department content specialists has constituencies that they are in communication with but again no one group may be getting the whole picture. Moreover, many say they do not understand how some of this work fits into a Department framework or vision for education. The survey results underscore this continued misunderstanding of some of our education requirements and the Department's goals for standards, assessment and instruction.

We need to better communicate the Department's vision for education and information about the Department's initiatives, including *how each fits into that larger vision*. We will convene a DOE Communications Task Force to be headed by the Department's Director of Communications and PK-20 Team Leader, which will include members of each Department team, with special focus on the PK-20 team. The team will work to propose a plan for improving communications with the field about the educational framework for the Department's work as well as about requirements and guidance on how to meet those requirements as efficiently as possible. The Task Force will include in its work examination of the Department's website and other technology tools to improve the communication, and most importantly, to provide the guidance on standards, instruction and assessment that we are hearing is still needed.

Specifically, several key areas where improved communications are needed:

- Current and proposed requirements for Gifted and Talented programs
 - The recommendations of the High School Diploma Stakeholders Group and further definitions of partially meets and meets
 - Ongoing work to assist and support school districts.
 - Chapter 125 and Chapter 127
 - The meaning of a standards-based system
- [G6, others]

➤ **Recommendation 13: Communicating about schools under NCLB.**

While the Department is limited in how it communicates about NCLB due to strict federal requirements, we have begun discussions regarding ways to educate the media, school officials, and the public about Adequate Yearly Progress reporting. While we take great pains to explain the meaning of these reports, parents, school board members and others routinely refer to schools that do not make progress as “failing” schools. This is both inaccurate and works at cross-purposes to constructive conversations about how to improve schools. It is not only the term “failing” that stands in the way. Basic misunderstandings about the data in the AYP reporting leads to conclusions that a school is performing poorly when it is generally doing many things quite well, or to a conclusion that a school is successful, when there are populations within it that require additional support.

The Commissioner has asked the Department’s federal accountability team and team leaders to work with our Director of Communications to continue their work exploring ways to report AYP results in a way that is informative, continues to hold schools accountable, but also provides a more complete and fair picture of a school’s successes and areas where it needs to make improvements. At the suggestion of some superintendents, we will also explore ways in which we can post AYP results (as well as other key reporting data) for each school on the Department’s website. This will allow school systems to direct parents, educators and the public to the Department’s site for uniform reporting of all school systems and thus alleviate a federal reporting burden on districts. [G3]

Recommendations to Congressional Delegation and USDE Regarding Federal Requirements

- **Recommendation 1-fed: That Access scores be allowed for English Language Learners to meet the NCLB testing requirement. [G2-fed]**
- **Recommendation 2-fed: Full funding of NCLB requirements. [G3-fed]**
- **Recommendation 3-fed: Full funding of federal commitment of 40 percent on IDEA. [F4-fed]**

PART III: BARRIERS TO AND FLEXIBILITY NEEDED FOR IMPLEMENTATION OF A STANDARDS-BASED SYSTEM

For this section, we rely on input gathered from questions # 10 and # 11 of the survey, the barriers to the implementation of a standards-based system, and the flexibility needed to implement a standards-based system. While these are addressed in this section of the report, they should be read in tandem with the reporting in Appendix 2, Section G, on the requirements related to Standards, Instruction and Assessment, as well as some of the recommendations in Part II of this report, as they are very closely related. The survey responses which served as the basis for the recommendations in this section are found in Appendix 3.

Background

Maine began a journey in the mid 1990s that has since become a national goal of having well defined content standards to insure that Maine's students would be among the best educated in the world. Maine educators and government officials all joined together to develop Maine's *Learning Results* standards. Maine was one of three states in 1997 that adopted state standards. In the past 10 years we have worked hard to align curriculum and instruction with the *Learning Results*. In our initial implementation heavy emphasis was placed on developing locally designed assessment systems. What we learned from this work was that the time teachers spent together reflecting on what practices worked the best added the most value. As we continue this journey the conversation has broadened not only to state standards but to how we fair internationally.

The original goal remains today: how do we insure that each and every student has the opportunity to attain the knowledge and skills necessary to be a productive worker, citizen and member of society.

The most critical component of this work is how to insure that each and every student has multiple pathways and opportunities to learn. Students have different learning styles and needs and our schools, classrooms and learning opportunities must recognize and address these needs.

The literature is vast and challenges us to examine our practices of schooling as we have known it in the last century. Classrooms of the twenty-first century will need to respond to students who are considered digital natives. At the same time, research shows that students need relevant and rigorous learning opportunities to acquire 21st century skills.

Summary and Recommendations:

Shortly, the Department of Education and the State Board of Education will embark upon a rewrite of Chapter 125, Rules for Basic School Approval and Chapter 127, Rules for Curriculum, Instruction and Assessment. The suggestions, recommendations and reflections of the many teachers, administrators and superintendents provided via the survey and focus groups will be extremely valuable in the rewrite of these rules. The Department and State Board will consider and address each of the items in this work.

Accordingly, this report lays out the responses from the educator community in Appendix 3, but will address them with recommendations in the rulemaking process.

APPENDIX 1

LAWS GOVERNING “UNFUNDED MANDATES”

Reorganization Law

P.L. 2007, Chapter 240, Part XXXX-45 (Department to Conduct Review)

Sec. XXXX-45. Department to conduct review. The Department of Education shall conduct a review of unfunded state mandates pertaining to school systems. In conducting its review, the department shall:

1. Prepare a comprehensive listing of the state mandates placed on school administrative units;

2. Identify for each listed mandate the precise legal origin of the mandate, whether state law or rule or a combination of both, or any originating authority. The department shall also provide notice and analysis of federal mandates that contribute to or conflict with specific state mandates on school administrative units;

3. Identify the statewide local government costs of each listed mandate within the limits of practicability; and

4. Identify the characteristics of each listed mandate. Identified characteristics may include, but are not limited to, the following:

A. Archaic or unnecessary features or features lacking significant public purpose;

B. Inadequate funding;

C. Disproportionate efforts for the public policy benefit;

D. Coordination between federal law and regulation and State law and rule;

E. Subjection to excessive administrative oversight; and

F. An insufficient structure to predict, measure or control local costs.

5. No later than December 15, 2008, the department shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the joint standing committee of the Legislature having jurisdiction over education matters. In its proposed implementing language, the department may include proposals to repeal, modify, redesign, effectively coordinate or delay the implementation of any of the listed mandates, as may be appropriate. Following receipt and review of the report, the joint standing committee of the Legislature having jurisdiction over education matters may report out a bill to the First Regular Session of the 124th Legislature.

The Constitution of Maine

The Constitution of Maine, Section 21. State mandates. *For the purpose of more fairly apportioning the cost of government and providing local property tax relief, the State may not require a local unit of government to expand or modify that unit's activities so as to necessitate additional expenditures from local revenues unless the State provides annually 90% of the funding for these expenditures from State funds not previously appropriated to that local unit of government. Legislation implementing this section or requiring a specific expenditure as an exception to this requirement may be enacted upon the vote of 2/3 of all members elected to each House. This section must be liberally construed.*

Maine State Law

30-A MRSA 5685(1) (C). *"Mandate" means any law, rule or executive order of this State enacted, adopted or issued after November 23, 1992 that requires a local unit of government to expand or modify that unit's activity so as to necessitate additional expenditures from that unit's local revenues. "Mandate" includes laws, rules or executive orders that primarily affect the performance of a local unit's governmental activities.*

30-A MRSA 5685(2). Requirement for state funding. *The State may not impose a mandate on a local unit of government unless the State provides annually at least 90% of the funding for those expenditures from state funds not previously appropriated, allocated or otherwise designated for payment to that local unit of government. The Legislature may impose a mandate on a local unit of government without providing 90% funding as an exception to the provisions of the Constitution of Maine, Article IX, Section 21 if enacted upon the votes of 2/3 of all members elected to the Senate and the House of Representatives.*

30-A MRSA 5685(3). Implementation. *In implementing this section and the provisions of the Constitution of Maine, Article IX, Section 21, the following provisions apply.*

A. The State may not meet its obligation to provide required state mandate funds by authorizing a local unit of government to levy fees or taxes not previously levied by that local unit of government.

B. The State may not meet its obligation to provide required state mandate funds by requiring a local unit of government to spend funds previously appropriated to that local unit of government.

C. Reduction of state funds that are the State's share of the cost of mandates that have been suspended or reduced does not preclude imposition of a new mandate if the required state mandate funds are provided for that new mandate.

D. Required state mandate funds do not include the costs incurred by local units of government to comply with a federal law or regulation or to become eligible for the receipt of federal funds, except to the extent that the State imposes requirements or conditions that exceed the federal requirements.

APPENDIX 2

LISTING OF EDUCATION REQUIREMENTS AS REPORTED BY SURVEY RESPONDENTS

This listing categorizes education requirements into broad subject categories. The federal and State requirements are reported separately. The State requirements are further briefly labeled by topic, for ease of reference. There was no need to further label the federal requirements, as they are far fewer in number. Every effort was made to reflect all the concerns expressed in the surveys and in the focus groups, unless the response was unclear or did not appear to be identifying a burden or solution, as requested. In all cases, the requirements, burdens, comments and potential solutions in this appendix are those of the respondents. In some cases we have provided notes in italics and brackets.

General citations to federal and State law and regulation are given for each broad category; and where citations can be precisely identified for the issues targeted in the subcategories, they have been provided. Many issues involve the interrelationship of several different laws, regulations and policies.

Very little input was received on the actual or even the estimated costs associated with the requirements noted; and generally, there is no practical way for the Department to calculate or estimate these costs either, particularly the costs to the school administrative units. However, where cost information is available, it has been included.

Finally, the requirements are followed by any solutions (noted as “S” and underlined) proposed by those participating in the survey and/or focus groups, or by Department staff. Not all of the entries include a proposed solution. These proposed solutions are the work of the respondents, not Department recommendations.

A. Career and Technical Education (CTE)

Vocational Education Guidelines, Section B

20-A MRSA Chapter 209, Section 4801(2-A)

20-A MRSA Chapter 313

Me. Dept. of Ed. Reg. 231 (Vocational Program and Funding Procedure)

Me. Dept. of Ed. Reg. 232 (Standard Criteria for Maine Secondary Vocational Programs)

Me. Dept. of Ed. Reg. 245 (Standards for Education Programming for Certified Nursing Assistants)

Federal

A1-fed. “Methods of Administration” site review to ensure nondiscrimination [Vocational Education Guidelines, Section B].

State

A1. **Certified Nursing Assistants (CNAs).** Department training, program approval, and testing of certified nursing assistant trainers. S: transfer this to the Department of Health and Human Services.

A2. **Calendars.** Number of dissimilar calendar days, creating inequity for students achieving CTE standards and additional transportation costs. S: align school calendars.

A3. **Course Compatibility.** Failure of community colleges to accept courses of comparable consistency, so students must retake the courses. S: ensure statewide course comparability between CTE and the community college system and have the academic deans determine the acceptable entry courses, with consistent access.

A4. **Tuition/Costs.** Inconsistent tuition processes between/among regional CTEs and high schools; cost to SAUs to make CTE available to all students; lack of funding to implement CTE content standards. S: fund CTE programs, on a per program cost basis, directly through EPS. *[NOTE: The Department will have a recommendation for the Committee's consideration in the fall of 2009.]*

A5. **Certification/Licensure.** Inconsistent certification and licensure of programs for faculty and students. S: develop statewide agreements and software licenses. *[NOTE: SAUs can save on licensing software through the BestBid purchasing portal, through state purchasing, and through the University of Maine System.]*

A6. **Use of CTE Programs/Staff.** Failure of community colleges to use existing CTE programs with highly qualified/licensed staff; requirement that an SAU be part of a CTE region with resulting high per pupil costs. S: use existing CTE facilities/programs to provide courses for community college credit; fund the required participation SAUs in CTE regions or make it voluntary.

A7. **Praxis Testing.** Poor fit of Praxis certification test to CTE teachers, many of whom have passed the industry standard test but have trouble with Praxis. S: use portfolios and other means, instead of Praxis, to demonstrate proficiency.

A8. **Personal Learning Plans (PLPs).** PLPs required to implement CTE per the *Learning Results*. S: provide professional development. *[NOTE: The High School Diploma Stakeholders Group recommendations address this and those will be part of the legislation coming shortly to the Education Committee.]*

A9. **Agricultural Consultant.** Cost of the required position [20-A MRSA 2253(6)]. S: request that funding of position be shared by the Department of Agriculture.

B. Certification

20 USC Sections 6319 and 7801 (*No Child Left Behind [NCLB]* – Highly Qualified Teachers)

34 CFR Part 200.55-61

20-A MRSA Chapters 221 (Subchapter 3), 501, 502, 502-A, 502-B, 503

Me. Dept. of Ed. Reg. 101.X.2(A)(5) (Maine Unified Special Education Regulation Birth to Age Twenty)

Me. Dept. of Ed. Reg. 115 (Certification, Authorization and Approval of Education Personnel)

Me. Dept. of Ed. Reg. 118 (Purposes, Standards, and Procedures for Educational Personnel Support Systems)

Federal

B1-fed. **“Highly Qualified Teacher” (HQT) Requirements.** Failure of federal requirements to take into account actual grade levels taught or in what level school the teacher is teaching. S: use the NWEA to meet HQT requirements.

[NOTE: NWEA has not met federal reporting requirements to be used in this manner.]

State

B1. **Duplicate Credentials.** Failure of Department to charge education technicians and other approved personnel \$15/duplicate credential [20-A MRSA 13007]. S: collect the fee for all duplicates; amend the statute if necessary to address any ambiguity as to what’s required (reported potential of \$20,000 in revenue).

B2. **Teacher Induction/Support Systems.** Withdrawal of mentor requirement for first- year teachers (reported cost of \$20,000 - \$40,000/SAU); cost of induction/mentor relationships (reported cost of \$15,000 for direct payment to mentors); insufficiency of 1 mentor for multiple teachers, especially for new teachers; SAUs proceeding with the requirements despite the fact that there is no funding yet; cost of activities required for teacher induction. S: require mentors/induction only if funding is provided by the Department, and inform SAUs that they should not proceed until funding is available; remind SAUs that Me. Dept. of Ed. Reg. 118 now requires only 1 mentor for certain teachers, not 3 member support teams, for some savings.

