

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**September 27, 2011**

**SECOND REGULAR SESSION**  
**January 4, 2012 to May 31, 2012**

**THE EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**LAWS IS**  
**SEPTEMBER 28, 2011**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 30, 2012**

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

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**Augusta, Maine**  
**2012**

**Sec. 40. Effective date.** Those sections of this Act that repeal the Maine Revised Statutes, Title 38, section 488, subsection 9 and enact Title 38, section 480-E-1, subsection 4, Title 38, section 488, subsection 9-A and Title 38, section 489-A-1 take effect September 1, 2012.

See title page for effective date, unless otherwise indicated.

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**CHAPTER 683**  
**S.P. 637 - L.D. 1839**

**An Act To Define Cost  
Responsibility for Deaf and  
Hard-of-hearing Students  
Receiving Services from the  
Maine Educational Center for  
the Deaf and Hard of Hearing  
and the Governor Baxter  
School for the Deaf**

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

**Sec. 1. 20-A MRSA §7402**, as amended by PL 2005, c. 279, §7, is further amended to read:

**§7402. Definitions**

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

**1. School.** "School" means the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf established under this chapter, including the center school located at Mackworth Island known as the Governor Baxter School for the Deaf, the center preschool and any satellite school within the State that may be operated under a contracted services agreement.

**2. School board.** "School board" means the School Board of the Maine Educational Center for the Deaf and Hard of Hearing and 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 center school or at a satellite school.

**4. Executive director.** "~~Superintendent~~" "Executive director" means the ~~Superintendent~~ Executive Director of the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf.

**5. Center school.** "Center school" means the kindergarten to grade 12 ~~day and residential~~ programs established and operated by the Maine Educational Center for the Deaf and Hard of Hearing and the Gov-

ernor Baxter School for the Deaf at the Governor Baxter School for the Deaf located at Mackworth Island or at a location determined by the school board in accordance with section 7407, subsection 17.

**6. Satellite school.** "Satellite school" means the programs, including a residential program, day school programs, early childhood programs and outreach programs, that are located near the population centers of deaf and hard-of-hearing students within the State established by the School Board of the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf.

**7. Statewide educational services or outreach.** "Statewide educational services" or "outreach" means consultation services provided to families of children from birth to 5 years of age who are deaf or hard-of-hearing students; and consulting services to school administrative units that serve school-age deaf or hard-of-hearing children ~~and services provided through the parent infant toddler program, the preschool program and the communication garden program provided at the center school.~~

**8. Statewide resource center.** "Statewide resource center" means the information and referral services provided by the library at the center school and the distance education program and the community education program offered at the center school.

**9. Center preschool.** "Center preschool" means the preschool program established and operated by the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf at the Governor Baxter School for the Deaf.

**Sec. 2. 20-A MRSA §7403**, as amended by PL 1999, c. 775, §4, is further amended to read:

**§7403. Responsibility; location; geographic access**

The center school is responsible for providing a free, appropriate public education to students enrolled pursuant to chapter 301. The center school programs are operated by the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf located on Mackworth Island or at a location determined by the school board in accordance with section 7407, subsection 17. Satellite school programs, including a residential program in accordance with section 7407, subsection 17, may be located near the population centers of deaf and hard-of-hearing students within the State.

**Sec. 3. 20-A MRSA §7404, sub-§1**, as amended by PL 2007, c. 111, §2, is further amended to read:

**1. Funding.** Students from this State may attend the center school free of tuition and room and board expense. Funding for these students is provided by legislative appropriation based on the services necessary, including room and board, to satisfy the indi-

vidualized education programs of the students enrolled in the center school. Funding must support maintenance of the center school and that portion of the island used by the center school, security, outreach services, adult education, access to the education network of Maine and operations of the center school, including the residential program, parent-infant program, preschool program and communication garden program. Funding must also support maintenance and operations of any satellite school.

**Sec. 4. 20-A MRSA §7405, sub-§1**, as amended by PL 2003, c. 533, §7, is further amended to read:

**1. Enrollment.** The superintendent of the school administrative unit in which a deaf or hard-of-hearing student resides, with the consent of that student's parent or legal guardian and in accordance with the limitations in section 5051-A, may enroll that student in the center school or in one of the center school programs or the satellite school programs. ~~The For students enrolled in the center school, the sums necessary for to ensure that services required to meet the individualized education program for each student, including tuition and room and board of the student while attending one of the center school programs or satellite school programs, as determined by the individualized education program of the student, must be paid by the school board. Beginning July 1, 2013, the sums necessary to provide transportation services for a student enrolled in the center school, as determined by the individualized education program of the student, must be paid by the school board.~~

**Sec. 5. 20-A MRSA §7405, sub-§2**, as amended by PL 1999, c. 775, §6, is further amended to read:

**2. State and federal educational services requirements.** The center school, center preschool and any satellite 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.

