

**Chapter 61: STATE BOARD OF EDUCATION RULES FOR MAJOR CAPITAL SCHOOL
CONSTRUCTION PROJECTS**

Summary: This chapter defines the conditions under which the State will subsidize Major Capital School Construction projects.

SECTION 1. DEFINITIONS

For the purposes of this Chapter, the following terms have the following meanings:

1. “Approved Projects List” – Projects from the Final Priority List that have been designated by the State Board of Education for funding.
2. “Arbitrage” – In the municipal market, the difference in interest earned on funds borrowed at a lower tax-exempt rate and interest on funds that are invested at a higher-yielding taxable rate. Under the 1986 Tax Act, with very few exceptions, arbitrage earnings must be rebated back to the federal government.
3. “Bond” – The written evidence of debt, bearing a stated rate or stated rates of interest, or stating a formula for determining that rate, that matures on a date certain on which date and upon presentation a fixed sum of money plus interest is payable to the holder or owner.
4. “Bond Anticipation Note (BAN)” – A note issued in anticipation of a later issuance of bonds, usually payable from the proceeds of the sale of the bonds or of renewal notes. BANs can also be general obligations of the issuer. A general obligation bond is a bond secured by the pledge of the issuer’s full faith, credit, and taxing power.
5. “Bond Bank” – The Maine Municipal Bond Bank created by 30-A M.R.S.A. §5951. The Bond Bank may make loans to an SAU to promote efficient capital financing activities for the construction, renovation and maintenance of school facilities.
6. “Career and Technical Education” – A course or program of education designed to create or improve job-related skills that is part of a secondary school or middle school level curriculum and approved by the commissioner according to 20-A M.R.S.A. §8301-A(2-A).
7. “Career and Technical Education Center “– An administrative entity established pursuant to ~~this chapter~~ chapter 20-A M.R.S.A. §8301-A(3) that provides career and technical education to secondary students and middle school level students. Unless otherwise specifically provided for by 20-A M.R.S.A. §8301-A(3), ~~For purposes of this chapter,~~ a center is governed, operated and administered by a single SAU school administrative unit (SAU). A center shall make its programs available to serve secondary students and middle school level students from SAUs with which it is affiliated. A center may include within its administrative structure career and technical education satellite programs operated by SAUs with which it is affiliated.

8. “Career and Technical Region” – A quasi-municipal corporation established by the Legislature to provide career and technical education to secondary students and middle school level students that is comprised of all the SAUs within the geographical boundaries set forth for each career and technical education region in 20-A M.R.S.A. §8451. A region is governed by a cooperative board formed and operating in accordance with 20-A M.R.S.A. Chapter 313.
9. “Commissioning” – A systematic documented process by an independent entity which shall include visual examination and functional performance testing to demonstrate that installed components or systems meet the intent of the original design.
10. “Completed Building Project” – The project is considered completed when all punch list items are completed; all invoices have been paid; all existing litigation/arbitration issues have been resolved; all applicable arbitrage computations have been prepared by bond counsel, the SAU auditor, or other authorized person; and no further financial transactions are anticipated. Where required, certificates of occupancy shall have been obtained.
11. “Compliance Review” – An examination of the SAU’s school construction project. For purposes of 20-A M.R.S.A. §15909(6), audit is referred to herein as compliance review.
12. “Compliance Review Staff” – Staff within the Department of Education having the responsibility of reviewing an SAU’s records relating to a school construction project.
13. “Concept Approval” – The ~~initial~~ approval of a school construction project by the State Board which indicates:
 - A. Acknowledgement of the local need;
 - B. Approval of the preliminary design;
 - C. Approval of estimated costs; and
 - D. The State Board’s intent to issue Design and Funding Approval subject to a favorable local vote and approval of final cost estimates.
14. “Consolidation of Schools” – When two or more school buildings, either from the same SAU or from neighboring SAUs, are merged into one school building to reduce costs, maximize efficiencies, and diversify educational programming.
15. “Contingency Funds” – Bid contingencies are project funds that have been set aside or reserved to cover bidding overruns. Construction contingencies are used to cover project errors and omissions and miscellaneous project expenditures not part of the initial project budget but necessary to complete the project.
16. “Cost Sharing” - Is the apportionment between the state and the SAU of the state portion of the project budget as described in Section 11, subsection 4 below, that is based on the Essential Programs and Services (EPS) formula.
157. “Debt Service Costs” – Defined in 20-A M.R.S.A. §15672(2)(A) as principal and interest on approved school construction costs excluding payments made with funds from state and local government accounts established under the Federal Internal Revenue Code and regulations for disposition of excess, unneeded proceeds of bonds issued for a school project.

168. “Debt Service Principal” –The face amount of a bond exclusive of accrued interest and payable at maturity.
179. “Department” – The State of Maine Department of Education.
1820. “Design and Funding Approval” – An approval by the State Board indicating that a Major Capital School Construction project’s drawings and specifications have been developed to 100% completion, the project has gained the recommendations of the Department and the SAU is authorized to seek bids for the work.
1921. “Educational Specifications” – An SAU’s written description of its educational goals and activities, and the interrelationships between those educational goals and activities and their associated facilities that need to be provided in a proposed new or renovated school facility.
202. “Emergency Project” – Any school construction project approved for the replacement of all or a significant portion of a school facility, resulting from an unanticipated and sudden natural or human disaster, ~~and which that~~ is declared uninhabitable by an authorized local, state or federal government agency or individual (e.g., the State Fire Marshal’s Office). Projects such as this require that the situation be evaluated against all existing school construction needs in the state. Priority will be given to schools with the greatest needs; therefore, not all disaster situations will receive approval for school construction funding.
223. “Final Compliance Review” – A review of the school construction project that is conducted after the completion of the project.
234. “Final Funding Approval” – Approval granted to a Major Capital School Construction project that has gone through the bid process, and the Commissioner has adjusted the state/local budget based upon the low bid and the ~~Facilities Team’s~~ Office of School Facilities’ recommendation.
245. “Final Priority List” – A list of projects that has been approved by the State Board after all opportunities for appeal have been exhausted.
- ~~25. “Industry Training Center” – A facility which has the potential to be available 24/7 to provide workforce training to meet industry standards and exposure to a variety of career pathways.~~
26. “Initial Priority List” – A needs-based priority list developed by the ~~Facilities Team~~ Office of School Facilities and recommended to the Commissioner.
287. “Interest Expense” – Interest paid on loans, Bond Anticipation Notes (BANs), and other project revenue.
298. “Interest Income” – Interest earned on loans, Bond Anticipation Notes (BANs), bonds, and other project revenue.
3029. “Interim Compliance Review” – A review of the school construction project accounts prior to the completion of the project.
340. “Life Cycle Costs Analysis” – An analysis of alternatives with the objective of selecting the most cost-effective building systems for the project.
31. “Local Cost Share” - The percent of the state portion of the project budget that the SAU is responsible for funding locally as described in Section 11, subsection 4 below, that is based on the Essential Programs and Services (EPS) formula.