[NOTE: The language in the Department rules, Chapter 118, indicates that the requirements for mentoring and induction won’t be implemented until there is funding.]

B3. **Middle School Certification.** Inability of teachers certified for grades 7-12 to teach in grade 6. S: allow more flexible certification, or issue a grade 6-12 certification.

[NOTE: the State Board of Education has authority over certification; we will refer the certification entries to the Board for consideration.]

B4. **State Reporting on Highly Qualified Teachers (HQT).** Collection of old data for use as basis of future plan (reported 40 hours/year for Department, and 5 hours/year for SAU). S: issue a more timely request for data; create a MEDMS file to track the data required, including a field for teacher’s years of experience.

[NOTE: This data requirement will be built into Infinite Campus as it is modified.]

B5. **Lack of Reciprocity.** Failure to recognize certification by other States, for purposes of HQT reporting; inability to meet Maine requirements for some courses due to lack of Masters

programs in Speech/Language; Library; Health. S: allow for reciprocity with other States; eliminate certification requirements for library media specialists.

B6. Pay/Rating. Need for value-added, merit pay. S: have Department work with the Maine Education Association to explore the use of the NWEA for student growth targets; rate teams of teachers, not individuals.

[NOTE: The recently passed federal stimulus package requires the U.S. Secretary of Education to do a national study on performance pay. We will review the results of that study in detail.]

B7. State Stipend for National Board Certification. Risk of losing the stipend. S: reconsider maintaining the stipend.

[NOTE: Funding, which was eliminated in an early draft of the proposed budget, has been restored in the proposed FY 2010-2011 budget, which is pending legislative review.]

B8. Investigative Records. Requirement to “simultaneously” provide the subject of a Department investigation with the records requested by the Commissioner; failure to require SAUs to report all staff discipline issues to the Commissioner for review [20-A MRSA 6101(3)]. S: amend the statute to require that records supplied to the Commissioner be provided to the subject within a reasonable time, consistent with preserving the integrity of the investigation and the interest of the subject in self-defense; require superintendents to submit staff complaint/investigation materials to the Commissioner.

B9. Lack of Qualified Education Technicians. Lack of qualified staff to deliver Title I programs. S: provide funding for the training needed or eliminate the requirements.

[NOTE: This is a federal requirement.]

B10. Certification Requirements/Fees/Timelines. Burdensome rules/fees for professional staff; requirement that degree be obtained within 10 years; cost/comparability of courses already taken as an undergraduate. S: eliminate the requirements, and the fees; extend the deadline for obtaining degree to 15 years; have SAUs pay for continuing education courses up front, rather than reimbursing teachers after the teachers have paid for them and allow time to research graduate programs.

[NOTE: This is a local decision to pay teachers once the course is completed.]

C. Essential Programs and Services (EPS)

20-A MRSA Chapter 606-B

Me. Dept. of Ed. Reg. 7 (Implementation of the Essential Programs and Services Model)

Federal

Not applicable.

State

C1. Special Education Staffing. Potential for EPS to fail to address special education staffing needs; cost/expenditure differential between regular and special education; failure of EPS to address intensity of special education student needs. S: consider using a growth model.

[NOTE: This work is underway.]

C2. Intervention Funding. Budget cuts that may affect special education interventions, and thus cause an increase in the special education population.

C3. One-on-One Aides. Failure of high cost student allocation to include funds for one-on-one aides and the failure to conduct the December 1 count in 2008, when it is the basis for the calculation.

C4. Failure to Fund to 55% Level and Cost Shifting. Inadequate funding for school supplies; transfer of costs to local communities with implication that their spending is on non-essential programs and services; poor State-level budget management; local property tax increases. S: rename the formula to reflect that local expenditures are for essential programs and services; fund EPS to the 55% level; additional funding for supplies and cuts to other unnecessary State-funded projects; provide for more conservative State forecasting and more conservative State investments; reduce local property taxes.

C5. Closing of Brunswick Naval Air Station. Rapid loss of students S: amend the EPS formula for Brunswick to account for rapid loss of students.
[NOTE – The EPS formula recognizes declining enrollment for all school administrative units. The formula mitigates the decline over a three year period.]

C6. Class Size. Failure of EPS calculation of ratio to recognize actual class sizes. S: amend the EPS formula to show classroom load.

D. Health, Nutrition and Safety

20-A MRSA Chapter 223

Me. Dept. of Ed. Reg. 40 (Rule for Medication Administration in Maine Schools)

Me. Dept. of Ed. Reg. 45 (Rule for Vision and Hearing Screening in Maine Schools)

Me. Dept. of Ed. Reg. 125 (Basic School Approval Standards: Public Schools and School Administrative Units)

Me. Dept. of Ed. Reg. 126 (Immunization Requirements for Children)

Me. Dept. of Ed. Reg. 161 (Purchase and Storage of Hazardous Chemicals)

Federal

None reported.

State

D1. Reporting on Materials. The requirement that the Department compile/maintain a list of SAUs using green chemicals [P.L. 2007, Chapter 32 (Resolve)]. S: amend the law to delete this requirement.

D2. School Chemical Inventories. Requirement that SAUs submit and the Department maintain school chemical inventories (reported 2-4 days/SAU for middle/high school and several weeks for Department) [20-A MRSA 4003-A and Me. Dept. of Ed. Reg. 161]. S: have the Department develop, with the Department of Environmental Protection, a self-monitoring process for SAUs.

D3. Safety Requirements. Integrated pesticide managers; State fire inspections; elevator inspections; boiler rules; burner rules; asbestos abatement; air quality requirements; hazardous material management/removal; integrated pesticide managers; annual sewer system inspections; unreasonable State requirements for storage of lab materials/; bomb threat reports [20-A MRSA 263(2); 1001(17), and (18) and Me. Dept. of Ed. Reg. 125]; emergency management plans- time and security issues [20-A MRSA 1001(16)]. S: extend the time frames for asbestos removal and reporting; fund or eliminate the requirement for inspection of schools by the State Fire Marshall and for pest management; have the State assume responsibility for removal of hazardous chemicals; conduct a complete review of State mandated classroom chemical regulations;; remove air quality requirements.

D4. Fees. Fees for underground tanks/materials in tanks.
[NOTE: This fee is not levied by the Department of Education.]

D5. Health Requirements. Appointment of a school physician [20-A MRSA 6402-A]; chemical health coordinator [defined at 20-A MRSA 6604 – not required]; adequate toilets [20-A MRSA 6501]with sinks; drinking fountains; Hepatitis B vaccine; first aid supplies; health (sight and hearing) screening [20-A 6451]; immunization [20-A MRSA 6352-6359]; medication administration training [20-A MRSA 254(5), and Me. Dept. of Ed. 40] ; “swish and spit”. S: allow for contracting for school nurses; eliminate the requirement of a school physician.

D6. Screenings. Sight and hearing screening [20-A MRSA 6451]; scoliosis screening (reported 1 week to complete, with fewer than 1% students identified) [20-A MRSA 6452]. S: amend the statute to eliminate the requirement and accompanying data collection.
[NOTE: LD 161, currently before the Legislature, proposes to repeal this requirement.]

E. Reorganization

20-A MRSA Chapter 103-A

Federal

Not applicable.

State

E1. Time/Energy/Lack of Clarity on Savings. More time/energy required than is available; no clear guidance on benefits; State spending on education. S: recognize existing collaborative work, remove penalties, institute a model, provide incentives, and concentrate on targeted areas (cost centers?) not on reorganization of entire SAU; repeal the requirement and leave these decisions to local communities; provide clear guidance/support on responsibilities of RSUs and show where the cost savings will be; indefinitely suspend until there is sufficient funding; make

State education spending public and accountable, with a formula for administrative salaries statewide (for State and SAUs); purchases textbooks on a statewide basis.

E2. Unanticipated Costs. Reorganization costs such as legal fees, cost of contract negotiations (especially for the early reorganizers), liability insurance, title searches, and payroll services. S: have the Department fund SAUs for these costs and negotiate a statewide contract with ADS for payroll services.

[NOTE: The Department has included funds for a significant number of transition services and needs. See www.maine.gov/education/reorg for details.]

E3. Business Functions. Merging business functions, especially when some of those performing the functions face job elimination.

E4. Penalties. Penalties, particularly in northern Maine; reliance on a one-size model of expenditures for all SAUs. S: exempt SAUs from penalties if they can show progress toward savings; set budget targets so that efficient SAUs aren't punished.

F. Special Education and Section 504 (of the Rehabilitation Act of 1973)

20 USC Sections 1400 et seq. (*Individuals with Disabilities Education Act [IDEA]*)

20 USC Sections 6301 et seq. (*No Child Left Behind [NCLB] – Titles I – III*)

29 USC Section 794 (*Section 504 of the Vocational Rehabilitation Act of 1973*)

34 CFR Parts 104, 200 and 300

20-A MRSA Chapters 301, 303, 307-A, 308

Me. Dept. of Ed. Reg. 101 (Maine Unified Special Education Regulation Birth to Age Twenty)

Federal

F1-fed. Section 504 Amendments. Potential increase of number of children covered under new Section 504 regulations, without additional federal funding; cost of compliance; the cost of implementation and paperwork.

[NOTE: The Department is working to communicate with school nurses on how to address the new regulations, which will increase the number of students with disabilities who are served.]

F2-fed. Teacher Qualifications. Highly Qualified Teacher (HQT) requirements under NCLB that require teachers to be highly qualified in all content areas at both the middle and high school levels for special education. S: allow/encourage co-teaching; provide professional development on effective co-teaching practices.

F3-fed. State Performance Plan Reporting. Tracking of graduated student for the year following graduation [State Performance Plan, Indicator 14 for IDEA, Section 1416(a)(3)(b)]; reporting of elementary students who break school rules.

F4-fed. **IDEA Funding.** Lack of full federal funding of IDEA to the promised 40% total cost of special education. S: fully fund IDEA.

F5-fed. **Parentally Placed Private School Students.** Placement of responsibility for parentally placed children in private schools on the SAU in which the private school is located (instead of on the resident/sending SAU).

[NOTE: Some SAUs have multiple private schools within their districts and are disproportionately burdened. However, there is an advantage to having the SAU that is closest geographically deliver services, hold meetings, etc.]

F6-fed. **Cost Shifting/Medicaid:** The increase in Katie Beckett premiums which is a cost shift to the schools [MaineCare Eligibility Manual, Section 5090].

[NOTE: This is being recommended to protect the child's ability to access full benefits.]

F7-fed. **IEP/504 Meetings and Special Education Reporting.** Required teacher attendance, and monitoring of plans, which takes times away from other duties; meeting the 3-day written notice requirement. S: have secretaries and the administration do the paperwork; use special education secretaries; streamline the forms/offer multiple choices; offer State-funded stipends for time spent in IEP meetings; require all SAUs to use Infinite Campus for reporting.

[NOTE: the written meeting notice requirement is 7 days, not 3.]

F8-fed. **Education of Students to Age 20.** Keeping students learning life skills in school to take art and go on field trips. S: make the students the family's responsibility after age 18.

State

F1. **Response to Intervention (RTI).** The many requirements associated with RTI [Me. Dept. of Ed. Reg. 101.III, implementing federal requirements 20 USC 1401(30). 1414(b)(6), and 34 CFR 300.309]; the costs (including costs of assessment tools such as AIMS, Navigator, professional development, and tiered intervention); the paperwork required for RTI; the variability of the meaning and the cost of RTI across SAUs; progress monitoring; required local policy that applies to all children; inappropriateness of tracking required or academic issues for behavioral issues. S: eliminate the 2010 deadline; provide a clear definition of what it means; allow more time but ensure training during that time or phase in with an emphasis on literacy/numeracy; replace procedural requirements with a general description of research-based procedures; move the procedural requirements to Me. Dept of Ed. Reg. 125 or 127 but maintain the use of the pre-referral data in Me. Dept. of Ed. Reg. 101.VII; eliminate the financial burden by funding (e.g., for professional development, assessment, and training of regular education teacher in direct, sequential reading instruction and allow students time to receive it); clarify age bracket for implementation; provide models; provide statewide licenses for tools with off-hours access; specify the frequency of monitoring for different levels; provide more resources for grades beyond K-3; limit policy requirement to those students with specific learning disabilities; use different requirements for behavior concerns.

[NOTE: Professional development is ongoing to support RTI. The Department of Education website has a comprehensive implementation strategy that was developed in collaboration with educators across Maine.]

F2. **Tutors.** Requirement for tutors for special education students to be certified, and failure to allow competent education technicians to provide the tutoring (beyond the consultation model with certified teachers, which does work).

F3. Reporting Forms. Failure of Department to provide State forms with the State data system; monthly submissions by SAUs of 04A, B forms (for State agency clients); annual application for local entitlement funds under IDEA; annual reports on out-of-district costs for the 214 and 07 reports. S: provide forms to SAUs for transferring static information once, not many times; use Infinite Campus to compile the data used for reports.

[NOTE: Through the conversion to Infinite Campus, we are working toward these recommended solutions.]

F4. Counts for Subsidy. Failure of SAU staff to recognize that students in the 4 year-old programs are counted in school counts for purposes of subsidy.

F5. Third Party Payment. Failure of SAU staff to remember that, under IDEA, third party payment must be accessed before other funding is used.

F6. Monitoring. Separate monitoring for Child Development Services (CDS) sites and SAUs under IDEA, and for SAUs under NCLB and IDEA. S: implement an integrated desk audit/monitoring system; if an SAU's review is excellent, extend time before next review is due.

F7. The Personalized Alternate Assessment Portfolio (PAAP). Lack of a handbook/training on the Personalized Alternate Assessment Portfolio (PAAP), to ensure consistency and to help address needs of students that cannot reach Level II; loss of classroom time that must go to professional development and scoring. S: provide web-based training/information; allow off grade level testing on the basis of a growth model.

