

MAINE STATE LEGISLATURE

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L.D. 505

DATE: 3/18/96

(Filing No. H- 787)

EDUCATION AND CULTURAL AFFAIRS

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 370, L.D. 505, Bill, "An Act to Implement the Recommendations of the Committee to Study the Operations of the Governor Baxter School for the Deaf"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 5 MRSA §12004-C, sub-§7 is enacted to read:

7. School Board of Legislative 20-A MRSA §7406
the Governor Baxter Per Diem and
School for the Deaf Expenses

Sec. 2. 5 MRSA §12004-I, sub-§15, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 3. 20-A MRSA §202, sub-§6, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 4. 20-A MRSA §256, sub-§§8 and 9, as enacted by PL 1991, c. 591, Pt. I, §1, are repealed.

Sec. 5. 20-A MRSA c. 304 is enacted to read:

CHAPTER 304

GOVERNOR BAXTER SCHOOL FOR THE DEAF

COMMITTEE AMENDMENT

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§7401. School established

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The Governor Baxter School for the Deaf is established as a public school pursuant to this chapter for the purpose of educating deaf students.

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§7402. Definitions

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

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1. School. "School" means the Governor Baxter School for the Deaf.

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2. School board. "School board" means the School Board of the Governor Baxter School for the Deaf.

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3. Sending school. "Sending school" means any school administrative unit that has a student in attendance at the Governor Baxter School for the Deaf.

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4. Superintendent. "Superintendent" means the Superintendent of the Governor Baxter School for the Deaf.

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§7403. Location

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The school is located on Mackworth Island.

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§7404. Funding; tuition

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The following provisions apply to funding for and tuition to the school.

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1. Funding. Students from this State may attend the school free of tuition and room and board expense. Funding for these students is provided based on the amount necessary to satisfy the individualized education programs of the students, as defined by department rule. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter II-A. Funding must support maintenance of the school and that portion of the island used by the school, security, outreach services, adult education, access to the education network of Maine and operations of the school, including the residential program, parent-infant program, preschool program and communication garden program.

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2. Out-of-state tuition. Students from other states and countries may attend the school on a space-available basis by paying the cost of tuition, fees and room and board as established by the school board.

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2 **§7405. Enrollment; state and federal educational services**
4 **requirements; technical assistance**

6 The following provisions apply to student enrollment, state
8 and federal educational services requirements and technical
10 assistance.

12 **1. Enrollment.** The superintendent of the school
14 administrative unit in which a deaf student resides, with the
16 consent of that student's parent or legal guardian and in
18 accordance with the limitations in section 5051, may enroll that
20 student in the school. The sums necessary for tuition and room
22 and board of the student while attending the school, as
24 determined by the individualized education program of the
26 student, must be paid by the department.

28 **2. State and federal educational services requirements.**
30 The school must comply with all standards for state public
32 schools and must comply with all federal and state laws and
34 department rules for the provision of educational services to
36 children with disabilities.

38 **3. Technical assistance.** A school administrative unit may
40 request technical assistance from the school in matters relating
42 to the education of deaf students.

44 **§7406. School board**

46 The School Board of the Governor Baxter School for the Deaf
48 is established as the policy-making authority and the governing
body of the school.

1. Membership. In appointing members to the school board,
the Governor shall give proper consideration to achieving
statewide geographical representation, cultural equity and gender
equity. The Governor shall appoint 13 voting members and 2
nonvoting members as follows:

A. Three parents of students who attend the school;

B. Three deaf representatives of the State's deaf community;

C. Two individuals with expertise in deaf education who are
not employed by the school;

D. Four members of the general public;

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2 E. One parent of a deaf child who is enrolled in a local
3 educational agency receiving services from the school's
4 outreach program; and

6 F. Two students who attend the school, who are nonvoting
7 members.

8 2. Chair. The school board shall choose annually one of
9 its members to serve as chair.

10 3. Meetings. The school board shall meet at regular
11 intervals.

12 4. Quorum. Each voting member of the school board is
13 entitled to one vote. Seven members of the school board
14 constitute a quorum for the transaction of any official business,
15 except that 8 affirmative votes are necessary to approve the
16 budget.