32. “Local Only Portion” – The portion of the project budget that is not approved for cost sharing and is 100% locally funded.
33. “Long-Term Tuition Contract” – SAU tuition contract of Tten years or maximum permitted by law.
34. “Maintenance” – Those activities having to do with scheduled and unscheduled repairs, upkeep, minor alterations and enhancements of buildings. Maintenance is also defined as preventive maintenance work necessary to achieve the design life expectancy of building systems and components.
35. “Major Capital School Construction Project” – New construction and major renovation projects that meet the educational program needs of the school.
36. “Moveable Equipment” – Equipment, including technology, for a school construction project that supports the educational program. Moveable equipment has an expected life of at least five ten or more years and is not attached to the building.
37. “Non-Allowable Expenditures” – Expenditures that are not included in the approved project budget.
38. “Notes” – Short-term promises to pay specified amounts of money. Notes may be secured by specific sources of future revenues, such as taxes, federal and state aid payments, and bond proceeds.
- ~~39.~~ “~~One Campus~~” ~~The campus contains the elements of an integrated, consolidated 9-16 educational facility promoting the development of a design where all facilities are located on one site and provide a streamlined and integrated learning experience for eligible students.~~
- ~~2139.~~ “~~Facilities Team~~Office of School Facilities” – Staff within the Department having the responsibility for administration of all programs relating to school facilities, including but not limited to Major Capital School Construction, Leased Space, School Revolving Renovation Fund, and Federal School Construction/Renovation Grants.
40. “Owner” – The school administrative unit (SAU)
- ~~401.~~ “Project Budget” – The listing of line item costs allocated to complete a school construction project, including the cost sharing, that is finalized at the time of Final Funding Approval by the Commissioner.
- ~~412.~~ “Proposed Priority List” – A needs-based list recommended by the Commissioner and received by the State Board, and continuing subject to change only through the Administrative Review (appeals) process.
- ~~423.~~ “Project Funds” – Bond Anticipation Note (BAN) proceeds, bond proceeds, note proceeds, loan proceeds for initial start-up costs, local appropriations, gifts, grants, and all other project resources.
- ~~434.~~ “Punch List” – A list of unfinished or incorrect building items identified at project end that must be completed or corrected to complete the project.

445. “Rating Cycle” – A period of time, established by the State Board, during which the ~~Facilities Team~~ Office of School Facilities accepts applications from SAUs for Major Capital School Construction projects, visits each facility, rates each facility, and develops a priority list to be recommended to the Commissioner.
456. “Regional High School” – Two or more high schools ~~that have combined (at the time of or since the Sinclair Act) or that are combining in the a new innovative, consolidated 9-16~~ Regional Integrated Educational Facility, (or a high school organized to serve two or more communities).
2747. “~~Regional Integrated, Consolidated 9-16~~ Regional Integrated, Consolidated 9-16 Educational Facility” – A facility that includes: a regional high school or new regional middle/high school fully integrated with a career and technical high school (center/region); ~~a higher education partnerships center offering that will provide dual enrollment and/or concurrent enrollment courses and toward degrees or licensure and certification from the University of Maine System and/or the Maine Community College System; and a center providing industry specific training~~ industry partnerships and/or training leading to recognized licensure and certification.
468. “School Administrative Unit (SAU)” – Defined in 20-A M.R.S.A. Chapter 609, §15901(6).
479. “State Board” – The State Board of Education.
4850. “~~State/Local Portion~~ State/Local Portion” – The portion of the project budget that ~~has been approved for state subsidy~~ is approved for cost sharing. The debt service for that portion is eligible for state funding.
5051. “Substantially Renovated” – Any renovation for which the cost exceeds 50% of the building’s current value prior to renovation.

SECTION 2. MAJOR CAPITAL SCHOOL CONSTRUCTION PROJECT FLOW CHART, APPLICATION FORM AND SUBMISSION DEADLINES

1. Categories of School Construction Projects

- A. Major Capital School Construction Projects – Major Capital School Construction projects are new construction and major renovation projects that meet the educational program needs of the school. Costs necessary to bring a building into conformance with current state recognized building and safety codes shall be included in the project budget.
- B. Emergency projects will be dealt with on a case-by-case basis as deemed ~~appropriate by~~ appropriate by the State Board. Emergency projects will be evaluated against all existing school construction needs in the state. Priority will be given to schools with the greatest needs.

2. Major Capital School Construction Project Flow Chart

Each SAU developing a school construction project shall follow the steps in the order ~~in~~ which they appear in Section 6 below and ~~are outlined~~ on the Major Capital School Construction Project Flow Chart (available on the Department of Education, Office of School Facilities website).

3. Application Form

Each SAU seeking state funding for a proposed school construction project shall submit a completed application form to the Department. Application forms are available from the Department. All parts of the application must be completed.

- ~~A. Applications for integrated, consolidated 9-16 educational facilities may be made by the governing body, or bodies, of one or more school administrative unit(s) with multiple high schools together with a CTE high school as outlined in Section 15 of this rule.~~
- ~~B. A School Administrative Unit is eligible to apply for funding for both a major capital school construction project and an integrated, consolidated 9-16 educational facility under Section 15 of this rule.~~

4. Submission Deadlines

If a Major Capital School Construction project is to be considered for a given rating cycle, a completed application must be received by the Department by the date established by the Department.

5. Waivers

One or more of the requirements of any provision of this Chapter may be waived under any of the following conditions:

- A. The SAU has filed a request for a waiver with the Department at least 30 days prior to the meeting of the State Board, at which the waiver is to be considered.
- B. The Commissioner submits a request to the State Board for a waiver.
- C. The State Board finds substantive reasons for pursuing a waiver.

D. WaiversAny waiver of a time deadline shall be to a time specific.

The State Board will provide in writing its reasons for granting or denying a waiver request.

SECTION 3. RATING SYSTEM

1. The rating system set forth in subsections 5 and 6 of this section and the “hold harmless” provision shall be used to rate each Major Capital School Construction project application when it is applicable. “Hold harmless” means the rating points assigned to a project application that relate directly to health, safety, and energy efficiency as outlined in Priority A may not be reduced by health, ~~and~~ safety, and energy efficiency improvements made to existing buildings. This “hold harmless” provision will only apply if the project received a rating on the previous school facilities Proposed Priority List.
2. In order to be visited and rated by the ~~Facilities Team~~ Office of School Facilities, the application must be complete and for a public school building that is currently ~~housing~~ occupied and educating students or has been officially condemned pursuant to Title 20-A M.R.S.A. §4102(2) within the last school year.
3. The ~~Facilities Team~~ Office of School Facilities will score each eligible project following submission of the application by the SAU and an on-site visit by the evaluators. Once all visits have been completed, a proposed priority list will be developed based upon the scores assigned to each school. The assigned scores will change only if required by a review committee’s decision pursuant to Section 4, subsection 3 of this Chapter.

The SAU is responsible for notifying the ~~Facilities Team~~ Office of School Facilities of any changes in local conditions prior to the release of the Department’s final recommended Priority List.

4. The rating system is based on a total of ~~200~~ 225 points for State Board priorities as follows:

PRIORITY A: Buildings and Grounds – ~~90~~ 105 points total
PRIORITY B: School Population – 45 points total
PRIORITY C: Program and Planning - ~~65~~ 75 points total

5. **The Rating System: Scoring Criteria and Point Assignment**

PRIORITY A: Buildings and Grounds (Total ~~90~~ 105 Points)

Criteria - Unsafe Conditions (Total of ~~55~~ 65 Points)

Group 1: Building (maximum ~~40~~ 45 points)

1. Building classification
2. Structure
3. Combustible
4. Access and egress
5. ADA Accessibility
- ~~5.~~ 6. Boiler room
- ~~6.~~ 7. Electrical
- ~~7.~~ Storage
8. Stairwells
9. Environmental hazards
10. Security

Group 2: Site (maximum ~~15~~ 20 points)

- 11. Site size and location
- ~~11.~~ 12. Traffic/Circulation
- ~~12.~~ 13. Sewerage system
- ~~13.~~ 14. Environmental conditions
- ~~14.~~ 15. Water quality and quantity
- ~~15.~~ 16. Physical education and play areas

Criteria – Obsolete, Inefficient and/or Unsuitable (Total ~~35~~ 40 Points)**Group 1: Program Related Facility Deficiencies and Inefficiencies (maximum 20 points)**

- ~~16.~~ 17. Special areas - non-instructional
- ~~17.~~ 18. Special areas - instructional
- ~~18.~~ 19. Room size and arrangement
- ~~19.~~ 20. Effective program
- ~~20.~~ 21. ~~Site size and location~~ Food Service/Kitchen/Cafeteria
- ~~21.~~ 22. ~~Handicapped accessibility~~ Administrative Area
- 23. School Nurse Area

Group 2: Mechanical and Building Systems Deficiencies (maximum ~~15~~ 20 points)