F8. IEP Alignment. The need to align IEPs with NECAP now, after having aligned them this summer with the new standards. S: give more timely notice of changes, with time to be trained/receive professional development, build capacity and implement.

[NOTE: The Department will develop guidance on the NECAP alignment.]

F9. Protection and Advocacy Services and Due Process. Re-examine the nature of the State's protection and advocacy services, as well as the legal costs involved. S: issue a new RFP for these services that has a collaborative focus and specific performance standards; consider having SAUs take appeals of hearing officers' decisions to the AG's office instead of to court.

F10. Time Out/Therapeutic Restraints/Inclusion. Inclusion of students with serious behavioral challenges; some students are not getting the small learning settings they need; therapeutic restraints/aversive therapy/treatment [Me. Dept. of Ed. Reg. 125.10.04]. S: clarify "least restrictive environment"; return to a "pull-out" model for some students who need more attention.

F11. One-on-One Services, Other Services, and Day Treatment. Effort and cost to provide services that schools are not equipped to offer; cost to purchase special equipment (e.g., CD players/earphones); restrictions on identifying students with language disabilities. S: provide services by alternative means, such as agencies with trained staff; reformulate the EPS formula to address the costs and remove penalties for costs over 15%; develop a rental program for equipment; align the identification of students with language disabilities with the norms on nationally standardized test.

G. Standards, Instruction and Assessment

20 USC Sections 6301 et seq. (*No Child Left Behind [NCLB] – Title I*)

34 CFR Part 200

Me. Dept. of Ed. Reg. 104 (Education Programs for Gifted and Talented Children)

Me. Dept. of Ed. Reg. 125 (Basic Approval Standards: Public Schools and School Administrative Units)

Me. Dept. of Ed. Reg. 127 (Instructional Program, Assessment and Diploma Requirements)

Me. Dept. of Ed. Reg. 131 (The Maine Federal, State, and Local Accountability Standards)

Me. Dept. of Ed. Reg. 132 (Learning Results: Parameters for Essential Instruction)

Federal

G1-fed. **AYP/Schools in Continuous Improvement Paperwork.** Amount of paperwork for planning and funding schools in continuous improvement under the NCLB Adequate Yearly Progress (AYP) standards. S: use the approach used in other federal programs; limit reporting of data to that which is needed to inform teaching.

G2-fed. **Testing.** Excessive and costly, especially elementary school testing under NCLB; requiring ELLs who have been here for 1 year to take the reading portion of the State's assessment for federal accountability. S: amend the federal law to eliminate the testing; for ELS, use their Access© scores.

G3-fed. **NCLB Reporting and Services.** Time required to complete parts of the application (Title IA); tutoring; summer programming. S: return to the basic parts of the law; fully fund the federal law or repeal it.

State

G1. **Timeline for Implementation of Visual and Performing Arts Standards.** Timelines for gifted and talented (GT) students; time-consuming application process requiring specific individual student data. S: increase staffing for the arts to ensure that all students receive instruction in the arts.

G2. **Qualified Gifted and Talented (GT) Program staff for GT Programs.** Inability to find qualified GT staff; lack of funding for GT professional development; failure of the survey to recognize that this is not a burden. S: include GT as part of the IEP process (i.e., treat the student as one who is “at risk”); provide \$30-\$60,000 / SAU for GT programming.
[NOTE: The reference to gifted and talented programming in question 2 of the survey was meant only as a reference to a current requirement and does not indicate a perception by the Department or the Commissioner of GT as a burden. The Department regrets any concerns caused by its inclusion as an example.]

G3. State Labeling of “Failing” Schools. Department identification of those schools/SAUs not making AYP and lack of public understanding (or lack of understanding that the label is based on the performance of a small group of students) resulting in embarrassment to schools/SAUs and an adverse affect on public willingness to fund schools. S: develop a better way to report on AYP; convene the press in reporting on AYP.

G4. SAU/School “Report Card”. Time needed to provide data (reported that one school union needed to open 96 electronic files to compile the necessary Maine Educational Assessment data). S: have the testing contractor provide uniform data, as needed, for this reporting or have it compiled into one file.

G5. Standards Implementation, Curriculum Alignment, New Graduation Requirements. Lack of clear vision, direction from the Department; inability to align curriculum and use assessment data due to constant and newest changes (e.g., Reinventing Schools Coalition -RISC; proposed amendments to Me. Dept. of Ed. 131; proposed new diploma requirements (e.g., pathways); additional mathematics and science credits for high school graduation; variation in local interpretations of the standards; the role of curriculum coordinators as the spokespersons for the constant changes and lack of coherent vision/plan; writing a curriculum per a unit-wide template; required 3-4 days of learning labs/intervention groups. S: place a moratorium on initiatives and require implementation of only what adds value; ensure real capacity, in the Department, to execute; appoint individuals with vision and knowledge; link the requirements (e.g., proposed new diploma requirements and multiple pathways) directly to lowering the dropout rate or strengthening the economy; no additional requirements for graduation, especially if they discourage students/increase the number of dropouts; celebrate success; provide models; have the Department provide centralized control of the message/explanation/advertisement/marketing of the standards and any proposed changes (via, e.g., newspaper, video) to reach parents and to reach beyond the standard channels to explain the basis for these, with data, and to explain how to measure the success of it; provide tools for assessment, curriculum, RTI, and data management; provide a statewide teacher contract; eliminate the proposal for “pathways”; reduce learning lab days to 1-2.
[NOTE: All the most commonly cited burdens and concerns related to the implementation of a standards-based system are listed in Appendix 3 of this report. Other more specific requirements and solutions are in this Section.]

G6. Public Perception. Public perception, in general, of public education. S: build support for public education by providing better information.

G7. Interruptions to Instructional Time. Cumulative effect of lost time, due to interruptions to instructional time for other activities (e.g., rehearsals, pullouts, snow days). S: provide a tighter definition of instructional time.

G8. Calendar. Effect that more school board flexibility (versus statewide calendar set by Commissioner) would have on students and the risk of cost-shifting it may entail; cost of heating fuel, transportation and food for a 5-day school week; 180-day school year [20-A MRSA 4801 (1); this is currently under discussion for consideration by the legislature - e.g., LDs 96, 245]. S: cut back to a 4-day school week; revise the school week to Tuesday through Friday (retaining Friday so the building will be heated/warm for evening basketball games); implement a 4-day school week by extending the school day by 1.5 hours.

G9. Paperwork/Personalized Learning Plans (PLPs). Reporting on interventions conducted by classroom teachers, and PLPs for all students in grades 6-12, which will be unwieldy despite the intention that it be streamlined.

G10. Extracurricular Activities. The possibility of counting them in satisfaction of Physical Education or Visual and Performing Arts requirements, when extracurricular activities are not the same as the activities for those courses; sports. S: have families pay a small fee for sports; limit away games and coordinate them to minimize travel/grounds keeping.

G11. Required Plans/Committees. The Comprehensive Education Plan, including the Comprehensive Guidance Plan and the Technology Plan; requirements for instructional materials/appliances; the Dropout Prevention Committee. S: eliminate the required Comprehensive Education Plan and allow SAUs to certify that the items included do exist, and reduce the number of required items.

[NOTE: This is a Chapter 125 component and will be modified in the revision.]

G12. Maine Educational Assessment (MEA) Administration, and Other Testing. Saturday testing; the PSATs, especially for grade 10; the PAAP; verification; too much testing, generally; requirement that all students take the SAT; the SAT's augmentation testing in mathematics and science (which doesn't give SAUs benchmarks to assess relative achievement and provides); lack of clarity as to how to prepare students; lack of time for the number of required assessments, which take away from instructional time. S: make the SAT optional; eliminate the SAT's augmentation testing in mathematics and science; use Accuplacer (accepted by community colleges and provides for online testing); make grade 10 PSAT optional; repeal requirement for PSAT (taken twice); eliminate NWEA testing; use NWEA for testing (pinpoints student strengths/weaknesses; results within 24 hours); reduce the number of assessments to one test per grade level; moratorium on testing for 3 years until a testing program has been researched/developed that meets the needs of all students.

[NOTE: PSAT assessments at grades 10 and 11 will assist the Department of Education in developing a growth model. The SAT allows the state to meet it's NCLB and state requirement for measuring our state standards. Accuplacer is made available to all schools who wish to use this assessment. The use of NWEA is a local decision. The state can not use it for NCLB purposes as it does not meet the validity and reliability requirements of the law.]

G13. Use of Regional NECAP Standards for Testing. Constant realignment (of Me. Dept. of Ed. Regs. 131 and 132) to reflect the *Learning Results* (and the Parameters for Essential Instruction or "PEIs"), and cost-shifting to the local level. S: have the Department do the alignment and make it available to the public and to other programs that align their education programs to the *Learning Results* (e.g., the Abbe Museum at Acadia National Park); use the NWEA as the test for State accountability under the federal standards.

[NOTE: The NECAP test items are aligned closely to the ones used in the MEA for all subject areas except science. Maine will not be using the NECAP for science at this time. In the other content areas, the NECAP is as good as the MEA and in the area of writing, we believe is a better test. The Accountability Standards have been revised to match the NECAP standards and where minor changes have been made information will be provided to schools as soon as the new standards adopted. A public hearing was held on the proposed rule change. The fall testing will measure the prior year of instruction and students will have the benefit of a full year of instruction. The change at the high school may result in a smaller augmentation for mathematics.]

G14. **School Approval.** NEASC/accreditation costs (estimated cost/SAU for Maine in 2007 was \$15,733); Me. Dept. of Ed. Reg. 125's emphasis on compliance in the school approval process, not on quality; number of items for which a response is required. S: amend the rule to include a set of useful, NEASC-like standards; reduce number of items and pre-populate the forms with relevant prior year responses.

G15. **Kindergarten.** Failure to make kindergarten mandatory. S: require kindergarten.

G16. **Higher Education.** Funding cuts. S: fund it adequately with increased taxes, if necessary.

[NOTE: This is not with the Department of Education's domain.]

G17. **World Languages and Music.** Lack of funding /availability of teachers of world languages in the lower grades; lack of time to fit world languages instruction into the schedule; time that world language instruction takes from the core curriculum; lack of music instruction in grades 7 and 8. S: provide funding for world language instruction; eliminate the requirement for world language instruction; add music teachers to the middle schools.

G18. **State Diploma.** The 40+ page State diploma application, especially given that the information needed is from hard-to-track students. S: simplify the process and the application.
[NOTE: This new process requires extensive information as these youth don't come with neat transcripts; the information must be pulled from many different sources. As this process evolves, we are working to refine the application.]

H. Transportation

20- A MRSA Chapter 215

29-A MRSA Section 2303

Me. Dept. of Ed. Reg. 81 (Uniform School Bus Standards for Pupil Transportation in Maine)

Federal

None reported.

State

H1. **School Bus Purchases.** Forms/time required for school bus purchase program (reported 40-60 hours of administrative time/SAU), coupled with uncertainty of outcome. S: distribute funds for school bus purchases to SAUs by means of a formula.

H2. **Bus Driver Physicals.** Review of bus drivers' physical examination reports by the Department (reported 1hour/week of Department time). S: allow the physician's signature on the report to serve as approval.

H3. **School Week and Individualized Transportation (for any student).** The 5-day school week; failure to use buses for all students. S: move to a 4-day school week (reported savings of

20% of transportation costs); eliminate individualized transportation for any student (reported \$50,000/year for one SAU).

H4. Routing Software. Failure of Department to provide the routing software that was promised over a year ago. S: have the Department provide the software and training.
[NOTE: The Department issued the RFP in 2008. The result of that bid process was dispute by a vendor and we have had to re-issue the RFP. This will be provided to all SAUs by summer 2009.]

H5. Reimbursement. Bus schedules/routes in rural areas, which result in young children walking long distances, often alone and/or in bad weather; loss of the reimbursement model. S: reinstate the reimbursement model.

I. Other

Federal

I1-fed. English Language Learner (ELL) Testing and Interpreters. Access© testing and reporting requirements for English Language Learners (ELL) under NCLB, and one-on-one administration of the test at the kindergarten level; funding for this testing; funding for ELL interpreters.

I2-fed. Reporting on Refugee Grant. Requirement of evaluation of effectiveness for refugee grant [Refugee School Impact Grant? CFDA 93-576 under INA 412©(1)(A)(iii). If so, the grant award requires one sentence from SAU grantees to the Department administrator on their activities to date, or planned for the year.]

I3-fed. Advanced Placement Evaluation. Required one-day meeting with State evaluator, in accordance with the federal grant received by the Department.

State

I1. Administrative Requirements. Early retirement under the Maine State Retirement System; the annual earnings cap of 5%, 3-year total of 10%; mandatory donations to the State retirement system; early retirement penalties; State mileage reimbursement [as of January 1, 2009= \$.44/mile]; a superintendent; employment rules; audits; school records/transcripts/internet restrictions [20-A MRSA 6001]; student handbooks; attendance coordinators; space (e.g., too many classes scheduled in the library); school breakfast/lunch; surveys; new accounting codes. S: amend the law to delete the earnings caps under the State Retirement System and to close any loopholes that allow for raiding the system; remove early retirement penalties and use incentives instead; delete the requirements regarding the internet.

I2. Survey on Unfunded Mandates. Questionable ability of a survey to get accurate information on the burden of mandates, as it's not always clear which mandate causes which burdens.

I3. Budget Validation Process. Negative impact of the process; requirement of the process for special budget meetings; cost. S: eliminate the requirement.

[NOTE: The law includes a provision to allow voters to remove the provision after three years. See recommendation 11 in Part II above.]

I4. **Energy Reserve Funds.** Lack of access to reserve funds for oil. S: allow SAUs the same access as municipalities have.

I5. **ATM.** Use of ATM when there is a better system. S: replace ATM with the Tanberg video conferencing system.

[NOTE: ATM will be terminated at the end of this year and a change is underway to an IP-based solution.]