**Sec. 6. 20-A MRSA §7407, sub-§2**, as amended by PL 1995, c. 676, §5 and affected by §13, is amended to read:

**2. Selection of executive director.** The school board shall hire ~~a superintendent~~ an executive director.

**Sec. 7. 20-A MRSA §7407, sub-§4-A**, as amended by PL 2005, c. 279, §9, is further amended to read:

**4-A. Budget development.** The school board shall, with the aid of the ~~superintendent~~ executive director and staff, prepare an annual budget for the operation of the school and exercise budgetary responsibility. The school board 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, not later than January 1st, beginning for fiscal year 2001-02, in addition to complying with the provisions of Title 5, sections 1665 and 1666, the school board shall present the administrative operating budget for the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf to the Governor and the Legislature for review by the joint standing committee of the Legislature having jurisdiction over education matters. The administrative operating budget must be presented as a line item budget for each of the programs under its jurisdiction. A liability or obligation may not be incurred under this chapter beyond the amount approved in the administrative operating budget. The school board may make expenditures only in accordance with allocations approved by the Legislature. Any balance of an allocation or subdivision of an allocation made by the Legislature for the school that at the time is not required for the purpose named in the allocation or subdivision may be transferred prior to the closing of the books for the fiscal year to any other allocation or subdivision of any allocation made by the Legislature for the use of the school for the same fiscal year. The transfer is subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. Financial statements describing the transfer must be submitted by the school board to the Office of Fiscal and Program Review 30 days before the transfer is implemented. In case of extraordinary emergency transfers, the 30 day prior submission requirement may be waived by vote of the committee. These financial statements must include information specifying the accounts that are affected, the amounts to be transferred, a description of the transfer and a detailed explanation of the reason the transfer is needed. The school board shall also provide an annual justification for the finances and operations of the programs under the jurisdiction of the school to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over education matters. The justification for the finances and operations of the school must be presented as a line item budget for each of the programs under its jurisdiction.~~

**Sec. 8. 20-A MRSA §7407, sub-§4-B** is enacted to read:

**4-B. Budget presentation.** Annually, not later than January 1st, in addition to complying with the provisions of Title 5, sections 1665 and 1666, the school board shall present the budget for the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf to the

Governor and the Legislature for review by the commissioner and the joint standing committee of the Legislature having jurisdiction over education matters. Beginning for fiscal year 2013-14, the budget must be presented in a cost center summary budget format pursuant to section 1485, subsection 1, paragraph A and must include specific budget information, including revenues and expenditures, for the center school, the center preschool and statewide educational services or outreach. Revenue sources must include revenue received through state appropriation pursuant to section 7404, as well as fees and other revenues collected from school administrative units. The school board shall provide a detailed accounting of the fees and other revenue collected from each school administrative unit and the services provided to each unit. A liability or obligation may not be incurred under this chapter beyond the amount approved in the administrative operating budget. The school board may make expenditures only in accordance with allocations approved by the Legislature. Any balance of an allocation or subdivision of an allocation made by the Legislature for the school that at the time is not required for the purpose named in the allocation or subdivision may be transferred prior to the closing of the books for the fiscal year to any other allocation or subdivision of any allocation made by the Legislature for the use of the school for the same fiscal year. The transfer is subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. Financial statements describing the transfer must be submitted by the school board to the Office of Fiscal and Program Review 30 days before the transfer is implemented. In case of extraordinary emergency transfers, the 30-day prior submission requirement may be waived by vote of the committee. These financial statements must include information specifying the accounts that are affected, the amounts to be transferred, a description of the transfer and a detailed explanation of the reason the transfer is needed.

**Sec. 9. 20-A MRSA §7407, sub-§§14 and 18,** as enacted by PL 1995, c. 676, §5 and affected by §13, are amended to read:

**14. Criteria for enrollment.** The school board shall establish and disseminate to school administrative units the criteria to be used in determining eligibility of applicants for enrollment in the center school.