- ~~22.~~ 24. Building Envelope
- ~~23.~~ 25. Heating
- ~~24.~~ 26. Ventilation
- ~~25.~~ 27. Plumbing
- ~~26.~~ 28. Electrical

PRIORITY B: School Population (Total of 45 Points)**Criteria - Overcrowding (Total of ~~27~~ 25 points)****Group 1: Instructional Areas (maximum ~~14~~ 15 points)**

- ~~27.~~ 29. General classroom areas
- ~~28.~~ 30. Special areas

Group 2: Program Scheduling (maximum ~~13~~ 10 points)

- ~~29.~~ Extended school day
- ~~30.~~ Student release: overcrowding
- 31. Classes scheduled in unsuitable areas
- 32. Scheduling in temporary facilities due to overcrowding

Criteria - Enrollment Estimates and Population Shifts (Total of ~~18~~ 20 points)**Group 1: Enrollment Estimates (maximum ~~10~~ 12 points)**

- 33. Estimates based on enrollment projections

Group 2: Population Shifts and Other (maximum 8 points)

34. Unusual changes

PRIORITY C: Program and Planning (Total of ~~65~~ 75 Points)

Group 1: Instructional Program (maximum 65 points)

- 35. Career Preparation/Guidance
- 36. English/Language Arts
- 37. Health and Physical Education
- 38. Mathematics
- 39. World Languages
- 40. Science
- 41. Technology/Distance Learning
- 42. Social Studies
- 43. Visual and Performing Arts
- 44. Library/Media
- 45. Special Education/~~Gifted & Talented/Alternative Education~~
- 46. STEM/STEAM
- ~~46.~~47. Early Childhood

Group 2: Planning (maximum 10 points)

- 48. Maintenance and Capital Planning
- 49. Consolidation Opportunities

For both CTE Regions and Centers an individual rating will be done based upon CTE programs offered by the Region or Center. The individual ratings will also take account of programs the Region or Center seeks to offer but is unable to offer because of facility restraints.

6. The following steps shall be used by the ~~Facilities Team~~ Office of School Facilities to break ties that occur during the rating process for the purpose of placing the projects on the Priority List:
- A. The project with more points in Priority A: Buildings and Grounds shall be placed first.
 - B. If a tie still exists, the project benefiting the larger number of students shall be placed first.

SECTION 4. PRIORITY LISTS, EVALUATION REPORT AND ADMINISTRATIVE REVIEW

1. Priority Lists

- A. The ~~Facilities Team~~ Office of School Facilities shall develop a needs-based Initial Priority List for the Commissioner of those applicants for a given rating cycle based on the Rating System outlined in Section 3 of this Chapter. The Commissioner shall recommend a Proposed Priority List to the State Board. The Board will receive a Proposed Priority List.

If there are extremely hazardous conditions, the evaluators shall share ~~report~~ the matter with the local school superintendent. ~~to the Commissioner who may refer it to the State Fire Marshal or other appropriate authority.~~

- B. The ~~Facilities Team~~ Office of School Facilities will develop a priority list for the Commissioner of those applicants for an Regional Integrated Educational Facility. ~~integrated, consolidated 9-16 educational facility~~

~~Funds used for the integrated, consolidated 9-16 educational facilities selected may not impact the funds that would normally be used for new school construction projects that are prioritized and selected under the current guidelines set forth in this chapter. Implementation of this innovative model would occur only with a specific increase in debt service to create a pool of available funds for the model based on the criteria set forth in Section 15 of this rule.~~

2. Evaluation Report

After receipt of the Proposed Priority List by the Board, the Department will ensure the delivery of an individualized Evaluation Report to the office of the superintendent of schools of each evaluated facility. This report shall include the scores for each category and sub-category used by the Department to rate that facility.

3. Administrative Review

- A. An SAU may appeal its point rating. The unit must demonstrate by clear and convincing evidence that an error was made in the evaluation rating of the project application based solely on the information included in its project application and presented during the site visit. If an SAU wishes to appeal its point rating a written request for administrative review along with a written demonstration of the alleged error shall be made to the Commissioner within 30 days of receipt of the SAU's individualized Evaluation Report described in subsection 2 of this section. Forms to request administrative review may be obtained from the Department. A Review Committee consisting of the Commissioner or the Commissioner's designee and two members of the Department staff appointed by the Commissioner other than members of the ~~Facilities Team~~ Office of School Facilities will review the written demonstration submitted by the SAU and presented by the SAU at an informal hearing-informational meeting. The Review Committee may call upon others to provide relevant information.
- B. Notification of the Review Committee's findings of fact and decision shall be made in writing within ~~sixty (60)~~ thirty (30) days of receipt of the request for administrative review.

- C. The Review Committee's findings of fact and decision will constitute final agency action.

4. Final Priority List

~~A.~~

Following either the close of the period in which appeals are permitted, or the completion of the Administrative Review process, the Proposed Priority List as recommended by the Commissioner and approved by the State Board becomes the Final Priority List.

- ~~B. For the Integrated, Consolidated 9-16 Educational Facility projects following either the close of the period in which appeals are permitted, or the completion of the Administrative Review process, as appropriate, the Proposed Priority List as recommended by the Commissioner is submitted to the State Board. The State Board will select from the recommended Proposed Priority List a qualified applicant to implement the innovative model.~~

SECTION 5. APPROVED PROJECTS LIST

After the Final Priority List is established, the Commissioner shall recommend and the State Board shall designate projects from that list that it intends to fund for a given Rating Cycle. This will be the Approved Projects List. The number of designated projects for funding will be determined by available resources. Should resources permit, additional projects may be approved by the State Board and they shall be selected from the Final Priority List in priority order.

Placement on the Approved Projects List is an acknowledgement that the pupils in the rated facility have a significant need to be ~~housed~~ educated under improved circumstances. It does not assure replacement of the facility(ies) that received the rating.

~~If resources do not allow all the projects on the Approved Projects List to be funded, the unfunded projects will be placed at the top of the Approved Projects List of the next Rating Cycle.~~

SECTION 6. SCHOOL CONSTRUCTION ELIGIBILITY AND APPROVAL PROCESS

1. Adequate Education

In making a determination under 20-A M.R.S.A. §15905(2) as to whether a proposed high school designed for less than 300 pupils will have an “adequate education program,” the State Board shall consider criteria listed below. The Board will obtain information from the Department when available. Other data shall be provided by the applicant SAU. These data shall be submitted to the State Board no later than 60 days after the State Board has designated the project for placement on the Approved Projects List. The State Board may consider such other information as it considers relevant to a given application. Similarly, the applying SAU may submit to the State Board any additional information it deems relevant.

After reviewing these materials, the State Board will determine whether the SAU will have the capacity to provide an adequate education program. The State Board will have 60 days from the receipt of the following data to issue, in writing, its decision and the rationale for that decision:

- A. **Faculty Quality**—The percentage of faculty holding provisional or professional certification shall be no more than one standard deviation below the State average for schools of 300 or less.
- B. **Graduation Rate**—The State Board shall review the graduation rates for each of the most recent five years. The average for those years shall be no more than one standard deviation below the State average for secondary schools of 300 or fewer students for the same period.
- C. **Maine State Evaluation System**—For the preceding five years, the percentage of students who fall within the “Does Not Meet the Standard” category shall be no more than one standard deviation greater than the State average for this category for schools of 300 or less.
- D. **Fiscal Sustainability**—The applicant SAU must demonstrate fiscal capacity to maintain both its facilities and an adequate education program based on data in the following areas:
 - (1) **Enrollment Data**—History for the last ten years (Department data) and a projection for the next ten years.
 - (2) **Budget History**—Revenues and expenditures for the last five years and projected budgets for the next five years based on EPS, mill rate, number of students, etc.
 - (3) **Income Data and Trends**—Household income data for the most recent five-year period for which they are available for all communities to be served.
 - (4) **Valuation**—Current and previous five-year valuation for the communities involved and any expected changes in the near future (e.g., new industrial complex planned, etc.).
 - (5) **Operational Costs**—Projected operational costs for the proposed facility for each of the next five years using the Department model.