I6. **Professional Development.** Cost. S: make better use of technology, including the MLTI devices.

I7. **Infinite Campus.** Slowness of dialup for teachers, at home; cost of staff overtime/penalties to address glitches that resulted in late reporting by SAU; lack of standards-based reporting system so SAUs must provide that; need to prepare paper copies and enter data into Infinite Campus/MEDMS; individual student reporting. S: have Department recoup costs from Infinite Campus contractor for the glitches; have Department provide standards-based reporting capacity through Infinite Campus; have Department seek soon, with the appropriate State/federal agencies, broadband access for Infinite Campus; have the Department decide on paper forms or Infinite Campus/MEDMS but not both; return to aggregate reporting.

[NOTE: The Department is working to resolve these issues as we transition to the new system.]

I8. **Reporting.** MEDMS teacher data; enrollment; attendance; pupil transportation; safe schools; drug-free schools; immunization; school approval.

I9. **Legal Costs.** Reliance of the SAUs on one principal law firm. S: have the Department provide qualified legal services at State expense.

I10. **Inflexible Calendar.** Cost of inflexibility (reported by SAU of potential savings of \$80,000/year if 1 week were added to end of school year and February vacation were longer); length of school year. S: allow SAUs to require 3 furlough days.

I11. **State Board/Construction Funds.** State Board administration of federal school construction funds [20-A MRSA 405(3)(Q) and 15916]. S: amend the law to assign the responsibility to the Commissioner of the Department of Education.

I12. **Americans with Disabilities (ADA) Requirements.** The exceeding of federal requirements. S: reduce the requirements.

APPENDIX 3

SURVEY RESPONSES REGARDING IMPLEMENTATION OF A STANDARDS-BASED SYSTEM

The comments in Appendix 3 on implementation of a standards-based system are consolidated as appropriate to avoid redundancy; again, there was no need to label these further, as they all relate to the implementation of a standards based system.

References to federal barriers are in **boldface type**. We have indicated in some areas where the barriers will be addressed as part of the Chapter 125 and Chapter 127 rulemaking process.

Barriers Identified by Respondents

1. The current age and/or grade-based approach which doesn't allow students to be challenged at whatever grade level they are performing; an industrial mode of thinking in a technological age. *[Ch. 125 & Ch. 127]*

2. Differentiation within classrooms with students at different levels under current student: teacher ratios; the creation, by standards-based education, of a new class of failures where differentiation is not sufficient; students entering a class far below or far above the standards. *[Ch. 125 & Ch. 127]*

3. Elementary schools that are physically far apart and operate under different curricula. *[Ch. 127]*

4. The failure of the Department to define "standards-based system; lack of professional development and qualified professionals to implement it and thus the failure of teachers/parents/the community to understand and accept it; failure to realize that standards have always been in place but accountability is needed; failure to provide timely notice of what the standards are by the time plans are in place and students are assessed. *[High School Stakeholder Recommendations and Department of Education Implementation Plan]*

5. Student apathy and lack of motivation; student absences; higher demand for alternative education than supply; lack of consequences for students not attending school; lack of parental support and failure to acknowledge the influence of the home environment. *[Attendance statute, Chapter 125]*

6. Not enough time to develop a unit-wide curriculum and to move from thinking topically to thinking conceptually; lack of a consistent standards-based curriculum; need for a stronger correlation between the current curriculum and assessments. *[DOE to develop model curriculum and units of study for use by school administrative units]*

7. The grading/assignment/completion/credit culture, as opposed to one of "knowing, understanding, doing"; Carnegie credits/units; teaching to the test; the need for students to be motivated by a report card grade; the lack of correlation between "4" ("meets the standard") and letter grades used in colleges; need for GPAs for high school students; use of grades for sports, National Honor Society, Honor Roll; the system and inconsistency in graduation requirements across schools that confuses colleges and the Department's failure to provide software to clarify this, as promised; reporting and the desire of parents to still have "grades"; the cost of issuing m

ore than one kind of report card. *[High School Diploma Stakeholders Group recommendations will address these concerns.]*

8. The failure of a standards-based system (and report card) to fit special education, and the failure to recognize that some students (including some ELL students) will not meet the standards; time-consuming development of alternative expectations without adequate staff; lack of alternatives for students with disabilities; increased cost of special education for students referred for not meeting the standards (per the proposed graduation requirements); additional years of school for students in special education; difficulty of reaching all students receiving support services outside the classroom; lack of balance against what is developmentally appropriate/possible for some students; **requirement that all students make AYP.** *[This is a federal requirement.]*

9. Constant revision (“the moving target”) by the Department, including revisions of standards/deadlines/regulations/ that prevents implementation and results in what turns out to be unnecessary local spending/expenditure of time; Department’s lack of credibility; the change to a new assessment in the Fall; ineffectual performance of the Department, particularly Special Services. *[Statute required a revision to the Maine Learning Results, as did the passage of a moratorium on the Local Assessment System.]*

10. The need to adapt/modify standards to meet the needs of students; heterogeneous classrooms.

11. Inadequate time/resources, given the cost of implementation (including time for professional development and the cost of curriculum materials), particularly for aligning and reporting in a standardized way; having to hire substitutes to allow teachers time to implement or having to implement on their own time; lack of consistent data management system to record/analyze assessment information. *[New cost center reporting will enable the Department and Education Committee to assess the adequacy of resources for implementing the system.]*

12. Changes/lack of consistency in administration/leadership.

13. Protection of the status quo; inflexibility of system and staff; the death of public education, generally, of teacher/student creativity, of the art of teaching/learning, and of lifelong learning; those setting the standards seeing teaching/learning as science rather than as art. *[Ch. 125 & Ch. 127]*

14. Achieving appropriate alignment to the national standards, especially in CTE where not all program offerings have established standards. *[DOE has met with the CTE directors to develop a comprehensive plan to align Maine Learning Results with the national standards. This work will be completed by 2012.]*

15. Lack of confidence among local professionals that the changes will improve education; the flaws in the system itself (reported, e.g., a Maine school ranked as a top high school in the country that doesn’t use a standards-based curriculum; a Maine SAU considered a leader in standards-based work that shows no decrease in its dropout rate, no increase in its graduation/postsecondary pursuits rate); assumptions made without public input. *[Ch. 125 & Ch. 127]*

16. Being held accountable for multiple subjects outside a teacher’s area of expertise. *[NCLB]*

17. Bringing all curriculum areas together and designing assessments. *[DOE new website]*
18. Too short a school day/year; limited instructional time; collective bargaining agreement limitations; 180-day school year that is tied to the vocational calendar; different schedules from sending schools. *[Calendar statute, Ch. 125; see also Recommendation 5, part II, above.]*
19. The difficulty of measuring student achievement through standards-based assessments; too many standards in the various subjects without enough time to thoroughly address them. *[Common state assessments to be developed to reduce local burden.]*
20. Class size, if it exceeds 18-20 students; student: teacher ratios; the cutting of programs and positions. *[EPS]*
21. Comprehensive Education Plan paperwork. *[Ch. 125]*
22. Determining the acceptable levels of performance required for each standard, and having each SAU doing it for itself (lack of assessments/scoring guides/models/training for teachers from the Department on essential concepts/skills required for graduation); lack of additional quality assessments beyond the Maine Educational Assessment (MEA) and NECAP; inadequate time for teachers to come to agreement; difficulty of measuring student achievement through standards-based assessments; lack of clarity in expectations (e.g., “meets”, “partially meets”); lack of specific contacts at the Department for regular, constructive, non-punitive feedback on implementation; current standards that are unrealistic for all students, regardless of student’s situation. *[Ch. 125 & Ch. 127]*
23. Finding appropriate, valid and reliable assessments that hold all schools accountable in a consistent way, regardless of the school system.
24. Lack of equal funding to urban and rural schools; lack of equitable school funding; lack of funding under EPS.
25. Lack of access to a statewide curriculum that meets all levels of student ability; **lack of a national curriculum and measuring stick.**
26. **“Highly Qualified Teacher” requirements under NCLB**; State certification requirements.
27. Complexity of “Stakeholder Recommendations” which are just as involved/overwhelming as the local assessment system was; too complicated/difficult for all students to meet; need for additional personnel to teach courses required under the proposed changes to graduation requirements; cost of needed literacy specialists, tutor, extended day/year needed necessary to meet these requirements.
28. The Maine Educational Assessment, local assessments, **AYP and reporting** on all of them.
29. Implementation and cost of **research-based programs.**
30. Required transportation for public preschool. *[Waiver provision was adopted in the 2009 Supplemental budget.]*

31. Inability to retain staff with the experience needed to implement the system.
32. Nonalignment of Infinite Campus, which creates more short term work even if there's a long term gain.
33. Reorganization.
34. Inconsistent evaluation of students according to the standards (unfair and inaccurate); inability to appropriately track student progress; subjectivity of scoring.
35. Failure to enforce the law governing gifted and talented students, resulting in neglect of these students. *[This is an unfunded mandate and thus is an optional program for school administrative districts.]*
36. Pressure to meet the standards that results in cheating.
37. Need for some who teach to hold summer jobs; lack of courses for education technicians for their everyday dealings with students.
38. Lack of equipment/training to meet ever-changing fields of study.
39. Separation between K-12 education and higher education that doesn't allow high school teachers to teach courses for college credit.

Flexibility Needed, as Identified by Respondents

1. Team teaching; sharing some students with core curriculum teachers. *[Local decision, this is permitted under current rules.]*
2. Flexible time schedule for high school students; flexible educational period so students could come into/stay in the system only when ready to work at education. *[Ch. 125]*
3. Less mainstreaming; more flexible student placements; more individualized instruction/tutoring for students who need it; separation of students by ability; elimination of leveled mathematics classes and use of Accelerated Math. *[IDEA]*
4. Use of business management principles (e.g., corporate employees do not individually decide on company policies, and change them constantly).
5. Local control of standards development, approach to curriculum, graduation requirements, and certification of learning (assessment) as opposed to a general model/targets from the Department; SAU development of their own differentiated standards.
6. Use of both a standard grade/diploma and a traditional grade/diploma; use of traditional credits but with alternatives to earning them. *[Ch. 127]*
7. Certification flexibility for instructors; reciprocity of certification across states; more offerings/degree programs for those needing certification in certain areas.

8. Flexibility in time/manner of student assessment and reporting to parents and postsecondary institutions.
9. Less rigid standards; standards that are not subject-specific; targets for achievement of standards by semester/trimester. *[Ch. 127]*
10. Guidelines for accommodations/modifications for special education students. *[Ch. 101]*
11. Optional compliance with standards, depending on local decisions. *[Ch. 127]*
12. Limitation of preparation/accountability to teacher's area of expertise. *[NCLB]*
13. Instructional time requirement in hours, not days [LDs 96 and 245 are currently being considered and propose to calculate the school year in hours, not days]; longer school days with pay for before/after school tutorial work; a four-day class week with the fifth day for planning on a twelve-month schedule.
14. Extended deadlines for student support programs and graduation requirements. *[Ch. 127]*
15. Maintenance of current Me. Dept. of Ed. Reg. 132; required coordination with Me. Dept. of Ed. Reg. 131 by those working on graduation requirements.
16. Elimination of time in class, prescribed courses, and Carnegie credits as graduation requirements and use of assessments of knowledge and performance; longer school year with the additional time dedicated to development of standards-base work; graduation based on meeting standards, without credits/grades; allowing students to stay in a grade until standards are met or to accelerate to meet the students' needs; grouping by standard level, not age; "early college" high schools to earn a high school diploma and an Associates degree at the same time. *[Ch. 127]*
17. Mandatory common staff days for shared professional development; planning time coordinated with other colleagues at the same grade level/content area. *[Ch. 125 and Ch. 127]*
18. Inclusion of the Comprehensive Education Plan in federal and/or special education review processes, using data from MEDMS (instead of extra annual forms) wherever possible; elimination of the certification of Comprehensive Education Plan; elimination of the requirement for filing any form that cannot be filed electronically; requirement of a report on the status of a form, not its submission, if the Department doesn't have the time/staff to review the form. *[Ch. 125]*
19. Provision of a curriculum already aligned to the standards.
20. Elimination of elementary level testing. *[NCLB requirement]*
21. Time in the school schedule for students to participate in CTE; a common CTE program and school calendar, and coordinated bell schedules.
22. Use of a value-added assessment model (not the same standard for all), such as the NWEA instead of the MEA. *[Ch. 127 and statute]*

23. Funding alternatives to accommodate teacher schedules, and to ensure consistent professional development/training (including State-funded in-house professional consultants). *[EPS]*

24. Funding at the level approved by referendum; no mandates without more funding for technology; adequate funding for the system. *[EPS]*

25. More flexibility for geographically isolated schools in meeting the “Highly Qualified Teacher (HQT)” requirements; relaxation of the HQT time and content requirements.

26. Use of PowerSchool instead of Infinite Campus, at the SAU’s discretion. *[This is permitted.]*

27. Programming of school day by building staff; implementation entirely by teachers, not administrators or school board.

28. Allowance of more course substitution (e.g., personal finance for algebra).

29. More online learning opportunities.

30. More tools/standardization from the Department (including one that tracks CTE student achievement of national and/or State licensing standards linked to an electronic student grading system); data management systems; a statewide calendar; statewide collective bargaining agreements; a statewide consistent vision of the standards-based system.

31. Less oversight by the Department, but stricter regulation of administrators; administration that understands what teachers have worked on over the past 10 years.

32. Less paperwork for assessment, including AYP data.

33. Use of skills checklists for levels of ability; a basic competency test to determine which students move on.

34. More funding for after school and summer reinforcement programs.

35. Allowance of preschool students to ride the bus as other students do, without the expense of retrofitting the buses.

36. A phase-in period for the system, starting with grades K-2, then grades 3-5 to determine if the system is accepted and adequately funded for further levels (grades 6-8, 8-12); a phase-in that is 1 grade at a time.