17 5. Terms of voting members. The terms of the voting
18 members of the school board are for 3 years, unless otherwise
19 designated, and are staggered. Of the initial appointees, one
20 each designated in subsection 1, paragraphs A to D, must be
21 appointed for a term of 3 years; one each as designated in
22 subsection 1, paragraphs A to D, must be appointed for a term of
23 2 years; and one each as designated in subsection 1, paragraphs
24 A, B and E, must be appointed for a term of one year. Members
25 may be appointed for consecutive terms.

26 6. Terms of nonvoting members. The terms of the nonvoting
27 student members, pursuant to subsection 1, paragraph F, must be
28 determined by the school board. The school board shall submit a
29 list of recommendations to the Governor to aid in making
30 appointments of nonvoting members.

31 7. Expenses. Voting members of the school board must be
32 compensated according to the provisions of Title 5, chapter 379.

33 8. Appointments. The Governor shall appoint members to the
34 school board by September 1, 1996.

35 **§7407. Powers and duties of school board**

36 The powers and duties of the school board include the
37 following.

38 1. Policies. The school board shall develop and adopt
39 policies and rules necessary for the operation of the school.

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- 2 2. Selection of superintendent. The school board shall
hire a superintendent.

- 4 3. Administration. The school board shall oversee the
administration of the school, including the hiring of academic,
6 residential, outreach and support staff.

- 8 4. Budget development. The school board shall, with the
aid of the superintendent and staff, prepare an annual budget for
10 the operation of the school and exercise budgetary
responsibility. It shall allocate for expenditure by the school
12 and programs under its jurisdiction all the resources available
for the operation of the school and its programs. Annually,
14 before September 1st, the school board shall submit to the
department its budget proposal for review and inclusion in the
16 department's budget for the following fiscal year. The budget
for operation of the school is subject to review and revision by
18 the Governor or Governor-elect in accordance with Title 5,
section 1666.

- 20 5. Financial management. The school board may accept
22 donations, bequests or other forms of financial assistance for
any educational purpose from a public or private source and shall
24 comply with rules and regulations governing grants from the
Federal Government or from any other source.

- 26 6. Collection of fees. The school board may charge service
and rental fees for use of facilities at the school. Any funds
28 received for service and rental fees must be retained by the
school.

- 30 7. Indemnification. The school board shall indemnify the
employees and other agents of the school and purchase and
32 maintain insurance to indemnify those persons to the extent
provided in Title 13-B, section 714. The school board may
34 indemnify members of the school board.

- 36 8. Bonds. The school board shall require security for the
faithful performance of duties by employees and other agents of
38 the school who are entrusted with the custody of the school
securities or authorized to disburse the funds of the school.
40 The security must consist of a bond, either a blanket bond or
individual bond with a surety bond, or bonds having a minimum
42 limitation of \$100,000 coverage for each insured person. The
expense of a bond is assumed by the school.
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- 46 9. Property management. The school board may acquire by
purchase any property, lands, buildings, structures, facilities
48 or equipment and make improvements to facilities necessary to
fulfill the purposes of this chapter. The State retains
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ownership of Mackworth Island and the school facilities. Notwithstanding section 7403, the school board may make alternative plans regarding the location of the school.

10. Island access. The school board shall consult regularly with the Department of Conservation, Bureau of Parks and Lands on public access and management of that portion of Mackworth Island under the jurisdiction of that bureau.

11. Certificates and diplomas. The school board shall offer courses of study and grant diplomas and certificates on completion of courses of study. This granting of diplomas and certificates may be done in cooperation with the sending school.

12. Contracts and agreements. The school board may enter into any contracts and agreements, to the extent that funds are available, in the execution of its powers under this chapter.

13. Delegation. The school board may delegate duties and responsibilities as necessary for the efficient operation of this chapter.

14. Criteria for enrollment. The school board shall establish criteria to be used in determining eligibility of applicants for enrollment.

15. Student conduct. The school board shall prepare and adopt procedures and rules to ensure the smooth operation of student conduct standards.

16. Individualized education programs, standards and measurements. The school board shall ensure that services required to meet the individualized education program for each student are provided by the school. The school board shall establish standards and methods of measuring progress in the levels of academic achievement for students who participate in school programs and establish standards and methods of measuring progress in the professional development of teachers who participate in school programs. The school board shall assess students and teachers according to those standards and measurements.

17. School programs. The school board may create, maintain and expand programs at the school and programs for children served by the school.

18. Fees and charges. The school board shall establish and collect necessary fees and set policies relating to other appropriate charges for students.