~~(6) — **Financial Obligations** — A report of any projected increase/decrease in major financial obligations and the capacity of the communities to absorb them as anticipated for the next five years.~~

~~E. — **Comprehensive Education Plan** — The applicant unit must demonstrate that it has a Comprehensive Education Plan that meets the criteria and standards established by the Department and the State Board as set forth in Chapter 125 and also relevant sections of Chapter 127, with particular attention to the current and future education programs and recent results in the following aspects of the Comprehensive Education Plan:~~

~~(1) — Access for all students to a curriculum that is fully aligned with the Maine Learning Results.~~

~~(2) — A comprehensive program with adequate resources and a component that assists all students in planning for post-secondary education.~~

~~(3) — A comprehensive student support program designed to assist all students in meeting the Maine Learning Results.~~

~~(4) — A technology program that is fully integrated into the curriculum and provides all students with access to computing and other relevant technologies as they emerge.~~

~~Any denial of approval by the State Board under these provisions requires a determination that alternative solutions are available. Such alternative solutions must respect distances, time on the bus, and health and safety concerns. In addition, an alternative solution, if it will include major capital school construction, must respect the considerations specified in Section 6, subsection 1, paragraph D, “Fiscal Sustainability,” with particular attention to item (5), “Operational Costs.”~~

2.1 **Eligibility for State Funding** -- An analysis of the availability and accessibility of solutions, utilizing space at existing or new facilities in the region, shall be conducted prior to any decision on eligibility for state funding.

A2. **Site Approval** – All projects must receive Site Approval ~~by~~ from the State Board. In order to be considered for Site Approval, each SAU must, at a minimum, have successfully completed a site application. In considering new sites, schools should first refer to the requirements of Chapter 60, which deals specifically with school siting. In instances where additional property is to be acquired, each SAU must have secured an option on said site and have obtained appraisals as outlined in Section 7 subsection 4 of this Chapter. Prior to Site Approval the SAU shall hold the first of two required public meetings to present the site to the public and to take and record a straw vote. If the State Board approves the recommendation for Site Approval, the State Board will issue a Letter of Site Approval to the SAU. In considering applications for Site Approval the State Board shall be guided by Chapter 60 of its rules. Consideration should be given to new facilities in service centers and in-town locations that offer such advantages as fewer students requiring bussing and the easy availability of utilities.

B3. **Concept Approval** – The State Board will consider Concept Approvals at any of its regularly scheduled meetings based on the recommendations of the Commissioner. Concept Approval will be considered following Site Approval. Prior to consideration by the State Board for Concept Approval, the SAU shall provide to the Department a conceptual presentation of a proposed solution and conduct a second public meeting, prior to the State Board Concept Approval meeting, to present the

same information to its public as it will to the State Board. There shall be a straw vote and the results must be reported to the State Board. The proposal shall include a projected preliminary budget that shall be the maximum total allowable budget for the project. ~~The state/local share approved for inclusion for debt service. Neither the state portion nor the local only portion approved~~ at Concept Approval may ~~not~~ be exceeded without State Board approval and a subsequent local favorable referendum. If the State Board approves the recommendation for Concept Approval, the State Board will issue a Letter of Concept Approval to the SAU.

- ~~€~~4. Approval of Local Voters** - Prior to requesting State Board Design and Funding Approval each school construction project must gain a favorable vote in a local referendum pursuant to 20-A M.R.S.A. §15904.
- ~~Đ~~5. Design and Funding Approval** – After drawings are 100% complete the State Board will consider Design and Funding Approval at any of its regularly scheduled meetings based on the recommendation of the Commissioner. If the State Board approves the recommendation for Design and Funding Approval, the State Board will issue a Letter of Design and Funding Approval to the school administrative unit.
- ~~£~~6. Final Funding Approval** – Final Funding Approval by the Commissioner will occur after contract bidding. All SAUs shall comply with Section 11 of this Chapter. The Commissioner or the Commissioner's designee will establish a Final Project Budget at the time of Final Funding Approval. The Commissioner will issue a Certificate of Final Funding Approval.
- ~~£~~7. Time Limitations** - The following time limitations apply to all Major Capital School Construction projects.
- ~~(1)~~A. Every project placed on the Approved Projects List will be assigned a calendar year within which Concept Approval shall be obtained. Failure to obtain Concept Approval within the designated year shall result in removal from the Approved Projects List unless a waiver is obtained from the State Board at least 30 days prior to the expiration of the SAU's assigned year. To be considered for a waiver, the SAU must present to the State Board a proposed timetable and plan for obtaining Concept Approval. Approval by the State Board of the proposed timetable shall constitute a waiver.
 - ~~(2)~~B. Within six months after the date of State Board Concept Approval, a project must secure a favorable local referendum vote. Projects not receiving a favorable local referendum vote within six months of Concept Approval will be removed from the Approved Projects List.
 - ~~(3)~~C. Within eighteen (18) months of a favorable local referendum vote, a project shall be presented to the State Board for Design and Funding Approval.
 - ~~(4)~~D. Within nine months of State Board Design and Funding Approval, a construction contract shall be signed.
 - ~~(5)~~E. In cases when the SAU's referendum includes the provision for Interest-Only Local Interim Financing and the referendum fails, the SAU shall return to the State Board for Concept Approval on the schedule originally assigned to it, and the provisions of paragraphs ~~£(1) 7(A) - 7(D) thru~~ (4) of this subsection shall apply.
- ~~€~~8. Building Standards** - All school construction projects involving state funds in the construction of new facilities, additions to existing buildings, or major alterations of existing buildings shall be designed and constructed with materials that provide long-term durability, and meet current energy

efficiency standards. ~~as defined in 5 M.R.S.A. §§ 1762-1769, and Bureau of General Services Rule Chapter 60, and go through the stages of State Board approval outlined in this section.~~

~~All construction shall conform to conservation standards as specified by the.~~

H9. Construction Change Order Requests – Owner-initiated change orders require prior approval from the ~~Facilities Team~~ Office of School Facilities and ~~will be at~~ are considered to be a local cost. When an owner initiated change is considered necessary by the ~~Facilities Team~~ Office of School Facilities, the change order expense may be ~~at state/local expense~~ included in the state portion. The ~~Facilities Team~~ Office of School Facilities shall determine the funding source of all change orders. Discovered conditions, ~~Errors and omissions~~ changes require approval from the ~~Facilities Team~~ Office of School Facilities.

H10. Ventilation Requirements – The school administrative unit will utilize the best-available practice national standards of the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) for inspection, maintenance, ventilation and filtration.

SECTION 7. SITE SELECTION

To receive Site Approval by the State Board a site must conform to the following requirements:

1. Site Requirements

School building sites shall have sufficient usable land to provide for the following:

- A. Such structures as are needed for the education program and any necessary adjunct services such as a well or septic system;
- B. Safe access for vehicles and pedestrians including appropriate separation of private vehicles, school buses and service and delivery vehicles;
- C. Reasonable future additions to the project;
- D. Appropriate outdoor physical education and playground space ~~recreation areas and playing fields;~~ and
- E. Sufficient parking for staff, visitors and reasonable community use.

Site requirements may be met by adding together non-contiguous parcels of land when those parcels safely support the educational programs of the school.

2. Maximum State-Subsidized Site Size

- A. Maximum reimbursable site size for elementary schools is defined as 20 acres plus one (1) acre for each 100 students.
- B. Maximum reimbursable site size for middle schools (any combination of two (2) or more grades (5 through 8)) is 25 acres plus one (1) acre for each 100 students.
- C. Maximum reimbursable site size for secondary schools is defined as 30 acres plus one (1) acre for each 100 students.
- D. Maximum site size for other grade configurations shall be based on the highest grade level included in the project.
- E. Maximum site size for a Regional Integrated Educational Facility is defined as 40 acres plus one (1) acre for each 100 students of the total number of students attending, including students attending from other schools.