37. Provision by the Department of properly, highly trained consultants to audit/assist the SAUs.

38. Ability to move staff to match needs in the SAU.

39. More guidance, tools, assistance from the Department for implementing the system and less paperwork; less flexibility and more consistency; local flexibility in administration and scoring of Department-developed end-of-course assessments; fewer key assessments but one set of State standards with yearly benchmarks; State assessments for high school content areas; a statewide

common report card; statewide publicity for public understanding/acceptance of the system; easy protocols (e.g., Marzano's) for transition; lesson plans for each standard.

40. Communication from colleges and universities on how to meet their requirements under a standards-based system.

41. Exclusion from the standards-based system for students with severe needs and mental health issues.

42. Use of national standards.

43. More opportunities for alternative education for students who struggle with the traditional system. *[Ch. 127]*

44. More flexibility in how students with different learning styles (not just special education students) meet the standards. *[Ch. 127]*

45. Flexibility for successful school systems to continue as they are.

46. Mandatory teacher training/workshops based on a Department-authorized model/practices.

47. Fewer constraints in teacher contracts for more time to work on professional development.

48. A moratorium on new initiatives.

49. Mandatory training on differentiation.

50. A reliable conversion system for grading (to percentages; for use by colleges).

51. Flexibility to use Title I funds where needed.

52. Realistic science standards.

53. No time limits attached to achievement of standards.

54. Allowance of speech teachers to work directly with teachers/IEP teams to determine services.

55. The use of a bell curve and high/medium/low standards.

56. A frank discussion of the problems/possible solutions, not a "solution in search of a problem", crisis to crisis; evidence that decisions regarding a standards-based system are research based; listening to educators' voices before making decisions and implementing rules; elimination of the threat of penalties.

57. A network of other schools' efforts; a Department blog for resources.

58. Options for in-service training.

59. Elimination of a “needs improvement” label on an SAU whose students with disabilities do not meet the standards.

60. Elimination of the standards-based system. *[Required for federal funding.]*

61. Nonparticipation in NCLB.

62. More heterogeneous grouping between/among grades.

63. Redirection of “Perkins” funds for CTE in middle and secondary schools.

64. Lower student: teacher ratios.

65. Allowance for appropriate developmental education.

66. Year-round programming.

APPENDIX 4

ONLINE EDUCATION REQUIREMENTS SURVEY

Thank you for completing this survey. As background, you can read the memo sent by Commissioner Gendron requesting participation in this survey. The purpose of this survey is to identify Department requirements that create real burdens for school administrative units, and explore ways those requirements might be alleviated responsibly. Thus it goes beyond “unfunded mandates,” which has a specific and narrow legal definition. If you are interested, you can read the definition of “unfunded mandate” in the [Maine Constitution \(scroll to Sec. 21\)](#) and in [state law](#).

Please start a new survey form for each requirement you are reporting as a burden that could be alleviated.

1. What is your primary role?

- ☐Teacher
- ☐Principal/other school administrator/non-instructional school staff
- ☐Superintendent/business manager/curriculum coord/other SAU administrator
- ☐DOE staff

2. DOE STAFF ONLY (optional for others)

Name, Title/Position, and Team Leader

(To help us best understand context of the requirement)

Please describe only one education requirement on this form. If you have additional requirements you would like to address, please start a new survey after you have submitted this one.

3. What is the requirement you are identifying as creating a burden?

4. Does the requirement come from:

- ☐Maine law
- ☐Department rule
- ☐Department practice/request

5. If you know, please note the citation to law or rule for the mandate/requirement:

6. Specifically, what part of this requirement creates the burden, or in what way is the requirement a burden?

7. Who does the burden affect most?

(district-level staff/program staff/teachers/etc.)

8. Specifically, how might this requirement be amended or removed responsibly?

9. What are the potential savings if the requirement is removed/amended?

(Estimated, if known; please indicate if savings are statewide, per unit, etc.)

Optional section – Barriers to implementing a standards-based system

As school systems implement a standards-based system, some requirements may pose obstacles, such as the five-day school week (180 school days) requirement. We understand that time and resources are needed. Please be specific to the rules and regulations in answering the two questions below.

10. What barriers do you face in implementing a standards-based system?

11. What flexibility would help your school system move to a standards-based system?

12. If you wish to receive a copy of the report to the Legislature when it is completed, please enter your e-mail address.

APPENDIX 5

SCHEDULE OF FOCUS GROUPS

Task Force Focus Groups

Organization: MADSEC
Date: Jan. 9, 2009
Time: 11 a.m.
Location: MADSEC office, Manchester
Participants: Board of Directors
Facilitator: Angela
DOE note taker: Jaci
Contact: Jill Adams
Notes: Business meeting

Organization: Maine School Superintendents' Association
Date: Jan. 16, 2009
Time: Approx. 9:30 a.m.
Location: Marriott Sable Oaks, So. Portland
Participants: All superintendents invited
Facilitator: Sue Gendron
DOE note taker: David
Notes:

Organization: Maine Administrators of Career and Technical Education
Date: Jan. 21, 2009
Time: 12:30 p.m.
Location: Capital Area CTC
Participants: CTE Directors
Facilitator: Wanda
DOE note taker: Jaci
Contact: Don Cannan
Notes:

Organization: Maine Curriculum Leaders' Association
Date: Jan. 23, 2009
Time: 2:30 p.m.
Location: SAD 11 central office
Participants: Board
Facilitator: Susan C.
DOE note taker: Susan C.
Contact: Bob Jenkins
Notes:

Organization: Maine Principals' Association
Date: Jan. 30, 2009
Time: 12 p.m.

Location: MPA offices
Participants: Professional Management Committee
Facilitator: Sue Gendron
Contact: Dick Durost
DOE note taker: David
Notes:

Organization: Maine Education Association
Date: Jan. 31, 2009
Time: 10:30 a.m.
Location: MPA offices – 35 Community Drive
Participants: Board
Facilitator: Sue Gendron
DOE note taker: Sue Gendron
Contact: Chris Galgay
Notes:

Organization: Maine School Boards Association
Date: Feb. 7, 2009
Time: 9:30 a.m.
Location: MSMA offices
Participants: Executive board
Facilitator: Sue Gendron
DOE note taker: Sue Gendron
Contact: Shelley O'Connell
Notes:

APPENDIX 6

LANGUAGE FROM STATUTE OR DEPARTMENT RULES FOR THE 20 RESEARCHED MANDATES IN TABLE 1

From Table of Mandates, #17

20-A §5021. STANDARDS FOR PARTICIPATION IN PUBLIC SCHOOLS BY STUDENTS ENROLLED IN EQUIVALENT INSTRUCTION PROGRAMS

4. Participation in cocurricular activities. A student receiving home-school instruction is eligible to participate in cocurricular activities sponsored by the local school unit provided the following requirements are met.

A. The student or the student's parent or guardian, on behalf of the student, applies in writing to and receives written approval from the principal of the school or the principal's designee. Participation may not be unreasonably withheld. [1995, c. 610, §1 (NEW).]

B. The student agrees to meet established behavioral, disciplinary, attendance and other rules applicable to all students. [1995, c. 610, §1 (NEW).]

[1995, c. 610, §1 (NEW) .]

5. Participation in extracurricular activities. Students receiving home-school instruction are eligible to try out for extracurricular activities sponsored by the local school unit, provided the student applies in writing, if the following requirements are satisfied.

A. The student agrees to abide by equivalent rules of participation as are applicable to regularly enrolled students participating in the activity and provides evidence that the rules of participation are being met. [1995, c. 610, §1 (NEW).]

B. The student complies with the same physical examination, immunization, insurance, age and semester eligibility requirements as regularly enrolled students participating in the activity. All required documentation must be made available upon request by the school unit. [1995, c. 610, §1 (NEW).]

C. The student meets equivalent academic standards as those established for regularly enrolled students participating in the activity and provides evidence that the academic standards are being met. [1995, c. 610, §1 (NEW).]

D. The student abides by the same transportation policy as regularly enrolled students participating in the activity. [1995, c. 610, §1 (NEW).]

[1995, c. 610, §1 (NEW) .]

From Table of Mandates, #19

20-A §4502. SCHOOL APPROVAL REQUIREMENTS

5. Other standards. The state board and the commissioner shall jointly adopt basic school approval rules governing school administrative units and elementary and secondary schools. These rules must set minimum standards in the following areas, incorporating such standards as are established by statute:

M. The use of time-out areas, administered in accordance with standards adopted by the department and with this paragraph. The use of a time-out area is subject to the following:

(1) The time-out area must be well ventilated and sufficiently lighted. The time-out area may not be locked; and

(2) The time-out area must be designed to ensure the safety of the student so that the student is supervised by a professional staff member in the room or can be observed from outside of the time-out area and can be heard by a person supervising the time-out area; [2001, c. 452, §8 (AMD).]

From Table of Mandates, #21

20-A §6001. DISSEMINATION OF INFORMATION

2. Internet restrictions. A public school may not publish on the Internet or provide for publication on the Internet any personal information about its students without first obtaining the written approval of those students' parents. For the purpose of this section, "personal information" means information that identifies a student, including, but not limited to, the student's full name, photograph, personal biography, e-mail address, home address, date of birth, social security number and parents' names.

[1999, c. 595, §2 (NEW) .]

From Table of Mandates, #22

20-A §13011. GENERAL AUTHORIZATION OF STATE BOARD

7. Certification waiver. Under rules adopted by the state board, the commissioner may grant a waiver for an appropriate period of time to an individual seeking the issuance or renewal of a certificate. The commissioner may grant a waiver to an individual who:

A. Receives allegedly inaccurate, incomplete or untimely information or action from the department, the local support system or a regional support system. The waiver must be for a reasonable period of time to permit the applicant to complete certification requirements; or [1995, c. 321, §1 (AMD).]

B. Demonstrates compliance with certification requirements by professional alternative methods, including the following:

(1) Scores on Graduate Record Examinations demonstrating content area proficiency equal to approved course work, with passing scores established under rules adopted by the state board;

(2) Examinations accepted by state-approved programs in lieu of course work, with passing scores established under rules adopted by the state board;

(3) Examinations from professional testing corporations demonstrating content area proficiency equal to approved course work, with professional testing corporations approved by the state board and passing scores established under rules adopted by the state board; and

(4) Work experience equivalent to outcomes for approved course work and a formal recommendation from the state professional organization in that content area. The professional organizations are established under rules adopted by the state board. The waiver is for the duration of the certificate or endorsement sought. [1995, c. 321, §1 (AMD).]

[1995, c. 321, §1 (AMD) .]

From Table of Mandates, #23

20-A §1001. DUTIES OF SCHOOL BOARDS

15. Adoption of student code of conduct. With input from educators, administrators, parents, students and community members, they shall adopt a district-wide student code of conduct consistent with the statewide standards for student behavior developed under section 254, subsection 11. The student code of conduct must:

A. Define unacceptable student behavior; [1999, c. 351, §2 (NEW).]

B. Establish standards of student responsibility for behavior; [1999, c. 351, §2 (NEW).]

C. Prescribe consequences for violation of the student code of conduct, including first-time violations, when appropriate; [1999, c. 351, §2 (NEW).]

D. Describe appropriate procedures for referring students in need of special services to those services; [1999, c. 351, §2 (NEW).]

E. Establish criteria to determine when further assessment of a current individual education plan is necessary,

based on removal of the student from class; [1999, c. 351, §2 (NEW).]

F. Establish policies and procedures concerning the removal of disruptive or violent students or students threatening death or bodily harm to others from a classroom or a school bus, as well as student disciplinary and placement decisions, when appropriate; [2005, c. 307, §1 (AMD).]

G. Establish guidelines and criteria concerning the appropriate circumstances when the superintendent or the superintendent's designee may provide information to the local police or other appropriate law enforcement authorities regarding an offense that involves violence committed by any person on school grounds or other school property; and [2005, c. 307, §2 (AMD).]

H. Establish policies and procedures to address bullying, harassment and sexual harassment. [2005, c. 307, §3 (NEW).]

The school board is responsible for ensuring that school officials inform students, parents and community members of the student code of conduct.

[2005, c. 307, §§1-3 (AMD) .]

16. Comprehensive emergency management plan. Each school board shall annually approve a comprehensive emergency management plan developed by the school unit administration working with school teachers and staff and local, county and state public safety officials, fire-fighting personnel, emergency management officials, mental health officials and law enforcement officials to identify and deal with all hazards and potential hazards that could reasonably be expected to affect a facility or unit under the authority of the school administrative unit. The approval of a comprehensive emergency management plan under this subsection is public information. The following information pertaining to a comprehensive emergency management plan is public information:

A. A description of the scope and purpose of the comprehensive emergency management plan and the process used for developing and updating the plan; [2007, c. 408, §1 (NEW).]

B. General information on auditing for safety and preparedness; [2007, c. 408, §1 (NEW).]

C. Roles and responsibilities of school administrators, teachers and staff and the designated chain of command during an emergency; and [2007, c. 408, §1 (NEW).]

D. Strategies for conveying information to parents and the general public during an emergency. [2007, c. 408, §1 (NEW).]

Except as provided in paragraphs A to D, release of the contents of a comprehensive emergency management plan approved under this subsection is subject to the limitations set forth in Title 1, section 402, subsection 3, paragraph L.

[2007, c. 408, §1 (RPR) .]

From Table of Mandates, # 24

20-A §254. EDUCATIONAL DUTIES

The commissioner shall have the following educational duties. [1983, c. 693, §§5, 8 (NEW).]

5. Medication. The commissioner shall provide for the administration of medication within schools as follows.

A. The commissioner shall adopt rules for the administration of medication in public or approved private schools, including the training of unlicensed personnel to administer medication. The rules for training must describe how the department will provide training at the local level directly to unlicensed personnel in each school administrative unit or approved private school in the State. Rules adopted pursuant to this section are major substantive rules pursuant to Title 5, chapter 375, subchapter II-A. [2001, c. 451, §1 (AMD).]

B. Any public or approved private school shall have a written local policy and procedure for administering medication. The written local policy must include the requirement that all unlicensed personnel who administer medication receive training before receiving authorization to do so. Compliance with the provisions of this subsection is a requirement for basic school approval pursuant to sections 2902 and 4502. [1999, c. 669, §1 (NEW).]