**18. Fees and charges.** The school board shall establish and collect necessary fees and set policies relating to other appropriate charges for students. The school board shall annually submit a schedule of fees to be charged to school administrative units for each service provided by the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf to the Governor. A detailed accounting of fees collected from each unit and the services provided, including statewide educational

services or outreach, must be included in the presentation of the budget pursuant to subsection 4-B.

**Sec. 10. 20-A MRSA §7408,** as enacted by PL 1995, c. 676, §5 and affected by §13, is amended to read:

**§7408. Powers and duties of executive director**

The powers and duties of the ~~superintendent~~ executive director include the following.

**1. Staff and administration.** The ~~superintendent~~ executive director shall hire staff and administer school operations.

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

**Sec. 11. Implementation; report.** The Commissioner of Education and the Executive Director of the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf shall provide a joint report by February 15, 2013 to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs on the implementation of the provisions of this Act. The report must include, but is not limited to:

1. The criteria for enrollment established by the school board of the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf to clarify the enrollment status of students attending the center preschool, the center school or a satellite school that is operated by the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf;

2. The projected fiscal impact for fiscal year 2013-14, including the projected cost center summary budget to be proposed for transportation pursuant to the Maine Revised Statutes, Title 20-A, section 1485, subsection 1, paragraph A, to implement the requirement set forth in Title 20-A, section 7405, subsection 1 that the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf is responsible for the costs of providing transportation services for students enrolled in the center school or a satellite school;

3. The technical assistance and guidance provided by the Department of Education or other state agencies to the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf and to school administrative units that send students to attend the center preschool, the center school or a satellite school regarding implementation of this Act; and

4. Findings and recommendations, including any necessary changes to Title 20-A, chapter 304 or other applicable statutes or Department of Education rules,

that clarify the procedural and financial responsibilities of the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf and school administrative units that send students to attend the center preschool, the center school or a satellite school.

The joint standing committee of the Legislature having jurisdiction over education and cultural affairs may submit a bill related to the report presented pursuant to this section to the First Regular Session of the 126th Legislature.

See title page for effective date.

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## CHAPTER 684

### H.P. 1333 - L.D. 1809

#### **An Act To Apply the Sales Tax on Camper Trailers and Motor Homes Purchased for Rental in the Same Manner as on Automobiles Purchased for Rental**

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

**Sec. 1. 36 MRSA §1752, sub-§11, ¶B,** as amended by PL 2011, c. 209, §1 and affected by §5, is further amended to read:

B. "Retail sale" does not include:

- (1) Any casual sale;
- (2) Any sale by a personal representative in the settlement of an estate unless the sale is made through a retailer or the sale is made in the continuation or operation of a business;
- (3) The sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented for a period of less than one year. For the purposes of this subparagraph, "automobile" includes a pickup truck or van with a gross vehicle weight of less than 26,000 pounds;
- (4) The sale, to a person engaged in the business of renting video media and video equipment, of video media or video equipment for rental;
- (5) The sale, to a person engaged in the business of renting or leasing automobiles, of automobiles for rental or lease for one year or more;
- (6) The sale, to a person engaged in the business of providing cable or satellite television

services, of associated equipment for rental or lease to subscribers in conjunction with a sale of extended cable or extended satellite television services;

(7) The sale, to a person engaged in the business of renting furniture or audio media and audio equipment, of furniture, audio media or audio equipment for rental pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-105;

(8) The sale of loaner vehicles to a new vehicle dealer licensed as such pursuant to Title 29-A, section 953;

(9) The sale of automobile repair parts used in the performance of repair services on an automobile pursuant to an extended service contract sold on or after September 20, 2007 that entitles the purchaser to specific benefits in the service of the automobile for a specific duration;

(10) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of tangible personal property for resale in the form of tangible personal property, except resale as a casual sale;

(11) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of a taxable service for resale, except resale as a casual sale;

(12) The sale, to a retailer that is not required to register under section 1754-B, of tangible personal property for resale outside the State in the form of tangible personal property, except resale as a casual sale;

(13) The sale, to a retailer that is not required to register under section 1754-B, of a taxable service for resale outside the State, except resale as a casual sale; ~~or~~

(14) The sale of repair parts used in the performance of repair services on telecommunications equipment as defined in section 2551, subsection 19 pursuant to an extended service contract that entitles the purchaser to specific benefits in the service of the telecommunications equipment for a specific duration; ~~or~~

(15) The sale, to a person engaged in the business of renting or leasing motor homes, as defined in Title 29-A, section 101, subsection 40, or camper trailers, of motor homes or camper trailers for rental.