3. Location

- A. The selection of sites for new school facilities shall be in compliance with the provision of 30-A M.R.S.A. Chapter 187, subchapter II, and any local ordinances governing the location of school buildings. 30-A M.R.S.A. Chapter 187, subchapter II, also known as the Municipal Growth Management Program Law, includes provisions for municipal development and administration of local comprehensive plans. Applications for school construction projects shall include reference to and assurance of compliance with local comprehensive plans when they exist.

- B. **Site Investigation** - An SAU shall conduct a Department of Environmental Protection Phase I Environmental Assessment of the prior uses of the proposed site.
- C. Consideration should be given to providing the minimum travel distance for the maximum number of students.

4. School Site Appraisal

A. Appraised Value –

- (1) Application for approval of a new school building site must be accompanied by an option to purchase the land and two certified appraisals based on similar recent purchases. The average of the two appraisals is defined by the State Board as the "appraised value." If the lower of the two appraisals varies from the higher by more than 25 percent of the lower appraisal, a third appraisal must be secured and the average of the three appraisals will become the appraised value.
- (2) When information on similar recent purchases is not available, other methods of determining value may be used with the approval of the Commissioner.

- B. **Cost Limitation** – The maximum amount eligible to be included in the state ~~funding of school construction projects~~ portion shall be the appraised value of each school site, ~~limited to the maximum approved site size~~ subject to the funding restrictions in subsection 5 below.

- C. **Title** – An SAU must demonstrate to the State that the unit can obtain a clear title to the property without encumbrances.

5. Funding Restrictions

- A. The cost of land acquired for a Major Capital School Construction project to the extent that it exceeds the maximum site size shall be included in the local only portion, and as such shall be entirely at the SAU's expense and shall not be eligible for state debt service subsidy through cost sharing. State subsidy will only apply to Only the cost of acreage approved by the State Board and shall be at the rate of at a rate per acre not more than the average cost per acre for the entire site will be included.
- B. Sites acquired prior to receiving State Board Site Approval must meet all of the following requirements:
 - (1) the SAU is ~~placed already~~ placed already on the Approved Projects List; ~~and~~
 - (2) the site receives State Board Site Approval; and
 - (3) the cost that is eligible for subsidy shall be either the purchase price of the site, or the current appraised value as determined by the procedure detailed in subsection 4 paragraph A of this section, whichever is less.

6. Approval by State Board

The final decision on school Site Approval rests solely with the State Board, which shall be guided by the requirements of State Board Rules Chapter 60, New School Siting Approval.

SECTION 8. CONCEPT APPROVAL

Each SAU developing a construction or renovation project shall complete the work required by the Education Specifications. : Designing Maine's Schools for Tomorrow's Students.

1. Educational Specifications

The Educational Specifications guide of the Maine Department of Education ~~are~~ is to be used by the SAU, ~~the Bureau of General Services~~, designers, and the Department in developing the plans and specifications for the proposed project.

2. Space Allocation Workbook

Each SAU shall submit a Space Allocation Workbook in a format acceptable to the Department. This workbook shall be based on the guidelines provided by the Department and periodically reviewed by the State Board. The Space Allocation Workbook shall guide the SAU, the designer, and the Department in determining the appropriate size of the new or renovated facility. For purposes of determining square footage of a facility, tuition students shall be considered as resident students provided that a long-term tuition contract exists.

3. Community Use of School Facilities and Percent for Art

- A. Consistent with the provisions of 20-A M.R.S.A. §15911, the State Board encourages the public use of school facilities insofar as that use is compatible with regular school use.
- B. The State Board encourages the inclusion of works of art as provided in the Percent For Art statute. Up to one percent of the construction cost or the maximum as defined in 27 M.R.S.A. §§ 451-459, whichever is less, may be included in the project budget. All costs of building modifications, structural support or blocking, electrical power and installation are to be borne by the Percent for Art budget.

4. In accordance with 20-A M.R.S.A. §15908-A, all planning for the construction of a new school or for a substantially renovated school that is built, in whole or in part, with state funds including schools funded through state bonds or the Bond Bank must demonstrate consideration of the most energy efficient and environmentally efficient design suitable for the project by:

- A. Considering architectural designs and energy systems that show the greatest net benefit over the life of the building by minimizing long-term energy and operating costs; and
- B. Including a life-cycle cost analysis that explicitly considers costs and benefits over a minimum of 30 years and that explicitly includes the public health and environmental benefits associated with energy-efficient building design and construction to the extent these benefits can be reasonably quantified.

The life-cycle cost analysis should be combined with the Life Cycle Analysis required by Section 9, subsection 3 of these rules.

5. A school unit proposing to renovate a school that is on the Register of Historic Places or is eligible for nomination to the Register as defined in 20-A M.R.S.A. §15908-A(4)(A) may receive a waiver of the energy requirements of this section if the school unit can demonstrate that it can meet two of the three provisions in 20-A M.R.S.A. §15908-A(4)(A). Waivers are granted by the State Board in consultation with the Public Utilities Commission and the Director of the State Historic Preservation Commission. The local school authority must demonstrate that the renovation of the historic school building would not compromise the public health and safety requirements of this chapter.

SECTION 9. DESIGN AND FUNDING APPROVAL

Each SAU developing a construction or renovation project shall provide the following information to the Department.

1. **Proposed Building Technology Plan**

An SAU shall provide a written Technology Plan for the building to the Department prior to design development review.

2. **Facility Maintenance Plan**

The State Board requires an SAU applying for state funds for a school construction project to establish a facility maintenance plan for the projected life cycle of the proposed school building. Facility Maintenance Plans shall comply with:

20-A M.R.S.A. Chapter 201, §4001(1)(7);
20-A M.R.S.A. Chapter 609, §15901(2);
20-A M.R.S.A. Chapter 609, §15905(6); and
20-A M.R.S.A. Chapter 609, §15918.

3. **Life Cycle Analysis**

An SAU shall provide is-an analysis of energy related alternatives and material assemblies with the objective of selecting the most cost-effective building systems for the project relating to initial cost, maintenance cost, and the expected life of the system.

4. **Construction Estimates**

Prior to Concept Approval, the architect shall prepare and provide to the Department an estimate of the cost of the proposed facility. A second estimate, prepared by a party satisfactory to the ~~Facilities Team-Office of School Facilities~~, shall be submitted to the Department prior to Design and Funding Approval. The estimates will guide the owner, the architect, and the Department in the decision to go forward or to reconsider elements of the design.

5. **Commissioning**

Commissioning costs may be supported with state/local monies eligible for inclusion in the state portion and/or the local only portion.

6. **~~Facilities Team-Office of School Facilities~~ Review**

A review with the ~~Facilities Team-Office of School Facilities~~ is required when the plans and specifications are at 100% completion.

SECTION 10. FINAL FUNDING APPROVAL

1. Final Funding Approval

Final Funding Approval by the Commissioner establishes the project budget and takes place after construction bids have been received. At that time the Commissioner may reduce the budget to finance the project, thus providing additional funds for other projects. Expenditures from each line item shall not exceed the amount of that line item except as approved by the ~~Facilities Team~~ Office of School Facilities. The Commissioner's Certificate of Final Funding Approval will also specify the date of the bond sale for the project and the length of the bonding period.

2. Approval of Contingency Usage

The bid and project contingency funds of each project budget will only be expended with the approval of the ~~Facilities Team~~ Office of School Facilities.

3. Line Item Surplus

When a line item of the project budget has surplus funds after all obligations have been met, the SAU shall not expend the surplus without the approval of the ~~Facilities Team~~ Office of School Facilities.