C. A public school or a private school approved pursuant to section 2902 must have a written local policy authorizing students to possess and self-administer emergency medication from an asthma inhaler or an

epinephrine pen. The written local policy must include the following requirements.

- (1) A student who self-administers an asthma inhaler or an epinephrine pen must have the prior written approval of the student's primary health care provider and, if the student is a minor, the prior written approval of the student's parent or guardian.
- (2) The student's parent or guardian must submit written verification to the school from the student's primary health care provider confirming that the student has the knowledge and the skills to safely possess and use an asthma inhaler or an epinephrine pen in school.
- (3) The school nurse shall evaluate the student's technique to ensure proper and effective use of an asthma inhaler or an epinephrine pen in school. [2003, c. 531, §1 (NEW).]

[2003, c. 531, §1 (AMD) .]

From Table of Mandates, #27

20-A §263. RESPONSE TO SCHOOL BOMB THREATS

1. Prototype guidelines, policies and protocols. The commissioner, in consultation with state and local emergency services officials and representatives of school personnel and school board members, shall develop prototypical guidelines, policies and protocols for school administrative units to present to their communities when those communities are considering implementing local policies that concern prevention of and response to school bomb threats. The prototypical guidelines, policies and protocols developed by the commissioner must be made available to all schools in the State no later than December 31, 2001.

[2001, c. 67, §1 (NEW) .]

2. Reporting of school bomb threats. Beginning with the 2001-2002 school year, all public schools and private schools enrolling more than 60% of their students at public expense in the State must report each bomb threat incident to the commissioner. The initial report must be made to the office of the superintendent within the school administrative unit or to the headmaster of the private school. The office of the superintendent or headmaster receiving a report of a bomb threat at a school must report that threat to the commissioner within 2 business days of the occurrence of the bomb threat. The commissioner shall report annually on the nature, frequency and impacts of school bomb threats in the State's schools to the joint standing committee of the Legislature having jurisdiction over education matters.

[2001, c. 67, §1 (NEW) .]

SECTION HISTORY

2001, c. 67, §1 (NEW) .

From Table of Mandates, #28

20-A §4706. INSTRUCTION IN AMERICAN HISTORY, MAINE STUDIES AND MAINE NATIVE AMERICAN HISTORY

2. Maine studies. Maine history, including the Constitution of Maine, Maine geography and environment and the natural, industrial and economic resources of Maine and Maine's cultural and ethnic heritage, must be taught. A required component of Maine studies is Maine Native American studies, which must be included in the review of content standards and performance indicators of the learning results conducted in accordance with section 6209, subsection 4. The Maine Native American studies must address the following topics:

A. Maine tribal governments and political systems and their relationship with local, state, national and international governments; [2003, c. 510, Pt. B, §5 (RPR).]

B. Maine Native American cultural systems and the experience of Maine tribal people throughout history; [2003, c. 510, Pt. B, §5 (RPR).]

C. Maine Native American territories; and [2003, c. 510, Pt. B, §5 (RPR).]

D. Maine Native American economic systems. [2003, c. 510, Pt. B, §5 (RPR).]

[2003, c. 510, Pt. B, §5 (RPR) .]

From Table of Mandates, #28

(Two sections: 1301 and 1704)

20-A §1301. FINANCES

A school administrative district may raise money for establishing and maintaining public schools, erecting buildings and providing equipment. [1981, c. 693, §§5, 8 (NEW).]

1. Methods of sharing costs. The costs of operating a school administrative district must be shared among all municipalities within the district in one of the following ways.

A. Under a property valuation method, municipalities in a district shall share costs in the same proportion as each municipality's fiscal capacity as defined in section 15672, subsection 23 is to the district's fiscal capacity. [2005, c. 2, Pt. D, §3 (AMD); 2005, c. 2, Pt. D, §§72, 74 (AFF); 2005, c. 12, Pt. WW, §18 (AFF).]

B. Under an alternate plan approved by the state board and by a vote of the legislative bodies of the school administrative units forming the district and based on:

- (1) The number of resident pupils in each town;
- (2) The fiscal capacity of each member municipality as defined in section 15672, subsection 23;
- (3) Any combination of subparagraphs (1) and (2); or
- (4) Any other factor or combination of factors that may, but need not, include subparagraphs (1) and (2). [2005, c. 2, Pt. D, §4 (AMD); 2005, c. 2, Pt. D, §§72, 74 (AFF); 2005, c. 12, Pt. WW, §18 (AFF).]

C. [2001, c. 375, §1 (RP).]

D. Notwithstanding paragraphs A and B, Title 30-A, chapter 208-A or any other provision of law, the state valuation used to calculate the shared cost for each municipality in a district with a municipal incentive development zone must include the increase in equalized just value of all industrial and commercial property located in the zone over the assessed value. [1993, c. 696, §1 (NEW).]

[2005, c. 2, Pt. D, §§3, 4 (AMD); 2005, c. 2, Pt. D, §§72, 74 (AFF); 2005, c. 12, Pt. WW, §18 (AFF) .]

2. Residents on federal property or state property. For the purposes of this chapter only, a district shall count students residing on land under the control of the Federal Government, on a federal military reservation, or on state property, as residents of the district but not as residents of a municipality.

[1985, c. 15, (AMD) .]

3. Amendment of cost-sharing formulas. The cost-sharing formula may be amended as follows.

A. If requested by a written petition of at least 10% of the number of voters voting in the last gubernatorial election within the district, or if approved by a majority of the full board of directors, the board of directors shall hold at least one meeting of municipal representatives to reconsider the method of sharing costs. The district shall give at least 15 days' notice to each municipality comprising the district of any meeting. [2001, c. 375, §2 (AMD).]

B. Each member municipality must be represented at the meeting or meetings by 2 representatives chosen at large by its municipal officers, and one member of the district board of directors chosen by the municipality's directors. [2001, c. 375, §2 (AMD).]

B-1. Prior to the first meeting of municipal representatives pursuant to paragraph A, the district shall engage the services of a facilitator selected from the list maintained by the commissioner under subsection 4, paragraph C, subparagraph 1. The facilitator shall:

- (1) At the first meeting, review and present data and information pertaining to sharing of costs within the

district. Pertinent information may include, but is not limited to, the following:

(a) A description of the district's cost-sharing method, the elements involved in the calculation of each municipality's costs and a graphic depiction of the current and historic distribution of costs in the district; and

(b) If withdrawal of one or more district members is under consideration, the financial and educational impact of the withdrawal;

(2) Solicit and prepare a balanced summary of the concerns of municipal officials, educators and the public about the current method of cost sharing; and

(3) Develop a plan of action for consideration by the municipal representatives that responds to the information collected and the concerns raised. The plan of action must include a list of expectations for the conduct of the parties, options for proceeding and an assessment of the likely success of those options. [2001, c. 375, §2 (NEW).]

C. A change in the method of sharing costs may only be approved by a majority vote of the municipal representatives present and voting. [2001, c. 375, §2 (AMD).]

C-1. If a majority of the representatives from each municipality meeting pursuant to paragraph A are unable to agree on a recommendation on what the cost-sharing method for the district should be, within 15 days following the last meeting a knowledgeable 3rd party must be selected in accordance with rules adopted pursuant to subsection 4, paragraph C. The district is responsible for compensating the 3rd party. The 3rd party shall:

(1) Prepare a written summary of the process to date, including an assessment of the fairness, accuracy and responsiveness of the recommendations of the facilitator engaged pursuant to paragraph B-1;

(2) Prepare an impartial recommendation regarding changing the method of cost sharing; and

(3) Present the summary and recommendations to the municipal representatives for their consideration. [2001, c. 375, §2 (NEW).]

C-2. At an advertised public hearing, the municipal representatives shall solicit public input on the 3rd party's recommendation for cost sharing required under paragraph C-1 and any alternative method or methods proposed by municipal representatives. [2001, c. 375, §2 (NEW).]

D. If a change in the cost-sharing method is approved by a majority of the municipal representatives meeting pursuant to paragraph A, the change must be submitted to the voters at a district meeting. It becomes effective when approved by a majority vote of the district in a district referendum called and held for this purpose in accordance with sections 1351 to 1354, except that, if the proposed change is an alternative cost-sharing plan under subsection 1, paragraph B, subparagraph 4, the change must be approved by a majority of voters voting in a referendum in each municipality in the district instead of in a district referendum. [2001, c. 375, §2 (AMD).]

E. Assessments made by the school board thereafter must be made in accordance with the new method of sharing costs. [2001, c. 375, §2 (AMD).]

F. The secretary of the district shall notify the state board that the district has voted to change its method of sharing costs. The state board shall issue an amended certificate of organization showing this new method of sharing costs. [1981, c. 693, §§5, 8 (NEW).]

[2001, c. 375, §2 (AMD) .]

4. Departmental assistance. The department shall provide the following services relating to changing district cost-sharing methods:

A. The provision of information and data relating to cost sharing, including, but not limited to, a description of a district's method of cost sharing, the total assessment, the per pupil cost and mills raised for education for district members and the calculation of member costs. The information must be district-specific, comprehensive, easily understood by the general public, presented in graphic and spreadsheet format and available over the Internet. Written copies of the information described and additional information requested must be provided by the department upon receipt of a written request from a district school board or the legislative body of any municipality member of a district; [2001, c. 375, §3 (NEW).]

B. The provision of professional evaluation and assistance to districts and member municipalities considering changes in cost-sharing methods; and [2001, c. 375, §3 (NEW).]

C. The establishment and maintenance of lists of qualified, available individuals to assist districts considering changes in cost-sharing methods as follows:

- (1) Facilitators as required in subsection 3, paragraph B-1; and
- (2) Knowledgeable 3rd parties as required in subsection 3, paragraph C-1.

In establishing the lists, the department shall seek input from the Maine Municipal Association and Maine School Management Association or successor organizations. The department may adopt rules to define the qualifications, responsibilities and selection of individuals on the lists. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [2001, c. 375, §3 (NEW) .]

[2001, c. 375, §3 (NEW) .]

SECTION HISTORY

1981, c. 693, §§5,8 (NEW). 1985, c. 15, (AMD). 1991, c. 379, (AMD). 1991, c. 802, §1 (AMD). 1993, c. 410, §F3 (AMD). 1993, c. 696, §1 (AMD). 2001, c. 375, §§1-3 (AMD). 2005, c. 2, §§D3,4 (AMD). 2005, c. 2, §§D72,74 (AFF). 2005, c. 12, §WW18 (AFF).

20-A §1704. SHARING COSTS

The following provisions apply to sharing district costs. [1981, c. 693, §§5, 8 (NEW).]

1. Formula. A community school district shall share its costs among the member municipalities on the basis of:

- A. The number of resident pupils in each municipality; [1981, c. 693, §§5, 8 (NEW).]
- B. The fiscal capacity of each member municipality as defined in section 15672, subsection 23; [2005, c. 2, Pt. D, §15 (AMD); 2005, c. 2, Pt. D, §§72, 74 (AFF); 2005, c. 12, Pt. WW, §18 (AFF).]
- C. Any combination of paragraphs A and B; [2001, c. 375, §4 (AMD).]
- D. Any other formula authorized by the Legislature; or [2001, c. 375, §4 (AMD).]
- E. Any other factor or combination of factors that may, but need not, include paragraphs A and B. [2001, c. 375, §4 (NEW).]

Notwithstanding paragraphs A to D, Title 30-A, chapter 208-A or any other provision of law, the state valuation used to calculate the shared cost for each municipality in a community school district with a municipal incentive development zone must include the increase in equalized just value of all industrial and commercial property located in the zone over the assessed value.

[2005, c. 2, Pt. D, §15 (AMD); 2005, c. 2, Pt. D, §§72, 74 (AFF); 2005, c. 12, Pt. WW, §18 (AFF) .]

2. Amendment of formula. The procedure for amending the cost-sharing formula is as follows.

A. When requested by a written petition of at least 10% of the number of voters voting for the gubernatorial candidates in the last gubernatorial election in the municipalities comprising the community school district, the district school committee shall give at least 15 days' notice to each member municipality of a meeting or meetings to determine the necessity of reconsidering the method of sharing costs. [2001, c. 375, §5 (AMD) .]

B. Each member municipality must be represented by 2 representatives chosen by its municipal officers and one member of the district school committee chosen by the committee members from that municipality at the meeting or meetings to determine the necessity of reconsidering the method of sharing costs. A change in the method of sharing costs must be approved by a vote of a majority of those present and voting. [2001, c. 375, §5 (AMD) .]

B-1. Prior to the first meeting of member municipalities pursuant to paragraph A, the district shall engage the services of a facilitator selected from the list maintained by the commissioner under subsection 3, paragraph C. The facilitator shall:

- (1) At the first meeting, review and present data and information pertaining to sharing of costs within the district. Pertinent information may include, but is not limited to, the following:

(a) A description of the district's cost-sharing method, the elements involved in the calculation of each municipality's costs and a graphic depiction of the current and historic distribution of costs in the district; and

(b) If withdrawal of one or more district members is under consideration, the financial and educational impact of the withdrawal;

(2) Solicit and prepare a balanced summary of the concerns of municipal officials, educators and the public about the current method of cost sharing; and

(3) Develop a plan of action for consideration by the municipal representatives that responds to the information collected and the concerns raised. The plan of action must include a list of expectations for the conduct of the parties, options for proceeding and an assessment of the likely success of those options. [2001, c. 375, §5 (NEW).]

B-2. If a majority of the representatives from each municipality meeting pursuant to paragraph A are unable to agree on a recommendation on what the cost-sharing method for the district should be, within 15 days following the last meeting a knowledgeable 3rd party must be selected in accordance with rules adopted pursuant to subsection 3, paragraph C. The district is responsible for compensating the 3rd party. The 3rd party shall:

(1) Prepare a written summary of the process to date, including an assessment of the fairness, accuracy and responsiveness of the recommendations of the facilitator engaged pursuant to paragraph B-1;

(2) Prepare an impartial recommendation regarding changing the method of cost sharing; and

(3) Present the summary and recommendations to the municipal representatives for their consideration. [2001, c. 375, §5 (NEW).]

