

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**November 28, 1995 to December 1, 1995**

**SECOND REGULAR SESSION**  
**January 3, 1996 to April 4, 1996**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 4, 1996**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1995**

and related rules of the department pursuant to chapter 855.

**7. Other department or another department.** "Other department" or "another department" means a department of the State other than the Department of Human Services.

**8. Other program or another program.** "Other program" or "another program" means a program of the department not defined as a program in subsection 10 or a program of another department that is approved for addition to the EBT system.

**9. Point of sale device.** "Point of sale device" means a machine that accepts a debit card distributed to recipients; electronically processes transactions at the vendor's place of business; and records and reports individual recipient benefit entitlement and distribution.

**10. Program.** "Program" means the AFDC program, food stamps or Medicaid program or another program.

**11. Recipient.** "Recipient" means a recipient of benefits under the AFDC, food stamp or Medicaid programs or another program.

**12. Vendor.** "Vendor" means an authorized retailer, wholesaler or health care provider that provides food, cash benefits or health care services to a recipient.

**§22. Electronic benefit transfer system established**

The department is authorized to establish an electronic benefit transfer system for the issuance of benefits under the AFDC, food stamp and Medicaid programs.

**1. Rulemaking.** In accordance with Title 5, chapter 375, the department shall adopt rules required for implementation of this subchapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**2. Other programs.** The department may add other programs to the EBT system if approved for addition by their respective departments, as long as rules are adopted by the department and other departments for the administration of and delivery of benefits under those programs.

**3. Participation.** All recipients of benefits under the AFDC, food stamp and Medicaid program or another program approved for addition under subsection 2 must participate in the EBT system.

**4. Restriction.** The following requirements apply prior to implementation of the EBT system and as applied to each program using the EBT system:

A. The department and other departments must determine that use of the EBT system will not decrease benefits or result in unreasonable costs to the recipients; and

B. The department and other departments must successfully complete a request-for-proposals evaluation and contract negotiations that ensure that the EBT system will be cost-effective for the individual program.

**Sec. 2. Report.** By January 1, 1997, the Department of Human Services shall report to the joint standing committee of the Legislature having jurisdiction over human resource matters on progress in implementing the electronic benefit transfer system established under the Maine Revised Statutes, Title 22, section 22.

See title page for effective date.

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**CHAPTER 676**

**H.P. 370 - L.D. 505**

**An Act to Implement the  
Recommendations of the Committee  
to Study the Operations of the  
Governor Baxter School for the Deaf**

**Be it enacted by the People of the State of  
Maine as follows:**

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

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

**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**

**§7401. School established**

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

**§7402. Definitions**

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

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

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

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

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

**§7403. Location**

The school is located on Mackworth Island.

**§7404. Funding; tuition**

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

**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.

**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.

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

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

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

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

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

**§7406. School board**

The School Board of the Governor Baxter School for the Deaf 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;

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

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

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

**3. Meetings.** The school board shall meet at regular intervals.

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

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

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

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

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

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

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

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

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

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

**4. Budget development.** The school board shall, with the aid of the superintendent and staff, prepare an annual budget for the operation of the school and exercise budgetary responsibility. It shall allocate for expenditure by the school and programs under its jurisdiction all the resources available for the operation of the school and its programs. Annually,

before September 1st, the school board shall submit to the department its budget proposal for review and inclusion in the department's budget for the following fiscal year. The budget for operation of the school is subject to review and revision by the Governor or Governor-elect in accordance with Title 5, section 1666.

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

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

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

**8. Bonds.** The school board shall require security for the faithful performance of duties by employees and other agents of the school who are entrusted with the custody of the school securities or authorized to disburse the funds of the school. The security must consist of a bond, either a blanket bond or individual bond with a surety bond, or bonds having a minimum limitation of \$100,000 coverage for each insured person. The expense of a bond is assumed by the school.

**9. Property management.** The school board may acquire by purchase any property, lands, buildings, structures, facilities or equipment and make improvements to facilities necessary to fulfill the purposes of this chapter. The State retains 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.

**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:

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.

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

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

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

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

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

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

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

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

11. The joint standing committee of the Legislature having jurisdiction over education and cultural affairs matters shall establish a review committee to review the new governance structure of the school. The review committee must include representatives from the Department of Education, the School Board of the Governor Baxter School for the Deaf, the Governor Baxter School for the Deaf staff, the joint standing committee of the Legislature having jurisdiction over education and cultural affairs matters and other persons designated by the joint 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.

Effective January 1, 1997, unless otherwise indicated.

**CHAPTER 677**

**H.P. 296 - L.D. 400**

**An Act to Clarify the Laws Relating to Gaming and Harness Racing**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 8 MRSA §275-O, sub-§3, ¶¶C and D,** as enacted by PL 1995, c. 403, §1, are amended to read:

C. Section 275-I, subsection 1, paragraph A; ~~and~~

D. Section 275-L, subsection 1; ~~and~~

**Sec. 2. 8 MRSA §275-O, sub-§3, ¶E** is enacted to read:

E. Section 275-J, subsection 1, paragraph A.

**Sec. 3. 8 MRSA §275-O, sub-§5,** as enacted by PL 1995, c. 403, §1, is repealed.

**Sec. 4. 17 MRSA §314, first ¶,** as amended by PL 1993, c. 45, §1, is further amended to read:

The Chief of the State Police may issue licenses to operate beano or bingo games on a monthly basis to any volunteer fire department or any agricultural fair association or bona fide nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic, religious or veterans' organization that was in existence at least 2 years prior to its application for a license, when sponsored, operated and conducted for the exclusive benefit of that organization by duly authorized members. The Chief of the State Police may also issue a license to any auxiliary associated with an organization, department or association qualified for a license under this section if the auxiliary has been in existence at least 2 years before applying for a license and the games are sponsored, operated and conducted for the exclusive benefit of

the auxiliary by duly authorized members of the auxiliary. Proceeds from any game conducted by the auxiliary or the auxiliary's parent organization may not be used to provide salaries, wages or other remuneration to members, officers or employees of the auxiliary or its parent organization, except as provided in sections 326 and 335. The 2 years' limitation does not apply to any ~~chartered posts of veterans' organizations, nationally established, organizations in this State having a charter from a national organization, or auxiliaries of those posts organizations,~~ even though the ~~posts organizations~~ have not been in existence for 2 years prior to their application for a license ~~nor does the.~~ The 2 years' limitation does not apply to any volunteer fire department or rescue unit or auxiliary of that department or unit. A license may be issued to an agricultural fair association when sponsored, operated and conducted for the benefit of such agricultural fair association.

See title page for effective date.

**CHAPTER 678**

**H.P. 345 - L.D. 465**

**An Act to Improve the Local Road Assistance Program**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 23 MRSA §1802-A, sub-§1,** as enacted by PL 1989, c. 516, §2, is amended to read:

**1. Average lane miles maintained.** "Average lane miles maintained" means the sum of the number of lane miles of public road maintained by the municipality in the summer plus the number of lane miles of public road maintained in the winter, divided by 2.

**Sec. 2. 23 MRSA §1802-A, sub-§2** is enacted to read:

**2. Lane miles.** "Lane miles" means a length of road measured in miles multiplied by the number of travel lanes for that length of road.

**Sec. 3. 23 MRSA §1803-B, sub-§1,** as enacted by PL 1989, c. 516, §4, is amended to read:

**1. Distribution.** Subject to the limitations set out in subsection 4, funds from the Local Road Assistance Program ~~shall~~ must be distributed to each municipality based on the average lane miles maintained by the municipality multiplied by an amount not less than ~~\$1,200~~ \$600.