4. Moveable Equipment

- A. Budget Requirements: Moveable equipment costs will generally constitute ~~43%~~ of the building construction costs in a project budget. This percentage may be increased for special and unique circumstances specifically pertaining to Career and Technical Education projects or may be modified by the State Board upon recommendation of the ~~Facilities Team~~ Office of School Facilities on a case-by-case basis. This budget may be adjusted by the Commissioner at the time of Final Funding Approval.
- B. Submission of Moveable Equipment List: A Moveable Equipment List for the project shall be developed by the SAU and submitted to the ~~Facilities Team~~ Office of School Facilities within twelve (12) months of the signing of the construction contract. Items on the SAU's Moveable Equipment List must be approved by the ~~Facilities Team~~ Office of School Facilities, and a copy of the approved list must be maintained by the Department.
- C. Should the SAU wish to purchase an item or items not on its approved Moveable Equipment List maintained by the ~~Facilities Team~~ Office of School Facilities, the SAU shall submit a written request for permission to purchase the item or items. The ~~Facilities Team~~ Office of School Facilities shall approve or deny the request in a timely manner and notify the SAU of its decision.
- D. Moveable equipment ~~will~~ may be purchased with ~~state/local~~ funds from the state portion and/or the local only portion of the project budget when it has received prior approval by the ~~Facilities Team~~ Office of School Facilities.

5. Monthly Budget Tracking

The SAU shall track the monthly expenditures and revenues of the project using the format provided by the ~~Facilities Team~~ Office of School Facilities. This information shall be submitted to the ~~Facilities Team~~ Office of School Facilities and compliance review staff for ~~periodic~~ monthly review.

6. Project Management

The Department shall have a representative for each project whose responsibility will include but not be limited to the following: attending monthly requisition meetings, monitoring construction progress, reviewing proposed change orders, conducting monthly reviews of financial statements and acting as a conduit to the Department's Director of School Facilities. The SAU may employ an Owner's Representative through the local only portion of the project budget to meet ~~the~~ ~~additional~~ local needs of the project.

SECTION 11. FINANCING SCHOOL CONSTRUCTION

With respect to issuing tax exempt bonds and BANs for the project, the segregation, investment and use of proceeds, the disposition of unused funds, and recordkeeping, as described throughout this Section 11, the SAU must comply with the requirements of the Internal Revenue Service for tax exempt bond financing. The SAU will generally find these requirements in the SAU's arbitrage and use of proceeds certificate. The SAU is advised to consult with its bond counsel in advance as to their application in each circumstance covered by this Section 11.

1. All school construction project funds (both state and local) shall be deposited in a newly established school construction interest-bearing account with unused proceeds remaining invested at all times. School construction project funds maintained in bank and investment accounts shall not be commingled with non-project funds of the SAU.
2. Accurate financial records shall be maintained, in the SAU's accounting system, of all fiscal transactions and activities relative to the construction project, including:
 - A. cash receipts;
 - B. all expenditures, including all expenditures from proceeds of notes and bonds issued for the project by date, payee and amount;
 - C. all investment earnings on notes and bonds issued for the project by date, source and amount;
 - D. short-term borrowing and investments of bond proceeds (particularly the dates and rate of interest);
 - E. bank statements; and
 - F. other related project documents.

Parties must maintain all records for which they are responsible. Parties that may be directly involved with maintaining records are municipal officials, the municipal finance director or town treasurer, the superintendent of schools, or the SAU's financial staff. Prior to the final compliance review conducted by the compliance review staff, all project-related records shall remain in a secure and accessible on-site location. After the final compliance review is conducted by the compliance review staff, all project-related records shall be retained for the period the SAU has certified to its lender for tax exempt financing and in anticipation of possible audits by the Internal Revenue Service, but in any case not less than seven years. These records shall remain in a secure and accessible location for two years and then may be transferred to a secure location for the remaining ~~five~~ years of retention. Department personnel may meet regularly with SAU staff during the project to provide guidance on record-keeping.

~~Parties should retain records in accordance with the requirements certified by the SAU to its lender for tax exempt bond financing and in anticipation of possible audits by the Internal Revenue Service.~~

School construction revenues and expenditures must be included in quarterly financial reporting to the Department's financial reporting system.

3. State Funds

The Department shall include the appropriate amount of debt service principal and interest in an SAU's debt service allocation.

4. Cost Sharing

- A. Each project will be subject to state and local cost sharing. The local cost share of the project budget will be based on 50% of the EPS local share percentage at the time of Concept Approval.
- B. For projects that include island schools or the consolidation of two or more school buildings, the local cost share of the project budget will be based on 35% of the EPS local share percentage at the time of Concept Approval.
- C. For projects that include the reorganization of two or more SAUs into one SAU for the purpose of operation of a new school(s), the local cost share of the project budget will be based on 25% of the EPS local share percentage of the new SAU at the time of Concept Approval.
- D. Cost sharing will not apply to Regional Integrated Educational Facility projects.
- E. The SAU's responsibility for the local cost share of the bonds for the state portion is in addition to the SAU's responsibility for 100% of the debt service on the bonds the SAU issues for the local only portion of the project budget and other project costs as described in this Rule.

45. Investment and Use of Project Funds

Investment and use of proceeds is also subject to Internal Revenue Service arbitrage regulation, including yield restriction after temporary periods. Subject to compliance with those requirements:

- A. Unused portions of note proceeds, bond proceeds, and any interest earned thereon, shall be kept invested at all times consistent with safety of principal, liquidity, and return, as follows:
 - (1) adequate paramount consideration to safety of principal consistent with sufficient liquidity for project needs;
 - (2) sufficient liquidity for project needs; and subject to those paramount considerations; and
 - (3) the highest available interest rate consistent with paramount considerations of safety of principal and sufficient liquidity for project needs.
 - (4) Such investments shall also be in accordance with 30-A M.R.S.A. §5706 and §5711
- B. If the compliance review reveals that project funds were not deposited in an interest-bearing account(s) and unused proceeds did not remain invested, the compliance review staff will prepare a cash flow analysis at the time of the final compliance review to

determine the estimated amount of interest that would have been earned had funds been invested. The SAU will be required to pay the amount of estimated net interest that would have been earned had project funds been appropriately invested.

- C. SAUs are required to have calculated the amount of arbitrage rebate attributed to the investment of project funds that is currently due or estimated to be due to the Internal Revenue Service prior to the final compliance review. Amounts due or payable to the Internal Revenue Service may be deducted from amounts required to be returned in accordance with Section 13.
- D. When an SAU selects the two-year spending exception to rebate option pursuant to Section 1.148-7 of the U.S. Treasury regulations, ~~the amount of interest reinvested in the construction project will be deducted from the amount of project costs to be subsidized.~~ A at the time the bond has been issued an SAU must notify the Department that it has selected the two-year spending exception to rebate option and shall provide documentation that proceeds have been allocated to expenditures in accordance with the schedule pursuant to Section 1.148-7 of the U.S. Treasury regulations. The amount of interest expended to comply with the spending exception requirements of the Internal Revenue Service will be deducted from the amount of project costs or project debt service to be subsidized.
- ~~DE.~~ Interest earned from the investment of project funds shall be determined at the time of the final compliance review of the project by the compliance review staff.
- ~~EF.~~ Interest earned as a result of the investment of insurance proceeds, gifts or federal funds available to the project may be retained by the SAU and used for school purposes subject to IRS requirements for "replacement proceeds," to the extent applicable.
- ~~FG.~~ Subject to a deduction allowed for the interest expense of ~~State / Local~~ BANs issued for the state portion of the project budget, net interest earned on the ~~project funds investment of BANs and bonds issued for the state portion~~, including those held in an SAU's investment account(s), shall be returned upon completion of the final compliance review and be applied as school construction audit recoveries in accordance with 30-A M.R.S.A. §6006-F(2)(F) except when the two-year spending exception to rebate option has been selected pursuant to paragraph ~~ED~~ above. The deduction allowed for the interest expense of ~~State / Local~~ BANs for the state portion shall not exceed the income earned on ~~State / Local investment of BANs and bonds for the state portion~~ except as otherwise allowed by this Rule.
- ~~GH.~~ Subject to the requirements of the Internal Revenue Service on use of bond proceeds, ~~Net~~ interest earned on the ~~local-only share~~ BANs and bonds the SAU issues for the local only portion of the project budget determined at the time of the final compliance review may be retained by the SAU ~~but~~ and used for school purposes.
- ~~HJ.~~ Subject to the requirements of the Internal Revenue Service on the use of bond proceeds, ~~I~~nterest earned between the time of the final compliance review and payment of the final settlement may be retained by the SAU but used for school purposes.