B-3. At an advertised public hearing, the municipal representatives shall solicit public input on the 3rd party's recommendation for cost sharing required under paragraph B-2 and any alternative method or methods proposed by municipal representatives. [2001, c. 375, §5 (NEW).]

C. Municipal approval must be in the same manner as the original formula was adopted when the community school district was formed, except that, if the proposed change is an alternative cost-sharing plan under subsection 1, paragraph E, the change must be approved by a majority of voters voting in a referendum in each municipality. The total vote cast in each of the member municipalities must be at least 20% of the number of votes cast in each of the member municipalities in the last gubernatorial election. [2001, c. 375, §5 (AMD).]

D. A change in the cost-sharing formula is effective at the start of the next fiscal year which starts at least 90 days after the voters have approved it. [2001, c. 375, §5 (AMD).]

[2001, c. 375, §5 (AMD).]

3. Departmental assistance. The department shall provide the following services relating to changing district cost-sharing methods:

A. The provision of information and data relating to cost sharing, including, but not limited to, a description of a district's method of cost sharing, the total assessment, the per pupil cost and mills raised for education for district members and the calculation of member costs. The information must be district-specific, comprehensive, easily understood by the general public, presented in graphic and spreadsheet format and available over the Internet. Written copies of the information described and additional information requested must be provided by the department upon receipt of a written request from a district school board or the legislative body of any municipality member of a district; [2001, c. 375, §6 (NEW).]

B. The provision of professional evaluation and assistance to districts and member municipalities considering changes in cost-sharing methods; and [2001, c. 375, §6 (NEW).]

C. The establishment and maintenance of lists of qualified, available individuals to assist districts considering changes in cost-sharing methods as follows:

(1) Facilitators as required in subsection 2, paragraph B-1; and

(2) Knowledgeable 3rd parties as required in subsection 2, paragraph B-2.

In establishing the lists, the department shall seek input from the Maine Municipal Association and Maine School Management Association or successor organizations. The department may adopt rules to define the qualifications, responsibilities and selection of individuals on the lists. Rules adopted pursuant to this paragraph

are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [2001, c. 375, §6 (NEW) .]

[2001, c. 375, §6 (NEW) .]

SECTION HISTORY

1981, c. 693, §§5,8 (NEW). 1991, c. 802, §2 (AMD). 1993, c. 410, §F4 (AMD). 1993, c. 696, §2 (AMD). 2001, c. 375, §§4-6 (AMD). 2005, c. 2, §D15 (AMD). 2005, c. 2, §§D72,74 (AFF). 2005, c. 12, §WW18 (AFF).

From Table of Mandates, #30 **(Two sections: 6201 and 6209 (3) and (4))**

20-A §6201. LEGISLATIVE INTENT

The Legislature concurs with the recommendation of the 1984 report of the Commission on the Status of Education in Maine that a state-wide educational assessment program be implemented. [1983, c. 859, Pt. D, §§3, 4 (NEW) .]

There is a need for assessment information at both the state and local level to measure progress and ensure accountability regarding the system of learning results, which must be accomplished through a comprehensive system of local and state assessments, involving multiple measures to determine what each student knows and is able to demonstrate regarding the standards of the system of learning results. [2001, c. 454, §27 (AMD) .]

This comprehensive local and state assessment system must have the following objectives: [2001, c. 454, §27 (AMD) .]

1. State-wide assessment. To provide information on the academic achievement and progress of Maine students;

[1983, c. 859, Pt. D, §§3, 4 (NEW) .]

2. State goals. To establish a process for a continuing evaluation of the system of learning results established in section 6209 and to aid in the development of educational policies, standards and programs;

[2001, c. 454, §28 (AMD) .]

3. Local programs. To provide school officials with information to assess the quality, effectiveness and appropriateness of educational materials, methods and curriculum needs, including remediation and enrichment in their schools;

[1983, c. 859, Pt. D, §§3, 4 (NEW) .]

4. Individual students. To provide school staffs with information about the individual students that may be used, with other information, to meet individual and educational needs of the student. The statewide assessment program may not be the only criteria for judging student performance;

[2001, c. 454, §28 (AMD) .]

5. Trends. To identify year-to-year trends in student achievement; and

[1983, c. 859, Pt. D, §§3, 4 (NEW) .]

6. Parents. To provide parents with information about the achievements of their children on the assessment program.

[1983, c. 859, Pt. D, §§3, 4 (NEW) .]

SECTION HISTORY

1983, c. 859, §§D3,D4 (NEW). 2001, c. 454, §§27,28 (AMD).

20-A §6209. SYSTEM OF LEARNING RESULTS ESTABLISHED

3. Career and education development; world languages; visual and performing arts. By the end of the 2007-2008 school year, each local school administrative unit shall implement standards in the areas of career and education development, world languages and visual and performing arts. Notwithstanding any other provision of this chapter, the commissioner is authorized to establish rules for inclusion of some portion of the standards in visual and performing arts for the graduating class of 2011-2012.

[2007, c. 259, §5 (AMD) .]

4. Review cycle. The commissioner shall conduct a review of the content standards and performance indicators by content area on a 5-year cycle beginning in the 2015-2016 school year. Any changes that are recommended must be approved through the same process used for establishment of the system of learning results.

[2007, c. 259, §5 (AMD) .]

From Table of Mandates, #31

20-A §1001. DUTIES OF SCHOOL BOARDS

15. Adoption of student code of conduct. With input from educators, administrators, parents, students and community members, they shall adopt a district-wide student code of conduct consistent with the statewide standards for student behavior developed under section 254, subsection 11. The student code of conduct must:

- A. Define unacceptable student behavior; [1999, c. 351, §2 (NEW) .]
- B. Establish standards of student responsibility for behavior; [1999, c. 351, §2 (NEW) .]
- C. Prescribe consequences for violation of the student code of conduct, including first-time violations, when appropriate; [1999, c. 351, §2 (NEW) .]
- D. Describe appropriate procedures for referring students in need of special services to those services; [1999, c. 351, §2 (NEW) .]
- E. Establish criteria to determine when further assessment of a current individual education plan is necessary, based on removal of the student from class; [1999, c. 351, §2 (NEW) .]
- F. Establish policies and procedures concerning the removal of disruptive or violent students or students threatening death or bodily harm to others from a classroom or a school bus, as well as student disciplinary and placement decisions, when appropriate; [2005, c. 307, §1 (AMD) .]
- G. Establish guidelines and criteria concerning the appropriate circumstances when the superintendent or the superintendent's designee may provide information to the local police or other appropriate law enforcement authorities regarding an offense that involves violence committed by any person on school grounds or other school property; and [2005, c. 307, §2 (AMD) .]
- H. Establish policies and procedures to address bullying, harassment and sexual harassment. [2005, c. 307, §3 (NEW) .]

The school board is responsible for ensuring that school officials inform students, parents and community members of the student code of conduct.

[2005, c. 307, §§1-3 (AMD) .]

From Table of Mandates, #32

The full text of Me. Dept. of Ed. Reg. 126 (Immunization Requirements for School Children) is not included in this appendix. Below is the title and summary:

Chapter 126: IMMUNIZATION REQUIREMENTS FOR SCHOOL CHILDREN

A joint rule with

10-144 DEPARTMENT OF HUMAN SERVICES, BUREAU OF HEALTH

Chapter 261: IMMUNIZATION REQUIREMENTS FOR SCHOOL CHILDREN

SUMMARY: This rule is issued jointly by the Commissioner of Education and the Bureau of Health, Department of Human Services, to implement the provisions of the School Immunization Law (20-A MRSA §§ 6352-6358). It prescribes the dosage for required immunizations and defines record-keeping and reporting requirements for school officials.

From Table of Mandates, #33

The full text of Me. Dept. of Ed. Reg. 127 (Instructional Program, Assessment and Diploma Requirements) is not included in this appendix. Below is the title and summary:

05 DEPARTMENT OF EDUCATION

071 COMMISSIONER OF EDUCATION

Chapter 127: INSTRUCTIONAL PROGRAM, ASSESSMENT AND DIPLOMA REQUIREMENTS

SUMMARY: Maine law requires the Commissioner to prescribe the basic instructional requirements for the public elementary and secondary schools regarding compliance with the system of Learning Results. The school board of each school administrative unit may prescribe, subject to approval of the Commissioner, instructional requirements in addition to the minimum requirements of this rule.

From Table of Mandates, #34

20-A §6001-B. TRANSFER OF EDUCATION RECORDS

2. Transfer of records. Upon application of a student to transfer to another school administrative unit in this State or to enroll at a school administrative unit in this State from an educational program or school for juveniles located in or operated by a correctional facility or a school outside of the State, and upon the written request of the superintendent of the school administrative unit into which the student seeks admission, school administrators at the school administrative unit from which the student is transferring shall provide all of the student's education records, including disciplinary records, attendance records, health records other than confidential health records for which consent for dissemination has not been obtained and special education records, to school administrators at the school administrative unit to which the student is seeking a transfer. Confidential health records may be provided under this subsection only if the school administrator at the school administrative unit from which the student is transferring receives the authorization or consent necessary for the dissemination of information contained in the following records:

A. Records concerning information on a person's HIV infection status, including the results of an HIV test, as those records are described in Title 5, section 19203-D; [2003 , c. 472 , §1 (NEW) .]

B. Records concerning information on a person's alcohol and other drug abuse treatment as those records are

described in Title 5, section 20047; [2003, c. 472, §1 (NEW).]

C. Records concerning information on a person's health care and treatment as those records are described in Title 22, section 1711-C; and [2003, c. 472, §1 (NEW).]

D. Records concerning information on a person's mental health treatment as those records are described in Title 34-B, section 1207. [2003, c. 472, §1 (NEW).]

[2003, c. 472, §1 (AMD).]

From Table of Mandates, #36

20-A §254. EDUCATIONAL DUTIES

5. Medication. The commissioner shall provide for the administration of medication within schools as follows.

C. A public school or a private school approved pursuant to section 2902 must have a written local policy authorizing students to possess and self-administer emergency medication from an asthma inhaler or an epinephrine pen. The written local policy must include the following requirements.

(1) A student who self-administers an asthma inhaler or an epinephrine pen must have the prior written approval of the student's primary health care provider and, if the student is a minor, the prior written approval of the student's parent or guardian.

(2) The student's parent or guardian must submit written verification to the school from the student's primary health care provider confirming that the student has the knowledge and the skills to safely possess and use an asthma inhaler or an epinephrine pen in school.

(3) The school nurse shall evaluate the student's technique to ensure proper and effective use of an asthma inhaler or an epinephrine pen in school. [2003, c. 531, §1 (NEW).]

[2003, c. 531, §1 (AMD).]

From Table of Mandates, #38

20-A §1001. DUTIES OF SCHOOL BOARDS

15. Adoption of student code of conduct. With input from educators, administrators, parents, students and community members, they shall adopt a district-wide student code of conduct consistent with the statewide standards for student behavior developed under section 254, subsection 11. The student code of conduct must:

H. Establish policies and procedures to address bullying, harassment and sexual harassment. [2005, c. 307, §3 (NEW).]

From Table of Mandates, #40

(Two sections: 13405 and 13406)

20-A §13405. MINIMUM SALARIES FOR 2006-2007

Each school administrative unit shall establish a minimum salary of \$27,000 for certified teachers for the school year starting after June 30, 2006. [2005, c. 635, §5 (NEW).]

SECTION HISTORY

2005, c. 635, §5 (NEW).

20-A §13406. MINIMUM SALARIES BEGINNING IN 2007-2008

Each school administrative unit shall establish a minimum salary of \$30,000 for certified teachers for the

school year starting after June 30, 2007 and in each subsequent school year. [2005, c. 635, §6 (NEW) .]

SECTION HISTORY

2005, c. 635, §6 (NEW) .

From Table of Mandates, #41

(Four sections: 6621-6624)

20-A §6621. PERFORMANCE-ENHANCING SUBSTANCES

1. List of banned substances. By January 1, 2007 the Director of the Office of Substance Abuse within the Department of Health and Human Services, known in this subchapter as "the director," shall develop a list of banned performance-enhancing substances. The list must include, but is not limited to, the following:

A. Ephedrine; [2005, c. 674, §3 (NEW) .]

B. Synephrine, also known as bitter orange; [2005, c. 674, §3 (NEW) .]

C. Dehydroepiandrosterone; [2005, c. 674, §3 (NEW) .]

D. All dietary supplements as defined by 21 United States Code, Section 321, Subsection (ff) that are on a banned substance list maintained by the National Collegiate Athletic Association or the World Anti-Doping Agency or their successor organizations; and [2005, c. 674, §3 (NEW) .]

E. All other substances that are on a banned substance list maintained by the National Collegiate Athletic Association or the World Anti-Doping Agency or their successor organizations except for:

(1) A substance that is otherwise illegal in this State; or

(2) A substance the use of which by minors is illegal in this State. [2005, c. 674, §3 (NEW) .]

[2005, c. 674, §3 (NEW) .]

2. Amendments to list. The director shall amend the banned substances list each time a dietary supplement or other substance referenced in subsection 1, paragraph D or E is added to the list of banned substances maintained by the National Collegiate Athletic Association or the World Anti-Doping Agency or their successor organizations. For a substance to be prohibited under section 6624 in a particular school year, the substance must be added to the banned substances list maintained under this section no later than July 1st preceding that school year.

[2005, c. 674, §3 (NEW) .]

3. Notification. The director shall notify the department, the Maine School Management Association and the Maine Principals' Association or their successor organizations when the initial list of banned substances is complete and of any subsequent changes to the list. The department shall notify all school administrative units that have students who participate in sports of the availability of the list. The director shall post the list on its publicly accessible website.

[2005, c. 674, §3 (NEW) .]

SECTION HISTORY

2005, c. 674, §3 (NEW) .