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19. Report. The school board shall report biennially to the Governor and the joint standing committee of the Legislature having jurisdiction over education matters on the results of the assessments required by subsection 16 and the general status of the school.

§7408. Powers and duties of superintendent

The powers and duties of the superintendent include the following.

1. Staff and administration. The superintendent shall hire staff and administer school operations.

2. Enrollment. The superintendent shall work with superintendents from other school administrative units, pursuant to section 7405, subsection 1, to enroll students.

§7409. School year

The school must operate on a calendar year that meets or exceeds the minimum number of statewide student instructional days.

§7410. Department assistance; limitation

1. Administrative assistance. The department shall provide administrative assistance to the school, including assistance with budgeting and general administrative support, subject to a written agreement with the school board.

2. Limitation. The department has no authority or responsibility for the operation of the school and is not liable as a result of the operation of the school by the school board.

Sec. 6. 20-A MRSA §7503, as amended by PL 1987, c. 395, Pt. A, §77, is repealed.

Sec. 7. 20-A MRSA §13402, sub-§3, as amended by PL 1983, c. 520, is further amended to read:

3. Substitute teachers. Substitute teachers shall must be compensated at the rate of not less than \$30 for each day of service. Any substitute teacher under contract with the Governor Baxter School for the Deaf is deemed for the purposes of civil liability to be an employee of a governmental entity under the Maine Tort Claims Act.

Sec. 8. 20-A MRSA §13502, sub-§1, ¶C, as enacted by PL 1983, c. 859, Pt. J, §§2 and 7, is amended to read:

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C. Schools operated by an agency of State Government, including the following:

- (1) ~~Baxter School for the Deaf;~~
- (2) Arthur R. Gould School; and
- (3) ~~Pineland State (Berman School); and~~
- (4) Education of children in unorganized territories.

Sec. 9. 22 MRSA §3174-D, as amended by PL 1989, c. 700, Pt. A, §79, is further amended to read:

§3174-D. Medicaid coverage for services provided by the Governor Baxter School for the Deaf

The Department of Human Services may administer a program of Medicaid coverage for speech and hearing services, psychological services, occupational therapy and any other services provided by the Governor Baxter School for the Deaf which that qualify for reimbursement under the United States Social Security Act, Title XIX. The Department of Education ~~shall have~~ has fiscal responsibility for providing the State's match for federal revenues acquired under this section. ~~An amount equal to the Medicaid reimbursement shall be deposited into the General Fund undedicated revenue from the Governor Baxter School for the Deaf General Fund appropriation.~~ Any funds received as Medicaid reimbursement must be retained by the Governor Baxter School for the Deaf.

Sec. 10. P&SL 1897, c. 446, as amended by P&SL 1953, c. 100, is repealed.

Sec. 11. Transition provisions.

1. The Governor Baxter School for the Deaf, established pursuant to the Maine Revised Statutes, Title 20-A, section 7401, is the successor in every way to the functions and duties of the former Governor Baxter School for the Deaf, established pursuant to Private and Special Law 1897, chapter 446.

2. The Governor shall complete appointments to the School Board for the Governor Baxter School for the Deaf by September 1, 1996. Once appointed, the school board may begin to develop policy and hiring plans to take effect on or after January 1, 1997.

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2 3. The Policy Review Board for the Governor Baxter School
3 for the Deaf and the Superintendent of the Governor Baxter School
4 for the Deaf shall submit to the Department of Education the
5 school's proposed budget for the 1997-98 fiscal year no later
6 than August 15, 1996.

7 4. Employees of the Governor Baxter School for the Deaf
8 remain state employees in the bargaining units established by the
9 Maine Labor Relations Board and continue to receive all
10 applicable rights and benefits.

11 5. Unless limited by prior agreement, all existing
12 contracts, agreements and compacts currently in effect at the
13 Governor Baxter School for the Deaf continue in effect after
14 January 1, 1997.

15 6. All records, property and equipment previously belonging
16 to or allocated for the use of the former Governor Baxter School
17 for the Deaf become, on January 1, 1997, part of the property of
18 the new Governor Baxter School for the Deaf.

19 7. All existing forms, licenses, letterheads and similar
20 items bearing the name of or referring to the former Governor
21 Baxter School for the Deaf may be utilized by the new Governor
22 Baxter School for the Deaf until existing supplies of these items
23 are exhausted.