56. Temporary Borrowing or Bond Anticipation Notes (BANs)

- A. Temporary borrowing prior to the issuance of bonds shall be accomplished as follows:
 - (1) On a written, competitive basis at the lowest interest rate available, or by a method approved in writing by the Commissioner.

- (2) An SAU may borrow up to the estimated amount necessary to finance start-up costs until bonds are sold in accordance with the bond sale date provided in the Certificate of Final Funding Approval issued by the Commissioner, with the understanding that unused note proceeds shall be kept invested in accordance with subsection 45 paragraph A of this Section.
- B. An SAU shall include in the Concept Approval budget, as a ~~local expense~~, local only portion of the project budget, any anticipated interest cost of temporary borrowing that exceeds anticipated interest income.
- C. In the event the interest cost of temporary borrowing exceeds the interest income:
 - (1) a detailed accounting of investments and costs shall be prepared by the compliance review staff at the time of the final compliance review;
 - (2) any interest cost of temporary borrowing that exceeds interest income shall be the responsibility of the SAU;
 - (3) in exceptional circumstances and upon approval of the Commissioner, the net interest cost of temporary borrowing may be included in the SAU's
 - a. ~~state/local~~ allocation as a debt service cost, or
 - b. as an audit adjustment to the SAU's subsidy calculation.
- D. Interest costs of temporary borrowing shall be determined at the time of the final compliance review of the project by the compliance review staff.
- E. Documentation of principal and interest payments on loans and BANs shall be submitted to the ~~Facilities Team~~ Office of School Facilities with the monthly report required by Section 10, subsection 5 of these rules.

67. Interest Lost

- A. Estimated interest lost because of the use of non-project local funds for incidental start-up costs, following placement of the project on the Approved Projects List and prior to receipt of temporary borrowing proceeds, will be determined by the compliance review staff at the time of the final compliance review of the project.
- B. The amount of interest lost on the local only portion will be deducted from interest earned on the investment of project funds and may be retained by the SAU and used for school purposes only.
- C. This does not apply to projects during the period of interest-only interim local financing as defined in 20-A M.R.S.A. §15905(7).

78. Disposition of Unused Bond Proceeds

The SAU's disposition of unused tax exempt bond proceeds is also generally subject to arbitrage and use of proceeds requirements (including yield restriction after applicable temporary period(s)), as provided in regulations of the Internal Revenue Service. The SAU is responsible for

compliance with these requirements and should consult with its bond counsel in advance as to these requirements, as necessary. Subject to the foregoing:

- A. Within thirty (30) days of the date of the final compliance review letter, and upon agreement to the final compliance review, the balance of the unused bond proceeds, including investment earnings identified after final ~~close-out~~ closeout of the SAU's project shall be deposited in a segregated, interest-bearing escrow account.
- B. After the final compliance review an SAU shall use all of the unused bond proceeds, and any accrued interest earned that is not subject to arbitrage rebate under the Internal Revenue Code, to pay down the debt service costs on subsidized school construction bonds.
- C. An SAU shall inform the compliance review staff of the amount deposited in a segregated account, the date that net proceeds from the account can first be used to pay down debt service costs, and an estimate of the amount of funds (principal and interest) in the account that is expected on that date.
- D. Unused bond proceeds of \$5,000 (five thousand dollars) or less are considered *de minimis* amounts and will not result in a reduction of the debt service subsidy.

89. Non-Allowable Expenditures

Non-allowable expenditures shall be the financial responsibility of the SAU and will be determined at the time of the final compliance review by the ~~Facilities Team~~ Office of School Facilities and compliance review staff.

910. Interest-Only Interim Local Financing

- A. The State Board may accelerate the dates on which it grants Concept Approval and Design and Funding Approval for a school construction project that has been placed on the Approved Projects List of the State Board, on the condition that the SAU provides interest-only interim local financing for the project.
- B. The period of interest-only interim local financing must be determined by the State Board at the time Concept Approval is granted for a project and must be based on the time difference between the date that Final Funding Approval is expected to be granted on an accelerated basis and the date that Final Funding Approval would have been expected to be granted in the normal course.
- C. Interest-only interim local financing shall be in accordance with 20-A M.R.S.A. §15905(7).

SECTION 12. BONDING OF MAJOR CAPITAL SCHOOL CONSTRUCTION PROJECTS

Bonds for Major Capital School Construction projects shall be sold after favorable local referendum vote on a schedule approved by the State Board that accommodates the approved debt service limit as established by the Legislature.

1. In exercising the Commissioner's discretion to determine the term of construction bonds for the state portion of the project budget, the Commissioner shall be guided by the following table in determining the length of school construction bonding issues:
 - A. Bond issues of ~~\$2,500,000~~ 20,000,000 and under - 15 years
 - B. Bond issues in excess of ~~\$2,500,000~~ 20,000,000 - 20 years
 2. ~~Sale of Bonds~~ The sale of bonds for the project shall comply with state and federal requirements and the Final Funding Approval. The sale of bonds to fund the state portion of the project budget shall also comply with the following:
 - A. The sale of bonds shall be consistent with Section 12 of this Chapter and bonds shall be sold by the bond sale date specified in the Certificate of Final Funding Approval issued by the Commissioner.
 - B. Proceeds of the bond sale shall be used immediately or at the earliest possible date, whichever is in the best interest of the project, to pay principal and interest costs due to temporary borrowing or BAN.
 3. The Certificate of Final Funding Approval issued by the Commissioner shall specify the length of the bonding period.
 4. Bonds may be sold and issued only in accordance with the dates specified in the Certificate of Final Funding Approval issued by the Commissioner. All notices of bond sale must contain the following stipulations:
 - A. Bidders must state the rate or rates of interest per annum that the several maturities of the bonds are to bear.
 - B. The principal pay down of the respective loan shall be structured in a manner that the principal repayments are level made in not more than twenty (20) substantially equal successive annual installments to the extent that such structure complies with industry standards with the first installment payable not later than two years from the date of issuance. ~~The number of principal payments shall not exceed twenty (20).~~
 - C. Bonds ~~sold~~ issued during the fall (Fall Sale) of the first half of the fiscal year beginning July through December (i.e., last six calendar months) have respective first interest payments in the second half of the fiscal period from January through June (i.e., first six calendar months of the next calendar year), with principal and interest payments to commence in the following fiscal year's first half (i.e., the last six calendar months of the next year), and with subsequent interest payments each six months and subsequent principal payments to follow each six months and twelve months respectively, until bonds mature.
- Note— Example of Fall Sale:** If bonds are sold-issued in November 2024-2030, —the first State debt service payment will be interest only occurring in May 2025-2031 (approximately

six months after the ~~sale~~ issue date of bonds), ~~and the~~ second State debt service payment will be interest plus principal occurring in November ~~20125~~ 2031 (approximately twelve months after the ~~sale~~ issue date of bonds), with payments of interest occurring each May and principal and interest occurring each November thereafter until bonds mature.

- D. Bonds ~~sold~~ issued during the spring (Spring Sale) of the second half of the fiscal year beginning January through June (i.e., first six calendar months); have respective first interest payments in the first half of the following fiscal period from July through December (i.e., second six calendar months of that calendar year), with the following interest payment to be made in the subsequent second half of the fiscal year from January through June (i.e., the first six calendar months of the following calendar year), with principal and interest payments to commence in the following fiscal year's first half from July through December (i.e., the last six calendar months of the following calendar year), and with subsequent interest payments each six months and subsequent principal payments to follow each six months and twelve months respectively, until bonds mature.