20-A §6622. AWARENESS

The department shall request assistance from a statewide organization of principals in distributing information regarding the dangers associated with performance-enhancing substances. Each school administrative unit shall review its drug and alcohol policies and update such policies to address the use of performance-enhancing substances. [2005, c. 674, §3 (NEW) .]

SECTION HISTORY

2005, c. 674, §3 (NEW) .

20-A §6623. MARKETING

A teacher, athletic director, sports coach or other school official or employee may not sell, distribute or promote a performance-enhancing substance on the list of banned substances developed and maintained under section 6621. A school may not accept a sponsorship from a manufacturer of a performance-enhancing substance on the list of banned substances. A person who violates this section is subject to sanctions as determined by the governing body with statutory powers and duties for the school administrative unit in which that person is employed or serving in a coaching or other official capacity. [2005, c. 674, §3 (NEW).]

SECTION HISTORY
2005, c. 674, §3 (NEW).

20-A §6624. PROHIBITION ON USE

A student participating in interscholastic sports may not use a performance-enhancing substance on the list of banned substances developed and maintained under section 6621. A student who violates this section is subject to sanctions as determined by the governing body with statutory powers and duties for the school administrative unit in which that student is enrolled. [2005, c. 674, §3 (NEW).]

SECTION HISTORY
2005, c. 674, §3 (NEW).

From Table of Mandates, #42

20-A §1001. DUTIES OF SCHOOL BOARDS

16. Comprehensive emergency management plan. Each school board shall annually approve a comprehensive emergency management plan developed by the school unit administration working with school teachers and staff and local, county and state public safety officials, fire-fighting personnel, emergency management officials, mental health officials and law enforcement officials to identify and deal with all hazards and potential hazards that could reasonably be expected to affect a facility or unit under the authority of the school administrative unit. The approval of a comprehensive emergency management plan under this subsection is public information. The following information pertaining to a comprehensive emergency management plan is public information:

- A. A description of the scope and purpose of the comprehensive emergency management plan and the process used for developing and updating the plan; [2007, c. 408, §1 (NEW).]
- B. General information on auditing for safety and preparedness; [2007, c. 408, §1 (NEW).]
- C. Roles and responsibilities of school administrators, teachers and staff and the designated chain of command during an emergency; and [2007, c. 408, §1 (NEW).]
- D. Strategies for conveying information to parents and the general public during an emergency. [2007, c. 408, §1 (NEW).]

Except as provided in paragraphs A to D, release of the contents of a comprehensive emergency management plan approved under this subsection is subject to the limitations set forth in Title 1, section 402, subsection 3, paragraph L.

[2007, c. 408, §1 (RPR).]

From Table of Mandates, #46

(Six sections: 5151-5153, 5162-5163, 6001-B(1))

20-A §5151. TECHNICAL ASSISTANCE FOR TRUANTS, DROPOUT PREVENTION AND REINTEGRATION AND ALTERNATIVE EDUCATION

The commissioner shall provide technical assistance regarding truancy, dropouts and reintegration and alternative education programs. To do this, the commissioner shall employ at least one consultant whose sole responsibility is to cover the area of truancy, dropouts and alternative education. [2007, c. 667, §9]

(AMD) .]

1. Qualifications. Any consultant must be knowledgeable in the problems of truancy, dropouts and reintegration and policies and programs pertaining to the problems and have this as the consultant's sole responsibility.

[2001, c. 452, §12 (AMD) .]

2. Duties. The consultant shall:

A. Provide technical assistance to school administrative units and private schools approved for tuition purposes to establish alternative education programs; [2007, c. 667, §9 (AMD) .]

B. Develop screening tools for early identification of potential dropouts; [1985, c. 774, §5 (NEW) .]

C. Act as a clearinghouse for information on alternative education programs in the State, on exemplary programs in other states and on research pertaining to the subject, and promote effective programs; [1985, c. 774, §5 (NEW) .]

D. Function as a liaison among the commissioner, department staff, advisory committee and school administrative units and private schools as it pertains to truants, dropouts and reintegration, alternative education programs, alternative learning and adult education; [2007, c. 667, §9 (AMD) .]

E. Develop model curricula and programs for alternative education schools and programs; [2007, c. 667, §9 (AMD) .]

F. Assess and provide for the evaluation of alternative education programs consistent with the standards established by the commissioner; [2007, c. 667, §9 (AMD) .]

G. Develop training programs for superintendents, principals and school attendance officers to improve effectiveness in performance of their duties as pertains to truants, dropouts and reintegration and alternative education programs; [2007, c. 667, §9 (AMD) .]

H. Develop and submit a plan on behalf of the commissioner for the joint standing committee of the Legislature having jurisdiction over education and the state board on the prevalence of truancy and dropouts, assess alternative and adult education programs and prepare positive strategies to prevent and remedy the problems identified, including reintegration planning for juvenile offenders who have been released from juvenile facilities and are enrolling in schools in the State; [2007, c. 667, §9 (AMD) .]

I. Have the responsibility for preventive programs and alternative education programs; [2007, c. 667, §9 (AMD) .]

J. Collect data on the scope of the dropout and truancy problem in the State; [1985, c. 774, §5 (NEW) .]

K. Evaluate the scope of the problem of dropouts and truants and programs and policies directed to meet it, including reintegration planning and aftercare services provided for juvenile offenders who have been released from juvenile facilities and have enrolled in schools in the State; [2001, c. 452, §12 (AMD) .]

L. Provide staff services to the advisory committee; and [1985, c. 774, §5 (NEW) .]

M. Plan and coordinate programs and grant writing to stimulate programs and research on the problem of dropouts, truants, alternative education, alternative learning and adult education. [2007, c. 667, §9 (AMD) .]

[2007, c. 667, §9 (AMD) .]

SECTION HISTORY

1985, c. 774, §5 (NEW). 2001, c. 452, §12 (AMD). 2007, c. 667, §9 (AMD).

20-A §5152. ADVISORY COMMITTEE

1. Commissioner. The commissioner shall appoint an advisory committee on truancy, dropouts and alternative education.

[1985, c. 774, §5 (NEW) .]

2. Duties of the advisory committee, as appointed by the commissioner. The advisory committee shall

advise the commissioner on the development and implementation of state and local policies and programs that are needed to deal effectively with the incidence of truancy and dropouts in state schools. The committee should consider its mandate in a broad context to assess the causes of truancy and dropouts, the effectiveness of alternative education and prevention programs and the social and educational programs or changes needed to encourage students to remain in school, including reintegration planning and aftercare services provided for juvenile offenders who have been released from juvenile facilities in the State and have enrolled in schools in the State.

[2007, c. 667, §10 (AMD) .]

3. Membership. The advisory committee must have a broad membership reflecting the range of individuals and public and private institutions that are involved or interested in the problem and its solution. It must include representation from each of the following:

- A. Teachers; [1985, c. 774, §5 (NEW).]
- B. Elementary school principals; [1985, c. 774, §5 (NEW).]
- C. Secondary school principals; [1985, c. 774, §5 (NEW).]
- D. Guidance counselors; [1985, c. 774, §5 (NEW).]
- E. Adult education teachers with experience in high school completion education; [1985, c. 774, §5 (NEW).]
- F. Superintendents; [1985, c. 774, §5 (NEW).]
- G. Administrators from private schools involved in alternative education programs; [2007, c. 667, §11 (AMD).]
- H. Department of Health and Human Services; [2005, c. 397, Pt. A, §15 (AMD).]
- I. [2005, c. 397, Pt. A, §16 (RP).]
- J. Department of Corrections; [1985, c. 774, §5 (NEW).]
- K. Department of Labor; [1985, c. 774, §5 (NEW).]
- L. A local positive action committee on truancy, dropout and alternative education programs; [2007, c. 667, §11 (AMD).]
- M. Representatives from the business community; and [1985, c. 774, §5 (NEW).]
- N. Other individuals who the commissioner feels will contribute to the development of effective policies and programs. [1985, c. 774, §5 (NEW).]

Two of the representatives in paragraphs A to D must be directly involved in alternative education programs. There may be no more than 15 members on the committee.

[2007, c. 667, §11 (AMD) .]

4. Term of office. The members of the advisory committee shall serve for 2 years and may be reappointed.

[1985, c. 774, §5 (NEW) .]

5. Expenses. Members of the advisory committee shall be reimbursed for expenses only for attending meetings or performing other functions authorized by the committee.

[1985, c. 774, §5 (NEW) .]

6. Annual reports. The committee shall report annually by February 1st to the joint standing committee of the Legislature having jurisdiction over education.

[1985, c. 774, §5 (NEW) .]

SECTION HISTORY

1985, c. 774, §5 (NEW). 1995, c. 560, §K82 (AMD). 1995, c. 560, §K83 (AFF). 2001, c. 354, §3 (AMD). 2001, c. 452, §13 (AMD). 2005, c. 397, §§A15,16 (AMD). 2007, c. 667, §§10, 11 (AMD).

20-A §5153. RULES

The commissioner shall establish rules to implement this subchapter by January 1987. [1985, c. 774, §5 (NEW).]

SECTION HISTORY
1985, c. 774, §5 (NEW).

20-A §5161. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2007, c. 451, §6 (NEW).]

1. Academic programming waiver. "Academic programming waiver" means an agreement signed by the receiving and sending schools accepting the academic programming, credits and documentation of achievement of the standards completed by a student at the receiving school or educational program.

[2007, c. 451, §6 (NEW) .]

2. Department of Education diploma. "Department of Education diploma" means a standards-based diploma that meets state requirements as outlined in this chapter and chapter 222 for a student unable to obtain a local school diploma due to education disruption.

[2007, c. 451, §6 (NEW) .]

3. Interim placement. "Interim placement" means a temporary assignment for a student who experiences education disruption to a program or school approved by the department.

[2007, c. 451, §6 (NEW) .]

4. Learning results. "Learning results" means the system of learning results established pursuant to section 6209.

[2007, c. 451, §6 (NEW) .]

5. Receiving school. "Receiving school" means the school or educational program that a student who experienced education disruption presently attends following an interim placement.

[2007, c. 451, §6 (NEW) .]

6. School work recognition plan. "School work recognition plan" means a written plan initiated upon the interim placement of a student who experiences education disruption that outlines how the student will accomplish and demonstrate work for completion or credit to meet that student's goals for demonstrated achievement of learning results as an elementary or secondary student and any other diploma requirements applicable to secondary school students. The school work recognition plan for high school juniors and seniors 16 to 20 years of age must include a determination as to how and when the decision will be made as to whether the student has met the requirements for a local high school diploma or be recommended for a statewide review team meeting to discuss the Department of Education diploma. For those students who have not met local requirements, information must be provided to the student and to the parent or guardian of the student regarding the process to access the Department of Education diploma.

[2007, c. 451, §6 (NEW) .]

7. Sending school. "Sending school" means the school in which a student who experienced education disruption was enrolled at the time of the disruption.

[2007, c. 451, §6 (NEW) .]

8. Statewide review team. "Statewide review team" means a team designated by the commissioner to address any disputes by means of a review of the compiled evidence including transitional academic reports, school work recognition plans, academic programming waivers, credits, transfers, transcripts or acceptance of student work demonstrating achievement of learning results and any other diploma requirements applicable to secondary school

students. The statewide review team shall use the evidence to make recommendations to the commissioner regarding the award of a Department of Education diploma to the student and to provide the sending school with a copy of the recommendations.

[2007, c. 451, §6 (NEW) .]

9. Students who experience education disruption. "Students who experience education disruption" means elementary school and secondary school students who experience an interruption in their current educational program for 10 or more consecutive school days by being placed in a program or school approved by the department, which may be as a result of a situation such as homelessness, unplanned psychiatric hospitalization, unplanned hospitalization for a medical emergency, foster care placement, youth development center placement or some other out-of-district placement that is not otherwise authorized by either an individualized education plan or other education plan.

"Students who experience education disruption" does not include students who are out of school for 10 or more consecutive school days as a result of planned absences for a reason such as a family event or medical absences for planned hospitalization or recovery or pursuant to a superintendent's agreement developed in accordance with section 5205, subsection 2.

[2007, c. 451, §6 (NEW) .]

SECTION HISTORY
2007, c. 451, §6 (NEW).

20-A §5162. SCHOOL WORK RECOGNITION PLAN

Students who experience education disruption must have a school work recognition plan initiated upon the interim placement of the student. The school work recognition plan must be developed or updated by the student, the parent or guardian, the sending and receiving schools and others such as juvenile community corrections officers and community case managers no later than 10 school days after the interim placement of the student. This plan may be developed through alternate forms of meeting such as e-mail or teleconferencing. If an existing plan such as an individualized education plan or a transition plan as defined in rules adopted by the department or a 504 plan as defined in 34 Code of Federal Regulations, Part 104 addresses school completion, a school work recognition plan is not required. [2007, c. 451, §6 (NEW).]

Individual educational materials such as curricula and assignments must be made available to the interim placement as soon as possible but no later than 5 school days after the interim placement of the student; otherwise, an academic programming waiver must be signed by the sending school in which the sending school agrees to accept the academic programming implemented at the interim placement and to document on the student's transcript the credits earned by the student at the receiving school. [2007, c. 451, §6 (NEW).]

For every student who experiences education disruption, receiving school professional staff must be assigned to ensure the complete transfer of all records, grades and credits and all academic material, including an academic programming waiver, if applicable, from the sending school to the receiving school no later than 5 school days after the student enrolls in the receiving school. [2007, c. 451, §6 (NEW).]

SECTION HISTORY
2007, c. 451, §6 (NEW).

20-A §6001-B. TRANSFER OF EDUCATION RECORDS

1. Education records must follow students who transfer. Education records must follow students who transfer to a school in another school administrative unit in the State. The education records of students who transfer from educational programs or schools for juveniles located in or operated by correctional facilities or out-of-state schools are also subject to this requirement. For a student who experiences education disruption, as defined in section 5161, subsection 9, the sending school shall send or electronically transfer pertinent records, including but not limited to academic and health information records, to the receiving school or educational program no later than 5 school days after the student enrolls in the receiving school or educational program.

[2007, c. 451, §7 (AMD) .]

