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DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES  
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SERVING THE PUBLIC AND DELIVERING ESSENTIAL SERVICES TO STATE GOVERNMENT

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*Testimony of Anya Trundy, Deputy Commissioner  
Department of Administrative and Financial Services  
Testifying in Opposition to*

### **LD 817, An Act Remove the Restrictions That Prohibit School Administrative Units from Making Purchases Through**

Sponsored by Rep. Christina Mitchell  
*Before the Joint Standing Committee on Education and Cultural Affairs*

Senator Rafferty, Representative Murphy, and members of the Joint Standing Committee on Education and Cultural Affairs, I am Anya Trundy, a Deputy Commissioner for the Department of Administrative and Financial Services and I am here today to testify in opposition to LD 817 as drafted and provide the committee with information about the sections of statute being amended which are administered by DAFS and outside of the education statutes that you are most familiar. I also hope to learn more about both the broad and specific issues this bill is seeking to address, as we have noted that this bill specifically identifies athletic fields.

Section 1 of this bill proposes exempting "contracts for the purchase, repair or alteration of any nonbuilding real property, including but not limited to, an athletic field" from the **Public Improvements Statutes** and from the requirement that construction, major alterations or repairs in excess of \$250,000 must be awarded by competitive bid. "Construction, major alteration or repair of school buildings, in excess of \$25,000, by any school administrative unit and for which state school construction aid is to be paid" are included in the definition of Public Improvements (5 MRS §1741).

Section 2 of this bill would add "school administrative units for the purchase, repair, or alteration of any nonbuilding real property, including but not limited to, an athletic field" to the **Purchasing Statutes**. School districts are not broadly subject to these statutes.

The Bureau of General Services feels strongly that this is an inappropriate attempt to relocate certain public improvement construction activity under the purchasing statutes. There are fundamental differences in how public improvement construction projects are awarded under **Title 5, Chapter 153: Public Improvements** versus how the purchasing of goods and services is awarded under **Title 5, Chapter 155: Purchases**. Public improvement construction is advertised to contractors on a project basis, to bid on the project as it has been designed. Public improvements construction contracts are awarded to the lowest bidder and contractors' bids are

inclusive of material costs. Contractors determine their own materials because ultimately, they are legally liable for the finished product, including the appropriateness and quality of the chosen materials they used in the project. But contractors have their own ability to source materials at lower costs based upon their own volume of work and relationships with frequent suppliers.

Additionally, the Cooperative Purchasing sub-section of statute (5 MRS §1811, sub-§8) that this bill proposes amending, exists to allow municipalities and school districts to benefit from the State of Maine's economies of scale and purchasing power by piggybacking on existing master agreements and contracts through the Bureau of General Services, Office of State Procurement Services. Neither the current statute nor the bill as drafted would permit school districts to form their own cooperatives and the Office of State Procurement Services does not have the capacity to provide administrative support to cooperatives that the State is not party too.

While DAFS certainly appreciates school districts seeking cost savings, athletics fields are not a good or service, athletic fields especially artificial turf fields involve complicated construction for irrigation, drainage, run-off, erosion prevention, and to run electricity for lighting.

Further, the Office of State Procurement Services does not have master agreements for construction materials, because construction falls under the Bureau of General Services, Division of Planning, Design & Construction. The Office of Procurement Services might contract for landscaping services and does have a master agreement for grass seed, but not for artificial turf or sod. If a State department or agency came to the Office of Procurement Services attempting to do as this bill proposes, they would be redirected to the Division of Planning, Design & Construction because they are undertaking a public improvements construction project.

Thank you for allowing me to testify. I am happy to answer questions from the Committee.