~~Note~~ — **Example of Spring Sale:** If bonds are ~~sold~~ issued in May ~~2024~~ 2030, — the first State debt service payment will be interest only occurring in November ~~2024~~ 2030 (approximately six months after the ~~sale~~ issue date of bonds), the second State debt service payment will be interest only occurring in May ~~2025~~ 2031 (approximately twelve months after the ~~sale~~ issue date of bonds), and the third State debt service payment will be interest plus principal occurring November ~~2025~~ 2031 (eighteen months after the ~~sale~~ issue date of bonds), with payments of interest occurring each May and principal and interest occurring each November thereafter until bonds mature.

SECTION 13. PROJECT COMPLIANCE REVIEW

1. The compliance review staff may conduct interim compliance reviews of non-completed school construction projects in order to determine compliance as of the date of the compliance review.
2. All school construction projects will be subject to a final compliance review by the compliance review staff before a final settlement is established. The amount of the final settlement, if any, must be submitted to the Department, made payable to the Treasurer of the State of Maine, and indicate that the payment is for final settlement of the school construction project. No further purchases from the construction account will be allowed once the project is determined to be completed. Completion date of the project shall be determined by the ~~Facilities Team~~ Office of School Facilities. The completion date may be changed upon written approval by the Commissioner. In cases where delayed or staggered payments of final settlement due to the state are made beyond the time specified in the final compliance review summary, interest will be charged to the SAU. Interest due will be calculated by the compliance review staff.

SECTION 14. NON-STATE FUNDED PROJECTS

Pursuant to 20-A M.R.S.A. §15905-A, SAUs must obtain the approval of the Commissioner for non-state funded projects.

SECTION 15. REGIONAL INTEGRATED CONSOLIDATED 9-16 EDUCATIONAL FACILITY

Except where language in this section specifies to the contrary, all provisions of Chapter 61, “Rules for Major Capital School Construction Projects,” are applicable to projects authorized under ~~Section 15~~ this section.

1. A Major Capital School Construction Project for an Regional Integrated, consolidated 9-16 Educational Facility shall ~~articulate~~ include the following ~~criteria~~:
 - A. A Facility that will shall consolidate and integrate secondary schools, career and technical education, and post-secondary education opportunities that will include: for:
 - (1) A new regional high school or new regional middle/high school;
 - (2) A fully integrated career and technical education high school region or center;
 - (3) ~~A h~~Higher education center partnerships that will provide dual enrollment and/or concurrent enrollment courses and toward degrees or licensure and certification from ~~both~~ the University of Maine System and or the Maine Community College System; and
 - (4) Industry partnerships and/or training leading to recognized licensure and certification.
 - ~~B. Facility will promote ‘one campus’ design and each of the four components listed in subsection 1(A) above, must have a physical presence on the campus and use facilities on that campus to deliver courses; each of the four components must also offer teacher and student interaction that is not separated in space, or space and time as characterizes distance learning, although the Internet, videoconferencing and other technology employed in distance learning may be used to complement or expand offerings. Courses may be provided using the Internet, videoconferencing and other technology employed in distance learning to complement real time, shared space learning.~~
 - ~~C.B.~~ A consolidated governance and Administration administrative structure. of the four educational programs will be consolidated whenever possible.
 - ~~D.C.~~ An explanation of the lLong-term sustainability and possible cost reductions resulting from ~~either~~ consolidation and ~~or~~ integration of programs over a ten year period ~~will be explained~~.
 - ~~E.D.~~ Implementation of aAn aAdvisory body Board that is integrated with the local economy; includes students, educators, citizens, business leaders, ~~teachers~~, parents and organizations to promote both employment opportunities for students and citizens and a skilled workforce optimal for economic development.
2. **Rating Sheet Scoring Criteria for Regional Consolidated, Integrated 9-16 School Educational Facility**

For schools applying for a major capital construction project under ~~Section 15~~ this section of Chapter 61, this ~~rating sheet~~ scoring criteria shall be substituted for Section 3.

A. **Required elements articulated in ~~Resolve, Chapter 223~~ (60 30 points):**

- (1) Approved minutes and other documents indicating that the governing bodies of all entities at least two high schools have committed to participate in the creation of a new Regional Integrated Educational Facility. regional high school together with a CTE school (center/region) have committed to participate in the proposed school.
- (2) Documentation as to the form of governance for the proposed school, including indication of the fiscally responsible entity.
- (3) Evidence of a commitment by the University of Maine System, or a unit thereof to offer courses and degrees to students attending the proposed facility of higher education partnerships that will provide dual enrollment and/or concurrent enrollment courses toward credits earned from the University of Maine System and/or the Maine Community College System.
- ~~(4) Evidence of a commitment by the Community College System, or a unit thereof, to offer courses and degrees to students attending the proposed facility.~~
- ~~(54) Evidence of commitments by appropriate community businesses or business organizations to provide industry specific training to of industry partnerships and/or training leading to recognized licensure and certification for students attending the proposed facility.~~
- ~~(65) Membership of Names and organization constituency for the Advisory Board body, including names and organizations.~~

B. **Mission, Goals, and Implementation ~~A description of the integrated mission and goals and the long range plan for the implementation of an integrated, consolidated 9-16 educational facility.~~ (30 Points)**

- (1) Provide a description of the integrated mission and goals for the new Regional Integrated Educational Facility.
- (2) Provide a timeline that outlines the steps for the implementation of the new Regional Integrated Educational Facility.

C. **Integration of Programs (~~50~~ 60 Points)**

- (1) Describe how career and technical education concepts are embedded into academic instruction to prepare students for post-secondary education and career pathways. Describe the way and extent to which the programs offered to traditional, college bound students will be integrated with the programs focused on career and technical education. (Integration requires more than opening courses and programs to cross registration.)
- (2) Describe and detail the programs to be offered in the new Regional Integrated Educational Facility, regional high school including plans for locating programs that break down the barriers between traditional academic and career technical programs.

- (3) Describe the specific approaches to be used to assure that all students will be able to meet the Maine Learning Results.
- (4) ~~List~~Describe the strategies and approaches to be used ~~to~~with the higher education partnerships. ~~ensure that the higher education courses and programs are offered in facilities located on one site, providing a streamlined and integrated learning experience for students of all ages.~~
- (5) ~~Describe~~Detail the industry-specific partnerships and/or training leading to recognized licensure and certification that will ~~to be~~ offered to students at the ~~proposed facility by business organizations~~new Regional Integrated Educational Facility. ~~Describe the organization(s) that will offer the training.~~

D. **Professional Training Development** (20 ~~30~~ Points)

~~Describe approaches and methods to be used to assist~~the professional development plan that will prepare all faculty and staff in carrying to carry out the mission and goals of an integrated and consolidated educational facilitythe new Regional Integrated Educational Facility, including a timeline, proposed funding, and time allotted for this work.

E. **Administration Organizational Structure, Cost Saving and Program Opportunities of Proposed Facility** (40 ~~50~~ Points)

- (1) ~~Describe the way in which the administrations of the regional high school, career and technical high school, higher education programs, and industry training center will be integrated~~proposed organizational structure of the new Regional Integrated Educational Facility including how decisions will be made, how staff will be organized, and the anticipated administrative responsibilities.
- (2) Detail the cost savings anticipated as a result of the consolidation into one Regional Integrated Educational Facility~~of the integrated administration.~~
- (3) ~~Implementation of the innovative models would occur only with a specific increase in the debt service to create a pool of available funds for the innovative model based on the criteria in Section 15 of this rule.~~ For all the other schools and programs in the SAUs, describe additional cost efficiencies and program opportunities that will result from building a new Regional Integrated Educational Facility.

STATUTORY AUTHORITY:

20-A M.R.S.A. §3

20-A M.R.S.A. §405(3)(J)

20-A M.R.S.A. §15905 sub-§4

P.L. 2001 c. 439 Part 0000 §0000-3

P.L. 2007 c. 240 Part MM Chapter 103-A

P.L. 2008 c.223

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NON-SUBSTANTIVE CORRECTION:

November 23, 2000 - page number correction in Table of Contents

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August 4, 2004

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May 25, 2012 – filing 2012-132

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