24 8. Any positions authorized and allocated subject to the
25 personnel laws of the former Governor Baxter School for the Deaf
26 are transferred to the new Governor Baxter School for the Deaf
27 and continue to be authorized on or after January 1, 1997.

28 9. The Policy Review Board of the Governor Baxter School
29 for the Deaf may continue to meet until January 1, 1997.

30 10. The Department of Education shall provide any necessary
31 administrative assistance to the Governor Baxter School for the
32 Deaf from January 1, 1997 until July 1, 1999 through a written
33 agreement to be established between the department and the School
34 Board of the Governor Baxter School for the Deaf.

35 11. The joint standing committee of the Legislature having
36 jurisdiction over education and cultural affairs matters shall
37 establish a review committee to review the new governance
38 structure of the school. The review committee must include
39 representatives from the Department of Education, the School
40 Board of the Governor Baxter School for the Deaf, the Governor
41 Baxter School for the Deaf staff, the joint standing committee of
42 the Legislature having jurisdiction over education and cultural
43 affairs matters and other persons designated by the joint
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standing committee. The review committee shall begin its review by January 1, 1998 and present its findings to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs matters by December 15, 1998.

12. The review committee established in subsection 11 shall review the provision of administrative assistance by the Department of Education to the Governor Baxter School for the Deaf and make recommendations for the period beginning July 1, 1999.

Sec. 12. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1996-97

EDUCATION, DEPARTMENT OF

Governor Baxter School for the Deaf

Personal Services	\$7,150
All Other	3,250

Provides funds for the per diem and expenses of the members of the School Board of the Governor Baxter School for the Deaf.

**DEPARTMENT OF EDUCATION
TOTAL**

\$10,400

Sec. 13. Effective date. This Act, except for the portion of the section of this Act that enacts the Maine Revised Statutes, Title 20-A, section 7406, takes effect on January 1, 1997.'

Further amend the bill by inserting at the end before the statement of fact the following:

FISCAL NOTE

1996-97

APPROPRIATIONS/ALLOCATIONS

General Fund	\$10,400
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REVENUES

General Fund	(\$6,000)
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2 The bill provides a General Fund appropriation to the
Governor Baxter School for the Deaf of \$10,400 in fiscal year
4 1996-97 for the per diem and expenses of its school board.

6 Authorizing the Governor Baxter School for the Deaf to
retain certain fees and reimbursements will result in a loss of
8 General Fund undedicated revenue estimated to be \$12,000
annually. The resulting loss in fiscal year 1996-97 will be
10 approximately \$6,000.'

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STATEMENT OF FACT

14 The amendment does the following.

16 1. It adds an appropriation section and a fiscal note to
18 the bill.

20 2. It permits payment of per diem and expenses for members
of the School Board of the Governor Baxter School for the Deaf.

22 3. It clarifies that funding for the Governor Baxter School
24 for the Deaf must be used to support maintenance of the school
and Mackworth Island, security, outreach services, adult
26 education, use of the education network of Maine and operations
of the school, including the residential program, parent-infant
28 program, preschool program and the communication garden program.

30 4. It increases the membership of the School Board of the
Governor Baxter School for the Deaf from 11 to 13 voting members.

32 5. It requires that the Governor give proper consideration
34 to statewide geographical representation, cultural equity and
gender equity in appointing members to the school board.

36 6. It requires 8 affirmative votes by the school board to
38 approve the annual budget of the Governor Baxter School for the
Deaf.

40 7. It requires the Department of Education to provide
42 administrative assistance to the Governor Baxter School for the
Deaf until July 1, 1999.

44 8. It clarifies that the School Board of the Governor
46 Baxter School for the Deaf must annually submit the school budget
to the Commissioner of Education for review and inclusion in the
48 department's budget. The budget is subject to the normal budget
review process conducted by the Governor and the State Budget
50 Officer.

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2 9. It relieves the Department of Education of liability for
operation of the school by the School Board of the Governor
4 Baxter School for the Deaf.

6 10. It clarifies that the employees of the Governor Baxter
School for the Deaf remain employees of the State.

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10 11. It requires that the joint standing committee of the
Legislature having jurisdiction over education and cultural
12 affairs matters establish a committee to review the new
governance structure of the school.

14 12. It clarifies that the new governance structure for the
Governor Baxter School for the Deaf must be implemented on
16 January 1, 1997, except that the Governor must appoint members to
the School Board of the Governor Baxter School for the Deaf by
18 September 1, 1996.

COMMITTEE AMENDMENT